



Maroondah City Council Submission to the Department of Justice  
– Gaming Machine Approvals –  
*July 2007*

## 1. Introduction

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This submission details Maroondah City Council's position in relation to the matters considered in the State Government's review of the gaming machine approval process, as outlined in the *Taking Action on Problem Gambling – Gaming Machine Approvals: Enhancing the Decision Making Process* Discussion Paper released in June 2007.

As an active member of the Local Government Working Group on Gambling (LGGWG), Council fully supports the submission of the LGGWG to this review.

Council notes that the role of the Victorian Civil and Administrative Tribunal (VCAT) is included in the terms of the current review. Maroondah City Council, along with other Eastern Region local government authorities, has strongly advocated for a review of the role of VCAT in planning and gaming matters and appreciates the State Government's acknowledgement that the appeal process is a significant component of the Victorian gaming machine approval process.

This submission is consistent with the Maroondah Gaming Policy and Statement of Practice 2007 and with recent Council communications on gaming issues – namely:

- Council's submission to the Regional Electronic Gaming Machine Caps Review Panel (June 2005)
- Council's submission to the Gambling Licences Review (May 2006)
- Council's submission to the Legislative Council Select Committee on Gaming Licensing (March 2007)
- Council's letter to the Minister for Gaming (dated 22 May 2007)
- Council's submission to the Department of Justice on the proposed changes to Community Benefit Statements (June 2007)
- Council's submission to the Victorian Commission for Gambling Regulation (VCGR) on proposed changes to the process for the consideration of the social and economic impact of gaming applications (June 2007).

This submission also draws on Council's experience in 2006 and 2007 with the gaming machine approval process in relation to an application for new gaming premises (Club Ringwood) and the applicant's appeal of the VCGR's decision to VCAT. This direct, intensive

and recent involvement has provided Maroondah City Council with invaluable first-hand understanding of some of the strengths and areas for improvement in the current process.

In developing this submission, Council has remained cognisant of the need for the State Government and other key stakeholders to balance duty of care responsibilities to reduce harms caused by gambling with the need to provide sufficient opportunities for people to gamble in a safe consumer environment. Additionally, Council is mindful that the process for machine approvals forms only one component of a broad suite of complementary measures.

## **2. Summary of Submission**

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In the context of the matters for consideration in this review, as outlined in the Discussion Paper, Council has proposed a modified model for the gaming machine approval process in Victoria. This model is outlined in Section 4 of this submission and explored further in the remaining sections of the submission.

Council believes that the model proposed will achieve greater delineation of the roles of the key players, leading to a more streamlined and efficient process. This will result in an improved system to deliver the best outcomes for Victorians, a system that balances the duty to minimise harms while providing opportunities for recreational gambling.

## **3. Background on Gaming in the City of Maroondah**

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The City of Maroondah is located in the suburban fringe of outer eastern Melbourne and is home to just under 100,000 people. There are currently 770 electronic gaming machines (EGMs) in Maroondah located across 11 venues. Based on population estimations for 2006, the EGM density in the City of Maroondah is 9.70 EGMs per 1,000 adults (aged 18+ years) compared with the metropolitan figure of 6.90 per 1,000 adults. Of the 31 metropolitan local government areas in Victoria, Maroondah has the fourth highest density of EGMs per adult. In the 2005/06 financial year, the gaming expenditure in Maroondah amounted to \$59.7 million. This equates to an average gaming expenditure of \$753 per adult compared with \$679 per adult in metropolitan Melbourne and \$630 in Victoria.

As documented in the Maroondah Gaming Policy and Statement of Practice 2007, the issue of high machine density, venue density and gaming losses relative to the respective metropolitan averages is a prime concern for Council and the local community. These concerns stem largely from the established links between a relatively high concentration of gaming opportunities, high gaming losses, higher rates of problem gambling, and other associated detrimental impacts. The Maroondah Gaming Policy therefore identifies decisions relating to applications for new gaming venues or increases in EGMs in existing venues as one of the priority areas for achieving Council's overall and long-term goal of minimising and reducing the negative impacts of gaming on the Maroondah community.

In November 2005, Council received notification from the VCGR that a local sporting group had submitted an application for a new gaming venue in Ringwood. Following thorough community consultation and research, Council developed an Economic and Social Impact Submission (ESIS) that opposed this application on the grounds of negative net impact. The VCGR refused the application, the applicant appealed this decision to VCAT and VCAT subsequently overturned the VCGR's decision. Council incurred significant financial and other resource costs through its direct involvement in this process, including the costs associated with appointing legal representation for both the VCGR and VCAT hearings. Through this process, Council had direct experience of the machine approval process (prior to the planning scheme changes in October 2006) which highlighted the ineffective and inefficient duplication of roles, inconsistency in the matters considered in determinations and in the interpretation of some of the data and research.

As a consequence of this experience, Council is advocating for a full review of the roles of the VCGR and VCAT in the machine approval process and of the basis of decision making in gaming matters. This submission elaborates further on the concerns raised in previous Council submissions and correspondence with the State Government on these matters.

#### **4. Roles of Stakeholders**

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There are currently six parties with key roles in the Victorian gaming machine approval process: the State Government, the VCGR, local government, VCAT, the gaming industry (gaming operators and venue operators) and the local community. This last group includes local service providers, problem gamblers, local businesses, local community groups, recreational gamblers and the general community.

Council strongly regards the current review to be an opportune process within which to further define, clarify and strengthen the roles of each of the parties in the process. An improved process has the potential to deliver a more effective, efficient and sustainable framework for the conduct of gaming in Victoria and enhance the benefits of this activity for all Victorians while reducing gambling associated harms.

Maroondah City Council supports the greater role of local government in gaming machine approvals that has been enabled through the VC39 amendment to the Victorian Planning Provisions in October 2006 and has subsequently prepared an amendment to the Maroondah Planning Scheme for the inclusion of a local planning policy on gaming. However, Council believes that a greater clarity of roles, responsibilities and obligations is required to improve the current framework and achieve a stronger balance between reducing harms and creating a safer gambling environment.

Council proposes the following model for assessing applications for new gaming premises and for increases in EGM numbers at existing venues. The proposed model presents clearly defined and discrete roles and responsibilities of each of the key players as relevant to the gaming machine approval process:

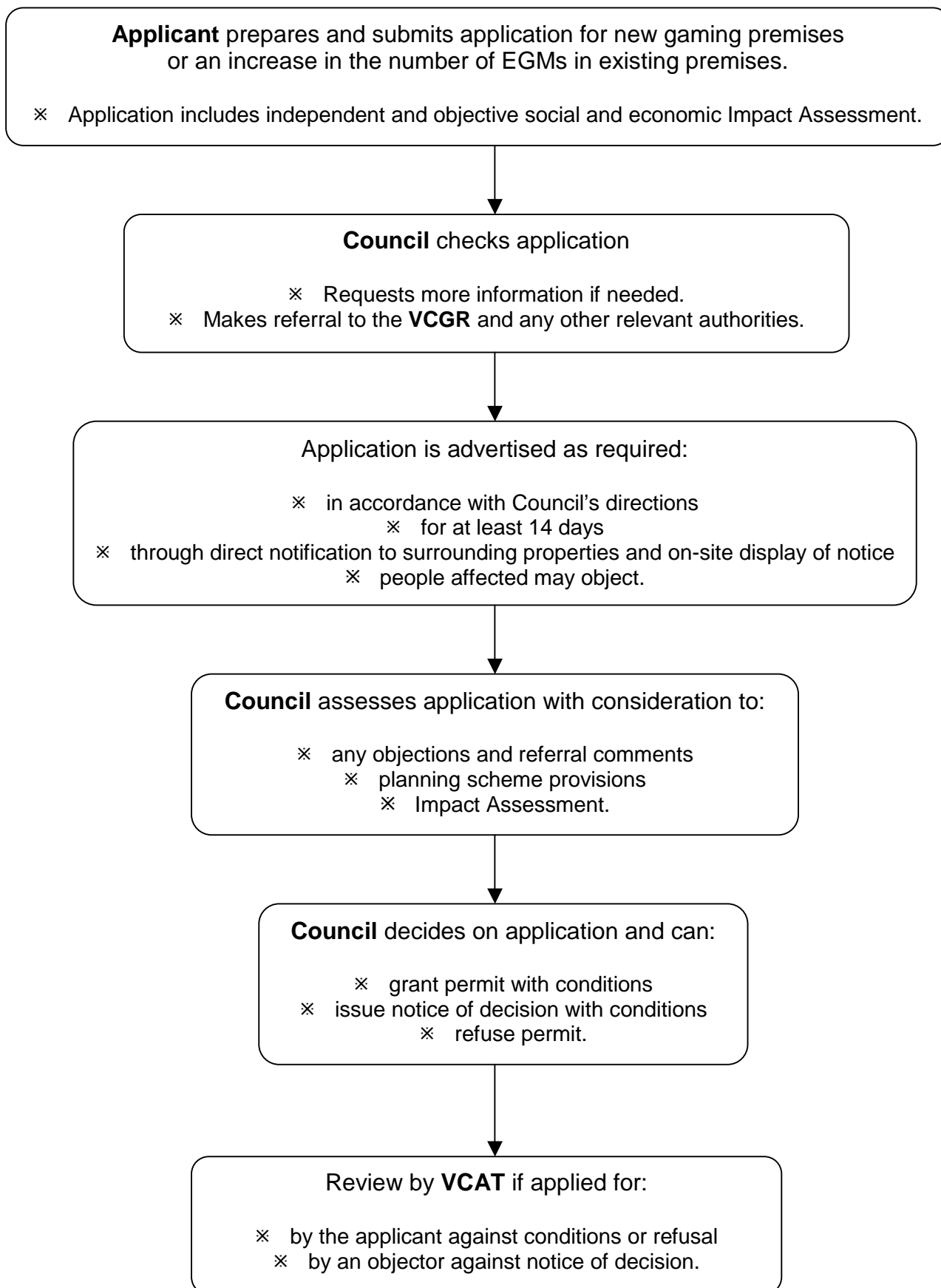
Key Player	Current Key Roles	Proposed Roles	Comments
State Government	<ul style="list-style-type: none"> <li>▪ Distributing funds and resources.</li> <li>▪ Research activities.</li> <li>▪ Legislation and regulation.</li> <li>▪ Planning schemes/frameworks.</li> <li>▪ Public consultation.</li> <li>▪ Administering gaming operator licences.</li> </ul>	<ul style="list-style-type: none"> <li>▪ All the listed current roles plus -</li> <li>▪ Collecting and publicly disseminating gaming machine data relating to monitoring functions.</li> </ul>	<p>This role needs to be further enhanced through a strengthened whole-of-government approach, greater public engagement, integration of legislation and regulation, improved public information on gaming-related issues, encouragement of public debate on preferred models of gaming (venue design and location, machine numbers, machine design, revenue distribution, venue ownership, etc).</p>
VCGR	<ul style="list-style-type: none"> <li>▪ Enforcing government legislation and regulation.</li> <li>▪ Determining applications in relation to venue operator licences for new gaming machines, increases in machine numbers and renewal of licences on various bases including probity considerations and net social and economic impact.</li> <li>▪ Considering Council submissions and other matters in determining gaming applications.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Enforcing government legislation and compliance with regulation.</li> <li>▪ Providing expert recommendations on gaming applications based on the compliance of applications with relevant legislation, regulations, Ministerial Directions and other State Government policies.</li> <li>▪ Issuing and auditing venue operator licences based on probity considerations and the suitability of the applicant.</li> </ul>	<p>The future role of the VCGR should be primarily focused on the enforcement of government regulation and legislation, providing expert advice as a referral body to local government and other sectors in a similar way to the Liquor Licensing Commission, and ensuring probity in the operation of gaming. <u>The VCGR should not act as a de facto planning authority in deciding on the location, land use and community impacts of applications.</u></p>

Key Player	Current Key Roles	Proposed Roles	Comments
<b>Local Government</b>	<ul style="list-style-type: none"> <li>▪ Issuing planning permits based on local planning schemes and state planning provisions.</li> <li>▪ Providing input on the net social and economic impacts to the VCGR to inform gaming application decisions.</li> <li>▪ Local research and data gathering.</li> <li>▪ Consulting with the local community to ensure community views are accurately represented through the ESIS submitted to the VCGR and in local policies and actions.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Issuing planning permits based on the local planning scheme, state planning provisions, assessments of community outcomes/impacts and other matters as detailed in Section 6 of this submission.</li> <li>▪ Local research and data gathering.</li> <li>▪ Developing local social, land use, economic and community wellbeing policies relevant to gambling.</li> <li>▪ Community engagement and education.</li> </ul>	<p>Local government should be the only planning authority in relation to gaming applications and should have the capacity and authority to deal with gaming applications (new venues and increases to EGMs) on the basis of land use planning, social, economic and environmental considerations. <u>Local government should have the authority to approve or refuse a planning permit or to place conditions on the granting of a planning permit.</u></p>
<b>Local Community</b>	<ul style="list-style-type: none"> <li>▪ Providing input to local government submissions to the VCGR and to local policies and actions.</li> <li>▪ Advocacy, lobbying and community actions.</li> <li>▪ Assisting in gathering local data and research.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Providing input to local government decisions on gaming machine applications and to local policies and actions.</li> <li>▪ Advocacy, lobbying and community actions.</li> <li>▪ Assisting in gathering local data and research.</li> </ul>	<p>Through greater access to information and mechanisms for more direct input into the gaming machine approval process, the views of the local community can be better canvassed and have greater impact on gaming machine decisions. Local plans, policies and decisions by local government are developed to represent the views and interests of the local community.</p>

Key Player	Current Key Roles	Proposed Roles	Comments
<b>Venue and Gaming Operators</b>	<ul style="list-style-type: none"> <li>▪ Applying for venue operator licences and planning permits.</li> <li>▪ Providing a social and economic impact assessment for applications to increase machine numbers (and usually for new premises applications).</li> <li>▪ Compliance with relevant legislation and regulations.</li> <li>▪ Promoting responsible gambling and ensuring probity in the operation of gaming.</li> <li>▪ Distributing gaming revenue for local community benefit.</li> <li>▪ Gathering gaming machine data relevant to monitoring functions.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Applying for venue operator licences and planning permits.</li> <li>▪ Commissioning independent and objective community impact assessments to supplement planning permit applications.</li> <li>▪ Compliance with relevant legislation and regulation.</li> <li>▪ Promoting responsible gambling and ensuring probity in the operation of gaming.</li> <li>▪ Distributing gaming revenue for local community benefit.</li> </ul>	<p>Gaming and venue operators will have full responsibility for commissioning and delivering objective community impact assessments. The impact assessments should consider a range of social and economic indicators (such as the indicators suggested in Section 6 of this submission), as well as land use planning issues. The impact assessments should enable rigorous assessment of and improvements to the gaming application in order to maximise positive community outcomes and minimise negative impacts.</p>
<b>VCAT</b>	<ul style="list-style-type: none"> <li>▪ Hearing and determining appeals on council planning decisions lodged by the applicant.</li> <li>▪ Hearing and determining appeals on VCGR decisions lodged by either the applicant or council.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hearing and determining appeals from venue operators (the applicant) on council decisions based on compliance with due process and the planning scheme.</li> </ul>	<p>Under the proposed model, the role of the VCAT will be limited to that of a review panel. This means that neither the applicant nor local government will be able to appeal a gaming decision to VCAT on the basis of the decision itself, but may only lodge an appeal on the basis of non-compliance with correct processes for determining and processing applications.</p>

## Proposed Model for Gaming Machine Approvals

*\*Model adapted from Department of Sustainability & Environment, 'Planning: A Short Guide'*



### ***Duplication of Roles***

In the submission to the Legislative Council Select Committee in March 2007, Council expressed concern over the apparent duplication of local government and VCGR roles in determining gaming applications. With the introduction of the VC39 amendment, local municipal authorities now assess gaming applications for planning permits under their respective planning schemes and subject to the *Planning and Environment Act 1987*. This Act authorises councils to consider social and economic matters in deciding on planning permit applications. Once a planning permit has been issued, the applicant must then apply to the VCGR for licensing approval. Under the *Gambling Regulation Act 2003* (sections 3.3.7 and 3.4.20), the VCGR must not approve the application unless it is satisfied that the net economic and social impact of approval will not be detrimental to the wellbeing of the community of the municipal district. The requirement for both the local government authority and the VCGR to consider social and economic impacts in their respective decisions represents a duplication of function, whereby this aspect is assessed by both bodies usually on the basis of the same, or very similar, evidence and other relevant material.

The regulatory function of the VCGR should be amended to be similar to the Liquor Licensing Commission which assesses licensing applications from a probity perspective and functions as a referral body for local government planning matters.

Added to the apparent duplication of roles discussed above, the *Gambling Regulation Act 2003* provides for the right of appeal to VCAT. While Council is fully supportive of the right of appeal, the ability for either party (ie the local government authority or the applicant) to appeal the VCGR's decision simply because it did not like the decision allows for the case to be heard anew. New material can be introduced and original material removed.

In determining the appeal, the VCAT, like the VCGR, must have consideration to the 'relevant test' of net impact resulting from the proposal. Thus, the basis of both the VCAT's and VCGR's determinations is the same (although, as demonstrated in past hearings of VCAT on appeals of VCGR decisions, the matters considered and the ways in which such matters are considered are often not consistent between the two authorities). There is no doubt that this represents a duplication of roles.

The role of the VCAT, as a panel of review, should be isolated to the assessment of local government compliance to planning policies and processes as contained in the Victorian Planning Provisions and local Planning Schemes. In going beyond this role, as the VCAT has recurrently demonstrated in recent gaming decisions, the VCAT supplants the role of the council as the local planning authority and this represents yet another replication and repetition of function between local government and a state level authority. The role of the VCAT should be limited purely to dealing with planning matters that are of regional significance or that relate to a failure of the council to comply with due process and local planning policies.

Council is deeply concerned that the roles of both the VCGR and the VCAT destructively undermine the decision making authority of local government. Under the *Local Government*

*(Democratic Reform) Act 2003*, the primary objective of local government is 'to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.' This objective underpins the local policies and decisions of councils. However, the current function of the VCGR and decision making basis of the VCAT obstructs the local government sector in its work to achieve this primary objective.

### ***Reducing Administrative Burdens and Costs***

There is no doubt that the duplication of roles discussed above imposes significant resource and administrative burdens on local government.

To date, there have been four cases of appeals to VCAT on decisions made by the VCGR. In all four cases, the appeal has been lodged by the applicant and the VCGR has failed to appear at the VCAT hearings. The responsibility to defend the VCGR's decision has therefore fallen on the relevant council in all four cases. Therefore, councils experience multiple role duplication in the current approvals process: assessing planning permit applications (which includes assessments based on social and economic impacts), developing submissions to the VCGR, presenting cases at the VCGR hearing and defending VCGR decisions if the applicant appeals to VCAT.

Not only does the current process unduly impose on local government through the unnecessary repetition of process and ineffective overlap of roles between the relevant authorities. This cumbersome process also imposes administrative and resource burdens on the prospective venue operator who is required to lodge a planning permit application to the local government authority and an application for venue operator licence to the VCGR which contains similar information, and to then present the case at the VCGR and, possibly, VCAT hearings. This repetition of process can be highly resource-intensive and can represent a significant drain on the coffers of local clubs. Council is concerned that such drains on the resources of both local government and clubs can negatively affect local communities through eroding the amount of money available for the local government/club to use for community benefit.

### ***Delivering a More Effective and Efficient System***

The elimination of role duplication and repetitious processes will no doubt result in a more effective and efficient system which translates to better community outcomes. However, to achieve improved outcomes, the system will need to be supported by clear frameworks, guidelines and mechanisms; transparency and access to relevant data, research and information; clearly defined responsibilities and role boundaries; and adequate resourcing in line with responsibilities. These issues will be explored further in this submission.

## 5. Basis of Determinations

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At present, the 'relevant test' applied to applications for new gaming venues or increases in machine numbers is the net neutral or positive impact of approval.

Considering the amount of research demonstrating the potential harms of problem gambling on individuals, families, local businesses and the wider community, Council supports the use of net incremental social and economic impact as the relevant test against which gaming applications must be assessed. However, unlike the current test that only requires an application to show no net detrimental impact, Council is of the firm opinion that gaming applications need to demonstrate net positive incremental impact in order to be approved. Furthermore, the burden of proof should rest with the applicant.

The next section of this submission details Council's views on potential measures and matters for consideration in determining gaming applications. However, Council notes that the 'relevant test' must afford equal consideration and weightings to the social and economic impacts of gaming proposals. Possibly as quantitative data is easier to analyse, gather and largely relates to economic matters, assessments of gaming applications have tended to focus on economic impacts (eg the amount of gaming losses, the dollar amount of community benefits provided, the value of complementary expenditures, unemployment rates, the relevant SEIFA indicator, etc). Social impacts, such as effects on social cohesion and on the diversity of recreational opportunities in a local area are more difficult to quantify. However, it is vital that gaming application decisions give as equal consideration as possible to social and economic (qualitative and quantitative) aspects.

## 6. Matters To Be Considered in Determining Applications

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As noted in the Discussion Paper, the type of information required to assess net social and economic impact in relation to gaming applications is not clearly stated. The current ESIS form that local government is required to submit to the VCGR when making a submission to a gaming application provides a practical mechanism for requiring specific matters to be considered. Council believes that this form and the option for including further information through Attachments enables a functional balance between a prescriptive and flexible approach that enables the relevant local government authority to tailor the depth of analysis and the types of issues considered to local conditions and the circumstances of each application.

However, Council firmly recommends the full revision of the indicators and issues included in the ESIS form. Council's development of an ESIS in relation to the recent gaming application in the City of Maroondah highlighted the difficulties, and at times the impossibility, of obtaining certain statistical information. Data relating to local gaming statistics, unemployment, the Socio-Economic Index for Areas (SEIFA) and information directly related to the application (eg supply contracts, community benefits, infrastructure investment, etc) were relatively easy to obtain through the VCGR, the application and other sources. However, the impacts of application approval on aspects such as tourism,

bankruptcy/financial stress, prevalence of problem gambling, gaming-related crime, and relationship and emotional costs were very difficult to investigate and quantify. Given the validity and methodological problems associated with recording such information, even if it were possible to obtain and quantify these indicators, it remains questionable whether this information would be of any use. For example, as bankruptcy resulting from gambling is criminalised under current laws, any available statistics on bankruptcy rates would represent a gross underestimation of the actual figure (irrespective of whether or not this data is publicly available).

In view of these issues and Council's proposed model for gaming machine approvals, as detailed in Section 4 of this submission, Council recommends that the State Government implement a set of indicators that are required to be considered in determinations of gaming applications. This assessment instrument would apply statewide and would be developed through collaboration with relevant stakeholders, including the local government sector. In addition to the prescribed set of indicators, each local government authority should have the option of specifying supplementary indicators or issues that must be considered in gaming applications within its municipal boundaries. This would ensure the consistent statewide process and approach can be complemented by a localised approach that takes into account local factors and priorities.

To be effective, the statewide gaming impact assessment framework must be incorporated in the Victorian Planning Provisions and aligned with Clause 52.28. The applicant must be responsible for preparing the impact assessment and the assessment must be objective and conducted by an independent party. The impact assessment must be rigorous and include presentation of the required data, analysis of the information and summary of findings. The impact assessment should be made available for public comment for an appropriate period of time and any comment received must be considered in the final report.

The Maroondah Gaming Policy and Statement of Practice 2007 specifies particular matters that Maroondah City Council will consider in determining the social and economic impacts arising from gaming applications. The policy also requires that applicants submit a report addressing the listed matters. The matters that Council will consider are:

- 1) the specific and overall incremental social and economic impacts
- 2) the immediate and longer-term social and economic impacts
- 3) the direct and indirect social and economic impacts
- 4) projected changes in per capita gaming expenditure, EGM density and gaming venue density resulting from approval
- 5) locational aspects of the venue in terms of the accessibility of gambling opportunities
- 6) proximity of the proposed venue to public, social or community housing
- 7) measures that have been proposed by the applicant to restrict the access of minors to the gaming area
- 8) responsible gambling measures proposed by the applicant

- 9) any impact of the proposal on community values and identified Neighbourhood Character
- 10) the internal environment of the gaming venue and the venue design as relevant to demonstrated links with problem gambling
- 11) non-gambling activities, facilities and opportunities at the venue
- 12) the amount of gaming revenue proposed by the applicant to be provided for the benefit of community in the City of Maroondah (such as through sponsorships and donations), and the procedures by and purposes to which these monies will be allocated.
- 13) social and economic indicators of residents living within a 2.5 kilometre radius of the proposed venue. These indicators<sup>1</sup> include:
  - the SocioEconomic Index for Areas (SEIFA) Index of Relative Disadvantage and Index of Economic Resources
  - education levels
  - unemployment rates
  - household and family composition
  - household income
  - housing tenure
  - proportion of households experiencing housing stress<sup>2</sup>
  - mortgage and oil vulnerability using the VAMPIRE index<sup>3</sup>
- 14) social and economic indicators on a postcode, suburb or LGA level (depending on the geographic level at which the data is available), including:
  - proportion of residents receiving income support<sup>4</sup>
  - annual average taxable income<sup>5</sup>
  - proportion of people who could raise \$2,000 in an emergency<sup>6</sup>
  - retained retail spending<sup>7</sup>
  - Community Adversity and Resilience Indicator<sup>8</sup>
- 15) the management structure of a club venue, including the costs and terms of lease and any management fees, and the effects of such on the amount of revenue available for direct community benefit
- 16) any other relevant social and economic impacts on the local and wider communities.

Maroondah City Council recommends that the set of indicators listed above be included in the uniform statewide impact assessment framework. However, further extensive public consultation and research will be required in the identification and development of statewide measures for consideration in gaming machine approvals.

<sup>1</sup> These indicators can be sourced from the Australian Bureau of Statistics Census of Population and Housing. Comparisons should be made with the corresponding statistics for the Melbourne Statistical Division (MSD).

<sup>2</sup> According to Landt & Bray (1997), income units that are in the bottom 40% (based on their total pre-tax income) and paying 30% of more of their pre-tax income on rent or mortgage repayments experience housing stress.

<sup>3</sup> The Vulnerability Assessment for Mortgage, Petrol and Inflation Risks and Expenditure (VAMPIRE) has been developed by Dodson and Sipe (2006).

<sup>4</sup> Data available from the Australian Bureau of Statistics.

<sup>5</sup> Data available from the Australian Taxation Office.

<sup>6</sup> Data available from the Victorian Community Indicators Project

<sup>7</sup> Data available from the Victorian Community Indicators Project

<sup>8</sup> Data available from the publication by Tony Vinson (2004), Jesuit Social Services.

Additionally, the Maroondah Gaming Policy requires that gaming applications include a summary of the application which details the proposed hours of operation, patron numbers, staff positions (Equivalent Full Time), proposed security measures, other facilities to be provided and the number of machines to be installed. (For applications for an increase to the number of EGMs in an approved gaming venue, the report must address these matters with respect to the current status as well as any incremental changes resulting from approval of the application.)

Council is of the firm opinion that it is essential that the views of the local community are considered in any determination of a gaming application. The current machine approval process does not stipulate requirements for consulting with the affected community or on the weight the VCGR and VCAT have to afford to community input.

In preparing the submission to the VCGR in relation to a recent gaming application in the City of Maroondah, Council sought public feedback on the application and received 24 written submissions and a community petition containing 462 signatures opposing the application. In its decision, the VCGR acknowledged the strong community opposition and took this into account in making its decision. The VCAT decision on the appeal by the applicant does not make any mention of the community submissions and petition. The views of the affected community and of the relevant council's policies and planning scheme, which are a reflection of community aspirations and priorities, must be taken into account in assessing gaming applications. (The next section of this submission discusses the issue of 'affected community'.)

Under the model for gaming machine approval that Council has proposed in this submission, the matters for consideration in relation to the approval process by the council, VCGR and VCAT are summarised below:

- The council – as the relevant municipal authority, the local council must consider the matter based on:
  - Local policies and planning schemes
  - The statewide gaming impact assessment framework identifying the mandatory social and economic measures and issues for consideration
  - Any additional local measures identified in the council's gaming policy and/or planning scheme
  - The application and independent, objective impact assessment commissioned by the applicant.
  - Comments from the local community and adjacent municipal authorities.
  
- The VCGR – as the regulatory and referral body, the VCGR will consider the licensing component of applications based on Victorian legislation and regulation, Ministerial Directions, and probity issues to assess the 'fit' of the applicant.

- The VCAT – as the review panel, the role of VCAT will be to hear appeals from the applicant based on the council’s compliance with due process and the relevant planning scheme and policies.

This structure for determining gaming machine applications provides for greater separation of powers and matters for consideration which minimises role duplication and the double-handling of matters.

## 7. The Spatial Impact of Gaming

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The VCGR recently advised key stakeholders on its proposal to change the process for notifying surrounding municipalities of applications for new gaming premises and increases in machine numbers in existing venues. Prior to finalising this proposal, the VCGR sought comment on the definition of ‘close proximity’ to guide the notification process.

Council’s response to the VCGR acknowledged the complexity of defining the proximity impacts of gaming applications and noted that the distance constituting significant proximity would vary with each application and depend on factors such as:

- the density and comparable locations of other gaming venues in the vicinity
- the comparable amenities and facilities of other gaming venues in the vicinity
- a rural, regional or metropolitan location (for example, residents in rural areas may be more prepared/accustomed to travel further distances to access infrastructure and services compared with residents in metropolitan areas)
- relevant transport routes.

For this reason, Council recommended that all municipal districts immediately adjoining the municipality in which the gaming application has been received should be notified of the application. Furthermore, these adjoining municipalities should have the opportunity to provide comment on the application and any received comment must be taken into consideration in determining the application.

Under the model for machine approval proposed in this submission, Council suggests that, in addition to a uniform state gaming impact assessment framework, the Victorian planning framework require that the council, as the planning authority, notify all adjoining municipalities of gaming applications received in the municipality. Such a procedure would ensure that communities that may be significantly affected by a gaming application due to the location of a gaming venue will have sufficient opportunity to have a say in the decision.

The Australian National University (ANU, 2004) concluded that 57% of Victorians travel five kilometres or less to a gaming venue. While this represents the majority of gaming patrons, it does not provide information about localised factors that may affect the distance of travel. A range of factors, including the four factors listed above, could influence the distance that people are likely to travel from their place of residence or work to a gaming venue and,

hence, the geographic area likely to be directly affected. This means that the geographic area that should be considered in assessing the social and economic impacts of gaming can vary considerably depending on local conditions and Victoria's machine approval process should enable sufficient flexibility to accommodate such variations. Council therefore recommends that a model similar to that used in the Northern Territory be applied in Victoria in defining the 'affected community' or 'local community'. Thus, the primary geographic area to be considered would not necessarily be limited to municipal or suburb boundaries, but would be determined by factors such as:

- the size and type of the proposed venue
- the nature and characteristics of the immediate and surrounding neighbourhood
- the availability and proximity of other gaming machines
- likely patrons of the venue
- access to the venue.

While allowing greater flexibility in defining the 'affected community' would enhance decisions on gaming machine approvals, it may also require greater collaboration between neighbouring councils to improve information gathering and analysis.

## 8. The Role of VCAT

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A review of the four gaming applications that have been appealed to VCAT to date (Branbeau, Ocean Grove Bowling Club, Romsey Hotel, and the Kilsyth and Mountain District Basketball Association) reveals that the VCGR and VCAT appear to consider different factors when making a decision and to vary in the weightings given to some factors, even though both bodies refer to the same legislative framework and 'relevant test'.

Maroondah City Council, along with other local government authorities in the region, has advocated to the State Government for a review of the role of VCAT in planning and gaming matters. Council is grateful that the terms of the current review include the role of VCAT in gaming matters.

Council's advocacy on the role and decisions of VCAT focuses on three primary issues:

- Application of local policy – VCAT continues to place an overwhelming emphasis on extremely broad state policy objectives to the detriment of local policy considerations. Decisions from VCAT frequently depart from council policy requirements as contained in the planning scheme and local policies.
- Consistency of decision making – Council is continually frustrated by an apparent inconsistency in the VCAT decision making process. This occurs in both the application of local policy to similar applications and the consideration of the same type of application by different VCAT members. Such inconsistency in the VCAT review process makes it difficult to review planning policy or to determine applications with a degree of confidence.

- The role of VCAT – Rather than assessing compliance with local planning policies, VCAT effectively acts as a ‘de facto’ planning authority as any planning application can be referred to VCAT. This ultimately supplants the role of Council as the local planning authority. VCAT, as a panel of review, should be reduced to dealing with those matters that are determined to be of regional significance or that relate to a failure of Council to comply with due process or natural justice. VCAT should not be able to hear a matter simply because the applicant did not like Council’s decision.

In respect to the gaming machine approval process, Council proposes that the role of VCAT should be limited to reviewing a decision of the local planning authority on the basis of compliance with process and relevant policies and planning schemes. This would increase the confidence of councils in developing and applying local policies, ensure that the role of local councils as the planning authority is not supplanted, and substantially reduce the costs and administrative burdens on councils and the VCGR.

If the State Government determines that the current model of gaming machine approvals should be maintained, Council requests that the VCGR be required to defend their decision at appeal hearings so that the full responsibility for defending the decision is not borne by the council or applicant (depending on the party making the appeal).

## 9. Resourcing

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There is no doubt that the involvement of local government in the gaming machine approval process is highly resource-intensive in staff time, direct costs and in-kind costs.

Maroondah City Council estimates that Council’s involvement in the gaming application in 2005/06 incurred over \$50,000 in direct costs and in-kind costs. This estimate is extremely conservative and includes staff costs involved in preparing the ESIS, staff costs involved in preparing for and attending the VCGR and VCAT hearings, and legal representation for both hearings. Again, it is noted that this is an overly cautious estimate of the incurred costs.

This is not an insubstantial sum of money and represents a significant displacement of resources that could be directed towards alternative purposes to improve community wellbeing.

In addition to the costs associated with involvement in gaming applications, local government expenditure on gaming related matters includes costs for developing gaming policies, planning frameworks, local research, advocacy and submissions, community awareness raising, media liaison, attendance at various meetings and events, and ongoing staff training. Local government has largely borne these costs as part of its mandated responsibilities.

Local government does not derive any direct financial benefits from gaming in the local area. While the State Government collects taxes from gaming activities, these taxes do not flow to

the local government sector in direct administrative and resource funding for gambling-related matters. Council requests that the State Government takes steps to ensure that the local government sector, as well as gambler support services and emergency relief services that are directly impacted by problem gambling, are appropriately funded in line with their respective responsibilities in problem gambling and gaming machine approvals.

In addition to direct funding, local councils require easy access to up-to-date information to facilitate evidence-based planning, research, knowledge development and administrative requirements associated with localised electronic gaming.

As stated in Council's submission to the Gambling Licences Review in May 2006, there are a number of reasons for local governments to require information about aspects related to the gambling industry such as responsible gambling practices, the profile of gamblers and gaming expenditure. The key uses by local government of such information include:

- to develop and implement effective and up-to-date gambling policies
- to analyse the impact on the local community of gambling and changes in the municipality (for example, proposals for a new gaming venue or an increase in the number of EGMs)
- to gain an understanding of the population groups that experience or are at-risk of experiencing problem gambling and the impacts of problem gambling on individuals, families and the community
- to better comprehend which measures have been shown to effectively minimise the harms caused by gaming and gambling

Ready access by local governments to such information is essential to enable councils to carry out their mandated responsibilities and roles, particularly in facilitating the best social, economic, health and wellbeing outcomes for the community. Public access to such information is also fundamental to a policy and legislative framework premised on the principles of transparency and probity.

Council, therefore, insists on the timely and public release of such information by the gaming industry and State Government.

## **10. Whole-of-Government Approach**

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The LGWGOG submission to the Minister for Gaming on further controls on EGMs (February 2002) calls for a whole-of-government approach to effectively address the issue of problematic gambling.

Maroondah City Council reiterates this call for a more integrated approach to the issue. As with most social issues, problem gambling has direct linkages to a wide spectrum of issues: mental, emotional and physical health; land use planning; family wellbeing and relationships; welfare, community and emergency relief services; employment and education; housing;

social cohesion and participation; community infrastructure; government and community revenue distribution; tourism, sports and recreation; local economic development; etc.

Coordination, shared responsibility, sharing of information and an integrated strategic approach that involves all relevant government departments and agencies is necessary to achieve genuine progress on this issue.

## References

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ANU. (2004). *2003 Victorian longitudinal community attitudes survey*. GRP Report No. 6. The Centre for Gambling Research, Australian National University.

Landt, J. & Bray, R. (1997). *Alternative approaches to measuring rental housing affordability in Australia*. Discussion Paper No. 16. Canberra: National Centre for Social and Economic Modelling, University of Canberra.

Dodson, J. & Sipe, N. (2006). *Shocking the suburbs: Urban location, housing debt and oil vulnerability in the Australian city*. Brisbane: Urban Research Program: Griffith University. Accessed 27 October 2006, from [http://www.griffith.edu.au/centre/urp/urp\\_publications/research\\_papers/URP\\_RP8\\_MortgageVulnerability\\_Final.pdf](http://www.griffith.edu.au/centre/urp/urp_publications/research_papers/URP_RP8_MortgageVulnerability_Final.pdf)

Vinson, T. (2004). *Community adversity and resilience: The distribution of social disadvantage in Victoria and New South Wales and the mediating role of social cohesion*. Richmond: Jesuit Social Services.