

## MINUTES OF THE ORDINARY MEETING OF COUNCIL

15 OCTOBER 2018

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**12.11 AMENDMENT C182 TO THE MELTON PLANNING SCHEME - ELECTRONIC GAMING MACHINE PLANNING POLICY PROJECT**

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Presenter: Laura-Jo Mellan - Manager City Design, Strategy & Environment

**PURPOSE OF REPORT**

To consider submissions received in response to Amendment C182 to the Melton Planning Scheme during the exhibition period.

**RECOMMENDATION:**

That Council:

1. Request the Minister for Planning to establish an independent planning panel to consider unresolved submissions received in response to Amendment C182 in accordance with the *Planning and Environment Act 1987*.
2. Authorise the General Manager Planning and Development and the Manager City Design, Strategy and Environment to negotiate and resolve issues that are raised during the Planning Panel process prior to the Amendment being reported back to Council for consideration.

**Motion**

Crs Hardy/Mendes.

That the recommendation be adopted.

**CARRIED**

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**REPORT****1. Executive Summary**

Amendment C182 proposes to incorporate the recommendations of the Melton Electronic Gaming Machine Planning Policy Project Reference Document into the Melton Planning Scheme.

At the Ordinary meeting held on the 24 July, 2017 Council resolved to seek authorisation to:

1. *Adopt the City of Melton Electronic Gaming Machine Planning Policy reference document*
2. *Note the City of Melton Electronic Gaming Machine Planning Policy Background Report*
3. *Prepare Planning Scheme Amendment C182 to the Melton Planning Scheme for the Minister for Planning and upon receiving authorisation, prepare and exhibit the amendment in accordance with Section 19 of the Planning and Environment Act, 1987*

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Page 43

## MINUTES OF THE ORDINARY MEETING OF COUNCIL

15 OCTOBER 2018

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4. *Authorise the General Manager Planning and Development or Manager City Design, Strategy & Environment to negotiate and resolve any issues that are raised by submitters during the exhibition process prior to the Amendment being reported back to Council for referral to a Planning Panel or Adoption.*

Following this resolution, Council officers sought authorisation to commence the Amendment from the Department of Environment, Land, Water and Planning (DELWP). Authorisation which was received on 20 April, 2018. Subsequently, the Amendment was publicly exhibited during the period of 28 June 2018 – 9 August 2018. Two submissions were received during the exhibition period and are summarised in section five of this report and detailed in **Appendix 2**.

The Amendment will provide a clear direction for the assessment of gaming related planning applications and for Council to defend these positions at VCAT.

It is recommended that Council requests the Minister for Planning to establish an independent Planning Panel to consider unresolved submissions received in response to Amendment C182 in accordance with the *Planning and Environment Act 1987*.

## 2. Background/Issues

### **Melton Electronic Gaming Planning Policy Project Reference Document**

The *City of Melton Responsible Gambling Policy* is Council's social policy that was adopted by Council in October 2014. The policy describes Council's commitments in relation to addressing harms associated with all gambling products and activities over which Melton City Council has influence.

A key recommendation from the policy was to strengthen Council's position on Electronic Gaming Machines (EGM's) by developing a Local Planning Policy to be included in the Melton Planning Scheme.

As part of the project, a Reference Document was produced based on the following key principles:

- a. *Gaming venues and EGM's should be accessible to the extent that they are available but not convenient.*
- b. *Growth Areas – The availability of EGM's and gaming venues should be managed to reflect population growth and distribution.*
- c. *Exposure to opportunities to gamble should be managed to safeguard the health and wellbeing of communities at an elevated risk of gambling related harms.*
- d. *Venues should be designed and operated to maximise their potential community benefits.*

Sections 4 and 5 of the Reference Document makes recommendations for changes to the Melton Planning Scheme to provide the policy framework to implement these key principles.

These recommendations form the basis of Amendment C182 to the Melton Planning Scheme.

### **Amendment C182**

The amendment implements the recommendations of the City of Melton Electronic Gaming Planning Policy Project Reference Document, June 2017 in order to guide the location of electronic gaming machines in the municipality.

In particular, the Amendment:

- Inserts a new Local Planning Policy for Electronic Gaming into the Melton Planning Scheme at Clause 22.13, including the City of Melton Responsible Gambling Policy, October 2014 and the City of Melton Electronic Gaming Planning Policy Project Reference Document, June 2017 as reference documents.

**MINUTES OF THE ORDINARY MEETING OF COUNCIL****15 OCTOBER 2018**

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- Amends the Particular Provisions at Clause 52.28, Schedule to Clause 52.28 Gaming.

In accordance with Ministerial Direction No 11 the amendment has been assessed against the relevant Strategic Assessment Guidelines.

The purpose of Amendment C182 is to provide improved direction from the Melton Planning Scheme and enable a more comprehensive assessment of gaming related planning applications. The Amendment will ensure that Council has the policy guidance to defend decisions at VCAT and advise applicants at the pre application stage.

The Amendment provides a fair and orderly approach to EGMs acknowledging the economic role of venues to local communities whilst minimising the impacts from gambling on these communities.

The proposed amendment supports the PPF, in particular Clause 11 (Settlement) and Clause 17 (Economic Development).

- Clause 11 (Settlement) seeks to provide a focus for business, shopping, working, leisure and community facilities, to improve the social, economic and environmental performance and amenity of centres and to reduce the number of private motorised trips by concentrating activities in accessible centres by encouraging economic activity and business synergies.
- Clause 17 (Economic Development) seeks to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development. Relevant policy encourages various retailing options that meet the needs of local residents.

The Amendment will address a current gap in the Local Planning Policy Framework by including a Local Planning Policy in the Melton Planning Scheme.

The Amendment also updates Clause 52.28 of the Particular Provisions and is consistent with the following objectives:

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

**3. Council and Wellbeing Plan Reference and Policy Reference**

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way

*3.1 A City that strategically plans for growth and development.*

**4. Financial Considerations**

The City of Melton Electronic Gaming Machine Planning Policy was prepared by an external consultant within the approved budget of \$40,000.

Council officer time and resources are involved in the preparation, exhibition and adoption of the amendment. Statutory fees such as those associated with a Planning Panel are required to be borne by Council as the Responsible Authority. The budget for the Planning Scheme Amendment is within the City Design Strategy & Environments recurrent budget.

**5. Consultation/Public Submissions**

The Amendment was on public exhibition from 28 June 2018 – 9 August 2018 and involved letters (giving notice) to existing venue operators, industry groups, government agencies, surrounding Councils and community organisations who participated in the development of the project. A more extensive mail out to include households was not considered necessary as the changes proposed to the Melton Planning Scheme do not change current operations of existing venues.

Notices were placed in local newspaper the *Melton and Moorabool Star Weekly* and the Government Gazette and posted on DELWP's and Councils website in accordance with *The Planning and Environment Act 1987*.

**Submissions**

A total of two submissions were received in response to the amendment (**Appendix 2**). A summary of issues raised through submissions to be considered by the Planning Panel are detailed below:

MINUTES OF THE ORDINARY MEETING OF COUNCIL

15 OCTOBER 2018

Submitters	Issue	Response
2	Description of West Waters Hotel as a Shopping Complex in schedule is ambiguous.	Agree, changes to description will be made to ensure clarity.
1 & 2	Net community benefit and other references to 'community' are not mandated to be considered under the Victoria Planning Provisions (VPP).	Disagree, while community benefit is required to be considered under the Gambling Regulation Act, it is often applied to local policies and was supported by DELWP during the drafting of the amendment. <b>No change.</b>
1	Objects to the policy that venues and EGMs should not be located on land where a shopping complex or a strip shopping centre has not been fully established.	Disagree, sequencing of development is important particularly in growth areas to ensure that gaming is not the only entertainment option available. <b>No change.</b>
1 & 2	Object to the requirement that gaming venues and EGMs should be located at least 400m walking distance from various uses including residential and public transport interchanges.	Disagree, this is a key mechanism for ensuring EGMs are accessible but not convenient. <b>No change.</b>
1 & 2	Object to the requirement that signage on venues should be modest in size and discrete	While a separate approval process is required through the VCGLR, signage is required to be assessed under planning schemes and is therefore a legitimate issue to be included in a local gaming policy. <b>No change.</b>
1 & 2	The requirement that EGMs should not be located in venues that operate 24 hours per day should be removed from the policy.	Disagree, while the VCGLR regulates hours of operation through its licensing process, the planning permit process must consider hours of operation in order to determine the location of venues and EGMs and potential impacts on amenity. <b>No change.</b>
1 & 2	A Social and Economic Impact Assessment to show that the proposal will produce a net community benefit should be deleted or re-worded as is not a relevant test.	Disagree, this forms part of the application requirements and ensures all relevant information is made available to Council during the assessment process. <b>No change.</b>

MINUTES OF THE ORDINARY MEETING OF COUNCIL

15 OCTOBER 2018

1 & 2	The need to provide evidence of the impact of the proposal on community well-being through a community survey or other data is excessive.	Disagree, this forms part of the application requirements and ensures all relevant information is made available to Council during the assessment process. <b>No change.</b>
1 & 2	<i>The City of Melton Responsible Gambling Policy</i> reference document dated 2014 has expired.	Noted, the reference document is still current, however, the expiry date indicates otherwise. The policy remains current until it is replaced or amended.
1 & 2	The Reference Document fails to acknowledge the benefits associated with gaming and is not balanced in its approach.	Disagree, the policy responds to the relevant Victorian Planning Provisions which requires Councils to consider amongst other issues, the social and economic impacts of the location of gaming machines.

Following exhibition, discussions were held with submitters to clarify some of the issues raised. One submitter has withdrawn its submission following the agreement by Council officers to clarify the land description of the Caroline Springs Town Centre.

The remaining submitter has indicated that their submission cannot be resolved, and has requested to be referred to an independent Planning Panel for its consideration.

**6. Risk Analysis**

If Council chooses not to adopt Amendment C182 to the Melton Planning Scheme, there are a number of associated risks:

1. The absence of an Electronic Gaming Machine Local Planning Policy in the Melton Planning Scheme will result in a lack of clear direction for Council officers in assessing future planning applications in a consistent and efficient manner.
2. A lack of guidance for existing venues operators and new venue operators.
3. Inappropriate planning outcomes in relation to the location of new venues and expansion of existing venues.

**7. Options**

Council can resolve to either:

1. Request the Minister for Planning to establish an independent Planning Panel to consider unresolved submissions received in response to C182 in accordance with the *Planning and Environment Act 1987* and authorise the General Manager of Planning and Development and the Manager, City Design, Strategy & Environment to negotiate and resolve any issues raised during the Planning Panel process prior to the Amendment being reported back to Council for consideration.
2. Abandon the Amendment.

MINUTES OF THE ORDINARY MEETING OF COUNCIL

15 OCTOBER 2018

**LIST OF APPENDICES**

1. Planning Policy Reference Document - dated June 2017
2. Submissions - dated August 2018
3. Proposed Ordinances - undated