



City of Melton
Electronic
Gaming
Machine
Planning Policy
Project
Background
Report
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City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

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Background Report

Contents

Acronyms	iv
Glossary	v
1 Introduction	7
1.1 Background.....	7
1.2 Sources of information.....	7
2 Locational and community context	8
2.1 Location	8
2.2 Population growth and changes	8
3 Legislative framework	10
3.1 Planning and local government	11
3.2 Gaming and state government	12
4 City of Melton strategic policy and planning framework	15
4.1 City of Melton Council Plan 2013-2017 and Annual Action Plan 2015-16	16
4.2 City of Melton Municipal Public Health and Wellbeing Plan 2013-2017.....	16
4.3 Other relevant policies and strategies	16
4.4 The West Growth Corridor Plan	18
4.5 Melton Planning Scheme.....	19
5 Gaming context.....	23
5.1 Snapshot of key indicators	23
5.2 Density EGMs per 1,000 adults.....	24
5.3 Gaming venues.....	25
5.4 EGM expenditure.....	30
5.5 Comparison between the two statistical local areas.....	32
5.6 Accessibility to gaming venues.....	32
5.7 Catchments of existing venues.....	33
6 Relevant decisions by the Tribunal and Commission.....	34
6.1 City of Melton.....	34
6.2 Key principles from other decisions.....	36
7 Gambling-related harm and gambling participation.....	38
7.1 Participation in gambling activities.....	38

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

7.2	Prevalence of problem gambling	39
7.3	Determinants of gambling-related harm	40
7.4	Vulnerability to gambling-related harm in the City of Melton and its small areas	41
8	Overview of relevant clauses in selected Victorian planning schemes	44
8.1	Municipal strategic statements	45
8.2	Local Planning Policies	46
8.3	Clause 52.28	50
9	Framework for the Local Planning Policy for Electronic Gaming – the evidence	51
9.1	Appropriate areas	52
9.2	Appropriate locations or sites	53
9.3	Appropriate venues or premises	56
9.4	Social and economic impacts	59
9.5	Principles	60
10	Conclusion	61
	Appendix 1 – Bibliography	62
	Appendix 2 – Key gaming indicators	65
	Appendix 3 - Indicators of gambling-related harm, the City of Melton and small areas	66
	Appendix 4 - Relevant clauses of selected local planning policies for electronic gaming	69

Figures

Figure 1 – Sources of information	7
Figure 2 – Location of population growth	9
Figure 3 – Melbourne’s four Growth Corridors	18
Figure 4 – Gaming venues in the City of Melton	25
Figure 5 – Location of concentrations of social housing, City of Melton	43

Tables

Table 1 - Density of EGMs per 1,000 adults, City of Melton, Victoria, Metro Melbourne and adjoining municipalities, 2011/12 to 2015/16	25
Table 2– Gaming Venues in the City of Melton	26
Table 3 – Zoning provisions and land uses, gaming venues	26
Table 4 – Changes in EGM expenditure 2013/14 to 2015/16, City of Melton, adjoining municipalities, metropolitan municipalities and Victoria	30

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Table 5 - Changes in EGM expenditure per adult 2013/14 to 2015/16, City of Melton, adjoining municipalities, metropolitan municipalities and Victoria	31
Table 6 – Expenditure per venue, 2015/16, City of Melton.....	31
Table 7 – Key indicators, City of Melton Statistical Local Areas (Balance and East)	32
Table 8 – Summary of EGMs within a 2.5 kilometre and 5 kilometre radius of existing venues in adjoining municipalities of Hume, Brimbank	33
Table 9 – Participation in gambling activities in Victoria in the past year, age comparisons with all Victorian adults.....	39
Table 10 – Summary of key features of selected local planning policies for gaming in Victoria	47
Table 11 – Summary of application requirements of selected local planning policies for gaming in Victoria	49
Table 12 – Social and Economic Impact Assessment Framework.....	59

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Acronyms

ABS	Australian Bureau of Statistics
AFL	Australian Football League
ALH	Australian Leisure and Hospitality Group
CBD	Central Business District
EGM	Electronic Gaming Machine
LGA	Local Government Area
LPPF	Local Planning Policy Framework
LTC	Local Town Centre
MRC	Melbourne Racing Club
MSS	Municipal Strategic Statement
PSP	Precinct Structure Plans
RSG	Responsible Service of Gambling
RSL	Returned and Services League of Australia
SEIA	Social and economic impact assessment
SEIFA	Socio-economic Index for Areas
SIA	Social impact assessment
SLA	Statistical Local Area
SPPF	State Planning Policy Framework
UGZ	Urban Growth Zone
VCAT	Victorian Civil and Administrative Tribunal
VCEC	Victorian Competition and Efficiency Commission
VCGLR	Victorian Commission for Gambling and Liquor Regulation

Glossary

Alternative non-gaming entertainment and recreation facilities	Alternative non-gaming entertainment and recreation facilities include hotels, clubs, cinemas, restaurants, bars and indoor recreation facilities.
Convenience gaming venue	A venue located so as to encourage, or increase the likelihood of, spontaneous decisions to gamble. Convenience gaming venues are functionally and visually integrated with residential areas, strip shopping centres, shopping complexes, railway stations, transportation interchanges and community facilities involving a high concentration of people undertaking daily activities. Convenience gaming venues may include a limited rate of non-gaming social, leisure, entertainment and recreation facilities.
Destination gaming venue	A venue located to encourage predetermined decisions to gamble. Destination gaming venues may be located on large sites that are functionally and visually separated from residential areas, strip shopping centres, shopping complexes, railway stations, transportation interchanges and community facilities involving a high concentration of people undertaking daily activities. Destination gaming venues also include a diverse range of non-gaming social, leisure, entertainment and recreation facilities.
Gambling	<p>Changes to the <i>Gambling Regulation Act 2003</i> (the Act) came into effect on 1 July 2015. The new legislation provides, for the first time, a definition of gambling in the legislation¹.</p> <p>Under the Act, gambling means an activity in which:</p> <p>(a) a prize of money or something else of value is offered or can be won; and</p> <p>(b) a person pays or stakes money or some other valuable consideration to participate; and</p> <p>(c) the outcome involves, or is presented as involving, an element of chance.</p> <p>Even if the outcome of the activity can be influenced by a person's skill, the activity may still be defined as gambling if it involves an element of chance.</p> <p>The definition also states that any game that is played on a device or piece of equipment is considered to be gambling. This includes the use of EGMs.</p>
Gambling sensitive use	The concept of 'gambling sensitive uses' has not been defined by the Tribunal or Planning Panels Victoria. However, they are generally understood to be services and facilities directly associated with people vulnerable to, or experiencing, gambling-related harm.
Gaming	<p>Gaming includes all legal forms of gambling other than wagering including lotteries, EGMs, casino table games, keno and minor gaming such as raffles².</p> <p>Clause 72 <i>General Terms</i> of the Melton Planning Scheme defines gaming as 'the playing of a gaming machine'.</p>
Gaming machine	Also referred to as electronic gaming machines or EGMs, a gaming machine is defined by the <i>Gambling Regulation Act 2003</i> as:

¹ <http://www.vcglr.vic.gov.au/utility/about+us/news/gambling+defined+and+offences+consolidated+from+1+july+2015>

² Productivity Commission (2010)

City of Melton Electronic Gaming Machine Planning Policy Project

Background Report

	<p>“Any device, whether wholly or partly mechanically or electronically operated, that is so designed that –</p> <p>it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and</p> <p>as a result of making a bet on the device, winnings may become payable.</p> <p>A gaming machine has the same meaning in terms of Clause 72 of the Melton Planning Scheme.</p>
Municipal and regional caps	<p>This refers to the maximum permissible number of EGM entitlements under which gaming may be conducted in the municipality. The municipal and regional caps are described in the Ministerial Direction published on 15th August 2012. The municipal cap is calculated at a maximum of ten EGM entitlements per 1,000 adults as at 30th June 2008. Regional caps are applied to municipalities or specific postcodes within a municipality that have been identified as vulnerable to gambling-related harm due to their density of EGMs per 1,000 adults, level of socio-economic disadvantage and expenditure per adult on EGMs.</p> <p>The City of Melton is not subject to a Regional Cap on the number of EGMs. The municipality is subject to a Municipal Cap of 659 EGMs as per the Minister’s Direction 2012.</p>
Problem gambling	<p>Problem gambling has been defined by experiencing difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community.³ This definition contains reference to both gambling behaviours and harms.</p>
Social housing	<p>For the purposes of this policy, social housing means housing for people on lower incomes that is owned or leased by the Department of Human Services, registered housing associations or not-for-profit housing organisations.</p>

³ South Australian Centre for Economic Studies (2005) *Problem Gambling and Harm: Towards a National Definition* Office of Gaming and Racing, Victorian Government Department of Justice, Melbourne, Victoria

1 Introduction

1.1 Background

The *City of Melton Council Responsible Gambling Policy 2014* (the Policy) is a 'whole of Council' approach that defines Council's various roles in relation to preventing gambling related harms in the community. Although the Policy covers the role that planning plays in managing the location and operation of electronic gaming machines (EGMs), it acknowledges the need for a Local Planning Policy to be managed through the planning scheme. The purpose of the LPP is to support the provisions of Clause 52.28 *Gaming*, and its accompanying schedules, which provide the framework for managing gaming venues and EGMs within the municipality.

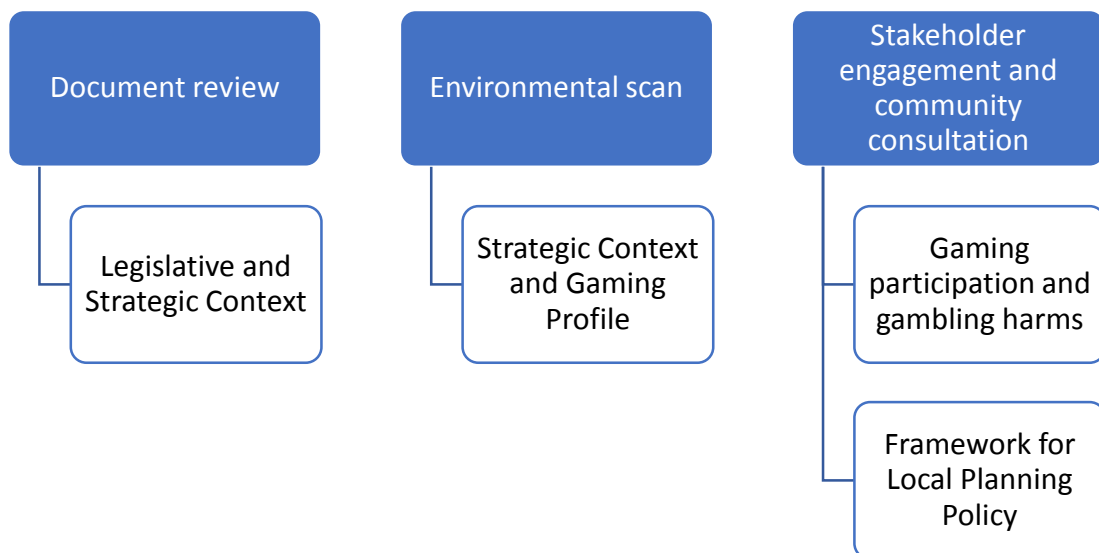
The *City of Melton Electronic Gaming Machine Planning Policy Project Background Report* (the Report) provides the evidence underpinning the Reference Document and ultimate Local Policy.

The key findings in the Report are presented as broad principles which will be developed and analysed further in the Reference Document.

1.2 Sources of information

The information presented in the Report has been derived from three primary sources, namely a document review, an environmental scan and the stakeholder engagement and community consultation process (refer to Figure 1).

Figure 1 – Sources of information



A full list of documents reviewed is included in Appendix 1.

The findings from the stakeholder engagement and community consultation process are presented in a separate document entitled *City of Melton Electronic Gaming Machine Planning Policy Project Consultation Report 2017*.

2 Locational and community context

Chapter summary

- The City of Melton is expected to experience significant population growth which will be mainly concentrated in new communities in the growth corridors.
- At this time, communities living in the west and central part of the municipality have limited access to services and facilities available in the adjoining municipalities and metropolitan Melbourne.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

- The Local Planning Policy for Electronic Gaming will need to ensure that the community has access to alternative non-gaming entertainment uses in the area surrounding the gaming venue, particularly in the new and emerging communities in the growth corridor.
- The City of Melton Local Planning Policy for Electronic Gaming Machines will need to provide specific guidelines that will manage any potential demand for EGMs and gaming venues in the growth areas.

2.1 Location

The City of Melton is located in the outer western fringe of Melbourne, approximately 40 kilometres from the Melbourne CBD. It is one of ten interface municipalities in Victoria and one of seven growth areas. It is surrounded by the Cities of Wyndham, Brimbank, and Hume and the Shires of Macedon Ranges and Moorabool.

The municipality includes the main urban centre of Melton Township, the western suburban area comprising Caroline Springs and Hillside, and several smaller townships including Diggers Rest, Rockbank and Toolern Vale.

2.2 Population growth and changes

2.2.1 Existing

In 2015/16 the estimated resident population of the City of Melton was 143,003⁴. At present, the population of the City of Melton is concentrated in the central part of the Melton Balance Statistical Local Area (Melton Township, Melton West, Melton South, Kurunjang and to some extent, the eastern parts of Brookfield) and the eastern portion of the Melton East Statistical Local Area (Hillside, Taylors Hill, Burnside Heights, Caroline Springs and Burnside).

2.2.2 Projected

It is expected that the population will grow to 347,700 people 2041.⁵

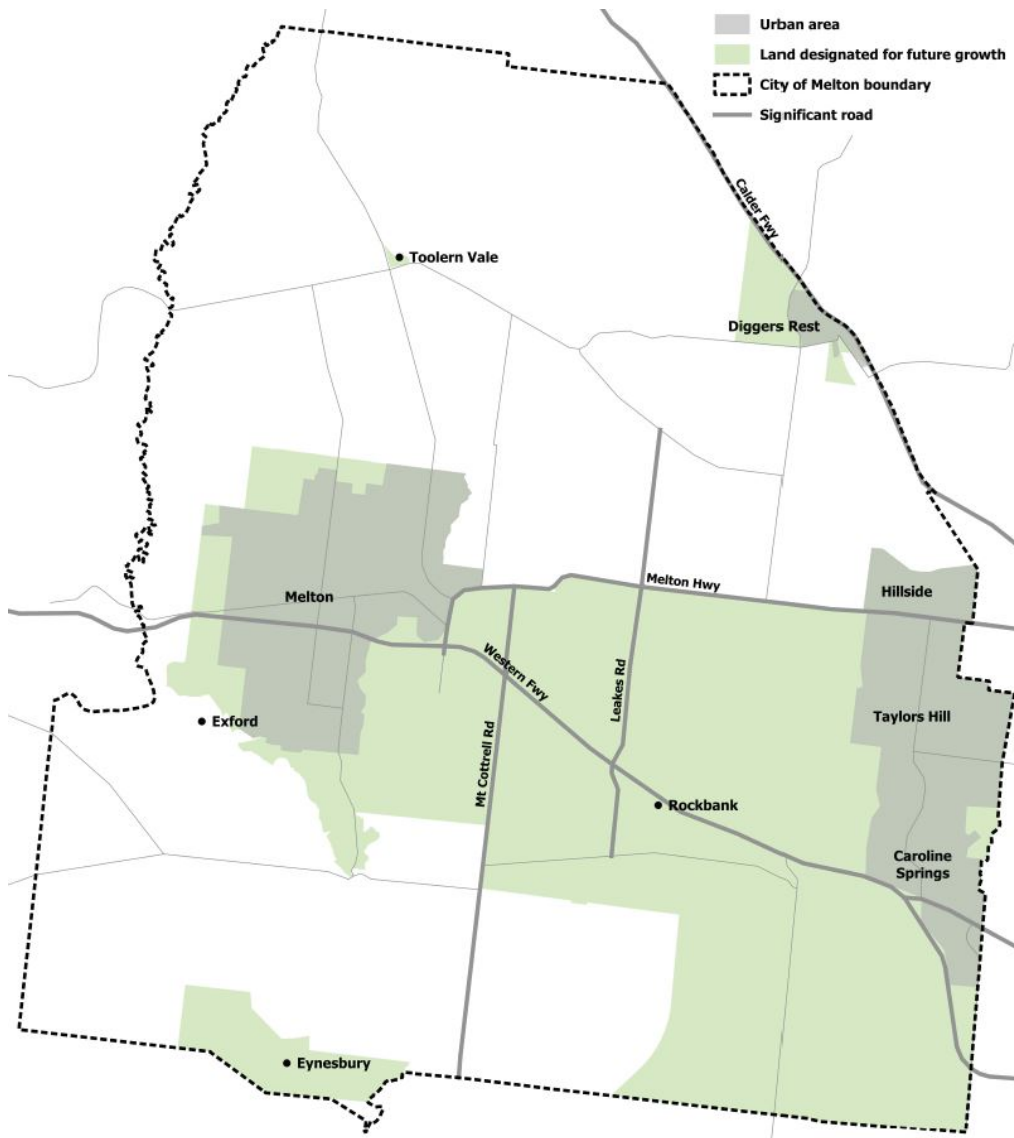
The key drivers of population growth in the City of Melton include the availability of affordable land and housing in areas that are close to and commuting distance of the Melbourne CBD and municipalities in the western region such as Brimbank and Maribyrnong.

The concentrations of population growth are illustrated in Figure 2.

⁴ ABS

⁵ i.d consulting

Figure 2 – Location of population growth



Source: City of Melton

3 Legislative framework

Chapter summary

- The establishment and operation of gaming venues and use and installation of EGMs requires two permissions or 'approvals', namely a planning permit under the *Planning and Environment Act 1987* and a gaming licence under the *Gambling Regulation Act 2003*.
- The *Planning and Environment Act 1987*, together with planning schemes, are the primary statutory instruments that establish the framework within which planning permits to use or install EGMs are assessed.
- The *Planning and Environment Act 1987* requires Council to consider relevant social and economic impacts of the use or development of land and the number of objections to the proposal when assessing a planning permit application for gaming venues or EGMs. In terms of this *Act* Council may also consider regional strategies and the provisions of a planning scheme amendment that have not yet been approved by the Minister for Planning.
- The *Public Health and Wellbeing Act 2008* and the *Local Government Act 1989* provide local authorities with the power to implement measures to protect the health and wellbeing of their communities.
- Applications to establish gaming venues and increase the number of EGMs in an existing venue are also considered under the *Gambling Regulation Act 2003*. This legislation provides Council with the opportunity to make a submission to the Victorian Commission for Gambling and Liquor Regulation on the potential social and economic impacts of the proposal on the wellbeing of the community within the municipality.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

- At present the Melton Planning Scheme does not include a Local Planning Policy for Electronic Gaming. This reduces Council's capacity to effectively manage the location and operation of gaming venues and EGMs in the municipality.
- The Local Planning Policy for Electronic Gaming must give clear and transparent guidance on the scope of information relating to the potential social and economic impacts associated with a proposal to install or use electronic EGMs.
- Council has the option to require applicants to undertake a community survey as part of their application process.
- Statutory harm minimisation measures that operate under the *Gambling Regulation Act 2003* are beyond the scope of the planning system and process. As a result, these measures will not need to be reflected in their entirety in the Local Planning Policy for Electronic Gaming. However, it will be important to ensure that reference is made to them in the application requirements in order to ensure that effective harm minimisation measures are implemented by the venue operator. Council may also wish to require an application to incorporate non-statutory harm minimisation measures.

Under Victorian legislation, the use of EGMs is a legal activity that is regulated through two statutory instruments, namely the *Planning and Environment Act 1987* and the *Gambling Regulation Act 2003*. This Chapter discusses these two primary statutory instruments, and other relevant statutory instruments.

3.1 Planning and local government

3.1.1 Planning and Environment Act 1987

Purpose and objectives

The *Planning and Environment Act 1987* is the key legislative tool involved in assessing planning permit applications to install and use EGMs.

The purpose of the *Planning and Environment Act 1987* is to guide planning for the use, development and protection of land in Victoria. Relevant objectives of planning in Victoria, as described in the *Planning and Environment Act 1987* include:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (e) to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in the Act; and
- (g) to balance the present and future interests of all Victorians.

Matters to be considered by a local authority

Section 60 of the *Planning and Environment Act 1987* outlines the matters that a local authority must and may consider before deciding on an application. Matters that must be considered include the relevant planning scheme; the objectives of planning in Victoria; all objections and submissions received; decisions and comments of a referral authority; and any significant effects (including social and economic) that the use or development of land may have on the environment. Amendments to the *Planning and Environment Act, 1987* in 2015 now require Council to have regard to the number of objectors in considering whether the use or development of land may have a significant social effect.

Matters that may be considered by the Council include an approved regional strategy plan (including those adopted by a Minister, government department, public authority or municipal council); and an amendment to a planning scheme that has been adopted by Council but not yet approved by the Minister.

Planning schemes

Local Councils are required to prepare, administer and enforce planning schemes within their jurisdictions. Planning schemes must be prepared in accordance with the *Victoria Planning Provisions*, which set out the format in which strategies, policies and provisions must be prepared, including standard zone and overlay provisions.

Each planning scheme must also contain a Local Planning Policy Framework (LPPF) comprising a municipal strategic statement (MSS) and local planning policies (LPPs). MSSs outline local objectives, strategies, implementation approaches and performance measures. Local planning policies assist in exercising discretion regarding planning permit decisions, but cannot override zones or other regulatory provisions.

All planning schemes in Victoria contain a standard gaming provision (Clause 52.28), which was introduced in 2006. The Clause requires that a planning permit be granted for the installation and use of EGMs in a new venue or to increase the number of machines in an existing venue. Schedules to the Clause allow planning authorities to prohibit EGMs in specific strip shopping centres or complexes. A default schedule prohibits EGMs in all strip shopping centres where a detailed schedule has not been included in the scheme.

3.1.2 Local Government Act 1989

The *Local Government Act 1989* is the statutory instrument that prescribes Council's role in relation to administering its municipality.

The functions of a Council are defined by the *Local Government Act 1989* as follows:

- (a) advocating and promoting proposals which are in the best interests of the local community;
- (b) planning for and providing services and facilities for the local community;
- (c) providing and maintaining community infrastructure in the municipal district;
- (d) undertaking strategic and land use planning for the municipal district;
- (e) raising revenue to enable the Council to perform its functions;
- (f) making and enforcing local laws;
- (g) exercising, performing and discharging the duties, functions and powers of Councils under this Act and other Acts;
- (h) any other function relating to the peace, order and good government of the municipal district.

3.1.3 Public Health and Wellbeing Act 2008

The purpose of the *Public Health and Wellbeing Act 2008* is to promote and protect public health and wellbeing across Victoria. The functions of Councils, as defined by Section 24 of the *Public Health and Wellbeing Act 2008* include:

- (a) creating an environment which supports the health of members of the local community and strengthens the capacity of the community and individuals to achieve better health;
- (b) initiating, supporting and managing public health planning processes at the local government level; and
- (d) ...intervening if the health of people within the municipal district is affected.

One of the principles underpinning this legislation is the precautionary principle, described in Section 6 of the Act. This principle requires that:

If a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.

3.2 Gaming and state government

3.2.1 Gambling Regulation Act 2003

The *Gambling Regulation Act 2003* is the statutory instrument within which applications for gaming venues and licences are assessed.

Objectives

Relevant objectives of the *Gambling Regulation Act 2003* (GRA) are:

- (a) to foster responsible gambling in order to—
 - (i) minimise harm caused by problem gambling; and
 - (ii) accommodate those who gamble without harming themselves or others;
- (ab) to ensure that minors are neither encouraged to gamble nor allowed to do so;
- (e) (i) to ensure that community and charitable gaming benefits the community or charitable organisation concerned;
- (f) to promote tourism, employment and economic development generally in the State.

Matters to be considered

Section 3.3.7 (1) of the *Gambling Regulation Act 2003* stipulates that the Commission must not grant an application for approval of premises as suitable for gaming unless it is satisfied that:

- (a) The applicant has authority to make the application in respect of the premises; and
- (b) The premises are or, on the completion off building works will be, suitable for the management and operation of gaming machines; and

- (c) The net economic and social impact of approval will not be detrimental to the well-being of the community of the municipal district in which the premises are located.

In addition, the *Act* requires that the Commission must consider whether the size, layout and facilities of the premises are or will be suitable.

Role of the local authority

Section 3.3.6 of the *Act* enables local authorities to make a submission to the Commission that addresses the economic and social impact of the proposal on the wellbeing of the community of the municipal district within which the premises are located. This assessment may take account of the impact of the proposal on surrounding municipal districts.

3.2.2 Victorian harm minimisation measures

The following statutory harm minimisation measures are applicable to all municipalities and gaming venues in Victoria:

- **Municipal and regional caps:** The Victorian State Government has imposed a maximum limit on the number of EGMs permitted in a municipality. These maximum limits are a municipal cap and a regional cap. The municipal cap is set at ten EGMs per 1,000 adults. This maximum number is a limit rather than a target, and does not mean that EGMs can be automatically added to a municipal district.
- **Community Support Fund** The Community Support Fund (CSF), which is a trust governed by the *Gambling Regulation Act 2003* that distributes part of the Victorian Government's gaming revenue to projects that benefit communities. The CSF receives 8.33% of the hotel gaming revenue from EGMs - it does not receive revenue from EGMs located in clubs or in the casino.
- **Community Benefit Statements** Clubs are required to submit a Community Benefit Statement that verifies that it has allocated an equivalent of at least 8.33% of its net gaming revenue for purposes that benefit the community. These purposes are categorised into three Classes i.e. Class A (gifts, donations and sponsorships for activities and community groups), Class B (expenses involved in operating the club) and Class C (miscellaneous, including non-statutory problem gambling services and activities).
- **Responsible Service of Gambling:** All gaming venue employees working in gaming machine areas must complete an approved Responsible Service of Gaming training course within the first six months of starting to work in the gaming machine area.
- **Responsible Gambling Code of Conduct:** The *Gambling Regulation Act 2003* requires that all venues have an approved Responsible Gambling Code of Conduct in place.
- **Self-exclusion programs:** The *Gambling Regulation Act 2003* make it compulsory for all venues to have a self-exclusion program in place.
- **Opening hours:** The *Gambling Regulation Act 2003* restricts opening hours to a maximum of 20 hours each day and requires that there is a continuous 4 hour break from gaming after every 20 hours of gaming. The *Act* makes provision for exemptions to this requirement, enabling gaming venues to operate for 24 hours a day.
- **Signage and advertising:** Gaming venues are permitted to use gaming machine related signage measuring 2m² on their facades. These signs must be in white lettering on a single colour background with no decorative ridges or illumination.
- **Ban on smoking in licensed premises:** On the 1st of September 2002 smoking was prohibited in gaming areas and premises in Victoria⁶.
- **Removal of ATM's:** On 1st July 2012, ATMs and cash access devices that do not require the customer to interact with venue staff before a decision to withdraw cash is made by the customer were on the exterior walls of an approved gaming venue, any land that is owned or leased by the gaming venue operator in which the gaming venue is located and on any car park owned or operated by the venue operator that is used primarily by the gaming venue

⁶ <http://www.tobaccoinaustralia.org.au/table-15-7-1-implementation-dates-aus#Vic>

patrons. The revised legislation still allows cash withdrawals of \$200 per transaction to be made at gaming venues where there is face to face interaction with staff, as occurs through traditional EFTPOS facilities⁷.

- **'YourPlay' pre-commitment scheme⁸:** From 1st December 2015 all EGMs in Victoria are required to operate a voluntary pre-commitment scheme which enables people using EGMs to track how much time and money they spend at any gaming venue in Victoria, including Crown Casino.

3.2.3 VCGLR Guidelines

- The VCGLR Venue Manual provides the necessary information to assist gaming venue operators to meet their regulatory and compliance obligations. The Manual covers a range of matters including gaming machine area (size, layout and facilities); gaming hours; patron interaction and support; display of notices, signs and rules; and advertising of gaming products.
- In October 2013 the Minister issued guidelines relating to the location of children's play areas in gaming venues. These guidelines seek to minimise exposure of the gaming area to children in play areas by maximising distance, restricting access, and minimising the visibility and audibility of the gaming area. These guidelines align with the general prohibition of gambling and gaming among minors.
- In February 2017 the Minister issued guidelines stating that the Commission should not approve gaming machines in buildings with permanent residential accommodation as this could increase exposure to gaming for residents, children and people at risk of gambling-related harms. These guidelines are based on research which indicates that frequent exposure to gambling can lead to gambling-related harms and that easy access to a gaming venue is a potential risk factor for people experiencing gambling-related harms who are in treatment.⁹

⁷ <http://www.vcglr.vic.gov.au/home/laws+and+regulations/standard+licence+obligations/cash+machines+for+gaming+venues>

⁸ <http://assets.justice.vic.gov.au/justice/resources/32c47970-2f66-461e-985d-b34016f018c1/yourplay+update+for+venues+-+factsheet+-+august+2015.pdf>

⁹ www.responsiblegambling.vic.gov.au

4 Policy and planning framework

Chapter summary

- *Plan Melbourne 2017-2050* has identified Toolern as a future Metropolitan Activity Centre.
- The *City of Melton Retail and Activity Centres Strategy 2014* identify a hierarchy of activity centres in the municipality.
- The State Planning Policy Framework supports the location of entertainment uses, including gaming venues within, but on the periphery of activity centres. It also discourages the location of entertainment uses in out-of-centre developments unless it achieves a net community benefit.
- A planning permit is required to install and use gaming venues in Industrial 1 and 3 Zones, Commercial 1 and 3 Zones, Public Use Zone, Public Park and Recreation Zone and Comprehensive Development Zone. The Melton Planning Scheme prohibits the installation and use of EGMs in all other land use zones.
- The *City of Melton Responsible Gambling Policy 2014* sets out the framework within which the Local Planning Policy for Electronic Gaming will be developed. The framework is underpinned by three reductionist harm minimisation principles namely supply, demand and harm.
- The City of Melton Council Plan 2013-2017 and City of Melton Municipal Public Health and Wellbeing Plan 2013-2017 identify the need to develop strategies that prevent and minimise gambling related harms.
- The Donations and Grants Strategy acknowledge the important role that some gaming operators play in funding programs and activities that promote strong communities.
- Themes underpinning other policies and strategies prepared by the City of Melton include stimulating investment in the local economy in order to support job creation and enhance choice in services, facilities and activities for both locals and visitors.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

- The inclusion of a Local Planning Policy for Electronic Gaming in the Melton Planning Scheme would strengthen Council's capacity to manage the location, design and operation of gaming venues in the municipality. The importance of this is specifically relevant to a municipality such as the City of Melton that will experience significant growth and change in the future and a potential increase in the demand for gaming venues and EGMs in the new and emerging communities.
- The Local Planning Policy for Electronic Gaming should provide specific guidance as what needs to be taken into account when assessing the potential social and economic impacts of the location and premises on the adjoining and surrounding land uses in terms of Clause 52.28 *Gaming*.
- The review of the Municipal Strategic Statement will introduce greater clarity in the terminology by including a reference to entertainment uses and health, and the role that planning can play in enhancing health, wellbeing and amenity.
- The Local Planning Policy for Electronic Gaming Machines must include clear criteria guiding the appropriate location of gaming venues in activity centres. It must also provide guidance in relation to the potential for proposals for gaming venues in out of centre locations to achieve net community benefit.

The Schedule to Clause 52.28-3 should incorporate additional existing shopping complexes within which EGMs are prohibited.

4.1 City of Melton Council Plan 2013-2017 and Annual Action Plan 2015-16

The Council Plan 2013-2014 identifies four themes, three of which are relevant to gaming namely (1) innovative local economy; (2) governance and (4) harm reduction.

The goals and objectives focus on reducing health inequalities through facilitating healthy lifestyle choices.

Strategies relate to researching current and future trends in social harms in order to inform the development of policy, plans, local laws and services; preparing social impact assessment on venue-based gaming applications to minimise impact on high risk areas; collaborating with agencies to prevent and reduce harms and respond to needs; and working with venues to enhance compliance.

Action 4.4.1 under *Outcome 4 – A city of people leading health and happy lives* in the Annual Action Plan 2015-16 is to Develop a local planning policy for electronic gaming, part of which includes the preparation of a Reference Document.

4.2 City of Melton Municipal Public Health and Wellbeing Plan 2013-2017

The purpose of the Municipal Public Health and Wellbeing Plan 2013-2017 is to enhance the health and wellbeing in the City through partnerships between Federal and State Government, local agencies, service providers and the community.

The Plan is structured around the four themes, the most relevant of which is *Theme Four: Healthy lifestyles – people leading healthy and happy lives*.

4.3 Other relevant policies and strategies

4.3.1 City of Melton Retail and Activity Centres Strategy 2014

The City of Melton Retail and Activity Centres Strategy 2014 provides the framework to support long term integrated land use planning and the delivery of a hierarchy of retail and activity centres across the municipality. This document was used in support of Amendment C171 which was approved in May 2017.

This strategy identifies the need to ensure that activity centres contain a wide range of land uses including retail, residential, entertainment and community uses, other than just commercial. It specifically identifies the requirement to integrate residential components as part of any new town centre development. In particular, the strategy describes the following hierarchy of activity centres (both planned and existing) for the City of Melton:

Major Centres:

Melton Major Activity Centre is currently the principal concentration of civic, commercial and entertainment facilities in the municipality¹⁰. It provides specialised retailing and a wide variety of services such as entertainment, health, community and municipal services, and wholesaling. It currently contains two gaming venues.

Woodgrove Activity Centre is located 2km west of High Street. It includes major retail, entertainment facilities and is a key destination for convenience shopping within the Melton Township.

Caroline Springs Activity Centre is the nominated activity centre for East Melton, providing retail and service uses. It currently contains one gaming venue.

Burnside Activity Centre is intended to support a sub-regional catchment, and has been identified as having the capacity to grow significantly as a mixed use centre.

Toolern Metropolitan Activity Centre (proposed as per *Plan Melbourne 2017-2050*) is intended to become the key regional centre for the City of Melton community and will incorporate higher density residential development.

¹⁰ Toolern Precinct Structure Plan

Rockbank North Activity Centre (proposed)¹¹ will be a retail destination for the catchment north of the Western Freeway and a regional destination for a number of activities including employment, education, recreation, entertainment, health, civic, dining and shopping. Its connectivity to Rockbank Train Station will strengthen its role as an interchange of key regional bus services.

Rockbank Activity Centre (proposed)¹² will provide commercial, entertainment, education, recreation, civic and community uses. The retail High Street Character precinct from the PSP suggests that it will have the character of a strip shopping centre, integrating civic, entertainment, social and community uses with the core retail and commercial functions.

Plumpton Activity Centre (proposed)¹³ will accommodate a combination of higher order civic, offices, education and sports and recreation facilities.

Neighbourhood Centres

The Strategy identifies that neighbourhood centres should provide access to services that satisfy the local community including retail, health, convenience, dining and family and children's services.

Local Centres

Local Centres include corner stores and small groups of shops that provide convenience and services to support the local community.

A gaming venue is located in the Melton Highway/Gourlay Road neighbourhood centre/local centre.

4.3.2 City of Melton Economic Development and Tourism Plan 2014-2030

This Plan was prepared as part of the Melton Planning Scheme review.

The vision underpinning the City of Melton Economic Development and Tourism Plan 2014-2030 is to generate an innovative local economy that stimulates opportunities for investment, business and training. This vision will be achieved by supporting local business growth; attracting investment in the region; and supporting and promoting local attractions and services to diversify opportunities for residents and visitors.

This Plan notes that Caroline Springs Square is the premium convenience shopping centre in the eastern portion of the municipality and has been servicing the local area since 2004.

Two themes and associated objectives underpinning this Plan that are of relevance are:

Theme 1 – Business Growth and Attraction strategic objectives are:

- Promote and facilitate investment to support the creation of a diverse range of local employment opportunities.

Theme 2 - City Promoting and Tourism strategic objectives are:

- Promote the City of Melton as a growing, diverse community and a place of choice to live, work, do business and leisure.
- Facilitate, support and promote local attractions and services which provide a range of diverse opportunities for residents and visitors.
- Develop a local tourism industry which continues to add value to the local economy.

4.3.3 City of Melton Responsible Gambling Policy 2014

This Policy focuses on EGMs, as this is the form of gambling over which Council has most control through the Planning Scheme. However, it is relevant to all gambling products and activities which fall within the City of Melton's policy influence.

A key recommendation of the Policy was to support an amendment to the Melton Planning Scheme to incorporate a Local Planning Policy for Electronic Gaming in order to strengthen Council's capacity to

¹¹ Rockbank North Precinct Structure Plan

¹² Rockbank South Precinct Structure Plan

¹³ Plumpton Precinct Structure Plan

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

effectively manage the location and operation of gaming venues and EGMs through Clause 52.28 of the Planning Scheme. This Policy sets the framework within which the Local Planning Policy for Electronic Gaming will be prepared and implemented.

The Policy acknowledges that gaming is a legitimate form of entertainment that is also associated with harm to the individual and the community. The strategies in the Policy are based on the three reductionist harm minimisation principles, namely demand, supply and harm. These strategies incorporate a number of factors that may be addressed through the planning system e.g. location of venues in relation to incompatible land uses and sensitive community facilities, and design and operation of gaming venues.

4.3.4 City of Melton Community Grants Program Policy 2013

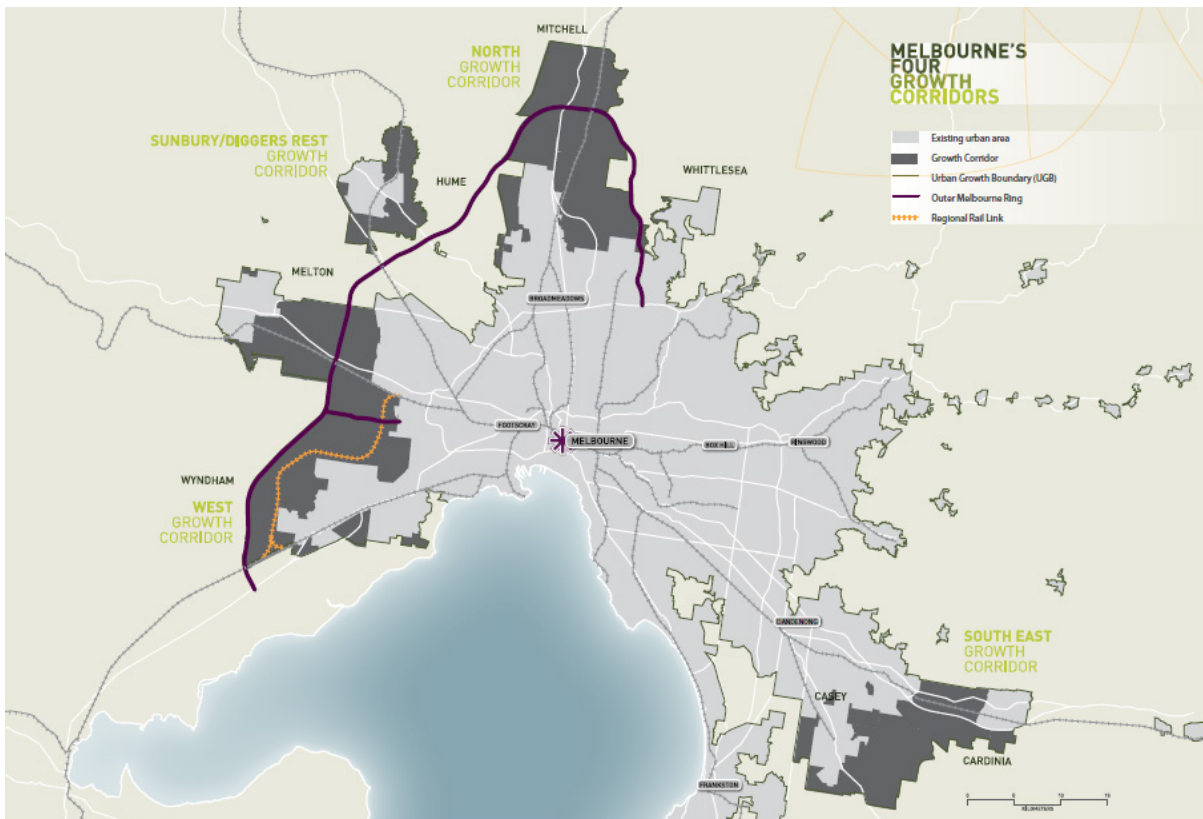
This Policy acknowledges that private sector operations, including EGM venues, are one of the sources of grant funding available to the City of Melton community. These funds are used to support groups and organisations that are either located in the municipality or deliver welfare and support services to the community in the City of Melton with a view to building stronger and more resilient communities.

The Policy supports Council's administration of funds provided to the community through third party funding bodies including the Collingwood Football Club and Harness Racing Victoria, the former operating from The Club and the latter operating from Tabcorp Park, both of which are gaming venues.

4.4 The West Growth Corridor Plan

The City of Melton is located in the West Growth Corridor and Sunbury/Diggers Rest are two of the growth corridors surrounding metropolitan Melbourne (refer to Figure 3).

Figure 3 – Melbourne's four Growth Corridors



Source: Victorian Planning Authority

Growth Corridor Plans guide the future development in the growth corridors over the next 30 – 40 years, and provide the framework that informs future decisions regarding urban development and infrastructure.

The two relevant principles that underpin the Growth Corridor Plans are

Principle 1 – Create diverse and vibrant new urban communities. This principle focuses on developing town centres that will become highly desirable locations to live, work and play.

The catchments served increases with each level in the hierarchy, with local town centres serving local communities, activity centres serving sub-regional district catchment, principal town centres serving regional catchments and central activity areas being the largest of all the centres.

The inclusion of entertainment uses is mentioned in local town centres and activity centres although there is no specific reference to what these might include at the respective levels of the hierarchy.

Principle 8 – Stage development to ensure the efficient and orderly provision of infrastructure and services. This principle supports the development and provision of a range of non-gaming activities and facilities ahead of new gaming venues.

Precinct Structure Plans (PSPs) are detailed planning documents that guide development in a neighbourhood or group of neighbourhoods in the West Growth and Sunbury/Diggers Rest Corridor Plans. They indicate areas suitable for urban development, the location of activity centres and the broad land use framework that is appropriate for each area.

It is anticipated that the development of each community covered by the PSPs will yield an additional 203,770 people in the City of Melton. The growth is expected to be concentrated in the western SLA.

4.5 Melton Planning Scheme

4.5.1 State planning policy framework

Role of planning

Clause 10.02 *Goal* of the State Planning Policy Framework seeks to ensure that the objectives of Planning in Victoria are fostered through appropriate land use and development policies that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Clauses 10 *Plan Melbourne*, 10.04 *Integrated decision-making*, 11 *Settlement* and 17 *Economic development* in the State Planning Policy Framework articulate the important role that planning plays in supporting the creation of socially, economically and environmentally sustainable communities and meeting the community's expectations.

There is no reference to health and wellbeing in the objectives of the *Planning and Environment Act 1987*. However, these Clauses in the State Planning Policy Framework indicate that planning plays a role in creating environments that support health and wellbeing and that one of the key outcomes of planning decisions is net community benefit. A further important role that planning plays is resolving inherent conflicts between land uses, with a focus on addressing the unique characteristics of the context within which land use decisions are made.

Objectives and strategies

The objective of Clause 11.01-2 *Activity Centre Planning* is to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community. One of the strategies to enhance accessibility is to encourage services to be available over longer hours.

Clause 11.02-4 *Sequencing of development* seeks to ensure that services are available in growth areas early in the life of the development of new communities. This is to be achieved by defining preferred development sequences to promote coordinated planning and development.

Clauses 17.01 *Commercial* states that planning plays a role in encouraging development that achieves net community benefit.

Clause 17.01-2 *Addressing out of centre development* discourages the location of large scale entertainment facilities in out-of-centre locations unless they are highly accessible, located on the Principal Public Transport Network, and are associated with net community benefit.

4.5.2 Local Planning Policy Framework

The following objectives and policy statements in the Local Planning Policy Framework are relevant to gaming and entertainment uses.

Clause	Policy basis and objectives
Clause 21.01-8 Recreation and Leisure Facilities	This Clause identifies that the City of Melton offers a wide variety of recreation and leisure facilities, and that it is expected that these facilities will continue to expand around the residential nodes.
21.03-2 – Planning objectives	To create an environment conducive to economic growth and wealth generation.
22.04 Urban Development Policy	To ensure that infrastructure is designed and provided in an efficient and timely manner and the development of urban areas reflects sound planning principles and practices.
22.05 – Employment Policy	To actively support the development of the thoroughbred and harness racing industries in the municipality. To support quality tourist developments that capitalise on and enhance the City's landscape, natural features, and economic base.
22.06 – Retailing Policy	To develop, encourage and support measures that reduce the level of escape expenditure from the local economy To encourage a broader range of activities to locate in and around shopping precincts.

Note: the City of Melton is currently reviewing its MSS and is expected to be exhibited during 2017.

4.5.3 Land use zones

Gaming premises are a Section 2 (permit required) form of Retail Premises use in the Commercial 1, Commercial 2, Industrial 1, Mixed Use Zones, Public Use Zone, Public Park and Recreation Zone and Comprehensive Development Zone.

Gaming premises are prohibited in all the residential zones, Green Wedge A Zone, Rural Conservation Zone, Farming Zone, Public Conservation and Resource Zone if it is not conducted by or on behalf of a public land manager or Parks Victoria, Special Use Zones 1, 3, 5, and 6, Urban Floodway Zone

Clause 74 *Land use terms* prohibits the location of gaming venues in nightclubs, shops, amusement parlours and betting agencies.

The only zone within which gaming premises are permitted without a planning permit is Special Use Zone 7 – Melton Harness Racing Centre. Tabcorp Park is located on this land.

4.5.4 Clause 52.05 – Advertising signs

The purpose of this Clause is to regulate the display of advertising signage to minimise the impact on the amenity, safety, appearance of an area, including the existing or desired future character. The advertising signage component associated with gaming premises would be assessed under this Clause.

4.5.5 Clause 52.28 - Gaming

Background

Gaming was legalised in Victoria with the introduction of the *Gaming Machine Control Act 1991*. The first planning control over EGMs was clause 8.4-1, which was introduced into all Victorian planning schemes in 1992. Clause 8.4-1 permitted the 'as of right' installation and use of EGMs within particular areas of licensed hotels, provided those areas did not exceed 25% or less of the floor area of the premises. Control over actual machine numbers was left either to other legislation, or determined by the physical capacity of the area.

When the new format VPP based planning scheme and Clause 52.28 *Gaming* was introduced, the 25% rule was preserved. The rule remained an area based control, where the only limitation on

numbers being the physical capacity of the gaming room to accommodate machines. On 18 October 2006 Clause 52.28 *Gaming* was amended to require a planning permit to “install or use” any gaming machine in a venue, regardless of the size of the relevant gaming room in that venue. This amendment enabled the planning scheme to manage both the size, design and location of a gaming venue, as well as the number of EGMs.

Current provisions

Clause 52.28 *Gaming* provides the framework within which the local planning policy framework (MSS and local planning policies) are formulated and implemented across Victorian municipalities.

The head Clause at 52.28 is applicable to all planning schemes. Clause 52.28-1 describes the three purposes of the Clause which are:

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.

The provisions in Clause 52.28 do not apply to venues that enjoy existing use rights where:

- the installation and use of gaming machines were approved under the *Gambling Regulation act 2003* before the introduction of Clause 52.28 into the Victoria Planning; and
- the maximum number of gaming machines for the approved venue on this date is not exceeded.

EGMs are prohibited in shopping complexes and strip shopping centres under Clauses 52.28-3 and Clause 52.28-4 respectively. The rationale for prohibiting EGMs from shopping complexes and strip shopping centres is that their convenience in relation to areas where people undertake their day to day activities may result in impulse gaming which, in turn, is a key determinant of gambling-related harm.

Under Clause 52.28-4, strip shopping centres are areas that meet each of the following four requirements:

- it is zoned for commercial use;
- it consists of at least two separate buildings on at least two separate and adjoining lots;
- it is an area in which a significant proportion of the buildings are shops; and
- it is an area in which a significant proportion of the lots abut a road accessible to the public generally.

EGMs are prohibited in all strip shopping centres throughout a municipality by default if specific strip shopping centres are not listed in the Schedule. The Schedules to Clause 52.28-3 and 52.28-4 *Gaming* enable each local authority to identify specific shopping complexes and strip shopping centres within the municipality where EGMs are prohibited. In the City of Melton, the following shopping complexes and strip shopping centres have been included in the Schedules to Clause 52.28-3 and 52.28-4:

Shopping complexes: Woodgrove Shopping Centre (Melton Township), Coburns Shopping Centre (Melton Township), Bellevue Shopping Centre (Hillside) and Melton Fresh Shopping Centre (Melton South)

Strip shopping centres: Burleigh Road Shopping centre, (Melton Township), Cradle Road Shopping Centre (Diggers Rest), Exford Road Shopping Centre (Melton Township), High Street Shopping Centre (Melton Township), Scott Street Shopping Centre (Melton Township) and Wattle Valley Shopping Centre (Hillside).

Clause 52.28-5 outlines the following decision guidelines that provide the framework within which Councils assess planning permits:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The compatibility of the proposal with adjoining and nearby land uses.

City of Melton Electronic Gaming Machine Planning Policy Project

Background Report

- The capability of the site to accommodate the proposal.
- Whether the gaming premises provides a full range of hotel facilities or services to patrons or a full range of club facilities or services to members and patrons.

5 Melton Gaming context

Chapter summary

- The City of Melton currently has seven gaming venues and 503 attached EGM entitlements.
- In the Financial Year 2015/16:
 - EGM expenditure in the City of Melton was \$60,035,038.01.
 - The density of EGMs per 1,000 adults in this year 5.03.
 - Compared with Victoria and the metro councils in Victoria, the City of Melton had a higher expenditure per adult, per attached EGM entitlement and per venue. It also had a lower density of EGMs per 1,000 adults and overall expenditure than metropolitan municipalities in Victoria.
 - Average expenditure per attached EGM entitlement was higher in the City of Melton's hotels than it is in clubs. This reflects the pattern across Victoria.
- In recent years:
 - EGM expenditure in the City of Melton has increased in recent years despite having decreased in Victoria and metropolitan municipalities.
 - The density of EGMs per 1,000 adults has decreased in the City of Melton and is expected to decrease further as the population grows.
 - The growth in the number of EGMs has been modest, relative to all adjoining municipalities except for Brimbank.
- Hotels and clubs in the City of Melton are large (in relation to the number of EGMs) compared with the average size of Victorian, metropolitan and regional hotels and clubs.
- Average expenditure in the City of Melton's hotels is higher than it is in the clubs, although some of the clubs have more EGMs than the hotels.
- There is no clear relationship between the level of socio-economic disadvantage and expenditure per attached EGM entitlement in the City of Melton's gaming venues.
- All seven gaming venues operate after 2am which is the shutdown time recommended by the Productivity Commission (2010).
- The existing gaming venues provide a range of gaming and non-gaming social, leisure, and entertainment uses and facilities. None of the venues provide recreational facilities. Two of the venues, namely Tabcorp Park (Melton South) and West Waters Hotel (Caroline Springs) also include an accommodation component which attracts tourists.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming Machines include:

- how to accommodate the potential increase in demand for EGMs by identifying appropriate areas, locations and venues;
- how to address the physical and socio-economic determinants of gambling-related harm
- how to manage venues with existing use rights
- Council's position on gaming on land owned or managed by Council

5.1 Snapshot of key indicators

5.1.1 Key features

In the financial year 2015/16 the City of Melton had:

- a total net expenditure (player loss) of \$60,036,038.01;

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

- seven gaming venues (three clubs and four hotels);
- 503 attached EGMs;
- a density of 5.03 EGMs per 1,000 adults
- expenditure of \$600.08 per adult;
- expenditure of \$8,576,434 per venue; and
- 14,277 adults per venue.

Please refer to Appendix 2 for greater details.

5.1.2 City of Melton relative to benchmarked municipalities

In the Financial Year 2015/16 the City of Melton had a higher expenditure per adult, per attached EGM entitlement and per venue compared with Victoria and the metropolitan councils. This is even though the density of EGMs per 1,000 adults is lower in the City of Melton and there are more adults per venue in the City of Melton relative to Victoria and the metropolitan councils.

In this year, relative to the adjoining metropolitan municipalities of Brimbank, Hume and Wyndham, the City of Melton had the lowest density of EGMs per 1,000 adults, expenditure per adult, least amount of gaming venues and attached EGM entitlements.

It is expected that the density of EGMs per 1,000 adults will decrease and the number of adults per venue will increase as the population expands and the growth areas develop.

The number of attached EGM entitlements in the City of Melton is below the municipal cap of 659. All adjoining municipalities (both metropolitan and country) are currently below their municipal and regional caps on the number of EGMs. This factor, together with the relatively small number of EGMs in the City of Melton suggests that the number of EGMs in the City of Melton and the adjoining municipalities may be expected to increase in the future. This is particularly relevant in the growth municipalities of Hume and Wyndham which are also expected to experience a substantial increase in their population.

5.2 Density EGMs per 1,000 adults

Between 2011/12 and 2015/16 the City of Melton experienced a reduction in the density of EGMs per 1,000 adults, even though the number of EGMs increased from 487 to 503 in this period. This is likely due to the significant population growth in the municipality during this period (refer to Table 1).

Table 1 - Density of EGMs per 1,000 adults, City of Melton, Victoria, Metro Melbourne and adjoining municipalities, 2011/12 to 2015/16

LGA Name	2011/12	2012/13	2013/14	2014/15	2014/15	% change 2011/12 to 2015/16	% change 2014/15 to 2015/16
City of Melton	5.7	5.5	5.3	5.3	5.0	-11.8	-5.1
City of Wyndham	5.1	6.5	6.2	5.9	5.7	11.4	-3.7
City of Hume*	6.3	6.2	6.1	5.6	5.5	-12.2	-1.2
City of Brimbank*	5.7	5.9	5.8	6.1	5.9	4.2	-2.6
Shire of Macedon Ranges	2.9	2.9	2.8	3	2.9	0.3	-3.0
Shire of Moorabool	4.9	4.8	4.7	4.6	4.5	-8.0	-2.0
Metro	5.7	5.5	5.5	5.3	5.2	-8.2	-1.3
Victoria	5.8	5.8	5.8	5.7	5.6	-2.6	-0.9

* Denotes municipality with a regional cap on the number of EGMs.

VCGLR

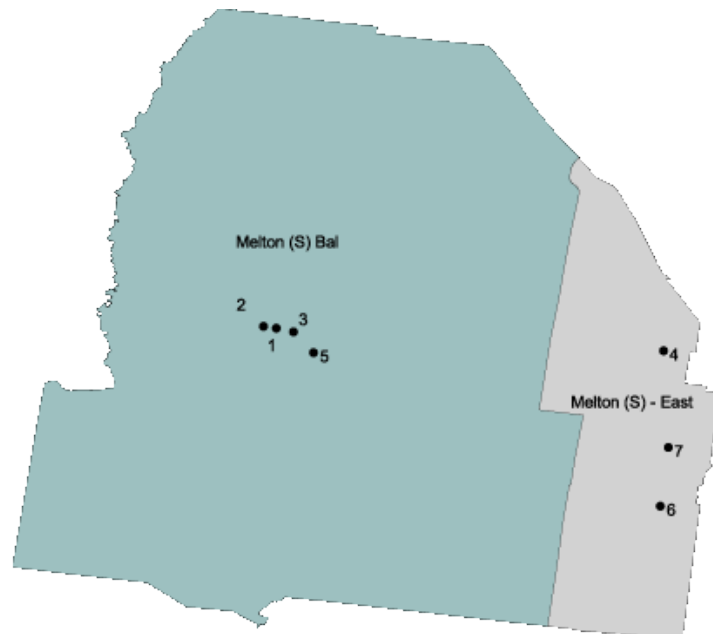
5.3 Gaming venues

5.3.1 Number, type and location

There are seven gaming venues in the municipality, four of which are located in the Melton – Balance Statistical Local Area (SLA) and three of which are located in the Melton – East SLA (refer to Figure 4 and Table 2).

The four venues in Melton Township consist of two hotels (Golden Fleece Hotel and Macs Hotel) and two clubs (Melton Country Club and Tabcorp Park).

Figure 4 – Gaming venues in the City of Melton



Source: VCGLR

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Table 2– Gaming Venues in the City of Melton

Venue	Address	Attached Entitlements	Licensed EGM's	Venue Type	Expenditure (2015/16)
1 Golden Fleece Hotel (Melton)	257-263 High Street Melton Vic	45	45	Hotel	\$9,209,756
2 Mac's Hotel (Melton)	322-332 High Street, Melton Vic	82	82	Hotel	\$11,113,476
3 Melton Country Club	Melton Recreation Reserve, Reserve Road, Melton Vic	90	90	Club	\$5,747,189
4 Sugar Gum Hotel	2 Gourlay Road, Sydenham	50	70	Hotel	\$8,665,267
5 Tabcorp Park	2 Ferris Road, Melton South	80	80	Club	\$7,129,494
6 The Club	1312 - 1322 Western Highway, Caroline Springs Vic	66	66	Club	\$6,616,576
7 West Waters Hotel	10-20 Lake Street, Caroline Springs	90	90	Hotel	\$11,553,280
City of Melton		503	523		\$60,035,038

Source: VCGLR

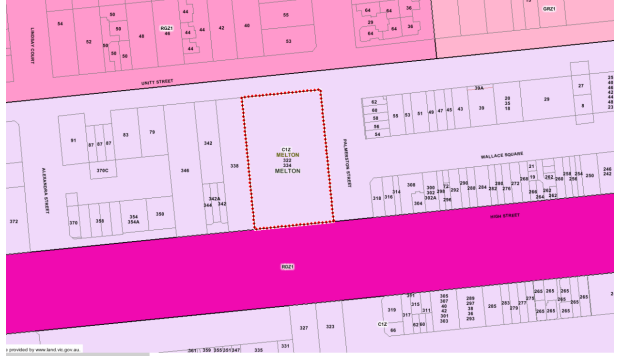
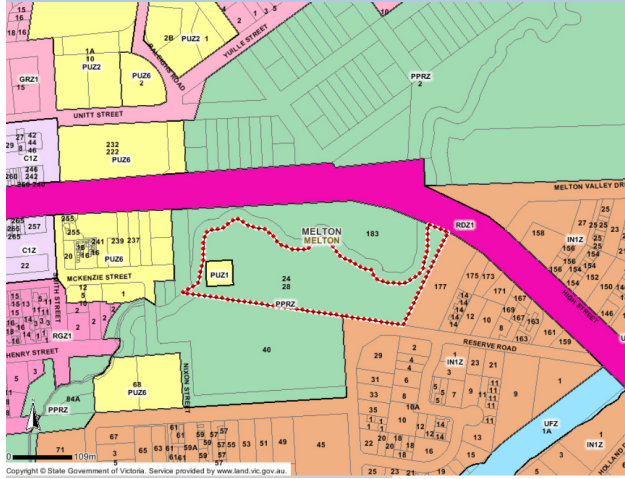
5.3.2 Zoning and surrounding uses

The zoning provisions and surrounding land uses of each of the gaming venues are illustrated in Table 3. This table also describes existing gaming sensitive uses i.e. facilities and services used by people at an elevated risk of gambling-related harm or that are associated with a community's everyday activities.

Table 3 – Zoning provisions and land uses, gaming venues

<p>1 Golden Fleece Hotel, 257-263 High Street Melton Vic</p> <p><u>Zoning:</u> Commercial 1 Zone</p> <p><u>Surrounding zoning:</u> Adjoined to west and south by Commercial 1 Zone, north by Road Zone, surrounded by Public Use Zone 26</p> <p><u>Sensitive uses:</u> strip shopping centre</p> <p><u>Alternative non-gaming:</u> restaurants along High Street, Melton Valley Golf Club, Woodgrove Shopping Centre with restaurants and cinema, Pure NiteClub (92 McKenzie Street)</p>	
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City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

<p>Locational features: Located at the eastern gateway to Melton Township within a strip shopping centre.</p>	
<p>2 Mac's Hotel, 322-332 High Street, Melton Vic</p> <p>Zoning: Commercial 1 Zone</p> <p>Surrounding zoning: Adjoined by Commercial 1 Zone to west and east, Road Zone to south and Residential 1 Zone to north Surrounded by General Residential Zone 1 and Commercial 1 Zone</p> <p>Sensitive uses: strip shopping centre</p> <p>Alternative non-gaming uses: restaurants along High Street, Melton Valley Golf Club, Woodgrove Shopping Centre with restaurants and cinema, Pure NiteClub (92 McKenzie Street)</p> <p>Locational features: Located in a strip shopping centre in Melton Township</p>	 <p>A zoning map showing the site of Mac's Hotel at 322-332 High Street, Melton. The site is highlighted with a red dashed border and labeled 'C1Z MELTON MELTON'. The map shows surrounding streets including High Street, Wallace Square, and various residential and commercial zones. A pink shaded area represents the Commercial 1 Zone.</p>
<p>3 Melton Country Club, Melton Recreation Reserve, 28-30 Reserve Road, Melton Vic</p> <p>Zoning: Public Park and Recreation Zone</p> <p>Surrounding zoning: Adjoined to north by General Residential 1 Zone Surrounded by Public Use Zone 2 and Public Use Zone 26</p> <p>Sensitive uses: strip shopping centre</p> <p>Alternative non-gaming uses: sports and recreation facilities in reserve, restaurants along High Street, Woodgrove Shopping Centre with restaurants and cinema, Pure NiteClub (92 McKenzie Street)</p> <p>Locational features: Located on Council owned land within a public park reserve, outside of the main retail, civic and commercial centre in Melton Township</p>	 <p>A zoning map showing the site of Melton Country Club at 28-30 Reserve Road, Melton. The site is highlighted with a red dashed border and labeled 'PPRZ'. The map shows surrounding streets including Reserve Road, Melton Valley Drive, and various zones including Public Park and Recreation Zone (PPRZ), Residential 1 Zone (R1Z), and Public Use Zone 2 (PUZ2). A pink shaded area represents the Public Park and Recreation Zone.</p>

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

4 Sugar Gum Hotel, 2 Gourlay Road, Sydenham

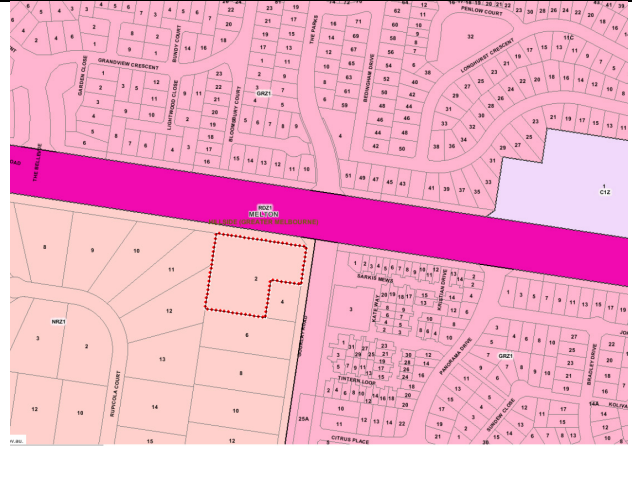
Zoning: Neighbourhood Residential Zone 1

Surrounding zoning: Adjoined by Neighbourhood Residential Zone to west and Road Zone 1 to the north
Surrounded by General Residential 1 Zone to the north and east

Sensitive uses: None

Alternative non-gaming uses: none

Locational features: Located along the Western Highway in a residential area.



5 Tabcorp Park, 2 Ferris Road, Melton South

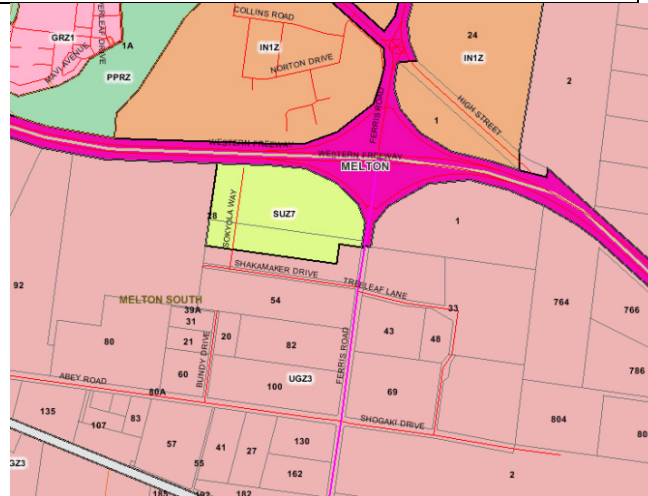
Zoning: Special Use Zone 1

Surrounding zoning: Adjoined by Road Zone to the north and Urban Growth Zone 3 to the west, south and east

Sensitive uses: None

Alternative non-gaming uses: Melton Golf Range

Locational features: Located at the junction between the M8 and High Street and at the future gateway to the Toolern growth area.



6 The Club, 1312 - 1322 Western Highway, Caroline Springs Vic

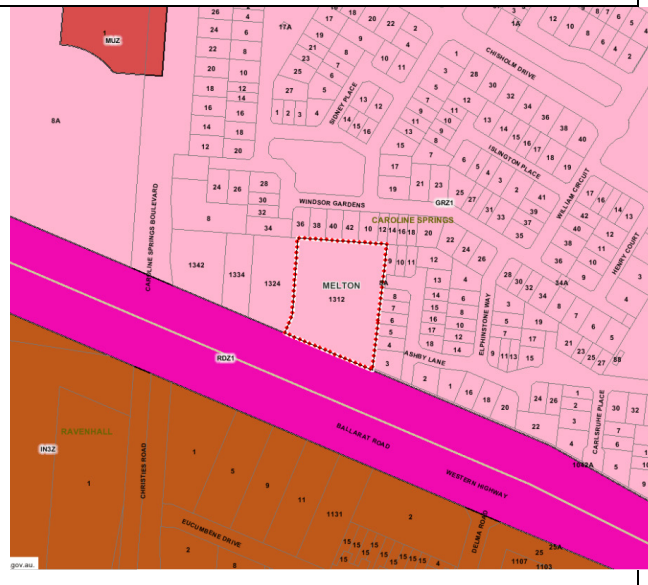
Zoning: General Residential Zone 1

Surrounding zoning: Adjoined by General Residential 1 Zone to the west, north and east, and Road Zone 1 to the south

Surrounded by Industrial 3 Zone to the south, Mixed Use Zone to the north west and General Residential Zone 1 to the east, and north

Sensitive uses: None

Locational features: Located within a residential area along the Western Highway.



City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

7 West Waters Hotel, 10-20 Lake Street, Caroline Springs

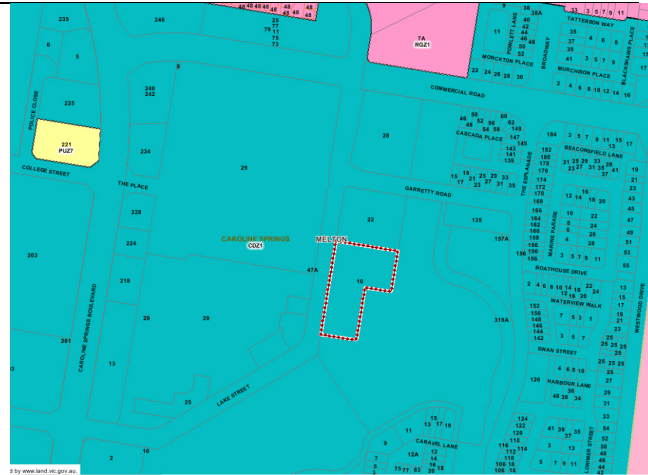
Zoning: Comprehensive Development Zone 1

Surrounding zoning: Surrounded by Comprehensive Development Zone 1 to the north, east, south and west

Sensitive uses: CS Square Shopping Centre, Central Shopping Centre

Alternative non-gaming uses: Mercure Hotel, restaurants

Locational features: Located on the western periphery of Lake Caroline.



5.3.3 Land ownership

Six of the seven venues are located on privately owned land.

The Melton Country Club is located within Melton Reserve which is owned and managed by Melton City Council. This venue is leased by the Essendon Football Club which sub-leases it to the Melton Country Club.

5.3.4 Size

Gaming venues in Victoria are permitted to have a maximum of 105 EGMs.

The largest venues in the City of Melton are the Melton Country Club and West Waters Hotel, each with 90 EGMs. The average size of venues in the City of Melton is larger than it is for metropolitan venues (72 and 60 EGMs respectively).

The average size of clubs in the City of Melton is larger than hotels (79 and 67 EGMs respectively).

5.3.5 Operating hours

All seven of the municipality's gaming venues operate beyond 2am. Apart from the Melton Country Club and West Waters Hotel, all gaming venues operate for a total of 20 hours a day, seven days a week. West Waters Hotel operates for a maximum of 19 hours a day, seven days a week and the Melton Country Club has varied hours, the longest being 18 hours with a shutdown period of six hours.

The cluster of gaming venues in Melton Township, together operate between 8am (Golden Fleece Hotel) and 6am (Mac's Hotel), seven days a week. These two gaming venues are within walking distance of one another, effectively creating a shutdown period of just two hours for people wishing to move between venues within Melton Township.

5.3.6 Activities

The municipality's gaming venues offer differing ranges of gaming and non-gaming activities. Gaming activities typically include the gaming lounge and sports bar. Tabcorp Park is affiliated with Harness Racing Victoria, and hosts several racing events per month.

Non-gaming facilities typically include a bistro, lounge and café, children's play area, function and meeting rooms, bottle shops (hotels), members' bars and rooms (clubs).

Non-gaming activities typically include live entertainment in the form of bands and morning melodies, and poker nights. Some venues offer 'special events' that coincide with events such as Melbourne Cup Day, Christmas and New Year's Eve. Some of these events, particularly morning melodies and bingo, attract groups such as older people.

Tabcorp Park (Melton South) and West Waters Hotel (Caroline Springs) provide accommodation, and function as entertainment and hotel complexes.

None of the gaming venues provide recreational activities that are open to the public such as golf, soccer or bowls.

Some of the venues, such as Tabcorp Park, provide a free courtesy bus for its patrons. Other venues offer incentives such as a \$2 discount that is part of the seniors 'meal deals. This discount may be deducted from the bill or provided in the form of a coin.

5.4 EGM expenditure

5.4.1 Municipal

The City of Melton, its adjoining municipalities, metropolitan municipalities and Victoria all experienced an increase in EGM expenditure between the Financial Years 2013/14 and 2015/16 (refer to Table 4). In this time period, EGM expenditure grew in the City of Melton by 10.7% which was higher than all adjoining municipalities, metropolitan municipalities and Victoria (refer to Table 4)

Table 4 – Changes in EGM expenditure 2013/14 to 2015/16, City of Melton, adjoining municipalities, metropolitan municipalities and Victoria

Municipality	2013/2014	2014/2015	2015/2016	% change 2013/14 to 2015/16
City of Melton	\$54,211,051.13	\$57,349,284.44	\$60,035,038.01	10.7
City of Wyndham	\$90,342,545.32	\$93,116,687.86	\$97,384,531.85	7.8
City of Hume	\$101,822,277.68	\$104,943,985.95	\$106,043,755.03	4.1
City of Brimbank	\$138,542,665.59	\$141,609,226.77	\$143,045,743.48	3.3
Moorabool Shire	\$7,814,318.16	\$7,969,313.90	\$8,011,356.32	2.5
Macedon Ranges Shire	\$8,360,298.91	\$8,656,079.05	\$9,179,543.81	9.8
Total metro municipalities	\$1,963,116,164.62	\$2,020,198,090.17	\$2,058,184,854.85	4.8
Victoria	2,504,343,302.15	2,571,926,031.48	2,616,703,495.71	4.5

Source: VCGLR

5.4.2 EGM expenditure per adult

Between 2013/14 and 2015/16 expenditure per adult in the City of Melton grew by 3.1%. This was the second highest increase of all adjoining municipalities and higher than Victoria (refer to Table 5).

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Table 5 - Changes in EGM expenditure per adult 2013/14 to 2015/16, City of Melton, adjoining municipalities, metropolitan municipalities and Victoria

Municipality	2012/13	2013/14	2014/15	2015/16	% change 2013/14 to 2015/16
City of Melton	\$ 600.55	\$ 582.47	\$ 610.67	\$600.68	3.1
City of Wyndham	\$ 642.80	\$ 626.86	\$ 621.20	\$621.29	-0.9
City of Hume	\$ 733.88	\$ 737.15	\$ 735.67	\$720.76	-2.2
City of Brimbank	\$ 902.99	\$ 895.57	\$ 910.82	\$904.96	1.0
Shire of Macedon Ranges	\$ 274.36	\$ 245.70	\$ 250.75	\$262.02	6.6
Shire of Moorabool	\$ 342.21	\$ 331.05	\$ 333.14	\$328.66	-0.7
Average metro municipalities	\$ 581.43	\$ 574.33	\$ 576.32	\$556.51	-3.1
Victoria	\$ 549.50	\$ 543.69	\$ 553.36	\$553.13	1.7

Source: VCGLR

5.4.3 Expenditure per venue

In the Financial Year 2015/16 average expenditure per venue in the City of Melton was \$8,576,434.00.

In the City of Melton, average expenditure was higher in hotels than in clubs (refer to Table 6).

In 2015/16 the West Waters Hotel had the highest expenditure, followed by Mac's Hotel and the Golden Fleece Hotel, all of which are hotels (refer to Table 6).

In 2015/16 expenditure per attached EGM entitlement was higher in the City of Melton's hotels than in its clubs (refer to Table 6).

Table 6 – Expenditure per venue, 2015/16, City of Melton

Venue	Attached EGM	Expenditure	Expenditure per attached EGM
Clubs			
Melton Country Club	90	\$ 5,747,188.77	\$63,857.65
Tabcorp Park	80	\$ 7,129,494.22	\$89,118.68
The Club	66	\$6,616,576.22	\$100,251.15
<i>Average Melton's clubs</i>	79	<i>\$6,497,753.07</i>	<i>\$84,409.16</i>
Hotels			
Golden Fleece Hotel (Melton)	45	\$9,209,756.44	\$204,661.25
West Waters Hotel	90	\$11,553,280.02	\$128,369.78
Mac's Hotel (Melton)	82	\$11,113,475.64	\$ 135,530.19
Sugar Gum Hotel	50	\$ 8,665,266.70	\$173,305.33
<i>Average Melton's hotels</i>	67	<i>\$10,135,444.70</i>	<i>\$160,466.64</i>
Average Melton's venues	72	\$8,576,434.00	\$127,870.58
City of Melton	503	\$60,035,038.01	\$119,353.95

Source: VCGLR

5.5 Comparison between the two statistical local areas

At present four of the seven gaming venues in the City of Melton are located in the City of Melton Balance Statistical Local Area and three are located in the City of Melton East Statistical Local Area.

The City of Melton East Statistical Local Area has a higher expenditure per EGM compared with the City of Melton Balance Statistical Local Area (refer to Table 7).

The analysis indicates that expenditure is not necessarily correlated with overall socio-economic disadvantage in the City of Melton (as the eastern Statistical Local Area has a higher SEIFA score). However, it should be noted that some of the expenditure in this statistical local area is likely to be sourced from residents in the City of Brimbank which has a higher overall level of socio-economic disadvantage.

Table 7 – Key indicators, City of Melton Statistical Local Areas (Balance and East) ¹⁴

Venues		EGMs		Expenditure 2015/16		
Number	% total	No	% total	Total	% total	Expenditure per EGM
City of Melton Balance – SEIFA score of Disadvantage 957						
Golden Fleece Hotel		45	9.1	\$9,209,756	15.3	\$ 204,661.25
Mac's Hotel		82	16.6	\$11,113,476	18.5	\$135,530.19
Melton Country Club		90	18.3	\$5,747,189	9.6	\$63,857.65
Tabcorp Park		80	16.2	\$7,129,494	11.9	\$ 89,118.68
Sub-total Melton Balance	4	297	60.2	\$33,199,915.07	55.3	\$111,784.23
City of Melton East Balance - SEIFA score of Disadvantage 1041						
Sugar Gum Hotel		50	10.1	\$8,665,267	14.4	\$173,305.33
The Club		66	13.4	\$6,616,576	11.0	\$100,251.15
West Waters Hotel		90	18.3	\$11,553,280	19.2	\$128,369.78
Sub-total Melton East	3	206	41.8	\$26,835,122.94	44.7	\$130,267.59
Total City of Melton		503	100.0	\$60,035,038.01	100	\$119,353.95

Source: VCGLR

5.6 Accessibility to gaming venues

Existing gaming venues in the City of Melton serve both the community in the City of Melton and communities in adjoining municipalities such as Brimbank and Hume. The analysis of the catchments of existing venues indicates that:

- All gaming venues in the City of Melton are located within 5km of another gaming venue. Some of these venues are located in the adjoining municipality of Brimbank.
- The suburbs of Brookfield, Melton West, Melton, Melton South and Kurunjang are within 5km of the three gaming venues in Melton Township (namely Mac's Hotel, the Golden Fleece and

¹⁴ Excluding the additional 30 EGMs which are approved for the Sugar Gum Hotel and West Waters Hotel

the Melton Country Club). Kurunjang, Melton and Melton South are also within 5km of Tabcorp Park.

- Burnside, Burnside Heights and Caroline Springs are located within 5km of two gaming venues in Melton (Sugar Gum Hotel and West Waters) and a number of gaming venues in Brimbank.
- Hillside is located within 5km of the West Waters Hotel and two venues in Brimbank.
- Diggers Rest is not located within 5km of any gaming venues in the City of Melton, but is located within 5km of six gaming venues in the City of Hume.
- Eynesbury is the only local area in the City of Melton that is not within 5km of a gaming venue.
- The northern, eastern and southern municipal boundaries of the City of Melton are located within 5km of gaming venues in the municipalities of Hume, Brimbank and Wyndham respectively.
- There are 14 gaming venues within 5km of the municipal boundary of the City of Melton, five of which are in Hume, eight of which are in Brimbank and one of which is in Wyndham.

It is likely that some of the expenditure in the three gaming venues within close proximity to the Brimbank municipal boundary, i.e. the Sugar Gum Hotel, West Waters and The Club can be attributed to residents from Brimbank. However, this 'leakage in' is likely to be less than the 'leakage out' due to the fact that residents from Brimbank have greater access to gaming venues than residents in the City of Melton. This suggests, therefore, that expenditure by the City of Melton residents may be higher than the total expenditure reflected in the VCGLR statistics pertaining to the City of Melton.

The City of Melton is expected to experience significant population growth in the future that is primarily guided by the PSPs. This will alter the existing situation whereby the population is concentrated in the municipality's two established areas in Melton Township and the Eastern corridor. This growth will be served by several activity centres. *Plan Melbourne 2017-2050* has identified the activity centre in Toolern as a future Metropolitan Activity Centre.

5.7 Catchments of existing venues

Research has shown that people living in urban areas typically travel up to 2.5 kilometres to a gaming venue and people travelling in regional areas travel up to 5 kilometres to a gaming venue¹⁵.

At present, there are four gaming venues within 2.5km and 14 gaming venues within 5km of the municipal boundary between the City of Melton and the adjoining municipalities (refer to Table 8).

Table 8 – Summary of EGMs within a 2.5 kilometre and 5 kilometre radius of existing venues in adjoining municipalities of Hume, Brimbank

City of Melton's catchment	Number of venues
Hume	1
Brimbank	3
Wyndham	0
Total 2.5 kilometres	4
Hume	5
Brimbank	8
Wyndham	1
Total 5 kilometres	14

Source: VCGLR

¹⁵ SJ Beaumont Investment Pty Ltd v Warrnambool CC [2012] VCAT 464

6 Relevant decisions by the Tribunal and Commission

Chapter summary

- The following points are used by applicants to support applications for gaming approval to install and use EGMs:
 - The proposal would involve the establishment of a high-quality venue with a range of non-gaming facilities.
 - The financial viability of the proposal was contingent on the approval of the EGMs.
 - The venue would operate as a destination gaming venue.
 - The proposal would lead to an increase in employment opportunities.
 - The proposal would create or include the value of community contributions.
 - The venue would serve a regional catchment.
 - The venue's catchment is expected to experience a growth in population
 - The venue operator is committed to responsible service of gambling practices.
 - The proposal would increase accessibility for recreational gamblers.
 - The venue's catchment is not characterised by high levels of socio-economic disadvantage.
 - Current utilisation of the existing EGMs is high.
 - The community attitudinal survey did not indicate that there was overwhelming opposition to the proposal.
- Council's grounds for objecting to a proposal focussed on the levels of socio-economic disadvantage and the potential for the proposal to contribute to gambling-related harms.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

- The local planning policy will need to be founded on a balanced approach to the management of gambling in the municipality. This will involve protecting those most at risk of gambling-related harms whilst recognising the potential benefits associated with employment generation, increase in the provision of non-gambling facilities and activities and potential value of community contributions.
- The local planning policy will need to give clear guidance on the type of information required to accompany the planning permit application in order to assist Council in assessing whether the location and operation of the gaming premises are suitable and considering the potential social and economic impacts of the proposal.

6.1 City of Melton

This section summarises recent decisions by the Commission on applications for new or amended gaming licences in the City of Melton. There have been no recent Tribunal cases in the City of Melton.

6.1.1 New venues

Harness Racing Victoria – Tabcorp Park, 2006, operational 2008

In 2006 the Commission granted approval for the establishment of a gaming venue with 80 EGMs at the Harness Racing Club of Victoria which operates as Tabcorp Park. This venue was approved just prior to the introduction of Clause 52.28 *Gaming* of the Melton Planning Scheme.

The Commission described the proposal as involving the establishment of an important stand-alone facility for harness racing, and a motel in an area conveniently situated to the west of Melbourne. The Commission also noted it was an expensive proposal which would be unable proceed unless the application for EGMs was approved by the Commission.

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

This application was supported by Council in 2005 based on the commercial benefits it would offer for the municipality in general. In approving the application, the Commission gave great weight to Council's endorsement of the proposal, and considered that Council had 'adopted a sensitive and pragmatic approach'.

West Waters Hotel, 2008

In 2008 the Commission granted approval for the establishment of a gaming venue with 80 EGMs at West Waters Hotel (operating as Caroline Springs Hotel at the time). This venue was approved after the introduction of Clause 52.28 of the Melton Planning Scheme.

Council supported the application as part of the development of the Caroline Springs Hotel and had granted a planning permit in respect of the premises. The reasons for Council's position were that the proposal was consistent with its strategic plans for the site including the Comprehensive Development Zone Incorporated Document.

6.1.2 Top ups

Melton Country Club, 2006

In 2006 the Commission approved an application for an increase in the number of EGMs at the Melton Country Club. Although the application sought approval for an increase in the number from 80 to 95 EGMs, the Commission granted the application in part, permitting 90 EGMs. It is not clear why the Commission sought it necessary to reduce the number of EGMs by five. It can be inferred, however, that this was because the Commission did not accept that the additional revenue to be derived from the extra five EGMs was not necessary to fund the proposed redevelopment of the venue and was concerned about the impact of the additional ten EGMs on the wellbeing of the City of Melton's community.

Council objected to the application on the grounds that the Club was in a sound financial position and could fund the renovations irrespective of the revenue from the additional EGMs.

The Club, 2013

In 2013 the Commission approved an application to increase the number of EGMs from 60 to 66 at The Club.

Council filed a social and economic impact opposing the application but did not appear at the hearing. The grounds for Council's objection included:

- the potential for the proposal to increase the rates of gambling-related harm;
- the high rates of unemployment;
- the socio-economic vulnerability of the area;
- the proposed community contributions would be unlikely to satisfy the local community; and
- the impact of the proposal on the existing high levels of density of EGMs in the local area.

In approving the application, the Commission noted that the allocation of the community contributions to an organisation outside of the City of Melton would be considered a disbenefit.

Sugar Gum Hotel, 2013

In 2002 the Commission refused an application to increase the number of EGMs from 35 to 43 due to the level of unemployment in the City of Melton and the availability of EGMs within the community. This application was also not supported by Council. However, in 2003 the Commission approved an application to increase the number of EGMs from 35 to 40, and in 2007 approved an increase in the number of EGMs from 40 to 50.

In 2013 a further application to increase the number of EGMs from 50 to 70 at the Sugar Gum Hotel was approved by the Commission. At present, these additional EGMs are not operating.

Council opposed the application and appeared at the Hearing. The grounds for Council's opposition addressed the high levels of socio-economic disadvantage within the venue's five kilometre's catchment.

West Waters Hotel, 2015

In 2015 the Commission approved an application to increase the number of EGMs from 80 to 90 at West Waters Hotel. The venue commenced operation in 2010.

Council did not oppose the application.

6.2 Key principles from other decisions

The following principles have emerged from decisions made by Planning Panels Victoria, the Tribunal and the Commission

Council's position on gaming

It is important for Council to acknowledge the benefits of gaming. This can be achieved by stating that gambling is a legitimate form of recreation that is also associated with both benefits and harms.

Council's role

Councils have important functions relating to the health and wellbeing under the *Local Government Act 1989* and the *Public Health and Wellbeing Act 2008*. These functions give councils the foundation on which to make informed decisions about the economic and social impact of EGMs on the wellbeing of local communities.¹⁶

Status of local planning policy

A local planning policy is not a requirement and must be applied flexibly having regard to the policy context as a whole and to the circumstances of a particular case. An unsatisfactory response to certain aspects of the local planning policy does not mean that the application should be refused.¹⁷

Different jurisdictions

The application regimes under the *Gambling Regulation Act 2003* and *Planning and Environment Act 1989* are separate and distinct, but are linked and overlap. The social and economic impact assessment under *Gambling Regulation Act 2003* focuses on the municipality, and under *Planning and Environment Act 1989* the focus is the location of the gaming machines.

The achievement of net community benefit under the Planning Scheme is not a requirement in the same way as it is under Section 3.4.20 the *Gambling Regulation Act 2003*. However, it is an important consideration under the *Planning and Environment Act 1987* and Clause 10.02 of the State Planning Policy

Framework.¹⁸

There is some overlap between the local planning policy considerations and VCGLR regulatory responsibilities. Planning considerations extend beyond those of the VCGLR to matters such as the character and amenity of the area, parking, access, implications for other uses facilitated by the zone. These considerations may result in some variation in conditions imposed compared to those applied to address the particular concerns under the *Gambling Regulation Act 2003*.

Caps on EGM numbers

The imposition of cap is the government's response to a concentration of gaming venues¹⁹. However, caps are a limit and not a benchmark.

The concept of clustering has a number of dimensions such as the ease of movement of problem gamblers between venues and the potential for the use to become dominant with effects on the character and function of the area.²⁰

¹⁶ Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Occupational and Business Regulation) [2007] VCAT 1

¹⁷ Commission decision, Glenroy RSL

¹⁸ Commission decision, Glenroy RSL and Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

¹⁹ Commission Decision, Glenroy RSL

²⁰ Planning Panels Victoria, Wyndham Planning Panel Report, Amendment C174:

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Community

Typically the community is considered to be the municipality for a gaming application. However, adjoining municipalities may also be taken into account if the venue is in close proximity to the municipal boundary²¹ and if they have made submissions in relation to the application.²²

Community contributions

Community contributions are a positive benefit²³ if located within municipality²⁴ and if they are beyond those required by law.

Protective factors

The following protective factors have been noted:

- top ups over new venues;²⁵
- potential for areas undergoing urban renewal and subject to change to reduce level of socio-economic disadvantage;²⁶
- status of venue as a club rather than a hotel;²⁷
- older demographic profile;²⁸
- lower levels of disadvantage;²⁹
- anticipated growth in population;³⁰
- transfer of EGMs and revenue from areas of high to low disadvantage;³¹
- potential for the proposal to improve facilities;³²
- reduction in trading hours,³³
- community contribution allocated to problem gambling services;³⁴ and
- screening between gaming and non-gaming floor areas.³⁵

Sensitive uses

There must be an established link between the use and people vulnerable to gambling-related harms³⁶

²¹ Commission Decision Braybrook Hotel

²² Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor

²³ Commission Decision, Doxa Club, 2016

²⁴ Mt Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation Ltd (Red Dot) [2013] VCAT 10 1and Commission Decision, Coach and Horses, 2013

²⁵ Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

²⁶ Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

²⁷ Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

²⁸ Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

²⁹ Commission Decision, Commercial Hotel

³⁰ Commission Decision, Commercial Hotel

³¹ Commission Decision, Commercial Hotel

³² Commission Decision, Commercial Hotel

³³ Commission Decision, Braybrook Hotel, Commission Decision, Commercial Hotel

³⁴ (Braybrook Hotel)

³⁵ Glenroy RSL Sub Branch Inc v Moreland CC [2017] VCAT 531

³⁶ Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor

7 Gambling-related harm and gambling participation

Chapter summary

- Although there has been a decline in the use of EGMs in Victoria, there has not been a decline in gambling-related harm.
- There has been a significant increase in the use of EGMs by moderate risk and problem gamblers in Victoria.
- There has been an increase in the use of EGMs in hotels in Victoria.
- The prevalence of gambling-related harm is higher in the City of Melton (1.15%) than it is in Victoria (0.7%).
- Melton South, Melton and Kurunjang have the greatest number of socio-economic determinants of gambling-related harm. Melton South and Melton also have four (57%) of the seven gaming venues and 60% (297) of the attached EGM entitlements and EGM licences.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

The Local Planning Policy for Electronic Gaming should facilitate the implementation of harm minimisation measures in both existing and new venues.

The application requirements in the Local Planning Policy for Electronic Gaming should require applicants to prepare a social and economic impact assessment that identifies relevant risk factors and assesses their potential to increase the risks of gambling-related harm.

The Local Planning Policy for Electronic Gaming should seek to manage access to gaming venues and EGMs in areas of high socio-economic disadvantage.

7.1 Participation in gambling activities

General

A study of gambling behaviours among Victorians in 2014 found the following³⁷:

- The three highest participation gambling activities were lotto, Powerball or the Pools; raffles, sweeps and other competitions and race betting.
- Males were more likely than females to participate in many gambling activities including informal private betting, casino table games, sports betting and Keno.
- Between 2008 and 2014:
 - There was a decrease in participation in EGMs, scratch tickets and phone or SMS competitions.
 - There was an increase in betting or racing and sports and event betting participation.

The gambling participation rate among adolescents and young people aged 10-24 in Australia is significantly higher than all adults with 85% of people in this age group reported having participated in some form of gambling in the previous 12 months.³⁸ The common reasons that young people participate in gambling are similar to adults i.e. for enjoyment and to win money,³⁹ and the majority (56%) of young people are classified as social gamblers⁴⁰. However, young people were less likely to gamble as a result of loneliness than all adults.

³⁷ Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

³⁸ Purdie, N. et al 2011 *Gambling and Young People in Australia* Australian Council for Educational Research

³⁹ Purdie, N. et al 2011 *Gambling and Young People in Australia* Australian Council for Educational Research

⁴⁰ Purdie, N. et al 2011 *Gambling and Young People in Australia* Australian Council for Educational Research

In particular:

- Young people aged 18-24 years are more likely to participate in EGMs, table games and sports betting compared to all adults (refer to Table 9).
- Older people aged 65+ are less like participate in table games, race betting and sports betting, compared to all adults (refer to Table 9).

Table 9 – Participation in gambling activities in Victoria in the past year, age comparisons with all Victorian adults

Gambling activity	Age group (years)				
	18–24 (%)	25–34 (%)	35–49 (%)	50–64 (%)	≥65 (%)
EGMs	Higher (27.0)	Lower (18.0)	Lower (17.0)	Higher (25.0)	NS (24.0)
Table games	Higher (13.0)	Higher (7.3)	NS (3.9)	Lower (1.6)	Lower (0.6)
Race betting	NS (16.0)	Higher (21.0)	Higher (19.0)	NS (15.0)	Lower (10.0)
Sports betting	Higher (6.8)	Higher (6.7)	NS (4.9)	Lower (1.5)	Lower (0.6)

Source: Billi, R., Stone, C.A., Marden, P., Yeung, K., (2014).

Electronic gaming machines

The following changes in the use of EGMs in Victoria have occurred between 2008 and 2014⁴¹:

- Overall participation decreased by 6.24% from 21.46% to 15.22%. However, there has been a significant increase in the use of EGMs by moderate risk and problem gamblers (increased from 22.73 times to 86.24 times per annum and 56.37 times to 87.61 times per annum respectively).
- The participation rate among males was 17.22% and females was 16.28%.
- There was a larger decrease among males than females.
- There has been an increase in the use of EGMs in hotels.
- EGMs and race betting are the highest spend activities for problem gamblers.
- There has been an increase in the intensity of ‘play’ on EGMs by problem gamblers.
- In 2014 pubs or hotels were the most common location for the use of EGMs by all gamblers (including non-problem gamblers, low risk and moderate risk gamblers and problem gamblers) with 60.63% of EGM users visiting hotels and 43.69% visiting hotels. However, problem gamblers are more likely to use pubs (86.53%) and clubs (64.68%) compared with casinos (44.30%).⁴²

7.2 Prevalence of problem gambling

The prevalence of problem gambling is higher in the City of Melton (1.15%) than it is in Victoria (0.7%)⁴³. A further 1.86% of people in the City of Melton may be classified as moderate risk gamblers which is lower than the rate in Victoria (2.36%).⁴⁴

The rate of problem gambling in Victoria remained constant between 2008 and 2014⁴⁵. In this period the rate of non-problem gamblers decreased while the rate of low risk and non-gamblers increased.

⁴¹ Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

⁴² Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

⁴³ State Government of Victoria (2009) *Problem Gambling From A Public Health Perspective* Factsheet 4, Profile Of Problem Gambling Risk Segments Department Of Justice

⁴⁴ State Government of Victoria (2009) *Problem Gambling From A Public Health Perspective* Factsheet 4, Profile Of Problem Gambling Risk Segments Department Of Justice

⁴⁵ State Government of Victoria (2009) *Problem Gambling From A Public Health Perspective* Factsheet 4, Profile Of Problem Gambling Risk Segments Department Of Justice

The City of Melton has been included in the medium expenditure band on EGMs, together with the Cities of Yarra, Moreland and Banyule (all of which were located in the North-West Metro region of Victoria at the time of the study).

In 2014, approximately 2.79% of Victorian adults reported experiencing problems because of someone's gambling and 1.15% of all gamblers had experienced problems from their own on gambling in the past 12 months⁴⁶.

7.3 Determinants of gambling-related harm

7.3.1 The product

It has been found that⁴⁷:

- Three quarters of problem gamblers have problems with EGMs, with the proportion being up to nine in ten cases of gambling-related harm among women.
- One in six people who use EGMs regularly has a serious addiction.
- Problem gamblers using EGMs lose on average around \$21,000 per annum, which is equivalent to one third of the average Australian salary.

7.3.2 Physical and geographic

The following physical and geographic factors have been identified as potential risk factors in gambling-related harm⁴⁸:

- proximity to gaming venues;
- proximity to facilities and services associated with everyday activities such as supermarkets, community and welfare services, public transport;
- density and number of EGMs;
- operating hours;
- design of venue; and
- lack of alternative non-gaming services, facilities and activities.

7.3.3 Socio-economic

A number of socio-economic and health status determinants of gambling-related harm have been identified through various studies in Australia and Victoria are discussed below.

Research undertaken by the Department of Justice found that the following groups within the community are likely to be at a moderate or high risk of gambling-related harm⁴⁹:

- Aboriginal and Torres Strait Islander (high);
- people who had lower levels of educational attainment (Year 10 or lower) (moderate risk);
- people employed in the community or personal services (moderate risk), sales workers (moderate risk), machinery operators or drivers (moderate and high), and labourers (moderate and high);
- people with a personal income in the medium highest and medium lowest income quartiles (moderate and high respectively);
- people living in households with an income in the medium highest income quartile (and high); and
- people living in group households (moderate).

⁴⁶ Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

⁴⁷ <http://www.problemgambling.gov.au/facts/>

⁴⁸ Victorian Responsible Gambling Foundation (2015) *Background Paper. Risk factors for problem gambling: environmental, geographic, social, cultural, demographic, socio-economic, family and household*

⁴⁹ State Government of Victoria (2009) *Problem gambling from a public health perspective* Factsheet 4, Profile of Problem Gambling Risk Segments Department of Justice

Other research has found that migrants and people from CALD communities, particularly Asian groups including Vietnamese, Chinese and Korean are also at risk of gambling-related harm.⁵⁰

Recent research found that gambling-related harm rates in older adults have risen dramatically in recent years and require further investigation⁵¹. This research also found that most older gamblers prefer to gamble at a venue rather than at home or online and loneliness was a predictor of gambling-related harm for both men and women. This research also found that being without a partner was associated with higher levels of loneliness, which in turn was associated with gambling-related harm, particularly among older men.

A recent study found a higher proportion of males compared with females were problem gamblers (60.95% and 39.05% respectively).⁵² This study also found that problem gamblers were significantly more likely to be aged 35-44 (43.79% of problem gamblers) followed by those aged 45-54 (18.49% of problem gamblers).

7.3.4 Health and wellbeing status

The following health and wellbeing factors have been found to increase the risk of gambling-related harm:

- people experiencing mental health issues;⁵³
- people who smoke;^{54, 55}
- people with higher number of negative life experiences affecting themselves and their families e.g. divorce, legal difficulties and financial issues;⁵⁶ and
- people who consume alcohol while gambling (low and moderate risk gamblers).⁵⁷

7.4 Vulnerability to gambling-related harm in the City of Melton and its small areas

Appendix 3 present an analysis of the relative vulnerability of the City of Melton and its small areas to gambling-related harm in terms of these indicators.

Vulnerability in the City of Melton

Compared with the Western Region of Victoria, the following socio-economic characteristics reduce the risk of gambling-related harm within the City of Melton community at a municipal level:

- Lower:
 - level of socio-economic disadvantage;
 - proportions of people on low incomes; and
 - unemployment rate;
 - proportion of lone person households;
- Higher weekly median household income.

Compared with the Western Region of Victoria, the following socio-economic characteristics increase the risk of gambling-related harm within the City of Melton community at a municipal level:

- Significantly higher proportion of:
 - households experiencing housing stress;

⁵⁰ *Problem gambling in CALD communities, the evidence base for working with CALD communities* (2011)

⁵¹ Botterill, E, Gill, PR, McLaren, S & Gomez, R (2015), 'Marital Status and Problem Gambling Among Australian Older Adults: The Mediating Role of Loneliness', *Journal of Gambling Studies*, Online first, 8 October 2015.

⁵² Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

⁵³ Department of Justice (undated) *A guide to using a health promotion approach to problem gambling*

⁵⁴ VAGO (2010) *Taking Action on Problem Gambling*

⁵⁵ <http://www.tobaccoaustralia.org.au/15-4-overview-of-key-public-areas-and-environments>

⁵⁶ VAGO (2010) *Taking Action on Problem Gambling*

⁵⁷ Victorian Responsible Gambling Foundation (2015) *Study of Gambling and Health in Victoria. Findings from the Victorian Prevalence Study 2014*

City of Melton Electronic Gaming Machine Planning Policy Project

Background Report

- households with a mortgage; and
- proportion of Aboriginal and Torres Strait Islanders.
- A slightly higher proportion of
 - parents and homebuilders aged 35-49;
 - proportion of households with mortgage stress;
 - youth unemployment rate; and
 - people employed as labourers.
- A slightly lower proportion of people who volunteer.

Relative to Victoria and the North-West Region of Victoria, the health, wellbeing and safety of the City of Melton are compromised by the following factors:

- Higher:
 - rates of family incidents per 100,000 population;
 - increase in the rate of family incidents and crime rate per 100,000 population between 2010/11 and 2014/15 and 2013/14 and 2014/15;
 - rate of persons 18+ who are current smokers; and
 - proportions of people with a high degree of psychological distress;
- Lower:
 - perceptions of safety at night;
 - self-reported health status;
 - adequate work-life balance; and
 - male and female life expectancy.

Vulnerability in the City of Melton's small areas

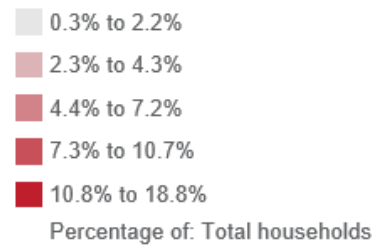
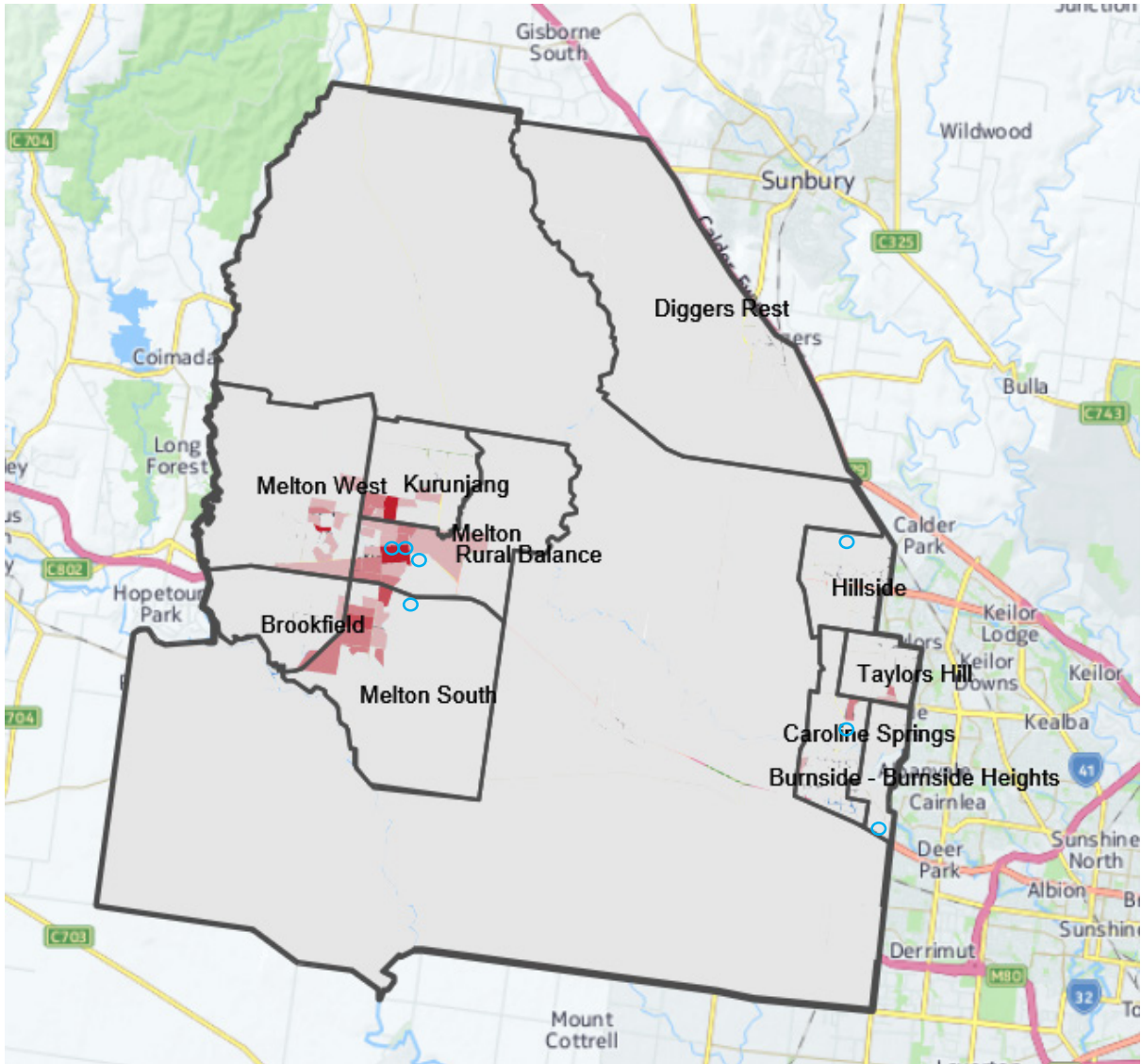
Using the socio-economic determinants of gambling-related harm outlined above, vulnerability to gambling-related harm within the City of Melton's small areas is as follows:

- Melton South, Melton and Kurunjang have the greatest number of socio-economic determinants of gambling-related harm. Melton South and Melton also have four (57%) of the seven gaming venues and 60% (297) of the attached EGM entitlements and EGM licences.
- Hillside and Brookfield have the lowest number of socio-economic indicators of gambling-related harm. Hillside has one gaming venue while Brookfield and Taylors Hill have no gaming venues.
- Caroline Springs has two of the City of Melton's gaming venues and 29.6% (146) of the City of Melton's attached EGM entitlements and EGM licences. This local area has a relatively low number of socio-economic determinants of gambling-related harm.

Social housing

There are concentrations of social housing in the suburbs of Kurunjang, Melton, Melton West, Melton South and Caroline Springs. Five of the seven gaming venues are located in these suburbs (refer to Figure 5).

Figure 5 – Location of concentrations of social housing, City of Melton



○ Gaming venue

Source: i.d consulting

8 Overview of relevant clauses in selected Victorian planning schemes

Chapter summary

- The focus of local planning policies for electronic gaming in Victorian municipalities is appropriate areas, locations and venues.
- The two key principles underpinning local planning policies for electronic gaming are:
 1. harm minimisation - this involves protecting those most at risk of gambling-related harm by managing demand, supply and reducing harm; and
 2. the need to achieve a balance between the harms and benefits associated with gaming and the community's concerns and expectations with respect to electronic gaming.

The following features of recent local planning policies for electronic gaming are relevant to the City of Melton:

- Focus on maximising flexibility by referring to the hierarchy of activity centres rather than identifying specific areas within the municipality where EGMs are either encouraged or discouraged.
- Refer to achieving net community benefit rather than no net detriment.
- Address a number of different scenarios such as the establishment of a new gaming venue and an increase in the number of EGMs in an existing venue, and the transfer of EGMs from an existing venue either to a new venue or an existing venue.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

The principle of harm minimisation is appropriate for the City of Melton Local Planning Policy for Electronic Gaming as it aligns with the framework established by the City of Melton Responsible Gambling Policy 2014.

The Reference Document will need to include a discussion of

- 'appropriate areas' with a focus on relative socio-economic disadvantage; density of EGMs; existing and projected concentration and distribution of population; growth areas; availability of non-gaming social, leisure, entertainment and recreation facilities and activities; activity centres; proximity to facilities and services associated with everyday activities and residential uses; community sentiments and values, potential catchment and compatibility with surrounding land uses;
- 'appropriate sites and locations' with a focus on convenience and destination gaming; concentration and clustering; tourist precincts; access and egress into the site; size of site; type of facility and heritage and character; and
- 'appropriate venues' with a focus on design; size of gaming lounge; harm minimisation and responsible gambling practices; impact on amenity and safety; potential to create net community benefit; signage; car parking; venue type; operating hours; choice and diversity of non-gaming activities; integration with residential land uses.

Please refer to Appendix 4 for full details.

8.1 Municipal strategic statements

Structure

The Planning Schemes for all municipalities reviewed have included gaming-related matters in the MSS.

The sections in the MSS addressing gaming-related matters include community and leisure (Brimbank City), descriptions of the municipal profile and land use (Hume City and Yarra Ranges Shire), activity centres (Cities of Hume, Manningham and Monash), key issues and strategic directions (Cities of Moonee Valley and Monash), objectives and strategies (Mount Alexander Shire) and economic development (Cities of Manningham, Wyndham and Moonee Valley).

Policy basis

The policy basis underpinning the various clauses in the MSS typically include a statement acknowledging the fact that electronic gaming is a legal and legitimate form of entertainment that is also associated with a range of social, economic and health harms to the individual gambler and the broader community. This principle aligns with the state policy and legislative framework that requires local governments to accommodate EGMs and gaming venues in appropriate locations, areas and venues within their municipalities.

The relevant clause in Mount Alexander Shire's MSS acknowledges that the municipality currently has a low density of EGMs and choice of gaming venues, and that additional venues and EGMs could be established in the region.

Objectives

The primary objective included in the relevant sections of the MSS is to minimise the negative impacts of gaming on the community by ensuring that EGMs are located in appropriate areas, sites and venues. Wyndham City refers to the need to minimise the impacts of gambling on health and wellbeing.

Other objectives relate to:

- achieving a balance between the negative and positive impacts of EGMs in the interests of protecting community health and wellbeing;
- achieving a net community benefit;
- maximising access to an appropriate range of accessible non-gambling entertainment, recreation and community facilities;
- discouraging convenience gambling; and
- protecting the amenity of surrounding areas.

Strategies

A key strategy underpinning the relevant sections of the MSS is that EGMs and gaming venues should be accessible but not convenient. This aligns with the principle embodied in the legislation that gaming is a legal form of entertainment and therefore should be available within communities. Recent MSS's therefore do not include strategies to reduce the number of EGMs and gaming venues in the municipality as this strategy is not deemed to align with the expectation that EGMs will be available within communities.

Other strategies include:

- managing the distribution and location of EGMs;
- promoting responsible gambling;
- protecting vulnerable communities who are at an elevated risk of gambling-related harms;
- ensuring that non-gaming activities and facilities are available both within the gaming venue and the surrounding area at the same time and that gaming is not the primary focus of the venue; and
- requiring best practice in design and management of venues.

The policy basis, objectives and strategies focus on the three key land use considerations i.e. appropriate areas, appropriate locations and appropriate venues.

8.2 Local Planning Policies

All municipalities with the exception of Brimbank have a self-contained local planning policy for gaming in their MSS. Brimbank addresses all gaming related matters in Clause 21.11-2 *Gaming* which is included in *Community and Leisure Facilities*.

The local planning policies included in the MSS consist of the following elements:

- Policy basis;
- Objectives;
- Policy;
- Application requirements; and
- Decision guidelines.

Many of the key principles contained within each of these elements those that underpin the MSS. Additional principles are discussed below.

Policy basis

This context of the policy is set by making reference to other relevant clauses in the planning scheme (SPPF, MSS and Clause 52.28 *Gaming*). The purpose of the policy is sometimes described as “guiding the location of EGMs to appropriate areas, sites and venues”.

The policy basis of the various local planning policies covers the following key factors.

- Although gaming can bring some benefits, Council is concerned with the negative impacts of gambling-related harm.
- There is a link between social disadvantage, gambling-related harm and proximity to gaming venues.
- Gaming is a legal form of entertainment that needs to be planned for among other forms of entertainment.
- The policy is based on the principle of harm minimisation.
- EGMs should be reasonably accessible to the community as a form of entertainment, but not convenient (Hume).
- Social housing is defined as “For the purposes of this policy, social (community and public) housing means housing for people on lower incomes that is owned or leased by the Department of Human Resources, registered housing associates or not-for-profit housing organisations. A concentration of social (community and public) housing will general be said to exist if there are 50 or more dwellings of that type within a circle of a 150m radius.” (Manningham) or 25 or more dwellings within a radius of 150m (Mount Alexander).

Some local planning policies provide a brief description of the number of EGMs and venues in the municipality and the measure of relative socio-economic disadvantage.

Objectives

The following objectives provide the framework for the policy and strategies:

- To ensure no net harm to the health, social and economic wellbeing of residents and communities (Macedon Ranges Shire).
- To ensure that the locality, site and venue are suitable for EGMs and contribute to a net community benefit (Yarra Ranges Shire).
- To achieve positive social, economic and environmental outcomes in the location and relocation of EGMs (Cardinia Shire).
- Discourage the location of EGMs and gaming venues in disadvantaged areas (all).

Background Report

- Ensure that the location of EGMs and operation of gaming venues discourage convenience gaming and meet community needs (Yarra Ranges Shire).
- To locate EGMs and gaming venues in accordance with the hierarchy of activity centres as part of the overall range of entertainment facilities and activities.
- To discourage the location of EGMs and new gaming venues where they are accessible to people who are vulnerable to gambling-related harm (City of Manningham and Cardinia Shire) or gambling sensitive uses (City of Manningham).
- To maximise choice of non-gaming social, leisure, recreation and entertainment uses and facilities, both within the gaming venue and in the area surrounding the gaming venue (all).
- To protect the safety and amenity of land uses surrounding and adjacent to the venue (all).
- To protect local economies, heritage character, tourism assets and amenity (Macedon Ranges Shire).
- To plan the location of EGMs as part of the overall range of entertainment and recreation facilities and activities on offer (City of Hume).

Policy

The policy component focuses on the three key land use considerations, namely appropriate areas, appropriate locations and appropriate venues. The individual policies for each respective consideration are typically described as those that are appropriate (using the word ‘should’) and that that are deemed inappropriate (using the words ‘should not’).

Most local planning policies reviewed have structured their policies around the three land use considerations namely areas, sites or locations and venues or premises. However, the Mount Alexander Shire Local Planning Policy for Electronic Gaming combines areas and sites as the Panel found that this would achieve a more concise statement of policy⁵⁸.

The key features of the different local planning policies for gaming reviewed are summarised in Table 10. Since there is reasonable consistency in the content and scope of the clauses among most of the planning schemes reviewed, individual references have not been provided, unless a principle or element within a particular planning scheme is markedly different from the others.

Table 10 – Summary of key features of selected local planning policies for gaming in Victoria

Should be located	Should not be located
In areas	
<p>Where the proposal would make a positive contribution to the redistribution of gaming venues from areas of high to low disadvantage.</p> <p>That are established where there is a range of alternative non-gaming activities.</p> <p>Identified as having future residential growth capacity but not ahead of the provision of non-gambling entertainment, recreation facilities and social infrastructure (Moonee Valley)</p> <p>Where residents within a 5 kilometres radius (Hume and Manningham) of the site have a reasonable choice of alternative non-gambling entertainment and recreation facilities and services that operate at the same time as the gaming venue. These may include hotels, clubs, cinemas, restaurants, bars and indoor recreation facilities.</p>	<p>Where the ABS collection district within a defined catchment (400m Macedon Ranges, 800m Manningham, 1.5 kilometres Yarra Ranges, 2.5 kilometres Monash) of the site is in the 20% most disadvantaged collection districts in Victoria/metro Melbourne or the municipality.</p> <p>At the core of activity centres where there is the highest intensity of activity including the main shopping areas and other widely visited civic, transport and community functions.</p> <p>Not compatible with surrounding uses due to inadequate pedestrian and vehicle access, impact on amenity and potential to compromise the ongoing operations of surrounding businesses and industry.</p> <p>In residential areas (Yarra Ranges and Wyndham).</p>

⁵⁸ Panel Report, Mount Alexander Shire Local Planning Policy, Amendment C72

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Should be located	Should not be located
In locations/on sites	
<p>Considered to be a destination in its own right due to separation from concentrations of activities associated with people undertaking daily activities such as strip shopping centres, shopping complexes, railway stations, community facilities, bus interchanges/removed from land zoned or intended for a commercial purpose (Cardinia Shire) (good for comprehensive development zone).</p> <p>Classified as a sports and recreation club with a land holding of more than two hectares.</p>	<p>That are convenient to core retail areas, supermarkets, community facilities or transport interchanges where large numbers of pedestrians are likely to pass in the course of their daily activities, increasing the likelihood of spontaneous decisions to play EGMs.</p> <p>That are key connections between core retail areas in a township or activity centre (Cardinia).</p> <p>Where the gaming venues and associated entertainment and recreation uses detract from the character and integrity of the municipality's tourism and heritage assets.</p> <p>Where there is a concentration of gaming venues.</p> <p>Less than 400m from gambling sensitive facilities such as offices of public and private welfare agencies, gambler support services, gambling-related harm service delivery setting, concentrations of social housing.</p> <p>Abutting, adjacent to, opposite or in the direct line of sight of a strip shopping centre where the advertising for pokies in the premises is clearly visible to people in the prohibited or discouraged area</p> <p>Within the same buildings as residential dwellings.</p>
Should not be located	
In venues	
<p>That have a range of non-gaming social, leisure and recreational options as the main focus of the venue that are open at the same time as the gaming room.</p> <p>That have a gaming floor area of less than 25% of the total floor area that is accessible to the public (Moonee Valley).</p> <p>That do not have a 24 hour operation OR Do not operate for more than 16 hours per day and operate no later than 2am (Manningham) OR Closed for the playing of EGMs when other areas of the venue and other establishments in the vicinity of the venue which provide alternative recreation and entertainment are closed (Wyndham)</p> <p>Incorporate effective management and mitigation measures.</p> <p>Designed to comply with best practice and the full ambit of the VCGLR Venue Manual or any regulatory successor.</p> <p>Where vehicle and patron access is from a main road and not a local road (Wyndham).</p>	<p>That have an adverse impact on safety and amenity as a result of parking, traffic, noise, lighting, security, operating hours.</p> <p>That are incompatible with the predominant surrounding land uses.</p>

Application requirements

The following application requirements are included, some of which include specific information and data that is to be included for each requirement (refer to Table 11).

Table 11 – Summary of application requirements of selected local planning policies for gaming in Victoria

Application requirement	Data to be included
Social and economic impact assessment prepared by a suitably qualified profession	For a defined catchment (typically 5 kilometres including adjoining municipalities as appropriate) the number of EGMs, forecast expenditure, existing and proposed distribution and density, proposed transfer of EGMs and expenditure, nature and extent of community benefits, socio-economic profile, availability of gambling and non-gambling activities, gambling sensitive uses, comparative pedestrian counts. This profile is often required to be benchmarked against the municipality, metro or country municipalities and Melbourne. Detailed community profile assessing the relative vulnerability of the community with a defined catchment with consideration of housing affordability, housing stress, income, unemployment rates, education retention rates, percentage of social security recipients. Assessment of social and economic impacts (benefits and disbenefits).
Strategic policy analysis	Discussion on the extent to which the proposal is consistent with the SPPF, LPPF, including policies such as recreation and entertainment and activity centres.
Site and land use analysis	Surrounding land uses. Distance of existing and proposed EGMs/venues from uses and facilities associated with day to day activities and people at an elevated risk of gambling-related harm such as shopping complexes, shopping strips, community facilities and services, public housing, gambling counselling services and public transport
Venue management plan	Responsible gambling initiatives and measures.
Plans and elevations	Design and layout of premises
Community survey	Academically rigorous representative survey of residents and businesses within a 2.5 kilometres radius.

Decision guidelines

The local planning policies reviewed have included the following decision guidelines:

- whether the proposal responds positively to harm minimisation;
- the potential for the proposal to result in net community benefit over and above community contributions scheme (as per Clause 10.02 of the planning scheme);
- the potential for the proposal to increase vulnerability to gambling-related harm or social disadvantage;
- whether the proposal would contribute to convenience gambling;
- whether there is a choice of non-gaming activities, both within the gaming venue and the surrounding areas;
- the impact of the proposal on the amenity, character and safety of the area and surrounding land uses;
- whether the venue is accessible via a variety of transport modes;

- whether the proposal will result in a distribution of EGMs and expenditure from areas of high to low disadvantage; and
- whether the proposal achieves the objectives of the policy.

8.3 Clause 52.28

All planning schemes reviewed have included a list of shopping complexes under Clause 52.28-3 i.e. those in which EGMs are prohibited. Some municipalities such as Brimbank, Hume, Monash and Moonee Valley have included a list of strip shopping centres in which EGMs are prohibited under Clause 52.28-4. Other municipalities such as Macedon Ranges, Yarra Ranges, Cardinia, Wyndham and Manningham have prohibited the inclusion of EGMs in all strip shopping centres under Clause 52.28-4. Please refer to 4.5.5 for definitions.

9 Framework for the Local Planning Policy for Electronic Gaming – the evidence

Chapter summary

- The framework for the Local Planning Policy for Electronic Gaming must reflect the key considerations under Clause 52.28 *Gaming* of the Melton Planning Scheme which are:
 - Appropriate areas
 - Appropriate sites and locations
 - Appropriate venues
- Certain concepts such as convenience and destination gaming, gambling sensitive uses and social and economic impact assessments are not clearly defined.

Issues for consideration when preparing the Reference Document and Local Planning Policy for Electronic Gaming

- There are several policy tensions that will need to be addressed by the Local Planning Policy for Electronic Gaming. These relate to location of gaming venues in activity centres, location of a gaming venue on Council-owned land; the policy imperative to locate gaming venues in activity centres while at the same time preventing convenience gaming; the need to reduce exposure to gaming when other entertainment uses do not operate while also seeking to increase the operating hours of entertainment uses in general; and maximising the availability of non-gaming activities and facilities in gaming venues while seeking to reduce patron's exposure to gaming in the venue.
- The Local Planning Policy for Electronic Gaming will need to provide sufficient guidance and flexibility to facilitate the assessment of applications on a case by case basis and accommodate proposals that involve existing use rights.

The following principles, which embody the research relating to appropriate areas, locations and venues, should form the framework for the City of Melton Local Planning Policy for Electronic Gaming:

1. Gaming venues and EGMs should be accessible to the extent that they are available but not convenient.
2. 'Growth Areas' - The availability of EGMs and gaming venues should be managed to reflect population growth and distribution.
3. Exposure to opportunities to gamble should be managed to safeguard the health and wellbeing of communities at an elevated risk of gambling-related harm
4. Venues should be designed and operated to maximise their potential community benefits.

This Chapter discusses the evidence that should underpin for the City of Melton Local Planning Policy for Electronic Gaming which is drawn from the following sources:

- the key principles that have emerged from decisions made by the Victorian Civil and Administrative Tribunal (Tribunal), the Victorian Commission for Gambling and Liquor Regulation (the Commission) and Planning Panels Victoria (the Panel); and
- findings from research into land use planning determinants of gambling-related harm.

The discussion in this Chapter is structured around the land use planning considerations that are addressed in Clause 52.28 *Gaming* of the Melton Planning Scheme, namely appropriate areas, appropriate locations or sites and appropriate venues. A section has been included on social and economic impacts as one of the purposes of Clause 52.28 *Gaming* is to ensure that the social and economic impacts of a proposal are considered.

The Chapter concludes with a list of the four principles that should form the framework for the City of Melton Local Planning Policy for Electronic Gaming Machines.

9.1 Appropriate areas

One of the purposes of Clause 52.28 *Gaming* is to ensure that the social and economic impacts of the location of EGMs are considered.

Defining the 'area'

In planning, the area is typically taken to include those who are most likely to be affected by the proposal. *Clause 52.28* of the Victoria Planning Provisions focuses the assessment on the physical location of the site rather than a municipal boundary.

It is common for the area to be defined by two physical criteria:

1. Typical **travel distances** which are 2.5 kilometres in municipal areas and 5 kilometres in regional areas⁵⁹.
2. **Trade areas** for individual venues, i.e. 2.5 kilometres for the primary trade area and 5 kilometres for the secondary trade area. However, the Tribunal gives greater weight to the social and economic characteristics of the community falling within the primary trade area, particularly if the application site is in close proximity to a number of other gaming venues⁶⁰.

Location in relation to disadvantaged and vulnerable communities

It is a widely accepted principle that communities experiencing socio-economic disadvantage are at an elevated risk of developing gambling-related harm. The SEIFA index of relative disadvantage is therefore one of the three indicators⁶¹ used by the Commission and Tribunal to determine whether or not the social and economic impacts of a proposal will cause or exacerbate gambling-related harm⁶². Communities located within areas located in the lowest quintile (20%) of relative socio-economic disadvantage of the State (not the municipality) are usually considered to be the most vulnerable⁶³.

A factor often considered to mitigate the impact of gaming on disadvantaged communities is the potential for a proposal to result in the transfer of expenditure and/or EGMs from areas of high to areas of low socio-economic disadvantage⁶⁴.

It has also, however, been acknowledged by the Tribunal, that people not necessarily experiencing social and economic disadvantage may be also be vulnerable to gambling-related harm⁶⁵.

Existing accessibility of EGMs and gaming venues

Existing accessibility of EGMs and gaming venues is measured by density of EGMs per 1,000 adults and the number of existing gaming venues in the community. Typically the Commission and Tribunal will focus on the density of EGMs within the trade area (either 2.5 kilometres or 5 kilometres depending on the context) and patron profile area⁶⁶.

There is a large body of research that draws a direct relationship between a relatively high density of EGMs per 1,000 adults and gambling-related harm⁶⁷. However, the Productivity Commission has found that the link between accessibility of EGMs and gambling-related harm becomes weaker once a threshold of accessibility has been exceeded, may change over time and can vary with different dimensions of accessibility⁶⁸.

⁵⁹ Department of Justice (2010) *The relationship between crime and gaming expenditure in Victoria* Office of Gaming and Racing

⁶⁰ *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* (Includes Summary) (Red Dot) [2013] VCAT 1389

⁶¹ The other two indicators are expenditure per adult and density of EGMs per 1,000 adults

⁶² VCGLR decisions - Sunbury United Sporting Club, Tower Hotel, Bentleigh RSL, Sugar Gum Hotel, The Family Hotel, Cardinia Park, Templestowe Hotel and Grandview Hotel; *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* (Includes Summary) (Red Dot) [2013] VCAT 1389; *Bright Newbay Pty Ltd v Bayside CC* (2010) VCAT 1347; *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921 (26 September 2006)

⁶³ VCGLR decision – Sporting Legends Club

⁶⁴ *Prizac Investments Pty Ltd & Ors v Maribyrnong CC & Ors* (includes Summary) (Red Dot) [2009] VCAT 2616

⁶⁵ *Pink Hills Hotel Pty Ltd v Yarra Ranges SC & Ors* [2013] VCAT 954

⁶⁶ *Darebin Cc v Victorian Commission For Gambling And Liquor Regulation & Anor* (Includes Summary) (Red Dot) [2013] VCAT 1389

⁶⁷ Productivity Commission (2010) P8.1

⁶⁸ Productivity Commission (2010) P14.1

Relative EGM density per 1,000 adults is benchmarked at different levels e.g. municipal, local government, census collection district, suburb or postcode.

Availability of non-gaming activities

Activity centres are considered by the State Planning Policy Framework, the Tribunal and the Commission to be the preferred location for gaming venues. This is because the availability of non-gaming facilities and activities in the area surrounding the gaming venue is deemed to act as a protective factor, providing patrons and visitors with an option to engage in non-gaming alternative social, recreational and leisure activities.⁶⁹ It is also considered that the absence of alternative leisure activities may make people feel isolated or lonely and reduce choice to engage in healthy pursuits, increasing participation in gambling related activities and gambling-related harm⁷⁰, particularly in rural or remote areas where access to alternative non-gaming activities is particularly limited⁷¹.

However, the availability of alternative social, leisure and recreational activities within the local area can only be considered to be a protective factor if they are open at the same time as the gaming lounge. For this reason, the operating hours of these facilities are often taken into account when determining the extent to which they have the potential to act as a protective factor⁷².

It is therefore appropriate to favour applications where there is an appropriate mix of non-gaming entertainment facilities in growth areas prior to the introduction of a gaming venue. This may be achieved through the same wording that applies to both established and growth areas which relates to the need to ensure that there is an appropriate choice in non-gaming entertainment facilities in the area that operate at the same time as the gaming lounge.

Management of gaming in growth areas

It is likely that new gaming venues in growth areas will be justified by their potential to support the establishment of entertainment, social and leisure activities and facilities in areas where these currently do not exist. The Panel has found that supporting the establishment of a new gaming venue may be appropriate if the municipality in question is projected to experience significant population growth in these areas⁷³.

The Panel found that it is inappropriate to identify specific shopping complexes in growth areas or precinct structure plans where gaming venues ought to be prohibited⁷⁴.

9.2 Appropriate locations or sites

One of the purposes of Clause 52.28 *Gaming* is to ensure that EGMs are situated in appropriate locations and premises.

Location means where that piece of land is to be found, including its context but does not include a broader area such as 'locale or district, suburb, metropolis or town'⁷⁵.

Relevant decision guidelines under Clause 52.28-5 in relation to appropriate locations are the compatibility of the proposal with adjoining and nearby land uses, and the capability of the site to accommodate the proposal. Relevant factors addressed by the Tribunal in relation to appropriate locations are discussed below.

Convenience and destination gambling

Research has demonstrated that convenience gaming leads to spontaneous decisions to gamble which in turn increases the risks of gambling-related harm⁷⁶. It is a generally held principle, therefore,

⁶⁹ Prizac Investments Pty Ltd & Ors v Maribyrnong CC & Ors (includes Summary) (Red Dot) [2009] VCAT 2616

⁷⁰ Abbott, M, Binde, P, Hodgins, D, Korn, D, Pereira, A, Volberg, R & Williams, R (2013), *Conceptual Framework Of Harmful Gambling: An International Collaboration*, The Ontario Problem Gambling Research Centre (OPGRC),

⁷¹ Responsible Gambling Foundation (2015) *Background Paper. Risk Factors For Problem Gambling: Environmental, Geographic, Social, Cultural, Demographic, Socio-Economic, Family And Household*

⁷² Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389; Rennie v Darebin CC [2010] VCAT 1719; Exchange, VCGLR Decisions – Braybrook Hotel, Croydon Hotel

⁷³ Panel Report, Mount Alexander Shire Local Planning Policy, Amendment C72

⁷⁴ Panel Report, Wyndham Local Planning Policy, Amendment C174.

⁷⁵ Pink Hills Hotel Pty Ltd V Yarra Ranges SC & Ors [2013] VCAT 954

⁷⁶ Department of Justice (2008)

that EGMs should be placed in locations which are trip destinations rather than convenient and to other activities associated with people's day to day activities⁷⁷.

The following factors have been considered by the Panel, Commission and the Tribunal when identifying if a location could be associated with convenience gaming:

- location in relation to retail centres i.e. whether or not it adjoins the retail centre and whether or not it is within 400m of the retail centre^{78, 79} ;
- the extent of 'footfall' i.e. numbers of pedestrians, as opposed to motorists passing the premises on a regular basis⁸⁰;
- proximity to residential areas⁸¹;
- whether there is an existing venue which is closer to facilities associated with day to day activities than the proposed venue⁸²;
- whether the site is functionally connected to a strip shopping centre or shopping complex prohibited under the Planning Scheme due to existing road layout, land use mix, structure plan provisions, pedestrian movement^{83, 84};
- venue design i.e. whether the gaming lounge is visible to pedestrians passing by, the location of signage advertising the presence of EGMs, the location of the gaming lounge in relation to non-gaming activities and the children's play area; and
- the potential for the site, or the area within which the site is located, to function as a tourist precinct, and therefore attract a wider catchment and maximise the choice of non-gaming activities in the area and the site.

Appropriate locations in activity centres

There is a policy tension between the preference for the location of gaming venues in activity centres and the need to ensure that gaming venues are accessible but not convenient. In order to overcome this policy tension, preference is given to gaming venues located at the periphery or away from the core of activity centres.

Two principles have emerged in relation to the location of gaming venues in activity centres:

- Location at a distance greater than 400m⁸⁵ from facilities associated with day to day activities located in the core is typically applied, as this is the standard walking distance and therefore a measure of relative accessibility.
- Separate gaming venues from residential developments^{86, 87}. Maximise distance from residential components by ensuring that they are functionally separated from the gaming room.

Clusters of gaming venues

The proximity of venues to one another, often referred to as 'clustering' may encourage of movement of problem gamblers between venues which may result in convenience gambling^{88, 89}. This is based on evidence that problem gamblers are more likely to use more than one venue compared to non-problem and low risk gamblers⁹⁰.

⁷⁷ Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & ANOR (Includes Summary) (Red Dot) [2013] VCAT 1389

⁷⁸ Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & ANOR (Includes Summary) (Red Dot) [2013] VCAT 1389

⁷⁹ Pink Hills Hotel Pty Ltd V Yarra Ranges SC & ORS [2013] VCAT 954

⁸⁰ Wyndham Local Planning Policy, C174

⁸¹ SJ Beaumont Investment Pty Ltd v Warrnambool CC [2012] VCAT 464 VCAT Reference No. P3343/2011

⁸² Grandview Hotel para 77 VCAT Reference Nos. P3619/2012, B218/2012

⁸³ Euroa Hotel Alston v Strathbogie SC [2014] VCAT 760

⁸⁴ Laurimar Tavern, Whittlesea CC v George Adams Pty Ltd [2011] VCAT 534

⁸⁵ Melbourne City Council V Kingfish Victoria Pty Ltd (2013) VCAT 371

⁸⁶ Laurimar Tavern, Whittlesea CC v George Adams Pty Ltd [2011]

⁸⁷ Wyndham Local Planning Policy Panel Report, Amendment C174

⁸⁸ Wyndham Local Planning Policy Amendment C174

⁸⁹ Francis Hotel Pty Ltd v Melbourne CC (includes Summary) (Red Dot) [2012] VCAT 1896

⁹⁰ Department of Justice (2009)

Communities that have an established and mature gaming environment often have a number of different gaming venues close to one another, often within walking distance. In some instances, these communities have relatively high levels of disadvantage and expenditure, in addition to high densities of EGMs and numbers of venues.

A threshold of 400m is typically used to assess whether there is, or would be, a cluster of gaming venues in an area.

Gambling sensitive uses

Certain groups within the community are particularly vulnerable to gambling-related harm due to their social, economic and cultural characteristics. It is a generally held principle, therefore, to reduce the exposure of people who are likely to use facilities and services directly associated with gambling-related harm.

Although the concept of 'gambling sensitive uses' is not defined, they have been generally understood to be uses most directly associated with people experiencing gambling-related harm.

The Tribunal and Commission have used the following criteria to determine whether or not a service or facility can be classified as a 'gambling sensitive use':

- the presence of a clear and direct causal link between the use classified as a gambling sensitive use and elevated risk of gambling-related harm⁹¹;
- whether the venue is located along an 'ant trail' that includes people vulnerable to gambling-related harm⁹²;
- whether the proposal site is closer to people vulnerable to gambling-related harm relative to existing EGMs or venues⁹³;
- the actual and travel distance of the proposed venue to concentrations of social and economic disadvantage as defined by the SEIFA Index of Relative Disadvantage⁹⁴, community facility⁹⁵ and social housing⁹⁶;
- whether the patron profile clearly includes people vulnerable to gambling-related harm⁹⁷;
- whether the social and economic profile of users of specific community uses such as social housing, support and welfare services, increases their risks of gambling-related harm⁹⁸;
- whether the identified gaming sensitive use was present before the proposed gaming venue or EGMs⁹⁹;
- the relative ease of access rather than distance¹⁰⁰ to the venue determined by physical and psychological barriers such as busy noisy roads, lines of sight, ¹⁰¹ public transport, distance, topography;
- the hours of operation of the identified gambling sensitive use in relation to the hours of operation of the gaming venue¹⁰²; and
- whether the venue is a club or a hotel, as the sign in procedures and membership arrangements of the former reduce the convenience factor¹⁰³.

⁹¹ Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389

⁹² Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389

⁹³ Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389

⁹⁴ Melbourne Cc V Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

⁹⁵ Monash CC V L'Unico Pty Ltd (Review And Regulation) [2013] VCAT 1545

⁹⁶ Queensberry Hotel Pty Ltd V Minister For Planning And Community Development [2013] VCAT 444, Melbourne Cc V Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

⁹⁷ Darebin Cc V Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389; Melbourne Cc V Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

⁹⁸ Melbourne Cc V Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

⁹⁹ Melbourne Cc V Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

¹⁰⁰ Pink Hills Hotel Pty Ltd V Yarra Ranges SC & ORS [2013] VCAT 954

¹⁰¹ Monash Cc V L'unico Pty Ltd (REVIEW AND REGULATION) [2013] VCAT 1545

¹⁰² Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors [2013]

¹⁰³ Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors [2013]

Land uses that have been included by the Tribunal in the list of gambling sensitive uses include social housing (used by people who are disadvantaged, and/or previously homeless¹⁰⁴), victims of domestic violence¹⁰⁵, support such as offices of public and private welfare agencies¹⁰⁶ and welfare services.

Land uses that have been excluded by the Tribunal from the list of gambling sensitive uses due to a lack of clear evidence of a link with gambling-related harm include schools, kindergartens, libraries, medical centres, sports and recreation centres, public open spaces. This is likely due to the fact that these uses are more closely associated with convenience gaming than they are with vulnerable communities.

The typical threshold that is used to assess the location of the venue and EGMs in relation to gaming sensitive uses is 400m¹⁰⁷.

Size of site

Preference is given in many local planning policies to sites (mostly operating as sports or recreation clubs) with a land holding of more than 2 hectares. However, the Tribunal and Panel have indicated that requiring the site to be larger than 2 hectares is not always necessary as smaller sites may provide an adequate buffer¹⁰⁸ and the desired range of non-gaming activities may be included in a site less than 2 hectares¹⁰⁹.

9.3 Appropriate venues or premises

One of the purposes of Clause 52.28 *Gaming* is to ensure that EGMs are situated in appropriate locations and premises.

Premises means the piece of land in or on which it is proposed to locate machines.

Relevant factors addressed by the Tribunal in relation to appropriate premises are discussed below.

Venue type

The *Gambling Regulation Act 2003* requires that gaming venues may only be provided in premises operating with pub, club or racing club venue operator's licence. As a result, gaming venues are typically located in hotels, clubs and racing venues.

The Commission¹¹⁰ and Tribunal¹¹¹ have found that, in some cases, clubs are likely to pose lower risks to gambling-related harm than hotels. This is because some clubs have a wider range of non-gaming activities and membership rules and requirements reducing availability for problem gamblers and reducing impulse gambling. Hotels, on the other hand, tend to have a more limited range of non-gaming activities, and do not restrict the gaming room to club members, or guests of club members¹¹².

The operation of a club as an RSL has been considered by the Commission to be an additional protective factor¹¹³ because they are associated with specific community services, particularly in relation to support for ex-servicemen and their families.

Venue size

The maximum number of EGMs permitted in a venue in Victoria is 105. The Tribunal has found that 50 EGMs is considered a medium sized venue¹¹⁴.

The following research findings have been presented to the Tribunal as evidence to the fact that the size of a venue is a relevant factor to be considered when assessing the potential social impacts of a proposal:

¹⁰⁴ Melbourne Cc v Kingfish Victoria Pty Ltd & Anor (Includes Summary) (Red Dot) [2013] VCAT 1130

¹⁰⁵ Darebin Cc v Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389

¹⁰⁶ Bayside LPPF

¹⁰⁷ Port Phillip and Yarra Ranges LPPF

¹⁰⁸ Bridge Inn Hotel Benmara Pty Ltd v Whittlesea CC [2015] VCAT 1463 VCAT Reference NO. P473/2015

¹⁰⁹ Panel Report, Mount Alexander Shire Local Planning Policy, Amendment C72

¹¹⁰ VCGLR Decision - Croydon Hotel

¹¹¹ Prizac Investments Pty Ltd & Ors v Maribyrnong Cc & Ors (Includes Summary) (Red Dot) [2009] VCAT 2616

¹¹² Rennie v Darebin CC [2010] VCAT 1719

¹¹³ VCGLR Decision - Bentleigh RSL

¹¹⁴ Bright Newbay Pty Ltd v Bayside CC (2010) VCAT 1347

Background Report

- Problem gamblers tend to prefer 'glitzy' venues with a large choice of EGMs¹¹⁵.
- Stigma and shame are key impacts of gambling-related harm. Larger venues make it easier for problem gamblers to maintain anonymity¹¹⁶.
- Larger venues reduce waiting times on EGMs as they provide greater opportunities to use the machines. Breaks in play associated with waiting times are a recognised harm minimisation measure as they provide problem gamblers with an opportunity to reconsider their decision to continue to use the EGMs.^{117, 118}
- Larger venues with more players may be more risky in encouraging gambling persistence and contributing to greater long term monetary loss whilst smaller gaming venues facilitate greater control of gamblers on the amount they spend.¹¹⁹

Although the size of venue is a relevant consideration, increases in the number of EGMs in existing venues, i.e. top ups, are often given preference over the establishment of a new venue which is considered to have a greater impact on accessibility to gambling within the community.

Prior to the inclusion of Clause 52.28 into the Victoria Planning Provisions in 2006, gaming rooms were an 'as of right use' in licensed hotels and clubs if they occupied 25% or less of the premises. As a result, the Tribunal uses this proportion as a benchmark, in addition to the number of EGMs, to determine the size of the venue and therefore whether or not it is suitable for gaming.¹²⁰ This benchmark is also used to assess the proportion of gaming and non-gaming activities in the venue and therefore whether the venue has the capacity to provide a full range of services and facilities to patrons.

Design

The Commission and Tribunal consider the following venue features as protective factors as they minimise the potential for convenience gambling:

- separation of gaming and non-gaming activities^{121, 122}; and
- requirement for gaming patrons to have to walk through non-gaming activities in order to reach the gaming lounge¹²³ in order to provide people vulnerable to gambling-related harm with opportunities to select non-gaming alternatives prior to entering the gaming venue.

The VCGLR has therefore produced the following two resources that are used to inform the design and layout of gaming venues:

- Venue Manual (specifically Section 2 in Chapter 7 *Gaming Machine Area – Size, layout and facilities*)
- Assessment of Children's Play Areas in Gaming Venues (Guidelines, 2013)

The Tribunal has refused planning permits for gaming venues due to the inability of the proposal to activate the street frontage¹²⁴ and the potential for the proposal to be incompatible with the future land use mix, both of which were considerations in the relevant development plan¹²⁵.

¹¹⁵ Hing, N. and Haw, J (2010) *The Influence of Venue Characteristics on a Player's Decision to Attend a Gambling Venue* Centre for Gambling Education and Research

¹¹⁶ Rockloff, M (2010) *The impact of an audience and venue size on poker machine gambling* Central Queensland University Institute of Health and Social Science Research,

¹¹⁷ McMillen, J and Pitt, S (2005) *Review of the ACT Government's Harm Minimisation Measures* Centre for Gambling Research, ANU

¹¹⁸ Blaszczynski, A et al (2001) *The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling* University of Sydney Gambling Research Unit p17

¹¹⁹ Rockloff, M; Greer, N and Evans, L (2012) "The Effect of Mere Presence on Electronic Gaming Machine Gambling" *Journal of Gambling Studies*, October 2012, Issue 27

¹²⁰ Rennie v Darebin CC [2010] VCAT 1719

¹²¹ Monash Cc v L'unico Pty Ltd (Review And Regulation) [2013] VCAT 1545

¹²² Darebin Cc v Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] Vcat 1389

¹²³ Francis Hotel Pty Ltd v Melbourne Cc (Includes Summary) (Red Dot) [2012] VCAT 1896

¹²⁴ Francis Hotel Pty Ltd v Melbourne CC (includes Summary) (Red Dot) [2012] VCAT 1896

¹²⁵ Queensberry Hotel Pty Ltd v Minister For Planning And Community Development [2013] VCAT 444

Signage

The *Gambling Regulation Act 2003* permits venue operators to display an EGM-related sign on their venue in accordance with the prescribed number, size and design. Typically signs consist of white lettering on a blue background, with the word 'Pokies' displayed.

In most instances, a planning permit is not required to replace existing signage. However, venue operators may require planning approval when installing new signage.

Operating hours

Section 3.3.9 (1) of the *Gambling Regulation Act 2003* requires that each gaming venue has a statutory shutdown period of at least four hours after every 20 hours of gaming, and that there must be not more than 20 hours of gaming each day. There is no requirement for this shutdown period to occur at any particular time of day. Under this legislation, gaming premises may apply for approval to operate for 24 hours if the pub or club licence authorises the supply of liquor at any time (Section 3.3.3).

The Productivity Commission (2010) identified opening hours as a risk factor and has therefore recommended shutdown periods of at least six hours commencing no later than 2am¹²⁶. This protective factor has been incorporated into the Manningham Local Planning Policy for Gaming (Clause 22.18). However, the Panel has recommended that the use of EGMs is restricted to times when other areas of the venue and other establishments in the vicinity of the venue which provide alternative recreation and entertainment operate.¹²⁷

Mix of uses

The capacity for the venue to offer a range of non-gaming activities and provide a recognised form of entertainment to the community is considered a protective factor¹²⁸. One of the decision guidelines under Clause 52.28 *Gaming* of the Melton Planning Scheme is therefore whether the premises provides a full range of hotel facilities or services to patrons, or a full range of club facilities or services to members and patrons. The potential for the revenue from the proposed EGMs to support and increase the provision of non-gaming activities and activities is therefore often identified by applicants and the Commission and/or Tribunal¹²⁹ as a social benefit which must be taken into account when assessing the social and economic impacts of a proposal.

These non-gaming activities and facilities typically include the following:

- Clubs – sports and recreation, live music and entertainment, bistros, bars, meeting and function rooms, reading rooms; and
- Hotels - live music and entertainment, bistros, bars, meeting and function rooms, children's play areas, sports bars and TAB, accommodation and amusement machines and bottle shops.

Harm minimisation and venue management procedures

It is a condition of all venue operator licences to have a Responsible Gambling Code of Conduct and self-exclusion program at approved venues. Furthermore, from 1 December 2015, pre-commitment technology must be available on all EGMs in Victoria, enabling users of EGMs to voluntarily set limits and track their play across the state. The purpose of this program is to enable people to make informed decisions about how long they use EGMs, and how much they intend to spend.

The principles underpinning decisions made by the Tribunal and the Commission indicate that venue characteristics and harm minimisation measures, particularly those that surpass statutory measures, are a protective factor against gambling-related harm.

¹²⁶ Australian Government Productivity Commission (2010) p14.35

¹²⁷ Amendment C174, Wyndham Local Planning Policy

¹²⁸ Rennie v Darebin CC [2010] VCAT 1719

¹²⁹ Monash Cc v L'Unico Pty Ltd (Review And Regulation) [2013] VCATt 1545, Darebin Cc v Victorian Commission For Gambling And Liquor Regulation & Anor (Includes Summary) (Red Dot) [2013] VCAT 1389, Prizac Investments Pty Ltd & Ors v Maribyrnong Cc & Ors (Includes Summary) (Red Dot) [2009] VCAT 2616

9.4 Social and economic impacts

Clause 52.28 requires that the social and economic impacts of a proposal must be considered. The Commission¹³⁰ and Tribunal have stated that these are inextricably linked and the Tribunal¹³¹ has found that some benefits are also associated with disbenefits and vice versa. A principle that is universally adopted, however, is that where it is difficult to classify an impact as either social or economic, it should only be assessed once and not under both categories.

The Social and Economic Impacts Assessment Framework presented below is based on the model produced by the Tribunal, the findings from the Victorian Competition and Efficiency Commission, and a number of expert witness statements that have been presented to the Tribunal in different matters (refer to Table 12).

Notes:

For the purposes of illustration, some impacts have been identified as both social and economic. The social impacts incorporate those relating to health and wellbeing.

Table 12 – Social and Economic Impact Assessment Framework

Benefit	Social	Economic
Economic stimulus through supply contracts, investment		✓
Complementary expenditure		✓
Potential for the proposal to stimulate competition ¹³²		✓
Transfer of expenditure from areas of high to low disadvantage		✓
Transfer of EGMs from areas of high to low disadvantage		
Tourism		✓
Creation of additional employment		✓
Government revenue through taxes		✓
Gaming expenditure not attributable to gambling-related harm and associated financial, health and wellbeing impacts	✓	✓
Restoration of historic building	✓	
Contribution to community support fund	✓	
Provision of new, or upgrading of existing social, leisure, entertainment and recreation facilities that are available to all sectors of the community	✓	
Cash and in kind contributions (over and above statutory requirements)	✓	
Increase choice of EGMs for recreational gamblers	✓	
Retention of expenditure within municipality		✓
Potential for RSL clubs to deliver support and welfare services ¹³³	✓	

¹³⁰ Castlemaine Community and Sports Club VCAT reference No. B47/2012

¹³¹ Rennie V Darebin CC [2010] VCAT 1719

¹³² *Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] Para 25, 164 and 165

¹³³ Bentleigh RSL

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Harms	Social	Economic
Potential increased risk of gambling-related harm	✓	
Potential diversion of trade from existing businesses		✓
Job losses		✓
Share of expenditure attributable to gambling-related harm	✓	✓
Impact on rate of gambling related crime and disturbance	✓	✓
Exposure of gaming employees to gaming	✓	
Impact on community values and sentiments, lifestyle	✓	
Impact on demand for health, welfare and support services	✓	

Source: adapted from VCGLR Local Government Submission Form, Tribunal decisions and Commission decisions¹³⁴

9.5 Principles

The following principles, which embody the research relating to appropriate areas, locations and venues, will form the framework for the City of Melton Local Planning Policy for Electronic Gaming:

1. Gaming venues and EGMs should be accessible to the extent that they are available but not convenient.
2. The availability of EGMs and gaming venues should be managed to reflect population growth and distribution.
3. Exposure to opportunities to gamble should be managed to safeguard the health and wellbeing of communities at an elevated risk of gambling-related harm
4. Venues should be designed and operated to maximise their potential community benefits.

¹³⁴ VCGLR Decision - West Waters Hotel

10 Conclusion

The Background Report has found that the 'starting points' for the development of the City of Melton Local Planning Policy for Electronic Gaming should include the following:

- The social, economic, and physical features of the City of Melton will need to be accommodated in the Local Planning Policy for Electronic Gaming. These include:
 - The City of Melton incorporates both established areas and smaller townships with a more rural character.
 - The City of Melton is expected to experience significant growth and the establishment of new communities in the growth corridor.
 - Certain gaming indicators highlight the potential for the community to experience gambling related harms including high density of EGMs per 1,000; and concentrations of significant social and economic disadvantage in certain communities.
- There are several policy tensions which will need to be addressed through the Local Planning Policy. These relate to the location of a gaming venue on Council-owned land; the policy imperative to locate gaming venues in activity centres while at the same time preventing convenience gaming; the need to reduce exposure to gaming when other entertainment used do not operate while also seeking to increase the operating hours of entertainment uses in general; and maximising the availability of non-gaming activities and facilities in gaming venues while seeking to reduce patron's exposure to gaming in the venue.
- The State Planning Policy Framework gives preference to the location of gaming venues in activity centres rather than out of town centres. Not all activity centres across the hierarchy will have the capacity to accommodate gaming venues due to the range of non-gaming entertainment uses available or mix and location of commercial uses. The Local Planning Policy for Electronic Gaming will therefore need to give specific guidance as to suitable locations and areas within activity centres, particularly in relation to communities that are at an elevated risk of gambling-related harm.
- Six of the seven gaming venues in the City of Melton were in existence prior to the introduction of Clause 52.28 *Gaming* in 2006. As a result, certain aspects of these venues do not comply with the provisions of this Clause but are protected under existing rights. The Local Planning Policy for Electronic Gaming does not have the capacity to retrofit these features, but may have the capacity to address these features should an application relating to development or expansion of these gaming venues be submitted to Council.
- Gambling is a legitimate form of entertainment that is associated with harms and benefits. The Local Planning Policy for Electronic Gaming must therefore have the capacity to effectively manage any future demand for gaming in the municipality by clearly and transparently identifying appropriate areas, locations and venues. Furthermore, it should seek to achieve a balance between supporting the availability of opportunities to gamble and protecting those at risk of gambling-related harm.

The principle embedded in all local planning policies for gaming is that gaming venues are accessible but not convenient. This implies that venues operating as destination gaming venues will be preferred above those that function as convenience venues. However, it will be important to acknowledge, both during the preparation of the Local Planning Policy for Electronic Gaming and the assessment of applications under Clause 52.28 that existing and future venues in the City of Melton are likely to display features of both convenience and destination venues.

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City of Melton Electronic Gaming Machine Planning Policy Project

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City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Appendix 2 – Key gaming indicators

	City of Melton	City of Wyndham	City of Hume	City of Brimbank	Moorabool Shire	Macedon Ranges Shire	Average metro municipalities	Victoria
Gaming Machine Expenditure	\$60,035,038.01	\$97,384,531.85	\$106,043,755.03	\$143,045,743.48	\$8,011,356.32	\$9,179,543.81	68,606,161.83	45,907,079
SEIFA DIS Score	1,002.15	1,013.40	951.75	925.76	1,008.46	1,055.08		
SEIFA DIS Rank State	50	55	12.00	3.00	52.00	72.00		
SEIFA DIS RANK METRO/Country	10	12	3	2	41	47		
Adults per Venue as at June	14,277.92	12,057.34	10,509.10	10,537.91	8,125.16	11,677.70	12,685.08	9,461
EGMs per 1,000 Adults as at June	5.03	5.68	5.53	5.94	4.51	2.91	5.23	5.65
EXP per Adult as at June	\$600.68	\$621.29	\$720.76	\$904.96	\$328.66	\$ 262.02	\$556.51	\$553.13
Number of EGM licences								
Number of attached EGM entitlements	503	891	813	939	160	102	626	462
Number of venues	7	13	14	15	5	3	11	9
Expenditure per attached EGM entitlement	\$119,353.95	\$109,298.02	\$130,435.12	\$152,338.38	\$50,070.98	\$89,995.53	\$109,512.87	\$ 97,071.46
Expenditure per venue	\$8,576,434.00	\$7,491,117.83	\$7,574,553.93	\$9,536,382.90	\$1,602,271.26	\$3,059,847.94	\$6,533,920.17	\$ 5,125,765.91
Average venue size	72	69	58	63	32	34	57	50

Source: VCGLR

Appendix 3 - Indicators of gambling-related harm, the City of Melton and small areas

Area	SEIFA Index of Disadvantage (%)	Households in housing stress (%)	Low income households (%)	Weekly median household income (\$) *	Households with a mortgage (%)	Households with mortgage stress (%)	Households with rental stress	Unemployment rate (%)	Youth unemployment rate
Brookfield	1007.6	11.7	14.6	1404	48.4	13.1	25.8	5.1	11.6
Burnside - Burnside Heights	1000.1	14.7	12.1	1496	60.8	18.1	27.2	6.7	17.1
Caroline Springs	1051.4	13.7	8.9	1660	62.7	13.9	26.8	6.5	13.5
Diggers Rest	973.2	11.0	18.4	1151	49.7	13.8	22.2	3.9	15.0
Hillside	1053.5	11.9	8.8	1654	60.0	13.3	29.0	4.2	11.8
Kurunjang	972.1	14.4	13.1	1296	51.2	15.8	28.5	7.5	19.8
Melton	899.5	14.6	26.3	902	32.4	12.8	35.1	10.9	17.8
Melton South	893.8	16.3	24.2	949	36.4	16.1	36.2	12.0	16.3
Melton West	984.7	13.1	13.0	1326	52.6	12.9	29.0	6.7	16.8
Rural Balance	994.5	7.7	14.5	1362	37.4	13.0	17.8	5.0	12.9
Taylors Hill	1051.0	13.3	8.7	1665	67.5	15.6	27.7	5.4	15.1
Melton Township	953.4	14.1	18.0	1172	44.7	14.1	31.7	8.2	16.7
Melton East	1043.4	13.3	9.4	1632	62.6	14.8	27.5	5.7	13.8
City of Melton	1002.1	13.4	13.7	1363	53.1	14.5	29.5	6.1	13.7
Western Region	986.1	11.7	17.2	1295	38.1	13.1	25.9	6.5	13.2
Greater Melbourne	1020.3	10.7	16.9	1333	35.3	11.7	24.9	5.5	12.3
Interface Councils	1008.3	12.2	15.9	1308	46.6	14.2	29.2	5.5	12.1
Victoria	1009.6	10.6	19.1	1216	34.5	11.7	25.3	5.4	12.0
Australia	1002.0	10.7	19.1	1242	33.3	10.6	25.1	5.6	12.2

* Based on mean annual household income of \$62,400 - \$103,999

Table 24 – Indicators of gambling-related harm, Melton and small areas (continued)

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Area	Lone person households (%)	Parents and homebuilders aged 35-49	Older workers and pre-retirees aged 50-59	Labourers (%)	Aboriginal and Torres Strait Islanders (%)	People not fluent in English (%)	People who volunteer (%)	# Gaming venues	# Attached EGMs/licences	No red/16	No orange/16	Total/16
Brookfield	16.7	19.8	11.7	9.2	1.0	1.9	12.4	0	0	0	3	3
Burnside - Burnside Heights	12.1	22.9	10.0	13.3	0.3	6.9	9.3	0	0	3	3	6
Caroline Springs	12.1	26.9	8.3	8.1	0.3	4.8	10.6	2	146	1	4	5
Diggers Rest	25.8	21.1	16.2	9.7	1.1	0.8	15.0	0	0	6	1	7
Hillside	9.8	27.0	9.8	8.8	0.4	3.5	10.7	1	50	1	0	1
Kurunjang	15.8	21.5	11.8	11.6	0.8	2.0	10.1	0	0	4	8	12
Melton	27.4	18.2	13.5	11.8	1.6	2.5	11.1	3	217	10	2	12
Melton South	25.3	20.4	14.6	13.7	1.1	2.2	9.7	1	80	14	0	14
Melton West	15.8	20.9	12.0	10.6	1.0	1.8	10.9	0	0	4	5	9
Rural Balance	20.7	24.1	15.3	11.7	2.0	2.1	9.2	0	0	6	3	9
Taylors Hill	8.6	25.0	7.7	9.9	0.2	5.9	9.8	0	0	3	2	5
Melton East	10.8	25.9	8.9	9.5	0.3	5.0	10.2	0	0	0	3	3
City of Melton	15.7	23.3	10.8	10.3	0.7	3.5	10.5	7	493	5	4	9
Western Region	19.8	22.1	12.1	9.9	0.5	7.1	11.9					
Greater Melbourne	22.3	22.5	12.0	8.0	0.5	5.1	15.8					
Interface Councils	17.3	22.7	11.5	10.1	0.6	3.9	13.9					
Victoria	23.5	21.5	12.5	9.0	0.7	4.0	17.6					
Australia	23.1	21.2	12.8	9.4	2.5	3.0	17.8					

City of Melton Electronic Gaming Machine Planning Policy Project
Background Report

Source	Indicator	the City of Melton	North West Metro Region		Victoria	
CSA	Family incident rate per 100,000 Jul 2014 - Jun 2015	1,458.8	1,159.6	↑	1191.5	↑
CSA	% change in family violence incident rates 2010/11	86.5	56.4	↑	62	↑
CSA	% change in family violence incident rates 2013/14- 2014/15	15.0%	6.9%	↑	6.8	↑
CSA	Offence rate per 100,000 population, 2014/15	7,748.7	9,259.1	↓	7,894.9	↓
CSA	% change in offence rate per 100,000 population 2010/11to 2014/15	27.0	8.8	↑	15.7	↑
CSA	% change in offence rate per 100,000 population 2013/14 to 2014/15	2.8%	-0.8%	↑	2.6%	↑
CIV	Perceptions of Safety - Day	95.9	95.2	↑	97	↓
CIV	Perceptions of Safety - Night	57.6	65.2	↓	70.3	↓
CIV	Self reported health (excellent or very good)	40.7	43.9	↓	46.6	↓
CIV	Subjective Wellbeing	76.6	76.4	↑	77.5	↓
CIV	Adequate Work-Life balance	48.3	53.1	↓	53.1	↓
DHHS	% persons 18+ who are current smokers	24.2%	20.0%	↑	19.1%	↑
DHHS	% at risk of short term harm from alcohol	5.7%	9.1%	↓	10.2%	↓
DHHS	% who purchased alcohol on past 7 days	29.1%	33.5%	↓	36.3%	↓
DHHS	% 15-17 years old who drank alcohol in the last 30 days	58.7%	51.9%	↑	NA	
DHHS	Male life expectancy	78.3	80.0	↓	80.3	↓
DHHS	Female life expectancy	82.3	84.2	↓	84.4	↓
DHHS	% persons who have a high degree of psychological distress	15.5%	13.0%	↑	11.4%	↑
DHHS	Drug and alcohol clients per 1,000 population	5.0	5.0		5.1	↓
DHHS	Registered mental health clients per 1,000 population	8.1	9.9	↓	10.3	↓
CIV	Food insecurity	3.1	5.6	↓	4.6	↓
DHHS	% with at least 2 hour daily commute	21.9%	13.8%	↑	11.6%	↑
CIV	Transport limitations	26.9	24.3	↑	23.7	↑

Appendix 4 - Relevant clauses of selected local planning policies for electronic gaming

Amendment scheme details	Panel report	Relevant Clause in MSS	Relevant Clause in local planning policy	Provisions of Schedules to Clause 52.28-3 and 52.28-4
Hume C100, 2009*	No	21.01 <i>Municipal Profile</i> 21.01-5 <i>Land use vision</i> 21.07 <i>Activity Centres and Retailing</i> 21.08 <i>Particular Uses and Development - Gaming</i>	22.17 <i>Gaming</i>	Clause 52.28-3 and Clause 52.28-4 includes comprehensive list of shopping complexes and strip shopping centres
Yarra Ranges C077, 2010	No	21.04 <i>Land Use</i>	22.08 <i>Gaming</i>	Clause 52.28-3 includes a list of shopping complexes Clause 52.28-4 states that all strip shopping centres are included in the schedule
Brimbank C093, 2014	Yes	21.11 <i>Community and Leisure Facilities: 21.11-2 Gaming</i>	Not applicable	Clause 52.28-3 and Clause 52.28-4 includes comprehensive list of shopping complexes and strip shopping centres
Macedon Ranges C84, 2015	Yes but gaming policy not addressed in Panel Report	21.12-1 <i>Community Development</i>	22.04 <i>Gaming</i>	Clause 52.28-3 includes two shopping complexes in Gisborne and Clause 52.28-4 states that all strip shopping centres are included in the schedule
Manningham C108, 2015	No	Clause 21.09 <i>Activity Centres: 21.09-2 Principal Activity Centre, 21.09-3 – Major Activity Centre, Clause 21.09 – Commercial Areas</i> 21.14 <i>Community Health and Wellbeing</i> 21.16 <i>Key references</i>	22.18 <i>Gaming</i>	Clause 52.28-3 includes a list of shopping complexes Clause 52.28-4 states that all strip shopping centres are included in the schedule
Monash C113, 2015	Yes	21.05 <i>Economic development: 21.05-2 Key issues, 21.05-3 Objectives, strategies and implementation, 21.06 Activity Centres: Clause</i>	22.12 <i>Gaming</i>	Clause 52.28-3 and Clause 52.28-4 includes comprehensive list of shopping

City of Melton Electronic Gaming Machine Planning Policy Project

Background Report

		21.06-2 <i>Key issues, Clause 21.06-3 Objectives, strategies and implementation</i>		complexes and strip shopping centres
Moonee Valley C140, 2015	No	21.07 - <i>Economic development: Clause 21.07-1 – Overview of key issues – economic development, Clause 21.07-7 – Electronic gaming machines</i>	22.05 <i>Gaming</i>	Clause 52.28-3 and Clause 52.28-4 includes comprehensive list of shopping complexes and strip shopping centres
Wyndham C192, 2015*	Yes	21.08 - <i>Economic Development Clause 21.08-5 Gaming</i>	22.03 <i>Electronic gaming policy</i>	Clause 52.28-3 includes a list of shopping complexes Clause 52.28-4 states that all strip shopping centres are included in the schedule
Mount Alexander C72, 2015	Yes	<i>Clause 21.04 Objectives and Strategies Clause 21.04-9 Gaming</i>	22.33 <i>Gaming</i>	Clause 52.2-3 does not include any shopping complexes. Clause 52.28-4 includes two strip shopping centres
Cardinia Shire C207*, 2016	Not applicable	Not applicable	22.03 <i>Gaming</i>	Inclusion of additional shopping complexes in Clause 52.28-3 Prohibition in all strip shopping centres

*Growth area municipality