

**Management report to the Gaming Planning Provisions Committee**

Agenda item 4.1

**Planning Scheme Amendment C307 Gaming policy**

**Gaming Planning  
Provisions Committee**

**Presenter:** Emma Appleton, Manager Urban Strategy

**6 August 2019**

**Purpose and background**

1. The purpose of this report is to provide an assessment of the independent Panel's recommendations regarding Planning Scheme Amendment C307 Gaming (the Amendment) and to recommend the Gaming Planning Provisions Committee (GPPC) requests the Minister for Planning to prepare and approve an amendment (as shown in Attachment 6) under Section 20(4) of the *Planning and Environment Act 1987* (the Act); and endorse as a Council policy, the City of Melbourne Electronic Gaming Machine Decision Making Framework (the Framework) which was exhibited with the Amendment.
2. The Amendment introduces a revised Gaming Policy (the Policy) into the Planning Scheme. The Policy will guide the assessment of planning permit applications for the installation or use of electronic gaming machines (EGM). The Amendment is a significant step in reducing gambling-related harm in the municipality. It adopts a harm minimisation approach by discouraging gaming venues where opportunistic gaming is likely, or close to predominantly residential areas or areas with a high concentration of vulnerable populations. The Framework provides guidance outside of the Planning Scheme regarding broader roles in demonstrating leadership in the prevention of gambling related harm, advocacy and collaborative partnerships.
3. The Amendment was exhibited in June 2018. Eight submissions were received. On 20 November 2018, a decision was made under delegation to request that the Minister for Planning appoint a Panel to consider the submissions. The Panel hearing was held in March 2019. The Panel delivered its report (Attachment 2) to the City of Melbourne on 26 April 2019.

**Key issues**

4. Key issues raised by submitters and discussed at Panel included the strategic justification for the Amendment, the appropriateness of the objectives, the need to differentiate between the Central City, urban renewal areas and other parts of the municipality in terms of locational guidelines for EGMs and the appropriateness of the application requirements. Following exhibition, no changes to the Decision Making Framework are recommended; and the Framework was not considered by the Panel, as it does not form part of the Melbourne Planning Scheme.
5. Overall, the Panel found that Amendment C307 has sufficient strategic justification and recommended adoption of the Amendment subject to some changes. Several of the changes are minor editorial changes or rephrasing. The more significant changes include the following:
  - 5.1. there should be separate locational criteria for the Central City, for urban renewal areas, and for the rest of the municipality
  - 5.2. existing gaming venues increasing their number of machines should be favoured over the establishment of new venues
  - 5.3. gaming venues in locations where the predominant use is residential should be discouraged everywhere except in the Capital City Zone and Docklands
  - 5.4. the policy should be converted to a Schedule to Clause 52.28, as facilitated by Ministerial Amendment VC148 and presented to the Future Melbourne Committee in November 2018.
6. Management recommends accepting the majority of recommendations, with the exception of 5.3 above. A summary of the Panel recommendations and Management's response is attached (Attachment 3).
7. Section 188(2) of the Act provides that the power to adopt the Amendment under section 29(1) of the Act can only be exercised by the Council.

**Attachments:**

1. Supporting Attachment (Page 3 of 145)
2. Panel report including panel's mark up of the Schedule to Clause 52.28 (Page 4 of 145)
3. Summary of Panel recommendations and response by Management (Page 76 of 145)
4. Post panel version of Schedule to Clause 52.28 – track changes (Page 85 of 145)
5. Post panel version of Clause 21.02, Clause 21.10, Clause 21.12 – track changes (Page 88 of 145)
6. Full set post panel version of Amendment C307 – clean version (Page 98 of 145)
7. City of Melbourne Electronic gaming machine decision-making framework (Page 112 of 145)

**Recommendation from management**

8. That the Gaming Planning Provisions Committee:
  - 8.1. notes that:
    - 8.1.1. Council was unable to adopt Melbourne Planning Scheme C307 (the Amendment) on 30 July 2019 due to a loss of quorum
    - 8.1.2. the Amendment cannot be adopted under delegation due to restrictions in section 188(2) of the *Planning and Environment Act 1987*
  - 8.2. refers Amendment C307 as shown in Attachment 6 of this report to the Minister for Planning
  - 8.3. requests the Minister for Planning prepare and approve an amendment to the Melbourne Planning Scheme under Section 20(4) of the Act, in the same form as Attachment 6 on the basis that the Amendment has already been the subject of the statutory exhibition, consultation and panel process under the Act
  - 8.4. endorses the City of Melbourne Electronic Gaming Machine Decision Making Framework exhibited as part of the Amendment as a Council policy.

**Supporting Attachment****Legal implications**

1. Section 20(4) of the *Planning and Environment Act 1987* (the Act) provides that the Minister may exempt himself from any of the requirements of sections 17, 18 and 19 and the regulations in respect of an amendment which the Minister prepares, if the Minister considers that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

**Finance**

2. Under section 6 of the *Planning and Environment (Fees) Regulations 2016* a fee is to be paid when requesting the Minister approve an amendment. Once the Planning Scheme Amendment is approved, a notice will also be required to be placed in a newspaper circulating in the local area. These costs are provided for in the 2019–20 budget.

**Conflict of interest**

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

**Health and Safety**

4. Research has found that EGM gambling has been identified with social, health and wellbeing and economic harms. These harms can have a considerable impact on the individual, their networks and the broader community. This Amendment adopts a harm-minimisation approach seeking to limit gambling related harms and protect those most vulnerable to impacts of gambling-related harms.

**Stakeholder consultation**

5. The Amendment was exhibited in accordance with the Act. It was placed on public exhibition between 24 May and 29 June 2018. This included:
  - 5.1. Public notices were placed in *The Age* and *Government Gazette* on 24 May 2018.
  - 5.2. The Amendment and supporting information was available at the City of Melbourne counter in the Town Hall, on the City of Melbourne's 'Participate Melbourne' website and the Department of Environment, Land, Water and Planning's website.
  - 5.3. A copy of the statutory notice, as well as a letter was sent to all venue operators as well as relevant stakeholders and prescribed Ministers.
  - 5.4. Two information sessions were held, one for members of the public on Wednesday June 6 2018, and one for existing and prospective venue operators on Thursday 7 June 2018.
  - 5.5. All submissions received in response to the exhibition of the Amendment will be provided to the Panel. All submitters had the opportunity to address the Panel.
  - 5.6. Two parties (other than the City of Melbourne) chose to be heard at Panel. The panel report responds to all submitters, including those who were heard at the hearing, and those that did not choose to be heard at the hearing.

**Relation to Council policy**

6. The recommendations relate to the following Council plans and policies:
  - 7.1 Council Plan 2017–21 Goal 2 – A City for People.
  - 7.2 Melbourne Planning Scheme.

**Environmental sustainability**

7. Environmental sustainability issues and opportunities are not considered relevant to this proposal.

*Planning and Environment Act 1987*

**Panel Report**

**Melbourne Planning Scheme Amendment C307**

**Gaming Policy**

**26 April 2019**

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Melbourne Planning Scheme Amendment C307

Gaming Policy

26 April 2019

A handwritten signature in black ink, appearing to read 'Dalia Cook', written in a cursive style.

Dalia Cook, Chair

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## Glossary and abbreviations

AHA	Australian Hotels Association (Vic)
Background Report	<i>City of Melbourne Electronic Gaming Machine Review Draft Background Report, October 2017</i>
CBD	Central Business District
CCZ	Capital City Zone
Central City	Capital City Zone and Docklands
Council	Melbourne City Council
DELWP	Department of Environment, Land, Water and Planning
Doxa	Doxa Community Club Inc
EGMs	Electronic gaming machines
Framework	<i>City of Melbourne Draft Electronic Gaming Machine Decision-Making Framework, October 2017</i>
GR Act	<i>Gambling Regulation Act 2003</i>
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
PE Act	<i>Planning and Environment Act 1987</i>
planning scheme	Melbourne Planning Scheme
VCAT	Victorian Civil and Administrative Tribunal
VCGLR	Victorian Commission for Gambling and Liquor Regulation

## Overview

Amendment summary	
<b>The Amendment</b>	Melbourne Planning Scheme Amendment C307
<b>Common name</b>	Gaming Policy
<b>Brief description</b>	The Amendment as exhibited seeks to introduce a revised gaming policy into Clause 22.12 of the Melbourne Planning Scheme and to introduce two Reference Documents. Following Amendment VC148, Council now proposes to convert key content from the proposed policy into the Schedule to Clause 52.28 of the Planning Scheme pertaining to gaming.
<b>Subject land</b>	The Amendment applies to all land covered by the Melbourne Planning Scheme.
<b>The Proponent &amp; Planning Authority</b>	Melbourne City Council
<b>Authorisation</b>	21 December 2017, subject to conditions
<b>Exhibition</b>	24 May – 29 June 2018
<b>Submissions</b>	Number of Submissions: 8
Panel process	
<b>The Panel</b>	Dalia Cook, appointed 17 December 2018
<b>Directions Hearing</b>	Planning Panels Victoria, 14 February 2019
<b>Panel Hearing</b>	Melbourne Town Hall, 12 March 2019 Planning Panels Victoria, 13, 14 and 15 March 2019
<b>Appearances</b>	<p>Mr John Rantino, Solicitor, Maddocks on behalf of Melbourne City Council who called Ms Bonnie Rosen, Town Planner, Symplan to give expert evidence.</p> <p>Ms Nicola Collingwood of Counsel instructed by BSP Lawyers on behalf of Australian Hotels Association (Vic) who called Ms Laura Thomas, Town Planner, Urbis to give expert evidence. Ms Kayla Gregg of BSP Lawyers appeared on its behalf on the third day of the hearing.</p> <p>Mr Nicholas Tweedie QC with Ms Sarah Porritt of Counsel instructed by LGS Legal on behalf of Doxa Community Club Inc who called Ms Colleen Peterson, Town Planner, Ratio to give expert evidence.</p>
<b>Citation</b>	Melbourne PSA C307 [2019] PPV
<b>Date of this Report</b>	26 April 2019



## Executive summary

The City of Melbourne is identified as Victoria's premier entertainment destination. A component of its broad entertainment offer includes venues with Electronic Gaming Machines.

A layered approvals system applies to the operation of Electronic Gaming Machines, with certain permissions required under the *Gambling Regulation Act 2003* as well as under planning scheme controls, guided by considerations in the *Planning and Environment Act 1987*.

When a planning permit is required for the installation or use of gaming machines under Clause 52.28 of the Melbourne Planning Scheme, relevant considerations must focus on the appropriateness of the proposed location and operation of Electronic Gaming Machines – as distinct from other elements of gambling that may be controlled by other forms of regulation.

Electronic Gaming Machines are a lawful form of gambling. However, they are also known to generate particular risks of harm in connection with problem gambling. In this context, a Local Planning Policy currently operates within the Melbourne Planning Scheme to address the location and operation of Electronic Gaming Machines.

Since the introduction of that policy, planning scheme provisions applying to gaming have changed and there has been a notable expansion to the extent of the Capital City Zone – a zone in which there is no prohibition against Electronic Gaming Machines or venues locating in strip shopping centres. The City of Melbourne and its renewal areas are identified for significant population growth. Melbourne City Council anticipates this will affect the demand for entertainment including Electronic Gaming Machines.

In light of this, Council proposed an updated Local Planning Policy which was prepared and exhibited in the form of Amendment C307.

Submissions to the Amendment as exhibited were varied. Some considered the policy did not go far enough to regulate gaming and its potential impacts. Others regarded its proposed content as either ineffective or potentially misleading.

Submitters with interests in the gaming industry considered the Amendment was flawed since it did not have due regard to the diversity of land use within the City of Melbourne and strategic directions for its future, as well as heightened existing access to Electronic Gaming Machines. Key issues included whether the proposed policy was materially deficient since it did not differentiate between the Central City (including the Hoddle Grid), urban renewal areas and other areas of the municipality for the purposes of gaming. They were also concerned about a lack of articulation of the effects of Crown Casino.

Parties at the Hearing expressed differing views about whether the Amendment was strategically justified, and whether its alleged deficiencies could be overcome within the context of the Amendment to suitably guide decision making.

More recently (after public exhibition concluded), Amendment VC148 changed all planning schemes to permit more substantial inclusions in Schedule 52.28 pertaining to gaming. These inclusions are intended to be location specific. Council now seeks a recommendation from

the Panel that it convert the proposed policy to a tailored schedule to Clause 52.28 with generally comparable content.

All parties and witnesses agreed it was appropriate to progress the Amendment in the form of a Schedule to Clause 52.28 rather than as an amended Local Planning Policy. Likewise, they agreed it was appropriate to replace the current Local Planning Policy at Clause 22.12 pertaining to gaming, and that a policy or schedule should apply to the whole of the municipality rather than excluding areas within the Central City (a feature of the current policy).

The Panel concludes that:

- Following recent changes to the Melbourne Planning Scheme, it is appropriate to convert key elements from the proposed Local Planning Policy on gaming into a Schedule to Clause 52.28. The Schedule is a more bespoke way of managing the location and operation of Electronic Gaming Machines and venues following the introduction of the new Planning Policy Framework and varied structure of the Victorian Planning Provisions.
- The relatively confined conversion from one form of provision to another is unlikely to cause detriment such that re-exhibition of the Amendment is not required.
- Melbourne City Council's decision to no longer introduce two Reference Documents into the Melbourne Planning Scheme in connection with the Amendment is understood in light of the conversion of the proposed policy to a schedule. However, the concepts that underpin the Amendment are quite complex and the *City of Melbourne Electronic Gaming Machine Review Draft Background Report*, October 2017 would otherwise provide a useful point of reference if updated and refined and there was scope to include this in a schedule to a particular provision.
- Specific provisions pertaining to gaming in the City of Melbourne in the form of a Schedule to Clause 52.28 should extend to all areas of the municipality, including the Central City, as distinct from the more confined Local Planning Policy in the Melbourne Planning Scheme at present.
- A number of shortcomings of the Amendment identified by submitters are justified. However, they are not of a character or magnitude that would warrant its abandonment. For the most part, they can be reasonably addressed within the Amendment as recommended by the Panel in a way that is both fair and workable if Council elects to progress the Amendment.
- There is strong justification for separate locational guidelines to be included in the Schedule to reflect the particular features of the Central City that may influence the provision of Electronic Gaming Machines. There is capacity for Melbourne City Council to undertake more detailed strategic work to identify characteristics or sub-precincts where Electronic Gaming Machines are either preferred or discouraged.
- Likewise, a separate provision should guide the phasing of Electronic Gaming Machines into identified urban renewal areas, including the Arden Macaulay Precinct and Fishermans Bend. Council could potentially undertake further work to establish more detailed locational and venue guidelines for these areas as precinct planning for these areas formalises. In the meantime, Council should consider whether to

apply locational guidelines comparable to those proposed for areas outside the Central City in the schedule, having regard to the emerging character of these areas.

### **Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Melbourne Planning Scheme Amendment C307 be adopted as exhibited subject to the following:

- 1. Remove existing Clause 22.12 from the Melbourne Planning Scheme.**
- 2. Replace exhibited Clause 22.12 with a revised Schedule to Clause 52.28 to the Melbourne Planning Scheme in the form of Appendix C.**
- 3. Amend policy in the Municipal Strategic Statement (Clause 21) of the Melbourne Planning Scheme in accordance with the version included in Attachment 1 to Council's Part B submission (Document 12).**
- 4. Delete the *City of Melbourne Electronic Gaming Machine Review Draft Background Report, October 2017* and *City of Melbourne Draft Electronic Gaming Machine Decision-Making Framework, October 2017* from the proposed list of Reference or Background Documents under the Melbourne Planning Scheme.**

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The Amendment as exhibited proposes to replace Local Planning Policy for gaming at Clause 22.12 of the Melbourne Planning Scheme (planning scheme). It would also refine relevant parts of the Municipal Strategic Statement (MSS) and would amend the Schedule to Clause 52.28 (Gaming).

The intended purpose of the Amendment is to guide decision making for the installation and use of Electronic Gaming Machines (EGMs) across all areas of the municipality, including all Capital City Zones. It also aims to facilitate an assessment of the social and economic impacts of gaming and to guide the appropriate location and operation of EGMs. Fundamentally, it seeks to minimise gambling-related harms associated with the use of EGMs.

Specifically, the Amendment as exhibited proposes to:

- Amend Clause 21.10-6 (Cultural/Arts and Entertainment Facilities), to strengthen planning policy to ensure that EGMs operate as part of the overall range of entertainment activities in the municipality. The Amendment would introduce the objective of minimising gambling-related harms and ensure that the location, design and operation of gaming venues achieves these objectives.
- Amend Clause 21.12 (Hoddle Grid), to strengthen policy to reduce the concentration of EGMs in the Hoddle Grid where they contribute to convenience gambling.<sup>1</sup>
- Replace Local Planning Policy at Clause 22.12 (Gaming) to apply to all planning permit applications to install or use a gaming machine under Clause 52.28 of the planning scheme, including application requirements and decision guidelines. As exhibited, Clause 22.12 proposes two Reference Documents – the *City of Melbourne Electronic Gaming Machine Review (Draft) Background Report 2017* and the *City of Melbourne Electronic Gaming Machine Decision-Making Framework 2017*.<sup>2</sup> Council later advised that this was no longer appropriate in its preferred form of the Amendment, although it confirmed that these documents had been relied on as part of the strategic justification for the Amendment.
- Amend the Schedule to Clause 52.28 to update the list of shopping complexes where the installation or use of EGMs is prohibited.<sup>3</sup>

### **Amendment VC148**

Amendment VC148 was gazetted on 31 July 2018. It made a number of substantive changes to the structure and content of the Victoria Planning Provisions. The new format planning

<sup>1</sup> In later iterations of the Amendment documentation, Council agreed to modify this wording to “manage” their concentration.

<sup>2</sup> Prepared by Bonnie Rosen, Town Planner, Symplan.

<sup>3</sup> No party took issue with the proposed additions to identified shopping complexes where EGMs would be prohibited. However, some parties mentioned that it was not entirely clear how these shopping centres were identified and why others are excluded for the time being.

scheme now permits a municipality to refine the Schedule to Clause 52.28 to include application requirements, location guidelines and decision guidelines to guide the exercise of decision making with a local focus.<sup>4</sup>

Previously, in the absence of an opportunity to tailor the specific provision, a number of councils, including Melbourne City Council, relied on a Local Planning Policy pertaining to gaming to guide decision making where a permit application was made under Clause 52.28.

The structure of the new Planning Policy Framework does not include an obvious location for gaming policy. At this early stage in the translation of planning schemes into the new format it is unclear how existing local gaming policies will be treated, although there may be scope for some outline elements to be included in the Municipal Planning Strategy.

Council advised that the Department of Environment, Land, Water and Planning (DELWP) supported the use of the Schedule to Clause 52.28 to encompass the substance of what was originally exhibited as the proposed replacement local gaming policy.

The Panel finds this approach consistent with the more specific, direct opportunities afforded by the new structure of the current planning scheme.

However, the Panel recognises that it is obliged to assess and report on the exhibited Amendment. To overcome this potential disconnect, Council requested that the Panel recommend the adoption of a revised Schedule to Clause 52.28 instead of progressing the local gaming policy as originally exhibited. It referred to section 25(2) of the *Planning and Environment Act 1987* (PE Act), confirming that the Panel is entitled to “*make any recommendation it thinks fit*”.

All parties and witnesses to the Panel Hearing were content with this approach.

The Panel considers that the proposed changes pertain more to form rather than substance – with a substantially direct transfer of content from the proposed local policy to the now proposed schedule. Accordingly, it does not consider that further notification of this change would be required before a generally supportive recommendation could be made.

**(ii) The subject land and gaming features unique to the City of Melbourne**

The Amendment applies to all land covered by the planning scheme. This is a notable shift from the current local gaming policy which applies to land in the Mixed Use Zone, Public Use Zone, Public Park and Recreation Zone, Commercial Zones, Industrial Zones, Docklands Zone and Schedule 5 to the Capital City Zone (City North). The policy notes that gaming premises are prohibited in Residential Zones.<sup>5</sup>

By deduction, the current policy does not apply to land in Capital City Zone Schedules 1-4 and 6-7 namely, the Central City including the Hoddle Grid and Southbank<sup>6</sup> as well as Fishermans Bend, Carlton Connect and the Melbourne Arts Precinct. This report refers to the Central City

<sup>4</sup> This is reflected in the amended Ministerial Direction on the Form and Content of Planning Schemes.

<sup>5</sup> At present, this applies to stand alone gaming venues, but not necessarily to Hotels or Clubs that may offer EGMs as part of their broader operations.

<sup>6</sup> To some extent, the Hoddle Grid has been used interchangeably with the term Central Business District (CBD).

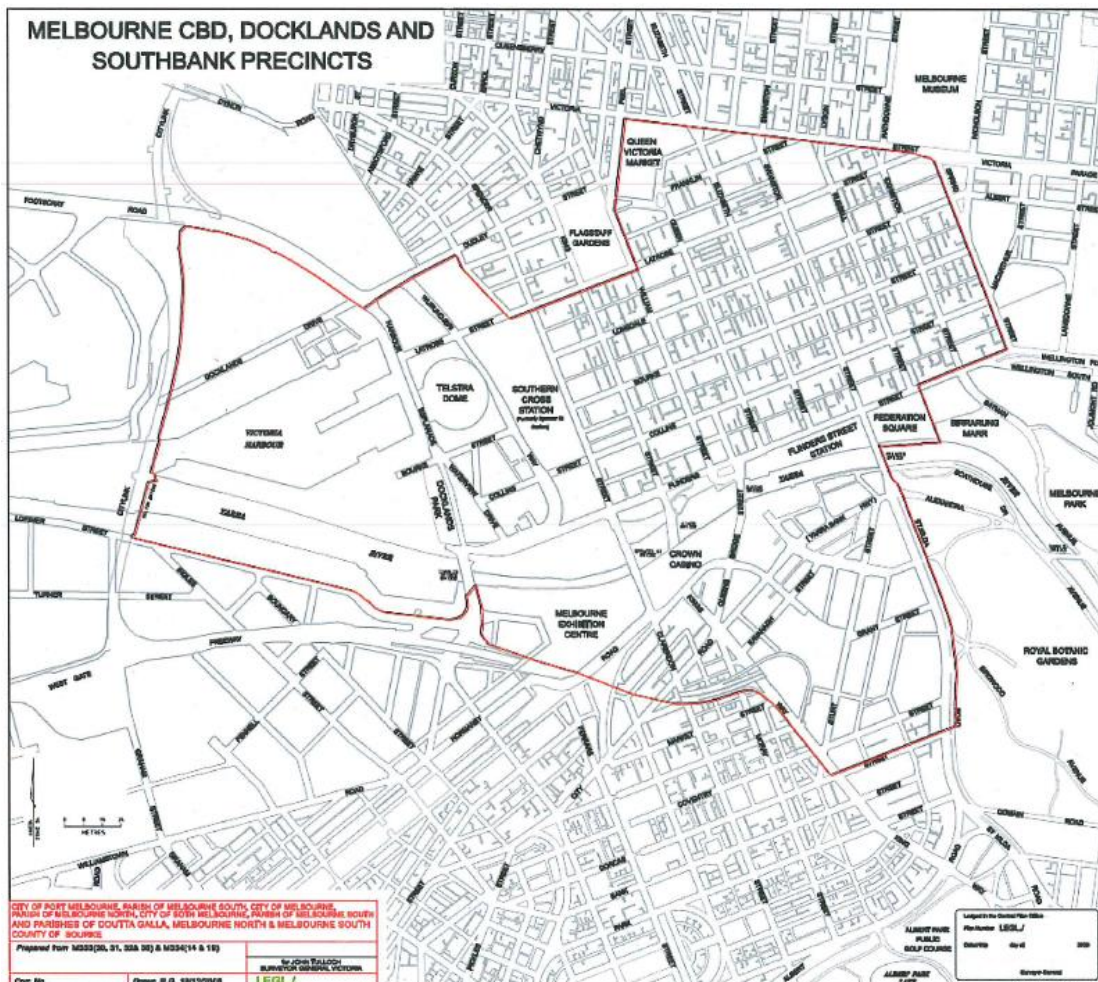
as the Capital City Zone (all Schedules including Fishermans Bend renewal area) and the Docklands precinct.

In considering this Amendment, parties emphasised the relatively unique structure that shapes opportunities for gaming within the City of Melbourne.

The City of Melbourne has been divided into two parts. One part is subject to a regional cap, with the remainder subject to a municipal limit. The number of EGMs that can be operated within the region of Carlton, Flemington, Kensington and North Melbourne (within the municipal boundary) are capped at 149 machines. The remainder of the municipality has a municipal limit of 143 machines, although it does not currently contain any EGMs.

However, by virtue of Item 5 of the Ministerial Order on 20 September 2017<sup>7</sup> (taking effect from 3 November 2017), the Central Business District, Docklands and Southbank are excluded from this order. Consequently, there is no cap or regional limit on the maximum number of entitlements to operate gaming machines within these areas.<sup>8</sup>

**Figure 1 Area of Melbourne Where The Municipal Limit Does Not Apply (Ministerial Order, 20 September 2017)**



<sup>7</sup> Pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act.

<sup>8</sup> The background and detail supporting these caps is outlined in summary in the expert witness report of Ms Thomas at page 6.

The Regional Electronic Gaming Machine Caps Review Panel (Caps Review) observed in its final report dated November 2005 (Department of Justice Office of Gaming and Racing):

The City of Melbourne has unique characteristics that warrant a separate consideration of the issues with respect to regional caps. There is a significant concentration of gaming machines located within the central business district. Of the City's 859 gaming machines, 572 of these are located in the central business district. In addition, 2500 gaming machines are located at Crown Casino. The City of Melbourne, particularly the central business district, Docklands and Southbank, is a significant entertainment precinct in Melbourne, drawing large numbers of tourists, workers and day visitors ...

In a sense, the City of Melbourne is the principal destination style gaming area in Melbourne apart from Crown casino. As stated in chapter 5, the Panel supports a shift towards more destination gaming venues. The Panel considers, therefore, that the central business district, Docklands and Southbank should not have their number of gaming machines capped.

There are large parts of the City of Melbourne, however, that are regional areas, some with significant housing commission accommodation. These areas should be capped in accordance with the Panel's recommendation regarding all other local government areas.<sup>9</sup>

This offers significant insight into the gaming attributes of the City of Melbourne and the Central City<sup>10</sup> in particular.

Another feature unique to the Central City is the 'carve out' of the Capital City Zone from the general prohibition on the installation or use of EGMs in strip shopping centres in Clause 52.28. This is discussed further in Chapter 3.2.

## **1.2 Background**

### **(i) Clause 52.28 (Gaming)**

The purpose of this specific provision is:

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.

A planning permit is required to use or install a gaming machine (subject to exceptions in Clause 52.28-3).

Decision guidelines are provided at Clause 52.28-9 and include the full suite of applicable planning policies; compatibility with adjoining and nearby land uses; site capability and whether a full range of facilities or services are provided for a hotel or club venue.

As mentioned, there is now capacity for the schedule to detail specific objectives, application requirements, locational and venue guidelines and decision guidelines.

<sup>9</sup> As reproduced in Laura Thomas' expert witness statement para 64.

<sup>10</sup> This reference to the Central City as representing the Hoddle Grid, Southbank and Docklands is repeated throughout the wording and mapping of the existing planning scheme and has been replicated in this Report accordingly.

These are in addition to the ongoing use of the schedule to identify shopping complexes and strip shopping centres where gaming machines are prohibited.

Presently, the Schedule to Clause 52.28 lists a number of shopping complexes by name where EGMs are prohibited. It also identifies that EGMs are prohibited in all strip shopping centres (excluding land in the Central City Zone by operation of the head clause). It does not list these individually, but relies on an assessment of centres against the characteristics in the definition in Clause 52.28-5.

**(ii) Current Gaming Premises Local Planning Policy (Clause 22.12)**

The policy applies to identified zones, excluding most Central City zoned land as detailed above. The policy basis refers to preserving amenity and an intention to avoid concentrations of EGMs in particular areas. It also discourages gaming in residential areas.

Objectives include the consideration of amenity, social and economic considerations in permit applications. The policy expresses a preference for EGMs in existing venues in commercial centres which offer a range of other entertainment uses; conversely, seeking to restrict the proliferation of gaming premises in areas where residential use is encouraged. In applying the policy, it is relevant to consider the extent to which EGMs are located in the subject area.

While this policy seeks to facilitate consideration of the social and economic effects of gaming, it also has a key focus on ensuring that gaming venues do not cause detriment to amenity.

The impacts on amenity from EGMs and gaming venues has been downplayed as a current concern for Council given the nature and operation of gaming premises. It has been reflected in the proposed Amendment as one of a number of broader considerations.

**(iii) The Amendment – its inception, aims and process**

Amendment C307 is the first comprehensive review of Council's local gaming policy since the introduction of the 'new' format planning scheme.

Basic statistics pertaining to the municipality derived from the VCGLR website indicate<sup>11</sup>:

- Melbourne has a gaming machine density of 5.71 EGMs per 1000 adults which is higher than both the Metro and State averages of 5.15 and 5.47 respectively.
- Gaming expenditure (per adult) is \$615 which is higher than both the Metro and State averages of \$561 (\$54 higher) and \$542 (\$73 higher) respectively.
- Melbourne has a higher number of adults per venue (11,873) than both the Metro average (11,693) and the State-wide average (9,690).<sup>12</sup>

These statistics were put into perspective by each of the expert witnesses, who identified that there are a high number of visitors in the City of Melbourne that need to be taken into account when interpreting them.<sup>13</sup>

<sup>11</sup> The most recent information is dated 2016-2017 when one additional gaming venue was operating within the City of Melbourne. The statistics are based on the number of residents in a local government area at the relevant time. This is extracted from Ms Peterson's expert witness report.

<sup>12</sup> A version of this data was outlined in the Background Report in greater depth, but the Panel finds this quote to be more succinct for purposes of its report.

<sup>13</sup> EGM expenditure and density figures were considered by the VCGLR as comparatively less important in the specific context of the City of Melbourne and its role as a tourist and community hub when considering planning approval in



**Melbourne City Council Gaming Policy Review, April 2015, Ratio Consultants and Council response**

In 2015, Council commissioned a report into its existing gaming policy in light of current planning scheme provisions, case law and local context. In summary, that report concluded the policy should:

- apply to all Capital City Zoned land beyond the current reach of the policy
- address locational issues
- de-emphasise issues not typically associated with EGMs, such as amenity and signage
- potentially distinguish between the Central Business District (CBD) versus other areas within the municipality when formulating revised policy – such as to address the concentration of gaming venues in the CBD and provide a preferred method of calculation
- include criteria regarding venue layout.

Council identified that the municipality contains areas of socio-economic disadvantage and groups or individuals at an elevated risk of gambling-related harm. It considered that a more refined and up-to-date policy was required. This was particularly emphasised given changes to the extent of the Capital City Zone in recent years, anticipated residential growth as well as changes within the gaming industry.

On 19 July 2016, Melbourne City Council's Future Melbourne Committee endorsed a review of Council's existing local gaming policy to ensure it reflects the current statutory and regulatory framework for gaming.

**City of Melbourne Electronic Gaming Machine Review Draft Background Report, October 2017 (Background Report)**

This report was prepared by Symplan on behalf of Council. The Background Report noted:

- after the introduction of policy at Clause 22.12, in 2006 the state government introduced a state-wide clause (Clause 52.28 Gaming) to guide the location and operation of EGMs
- in recent years, significant changes have occurred to the regulatory framework within which gaming venues and EGMs operate in Victoria. The outcomes of gaming application licences and applications for planning permits in the municipality have established several principles that are likely to influence the future of gaming in the City of Melbourne.

The Report primarily sourced information from three sources – a review of relevant legislation and policies; a review of the current land use and gaming context and engagement with key stakeholders. It also outlined the current characteristics of gaming venues in the City of Melbourne.

In addition to Crown Casino, 11 gaming venues were operating within the City of Melbourne as at 16 January 2019 (noting that the Celtic Club had closed since the Background Report was

*Queensberry Hotel Pty Ltd v Minister for Planning and Community Development* [2013] VCAT 444. VCAT upheld the refusal to grant planning permission since the intended uses in the surrounding area would typically include day to day activities. The gaming venue had potential to result in convenience gambling which could contribute to gaming-related harms.

prepared citing 12 venues). These venues provide a total of 747 EGMs (with a licence for 757 EGMs).<sup>14</sup>

The Background Report was intended to be a Reference Document in the Amendment as exhibited. However, Council confirmed at the Directions Hearing that it would not be appropriate for this document to have this status since it is not principally a guide for decision making. That said, Council relied on its content as part of the strategic justification for the Amendment.

This position was confirmed by its author Ms Rosen, town planner, Symplan, when called by Council as an expert witness at the Hearing. She advised that she had not proposed for either this or the following document to be Reference Documents in the planning scheme, given their intended function and their need for ongoing updates to remain current.

Although the Background Report may benefit from refinement (including updating), the Panel would have thought that this document is informative as an adjunct to the schedule.<sup>15</sup> A more fundamental issue is the apparent lack of scope to include a Reference<sup>16</sup> or Background Document as part of the schedule to Clause 52.28 (as opposed to a local policy, where this scope exists). The likely outcome is that this document will not be given any recognised status in the planning scheme.

### ***City of Melbourne Draft Electronic Gaming Machine Decision-Making Framework, October 2017 (Framework)***

The Framework was prepared by Symplan and describes the potential effects of EGMs including social, economic and wellbeing-related harms and benefits. It outlines the objectives and actions Council proposes to adopt to minimise the potential harm caused by EGMs.

The Framework proposes to underpin future Council decisions in gaming applications under both the licensing and planning approval regimes. It also outlines ongoing opportunities for Council to engage through advocacy, partnerships and service provision.

### **Preparing and exhibiting the Amendment**

Council prepared Amendment C307 to respond to these concerns, seeking to introduce a new replacement Local Planning Policy at Clause 22.12. A key aim was to implement new criteria to seek to ensure that EGMs are designed, operated and located in a manner that reduces gambling-related harm.

The Amendment was authorised and exhibited as summarised in the overview above. Eight submissions were received by Council. A number of viewpoints were expressed including, in summary:

- some submitters sought to prohibit gaming in the City of Melbourne altogether, given its potential for harm

<sup>14</sup> The information provided in the Background Report was updated by Ms Rosen in her expert witness statement at p14.

<sup>15</sup> Practice Note 13 provides “Background documents provide information to assist in understanding the context within which a particular policy or provision has been framed. . . If they provide useful background information or general advice to applicants, or will assist in understanding the planning scheme, they may be suitable as background documents”.

<sup>16</sup> Being a transitional planning scheme amendment.

- others expressed general support for a replacement policy that seeks to minimise problem gambling and its effects
- some alleged that the policy had significant flaws, for example, since it does not differentiate between different areas of the municipality or provide specific direction for urban renewal areas. It also neglected to address the influence of Crown Casino in a localised context
- an overall concern about the basis for the proposed locational guidelines and their achievability within the City of Melbourne
- lack of support for the proposed “reduction” in the concentration of gaming venues, especially potential impacts on current gaming entitlements
- the proposed content blurs the distinction between gaming and planning legislation in so far as it refers to net community benefit, community wellbeing and the like.<sup>17</sup>

The AHA is a key industry representative of employers in the hospitality and liquor industry. A number of its members operate gaming venues within the Central City. It had concerns about the functionality of the proposed provisions and the fact that the Amendment represented an unbalanced approach to gaming in the municipality.

One submitter, Doxa Community Club Inc uses funds primarily generated from the operation of its venues to conduct a significant foundation for disadvantaged youth. It operates two gaming venues within the City of Melbourne – The Meeting Place and Clocks. Its overarching concern was that the Amendment as drafted fails to assist a responsible authority to make decisions on gaming applications and would not assist the community or an applicant to understand their prospects of success. It regarded the Amendment as a “*blunt instrument*” and recommended it be abandoned.

### **1.3 The Panel’s approach**

The Panel has considered all written submissions in response to the exhibition of the Amendment and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned. It has necessarily been selective in referring to the more relevant or determinative material in this Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Proposed objectives
- Locational guidelines for EGMs
- Application requirements
- Decision guidelines
- Other issues raised in submissions.

<sup>17</sup> Some submissions related to issues beyond the Amendment, going to the substance and structure of the Victorian Planning Provisions, such as how licensed and retail premises are addressed. The PE Act confirms that these matters are not matters that the Panel may make recommendations about since it is obliged to take the state-standard parts of the planning scheme as it finds it.

## 2 Planning context

### 2.1 Legislation

The approval of EGMs in Victoria is subject to two key legislative regimes.

#### ***Gambling Regulation Act 2003***

The *Gambling Regulation Act 2003* (GR Act) regulates the operation of EGMs in Victoria. The GR Act is administered by the Victorian Commission for Gambling and Liquor Regulation (VCGLR).

Premises are required to be licensed as suitable for the provision of gaming, with approval predicated on:

- the suitability of the premises for the management and operation of EGMs; and
- a finding by the VCGLR or the Victorian Civil and Administrative Tribunal (VCAT) on review, that 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.*”<sup>18</sup> Case law has determined that such impact must either be found to be neutral or positive.<sup>19</sup>

Part of this approval consists of a “*green line plan*” depicting the layout of the gaming room, with operating conditions imposed under the gaming licence.<sup>20</sup>

#### **Melbourne Planning Scheme and the *Planning and Environment Act 1987***

Section 4(1) of the *Planning and Environment Act 1987* (PE Act) provides a number of objectives with direct relevance to this Amendment, including:

- (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. . .
- (g) to balance the present and future interests of all Victorians.

More specifically, section 60(1)(f) of the PE Act requires responsible authority to consider a range of factors including “*any significant social effects and economic effects which the responsible authority considers the use or development may have*” when determining an application. This may be relevant when considering applications to install or use EGMs.

### 2.2 Planning policy

#### **(i) Planning Policy Framework**

Council submitted that the Amendment is supported by various elements of the Planning Policy Framework, which the Panel summarises below.

<sup>18</sup> Part 3 GR Act, section 3.3.7 in particular. In addition to demonstrated authority to make the application.

<sup>19</sup> For example, *Macedon Ranges SC v Romsey Hotel Pty Ltd* [2008] VSCA 45.

<sup>20</sup> Venue operators are also required to obtain a relevant licence.

Clause 11 (Settlement) – planning should recognise the need for, and contribute to health, wellbeing and safety; diversity of choice; adaptation in response to changing technology; economic viability; a high standard of urban design and amenity and accessibility.

The Amendment is intended to provide guidance for the appropriate location for the installation or use of EGMs in new or existing gaming venues. Council submitted that the Amendment would provide increased certainty about potential land use outcomes across the municipality.

Clause 11.03-1S (Activity Centres) – a relevant strategy is to *“improve the social, economic and environmental performance and amenity of activity centres”*. Council submitted that the Amendment will implement policy to minimise gambling-related harms, manage the spatial concentration of EGMs and gaming venues, and ensure that gaming venues do not reduce the amenity of surrounding uses.

Clause 13.07-1S (Land Use Compatibility) – this clause includes the objective, *“to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects”*. Strategies include to *“ensure the compatibility of a use or development as appropriate to the land use functions and character”*. This is to be achieved by:

- Directing land uses to appropriate locations.
- Using a range of building design, urban design, operational and land use separation measures.

Council submitted that the Amendment will facilitate consideration of the social and economic impacts that may result from the location of EGMs and gaming venues.

Clause 15.01-4S (Healthy Neighbourhoods) – Council submitted that the Amendment encourages the growth and maintenance of neighbourhoods within the municipal area to support healthy living and community wellbeing. The Amendment discourages the concentration of gaming premises in locations where the *“predominant”* use is residential.

Clause 17.02-1S (Business) – this provision was emphasised strongly by parties to the Hearing, including gaming operators. It includes the objective *“to encourage development that meets the community’s needs for retail, entertainment, office and other commercial services”*. Strategies include:

Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.

Council originally submitted that the Amendment supports this clause as it requires applications seeking permission to install or use EGMs in gaming venues to show how the proposal will *“achieve net community benefit”* through the location or operation of EGMs. It subsequently tempered its position at the Hearing to confirm that this was not a *“test”* for the appropriateness of EGMs under the planning scheme.

Policy at Clause 17.04-1R also seeks to maintain and develop Metropolitan Melbourne as a desirable tourist destination. This is supplemented by numerous local planning policy provisions.

**(ii) Clause 21 – Municipal Strategic Statement (MSS)**

The MSS contains numerous complementary and more detailed expressions of policy relevant to gaming, the role of the Central City, activity centres and transport planning as well as accommodating an increase in residential population and visitation.

Numerous policies such as Clauses 21.07 and 21.08 emphasise the importance of retail land use for the Central City and encourage an increase in convenience retailing and community facilities to support new development, including for urban renewal areas. This is relevant for reasons explored later in this Report seeking to make EGMs accessible for users, while discouraging them from being overly convenient in connection with day-to-day activities.

The whole of the Central City is identified as a “*high intensity pedestrian area*”, with support for 24 hour, 7 day a week public transport access in Clause 21.09.

Clause 21.10-6 (Cultural/Arts and Entertainment Facilities) – seeks “to provide a diverse range of leisure, arts, cultural and entertainment facilities. It includes Strategy 1.1, “*Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City*”. Council submitted that the Amendment would better regulate the concentration of EGMs and gaming venues within the entire municipal area.

Clause 21.12 (Hoddle Grid) – this clause includes objectives under economic development, which encourage development of complementary precincts within the Hoddle Grid that provide for specialist retail, cultural and entertainment uses. Policy discourages the “*spatial concentration*” of EGMs within the Hoddle Grid. Various precincts are identified in Figure 6 of Clause 21.12, pointing to differing aspirations for these areas. Clause 21.12 is proposed to be amended to “*discourage the spatial concentration of gaming machines*”.

**(iii) Proposed changes to MSS**

The Panel preferred version of Clause 21.02-3 proposes to make reference to concentrations of socio-economic disadvantage and groups at an elevated risk of gambling-related harm throughout the municipality. It would also refer to expected population growth with potentially increased demand for EGMs.

**2.3 Other relevant planning strategies and policies**

**(i) Gaming Machine Policy 1997**

This policy is a Reference Document for the current Clause 21.12, although Council was unable to locate this document despite extensive searching. It has been superseded by more current strategic work.

**(ii) Council Plan 2017-2021**

The 2013-2017 Council Plan includes an identified goal to develop an EGM policy for the municipality as a priority over the four year period.

**(iii) Plan Melbourne 2017-2050**

Council explained that the Amendment was consistent with Plan Melbourne at Outcome 5 and Direction 5.2 in particular.

**2.4 Other planning scheme provisions**

Clause 71.02-1 seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the PE Act) are met through appropriate land use and development planning policies and practices. It confirms that policy should integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Clause 71.02-3 is a key operational provision that was central aspect to submissions at the Hearing. It provides:

Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

It is noteworthy that the provision applies to Council in its capacity as both planning authority for the purposes of this Amendment, as well as responsible authority when assessing permit applications.

Given this framework, parties raised the question as to whether the proposed references to “*net community benefit*” in the proposed policy or schedule were duplicitous or liable to be misapplied. This is considered in Chapter 4.2.

**2.5 Ministerial Directions and Practice Notes**

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines, August 2018* (PPN46).

The following Ministerial Directions are also relevant:

- The Form and Content of Planning Schemes, especially in so far as opportunities are now provided to create a bespoke schedule to Clause 52.28
- Ministerial Direction 9 (Metropolitan Strategy), which requires the Amendment to be consistent with and support Plan Melbourne
- Ministerial Direction 15 (Planning Scheme Amendment Process).

## 3 Strategic justification

### 3.1 Overview

Council submitted that for a planning scheme amendment to have strategic support, it should stem from proper research, serve a proper planning purpose as reflected in the policy framework and be supported by an established or properly founded strategy.<sup>21</sup>

The Panel notes the extent of agreement between Council and submitters about key matters that bear on the strategic justification for the Amendment in-principle. There was no dispute about the appropriateness of a well drafted policy or schedule relating to gaming as a suitable component of the planning scheme.

The Panel supports earlier findings of independent Panels considering numerous local planning policies pertaining to gaming that there is scope for local policy to provide guidance as to the location, operation and assessment of impacts of gaming venues. This supplements the provisions of Clause 52.28 and provides for local emphasis.

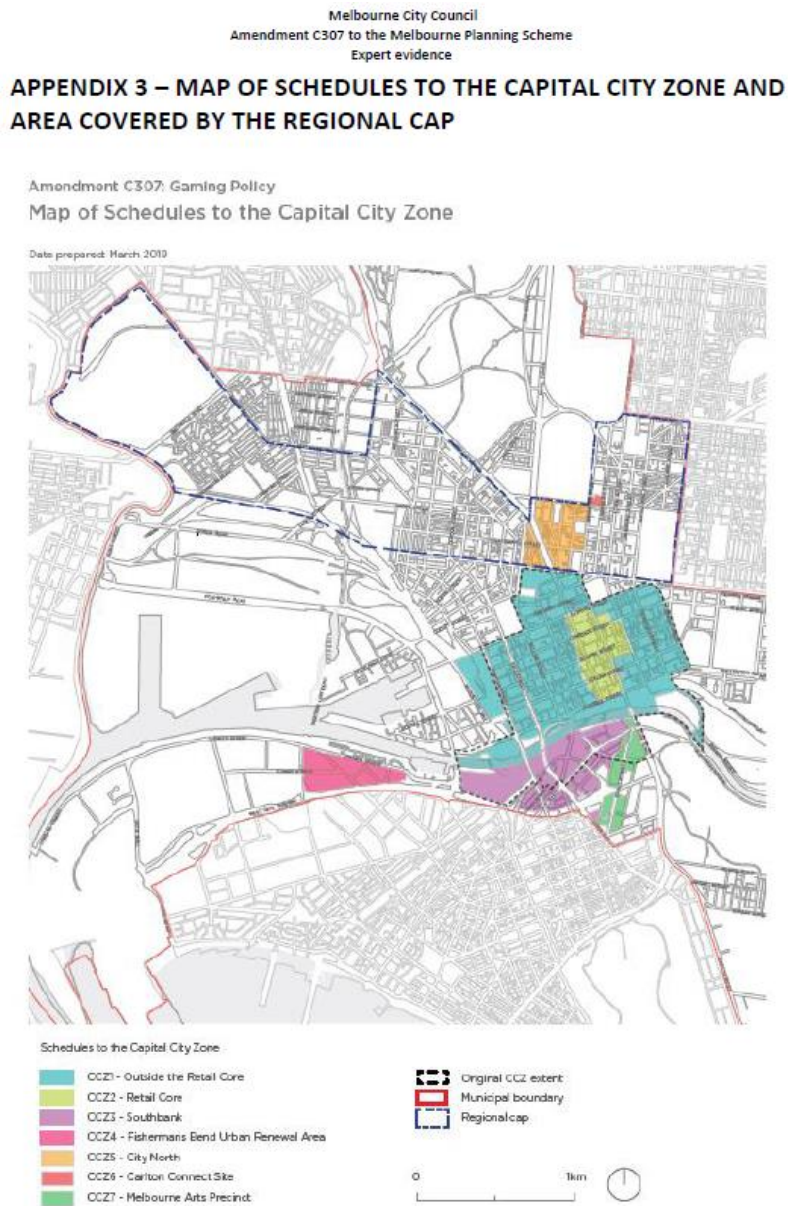
Beyond this, all parties and their witnesses regarded the underlying purpose of the policy or schedule – to seek to minimise gambling-related harms – as valid. This would be reiterated in a new objective in Clause 21.10-6 to minimise gambling-related harm through the location, design and operation of gaming venues.

All parties and witnesses also acknowledged factors precipitating and supporting the Amendment, including projections of future growth for the City of Melbourne, especially in commercial (including entertainment) and residential sectors. That said, there was arguably insufficient explanation by Council as to *how* the increase in the extent of the Capital City Zone has influenced the direction of the Amendment in a practical sense, aside from indicating that it has significantly expanded the areas where gaming could be established in strip shopping centres.

<sup>21</sup> Part B submission, Page 18.



Figure 2 Map of Schedules to the Capital City Zone and Area Covered by the Regional Cap (source: Bonnie Rosen expert witness statement, p38)



Source: City of Melbourne  
38

Symplan  
Planning for People Place Purpose

Parties also generally supported a policy or schedule replacing the current gaming policy in Clause 21.12. They expressly considered that it should address all areas of the municipality, including the Central City as a whole.

The Panel supports this approach and, for reasons explored in greater detail below, considers this an integral part of the Amendment.

The Panel accepts that there is strategic justification for a replacement policy or enhanced schedule pertaining to gaming having regard to the provisions outlined in Chapter 2 and the particular context of the City of Melbourne. This is a threshold issue.

However, a number of submitters including Doxa and AHA regarded the Amendment as “*fundamentally flawed*” because of its comparable treatment of areas within the municipality for the purpose of gaming applications. That is, a uniform set of provisions are proposed to apply to the Central City, urban renewal areas, mixed use areas (such as Carlton and South Melbourne) as well as more conventional residential areas. They considered the Amendment was deficient in its approach to providing locational and operational guidance for EGMs in light of the particular characteristics of the municipality.

Submitters also alleged that the wording of the Amendment demonstrates a flawed approach to assessing applications for EGMs under planning scheme provisions.

A broader concern emphasised by AHA and Doxa was the lack of balance in the Amendment overall since it did not refer to the potential benefits of gaming in the policy or schedule. This position was echoed by their expert witnesses.

In Chapters 3.2.1 and 3.2.2, the Panel evaluates the alleged shortcomings of this Amendment in light of submissions and finds a number of them valid, at least in part. However, it is not persuaded that these fundamentally indicate a lack of strategic justification for the Amendment. Rather, it considers these shortcomings indicate that the Amendment documentation requires redrafting and refinement to improve its efficacy and consistency with existing planning policies in the scheme. This concerns suitability of content and is capable of rectification.

Later in this chapter, the Panel discusses the question as to whether the extent or nature of changes needed to achieve functional content are such that the Amendment should be abandoned (as advocated for by parties such as AHA and Doxa). Ultimately, this view is not supported, although the Panel outlines options for further work that could be considered by Council as planning authority beyond the changes recommended in this Report.

## **3.2 Is the content of the Amendment suitably targeted to the unique features of the City of Melbourne?**

This issue is of significant potential consequence.

As a general principle, the essence of strategic planning is that each planning scheme amendment needs to be directed to and capable of implementation across the area it intends to cover. Therefore, the relatively unique characteristics of the City of Melbourne need to be explored when formulating a gaming policy or schedule for the municipality as a whole.

The question is whether the Amendment has given or could give due regard to these characteristics in formulating a guide for the location and operation of EGMs and the assessment of their potential impact.

### **3.2.1 Does the policy or schedule need to differentiate between various areas within the municipality, especially the Central City, to have strategic validity?**

There are numerous existing planning policies pertaining to gaming within other planning schemes for suburban and regional municipalities. Many of these policies were compared and contrasted in submissions and evidence in this matter.

The City of Melbourne shares some spatial characteristics with more suburban municipalities that have the potential to influence the effects of gaming. But, there are also some spatial elements of the municipality (and the Central City in particular) that are more intensive as a legitimate response to other policy aspirations. This may mean that gaming policies or schedules need to be more tailored for effective implementation in these areas.

**(i) Evidence and submissions**

**Council's position**

Mr Rantino posed the question on behalf of Council – do existing planning policies suggest a point of differentiation between the Capital City Zone or Central City and other parts of the municipality that should be reflected in gaming policy? Alternatively, are these points of differentiation addressed sufficiently by the current planning scheme provisions, such that separate guidance is not needed?

From the outset, Council acknowledged the planning scheme 'carve out' from the prohibition on locating EGMs within strip shopping centres within the Capital City Zone. It also pointed to the lack of a cap on the number of EGMs within this area, but noted this was an initiative under the GR Act, not the PE Act.

Throughout its submissions, Council emphasised the priority it had given to consistency in drafting the Amendment. Its starting point was that the entire municipality raised similar challenges to ensuring the appropriate location of EGMs, since the prevalence of problem gambling and socio-economic disadvantage was spread throughout.

It considered that existing policies within the planning scheme, especially those within the MSS, were sufficient to differentiate policy objectives for different areas of the municipality such as the Central City and Hoddle Grid, Victoria Market and so on. Mr Rantino submitted that aspirations for these different parts of the municipality would form part of the suite of policies to be considered by a Council officer when evaluating a particular permit application for gaming.

Mr Rantino also explained that although entertainment uses are encouraged within the Central City, a balanced approach is required to avoid the concentration of gaming venues in line with existing local policy, given their potential for harm. This position was supported by the evidence of Ms Rosen, Council's expert witness.

Ms Rosen acknowledged the unique land use mix within the Melbourne CBD but explained why different policy and assessment criteria were not justified. Her reasons included the lack of homogeneity within the CBD; the fact that Capital City Zone 5 (City North) and Capital City Zone 6 (Carlton Connect site) are covered by the regional cap which is recognised as vulnerable to gambling related harms; the increase in the extent of the Capital City Zone over time and the fact the provisions would be discretionary. She explained that the Capital City Zone including the Hoddle Grid displays the highest concentrations of specific groups at an elevated risk of gambling-related harms such as people experiencing homelessness, young people and students.<sup>22</sup>

<sup>22</sup> Page 24 of her report.

This ties in with the Background Report which explains that<sup>23</sup>:

**Key findings**

... At a municipal level, the City of Melbourne/Greater Melbourne Area would not be considered at an elevated risk of gambling-related harms due to the overall level of socio-economic disadvantage and other features relating to occupation, and volunteerism.

However, there are certain features of the population of the City of Melbourne that increase the risks of gambling-related harms. These include households with rental stress, median annual household income, proportion of lone and group households, students and proportion of young people aged 15-24 years, and proportion of people with Chinese ancestry. The central, southern and northern areas including Melbourne, Southbank, Carlton, North Melbourne and Parkville display the most indicators of gambling-related harms. These areas contain ten of the 11 EGM venues and Crown Casino.

**Implications for the Electronic Gaming Decision-Making Framework and Local Planning Policy for Gaming**

The Local Planning Policy for Gaming will need to incorporate specific guidance on measures to prevent convenience gambling, particularly amongst groups that are at an elevated risk of gambling-related harms. . . [it] will also need to include strategies to reduce the concentration and density of EGMs and gaming venues in the Hoddle Grid.

It is relevant to bear in mind that the vast majority of existing EGMs both in terms of the number of venues and the number of machines are located within the Central City and the Hoddle Grid in particular.

In cross examination, Ms Rosen acknowledged the different strategic role of the Central City, including the express encouragement for entertainment opportunities to locate there. However, she reiterated that a gaming policy need not directly reflect the strategic role of the Central City since the determinants of gambling harms are “universal”, regardless of where they operate.

The Panel identified that Ms Rosen had presented an alternative option to Council in her Response to Submissions document (Document 9). At that time, she expressed the view that it would be appropriate to identify *different* assessment thresholds for the Hoddle Grid (but not necessarily to the Capital City Zone as a whole).

When formulating this suggestion, she confirmed that sections of the community using and living in the Hoddle Grid are vulnerable to gambling related harms; there are clusters of gaming venues within a 400 metre radius and the area is highly accessible by public transport to vulnerable groups outside the area. Therefore, she proposed alternative locational guidelines for the Hoddle Grid, noting that a 400 metre threshold would cover most if not all of this area and may be impractical. At that time, Ms Rosen suggested EGMs and venues be discouraged where they are:

- ... in direct line of sight of shopping complexes and public transport interchanges
- ... functionally and visually integrated with gambling-sensitive uses
- ... functionally and visually integrated with concentrations of student accommodation and social housing
- Within 400 metres of a cluster of gaming venues.

<sup>23</sup> Page 47.

In cross examination, Ms Rosen advised that she had changed her professional opinion after liaising with Council and no longer supported differing provisions for the Hoddle Grid. In her view, this approach was not warranted and could otherwise lead to inconsistent decision making.

### **Industry submitters' position**

Doxa and AHA regarded the approach taken to apply comparable policies and locational guidelines to all areas of the municipality as inadequate. A key tenet of their submissions was that gaming policy needs to be cognisant of and respond to other policies in the planning scheme that emphasise and seek to enhance the role of the Central City as Victoria's premier activity centre and entertainment district.

Ms Peterson, town planner, Ratio was called to give evidence on behalf of Doxa, with a particular focus on the implications for the CBD.<sup>24</sup> She considered that the Background Report and Draft Decision Making Framework did not provide sufficient strategic policy basis to support the Amendment. She explained<sup>25</sup>:

The key flaw within the documents is their failure to adequately address the locational challenges for gaming related matters and their failure to properly acknowledge the differing context and issues influencing Gaming venues within the CBD ...

The role the CBD plays within the local and state economy will have significant impact on the differing land uses contained within the CBD, including gaming venues ...

The influence of the CBD's spatial distribution of land uses and services has a significant influence on how gaming is accessed (when compared to other metropolitan areas) including:

- The ability to travel by public transport to another gaming venue within the CBD;
- The significant level of passer by trade;
- The wide range of competing non-gaming entertainment facilities including food and drinks premises that operate throughout the night;
- The mix of vertical land uses; and
- The ability to access a range of services.

In her evidence at the Hearing, she further emphasised the important differences between accessibility and convenience in the Central City versus other areas of the municipality, which may influence gambling-related harm.

Ms Peterson also expressed concern that measures often used as key gaming indicators (such as gaming expenditure) had not been refined having regard to characteristics of the municipality, such as significantly higher non-resident users engaging in gaming activities. For example, she explained that residents comprise a modest component of weekday users of the Central City, with far higher numbers of workers and comparatively higher numbers of metropolitan visitors. She deduced that the overall high level of gaming expenditure results from the very high volumes of people who access the Central City on a daily basis as well as its broad entertainment offering.

Ms Peterson considered that the proposed Amendment required wholesale review and should not be included in the planning scheme currently.

<sup>24</sup> She declared that she had been engaged by Doxa to provide it with advice, to prepare social and economic impact statements and to appear as an expert witness before the VCGLR in respect of applications made by it.

<sup>25</sup> At page 25.

Some submitters were concerned that the effective outcome of the locational guidelines would be to “*prohibit*” gaming in the Central City or at least to “*discourage*” gaming in the entirety of the CBD or Hoddle Grid. They regarded this approach as directly inconsistent with other policies in the planning scheme that emphasise the role of the CBD as meeting entertainment and tourism needs, as well as being Melbourne’s “*economic powerhouse*”.

In particular, they considered this did not meet the primary purpose of a gaming policy – to provide guidance as to where EGMs should or should not be located.

Ms Collingwood on behalf of AHA submitted that “*the particular planning tools to be applied have low utility in the Hoddle Grid*” and were potentially more beneficial in a suburban environment (as used in other planning scheme local gaming policies). To a large extent, this was regarded as a consequence of existing (relatively high) levels of access to EGMs in the Central City.

AHA’s witness, Ms Thomas, considered it was necessary for the Amendment to provide distinct provisions to deal with the Hoddle Grid, Docklands and Southbank given the recognised state significance of the Central City and its identification as a prime activity hub. She also referred to the fact that projected population growth is expected to lead to additional demand for leisure, entertainment and other services in this area.

Like Ms Peterson, Ms Thomas considered that the exclusion of the Hoddle Grid, Docklands and Southgate from the municipal cap on EGM numbers was indicative of the fact that the number of residents is a small proportion of the overall number of people visiting the city on any given day. Consequently, she regarded the number of machines per adult residents as less relevant for these areas.

Mr Tweedie for Doxa submitted that it is critical to put gaming policy into the context of broader planning policy that treats the Central City differently from other locations. A key example is the exemption from the prohibition against gaming in strip shopping centres. He urged the Panel to interpret the exemption from the prohibition on EGMs within strip shopping centres as a deliberate, strategic decision by the state government that the benefits that flow from allowing EGMs to locate within these areas are considered to outweigh the potential detriments.

Council rejected this interpretation and considered there was no evidence this was the intent behind the exemption.

Ms Thomas pointed out that in the absence of an express exclusion, potentially all EGMs would be prohibited in the Central City because of their inability to locate outside a strip shopping centre.

Both Doxa and AHA submitted that it was necessary to delve deeper into the locational characteristics of ‘sub-precincts’ within the City of Melbourne for the purposes of identifying where EGMs should or should not be located within a policy or schedule. For example, they referred to the ‘Theatre precinct’, King Street ‘Nightclub precinct’, the central retail core, ‘Chinatown’, and the like, suggesting that areas such as these should be critically evaluated for their suitability to host EGMs. They emphasised that this strategic work had not been undertaken by Council to date, such that the Panel was not in a position to make specific recommendations to address this deficiency.

**(ii) Discussion**

Council's approach to the Amendment relies heavily on preferred fixed separation distances from what it regards as sensitive uses or facilities; to be applied consistently across the municipal area, including the Central City. The Panel discusses the workability of this approach in Chapter 5.

The starting point is the purpose of Clause 52.28, "*to ensure that gaming machines are situated in appropriate locations and premises*". In the Panel's opinion, this dictates that a key focus of the Amendment needs to be how to address and respond to locational features within the municipality in gaming applications.

Existing policies pertaining to the Central City and Hoddle Grid encourage a concentration of mixed land use, with a focus on entertainment and retail uses. They also expressly discourage a "*concentration*" of gaming venues in those areas.

Reflective of policy, the Panel considers that the physical and operational characteristics of many land uses within the Central City are notably different from those in other parts of the City of Melbourne which may be less intensive or less directly integrated with one another. As explained by the expert witnesses, potentially enhanced connectivity across the Central City (including walkability) may increase opportunities for access to gaming venues compared with other areas of the municipality.

As mentioned, there are also key distinctions made in the application of gaming legislation and planning controls to the Central City. VCAT in *Melbourne CC v Kingfish Victoria Pty Ltd & Anor*<sup>26</sup> recognised that the CBD could be described as a "*liberal gaming setting*".<sup>27</sup>

However, the Panel is not persuaded by Doxa's arguments about the rationale behind the state government decision to 'carve out' areas of the Central City (excluding Docklands) from the prohibition on EGMs in strip shopping centres. It is only speculative that the state government had determined that the benefits of allowing their co-location would outweigh the potential detriments. Instead, the exemption could be based on a number of drivers.

In the Panel's view, the most likely reason is as proposed by Ms Thomas, that "*this was an explicit policy decision that recognised the nature of retailing in the Capital City Zone and sought to support both the continued development of retailing in the central city and the provision of entertainment uses*".<sup>28</sup> As pointed out by Ms Thomas, the important practical effect of the 'carve out' is to allow gaming applications within the Central City to be considered on their merits.

Fundamentally, the Panel accepts that these distinctions and targeted planning policies for the Central City need to be considered carefully when formulating policies for gaming across the City of Melbourne. Otherwise, one questions how the full suite of policy objectives (not only for gaming) could be achieved for the Central City without giving rise to inherent conflict.

This potential for conflict is seen most clearly in the formulation of locational guidelines as part of the Amendment that, when mapped, indicate that there are no (or exceptionally

<sup>26</sup> (Red Dot) [2013] VCAT 1130.

<sup>27</sup> Also noting the absence of planning policy applying to that area at the time, now being reconsidered by this Amendment.

<sup>28</sup> Page 5 of her report.

confined areas) within the Central City where EGMs would not be discouraged. The mapping produced by Council to illustrate the geographic effect of the locational guidelines would also suggest that urban renewal areas such as Fishermans Bend (by default) are effectively the only areas of the Central City where EGMs are not discouraged.

Therefore, the Panel considers that the approach taken to locational guidelines is a somewhat unsophisticated and potentially heavy-handed approach for the Central City. On balance, it considers that the spatial characteristics and circumstances of the Central City make it too onerous to rely on a quantitative separation distance of 400 metres as proposed.<sup>29</sup>

Some Council constituents may support a blanket approach as suitably giving effect to harm minimisation, taking a broad approach to identified risk factors. However, in the Panel's view, this approach has the potential to curtail the fulsome achievement of policies for this state-recognised area. At the same time, it would be rendered relatively meaningless in its application if EGMs are discouraged in all locations.

While this deficiency detracts from the efficacy of the Amendment, the Panel does not regard the fact that separate locational guidelines have not been provided for the Central City as undermining the underlying strategic validity of the Amendment overall.

The Panel suggests that a more nuanced approach is required, with specific locational guidelines to be crafted at least for the Central City. It considers that in-principle guidance has emerged from generally consistent expert evidence in this Hearing, pointing to a potential way to craft locational guidelines for the Central City. This is addressed further in Chapter 5.3.

### **(iii) Conclusions**

The Panel concludes:

- The Amendment has sufficient strategic justification, either in the form of a local policy or schedule to Clause 52.28, subject to refining its content to overcome identified deficiencies.
- The policy, regulatory and spatial characteristics of the Central City (Capital City Zone and Docklands) justify the application of more tailored guidelines for the location of gaming venues in these areas, compared with the rest of the municipality.

### **3.2.2 Does the policy or schedule need to provide distinct guidance for urban renewal areas?**

#### **(i) Evidence and submissions**

Industry submitters pointed to the substantial areas identified for renewal within the City of Melbourne, including precincts such as Arden Macaulay and Fishermans Bend. These areas are expected to transform fully over time into thriving communities of inner Melbourne, hosting dramatically increased working and residential populations.<sup>30</sup>

<sup>29</sup> This was evidenced by the extensive, virtually comprehensive reach of the mapping provided on behalf of Council as to where gaming machines would be actively discouraged by the policy or schedule, even acknowledging the consolidated mapping is layered by reference to differing categories in the preferred form of the Amendment.

<sup>30</sup> Fishermans Bend has recently been included in the Capital City Zone (Schedule 4).



A number of submitters were concerned that the strategic work underpinning the Amendment had not explored potentially suitable locational characteristics for gaming venues in identified renewal areas. They suggested that the Panel did not have the benefit of strategic work to inform how the Amendment could be modified to address these areas.

The Background Report considers these areas, explaining that it is not possible to predict the extent to which non-gaming entertainment uses will be available in growth areas since staging of development and provision of facilities will be influenced by market forces to some extent.<sup>31</sup>

Council generally relied on general submissions that the content of the proposed schedule, combined with planning policy as to what is sought for these areas, would be workable and sufficient.

## **(ii) Discussion**

The Panel endorses the importance of forward planning for urban renewal areas. The provision of new gaming venues has the potential to generate significant challenges for renewal areas when they are not specifically planned for.

In terms of timing, the future planning for Fishermans Bend for example is relatively high level, at an early stage and is still somewhat aspirational. At the moment, broad expectations have been outlined for each precinct in terms of both land use and development. Even with emerging Precinct Plans, new activity centres, services and facilities are likely to be provided in these areas at differing times, contrasted with a master planned community that may be in common ownership.

This makes it somewhat nonsensical to expect Council to be in a position to meaningfully provide direct guidance for the location of EGMs in differing precincts within such renewal and growth areas. There will come a time when this work will be opportune and the Panel encourages Council to revisit these policies at that point in time with a keen eye to its preferred land use mixes for each precinct. This may justify policies that are more tailored than for the rest of the Capital City Zone schedules for the time being.

At the current time, at minimum, the Panel considers there is merit in the Amendment addressing the temporal provision of gaming venues (none of which exist in these renewal areas presently), potentially in a similar way to local gaming policy for the City of Greater Geelong at Clause 22.57. That policy reflects anticipated population growth in identified areas and confirms that *“gaming venues should not be established ahead of the provision of non-gambling entertainment, recreation activities and social infrastructure”*.

The Panel regards this important. It would give effect to the protective intent of the remainder of the policy or schedule to provide a broad variety of non-gaming options within which gaming venues would operate in seeking to minimise gaming related harm. This principle was endorsed by all expert witnesses and parties. It would also enable more informed decisions to be made about the location of new gaming venues – being an inherently sensitive land use – once a range of other land uses emerge.

<sup>31</sup> Page 53.

No doubt an argument could be made that a hotel or club offering gaming entertainment could represent the cornerstone of a renewal area. It may be open to a proposed venue to demonstrate that it can itself provide sufficient 'critical mass' in terms of other entertainment opportunities and facilities such that gaming is but one component of a more significant entertainment offer, such that it should otherwise be approved first in time. Issues of broader social and economic benefit or disbenefit may also come into play in such an assessment. This would involve a merits consideration but does not detract from the guideline being proposed as an indicator.

Beyond a temporal guideline, the Panel considers it is not feasible to include more detailed locational provisions for gaming venues in urban renewal areas – especially at the current time.

It also recognises that the role of locational guidelines for these areas may shift over time. When redevelopment of these areas first gets underway, it is unlikely to exhibit the same spatial concentration of land use as the Central City, for example. There may be justification and scope for increased separation between proposed venues and potentially sensitive uses, services or facilities.

For this reason, the Panel is inclined to the view that policies pertaining to the remainder of the municipality (outside the Central City) are likely to represent a suitable and achievable starting point, in the short to medium term.

It may also be relevant for Council to consider whether or how to apply the guideline to avoid locating EGMs in areas that are "*predominantly residential*" as a protective element for urban renewal areas. This would recognise that the mix of land uses encouraged in many of these areas includes substantial anticipated increases in residential populations and densities.

This terminology is likely to be difficult to apply to renewal areas, many of which are expected to encourage integrated mixed use in the true sense. Therefore, a better approach may be to update gaming policy for urban renewal areas once full precinct planning is undertaken.

### **(iii) Conclusions**

The Panel concludes:

- An imminent challenge for urban renewal areas is that, in the absence of detailed guidance, EGMs may be introduced before other non-gaming facilities are operational in a particular area, with potentially detrimental social and economic impacts.
- A specific locational guideline should be provided for urban renewal areas to address the issue of timing for the establishment of gaming venues, to follow the substantive provision of non-gambling uses and facilities.
- Beyond this, the quantitative measures proposed for the location of gaming venues outside the Central City could be applied to sites within urban renewal areas as they first develop.
- Over time, once precinct plans are endorsed, it may be appropriate to develop more detailed locational guidelines.

### 3.2.3 Does the policy or schedule need to respond expressly to the effects of Crown Casino on the gaming ‘landscape’ within the municipality?

#### (i) Evidence and submissions

The Background Report prepared by Symplan explained that (in late 2017) Crown Casino was the 11<sup>th</sup> largest casino in the world. Nineteen million people visited Crown Casino in the period between July 2013 and June 2014. Its revenue was more than twice the largest casino in Las Vegas. It considered that<sup>32</sup>:

The scale of the facility, range of gambling activities and its proximity to public transport, cultural and arts precincts and the adjoining municipality of Port Phillip mean that the Casino is likely to attract a diverse patron profile from a wider catchment. However, its proximity to other venues in the municipality, and the fact that the hotel and club gaming venues also serve a wide catchment and diverse patron profile mean that the Casino is likely to act as a major competitor to the hotel and club gaming venues in the municipality. These factors, in addition to the expenditure on EGMs at the Casino need to be taken into account when assessing the overall accessibility to gambling activities in the municipality.

Some submitters regarded the Amendment as fundamentally flawed because its content and the Background Report on which it was based did not sufficiently or directly address the impact of Crown Casino within Southbank on gaming within the remainder of the City of Melbourne.

More specifically, it was said that the Amendment did not expressly address locational or operational opportunities for new or “top up” applications for EGMs in light of the influence of Crown Casino. This was considered necessary because of its sphere of influence, as a stand-alone venue providing some 2,500 EGMs over extended operating hours in addition to providing a substantial number of other gambling, entertainment and retail opportunities. It is also geographically part of a broader sports and entertainment precinct.

Bearing this in mind, Ms Thomas explained that there is already a “*threshold level of accessibility*” to EGMs within the City of Melbourne, such that additional EGMs at least in certain areas may not necessarily result in a significant difference in accessibility.

In response to cross examination, Ms Peterson suggested that the presence of Crown Casino may mean that new EGMs or venues should be discouraged in nearby areas. However, the reason for her suggestion was not explored to any great extent the Hearing.

At the Panel’s request, Council subsequently confirmed that Crown Casino is regulated by the *Casino Control Act 1991* under which the VCGLR may regulate certain matters (Document 37). Crown Casino was granted a Casino licence in 1993 and is subject to a Management Agreement with the Minister limiting the overall number of EGMs to 2,628.<sup>33</sup>

Council considers that Crown Casino benefits from existing use rights for gaming and believes that it would not need relevant permissions under Clause 52.28<sup>34</sup> and would thereby not be affected directly by a replacement policy or updated schedule.

<sup>32</sup> Chapter 4.2.

<sup>33</sup> Incorporated Documents apply but generally control the development of the Casino rather than its use.

<sup>34</sup> Relying on *McKinnon Hotels Pty Ltd v Glen Eira CC* [2011] VSC 627.

**(ii) Discussion**

If the Amendment were to result in a replacement Local Planning Policy at Clause 22, it may theoretically be possible to include commentary as to the effects of Crown Casino on gaming behaviours and accessibility of EGMs in the City of Melbourne as a component of the policy basis. This could in theory be addressed in the MSS if considered necessary or reasonable but is not proposed as part of this Amendment.

However, if the Amendment is progressed as a schedule to Clause 52.28 (as preferred by Council and recommended by the Panel), there is no ready location for information of this type.

The Panel was also not presented with any discrete evidence about the impact of gambling at Crown Casino on proximate areas. Suffice to say that it provides ready access to a substantial number of EGMs and other gambling opportunities within a substantial multi-hotel and entertainment complex.

The absence of this research is not considered fatal to the Amendment in either form.

The Casino operates as an entity in its own right and sits outside the direct ambit of the Amendment. The Panel is not persuaded at this stage that locational guidelines are necessary for areas near Crown Casino or elsewhere in the City of Melbourne in direct response to Casino operations since they operate under different regimes and are quantitatively and qualitatively different.

Further work on behalf of Council could potentially include research on the spatial impact of the gaming offer at Crown Casino on the City of Melbourne or areas within it. This could potentially inform the state of knowledge as to whether it would be desirable or undesirable to locate another gaming facility nearby. Conceivably, there could be arguments advanced both ways.

More likely, the impact of Crown Casino may need be considered if and when a permit application is made for land nearby. This analysis would potentially be captured by the proposed locational guidelines or application requirements for a highly proximate proposal (referencing an existing gaming facility), or could be considered within a broader social and economic impact assessment if considered relevant. It may also be a relevant consideration when considering proposed hours of operation or other operational characteristics of a proposed gaming facility nearby.

**(iii) Conclusions**

The Panel concludes:

- The operation of Crown Casino within the City of Melbourne has been broadly considered in the documents underpinning the Amendment.
- The draft policy or schedule are not inherently deficient by virtue of their lack of direct reference or response to Crown Casino. In particular, the schedule would not have any practical ability to influence the operations of Crown Casino.
- Instead, there is an opportunity to consider the particular effects of the Casino on a proposed gaming venue nearby as part of a detailed social and economic impact analysis if its sphere of influence warranted this consideration.

### 3.3 Recommendations

The Panel recommends:

Remove existing Clause 22.12 from the Melbourne Planning Scheme.

Replace exhibited Clause 22.12 with a revised Schedule to Clause 52.28 to the Melbourne Planning Scheme in the form of Appendix C.

Amend policy in the Municipal Strategic Statement (Clause 21) of the Melbourne Planning Scheme in accordance with the version included in Attachment 1 to Council's Part B submission (Document 12).

Delete *City of Melbourne Electronic Gaming Machine Review Draft Background Report, October 2017* and *City of Melbourne Draft Electronic Gaming Machine Decision-Making Framework, October 2017* from the proposed list of Reference Documents under the Melbourne Planning Scheme.

## 4 Proposed objectives

An important issue is whether the objectives of the policy or schedule are acceptable.

To some extent, this hinges on whether they have sufficient regard to municipal context and are suitably founded on evidence. The Background Document indicates that it considered a full range of local policy objectives pertaining to gaming in various existing planning schemes.

The objectives of the policy as exhibited included (in summary):

- to minimise gambling related harms
- to ensure suitable locations and premises for EGMs to prevent convenience gambling
- to ensure EGMs operate as part of a range of social, leisure, entertainment and recreation facilities
- to reduce the concentration of EGMs and gaming venues
- to ensure EGMs do not detract from the amenity of surrounding areas
- to ensure the location and operation of EGMs *“achieves net community benefit”*
- to discourage the proliferation of EGMs in locations where the predominant use is residential.

Some of these objectives were refined and consolidated in the Panel preferred version of the schedule now supported by Council.

Notable changes include deletion of the word *“reduce”* and introduction of the word *“manage”* when referring to the concentration of EGMs and gaming venues, with the intent to *“redistribute gaming machines and gaming venues away from areas vulnerable to gambling related harms”*. Other changes in wording also to seek to *“minimise”* rather than *“prevent”* convenience gambling.

Both of these are regarded by the Panel as important improvements to the Amendment to reflect the underlying concerns expressed by submitters about the appropriate role of a policy or schedule.

### 4.1 Extent of agreement and disagreement

As mentioned, all parties accepted the notion of a policy or schedule seeking to minimise gambling related harms. It was acknowledged that although gaming is a lawful pastime, it has the potential for negative impacts that may be influenced by spatial or operational factors.

In substance, witnesses supported the intent to minimise (rather than prevent) *“convenience gambling”*, where this concept was broadly understood as having the potential to lead a person (especially one who may be prone to problem gambling) to make an impulsive decision to gamble when undertaking their day-to-day activities.<sup>35</sup>

They also considered there was strong merit in encouraging the use of EGMs as part of a broader entertainment offer within premises or a particular area. This is also consistent with broader state and local planning policies for activity centres, especially the Central City.

<sup>35</sup> The Bayside Planning Scheme contains a definition in Clause 22.09-6 as *“exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than predetermined”*.

Likewise, parties accepted that a policy objective could seek to ensure that gaming does not detract from amenity. This is a feature of the existing policy. However, over time it has become apparent that this is a comparatively lesser concern, especially if a gaming venue is operated in accordance with a gaming licence and planning permit.

Areas of dispute centred around the use of terminology such as:

- managing the “*concentration*” of EGMs (and the connected reference to “*spatial distribution*”). Council suggested that this term could be given its normal meaning, to discourage a cluster, close gathering or collection of EGMs or venues
- net community benefit (as both an objective and decision guideline beyond Clause 71.02)
- whether the “*redistribution*” of EGMs away from vulnerable areas was a realistic possibility
- whether EGMs should be discouraged in areas that are “*predominantly residential*” and this the terminology could be applied.

## **4.2 Disputed objectives**

### **4.2.1 Net community benefit**

Originally, the policy (now schedule) proposed to reference net community benefit in a number of locations – the objectives, application requirements and decision guidelines.

Council refined its preferred form of the Amendment throughout the Hearing, to retain this concept in the objectives “*to ensure that the location and operation of gaming machines achieves net community benefit*”, and in the decision guidelines “*how the proposal delivers net community benefit*”.

#### **(i) Evidence and submissions**

All parties and their experts considered that net community benefit is a relevant consideration in assessing any permit application by virtue of Clause 71.02. However, they differed in whether this should manifest itself expressly in an individual local policy or in the schedule to Clause 52.28.

Council considered that the reference in the policy or schedule would “*cement the role of net community benefit in balancing policy when assessing an application [for EGMs]*”. It therefore preferred its retention in the objectives and decision guidelines of the policy or schedule.

AHA and Doxa were particularly concerned that including this in specific provisions relating to gaming would have real potential to mislead a decision maker into either:

- thinking this was a ‘test’ that needed to be satisfied for an approval, or
- assessing net community benefit within the “*four corners*” of the policy or schedule, without integrating other policies in the planning scheme such as those relating to economic considerations.

Ms Collingwood on behalf of AHA referred to a wide variety of officers reports considering planning permission for the use of EGMs where she considered the officers fell into error by

applying net community benefit as a stand-alone test. Some of these determinations were the subject of review by VCAT, and Ms Collingwood tabled relevant decisions.<sup>36</sup>

Council rebutted these submissions by suggesting that the Panel should not evaluate draft policy or the schedule on the basis that it may be misapplied by a planning officer. It considered it valuable to include reference to community benefit since it would ensure that net community benefit would be considered in gaming applications.

Mr Tweedie queried why it would be appropriate to expressly reference net community benefit as an objective, application requirement or decision guideline when there was an overriding obligation to consider this for all types of permit application under the planning scheme. He questioned why gaming should be treated differently from other lawful pastimes carrying risk, such as licensed premises and brothels that do not include this as an objective in specific policies or provisions.

In cross examination, Ms Rosen responded that it could potentially be as appropriate to refer to “*minimising gambling related harms and maximising their benefits*”. However, she did not regard this difference in proposed wording as representing a meaningful shift compared with the wording used in the Amendment.

Some industry submitters also considered that the policy or schedule did not sufficiently refer to the positive benefits that may result from the operation of EGMs.

Council considered there was no real need to emphasise these in the policy or schedule.

## **(ii) Discussion**

The law regarding the role of an assessment of net community benefit in applications for the use of land for gaming is now well resolved.<sup>37</sup>

In summary, it has been confirmed as a relevant consideration but not a ‘test’ for the approval of a planning application, in other words, a permit for gaming could potentially be granted even if the proposal would not result in net community benefit. This is the proper effect of Clause 71.02 (formerly Clause 10).

The Panel has had reference to and largely supports the analysis of the Panel in Melton C182 on this issue.<sup>38</sup> However, how this principle may legitimately manifest in planning policy or a schedule is open to differing views.

The Panel commented that:

The Panel agrees with Council's position that it is curious that Zahav submitted net community benefit should not be duplicated in local policy, but section 60(1)(f) which assesses significant social effects and significant economic effects should be. The Panel considers either of these could be equally included in a local policy to guide decision-making and accepts Council's choice in this instance ...

<sup>36</sup> Folder of documents, Document 22.

<sup>37</sup> Numerous cases were referred to by the parties to the proceeding. Including a high proportion recorded by the Panel in Melton C182 at pages 7 and 8, most notably *Prizac Investments Pty Ltd & Ors v Maribyrnong CC & Ors* (Red Dot) [2009] VCAT 2616 and *Moreland CC v Glenroy RSL* [2018] VSC 126.

<sup>38</sup> Chapter 3.3 of its report in particular.



This Panel agrees with previous Panels that the act of balancing competing policy issues in the interests of net community benefit is a fundamental planning policy and that any proposed wording should not by intent or accident seek to elevate net community benefit to more than a policy consideration.

The Panel also noted comments in Macedon Ranges Amendment C64 and Bayside Amendment C98 that net community benefit is an appropriate consideration for a planning policy, but alternative language aimed at 'harm minimisation' or the 'avoidance of impacts' is more strategically justified based on supporting policies.

While there is nothing inherently improper about referring to community benefit or disbenefit in an objective for a gaming provision (or any specific provision in fact), this Panel considers that it is not generally desirable to import the accepted terminology of "*net community benefit*" into a policy or specific provision. This terminology tends to connote a particular type of overarching assessment that cannot normally be applied effectively through a specific provision alone.

Another concern is that the objective as drafted seeks to "*ensure*" net community benefit which may be applied (to use the words of the Panel in Melton C182) "*by intent or accident to elevate net community benefit to more than a policy consideration*".

The Panel considers that this concern can reasonably be resolved by a somewhat subtle but important change in terminology. It prefers the wording "*to ensure that the location and operation of gaming machines reduces disbenefits and increases benefits to the community*".

This wording would appear to give effect to the underlying intent of Council as well as the broad thrust of submissions by industry submitters, that the policy or schedule do not sufficiently recognise the community benefits that can flow from the use of EGMs.

Further, the Panel accepts Council's concession that it may be relevant to consider statutory community contributions as part of the suite of benefits that may accrue from the operation of EGMs. Accordingly, it is appropriate to remove this proposed exclusion.

Similar to findings of the Panel in C182, this Panel regards the further proposed reference in the decision guidelines as superfluous, since it is a matter required to be considered anyway in the proper application of the planning scheme (confirmed by the standard introduction to Clause 7.0).

### **(iii) Conclusion**

The Panel concludes:

- Net community benefit is a relevant consideration for the installation or use of EGMs in applications under Clause 52.28 by virtue of Clause 71.02 of the planning scheme.
- An objective to policy or the schedule to Clause 52.28 should be careful not to use this accepted terminology out of context since it may be misapplied.
- Alternative wording is preferred that is more targeted and balanced. This should emphasise the desire to increase the benefits and decrease disbenefits associated with the location and operation of EGMs.
- There is no need to include reference to net community benefit in the decision guidelines of the policy or schedule.

#### **4.2.2 Other matters**

Council accepted that it would not be reasonable for a policy or schedule to seek to prevent convenience gambling since this is multi-factorial, but the aim to “*minimise*” would be valid.

For reasons outlined in Chapter 6, the Panel regards the reference to the redistribution of EGMs and gaming venues as overstated as an objective. The reference to areas vulnerable to gambling related harms should similarly be expanded to refer to communities who are vulnerable.

In general, the consolidated objectives seek to merge concepts from discrete objectives in earlier iterations in an attempt to meet new format and content restrictions. It is probably preferable to streamline them further, with the suggestion to delete reference to impacts on amenity caused by gaming venues given the Panel’s comments above.

#### **4.3 Recommendations**

**The Panel recommends:**

**Amend the wording in Clause 1.0 of the Schedule to Clause 52.28 to read:**

- **To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to minimise convenience gambling.**
- **To manage the concentration of gaming machines and gaming venues away from areas or communities vulnerable to gambling related harms.**
- **To discourage the proliferation of gaming premises in locations outside the Central City (Capital City Zone and Docklands) where the predominant use is residential.**
- **To ensure that the location and operation of gaming machines increases community benefit and decreases community disbenefit.**

**Delete the decision guideline referring to net community benefit from Clause 7.0 of the Schedule to Clause 52.28.**

## 5 Locational guidelines for EGMs

### 5.1 Has a sound approach been taken to identify areas encouraged and, by contrast, areas discouraged for the location of EGMs?

This was a fundamental point of difference between Council and some submitters.

Doxa and AHA submitted that the key purpose of a gaming policy or schedule to Clause 52.28 was to provide guidance as to where EGMs should or, conversely, should not be located. They considered that the proposed policy or schedule was unworkable because of the extent of overlap between areas encouraged for the location for EGMs and areas discouraged in terms of their location.

Council disagreed. It emphasised the discretionary nature of these provisions. Council considered that a balanced application of the policy or schedule would be likely to lead to acceptable results in individual proposals.

In summary, the Panel considers there is merit in encouraging separation between EGMs and sensitive uses in an attempt to minimise gambling related harm for those who may be at risk. This goes directly to dual purposes of Clause 52.28 *“to ensure that gaming machines are situated in appropriate locations and premises”* and *“to ensure the social and economic impacts of the location of gaming machines are considered”*.

Pertinent questions are how this should be achieved in policy or a schedule to Clause 52.28, whether it should be more tailored for land in the Central City and which uses or facilities are ‘sensitive’.

#### (i) Evidence and submissions

##### Industry submitters’ position

All parties and witnesses supported the expectation that EGMs should be located in areas well serviced by a range of non-gaming facilities to minimise gambling related harm. For example, Ms Rosen explained that this has been demonstrated through research to be a protective factor for a form of entertainment that can be associated with harm for some individuals.

Doxa and AHA highlighted that the wording of the schedule would lead to all areas of the municipality being identified as locations where gaming venues were encouraged. It troubled them that, at the same time, mapping prepared by Council and Ms Peterson based on proposed provisions of the schedule indicated that virtually all areas of the municipality would be characterised as areas where gaming is *discouraged* due to proximity to identified land uses, services and the like (relative to the 400 metre proposed walking distance).

They submitted that this was a fundamentally inappropriate approach to managing the location of EGMs in the City of Melbourne.

Ms Thomas considered that the primary role of the schedule to Clause 52.28 was to identify locations where EGMs *“should”* be located rather than the Amendment which focused more heavily on where they should not be located. She gave evidence that the provisions do not appropriately respond to the different locational, environmental, social and economic

considerations relevant to the Central City, for example. Instead, it takes a “*one size fits all approach*”.

### **Council**

Mr Rantino for Council submitted that it was not unusual for planning policies to nominate characteristics of particular settings that would result in a proposal being both encouraged and discouraged to some extent. He pointed to the fact that a proposed location is likely to meet some negative locational elements but not necessarily all – bearing in mind the mapping prepared by Ms Peterson and the consolidated mapping prepared by Council (Document 5a) reflected all locational ‘layers’ cumulatively.

This would give the impression that virtually the whole municipality was unsuitable for EGMs when this was not necessarily the case. Closer examination would be required on a site specific basis.

Mr Rantino expressed the view that town planners are commonly required to evaluate differing levels of support for a particular proposal in evaluating its merits, especially when dealing with a complex land use such as gaming.<sup>39</sup>

### **(ii) Discussion**

The Panel accepts that it may sometimes be inevitable that an area or site will be subject to policies both encouraging and discouraging a particular land use. However, this should be avoided to the extent possible when formulating a new policy or schedule.

Otherwise, it will be difficult for an applicant or the community to obtain practical guidance as to preferred or discouraged locations for such uses. It may also be difficult for a planning officer to accord appropriate weight to elements of the policy or schedule relative to its objectives.

Therefore, the Panel agrees with submissions that the Amendment as currently drafted falls short of suitably identifying areas encouraged and, conversely, areas discouraged for gaming. Further refinement of these guidelines is recommended as discussed below.

## **5.2 For areas outside the Central City, are the ‘discouraged’ locational characteristics justified? Is the 400 metre separation distance workable?**

The Amendment seeks to discourage gaming venues within 400 metre walking distance or clear line of sight from what Council regards as sensitive or potentially incompatible uses. This stems from a generally accepted preference for gaming venues to be “*accessible but not convenient*” as a suitable starting point when considering the appropriateness of the location and operation of EGMs.

<sup>39</sup> He used the former Mercat Cross Hotel site on the corner of Queen and Therry Street opposite the Victoria Market as an example where positive locational attributes may outweigh the negative. This was one of the very few areas not covered by the consolidated mapping discouraging EGMs, although the effects of the proximity to the state-significant market would require careful consideration if such application was proposed.

Some submitters challenged these propositions. On the whole, expert witnesses acknowledged potential sensitivity to a number of listed uses, facilities or features, albeit generally suggested a more performance based approach be adopted both inside and outside the Central City.

Ms Thomas elaborated on the potential effect of accessibility on problem gambling. She referred to the statistics presented in Productivity Commission findings.<sup>40</sup> She also replicated some of its comments on the accessibility of EGMs, noting that “*there is a link between accessibility and gambling related harms*” with some qualifications – the link weakens when a threshold of accessibility has been exceeded; it can vary over time; causality can work both ways; and there is capacity for community adaptation.<sup>41</sup>

Fundamentally, Ms Peterson regarded the threshold test within the City of Melbourne not whether EGMs are “*accessible*” but whether they are “*highly convenient*”. In her opinion, a 400 metre separation distance had not been upheld by a court or tribunal even where discouraged. She regarded this locational guideline as effectively redundant. Instead, ease of connectivity and extent of pedestrian access were regarded by her as much more suitable measures to encourage deliberate decisions to gamble and to discourage impulsive behaviours.

Divergent submissions focused particularly on whether there is sufficient justification for the preference against locating EGMs:

- near “*public transport interchanges*”, explained by Council as a location where two nodes of public transport intersect
- within locations where the predominant surrounding use is residential
- near student accommodation.

### **5.2.1 Proximity to or connection with residential use**

#### **(i) Evidence and submissions**

The proposed guidelines for the location of EGMs provide that EGMs should not be located in buildings used for residential purposes. A number of submitters and witnesses accepted that this was consistent with the current Ministerial Direction under gaming legislation and did not oppose its inclusion in the planning provision.

However, Ms Peterson was more cautious about these relationships in the City of Melbourne where it may be possible to achieve suitable “*vertical separation*” of a gaming venue from residential uses within the same building, citing the example of a potential venue on a high level of a building. She considered this may be acceptable since it would not provide convenient or impulsive opportunities to gamble.

A more contested issue was whether gaming venues should be separated from areas that are “*predominantly residential*” and how this could be assessed.

<sup>40</sup> Page 14 of her report.

<sup>41</sup> *Productivity Commission Report into Gaming 2010*, Chapter 14.

Ms Rosen acknowledged there is no research demonstrating a “*causal link between residential uses and gambling-related harm*”. However, she pointed to factors indicating that proximity to residential uses can contribute to convenience gambling.<sup>42</sup> These factors include a large projected residential population increase within the Central City. At the Hearing, Ms Rosen explained that proximity to residential use was an identified risk factor in the Caps Review.

In addition, some submitters considered that it would be challenging to identify whether the land use in a particular location was “*predominantly residential*”, especially in Capital City or mixed use areas, and this may change over time.

## **(ii) Discussion**

The Panel agrees that, at least at first instance, gaming venues should not be located in residential buildings. This is also consistent with the Ministerial Direction that influences whether approval of premises could be granted. Even recognising the separate nature of the dual planning – gaming regimes, the Panel accepts that there is cause to examine whether a gaming venue within a residential building could exacerbate convenience for problem gamblers.

This criterion could possibly be tempered in its practical application, such as where vertical separation is proposed without expressly referring to this factor in the locational guidelines. For example, considerations of practical ease of access are already evaluated by decision makers such as VCAT in cases such as *Benmara Pty Ltd v Whittlesea CC*<sup>43</sup>.

A significant practical challenge for this municipality is that many areas (especially in the Central City and renewal areas) have been expressly identified in policies for increased residential development, with associated increases in densities. It is unclear at this stage how this may affect opportunities to locate new venues or to expand the gaming offer at existing venues.

Although it may be challenging in practice to identify whether the predominant surrounding land use is residential in some locations within the City of Melbourne, the Panel accepts the evidence of Ms Rosen that this could be a factor that heightens convenience and therefore, risk for problem gamblers.

Balancing these considerations, it is reasonable for it to be included as one of a number of factors bearing on the appropriateness of the location when considering areas *outside* the Central City in particular (possibly excluding urban renewal areas intended for integrated mixed use). This may help to refine suitable or unsuitable locations outside the Central City, such as avoiding predominantly residential areas within Carlton or South Melbourne to reduce highly convenient access.

<sup>42</sup> Page 28 of her expert witness report. Although Mr Rantino qualified that stand-alone gaming venues are prohibited in residential areas but hotels or clubs could be permitted which offered gaming machines.

<sup>43</sup> [2015] VCAT 1463.

## 5.2.2 400 metre walking distance

### (i) Evidence and submissions

Ms Rosen explained the evidence base for the 400 metre assessment threshold in her report, with a focus on walkability as a determinant of accessibility and convenience which, in turn, are determinants of gambling-related harms.<sup>44</sup> She also referenced research that concluded that problem gamblers tend to gamble in areas close to their home or workplace.

Some submitters suggested that it may be more appropriate to provide a separation distance of 100 metres, referencing this separation distance in local policies pertaining to licensed premises (Clause 22.22) and sexually explicit adult entertainment (Clause 22.11).

Ms Rosen responded to questions put to her in cross examination that a 100 metre separation distance for these uses was targeted to issues of amenity, rather than the potential for interrelationships between facilities, which was a more direct concern for gaming venues<sup>45</sup>. She considered that the 400 metre separation was especially relevant in the Central City given the high proportion of pedestrian activity in connection with day-to-day activities.

Ms Rosen conceded that *“there is no scientific evidence drawing a direct correlation between a walking distance of 400 metre and an increase in the incidence of gambling-related harm”*. Notwithstanding, she suggested that it was reasonable to adopt what she regarded as standard planning and social impact assessment principles when formulating policy (in addition to having regard to the precautionary principle<sup>46</sup>).

Council referred to a number of other current local policies and relevant Panel decisions in seeking to justify the 400 metre reference.<sup>47</sup> At the same time, it acknowledged that this aspect was not a *“perfect measure”* but was at least understandable and quantifiable.

These examples included the recent Panel Report for Melton Amendment C182 (Local Gaming Policy). At Chapter 4.3, the Panel summarised how this issue was dealt with by other Panels, commenting that:

... the Panel understands the desire to separate gaming from sensitive uses is meant to meet the well accepted aim of gaming being accessible but not convenient...

The Panel agrees that a separation distance may not be the perfect measure to achieve the objective of venues being accessible but not convenient ...

After consideration of alternate wording, the Panel agrees with previous Panels that although not perfect a separation distance provides a pragmatic approach.

A number of submitters and their witnesses did not support the proposed 400 metre walking distance separation as an appropriate measure, especially in the inner city where land uses are often highly concentrated. They particularly regarded this measure as misguided in the Central City, being an arbitrary separation distance.

<sup>44</sup> Pages 18 and 19 of Ms Rosen’s expert witness report.

<sup>45</sup> The Tribunal in the *Francis Hotel* decision acknowledged that the impact of this type of use differs from that of gaming.

<sup>46</sup> Referenced in the *Public Health and Wellbeing Act 2008*, section 6.

<sup>47</sup> Including Mount Alexander Planning Scheme Clause 22.33, Macedon Ranges Planning Scheme Clause 22.04, Wyndham Planning Scheme Clause 22.03, Monash Planning Scheme Clause 22.12, Yarra Ranges Planning Scheme Clause 22.08, Port Phillip Planning Scheme Clause 22.07, Knox Planning Scheme Clause 22.05 and Cardinia Planning Scheme Clause 22.03.

In a practical sense, if this provision was introduced, Ms Thomas was also concerned that it would be challenging to identify which aspects were most critical for harm minimisation in the absence of an accompanying Reference Document.

**(ii) Discussion**

For similar reasons expressed by the Panel in Melton C182 on balance, the Panel accepts the 400 metre walking separation distance proposed by Council as a generally suitable measure. However, this is subject to the important proviso that it should only apply to areas *outside* the Central City in light of the considerations discussed in Chapters 3.2 and 5.3.

**5.2.3 Separation from sensitive uses**

**(i) Evidence and submissions**

Turning to the various elements of discouraged locations, Council submitted that it was appropriate to discourage gaming venues in close proximity (400 metre walking distance) to:

- existing or approved gaming venues
- shopping complexes and strip shopping centres
- public transport interchanges
- concentrations of social housing (defined in the policy or schedule)
- student accommodation
- a gambling sensitive service or facility (explained in the policy or schedule).

Submitters argued that these criteria, when combined, would effectively preclude EGMs within almost all of the municipal area.

All experts accepted that there is evidence that problem gamblers frequent multiple facilities, and that it would reduce the risk to these people if venues were not located close together. This would support the desire to separate new venues from existing and approved gaming venues.

The decision of VCAT in *Francis Hotel Pty Ltd v Melbourne CC*<sup>48</sup> was referred to by some parties as base benchmark, where its potential association with the nearby gaming venues were held to be a “*functional cluster*” that would increase risk for problem gamblers. In the context of gaming venues, the Tribunal regarded a “*concentration*” and a “*cluster*” as being generally equivalent. To a large extent, they were influenced by likely routes of travel, including tram routes, that would mean that it would be difficult for pedestrians (including office workers) to avoid passing a gaming venue in their day-to-day activities. This was considered to be a question of fact to be determined on the basis of the particular circumstances of each permit application.<sup>49</sup>

No submitters directly challenged the intent for separation from shopping complexes. However, they made it clear that the prohibition against locating within a strip shopping centre was expressly excluded for much of the municipal area by virtue of the Ministerial

<sup>48</sup> (Red Dot) [2012] VCAT 1896.

<sup>49</sup> In that case, VCAT was not persuaded that the potential relationship between the proposed venue and student housing was a reason to refuse the application in light of studies undertaken and consideration of the clientele of the particular venue. See para [96]-[102] in particular.



declaration. It would therefore not make sense to expand the prohibition spatially for such land (that is, within the Capital City Zone).

Submitters and their witnesses expressed caution about seeking separation from “*public transport interchanges*”, and highlighted that this term is not readily defined or understood.

Ms Peterson accepted that it would be eminently reasonable to seek to separate gaming venues from heavily used train stations, on the basis of their function in transferring people to their place of work, place of residence or day to day activities. However, she was not persuaded that it was necessary or reasonable to avoid direct proximity with other forms of public transport.

Some witnesses considered it was reasonable to avoid a separation from concentrations of social housing, given their socio-economic profiles. Others, such as Ms Peterson explained that residents of social housing have not been identified in evidence as being more vulnerable to the risks of EGMs than the general population.

Ms Rosen explained that students are particularly vulnerable to the risks of gambling given their age and status. She considered this was exacerbated by the challenges facing international students, which form a high percentage of the student cohort in the City of Melbourne.

Other expert witnesses acknowledged the body of evidence that confirms that students are more likely to be affected by gambling related harms than the general population. However, on deeper analysis, they considered that this evidence also shows that students (especially international students) are not disproportionately affected by EGM use, as opposed to other forms of gambling or Casino-based gambling (which are statistically higher)<sup>50</sup>.

All submitters seemed to accept that it would be undesirable to locate a gaming venue close to a gambling sensitive service. This was consistent with the VCGLR’s refusal to grant approval for the Victoria Hotel given the venue’s proximity to Urban Seed, a facility for people experiencing health issues and socio-economic disadvantage. This was combined with the design of the venue and potential to result in a cluster of gaming venues.

Some raised the practical challenge of identifying such facilities, noting that they had not been mapped by either Council or the expert witnesses to date in preparing for the Hearing given the detailed work involved. Likewise, all expert witnesses considered that it would be undesirable for a gaming venue to be located within clear line of sight of uses or facilities they identified as gambling sensitive.

## **(ii) Discussion**

The important consideration in respect of these potentially sensitive uses or facilities is to ensure compatibility of land use, in line with planning policy at Clause 13.07-1S. This is an area where the schedule has the most effective capacity to guide appropriate outcomes.

<sup>50</sup> To some extent, this issue was canvassed by the VCGLR when considering approval for the Victoria Hotel. It was not persuaded that proximity to a tertiary education facility justified refusal since EGMs were not the main form of gambling favoured by students.

Having considered all evidence and submissions, the Panel considers that there is merit in retaining a proposed separation from existing or approved gaming venues, given what is known about the behaviour of problem gamblers.

The Panel also considers there is some, although not strong, justification for separation from shopping complexes. It notes that a policy decision has been made at state level seeking to avoid EGMs locating within nominated shopping complexes.

By contrast, the boundaries of strip shopping centres may be less well defined spatially and it is probably reasonable at first instance to avoid to locate gaming venues at their peripheries outside the Central City.

However, the Panel considers that it would not be reasonable to seek to apply this discouragement against locating near strip shopping centres to the area of the municipality that is covered by the exemption from locating EGMs within strip shopping centres. Otherwise, the proposed provision would be unnecessarily onerous for this land. This observation should be read with the Panel's recommendations elsewhere in this Report that more performance-based locational guidelines are justified for the Central City.

The Panel accepts the evidence of witnesses in this proceeding that it would be undesirable in principle for gaming venues to be located in close proximity to highly frequented public transport facilities such as key train stations.<sup>51</sup>

It is more challenging to identify whether it is reasonable to discourage gaming venues in close proximity to other transport nodes such as tram stops, since the evidence of this interrelationship was not clearly presented to the Panel. In reality, the City of Melbourne has a relatively high level of public transport connectivity compared with more suburban locations. The mapping prepared by Council indicates that substantial areas of the municipality would be within a 400 metre radius of what it regards as a public transport interchange. This has the capacity to vastly increase overall areas where gaming venues or machines would automatically be discouraged, without sufficient justification at this stage.

Although tram stops and other forms of public transport may not be as heavily frequented, they may still play an important role as considered by VCAT in the *Francis Hotel* decision where this combines to form a functional cluster of venues that make it more difficult to avoid gaming venues when undertaking day-to-day activities.

The Panel suggests that a more reasonable balance would be to discourage EGMs within 400 metres of train stations unless Council is able to identify other discrete data about heightened levels of gaming risk from conjoined public transport connections specifically.

In the absence of this, it would be reasonable for the Responsible Authority to consider the extent of practical connectivity (including by all forms of public transport) in the circumstances of a particular permit application having regard to the varied decision guideline that seeks to consider whether a proposal would *"increase exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than*

<sup>51</sup> Notwithstanding the existing The Clocks gaming venue operated by Doxa, located on the Flinders Street Station concourse.

*predetermined*” as discussed in Chapter 7. A comparable approach was taken by VCAT in the *Francis Hotel* decision in the absence of an applicable guideline.

As to whether separation should be sought from “*concentrations of social housing*”, all experts agreed that EGMs should not be located close to communities vulnerable to their harms. In *Kingfish*, VCAT refused to grant planning permission since the proposal would be incompatible with a proximate specialist social housing facility (Ebsworth House).

Only Ms Peterson appeared to consider that occupants of social housing had not been demonstrated to be at higher risk to gambling by EGMs than the general population.

The Panel supports Council in identifying social housing (with the accompanying explanation in the clause) within the list of discouraged locations. While not all types of social housing may be associated with increased levels of risk, the prevalence of such housing should trigger a threshold for closer consideration of impact. To convert the wording to ‘housing for people who may be vulnerable to gambling related harms’ or similar would be too amorphous for day-to-day application.

The Panel is also not inclined to put a threshold on the size of social housing for consideration or to refer to concentrations being required for discouragement (as has been included in other planning schemes, such as a minimum of 50 units), since this may be more arbitrary than considering the particular characteristics of the housing in question, such as the Tribunal did in *Kingfish* in respect of Ebsworth House.

Similarly, there is evidence that students are more vulnerable to gambling related harms than the remainder of the community. The fact that these students may be drawn more to Casino-based gambling does not eliminate potential risks to this class of user from EGMs.

Students represent a notable portion of housing occupants who study and recreate within the municipality and this is an important sector recognised in and encouraged by the planning scheme.

In these circumstances, the Panel considers that Council has taken a suitably protective approach to discourage gaming venues within close proximity of student accommodation, at least warranting closer consideration of the likely inter-relationship. However, given the general policy encouragement and extent of student housing in the City of Melbourne, the Panel accepts that this should be phrased to avoid “*concentrations*” of student housing, not just their intermittent provision to make this workable on a municipal level.

The Panel accepts that even though it may take relatively specialised enquiries to identify gambling sensitive services or facilities (and that these may expand the areas where gaming is discouraged), this is an important part of the proposed policy or schedule. As explained by the expert witnesses, this is a type of land use that will commonly have a direct relationship with EGMs, since many beneficiaries of services are patrons of gaming venues.

It would be reasonable at first instance to avoid direct physical relationships between preventative or restorative agencies and a facility that generates the potential to cause harm to a segment of users. This has also been confirmed in numerous decisions of the VCGLR and VCAT referred to in this Report.

## 5.2.4 Discretionary nature of the guidelines

### (i) Evidence and submissions

Some submitters raised concerns about how the agglomerated locational considerations could be assessed. Mr Tweedie submitted that it is no answer that the provision is discretionary, stating that *“a bad policy that has no strategic justification, and does not materially assist decision makers to make planning decisions, does not become acceptable simply because it is discretionary”*. Ms Collingwood took a similar approach on behalf of AHA.

Mr Rantino responded on behalf of Council that although elements of Clause 4.0 appear as a *“checklist”*, it will be important to consider issues of proximity and inter-relationships between sensitive uses and gaming venues. Weighting would need to be given when assessing the appropriateness of location, rather than adopting an approach where any negative locational characteristic leads to an automatic *“strike out”*. This approach to policy has been repeated in court and tribunal decisions such as *Pink Hills Hotel Pty Ltd v Yarra Ranges SC & Ors*<sup>52</sup>.

### (ii) Discussion

The issue of the provisions for location being discretionary was considered in similar terms by the Panel in Melton C182 at Chapter 4.3 when it concluded:

The policy is not mandatory and is not worded as such (it uses ‘should’), it simply provides a checkpoint for a decision-maker to consider in making a merits-based assessment of an individual application before it.

This Panel agrees with this role of the proposed policy or schedule when applying locational guidelines.

It acknowledges Doxa and AHA’s point that the policy or schedule does not focus particularly on where might be suitable locations for EGMs within the municipality, aside from the relatively sweeping first criterion – that they be located where the community has convenient access to a choice of non-gaming entertainment operating at the same time. This is targeted to diversity and choice, which are matters emphasised in state and local planning policies for the City of Melbourne as a premier entertainment and tourism destination.

That said, the Panel recognises that given the potential for gambling-related harm, it will not be an easy task to identify more precise locations where gaming could expressly be supported. The fact that the Amendment does not advance this substantially is not regarded as a fundamental flaw.

In some ways, this issue could be addressed more generally by recognising the potential for well located and operated gaming venues to lead to benefits in the objectives of the policy or schedule as proposed by the Panel.

### (iii) Conclusions

The Panel concludes:

<sup>52</sup> [2013] VCAT 954

- For the most part, research and a harm minimisation approach justify discouragement of gaming venues in close proximity to the sensitive uses or facilities identified.
- For areas outside the Central City, the reference to 400 metre walking distance or clear line of sight are acceptable on balance as a pragmatic and measurable criterion.
- It would be preferable to delete the reference to public transport interchanges and to substitute a reference to train stations for all areas of the municipality.

**(iv) Recommendations**

**The Panel recommends:**

**Amend the reference to public transport interchanges in Clause 4.0 of the Schedule to Clause 52.28, to a reference to train stations.**

### **5.3 How should locational guidelines be crafted for the Central City?**

The Panel does not support the uniform application of the locational guidelines to the Central City. The nature of land use and development in the Central City is so diverse, intensive and layered that casting the net broadly has the potential to be arbitrary and to detract from potentially legitimate opportunities for such land use. In these circumstances, the Panel prefers a qualitative approach for areas within the Central City.

As mentioned, in the Central City context, the separation proposed from “*public transport interchanges*” may also mean that virtually all locations are unsuitable for EGMs given their proximity to multiple modes of public transport.

The challenge is in balancing other policies that seek to improve access to activity centres especially in the City of Melbourne and seek to locate gaming venues within areas that offer other forms of entertainment. On balance, the Panel is not persuaded that the provision proposed would strike a reasonable balance between providing such access yet restricting overly convenient access to EGMs.

There is also no legitimate basis for a prescribed separation between gaming venues and strip shopping centres at least in the Capital City Zone given the opportunity for gaming venues to locate in these centres under the planning scheme.

For reasons explained in Chapter 5.2, the Panel is persuaded that most of the remaining factors nominated by Council represent a legitimate inclusion in the policy or schedule. They would at least generate a presumption that a relationship with nominated uses or facilities is not supported *unless* the applicant can demonstrate that the relationship is an acceptable one on the planning merits.

That said, the Panel notes the perpetual challenge that many land uses are permissible within the Central City without permission for their use under planning controls, so current conditions are far from static.

The Panel’s approach below is regarded as a more standardised but pragmatic way of guiding the location of gaming venues and machines within the Central City. In practice, it would be open to Council to consider whether to apply these criteria to the Docklands area as well as

the Capital City Zone, since it is excluded from the cap of EGMs, but is subject to the prohibition on EGMs within strip shopping centres. In many substantive ways, policies for certain precincts within Docklands seek a broad mix of land use and a genuine extension of or connection with activity centres within the Capital City Zone.

A more sophisticated alternative approach to the Amendment would entail analysis of particular sub-areas within the Central City and identification of where gaming venues should be either encouraged or discouraged (potentially subject to qualifications).

To be effective, a comprehensive strategic analysis would need to synthesise existing policy, strategic directions and current conditions. Other relevant inputs (subject to opportunity) may include targeted research about the specific characteristics and vulnerability to gambling related harm within the Central City and its precincts, such as in proximity to Crown Casino or the retail core.

Council will need to decide whether to embark on this path which is likely to warrant further public and industry input, or whether to adopt the position recommended by the Panel as a practical way forward in this Report.

### **5.3.1 Can the guidelines be refined sufficiently within the context of the current Amendment?**

The question is whether there is sufficient material before the Panel for it to make suitable recommendations as to a more refined form of the Amendment to address the Central City specifically.

As pointed out by Ms Peterson and others, it is not uncommon for parts of the Melbourne Planning Scheme to provide separate controls for areas within the Central City (for example) versus other areas outside the Central City.<sup>53</sup> There is no reason why a similar approach could not be adopted for this Amendment.

In reality, it appears that there is an absence of research that differentiates between the Central City as distinct from other areas of the municipality in terms of gambling behaviours and vulnerability. Unfortunately, it also seems that minimal direct research has been undertaken to date to shed light on the particular risks of gaming on vulnerable groups within the Central City or how these groups are spatially represented. In these circumstances, a first-principles approach should be taken to managing risk. This was addressed directly by all expert witnesses at the Hearing in broad terms.

In the Panel's opinion, the starting point should be to avoid an increase in "*concentration*" of gaming venues as is the term used in existing policy.

Another key underlying objective should be to caution against closely locating gaming venues near other uses that have been demonstrated by broader research as having the potential to generate relationships that enhance the risk of gambling-related harm. Convenience retailing is a category of use that was regarded by the witnesses as having increased potential for negative interaction with gaming venues.

<sup>53</sup> For example, in Clauses 22.01 and 22.17 concerning Urban Design policy and Clauses 22.04 and 22.05 concerning Heritage policy.

The challenge is how to achieve practical separation within a principal activity centre context.

### 5.3.2 An alternative approach?

The Panel asked all witnesses at the Hearing how it may be possible to draft locational characteristics for the Central City if the Panel was inclined to support more tailored controls for this area.

Ms Rosen originally suggested an alternative approach to managing venues in the Central City by referring to “*visual or functional separation*” from potentially sensitive uses or facilities.<sup>54</sup>

Ms Peterson particularly supported locational guidelines avoiding a close and immediate proximity to convenience retailing in the Central City. She considered that direct line of sight should definitely be avoided between proposed and existing gaming venues, as well as to sensitive service providers and key train stations. Beyond this, she gave evidence that a useful barometer would be whether a gaming venue would have a “*synergy*” with a sensitive use or facility of this type. She advocated for the use of performance-based language in respect of proposed separation from sensitive uses in place of the 400 metres measure proposed by Council.

Similar evidence was given by Ms Peterson in Melton C182. In that context, the Panel explained:

The Panel shares Council’s concerns that Ms Peterson’s proposed language is unclear. The Panel notes the 2017 Policy did not refer to a 400-metre separation distance, instead using the words to avoid locations “*visually and functionally integrated with...*” sensitive uses however does not consider this language superior.

Ms Thomas considered that many of the proposed locational criteria did not have validity in a Central City context. She too explained that guidelines for this area should assess the potential synergy or relationship between venues and other facilities, including how they are accessed and what features exist in the surrounding area.

Ms Thomas supported separation from social housing and gambling-sensitive services with some focus on proximity to residential land use, but not necessarily to a distance of 400 metres. She preferred to evaluate whether there would be a relationship between users of these services and the venue under consideration. She also considered it relevant to consider the spatial concentration of the number of EGMs and venues in proximity to the site by reference to the ease of travel.

On closer consideration, the Panel considers that there is substantial in-principle agreement between the expert witnesses as to how to buffer EGMs within the Central City from uses, facilities or services to minimise gambling related harm.

The extent of agreement generally pertains to avoiding “*direct line of sight*” or a “*synergy*” between a venue with EGMs and:

- other gaming venues

<sup>54</sup> The Panel notes submissions on behalf of Doxa and AHA requesting it to give limited weight to Ms Rosen’s evidence because of her direct involvement in drafting the Amendment, such that she is effectively critiquing her own work. Ms Rosen’s qualifications, experience and expertise are recognised by the Panel. At the same time, it would have been more helpful for the Panel for Council to provide independent evidence in the nature of a peer review to assist the Panel to reconcile areas of potential deficiency.

- gambling-sensitive services and facilities such as financial aid agencies, gamblers help agencies and the like
- core retail areas and convenience retailing in particular
- heavily used train stations (and potentially other heavily used forms of public transport)
- social housing (with the exception of Ms Peterson who considers this link is not demonstrated by evidence)

The Panel has used this evidence to craft guidelines for the Central City in its preferred version of the Amendment at Appendix C. It notes that VCAT in the *Francis Hotel* decision was not persuaded about line of sight as a workable test for the Central City but considers that this remains appropriate as a guideline in light of the evidence in this Hearing. Ultimately, the event of synergy beyond pure line of sight will need to be considered by a decision maker.

There was less commonality of approach to proximity to student housing.

All witnesses explained that the synergy to be avoided may be a visual, physical or functional one. It is inevitable that this will require a qualitative assessment by a decision maker. A prime example of this was VCAT's qualitative assessment of the likely ease of travel between the venue and an approved supermarket which was more determinative than pure distance in *Benmara*.

The Panel is conscious that a key purpose of the schedule is to minimise gambling harms in connection with the location and operation of gaming venues. It considers there is sufficient research about potential vulnerability to gambling harms in connection with the characteristics of some residents of social housing and the behavioural patterns of students to generally discourage line of sight or synergies with these uses within the Central City at first instance (even recognising its substantial and ongoing spread).

Being discretionary, this policy discouragement could ultimately be displaced by specific evidence or a demonstrated lack of connectivity in a particular permit application. A comprehensive social and economic impact analysis is likely to underpin this.

The Panel considers that these proposed refinements of the policy or schedule to include varied criteria for the Central City would not of itself be likely to generate a need for further public notice, since the land uses or facilities to be avoided are consistent with the exhibited Amendment although this should be revisited by Council. The intent was always to enable the spatial and operational relationships to be considered. The key change to the wording of the schedule would be to the measure of separation – with the direct relationship to be considered, rather than distance alone as a threshold.

#### **(i) Conclusion**

The Panel concludes:

- Council's preferred approach to separation distances is not supported as realistic or suitably targeted to the particular circumstances of the Central City.
- There is justification for differing controls pertaining to discouraged locations for EGMs and venues in the Central City, at least for the Capital City Zones, and potentially for Docklands.



- Such controls will necessarily be more qualitative and should focus on avoiding a direct line of sight or synergy with uses or facilities that may be sensitive to gambling related harms. This should refer to the majority of uses or facilities listed in the locational guidelines identified in the Amendment documentation, with variations in line with the Panel’s recommendations.

#### **5.4 Does the policy or schedule need to differentiate between applications for new venues and “top up” applications at existing gaming premises?**

##### **(i) Evidence and submissions**

Industry submitters claimed that the Amendment was deficient since it did not differentiate between locational and operational issues associated with new venues, as opposed to “top up” applications where additional EGM approvals were sought for an existing venue.

Overall, they suggested that “top up” applications as generally preferable, since they do not fundamentally change the level of accessibility of EGMs in an area. Advocates referred to a suite of decisions by the VCGLR and VCAT to illustrate their point where there was often lesser perceived risk and greater corresponding benefit where a “top up” application was made. They also pointed to the Ratio Consultants 2015 report commissioned by Council in the inception to this Amendment that suggested may be merit in distinguishing between new gaming premises applications and EGM “top up” applications.

They considered the policy or schedule should *encourage* the location of EGMs within existing venues. This approach is introduced by the current policy at Clause 22.12.

Council acknowledged that there are commonly factors that lend greater support to “top up” applications compared with permit applications for new gaming venues. However, it did not consider this distinction to be so material as to warrant a different approach in the policy or schedule. It preferred a fulsome merits based approach.

##### **(ii) Discussion and conclusions**

The Panel accepts that there may be lower levels of gambling-related harm where additional machines are sought<sup>55</sup> – especially within well run existing venues – compared with new gaming venue applications which may be more variable since they introduce EGMs into new settings.

The Panel agrees with industry submitters that this is likely to be a relevant consideration in assessing the appropriateness of the location and operation of the EGMs proposed where a “top up” application is made.

This distinction is well recognised by those working with gaming approvals and will no doubt be key feature outlined upfront in a permit application of this type. It also has capacity to streamline a social and economic assessment of impact.

<sup>55</sup> Following the reasoning in *Glenroy RSL Sub Branch Inc v Moreland CC* [2017] VCAT 531. It is not considered that this principle was notably departed from in the Supreme Court Appeal.

The Panel considers that it could provide sensible guidance as to where new EGMs may be encouraged, provided their impacts are demonstrated to be acceptable and would reasonably broaden the areas of the municipality where EGMs are encouraged (being a key element of the schedule).

The policy or schedule should express a preference for EGMs within existing venues similar to policy at Clause 22.03 of the Cardinia Planning Scheme. The track record of these venues could be evaluated as part of a particular permit application. This would represent a more balanced approach to where EGMs were encouraged within the municipality.

Another example where this has been incorporated into local planning policy is in Clause 22.02-3 of the Cardinia Planning Scheme. Under the heading "*Appropriate venues*" it provides that EGMs should be located in venues "*that already have gaming machines (in preference to the establishment of a new gaming venue)*".

Council should entertain this addition in the final version of the Amendment, subject to satisfying itself that no additional notice would be required. Also, a guideline of this type may potentially lean in favour of larger gaming venues. The anticipated spatial and socio economic impact of this strategic direction for the City of Melbourne should be considered as part of this assessment.

### **(iii) Conclusion**

The Panel concludes:

- Subject to further consideration, Council should include a locational guideline for all areas within the municipality indicating that there is a preference to locate additional EGMs within existing gaming venues over the establishment of new gaming venues.

### **Recommendations**

**Amend the Schedule to Clause 52.28 to:**

**Include a new provision in Clause 4.0 for Areas Within the Central City:**

**Gaming machines or venues should not be located in direct line of sight of:**

- a shopping complex (whether or not listed in the Schedule to Clause 52.28-4)
- core retail areas
- a supermarket or other convenience retail facility targeted to meet the day-to-day needs of customers
- an existing gaming venue
- a train station.

**Gaming machines or venues should not be functionally or visually integrated with:**

- a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.
- concentrations of student accommodation.

- **social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations).**

**Include a new provision in Clause 4.0 for Areas Outside the Central City, to:**

**Clarify that the 400 metre walking distance separation applies to Areas Outside the Central City.**

**Include a new provision in Clause 5.0 to:**

**Prove a preference for gaming machines to be located in existing venues approved for the operation of gaming machines.**

## 6 Application requirements

### 6.1 The issue

The proposed application requirements address “proposal details”, “location assessment” and “venue design and operations”.

The question is whether the application requirements are proportionate and relevant to the type of application. Are they likely to directly assist the exercise of discretion?

A number of concerns were raised by submitters including the proposed requirement for a survey of community satisfaction or wellbeing.

Near the conclusion of the Hearing, Council conceded that it was not appropriate to seek to require demonstration of “*how the proposal will achieve net community benefit in addition to any statutory contributions scheme*”. This was especially the case when it was proposed under the “*venue design and operations*” subheading. This resolved one aspect of concern for submitters.

More detailed concerns were raised by submitters in respect of the proposal to require a description of details regarding a proposed transfer of machines, passing pedestrian counts and identification of the location of all existing or proposed EGMs within the venue. Concern was also expressed by Mr Tweedie and Ms Porritt on behalf of Doxa that façade and signage details were not matters for consideration in a gaming application under Clause 52.28.

#### 6.1.1 Proposed survey requirement

Under the subheading “*venue design and operations*”, Council proposes an applicant provide the findings of a rigorously conducted survey of residents, businesses, community organisations, agencies and service providers within a 400 metre walking distance of the venue. This is intended to measure current levels of community satisfaction in connection with the local area and the potential impact of the proposal on this.

#### (i) Evidence and submissions

##### Submitters’ position

Some submitters challenged the appropriateness of a requirement for a survey measuring community satisfaction and wellbeing. Their key concerns were threefold.

First, this ‘benchmark’ was said to pertain to legislative tests under the gaming legislative regime, not the relevant planning regime.

Second, submitters considered that it would not be meaningful to survey in the manner proposed given the high percentage of non-residents including tourists frequenting the city on any given day. This was said to make it much more complicated to identify the community who may be affected by the application.

Third, if a survey was to be undertaken, it should be in the context of an *expert* evaluation of community satisfaction and wellbeing as part of a broader social and economic impact assessment, rather than a subjective assessment.

Doxa and AHA emphasised that a mandatory threshold for the approval of premises as suitable for gaming under the GR Act was a finding that 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*”. Case law has confirmed that such impact could be perceived rather than actual.

By contrast, they emphasised the relevant test under the PE Act as whether the location and operation of EGMs and gaming venues was appropriate.

They submitted that in line with opportunities to object to a permit application under the PE Act, an objection had to be well founded and an objector had to explain how they would be affected by a proposal. Likewise, in section 60(1)(f), the PE Act focuses on “significant” social and economic impacts, which is a higher threshold that would not necessarily be met for survey participants. The mere fact of opposition is not itself a significant effect of itself.<sup>56</sup>

Submitters were concerned that there could be a presumption that such a survey was required, it could only be dispensed with if a particular applicant displaced this presumption.<sup>57</sup> This was considered overly onerous.

While some experts tended to accept that community wellbeing could be regarded as a component of social impact, they considered a community satisfaction survey was misguided in light of the differences between the two legislative regimes.

Ms Thomas disagreed that wellbeing is a relevant consideration in a planning application. She and Ms Peterson highlighted the outcomes of longitudinal studies that a reasonably high percentage of the population have formed negative views about EGMs and it would be difficult to extract any meaningful information from a survey in this context, especially where there is already a high level of existing access in a municipal context.

Ms Thomas accepted that there may be some connection between factors such as alcoholism and the propensity for problem gambling, but considered this type of data was unlikely to be available for a confined geographic area, such as within 400 metres of a site. She preferred to consider whether there would be a “*significant social impact*” in line with the provisions of the PE Act.

### **Council position**

Council submitted that social impact comprises a number of considerations, and that community satisfaction may be a relevant indicator or input.

It considered that a professionally crafted and administered survey could be a legitimate tool to gain an understanding of the effects of a proposal on its location. It noted that the survey would encompass not only permanent residents but others working or operating in the vicinity of the proposed venue. It did not expressly propose to extend this to visitors such as tourists in subsequent iterations of the Amendment.

At a number of points during the Hearing, Council acknowledged that there is no “demonstrated science” behind the 400 metre walking distance measurement. Rather, this

<sup>56</sup> *Rutherford & Ors v Hume CC* (Red Dot) VCAT 786.

<sup>57</sup> There are review processes to VCAT under the PE Act for example.

measure was intended to provide a tangible baseline for analysis. It was considered generally consistent with separation distances approved by various Panels when considering gaming venues and their direct sphere of influence.

**(ii) Discussion and conclusions**

The Panel agrees with submitters that it is important to carefully reflect the distinctions between the planning and gaming legislative regimes in planning controls.

That is, community satisfaction is not of itself a determinative test for a planning proposal for the use of land or premises for EGMs. The more fundamental question in this context is whether a community survey is likely to be required to gauge social and economic impact for conventional applications, such that it should be prescribed as an application requirement.

The Panel considers that the answer lies in the proper formulation of the next dot point proposed under *“venue design and operations”*. That would require a professional assessment of the Socio-Economic Indexes for Areas (SEIFA Index), the impact of the proposal on nearby groups vulnerable to gambling-related harms, the impact of a potential transfer of EGMs and on employment and potential contributions to the local community.

In refinements proposed at the Hearing, Council proposed to delete the requirement to assess the impact of the proposal on the health and wellbeing of the community (including potential net community benefit), and to replace it with *“the social and economic effects of the proposal”*.

A fulsome assessment of the social and economic effects of a proposal may well involve a well-designed, targeted and suitably applied survey or consultation process. Surveys or consultation are a relatively common mode of input into a professional analysis, but a competent professional in this field should have flexibility to decide how this information is obtained and analysed.

This method should not be mandated in the context of planning controls, especially since community satisfaction or wellbeing is only a potential component of social assessment but not a determinative test. To imply otherwise through permit application requirements would have the potential to confuse or distort the emphasis on what should be a synthesised analysis of overall impact.

**6.1.2 Other matters**

**(i) Evidence and submissions**

Potential transfer of machines

The proposed policy or schedule refers to the potential to redistribute or transfer EGMs from one location to another, with consideration to be given as to whether the shift may be from a more vulnerable to less vulnerable community or vice versa.

AHA and Doxa submitted that this concept reflects a “hang over” from the former Tattersalls-Tabcorp duopoly at a time when there were particular machine entitlements. They suggested that while it may be possible for an operator with multiple venues in the same municipal district to “transfer” machines from one venue to another, this would be rare and, in any

event, could not reasonably be assured via a guaranteed reduction in the number of EGMs at the venue that would source the relocated machines.

Council responded that it was reasonable for a Council officer to consider the effect of a transfer of machines since this was a possibility in the City of Melbourne notwithstanding current approvals. For example, Mr Rantino referred to a number of VCGLR and VCAT cases to confirm that the concept of transfer post Tattersalls-Tabcorp system is still possible; and capable of being regulated by amendment of a corresponding venue operator's licence, either by condition of a permit or section 173 agreement.

Council suggested that it may be material to consider the impact of a relocation of EGMs on vulnerable communities, since there are differing socio-economic characteristics including pockets of disadvantage across the municipality.

#### Other issues

AHA queried the potential relevance of pedestrian counts in the context of the City of Melbourne, which has a high proportion of pedestrians, especially in the central city. It submitted that the connection between this feature and the suitability of the proposed venue or machine location had not been established by Council.

Questions also arose as to the potential relevance of identifying signage and façade treatment as part of an application for the use of land for gaming. Mr Tweedie emphasised that signage for gaming venues is controlled via specific provisions of the planning scheme (Clause 52.05) as well as by specific limitations (as to content, number and the like) by the VCGLR approval system under gaming legislation. He also suggested that façade treatment would not be relevant to an application for the use of land for gaming – this being a matter for building and works controls.

Similarly, Doxa submitted that it was not appropriate for requirements under the planning scheme to require an applicant to document the location of existing or proposed EGMs within the facility, since the layout of gaming rooms is expressly controlled under gaming legislation and relevant approvals (depicted on a "*green line plan*" endorsed by the VCGLR). Mr Tweedie submitted that it would not be lawful for a responsible authority to seek to regulate the location of EGMs within a venue by including them on endorsed plans under a planning permit.

Ms Thomas expressed the view that issues of venue layout and operation were to be addressed principally by the VCGLR as the expert authority, rather than being assessed by planning officers expressly. She was also concerned to avoid double handling and potential inconsistencies.

Ms Peterson appeared to take a less dogmatic view, offering broad support for venue design and operation to be considered in an application under Clause 52.28, especially where buildings and works permission was being sought. This would enable a decision maker to consider issues of venue layout, for example, to ensure that EGMs are a reasonably subservient offer within the premises, there is good visibility and accountability for patrons and the like.

Mr Rantino confirmed that Council intends to endorse plans under a permit issued under Clause 52.28, implying it intended to regulate this aspect of the approval.<sup>58</sup>

**(ii) Discussion**

The Panel is not overly concerned with the way the Amendment approaches a potential redistribution of EGMs. While it may be rare given limited operators with multiple venues (or challenging to secure in terms of lawful approvals) Council has reasonably identified that if redistribution does occur, its differential impacts would be relevant considerations.

Although the Panel has some doubt this matter warrants specific reference in the purpose of the policy or schedule, there should be some scope for a planning authority to prioritise matters it regards as material in a planning scheme amendment.

The Panel has also considered the question of whether the specific layout of EGMs within a venue is a relevant consideration in an application under Clause 52.28, such that it should be included as an application requirement.

This is not a new application “requirement” under existing local policies, included in Mount Alexander and Macedon Ranges Planning Schemes for example.

At the same time, a broad review of most local planning policies relating to gaming reveal that they are more commonly directed to “bigger picture” issues that enable an analysis of social and economic impact of the location of the venue. They tend to defer the appropriateness of the gaming room layout to the VCGLR. This is presumably what is referenced in the local planning policy for Monash using the words “*evidence of compliance with the relevant gaming regulations for premises layout and design*”.<sup>59</sup>

The most common permission sought under Clause 52.28 is for the use of EGMs.<sup>60</sup> A key purpose of the provision is to ensure that EGMs are located in suitable locations and premises. In the Panel’s opinion, when assessing the appropriateness of the use in the proposed location, a council would in theory be entitled to call for a layout of EGMs within a venue to understand the proposed operations of the use within that venue. This may represent either a positive or negative influence in the assessment of a proposal.

While Responsible Service of Gambling is squarely within the domain of the VCGLR, locational and use-related aspects of planning controls could justify some overlap. Social and economic impact experts commonly refer to operational measures such as the placement of EGMs (relative to other features of the gaming room such as the cashier’s desk or other features within a facility) as influencing the capacity of a venue to affect those who may be vulnerable to problem gambling.

<sup>58</sup> It is not for the Panel to advise how this information should translate to a permit. This may depend on whether a council is entitled to specifically regulate the location of EGMs within a gaming venue. This is a question that would require legal analysis involving a synthesis of the dual system of approvals applying in Victoria, and is a question for another day.

<sup>59</sup> A potential complication with replicating this in the current planning scheme is that an applicant may elect to seek gaming permission after applying for a planning permit, such that compliance with gaming regulations may not be conclusively demonstrated when a planning permit application is lodged.

<sup>60</sup> As distinct from their “installation”, following the Supreme Court case of *McKinnon Hotels*.



The more fundamental question is whether this information would be directly useful for a decision maker when evaluating compliance with the objectives and decision guidelines. This is tenable but may raise matters outside the expertise of a planning officer.

The Panel does not consider the requirement for pedestrian counts near a venue to be particularly to the point, especially in a context with high pedestrian flows as standard and encouraged.

Also the outcomes of pedestrian counts could be interpreted in a number of ways. They may be of limited value as a stand-alone requirement. The more fundamental inputs for decision making should identify the relative ease of access to the venue relative to other services or facilities in the area.

Therefore, the Panel prefers a reference to a map indicating potential pedestrian paths of travel to and from the venue a 400 metre walking distance, including identification of public transport opportunities.

### **(iii) Conclusions**

The Panel concludes:

- The specification of a survey of community wellbeing in seeking to gauge the impacts of a gaming application is not justified as a separate application requirement. It could form a component of an expert social and economic assessment of the proposal in line with the requirements of the second proposed application requirement.
- The remaining elements of the application requirements have sufficient validity within the relevant decision making framework to be included. A balanced evaluation of their content will need to be undertaken as part of the assessment of a permit application.
- Given changes in gaming approvals, the redistribution of EGMs between venues (especially within the City of Melbourne) is unlikely to constitute common practice. If it occurs, it may influence social and economic effects. Therefore, it is open to Council to determine what level of prominence it should have as a consideration under the policy or schedule although it does not warrant inclusion as a broad objective of the policy or schedule.

### **(iv) Recommendations**

**Amend Clause 6.0 in the Schedule to Clause 52.28 to**

- **Amend the requirement for pedestrian counts**
- **Delete the requirement for a representative survey of residents, businesses, community organisations, agencies and service providers within 400 metre walking distance of a proposed venue.**

## 7 Decision guidelines

The Panel's comments above flow to the decision guidelines and the way they are worded.

The Panel is in two minds about the use of the term "*convenience gaming*" in this context noting that it is undesirable to include notes or definitions in contemporary planning instruments. This term appears to be well understood in the planning industry for those familiar with potential social impacts of gaming. Notwithstanding, increased certainty for all users may be provided by elaborating on this term in the decision guidelines in a neutral way.

Beyond this, the term "*spatial concentration*" of gaming venues could be more suitably described as an increase in concentration. In applying this provision, an assessment of whether there is a "functional cluster" may be relevant as considered by VCAT in the *Francis Hotel* decision.

There are decision guidelines in other existing gaming policies that are more nuanced and potentially more relevant than those proposed by Council in the Amendment. However, there is limited scope for the Panel to suggest a substantial re-write when this proposal was not squarely before it through submissions or evidence. Useful guidance could potentially be obtained from Clause 22.12 of the Monash Planning Scheme. For example, this includes the extent of access to the venue by a variety of transport modes, which could potentially be refined for the City of Melbourne context.

## 8 Other issues raised in submissions

### (i) Evidence and submissions

#### Domain Village

The Melbourne South Yarra Residents Group requested that Domain Village be expressly nominated as a strip shopping centre in Clause 3.0 of the schedule where EGMs would be prohibited. The Residents Group was concerned that the centre includes a number of retail premises (including food and drink premises) and that the co-location of EGMs could cause gambling-related harm.

Council responded that no listed strip shopping centres within the municipality are expressly listed in the schedule. Rather, it has taken an approach to prohibit EGMs in all strip shopping centres on land covered by the planning scheme. This necessarily excludes the area delineated within the Ministerial Direction, so EGMs are permitted in strip shopping centres within areas of the Central City.

The term “strip shopping centre” is defined in Clause 52.28-5 as:

... an area that meets all of the following 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;
- it is an area in which a significant proportion of the lots abut a road accessible to the public generally;

but it does not include the Capital City Zone in the Melbourne Planning Scheme.

Council considered that the Domain Village would meet the definition of a strip shopping centre such that EGMs would be prohibited even if the centre was not listed separately in the schedule.

#### Requests to strengthen policies against gaming

A number of individual submitters referred to the personal toll that problem gambling has taken on their lives. They requested Council to ban EGMs within the municipality to prevent the potential for harm to vulnerable groups.

Council responded that gaming is a lawful activity in Victoria, and that it would not be appropriate for a planning policy or a schedule to effectively ban its conduct in all areas of the municipality. It considers that this reflects a state government decision that EGMs may be installed and used subject to meeting planning and gaming requirements. Council also noted that the planning system can only go so far, to consider whether the location and operation of EGMs and venues are appropriate.

### (ii) Discussion

The Panel accepts Council’s continued intention for a blanket ban on EGMs within shopping centres across the municipality, aside from locations covered by the Ministerial declaration. As explained by Council, it is highly likely that the characteristics of the Domain Village would

meet the definition of a “strip shopping centre” in Clause 52.28 and would therefore be protected.

The Panel acknowledges that gaming, including the use of EGMs is a lawful activity in Victoria. It forms part of a range of entertainment options that may be permissible subject to individual circumstances and settings, even though it carries the inherent propensity to cause harm to some users and needs to be permitted judiciously and managed carefully. Licensed premises and brothels can be said to be in a similar category of land use, and are likewise subject to rigorous controls both within and outside the planning system.

It is not an appropriate role for planning policy or a schedule to seek to ban a lawful use entirely. Rather, the proper role for planning policy is to guide considered decision making on relevant aspects that are regulated by the planning system.

Even though the potential for negative social and economic effects of EGMs is a clear risk for the municipality of Melbourne (as it is for other municipalities), the Panel was not presented with evidence of specific municipal-wide negative impacts of gaming to demonstrate that it would never be appropriate to permit land to be used for gaming through EGMs. There was an overall lack of available evidence as to the discrete impacts of EGM usage on residents, workers, or visitors beyond broad statistics.

This could potentially be the subject of further analysis if funds allow and may also give a more precise understanding of the location and nature of vulnerable communities.

**(iii) Conclusion**

The Panel concludes:

- Council has appropriately considered and responded to submissions from community groups and individuals in framing the Amendment.

## Appendix A Submitters to the Amendment

No.	Submitter
1	South Yarra Residents Association Inc
2	Doxa Community Club Inc
3	Australian Hotels Association (Vic)
4	Anthony van der Craats
5	Claudia Marck
6	Don (undisclosed surname)
7	Astonmill Pty Ltd and 128 Bourke St Pty Ltd
8	Mercury Group Victoria Inc

## Appendix B Document list

No.	Date	Description	On behalf of
1	12/03/2019	Map of Schedules to the Capital City Zone	Council
2	12/03/2019	Map of Submitters	Council
3	12/03/2019	Aerial view of the municipality	Council
4	12/03/2019	Map – Areas subject to a regional cap, municipal cap and uncapped areas and venue locations	Council
5a-k	12/03/2019	Walkability maps prepared by Council officers	Council
6	12/03/2019	Bonnie Rosen (Symplan) expert witness statement, 4 March 2019	Council
7	12/03/2019	Email to Bonnie Rosen from Council attaching consultant project brief dated March 2017	Council
8	12/03/2019	Proposal Melbourne City Council Electronic Gaming Machine Policy Review, 7 April 2017	Council
9	12/03/2019	Response to submissions prepared by Bonnie Rosen, July 2018 Draft	Council
10	12/03/2019	Emails between Department Environment, Land Water and Planning and Council, March 2019	Council
11	12/03/2019	Part A submission	Council
12	12/03/2019	Part B submission	Council
13	13/03/2019	Residential population and projections data prepared by ID Consulting	Council
14	13/03/2019	Melbourne's growth – Daily population by year estimates prepared by Council staff	Council
15	13/03/2019	<i>Pakenham Racing Club Inc v Cardinia SC</i> [2017] VCAT 72	Council
16	13/03/2019	<i>Blue Emporium Pty Ltd &amp; Ors v Stonnington CC</i> [2004] VCAT 292	Council
17	13/03/2019	Melton Planning Scheme Amendment C182 Electronic Gaming Policy, Panel Report dated 11 February 2019	Council
18	13/03/2019	<i>Macedon Ranges SC v Romsey Hotel Pty Ltd</i> [2008] VSCA 45	Council
19	13/03/2019	Social and Economic Impact Assessment, The Meeting Place, City of Melbourne Submission, prepared by Bonnie Rosen, Symplan for Council to submit to the Victorian Commission for Gambling and Liquor Regulation, 31 October 2016	Council
20	13/03/2019	Submission for Australian Hotels Association (Vic) (AHA)	AHA
21	13/03/2019	Laura Thomas (Urbis) expert witness statement, 4 March 2019	AHA

No.	Date	Description	On behalf of
22	13/03/2019	Hearing folder of officers reports and relevant cases	AHA
23	13/03/2019	Bundle of cases referred to in submission	AHA
24	14/03/2019	Submission for Doxa Community Club Inc	Doxa
25	14/03/2019	<i>Hoskin v Greater Bendigo CC</i> [2015] VSCA 350	Doxa
26	14/03/2019	<i>Benmara Pty Ltd v Whittlesea CC</i> [2015] VCAT 1463	Doxa
27	14/03/2019	Colleen Peterson (Ratio) expert witness report, March 2019	Doxa
28	14/03/2019	Bundle of documents pertaining to contributions made by Doxa	Doxa
29	14/03/2019	Extract from <i>Destination Gaming, Evaluating the benefits for Victoria</i> , May 2008	Doxa
30	14/03/2019	<i>Francis Hotel Pty Ltd v Melbourne CC (Red Dot)</i> [2012] VCAT 1896	Doxa
31	14/03/2019	<i>Melbourne CC v Kingfish Victoria Pty Ltd &amp; Anor (Red Dot)</i> [2013] VCAT 1130	Doxa
32	14/03/2019	Original paper – Problem gambling among international and domestic university students in Australia: who is at risk? J Gambl Stud. 2013 June	Doxa
33	14/03/2019	Swinburne University, Bond University, and Deakin University, 'International student gambling: The role of acculturation, gambling cognitions and social circumstances (June 2011)	Doxa
34	15/03/2019	VCGLR decision <i>Tiplane Pty Ltd at Point Cook Hotel premises (Gaming – new premises)</i> , 16 May 2007	Doxa
35	15/03/2019	<i>Walker Corporation Pty Ltd v Wyndham CC</i> [2007] VCAT 1396	Doxa
36	15/03/2019	Panel Preferred version of Amendment (Amended)	Council
37	19/03/2019	Email to Panel about Crown Casino	Council
38	25/03/2019	Email to Panel about wording of the Amendment	Doxa
39	29/03/2019	Council response to email above	Council
40	02/04/2019	Further response on behalf of Doxa	Doxa

## Appendix C Panel preferred version of Schedule to Clause 52.28

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### SCHEDULE TO CLAUSE 52.28 GAMING

#### 1.0

#### Objectives

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- To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to ~~prevent~~ minimise convenience gambling.
- To ensure that where gaming machines operate, they do so as part of ~~the~~ an overall range of social, leisure, entertainment and recreation activities and facilities.
- To manage the concentration of gaming machines and gaming venues ~~in order to redistribute gaming machines and gaming venues~~ away from areas or communities vulnerable to gambling related harms.
- To discourage the proliferation of gaming premises in locations outside the Central City (Capital City Zone and Docklands) where the predominant use is residential, ~~and ensure that gaming venues do not detract from the amenity of surrounding uses.~~
- To ensure that the location and operation of gaming machines ~~achieves net community benefit~~ increases community benefit and decreases community disbenefit.

#### 2.0

#### Prohibition of a gaming machine in a shopping complex

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C307

Installation or use of a gaming machine as specified in Clause 52.28-4 is prohibited on land described in Table 1 below.

**Table 1**

Name of shopping complex and locality	Land description
St Collins Lane, Melbourne	258-274 Collins Street, Melbourne
The Sportsgirl Centre, Melbourne	234-250 Collins Street, Melbourne
The Southern Cross, Melbourne	113-149 Exhibition Street, Melbourne, being land on the west side of Exhibition Street, Melbourne between Bourke Street and Little Collins Street
Melbourne Central Shopping Centre, Melbourne	Land between La Trobe Street and Lonsdale Street, Melbourne
Southgate Plaza, Southbank	Part of the Southgate Complex, Southbank Promenade, Southbank
QV, Melbourne	278-300 Swanston Street, Melbourne
Emporium Melbourne	269-321 Lonsdale Street, Melbourne
The District, Docklands	420-454 Docklands Drive, Docklands
South Wharf Retail	20-30 Convention Centre Place, South Wharf
Spencer Outlet Centre, Docklands	163-261 Spencer Street, Docklands



### 3.0 Prohibition of a gaming machine in a strip shopping centre

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A gaming machine as specified in Clause 52.28-5 is prohibited in all strip shopping centres on land covered by this planning scheme.

### 4.0 Guidelines for the Locations for gaming machines

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Gaming venues and machines should be located:

- Where the community has convenient access to a choice of non-gaming entertainment, leisure, social and recreation uses that operate at the same time as the gaming venue in the surrounding area such as hotels, clubs, cinemas, restaurants, bars, theatres, galleries, exhibition centres, sporting venues and indoor recreation facilities.
- Where they would make a positive contribution to the redistribution of gaming machines away from relatively disadvantaged areas, as defined by the latest SEIFA Index of Relative Socio-economic Disadvantage.

In all locations, gaming venues and machines should not be located:

- In buildings used for residential purposes
- ~~Within locations where the predominant surrounding land use is residential.~~

In areas outside the Central City and urban renewal areas, including Capital City Zone (Schedule 4 – Fishermans Bend), gaming venues and machines should not be located:

- Within 400m walking distance or clear line of site sight of:
  - an existing or approved gaming venue
  - shopping complexes and strip shopping centres
  - ~~public transport interchanges~~ train stations
  - ~~concentrations of~~ social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations)
  - concentrations of student accommodation
  - a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.
- Within locations where the predominant surrounding land use is residential.

Within the Central City (defined as Capital City Zone and Docklands):

Gaming machines or venues should not be located in direct line of sight of:

- a shopping complex (whether or not listed in the Schedule to Clause 52.28-4)
- core retail areas
- a supermarket or other convenience retail facility targeted to meet the day to day needs of customers
- an existing gaming venue
- a train station.

Gaming machines or venues should not be functionally or visually integrated with:

- a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.
- concentrations of student accommodation.
- social housing facilities (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations).

In urban renewal areas including Fishermans Bend and Arden Macaulay:

[Gaming venues should not be established in locations ahead of the provision of non-gambling entertainment, recreation activities and social infrastructure.](#)

## 5.0 **Guidelines for Venues for gaming machines**

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Proposed  
C307

Gaming machines should be located:

- In venues that offer alternative forms of non-gambling activities, such as social, leisure, entertainment and recreation activities during gaming hours
- [In existing venues approved for the operation of gaming machines in preference over new venues](#)
- In venues where the gaming area is physically, visually and functionally separated from non-gambling facilities, passers by, pedestrian and vehicular access and car parking
- In venues that have signage that is of high quality design and does not detract from the visual appearance and amenity of the surrounding area.

Gaming machines should not be located:

- In venues that operate for 24 hours per day
- In venues where the gaming area is more than 25 per cent of the total leasable floor area that is open to the public.

## 6.0 **Application requirements**

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The following application requirements apply to an application for a permit under Clause 52.28, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

*Proposal details*

- A description of the proposal including the following:
  - how the application is consistent with the State and Local Planning Policy Framework
  - existing and proposed number of gaming machines at a venue and within the municipality
  - details regarding the transfer of gaming machines, including number of gaming machines to be ~~transferred~~ relocated, potential changes to the density of gaming machines per 1,000 adults in the municipality and local areas, and potential changes to the number of venues in the municipality
  - details regarding changes to gaming machine expenditure (at a municipal and venue level, per gaming machine and per adult)
  - existing and proposed number of people employed as a direct result of the proposal
  - [a map indicating potential pedestrian paths of travel to and from the venue a 400m walking distance, including identification of public transport opportunities](#)
  - ~~pedestrian counts outside the venue on different days and at a variety of times~~
  - range and operating hours of non-gaming facilities and activities within the venue, including areas licensed to serve and consume alcohol
  - extent of the community contributions and their beneficiaries.

*Location assessment*

- A description of the location of the venue, including the following:
  - land uses within 400m walking distance of the proposed venue [and line of sight](#), including facilities associated with day to day activities, such as shops, major community facilities and public transport networks and hubs that would contribute to convenience gambling
  - location of social support services within 400m walking distance [and line of sight](#) of the proposed venue including problem gambling services, financial counselling services and material and financial aid services

- location of, distance to and operating hours of gaming venues within 400m walking distance [and line of sight](#) of the proposal site
- location and operating hours of alternative non-gaming social, leisure, entertainment and recreation uses, both within the gaming venue and within 400m walking distance [and line of sight](#) of the venue.

*Venue design and operations:*

- Detailed plans of the design and layout of the venue, including the location of all existing and proposed gaming machines, location of existing and proposed gambling and non-gambling facilities, entrances and exits to the gaming lounge, screening, façade treatment, external signage, external lighting, pedestrian and vehicle access and car parking.
- Details of the venue’s non-statutory harm minimisation and responsible gambling practices.

*Social and economic benefits*

- ~~The findings from an academically rigorous representative survey of residents, businesses, community organisations, agencies and service providers within 400m walking distance of the proposed venue. The survey should measure current and anticipated levels of community satisfaction (i.e. happiness, contentment, wellbeing) from living, working and recreating in the local area, and the potential impact of the proposal on current and anticipated levels of community satisfaction.~~
- A robust assessment, prepared by a suitably qualified person, that details the following:
  - SEIFA Index of Relative Socio-economic Disadvantage of the SA1 within which the venue is located, and adjoining SA1’s
  - the impact of the proposal on groups vulnerable to gambling-related harms as a result of their socio-economic and health profile within 400m walking distance of the proposal site.
  - the impact of the proposal on venues from which gaming machines are to be ~~transferred~~ [relocated](#)
  - the impact of the proposal on employment in the municipality
  - the potential for the proposal to contribute to the local economy
  - the social and economic ~~impacts (positive and negative) arising out~~ [effects](#) of the proposal.

**7.0**

**Decision guidelines**

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Proposed  
C307

The following decision guidelines apply to an application for a permit under Clause 52.28, in addition to those specified in Clause 52.28 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal will achieve the objectives and outcomes of this schedule to Clause 52.28.
- Whether the proposal will increase gambling-related harm.
- ~~How the proposal delivers community benefit.~~
- Whether the proposal will contribute to the levels of socio-economic disadvantage or have any other adverse impacts on vulnerable communities.
- Whether the location [and operation](#) of the gaming machines would ~~result in~~ [increase exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than predetermined.](#)
- Whether the proposal would create, or contribute to ~~an existing, spatial~~ [an increased](#) concentration of gaming venues.
- Whether patrons will have access to non-gaming entertainment and recreation facilities in the surrounding area and in the gaming venue that operate at the same time as the gaming machines.
- The impact of the proposal on the safety, amenity, character, tourism and cultural assets of the surrounding land area and municipality.

	PANEL RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE
<b>General panel recommendations</b>			
1	Remove existing Clause 22.12 from the Melbourne Planning Scheme	Accept	<p><u>Discussion:</u> Amendment C307 was prepared and exhibited as a revised local planning policy at Clause 22.12 of the Melbourne Planning Scheme prior to the gazettal of Ministerial Amendment VC148. Amendment VC148 introduced changes to the Victorian Planning Provisions in all planning schemes in Victoria enabling Council to introduce a local gaming provision at Clause 52.28 instead of a local planning policy.</p> <p>This enables the proposed Policy that Council exhibited to be given effect through the Schedule to Clause 52.28 and the existing Clause 22.12 deleted from the Melbourne Planning Scheme.</p> <p><u>Recommendation:</u> Remove Clause 22.12 from the Planning Scheme.</p>
2	Replace exhibited Clause 22.12 with a revised Schedule to Clause 52.28 to the Melbourne Planning Scheme in the form of Appendix C to the Panel Report	Partially accept	See Management Response in Section 1 of this table.
3	Amend policy in the Municipal Strategic Statement (Clause 21) of the Melbourne Planning Scheme in accordance with the version included in Attachment 1 to Council's Part B submission.	Accept	<p><u>Discussion:</u> This change accommodates content that was previously in the 'policy context' section of the exhibited Policy, which, following VC148, is not provided for in the Schedule to Clause 52.28.</p> <p>This change to the Municipal Strategic Statement enables the 'policy basis' to be included within the Melbourne Planning Scheme whilst complying with the Ministerial Direction on the form and content of planning schemes.</p> <p><u>Recommendation:</u> Update the Municipal Strategic Statement to reflect this change.</p>
4	Delete the City of Melbourne Electronic Gaming Machine Review Draft Background Report, October 2017 and City of Melbourne Draft Electronic Gaming Machine Decision-Making Framework, October 2017 from the proposed list of Reference or Background	Accept	<p><u>Discussion:</u> The post VC148 translation of the proposed Policy into a schedule to Clause 52.28 removes the opportunity to list reference documents.</p> <p><i>The Electronic Gaming Machine Draft Background Report, October 2017 (the Background Report) provides background research that underpins Amendment C307. The City of Melbourne Draft Electronic Gaming Machine Decision-Making</i></p>

	Documents under the Melbourne Planning Scheme		<p><i>Framework</i> provides guidance to the City of Melbourne in its role in demonstrating leadership in minimising gambling related harm outside the planning process. These documents are not required to be included in the Planning Scheme as all relevant considerations for a planning permit application have been included in the new schedule to Clause 52.28.</p> <p>However as the purpose of the Decision-Making Framework is to guide Council in all its activities and decisions related to gaming it is appropriate that Council endorse this document.</p> <p><u>Recommendation:</u> Amend the Schedule to Clause 52.28 to reflect this change.</p> <p>Endorse the Decision-Making Framework as Council policy.</p>
<b>Schedule to Clause 52.28 Gaming</b>			
5.	<p>Amend the first objective of Clause 1.0 of the Schedule to Clause 52.28 as follows: Change the word 'prevent' to 'minimise' in the context of convenience gambling to state "To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to <del>prevent</del> <b>minimise</b> convenience gambling"</p>	Accept	<p><u>Discussion:</u> This change is consistent with the intention of Amendment C307.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
6.	<p>Amend the second of objective of Clause 1.0 of the Schedule to Clause 52.28, replacing the word 'the' with 'an' in the following context: To ensure that where gaming machines operate, they do so as part of <del>the</del> <b>an</b> overall range of social, leisure, entertainment and recreation activities and facilities.</p>	Accept	<p><u>Discussion:</u> This is a minor editorial change.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
7.	<p>Amend the third objective of Clause 1.0 of the Schedule to Clause 52.28 as follows: To manage the concentration of gaming machines and gaming venues <del>in order to redistribute gaming machines and gaming venues</del> away from areas <b>or communities</b> vulnerable to gambling related harms</p>	Accept	<p><u>Discussion:</u> This change rephrases the objective and is consistent with the intention of Amendment C307.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
8.	<p>Amend the fourth objective of Clause 1.0 of the Schedule to Clause 52.28 as follows: To discourage the proliferation of gaming premises in locations <b>outside the Central City (Capital City Zone and Docklands)</b> where the predominant use is</p>	Partially accept	<p><u>Discussion:</u> The change recommended by panel to add the words 'outside the Central City (Capital City Zone and Docklands)' is not accepted as it is important to discourage the proliferation of gaming premises where the predominant land use is residential, even if it is in the Central City. This is supported by evidence contained</p>

	residential, and ensure that gaming venues do not detract from the amenity of surrounding uses.		<p>within the Background Report that notes that convenience gambling occurs when venues are easy to get to in relation to a person's home, workplace or facilities used to conduct daily activities, and that this is a determinant of gambling related harm.</p> <p>The Central City has a significant residential population and displays several risk factors associated with gambling related harm. This is discussed in the Background Report which notes that there are features within the City of Melbourne that increase the risk of gambling related harms, such as households with rental stress, median annual household income, the proportion of lone and group households, students, the proportion of young people aged 15-24, the proportion of people who are migrants, and the proportion of people from Culturally and Linguistically Diverse communities. The report states that the Central City is one of the areas within the municipality displaying the most indicators of gambling related harms. Therefore, it is important that the Central City is not excluded from guidance seeking to discourage premises where the predominant land use is residential.</p> <p>The Panel's definition of the Central City is also problematic as will be discussed in row 11 of this table.</p> <p>Removing the reference to amenity of surrounding uses from the objectives is considered appropriate as Amendment C307 is focused on minimising gaming related harm. There are other provisions within the Melbourne Planning Scheme which deal with amenity.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 so that objective 4 reads:</p> <p style="padding-left: 40px;">To discourage the proliferation of gaming machines where the predominant use is residential.</p>
9.	Amend the fifth objective of Clause 1.0 of the Schedule to Clause 52.28 as follows: To ensure that the location and operation of gaming machines achieves net community benefit <b>increases community benefit and decreases community disbenefit.</b>	Accept	<p><u>Discussion:</u> This change is consistent with the intention of the Amendment C307.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
10.	Remove the words 'guidelines for the' in the heading for section 4 of the Schedule to Clause 52.28 'Locations for gaming machines'	Accept	<p><u>Discussion:</u> This is a minor editorial change.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
11.	Restructure Clause 4 of the Schedule to Clause 52.28 so rather than a blanket approach that there are	Accept with	<p><u>Discussion:</u> The panel's approach to restructuring the guidelines to distinguish between areas within the Central City, areas outside the Central City and urban</p>

	<p>provisions for the following:</p> <ul style="list-style-type: none"> <li>• All locations</li> <li>• Areas outside the Central City and urban renewal areas, including Capital City Zone (Schedule 4 – Fishermans Bend)</li> <li>• Areas within the Central City (defined as CCZ and Docklands)</li> <li>• In urban renewal areas including Fishermans Bend and Arden Macaulay</li> </ul>	<p>changes</p>	<p>renewal areas is supported as it enables the provision to be tailored to the characteristics of the different areas. However, the panel's definition of the Central City and urban renewal areas is not supported.</p> <p>Management's response to the recommended guidelines for 'all locations' is discussed in row 12 of this table.</p> <p>Management's response to the recommended guidelines for the Central City is discussed in row 13 of this table.</p> <p>Management's response to the recommended guidelines for urban renewal areas is discussed in row 14 of this table.</p> <p>The definitions of some of the location categories are not supported. The definition of the Central City as CCZ and Docklands includes areas such as Fishermans Bend, City North, Southbank and the Carlton Connect site. These areas have a different context from the Central City in terms of their access, transport, land use and mix of activities (day and night). They do not have the same access to the range of activities on offer in the Central City (which is a protective factor for gambling related harms). Many of these areas also have greater concentrations of predominantly residential areas and significant proportions of student housing, which have shown to be contributing factors in terms of risk of gambling related harms. Therefore, the definition of the Central City should be confined to include land within the Capital City Zone Schedules 1 and 2 (Hoddle Grid area) to better distinguish between the context of the Central City and other areas.</p> <p>The panel's identifying of Arden Macaulay and Fishermans Bend as Urban Renewal areas is also problematic. The Melbourne Planning Scheme identifies several urban renewal areas within Clause 21.04 'Settlement'. These include Southbank, Docklands, Fishermans Bend Urban Renewal Area, City North and Arden Macaulay. There is no discussion about the rationale for singling out Arden Macaulay and Fishermans Bend within the panel report, other than including them as examples of urban renewal areas. It is therefore considered clearer to simply refer to Urban Renewal areas as a location category.</p> <p><u>Recommendation:</u> Amend the Schedule to Clause 52.28 implementing the revised structure for the guidelines to distinguish between the Central City, Urban Renewal areas and other areas. The definition of the Central City should only include land within the Capital City Zone Schedules 1 and 2. The term Urban Renewal areas</p>
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			should not be qualified by the words 'including Fishermans Bend and Arden Macaulay'.
12.	<p>Within Clause 4 of the Schedule to Clause 52.28, removes an assessment criteria that applies to all areas: In all locations, gaming venues and machines should not be located:</p> <ul style="list-style-type: none"> <li>• In buildings used for residential purposes</li> <li>• <del>Within locations where the predominant use is residential</del></li> </ul>	Reject	<p><u>Discussion:</u> As noted in the discussion in row eight, it is considered important to discourage gaming venues from locating in places where the predominant land use is residential regardless of the location within or outside of the central city.</p> <p><u>Recommendation:</u> This change should not be accepted. The Schedule should retain guidance seeking to discourage gaming venues from locating where the predominant use is residential.</p>
13.	<p>Within Clause 4 of the Schedule to Clause 52.28, includes a new provision in Clause 4.0 noting where gaming venues and machines should not be located:</p> <p><b>For Areas Within the Central City:</b>  <b>Gaming machines or venues should not be located in direct line of sight of:</b></p> <ul style="list-style-type: none"> <li>• a shopping complex (whether or not listed in the Schedule to Clause 52.28-4)</li> <li>• core retail areas</li> <li>• a supermarket or other convenience retail facility targeted to meet the day-to-day needs of customers</li> <li>• an existing gaming venue</li> <li>• a train station.</li> </ul> <p><b>Gaming machines or venues should not be functionally or visually integrated with:</b></p> <ul style="list-style-type: none"> <li>• a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.</li> <li>• concentrations of student accommodation.</li> <li>• social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations).</li> </ul>	Accept with minor changes	<p><u>Discussion:</u> The panel changes which identify alternate locational guidance for the Central City are accepted.</p> <p>The exhibited Amendment included guidelines for the whole municipality discouraging gaming venues and machines from locating within 400m walking distance or clear line of site of an existing or approved venue, shopping complexes and strip shopping centres, public transport interchanges, concentrations of social housing, student accommodation and gambling sensitive services or facilities. The panel did not accept this for the Central City when it was demonstrated at the hearing that the 400m metric effectively precluded any new premises from locating in the Central City.</p> <p>The panel recommended that, rather than using the 400m threshold to manage the location of gaming premises, guidelines for the Central City use the term "direct line of sight" and "functional or visual integration" with facilities used by vulnerable groups. By using these terms and including the relevant services and uses, management is confident that new venues or machines will be effectively discouraged in locations where they could contribute to convenience gambling, or are close to those most vulnerable to gambling related harms. This will result in a similar outcome to the 400m threshold.</p> <p>Management recommends removing the word 'facilities' after social housing to provide consistency with where social housing is used elsewhere within the provision.</p> <p>Row 15 of this table explains that major tram stops should be included along with train stations (refer to row 15 of this table for more information).</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect these changes,</p>



			amend it to define the Central City as Capital City Zones 1 and 2 and add major tram stops along with train stations.
14.	<p>Within Clause 4 of the Schedule to Clause 52.28, adds:</p> <p>In urban renewal areas including Fishermans Bend and Arden Macaulay:  <b>Gaming venues should not be established in locations ahead of the provision of non-gambling entertainment, recreation activities and social infrastructure.</b></p>	Accept with changes	<p><u>Discussion:</u> This change provides guidance on the location of venues specific to urban renewal areas.</p> <p>Panel has added provisions to not support gaming venues ahead of the establishment of other forms of entertainment. This is consistent with the harm minimisation objectives of the provision and is supported by Management.</p> <p>However, the urban renewal provision should also include guidelines to address the circumstance where non-gambling entertainment uses <i>have</i> been provided. Otherwise there is no guidance within Schedule to Clause 52.28 where this situation arises. Management therefore recommends that the provision be amended to ensure that where non-gambling entertainment uses have been provided, the guidelines relevant to venues outside the Central City should be applied.</p> <p>The Panel's definition of urban renewal areas is not supported as outlined in row 11 of this table.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to state the following:</p> <p>In urban renewal areas:</p> <ul style="list-style-type: none"> <li>• Gaming venues should not be established in locations ahead of the provision of non-gambling entertainment, recreation activities and social infrastructure.</li> <li>• Where there is provision of non-gambling entertainment, recreation activities and social infrastructure, section 4.2.2 of this clause applies.</li> </ul>
15	<p>Within Clause 4 of the Schedule to Clause 52.28, amends the reference to public transport interchanges to a reference to train stations:</p> <ul style="list-style-type: none"> <li>• Within 400m walking distance or clear line of sight of: <ul style="list-style-type: none"> <li>- an existing or approved gaming venue</li> <li>- shopping complexes and strip shopping centres</li> <li>- <del>public transport interchanges</del></li> </ul> </li> </ul>	Accept with changes	<p><u>Discussion:</u></p> <p>The panel report notes that the term 'public transport interchanges' is not readily defined or understood. Management accepts this finding.</p> <p>'Transport interchange' could mean tram, train or bus stops where two or more lines (or modes of transport) meet. The panel considers that there is not sufficient strategic basis to discourage venues from locating within 400m of a public transport interchange (effectively most intersections within the Central City).</p> <p>The intention behind including transport interchanges as a locational guideline is to</p>

	<b>train stations</b>		<p>address convenience gambling, where significant numbers of people are exposed to gaming opportunities as part of day to day activities. It is appropriate to discourage gaming machines from busy public transport interchanges.</p> <p>Management's view is that this should extend beyond train stations. Several tram stops in the Central City cater for as many or more passengers than most suburban train stations, service a diverse catchment, cater to major events and provide key connections, for instance major stops along St Kilda Road, Swanston Street and Victoria Street. Given their role, major tram stops should be included alongside train stations to effectively address convenience gambling. Therefore, Schedule to Clause 52.28 should specify train stations and major tram stops within the location guidelines.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to include major tram stops where train stations are mentioned in Clause 4 of the Schedule to Clause 52.28.</p>
16.	Removes the words 'guidelines for the' in the heading for section 5 'Venues for gaming machines'	Accept	<p><u>Discussion:</u> Minor editorial change.</p> <p><u>Recommendation:</u> Amend the Schedule to Clause 52.28 to reflect this change.</p>
17.	In section 5.0 'Venues for gaming machines' adds a provision that notes that gaming machines should be located <b>in existing venues approved for the operation of gaming machines in preference over new venues</b>	Accept	<p><u>Discussion:</u> This change recommended by Panel supports the principle that the impacts of additional machines in existing venues are lesser than impacts of new venues.</p> <p><u>Recommendation:</u> Amend the Schedule to Clause 52.28 to reflect this change.</p>
18.	<p>In section 6.0 Application requirements 'proposal details', substitutes the word 'transferred' to 'relocated' in the following sentence: A description of the proposal including: ...</p> <ul style="list-style-type: none"> <li>- details regarding the transfer of gaming machines, including number of gaming machines to be <del>transferred</del> <b>relocated</b>, potential changes to the density of gaming machines per 1,000 adults in the municipality and local areas, and potential changes to the number of venues in the municipality</li> </ul> <p>Substitutes the following:</p>	Partially accept	<p><u>Discussion:</u> The change substituting the word 'transferred' to 'relocated' is a minor editorial change.</p> <p>The additional requirement seeking a map indicating pedestrian paths of travel is supported. This will provide information relating to accessibility of a venue.</p> <p>However, the removal of pedestrian counts from the application requirements is not accepted. The panel notes that pedestrian counts have limited value in a context with high pedestrian flows (such as the Central City). However, there can be significant differences in pedestrian traffic within all parts of the municipality, including the Central City. As discussed in the Background Report, there is a link between pedestrian traffic, the visibility and spontaneous decisions to gamble, with spontaneous decisions to gamble more likely to occur in areas with higher levels of pedestrian activities. Therefore, information regarding the intensity of pedestrian</p>

	<p>- a map indicating potential pedestrian paths of travel to and from the venue within 400m walking distance, including identification of public transport opportunities</p> <p><del>– pedestrian counts outside the venue on different days and at a variety of times</del></p>		<p>traffic is useful.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect the change of the word ‘transferred’ to ‘relocated’, and add the following application requirement:</p> <ul style="list-style-type: none"> <li>• a map indicating potential pedestrian paths of travel to and from the venue within 400m walking distance, including identification of public transport opportunities</li> </ul> <p>No changes are recommended to remove the application requirement for pedestrian counts.</p>
19	<p>In section 6.0 Application requirements ‘location assessment’, adds ‘line of sight’ when discussing a 400m distance:</p> <ul style="list-style-type: none"> <li>- land uses within 400m walking distance of the proposed venue <b>and line of sight</b>, including facilities associated with day to day activities, such as shops, major community facilities and public transport networks and hubs that would contribute to convenience gambling</li> <li>- location of social support services within 400m walking distance <b>and line of sight</b> of the proposed venue including problem gambling services, financial counselling services and material and financial aid services</li> </ul>	Accept	<p><u>Discussion:</u> This change assists the operation of the Schedule to Clause 52.28 in line with Panel recommendation 13 discussed in this table which Management supports.</p> <p>However, for the first sentence, the words ‘and line of sight’ should be moved to directly follow ‘400m walking distance’ as below:</p> <ul style="list-style-type: none"> <li>• land uses within 400m walking distance <b>and line of sight</b> of the proposed venue, including facilities associated with day to day activities, such as shops, major community facilities and public transport networks and hubs that would contribute to convenience gambling</li> </ul> <p>This provides consistency and to improves the clarity of the sentence.</p> <p><u>Recommendation:</u> The Schedule should be amended to reflect the recommendations of the Panel, though with the ‘and line of sight’ consistently added after ‘400m walking distance’.</p>
20	<p>In section 6.0 Application requirements ‘social and economic benefits’, deletes the following:</p> <p><del>The findings from an academically rigorous representative survey of residents, businesses, community organisations, agencies and service providers within 400m walking distance of the proposed venue. The survey should measure current and anticipated levels of community satisfaction (i.e. happiness, contentment, wellbeing) from living, working and recreating in</del></p>	Accept	<p><u>Discussion:</u> Removing the application requirement for a survey is accepted. Within Clause 6.4, ‘social and economic benefits’ of the Schedule to Clause 52.28, there is a requirement for a robust assessment, prepared by a suitably qualified person, that details the following:</p> <ul style="list-style-type: none"> <li>• SEIFA Index of Relative Socio-economic Disadvantage of the SA1 within which the venue is located, and adjoining SA1s</li> <li>• the impact of the proposal on groups vulnerable to gambling-related harms as a result of their socio-economic and health profile within</li> </ul>

	<p><del>the local area, and the potential impact of the proposal on current and anticipated levels of community satisfaction.</del></p> <p>Substitutes the word 'transferred' with 'relocated' as below:</p> <p>the impact of the proposal on venues from which gaming machines are to be <del>transferred</del> <b>relocated</b></p> <p>Rephrases the below:</p> <p><del>the social and economic impacts (positive and negative) arising out of</del> <b>effects</b> of the proposal.</p>		<p>400m walking distance of the proposal site.</p> <ul style="list-style-type: none"> <li>• the impact of the proposal on venues from which gaming machines are to be relocated</li> <li>• the impact of the proposal on employment in the municipality</li> <li>• the potential for the proposal to contribute to the local economy</li> <li>• the social and economic effects of the proposal.</li> </ul> <p>Management considers that should a survey be considered necessary, it may be captured within this requirement. Therefore, it is considered appropriate to delete the requirement for a survey it its own right.</p> <p>The remaining substitutions represent minor editorial changes and are accepted.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>
21	<p>In section 7.0 Decision Guidelines</p> <ul style="list-style-type: none"> <li>- Remove the decision guideline 'how the proposal delivers community benefit</li> </ul> <p>Alter 'Whether the location <b>and operation</b> of the gaming machines would <del>result in</del> <b>increase exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than predetermined.</b></p> <ul style="list-style-type: none"> <li>- Whether the proposal would create, or contribute to <del>an existing, spatial</del> <b>an increased concentration of gaming venues.</b></li> </ul>	Partially accept	<p><u>Discussion:</u> Removing the decision guidelines related to how the proposal delivers community benefit is not accepted. Community benefit is a relevant consideration within the Planning Scheme, and is an objective within the Policy. Therefore, it is necessary to include a decision guideline regarding community benefit to enable decision makers to ensure that the objective can be met.</p> <p>All other changes relating to decision guidelines are accepted as they are editorial changes only.</p> <p><u>Recommendation:</u> Update the Schedule to Clause 52.28 to reflect this change.</p>

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## SCHEDULE TO CLAUSE 52.28 GAMING

**Gaming Planning Provisions Committee**  
**6 August 2019**

### 1.0

#### Objectives

- To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to ~~prevent~~ minimise convenience gambling.
- To ensure that where gaming machines operate, they do so as part of ~~the an~~ overall range of social, leisure, entertainment and recreation activities and facilities.
- To manage the concentration of gaming machines and gaming venues ~~in order to redistribute gaming machines and gaming venues~~ away from areas or communities vulnerable to gambling related harms.
- To discourage the proliferation of gaming premises in locations where the predominant use is residential, ~~and ensure that gaming venues do not detract from the amenity of surrounding uses.~~
- To ensure that the location and operation of gaming machines ~~achieves net community benefit~~ increases community benefit and decreases community disbenefit.

### 2.0

#### Prohibition of a gaming machine in a shopping complex

Installation or use of a gaming machine as specified in Clause 52.28-4 is prohibited on land described in Table 1 below.

**Table 1**

Name of shopping complex and locality	Land description
St Collins Lane, Melbourne	258-274 Collins Street, Melbourne
The Sportsgirl Centre, Melbourne	234-250 Collins Street, Melbourne
The Southern Cross, Melbourne	113-149 Exhibition Street, Melbourne, being land on the west side of Exhibition Street, Melbourne between Bourke Street and Little Collins Street
Melbourne Central Shopping Centre, Melbourne	Land between La Trobe Street and Lonsdale Street, Melbourne
Southgate Plaza, Southbank	Part of the Southgate Complex, Southbank Promenade, Southbank
QV, Melbourne	278-300 Swanston Street, Melbourne
Emporium Melbourne	269-321 Lonsdale Street, Melbourne
The District, Docklands	420-454 Docklands Drive, Docklands
South Wharf Retail	20-30 Convention Centre Place, South Wharf
Spencer Outlet Centre, Docklands	163-261 Spencer Street, Docklands

### 3.0

#### Prohibition of a gaming machine in a strip shopping centre

A gaming machine as specified in Clause 52.28-5 is prohibited in all strip shopping centres on land covered by this planning scheme.

### 4.0

#### ~~Guidelines for the L~~ Locations for gaming machines

4.1 Gaming venues and machines should be located:

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- Where there is provision of non-gambling entertainment, recreation activities and social infrastructure, section 4.2.2 of this policy applies.

## 5.0

### ~~Guidelines for v~~ Venues for gaming machines

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#### 5.1 Gaming machines should be located:

- In venues that offer alternative forms of non-gambling activities, such as social, leisure, entertainment and recreation activities during gaming hours
- In existing venues approved for the operation of gaming machines in preference over new venues
- In venues where the gaming area is physically, visually and functionally separated from non-gambling facilities, passersby, pedestrian and vehicular access and car parking
- In venues that have signage that is of high quality design and does not detract from the visual appearance and amenity of the surrounding area.

#### 5.2 Gaming machines should not be located:

- In venues that operate for 24 hours per day
- In venues where the gaming area is more than 25 per cent of the total leasable floor area that is open to the public.

## 6.0

### Application requirements

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The following application requirements apply to an application for a permit under Clause 52.28, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

#### 6.1 Proposal details

- A description of the proposal including the following:
  - how the application is consistent with the State and Local Planning Policy Framework
  - existing and proposed number of gaming machines at a venue and within the municipality
  - details regarding the transfer of gaming machines, including number of gaming machines to be ~~transferred~~relocated, potential changes to the density of gaming machines per 1,000 adults in the municipality and local areas, and potential changes to the number of venues in the municipality
  - details regarding changes to gaming machine expenditure (at a municipal and venue level, per gaming machine and per adult)
  - existing and proposed number of people employed as a direct result of the proposal
  - a map indicating potential pedestrian paths of travel to and from the venue within 400m walking distance, including identification of public transport opportunities
  - pedestrian counts outside the venue on different days and at a variety of times
  - range and operating hours of non-gaming facilities and activities within the venue, including areas licensed to serve and consume alcohol
  - extent of the community contributions and their beneficiaries.

#### 6.2 Location assessment

- A description of the location of the venue, including the following:
  - land uses within 400m walking distance of the proposed venue and line of sight, including facilities associated with day to day activities, such as

- Whether the location and operation of the gaming machines would ~~result in convenience gaming~~ increase exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than predetermined.
- Whether the proposal would create, or contribute to an ~~existing, spatial~~ increased concentration of gaming venues.
- Whether patrons will have access to non-gaming entertainment and recreation facilities in the surrounding area and in the gaming venue that operate at the same time as the gaming machines.
- The impact of the proposal on the safety, amenity, character, tourism and cultural assets of the surrounding land area and municipality.

MELBOURNE PLANNING SCHEME  
MELBOURNE PLANNING SCHEME AMENDMENT C307 (GAMING) – CITY OF MELBOURNE PANEL PREFERRED VERSION**21.02 MUNICIPAL PROFILE**05/10/2018  
GC8112/09/2013  
Proposed  
C307**21.02–1 Context and history**

Melbourne is Victoria's capital city and at its heart is the City of Melbourne. The Municipality is the location for many of the State's premier economic and cultural infrastructure and for a wide diversity of uses 24 hours a day, 7 days a week including office and commercial, cultural, leisure, entertainment, research, educational and residential uses. The City is the venue for many major events and festivals attracting visitors from the metropolitan area, Victoria, interstate and globally.

The City of Melbourne is on the Yarra River Estuary where the Yarra and Maribyrnong Rivers and Moonee Ponds Creek meet Port Phillip Bay. Five inner city municipalities and the Port of Melbourne surround the municipality. The Port is under the planning jurisdiction of the Port of Melbourne Corporation. Places Victoria administers the Docklands development area.

For 30,000 to 40,000 years before the arrival of European settlers, the indigenous peoples occupied the area. For the hunter-gatherers from the Wurundjeri, Boonwurrung and Wathaurong tribes of the Kulin nation alliance it was an important meeting place and source of food and water.

Permanent European settlement began in 1835. The surveyor Robert Hoddle laid out the City of Melbourne between 1837 and 1851. Over the next 20 years, the early city developed its key features: the orderly grid and hierarchy of streets, lanes and arcades (the Hoddle Grid); the intricate subdivision pattern; the main boulevards radiating to the northwest, north, east and south; the parks and gardens that ring the City; and the government and public buildings.

The Hoddle Grid developed as a dense and heterogeneous cityscape with a regular and legible pattern of streets and public spaces. On the hills at the east and west ends of the grid there are high-rise commercial precincts. The gully spanning Swanston and Elizabeth Streets has a lower building scale. It has predominantly retail, cafes, restaurants, and professional services, and attracts very high pedestrian activity. In the 1980s, the central city development expanded across the river into Southbank's redundant industrial precincts and made the Yarra River an important focus of the Central City.

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The City's assets include its historic precincts, streetscapes and buildings, the public spaces and activities along the Yarra River corridor including the Sports and Entertainment Precinct, Southbank cultural precinct and river promenade, its ring of parks and gardens, well established, diverse and easily accessible business districts, and its attractive residential areas. The City's laneways and arcades are one of the most iconic elements of the City's character, its social and cultural life and local economy.

One of the great Victorian-era cities in the world, the City contains many precincts, intact streetscapes and buildings recognised for their cultural heritage significance. While mostly known for its Victorian and Edwardian streetscapes, there are many examples of outstanding interwar, post war and contemporary architecture in the municipality.



**21.02-2 Melbourne’s growth**

12/09/2013  
 C162

The MSS envisages the continued intensive growth in the municipality. The residential population of 53,200 in 2001 has grown by 85 per cent to 98,200 in 2011. By 2030, this could reach 177,000 people. (ABS and COM City User forecasts)

The daily visitor population is also growing with the 705,000 workers, students and visitors now coming into the Municipality each day, expected to exceed one million by 2030. (COM City User forecasts)

The City is a national and international tourist destination and the State’s entertainment and celebration capital, regularly drawing crowds from metropolitan Melbourne, regional Victoria and beyond. In 2011, there were approximately 73,000 daily tourist visitors to the municipality. By 2020, around 84,000 national and international visitors are expected. (COM City User forecasts) The numerous large sports and entertainment venues, convention facilities and cultural facilities draw visitors to the city.

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The City of Melbourne has a young population with the median age of residents being 33 years. There is a much greater proportion of people aged 12-25, and a smaller proportion of children under 12 years compared to the metropolitan region. (ID Consulting 2011)

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The City is ethnically and culturally diverse. This diversity is made up of people from 140 different ethnic communities. Approximately 57 per cent of the population were born overseas and about 48 per cent of households speak a language other than English compared to 36 per cent and 32 per cent respectively for the rest of Melbourne. (ID Consulting 2011)

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**Comment [CC1]:** Change made in Panel Preferred Version.  
 Relocated from *Clause 22.12 Gaming Policy Basis*.

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12/09/2013  
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**21.02-5 Prosperous City**05/10/2018  
GC81

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12/09/2013  
C162

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The Sydney-Melbourne air route is the fourth busiest in the world. Fast daily passenger transport between the capital city centres is essential for Melbourne’s business and tourist connections globally and regionally.

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## 21.10 INFRASTRUCTURE

12/09/013  
C162

Growth and development in the municipality will require a matching provision of infrastructure. The expansion and upgrading of roads, utilities, community facilities and public open space will be required to service the growth of resident, worker and visitor populations. Key to this planning is to facilitate the efficient use of existing infrastructure, reinforce those key elements and plan for future needs and requirements.

### 21.10 – 1 Renewable energy and efficient water use

12/09/013  
C162

**Objective 1 To develop integrated precinct utilities to reduce greenhouse gas emissions and increase resilience to climate change.**

Strategy 1.1 Encourage precinct wide integrated water management systems including water sourced from tri-generation power systems.

Strategy 1.2 Encourage precinct wide integrated tri-generation systems to distribute power, heating, cooling and water.

### 21.10 – 2 Open Space

12/09/013  
C162

**Objective 1 To maintain, enhance and increase Melbourne’s public open space network and promote greening of the City.**

Strategy 1.1 Support the development and implementation of Park Master plans.

Strategy 1.2 Ensure parks, gardens, waterways and open spaces remain a prominent element of the City’s structure and character.

Strategy 1.3 Ensure there is no net loss of the area of public open space and secure new public open space where opportunities arise.

Strategy 1.4 Support the maintenance and creation of a variety of public open space to meet the needs of the growing population for formal and informal outdoor recreation.

Strategy 1.5 Ensure that development in and surrounding the City’s parks and gardens does not adversely impact on the solar access, recreational, cultural heritage, environmental and aesthetic values, or amenity, of the open space.

Strategy 1.6 Protect heritage significant trees and landscapes in parks and heritage areas.

Strategy 1.7 Provide an integrated network of public open spaces in Urban Renewal areas.

**Objective 2 To provide a diversity of uses in parks where consistent with Park Master plans.**

Strategy 2.1 Ensure parks are safe and accessible.

Strategy 2.2 Protect and enhance the biodiversity and habitat value of the City’s parks, gardens, open space and waterways.

Strategy 2.3 Ensure that activities, buildings and works in the City’s parks and gardens are consistent with Parks Master plans.

Strategy 2.4 Discourage activities, buildings and works that are not specifically related to the park and its use and that lead to the alienation of the park.

### 21.10 – 3 Education facilities

12/09/013  
C162

**Objective 1 To support education activities.**

Strategy 1.1 Support primary, secondary and tertiary education facilities, whilst protecting the amenity of Residential and Mixed Use zoned areas and the heritage values of areas with cultural heritage significance, consistent with the local amenity.

Strategy 1.2 Support interaction and collaboration between education institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

**Objective 2 To ensure a high standard of ‘soft infrastructure’ to support innovative activity and education.**

Strategy 2.1 Support accommodation, services and facilities, which serve and attract a highly skilled labour pool.

Strategy 2.2 Support the provision of facilities and services for students and researchers.

Strategy 2.3 Support affordable accommodation options for students.

**21.10-4 Health Facilities**

12/09/013  
C162

**Objective 1 To support medical, and research activities.**

Strategy 1.1 Support the operation of the City’s hospitals and their intensive care–trauma facilities and capacity.

Strategy 1.2 Support the clustering of hospitals and their continued operation and development in their current locations.

Strategy 1.3 Support interaction and collaboration between medical and research institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

Strategy 1.4 Discourage uses or development near hospitals that prejudice public safety or risk reducing the efficiency or safe delivery of acute health care, trauma and emergency services (including 24 hour emergency helicopter access).

Strategy 1.6 Ensure that all new knowledge and innovation uses manage off site impacts such as noise, traffic generation and parking.

**Objective 2 To encourage research and development uses throughout the City.**

Strategy 2.1 Encourage research and development uses throughout the municipality.

Strategy 2.2 Encourage research and development activity clusters, including biotechnology uses, throughout the municipality.

**21.10-5 Community Facilities**

12/09/013  
C162

**Objective 1 To provide facilities which meet the needs of the community.**

Strategy 1.1 Provide new community facilities, where needed, in strategic re-development sites and in areas of population growth and development.

Strategy 1.2 Integrate new community facilities or renewed community facilities with residential developments in order to provide the appropriate balance and mix of facilities.

Strategy 1.3 Encourage co-location of complementary facilities.

Strategy 1.4 Ensure all future community facilities can accommodate multipurpose uses where appropriate and can be adapted to suit the needs of the community.

**21.10-6**

12/09/013  
C162  
Proposed  
C307

**Cultural/Arts and Entertainment Facilities**

**Objective 1 To provide a diverse range of leisure, arts, cultural and entertainment facilities.**

Strategy 1.1 Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City.

Strategy 1.2 Support quality public institutions, including art galleries, libraries and museums, throughout the municipality, where consistent with the local amenity.

Strategy 1.3 Support entertainment, music and cultural attractions in Commercial and Mixed Use Zones, where consistent with the local amenity.

**Objective 2 Enhance the City as Victoria’s pre-eminent cultural and entertainment location.**

Strategy 2.1 Support and encourage the growth of a vibrant cultural environment in the Hoddle Grid, Southbank and Docklands, by supporting entertainment uses, music and the arts.

Strategy 2.2 Support the City’s major sports facilities and parks in recognition of their national significance.

Strategy 2.3 Promote the Docklands waterfront as a tourism and leisure destination of State significance.

**Objective 3 To minimise gaming-related harms**

**Strategy 3.1 Ensure that the location, design and operation of gaming venues across the City minimises gaming related harms to the individual and the community.**

**21.10-7**

12/09/013  
C162

**Communications infrastructure**

**Objective 1 To ensure that Melbourne has the infrastructure and capacity to meet anticipated information, communication and technology (ICT) needs.**

Strategy 1.1 Encourage the incorporation of information, technology and communication infrastructure in new developments.

Strategy 1.2 Encourage co-location of communications infrastructure.

**Objective 2 To minimise the visual impact of communications infrastructure and other utilities infrastructure.**

Strategy 2.1 Ensure that the presence and visibility of communications infrastructure and utilities in heritage areas or upon parkland does not unreasonably impact on the heritage place or precinct, or on parkland values.

**21.12 HODDLE GRID**

30/07/2015  
C246  
Proposed  
C307

**Housing**

- Support permanent and short term residential development in the Hoddle Grid that accommodates a diverse population.

**Economic development**

- Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.
- [Discourage the spatial concentration of gaming machines.](#)
- Encourage the retention and enhancement of specialised shopping and entertainment precincts within the Hoddle Grid, particularly, Hardware Lane, Chinatown, Collins Street and Little Collins Street.
- Support entertainment, bars, eating and other evening uses throughout the Hoddle Grid.
- Support the Retail Core as a compact, high-density retail precinct and facilitate easy pedestrian access.
- Support the consolidation of education clusters on the northern and western edges of the Hoddle Grid and in Flinders Street.
- Ensure the Northbank of the Yarra River has increased open space opportunities.
- Support the Queen Victoria Market as a retail and tourist facility, and as a heritage asset of State significance.
- Ensure the form and use of development around the Queen Victoria Market does not detract from its amenity nor compromise its 24 hour function.

**Built Environment and Heritage**

- Protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces.
- Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets.
- Facilitate the civic and ceremonial function of Swanston Street.
- Enhance Swanston Street as part of a boulevard axis which runs from Princes Park to St Kilda Road.
- Maintain a low rise form and streetscapes in the Retail Core and along key views to ensure an intimate pedestrian scale and views to key buildings are maintained.
- Ensure a clear edge between the taller built form of the Capital City Zone and the Docklands Zone and the lower form of the surrounding areas.
- Ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.
- Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.
- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.

MELBOURNE PLANNING SCHEME  
MELBOURNE PLANNING SCHEME AMENDMENT C307 (GAMING) – CITY OF MELBOURNE PANEL PREFERRED VERSION

- Ensure that new tall buildings add architectural interest to the city’s sky line.
- Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.
- Ensure high quality and robust public space design in arcade and laneway upgrades.
- Link arcades and laneways in the Hoddle Grid.
- Encourage arcade and laneway links between streets and public spaces.
- Ensure development fronting streets creates a continuous building edge and integrated streetscape.
- Ensure that security treatments for shop fronts allow for views into the premises at night and positively contribute to the streetscape.
- Ensure the ground level design of shop fronts on Swanston Street contribute to its role as a pre-eminent retail and lifestyle avenue and entry axis to the Retail Core.
- Ensure sunlight penetration in the middle of the day to key public spaces, appropriate to their role and function.
- Protect the Yarra River and its south bank from overshadowing throughout the year.

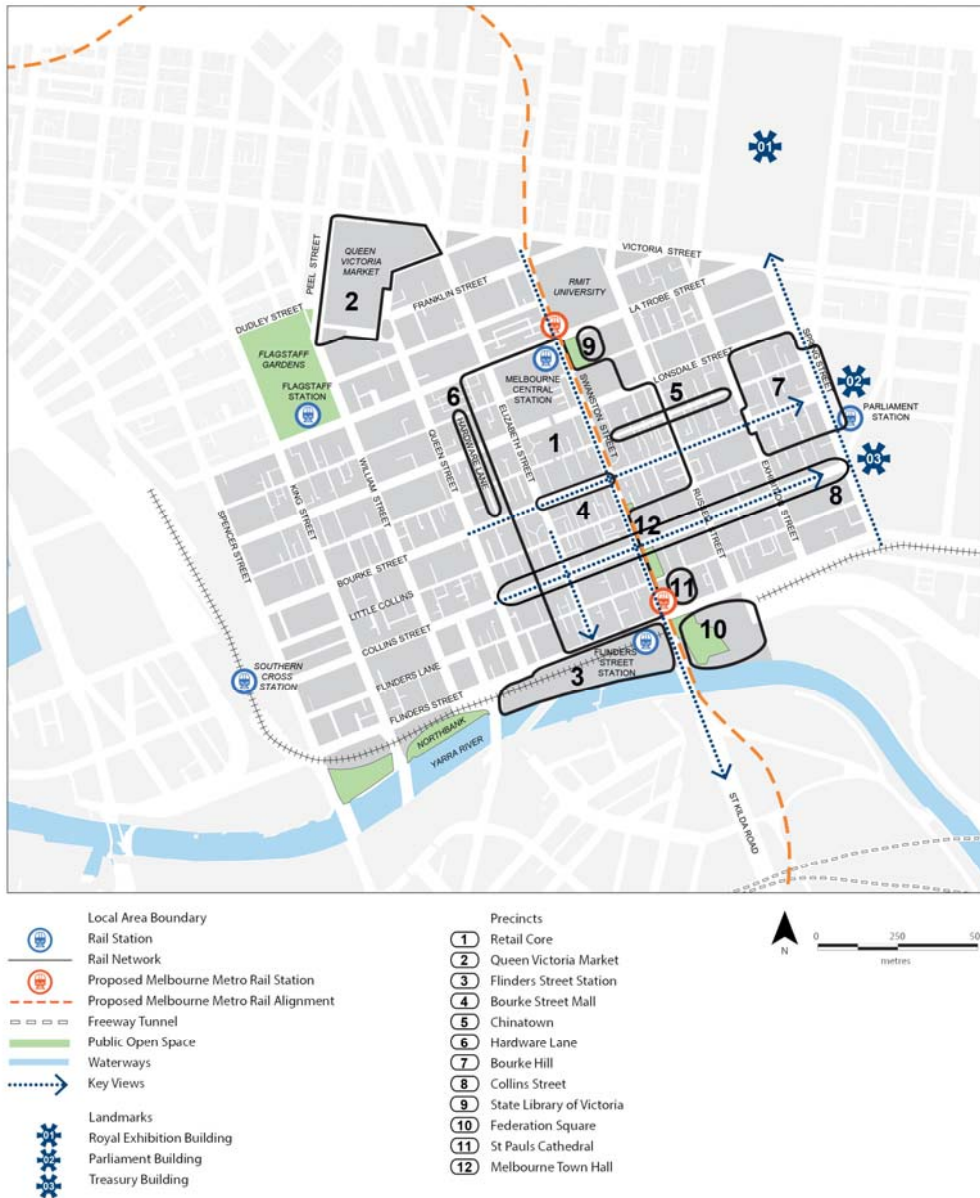
**Transport**

- Ensure that pedestrian use is given priority in the Hoddle Grid.
- Facilitate the development of the Bourke Street Mall as a high quality pedestrian and retail space.
- Ensure that developments provide weather protection along key pedestrian routes and areas, where this does not conflict with building or streetscape integrity.
- Ensure that the design of buildings and public realm in the Hoddle Grid enhances the safety of pedestrians, visitors and occupants of buildings.
- Ensure streets and open space are physically and visually linked to the waterfront, where practicable.
- Develop better links between the south western edge of the Hoddle Grid and the Yarra River.
- Develop better links between the water side entertainment and recreational attractions of the north and south banks of the Yarra.
- Encourage the provision of pedestrian links to the Queen Victoria Market from surrounding areas.



MELBOURNE PLANNING SCHEME  
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Figure 6: Hoddle Grid



## 21.02 MUNICIPAL PROFILE

### 21.02–1 Context and history

05/10/2018  
GC81

12/09/2013  
Proposed  
C307

Melbourne is Victoria's capital city and at its heart is the City of Melbourne. The Municipality is the location for many of the State's premier economic and cultural infrastructure and for a wide diversity of uses 24 hours a day, 7 days a week including office and commercial, cultural, leisure, entertainment, research, educational and residential uses. The City is the venue for many major events and festivals attracting visitors from the metropolitan area, Victoria, interstate and globally.

The City of Melbourne is on the Yarra River Estuary where the Yarra and Maribyrnong Rivers and Moonee Ponds Creek meet Port Phillip Bay. Five inner city municipalities and the Port of Melbourne surround the municipality. The Port is under the planning jurisdiction of the Port of Melbourne Corporation. Places Victoria administers the Docklands development area.

For 30,000 to 40,000 years before the arrival of European settlers, the indigenous peoples occupied the area. For the hunter-gatherers from the Wurundjeri, Boonwurrung and Wathaurong tribes of the Kulin nation alliance it was an important meeting place and source of food and water.

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**21.10 INFRASTRUCTURE**12/09/013  
C162

Growth and development in the municipality will require a matching provision of infrastructure. The expansion and upgrading of roads, utilities, community facilities and public open space will be required to service the growth of resident, worker and visitor populations. Key to this planning is to facilitate the efficient use of existing infrastructure, reinforce those key elements and plan for future needs and requirements.

**21.10 – 1 Renewable energy and efficient water use**12/09/013  
C162

**Objective 1 To develop integrated precinct utilities to reduce greenhouse gas emissions and increase resilience to climate change.**

Strategy 1.1 Encourage precinct wide integrated water management systems including water sourced from tri-generation power systems.

Strategy 1.2 Encourage precinct wide integrated tri-generation systems to distribute power, heating, cooling and water.

**21.10 – 2 Open Space**12/09/013  
C162

**Objective 1 To maintain, enhance and increase Melbourne's public open space network and promote greening of the City.**

Strategy 1.1 Support the development and implementation of Park Master plans.

Strategy 1.2 Ensure parks, gardens, waterways and open spaces remain a prominent element of the City's structure and character.

Strategy 1.3 Ensure there is no net loss of the area of public open space and secure new public open space where opportunities arise.

Strategy 1.4 Support the maintenance and creation of a variety of public open space to meet the needs of the growing population for formal and informal outdoor recreation.

Strategy 1.5 Ensure that development in and surrounding the City's parks and gardens does not adversely impact on the solar access, recreational, cultural heritage, environmental and aesthetic values, or amenity, of the open space.

Strategy 1.6 Protect heritage significant trees and landscapes in parks and heritage areas.

Strategy 1.7 Provide an integrated network of public open spaces in Urban Renewal areas.

**Objective 2 To provide a diversity of uses in parks where consistent with Park Master plans.**

Strategy 2.1 Ensure parks are safe and accessible.

Strategy 2.2 Protect and enhance the biodiversity and habitat value of the City's parks, gardens, open space and waterways.

Strategy 2.3 Ensure that activities, buildings and works in the City's parks and gardens are consistent with Parks Master plans.

Strategy 2.4 Discourage activities, buildings and works that are not specifically related to the park and its use and that lead to the alienation of the park.

**21.10 – 3 Education facilities**12/09/013  
C162

**Objective 1 To support education activities.**

Strategy 1.1 Support primary, secondary and tertiary education facilities, whilst protecting the amenity of Residential and Mixed Use zoned areas and the heritage values of areas with cultural heritage significance, consistent with the local amenity.

Strategy 1.2 Support interaction and collaboration between education institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

**Objective 2 To ensure a high standard of ‘soft infrastructure’ to support innovative activity and education.**

Strategy 2.1 Support accommodation, services and facilities, which serve and attract a highly skilled labour pool.

Strategy 2.2 Support the provision of facilities and services for students and researchers.

Strategy 2.3 Support affordable accommodation options for students.

**21.10-4 Health Facilities**

12/09/013  
C162

**Objective 1 To support medical, and research activities.**

Strategy 1.1 Support the operation of the City’s hospitals and their intensive care–trauma facilities and capacity.

Strategy 1.2 Support the clustering of hospitals and their continued operation and development in their current locations.

Strategy 1.3 Support interaction and collaboration between medical and research institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

Strategy 1.4 Discourage uses or development near hospitals that prejudice public safety or risk reducing the efficiency or safe delivery of acute health care, trauma and emergency services (including 24 hour emergency helicopter access).

Strategy 1.6 Ensure that all new knowledge and innovation uses manage off site impacts such as noise, traffic generation and parking.

**Objective 2 To encourage research and development uses throughout the City.**

Strategy 2.1 Encourage research and development uses throughout the municipality.

Strategy 2.2 Encourage research and development activity clusters, including biotechnology uses, throughout the municipality.

**21.10-5 Community Facilities**

12/09/013  
C162

**Objective 1 To provide facilities which meet the needs of the community.**

Strategy 1.1 Provide new community facilities, where needed, in strategic re-development sites and in areas of population growth and development.

Strategy 1.2 Integrate new community facilities or renewed community facilities with residential developments in order to provide the appropriate balance and mix of facilities.

Strategy 1.3 Encourage co-location of complementary facilities.

Strategy 1.4 Ensure all future community facilities can accommodate multipurpose uses where appropriate and can be adapted to suit the needs of the community.

**21.10-6 Cultural/Arts and Entertainment Facilities**

12/09/013

Proposed  
C307

**Objective 1 To provide a diverse range of leisure, arts, cultural and entertainment facilities.**

Strategy 1.1 Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City.

Strategy 1.2 Support quality public institutions, including art galleries, libraries and museums, throughout the municipality, where consistent with the local amenity.

Strategy 1.3 Support entertainment, music and cultural attractions in Commercial and Mixed Use Zones, where consistent with the local amenity.

**Objective 2 Enhance the City as Victoria's pre-eminent cultural and entertainment location.**

Strategy 2.1 Support and encourage the growth of a vibrant cultural environment in the Hoddle Grid, Southbank and Docklands, by supporting entertainment uses, music and the arts.

Strategy 2.2 Support the City's major sports facilities and parks in recognition of their national significance.

Strategy 2.3 Promote the Docklands waterfront as a tourism and leisure destination of State significance.

**Objective 3 To minimise gaming-related harms**

Strategy 3.1 Ensure that the location, design and operation of gaming venues across the City minimises gaming related harms to the individual and the community.

**21.10-7 Communications infrastructure**

12/09/013  
C162

**Objective 1 To ensure that Melbourne has the infrastructure and capacity to meet anticipated information, communication and technology (ICT) needs.**

Strategy 1.1 Encourage the incorporation of information, technology and communication infrastructure in new developments.

Strategy 1.2 Encourage co-location of communications infrastructure.

**Objective 2 To minimise the visual impact of communications infrastructure and other utilities infrastructure.**

Strategy 2.1 Ensure that the presence and visibility of communications infrastructure and utilities in heritage areas or upon parkland does not unreasonably impact on the heritage place or precinct, or on parkland values.



## **21.12 HODDLE GRID**

30/07/2015  
Proposed  
C307

### **Housing**

- Support permanent and short term residential development in the Hoddle Grid that accommodates a diverse population.

### **Economic development**

- Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.
- Discourage the spatial concentration of gaming machines.
- Encourage the retention and enhancement of specialised shopping and entertainment precincts within the Hoddle Grid, particularly, Hardware Lane, Chinatown, Collins Street and Little Collins Street.
- Support entertainment, bars, eating and other evening uses throughout the Hoddle Grid.
- Support the Retail Core as a compact, high-density retail precinct and facilitate easy pedestrian access.
- Support the consolidation of education clusters on the northern and western edges of the Hoddle Grid and in Flinders Street.
- Ensure the Northbank of the Yarra River has increased open space opportunities.
- Support the Queen Victoria Market as a retail and tourist facility, and as a heritage asset of State significance.
- Ensure the form and use of development around the Queen Victoria Market does not detract from its amenity nor compromise its 24 hour function.

### **Built Environment and Heritage**

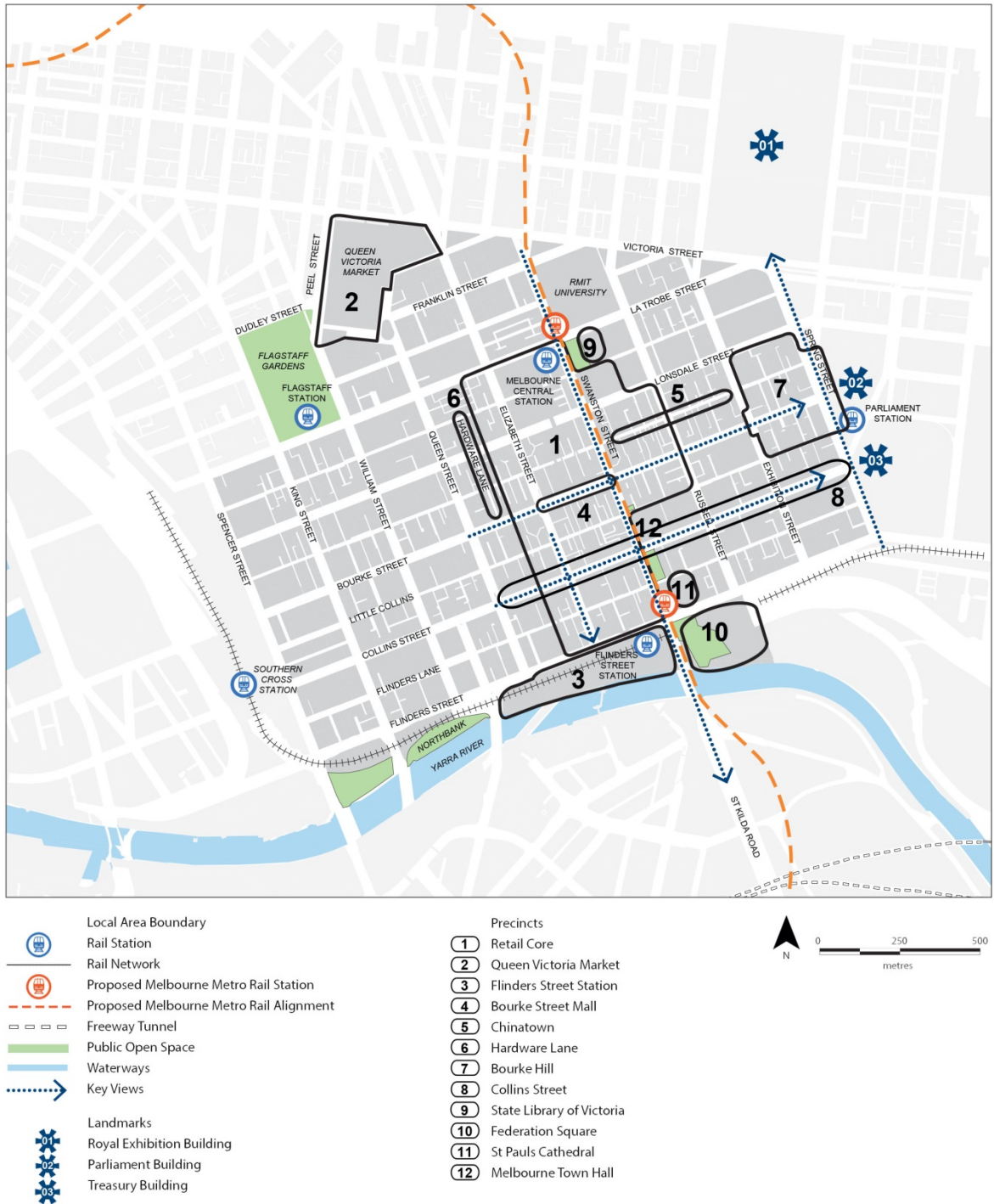
- Protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces.
- Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets.
- Facilitate the civic and ceremonial function of Swanston Street.
- Enhance Swanston Street as part of a boulevard axis which runs from Princes Park to St Kilda Road.
- Maintain a low rise form and streetscapes in the Retail Core and along key views to ensure an intimate pedestrian scale and views to key buildings are maintained.
- Ensure a clear edge between the taller built form of the Capital City Zone and the Docklands Zone and the lower form of the surrounding areas.
- Ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.
- Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.
- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.
- Ensure that new tall buildings add architectural interest to the city's sky line.
- Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.
- Ensure high quality and robust public space design in arcade and laneway upgrades.
- Link arcades and laneways in the Hoddle Grid.

- Encourage arcade and laneway links between streets and public spaces.
- Ensure development fronting streets creates a continuous building edge and integrated streetscape.
- Ensure that security treatments for shop fronts allow for views into the premises at night and positively contribute to the streetscape.
- Ensure the ground level design of shop fronts on Swanston Street contribute to its role as a pre-eminent retail and lifestyle avenue and entry axis to the Retail Core.
- Ensure sunlight penetration in the middle of the day to key public spaces, appropriate to their role and function.
- Protect the Yarra River and its south bank from overshadowing throughout the year.

### **Transport**

- Ensure that pedestrian use is given priority in the Hoddle Grid.
- Facilitate the development of the Bourke Street Mall as a high quality pedestrian and retail space.
- Ensure that developments provide weather protection along key pedestrian routes and areas, where this does not conflict with building or streetscape integrity.
- Ensure that the design of buildings and public realm in the Hoddle Grid enhances the safety of pedestrians, visitors and occupants of buildings.
- Ensure streets and open space are physically and visually linked to the waterfront, where practicable.
- Develop better links between the south western edge of the Hoddle Grid and the Yarra River.
- Develop better links between the water side entertainment and recreational attractions of the north and south banks of the Yarra.
- Encourage the provision of pedestrian links to the Queen Victoria Market from surrounding areas.

Figure 6: Hoddle Grid



~~1-120~~  
Proposed  
C307**SCHEDULE TO CLAUSE 52.28 GAMING****1.0****Objectives**~~1-120~~  
Proposed  
C307

- To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to minimise convenience gambling.
- To ensure that where gaming machines operate, they do so as part of an overall range of social, leisure, entertainment and recreation activities and facilities.
- To manage the concentration of gaming machines and gaming venues away from areas or communities vulnerable to gambling related harms.
- To discourage the proliferation of gaming premises in locations where the predominant use is residential.
- To ensure that the location and operation of gaming machines increases community benefit and decreases community disbenefit.

**2.0****Prohibition of a gaming machine in a shopping complex**~~1-120~~  
Proposed  
C307

Installation or use of a gaming machine as specified in Clause 52.28-4 is prohibited on land described in Table 1 below.

**Table 1**

<b>Name of shopping complex and locality</b>	<b>Land description</b>
St Collins Lane, Melbourne	258-274 Collins Street, Melbourne
The Sportsgirl Centre, Melbourne	234-250 Collins Street, Melbourne
The Southern Cross, Melbourne	113-149 Exhibition Street, Melbourne, being land on the west side of Exhibition Street, Melbourne between Bourke Street and Little Collins Street
Melbourne Central Shopping Centre, Melbourne	Land between La Trobe Street and Lonsdale Street, Melbourne
Southgate Plaza, Southbank	Part of the Southgate Complex, Southbank Promenade, Southbank
QV, Melbourne	278-300 Swanston Street, Melbourne
Emporium Melbourne	269-321 Lonsdale Street, Melbourne
The District, Docklands	420-454 Docklands Drive, Docklands
South Wharf Retail	20-30 Convention Centre Place, South Wharf
Spencer Outlet Centre, Docklands	163-261 Spencer Street, Docklands

**3.0****Prohibition of a gaming machine in a strip shopping centre**~~1-120~~  
Proposed  
C307

A gaming machine as specified in Clause 52.28-5 is prohibited in all strip shopping centres on land covered by this planning scheme.

**4.0****Locations for gaming machines**~~1-120~~  
Proposed  
C307

4.1 Gaming venues and machines should be located:

- Where the community has convenient access to a choice of non-gaming entertainment, leisure, social and recreation uses that operate at the same time as

the gaming venue in the surrounding area such as hotels, clubs, cinemas, restaurants, bars, theatres, galleries, exhibition centres, sporting venues and indoor recreation facilities.

- Where they would make a positive contribution to the redistribution of gaming machines away from relatively disadvantaged areas, as defined by the latest SEIFA Index of Relative Socio-economic Disadvantage.

#### 4.2 Gaming venues and machines should not be located:

##### 4.2.1 All locations within the municipality:

- In buildings used for residential purposes
- Within locations where the predominant surrounding land use is residential.

##### 4.2.2 Areas outside the Central City (Capital City Zones 1 and 2) and urban renewal areas:

- Within 400m walking distance or clear line of sight of:
  - an existing or approved gaming venue
  - shopping complexes and strip shopping centres
  - train stations or major tram stops
  - social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations)
  - concentrations of student accommodation
  - a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.

##### 4.2.3 The Central City (Capital City Zones 1 and 2):

- In direct line of site of:
  - a shopping complex (whether or not listed in the Schedule to Clause 52.28-4)
  - core retail areas
  - a supermarket or other convenience retail facility targeted to meet the day to day needs of customers
  - an existing gaming venue
  - a train station or major tram stop
- Gaming venues and machines should not be functionally or visually integrated with:
  - a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services
  - concentrations of student accommodation
  - social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations)

##### 4.2.4 Urban renewal areas:

- Gaming venues should not be established in locations ahead of the provision of non-gambling entertainment, recreation activities and social infrastructure.
- Where there is provision of non-gambling entertainment, recreation activities and social infrastructure, section 4.2.2 of this policy applies.

## 5.0 Venues for gaming machines

—/—/20—  
Proposed  
C307

### 5.1 Gaming machines should be located:

- In venues that offer alternative forms of non-gambling activities, such as social, leisure, entertainment and recreation activities during gaming hours
- In existing venues approved for the operation of gaming machines in preference over new venues
- In venues where the gaming area is physically, visually and functionally separated from non-gambling facilities, passersby, pedestrian and vehicular access and car parking
- In venues that have signage that is of high quality design and does not detract from the visual appearance and amenity of the surrounding area.

### 5.2 Gaming machines should not be located:

- In venues that operate for 24 hours per day
- In venues where the gaming area is more than 25 per cent of the total leasable floor area that is open to the public.

## 6.0 Application requirements

—/—/20—  
Proposed  
C307

The following application requirements apply to an application for a permit under Clause 52.28, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

### 6.1 Proposal details

- A description of the proposal including the following:
  - how the application is consistent with the State and Local Planning Policy Framework
  - existing and proposed number of gaming machines at a venue and within the municipality
  - details regarding the transfer of gaming machines, including number of gaming machines to be relocated, potential changes to the density of gaming machines per 1,000 adults in the municipality and local areas, and potential changes to the number of venues in the municipality
  - details regarding changes to gaming machine expenditure (at a municipal and venue level, per gaming machine and per adult)
  - existing and proposed number of people employed as a direct result of the proposal
  - a map indicating potential pedestrian paths of travel to and from the venue within 400m walking distance, including identification of public transport opportunities
  - pedestrian counts outside the venue on different days and at a variety of times
  - range and operating hours of non-gaming facilities and activities within the venue, including areas licensed to serve and consume alcohol
  - extent of the community contributions and their beneficiaries.

### 6.2 Location assessment

- A description of the location of the venue, including the following:
  - land uses within 400m walking distance and line of sight of the proposed venue, including facilities associated with day to day activities, such as shops, major community facilities and public transport networks and hubs that would contribute to convenience gambling
  - location of social support services within 400m walking distance and line of sight of the proposed venue including problem gambling services, financial counselling services and material and financial aid services

- location of, distance to and operating hours of gaming venues within 400m walking distance and line of sight of the proposal site
- location and operating hours of alternative non-gaming social, leisure, entertainment and recreation uses, both within the gaming venue and within 400m walking distance and line of sight of the venue.

#### 6.3 Venue design and operations:

- Detailed plans of the design and layout of the venue, including the location of all existing and proposed gaming machines, location of existing and proposed gambling and non-gambling facilities, entrances and exits to the gaming lounge, screening, façade treatment, external signage, external lighting, pedestrian and vehicle access and car parking.
- Details of the venue's non-statutory harm minimisation and responsible gambling practices.

#### 6.4 Social and economic benefits

- A robust assessment, prepared by a suitably qualified person, that details the following:
  - SEIFA Index of Relative Socio-economic Disadvantage of the SA1 within which the venue is located, and adjoining SA1's
  - the impact of the proposal on groups vulnerable to gambling-related harms as a result of their socio-economic and health profile within 400m walking distance of the proposal site.
  - the impact of the proposal on venues from which gaming machines are to be relocated
  - the impact of the proposal on employment in the municipality
  - the potential for the proposal to contribute to the local economy
  - the social and economic effects of the proposal.

## 7.0 Decision guidelines

—/—/20—  
Proposed  
C307

The following decision guidelines apply to an application for a permit under Clause 52.28, in addition to those specified in Clause 52.28 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal will achieve the objectives and outcomes of this schedule to Clause 52.28.
- Whether the proposal will increase gambling-related harm.
- How the proposal delivers community benefit
- Whether the proposal will contribute to the levels of socio- economic disadvantage and/or have any other adverse impacts on vulnerable communities.
- Whether the location and operation of the gaming machines would increase exposure to gaming opportunities as part of day to day activities such that a decision to gamble may be spontaneous rather than predetermined.
- Whether the proposal would create, or contribute to an increased concentration of gaming venues.
- Whether patrons will have access to non-gaming entertainment and recreation facilities in the surrounding area and in the gaming venue that operate at the same time as the gaming machines.
- The impact of the proposal on the safety, amenity, character, tourism and cultural assets of the surrounding land area and municipality.

**CITY OF MELBOURNE**  
**ELECTRONIC GAMING MACHINE**  
**DECISION-MAKING FRAMEWORK**  
**JULY 2019**



This report was prepared by Symplan on behalf of the City of Melbourne.

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## EXECUTIVE SUMMARY

This Decision Making Framework outlines the objectives and actions Council will adopt in order to minimise Electronic Gaming Machines (EGM) harm. Once adopted by Council, the decision making framework will underpin decisions Council makes in fulfilling its statutory roles in preventing and minimising harms associated with gaming. This includes making submissions to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) under the *Gambling Regulation Act 2003* on applications for gaming approval, and assessing applications for planning permits to install and use Electronic Gaming Machines (EGMs) under the *Planning and Environment Act 1987* and Melbourne Planning Scheme. The draft Framework also outlines opportunities for Council to engage with this issue through advocacy, partnerships and service provision.

The preparation of this Decision Making Framework does not in any way mean that Council supports gaming. However gaming is a legal activity and Council has a role in the prevention of gambling related harm.

The City of Melbourne is Victoria's Capital City and the heart of metropolitan Melbourne. It is the location of much of Victoria's premier economic and cultural infrastructure, providing a world class range of commercial, cultural, leisure, entertainment, research, education and residential uses. EGMs form part of the entertainment offer in the City.

EGMs are recognised as the form of gambling associated with the greatest harms for individual users, their families and the broader community.

The social and economic impacts of gambling-related harm include:

- financial harm
- relationship disruption, conflict or breakdown
- emotional or psychological distress
- reduction in physical and mental health and wellbeing
- cultural harm
- reduced performance at work or study
- criminal activity
- community and service delivery.

There are also social and economic benefits associated with EGMs such as:

- provision of social, leisure and recreational activities and facilities
- revenue generation for the State government and venue operators
- allocation of cash and in-kind community contributions
- venue investment, employment, and tourism.

The use and/or installation of EGMs require two separate approvals - a license from the VCGLR under the *Gambling Regulation Act 2003*, and planning approval from the responsible authority under the *Planning and Environment Act 1987*.

Key considerations under both the *Gambling Regulation Act 2003* and the *Planning and Environment Act 1987* are the potential social and economic impacts of the proposal on the community.

While the *Gambling Regulation Act 2003* focuses on the suitability of the venue, the key land use planning considerations under the *Planning and Environment Act 1987* are the suitability of the location and premises.

## 1 INTRODUCTION

EGMs, which are a legal form of entertainment, are recognised as the form of gambling associated with the greatest harms for individual users, their families and the broader community.

This Framework provides Council's approach to managing EGMs and will guide Council in its statutory responsibilities under the *Planning and Environment Act 1987* and the *Gambling Regulation Act 2003*.

These roles relate to assessing applications for planning permits to install or use EGMs and making submissions to the VCGLR in relation to applications to establish new gaming venues or vary existing gaming licences under the *Gambling Regulation Act 2003*.

The Framework also underpins Council's other roles with respect to safeguarding the health and wellbeing of the community.

The evidence base underpinning the Framework is presented in the *City of Melbourne Electronic Gaming Machine Decision-Making Framework and Electronic Gaming Machine Review Background Report, 2017*.

## 2 HARM MINIMISATION

As the Capital City, the City of Melbourne plays a significant role in providing entertainment for visitors and tourists, and services that satisfy the needs of the community. The 'community' of the City of Melbourne consists of residents, workers, students and visitors.

Although the use of EGMs can be associated with social and economic benefits, they are also associated with social and economic harms.

Current legislation which permits EGMs, generally aims to manage them through regulating the location and operation of gaming premises.

Within this context, Council can adopt a harm minimisation approach that seeks to accommodate the demand for gaming while protecting individuals and groups at an elevated risk of gaming-related harms. The harm minimisation approach seeks to support individuals and groups within the community to adopt healthy lifestyle choices and behaviours, while protecting those most vulnerable to the impacts of gambling-related harms.

The three interventions that underpin the harm minimisation approach are:

- reducing the demand for EGMs
- reducing the supply of EGMs in a community
- supporting those most at risk of harm from gambling.

## 3 THE CITY OF MELBOURNE CONTEXT

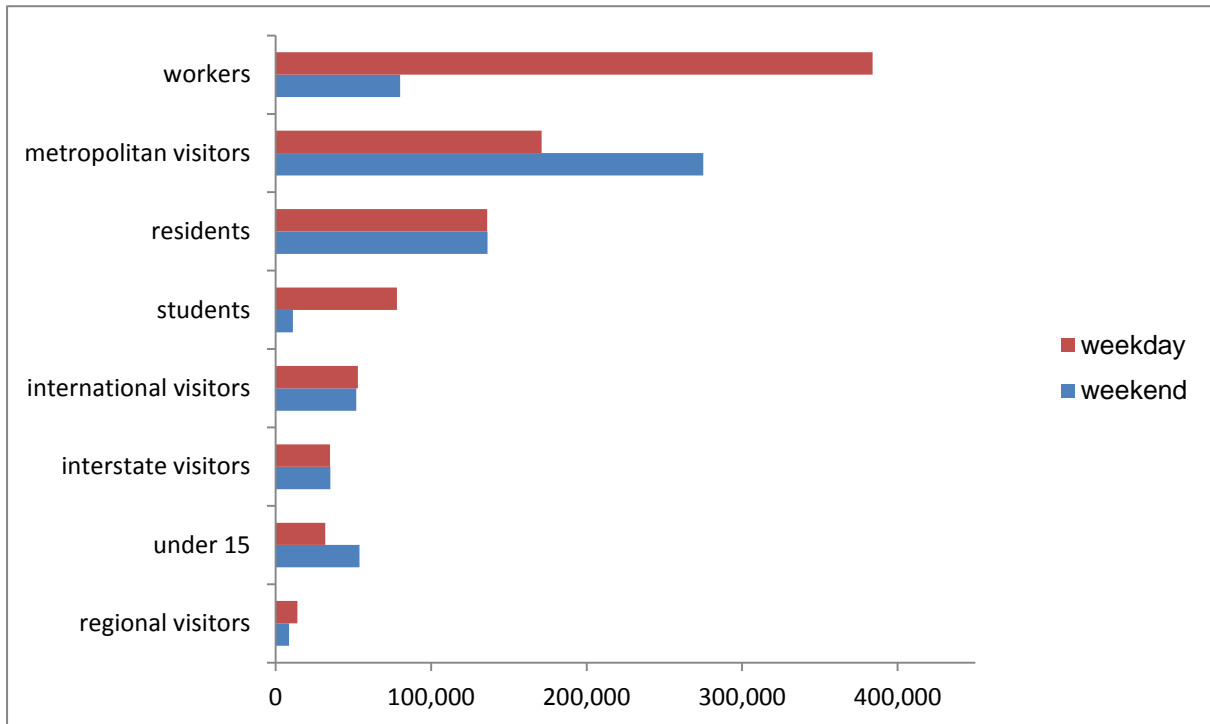
### 3.1 THE ROLE OF THE CITY

The Central City operates 24 hours a day, seven days a week, providing the setting for major events and festivals that attract visitors from the metropolitan area, Victoria, interstate and globally.<sup>1</sup> It also acts as a major transport hub, linking the City with greater Melbourne, regional Victoria and beyond.

In 2017, the residential population of the City of Melbourne is estimated to be 137,542. It is projected to increase to 202,000 by the year 2030.<sup>2</sup> The areas projected to experience the largest residential population increase are located in the western portions of the municipality, in Fishermans Bend, West Melbourne and Docklands.

As Figure 1 below shows, an estimated average of approximately 770,000 people enter the municipality each week day, and 516,000 on each day of the weekend (not including residents)<sup>3</sup>. Of these daily users, the largest proportion comprises workers, followed by metropolitan visitors, students, international visitors, interstate visitors, children under 15 years of age and regional visitors.

**Figure 1: Estimated daily population within the City of Melbourne<sup>4</sup>**



### 3.2 GAMING DATA

Melbourne currently has 11 operating gaming venues. Of these, nine are located in the Hoddle Grid, one is located in Carlton and one is located in Flemington.

Key statistics associated with EGM use and expenditure in the municipality for the Financial Year 2015–16 are illustrated in Appendix 3. They show that compared with metropolitan Melbourne and Victoria, the City of Melbourne had an above average number of EGM licenses and number of venues. Expenditure was also greater in total, per adult and per EGM compared to the metropolitan and Victorian average and there was a greater density of EGMs per 1000 adults. Average expenditure in the venues located in the Hoddle Grid is more than double the average expenditure in the other two venues in Carlton and Flemington.

These statistics exclude Crown Casino. Crown Casino is the only casino in Victoria and is the 11<sup>th</sup> largest casino in the world. Its revenue is more than double that of the largest casino in Las Vegas. It is located in Southbank and is integrated into the Crown Casino Entertainment Complex which includes hotels, shops, cafes and restaurants, cinemas and live entertainment.

This Complex forms part of a wider entertainment precinct comprised of the Melbourne Exhibition Centre, Melbourne Convention Centre and Melbourne Aquarium. This precinct, together with the Southbank Arts Precinct, Docklands Stadium and sports precinct comprised of the Melbourne Cricket Ground, Melbourne Park and AAMI Park, are key destinations for metropolitan, regional, state, national and international visitors. At present, Crown Casino is licensed to operate 2628 EGMs.

The EGM expenditure and density figures for the City of Melbourne produced by the VCGLR do not incorporate the EGM expenditure and number of EGMs in Crown Casino. As a result, total EGM expenditure and density of EGMs in the City of Melbourne is much higher than described in the VCGLR data.

### 3.3 CITY OF MELBOURNE GAMING VENUES

There are a number of both similarities and differences between the gaming venues in the City of Melbourne and gaming venues in suburban and regional municipalities in Victoria.

Similarities include:

- The requirement for the venues to have a liquor licence: the operating hours for the gaming venue may not exceed those permitted under the liquor licence.
- The promotion and advertising of gaming is prohibited under the *Gambling Regulation Act 2003*. A number of venues in the municipality, as with suburban venues, offer membership rewards program cards which provide rewards on money spent in the venue, including in the gaming lounge. The membership rewards programs permit the promotion, advertising and marketing of all products offered at the venue, including gaming.
- The range of non-gaming entertainment and leisure activities typically includes live entertainment, sports bars, dining and function rooms.
- The venues provide other gambling activities such as TAB and Keno.
- External access to the venue is through a single entrance and internal access to the gaming lounge is generally through the bistro and/or public sports bar areas.

The following features apply only in Melbourne:

- The majority of gaming venues are located in an area that is not subject to either a municipal or regional cap on the number of EGMs. This reduces Council's capacity to manage the concentration and density of EGMs in this part of the municipality.
- There is a very wide range of non-gambling social, leisure, recreational and entertainment uses in the areas surrounding gaming venues.
- The ten gaming venues located in the Hoddle Grid and Carlton function as both convenience and destination gaming venues. These venues are located in close proximity to shopping facilities and major public transport hubs and routes. However, they also function as 'destination' gaming venues as their catchment is large and includes people from metropolitan Melbourne, regional Victoria, Australia and overseas.
- Crown Casino, which is regulated by a separate statutory instrument, is located in the uncapped area of the municipality. The scale of this gambling venue significantly increases access to EGMs and all forms of gambling to the City's users.
- The gaming lounges in venues are typically more visible from both the street and from within the venue itself.
- Venues do not typically provide car parking, children's play areas or recreational activities such as bowls, tennis or golf.
- Venues are located on smaller parcels of land which limits their capacity to provide non-gambling activities.
- They may apply to operate for 24 hours per day.
- The patron profile and membership base is more diverse, transient and comes from a wider catchment because they are drawn predominantly from workers and visitors.
- Most of the venues are busier during the weekdays compared with the weekends, even though weekend patronage is stimulated by sporting and cultural events.
- Utilisation rates are more variable within the municipality, with venues located more centrally being busier during the working week, while venues located close to the train stations and the major sports and arts precincts being busier over the weekend.

The goals, objectives, and actions, in this Framework recognise, and take into account the impact of these key features.

## 4 IMPACTS OF GAMING, GAMBLING RELATED HARMS AND PREVALENCE OF GAMING

This Section describes the social and economic benefits and harms resulting from gaming. It includes a definition and statistics regarding the prevalence of gambling-related harms in Victoria, and the key physical socio-economic and health determinants of these harms.

The evidence base underpinning this Section is presented in the *City of Melbourne Electronic Gaming Decision-Making Framework and Gaming Policy Review Background Report, 2017*.

### 4.1 IMPACTS OF EGMS

Research has found that EGM gambling has been identified with several harms.<sup>5</sup> The social cost of gambling in Australia has been estimated at \$4.7 billion every year.<sup>6</sup>

#### **Social and health and wellbeing related harms include:**

- Family breakdown
- Crime
- Emotional distress (relationship break-ups, family violence, suicidal thoughts, attempted suicide)
- Reduced physical and mental health and wellbeing
- Drug and alcohol abuse
- Tobacco smoking
- Stigma, shame and increased social isolation
- Deception.

#### **Economic harms include:**

- Change in expenditure in local businesses and other entertainment providers
- Value of profits/taxes from gaming that leaves the municipal district
- Increased demand for community support services
- Effect of gaming on community life
- Job change costs
- Productivity loss outside work
- Bankruptcy
- Financial of cost of divorce and separation
- Indirect costs on the health system and human services sector
- Consumer loss from excessive gambling expenditure
- Costs to venue operators of harm minimisation measures.

While the above harms have a considerable impact on individuals, their networks and the broader community, a number of benefits have been noted.

#### **Social and health and wellbeing benefits include:**

- Form of entertainment and leisure
- Provision of venues in which people socialise
- Provision of subsidised meals and entertainment
- Provision of cash and in-kind contributions (such as use of facilities) to community organisations
- Provision of opportunities to volunteer (clubs)



- Value of profits/taxes from gaming that benefits other municipal districts.

**Economic benefits include:**

- Tax revenue for State government
- Employment
- Investment
- Supply contracts for local businesses as a result of renovations, goods and services
- Tourism.

These social and economic harms are experienced by the individual, their families and the broader community. This Framework will support Council in fulfilling its role in preventing and minimising harm to individuals and communities most at risk.

## **4.2 RISK OF GAMBLING RELATED HARMS**

Gaming can lead to problem gambling, and cause gambling related harm for individuals, families and the broader community. This Framework will support Council in fulfilling its role in preventing and minimising harm to individuals and communities most at risk.

Problem gambling has been defined as:

*Experiencing difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community.<sup>7</sup>*

Gambling-related harm has been defined as:

*Any initial or exacerbated adverse consequence due to an engagement with gambling that leads to a detriment to the health or wellbeing of an individual, family unit, community or population.<sup>8</sup>*

The Productivity Commission has estimated that between 1.9 per cent and 3.1 per cent of the population experience moderate or high risks of gambling-related harm.<sup>9</sup> A study in Victoria found that 0.81 per cent of Victorian adults were classified as problem gamblers, with a further 2.79 per cent being classified as moderate risk gamblers.<sup>10</sup>

EGMs pose the greatest risks to existing and potential problem gamblers.<sup>11</sup> They account for around 80 per cent of presentations to counselling agencies<sup>12</sup> In addition, one in six people who use EGMs regularly has a serious addiction<sup>13</sup> and for each additional EGM introduced into an area, there will be an increase in problem gambling, by an average of 0.8 problem gamblers per EGM.<sup>14</sup>

It is estimated that each person with gambling problems has between 5 and 10 people in their lives who are also affected by their gambling, either directly or indirectly.<sup>15</sup> These may include immediate family members, employees and employers, friends and team mates.<sup>16</sup> It has been estimated that for every person with a gaming problem, there are between 5-10 people facing serious emotional or financial consequences as a result.

Studies have found that it is not only problem gamblers who experienced compromised health and wellbeing with low and moderate-risk gamblers accounting for the majority of aggregate years of health life lost in Victoria.<sup>17</sup>

There is evidence demonstrating that postcodes with no EGMs were associated with fewer family incidents and domestic violence assaults compared with postcodes that have EGMs.<sup>18</sup>

### 4.3 FACTORS INCREASING THE POTENTIAL FOR GAMBLING RELATED HARMS

The following physical, socio-economic, and health factors are recognised as increasing the potential for an individual or community to experience gambling-related harms (refer to Table 1)<sup>19</sup>

**Table 1 – Factors increasing the potential for gambling-related harms<sup>20</sup>**

<p><b>Socio-economic</b></p> <ul style="list-style-type: none"> <li>• low educational attainment</li> <li>• personal income in the medium highest and medium lowest income quartiles</li> <li>• relative socio-economic disadvantage</li> <li>• unemployment</li> <li>• residents of social housing</li> <li>• employed as labourers, sales workers and machinery operators and drivers.</li> </ul>
<p><b>Socio-demographic</b></p> <ul style="list-style-type: none"> <li>• aged 18-24 years</li> <li>• older people aged 55-64 years particularly those experiencing social isolation</li> <li>• not speaking English at home or non-Caucasians</li> <li>• Aboriginal and Torres Strait Islander (4.1% higher than non-Indigenous Australians).</li> <li>• migrants and people from culturally and linguistically diverse (CALD) communities, particularly Asian groups including Vietnamese, Chinese and Korean</li> <li>• living in group households</li> <li>• communities experiencing low social capital, evidenced by volunteering rate.</li> </ul>
<p><b>Health and wellbeing status</b></p> <ul style="list-style-type: none"> <li>• people experiencing psychological distress or compromised mental health and wellbeing</li> <li>• people who smoke, consume alcohol and become intoxicated while gambling</li> <li>• people seeking treatment for substance abuse disorders.</li> </ul>
<p><b>Life experiences</b></p> <ul style="list-style-type: none"> <li>• taking on a mortgage, loan or making a repayment</li> <li>• people with higher number of negative life experiences affecting themselves and their families for instance divorce, legal difficulties and financial issues</li> <li>• people experiencing trauma, social isolation, boredom and loneliness, particularly among older people and women</li> <li>• people experiencing changes in their personal circumstances such as death of someone close to them, divorce, legal issues, relationship issues</li> <li>• people gambling for reasons other than social reasons, to win money or general entertainment.</li> </ul>

### 4.4 VULNERABILITY IN THE CITY OF MELBOURNE

The populations of the central, southern and northern areas of the municipality, including Melbourne, Southbank, Carlton, North Melbourne and Parkville display the most indicators of gambling related harms. These areas contain ten of the 11 EGM venues as well as Crown Casino.

The populations of the western areas including Docklands and Fishermans Bend display the least determinants of gambling-related harms. There are no EGM gambling venues in these areas.

With the exception of Fishermans Bend, all other areas have a significantly higher proportion of students compared with the municipality. In addition, Melbourne, Carlton, North Melbourne, West Melbourne and Parkville have relatively high proportions of young people aged 15–24 years.

The North-West Metro region, which includes parts of the City of Melbourne and adjoining municipalities of Maribyrnong, Moonee Valley and Hobsons Bay to the north and west, has been included in the high EGM expenditure band (where average EGM expenditure for adults was higher than the Victorian average) indicating that the risk of gambling-related harm is therefore also higher <sup>21</sup>.

## **5 THE REGULATORY CONTEXT**

This Section outlines the key features of the City's regulatory context that underpins the Framework.

The use and/or installation of EGMs in a venue requires two separate approvals: a licence from the VCGLR under the *Gambling Regulation Act 2003* and planning approval under the *Planning and Environment Act 1987*. As stated above Council has a role in both making submissions to the VCGLR and in determining outcomes of planning permit applications.

The State Government of Victoria has jurisdiction over these Acts. They are also responsible for setting caps that apply to EGMs within Victoria, which limit the number of machines permitted overall in a particular area or municipality.

### **5.1 GAMBLING REGULATION ACT 2003**

Under the *Gambling Regulation Act 2003* the VCGLR is the decision-maker for approving premises as suitable for gaming. In determining an application the Commission must be satisfied that the net economic and social impact of an approval will not be detrimental to the wellbeing of the community.

Section 3.3.7 (1) of the *Gambling Regulation 2003* stipulates that the VCGLR must not grant an application for approval of a premises, unless satisfied that the premises are (or will be) suitable for the management and operation of gaming machines, and that the net economic and social impact of the approval will not be detrimental to the wellbeing of the community within the municipality. The VCGLR must also consider whether the size, layout and facilities of the premises are (or will be) suitable.

The *Gambling Regulation Act 2003* requires that the Commission notify relevant responsible authorities of an application to establish a gaming venue or amend a venue operator's licence.

Council is able to make a submission concerning 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 also take account of the impact of the proposal on surrounding municipal districts.

Individuals are able to make a submission independently of Council, and the Commission is required to take all submissions into account.

Council and the applicant for gaming approval may apply to the Tribunal for review of the Commission's decision on the application.

### **5.2 MUNICIPAL AND REGIONAL CAPS WITHIN THE CITY OF MELBOURNE**

The Minister for Gaming is responsible for setting caps that apply to particular areas within Victoria.

The total number of gaming machines allowed in Victoria is 30,000. Of these 2628 are allocated to Crown Casino and the remaining 27,372 are allocated to clubs and hotels throughout the State.

On 7 July 2017, the Minister for Consumer Affairs, Gaming and Liquor Regulation announced that the number of EGMs operating in hotels and clubs in Victoria will remain

capped at 27,372. As of June 2017, 26,365 EGMs were operating in Victoria. This is 1007 EGMs below the cap and means that the number of EGMs in Victoria may be permitted to increase.

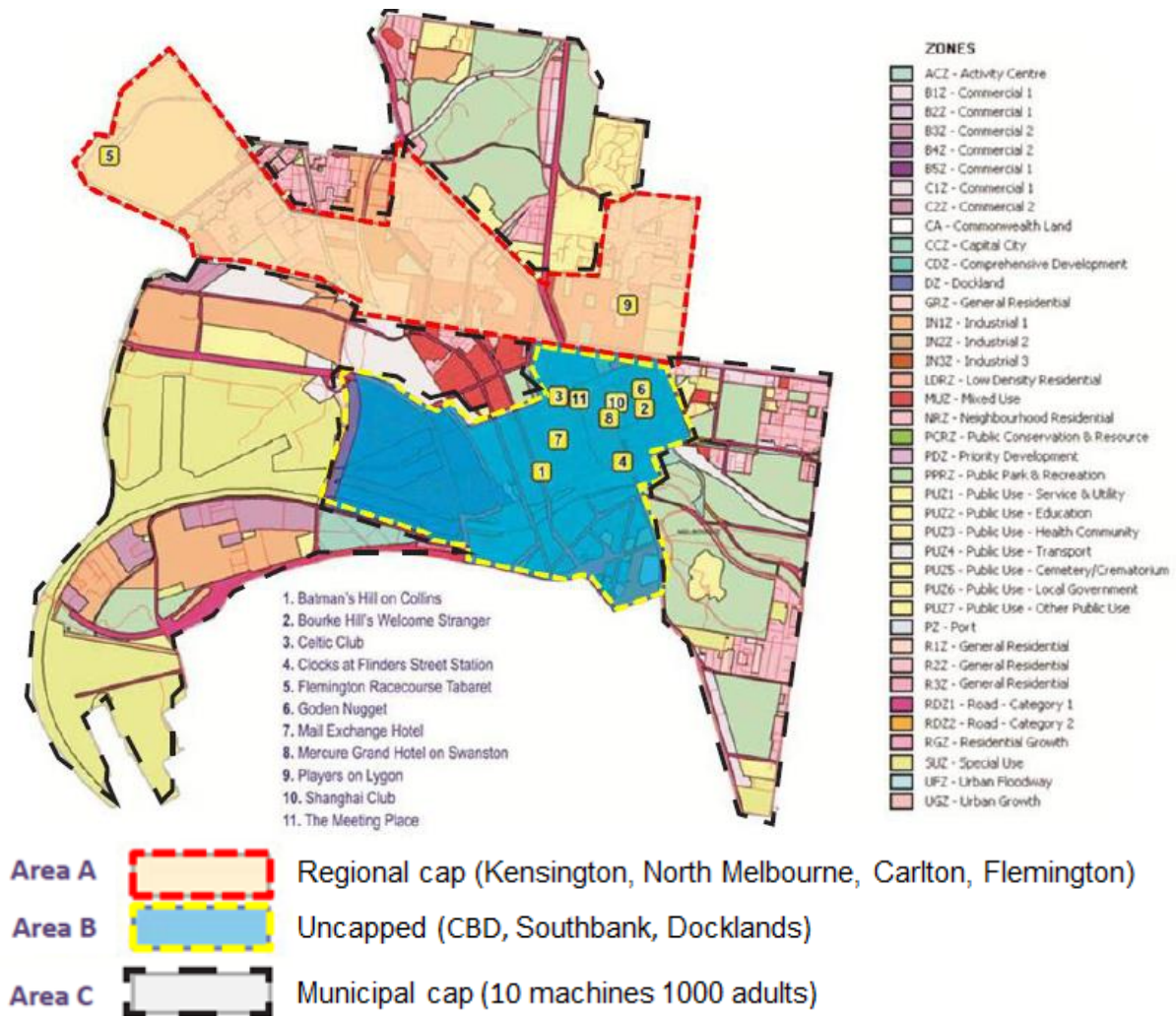
There are both capped and uncapped areas in the City of Melbourne (see Figure 2 below).

The City of Melbourne is unique in that no cap applies to the Hoddle Grid, Docklands and Southbank. This means that in these areas, there is no mandated limit on the number of EGMs permitted.

There are areas within Victoria where regional caps apply. These caps set by the Minister for Gaming are introduced to prevent further concentration of EGMs in areas of the State identified as being particularly vulnerable to the harm caused by problem gambling. A regional cap applies to parts of North Melbourne, Carlton, Kensington and Flemington. In this capped region, the maximum number of EGM entitlements is 149 machines. This has reduced recently from 177 machines as a result of changes from the State Government announced in September 2017. Two of the existing venues are located in the area covered by the regional cap. At present, these two venues are collectively operating at the maximum capacity of the cap (149 machines). Therefore no further EGMs will be permitted in this region.

Areas outside the uncapped and regional capped areas are covered by a municipal cap on the number of EGMs. This cap is determined by the number of gaming machines per thousand adults, with the maximum number set at 10 machines per 1000 adults. In the City of Melbourne, the maximum number of EGMs permitted in the area covered by the municipal cap is 143 EGMs.

**Figure 1: The City of Melbourne showing capped and uncapped areas overlaid on land use zones**



### 5.3 PLANNING AND ENVIRONMENT ACT 1987

Under the *Planning and Environment Act 1987* Council is the responsible authority for determining the outcome of applications for planning permits, except for the following circumstances where the Minister for Planning is the Responsible Authority:

- all developments with a gross floor area exceeding 25,000 square metres
- under the Schedule to Clause 61.10 significant entertainment, transport, sporting, arts and housing precincts in the municipality including the Melbourne Casino Area, Flemington Racecourse, Southern Cross Station, the sports and entertainment precinct surrounding AAMI Park and Melbourne Park, the Arts Precinct, the Melbourne Convention Centre in Southbank, the Games Village precinct in Parkville, the Carlton Housing Precincts.

Under these circumstances, Council has the opportunity to comment on an application for a planning permit or make a submission in relation to a proposed planning scheme amendment.

Under the Melbourne Planning Scheme key provisions relating to the assessment of gaming venues are:

State Planning Policy Framework	<ul style="list-style-type: none"> <li>• Seeks to achieve appropriate land use and development and net community benefit</li> <li>• Encourages the concentration of major entertainment and cultural developments into activity centres.</li> <li>• Discourages large scale entertainment facilities in out-of-centre locations</li> <li>• Seeks to maintain and develop Metropolitan Melbourne as a desirable tourist destination</li> <li>• Encourages initiatives that revitalise the retail core of the Central City, develop city precincts, maintain city safety and provide leisure services.</li> </ul>
Municipal strategic statement	<ul style="list-style-type: none"> <li>• Recognises the role the City plays in providing cultural, leisure and entertainment activities</li> <li>• Discourages the concentration of gaming venues in the Central City.</li> <li>• Identifies strip shopping centres.</li> </ul>
Existing local planning policy for gaming	<ul style="list-style-type: none"> <li>• Discourages gaming premises in residential areas.</li> <li>• Gives preference to top ups over new gaming premises.</li> </ul>

A planning permit is required for the use/installation of EGMs under Clause 52.28 of the Planning Scheme. When assessing an application, Council can consider the location of the venue or machines, the social and economic impacts of the venue or machines and the appropriateness of the layout of the venue.

Clause 52.28 prohibits the location of EGMs in identified shopping complexes and in strip shopping centres outside the Capital City Zone.

## 5.4 COUNCIL'S ROLES AND RESPONSIBILITIES

In addition to determining the outcome of planning permit applications and making submissions to the Commission on applications for gaming approvals, Council fulfils several other statutory roles defined by the *Local Government Act 1989* and the *Public Health and Wellbeing Act 2008*.

The roles Council plays in relation to managing gambling activities in the municipality are summarised below (refer to Figure 3).

The City of Melbourne is a member of the Alliance for Gambling Reform, and plays an important role in leading and shaping the advocacy agenda to reduce harms associated with gambling.

This includes advocating to the Federal and Victorian State Governments for the reconfiguration of EGMs so that their addictive features are removed, increasing restrictions on gambling advertising, and increasing regulation on online gambling platforms and sports betting. It also includes advocating to the Victorian State Government for amendments to the local government submission form and submission period to reduce Council's resources involved in making a submission for applications for gaming approval.

The City of Melbourne can build capacity within the community to reduce their vulnerability to gambling-related harms through the delivery of services, information dissemination, and continuing its strong collaborative relationships with stakeholders and agencies responsible for enhancing and safeguarding the health and wellbeing of the community.

Figure 2 – Council’s roles and responsibilities



## 6 DECISION-MAKING FRAMEWORK

This Decision Making Framework, once adopted by Council will underpin decisions Council makes in fulfilling all its roles as outlined in Figure 2 above, in preventing and minimising harms associated with gaming.

### 6.1 PRINCIPLES

The following principles have emerged from decisions made by Planning Panels Victoria, the Tribunal and the VCGLR under the *Gaming Regulation Act 2003* and the *Planning and Environment Act 1987*.

#### Position on gaming

Gaming is a legitimate form of recreation and there can be benefits to the community.<sup>22</sup>

#### Council's role

Councils have important functions relating to 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.<sup>23</sup>

#### Caps on EGM numbers

The imposition of municipal and regional caps on the maximum number of EGMs permissible in a local government area is the State Government's response to a concentration of gaming venues<sup>24</sup>.

#### Community

Typically the community is considered to be the population of the municipality for a gaming application. However, adjoining municipalities may also be considered<sup>25</sup> if the venue is in close proximity to the municipal boundary and if the local Council or community has made submissions in relation to the application.<sup>26</sup>

#### Factors associated with net community benefit

The following factors can contribute to the potential for an application to achieve net community benefit:

- transfer of EGMs from areas of high to low disadvantage<sup>27</sup>
- renovations and provision of additional or different non-gambling facilities and activities<sup>28</sup>
- reduction in trading hours<sup>29</sup>
- non-statutory community contribution allocated to problem gambling services<sup>30</sup>
- screening between gaming and non-gaming floor areas<sup>31</sup>.



## 6.2 RELEVANT CONSIDERATIONS UNDER THE TWO APPLICABLE ACTS

Specific considerations are provided for by the *Gambling Regulation Act 2003* and *Planning and Environment Act 1987*.

The Tribunal has recognised that although the application regimes under the *Planning and Environment Act 1987* and the *Gambling Regulation Act 2003* are separate, they are also linked and overlap (refer to Table 2).<sup>32</sup>

Table 2 lists the factors that are relevant in considering applications under the two Acts, and then shows how they apply under each Act.

**Table 2 –Planning and gaming considerations under the relevant legislation: similarities and differences**

Factor	Gaming approvals	Planning permits
<b>Legislative instrument</b>	<i>Gambling Regulation Act 2003</i>	<i>Planning and Environment Act 1987</i>
<b>Social and economic impacts</b>	Key decision-making factor	Only required to consider
<b>Community benefit</b>	Achievement of neutral or positive community benefit a statutory requirement	Net community benefit a material consideration but not a statutory requirement
<b>Community</b>	Considered at a municipal scale	Surrounding uses and communities typically within 400m and patrons within 2.5km
<b>Assessment factors</b>	Suitability of venue, for instance focus on design, operations and harm minimisation	Suitability of location and premises for instance focus on land use
<b>Decision-making authority</b>	Gaming Commission	Responsible authority – either Council or the Minister for Planning
<b>Appeals against decision</b>	Victorian Civil and Administrative Tribunal	Victorian Civil and Administrative Tribunal
<b>Convenience gaming</b>	Not a material consideration	Except in the Capital City Zone, EGMs prohibited in shopping complexes and strip shopping centres Preference for EGMs to be located outside core of activity centres
<b>Suitability of premises for operation and management</b>	Size, layout and facilities Guidelines set out in VCGLR Venue Manual Ministerial guideline outlining preferred location of children's play areas Physical and functional separation of gaming and non-gaming activities and facilities	Gaming area required to be 25per cent or less than total area available to the public Provision of a full range of facilities and services to hotel patrons and club members and patrons are a decision-guideline under Clause 52.28 Physical and functional separation of gaming and non-gaming activities and facilities required
<b>Impacts on amenity of surrounding area</b>	Not relevant	Impact on noise, traffic, car parking, land use mix, streetscape
<b>Venue management considerations</b>	Availability of non-gambling social, leisure, entertainment and recreation facilities	Availability of non-gambling social, leisure, entertainment and recreation facilities
<b>Community views</b>	Objections and submissions taken into account	Number of objections must be considered

## **6.3 STRATEGIC ACTION FRAMEWORK**

### **6.3.1 Purpose**

This strategic action framework describes how Council will fulfil its responsibilities in preventing and minimising gambling-related harms in the community. It is an overarching whole of Council action framework that incorporates actions that will guide Council during the preparation of submissions on applications for gaming approval under the *Gambling Regulation Act, 2003* and assessing planning permit applications under the *Planning and Environment Act, 1987*. It also supports functions of Council as specified in the *Local Government Act, 1989* such as advocating and promoting proposals which are in the best interest of the local community, planning for and providing services and facilities for the community, undertaking strategic and land use planning and making and enforcing laws.

### **6.3.2 Scope**

The actions within the strategic action framework cover all Council's roles in relation to preventing and minimising gambling-related harms. The social and economic impact assessment tool (Appendix 2) will assist Council in assessing and considering the potential impacts of both a gaming and planning permit application on the community.

Clause 52.28 and the local planning policy for gaming included as Clause 22.12 of the Melbourne Planning Scheme provide the statutory guidance for Council's decision making in relation to planning permit applications for the use/installation of EGMs. These statutory instruments provide Council with legal tools to implement Council's actions relating to planning applications.

The objectives and actions relating to submissions to the VCGLR, and other objectives and actions relating to strategic partnerships, collaboration and leadership in the prevention of gambling-related harms articulate Council's position, but do not carry the same statutory weight as Clause 22.12 and Clause 52.28 of the Melbourne Planning Scheme. Nevertheless, in assessing an application for gaming approval, the Commission is likely to give weight to the extent to which the proposal aligns with these objectives and actions as Council has the statutory authority to represent the community's interests.

### **6.3.3 Goals**

This strategic action framework is underpinned by the following goals:

- To fulfil Council's statutory role in addressing the harms associated with gaming, enhancing health and wellbeing, and achieving an overall benefit for our community.
- To reduce the prominence of gaming as a form of entertainment.

### **6.3.4 Objectives and actions**

The following objectives and actions will guide Council in fulfilling all its roles, including making submissions on applications for gaming approval and assessing planning permit applications for the use and/or installation of gaming machines.

In the Table below:

- Objectives 1 and 2 focus on Council's statutory role in promoting healthy, safe and supportive environments
- Objective 3 focuses on Council's leadership role and gives rise to the preparation of the Local Planning Policy for Gaming
- Objectives 4, 5, 6 and 7 provide the framework for the scope of the Local Planning Policy for Gaming.

Table 3 – Strategic Action Framework

<b>1. To promote and facilitate access to non-gambling social, leisure, entertainment and recreation opportunities in the municipality</b>
1.1 Discourage proposals that do not both increase and diversify the range of social, leisure, entertainment and recreation activities and facilities in the municipality.
1.2 Discourage proposals where the gambling activities operate when other non-gambling social, leisure, entertainment and recreation facilities and activities are closed.
1.3 Assess the potential of Council's grants recipients to increase access to non-gambling social, leisure, entertainment and recreation facilities and activities.
1.4 Support programs, activities and facilities that increase the community's access to non-gambling social, leisure, entertainment and recreation facilities.
<b>2. To strengthen harm minimisation through advocacy and collaboration</b>
2.1 Advocate for: <ul style="list-style-type: none"> <li>• inclusion of the uncapped areas under the municipal cap</li> <li>• no increase to the existing maximum number of EGMs currently permitted under the municipal cap (143 EGMs)</li> <li>• no increase to the regional cap limit in Region 14 (149 EGMs)</li> <li>• improvements to the mechanism through which Council makes submissions to the VCGLR</li> <li>• an increase in funding for services that support individuals directly and indirectly affected by gambling-related harms</li> <li>• a statutory requirement for all venue operators to allocate resources to addressing gambling-related harms</li> <li>• changes to the legislative and regulatory framework to limit the advertising of gambling through all media.</li> </ul>
2.2 Collaborate with peak bodies, stakeholders, service providers and community groups in sharing information and advocating for improved harm minimisation measures.
<b>3. To demonstrate leadership in the prevention of gambling-related harms</b>
3.1 Review the Local Planning Policy for Gaming and Clause 52.28 of the Melbourne Planning Scheme in order to effectively manage the location and operation of gaming venues and EGMs in the municipality.
3.2 Utilise the Decision-Making Framework when preparing submissions to the VCGLR, undertaking strategic planning activities, and fulfilling all advocacy and consultation, roles, and activities.
3.3 Liaise with adjoining municipalities and stakeholders when responding to applications for gaming approval in the City of Melbourne in order to gain an understanding of the potential impact of a proposal on the wellbeing of the community across municipal boundaries.
3.4 Make submissions to the VCGLR on applications for gaming approvals in the City of Melbourne and in adjoining municipalities if the proposal is likely to introduce harms in the municipality.
3.5 Adopt an integrated approach to the prevention of gambling related harms by incorporating strategies to address the harms associated with gambling in relevant Council strategies, plans and policies.
3.6 Develop a strong evidence base that can support Council's roles in the prevention of gambling-related harms.
3.7 Prohibit all forms of gambling on Council-owned or managed land, the use of gaming venues for Council activities and events and access to opportunities to gamble online in all Council supported public internet access points.
3.8 Review leasing arrangements to ensure that community groups and sporting clubs are not permitted to advertise or promote gambling-related activity at local venues or via online gambling agencies.
3.9 Review Council community events, activities, programs and social outings to ensure that they do not include venues that operate as gaming venues.
3.10 Collaborate with community groups and clubs to assess their sources of external funding and consider not taking funding from local gaming venues due to their significant revenue from EGM gambling losses.

3.11 Raise awareness in the community of the potential harms associated with gambling and the availability of services to address gambling-related harms.

3.12 Facilitate the inclusion of community views and sentiments on applications for gaming approvals and planning permits applications.

3.13 Facilitate collaboration between Council, stakeholders and venue operators to identify opportunities to collectively address existing and emerging gambling-harm in the community.

#### **4. Protect individuals and communities at an elevated risk of harms**

4.1 Require applications for planning permits to be accompanied by a rigorous and transparent independent assessment of the potential social and economic impacts of the proposal on the community within which it is located.

4.2 Discourage proposals that redistribute the density of EGMs per 1,000 adults and EGM expenditure towards areas of high disadvantage.

4.3 Discourage gaming venues and EGMs that result in exposure of gambling activities to individuals and communities at an elevated risk of gambling-related harms.

#### **5. To ensure that gaming venues are appropriately located**

5.2 Discourage proposals that would:

- Contribute to the disproportionate density of EGMs per 1,000 adults and EGM expenditure within the CBD
- Increase the prominence of gaming in existing communities or establish gaming as the prominent form of entertainment in emerging communities
- result in impulse gambling and increased exposure to gambling activities
- have a negative impact on the amenity and safety of the community.

#### **6. To achieve best practice in the regulation and management of gaming venues and use of electronic gaming machines**

6.1 Discourage proposals where the gaming venue operates beyond 2am and for more than 18 hours per day.

6.2 Encourage venue operators to prepare, adhere to and review venue management plans that transparently describe the venue's harm minimisation practices.

6.3 Encourage venue operators to regularly identify and analyse their patron profile of the venue and gaming lounge.

6.4 Ensure that appropriate conditions are included in planning approvals and that planning permit conditions are adhered to.

6.5 Notify the VCGLR if there is evidence to indicate that the venue operator is not complying with conditions in the gaming approval.

6.6 Encourage venue operators to undertake appropriate consultation activities prior to applying for gaming approval and planning permits to establish a gaming venue or increase the number of EGMs.

#### **7. To maximise the benefits associated with gambling**

7.1 Collaborate with venue operators to:

- seek opportunities to increase the value of non-statutory community contributions that benefit the City of Melbourne
- identify opportunities to allocate non-statutory community contributions to services and agencies that directly address social disadvantage and gambling-related harms in the City of Melbourne.

7.2 Discourage proposals that do not diversify the range of non-gambling social, leisure, recreational and entertainment facilities; generate jobs within the community affected by the proposal; stimulate tourism; or generate supply contracts and complementary expenditures within the City of Melbourne.

## **6.4 SOCIAL AND ECONOMIC IMPACT ASSESSMENT TOOL**

A social and economic impact assessment tool has been provided at Appendix 2. It will assist with the preparation of submissions to the VCGLR and the assessment of planning permit applications to install and use EGMs. It integrates all relevant assessment criteria which are derived from the primary physical, social and economic determinants gambling-related harms. As noted in Clause 22.12 of the Melbourne Planning Scheme, any application for the use/installation of EGMs will need to submit a social and economic impact assessment prepared by a suitably qualified consultant. The tool in Appendix 2 may also assist the relevant consultant in this task.

## **6.5 MONITORING AND REVIEW**

The effectiveness of the objectives and actions in the City of Melbourne Electronic Gaming Decision-Making Framework may be monitored in terms of the following indicators:

- Reduction in density of EGMs per 1000 adults, total EGM expenditure and EGM expenditure per adult in areas and communities considered at an elevated risk of gambling-related harms
- Increase number and diversity of non-gambling activities in municipality.
- Reduction in demand for gambling support services
- A reduction in resources associated with the preparation of submissions to the Commission and planning permit applications
- Increase in cash and in-kind community contributions allocated to services and agencies that address vulnerability to gambling-related harms in the City of Melbourne.

## APPENDIX 1 - BIBLIOGRAPHY

- 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), Australian Government Productivity Commission (2010) *Productivity Community Inquiry Report, Gambling*
- Andrew Harris & Mark D. Griffiths, (2017), A Critical Review of the Harm-Minimisation Tools Available for Electronic Gambling, *Journal of Gambling Studies*, March Vol.33 Issue 1 pp.187-221
- Australian Government Productivity Commission (2010) *Productivity Commission Inquiry Report, Gambling* No. 50
- Bestman, A, Thomas, SL, Randle, M, Pitt, H, Daube, M & Pettigrew, S 2015, 'Shaping pathways to gambling consumption? An analysis of the promotion of gambling and non-gambling activities from gambling venues', *Addiction Research & Theory*, Online, 15 October 2015.
- Billi, R., Stone, C.A., Marden, P., Yeung, K., (2014). *The Victorian Gambling Study: A longitudinal study of gambling and health in Victoria, 2008–2012*. Victoria, Australia: Victorian Responsible Gambling Foundation.
- 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.
- Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T (2016), *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne.
- Department of Justice (2008) *Destination Gaming. Evaluating the benefits for Victoria. A Taking Action on Problem Gambling Initiative*.
- Hare, S (2015) *Study of gambling and health in Victoria* Victorian Responsible Gambling Foundation and Victorian Department of Justice and Regulation, Melbourne
- Hing, N. and Haw, J. (2010) *The Influence of Venue Characteristics on a Player's Decision to Attend a Gambling Venue* Gambling Research Australia
- Johansson, A., Grant, J., Kim, S., Odlaug, B., Gotestam, K. (2009) "Risk Factors for Problematic Gambling: A Critical Literature Review" *Journal of Gambling Studies* Vol, 25, No 1, March 2009 p84
- Livingstone C, Rintoul A. & Francis L. (2014) *What is the evidence for harm minimisation measures in gambling venues?* Evidence Base 2:
- Livingstone, C et al (2012) *Assessment of poker machine expenditure and community benefit claims in selected Commonwealth Electoral Divisions* Uniting Care Australia
- Miller, H. (2015) *Background Paper. Risk Factors for Problem Gambling: Environmental, geographic, social, cultural, demographic, socio-economic, family and household*. Victorian Responsible Gambling Foundation
- Rockloff, M, Thorne, H, Goodwin, B, Moskovsky, N, Langham, E, Browne, M, Donaldson, P, Li, E & Rose, J (2015), *EGM environments that contribute to excess consumption and harm*, Victorian Responsible Gambling Foundation, Melbourne
- State Government of Victoria (2011) *Socio-economic impacts of access to electronic gaming machines in Victoria – Effects on demand and communities* Department of Justice
- Storer, J, Abbot, M and Stubbs, J (2009) 'Access or adaptation? A meta-analysis of surveys of problem gambling prevalence in Australian and New Zealand with respect to

concentration of electronic gaming machines' *International Gambling Studies* Volume. 9, No. 3, December 2009, p238

Tuffin, A and Parr, V (2008) *Evaluation of the 6 hour shutdown of electronic gaming machines in NSW*. NSW Office of Liquor, gaming and Racing p42

Victorian Responsible Gambling Foundation (2013) *The Responsible Gambling Guide*

VRGF (2014) Study of gambling and health in Victoria, Assessing gambling-related harm in Victoria: a public health perspective, Victorian Responsible Gambling Foundation, M

## APPENDIX 2 - SOCIAL AND ECONOMIC IMPACT ASSESSMENT TOOL

The *City of Melbourne Gaming Social and Economic Impact Assessment Tool* will assist officers gather information for applications for planning permits to use and install electronic gaming machines under the Melbourne Planning Scheme and the *Planning and Environment Act 1987* and for applications for gaming approval considered under the *Gambling Regulation Act 2003*. Unless otherwise indicated, the Tool is relevant to both assessment processes.

The evidence base underpinning this Tool is provided in Section 8 of the *City of Melbourne Electronic Gaming Machine Review Background Report 2017*. Where appropriate, the Tool describes where the information may be found. The Tool consists of three main sections including the application details, an analysis of specific risk and protective factors that may increase or reduce the potential for the proposal to result in gambling-related harms, and the assessment of the potential benefits and harms associated with the proposal.

### Application details

This section describes the physical land use context of the proposal site, the proposed changes to the design and layout (in the case of an existing venue) and the proposed changes to key gaming indicators.

Information	Existing	Proposed
Venue address*		
Venue type (hotel or club*)		
Number EGMs*		
Total expenditure on EGMs in the venue*		
Venue net machine revenue*		
Operating hours*		
Total employment EFT*		
Employment in gaming lounge*		
Harm minimisation measures*		
Non-gambling social, leisure, entertainment and recreation facilities and activities (number and size in m <sup>2</sup> )*		
Location of gaming lounge in relation to non-gaming activities and facilities*		
Liquor licence type and details**		
Statutory community contributions*		
Non-statutory community contributions*		
Land use zone of site*		
Adjoining zoning*		
Surrounding zoning*		
Density of EGMs per 1000 adults (municipal)**		
EGM expenditure per adult (municipal)**		
Adults per venue (municipal)**		

Source of data: \*Application documentation (app docs) \*\*VCGLR

### Risk and protective factors

This section describes specific risk and protective factors that may be associated with the proposal. The risk factors increase the potential for the proposal to contribute to gambling-related harms while the protective factors reduce the potential for the proposal to contribute to gambling-related harms.

Columns highlighted in red represent potential risk factors and harms while columns highlighted in green represent potential protective factors and benefits.



### Venue features, design and operations

The indicators included in this section relate to the changes to key gaming indicators associated with the proposal.

<b>Number of EGMs</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Results in net increase in the number of EGMs in the municipality</b>	App docs			
<b>Density</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Results in a net increase in density of EGMs per 1,000 adults</b>	App docs			
<b>Results in a density of EGMs per 1,000 adults that is greater than the metropolitan average</b>	VCGLR			
<b>Venue</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Results in increase in number of venues in municipality</b>	App docs			
<b>Located in area covered by Regional Cap</b>	VCGLR			
<b>Expenditure</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Has an expenditure per attached EGM entitlement above the average for the City of Melbourne</b>	VCGLR			
<b>Results in an increase in expenditure per adult</b>	VCGLR			
<b>Results in an expenditure per adult that is above the average for metro Councils</b>	VCGLR			
<b>Employment</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Increases number of people employed in the gaming room</b>	App docs			
<b>Operating hours</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Operates after 2am</b>	App docs			
<b>Operates 24 hours per day</b>	App docs			

## Venue features, design and operations continued

<b>Venue design</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Gaming room visible from front entrance</b>	Site visit and/or app docs			
<b>Gaming room visible from non-gaming activities</b>	Site visit and/or app docs			
<b>Gaming room visible and audible from children's play area</b>	Site visit and/or app docs			
<b>Gaming room accessed without having to pass through non-gambling activities.</b>	Site visit and/or app docs			
<b>EGMs visible from footpath and street</b>	Site visit and/or app docs			
<b>Smoking area attached to gaming lounge.</b>	Site visit and/or app docs			
<b>Serving of alcohol</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Alcohol served in gaming room after other areas of venue closed.</b>	App docs			
<b>Venue operations and management</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Venue operates a rewards system.</b>	Site visit and/or app docs			
<b>Only proposes statutory harm minimisation measures.</b>	App docs			
<b>Only proposes statutory community contributions</b>	App docs			
<b>Incorporates other gambling</b>	Site visit and/or app docs			

<b>activities</b>				
<b>Has gambling as the main form of entertainment</b>	Site visit and/or app docs			

### Potential to contribute to convenience gambling

The indicators in this section relate specifically to the land use aspects of the proposal that determine the extent to which the proposal could result in convenience gambling. These indicators are more relevant to an application for a planning permit considered under the Melbourne Planning Scheme and the *Planning and Environment Act 1987*.

Land uses adjoining proposal site	Data Source	Yes	No	N/A	Comment
<b>EGM gambling venue</b>	Site visit				
<b>Shopping complex</b>	Site visit				
<b>Strip shopping centre</b>	Site visit				
<b>Welfare and support agency</b>	Site visit				
<b>Train station</b>	Site visit				
<b>Bus stop</b>	Site visit				
<b>Tram stop</b>	Site visit				
<b>Social housing</b>	Site visit				
<b>Student accommodation</b>	Site visit				
<b>Tertiary education facility</b>	Site visit				
<b>Land uses visible from proposal site</b>	Data Source				
<b>EGM gambling venue</b>	Site visit				
<b>Shopping complex</b>	Site visit				
<b>Strip shopping centre</b>	Site visit				
<b>Welfare and support agency</b>	Site visit				
<b>Train station</b>	Site visit				
<b>Bus stop</b>	Site visit				
<b>Tram stop</b>	Site visit				
<b>Social housing</b>	Site visit				
<b>Student accommodation</b>	Site visit				
<b>Tertiary education facility</b>	Site visit				
Land uses within 400m of proposal site	Data Source	Yes	No	N/A	Comment
<b>EGM gambling venue</b>	Site visit				
<b>Shopping complex</b>	Site visit				
<b>Strip shopping centre</b>	Site visit				
<b>Welfare and support agency</b>	Site visit				
<b>Train station</b>	Site visit				
<b>Bus stop</b>	Site visit				
<b>Tram stop</b>	Site visit				
<b>Social housing</b>	Site visit				
<b>Student accommodation</b>	Site visit				
<b>Tertiary education facility</b>	Site visit				
<b>Social, leisure, entertainment and recreation uses closed when gaming room is open</b>	Site visit				

## Municipal socio-economic and health profile

This section lists the socio-economic and health factors that are associated with gambling-related harms at a municipal level. Where the proportion of each indicator is above that of Victoria, it represents a risk factor. Conversely, where the indicator is below that of Victoria, it represents a protective factor.

<b>Health profile</b>	<b>Data Source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Domestic violence</b>	Crime Statistics Agency			
<b>People experiencing drug and alcohol harms</b>	DHHS			
<b>Smokers</b>	DHHS			
<b>Gambling-related harms</b>	DHHS			
<b>Mental health issues</b>	DHHS			

## Socio-economic profile of catchment

This section lists the socio-economic and health factors that are associated with gambling-related harms within the catchment to be served by the venue. This assessment is conducted at the Statistical Area 1 (SA1) or state suburb (SSC) where the SA1 data are not available. Where the proportion of each indicator is above the City of Melbourne, it represents a risk factor. Conversely, where the indicator is below that the City of Melbourne, it represents a protective factor.

<b>Socio-economic profile</b>	<b>Data source</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
<b>Socio-economic disadvantage</b>	ABS			
<b>Aboriginal and Torres Strait Islanders</b>	ABS			
<b>People who had lower levels of educational attainment (Year 10 or lower)</b>	ABS			
<b>Machinery operators or drivers</b>	ABS			
<b>Sales workers</b>	ABS			
<b>Labourers</b>	ABS			
<b>People with a personal annual income between \$31,200 and \$51,999</b>	ABS			
<b>People living in households with a median annual household income \$62,400 - \$103,999</b>	ABS			
<b>People living in group households</b>	ABS			
<b>Young people aged 18–24</b>	ABS			
<b>People not speaking English at home or non-Caucasians</b>	ABS			
<b>People who are unemployed or not in the workforce</b>	ABS			
<b>Migrants and people from CALD communities, particularly Asian groups including Vietnamese, Chinese and Korean</b>	ABS			

## Socio-economic profile of patron profile

This section lists the socio-economic and health factors that are associated with gambling-related harms within the patron profile be served by the gaming lounge in the gaming venue. This assessment is conducted for each of the suburbs included in the venue patron profile. Where the proportion of each indicator is above the City of Melbourne or the municipality where the suburbs are located if they are outside the City of Melbourne, it represents a risk factor. Conversely, where the indicator is below that the City of Melbourne or the relevant municipality, it represents a protective factor.

Socio-economic profile of patrons	Data Source	Yes	No	Comment
<b>Socio-economic disadvantage.</b>	App docs and ABS			
<b>Aboriginal and Torres Strait Islanders</b>	App docs and ABS			
<b>People who had lower levels of educational attainment (Year 10 or lower)</b>	App docs and ABS			
<b>Community or personal services workers</b>	App docs and ABS			
<b>Machinery operators or drivers</b>	App docs and ABS			
<b>Sales workers</b>	App docs and ABS			
<b>Labourers</b>	App docs and ABS			
<b>People with a personal annual income between \$31,200 and \$51,999</b>	App docs and ABS			
<b>People living in households with a median annual household income \$62,400 - \$103,999</b>	App docs and ABS			
<b>People living in group households</b>	App docs and ABS			
<b>Young people aged 18–24</b>	App docs and ABS			
<b>People not speaking English at home or non-Caucasians</b>	App docs and ABS			
<b>People who are unemployed or not in the workforce</b>	App docs and ABS			
<b>Migrants and people from CALD communities, particularly Asian groups including Vietnamese, Chinese and Korean</b>	App docs and ABS			

## Impact assessment

The information in this section guides the assessment of the potential social and economic benefits and harms associated with the proposal. It incorporates factors physical land use factors, impacts on communities and individuals at an elevated risk of gambling-related harms and potential contributions to the community.

### Potential benefits

Social	Data source	No	Yes	N/A	Comment
Restoration of historic building	App docs				
Provision of new social, leisure, entertainment and recreation facilities that are available to all sectors of the community	App docs				
Upgrading of existing social, leisure, entertainment and recreation facilities that are available to all sectors of the community	App docs				
Cash and in kind contributions (over and above statutory requirements) in the City of Melbourne	App docs				
Potential for RSL clubs to deliver support and welfare services	App docs				
Economic	Data Source	No	Yes	N/A	Comment
Economic stimulus through supply contracts, investment sourced from within City of Melbourne	App docs				
Complementary expenditure increased in the City of Melbourne	App docs				
Potential for the proposal to stimulate competition <sup>1</sup>	App docs				
Potential to stimulate tourism	App docs				
Creation of additional employment sourced from the City of Melbourne	App docs				
Government revenue through taxes	App docs				
Retention of expenditure within City of Melbourne	App docs				

<sup>1</sup> *Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors [2013] Para 25, 164 and 165*

## Potential harms

<b>Social</b>	<b>Data source</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comment</b>
<b>Results in transfer of expenditure to areas displaying high levels of socio-economic disadvantage</b>	App docs				
<b>Results in transfer of EGMs to areas displaying high levels of socio-economic disadvantage</b>	App docs				
<b>Potential to increase gambling related crime and disturbance</b>	Stakeholder engagement				
<b>Exposure of gaming employees to gaming</b>	App docs				
<b>Community concern with proposal</b>	Community survey, objections and submissions				
<b>Potential to increase demand for health, welfare and support services</b>	Stakeholder engagement				
<b>Economic</b>	<b>Data source</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comment</b>
<b>Potential diversion of trade from existing businesses</b>	Stakeholder engagement				

**APPENDIX 3 KEY EGM DATA 2015-16**

<b>Indicator</b>	<b>City of Melbourne</b>	<b>Average metropolitan Melbourne</b>	<b>Victoria</b>
<b>SEIFA score of relative socio-economic disadvantage</b>	1050.7	1020.3	1009.6
<b>Number of attached EGM entitlements (operating EGMs)</b>	746	N/A	N/A
<b>Number of EGM licences</b>	799	622	462
<b>Number of venues</b>	11	10	9
<b>Total EGM expenditure/player Loss</b>	\$ 79,770,052.63	\$67,121,836.29	\$45,907,078.87
<b>Average number of attached EGMs per venue</b>	68	59	50
<b>Average EGM expenditure per venue</b>	\$ 7,251,822.97	\$6,227,313.61	\$4,587,454.53
<b>Average expenditure per attached EGM entitlement</b>	\$106,930.37	\$104,767.04	\$87,776.28
<b>Adults per venue</b>	11,102	11,359	9,461
<b>Density EGMs per 1,000 adults</b>	6.1	5.3	5.7
<b>EGM expenditure per adult</b>	\$653.19	\$575.20	\$553.13

Source: VCGLR



## REFERENCES

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- <sup>1</sup> Clause 21.02-1 Melbourne Planning Scheme
- <sup>2</sup> <http://melbournepopulation.geografia.com.au/>
- <sup>3</sup> <http://www.melbourne.vic.gov.au/about-melbourne/research-and-statistics/Pages/daily-population-interactive-visualisation.aspx>
- <sup>4</sup> <http://www.melbourne.vic.gov.au/about-melbourne/research-and-statistics/Pages/daily-population-estimates-and-forecasts.aspx>
- <sup>5</sup> Adapted from VCEC Inquiry into Costs of Problem Gambling (2012), and VCGLR submission forms
- <sup>6</sup> <http://problemgambling.gov.au/facts/>
- <sup>7</sup> 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
- <sup>8</sup> Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T 2016, Assessing gambling-related harm in Victoria: a public health perspective, Victorian Responsible Gambling Foundation, Melbourne.
- <sup>9</sup> State Government of Victoria (2009) A study of gambling in Victoria.
- <sup>10</sup> VRGF (2014) *Study of gambling and health in Victoria*
- <sup>11</sup> Australian Government Productivity Commission (2010) p5.22
- <sup>12</sup> Australian Government Productivity Commission (2010) p5.26
- <sup>13</sup> <http://www.problemgambling.gov.au/facts/>
- <sup>14</sup> Storer, J, Abbot, M and Stubbs, J (2009) 'Access or adaptation? A meta-analysis of surveys of problem gambling prevalence in Australian and New Zealand with respect to concentration of electronic gaming machines' *International Gambling Studies* Volume. 9, No. 3, December 2009, p238
- <sup>15</sup> Victorian Responsible Gambling Foundation (2013) *The Responsible Gambling Guide*
- <sup>16</sup> Adapted from the Victorian Competition and Efficiency Commission (2010) p33
- <sup>17</sup> Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T (2016) *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne.
- <sup>18</sup> Markham, F., Doran, B., Young, M., The relationship between electronic gaming machine accessibility and police-recorded domestic violence: A spatio-temporal analysis of 654 postcodes in Victoria, Australia, 2005–2014, *Social Science & Medicine* (2016), doi: 10.1016/j.socscimed.2016.06.008.
- <sup>19</sup> The evidence base for these determinants of gambling-related harms is presented in the *Melbourne City Council Gambling Policy and Decision-Making Framework Background 2017*
- <sup>20</sup> The evidence base for these determinants of gambling-related harms is presented in the *Melbourne City Council Gambling Policy and Decision-Making Framework Background 2017*
- <sup>21</sup> State Government of Victoria (2009) A study of gambling in Victoria.
- <sup>22</sup> Wyndham Planning Panel Report, Amendment C174:
- <sup>23</sup> *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Occupational and Business Regulation)* [2007] VCAT 1
- <sup>24</sup> Commission Decision, Glenroy RSL 2016
- <sup>25</sup> Commission Decision Braybrook Hotel
- <sup>26</sup> *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor*
- <sup>27</sup> Commission Decision, Commercial Hotel
- <sup>28</sup> Commission Decision, Commercial Hotel
- <sup>29</sup> Commission Decision, Braybrook Hotel, Commission Decision, Commercial Hotel
- <sup>30</sup> Commission Decision, Braybrook Hotel
- <sup>31</sup> *Glenroy RSL Sub Branch Inc v Moreland CC* [2017] VCAT 531
- <sup>32</sup> *Glenroy RSL Sub Branch Inc v Moreland CC* [2017] VCAT 531