



Victorian Commission for Gambling Regulation

DECISION AND REASONS FOR DECISION

In the matter of the *Gambling Regulation Act 2003*

– and –

In the matter of an application by Laurimar Tavern Pty Ltd under section 3.3.4 of the Act for approval of premises Laurimar Tavern, 63 Painted Hills Road, as suitable for gaming with forty (40) gaming machines.

DECISION

Commission: Mrs J. King, Deputy Chair
Mr P. Cohen, Executive Commissioner

Date: 15 March 2010

Decision: The application is granted.

(Sgd.) J. King, Deputy Chair

REASONS FOR DECISION

Date: 15 March 2010

Mrs J. King, Deputy Chair

Mr P. Cohen, Executive Commissioner

1. This was an application by Laurimar Tavern Pty Ltd under section 3.3.4 of the Gambling Regulation Act, for approval of premises Laurimar Tavern, 63 Painted Hills Road, Doreen as suitable for gaming with forty (40) gaming machines

THE LEGISLATION

2. The legislative provisions governing applications for approval of premises for gaming are found in the *Gambling Regulation Act 2003* (the Act). Section 10.1.20 (1) of the Act provides that the Commission may hold inquiries for the purpose of the exercise of its functions under the Act. Section 10.1.22(1) provides that the Commission may hold such inquiries in public or private. Sub-section (2) requires that inquiries for the purpose of making a finding or a determination in relation to an application for approval of premises for gaming must be conducted in public unless the Commission determines that there are special circumstances requiring that the inquiry or part of it shall be held in private. This inquiry was held entirely in public.

3. The matters to be taken into consideration by the Commission in making its determination are set out in section 3.3.7, the relevant parts of which are as follows-

“The Commission must not grant an application for approval of premises as suitable for gaming unless satisfied that-

(a) the applicant has authority to make the application in respect of the premises; and

(b) the premises are or, on the completion of building works will be, suitable for the management and operation of gaming machines; and

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

4. Upon making an application the applicant is required by section 3.3.5 to notify the relevant authority, such notification to be provided by serving a copy of the application upon the responsible local government authority, which in this case is the City of Whittlesea.
5. Section 3.3.6 provides that the relevant authority may make a submission addressing the economic and social impact of the proposal for approval, on the well-being of the community, and also taking into account the impact of the proposal on surrounding municipal districts.

THE CITY OF WHITTLESEA

6. The applicant had complied with the requirements of the Act and provided the Relevant Authority, the City of Whittlesea, with a copy of the application. The Council made written submissions opposing the application and was represented at the inquiry by Mr John Rantino of Maddocks, Solicitors.

POLICY CONSIDERATIONS

7. The Commission is also required when considering applications for venue approvals to take into account current government policies. Of particular significance in this application are the policies which govern regional caps and municipal limits. Both of these provisions are in place as a measure “to protect communities that are particularly vulnerable to the harm from problem gambling.”
8. A regional cap applies in the City of Whittlesea in the postcodes 3074, 3075, 3076, 3082 and 3083, which take in suburbs in the south of the municipality. Laurimar is not within a capped area.
9. A municipal limit is imposed by Ministerial Direction, which restricts the maximum number of machines permissible in the uncapped area of the municipality at 10 per 1,000 adults. The limit for the uncapped area of Whittlesea is 212 gaming machines.

THE BACKGROUND TO THIS APPLICATION

10. The City of Whittlesea is some 30 kilometres from the Melbourne CBD, and is one of the largest municipalities in the metropolitan area, and is one of the growth corridors of Melbourne. It has diverse and quite distinct local areas with older established suburbs in the SLAs of Whittlesea south east and Whittlesea south west, and newer suburbs including Laurimar and Doreen in the north SLA.
11. Laurimar is a Delfin Lend Lease planned development currently under construction. On completion the suburb will have around 2400 dwellings, as well as the commercial, retail and community services expected in a modern planned estate. An estimated 9000 residents will reside in Laurimar initially.
12. The venue, Laurimar Tavern, which is the subject of this application is proposed to be constructed on a greenfields site at 63 Painted Hills Road. The Strategic Development Plan for the City of Whittlesea identifies the site as suitable for development of premises which will be the focal point for entertainment and recreational activity for the residents of Laurimar, Doreen and surrounding district.
13. In July 2009 the Commission granted approval to the Bridge Inn Hotel at Mernda, also in the municipality of Whittlesea as suitable for gaming with 40 egms. The Bridge Inn is situated some 5 kilometres from the proposed site.
14. Members of the Commission are familiar with venues located within the municipality of Whittlesea and have visited a number of them. They

have also inspected the site for the proposed Laurimar Tavern and surrounding areas prior to and during the inquiry.

THE CASE PRESENTED BY THE APPLICANT

15. Ms Sarah Porritt, instructed by Bazzani Scully Brand, Solicitors, appeared on behalf of the applicant. Comprehensive submissions and documentation were filed on behalf of the applicant and several witnesses gave evidence.
16. Ms Porritt said that the proposed Tavern would provide the community of Laurimar with a venue with a range of high quality facilities which are currently not available. The inclusion of 40 gaming machines in the Tavern would not be a significant or dominant part of the overall development.
17. The Applicant, Dominion Hotel Group, proposes to lease the premises from the joint owners George Adams Pty Ltd, a subsidiary of Tatts Ltd, and Prizac Investments Pty Ltd. Mr Richard Whitehouse, Divisional Manager with Tatts said that the land was purchased in September 2007 for \$1,350,000.
18. Mr Ian Macklin of TM Design Group, project manager for the proposed premises gave evidence supported by an electronic presentation on the design and features of the Tavern. The building has been designed to take maximum advantage of the lake which it overlooks, and to minimize outlook to the utility areas of surrounding buildings and the

car park, while maintaining appropriate separation from the entrance to the nearby supermarket. The building comprises three levels with car parking in the basement and on level one.

19. Facilities in the building will include a Café/Bistro with capacity for up to 250; Sports Bar to seat 185; Lounge; two Function rooms with combined capacity of 300; Indoor/Outdoor children's play area; Gaming Lounge and TAB Wagering. Spaces for 164 cars will be provided. It is proposed that the gaming room have 40 seats. It was evident from the presentation that on completion the Tavern would be modern and attractive, and provide the recreational facilities currently not available to the community. The estimated cost of the proposed development is \$12 million.
20. Ms Sophie Jordan, Director, Urbis Pty Ltd, had submitted the document, Laurimar Tavern Planning Evidence, and gave evidence in relation to it. For the purposes of these Reasons for Decision we have dealt only with the matters relevant to the gaming application.
21. Ms Jordan outlined the elements of the Development Plan approved by Council in July 2007 which sets out the general framework for the town centre. It is planned that the core activity centre will continue to evolve until 2021. It is intended that Laurimar will not be a regional retail or commercial centre but that it will retain a community character with "*a vibrant street life for at least 18 hours a day*". The inclusion of a Tavern within the activity centre was consistent with the Council's

strategic objectives for activity centres within the municipality, as well as those objectives specific to Laurimar.

22. Mr John Nicholson gave evidence to the inquiry in his capacity as an investor in Laurimar Tavern, the Applicant. His statement which had been lodged previously set out the extensive experience he had in the hospitality industry since 1990. He said that he is now involved with the Dominion Hotel Group which has been established to take up opportunities emerging when changes to the gaming licensing environment take effect in 2012.
23. Mr Nicholson said that he and his partner, Mr Tony Perry, believed that Laurimar Tavern would be a successful venture and popular in the community. He said that the initial rental agreement struck with Prizac Investments was \$600,000 per annum (plus GST) for 4 years, plus an additional \$7 million, which amounted to 60% of the projected overall profits, and is to be paid in annual instalments.
24. Mr Whitehouse confirmed that this was required to meet 10% return on investment required by Tatts in the land and construction costs of the project.
25. Mr John Rantino of Maddocks, Solicitors, represented the Council at the inquiry. He asked whether alternative proposals which would have resulted in a more modest premises that may have been viable without poker machines had been seriously considered. Mr Nicholson said that the proposal which had been developed was the most appropriate in the

circumstances, taking into account the size of the land and planning requirements, including car parking, and that alternatives such as that proposed by Mr Rantino had not been considered. He said that without the revenue from egms the venture would not be viable. Further he stated that the inclusion of gaming machines was part of a package that would complete the overall offering of the venue.

26. Mr Whitehouse confirmed that the slope of site and parking requirements made consideration of alternative structure size and building options unviable.
27. Questions were also asked about the business case underlying the proposal. Mr Nicholson cited “back of the envelope calculations” that gave him the estimates of revenue and expenditure. Given his experience both as a chartered accountant and in the hotel industry it is reasonable to accept that the figures were a reliable indicator of the expected returns on the investment, although not satisfactory for the purposes of this inquiry. However Mr Nicholson subsequently submitted spreadsheets to support the calculations.
28. Mr Rantino asked why Mr Nicholson had not visited the Bridge Inn or undertaken some competitor analysis of that proposed venue and the likely impact it might have on Laurimar Tavern. Mr Nicholson said that in his view Laurimar Tavern is a stand alone site that would draw its patrons from the immediate surrounds.

29. The Commission would usually expect the applicant to provide details of the management structure proposed for the venue and in many instances the key executive(s) who will form the management team give evidence at an inquiry in relation to their qualifications and experience. Mr Nicholson described his role in relation to his interests as “strategic” and “hands off.” He would not be involved in the management with the operations to be supervised by Mr Perry, and procedures and compliance obligations put in place by Ms Mary Louise Crowe, both of whom gave evidence to the inquiry.
30. Mr Anthony Perry is currently the sole Director of the Applicant, and will assume the role of overseeing the operation but will not be the venue manager. He has previously been employed by Tatts and has experience in the industry, although none as a venue or hospitality manager. He said that he would recruit someone with appropriate experience and qualifications to manage the venue, ideally someone local. He would visit regularly, probably about three times per week.
31. Ms Mary Louise Crowe, Consultant with extensive industry experience, had been engaged by the applicant to undertake the preparation of the necessary staff manuals, training, and documentation to ensure best practice delivery of services, compliance, responsible gambling services, and stakeholder relations. This will include implementation of the Responsible Gambling Code of Conduct.
32. Ms Crowe had had discussions with Council on the development of the proposed community support program which will be implemented if the

application is granted. The proposed community support program under discussion includes an initial contribution of \$100,000 for a nominated community infrastructure project, and an annual contribution of \$70,000 for a period of five years, as well as in kind community contributions.

33. Tatts will contribute the \$100,000. Mr Whitehouse confirmed that the company was prepared to give an undertaking to that effect to the Commission if required.

SOCIAL AND ECONOMIC IMPACT ASSESSMENT

34. Mr Rhys Quick, Associate with Urbis Pty Ltd submitted a Social and Economic Impact Assessment dated 29 April 2009 and an Addendum Report dated November 2009, and gave evidence at the inquiry. Mr Quick's reports and his evidence show that the municipality of Whittlesea divides into SLAs with very marked differences in the socio economic profiles of the north and south. The older more established suburbs in the south are disadvantaged in comparison with the new suburbs in the north where the Laurimar Tavern is to be located.
35. Figures from the Department of Planning and Community Development estimate that population in Whittlesea North will increase by 7,800 per annum (20%) until 2011, and by 6,300 per annum (9.4%) between 2011 and 2016, resulting in total projected population of 87,250 in the SLA, and in the 5km radius of the proposed venue 35,974. These projections confirm that the City of Whittlesea, and the Whittlesea North SLA are amongst the fastest growing areas of Melbourne, although the growth is

predominantly in the newer residential areas such as Laurimar and Doreen not the older established areas to the south.

36. The demographic profile within Whittlesea North is indicative of an area which generally comprises growing families in newer estates. A higher proportion than average are aged under 18 while the proportion of residents aged over 60 is lower than the Melbourne average.
37. Mr Quick concluded that analysis of the Department of Education, Employment and Workplace Relations (DEEWR) data showed that while unemployment in the City of Whittlesea at 4.6% to 4.7% was close to the Melbourne average, Whittlesea North SLA had a rate of 2.9% and Whittlesea South East, 3.1% which are both well below the Melbourne average. The Whittlesea South-West SLA had a unemployment rate for the same period of 6.9% which is above the Melbourne average. These figures support the view that unemployment in the Whittlesea North SLA is not a matter for concern in the context of this application.
38. Mr Quick had included in his addendum report an analysis of per capita and household income in the 2.5km radius which showed that the household figures were well above (23.9%) the Melbourne average. Household income is regarded as a more reliable indicator than the per capita income measure in new growth areas because of the high number of young people and children not in full time employment.

39. The SEIFA Index of Relative Socio-Economic Disadvantage for the City of Whittlesea is 978. The municipality is ranked 27 out of 80 local government municipalities in Victoria in ascending order. A higher index score means that the area is relatively less disadvantaged. Mr Quick had pointed out in his report that in 2001 the position of Whittlesea was 7th on this measure. The improved position has largely resulted from the impact of the new residential developments in the north of the municipality. It is expected that this trend will continue as the newer suburbs continue to develop.
40. Mr Quick also pointed out that the 2006 results showed marked variations in the SEIFA score at the Statistical Local Area (SLA) level. The North where Laurimar is located is ranked 169 out of 204 SLAs while the South-West, some 13kms away is ranked 11th on the SEIFA score.
41. The Council had expressed concern at the potential for “housing stress” in the Laurimar area. Housing stress is defined as mortgage costs in excess of 30% of household income. Mr Quick argued that people in Laurimar had incomes which could support the relatively high purchase price and mortgages for the more expensive houses in the area, and that for those faced with unsustainable pressure on household budgets there were alternative options in other less expensive suburbs within the municipality.
42. He said that discussions with developers suggested that a good number of new houses were second or third houses for residents upgrading

rather than first home owners, however these were anecdotal impressions and not supported by evidence.

43. While the figures support Mr Quick's conclusions, the Council's concern is understandable as a change in circumstances can cause unforeseen financial pressure even in apparently wealthier residential pockets.
44. The employment that will be generated by this proposal if approved in Mr Quick's estimate is 57 full time jobs for a year during the construction phase, and when fully operational the venue will generate some 40 FTE positions and up to a further 15 to 20 casual positions, across the venue as a whole. He had based the estimate on his knowledge of the industry and experience with other similar gaming venue developments.
45. Mr Rantino was critical of some aspects of Mr Quick's submission, and in particular his failure to take account of the revised expenditure figures when assessing the potential social and economic impact of the proposal. He also asked whether sufficient focus had been placed on whether, if the Bridge Inn proposal proceeds, it would provide a viable option for the potential gaming clients from Laurimar.
46. The matter of whether alternative options might have been considered for this site and scenarios that would flow from any such proposals had not been addressed by Mr Quick. Such options might be examined by Council in the planning process, but this application is for a specific

proposal for a venue with a range of facilities and entertainment options, of which gambling is one. It has been presented as an “all or nothing” proposal, and this is the application that is before the Commission.

THE VIEWS OF THE COMMUNITY

47. The Commission places considerable weight on material submitted which present the views of the community. In this application community responses were submitted by way of surveys, submissions and evidence, and a petition.
48. Ipsos Australia had been engaged by the applicant to conduct a community attitudinal survey. Mr Philip Calwell provided evidence about the survey and the results in a witness statement and in oral evidence to the inquiry. As in a number of previous cases, the survey was conducted through a series of 300 telephone interviews using the CATI – computer aided telephone interviewing- system. The survey covered postcode 3754 which includes Laurimar, Doreen and Mernda, all within the 5km radius of Laurimar.
49. Results of the survey showed that overall, 73 per cent supported the proposal, 14 per cent neither opposed nor supported it, and 13 per cent opposed it.
50. When asked about their attitude to the introduction of gaming machines 44% of respondents opposed the introduction of gaming machines at the

venue, while 36% supported their introduction. When it was put to respondents that the development would only proceed if approval for gaming machines was granted, support rose to 56%.

51. Mr Calwell said that the same methodology as that used in this survey had been used to obtain evidence about community views in the Romsey Hotel matter, and he made comparisons with the results, which differed significantly. “Even after respondents were informed that the re-development in Romsey was dependent on the introduction of the gaming machines, there were still more opposed to the gaming machines than supportive (50% vs 33%). In Laurimar, the reverse was true. There was majority support for the introduction of gaming machines, on the understanding that the development would not go ahead without them, 56% in support as compared with 19% opposing”.
52. In the Romsey matter there was already an existing hotel, which although in need of modernization and expansion, did provide a “local” within the community. In Laurimar there is no such facility, so the immediate benefit to the community is more easily identified.
53. A petition signed by 256 residents opposing the introduction of gaming machines had been included with the Council’s submission.
54. Mr Jemal Ahmet, Manager for Whittlesea Community Connections, and Rev Glynis Dickins the Minister of Plenty Valley Baptist Community Church, located in Doreen, and a local resident gave evidence about the impact the new venue might have on the community. Both have

professional roles in the local area. Both strongly opposed the introduction of gaming machines.

55. Mr Ahmet and Rev Dickins expressed concern about the potential vulnerability of young families with high expenses being exposed to gambling. Rev Dickins said that the local community lacked venues for formal and informal entertaining and would support and welcome a family friendly venue of the type proposed “but we just don’t want it with the dangers associated with poker machines.”
56. Mr Ahmet said that there are no services available in Laurimar to support those who might need counselling or assistance with difficulties arising from problem gambling, and it is understood that such are the demands on existing services that there is no immediate likelihood that they could be expanded.

GAMING IN THE CITY OF WHITTLESEA

57. There are currently 9 gaming venues in the City of Whittlesea with a total of 621 gaming machines. Of these 5 are located in hotels, and 4 of these venues have 100 (105 in one case) egms.
58. The applicant has advised that 4 egms are to come from The Casa d’Abruzzo Club and 8 egms are to be transferred from the Plough Hotel. Both of these venues are located within the capped region of the City of Whittlesea. Casa d’Abruzzo Club currently has 60 egms and Plough Hotel has 100.

59. The density of egms in the City of Whittlesea is 6.29 per 1000 adults which is lower than both the metropolitan and state average of 6.66 and 6.72 respectively. If Laurimar Tavern is approved and the Bridge Inn proceeds, there will be no detrimental impact on the egm density, and it is reasonable to accept the view that density is likely to decline as rapid population occurs in the north of the municipality.
60. The introduction of 40 gaming machines at Laurimar Tavern, even if in addition to 40 at Bridge Inn will not cause the overall number to exceed the municipal limit of 212.

EXPENDITURE

61. Expenditure in Whittlesea is more problematic and is a matter of considerable concern to the Council, and was discussed in detail in its submission.
62. Estimates of expenditure are further complicated by the uncertainty surrounding the Bridge Inn at Mernda and whether planning approval for that venue will be granted and the 40 egms approved by the Commission become operational.
63. Two witnesses gave evidence relating to likely gaming expenditure if the application were to be granted. Mr Kannan Nair, Network Strategist for Tatts had submitted three estimates in all, taking into account an upgrade in the Geotech Model and the granting by the Commission of

the application by Bridge Inn. Mr Colin Gill, Ferrier Hodgson Forensics, gave evidence for the City of Whittlesea. Both have given evidence in previous inquiries. Mr Gill also gave evidence before the Commission in the Bridge Inn matter.

64. The Geotech Model has been developed for Tatts to provide more precision to expenditure estimating. Geotech is based on gravitational modelling, which is widely used in retail analysis, and ranks venues according to their attractiveness and convenience. The model assesses the impact of an application on the LGA and local networks as well as the broader trade area. The model has been refined as more data has become available.
65. Mr Nair said that the first expenditure estimates submitted for this application had employed version 3 of the Geotech model, however the model had recently been upgraded to take into account the release of individual gaming venue expenditure figures by the Commission, and other data. Mr Nair had employed version 4 to provide two further estimates, one assuming that the Bridge Inn will proceed, and one that it does not.
66. Mr Nair's first estimate using version 3 of the Geotech model, and no allowance for egms at Bridge Inn, calculated expenditure in the range \$3,098,021 to \$3,728,677. Of that he estimated that transferred expenditure would be 15.4%, which would amount to \$477,405 at the lower end of the range and \$574,589 at the upper end. In that case new expenditure would be in the range of \$2,620,616 to \$3,154,088.

67. The second estimate, assuming the Bridge Inn is in operation, predicted expenditure in the range of \$3,085,111 to \$3,715,767 with 60% transferred, amounting to \$1,852,211 at the lower end and \$2,230,839 at the upper. This would result in new expenditure in the range of \$1,232,900 to \$1,484,928, which amounts to \$254 per egm, per day.
68. The third estimate made by Mr Nair assumed that the Bridge Inn would not be in operation. In that scenario expenditure in the range of \$4,486,668 to \$5,117,324 was estimated and transferred expenditure of 15.4%, or \$691,396 to \$788,580, resulting in new expenditure between \$3,795,272 to \$4,328,744, which is \$350 per egm, per day.
69. Mr Gill had based his analysis on the figures resulting from Geotech 3 as he had not received the updated version until exchange of witness statements. He had heard it explained by Mr Nair during the inquiry. Mr Gill has given evidence in previous inquiries about the deficiencies as he sees it with the model and the inputs. He again said that in his view the model produces results that are “unreliable”. He also said that he had concluded that despite the problems with the model it did on occasion produce results that were “reasonable”.
70. In his evidence Mr Gill also said that his inquiries had led him to the view that Bridge Inn would most likely proceed and he had made his expenditure estimates on that basis.

71. In respect of this application Mr Gill had concluded that in each of the three estimates made, using both versions of the Geotech model the estimates were too low. Mr Gill disagreed with the estimates made by Mr Nair on the basis that the model employed did not account for gaming at Bridge Inn and the impact of the additional gaming machines at that venue.
72. He also said that in his opinion the Trade Area described in Mr Nair's analysis (1.5 km) was too narrow and excluded potential patrons within close proximity to the Laurimar Tavern venue but outside the trade area he had adopted.
73. After making adjustments for the deficiencies he identified in the Geotech and Tatts estimates, Mr Gill concluded that if the Laurimar Tavern proposal was approved, and assuming gaming at the Bridge Inn, expenditure would fall in the range of approximately \$4,000,000 of which an estimate of 45% transferred revenue is reasonable. New expenditure would amount to \$2,200,000. His estimate is that in 2011 expenditure would be \$275 per egm per day, compared to Mr Nair's estimate of \$254 per egm per day if Bridge Inn is operational and \$350 without Bridge Inn.
74. Although there is not a substantial difference between the estimates of Mr Nair and Mr Gill, the Commission has accepted that the higher figure for expenditure of \$275 per egm per day adopted by Mr Gill is more likely in 2011 than Mr Nair's lower forecast of \$254 per egm per day.

75. The Commission noted the concern of the Council in this regard and the detailed analysis of expenditure which it has submitted. If this application had been made in respect of a venue in the south of the municipality, it would be most unlikely to be granted. The indicia submitted in relation to the area in which this venue is proposed to be located give evidence of a vibrant and robust community and economy, which should be able to absorb the increase in expenditure associated with the application.

THE CASE PRESENTED BY THE CITY OF WHITTLESEA

76. The Council had opposed this application. In correspondence dated 23 July 2009, Mr David Turnbull, Chief Executive Officer, advised that:

“After considering all the available evidence, as outlined in the attached Social and Economic Impact Assessment Council has concluded that it does not support this application. The negative impacts that it will have on a community that already faces many social and economic pressures outweigh any potential positive impacts of the proposal.”

77. The Council had submitted a comprehensive Economic and Social Impact Assessment dated 9 July 2009. A further Supplementary Social and Economic Impact Assessment dated 20 November 2009, with supporting photographs of the site was also submitted. No survey was conducted for this particular application but the material gathered in ad

hoc surveys and the Survey of Community attitudes Toward Electronic Gaming dated March 2009, and submitted to the Inquiry in the matter of the Bridge Inn were sufficiently general and current to apply.

78. Mr Peter Spratt, Senior Research officer in the Sustainability Planning Department for the Council had been responsible for the submission and gave evidence in relation to it. He said that the Council had passed a resolution opposing the application after taking into consideration the assessments he had prepared.
79. The Council's position in relation to Laurimar Tavern and set out in the submission is unchanged from that taken in the Bridge Inn matter and is consistent with its Responsible Gaming Policy which is opposed to any increase in egms within Whittlesea. Council would not support the relocation of 12 egms from the capped area in the south of the municipality to the uncapped north as proposed in this application as it would not result in any overall reduction.
80. Mr Spratt told the inquiry that there were two main concerns that would lead the Council to oppose the application.
81. Firstly, the Council was concerned with the site, and specifically the proximity of the venue to the primary school, the supermarket and other amenities which are accessed on a regular basis by the community. Mr Spratt said that all were within a few minutes walk of the proposed venue. He said that research indicated that close proximity resulted in an increase in problem gambling. While the Commission understands

the point made by the Council, as we have stated previously, planning requirements create this conundrum. New gaming venues must be in activity centres – and activity centres must contain other facilities such as shops and schools.

82. Mr Spratt also emphasized the potential harm which might arise if children are in regular proximity to a gambling venue. While the Commission accepts that venues where young people might be exposed to gaming and alcohol might present some potential for harm, there are very many examples in older more established suburbs where schools are adjacent or in close proximity to gaming venues.

83. Mr Spratt said that even if the application were to result in the transfer of egms from the more disadvantaged south of the municipality to the north where the proposed venue is located, the Council would still oppose it because of the site and its proximity to the school.

84. The second and over-riding concern for the Council is the level of expenditure in Whittlesea. This has been commented on already in these reasons for decision.

85. In its decisions in relation to the Bridge Inn application for 40 egms, the Commission was critical of the Council because

“.....the council does not have the benefit of a sensible and balanced gaming policy which does not simply require blind opposition to any application for gaming approval, which involves an increase in existing numbers of gaming machines

in the municipality rather than calling for each such application to be assessed on its merits.”

87. Subsequently the Victorian Government has introduced Municipal Limits on the number of gaming machines permitted. These limits are additional to the Regional Caps already imposed on designated SLAs within certain municipalities. The Council has not revised its policy to take account of the changes.

CONCLUSION

88. The Commission is required, by paragraph (c) of Section 3.3.7 (1) of the Act, to be satisfied before granting an application, that the net economic and social impact of granting the application to approve the subject premises as suitable will not be detrimental to the well-being of the community.
89. The Commission has concluded, after considering the submissions and evidence heard during the inquiry, and having inspected the location of the proposed premises, that this proposal will, on balance, be of benefit to the community of Laurimar and the rapidly growing northern suburbs of the City of Whittlesea.
90. In coming to this conclusion the Commission has taken into account the detailed material submitted by the Council and others who oppose the application. However the Commission has not been persuaded that the negative aspects of this proposal outweigh the benefits.

91. It will provide a modern Tavern with a range of entertainment facilities which are not available at present, and which a new and growing residential area is entitled to expect. It is consistent with the Council's Strategic Development Plans for the suburb. The gaming room will be part of the overall facility which is a common feature of similar developments in the newer suburbs of Melbourne.
92. The application for forty (40) egms is granted.
93. The Commission would, however, be reluctant to grant an increase in egm numbers at this venue in the foreseeable future. The Commission is of the view that this is essentially a boutique venue, appropriate to the area and consistent with the State Government's objectives for the gaming environment in Victoria post the 2012 changes.
94. It is a condition of approval that the approval does not take effect until the Commission has notified the applicant in writing that the premises have been inspected for the purposes of section 3.3.7(1)(b) and that the Commission is satisfied that the premises are suitable for the management and operation of gaming machines.
95. It is a further condition of the approval that the approval does not take effect until the Commission is satisfied that the grant of approval is in compliance with the direction made by the Minister for Gaming under section 3.2.3 of the Act on 2 May 2008.

96. The Commission has also considered whether to make it a condition that before the machines are installed in the Laurimar Tavern, there must be 4 egms removed from the Casa d'Abruzzo Club and 8 egms removed from the Plough Hotel. The Commission has determined not to include this condition and will outline its reasons for this. First, with the proposed changes to gaming from 2012, it is difficult to administer decisions which link one venue's increase in machine numbers to the downsizing of machines in another. Secondly, and perhaps more importantly, the impact of a downsize in egm numbers in the south of Whittlesea has no material impact in the north of Whittlesea and therefore has no impact on the well-being of the local community.

The preceding 96 paragraphs are a true copy of the reasons for decision herein of –

Mrs J. King, Deputy Chair

Mr P. Cohen, Executive Commissioner

Dates of Hearing: 3 & 4 December 2009

Date of Decision: 15 March 2010

Counsel for the Applicant: Ms Sarah Porritt

Instructing Solicitors: Bazzani Scully Brand

Counsel for the Responsible Authority: Mr John Rantino, Maddocks,

Solicitors

Counsel Assisting the Commission: Ms Lyn Corneliusen