

**GREATER BENDIGO
PLANNING SCHEME
AMENDMENT C110
GAMING POLICY**

PANEL REPORT

OCTOBER 2008

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A handwritten signature in black ink that reads "Robin Dyall". The signature is written in a cursive style with a long, sweeping tail on the letter 'l'.

Robin Dyall, Chair

OCTOBER 2008

Contents

1.	THE PANEL PROCESS.....	1
1.1	The Amendment.....	1
1.2	The Panel	1
2.	IDENTIFICATION OF ISSUES	3
3.	GENERAL BACKGROUND AND POLICY FRAMEWORK.....	4
3.1	Commonwealth Policy framework.....	4
3.1.1	Productivity Commission report – <i>Australia’s Gambling Industries</i> (1999)	4
3.1.2	Ministerial Council on Gambling	5
3.1.3	The National Framework on Problem Gambling 2004 – 2008	5
3.1.4	Responsible Gambling Environments	5
3.1.5	Impacts on the community	5
3.1.6	COAG Agreement 3 July 2008	5
3.2	State Gambling Policy and Legislative Frameworks.....	5
3.2.1	Gambling Regulation Act 2003.....	6
3.2.2	Regional Caps Policy	6
3.2.3	Taking Action on Problem Gambling: A strategy for combating problem gambling in Victoria October 2006.....	7
3.2.4	Action Area 4: Protecting vulnerable communities	7
3.2.5	State Planning Policy Framework – Amendment VC39.....	8
3.2.6	Regional caps confirmed.....	8
3.2.7	Local Council policy framework – a new role for Council.....	8
4.	DETAILS OF THE PROPOSED AMENDMENT	10
4.1	Details of the Amendment	10
4.1.1	Municipal Strategic Statement	10
4.1.2	Clause 22.28 Gaming Policy	11
4.1.3	Clause 52.28.....	14
4.1.4	Clause 81.01	14
5.	PURPOSE.....	15
6.	CLAUSE 52.28 – THE CURRENT FRAMEWORK.....	16
7.	COUNCIL’S STRATEGIC FRAMEWORK.....	17
7.1	Council Plan	17
7.2	Bendigo +25 Community Plan	17
7.3	Bendigo CBD Plan 2005.....	17
7.4	Councils Gaming Policy	17
7.5	Gaming Policy Framework	18
7.6	Community feedback.....	19
7.7	Exhibition of the amendment	19
8.	POLICY TENSIONS	20
8.1	Clause 52.28 vs Clause 17.....	20
8.2	Destination gaming.....	21

9. GREATER BENDIGO DISCOURAGED AREAS	22
9.1 Greater Bendigo Discouraged Areas	22
9.2 Incorporated document vs Reference document.....	24
10. CHOICE OF ACTIVITIES.....	27
10.1 MSS - Clause 21.07.....	27
10.2 Clause 22.28 Gaming Policy.....	27
10.3 25% Floor area.....	28
10.4 Further criteria.....	28
10.5 Additional decision guideline	28
10.6 Submissions.....	28
10.7 Finding.....	28
11. DENSITY	29
11.1 Density	29
11.2 Resources to assess social and economic impact assessment.....	30
12. STRIP SHOPPING CENTRES.....	31
12.1 Strip shopping centres.....	31
12.2 Use of a map to identify a strip shopping centre.....	31
13. MORAL OBJECTIONS.....	34
13.1 Moral objections/Community opposition.....	34
13.2 Council poll	35
14. THE FORM OF THE AMENDMENT	36
15. RECOMMENDATIONS.....	38
15.1 Clause 21.....	38
15.1.1 Clause 21.07-4 Implementation	38
15.1.2 Clause 21.10 Reference document	38
15.2 Clause 22.28 Gaming Policy.....	38
15.2.1 Clause 22.28-1 Policy basis	38
15.2.2 Clause 22.28-3 Policy	39
15.3 Greater Bendigo Discouraged Areas	39
15.4 Clause 52.28-4 Prohibited strip shopping centres.....	39

Appendices

APPENDIX A REVISED CLAUSE 22.28	40
APPENDIX B GREATER BENDIGO DISCOURAGED AREAS MAP	43

1. The Panel Process

1.1 The Amendment

Amendment C110 to the Greater Bendigo Planning Scheme, as exhibited, proposes to introduce a new local policy relating to gaming machines into the local section of the Planning Scheme.

More specifically it proposes to:

- amend the Municipal Strategic Statement at Clause 21.07 and 21.10 to introduce references to gaming machines;
- introduce a Gaming Policy at Clause 22 to guide the location of gaming machines in areas other than prohibited areas;
- specify shopping complexes and strip shopping centres under Clause 52.28 where gaming machines are prohibited; and
- list *Greater Bendigo Discouraged Areas* as an Incorporated Document in the schedule to Clause 81.01.

The planning authority is Greater Bendigo City Council.

1.2 The Panel

This Panel was appointed under delegation pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of the Amendment.

The Panel consisted of:

- Chairperson: Robin Dyll.

Hearings and inspections

A Directions Hearing was held on 31 July 2008 at Council Chambers, City of Greater Bendigo. The Panel Hearing was held on 25 August 2008 at Council Chambers City of Greater Bendigo.

The Panel made unaccompanied visits to the proposed discouraged and prohibited gaming areas.

Submissions

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table below.

Table 1

Submittor	Represented By
City of Greater Bendigo	Rob Milner of Coomes Consulting instructed by: <ul style="list-style-type: none"> • Lindy Wilson, Social Planner; • Philip DeAraugo, Manager Strategy; and • Martin Putsey, Planner all of the City of Greater Bendigo
Bendigo Faith Based Agency Group	Mark Zirnsak

A list of all written submissions to the Amendment is included in Table 2.\

Table 2

Submittor	Organisation (if any)
Ben Wakefield	Anglican Parish of Eaglehawk
Willy Maddock, Lorraine Foti, Angela Lorrigan, Carolyn Senter	Anglican Parish of Bendigo North
Lloyd Cassidy	Bendigo Faith Based Agency Group
Andrew Jeynes	Tatts Pokies/Tattersall's Gaming Pty Ltd
Patrick Sheehan	Rising Sun Hotel
Bernie Young	Department of Sustainability and Environment

Further directions

At the close of hearing on 25 August 2008 the Panel directed that copies of the following documents referred to in the hearing should be provided:

- Revised map based on 2006 SEIFA;
- Council resolution 16 July 2004 confirming gaming policy (refer Council submission # 16);
- Council resolution 21 Feb 2007 (refer Council submission # 22); and
- State Government Report *Review of Electronic Gaming Machines Post 2012*.

2. Identification of issues

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

This Report deals with the issues under the following headings:

- State Planning Policy Framework tensions;
- Greater Bendigo Discouraged Areas and use of a map as an incorporated document;
- Choice of activities;
- Density;
- Strip Shopping Centres;
- Moral objections; and
- The form of the Amendment and the drafting of the proposed planning scheme provisions.

3. General Background and Policy Framework

Gambling is recognised by government as a legitimate social activity or form of entertainment and recreation. On the other hand, government also recognises that for some people it is a cause of problems for themselves, their families and the community.

Governments in Australia are now seeking to balance the legitimate opportunity for individuals to gamble if they wish, with the responsibility of government for overall community welfare. This is being addressed through a national framework but is primarily addressed and implemented by regulatory frameworks developed at a State and Territory level.

The Victorian legislative and policy framework, including local government planning policy, is informed by the national framework. The Panel therefore also refers briefly to the development and content of the national framework.

3.1 Commonwealth Policy framework

3.1.1 Productivity Commission report – *Australia's Gambling Industries* (1999)

On 16 December 1999 the Prime Minister released what is considered to be the landmark report on the economics and social impacts of the gambling industries and on the effects of the different regulatory structures that surround those industries in Australia: The Productivity Commission report *Australia's Gambling Industries* (1999) (the report). The report was produced by the Productivity Commission after it conducted a national inquiry into the aforementioned matters.

Many of the key findings of the report relate to the prevalence of problem gambling and the degree of accessibility for problem gamblers to electronic gaming machines.

In a national prevalence survey conducted as part of its inquiry, the Productivity Commission found that around 300,000 (2.1%) adult Australians were reported to have significant gambling problems and that for every one of these an additional five to 10 people are adversely affected as a result.

The report sets the groundwork and terminology which subsequent studies and policies utilise. It remains as the major comprehensive study on gambling and gaming in Australia.

3.1.2 Ministerial Council on Gambling

A key recommendation of the report was the establishment of a ministerial council on gambling reporting to the Council of Australian Governments (COAG) and aimed at achieving a national approach to problem gambling. This was agreed to by all governments. It was also agreed that preventing and addressing the negative consequences from problem gambling are the joint responsibilities of all governments, the gambling industry, communities and individuals.

In November 2000 COAG agreed that the Ministerial Council on Gambling (MCG) would develop a national strategic framework to be implemented primarily by State and Territory governments.

3.1.3 The National Framework on Problem Gambling 2004 – 2008

On 2 July 2004 the MCG endorsed *The National Framework on Problem Gambling 2004 – 2008* (NFPG). The NFPG has 4 key focus areas and objectives and outlines a range of strategies under each area. The strategies seek to minimise the negative consequences of problem gambling to the individual, their family and the community.

3.1.4 Responsible Gambling Environments

The relevant focus area of the NFPG for the purposes of planning policy in Victoria is *No 2 Responsible Gambling Environments* – the objective of which is to minimise the likelihood of recreational gamblers developing problem gambling behaviours.

3.1.5 Impacts on the community

One of the strategies outlined under this head to consider any impacts on the community when assessing major expansions of gambling opportunities or the introduction of significant new gambling opportunities.

3.1.6 COAG Agreement 3 July 2008

On 3 July 2008 COAG agreed that the Productivity Commission should undertake new work to quantify the extent of problem gambling.

3.2 State Gambling Policy and Legislative Frameworks

This section identifies the State gambling and planning policy and legislative context within which Amendment C110 must be considered.

3.2.1 **Gambling Regulation Act 2003**

The gambling regulatory framework specifically authorises certain gambling and makes other forms of gambling illegal. Legislation enabling the introduction of gaming machines into Victoria was passed in 1991.

The overarching legislative framework is now provided for by the *Gambling Regulation Act 2003* which consolidates the law relating to various forms of gambling and establishes the Victorian Commission of Gambling Regulation.

The main objectives of the Act are set out in Section 1.1(2) and include:

- (a) to foster responsible gambling in order to –
 - (i) minimise the harm caused by problem gambling; and
 - (ii) accommodate those who gamble without harming themselves or others;
- (f) to promote tourism, employment and economic development generally in the State.

The Act also establishes the Community Support Fund and sets out most of the taxes to be paid by the gambling industry. Gambling taxes are used to directly fund health services, community projects, problem gambling services, community education and gambling research through the Hospitals and Charities Fund and the Community Support Fund.

The second speech to the bill introducing this legislation refers to the government's commitment at the time to enhance local government's say in gaming matters in municipal areas under the gaming legislation and under planning controls. Gaming and planning controls were to work together as an integrated whole-of-government package. See Victoria Parliamentary Debates, Legislative assembly, 6 November 2003, 1596 (John Pandazopoulos, Minister for Gaming).

3.2.2 **Regional Caps Policy**

In 2001 the Victorian government introduced a policy to apply regional caps on gaming machines in five regions (not including Greater Bendigo). The aim of this was to protect vulnerable regions from a high concentration of gaming machines. This was based on research suggesting a significant connection between greater accessibility – particularly to gaming machines – and an increased prevalence of problem gambling.

Vulnerable communities are identified as areas of high socio-economic disadvantage. Indicators of disadvantage include:

- low levels of workforce participation and income;
- lower educational and literacy levels; and

- public health risks associated with a higher incidence of smoking and alcohol abuse.

Risk factors for such communities include:

- being highly disadvantaged;
- having access to significant numbers of gaming machines; and
- higher than average spending on machines.

3.2.3 Taking Action on Problem Gambling: A strategy for combating problem gambling in Victoria October 2006

On 12 October 2006 the Victorian Government announced its new policy *Taking Action on Problem Gambling: A strategy for combating problem gambling in Victoria*. The Policy consists of the imposition of additional regional caps, and a five year strategy to combat problem gambling including elements of consumer protection, prevention, early intervention and treatment of gambling related harm.

The Strategy identifies seven priority action areas. The initiatives announced under *Action Area 4: Protecting vulnerable communities* are the key actions for the purposes of this report.

3.2.4 Action Area 4: Protecting vulnerable communities

Elements of this priority action area which took effect immediately included:

- machine numbers outside the casino frozen at 27,500 resulting in an average of 6.9 machines per 1,000 adults;
- regional caps based on ABS relative disadvantage indexes placed on 19 municipalities (not including Greater Bendigo) at 10 per 1,000 or the existing density as at 12 October 2006, whichever was the lower;
- cap on the rest of Victoria of 10 machines per 1,000 people by 2010;
- new Planning Provisions introduced by Amendment VC39; and
- ongoing elements of the policy which also have some bearing include:
 - ongoing funding of programs including the development of policy by local government; and
 - destination gaming project.

Destination gaming is suggested as a potential problem gambling harm reduction measure that involves redistributing gaming machines into fewer but larger gaming venues. The Victorian Government project on destination gaming has just released its report: *Destination Gaming* (May 2008).

3.2.5 State Planning Policy Framework – Amendment VC39

The Government decided to require a planning permit for all gaming machines and removed previous as-of-right provisions for gaming machines from planning schemes.

The key changes to the Victorian Planning Provisions were:

- **Clause 19.02 Particular Uses and Development**

The Gaming provisions were deleted

- **Clause 52.28 Gaming**

- A new purpose and four decision guidelines were introduced to guide the exercise of discretion;
- The provisions that allowed a gaming machine, without a permit, for up to 25% of a venue's floor space were deleted;
- References to 'restricted area' and 'unrestricted area' were removed.

The first decision guideline specifically includes considering the Local Planning Policy Framework (LPPF) including the Municipal Strategic Statement and local planning policies.

3.2.6 Regional caps confirmed

The Government has recently confirmed regional caps are to remain in place. The total number of machines [outside the Casino] is to remain at 27,500, split evenly between clubs and hotels, and with at least 20% in country Victoria. The venue limit is 105 machines. No one hotel venue operator can own more than 35% of available gaming machines. In early 2010 approved clubs and hotels will be able to bid directly for 10 year gaming machine entitlements.

3.2.7 Local Council policy framework – a new role for Council

The new requirement for a permit enables councils to consult with their local community and give consideration to the environmental, social and economic effects of new gaming machines under planning frameworks.

These considerations can be expressed in the LPPF by the introduction of objectives and strategies for the location of gaming machines. Local policy can also direct gaming machines to appropriate locations and premises in the municipality.

It is in this context that the City of Greater Bendigo has undertaken to develop a policy on gambling and seek to implement it into the City of Greater Bendigo Planning Scheme.

A number of other Councils are also seeking to introduce gaming provisions into their planning schemes. The Panel has had the benefit of looking at the exhibited amendments to Hume and Maroondah.

4. Details of the proposed amendment

4.1 Details of the Amendment

Set out below are the key amendments to the scheme:

4.1.1 Municipal Strategic Statement

Clause 21.07 Economic development

Council seeks to amend this clause to introduce references to relevant entertainment and recreation matters, Gaming Machines, the new Gaming Policy and to include the Gaming Policy Framework as a Reference document.

The amendments as exhibited propose to include the following specific matters:

Clause 21.07-2 Objectives

Commercial

- To ensure entertainment and recreation uses, including gaming machines, are located to meet local needs and minimise any potential harm to the community.

Clause 21.07-3 Strategies

Commercial

- Encourage the location of gaming machines which are associated with other complementary recreation and entertainment uses and established in venues that:
 - have a range of entertainment and leisure options; and
 - offer social and recreational opportunities other than gaming as the primary purpose of the venue
- Discourage the location of gaming machines:
 - in areas of above average socio-economic disadvantage as defined by the Socio Economic Index for Areas (SEIFA) index of relative disadvantage and shown on the Greater Bendigo Discouraged Gaming Areas Plan;

- in areas that have high levels of pedestrians that can lead to “convenience gaming” where the location increases the likelihood of spontaneous decisions to play; and
- in a rural township unless there is an alternative club or hotel without gaming machines in the township.

Clause 21.07-4 Implementation

The objectives and strategies will be implemented by:

Policy and the exercise of discretion

- Using local policy to ensure gaming machines are located in accordance with the criteria set out in Policy 22.28 Gaming Policy;
- Prohibiting gaming in strip shopping centres and shopping complexes under the provisions of Clause 52.28.

Clause 21.10 Reference documents

Economic development

Coomes Consulting Group, City of Greater Bendigo Gaming Policy Framework 2007.

4.1.2 Clause 22.28 Gaming Policy

The format of this clause requires some refinement to facilitate greater clarity, particularly in connexion with policy requirements on location criteria. To facilitate discussion however, the Panel has numbered the clauses and then gives a brief and paraphrased summary of the Policy.

The Amendment with the recommended refinements to it is set out in full in the appendix to the report.

Application of the Policy

Council has developed a policy which it says is to apply to all applications for a permit to install or use a gaming machine or use land for the purpose of gaming in the City of Greater Bendigo.

[22.28-1] Policy basis

The stated purpose/policy basis of the Policy is to guide decision-making by implementing the findings of the *City of Greater Bendigo Gaming Policy Framework Accessible but not Convenient, 2007*.

Assumption underlying the policy

The Policy explicitly states that it is based on an understanding that:

- problem gambling affects a small proportion of gamblers and that by locating gaming venues in locations that are convenient but not highly accessible will decrease the incidence of “convenience gambling”.

How the policy is to be implemented

The Policy aims to implement the objectives and strategies set out in Clause 21.07 by introducing specific policy objectives and setting out how and where gaming venues should be sited.

[22.28-2] Objectives

The policy objectives include:

- to discourage new gaming machines in disadvantaged areas;
- to ...minimise opportunities for convenience gaming and the incidence of problem gambling;
- to ensure gaming machines are located where ... a choice of non-gaming entertainment and recreation activities; and
- to protect the amenity of existing uses surrounding gaming venues.

[22.28-3] Policy

How and where gaming machines can be located is to be guided by setting policy requirements on:

- **general matters** as to venue and operations
 - have a gaming floor area of less than 25% of the total floor area of the venue;
 - do not allow for a 24 hour a day operation.
- **location criteria** as to where it is preferred to locate gaming machines, including **primary location criteria** which must be met as a first hurdle:
 - perception of destination in its own right;
 - either towards the periphery of or within walking distance of the edge of an activity centre.

Subject to meeting those primary location criteria:

- proximate to higher order activity centre;
- where there is a reasonable choice of alternative non-gaming entertainment and recreation activities;
- where additional gaming machines can be located because:

- the total density of gaming machines in that suburb and its adjoining suburbs is less than the regional Victorian average; or
- the gaming machines are located in a future residential growth area as set out in the MSS.
- detailed location criteria on where gaming machines should not be located including:
 - convenient to areas where large numbers of pedestrians are likely to pass in the course of their daily activities;
 - in the areas shown in [the SEIFA based] *Greater Bendigo Discouraged Areas* [proposed *Incorporated*] Document;
 - where incompatible with surrounding uses.

[22.28-4] Application requirements

- a robust Social and Economic Assessment of the benefits and dis-benefits of the proposed gaming machines addressing five matters including:
 - expected community benefits;
 - relative socio-economic disadvantage of the location and the broader 5km catchment;
 - existing entertainment and recreation facilities; and
 - other matters to be addressed vary according to whether the proposal involves relocating gaming machines and/or past income and forecast expenditure at an existing venue.
- distribution of gaming machines;
- transfer of gaming expenditure from other gaming venues;
- design and layout of the premises, including mitigating strategies to prevent problem gambling;
- a venue management plan; and
- distance to shopping complexes and strip shopping centres, community facilities, counselling services and public transport.

[22.28-5] Decision guidelines

The responsible authority must consider as appropriate:

- whether there is a net community benefit;
- whether the proposal likely to increase the social disadvantage of an area;
- whether the location... will facilitate or discourage convenience gambling;
- whether the venue is accessible by a variety of transport modes;
- choice of non-gaming entertainment and recreation; and

- impact on amenity.

Referencing the Framework document.

- City of Greater Bendigo Gaming Policy Framework – “Accessible but not convenient”, 2007.

4.1.3 Clause 52.28

Schedule to Clause 52.28-3 Prohibition of a gaming machine in a shopping complex

Council seeks to add the Strathfieldsaye IGA Complex.

Schedule to Clause 52.28-4 Prohibition of a gaming machine in a strip shopping centre

Council seeks to amend the current schedule which provides that a gaming machine is prohibited in all strip shopping centres and instead to provide that a gaming machine is prohibited in each of the 10 strip shopping centres identified in the maps attached to this schedule.

The novel point to this is that Council proposes to do this by a new mechanism: by scheduling 10 individual maps identifying those areas.

4.1.4 Clause 81.01

Schedule to Clause 81.01

Council proposes to include the document *Greater Bendigo Discouraged Areas*, 2007 being the plan/document referred to in the proposed amendments to Clause 21.07-3 and in proposed new Clause 22.28.

5. Purpose

Council says the amendment is necessary for a number of reasons. It says the State Planning Policy Framework (SPPF) does not explicitly guide the location of gaming machines. As the current Local Planning Policy Framework (LPPF) is silent on gaming machines it is necessary to develop a local policy. The current MSS addresses entertainment and recreation in respect of the CBD only and does not specifically refer to gaming machines.

The LPPF would set clear objectives and directions about the preferred location and distribution of GMs within the municipality. It will also provide clear guidance on how discretion will be exercised in assessing planning permit applications.

The objectives Council is seeking to achieve are:

- to allow for appropriate and accessible entertainment and recreation and community facilities where they are compatible with the needs, character and socio-economic profile of the local area; and
- recognise that while gaming machines should be generally accessible to the community as a legitimate form of entertainment, they should not be so convenient as to encourage spontaneous and problem gambling.

Effectively the major role of the LPPF will be to inform the assessment of proposals outside of prohibited areas i.e. outside of specified shopping complexes and strip shopping centres.

6. **Clause 52.28 – the current framework**

The SPPF in Clause 52.28 seeks to ensure that gaming machines are situated in appropriate locations and premises including prohibiting gaming machines in certain locations (see below). It also seeks to ensure the social and economic impacts of the location of gaming machines are considered.

Permit requirement

A planning permit is now required for any new gaming venue or any increase in the number of gaming machines at an existing venue.

Prohibited areas

Gaming machines remain prohibited in shopping complexes specified in the schedule to Clause 52.28-3. They also remain prohibited in strip shopping centres specified in the schedule to clause 52.28-4.

Decision guidelines

There are four additional decision guidelines which must be considered before deciding on an application, as appropriate:

- the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies;
- the compatibility of the proposal with adjoining land and nearby land uses;
- the capability of the site to accommodate the proposal; and
- whether the gaming premises provides a full range of hotel facilities to patrons or a full range of club activities or services to members and patrons.

Clause 52.28 thus provides the platform for Council to include matters relating to the location of gaming machines including the social and economic impact in its planning scheme.

It is a question of what matters could appropriately be encompassed taking into account matters already covered by Clause 65 and by the additional decision guidelines in Clause 52.28 in the specific context of gaming machines.

7. Council's strategic framework

7.1 Council Plan

Originally developed in 2005 the updated plan focuses on achieving a range of strategic objectives in five key areas. The areas Our Community and Regional Prosperity are relied on to encompass the gaming policy and its inclusion into the planning scheme.

7.2 Bendigo +25 Community Plan

This plan was developed out of a landmark community planning event, the Bendigo +25 conference held over 3 days in April 2005. The participants prioritised the environment as their highest issue, followed by transport, water and then family and community development.

7.3 Bendigo CBD Plan 2005

Has four key themes and identifies eleven precincts including an entertainment and recreation precinct. Of particular relevance is Theme 1 which is to expand the primary role of the CBD beyond shopping and business to include, amongst other things, tourism and recreation.

7.4 Councils Gaming Policy

Council first approved a gaming policy in April 2000. The basic thrust was to prefer the placement of electronic gaming machines in clubs rather than privately owned hotels. The reasons for this being:

- that gamblers are provided with community or club type atmosphere, where there are other interests which may provide support or recreational opportunities;
- much recreational infrastructure such as pools, golf courses, stadiums have been built as a result of revenue raised through the sports club.

This policy was reiterated in 2004 when Council was considering an application for an additional twenty gaming machines at the Schweppes Centre.

Council also made submissions to government including to the 2006 *Review of Electronic Gaming Machine Licences Arrangements post 2012*. When the report of this review was presented to Council on 21 February 2007 it

resolved to support the exploration and possible development of a local framework to serve as a guide for future planning consideration of applications for new gaming machines or venues.

In May 2007 Council engaged Coomes Consulting to develop a local planning policy on gaming machines. This has now been done and a report provided to Council.

On 5 December 2007 Council noted its strong belief that further electronic gaming machines are absolutely unacceptable to the Bendigo community but given the current State legislation it, amongst other things, resolved to:

- adopt the report and policy produced by Coomes consulting City of Greater Bendigo Gaming Policy Framework – Accessible but not convenient;
- request Ministerial authorisation for the preparation of Amendment C110; and
- seek community feedback on the wider social implications of electronic gaming.

7.5 Gaming Policy Framework

The *City of Greater Bendigo Gaming Policy Framework – Accessible but not convenient* underpins the strategic justification for the proposal. The document seeks to provide an evidence base and tools for inclusion of the gaming policy it developed into the planning scheme.

Methodology

The methodology employed to produce report comprised:

1. Literature review of the legislative and policy context;
2. Socio-Economic Analysis and Existing Facilities Audit for Greater Bendigo; and
3. Consultations.

Convenience gaming/gambling

The report says that the review undertaken shows that convenience gaming ought to be discouraged and has drawn its recommendations for the amendment on that basis.

Destination gaming

The report also says that where a conscious decision to attend a gaming venue must be made this is also likely to reduce the negative impacts of

gaming. Accordingly this is one of the factors built into the assessment of the suitability of areas for gaming.

Spatial response

The fundamental rationale for the Amendment is that a spatial response to a variety of socio-economic implications associated with the operation and distribution of gaming machines is required to determine appropriate locations.

Council's submission

Its policy aims to minimise the negative effects of gaming through acknowledging that there are communities particularly vulnerable to the potential impacts of gaming.

Council also says that it is not attempting to discourage gaming machines in areas that genuinely have the capacity to accommodate them.

7.6 Community feedback

In February 2008 Council distributed an information sheet and questionnaire to over 150 individuals, groups and organisations and placed the documents on Council's website. The purpose of this was to seek community feedback on the wider social implications of gaming to assist Council in its advocacy to State Government on four particular issues.

7.7 Exhibition of the amendment

The Amendment was exhibited in March and April 2008 in accordance with Section 19 of the *Planning and Environment Act 1987*. Relevant and prescribed Ministers and public authorities, owners and occupiers of land affected by or adjacent to, land included in the amendment were notified. More than 200 notices were also sent community and church groups, gaming venue operators (including Tattersall's and Tabcorp) and individuals who expressed an interest in the project. Notice of preparation of the amendment was published in the public notices of *The Advertiser* on 5 and 8 March 2008.

A total of six submissions were received.

8. Policy tensions

8.1 Clause 52.28 vs Clause 17

Gaming premises are ultimately nested in retail premises. There is however a tension between the policy drivers in Clauses 12 and 17 to concentrate recreation facilities in activity centres and the recognised need in to minimise convenient access to gaming machines through prohibitions in shopping centres under Clause 52.28.

Clause 52.28 also encourages co-location of gaming machines with non-gaming entertainment and recreation activities.

The State gaming policy driver allocating gaming machines between clubs and hotels potentially creates a further tension.

There is a clear hierarchy of business centres in the municipality. Bendigo CBD including Bendigo Marketplace is the prime centre of activity.

The Bendigo CBD Plan 2005 encourages the future location of entertainment and recreation into a designated precinct but location of gaming machines into the precinct will still need to meet the policy and decision guidelines. The same requirements would apply to other precincts within the CBD.

To the extent that gaming machines are to be situated in appropriate locations and premises, and social and economic impacts are to be considered, there is scope for encouraging the location of gaming machines away from or at least towards the periphery or edge of, activity centres as proposed.

Gaming machines are already prohibited in a number of specified shopping complexes and there is a catch all prohibition on strip shopping centres.

The proposed Amendment seeks to reach the balance required by encouraging the location of gaming machines on the periphery of activity centres. At the same time Council is seeking to establish a “notable” buffer zone between shopping centres and gaming venues, particularly within the CBD, through the use of the Bendigo Discouraged Gaming Areas map.

Tattersall’s is concerned that discouraging gaming machines from all activity centres leaves very few other areas that would ever be appropriate for such a

use and therefore is inconsistent with State policy. This is discussed in more detail in Chapter 9.

Co-location with other activities is also discussed in more detail in Chapter 10.

8.2 Destination gaming

The amendment does include the concept of destination gaming in its own right as one of the factors to consider in determining the suitability of a proposed location. Destination gaming is a factor which has been researched to some degree. The State government has recently released its report *Destination Gaming – Evaluating the benefits for Victoria May 2008*. The report was produced on a project looking at the appropriateness of encouraging a concentration of gaming into venues such as racecourses.

Tattersall's made a submission against including this concept in the amendment. However it is a factor in considering accessibility. Also, as the proposed policy is not going to the extent of locating gaming machines solely on that basis nor is it encouraging a concentrated gaming destination it is appropriate to include the concept in the overall mix of considerations.

9. Greater Bendigo Discouraged Areas

9.1 Greater Bendigo Discouraged Areas

Neither of the components of the discouraged areas policy relating to incompatibility with surrounding uses on amenity grounds, and in a rural township the availability of an alternative club or hotel without gaming machines, was considered contentious or lacking in proper basis.

However, two of its components and the translation of those components into a map which Council seeks to incorporate into the planning scheme were considered contentious in some aspects. These components are set out in relevant parts below.

Clause 21.07-3 Strategy

The proposed amendments to Clause 21.07-3 include:

- **Discourage the location of gaming machines:**
 - in areas of above average socio-economic disadvantage as defined by the Socio Economic Index for Areas (SEIFA) index of relative disadvantage and shown on the Greater Bendigo Discouraged Gaming Areas Plan;
 - in areas that have high levels of pedestrians that can lead to “convenience gaming” where the location increases the likelihood of spontaneous decisions to play.

Clause 22.28 Gaming Policy

In Clause 22.28 in the section on Policy on Location under the heading *Detailed location criteria* provides – Gaming machines should not be located:

- where they are convenient to concentrations of shops, major community facilities or key public transport nodes where large numbers of pedestrians are likely to pass in the course of their daily activities, increasing the likelihood of spontaneous decisions to play gaming machines;
- in the areas shown in Greater Bendigo Discouraged Areas Incorporated Document;

Thus Council is seeking to discourage the location of gaming machines in areas of socio-economic disadvantage but is also seeking to create a

“notable” buffer zone between certain shopping centres, including the CBD, and other activity centres, and the location of new gaming machines;

The map is meant to be a pictorial representation of the policy. The areas shown in the map are based in part on the SEIFA index but also on field survey as to proximity, accessibility and exposure to prohibited areas.

Submissions

Tattersall’s submission on this policy was that location should not be determined solely on SEIFA criteria. It did not submit that this proposed part of Clause 21.07-3 ought to be deleted. Tattersall’s also submitted that it may be more appropriate to identify a catchment area of the venue and then look at the SEIFA Index across that catchment.

Tattersall’s submitted that measuring distances and conducting pedestrian counts will result in increased costs and timeframes for applications and that the results would have a negligible affect on the assessment of the application. They say accessibility of a venue and the potential for problem gambling is not just about one factor. They also say that the assumption that a venue which is within an area of high activity will result in “convenience gambling” is not substantiated by research and that the use of pedestrian counts would be misleading in areas where the “township” is under development.

Discussion

It is clear that location of gaming machines is not to be determined solely on the basis of the SEIFA Index but rather on all of the factors set out in the amendment. As Tattersall’s has said the social and economic impact assessment to be conducted may include evidence based on a catchment approach. This would then be weighed up in the mix of all factors to be considered.

The number of pedestrians passing an area in the course of their daily activities is a key factor in assessing accessibility and in determining whether an area is one of high activity. To that extent it is a useful tool. It is also consistent with prohibiting gaming machines in areas such as shopping centres.

In relation to developing areas it is counterbalanced by the consideration of locating gaming machines in new growth areas.

9.2 Incorporated document vs Reference document

Council seeks to incorporate the map showing **Greater Bendigo Discouraged Gaming Areas**. The VPP Practice Note *Incorporated and Reference Documents* provides guidelines on when a document should be incorporated into a planning scheme. Effectively it will depend on how the document will be used or relied upon.

In this instance Council proposes to use the map to guide the exercise of discretion as to the location of gaming machines.

The map is specifically referred to in proposed Clause 21.07-3 as part of the strategy to discourage the location of gaming machines in areas of above average socio-economic disadvantage. Thus the appropriate linkage with policy regarding that part of the map showing disadvantaged areas is made.

The map is also referred to in Clause 22.28 under location criteria.

The linkage between the policy and those parts of the map relating to areas considered likely to give rise to convenience gambling is more by implication than direct identification reference i.e. it is not clear how those areas are specifically identified.

If the map was, for example, linked solely to the first dot point in Clause 22.28 under location criteria, Council may however find it is unnecessarily constraining itself.

On the other hand the policy is appropriate and probably does provide sufficient identification of the relevant areas.

One of the problems in incorporating the map is that it is in part based on the SEIFA Index of Relative Socio-economic Disadvantage as at a particular date. This index is created by the Australian Bureau of Statistics from Census information. A Census is conducted every five years and a new index is created from the new information. Thus the areas of relative disadvantage may alter.

Tattersall's submitted that the map should therefore be a Reference document rather than an Incorporated Document particularly as a planning scheme amendment would be required to include a new map each time the Index was updated.

Tattersall's submitted that a Reference document would be a more responsive technique as an amendment to the planning scheme would not be required to update the document. This is not necessarily the case however as an amendment may be required to update the reference.

No submission was made as to the potential for the areas of the map based on field survey to change over time.

Council has indicated it would be prepared to reference the map rather than incorporate it.

The advantage to Council of an Incorporated Document is the greater weighting such a document is given in decision-making as compared to a Reference document.

The purpose/function of the map

The map can only be used as a representation of the geographical areas covered by the proposed policy strategy in Clause 21.07-3 and by the policy on location criteria in proposed Clause 22.28 and identified on the map as strongly discouraged gaming areas.

It can therefore be incorporated as part of the planning scheme but care must be taken to regularly review its function and operation and to up date it or remove it as appropriate. The 2006 Index was released on 26 March 2008 so a new index is not expected for some time and will not be developed until after the next Census is conducted.

The map exhibited was prepared using the index created from 2001 Census information. A new map prepared using the index created from 2006 Census information has been provided to the Panel. The new map is the one which ought to be incorporated subject to recommended changes referred to below. The updated map is included in Appendix B of this report, but does not include the recommended changes.

Recommended changes to the map

In addition to showing strongly discouraged areas, the map shows prohibited areas and areas of relative disadvantage. This compound of information and colours makes the map very hard to read. The indicative colours tend to merge and actually make the strongly discouraged areas hard to identify. The map should be amended to reflect strongly discouraged areas only and/or to show them clearly in the colour marked in the legend as the indicator of those areas.

The name of the map should be clarified and transposed consistently into the relevant clauses in the scheme. In Clause 21.07-3 it is referred to as the Greater Bendigo Discouraged Areas Plan (see p8/14). In Clause 22.28 it is referred to as *Greater Bendigo Discouraged Gaming Areas Incorporated Document* (see p2/3). In Clause 81.01 it is referred to as Greater Bendigo Discouraged Gaming Areas, 2007.

Recommendations:

That the updated map be incorporated into the planning scheme subject to the following modifications.

- **That the map show only the areas to be strongly discouraged and/or to show the strongly discouraged areas clearly in the colour marked in the legend as the indicator of those areas.**
- **Strongly discouraged areas identified by the SEIFA Index of relative socio-economic disadvantage should be clearly shown in an appropriate colour.**
- **Strongly discouraged areas identified by reference to field survey should be shown in a different colour or hatching.**
- **If prohibited areas are to be included on the map these should be shown in a distinctive colour as exhibited.**
- **That a consistent name be given to the map – Greater Bendigo Discouraged Gaming Areas– throughout the amendment.**

10. Choice of activities

Choice of activities and/or co-location with non-gaming entertainment and recreation activities is one of the fundamental requirements of the proposed policy and is well founded in higher government policy which in turn is based on extensive research.

It is also included in the State Planning Framework in Clause 52.28 as an additional decision guideline, namely:

- whether the gaming premises provide a full range of hotel facilities to patrons or a full range of club activities or services to members and patrons.

10.1 MSS – Clause 21.07

The general import of this policy is first referred to by the proposed amendment in the additional **objective** to be included in **Clause 21.07-2**:

- to ensure entertainment and recreation uses, including gaming machines are located to meet local needs and to minimise any potential harm to the community.

This is reinforced in **Clause 21.07-3** where the relevant **strategies** are to:

- **encourage** the location of gaming machines, which are associated with other complementary recreation and entertainment uses, and established in venues that:
 - have a range of entertainment and leisure options; and
 - offer social and recreational opportunities other than gaming as the primary purpose of the venue.
- **discourage** the location of gaming machines in a rural township unless there is an alternative club or hotel without gaming machines in the township

10.2 Clause 22.28 Gaming Policy

Choice is repeated as an **objective** in **Clause 22.28**:

- to ensure that gaming machines are located where the community has a choice of non-gaming entertainment and recreation activities within the venue or in the local area.

10.3 25% Floor area

The contentious element is the **general policy** requirement to ensure that gaming machines are located in venues which:

- have a gaming floor area of less than 25% of the total floor area of the venue.

10.4 Further criteria

If that criterion is met, and subject to meeting primary location criteria, there is a further more general **location criterion** to meet relating to Council's preference to locate gaming machines in suburbs or townships where there is a reasonable choice of alternative non-gaming entertainment and recreation facilities available.

10.5 Additional decision guideline

Finally, choice is included as an additional decision guideline, namely:

- whether residents will have a choice of gaming and non-gaming entertainment and recreation venues in the local area.

10.6 Submissions

Even though it was not explicitly stated it seems that the concern raised by the Rising Sun Hotel that clubs should not be given preferential treatment as against hotels, may relate, at least in part, to this policy requirement. On the other hand, the Rising Sun Hotel did say it was firmly committed to providing gaming products in a responsible and professional manner.

Tattersall's agreed that a mix of activities is a positive element of the policy.

Tattersall's also submitted however that the less than 25% floor area requirement is no longer a relevant test as it was deleted from the VPPs by amendment VC39. Instead Tattersall's proposed a requirement that the venue provide for a range of entertainment options.

Council's response was that floor area is an easily quantifiable test and gives effect to the requirement for other social and recreational opportunities. It also said that it was easier to control if activities within the venue changed from time to time.

10.7 Finding

The Panel is of the view that there is still scope for such a requirement under the planning scheme and it potentially allows the venue some continued flexibility in respect of other activities offered.

11. Density

11.1 Density

Clause 22.28 under the heading Policy provides for a number of location criteria. One of the criteria under preferred locations is:

- Where additional gaming can be accommodated because:
 - the total density of gaming machines in that suburb and its adjoining suburbs is less than the regional Victorian average; or
 - the gaming machines are located in a future residential growth area as set out in the MSS.

Bendigo

The City of Greater Bendigo is not a capped region. There are 547 gaming machines located within 10 venues. Two of the venues are in the Bendigo CBD. The other venues are in eight different suburbs of Bendigo: Eaglehawk, Sailors Gully, Kangaroo Flat, Big Hill, Long Gully, West Bendigo, Ironbark and Strathdale. A higher number of the gaming machines are located in clubs rather than hotels in Bendigo.

In October 2006 the overall density in the City of Greater Bendigo was 7.44 machines per 1,000 adults whereas at that time the State average was 6.92 per 1,000 adults. Gaming expenditure in the City of Greater Bendigo was \$580 per adult compared to the State average of \$630 per adult. A possible explanation for this is that research has shown expenditure in clubs to be lower than in hotels.

Submissions

The submissions made by the churches and the Bendigo Faith Based Agency Group express concern with the existing density of machines and with the State policy which will allow a maximum density of 10 gaming machines per 1,000 adults. These submissions were made in respect of the proposed amendment but also specifically in response to Council's Community Survey which related to gaming matters in general. These submitters welcomed Council's ability to address social and economic impact.

Neither the Rising Sun Hotel nor Tattersall's made a submission on this specific criteria but Tattersall's does highly encourage the policy to require a robust social and economic impact assessment.

What can Council do under its planning scheme?

The location or use of gaming premises is effectively a planning matter even though an owner of premises is required to apply to the Gaming Commission for approval of premises as suitable for gaming.

Under planning legislation matters relating to social and economic impact will encompass issues relating to density. Council may therefore in its planning scheme seek to encourage or discourage the location of gaming machines in part by reference to density but Council cannot seek per se to impose a cap.

11.2 Resources to assess social and economic impact assessment

Tattersall's recommended that Council designate an appropriately trained officer or consultant to interpret the social and economic impact assessments submitted as part of an application and questioned how Council intended to resource such reviews. Council agrees that such evaluations may warrant specialist skills. In the event that Council does not have the necessary skills available to it, it may require an applicant to fund the retention of appropriate independent advice to Council.

12. Strip shopping centres

12.1 Strip shopping centres

Clause 52.28 prohibits installation or use of a gaming machine in a strip shopping centre if:

- the strip shopping centre is specified in the schedule to this clause;
- the schedule provides that a gaming machine is prohibited in all strip shopping centres on land covered by this planning scheme.

The clause sets out four requirements that an area must meet in order to be considered a strip shopping centre:

- it is zoned for business 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.

Council submits that the tests are ambiguous in that there is no clarity on what would constitute a “significant proportion” and whether “two separate buildings” excludes businesses joined by a party wall, which is common in many of Bendigo’s strip shopping centres.

12.2 Use of a map to identify a strip shopping centre

In an attempt to reduce the scope of any ambiguity and any consequent litigation Council proposes to schedule a map defining each area within the municipality it considers to be a strip shopping centre. It has submitted 10 separate maps for inclusion in the schedule.

Discussion

To be scheduled under either head of the Clause, the strip shopping centre must still meet the four tests. These matters have not been fully tested but there have been but there is some guidance available. The provisions are very similar to those contained in Amendment S69 which first introduced the prohibition on gaming machines in strip shopping centres. The S69 amendment was tested in the Victorian Civil and Administrative Tribunal in

the matter of *Crestline Architects Pty Ltd v the City of Greater Geelong*.¹ Council directed the Panel to the recent VCAT decision of *Shimmerbridge Pty Ltd v Bayside City Council*² where the issue considered under the new provisions was whether a particular area was an area in which a significant proportion of the buildings are shops. It is clear from these decisions that natural or ordinary English meaning of “shops” is to be preferred.

Tattersall’s submission

In its submission to Council regarding the proposed amendment Tattersall’s said it had reviewed the various maps, supported the approach and said it provides for clear guidance as to what is to be considered a strip shopping centre. It was undertaking a review of each of the strip shopping centres to ensure that each met the four criteria. Tattersall’s also advised that it would provide further comment in due course if required.

Whilst Tattersall’s made no additional submission or lodged a request to be heard at the Panel hearing, a representative was present at the hearing and informed the Panel Tattersall’s had no further comment to provide as a result of its review of each of the strip shopping centres.

Possible alternatives

Another technique may have been to list by way of name and street address. This was done by some municipalities pursuant to the S69 amendment. Even when listed by address the Victorian Civil and Administrative Tribunal has been asked to determine whether two formerly separate heritage buildings integrated into one land use (a hotel) fell within the nominated strip shopping centre.³

Finding/Recommendation

Based on the material presented to the Panel it finds that the strip shopping centres identified in the maps satisfy the criteria. It also finds that the maps are an appropriate mechanism by which to identify and schedule the strip shopping centres in the municipality in which the installation or use of gaming machines are prohibited.

Future strip shopping centres will have to be specifically captured as they develop. Regular reviews will provide an opportunity to make any necessary changes.

¹ 9 July 1998

² [2008] VCAT 1428

³ *Boroondara City Council v Deckbrew Holdings Pty Ltd* [2007] VCAT 2253

The Panel notes however that the maps Kangaroo Flat, Bendigo, Kennington and Strathfieldsaye also depict the shopping centres listed as prohibited under Clause 52.28-3 which is inappropriate.

Recommendation

The maps be amended to show strip shopping centres only.

13. Moral objections

13.1 Moral objections/Community opposition

The Faith Based Agency Group in its submission to Council said that gaming in its entirety presents a significant and frequently seductive moral dilemma. This in part was related to the design of gaming machines which it said is inherently dangerous due to features that increase spending and the risk of problematic gambling behaviours. The submission also included material on the social and economic impacts of gaming. In addition it referred to various community surveys undertaken in Victoria on gambling. These matters were referred to again in the submission made to the Panel at the hearing.

The Rising Sun Hotel contended that moral objections to gaming are not genuine reasons for constructing a responsible gaming policy in any municipality.

The relevance and/or the weight to be attached to such considerations in planning matters has been considered on a number of occasions both in the Victorian Civil and Administrative Tribunal (or its predecessor Tribunals) and by the Supreme Court of Victoria. The Victorian Supreme Court of Appeal recently considered these matters in the context of social and economic impact assessment under gaming law in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd*⁴.

Counsel for the hotel proprietor seeking approval of its premises as gaming premises was arguing for a restricted approach to social impact. The Court was asked to draw an analogy with the way such objections had been treated in planning law and was referred to number of decisions in interstate jurisdictions.

Even though the Court said it was unnecessary to refer to Victorian authority on the meaning of 'amenity' in planning law as no such question arises under the Gaming Regulation Act it did refer to the New South Wales cases. It did so by way of analogy only and to demonstrate that, contrary to the proprietor's submission, the analogy reinforced the Court's conclusions regarding the scope of 'social impact' in the particular context under consideration.

⁴ [2008] VSCA 45

The Court found:

*“There is no basis for treating as irrelevant for this purpose objections based on moral or religious grounds. Ifmembers of the relevant community ‘find the prospect of gaming at [the proposed venue] so disconcerting that it would have a significant effect upon that community’ it is immaterial whether such concerns are founded on philosophical or moral or religious views (or some combination of these) or simply reflect unarticulated views about the kind of community in which people wish to live”.*⁵

It remains to be seen how these issues will be dealt with in the gaming context under the new provisions in planning schemes. For present purposes it is clear that Council has drawn its proposed policy in accordance with State policy and planning objectives. In so far as such objections relate to machine features they are not included in the proposed amendment.

13.2 Council poll

The Poll conducted by Council was seeking community feedback on the wider social implications of electronic gaming. It involved media releases, interviews, and distribution of an information sheet to over 150 individuals, groups and organisations. Information was also placed on Council’s website. A total of 72 responses were received. The results were presented to council in the same report as the Amendment on 21 May 2008. It has however been treated as separate to the Amendment. The community feedback was sought to assist Council in its advocacy to State government on gaming issues.

⁵ *ibid* at pp 23-24

14. The form of the Amendment

Issues from the Strategic Assessment Guidelines

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require the Panel to consider:

- Is an amendment necessary?
- Does the Amendment comply with the requirements of the Planning & Environment Act?
- Does the Amendment support or implement the SPPF?
- How does the Amendment support or implement the LPPF, and specifically the MSS?
- Does the Amendment make proper use of the VPP?
- How does the Amendment address the views of relevant agencies?
- Have the resource and administrative implications of the Amendment for the responsible authority been properly considered?

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the Amendment, together with submissions on the guidelines from Council. The Panel endorses Council's response and considers that no issues are raised by an assessment against the Strategic Assessment Guidelines.

Form and content

The Minister has made a direction under Section 7(5) in relation to the form and content of planning schemes. The matters relevant to this report are:

- the format of the planning scheme;
- the need to write in plain English;
- the inclusion of schedules; and
- the use of maps.

In addition *Using Victoria's Planning System, Chapter 9: Plain English* provides advice on form and content as do the following relevant practice notes:

- Writing schedules;
- Using maps in planning schemes;

- Writing a local planning policy;
- Format of Municipal Strategic Statements; and
- Incorporated and reference documents.

A consideration of the Amendment against the Practice Notes raises the following issues:

- the use of maps; and
- incorporating or referencing the map.

These have been discussed earlier in the report and applied in the recommendations made.

15. Recommendations

Based on the reasons set out in this Report, the Panel recommends that Amendment C110 to the City of Greater Bendigo Planning Scheme should be adopted subject to the following changes:

15.1 Clause 21

15.1.1 Clause 21.07-4 Implementation

The second proposed dot point to be included regarding the prohibiting of gaming in strip shopping centres and shopping centres should be in line with what Clause 52.28 actually provides.

Recommendation

Amend the Clause to provide:

- **Prohibiting the installation and use of gaming machines in shopping complexes and strip shopping centres under the provisions of Clause 52.28.**

15.1.2 Clause 21.10 Reference document

Recommendation

Amend all references to the Framework to read:

- *City of Greater Bendigo Gaming Policy Framework – “Accessible but not convenient”, 2007.*

15.2 Clause 22.28 Gaming Policy

15.2.1 Clause 22.28-1 Policy basis

There is a minor spelling error

- Problem gambling **effects** a small

Recommendation

Amend to read affects a small

15.2.2 Clause 22.28-3 Policy

Recommendation

Clause 22.28 be amended as set out in Appendix A.

15.3 Greater Bendigo Discouraged Areas

Recommendations

That the updated map be incorporated into the planning scheme subject to the following modifications:

- That the map show only the areas to be strongly discouraged and/or to show the strongly discouraged areas clearly in the colour marked in the legend as the indicator of those areas.
- Strongly discouraged areas identified by the SEIFA Index of relative socio-economic disadvantage should be clearly shown in an appropriate colour.
- Strongly discouraged areas identified by reference to field survey should be shown in a different colour or hatching.
- If prohibited areas are to be included on the map these should be shown in a distinctive colour as exhibited.
- That a consistent name be given to the map – Greater Bendigo Discouraged Gaming Areas– throughout the amendment.

15.4 Clause 52.28-4 Prohibited strip shopping centres

Recommendation

The maps be amended to show strip shopping centres only.

Appendix A Revised Clause 22.28

22.28 GAMING POLICY

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This policy applies to all applications which require a permit to install or use a gaming machine or use land for the purpose of gaming in the City of Greater Bendigo.

22.28-1 Policy Basis

Clause 52.28 of this planning scheme requires a permit to install or use a gaming machine. This policy will guide decision making by implementing the findings of the *City of Greater Bendigo Gaming Policy Framework, 2007*.

This policy is based on an understanding that:

- Problem gambling affects a small proportion of gamblers and that by locating gaming venues in locations that are convenient, but not highly accessible will decrease the incidence of "convenience gaming".

The policy implements the objectives and strategies of Clause 21.07 of the Municipal Strategic Statement by setting out how and where gaming venues should be sited in the City of Greater Bendigo.

22.28-2 Objectives

To discourage new gaming machines in disadvantaged areas.

To ensure the location of gaming machines and design and operation of facilities containing gaming machines minimise opportunities for convenience gaming and the incidence of problem gambling.

To ensure that gaming machines are located where the community has a choice of non-gaming entertainment and recreation activities within the venue or in the local area.

To protect the amenity of existing uses surrounding gaming venues.

22.28-3 Policy

It is policy to locate gaming machines in accordance with the following criteria:

Appropriate areas

Gaming machines should not be located in areas identified in *Greater Bendigo Discouraged Gaming Areas Incorporated Document*.

Gaming machines should be located in areas that meet at least one of the following criteria:

- The total density of gaming machines in the suburb and its adjoining suburbs is less than the regional Victorian average.
- The area is identified as a future residential growth area in the Municipal Strategic Statement.

Gaming machines should be located proximate to higher order activity centres shown on the map attached to the schedule to clause 52.28-4.

Gaming machines should be located where there is a reasonable choice of alternative non-gaming entertainment and recreation facilities, including facilities proposed within 12 months. Alternative non-gaming entertainment and recreation facilities include hotels, clubs, cinemas, restaurants, bars and indoor recreation facilities operating at the same times as the proposed gaming venue will operate.

Appropriate sites

Gaming machines should not be located on sites where large numbers of pedestrians are likely to pass in the course of their daily activities, increasing the likelihood of spontaneous decisions to play gaming machines.

Gaming machines should be located on sites that meet at least one of the following criteria:

- The site is towards the periphery of an activity centre, outside of the main shopping, transport, community and civic functions of the centre, or within walking distance of the edge of an activity centre.
- The location could reasonably be perceived as a destination in its own right separate from high concentrations of people undertaking daily activities, or
- At a sports or recreation club with a land holding of more than 2 hectares.

Appropriate venues

Gaming machines should not be located in venues that have 24 hour a day operation, or have a gaming floor area of more than 25 per cent of the total floor area of the venue.

Gaming machines should not be located where the gaming or any associated use will detrimentally affect the amenity of the surrounding area by way of design, location or operating hours.

22.28-4 Application requirements

All applications must include the following information to the satisfaction of the responsible authority:

- A Social and Economic Assessment prepared by a suitably qualified person that provides a robust assessment of the social and economic benefits and dis-benefits of the proposed gaming machines. The assessment should address the following:
 - Details of the nature and extent of community benefits expected from the proposal and how the benefits are to be secured and distributed to the local community
 - Details of the relative socio-economic disadvantage of the suburb or town and the broader 5km catchment of the venue in comparison to the regional Victorian average as defined in the SEIFA index of relative disadvantage.
 - Details of existing and proposed gambling and non-gambling related entertainment and recreation facilities at the venue and within a 5km radius.
 - If it is proposed to move gaming machines from one part of the municipality to another, details of the relative social and economic differences between the two parts. An explanation as to why the gaming machines are being transferred is to be provided and the likely social and economic impact of the proposal on those venues and the local area.
 - If relevant, details of existing gaming income derived at the venue (over a 3 year period prior to the application) and a forecast of the anticipated expenditure at the venue if the proposal was to be approved.
- Details about the existing and proposed distribution of gaming machines in the municipality.

- If the applicant contends that gaming expenditure is likely to be transferred from other venues, the applicant is to provide:
 - particulars as to how the level of transfer has been calculated (including, but not limited to, comparison per machine expenditure at the venue prior to and then after the additional machines, current usage levels of machines at the venue, projected usage level of machines at the venue after the additional machines);
 - the amount of transfer expenditure anticipated;
- Details of the design and layout of the premises including all proposed and existing signage and evidence of compliance with any relevant gaming regulations concerning premises layout, design and operation.
- Mitigating strategies to prevent problem gambling in relation to the design and management of the venue, including the applicant's responsible gaming practices.
- A venue management plan identifying strategies to manage patron behaviour and minimise problem gambling in relation to the design and management of the venue, including the applicant's responsible gaming practices.
- The distance to shopping complexes and strip shopping centres, community facilities, counselling services and public transport.
- Pedestrian counts outside the proposed venue on different days and at a variety of times.

22.28-5 Decision guidelines

Before deciding on an application, in addition to the decision guidelines of Clause 65, the responsible authority must consider, as appropriate:

- Whether the application satisfies the application requirements of this policy.
- Whether there is a net community benefit to be derived from the application.
- Whether the proposal is likely to increase the social disadvantage of an area of the City of Greater Bendigo.
- Whether the location of the gaming machines or gaming premises will facilitate or discourage convenience gaming.
- Whether the venue is accessible by a variety of transport modes.
- Whether residents will have a choice of gaming and non-gaming entertainment and recreation venues in the local area.
- The impact of the proposal on the amenity of the area and surrounding land uses.

Reference

City of Greater Bendigo Gaming Policy Framework 2007, Coomes Consulting Group

Appendix B Greater Bendigo Discouraged Areas Map

