**Issues Considered by the Gambling Commission in Gaming Applications**

These notes present a summary of the range of issues which have been weighed by the Gambling and Casino Control Commission (hereafter, the Commission) in deciding gaming applications, during the past decade. These issues include the social and economic impacts of applications, as well as the characteristics of venues and their provision of gaming.

**Consideration of local areas in assessing the impact of an application**

In applying the ‘no net detriment test’ the Gambling and Casino Control Commission considers the municipality in which venue and gaming machines are to be situated, rather than to the State as a whole. As a consequence, benefits which flow to the state are given little or no weight.

In addition, the Commission tends to largely confine its consideration of the impact of a proposal upon the vicinity of the venue – generally within either 2.5 km. or 5 km. of its location. In metropolitan areas, the Commission generally considers that conditions within 2.5 km. of the subject venue to be most relevant in determining the social impact of the application, while a 5 km. radius is usually favoured in regional and rural areas.

In determining these areas, the Commission considers matters such as the distribution of existing venue patrons, selecting a distance which encompasses about half or more of the gaming patrons are distributed across this wider scope, and the location of nearby venues – with a 5 km radius favoured if the venue may be the nearest to residents up to 5 km. from the venue.

In addition to residents in nearby residential areas, workers in industrial precincts near the venue may be considered in assessing the impact of an application.

**SOCIAL IMPACTS OF A PROPOSAL**

In assessing the prospective impact of an application, the Commission generally considers the likely increase in expenditure associated with additional gaming machines or the establishment of a new venue, as well as the possible impact of those losses upon people who live or work nearby. These considerations form the subject of this section.

**Segments of the community that are vulnerable to gambling problems**

The Commission usually identifies a selection of social conditions in the relevant vicinity of a venue which may contribute to vulnerability to gambling problems; among them

* The SEIFA Index of Relative Socio-economic Disadvantage
* Incomes
* Reliance upon government benefits and pensions
* Unemployment levels
* Mortgage and rent-related financial stress
* Prevalence of public housing
* Homelessness
* Crime rates

In some instances, it has also acknowledged the vulnerability of Indigenous persons, recent settlers, people who speak languages other than English at home, and machinery operators, drivers and labourers – generally when prompted by evidence presented to it at the hearing.

On the other hand, the Commission has on occasion, identified groups of people whom it regards as being under-represented among problem gamblers, including older people – which may contribute to its often-repeated contention that applications at RSLs are less likely than others to contribute to gambling harm - CALD residents, international students, people with a limited education, those who have retired to the area, recent settlers, professionals, technicians and clerical staff, and people with incomes less than 31,000 p.a.

In a number of instances, the Commission has been guided by relevant research cited by the applicant or Council. This underscores the importance of corroborating and claims concerning the vulnerability of particular segments of the local community with evidence. Notably, much of the research relating to the susceptibility of people to gambling problems, relates to ‘problem gamblers’ rather than people experiencing moderate or mild gambling harm, who may encompass a broader representation of the community than problem gamblers – including some of the segments of the community mentioned in the preceding paragraph.

**Socioeconomic disadvantage and gambling harm**

If it determines that there is a substantial representation of segments of the community considered vulnerable to gambling harm, in the vicinity of the venue, the Commission may conclude that local residents would be harmed by the addition of a venue or further EGMs. It is common for the Commission to express concern about the vulnerability of local residents in communities with low average incomes, high rates of unemployment or elevated levels of housing-related financial stress. Refusing an application for EGMs in one instance, the Commission observed that the local population “… is very vulnerable and do not have the same safety net as more affluent household areas…they have little to no ability to incur gambling losses without harm.” (2017 Noble Park Football Club, Greater Dandenong, refused).

On occasion, the Commission has also considered *future* conditions in the vicinity of a venue, noting in one instance, that population growth in the area may be accompanied by a deterioration in local conditions – based on evidence presented at the hearing, and on another, that an expected influx of new home buyers may raise the local prevalence of mortgage-related financial stress.

Conversely, the prospect of gambling harm arising from an application is usually discounted where the Commission concludes that there are few signs of socioeconomic disadvantage in vicinity of catchment of the venue.

Further circumstances which may lead the Commission to conclude that little harm may result from the application include

* The vicinity of the venue is less disadvantaged than other parts of the municipality
* Gaming patrons of the venue do not reside in the disadvantaged vicinity of the venue
* The vicinity of venue is disadvantaged compared with other parts of the municipality, but not with metropolitan Melbourne.
* Local, disadvantaged residents already have access – or more convenient access – to other gaming venues

**The scope of gambling harm**

*Range of gambling harm*: The Commission recognises that gambling harm includes the severe harm, often experienced by ‘problem gamblers’, as well as moderate and mild gambling harm. This has important implications for the presentation and interpretation of evidence. For example, while some studies conclude that older people are slightly under-represented among problem gamblers, their high levels of dependence upon fixed and limited incomes, may expose them to elevated risks of moderate or mild gambling harm.

*Prevalence of gambling harm*: The Commission generally does not accept the proposition, advanced by the Productivity Commission, that 40% of gaming expenditure may be attributed to problem gamblers. Instead, it has been inclined to conclude that such matters cannot be determined without consideration of the particular features of the venue and local community – though generally without reviewing relevant evidence and presenting its own estimate of the proportion of gaming expenditure which might be attributed to problem gambling. Any effort to advance the proposition that a high proportion of gaming expenditure originated from problem gamblers should therefore to be accompanied by evidence relating specifically to the conditions of the application or the subject venue.

Notably though, little mention is made of the fact that, in addition to problem gamblers, people experiencing moderate or mild gambling harm make a further contribution go gaming expenditure. The notion that those affected by gambling include people who experience moderate or mild harm, is a proposition which is accepted by the Commission in principle and well supported by the research.

*Gambler’s Help data*: Efforts by witnesses at gaming hearings to use information about of clients assisted by the local Gambler’s Help agency to establish the relative prevalence of gambling problems among the community in the vicinity of a venue, appear to be unavailing. First, the number of people assisted by this agency may be a reflection of circumstances other than the local prevalence of problem gambling, the Commission explaining that such data are ‘inherently unreliable’ since this pattern of clientele could reflect the effectiveness of the service in that area, the accessibility of the service to residents of the local area, or other factors. In any case, Gambler’s Help clients would account for a small proportion of people in the vicinity of a venue who may be experiencing gambling harm – as the Commission has acknowledged – making such data valueless as a means for reliably gauging the local prevalence of gambling harm.

*Access to local welfare* *agencies*: Efforts have been made to argue that the absence of welfare agencies in a community would expose residents to the prospect of greater harm than otherwise, from problem gambling. The Commission is not disposed to accord much weight to this argument though, if it has concluded that the proposal is unlikely to cause much gambling harm in the first place.

**The impact of rises in gaming expenditure or machines upon gambling harm**

The Commission adheres to the entirely logical principle that, where a proposal would result in gaming expenditure being transferred from other venues, such expenditure would not contribute to any increase in gambling harm, since the rise in expenditure at the subject venue would be matched by a decline in expenditure at other gaming venues, as some individuals choose to conduct their gambling at the new venue.

Estimates of the level of transferred expenditure though, are thoroughly speculative and are usually provided by witnesses for the applicant. The Commission is disposed to accept estimates in the range of 70 to 90% in metropolitan areas, and lower estimates in regional and rural localities.

The Commission is inclined to accept such estimates unless a council opposing the application ventures an alternative estimate – which does not occur, since it would be technically arduous to accomplish, would probably be just as speculative, and would be strenuously challenged at a hearing.

However, the Commission has on occasion contested the accuracy and validity of models used to estimate the levels of transferred expenditure, noting the range of uncertain and subjective considerations involved in such estimates and their lack of proven analytical rigour. Generally, such appraisals, damaging to the case for the applicant, are prompted by the presentation of evidence by a council opposing the application which casts doubt upon the accuracy of these methods.

Where the estimated level of transferred expenditure is high, then it follows that the net increase in gaming expenditure resulting from the proposal would be small, and the harm associated with that rise in new expenditure may be limited as well. Accordingly, the Commission has on several occasions commented that the high level of transferred expenditure reduces the net increase in expenditure, thereby diminishing the prospect of an appreciable rise in gambling problems resulting from the proposal. Conversely, it has conceded that where the level of new expenditure is appreciable, it may be accompanied by an increased risk of gambling-related harm to a vulnerable community.

The Commission has identified a number of circumstances relating to the local gaming environment, which, it maintains, would lessen any adverse impact of the addition of gaming machines or establishment of a new venue. These are briefly described here.

* If the venue already has gaming machines, the addition of more would make little difference to the level of gambling harm incurred by patrons.
* A forecast rise in population in the vicinity of the venue would reduce the density of gaming machines while ensuring that the rise in their numbers at the venue caters for a rising population. On some occasions though, it has acknowledged that the increase in population may raise the level of expenditure at the venue.
* A recent trend of declining gaming expenditure, if maintained, would reduce the losses and accompanying gambling harm associated with the proposal
* There is little evidence of gambling problems associated with this venue, or it has not been presented with evidence which suggests that the venue may be conducive to gambling problems. Evidence concerning socioeconomic disadvantage in the venue catchment or among its patrons, a focus upon gambling at the venue, visibility of promotion of the gaming room, large or poorly supervised gaming room and other adverse features of a venue, may be accepted as evidence that it is conducive to gambling problems. These issues are addressed further below.
* Since there are other venues nearby, the establishment or expansion of the venue would make little difference to the local accessibility of gambling.
* The Commission may maintain that the addition of a venue in a locality with no nearby gaming venues, extends an opportunity for local residents to participate in gaming. Conversely, it may observe that the creation of a gaming venue in an area without such facilities, may be a liability for patrons who do not wish to be exposed to gambling, or detract from the character of a town where no gaming venues previously existed – as for instance in the case of an application for a new venue in the town of Romsey.
* The application would entail a small rise in gaming machine numbers or gaming expenditure, relative to municipal levels, or in the number of gaming machines within the venue. In one decision the Commission declared that since the venue was not new, problem gamblers had ready access to its gaming machines already, with the consequence that addition of further EGMs would be unlikely to exacerbate problem gambling among its patrons.

On the other hand, in some cases involving disadvantaged communities with high numbers of gaming machines and losses, the Commission allows that a rise in EGM numbers – however small it may be relative to existing municipal totals - would accentuate already high losses in a vulnerable community. The validity of such conclusions though, is questionable.

* The venue experiences few periods each week where there is a high demand for its gaming machines – usually defined as times when 70% or more of its EGMs are in use – with the implication that the addition of EGMs would have little impact upon gaming expenditure and gambling harm.
* The venue experiences relatively low rates of gaming expenditure per EGM, suggesting similarly low levels of gambling harm among its patrons. Conversely, on occasion the Commission has construed the high levels of expenditure per EGM as evidence of ‘high intensity gambling’, likely to result in gambling harm.

**Social considerations relating to the application or the conduct of gaming by the venue**

*Improved facilities and services*: The Commission generally holds that the development of improved entertainment and gaming facilities at a venue associated with an application, represents a social benefit, supplying an improved and diversified entertainment offering at the venue, supporting a growing community, providing recreation for families, forming a strong community presence, and in the case of some clubs, supporting a vital community facility. It has also commended applications which may reduce waiting times for gaming machines during peak periods – especially where the venue exhibits high rates of EGM utilization - and widen choice for patrons. Conversely though, the Commission may assign less weight to the proposed increase in number and range of gaming machines where the venue seldom experiences peak utilisation.

On the other hand, the Commission has conceded that improved venue facilities may be attractive to people with gambling problems, thereby contributing to gambling harm, remarking in one instance that “…the increased size of the gaming room and the proposed renovations at these premises would have the potential of increasing the attractiveness of the venue for all categories of gamblers (including problem gamblers as well as for those for whom gambling would be associated with some measure of harm).”

The Commission is inclined to accept on face value, any claim by the applicant that the improvement of its entertainment facilities and accompanying refurbishments will only proceed if it is granted the increase in gaming machines sought in its proposal. In response to a claim that planned improvements to a venue might proceed regardless of outcome of the application, the Commission dismissed this proposition as “…entirely speculative, placing it beyond the scope of its deliberations.” However, where the Commission is informed, or determines, that the planned refurbishments may indeed go ahead, even if the application is refused, then such improvements are accorded little or weight.

The Commission may also assign little weight to proposed refurbishments or improved entertainment offerings where they are:

* of modest scale or diversity, relative to existing services at the venue
* do not add substantially to entertainment facilities already available in the area
* largely focused upon gaming
* would generally be available only to club members

*Pledges of additional community support by applicants*: Applicants routinely promise to provide funding to organisations or projects of benefit to the community if their application is successful. Such support may take the form of grants to community organisations or welfare agencies, engagement of a welfare worker at their venue, free or inexpensive room hire for community groups, a community bus, discounted food, and other charitable contributions. Applicants may also seek to collaborate with the local council in a process for allocating grants, or may identify specific local groups to receive such financial support – a step which the Commission has commended as “…providing a level of certainty”.

However, the Commission only assigns weight to such promises if they are contingent upon a favourable outcome of the application. Accordingly, pledges of support which is already being provided, or would be granted regardless of the outcome of an application, are given less weight.

The Commission also looks with acute disfavour upon applicants which have failed to meet pledges of community support made during earlier applications for gaming machines.

On occasion, the Commission has also called into question the efficacy of a proposed program. In a 2017 application by Club Officer, it concluded that a chaplaincy service proposed by the venue to assist problem gamblers had little merit since the chaplain would be available for a few hours, non-religious people would be unlikely to use the service, and no evidence was presented to verify the efficacy of the service.

*Existing community support by applicants*: The Commission often favours applicants whose venues are already funding sport or other community organisations, arguing that the funds generated by additional gaming machines would help to sustain or extend this support, to the benefit of the local community. In one instance, for example, it acclaimed the proposed refurbishments of the club and improved viability of a “…community-based club with a diverse offering of services and strong community presence.”

However, little weight is assigned to support provided to community groups where the Commission perceives that this is merely intended to promote the venue and attract customers. In addition, support provided to community organisations and programs operating outside off the municipality, and services (such as meeting rooms) which are already locally available in abundance, attract little credit.

*Family violence and gambling harm***:** Family conflict and violence are cited in the literature as circumstances which may be aggravated by, among other conditions, gambling problems. In several decisions through, the Commission concludes that evidence has not established a causal link between gambling and family violence, and that an increase in gaming machines at a venue may not aggravate family violence.

However, in other instances, the Commission appears responsive to evidence of a link between gambling and family violence. Presented with extensive evidence of the relationship between gambling problems and family violence in one hearing, it conceded that the application might indeed accentuate family violence in the area, allowing that, while a causal link that would indicate that the application would increase family violence has not been established, it considers that “…if the application is granted, there may be a more acute risk of an increase in…social disturbance (including family violence).”

The Commission tends to dismiss claims of a prospective rise in family violence associated with an application, where it is not shown how the specific application would result in such an outcome. In one case it remarked that evidence concerning family violence “…did not relate to the venue specifically.” Such conclusions underscore the importance of presenting evidence which shows how the particular application may predispose to a rise in family violence.

**Public opinion**

*Community surveys*

In the past, applicants or local governments have conducted surveys of community members to gauge their opinions about the merit of a proposal. The Commission acknowledges that it must consider community attitudes in reaching its decisions and expects any assertion about community opinions to be corroborated by surveys or other efforts to canvas public opinion, else by community submissions.

It is difficult however, to conduct a substantial, representative and unbiased survey of public opinion, and the Commission may challenge the validity or significance of survey findings on any of a range of grounds; among them:

* that the survey recorded the opinions of only members of the club or venue patrons – who would be expected to favour the proposal - rather than the wider community.
* the survey featured relatively few respondents or registered a low response rate.
* the survey, or interviews with local residents, tended to attract people who were already inclined to oppose the application – termed ‘self-selection bias’.
* opposition to the proposal registered in the survey or consultation signified a general aversion to gambling, rather than addressing specific details of the proposal.
* the survey failed to inform respondents of the balance of harms and benefits associated with the proposal, thereby preventing them from registering an informed opinion.
* most respondents, regardless of their attitude to the proposal, did not feel that it would affect them personally.
* while a majority of survey respondents were opposed to the proposal, this did not represent overwhelming opposition.
* concerns expressed about the proposal would dissipate in time, since there are already gaming venues in the locality. Conversely, the Commission has given weight to opposition registered in surveys, where there are no other gaming venues nearby.

*Community Submissions*

Submissions presented by community members, agencies or organisations are given credit by the Commission where they reflect specific concerns about an application, rather than registering opposition to gambling in general. Remarking upon submissions by individuals and agencies was well as a council survey and community video, all registering concerns about the application, the Commission conceded that they represented a “…consistent and sustained negative attitude by the community….”

However, it may ascribe less importance to submissions from outside the municipality, and it has observed that welfare agencies may have a skewed perception of the impacts of gambling, since they deal with many people who experience gambling problems, rather than a broad cross-section of the community.

Further, submissions by individuals or organisations which merely reflect gratitude for financial support from the applicant, are generally discounted.

**ECONOMIC CONSIDERATIONS**

The Commission holds that any rise in expenditure at a venue entailed by a proposal which is new expenditure (expenditure not transferred from other venues in the municipality) and which does not emanate from people experiencing gambling problems, represents a favourable economic stimulus for the municipal economy.

In a further relevant line of reasoning, the Commission may add that any increase in gaming expenditure, not associated with problem gambling, represents a further economic benefit in providing patrons with an enjoyable activity and meeting consumer demand for gambling. In one instance, it explains this benefit as “…legitimate consumption expenditure by users who are enjoying a recreational activity."

*Complementary expenditure*: Further economic benefits ascribed to applications include complementary expenditure: expenditure on food, drinks and entertainment at the venue resulting from increased patronage, spurred by the addition of gaming machines and any planned refurbishments. Where such complementary expenditure is drawn from outside the municipality, it is regarded by the Commission as an economic benefit to the municipality where the venue is situated.

However, the Commission may give less credit to such expenditure where it is merely transferred from other venues in the municipality; where is not clear that the food and drinks will be sourced from businesses within the municipality; or where the volume of expenditure is small, relative to the scale of the municipal economy.

*Increased venue employment/hiring of contractors for venue refurbishment*: Any forecast rise in permanent employment at the venue, and expenditure on contactors, is generally regarded as a positive feature of a proposal, particularly in conditions of high local unemployment and where the staff and contractors are likely to be hired from the municipality. Assurances by the applicant of its intent to engage local staff and contractors, or a high representation of local residents among the current venue staff, may be accepted by the Commission as evidence of that prospect.

The possibility of increased employment stemming from a proposal, is regarded with less favour or credence where the local unemployment rate is low, where the forecast increase in staff appears exaggerated, or where the projected rise in gaming machine numbers is small in scale.

*Tourism*: In non-metropolitan municipalities, the Commission may be inclined to look with favour upon applicants’ plans for improved services or serviced apartments, as a means to promote tourism in the locality, thereby spurring local economic growth.

On occasion though, the Commission has discounted such benefits, either where realistic estimates of the impact of a proposal upon tourism are not supplied by the applicant, if existing local facilities provide an abundance of similar services, or where the expected benefits to tourism may only prevail for a fraction of the year.

*Tax reduction*: In some instances, it may be forecast that a rise in number of gaming machines, coupled with a lesser proportionate increase in gaming expenditure, may lower the gaming revenue per machine, with the consequence that the venue may be liable for a lesser rate of tax on its gaming receipts. As a result, an applicant may contend that its reduced tax liability would enable it to retain more money in the community, thereby generating a slight stimulus for the municipal economy. In a range of decisions, the Commission has either appraised this outcome as a slight attribute or discounted it altogether.

*Increased competition between venues*: The Commission regards the addition of gaming machines and venues as beneficial where they would enhance regional competition – an essential feature of a healthy economy. This fulfills a goal specified in the Gambling Regulation Act to ‘promote a competitive gambling industry’ while providing increased choice for gaming patrons, and stimulating local venues to improve their services. Such competition is considered most likely to occur where there are high expected rates of transferred expenditure and where lower gaming machine utilization rates confirm that demand does not exceed supply.

On the other hand, any stimulus to competition is regarded as limited where there are already many venues and gaming machines in the community, where there are not other venues nearby, or where few additional gaming machines are sought under the proposal.

*Diversion of expenditure from other local businesses*: The Commission has on occasion concluded that any rise in expenditure at a subject venue as a result of a proposal may divert funds from gaming or non-gaming venues in the locality. Curiously, and despite its proclaimed support for the principle of competition, this is often regarded as a liability, albeit a minor one. In a 2013 case involving the Braybrook Hotel for instance, it commented: “…movement of expenditure…from “goods and services to gaming is particularly concerning …given the already high disadvantage and low average income.” The impact of such diversion of expenditure is usually dismissed as trifling though, since it would be likely be distributed across many firms and therefore not grievously harm any single business.

*Payment of funds to an external or parent company*: The Commission looks askance at arrangements which require venues to transfer funds to an external company, viewing them as an economic liability which deprives the local community of those funds, and a potential source of conflict with its obligation to provide responsible gaming services.

**VENUE PRACTICES AND THEIR INFLUENCE UPON GAMBLING HARM**

A number of circumstances relating to venues and their conduct of gaming are considered by the Commission to have a beneficial impact, in reducing the prospect of gambling harm.

*The benefits of clubs*: Clubs are generally favoured by the Commission over hotels, due to their perceived community orientation and close connection and interaction with club members - which is held to reduce the likelihood of gambling problems. Moreover, in some instances, the older age of club members is considered to reduce their prospects of experiencing gambling problems – though the presumption that older people are less likely than others to experience gambling harm is not established by the findings of any rigorous inquiry.

*Alternative entertainment*: Venues which present a selection of alternative forms of recreation to patrons are also considered to exert a protective effect against gambling problems, while those which have a limited range of non-gambling activities on offer, which offer *only* gaming for several hours each day, or which propose refurbishments which would not improve the scale of dining and other entertainments, may not be favoured.

*Staff interaction with patrons*: The Commission holds that the prospect of gambling problem is lessened in those venues – usually clubs - where the staff know and interact with patrons; and it is disposed to accept at face value, testimony to this effect made by venue staff.

*Smaller size*: Smaller venues are considered beneficial, as a means to deprive patrons of any perception of anonymity, while providing staff with the means to more readily detect gambling problems. The Commission therefore maintains that such conditions are less attractive to people with gambling problems, and reduce the risk of such difficulties among patrons. Conversely, larger venues are considered more conducive of, and appealing to people with, gambling problems.

*Opening hours*: Similarly, the Commission has expressed the view that venues with shorter opening hours - typically closing at midnight to 2 am, rather than opening until 4 am - are less likely to contribute to gambling problems, based on the premise that problem gambling is most likely to occur at early hours in the morning.

*Shielding of the gaming room*: Venue designs which restrict direct access to, and visibility of, the gaming room are endorsed by the Commission as a means to deter people from impulsive gambling, raise the profile of alternate recreation offered at the premises, and improve the utility of the venue to people who do not wish to gamble. Applicant plans to shield the gaming room from other parts of the venue with frosted glass, provide less prominent signage and install features to suppress noise from the gaming room, are often favoured by the Commission. Inversely, criticism has been levelled at applicants where the venue features very prominent signage to the gaming room, where the gaming room and TAB are visible from patrons in other areas of the venue, where little has been done to alter these features in the past, or where any proposed refurbishments would do little to remedy such deficiencies in venue layout.

*Responsible service of gaming*: Adherence to responsible service of gaming procedures - evidenced by a record clear of breaches, the testimony of staff, collaboration with Gambler’s Help, a responsible gambling policy, participating in a local government responsible gaming charter, or regular staff training – is considered likely to reduce the prevalence of problem gambling at a venue.

Even so, the Commission appears receptive to research findings which attest that such procedures, however conscientiously implemented, may exert limited impact upon gambling problems, and to the proposition that gambling problems have persisted for years, despite the almost universal adoption of basic responsible service of gambling procedures at Victorian venues. Such procedures are also held to be of less impact where the applicant fails to produce evidence of such practices, training of board members, or independent testimony as to the quality of such procedures.

Moreover, in one case, the Commission gave no weight to such measures, arguing that they were no more effective than those employed elsewhere.

*Gaming room surveillance*: Increases in gaming room staff levels, to detect and respond to gambling problems, are favoured by the Commission. On the other hand, presented with a substantial rise in gaming machine numbers and a small increase in gaming staff, in one case, the Commission observed that it would do little more than serve increased demand for the gaming room, rather than increase passive surveillance over that space.

CCTV surveillance is also often credited by the Commission as a means to detect and respond to problem gambling.

*Convenience and destination venues*: Venues which are situated within, or in close proximity to, major shopping centres, are often characterised as ‘convenience venues’. The Commission considers that they may promote impulse gambling - luring people who are passing by while conducting their shopping or other business. The Commission therefore tends to prefer venue locations which are more distant from or at the edge of large shopping centres, in industrial areas or set back from main roads, where there are relatively few pedestrians.

The distinction between convenience and destination venues is not always distinct though, for in some instances, the Commission has conceded that venues in residential areas or localities where most people own a car, may still embody features of a convenience venue.

*Proximity of subject venue to welfare agencies or family activities*: In some instances, the Commission has acknowledged the harm which may arise where a gaming venue is established in proximity to parks, pools and other public uses, where it may attract people who otherwise would not be expose to gambling.

On other occasions though, the Commission has concluded that no ill effect would arise where a gaming venue is situated near welfare agencies – though without citing evidence to support its contentions.

**FURTHER ISSUES**

*Backfilling*

Some venues, chiefly clubs, have claimed that if they do not secure permission to operate further gaming machines, then those entitlements may be acquired, and the EGMs installed, by local hotels. Such hotels, they declare, would provide less support to the community than their club, and probably secure higher levels of gaming expenditure.

The Commission has tended to disdain such speculative conclusions however, in one case citing with approval a council's submission that the EGMs sought by a not been sought or used by anyone else for a considerable period, and that there was no particular evidence that they would be used elsewhere, thereby concluding that “… the prospect of backfilling is speculative".

*The presentation of evidence*

The Commission tends to favour several approaches to the preparation submissions and delivery of evidence at hearings to decide gaming applications. Among them:

* It has expressed the view that any council opposing an application should provide oral testimony at the hearing to enable claims presented in its submission to be properly tested under cross examination or questioning by members of the Commission. Otherwise, it may assign less weight to the views of the council than otherwise.
* It may be preferred that a council meet with the applicant to enable it to explain the nature and purpose of its proposal, before preparing and tendering its submission. Failure to do so may attract reproach.
* It is well to acknowledge any benefits of a proposal, should they exist, even if these appear to be outweighed by its liabilities.
* It is essential for a council to base its opposition to an application upon specific features of the proposal, rather than on a general objection to gambling.
* The Commission has on occasion, objected to councils adopting a policy which effectively opposes any gaming application in its district. An example is a policy which opposes any increase in overall gaming machine numbers in a municipality, beyond the metropolitan average – when the current density already stands at that level.

In one instance the Commission rebuked the council for its policy stance opposing any increase in EGMs in the municipality, concluding that it is “…not assisted by a submission from a municipal authority that has resolved to object to the granting of an application without having undertaken relevant assessment of the application.”