



## STRATHBOGIE SHIRE COUNCIL

### PLANNING COMMITTEE

# AGENDA

MEETING TO BE HELD ON TUESDAY 27 MARCH 2018

AT THE EUROA COMMUNITY CONFERENCE CENTRE

COMMENCING AT 4.00 P.M.

<b>Chair:</b>	Malcolm Little	(Hughes Creek Ward)
<b>Councillors:</b>	Amanda McClaren	(Lake Nagambie Ward)
	John Mason	(Seven Creeks Ward)
	Kate Stothers	(Honeysuckle Creek Ward)
	Debra Swan	(Lake Nagambie Ward)
	Alistair Thomson	(Mount Wombat Ward)
	Graeme (Mick) Williams	(Seven Creeks Ward)

<b>Officers:</b>	Steve Crawcour - Chief Executive Officer
	Phil Howard - Director, Innovation and Performance
	Roy Hetherington - Director, Community Assets
	David Roff - Director, Corporate and Community
	Emma Kubeil - Manager, Planning and Investment
	Cameron Fraser - Principal Planner
	Trish Hall - Technical Officer, Planning

#### **Business:**

1. Welcome
2. Acknowledgement of Traditional Land Owners  
*'I acknowledge the Traditional Owners of the land on which we are meeting.  
I pay my respects to their Elders, past and present'*
3. Apologies
4. Confirmation of Minutes of the Planning Committee meeting held on Tuesday 27 February 2018
5. Disclosure of Interests

6. Planning Reports
7. Other Business

Steve Crawcour  
**CHIEF EXECUTIVE OFFICER**

20 March 2018

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting, as per Local Law No. 1 - Meeting Procedure (2014) or as updated from time to time through Council Resolution

**PLANNING COMMITTEE REPORTS INDEX**

<b>Planning Committee Reports</b>				
<b>6. Planning Reports</b>				
<b>Report No.</b>	<b>Application No.</b>	<b>Purpose of Application</b>	<b>Location</b>	<b>Page</b>
<b>7. Other Business</b>				
7.1 (MPI-EK)	Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement			1
7.2 (DIP-PH)	Planning Applications Received - 16 February to 14 March 2018			36

---

**PLANNING COMMITTEE REPORT NO: 1 (MANAGER, PLANNING AND INVESTMENT - EMMA KUBEIL)**

**7. OTHER BUSINESS**

**7.1 Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement**

**Author & Department**

Manager, Planning and Investment / Innovation and Performance Directorate

**Disclosure of Conflicts of Interest in relation to advice provided in this report**

The author of this report and officers/contractors providing advice in relation to this report do not have a direct or indirect interest, as provided in accordance with the *Local Government Act 1989*.

**Summary**

The purpose of this report is for Council to consider a request to be made to the Minister for Planning to authorise the preparation and exhibition of a proposed amendment to the Strathbogie Planning Scheme. Planning scheme amendment C78 has been prepared to implement the recommendations of the *Strathbogie Shire Electronic Gaming Machine Policy Statement* into the planning scheme.

The amendment has been developed in response to a decision of Council on the 21 April 2017. It is anticipated that the updates to the Strathbogie Planning Scheme will assist assessment of gaming applications, as well as clearly articulate the Council's intent in relation to minimising the harms of gambling.

**RECOMMENDATION**

**That Council;**

- 1. Notes the Gaming Amendment Discussion Paper.**
- 2. Requests authorisation from the Minister for Planning to prepare and exhibit the proposed C78 amendment to the Strathbogie Planning Scheme, which seeks to:**
  - Amend Clause 21.05 to include recommendations from the Strathbogie Gaming Amendment Discussion Paper 2018.**
  - Amend Clause 21.08 to include the Strathbogie Shire Electronic Gaming Machine Policy Statement 2016 as reference documents in the scheme.**
  - Insert Clause 22.04 to provide further direction to decision makers in determining the appropriate siting of electronic gaming facilities.**

7.1 Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement (cont.)

**Background**

Strathbogie Shire Council is currently undertaking a project to implement the *Strathbogie Shire Electronic Gaming Machine Policy Statement*, into its planning scheme in order to ensure that Council has strong and clear guidance on how best to manage the demand for new electronic gaming machines (EGMs) and gaming venues in the municipality. The *Strathbogie Shire Electronic Gaming Machine Policy Statement* was adopted on the 21 June 2016.

At its Ordinary Meeting of Council on 21 April 2017 a resolution was carried;

1. *That Council NOT seek authorisation from the Minister for Planning to exhibit the combined amendment and planning permit application.*
2. *That Council commence a process by 1 July 2017 to complete a separate Planning Scheme Amendment for the inclusion of the Electronic Gaming Machine Policy Statement, as a reference document within the Strathbogie Planning Scheme.*

Part 1 of the resolution was in relation to a combined planning permit and amendment request made by a proponent.

As a result of part 2 of the resolution of Council; an amendment has been developed which will update the Strathbogie Planning Scheme to include:

- The *Strathbogie Shire Electronic Gaming Machine Policy Statement* as a reference document;
- A new local planning policy *Appropriately Located Electronic Gaming Machines* at clause 22.04;
- Various other changes within the MSS to reflect the policy changes.

A discussion paper (Attachment 1) has also been developed as part of the project to assist with informing the best way forward for the project. This will not be included in the planning scheme. This report recommends that Council recognise that the strength of its policy approach is dependent on the extent to which it aligns with the contemporary policy and decision-making framework within the Planning Scheme to ensure that EGMs and gaming venues are managed in Victoria. The amendment has been developed having regard to the recommendations of the report and best practice approaches in the current Victorian planning system.

It is anticipated that the new local planning policy statement on gambling will assist the Council to assess and manage EGM applications, strategic planning across the municipality, as well as clearly articulate the Council's intent in relation to minimising the harms of gambling.

**Alternative Options**

Potential alternative courses of action which Council might consider;

- Option 1: That Council pursues the proposed amendment and supports the request to be made to the Minister for Planning to authorise the preparation and exhibition of the amendment to the Strathbogie Planning Scheme.

7.1 Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement (cont.)

The amendment has been prepared to provide policy guidance that will assist assessment of gaming applications, as well as clearly articulate the Council's intent in relation to minimising the harms of gambling. It is the recommendation of this report that Council undertake option 1.

Option 2: That Council does not support the request to be made to the Minister for Planning, to authorise the preparation and exhibition of the amendment to the Strathbogie Planning Scheme and therefore abandons the amendment.

This would mean no amendment would be undertaken. In this instance if Council do not proceed with the amendment it would be 'business as usual' with no further changes to the existing planning scheme. Given the history of gaming in Strathbogie (and in particular Euroa) there is a risk that without providing guidance to applicants and clearly stating Council's position with respect to gaming that it will continue to be a point of contention for Council, community and potential applicants into the future.

**Risk Management**

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

**Strategic Links – policy implications and relevance to Council Plan**

The author of this report considers that the report is consistent with Council Policy, i.e. Gaming Policy Statement.

**Best Value / National Competition Policy (NCP) / Competition and Consumer Act 2010 (CCA) implications**

The author of this report considers that the report is consistent with Best Value, National Competition Policy and Competition and Consumer Act requirements.

**Financial / Budgetary Implications**

The prescribed fees for planning scheme amendments are detailed in the Planning and Environment (Fees) Regulations 2012. The costs associated with a planning scheme amendment include; considering a request to amend a planning scheme, consideration of submissions, providing assistance to a panel and adoption and approval of an amendment.

Funds have been allocated in the current 2017/2018 budget year to enable the planning scheme amendment to proceed.

**Economic Implications**

The author of this report considers that the recommendation will assist in the future assessment of Electronic Gaming Machine applications and provide guidance for businesses seeking to apply to install EGM's.

**Environmental / Amenity Implications**

The author of this report considers that the recommendation has no significant environmental or amenity implications for Council or the broader community, as it is only a Planning Scheme Amendment at this stage.

7.1 Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement (cont.)

**Community Implications**

The author of this report considers that the recommendation will initiate community interest in Council's attitude to EGM's.

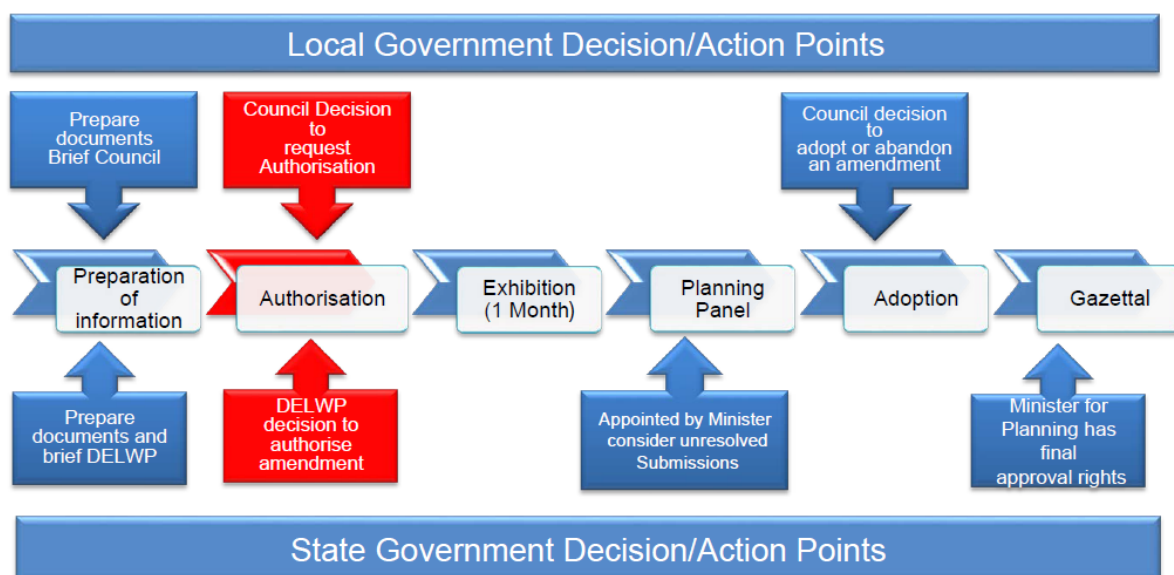
The community will have an opportunity to make submissions with regards to any implications during the formal exhibition of the amendment.

**Victorian Charter of Human Rights and Responsibilities Act 2006**

The author of this report considers that the recommendation does not limit any human rights under the Victorian Charter of Human Rights and Responsibilities Act 2006.

**Legal / Statutory Implications**

The planning scheme amendment process is shown in the figure below, currently the application is in the second phase at Council Decision to request Authorisation.



In accordance with Section 9 of the Act, the Minister for Planning may authorise a municipal council to prepare an amendment to State and local standard provisions of a planning scheme in force in its municipal district.

Municipal councils, as the planning authority, have a number of duties and powers. These duties and powers are listed at Section 12 of the Act. Under Section 12 a planning authority must have regard to (inter alia):

- *The objectives of planning in Victoria;*
- *The Minister's directions;*
- *The Victoria Planning Provisions;*
- *The Strathbogie Planning Scheme;*
- *Any significant effects which it considers a planning scheme amendment might have on the environment or which it considers the environment might have on any use or development envisaged by the amendment.*

7.1 Proposed Planning Scheme Amendment to implement the Strathbogie Shire Electronic Gaming Machine Policy Statement (cont.)

This Amendment proposal has had regard to Section 12 of the Act and is consistent with the requirements of Section 12.

In addition each amendment must address the Department of Environment Land and Planning (DELWP) publication *Strategic Assessment Guidelines for Planning Scheme Amendments*. A response to these guidelines is outlined in the attached Explanatory Report, (see Attachment 2).

The proposal is consistent with the State Planning Policy Framework and the Municipal Strategic Statement (MSS) This is explained in the attached Explanatory Report, (see Attachment 2).

**Consultation**

The amendment is subject to the prescribed process in accordance with the public notice and consultation requirements of Section 19 of the Act. This will include advertising in the government gazette and local newspapers as well as written notification to landowners and occupiers that may be materially affected by the amendment following authorisation of the amendment. All statutory and servicing authorities likely to be materially affected will also be notified of the proposed amendment.

**Attachments**

- 1/ Discussion Paper
- 2/ Explanatory Report.
- 3/ Instruction Sheet
- 4/ MSS – Clause 21.05
- 5/ Clause 21.08 Reference Documents
- 6/ Clause 22.04 Local Planning Policies





December 2017

## Discussion Paper: Gaming Amendment



Prepared for Strathbogie Shire  
Council

## Contents

1. Introduction.....	2
2. Background .....	2
3. Key statutory instruments: State Context .....	3
4. Key statutory instruments: Local Context .....	4
4.1. Council Plan 2017-21 and.....	4
4.2. Municipal Public Health and Wellbeing Plan .....	5
4.3. Strathbogie Electronic Gaming Machine Policy Statement 2016.....	5
4.4. Strathbogie Planning Scheme .....	6
4.5. Discussion .....	7
5. Case studies from VCAT (the Tribunal) and Supreme Court.....	8
5.1. Romsey Hotel, Romsey, Shire of Macedon Ranges (refusal).....	8
5.2. Francis Hotel, Melbourne CBD, City of Melbourne (red dot decision) (refusal).....	9
5.3. Euroa Hotel, Euroa, Shire of Strathbogie (refusal) .....	9
5.4. Family Hotel, Drouin, Baw Baw Shire.....	10
5.5. Edgewater Club, City of Maribyrnong (red dot decision).....	10
5.6. Maryborough Highland Society, Castlemaine, Mount Alexander Shire.....	11
5.7. Footscray Football Club, City of Maribyrnong (red dot decision) .....	11
5.8. Summary .....	12
6. Recommendations.....	13

### Document review and quality control:

Version	Status	Date	Author	Issued
1.0	Draft	22 December 2017	S Davies	Client
2.0	Draft	5 February 2018	S Davies	Client

## 1. Introduction

This initial discussion paper has been prepared to underpin Strathbogie Shire Council's Amendment to implement a new gaming strategy into the planning scheme.

Strathbogie Shire Council is currently undertaking a project to implement its Gaming Policy into its planning scheme in order to ensure that Council has strong and clear guidance on how best to manage the demand for new electronic gaming machines (EGMs) and gaming venues in the municipality. Council has recognised that the strength of its policy approach is dependent on the extent to which it aligns with the contemporary policy and decision-making framework within which EGMs and gaming venues are managed in Victoria.

The *Strathbogie Shire Electronic Gaming Machine Policy Statement* ('Policy Statement') was adopted on 21 June 2016.

A new local planning policy statement on gambling will assist the Council to assess and manage GM applications, strategic planning across the municipality, as well as clearly articulate the Council's intent in relation to minimising the harms of gambling.

The findings presented in this discussion paper will be used by Council to develop a gaming policy that is both relevant to the local gambling context and consistent with previous and emerging decision-making principles.

## 2. Background

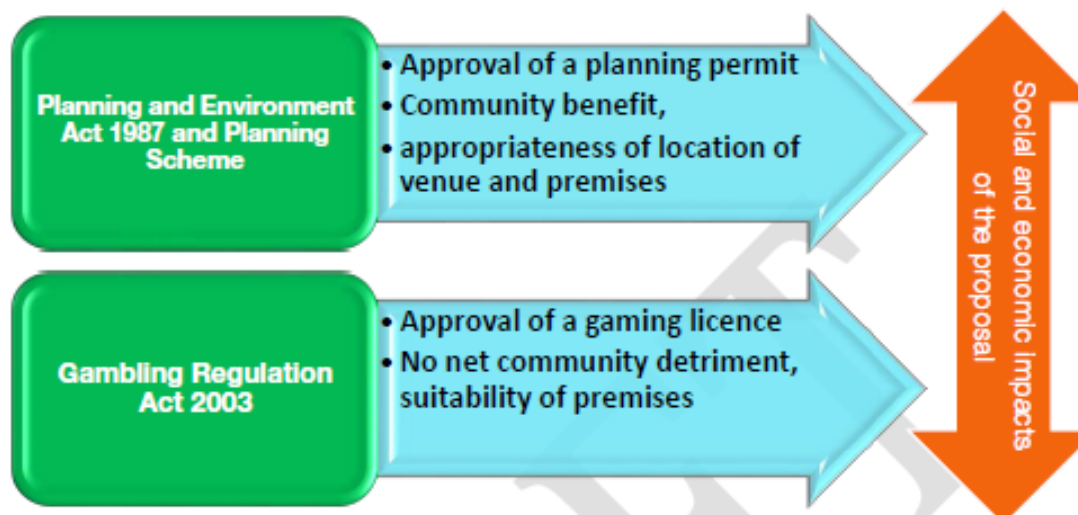
As is discussed within the *Policy Statement* the Strathbogie Shire Council recognises that electronic gaming is a legalised and legitimate form of recreation. The *Policy Statement* was developed taking into consideration state and federal regulations as well as specific research on the local context; including consultation being undertaken with residents, service providers as well as venue operators

Under Victorian legislation, the use of EGMs requires two types of permissions or 'approvals'; a planning permit and a gaming licence. The first approval is obtained through the *Planning and Environment Act 1987* and relevant planning scheme and the second approval is obtained through the *Gambling Regulation Act 2003*.

Key considerations under the planning legislation are whether both the location and the premises are deemed appropriate and whether the approval will result in net community benefit. The key consideration under the gaming legislation is whether the approval will result in net detriment to the wellbeing of the community and whether the premises is suitable for gaming (refer to Figure 1).

The social and economic impacts of the proposal are key considerations under both the planning and gaming legislation.

Figure 1 – Legislative framework



Applications for gaming premises and an increase in EGMs must be accompanied by a copy of a planning permit allowing the installation and use of EGMs and a completed application form.

A gaming venue does not have to have the EGM entitlement before applying for the gaming license and the planning permit.

### 3. Key statutory instruments: State Context

Two main statutory instruments regulate the operation of EGMs and gaming venues in Victoria.

#### Gambling Regulation Act 2003

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

- (a) to foster responsible gambling in order to—
  - (i) minimise harm caused by problem gambling; and
  - (ii) accommodate those who gamble without harming themselves or others;
- (ab) to ensure that minors are neither encouraged to gamble nor allowed to do so;
- (b) to ensure that gaming on gaming machines is conducted honestly;
- (c) to ensure that the management of gaming machines and gaming equipment is free from criminal influence and exploitation;
- (d) to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;
- (e) to ensure that—
  - (i) community and charitable gaming benefits the community or charitable organisation concerned;

(ii) practices that could undermine public confidence in community and charitable gaming are eliminated;

(iii) bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;

(f) to promote tourism, employment and economic development generally in the State.

The Act provides the local authority with the opportunity to make a submission to the VCGLR in response to an application for approval of a premise as suitable for gaming.

Public inquiries are required for every application for new gaming premises and an increase in EGMs, and the local authority for the area within which the application is located has an automatic right to have further input into an application. The Commission is bound to take the submission and additional input into consideration. This recognises and reinforces the important role of local government in representing the people of a community.

The *Gambling Regulation Act 2003* includes a number of regulations that focus on the operation of the venue and harm minimisation. These include imposition of regional and municipal caps on the number of gaming machines, access to cash, community benefit statements, opening hours, advertising and marketing and location of ATMs.

#### Planning and Environment Act 1987

Relevant objectives of planning in Victoria, as described in the *Planning and Environment Act 1987* include:

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

Strathbogie Shire Council who has the authority to act as the Planning Authority, are required to prepare, administer and enforce planning schemes or planning permit applications consistent with the objectives of the *Planning and Environment Act 1987*.

## 4. Key statutory instruments: Local Context

### 4.1. Council Plan 2017-21

One of the goals in the Strathbogie Shire Council Plan 2017-2021 is to enhance community health and wellbeing and then later in the document is to support and drive economic development through providing innovative and sustainable land use planning. One of the key strategies to do this is through;

- Prepare an amendment to include the Gaming Policy Statement into the Planning Scheme.

It is envisaged that as part of this project a key outcome will be the preparation of an amendment to implement the Gaming Policy Statement which meets these two goals.

#### 4.2. Municipal Public Health and Wellbeing Plan

Under the *Victorian Local Government Act 1989* and the *Public Health and Wellbeing Act 2008*, local government is the responsible authority for protecting and promoting the health and wellbeing of communities.

During the development of the *Gaming Policy Statement*, Strathbogie Shire Council had adopted the *Healthy Communities Plan 2013-17 (HCP)*. The HCP was a key document which guided Council's work and set out the key priority areas for Council to plan for a healthy community.

The HCP stated

*"Strathbogie Shire Council is serious about its responsibility to influence and create a range of healthy environments within the Shire. We accept that we cannot simply deal with illness or ill health after it appears when the environment in which people live or work gives them little or no choice or support. Instead, we must plan in advance to make informed decisions around social, economic and physical environments that directly affect the health and wellbeing of all communities."*

The *Gaming Policy Statement* was developed having regard to this plan and is considered to be consistent with the intent and purpose of the HCP, the amendment that is resultant of this discussion paper is also considered to be consistent with the HCP.

The HCP has recently been updated by the *Livability Plan 2017-2021*, the new plan builds on the strategies, objectives and goals of its predecessor. The strategies set out by the *Livability Plan* seek to encourage good health outcomes in Strathbogie and has sought to consider a range of key themes and priorities. The *Livability Plan* supports the need for implementation of a gaming policy statement to support good health outcomes in the municipality.

#### 4.3. Strathbogie Electronic Gaming Machine Policy Statement 2016

Adopted in 2016, the *Policy Statement*, was developed to support decision making for planning permit applications under the *Planning and Environment Act 1987* as well as when making a submission to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) on:

- an application for approval of a premises as suitable for gambling under section 3.3.6 of the *Gambling Regulation Act 2003 (Gambling Act)*; and
- a request for an amendment of conditions of a venue operator's licence under section 3.4.19 of the *Gambling Act*.

This *Policy Statement* has also resulted in the current project being undertaken to update the Strathbogie Planning Scheme to ensure that clause 52.28 and LPPF reflect the intent of the policy statement within the planning scheme.

The seven principals of the *Policy Statement* are as follows:

1. Council recognises that EGMs are a legitimate and legal recreational activity within the Strathbogie Shire which many people enjoy;
2. Council notes that EGMs are associated with a higher prevalence of problem gambling compared to other forms of gambling;
3. Council accepts that for problem gamblers, EGMs can be the source of significant adverse social and economic consequences with flow on impacts to their families and the wider community;
4. Council aims to reduce the negative impacts relating to EGMs;
5. Council supports the Victorian State Government cap of 78 EGMs in the Strathbogie Shire intended to protect vulnerable communities from the harmful effects of gambling. Council is opposed to any increase to the existing cap;
6. Council will not support new EGM venues, additional EGM licences and the transfer of EGM licences between venues unless the Social and Economic Impact Assessment (SEIA) has been undertaken and submitted with the application. The SEIA will be considered when Council makes its decision;
7. Council will exercise its right to make a submission to the VCGLR.

In terms of land use the Policy Statement clearly articulates that, when considering EGM planning applications Council will discourage them in areas:

- Specified in the Schedule to Clause 52.28-4. They will also be strongly discouraged in areas that abut, or are adjacent, opposite or in such close proximity to prohibited areas that a proposed venue would reasonably be considered particularly convenient to users of the strip shopping centre;
- Where the gaming venue, and its associated uses, will be compatible with the predominant surrounding land uses by ensuring that the proposed location, design and operating hours do not detrimentally affect the amenity of the surrounding area.

#### 4.4. Strathbogie Planning Scheme

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

Each planning scheme must also contain a Local Planning Policy Framework (LPPF) comprising a Municipal Strategic Statement (MSS) and Local Policies. These areas of the planning scheme offer the opportunity for Councils to outline local objectives, strategies, implementation approaches and performance measures. These policies are utilized in decision making in exercising discretion regarding planning permit decisions, but cannot override zones or other regulatory provisions.

Planning schemes in Victoria contain a standard Gaming provision (Clause 52.28), which was introduced in 2006. The Clause requires a planning permit for the installation and use of gaming machines in a new venue or to increase the number of machines in an existing venue.

The purpose of Clause 52.28 is to:

- *Ensure that gaming machines are situated in appropriate locations and premises*
- *To ensure the social and economic impacts of the location of gaming machines are considered.*
- *To prohibit gaming machines in specified shopping complexes and strip shopping centres.*

Schedules to the Clause allow for local variations to the standard provisions, enabling planning authorities to prohibit gaming machines in strip shopping centres or complexes.

At present the schedule to Clause 52.28 of the Strathbogrie Planning Scheme does not specify any shopping complexes or strip shopping centres within which gaming venues are prohibited. However, a default schedule prohibits gaming machines in all strip shopping centres where a detailed schedule has not been included in the scheme.

The *Victoria Planning Provisions* include the following definitions:

- **Gaming** The playing of a gaming machine. (Clause 72)
- **Gaming machine** Has the same meaning as it has in the Gaming Regulation Act 2003. (Clause 72)
- **Gambling premises** Land used for gambling by gaming or wagering, and where there is the ability to receive a monetary reward. This includes betting agencies and gaming premises. (Clause 74)
- **Gaming premises** Land used for gambling by gaming, and where there is the ability to receive a monetary reward. (Clause 74)

#### 4.5. Discussion

Under the Victorian legislative and strategic framework gambling is recognised as a legal form of entertainment. As a result, there is the expectation that local communities will have access to opportunities to gamble. It has also been recognised, however, that gaming is associated with a range of social, economic and health harms and costs that are experienced at an individual and community level.

As a result, local governments are empowered through legislation to manage the use and installation of EGMs through their planning schemes. In addition, many local governments in Victoria have prepared gaming strategies that outline Council's position in relation to the future management of EGMs in the community and strategies that seek to prevent and reduce the harmful impacts of problem gambling.

Although Council has adopted a *Policy Statement*, at present the Strathbogrie Planning Scheme does not provide specific guidance as to areas within municipality where gaming venues should be prohibited. It also does not contain a local planning policy within the MSS which provides the framework within which applications for planning permits for the use and installation of EGMs are determined by the Shire.

The preparation of a local planning policy on gaming in the Strathbogrie Planning Scheme would provide Council with clear guidance on how to manage any future demand for EGMs in the Shire and address the issue of problem gambling in the municipality.



## 5. Case studies from VCAT (the Tribunal) and Supreme Court

As has been discussed elsewhere, it is important that to emphasise that there exists two discrete statutory regimes that apply to the assessment of applications for EGMs. Permissions are required under the Gaming Regulation Act 2003, and also under Clause 52.28 of the Planning Scheme. Very different considerations are relevant under the gaming and planning legislation.

The planning permission is focused on deciding whether the proposal is in an appropriate location suitable for gaming, and secondly the social and economic impacts of the location. Relevant considerations under the gaming legislation include whether the net economic and social impact of the EGMs would or would not be detrimental to the wellbeing of the community of the municipal district in which the premises are located. Many of the applications for EGMs that come before the Tribunal are applications made under both gaming and the planning legislation. In those cases, the Tribunal is required to consider relevant matters under both legislations.

This section discusses the key considerations that underpinned the decisions made by VCAT for selected case studies. The following criteria informed the selection of the case studies:

- The decision was nominated as a 'red dot' decision by VCAT based on its influence over future decision-making.
- The application is located in a regional municipality and is therefore relevant to the Strathbogie Shire context.

This section includes case studies where the Tribunal refused both the applications for both the planning permit and the gaming licence, or just the planning permit as a venue may not operate as a gaming venue unless it has both approvals.

Other VCAT hearings have been considered in the development of this paper however, these are key decisions that are relevant to the Strathbogie context.

### 5.1. Romsey Hotel, Romsey, Shire of Macedon Ranges (refusal)

In 2006 the VCGLR refused an application for a gaming licence to operate 30 EGMs at the Romsey Hotel. The Commission found that the proposal would have a net detriment on the wellbeing of the community due to the level of community opposition and the lack of alternative non-gaming activities in Romsey.

In 2007 the Tribunal set aside the Commission's decision, on the grounds that:

- The subject site was not located in a strip shopping centre despite the fact that it was zoned Business 1.
- The proposal would result in a number of social and economic benefits including the improvement of the services and facilities on offer at the Hotel, the improved accessibility of opportunities for gaming for the community, generation of economic opportunities in the community and limited disadvantage in the community.
- Council did not present the results of a survey, but merely referred to in a video, indicated that the Council did not recognise that the survey was relevant in assessing whether or not there

would be a net detriment to the wellbeing of the community. This survey demonstrated a great deal of community concern regarding the impact of the proposal on the wellbeing of the community.

However, in 2008 the Supreme Court of Appeal upheld an appeal by the Macedon Ranges Shire Council against the Tribunal's decision to grant approval of the premises as suitable for gaming. The grounds for this decision were that the findings of the survey should be considered in assessing the impact on the community as this was an essential consideration under the no net detriment test.

### 5.2. Francis Hotel, Melbourne CBD, City of Melbourne (red dot decision) (refusal)

VCAT REFERENCE NOS. P770/2012 , B42/2012

The application for the installation and use of 32 EGMs in an existing three storey hotel, the Francis Hotel in the City of Melbourne CBD involved both gaming approval and planning approval. The Tribunal refused both applications for gaming approval and planning approval on the grounds that approval would result in a functional cluster of gaming venues which was contrary to the local policy which discourages the concentration of gaming venues in the central city.

The Tribunal reasoned that it would contribute to convenience gambling due to a cluster and concentration of similar gaming venues. Further grounds for refusing the planning approval is that the proposed ground floor layout of the venue would not provide a satisfactory active street frontage in terms of the requirements of the relevant Design and Development Overlay. Particular factors relating to a 'functional cluster' of gaming venues that were considered to increase the risk of problem gambling included:

- Physical distance
- Lines of sight
- Whether the cluster is on a pedestrian route
- If the 'cluster' consisted of three or more venues (including the venue under consideration) within 400m of one another

### 5.3. Euroa Hotel, Euroa, Shire of Strathbogie (refusal)

VCAT REFERENCE NO. P2639/2013 *Alston v Strathbogie SC* [2014] VCAT 760 (26 June 2014)

In June 2014, the Tribunal set aside Council's decision to grant a planning permit for the install 30 Electronic Gaming Machines (EGM's) in the Euroa Hotel, as part of a redevelopment of the hotel.

In considering the merits the presiding member *"concluded that the Euroa Hotel is located in a strip shopping centre and the installation or use of EGMs is prohibited"*.

A strip shopping centre is defined in clause 52.28-4 as an area that meets all of the following requirements:

- o it is zoned for commercial use;
- o it consists of at least two separate buildings on at least two separate and adjoining lots;

- o it is an area in which a significant proportion of the buildings are shops;
- o it is an area in which a significant proportion of the lots about a road accessible to the public generally.

In the assessment of the context of this site, VCAT concluded that in terms of defining the “area” for the purpose of clause 52.28-4, the area is the Euroa Town Centre. The whole of the area that we have identified as comprising the ‘Euroa Town Centre’ is zoned Commercial 1. This included all of the southern side of Railway Street extending from Anderson Street to Kirkland Avenue and the lots fronting Binney Street between Railway Street and Brock Street. It found that the Euroa Hotel was within a strip shopping centre area.

#### 5.4. Family Hotel, Drouin, Baw Baw Shire

In 2007 VCAT set aside the Commission’s decision to refuse an application for a new gaming venue with 20 EGMs. An earlier application for approval of the gaming premises under the *Gambling Regulation Act 2003* was refused by the Commission on the grounds that it was not satisfied that the net economic and social impact of the proposal would not be detrimental to the wellbeing of the community. The Shire had made a submission to the Commission opposing the application.

In interpreting the test under the *Gambling Reform Act 2003*, the Tribunal explained that it only has to be concerned with the ‘net’ outcome, and that this is affected not only by the location and nature of the premises concerned, but also by any conditions that may be imposed on the approval. The process of examining the net impact involves four stages namely establishing the facts regarding the impacts, identifying positive impacts, identifying negative impacts and then finally balancing the positive with the negative to ascertain the net impacts.

In interpreting the Planning Scheme, the Tribunal found that the proposal aligned with the intent in the MSS to develop the twin towns of Drouin and Warragul (where neither is dominant) and to expand the range of entertainment facilities. This was due to the fact that there were no EGMs in Drouin at the time and the proposal would result in an improvement to the local hotel.

#### 5.5. Edgewater Club, City of Maribymong (red dot decision)

VCAT REFERENCE NOS. P1607/2006, B18/2006

In 2008 the Tribunal resolved to uphold an appeal against Council’s decision to refuse an application for a planning permit for the establishment of a new gaming venue in a club and installation and use of 70 EGMs. The reasons underpinning the Tribunal’s decision were:

- The proposal was generally in accordance with an approved development plan.
- The site was not included in a strip shopping centre (and therefore prohibited by the planning scheme) as it was not zoned Business 1 Zone. This was despite the fact that the site met the other three requirements under Clause 52.28 of the Planning Scheme relating to strip shopping centres.
- The venue was a club and not a hotel.

- The gaming component of the proposal was a small part of the overall facility which would cater for the accommodation and entertainment needs of guests and members.
- The proposal would involve the removal of EGMs from a more disadvantaged area, and EGMs were also being removed from other highly disadvantaged areas in the vicinity of the venue.

The Tribunal found it appropriate to restrict the operating hours of the gaming venue to between 11am and 1am.

### 5.6. Maryborough Highland Society, Castlemaine, Mount Alexander Shire

Although not an application for a planning permit, in 2013 the Tribunal determined to set aside the Commission's decision to approve an application to increase the number of EGMs in the club venue from 56 to 59. Deputy President Dwyer determined that he was not satisfied that the proposal would not result in a net detrimental impact upon the community of Castlemaine and, as such, the application failed the 'no net detriment' test under the *Gambling Regulation Act 2003*.

After considering the various social and economic benefits and dis-benefits of the proposal, Deputy President Mark Dwyer took the view that the proposal would result in only moderately positive economic benefits and moderate to strong dis-benefits to the Mount Alexander Shire. It was noted that the community contribution offered by the proposed venue operator was clouded in uncertainty. On the other hand, it was considered that the proposal posed a real risk of an increase in the prevalence of problem gambling in the area and would likely detrimentally impact the character of the Castlemaine township.

A key aspect of the application for review before VCAT was that material elements of the proposal had changed since the VCGLR approval. This included a change in the proposed venue operator, from the Maryborough Highland Society to the newly formed Castlemaine Sports and Community Club.

In his reasons for decision, Deputy President Dwyer noted, at paragraph 28:

*"An applicant for a statutory approval should not assume that the Tribunal will overlook serious gaps and anomalies in its evidence. To favour the MHS [Maryborough Highlands Society] case in this proceeding would imply that 'near enough is good enough' and that gaming premises approval is the default outcome in proceedings of this nature. That is not the case."*

### 5.7. Footscray Football Club, City of Maribymong (red dot decision)

VCAT REFERENCE NOS. P1697/2008, B18/2008

In 2009 the Tribunal upheld an appeal against the decision of the City of Maribymong to refuse an application for a planning permit for the installation of 70 EGMs into the Footscray Football Club in the Edgewater Estate. The Tribunal found that the use was generally in accordance with the strategic intent for the Edgewater Estate which was to encourage employment opportunities and a mix of entertainment and other uses. The Tribunal also found that a number of factors would mitigate against the potential for an increase in problem gambling. These included the redistribution of gaming expenditure from a more disadvantaged area, the type of gaming venue (i.e. club not hotel), no net increase in the number of

gaming venues in the municipality, the creation of a social facility for the new suburb and employment generation.

Other reasons for the decision was the Tribunal found that, approval of gaming on the site was appropriate because:

- Proposal was supported by the strategic intent for Edgewater Estate to encourage employment and mix of entertainment;
- Subject site was not located in a strip shopping centre; and,
- Zoning of the site was appropriate as it was in a Comprehensive Development Zone and not a Business Zone.

### 5.8. Summary

From the analysis of the VCAT Planning Decisions, although there is not a strong level of consistency in the decisions made by the Tribunal, the following grounds are often used to refuse an application to vary a gaming license or permit the installation and use of EGMs or are dismissed based on the context of the application.

Matters which must be considered under the Planning Scheme include:

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

#### Successful grounds for refusal:

- Where there is a range of determinants of harm which are show to have a cumulative impact. This occurs in particular where these impacts are predominantly those relating to social and economic disadvantage and a potential increase in expenditure associated with an increase in the number of EGMs and/or EGM density;
- The community likely to be affected by harm will not derive any benefit; and
- There is evidence of sustained and overwhelming community concern through quantitative tools such as surveys.

In addition, decision making authorities (i.e. Tribunal, Supreme Court or Commission) tended to give weight to:

- Evidence presented by experts in the fields of economics and social planning if the evidence is founded on a strong and robust evidence base and if the evidence is contained within the expert's sphere of expertise.

Planning Report – Gaming Amendment Discussion Paper

- Council's position on gaming if it aligns with the principle that EGMs are a legal form of entertainment in Victoria and therefore must be accommodated if it is found by the Tribunal and the Commission that the location and venue are appropriate and there will be no net detriment to the community.
- Council's position on gaming if it is expressed in a gaming policy or local planning policy that is endorsed by Council and incorporated in the planning scheme.

Grounds often dismissed

Grounds not given much weight by the Tribunal and the Commission are:

- An increase in the number of EGMs will result in problem gambling if the application involves a 'top up';
- An increase in the number of EGMs and density will result in problem gambling because there is already high accessibility to EGMs and gaming venues in the primary catchment; and
- Council's refusal for an application if it meets its own gaming policy.

## 6. Recommendations

The following recommendations are based on the findings presented in this Discussion Report, the next stages of this project will be to;

- Prepare a gaming impact assessment toolkit to guide the preparation and assessment of applications for planning permits considered under Clause 52.28 of the planning scheme.
- Incorporate local planning policy into planning scheme, in particular to;
  - Directing the location of EGM planning applications will discourage them in areas, that abut, or are adjacent, opposite or in close proximity to prohibited areas that a proposed venue would reasonably be considered particularly convenient to users of a strip shopping centre;
  - Ensure that gaming venues, and its associated uses will be compatible with the predominant surrounding land uses by ensuring that the proposed location, design and operating hours do not detrimentally affect the amenity of the surrounding area.

*Strathbogie Planning and Environment Act 1987*

## STRATHBOGIE PLANNING SCHEME

### AMENDMENT C [insert amendment number]

## EXPLANATORY REPORT

#### Who is the planning authority?

This amendment has been prepared by the Strathbogie Shire Council, which is the planning authority for this amendment.

The Amendment has been made at the request of Strathbogie Shire Council.

#### Land affected by the Amendment

The Amendment applies to the entire municipality of Strathbogie Shire, which particular relevance to township and urban areas.

#### What the amendment does

The Amendment implements the recommendations of the *Strathbogie Shire Electronic Gaming Machine Policy Statement 2016*, by amending/inserting policy in the Municipal Strategic Statement (at Clause 21.05) and the Local Policies (at Clause 22.04) to ensure that electronic gaming facilities are located in appropriate sites within the municipality.

The Amendment:

- Amends Clause 21.05 to include recommendations from the *Strathbogie Gaming Amendment Discussion Paper 2018*.
- Amends Clause 21.08 to include the *Strathbogie Shire Electronic Gaming Machine Policy Statement 2016* as reference documents in the scheme.
- Inserts Clause 22.04 to provide further direction to decision makers in determining the appropriate siting of electronic gaming facilities.

#### Strategic assessment of the Amendment

#### Why is the Amendment required?

The amendment is required to reduce the impact electronic gaming facilities have on the community. The Strathbogie Shire Electronic Gaming Machine Policy Statement 2016 outlines the areas most at risk of increasing problem gambling within the municipality and provides a framework for assessing whether a location is appropriate or not for electronic gaming machines. The amendment provides decision makers at council greater direction in assessing planning permit applications regarding electronic gaming machines (EGMs) by outlining factors that could mean the location is inappropriate for housing EGMs. These factors include, but are not limited to:

- Whether there are other entertainment facilities operating at the same time of day/night that might provide an alternative venue.
- Where the site is located in relation to the town centre and other pedestrian friendly and high foot traffic areas.
- The distribution of the proceeds received through EGMs and what organisations/individuals profit.
- The social demographic of the area and any cumulative impacts on the surrounding area.

Ensuring EGMs are appropriately located will result in a net community benefit. It is considered that this community benefit outweighs the costs of the new requirements and will result in good planning outcomes.

#### **How does the Amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives of planning in Victoria, in particular:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (g) to balance the present and future interests of all Victorians.

The amendment aligns with the duties and powers of planning authorities as set out at 12(1)(a) of the *Planning and Environment Act 1987*.

#### **How does the Amendment address any environmental, social and economic effects?**

The amendment adequately addresses environmental, social and economic effects.

In particular, the amendment seeks to lessen the significant burden problem gambling has on the community by providing a clear and transparent framework for the assessment of planning permits associated with gaming in the Strathbogrie municipality.

It is understood that EGMs have a significant influence on the social and economic well-being of some members in the community. As at 30 June 2015, Strathbogrie Shire had 32 EGMs located at one venue in Nagambie. The average number of EGMs was 3.98 machines per 1,000 adults. On average \$3,613 was lost each day, a total of \$1,318,809 pa, or \$41,212 per machine pa. Given that the Strathbogrie Shire's score of 970.2 places it at the 23rd most disadvantaged local government area in Victoria, the controls set in place by this amendment will provide consideration for the appropriate location of gaming machines to ensure that vulnerable people are not put at risk.

The amendment will result in greater urban design by limiting gaming premises to sites outside of strip shopping/town centres, which allows active frontages and encourages pedestrian traffic in town centres. This in turn increases the attractiveness, amenity and safety of the public realm.



---

### **Does the Amendment address relevant bushfire risk?**

The amendment will not result in any increased bushfire risk to life, property, community infrastructure and the natural environment.

### **Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment complies with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes (section 7(5) of the Act) and Ministerial Direction No.11 - Strategic Assessment of Amendments.

### **How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?**

#### Clause 10.02 – Objectives

The amendment implements the objectives of planning in Victoria through the application of appropriate land use and development policies that seek to balance the social and economic factors associated with EGMs and problem gambling in the interests of promoting net community benefit and sustainable development.

#### Clause 10.4 – Integrated decision making

The amendment balances the various needs and expectations of society by considering the economic and social wellbeing of the municipality. Amendment \_\_\_ implements policies into the Local Planning Policy Framework (LPPF) that enhance net community benefit and sustainable development through the appropriate siting of venues housing EGMs.

#### Clause 15.01-6 – Healthy neighbourhoods

The amendment meets the following objective:

*To achieve neighbourhoods that foster healthy and active living and community wellbeing.*

Amendment \_\_\_ considers the effect EGMs and their venues have on the streetscape, such as frosted or mirrored windows reducing the feel of safety in the public realm. The proposed local planning policy (Clause 22.04) also considers the hours of operation of other entertainment venues within settlements to provide the community with an alternate venue.

### **How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment is supported by the following clauses in the Municipal Strategic Statement (MSS):

#### Clause 21.01-3 – Vision – Strategic Framework

The amendment implements the aims of the *Shire of Strathbogrie Council Plan 2013-2017 (2015-16 Review)*, in particular the municipal vision for:

*'A Shire that drives and supports investment for population growth, shared wealth and wellbeing.'*

The following council plan objectives are reflected in the amendment:

- Quality strategic planning for our community's future
- Enhancing our lifestyle and strengthening our community
- Planning for long term sustainability
- Striving for excellence in our organisation

#### Clause 21.02-2 – Small Settlements

The amendment supports the objective *to preserve and protect appropriate small community settlements*, by ensuring that appropriate planning controls are applied to protect and enhance the social well-being and rural lifestyle characteristics of townships.

#### Clause 21.05-4 – Further Strategic Work

The amendment implements the aims of Clause 21.05 by preparing a gaming policy framework and implementing the recommendations into the Strathbogie Planning Scheme.

The introduction of a local planning policy at Clause 22.04 is considered appropriate as it provides further information and guidance that can be applied when council is assessing a planning permit application with regard to EGMs. It also requires the applicant to supply more information with their application, which will assist both council officers and the community determine the appropriateness of the EGM venue as well as the facility's location. The local planning policy will provide certainty for applicants and council regarding application requirements for EGM venues within the municipality. Therefore increasing the efficiency and effectiveness of resources resulting in good planning outcomes.

#### **Does the Amendment make proper use of the Victoria Planning Provisions?**

The amendment uses the most appropriate VPP tool to achieve the strategic objectives of the Strathbogie Planning Scheme.

The use of a Local Policy is considered appropriate and is consistent with the Direction on Form and Content for Planning Schemes.

#### **How does the Amendment address the views of any relevant agency?**

The views of any relevant agency will be sought through the public exhibition process.

- Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The amendment will have no effect on any requirements of the *Transport Integration Act 2010*.

#### **Resource and administrative costs**

#### **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

It is considered that the amendment will have a positive effect on Strathbogie Shire Council's resource and administrative costs as it will provide greater direction for the assessment of planning permit applications. The amendment does not increase the need for a planning permit, but rather outlines the appropriate process for the assessment of EGM facilities.

### Where you may inspect this Amendment

The Amendment is available for public inspection, free of charge, during office hours at the following places:

Euroa Head Office

109a Binney Street

Euroa VIC 3666

OR

Nagambie Mobile Customer Service

317 High Street

Nagambie VIC 3608

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

### Submissions

Any person who may be affected by the Amendment [and/or planning permit] may make a submission to the planning authority. Submissions about the Amendment must be received by [insert submissions due date]

A submission must be sent to:

Attn: Strategic Planning Team: Amendment \_\_\_

Strathbogrie Shire Council – Euroa Head Office

PO Box 117

Euroa VIC 3666

### Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: [insert directions hearing date]
- panel hearing: [insert panel hearing date]

***Planning and Environment Act 1987***

**STRATHBOGRIE PLANNING SCHEME**

**AMENDMENT C--**

**INSTRUCTION SHEET**

The planning authority for this amendment is the Strathbogrie Shire Council.

The Strathbogrie Planning Scheme is amended as follows:

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

1. In Local Planning Policy Framework – replace Clause 21.05 with a new Clause 21.05 in the form of the attached document.
2. In Local Planning Policy Framework – replace Clause 21.08 with a new Clause 21.08 in the form of the attached document.
3. In Local Planning Policy Framework – insert Clause 22.04 in the form of the attached document.

End of document

STRATHBOGRIE PLANNING SCHEME

**21.05 SUSTAINABLE COMMUNITIES**

05/12/2013  
C49C

**21.05-1 Overview**

05/12/2013  
C49C

Strathbogrie Shire, similar to national trends, has an ageing population. Forecasts indicate the municipality will soon have the second highest population aged over 60 years in Victoria.

Our residents, in particular the aged and people with disabilities, often rely on community services to meet their various needs. The Shire has a range of medical and educational facilities, community services, aged care, libraries, maternal and child health and youth services.

Residents have a sense of wellbeing if they are connected to others in their community and feel like they belong. By planning ahead, Council can create opportunities for people of all abilities to actively participate in community life.

Council recognises that gaming is a legitimate business and recreational activity. However there is significant research that demonstrates that it can lead to significant negative social and economic community impacts. Strathbogrie Shire Council is committed to minimising the negative impacts of gaming on the community by ensuring that gaming machines are only located within venues that are appropriately located and have appropriate venue characteristics.

**Key Issues**

- There are no tertiary education providers within the municipality.
- Only one secondary college provider in the municipality which is located in Euroa.
- Increased demand for services to support both disability and ageing trends.
- No public hospital beds within the Shire.
- Avoiding problem gambling and convenience gambling.
- Need to locate gaming machines away from communities vulnerable to problem gambling.
- Need to recognise and protect the rural townships in the municipality from the negative impacts of gaming.

**21.05-2 Learning for life**

05/12/2013  
C50

**Objective**

To provide places for people of all ages to engage in learning.

**Strategies**

- Support education/community hubs, which may include libraries and youth centres.

STRATHBOGIE PLANNING SCHEME

- Support the establishment of a Secondary College in Nagambie.
- Support education facilities which provide services for the wider community.

21.05-3  
05/12/2013  
CSO

**Social services and infrastructure**

**Objective**

To provide networked communities.

**Strategies**

- Encourage equitable access to facilities and services.
- Support the expansion of aged care facilities and services, where appropriate.
- Support health, community and education hubs in Euroa and Nagambie.
- Consider transport and telecommunications infrastructure when planning for growth.

05/12/2013  
CSO

**Implementation**

The strategies will be implemented through the planning scheme by:

**Scheme Implementation**

- Apply appropriate zones to land to allow the development of community and education hubs.

**Others actions of Council**

- Investigate the potential for Higher Education and Research facilities/programs in the Strathbogie Shire, in areas of food technology, food processing, equine, poultry, wind energy or any other studies that would support our local industries.
- Develop Master Plans for public recreation facilities, where required.
- Prepare a long term integrated Aged Care Plan.

STRATHBOGIE PLANNING SCHEME

~~Future strategic work~~

~~Prepare a Gambling Policy Framework and implement the recommendations into the planning scheme~~

~~21.05-4 Electronic Gaming Machines and Gaming~~

~~1/2018  
C-~~

~~Objective~~

~~To minimise the risk of problem gambling and convenience gambling through the appropriate location of gaming machines and appropriate characteristics of gaming venues~~

~~Strategies~~

- ~~▪ Provide the community with access to gaming venues and machines but not in convenient locations.~~
- ~~- Ensure the location of gaming machines does not promote problem gambling or convenience gambling.~~
- ~~▪ Ensure the location of gaming machines achieves positive environmental, social and economic outcomes.~~
- ~~▪ Encourage the redistribution of electronic gaming machines from areas of high vulnerability to areas of low vulnerability.~~
- ~~▪ Encourage gaming machines:~~
  - ~~- In locations where there is a choice of community centres, neighbourhood houses, clubs or hotels without gambling activities.~~
  - ~~- In venues that offer social and recreational opportunities other than gambling.~~
  - ~~- In venues that implement management and operational practices that promote responsible gaming.~~
- ~~▪ Discourage gaming machines:~~
  - ~~- In convenient locations that would be attractive to persons who are tempted and susceptible to impulsive and opportunistic gambling.~~
  - ~~- Within vulnerable or disadvantaged areas that are more at risk of problem gambling.~~
  - ~~- In areas with high levels of pedestrian traffic, to minimise convenience gambling.~~
  - ~~- In a rural township where there is no alternative club or hotel without gaming machines.~~

~~21.05-5 Implementation~~

~~1/2018  
C-~~

~~Use of policy and exercise of discretion~~

- ~~▪ When deciding on applications for gaming machines using local Gaming Policy at Clause 22.04 to ensure that gaming machines are situated in appropriate locations and~~

STRATHBOGIE PLANNING SCHEME

premises, and to ensure the social and economic impacts of the location of gaming machines are considered.



STRATHBOGRIE PLANNING SCHEME

21.08 REFERENCE DOCUMENTS

03/08/2017  
04:48:48  
:

- *Avenel 2030*, Regional Planning Services, March 2008
- *Avenel Neighbourhood Character Study*, Planisphere, October 2009
- *Development Plan 2 North Avenel*, 2010
- *Economic Development Strategy*, Urban Enterprise Pty Ltd and Nexus Consulting Pty Ltd, December 2005
- *Environmental Management Strategy*, Consultants for Business, Communities & Environment, June 2011
- *Euroa Central Business Area Parking Study (Draft)*, 2004
- *Euroa and Avenel Rural Residential Development – Development Plan Report*, 2010
- *Euroa Neighbourhood Character Study*, Planisphere, March 2008
- *Euroa Structure Plan*, Planisphere, September 2010
- *Goulburn Broken Regional Catchment Strategy*, Goulburn Broken CMA, 2003
- *Review of buffer distances surrounding wastewater management facilities*, Goulburn Valley Water, 2002
- *Strathbogrie Shire Electronic Gaming Machine Policy Statement, June 2016*
- *Strathbogrie Shire Heritage Study Stage 2 Volume 1 Introduction and Recommendations*, RBA Architects Conservation Consultants Pty Ltd, September 2013
- *Strathbogrie Shire Heritage Study Stage 2 Volume 2 Thematic Environmental History*, RBA Architects Conservation Consultants Pty Ltd, September 2013
- *Strathbogrie Shire Heritage Study Stage 2 Volume 3 Part 1 (A to K) Heritage Place Citations*, RBA Architects Conservation Consultants Pty Ltd, September 2013
- *Strathbogrie Shire Heritage Study Stage 2 Volume 3 Part 2 (L to Z) Heritage Place Citations*, RBA Architects Conservation Consultants Pty Ltd, September 2013
- *Strathbogrie Shire Industrial Land Study*, Urban Enterprise Pty Ltd, July 2008
- *Infrastructure Design Manual*, Shire of Campaspe, City of Greater Bendigo, Greater Shepparton City Council, Version 4, March 2013
- *Land Capability Analysis and Evaluation of Natural Resources of Land within the Strathbogrie Shire, Report 1, Avenel*, RMCG Consultants for Business, Communities & Environment, November 2005
- *Land Capability Analysis and Evaluation of Natural Resources of Land within the Strathbogrie Shire, Report 2, Euroa*, RMCG Consultants for Business, Communities & Environment, January 2006
- *Nagambie Growth Management Plan*, Planisphere, December 2008
- *Nagambie Style Guideline*, Planisphere, December 2008
- *Guidelines for the Protection of Water Quality*, North East Planning Referral Group, 2001
- *Part 1: Stormwater Drainage Master Plan for Township of Avenel*, EarthTech, 2007
- *Part 1: Stormwater Drainage Master Plan for Township of Euroa*, EarthTech, 2007
- *Planning Controls for Earthworks in the Goulburn Broken Catchment*, 1997

---

STRATHBOGIE PLANNING SCHEME

- *Requirements for Water Supplies and Access for Subdivision in Residential 1 and 2 and Township Zones*, Country Fire Authority, May 2004
- *Revegetation Guide for the Goulburn Broken Catchment*, Department of Natural Resources & Environment, 2001
- *Strathbogie Shire Council Plan 2009-2013 (Revised May 2012)*
- *Shire of Strathbogie Rural Residential Strategy*, 2004
- *Shire of Strathbogie Asset Management Plan*, 2004
- *Shire of Strathbogie Road Management Plan*, 2004
- *Shire of Strathbogie Flood Management Plan*, 1996
- *State Environment Protection Policy (Waters of Victoria)*, Environment Protection Authority, 2003
- *Stormwater Drainage Master Plan – System Development for Township of Euroa and Nagambie*, EarthTech, June 2005
- *Strengthening Strathbogie in a Changing Climate (Background Paper)*, Marsden Jacob Associates, June 2011
- *Sustainable Land Use Strategy*, Parsons Brinckerhoff, December 2010
- *Urban Design Framework*, Connell Wagner, July 2003
- *Violet Town and District Strategic Development Plan*, Planisphere, July 2010
- *Violet Town Neighbourhood Character Study*, Planisphere, July 2010

STRATHBOGIE PLANNING SCHEME

**22.04 LOCAL PLANNING POLICIES**

-I-20-  
C-

**22.04 Appropriately Located Electronic Gaming Machines**

-I-20-  
C-

This policy applies to all applications which require a permit to install or use an electronic gaming machine (EGM), or use land for the purpose of gaming.

**22.04-1 Policy Basis**

-I-20-  
C-

This policy will guide decision making by implementing the *Strathbogie Shire Electronic Gaming Machine Policy (June 2016)*.

The policy builds on the State Planning Policy Framework, the Local Planning Policy Framework and Clause 52.28 and implements the objectives and strategies contained within of Clause 21.05 of the MSS.

**22.04-2 Objectives**

-I-20-  
C-

- To discourage new gaming machines in vulnerable or disadvantaged areas.
- To achieve positive social, economic and environmental outcomes in the location and relocation of gaming machines and avoid exacerbating the risk of problem gambling.
- To minimise opportunities for convenience gaming.
- To locate gaming machines where the community has a choice of non-gambling entertainment or recreation activities within the gaming venue and the local area.
- To protect the amenity of areas surrounding gaming venues.

**22.04-3 Policy**

-I-20-  
C-

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

**Appropriate areas**

Gaming machines should be located in areas:

- Where the community has a broad mix of choices of non-gaming entertainment and recreation activities and established social infrastructure which operate at similar operating hours or times.
- Where they will make a positive contribution to the redistribution of gaming machines away from relatively disadvantaged areas, as defined by the latest Australian Bureau of Statistics (ABS) Socio Economic Indexes for Areas (SEIFA) index of relative socio-economic disadvantage.
- Where the facility is removed from day to day convenience activities and is not easily accessible.

Gaming machines should not be located in areas:

- That abut, or are adjacent, opposite or in close proximity to prohibited areas as

STRATHBOGIE PLANNING SCHEME

specified in the Schedule to Clause 52.28.

- In areas that provide key connections between core retail areas in town centres.

**Appropriate sites**

Gaming machines should be located on sites:

- That minimise the likelihood of impulse gaming by people passing the venue in the course of their usual business or every day activities.
- At the periphery of town centres and removed from land zoned for a commercial purpose, or at a sports or recreation club.

Gaming machines should not be located on sites:

- Where they are convenient to concentrations of shops, major community facilities or where large numbers of pedestrians are likely to pass in the course of their daily activities.
- In townships and small centres where local convenience services are provided and where no or limited alternative attractions are offered.
- That abut, are adjacent to, or are opposite a strip shopping centre.
- That are in the direct line of sight of a strip shopping centre.

**Appropriate venues**

Gaming machines should be located in venues:

- That offer and promote a range of other forms of recreation and entertainment other than gambling based activities and which are located in spaces completely divorced from the presence of electronic gaming machines (EGMs).
- That promote non-gaming activities that increase the choice of activities and attractions available to patrons.
- That limit hours of play, by condition of approval, to times when alternative entertainment and recreation is also operating and available.
- That already have EGMs (in preference to the establishment of a new gaming venue).
- That are designed to comply with best practice and the full ambit of the VCGLR Venue Manual or any regulatory successor.
- Promote responsible gaming practices.

Gaming machines should not be located in venues that:

- Have 24 hour-a-day operation or venues that do not allow for a substantive period of time whereby EGMs are non-operational.
- Are identified as discouraged area as defined by this policy.
- Have gaming floor area of more than 25% of the total floor area of the venue.
- Will detrimentally affect the amenity of the surrounding area by way of design.

STRATHBOGIE PLANNING SCHEME

location or operating hours.

22.04-4 Application requirements

1-20-  
C-

It is policy to require applications to include the following information:

- How the application is consistent with the broader State and Local Policy Framework including policies on recreation and entertainment, economic development, tourism and town development.
- A robust assessment of the social and economic benefits and dis-benefits of the proposed EGMs and how the benefits are to be secured and distributed to the broader local community.
- Details about the existing and proposed distribution and density of EGMs in the municipality and local area, any proposed reallocation of EGMs in the municipality, and the proposal's expected impact on patronage.
- A current assessment of the town's relative vulnerability to problem gaming in comparison to others in the region.
- 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.
- If it is proposed to move EGMs 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 EGMs are being transferred must be provided.
- If EGMs are to be relocated from other venues, the likely social and economic impact of the proposal on those venues and the local area within which those venues are located.
- Details of the relative socio-economic disadvantage of the locality and the broader five kilometre catchment of the venue.
- Gaming expenditure that is likely to be transferred from other venues, including:
  - particulars as to how the level of transfer has been calculated (including, but not limited to, comparison of existing and projected expenditure per machine at the venue, 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;
  - the resulting impact on revenue of the venue from where the expenditure is transferred; and
  - the resulting impact on the venue from where the expenditure is transferred (such as loss of employment, loss of complementary expenditures, loss of customers, impact on ability to provide services etc).
- The latest ABS SEIFA index of relative socio-economic disadvantage; and the projected growth, housing affordability and housing stress, income levels, unemployment rates, educational retention and attainment levels, and the percentage

STRATHBOGIE PLANNING SCHEME

- of social security recipients.
- Mitigating strategies to prevent problem gambling and external amenity impacts in relation to the design and management of the venue, including the applicant's responsible gaming practices.
- Details of existing and proposed gambling and non-gambling related entertainment and recreation facilities at the venue and within the local area.
- The distance to shopping complexes and strip shopping centres, community facilities, counselling services and public transport.
- Details of currently available social support services including specific problem gambling services, financial counselling services, and material and financial aid services; the location of these services in relation to both the revenue and patron catchment area; and the level of current demand for these services.
- Pedestrian counts outside the proposed venue on different days and at a variety of times, including (where relevant) comparisons with base levels in core areas of the activity centre.
- A detailed overall assessment, which shows and summarises the economic and social impacts of the proposal and their effect on community wellbeing and health.

**22.04-5 Decision Guidelines**

-(120)-  
C-

In addition to decision guidelines set out elsewhere in the Strathbogie Planning Scheme, it is policy that the responsible authority consider, as appropriate:

- The relative vulnerability to problem gaming within a five kilometre radius of the proposed venue, or alternative catchment area where appropriate.
- Whether there is to be a net community benefit derived from the application, aside from any community contribution scheme. Net community benefit in this context means the objectives of planning in Victoria.
- Whether approval is likely to increase the social disadvantage or vulnerability of the local community.
- Whether the location of the EGMs or gaming premises will facilitate or discourage convenience gaming.
- Whether residents will have a choice between entertainment and recreation venues with and without gambling in the local area.
- The impact of the proposal on the amenity of the area and surrounding landuses.

**22.04-6 References**

-(120)-  
C-

Strathbogie Shire Electronic Gaming Machine Policy (June 2016).

**PLANNING COMMITTEE REPORT NO. 2 (DIRECTOR, INNOVATION AND PERFORMANCE - PHIL HOWARD)**

**7.2 Planning Applications Received  
- 16 February to 14 March 2018**

Following are listings of Planning Applications Received for the period 16 February to 14 March 2018.

**RECOMMENDATION**

**That the report be noted.**

***THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT ..... P.M.***

## Planning Applications Received

Friday, 16 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
34 Ballantynes Road, Nagambie VIC 3608	P2018-019	Development of land for a shed	Callum Dougherty	\$15,000.00

Monday, 19 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
2133 Euroa-Mansfield Road, Goomam VIC 3666	P2018-020	Use and development of land for a dwelling	John Morelli	\$100,000.00

Wednesday, 21 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
15 Granite Court, Euroa VIC 3666	P2018-021	Use and development of land for a dwelling	FORD, Peter Alexander	\$390,000.00
575 Balmattum North Road, Balmattum VIC 3666	P2018-022	Use and development of land for a dwelling, shed, hothouse, well being facility and group accommodation	Troy Spencer	\$400,000.00

Thursday, 22 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
380 Euroa-Mansfield Road, Euroa VIC 3666	P2018-023	Development of land for an extension to a shed	CUNNEW, Pauline Rosemary	\$5,000.00
95 Richards Road, Bailieston VIC 3608	P2018-024	Development of land for a replacement shed	Shane DeAraugo	\$30,000.00

Friday, 23 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
2 Barnes Street, Euroa VIC 3666	P2018-025	Development of land for a dwelling	Belinda Groves	\$264,347.00
233 Morningside Road, Wahring VIC 3608	P2016-112 - 1	Re-subdivide four (4) lots into two (2) lots	Siv Onley	\$0.00*



Tuesday, 27 February 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
277-279 High Street, Nagambie VIC 3608	P2016-106 - 2	Buildings and works associated with the extension of an existing motel (12 motel rooms) and a reduction in car parking requirements	Jane Macey	\$0.00*

Thursday, 1 March 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
143 High Street, Nagambie VIC 3608	P2018-026	Development of land for building and works, the removal of native vegetation and alteration of access to a road in a Road Zone	Nagambie Communities Pty Ltd	\$0.00*

Friday, 2 March 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
256 Jefferies Road, Locksley VIC 3665	P2017-114 - 1	Two (2) lot subdivision	Mr Troy Spencer	\$0.00*

Tuesday, 6 March 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
2125 Euroa-Strathbogie Road, Strathbogie VIC 3666	P2018-027	Use and development of land for a dwelling	ROBERTS, Peter Cameron	\$200,000.00

Wednesday, 7 March 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
21 Granite Court, Euroa VIC 3666	P2018-002 - 1	Use and development of land for a dwelling	LEASE, Edward	\$0.00*
34 McGregor Avenue, Nagambie VIC 3608	P2018-028	Two (2) lot subdivision	Troy Spencer	\$0.00*

Wednesday, 14 March 2018

Site Address	Application Number Display	Application Description	Applicant Name	Cost Of Works
Sheans Creek Road, Sheans Creek VIC 3666	P2018-029	Two (2) lot boundary re-subdivision	Eric Salter Pty Ltd	\$0.00*
Lot 8, Armstrong St, Euroa VIC 3666	P2018-030	Use and development of land for a dwelling	Cavalier Homes Goulburn Valley	\$307,000.00

\*NB – '\$0.00 in Cost of Works means either no development, endorsement of plans or amendment to the original permit

Example Legend	Description
P2014-001	Planning permit application
P2014-001-1	Proposed amendment to a planning permit