

2 PLANNING PERMIT APPLICATION FOR THE INSTALLATION AND USE OF TWENTY (20) ELECTRONIC GAMING MACHINES AT 3 NIKI PLACE (CLUB OFFICER).

FILE REFERENCE INT1776829

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Emily Cook

RECOMMENDATION

That planning permit T170570 be issued for the installation and use of twenty (20) electronic gaming machines at Lot 1 PS327344V, 3 Niki Place, Officer subject to the conditions attached to this report.

Attachments

- | | | |
|---|---|--------|
| 1 | Locality map | 1 Page |
| 2 | Australian Bureau of Statistic's Socio Economic Indexs for Areas (SEIFA) locality map of relative disadvantages | 1 Page |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T170570
APPLICANT:	Pakenham Racing Club, CC/ Ratio Consultants
LAND:	Lot 1 PS327344V, 3 Niki Place, Officer
PROPOSAL:	Installation and use twenty (20) electronic gaming machines
PLANNING CONTROLS:	Urban Growth Zone – Schedule 1 Road Zone Category 1 Development Contribution Plan Overlay – Schedule 2 Cardinia Road Precinct Structure Plan and Development Contributions Plan (September 2008). Clause 21.06-4 Gaming Clause 22.03 Gaming Clause 52.28 Gaming
NOTIFICATION & OBJECTIONS:	Pursuant to Clause 37.07-13 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .
KEY PLANNING CONSIDERATIONS:	Clause 21.06-4 Gaming Clause 22.03 Gaming Clause 52.28 Gaming
RECOMMENDATION:	Approval (subject to conditions)

BACKGROUND:

Planning Permit T130036 was issued for the 'use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and

consumption of liquor (full club licence)' on 1 October 2013 for the subject site. This development has since been completed and is operational.

The venue is known as Club Officer and contains a café, bistro, sports bar, central bar and gaming room. Sixty (60) electronic gaming machines (EGMs) are currently in use at Club Officer.

The applicant is now seeking a new planning permit to install and use an additional 20 EGMs at Club Officer. If successful, the application would result in a total of 80 EGMs being operational at Club Officer. The applicant is proposing to increase the current annual community contribution associated with Club Officer from \$50,000 to \$75,000 should the application be approved.

The applicant is the Pakenham Racing Club who owns and operates two (2) gaming venues (being Club Officer at Cardinia Road, Officer and, the Cardinia Club at Racecourse Road, Pakenham) in addition to their horse racing facility in Tynong.

SUBJECT SITE

The site is located on the southern side of Niki Place, the western side of Cardinia Road and the northern side of Mary Street.

A crossover is located within the northern boundary of the site providing access to the venue via Niki Place.

The site currently contains the Club Officer Venue and associated car parking.

The topography of the land is flat.

The main characteristics of the surrounding area are:

North	Niki Place, Bridge Road, the Arcadia Land-Sales Office (temporary) and the Cardinia Village Estate.
East	Cardinia Road, the Caversham Estate and Priscilla Place Reserve.
North East	Lakeside Junction Shopping Complex and Council facility (Toomar).
South	Mary Street, undeveloped future residential land, the Princes Freeway-Cardinia Road interchange and undeveloped land forming part of the Cardinia Road Employment Precinct Structure Plan.
West	Drainage wetlands, the Aspect Estate and the Arcadia Estate

The site is also subject to title restrictions, the following restriction being of relevance:

- Section 173 Agreement AN635534K requires the landowner to provide an annual cash contribution (\$75,000) to benefit the local community. Specifically, the agreement:
 - Establishes the Club Officer Community Fund.
 - Requires the landowner to make cash contributions to the fund (from the 17 June 2016) while the site operates 60 EGMS.
 - Sets the cash contribution amount as \$75,000 a year (subject to indexation).
 - Requires the funds to be allocated to various local groups and/or organisations (excluding the Pakenham Football Club).
 - Establishes a committee to oversee allocation of funds (including 1 member of the Racing Club, a community representative and a Council representative).

- Requires the landowner to publish the funding allocations in the local newspaper once a year.

PROPOSAL

The proposal is for the installation and use twenty (20) electronic gaming machines.

The applicant is seeking to install an additional twenty (20) electronic gaming machines (EGMs) resulting in a total of 80 EGMS operating at the venue.

The EGMs are proposed to be located within the existing gaming room and no buildings or works are proposed.

No changes to the venue hours of operation are sought.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 17.01-1 Business, the proposal will support the entertainment facilities provided by Club Officer.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.06-4 Gaming
- Clause 22.03 Gaming

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 Decision Guidelines
- Clause 52.28 Gaming
- Cardinia Road Precinct Structure Plan (September 2008)
- Cardinia Road Precinct Development Contributions Plan (September 2008)

Zone

The land is subject to the Urban Growth Zone – Schedule 1 and the Road Zone Category 1.

Overlays

The land is subject to the following overlays:

- Development Contribution Plan Overlay – Schedule 2.

PLANNING PERMIT TRIGGERS

The proposal to installation and use twenty (20) electronic gaming machines requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.28-2 of Gaming a planning permit is required to install or use a gaming machine.

PUBLIC NOTIFICATION

Pursuant to Clause 37.07-13 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

Clause 37.07-13 states that:

“An application under clause any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act., unless the schedule to this zone specifies otherwise”.

The application is considered to be generally in accordance with the Cardinia Road Precinct Structure Plan (PSP) which applies to the subject site (discussed below). Schedule 1 to this zone (which applies to the subject site) does not include any clauses which prevent this exemption. The proposal is therefore considered to meet the exception of Clause 37.07-13 and is not required to be advertised.

DISCUSSION

The proposed installation and use of twenty (20) electronic gaming machines is consistent with the aims and objectives of the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, as well as zones and overlays which apply to the subject site as discussed below.

Clause 21.06-4 Gaming

Avoiding problem and convenience gambling is an accumulation of various elements relating to venue location, operation and population characteristics. The current proposal is considered to minimise the negative impacts of gaming as the proposed site is an appropriately located venue with appropriate venue characteristics as defined by Council's local policy at Clause 22.03.

In addition, the Australian Bureau of Statistic's Socio-Economic Index's for Areas (SEIFA), is a tool commonly used to assess the vulnerability or level of disadvantage of a community in an area. The subject site is part of an area with a SEIFA Index rating of 1,062 which is the 2nd most advantageous area in the Shire. The proposal therefore does not seek additional EGMs within a relatively venerable area.

Furthermore, the number of adults living in the Growth Area Subregion is 34,823 (Community ID, 2016 Census Date) and the number of operational EGMs is 285. The proposal therefore will not exceed 10 EGMs per 1000 adults for the growth area in accordance with the State Government Cap.

The applicant submits that the proposal will result in a marginally positive social outcome for the community by:

- Allowing the applicant to use additional financial resources to upgrade a separate venue in common ownership (being the Cardinia Club) and, thereby support the newly approved Mercure Hotel at Racecourse Road, Pakenham.
- Facilitating the creation of 12.5 effective full time positions across both Club Officer and the Cardinia Club.
- Allowing the applicant to use additional financial resources to implement a Chaplaincy Service at both Club Officer and the Cardinia Club for the benefit of patrons.
- Increasing the community contributions associated with Club Officer from \$50,000 per annum to \$75,000 per annum.

The proposal does not seek to re-locate gaming machines from elsewhere within the Shire however, the proposal does seek to minimise negative impacts of gaming. Club Officer operates under a full-hotel licence which has not resulted in amenity or operational issues since its opening in 2016. A Venue Management Plan which outlines requirements for the responsible service of alcohol, gaming and customer care, forms part of the existing permit and applies to the site. The

Management Plan, as well as the full gamut of VCGLR operating practices and requirements, will continue to apply to the venue.

The existing venue provides a choice of non-gaming entertainment and recreation activities including: a café, bistro, sports bar and central bar in addition to the gaming room. The subject site is considered to be a 'destination venue', thereby discouraging impulsive and opportunistic gambling.

The applicant has provided a social and economic impact assessment in support of the proposal. This report found that additional EGMS are unlikely to result in increased community vulnerability given the venue has relatively low machine utilisation and net machine revenue which suggests a low prevalence of problem gambling.

The proposal is not expected to impact the amenity of the area and surrounding land uses given it is an existing venue and is considered to be an appropriate location for additional EGMS

Clause 22.03 Gaming

Objectives

The proposal is compatible with the objectives of Clause 22.03 Gaming.

The area surrounding Club Officer is not considered to be of relative vulnerability or disadvantage (as defined by the current SEFIA index attached to this report). The Victorian Commission for Gambling and Liquor Regulation sets a municipal limit for electronic gaming machines (EGMs) within Cardinia Shire. The proposal does not exceed this cap. The location of additional machines within an existing approved venue, as sought, is considered to provide for better social outcome compared to the creation of a new venue. As an approved venue, Club Officer is considered to be an appropriate location for the proposed additional EGMS.

Appropriate Areas

Club Officer is an appropriate area for EGMS.

The existing venue was approved (with EGMS) by planning permit T130036 and is therefore an appropriate location for gaming machines. Furthermore, the subject site is a 'destination venue' thereby minimising opportunities for convenience gambling. Club Officer provides for a range of non-gambling entertainment options including: a café, bistro, sports bar and central bar in addition to the gaming room.

The proposal does not make a positive contribution to the relocation of gaming machines and will result in an increase of 20 EGMS to the municipality. However, the site is surrounded by wetlands/roads and is not readily accessible from existing shopping or community facilities. Club Officer is therefore considered to be an appropriate area for additional EGMS to be located.

Appropriate Sites

Club Officer is an appropriate site for EGMS.

As highlighted above, the site is a destination venue which is not located in the course of usual business or every day activities. The venue is isolated from day-to-day convenience venues such as shopping and community facilities and is located approximately 900m (walking distance) from the nearest railway station. The subject site is identified in the Cardinia Road Precinct Structure Plan as peripheral commercial land and does not adjoin any sporting or recreation clubs. The site does not form part of a strip shopping centre and is therefore considered to be an appropriate site for additional EGMS.

Appropriate Venues

Club Officer is an appropriate venue for EGMs.

The existing venue provides for a range of recreation and entertainment options. The gaming room is separated from the sports lounge, bistro and café areas and, the proposal does not seek to increase the size of the gaming room. Clause 22.03-3 expressly encourages EGMs in venues 'that already have gaming machines (in preference to the establishment of a new gaming venue)'. The proposal complies with this requirement and the proposal does not seek to alter to the venue operations.

Club Officer is not a 24-Hour gaming venue, and is required to comply with the relevant VGCRL requirements as well as the existing Venue Management Plan approved by Council. Club Officer is therefore considered to be an appropriate venue for additional EGMs.

Decision Guidelines

The Decision Guidelines of Council's Local Policy require consideration of the net-community benefit to be derived from the proposal.

An application recently refused by Council for additional EGMs within an existing venue within the Shire (also owned by the applicant), which was subsequently overturned by VCAT is of relevance to this discussion. In that decision, the Tribunal stated that the relevant consideration for planning cases are different from those determined by the Victorian Commission for Gambling and Liquor Regulation (VCGLR). Planning must balance conflicting objectives and determine if the proposal is an acceptable (if not perfect) planning outcome.

The immediate area, within a 5km radius of Club Officer, is not relatively disadvantaged and, key indicators for the venue (machine utilisation and net machine revenue) suggest that problem gambling is not prevalent issue at the venue. Club Officer provides a variety of non-gambling entertainment options and is considered to be an appropriate location for the proposed additional EGMs. The site is not considered to facilitate or encourage convenience gaming and, as an existing venue is not expected to impact the amenity of the area. On balance, the proposal is therefore considered to be an appropriate planning outcome in accordance with Clause 22.03.

Clause 52.28 Gaming

The application relates to the suitability of the proposed 20 EGMs only. Clause 52.28 requires consideration of the social and economic impacts of the location of the gaming machines rather than the impact of the machines. Club Officer is an appropriate location and premises for the proposed EGMs in accordance with Council's Local Policy (Clause 22.03 *Gaming*).

Club Officer functions in accordance with the approved venue management plan forming part of the current planning permit. This proposal does not seek to alter the operations of the venue. The existing gaming room is capable of accommodating the proposed EGMs and no building works are required. Given no changes to the venue or operations are proposed the application is compatible with adjoining and nearby land uses and the existing use of the site.

The site currently operates as a fully licenced club venue which provides a full range of club facilities to patrons including a café, bistro, sports bar and central bar in addition to the gaming room. Club Officer is therefore a suitable location for gaming machines in accordance with Clause 52.28.

Zoning & Overlays

The site is subject to the Urban Growth Zone – Schedule 1, the **Road Zone Category 1**, the Public Acquisition Overlay – Schedule 1, the Development Contributions Plan Overlay – Schedule 2, the Cardinia Road Precinct Structure Plan (PSP) (September 2008) and the Cardinia Road Development Contributions Plan (September 2008).

The PSP identifies the site for use as peripheral commercial land. The use of the site as a Restricted Place of Assembly (as approved under planning permit T130036) is considered to be in accordance with this requirement of the Cardinia Road Precinct Structure Plan (PSP). The increased the number of EGMs is in keeping with the approved use and development of site and the Cardinia Road PSP. The proposal does not trigger works or contributions under the Cardinia Road Development Contribution Plan.

The proposal for EGMs does not seek to create or alter access to Cardinia Road, therefore the application was not required to be referred to VicRoads.

Conditions

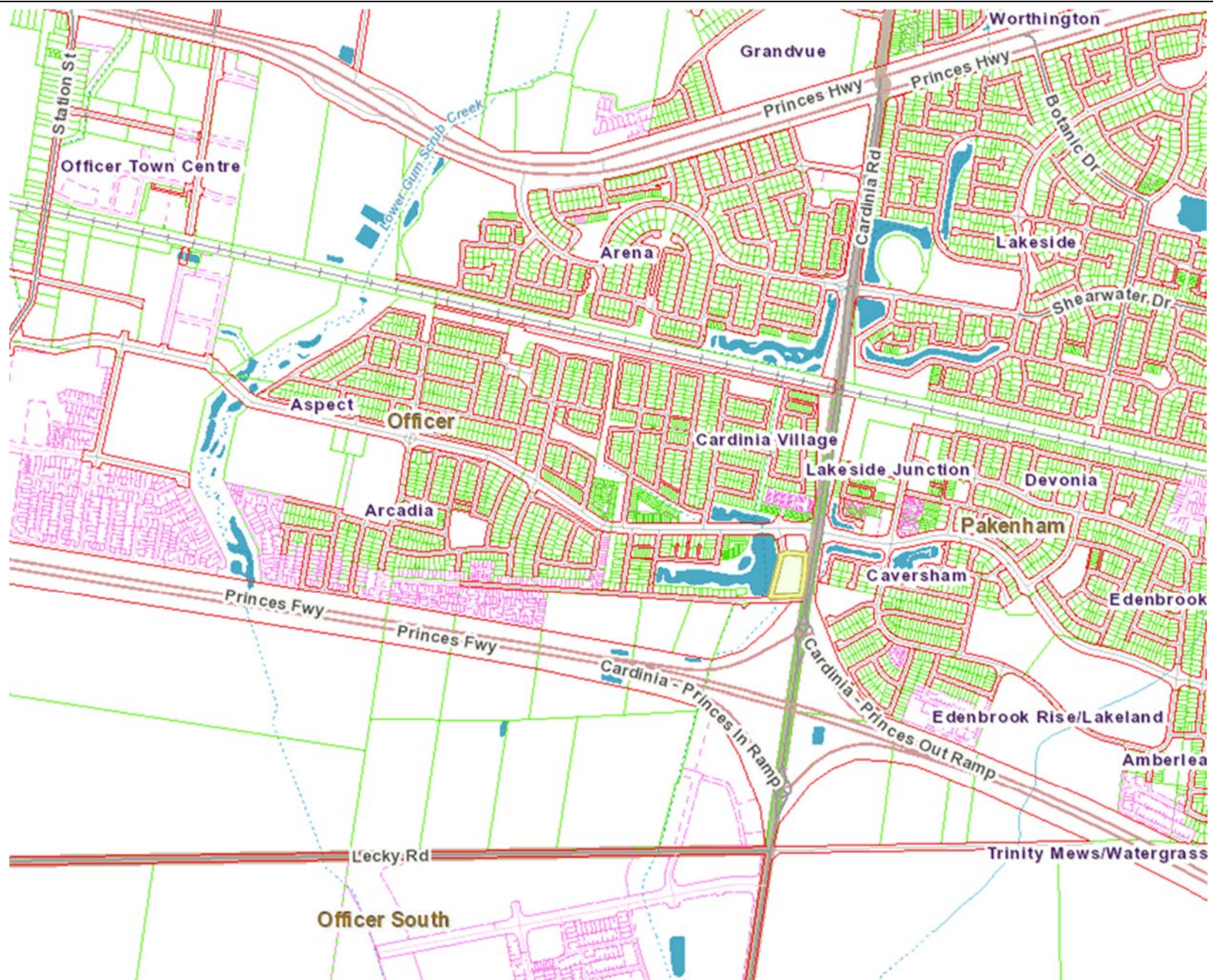
The applicant is proposing to increase the current annual community contribution associated with Club Officer from \$50,000 to \$75,000 should the application be approved. The below condition requires this increase. Conditions are also proposed which require continued compliance with the Venue and Noise Managements approved under the existing Club Officer permit (T130036).

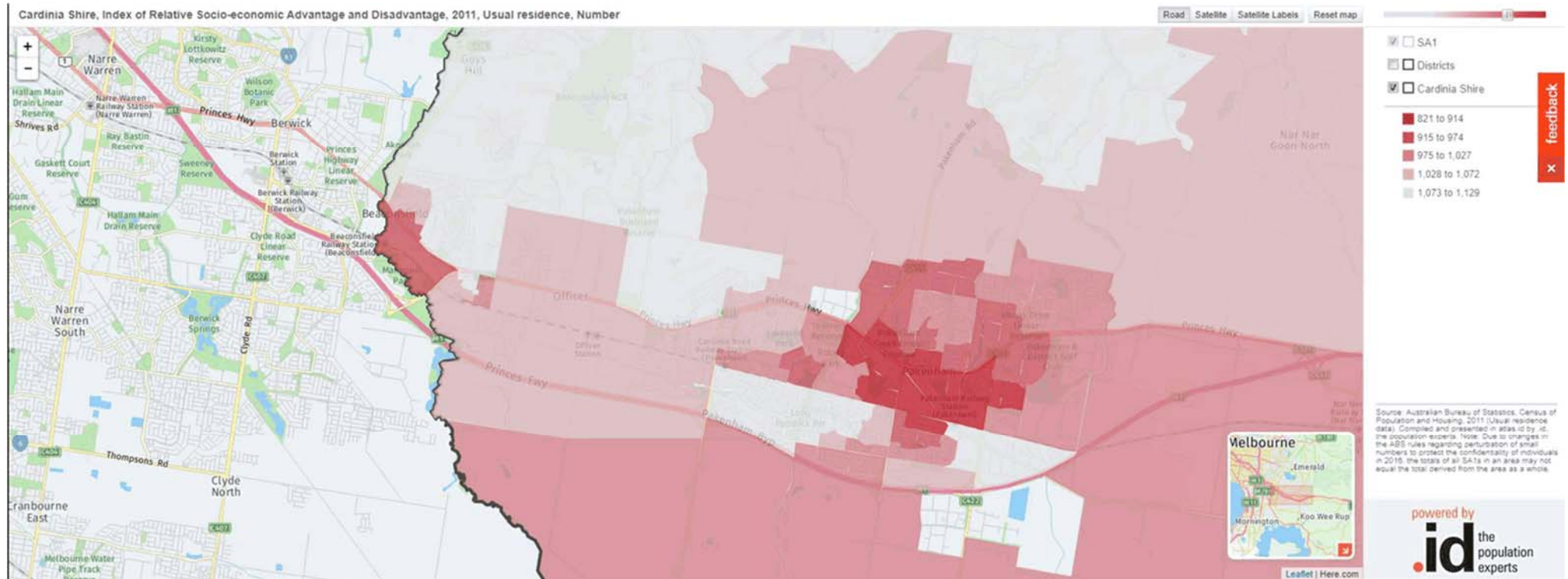
CONCLUSION

The proposed installation and use of twenty (20) electronic gaming machines is consistent with the purpose and objectives of Clause 21.06-4 Gaming, Clause 22.03 Gaming and Clause 52.28 Gaming which apply to the subject property. Club Officer offers a range of non-gaming entertainment options and successfully operates as an existing gaming venue. The site is an appropriate location for additional gaming machines and is supported by both State and Local Gaming policy. Therefore, the application is recommended for approval.

CONDITIONS

1. Before the installation and use of the gaming machines approved under this permit, the existing agreement under Section 173 of the Planning and Environment Act (AN635534K) which applies to the land must be amended and registered on the title of the land. The agreement must:
 - a) Reference all applicable planning permits and the total number of electronic gaming machines approved under these permits.
 - b) Increase the annual cash contribution to \$100,000
 - c) Require grants to be distributed in accordance with the PRC Major & Minor Community Grants Funding Guidelines as agreed with Cardinia Shire Council, to the satisfaction of the Responsible Authority.
 - d) Commencement of cash contributions from the date of this permit.
2. The installation and use of the gaming machines approved under this permit must be in accordance with the approved Management Plan and Noise Management Plan forming part of planning permit T130036.





TOWN PLANNING