



Gambling with Justice in the Australian City

A thesis submitted in fulfilment of the requirements for the degree of

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Declaration

I certify that,

- (a) Except where due acknowledgement has been made, the work is that of the author alone;
- (b) The work has not been submitted previously, in whole or in part, to qualify for any other academic award;
- (c) The content of the thesis is the result of work that has been carried out since the official commencement date of the approved research;
- (d) Any editorial work, paid or unpaid, carried out by a third party is acknowledged;
- (e) And that ethics procedures and guidelines have been followed.

Signed

Mette Hotker

19 September 2019

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Abbreviations and Terms of Reference

ABS: Australian Bureau of Statistics

AHA: Australian Hotel Association

APC: Australian Productivity Commission

AustLII: Australasian Legal Information Institute

EGM: Electronic Gaming Machine

EPIC: Enough Pokies in Castlemaine (Community Opposition Group)

Local council: Local planning authority/municipality/local government

Poker Machine: Electronic Gaming Machine

Pokies: Electronic Gaming Machines

RSL: Returned Servicemen League Club

The Club: Castlemaine Community and Sports Club (Community Support Group)

VCAT: Victorian Civil and Administrative Tribunal

VCGLR: Victorian Commission for Gambling and Liquor Regulation

Abstract

The aim of this thesis is to further social justice for local communities through EGM planning in Victoria. The consequences of neoliberal policy and the commodification of cities have become increasingly visible as socio-spatial fragmentation across the urban form. In Australia this trend can be directly observed in the proliferation of electronic gaming machines (EGMs), vernacularly known in Australia as Pokies. 'Playing the Pokies' involves a simple game of chance, but its impact on communities is far from simple. A lack of adequate social policy and planning has led to an Australian urban landscape prolific with EGMs and resulting gambling harm. The main benefits derived from EGM markets mostly flow past local communities to state governments and industry, whilst the biggest burden of harm is carried by local communities, and disproportionately experienced by the most disadvantaged. Thus, while frequently overlooked in planning, EGMs contribute significantly to the growing trend of inequality and exclusion in Australian cities. Through a mixed methods research design this thesis provides a critique of the EGM planning system in Victoria, Australia using the lens of the Just City (Fainstein, 2010). The thesis found that local influence on EGM decision making is one practical way of furthering justice; but local influence is challenged and constrained by complex institutional processes. Within this context, these institutional processes do not serve a social justice agenda, but rather protect a fragile rationale for EGMs. To this end, Fainstein's Just City and Nussbaum's 'tragic question' offer a pragmatic planning praxis to the oxymoron of EGMs in a Just City.

Chapter 1: Introduction

1.0 Research Beginnings

Why don't they call them gambling machines instead of gaming machines, that's what they are. (Victorian Gambler)

This research topic is located within personal experience and observation in my role (at the start of this research) as a gambling counsellor. In this context, I observed that people presenting with gambling problems often felt debilitating shame and that 'there were something fundamentally wrong with them' because '*they* were unable to control their gambling'. I also observed that people who presented at the Gambler's Help service¹ frequently placed their gambling problem in the context of neighbourhood and social networks, a factor also highlighted by research (e.g. Reith and Dobbie, 2011), yet this socio-spatial dimension of gambling is rarely the focus in gambling treatment literature.

Most people presented with problems pertaining to electronic gaming machines (EGMs) - always referred to as The Pokies. It prompted me, as a researcher based in Victoria, to deliberate on the discourse of Gambling as an enjoyable activity for everyone as outlined in the EGM policy of Responsible Gambling as codified by the Victorian Gambling Regulation Act 2003. These discourses locate problem gambling outside the locus of control and responsibility of government and gambling industry, situating problem gambling as an individual medical pathology (Livingstone and Woolley, 2007).

¹ 'Gambler's Help' is the Victorian State government program providing services to communities to circumvent the harms of gambling. Among services provided is a counselling service for gamblers and affected others.

As a practitioner research fellow at Monash University Faculty of Medicine, Nursing and Health Sciences (2011 and 2012), I initially explored the issue of gambling from a recovery perspective involving in-depth open-ended interviews of Victorians who had experienced problems with EGM gambling. What emerged from the interviews was that problem gambling, as well as recovery, was often attributed to environmental and social factors and never confined to individual pathology but rather strongly linked to space and place:

I knew they [electronic gaming machine] were going to undo me if the darn things would come to Victoria. (Victor, Victorian Gambler)

We call them our palaces [new public housing development in regional Victoria] I am happy now [not gambling as much]. (Victor, Victorian Gambler)

It started when I used to have time to kill.... getting in at Southern Cross Station, having to wait. I could just go across the road to play the pokies. (Cheryl, Victorian Gambler)

At the time I was residing in a Victorian regional city where gambling venues were common. Within this context I observed that people in general held strong views about EGMs and of gambling in general, which often lead to heated and indeed interesting public debates which continue to occur around Australia. For example, the recent Tasmanian state election campaign (March 2018) was dominated by the Labour Party's bid to withdraw EGMs from public spaces outside the casino; this represented a bold policy bid not attempted by any other political parties in Australia and which resonated widely with Tasmanian communities. I also observed that not infrequently Victorian regional and rural municipalities would plan community infrastructure, such as sports

stadiums, through partnerships with existing EGM club venues; and thus the gambling industry featured as a key actor in the governance processes of community infrastructure in these areas. What also struck me was that many EGM venues represented global investment capital distant, and distinct, from the local neighbourhood and the people gambling on them. To me, it seemed the character and safety of the local neighbourhood was being dictated by distant forces away from the local locus of control.

To this end, observations from my own professional counselling experience, my early interviews with research participants, and public debates about the impacts of gambling on individuals and communities, refocused my research interest to explore EGM gambling from a new angle; I began focusing on gambling as a socio-spatial agenda, whilst still working within the field of gambling addiction as a researcher and counsellor.

1.1 Research Context

Gambling on Electronic Gaming machines is a very popular activity among Australians, who gamble more than any other nation in the world (The Economist, 2017). Australia also has the highest density of EGMs in the world (Young and Markham, 2017a). Their proliferation is underpinned by state regulation and strong commercial interests as well as gambling technologies geared to foster mass consumption and huge profits (Adams *et al.*, 2009) and, as a result, gambling has become both one of the biggest commodities in the leisure and recreation industry in Australia (Woolley *et al.*, 2013 p 388), and a very big social problem for Australian communities (Browne *et al.*, 2016).

In the state of Victoria, where this research is located, gamblers lose more than 5 billion dollars a year to gambling, with more than two and a half billion dollars lost on EGM gambling (Victorian Commission for Gambling and Liquor Regulation, 2017). Gambling

is closely interlinked and connected to local community, neighbourhoods and cultural and social practices (Reith and Dobbie, 2011; 2012; Livingstone, 2001).

Whilst securing large revenues for state treasuries and industry, the burden of gambling harm is disproportionately carried by the most disadvantaged communities, who are exposed to a higher density of machines and higher spending per capita (e.g. Rintoul *et al.*, 2013). This is a trend not uniquely Australian; but observed in other neoliberal societies such as in Canada (Robitaille and Herijean, 2008), the UK (Wardle *et al.*, 2014), and New Zealand (Wheeler *et al.*, 2006). Whilst EGMs are frequently overlooked in urban planning debates, they contribute significantly to the growing trend of inequality and exclusion in Australian cities.

Communities are not blind to the deleterious effects of gambling harm and gambling is increasingly becoming a social policy issue for many governments across the world. Public opinion generally indicates a demand for further gambling restrictions and policies that appropriately consider the social impacts of gambling (McAllister, 2014). However, the policy positions of governments across the world are highly compromised by both the significant tax revenues earned from gambling (Rossow and Hansen, 2016) and the strong industry influence on the reform agenda (Adams, 2011; Livingstone *et al.*, 2017).

In Australia, public policy on gambling first and foremost aims to protect the social and economic benefits of gambling and considers problem gambling to be the responsibility of the individual gambler (Australian Productivity Commission, 2010 vol.1 p. 2). This policy rationale represents utilitarian values, balancing the benefits of gambling against the costs, and is guided to a large extent by neoliberal policies that see market growth and competition as benefits and any gambling harm capable of being absolved by these benefits. Considering the extensive harm experienced by communities this policy

rationale has not served the wellbeing of communities, yet no other policy alternative has been advanced so far (Young and Markham, 2015). Problematically, utilitarianism is primarily concerned with measuring the overall utility of a given strategy, and much that is important to people is lost in this equation (Fainstein, 2010).

EGM planning in Australia is a clear example of this dilemma because inevitably, as noted by Rawls, “the logic of utility dictates some will be sacrificed over the wants of the majority” (1971, p. 156). The dilemma with utility is present in every EGM regulatory decision made across Australia. In practical terms, a utility exercise asks us to consider ‘how many happy gamblers does it take to make up for a suicide, a bankruptcy, domestic violence?’; all outcomes which gambling has been associated with (Browne *et al.*, 2016; Browne *et al.*, 2017).

Under certain circumstances balancing the public policy outcome on the scales of utility is necessary, for example in the case of wicked problems such as freeways, landfills, or powerplants. Externalities in the form of noise, odour, or a decrease in asset values, must be tolerated, at least in some form by some, because they are an essential urban need. However, EGMs are not an essential social need, nor is gambling harm a wicked problem that must be tolerated for the world to go around. Therefore, a different approach to EGM policy is needed – one that is focused on normative/ethical standards rather than utility.

1.2 EGM Regulation in Victoria

Australia has a federal system of government where power is divided across three levels of government: federal, state, and local government. However, power is not distributed evenly across the domains. The power of local government is controlled by Acts of state parliament. Thus all states in Australia have their own regulatory processes for

considering EGM developments (Australian Productivity Commission, 2010). In Victoria, EGM planning processes involve public hearings and, to some extent, local participation. In 2006, a change to planning legislation occurred in Victoria, which introduced the requirement of a planning permit for EGMs. This statutory change meant that EGMs were to be regulated by two parallel systems: *The Gambling Regulation Act 2003* and *The Planning and Environment Act 1987*. The rationale for this change was to give local councils a mandate to influence the spatial distribution of EGMs. This meant local councils were now required to consult the local residents and give consideration to the socio-economic implications of EGMs (Victorian Government Department of Sustainability and Environment, 2006).

The *Gambling Regulation Act 2003* prescribes the process for EGM regulation. The Act confers the power to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) - a statutory body, to regulate EGM licenses and operations. VCGLR hearings are public and presided over by the VCGLR chairperson assisted by one of the VCGLR commissioners. A board of commissioners make the regulatory decisions. Commissioners and the Chairperson are appointed by the Governor in council on the recommendation of the Minister for Consumer Affairs, Gaming and Liquor Regulation. The Chairperson has the casting as well as a deliberative vote. The VCGLR forms its decision based on whether the application is deemed to have either neutral or positive benefits to the community. This decision is made on the balance of probabilities – a cost benefit exercise. Problematically, the Victorian *Gambling Regulation Act 2003* does not describe explicit criteria against which the economic and social impact is to be tested, which greatly affects the transparency and consistency of decision making, and poses a difficult challenge to harm prediction and the preparation of formalised counter discourses (Francis *et al.*, 2017).

In contrast to planning processes, objection and appeals processes are highly restricted under the *Gambling Regulation Act 2003* (i.e. in licensing matters). Only councils can oppose EGM proposals to the VCGLR and appeal VCGLR decisions to the Victorian Civil and Administrative Tribunal (VCAT) on grounds of possible socio-economic detriment to the local community. No third-party rights exist as they do in Victoria's planning system. The Victorian *Local Government Act 1989* confers the role on Local Government to represent the needs of their municipality residents as well as advocate on their behalf. This means councils have a duty to represent and advocate for its residents – including in EGM licensing matters.

The *Planning and Environment Act 1987* gives councils the power to regulate EGM planning permits. The EGM planning permit process is subject to conventional landuse requirements, and objection and appeals rights. However, provided landuse requirements are met under the relevant planning scheme, council power to influence the operations of EGMs is highly restricted by state powers, thus council power is often limited to advocacy.

Council planning decisions can be appealed by EGM applicants and local objectors to VCAT. VCAT hearings are presided over by VCAT member(s) and decisions are made by sitting member(s). The VCAT president, a judge of the Supreme Court, is responsible for the management and administration of the tribunal decisions. VCAT tribunal members are appointed by the Governor in Council on the recommendation of the Attorney-General. A more detailed discussion of the regulatory system is found in the analysis chapters, particularly chapter 7

Whilst the incorporation of EGMs under Victorian planning legislation in 2006 extended the scope of democratic processes in terms of participation regarding appeal and

objection rights not afforded to residents under gambling regulation, planning in practice has generally not been assertive in its consideration of the socio-economic impacts of developments. This has partly been due to a lack of clear guidelines in the Victorian planning legislation to assist local councils in their assessment of the social impacts of EGM venues (Rowley, 2017).

The democratic principle of inclusiveness, manifested (at least in part) as the right to object and appeal, is intrinsic in the Victorian planning system, and as such the right to object and appeal plays a significant democratic role in development decisions pertaining to EGMs under planning law. They represent a democratic control function, in that appeals, permissions, and policy act as trigger points for development decisions to be examined by the community. Thus, the appeals process represents, in principle, an opportunity for the community to make ethical judgments over the benefits or acceptability of a development decision. Problematically, in licensing matters governed by gambling law, community members are not afforded objection and appeal rights, and this greatly restricts public participation and inclusion in licensing processes and decision making. Although the actual effectiveness and fairness of public participation in planning has been frequently debated (e.g. Healey, 1997; Ellis, 2004; Forester, 1989; Sandercock, 1998; Hillier, 2002; Fainstein, 2010), the right to object and appeal still remains the best avenue of public accountability with regard to institutional processes.

However, EGM institutional processes are complex and present a challenge to a fully effective democratic process of objection and appeals rights. It is not only these processes that appear hostile to local involvement. The objection discourse is tightly regulated, leaving little room for communities to express judgements on ethical and policy issues, which is mostly what people and local councils care about in relation to EGM developments. Assumptions are often made that protests to planning permits are

emanating from a NIMBY² mentality, when in fact they may well be an expression of place protection of a less sinister nature; hence public discourses around EGMs are expressions of complex factors of a cultural, political and economic nature, as is the case more generally with planning objections (Ellis, 2004; Ruming *et al.*, 2012; Cook *et al.*, 2012; Taylor, 2014).

State power over EGM regulation and consequential restrictions on local influence on EGM planning has been a great source of frustration for local communities (i.e. councils, residents, community organisations), who are frequently mobilising against further liberalisation of gambling opportunities, particularly EGMs. This activism is evident in strategic initiatives by local councils and objections to EGM planning and license applications. Community groups rally against proposed EGM developments in their local community. The social movement Alliance for Gambling Reform - a collaboration of community organisations, action groups, church denominations and local governments – continues to actively campaign for gambling reform and support councils in such endeavours. A Victorian Local Governance Association’s Working Group on Gambling (LGGWG), has also emerged with the aim to support mobilisation against further EGM development and gambling harm. The role of the advisory group is to “provide a network for local government and community members and organisations to minimise the impact of problem gambling, including advocating to the federal and state governments”³. The advisory group aims to build community (i.e. residents, councils, and organisations) capacity for opposing EGMs and as such supports activist councils and groups who wish

² Not In My Backyard

³ <https://www.vlga.org.au/advocacy/gambling>

to oppose EGM proposals. However the Victorian Local Governance Association is a membership organisation and not all councils prioritise or can afford a membership.

Despite these mobilisation efforts, and the existence of formalised avenues to object to EGM developments, no advocacy organisations and community mobilisation has succeeded in any significant change to gambling policy and planning in Victoria.

1.3 EGMs - a Missed Planning Opportunity?

EGMs are everywhere in Victoria, but hardly feature anywhere in planning. In terms of planning, in its most narrow sense, they are frequently considered as part of the entertainment economy along with sex work/brothels and alcohol outlets (Rowley, 2017). In Victoria these all share a common statutory ground in that all three industries are regulated by parallel systems of planning legislation and their respective industry legislation. They also share a common 'moral ground' as controversial industries with an inherent capacity for sparking strong positions and views among community members, particularly because of the social problems often associated with these industries and traditional moral designation as 'vice'. This is also compounded by planning's ongoing struggle with assessing the socio-economic impacts of these kinds of industry developments (Rowley, 2017).

Whilst gambling as an industry shares many commonalities with the above-mentioned industries, EGMs still stand as an anomaly in the urban landscape for the following reasons: EGMs are spatial fixtures embedded with discrete and predatory hazards; they depend on public space for consumption; and they are spatially fixed to benevolent community activity centres, much revered by Australians, such as sporting clubs, Returned Servicemen's clubs (RSL) and the 'local watering hole' (the pub). Not only are they highly accessible spatially, but also culturally, via enticements such as comfortable

interiors such as air-conditioning and heating, meeting room facilities, entertainment events, long opening hours, cheap meals and drinks, the opportunity for social interaction, and courtesy busses that pick up and bring home patrons. Above all, everybody (over 18 years of age) can partake regardless of gender, ability, ethnicity, and language proficiency. None of its cousin industries' products provide such easy access to product use, facilities, and opportunities for such a broad spectrum of people. Within this benevolent context the discrete but lethal hazards of EGM game and machine design easily fly under the radar of policy makers, planners, and users (Livingstone, 2017).

These factors make EGMs strongly connected to 'space', easily accessible, but highly predatory. Their success as a product in terms of revenues and usage is unique in their complete dependence on fixed public space for sale and consumption. The consequences of widespread EGM distribution are therefore directly and uniquely related to the regulation of urban space. The ubiquitous presence of EGMs, their role as social infrastructure and local benefactor while at the same time being a cause of great social harm, situates EGMs as a complex urban phenomenon, urgently needing the attention of planning. This is a challenging task in the current environment of the growing confluence of government and the private sector (van den Dool *et al.* 2015; Stoker, 1998). Here, the gambling industry and its national and global investors appear as frequently privileged above both the social and local impacts and the wants of communities.

To this end, EGMs as an urban phenomenon have materialised through a deliberate state sanctioned process that has commodified a previous informal/illegal backyard recreational activity into an institutionalised social feature and infrastructure across Victoria, and most of Australia. The spatial extent of EGMs, and the unequitable distribution of gambling harm caused by EGM planning and policy based on utilitarian

principles, highlights the urgent need for a different approach to EGM planning - one that is more in tune with the impacts of EGM gambling on the community and a concern with social justice more generally.

The question then arises: can more socially just EGM planning be undertaken within the context of the 'Gambling State'? This is a context where state revenues, the gambling industry and its national and global investors are privileged above social and local impacts, and where state sanctioned economic and social strategies are based on predatory and hazardous infrastructure (Schull, 2012; Newall, 2018). This research seeks to contribute in helping scope a path forward for EGM planning and praxis that aligns more closely with the promotion of social justice for local communities.

1.4 Research Aim and Questions

The overall aim of this thesis is to critically explore how, and in what ways, EGM planning can further socio-spatial justice for local communities in the Victorian context. To this end the following questions steer the research process:

- **RQ 1:** What are the socio-spatial patterns of EGM licensing decisions in Victoria?
- **RQ 2:** How can local communities engage with EGM planning to further social justice at the local community level?
- **RQ 3:** What are the barriers and opportunities for achieving social justice in EGM planning for local communities?

There are three key assumptions underlying this research that are important to state at this point. Firstly, this thesis engages broadly with planning and assumes the definition of planning provided by Yiftachel (2000 p 419) as "any public strategy, activity, and

associated consequences that is concerned with production and regulation of public space". This understanding facilitates a consideration and legitimisation of EGMs as a valid and important urban planning agenda. Although EGMs feature prominently across Australia's urban landscape, planning has featured only vaguely in this context, mainly approaching them as amenities (Rowley, 2017) and largely abandoning a critical engagement with the social justice consequences associated with these prolific developments. Therefore, a definition of planning that opens up rather than closes down is useful in context of this thesis.

Secondly, I use the terms 'little space' and 'big space'. Little space refers to the local space in which we live our everyday lives and carry out our civic tasks typically neighbourhood, municipality, city and region. I refer to 'big space' as the social, economic and spatial environments i.e. state, nation state and global environments - spaces beyond the local space in which we live our everyday lives. I deliberately apply 'loose terms' to accommodate thinking about space beyond temporal determined definitions and boundaries, not unlike mathematics using the term X as a generic descriptor of a given function rather than of specific value. Hence little and big space are timeless and abstract concepts yet have specificity in context.

Thirdly, this research assumes a definition of 'the local community' as the residents and the local authority, most commonly referred to as council. This understanding of local community is pragmatic and appropriate as it aligns with the VCGLR definition of local community considered in decision making processes in accordance with the Victorian Gambling Regulation Act 2003. Concurrently with adopting this broad term for 'local community' this thesis also recognises the shifting community alliances involving the local council, various community groups (i.e. community movements), as well as individual residents/citizens.

In doing so, the thesis explores the significance of the socio-economic and spatial factors of EGM licensing decisions in Victoria and the capacity for local community (residents and the local planning authority, i.e. council), to influence EGM decision making processes and outcomes. The empirical context is the state of Victoria, South East Australia, and the focus is EGM regulatory decisions and their associated socio-economic and spatial patterns; as well as the circumstances under which EGM regulatory decisions are made.

1.5 Conceptual Frame

The research applies the Just City concept (Fainstein, 2010) as theoretical lens and analytical tool to EGM regulatory decisions in Victoria, Australia. Fainstein's Just City is framed by three justice tenets: 1) *equity* as the fair redistribution of benefits and disbenefits; 2) *democracy* as democratic deliberative processes; and 3) *diversity* as the consideration and acceptance of diverse group identities.

This conceptual model offers a justice lens that responds to inequality and power (Fainstein, 2010) by considering diverse vulnerabilities to gambling harm, democratic procedures and discourse, and equity outcomes. These criteria will guide the empirical inquiry into EGM planning at the local community level.

The research particularly centres around the interplay between two key urban entities: 1) local government and 2) urban movements i.e. local community. Both are drivers of incremental change; local government because of their key influence and power pertaining to allocation of local resources and land use as well as having a mandate to appeal EGM license processes; and local communities, as urban movements, due to their mobilisation power and 'in principle' influence on the spatial distribution of EGMs.

As a critical lens, the Just City is focused on steering incremental change through practical strategies and programs implemented at the local level as well as equitable distribution of material and non-material goods through policy (Fainstein, 2010 p182). The focus of the research is therefore also on specific strategies available to, and applied by, local government and community groups, the planning and regulatory institutions, and involved community activist groups to influence decisions on EGM developments. Adopting a Just City approach (Fainstein, 2010) to EGM regulatory processes and outcomes provides both a critical lens and an evaluative standard on EGM policy and planning at the State as well as local government levels.

1.6 Contribution to Research

This thesis directly addresses the current void in the gambling and planning literature and practice about *how to* plan EGMs and *what criteria* should guide this endeavour. To this end, the research draws critical attention to EGMs as an important socio-spatial phenomenon needing the attention of urban theory and planning, highlighting new insights that will extend current knowledge of debates and strategies aimed at more socially just EGM planning. The research provides valuable insights into the context of decision-making in Victoria in relation to EGM regulatory processes and develops a framework for policy makers, researchers, local government and planners to (re)consider current practices to better enable practices of advocacy, education, equity and justice for communities.

The mixed methods approach used contributes a synthesis of different dimensions of knowledge across the macro- and micro-environment, providing insights into both the wider political context of EGM policy and the lived experience thereof.

The various methods applied also stand as individual contributions. A socio-spatial census of EGM regulatory decisions provides new knowledge of the socio-spatial patterns of EGM licensing over time. The use of CaRT as a visual policy assessment tool is demonstrated to be effective in stratifying risks associated with public policy.

The case study, through its unique temporal, spatial, and social position in the lived experience of EGM planning, expands understandings of the specific as it relates to the broader context. The exploration of the roles of community, residents and local councils in achieving social justice through EGM planning, as well as the relational role of communities that seek to resist new developments, is also a key contribution of this research.

Story telling is used unconventionally in this thesis to narrate the course of events. The resultant polyphony of voices serves partly as a validity tool for textual analysis, partly to capture the real-life events and uncensored nuances, as well as a tool for mitigating the power inherently embedded in doing and presenting research.

Finally, the research offers an adaptation of Fainstein's Just City to the context of EGM planning. This contributes to EGM planning praxis but also to urban theory in general, by nuancing and evolving our understandings of contemporary demands to a Just City.

1.7 Thesis Outline

This planning thesis is about justice in the city with a focus on gambling, and in particular social justice for local communities through EGM planning in Victoria. To this end the structure and logic of the thesis is as outlined in the following.

The thesis follows this introductory chapter with two literature chapters forming the conceptual context for this research. It draws on literature from both planning and gambling to locate electronic gaming machines within the broader context of planning debates around growing inequality and injustice. Chapter 2 is concerned with the literature on EGMs and gambling and the social justice implications thereof. It draws from a broad spectrum of gambling literature to form a scholarly collage that conveys key socio-spatial, cultural, temporal, and political factors implicit in EGM's multi-faceted and complex relationship with (in)justice. This chapter provides the 'empirical knowledge', which I also refer to as the 'context expertise', for developing the concept model suitable for this inquiry.

Chapter 3 focuses on the Just City literature and its practical application to the EGM context. It expounds Fainstein's Just City concept, underpinning theoretical framework and associated scholarly critiques to consider a suitable conceptual model for the inquiry at hand. This chapter provides a discussion of the rationale for the criteria underpinning the four justice tenets as advanced in this thesis, recognising the need for EGM justice planning to explicitly draw attention to the conditions for challenging EGM hegemony, but also to understand diversity in terms of vulnerability, and redistributive outcomes in relation to harm exposure and material gambling derivatives (i.e. revenues from gambling activity).

Chapter 4 outlines the critical research methodology used in this thesis. A mixed-methods case-study approach is used to examine Victoria's EGM planning framework and key factors impacting on the capacity of local communities and local councils to influence and resist EGM planning developments. The research draws on two empirical data group sets to seek answers to the overarching research question: 1) Data from the Victorian Commission for Gambling and Liquor Regulation license decision database

and 2) text sources from the single case study e.g. interviews and other process documents. The case study is of a real-life event: a small community in regional Victoria which fiercely objected to a proposed community club involving 65 electronic gaming machines. The case study selection was due to its status as having community objections. The data analysis incorporates two quantitative approaches: descriptive statistics (chi-squared) and data mining (decision tree i.e. CaRT analysis); and the qualitative approach incorporates a three-tiered approach to textual analysis. The combination of these two methods, which should be seen as a third method in and of itself (Fetters, 2018), facilitates a micro as well a macro perspective on EGM planning.

Chapter 5 reports and discusses the quantitative research findings. It responds to the research question: *What are the socio-spatial patterns of EGM licensing decisions in Victoria?* This chapter provides the socio-spatial census of EGM regulatory decisions across Victoria during the timespan 2001-2014 and forms as such the empirical macro context for VCGLR decisions to license EGMs. It furthermore offers an overview and broad understanding of the direct socio-spatial manifestations EGM policy in Victoria as well as the socio-spatial factors featuring in the decision-making processes and their significance to the processes, institutions, and actors involved in EGM planning. The statistical tool, Classification and Regression Tree (CaRT), is subsequently presented as a justice impact model demonstrating its effectiveness in stratifying risks associated with current policy. Finally, the significance of the statistical findings and the limitations of the results are discussed.

Chapters 6, 7, and 8 focus on the qualitative case-study and the local-scale context and experience of Victoria's EGM planning, and the implications for democratic processes and outcomes for local communities. To this end Chapter 6 sets out the context and

temporal ordering of events structured into a coherent sequence of events drawing on key text sources, including semi-structured interviews.

Chapter 7 is concerned with the thematic reading of texts to identify key themes in relation to the research question: *How can local communities engage with EGM planning to further social justice at the local community level?* This thematic reading focuses on the semantic level of the text to explore how planning unfolds within the regulatory processes underpinning EGMs in Victoria. This chapter has a specific focus on the agency of community and council as partners and key players in incremental reforms. This also involves attention given to the process particularities of this case that enabled this particular council and community to push towards incremental reform of EGM policy.

Chapter 8 draws on Foucauldian discourse concepts as an approach to textual analysis to answer the research question: *What are the barriers and opportunities for achieving social justice in EGM planning for local communities?* This chapter explores how power is conducted and maintained in the institutional processes. It delves deeper into the textual layers to excavate more latent themes and issues of power/knowledge embedded in institutional discourse conduct and the resulting justice implications for democratic discourse and equitable planning outcomes for Victorian communities.

Chapter 9 focuses discussion on the five meta-themes that merged from this critical inquiry as they relate to the overall aim of this thesis. It offers a discussion and provocation on the oxymoron of EGMs in a Just City, including highlighting the limitations of a just gambling city, as well as a framework of enabling practices for advocacy, education, equity and justice for communities for policy makers, researchers, local government and planners.

The thesis concludes with chapter 10. There are currently no real signs of gambling reform in Australia. EGMs continue to cause harm at increased levels and the industry does not anticipate that changing – business is as good as ever. A different approach to EGM planning is urgently needed. The Just City offers possibilities for advancing social justice for communities in EGM planning, but it does not sufficiently address past allocation of EGMs which continue to cause harm to communities, nor does it adequately address the tragic question of EGMs as state sanctioned social and economic infrastructure.

Chapter 2: Gambling and Injustice

2.0 Introduction

This chapter explores the social scientific literature on gambling and EGMs to understand EGMs' multi-faceted relationship with (in)justice. The purpose is to synthesise the EGM and gambling literature to form a scholarly collage; the nature of a collage being an assembling of different forms to form a new whole. The 'new whole' is an *assemblage* of socio-spatial, cultural, temporal, and political aspects of EGMs with particular relevance to the Australian context. It draws from both social constructivist and positivist scholarly literature as well as grey literature; for example reports, media pieces, and court documents.

2.1 The Liberalisation of Gambling

In my first language (Danish) a proverb goes: '*Kært barn har mange navne*' – it translates: '*A loved child has many names*'; and indeed, so has the electronic gaming machine. Vernacularly, EGMs are also known in Australia and New Zealand as *pokies*, or *slot or poker machines* in the US, *video lottery terminals* in Canada, and *fruit machines* in the UK. Whilst there are different types of electronic gaming machines, they all provide, prompted by currency input by the player, a computerised interaction with a game of chance, which the British sociologist Gerda Reith (1999) has theorised as an existential approach to meaning making and which the Australian researcher Charles Livingstone (2001) has noted as being particularly meaningful for what used to be referred to as the proletariat.



Figure 1: People gambling on EGMs on a Tuesday afternoon, enjoying the bright lights and ringing sounds. Photo by Mette Hotker 2018

The idea of class difference in meaning making has also been dubbed by Livingstone (2005) 'dangerous consumption' and 'exploitation of the poor'. Whilst this thesis is not specifically about the social structures that create culture and meaning, it is important to recognise that social and cultural structures have most certainly made the prolific expansion of EGMs and other gambling opportunities across the world possible. Gambling has not always been regarded an accepted activity nor has it always been so readily available.

The blind democracy of chance in gambling divorced reward from effort or merit, undermining the ideology of meritocracy in secular societies and of faith in providential determinism in religious ones. Counterposed to these, the lottery winner was neither necessarily worthy nor deserving - simply lucky. And rich. (Reith 2007 p 34)

As Reith's words suggest, acquiring wealth through gambling posed a direct threat to the prevailing socio-economic hierarchy of modernist societies. The separation of effort and reward challenged the existential underpinnings of industrial societies which relied on the predictability of capital, time and risk management (Reith 2007). Anti-gambling politics and arguments of immorality were particularly vocalised by the Protestant establishment and were mainly directed at the lower strata of society as the ruling social classes saw gambling as threat to social and industrial stability (Dixon, 1991; Munting, 1996). However, the past half century has witnessed the liberalisation and legalisation of gambling across the world. This has resulted in discourses of immorality giving way to discourses of consumption and disease, which have been much more conducive to market expansion and individual responsibility:

In this convergence of commerce with chance, the state-sponsored fantasy of the big win turns the ethos of production and accumulation on its head, advocating the benefits of massive, unearned wealth over the

satisfaction of modest gains in a shift that reflects not only the transcendence of the work ethic but also the promotion and celebration of a new kind of “consumption ethic.” (Reith 2007 p 36)

The explosion of gambling markets dovetailed the wave of neoliberalism engulfing the world during the 80s and 90s. Many countries during this time, including Australia, reduced state interventions into the social and economic spheres; a trend that is still prevailing (Reith 2007). Since the early 80's growing state dependence on gambling revenues and industry growth (i.e. in size and power) have been the main drivers of the aggressive expansion of gambling opportunities, including EGMs. Hence since the 80s gambling accessibility in countries like Australia, New Zealand, North America and a number of countries in Europe has exploded (Orford, 2010).

2.2 The Australian Context

Gambling as activity in Australia has always existed - like anywhere else in the world (McMillen, 2005b). Indigenous gambling was traditionally based on social and cultural transactions rather than monetary transactions (McMillen 2005) and still is to a certain extent (Young *et al.*, 2013). But the emphasis of Australia's colonial gambling history has always been focused on monetary exchange, and gambling activity in colonial Australia has therefore been shaped by fiscal, socio-spatial, technological, legislative and political factors (Victorian Casino and Gaming Authority, 1999; Delfabbro and King, 2012). Thus, EGMs are a concrete representation and result of the interplay of these factors.

EGMs were initially referred to as *One Arm Bandits* and operated illegally in Australia (Victorian Casino and Gaming Authority, 1999). The first machines were mechanical and imported from the US into the Australian state of NSW for illegal distribution into

community clubs (Marsden, 2008). After significant lobbying by the gambling industry lobby group, the Australian Club Development Association (ACDA), EGMs were legalised in NSW in 1956. The legalisation pertained to EGMs in registered sporting and Returned Servicemen League (RSL) clubs, and the rationale was for the provision of improved facilities and benefits to the wider community and club members.

Despite proving a lucrative revenue source for the New South Wales (NSW) government, it took the lobby group several decades of intensive lobbying before other Australian states and territories followed suit (Marsden, 2008). The two main reasons for the delay in other states were firstly, concerns about the emerging social harm caused by EGMs in the Australian state of NSW, which had largely been ignored by the gambling industry and the NSW government. Below is an excerpt (Figure 2) from the initial Victorian governmental inquiry into the introduction of EGMs (Wilcox 1983). It provides a scathing assessment of government and industry indifference to the deleterious social harm caused by EGMs in NSW. The second major concern was simply related to the evidence of corruption and unsavoury conduct by the NSW gambling industry (Wilcox 1983). Concurrent with their lobbying for legalisation of EGMs in Victoria and across Australia, the Australian poker machine industry gained an increased world market share of the production of EGMs. The ability to produce effective (in terms of profits) and sophisticated technological machines saw the industry become one of the world's largest producers and exporters of EGMs (Victorian Casino and Gaming Authority, 1999, Marsden, 2008). Hence, Australia witnessed the One Arm Bandit's mechanical arm replaced with highly sophisticated technology capable of extracting profits more efficiently.

The highly lucrative tax revenues derived from the industry, as well as lucrative global markets, became the panacea for State and Territory governments' fiscal crises in the

1990s, with the exception of Western Australia (Delfabbro and King, 2012). Thus, EGMs were legalised in Victoria along with most other states in Australia. Only the State of Western Australia does not allow EGMs external to the casino which exists there.

Paucity of information

7.07 The New South Wales club industry, an industry founded on the ideal of co-operation and sharing, has for 27 years earned the majority of its income from poker machines. At the present time the net after tax benefit of the machines to the clubs is over \$500million per year. For 27 years the successive New South Wales governments have received revenue from the licensing or taxing of poker machines. That revenue now runs at over \$150million per year. At no time during those 27 years, so far as I am aware, has either the New South Wales club industry or the New South Wales government undertaken or commissioned any research to determine the extent of any addiction which the machines may be causing or the consequences of any such addiction for the affected individuals, their families or the community generally. Decisions as to higher denomination machines, including the decision to permit multi-coin machines allowing a stake of one dollar a game, appear to have been made in ignorance not only of the likely effects of those machines but even of the existing situation. [2]

Figure 2: Excerpt from the Wilcox Report 1983, section 7.07: Paucity of Information

However, the proliferation of EGM as economic and social infrastructure has been underpinned by a lack of public policy understanding of product design and features (Livingstone, 2017). The following section draws attention to the role of machine design in creating compulsive player behaviour and thus generating revenues.

2.3 The Modern Gambling Machine and its Dark Nudges

Despite more than 20 years of history in most states, and most adult Australians having 'played the pokies', ignorance about the product still prevails. The current machine is distant from the original 'One Arm Bandit'. The sophisticated and high-tech design of contemporary machines, and their discrete hazards, are generally poorly understood by both the general public and policy makers (Livingstone, 2017). These machines are fundamentally hazardous and there is no product disclosure (Markham and Young, 2015; Livingstone and Woolley, 2007; Livingstone and Adams, 2011). Understanding machine function and design is crucial for consumer protection and appropriate gambling policy. This is recognised in relation to tobacco and alcohol products, and the sale of these products requires product disclosure of the 'level of drug' contained e.g. milligrams of nicotine or volume of alcohol; yet the electronic gaming machine does not require product disclosure of this kind.

The operational and design characteristics of EGMs, referred to by Newall (2019) as Dark Nudges⁴, have the potential to cause significant harm to any user, not just problem gamblers (Markham *et al.*, 2016, Browne *et al.*, 2016). These design features reflect universal psychological understandings of human behaviour and desires combined with key psychological features to maximise capital extraction from any player (Schüll, 2012). The key psychological dogma underpinning machine design are: 1) 'reinforcement prompts' (Skinner, 1953), incorporating mechanisms into game design that encourage repeated gambling; 2) 'operant conditioning' (Skinner, 1953), incorporating mechanisms

⁴ Nudges being a behavioural economic term referring to tactics or strategies employed to increase sales.

that facilitate repeated behaviour through intermittence/irregular reward in the form of unpredictable wins; and 3) 'classical conditioning' (Pavlov, 1927), incorporating trigger features into the game such as messages, music, lighting, animations and graphic effects to form associations and expectations of reward that in turn is likely to condition the player to repeated gambling (Livingstone, 2017 pp 8-10).

The structural and physical characteristics of machines also play an important part in machine efficiency and profitability (Livingstone 2017). Some of these characteristics are maximum bet size, reel and machine displays and 'free spins'. Schottler Consulting (2014), in their study of gamblers and the type of rewards and play that EGMs offer, found that gamblers found machine features exciting; 'free spins' were perceived particularly exciting; and the frustration gamblers experienced when unsuccessful in getting 'free spins' perpetuated gambling. The study also highlighted a second key feature of machine design, referred to as 'losses disguised as wins'. This refers to when the gambler wins less than he/she has bet, but the machine signals a win; and the player experiences excitement similar to that of a win. These 'wins', i.e. losses, are usually signalled by sensory features such as music and flashing lights which create excitement for the gambler and lend clear evidence to the employment of classical conditioning (Pavlov, 1927) features in game design. These findings are not isolated; Livingstone (2017) notes these 'wins' (losses) have also been observed by other researchers such as Dixon et al. (2010) and Harrigan *et al.* (2015) to create player excitement similar to a win.

With regard to this point, the emergent research and literature on EGM design and functionality has shown EGMs are not accidentally effective and enticing (Schüll, 2012). The 'success' of the machine is built on technological advancements, comprehensive insights into and exploitation of human psychology, neuroscience, and cognitive

manipulations, far beyond what is generally understood and known. This makes them highly predatory in nature, yet their wide and visible distribution into neighbourhoods is sanctioned by policy and regulatory systems that demonstrate poor understandings of their true capacity for harm (Livingstone and Woolley, 2007; Livingstone, 2017).

2.4 Places of Social and Spatial Differentiation

EGM gambling is the gambling form associated with most harm (Australian Productivity Commission 2010). However, harm is not evenly stratified across socio-spatial territories. Socio-spatial research on EGMs has been key in identifying these differences as they relate to EGM distribution and density, and gambling losses. A substantial body of Australian research has documented the socio-spatial patterns of higher concentrations of EGMs in disadvantaged neighbourhoods and proportionally higher gambling losses (see for example Rintoul *et al.*, 2013; Doran and Young, 2010; Marshall and Baker, 2002; McMillen and Doran, 2006; Marshall and Baker, 2001; Australian Productivity Commission, 1999; South Australian Centre for Economic Studies, 2005). Similar patterns of uneven gambling geographies have also been revealed in Canada (Robitaille and Herijean, 2008), the UK (Wardle *et al.*, 2014) and New Zealand (Wheeler *et al.*, 2006).

Proximity to machines has been linked to gambling behaviour as people who participate in EGM gambling usually live in relatively close proximity to gambling venues (Hare, 2009; KPMG Consulting, 2000; Marshall *et al.*, 2004). Similar patterns have also been confirmed internationally with two significant studies from the US (Welte *et al.*, 2004) and New Zealand (Pearce *et al.*, 2008). Hence, having EGMs distributed across neighbourhood hubs in close proximity to where people live is a risky planning strategy.

However, this reality of the greater burden of harm being carried by the most disadvantaged people is determined by a complex interplay of factors, not just the density of, and proximity to, machines. Scholars have recognised the importance of understanding accessibility beyond spatial parameters. Doran and Young (2010) found in their study from Northern Territory that when considering heightened vulnerability to gambling the combination of both socio-economic indices (SEIFA) and easy accessibility were important key determinants of gambling vulnerability and expenditure. McMillen and Doran (2006) also argued along a similar vein, based on their Victorian study, but they found that SEIFA measures of disadvantage and density of EGMs were not alone adequate factors for measuring vulnerability. They concluded that a more detailed localised approach would be needed when assessing gambling vulnerability - one that considers the multiple facilitating factors to gambling accessibility.

The Australian Productivity Commission (1999) has highlighted some of the complex dimensions of accessibility. They include, for example, opening hours, numbers of machines and venues, ease of use and access (i.e. logistic, social, amenity), but also social, cultural and legal factors. Courtesy buses for example are common in Victorian rural/regional towns, where public transport is limited or non-existent. This lets venues ensure easy access to their gambling venue for patrons otherwise not able to access the facility. The photo below (Figure 3) presents a poignant illustration of accessibility understood in this broader sense. Thus, EGM accessibility must be considered broadly when assessing risk factors.



Figure 3: Source - Field Survey. Gambling Venue Courtesy Busses Facilitating Easy Access for Residents in Echuca/Moama, Victoria. Photo by Mette Hotker 2018

The Productivity Commission expresses its understanding of the significance of accessibility in the following words (cited in Marshall *et al.* 2004 p 21):

While causation is hard to prove beyond all doubt, there is sufficient evidence from many different sources to suggest a significant connection between greater accessibility - particularly to gaming machines - and the greater prevalence of problem gambling... Accessibility is not just about proximity; it is also about the mass appeal and ease of use of a gambling form; any conditions on entering gambling clubs; and the initial outlay required to gamble.

To this end, considering accessibility to EGMs only in terms of spatial factors is too simplistic and inadequate. Marshall *et al.* (2004) also echo the findings of the Australian Productivity Commission in their study of accessibility to EGMs in Canberra. As a result, they also argue for a more sophisticated measure that considers the very broad spectrum of factors such as types of gaming machines, proximity of gaming venue to other community facilities, parking facilities, public routes, policy changes, and changes in

urban and economic conditions. These are all complex factors, but important to consider when making decisions on EGM developments.

2.5 A Case for Local Assessment of Socio-Spatial Vulnerability / Accessibility

Vulnerability and accessibility factors have been suggested to be most meaningfully assessed on a local scale by local councils and communities in which the EGM development is being proposed (Young, 2010b). For example, the existence of courtesy buses is a local vulnerability factor that significantly affects accessibility at the local level but would not feature in an aggregated statistical data profile on vulnerability. Young has therefore argued for the importance of building the capacity for local communities and municipalities to take control of the local socio-spatial contours of EGMs. This has also been suggested by the Australian Productivity Commission in 2010 (Section 14.17 cited in Young 2010b) as a way of more effectively considering local variability when assessing accessibility and ultimately vulnerability to gambling harm when regulating EGMs.

To this end, *how* EGM developments are arranged spatially, temporally and socially impacts on accessibility and in turn on gambling exposure, behaviour and harm. Whilst acknowledging that gambling and gambling-related problems occur among all segments of the community, the socio-spatial gambling literature, discussed here, has documented how EGMs have an unequitable presence and impact monetarily on the most vulnerable communities. They contribute significantly to inequality in Australia by contributing to “the cycle of determinants impacting on poverty, poor health, lower levels of social and human capital; community resources that have been identified as being a risk factor to communities” (Browne *et al.* 2016 p 18).

Research nationally and internationally has documented a higher concentration of, and spending on, EGMs in poorer areas as result of policy and planning strategies that have

been ineffective in recognising the distributional effects of EGM harm. The dilemma is that, concurrently with EGMs producing harm, they are also considered to contribute social and economic benefits. How these benefits and costs are assessed ultimately decides how EGMs are rationalised.

2.6 EGM Costs and Benefits: A 'For Better, for Worse, for Richer, for Poorer, in Sickness and in Health'⁵ Rationale.

Many Australians gamble on EGMs. The folk model⁶ as distributive mode in Australia, i.e. EGMs in community sporting and social clubs and hotel venues, has been particularly effective in terms of providing easy access to EGMs as well as normalising EGM gambling (Livingstone and Adams, 2011).

In Australia, EGM club venues are not-for-profit community-based organisations, such as sports clubs, Returned Servicemen's League clubs (RSL clubs), and horse racing clubs. Club revenues earned from EGMs are taxed differently across Australian jurisdictions; but they all finance provision of social infrastructure such as a bistro, club rooms, sport and leisure activities - all within club premises. Some clubs may also provide in-kind and cash donations to local community causes and organisations. Hence, club EGM venues are generally considered by Australians to be a more benign and respectable place to go and dine and to be entertained (Nuske *et al.*, 2016) than hotel EGM venues, which are businesses for profit and frequently culturally exclusionary zones for certain demographic groups (for example women, the elderly, and certain ethnic groups).

⁵ A traditional Christian wedding vow.

⁶ The 'Folk Model' is the term commonly used to define EGM distribution mode in Australia. It refers to the distribution of EGMs via community clubs and hotels

'Playing the Pokies' – this social activity is closely interlinked and connected to local communities, neighbourhoods and cultural and social practices (Livingstone, 2001; Reith and Dobbie, 2011; 2012). Hence, gambling venues are not just spaces of gambling but can also be spaces of the social (Young *et al.*, 2013; Reith and Dobbie, 2011; Thorne *et al.*, 2016; Thomas *et al.*, 2009). The notion of the sociability of Australian pub and club venues is further accentuated by a large proportions of EGMs being owned by household names (with global capital investments) such as the supermarket chain Woolworth and Australian Rules Football Clubs, the latter earning in excess of \$90 million dollars annually from EGMs (Livingstone, 2018). In this context EGM gambling clearly emerges as both a popular and mainstream phenomenon and a legitimate and beneficial resident activity.

EGMs' contribution to society is generally rationalised by assessing the utility of EGM gambling. Thus, this rationalisation involves a utilitarian assessment of the costs and benefits associated with the activity. The following sections on benefits and costs serve to provide an understanding of how EGMs are rationalised through an assessment of social and economic costs and benefits. These sections also scope the context for a critical exploration of local government and resident challenges to forming counter arguments (i.e. arguments that challenges the rationalisations of EGMs) to institutional decision making – a key concern of this research.

2.6.1 Economic Benefits

Australians playing the pokies translates into the aggregated sum of \$8 billion annually (Queensland Treasury, 2017), of which Victorians account for \$2.5 billion of the spending – not counting spending on Casino EGMs (Victorian Commission for Gambling and Liquor Regulation, 2017). Hence a quarter of the expenditure on gambling in Australia

and Victoria is spent on EGMs, and the vast sums spent on gambling situate Australians on the world map as the biggest gamblers per adult capita (The Economist, 2017). Such large spending on gambling signifies an intensity of gambling that raises concern about its impact on individuals and communities, while at the same time this provides an important revenue stream for State governments (Adams, 2013). This conflicted position is a dilemma for governments across the world, who are major beneficiaries of gambling revenues while becoming increasingly reliant on gambling revenues. Other obvious beneficiaries of gambling are the gambling industry itself, and communities that benefit through the industry's funding (Adams, 2008) e.g. organisations that receive monetary donations from gambling. The latter occurs in different ways across jurisdictions. For example, in Australia the distribution mode is primarily through government taxation of gambling expenditures, but in New Zealand, Canada and UK funds are more directly distributed between the gambling venue and a specific target (Adams, 2008). Gamblers are also considered beneficiaries of EGMs through the satisfaction they gain from gambling. This satisfaction is termed consumer surplus and is measured as an economic benefit. Needless to say, consumer surplus is a rather nebulous concept, which has been severely critiqued (Francis *et al.*, 2017), for obvious reasons, as an ill-suited concept for measuring gambling benefits.

In Australia the Australian Productivity Commission (2010) has also recognised that the gambling industry makes valuable contributions to Australian communities. These are considered in terms of local employment opportunities, subsidised hospitality facilities such as restaurant meals and drinks, enhanced club facilities and tourism. However, claims about these wider community benefits remain contentious. Numerous other investigations of the spending patterns of gambling have shown that funds gambled on EGMs are largely diverted from expenditure on fundamental goods and services, such

as household items, clothing and food⁷ (Doughney and KPMG Consulting, 2000; The SA Centre for Economic Studies, 2005); and that money diverted into the gambling industry is far less efficiently converted into employment than in other industries such as the services and manufacturing sectors (South Australian Centre for Economic Studies, 2005; Centre for International Economics, 2008). A particularly contentious issue pertaining to the extent to which communities really benefit from EGM gambling is that funds spent at the local level provide most of the benefits on a macro level in terms of centralised tax revenues (Brown *et al.*, 2011; Marshall, 1998).

2.6.2 Social Benefits

This section highlights some of the literature that has shown the social benefits of EGMs. This literature indicates that EGM gambling may strengthen social connectedness; a social factor commonly regarded as one of the most powerful determinants of wellbeing (Putnam, 2000). The argument is that this existential need for people to form social connections and personal bonds can be pursued within these gambling spaces. Certain forms and context of gambling can have a positive impact on the lives of people in providing an exciting and fun escape from the demands of the daily, and/or an escape from social isolation (e.g. Korn and Shaffer, 1999; Bilt *et al.*, 2004). The impact and function of EGM gambling on Indigenous Australians, for example, has in some instances been found to breach racial divides by providing an inclusive environment conducive to the social-gambling behaviours of Indigenous Australians, as well as

⁷ This problem has also frequently been observed by gambling counsellors in Victoria. I form this opinion based on my own and previous colleagues' observations working with problem gamblers and their families. The Responsible Gambling Foundation allocates provisions for financial emergency assistance. Through the 'Gambler's Help' Service' food, utility and other essential vouchers were frequently provided to people presenting with gambling problems.

allowing access to the prospects of money and goods (Maltzahn *et al.*, 2017; Young *et al.*, 2013).

Historically, for the 'working-class', gambling has served to inspire hopes of fortune and success otherwise not possible for the less privileged social classes (McMillen, 2005; Livingstone, 2001; Williams, 2005). For women, the EGM environment, particularly those within clubs, has been found to provide a safe, comfortable, and entertaining place to occupy (Nuske *et al.*, 2016, Kimberley, 2005); and among the elderly, EGM venues have at times mitigated self-defeating feelings of social isolation and loneliness, provided cognitive stimulation, and facilitated uncomplicated and inexpensive entertainment in safe surroundings (Bjelde *et al.*, 2008, McNeilly and Burke, 2000). These reported benefits have also been echoed by many gamblers I have met working as a counsellor with the Victorian Gambler's Help Service.

Hence, acknowledging that pubs and clubs in Australia are gambling places and places that also form the socio-spatial contours for social inclusion is important. Frequently they perform the role of traditional local/community meeting places and activity centres, as noted by Thorne, *et al.* (2016) – a 'Third Place' in the words of Ray Oldenburg (1999). EGM venues offer social and economic facilities where alternative infrastructure may be lacking, as is often the case in rural/regional and in developing residential metro areas. The case study of this thesis highlighted that an EGM venue as a social club propositioned economic and social infrastructure otherwise difficult, if not impossible, to provide for a underresourced rural council.

They (EGM venues) have in many instances become substitutes for social infrastructure, which has generally been inadequately funded by state governments. However, whilst acknowledging EGM venues have social significance, these places are also risky,

hazardous, and exploitative places. Vulnerable people such as 'problem gamblers', who have been found to fare poorly in terms of access to social connectedness in the community (Hare, 2009; Anderson *et al.*, 2009), may use EGM venues as spaces for inclusion and connection, although often with disastrous consequences.

Considering the evidence of harm and dangers associated with EGM gambling (which I will discuss in more detail later), the EGM environment, with its nooks and crannies, offering of refreshments, blinking lights and enticing sounds, produces perhaps the illusion, rather than a reality, of sociability without the need to interact or talk to anyone. The reality is, for many the EGM venue is a pseudo Third Place - a 'Nonplace' which Oldenburg (1999 p 203-205) describes as a:

[203] habitat that discourages associations, one in which people withdraw to privacy as turtles into their shells, denies community and leaves people lonely in the midst of many [and p 205]..... it is a nonplace where individuality disappears, where character is irrelevant, and the person is only a customer. In nonplaces one cannot be an individual or become one for one's individuality is not only irrelevant; it also gets in the way.

To this end, EGMs are social and industrious places with some benefits. However, as the following section will discuss, there is significant evidence to suggest that this activity and phenomenon is highly problematic and costly for communities and individuals. Given the vast amount of money spent on EGMs, EGMs are primarily spaces of monetary transactions. This is directly observable in its most rudimentary form, when the gambler inserts money into the machine to have a social experience, vernacularly referred to in Australia and New Zealand as 'playing the pokies'.

2.6.3 Identifying and Conceptualising Social Harm

Gambling has been associated with a plethora of problems and conditions broadly spanning domains such as health, finances, career, relations and crime. For example, gambling has been associated with depression and anxiety (Jauregui *et al.*, 2016; Holdsworth *et al.*, 2012), addictions and substance abuse (Petry, 2001; el-Guebaly *et al.*, 2006), family/intimate partner violence (Korman *et al.*, 2008; Lorenz and Shuttlesworth, 1983; Dowling *et al.*, 2014), suicidality (Blaszczynski and Farrell, 1998; Battersby *et al.*, 2006), relationship and family breakdown (Nowatzki *et al.*, 2006; Saint-Jacques and Tremblay, 2013), harm to children (Tuitahi *et al.*, 2004; Darbyshire *et al.*, 2001; Stevens and Bailie, 2012; Li *et al.*, 2017), financial harm (Woolrych, 2010; Australian Productivity Commission, 2010), and crime (Breen *et al.*, 2013; Bellringer *et al.*, 2009). This is not an exhaustive list, but examples of the broad spectrum of harm associated with gambling. However, most harm-related literature has not shown causation, therefore Browne *et al.* (2016) have, in their recent study, sharpened the understanding of the relationship between various harms and gambling. They applied a relational methodology that 1) tested “the threshold at which gambling problems are most likely to result in a given harm” (p 87) and 2) compared their research findings with the six domains of gambling related harm identified by earlier studies (McDonald *et al.*, 2014).

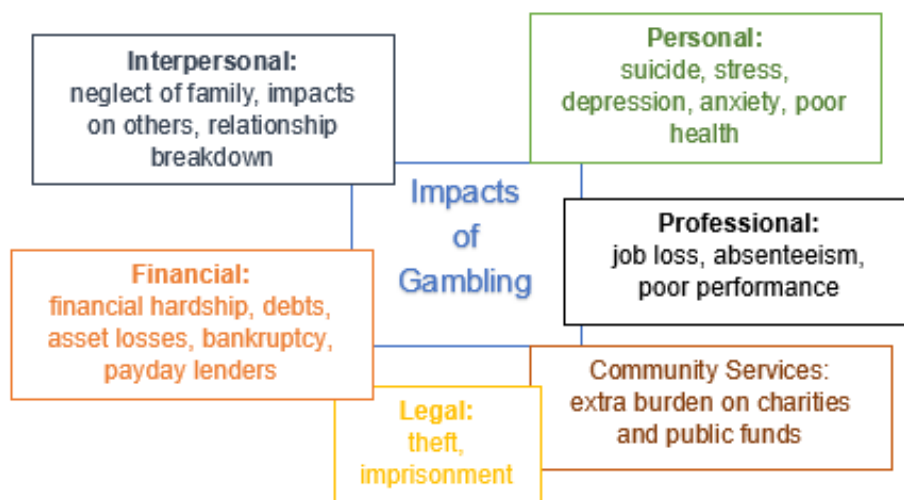


Figure 4: Impacts of harmful gambling. Adapted from McDonald et.al.,2014 p 13.

Browne and colleagues (2016) confirmed these previous identified associations and domains but extended their conceptual framework to include an additional 2 domains. They found that cultural and intergenerational harm were two significant factors previously not considered for harm assessment. Their study showed that gambling harm often continued to occur long after the activity had ceased; and that the cultural context of people and communities could be greatly threatened because of it e.g. religious beliefs, ethnicity or cultural traditions. The model below is adapted from their new conceptual framework for assessing gambling harm and illustrates their conceptualisation of gambling harm across the 6 traditional social domains in conjunction with cultural and intergenerational/temporal domains. This is significant because it broadens the base from which gambling harm is calculated, i.e. the utility of harm, increasing previous estimates of gambling harm.

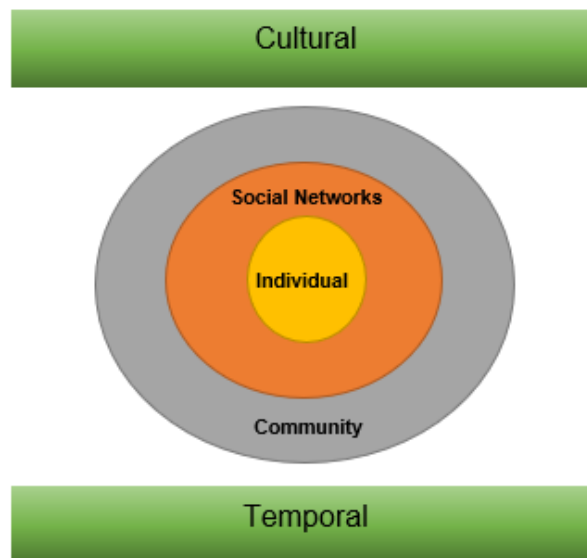


Figure 5: Effects of Gambling Harm (adapted from Browne, Langham et al. 2016 p 40 Figure 3)

In the end, gambling's most detrimental impact on communities is its contribution, through the various harms across these broad domains, to the vicious circle of disadvantage. Browne and colleagues reiterate the words of the Australian Productivity Commission (Browne et al., 2016 p 18):

One of the most pervasive harms to the community from gambling is that it contributes to the cycle of determinants impacting on poverty, poor health, lower levels of social and human capita; community resources that have been identified as being a risk factor to communities for problem gambling.

This section outlined the current conceptualisation of gambling harm, particularly associated with EGMs, as it is experienced intergenerationally by individuals, communities and cultures. Considering these wide-reaching consequences, which perpetuate the vicious circle of disadvantage, raises doubts about the moral and ethical basis of a gambling economy.

2.6.4 Costing Harm: What Price to put on Tragedy?

In most neoliberal societies, policy is predominantly rationalised through an assessment of utility; a costing of benefits minus costs (Fainstein 2010). At the crux of the issue of the benefits and costs of gambling is the fact that social costs and benefits are notoriously difficult to quantify (Walker, 2007). The exercise is also highly contextual and is contingent on factors informing the methodology, such as the quality of data and the skills and judgment calls of researchers (Browne *et al.*, 2017).

Whilst there is a vast body of research on gambling-related harm, only a few studies have attempted to assign a monetary value to social harm (Browne *et al.*, 2017). A systematic literature review undertaken by Browne *et al.* (2017) as part of their recent assessment of the cost of gambling-related harm in Victoria, showed only four studies had attempted to assign monetary value to the cost of gambling-related harm in Australia. These were:

- 1) The Australian Productivity Commission (1999, 2010). Their 2010 estimate of the overall cost of problem gambling was up to \$8 billion annually for Australia.
- 2) The Victorian Competition and Efficiency Commission (2012) estimated costs for Victoria of up to \$2.8 billion annually.
- 3) The Allen Consulting Group (2011) estimated the cost for Tasmania to be up to \$184 million annually.
- 4) Browne and colleagues' own study (Browne *et al.* 2017) estimated the cost of gambling related harm in Victoria to be approximately \$7 billion dollars.

This last estimate is significantly more than what was found by the Victorian Competition and Efficiency Commission. This is likely explained by Browne *et al* basing their calculations on all levels of gambling. This approach is informed by Browne *et al*'s

previously discussed study (2016) on harm assessment. Their study found that most gambling-related harm, 85%, emanated from non-problem gamblers (i.e. low to moderate risk gamblers). This breaks with previous approaches to assessing gambling-related harm, in which estimations were exclusively based on the most severe category - problem gambling. Hence their 2016 study has raised two key issues. Firstly, it pointed to the argument that no level of gambling is harmless (i.e. as harm emanates from all levels of gambling). Therefore, it challenges any policy rationale of gambling being a generally benign activity. Secondly, previous estimates of the cost of gambling harm that were based only on the most severe category of gambling were most certainly underestimated (Browne *et al.*, 2017).

Whilst studies on the cost of gambling-related harm are not comparable due to different jurisdictions, they do tell the tale of significant cost associated with gambling-related harm. To this end, Browne *et al* (2017) contend that the cost of gambling exceeds the benefits (p 93):

Gambling is not the only industry or recreational pursuit that involves costs. For example, road transportation involves a yearly toll not just in the economic costs of vehicles and infrastructure, but also a high human cost in death and injury due to accidents and other impacts. However, these costs are arguably dwarfed by the critical role of the transport industry to the economy. Recreational water sports such as SCUBA diving or surfing involve an intrinsic risk of severe events such as drowning, but these are infrequent enough to not call into question the value of the activity. The costs of gambling appear to be of a different magnitude, when both prevalence and severity are considered, and when evaluated relative to the presumed benefits of the activity or the scale of the industry itself. For example, Victorians are projected to spend \$10 billion in 2018 on other forms of digital entertainment such as filmed entertainment or television programming; the reasonably defined

'negative consequences' of these activities approach zero cost. Judgements about whether gambling is 'worth the cost' are beyond the scope of this report. However, our conclusion is that gambling generates costs that appear to be out of proportion in relation to the scale of the industry, the tax revenue generated, and any generous assumptions about the likely recreational value of the activity to Victorians.

So far, this literature has shown that harm caused by gambling is extensive and comes with a high 'price tag' – and EGMs are associated with the most harm (Australian Productivity Commission 2010). But it is also evident that a cost benefit assessment is a highly problematic approach to EGM policy and planning; numerical values are poor simulacra for social harm.

2.7 Community Concerns about Gambling and Reform Demands

Communities (i.e. residents and their local councils) are not blind to the harmful effects of gambling. Negative community attitudes towards gambling have been explored in several national and international studies. Internationally for example, Orford *et al.* (2009) found in a public attitude study in the UK that a majority of people held negative attitudes towards gambling. Similar findings have also been documented across varied jurisdictions. Examples include in Israel among Jewish Israelis adults (Gavriel-Fried, 2015), a population surveys in Alberta, Canada (Smith *et al.*, 2011), Finland (Salonen *et al.*, 2014), New Zealand (Abbott *et al.*, 2015), and very recently an attitude survey of municipality representatives in the Czech Republic (Fiedor *et al.*, 2018). In Australia, population studies have continuously shown most Australians remain sceptical about the overall community benefits attributed to gambling (McMillen and Marshall, 2004; Australian Productivity Commission, 2010; McAllister, 2014).

Early Australian population studies on residents' attitudes to gambling indicated that Victorians were generally more sceptical of the benefits of gambling than other Australian states, particularly in relation to EGMs (McMillen and Marshall, 2004), and this trend still prevails (Thomas *et al.*, 2017). Not only research surveys alert us to negative public opinions on gambling. Such opinions are evident on several fronts:

- 1) In the Australian media it is evident through the debate pertaining to EGMs and other gambling forms (see for example ABC, 2015; Willingham, 2015)
- 2) negative resident attitudes to gambling venues have also been documented on a local community level. For example by Greenslade (2013) who explored the long term impacts of EGMs on a local community in Australia, but also internationally by Balzarini and Shlay (2015), who explored the conflict over the location of a casino in Fishtown, Philadelphia
- 3) at a local municipal level, councils can be observed to campaign against EGMs. Examples are the Whittlesea local council's 'anti pokie' campaign (2018) or Norway's Mayor's Revolt (Rossow and Hansen, 2016). In Victoria, local opposition has also been observed through the regulatory responses such as local campaigns against EGM development proposals (see for example *Romesy Hotel Ltd v Victorian Commission for Gambling Regulation & Anor*, 2009; *Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors*, 2013).
- 4) However, most strikingly, in the past decade parliamentarians have been elected to parliament on an anti-poker machine (EGMs) and anti-gambling platform. For example, independent member for Tasmania Andrew Wilkie and independent member for South Australia Nick Xenophon are current examples.

To this end it appears, as also noted by McAlister (2014), the extent of gambling availability has gone beyond what the Australian public considers acceptable, particularly regarding EGMs.

2.8 Challenges to Community Influence on EGM Developments and Reforms

Effective policy reforms have been slow to respond to public concerns and demands for meaningful reform not just in Australia, but also across the world (Hellman *et al.*, 2017; Thomas *et al.*, 2017). Adams (2004) has argued that democratic processes have been distorted and impeded by pressure from the gambling industry - a globally interconnected network capable of exerting influence on governments and citizens. The impact on citizens are not limited to influencing choices about gambling, but also extends to how citizens may feel about speaking up against gambling products and expansion.

Meanwhile, incremental reforms are happening through small localised outcomes, as mentioned above, for example in Australia, through changes to common law practices. However, present governance environments mitigate poorly against power relations and social structures in the institutional processes.

The political economy literature on gambling has highlighted some of the factors inhibiting the local influence of a gambling reform agenda. This literature diverges from the dominant 'psy' (Rose, 1999) and epidemiological literature on gambling, to critically engage with the social structures and power dynamics shaping gambling environments (see for example Doughney, 2006; Livingstone and Woolley, 2007; Reith, 2007; Pickernell *et al.*, 2010; Young, 2010a; Livingstone and Adams, 2011; Schüll, 2012; Reith, 2013; Markham and Young, 2015; Markham *et al.*, 2015; Young and Markham, 2015; Young and Markham, 2017b). The following section discusses some of the key factors

highlighted by the literature which are believed to impede local influence on the reform agenda. Succinctly these can be listed as:

- 1) government's compromised policy position
- 2) a market rationale for EGMs
- 3) the disease model for gambling harm
- 4) industry influence on the research agenda
- 5) institutional processes.

The following sections will now discuss each factor separately.

2.8.1 Government's Compromised Policy Position

The first challenge to community Influence on EGM developments and reforms is the compromised policy position by governments. The political economy literature has brought to attention the compromised policy position of governments and the key role they have played in the rapid proliferation of gambling. The expansion of gambling markets has only been possible through legalisation and policy frameworks that support proliferation (Markham and Young, 2015; Rossow and Hansen, 2016; Adams and Rossen, 2012). In Australia the opportunity to earn revenues independent from federal sources has been highly attractive to State governments (Markham and Young, 2015, Livingstone, 2001a). Thus, the policy rationale has primarily been based on economic development, market retention (i.e. preventing revenue leakage from the state to international/online gambling providers), taxation, and control of EGM regulation (Delfabbro and King, 2017 p 319).

However, a state revenue strategy based on economic activities associated with extensive social harm is highly contentious. It has been strongly criticised and labelled

unethical (see for example Doughney, 2006; Livingstone and Woolley, 2007). But the reality is that gambling nations across the world have become dependent on the vast revenues earned from gambling, and the prospect of much needed gambling reform is therefore challenged (Adams and Rossen, 2012). This is further complicated and compromised in instances where the state is simultaneously the legislator, regulator and benefactor of gambling, as is the case in Australia. This has called the impartiality of government policy decisions into question (Livingstone, 2005; Livingstone and Adams, 2011) with some dramatically likening the situation to “Dracula being in charge of the blood bank” (Tim Castello cited by Baidawi, 2018).

The confluence of markets and governments is also highly problematic. Policy reform has not only been hampered by governments’ dependence on gambling revenues but also compromised by a political context which is marked by proximity to the gambling industry; a proximity which many ordinary Australians would describe as ‘too close for comfort’ or worse. The public has observed many key political figures (past and present) to have close ties to the gambling industry (Livingstone, 2016). To this end, the rationale for governments to implement reforms and introduce local decision making would involve relinquishing at least some control of EGMs and as consequence risking tax revenues and industry support.

2.8.2 Gambling as Consumption and Markets: From Sinner to Self-responsible

Consumer

The shape of modern gambling not only reflects the nature of social relations in any society but also powerfully determines new social and political outcomes (McMillen 2005 p 30)

The second challenge to community Influence over EGM developments and reforms is the idea of gambling as a market involving consumers. As highlighted at the beginning of this chapter, the expansion of gambling markets has been realised through the interplay of technology, capital and governments in a global capitalist market, and this has led to a consumer and market rationale for gambling (Reith, 2013). This has resulted in a dramatic change in perception from gambling as a vice and social ill, to a legitimate benign commodity – one which is expected to be consumed responsibly. From a capitalist market perspective, this is 'convenient', as responsibility for distributional effects of gambling, such as risks and harm, are transferred to the individual, who then bears the responsibility for gambling harm (Young and Markham, 2017b). This dilemma is well articulated by Reith (2007 p 41) in the following words:

In such a climate, problem gambling emerges as a problem of inappropriate consumption whose defining features - lack of control and loss of reason - are conceived as attributes that undermine the ideal of consumer sovereignty and the basis of the consumption ethic. Indeed, the checklist of symptoms in the problem-gambling screens reads as a negative image of this ideal: In place of the autonomous, rational, self-controlled, and responsible consumer, we have one characterized by dependence, irrationality, lack of self-control, and an irresponsible attitude to money, family, and work relations.

There are several problems with a market rationale for gambling. Firstly, a market rationale for EGM policy maintains a focus on competition and growth; it has little capacity to consider social justice impacts on communities (Fainstein 2010). A market logic dictates that business must operate to maximise profits. Thus, the maximisation of profits is of primary concern to industry; not the effects of harm, nor the participation of local communities in business decisions. Gambling scholars (e.g. Livingstone and Woolley, 2007; Reith, 2013; Markham and Young, 2015) have brought to attention the

risks of exploitation, particularly of the most disadvantaged, associated with EGMs being deeply entrenched in a market rationale that employs revenue strategies based on aggressive expansion of gambling opportunities and technologies (e.g. Reith, 2013; Markham and Young, 2015), and that is divorced from any communal responsibility and ethics (Mansbridge, 1990b). Hence, the consumer and market lens on gambling has brought important problems to light. In this symbiotic environment of free markets and liberty, the consumer is unshackled and free (to consume) and the industry is an agent of more (i.e. consumption). The reality is however an unbalanced power relationship, where the consumer has fallen prey to its own consumption, which makes for lucrative markets and expansion opportunities (Young and Markham, 2017b; Reith, 2007; Reith, 2013; Livingstone and Woolley, 2007; Markham and Young, 2015; Young, 2010a).

This brings us to the second problem raised by scholars, and which is associated with the market rationale for gambling. The 'gambler as a consumer', and 'the problematic gambler as a flawed consumer' is a contentious model. It assumes falsely that the 'average' gambler is well informed and chooses rationally; and that EGM gambling is mostly safe and enjoyed by the majority, and hence no safety measure is needed for the majority (Livingstone and Woolley, 2007 pp 361-362). Previous discussions within the gambling literature have debunked these rationalisations. Firstly, Browne *et al* (2016) show that gambling, at any level, has harmful effects, and therefore safety measures are needed for the majority - not just the 'problematic gambler'. Secondly, the general public is not well informed about the hazards of EGM design, and can therefore not make an informed choice, nor be expected to choose rationally, given the psychological manipulations embedded in the game and machine design (Schüll, 2012; Livingstone, 2017).

To this end, a market rationale for EGM developments focuses on competition and growth. It leaves little leverage for communities and local councils to argue against EGM developments on bases of justice impacts (Fainstein 2010), nor does it demand social justice accountability by markets, and ultimately it lets states abdicate responsibility for individual harm (Livingstone and Woolley, 2007).

2.8.3 *Problem Gambling is a Disease*

It [the medical model] implies that efforts to reduce harm should be directed to treatment or management strategies targeted at problem gamblers. (Browne et.al., 2016 p 7)

The third challenge to community Influence on EGM developments and reforms is the notion that gambling problems is a disease. Research plays a key role in building knowledge about gambling (Adams, 2011), and public policy is shaped around this knowledge. Across the world, it is the medical paradigm that has dominated gambling research and literature (e.g. Delfabbro and King, 2017; Adams *et al.*, 2009; Livingstone *et al.*, 2017) and been the main informer of public policy (Delfabbro and King, 2017; McGowan, 2004). The medical paradigm takes as a starting point an understanding of problematic gambling as a disease or disorder. Thus, the problem is the pathology of the individual – and solutions to harm must be sought within the individual, for example through the modification of behaviour or emotional control⁸.

The literature focused on problematic gambling as disease (i.e. the medical model) can be conceptualised as falling into two very broad categories. The first is focused on the

⁸ Direct evidence of the medicalisation of harmful gambling occurred when it appeared for the first time as a pathological condition in the Diagnostic Manual of Psychiatric Disorders III (the DSM 3rd edition) in the early 80s. This was at the same time big parts of the world saw neoliberal ideology gaining momentum and the gambling industry beginning their drastic expansion. See: Reith, G. 1999. *The Age of Chance - Gambling in Western Culture*,

treatment and diagnostic literature. This body of literature provides an understanding of gambling and associated harm from a medical perspective; and has made a significant contribution to treatment approaches. increasing the capacity of individuals to mitigate harmful gambling behaviours and consequences (Delfabbro and King, 2017). Whilst the vast treatment literature on problem gambling is beyond the scope of this thesis, it is however important to note its significance and dominance in the field of gambling research.

Critics of the medical model have argued that it reinforces the rationale for gambling harm as an individual flaw that is in need of fixing, rather than situating at least some responsibility on the social structures that create and perpetuate gambling harm (e.g. Reith, 2013; Livingstone and Woolley, 2007; Livingstone and Adams, 2011). Thus, a key problem with the disease model for considering gambling-related harm is that it fails to consider the implicating factors on gambling harm outside the individual gambler. This makes the medical model too narrow a lens for effective public policy on gambling (Australian Productivity Commission, 2010; Browne *et al.*, 2016).

The second broad disease category involves epidemiological studies and literature. This literature is concerned with establishing the extent and severity of problem gambling among population groups based on classification of the individual's gambling behaviour. It also tracks changes over time and the need for health provision (Markham and Young, 2016). The epidemiological literature is extensive, not least because Australian governments routinely conduct prevalence surveys. Markham and Young (2016) counted in excess of 40 Australian prevalence studies since the 1990's after the introduction of EGMs in most Australian states, and hundreds of international studies.

The most recent conducted in Australia is by Dowling *et al* (2016) using the CPGI⁹ severity index (Ferris and Wynne, 2001). As an example of the information provided by this prevalence research, Dowling and colleagues found the prevalence rates among the Australian adult population to be 0.5-0.8% for problem gamblers, 1.5-2.9% for moderate risk gamblers, and 3.4-8.4% for low-risk gamblers. Obviously this information is useful when considering gambling activity as a public health risk, but of little use when assessing the distributional effects of gambling harm.

There has been significant critique directed at prevalence studies and the scaled categories of gamblers. Such critiques partly relate to the robustness and usefulness of this research due to incongruities in methods and comparisons (e.g. Markham and Young, 2016; Livingstone *et al.*, 2017), partly because it contributes little knowledge towards reducing gambling harm (Markham *et al.*, 2016), and partly because it strengthens the discourse of the 'problem gambler' as the problem (Livingstone and Woolley, 2007). The latter is often perceived as mainly serving the interests of the gambling industry by perpetuating "the social categories and discourses that, through the transfer of risk from producers to consumers, allow for the reproduction of the gambling industries both discursively and economically" (Young, 2013 p1). Thus, Young argues that prevalence surveys function as epistemological devices, serving to cement the current discourse of the 'problem gambler' and thereby obscuring the significance of the social structures which perpetuate gambling harm.

Whilst Young's argument has merit, it is also important to recognise that public health approaches to gambling policy rely on epidemiological studies to inform public health strategies and priorities, which address the wider social context beyond the individual.

⁹ The CPGI (Canadian Problem Gambling Index) is a diagnostic tool used to measure the severity of gambling behaviour. It classifies people as low-risk, moderate-risk and high-risk gamblers.

A public health approach to considering gambling is still couched in a disease paradigm but does involve a much broader consideration of the health implications of gambling on communities. It expands beyond the individual gambler to also consider the physical, social and cultural context of gambling (Adams *et al.*, 2009). Since Korn and Shaffer (1999) first published their seminal article advocating a public health approach to gambling, many gambling researchers and policy analysts, national and international, have advocated likewise (e.g. Messerlian *et al.*, 2005; Adams *et al.*; 2009, Australian Productivity Commission, 2010; Browne *et al.*, 2016).

However, committing to a public health approach to gambling policy has only been a half-hearted effort by most nations. New Zealand is an exception. It has formally recognised gambling as a public health issue in their gambling legislation (Adams *et al.*, 2009). However, the influence on policy by strong vested interests, as well as government and community reliance on gambling revenues, have still diluted the public health approach in New Zealand. As Adams and Rossen (2012) noted in their paper reviewing New Zealand's public policy on gambling a decade on (p 1051):

The New Zealand experiment with a public health approach to gambling is seen to have floundered in a network of vested interests... The new legislation neglected to set up systems for strong independent accountability, and this weakened the potential of public health initiatives.

In Australia there is also a push for public health approaches to gambling policy. For example, the Victorian Responsible Gambling Foundation¹⁰ commissioned the recent study by Browne *et al* (2016) assessing gambling related harm from a public health

¹⁰ The Foundation is a statutory authority instituted by the *Responsible Gambling Act 2011*. Its objective is to identify and address gambling-related problems. For example, it provides services to gambling affected communities, commissions research, and designs public awareness campaigns to mitigate gambling harm.

perspective. Subsequently, the 2018-2021 strategic direction for the Foundation changed to a focus on public health strategies to gambling for the very first time (Victorian Responsible Gambling Foundation, 2018). Drawing on the learnings from New Zealand, i.e. the lack of regulatory support for public health policy, it is doubtful the direction of the foundation will have a profound effect on the contours of Victoria's gambling harm as long as the legislative and regulatory framework does not support such a public health perspective on gambling. For example, Victoria's *Gambling Regulation Act 2003* does not recognise gambling harm from a public health perspective. The Act still confines gambling harm to the immediacy of the problem gambler (Francis *et al.*, 2017). As a result legislation, at least in Victoria, fails to consider the many factors implicated in gambling harm such as machine design, the environment and social structures, and the vulnerabilities of the individual extending intergenerationally and culturally (Browne *et al.*, 2016).

To this end, there is no doubt that a public health perspective provides a more relevant and holistic epistemological backdrop for effective policy formulation and consumer protection than what is afforded within a narrow medical paradigm focused on individual pathology. In this light, the public health perspective straddles the divide between positivist and constructivist perspectives on gambling. However, the public health approach still represents discourses from the medical paradigm as "the pathological subject is not completely dissolved but retains a distinct set of symptoms, as someone who is mentally disordered and/or 'sick' in some way" (Reith 2007 p 46). To this end, a broader or different lens is needed to ascertain the impacts of gambling, which must be reflected in the legislative and regulatory framework to have any material effect.

The dominant disease model of gambling, as inscribed in legislation, is problematic. It dictates intuitional decision making and the grounds on which arguments can be formed

and advanced, as well as determining what are to be legitimate demands and expectations. It brings to the fore the Foucauldian power/knowledge issue framing and hegemonic knowledge claims (1980) as potential stumbling blocks for local influence on the reform agenda. This will be discussed in detail in chapter 8.

2.8.4 Ontology and Epistemology for Sale: Industry Influence on Research

The fourth challenge to community Influence on EGM developments and reforms is the gambling industry's influence on research. The dominance of the disease model in gambling research has been attributed to strong industry influence on research and policy. Concern is emerging among gambling scholars around this issue (e.g. Adams, 2011; Cowlshaw and Thomas, 2018; Livingstone *et al.*, 2017; Cowlshaw, 2017). As an example of the contentious industry proximity to the research agenda, Adams (2011 p 146) notes the Harvard Medical School is associated with Las Vegas Sands Corporation. Regarding such concerns, Adams (2011) also notes some general observations in the opening paragraph of his editorial contribution:

...the widespread practices whereby researchers obtain funds derived from gambling profits. It has perturbed me over the years to witness the extent to which it is acceptable for gambling researchers to accept funding from the profits of gambling. I had not witnessed such high permissibility in tobacco and alcohol research and, at first, I was genuinely stunned by the extent and frequency with which such funds were received. Key sights I observed included: leading international figures in the field comfortably accepting industry contributions; conferences sponsored primarily by industry sources; government agencies condoning and even encouraging industry links; and senior members of gambling corporations prominently represented on key committees.

My own experience as a research fellow at Monash University, Melbourne, attending Australia's National Association of Gambling Studies Conference (NAGS) on several occasions, aligns with Adams' experiences. Each time I have attended, the conference was held at one of the state Casinos and the conferences were mainly sponsored by the gambling industry. Several conference presentation slots were allocated to industry presentations, and workshops were conducted to showcase the latest machines and game design. As a contrast, I particularly recall a presentation given by an Australian professor and leading researcher on public health issues and gambling. He spoke about the relentless industry efforts to undermine and discredit him personally and professionally. Not surprisingly, he was deeply concerned for future policy on gambling and consumer protection in context of industry involvement and influence on gambling research and policy forums. An ethnographic study of the effects of poker machines on a Victorian community (Greenslade, 2013) also noted the implications of strong vested interests on gambling research. She noted (p 28 citing Adams 2008):

In 2003 in Victoria, Professor Linda Hancock, the chair of the Gambling Research Panel was sacked, and the panel disbanded after it pursued a range of research investigating the harms caused by poker machine gambling and the lack of effective interventions by the Victorian government to alleviate the situation.

Generally, the concerned scholarly community agrees that the dominance of the disease model in gambling research is a direct consequence of industry influence. The disease model maintains the focus on the individual and not on the wider societal factors that must be considered under a public health or social justice framework, and the latter is yet to be considered by policy makers. By default, a market rationale dictates that the industry is going to be supportive of strategies that maximise profits and maintain the status of their product as benign and ethical. It is therefore in the interest of the industry

to focus and promote knowledge production about gambling that maintains a focus on individual and not product/industry pathology.

Prevalence and treatment research have been used extensively to rationalise gambling as legitimate by governments and industry, by highlighting how only a small percentage of the population falls in the pathological/problem gambling category, and most gamblers get only enjoyment (Cowlshaw and Thomas, 2018). Cowlshaw and Thomas (2018) draw comparisons to the tobacco and alcohol industry agenda, who have used (at times unsavoury) strategies to influence research agenda and outputs, thus ensuring knowledge production is focused on consumption as individual choice and responsibility. However, they concede that currently there is only sporadic data confirming these similarities and more systematic data and research is needed. To this end, there is an urgent need for increased scrutiny of industry influence on gambling research (Adams and Rossen, 2012; Livingstone *et al.*, 2017).

To this end, research plays a key role in building knowledge and language about gambling. Public policy and institutional engagement norms are underpinned by this knowledge. Thus, the dominant paradigm, gambling as disease, sets the parameter for government responsibility, industry products and conduct, and community counter discourses, i.e. what can be said and argued.

2.8.5 Institutional Structures

The fifth challenge to community influence over EGM developments and reforms are institutional structures. Inherent in a neoliberal market and social policy constellation is the constant tension which exists between equity vs growth and profit (Harvey, 2006 p25 cited in Fainstein 2010). In countries which support the free market and where EGMs

and/or other gambling products are legalised, such as in Australia, individual rights to gamble are underpinned by key libertarian principles of freedom of choice and individual judgment; and rationalisation is sought through utilitarian justification e.g. most people gamble without harm and enjoy it (e.g. Australian Productivity Commission 2010).

The institutional processes shape discourse based on these principles, and only accept discourse conduct based on reason and rights. These are negotiated through adversarial processes that compromise the quality of deliberative processes (Fainstein 2010). This is problematic for local communities, who may not have the cultural, fiscal, and professional capital required for engagement in such demanding adversarial processes, nor may community discourse be based on hegemonic/institutional discourse rules, i.e. reason. Whilst social processes vary across jurisdictions, they all face the same key dilemma of how to balance the rights of the individual with the common good.

2.9 Conclusion

This literature review chapter has drawn from across the social science literature on gambling together with a wide spectrum of grey literature to form an assemblage of EGMs knowledge fields that assist in understanding the multi-faceted complexities of EGMs in the socio-spatial formations. This chapter represented EGMs and associated contours through varying conceptual lenses such as medical, public health, social, and political economy paradigms. Each positionality provided critiques on particular aspects of the EGM *problematique*. However, each position stands isolated with limited synthesis between these intellectual camps and this has resulted in camp specific one-dimensional discourses about EGMs of a rather diagnostic and static nature, with each representing only some aspect of the problem. Largely the literature was descriptive and/or analytical, and of little practical value to planners.

This chapter has shown that there is an urgent need for gambling policy reform to curtail serious harm and injustice to communities. However, relying on markets, governments and politics for initiating change is a risky strategy given the strong vested interests by these parties. Therefore, local communities, councils, and planners, have an important role to play in a gambling state, by 'pushing and nudging' (Wolf Powers 2009) a trajectory towards a less exploitative and just EGM planning agenda.

Change actions at the community level, that are focused on changes to common law practices through activist efforts at local level, form important incremental reform steps, which ultimately implicate on the big space agenda via common law practice and state policy (national policy agenda). However, to effectively push for gambling reform, local policy and planning, including activist community groups and initiatives, as well as big space activism, such as macro social movements, must join together around a shared critique (Novey and Mayer, 2009). The literature offers valuable critiques of social structures, socio-spatial differentiation, harm minimisation strategies, the disease burden of gambling. However, understanding what is a 'just and desirable urban' remains absent from the gambling/EGM planning agenda. Thus, a first step towards a strong reform agenda is a shared critique to guide the political processes of EGM planning.

The next chapter delves deeper into understandings of the 'desirable urban' as it relates to just and fair EGM planning. It draws attention to the value and application of normative standards as both a foundation and practical guide to EGM theory and practice. Susan Fainstein's (2010) Just City concept is explored with the intention to use this to frame both a critique of EGM planning in Victoria, as well as local policy and strategy responses to inequality in resources and power through consideration to diverse groups, democratic processes and equitable outcomes. The Just City concept maintains a focus on the local level, which is immensely important to local communities if they are to preserve or build

safe and meaningful spaces for living in the face of global forces, i.e. big space (Fainstein and Defilippis, 2016).

Chapter 3: A Case for Justice in EGM Policy and Planning

3.0 Introduction

This chapter explores Susan Fainstein's *Just City* (2010) as a policy framework and evaluation tool for Victoria's EGM planning at the local scale. The focus is on exploring Fainstein's framing principles, their theoretical underpinnings, and other *Just City* approaches and critiques. This allows for critical assessment of the concept model as it relates to the context of EGMs. A very persistent and urgent challenge to contemporary planning is to find a way to respond effectively to urban developments shaped by forces often distant from the local environment (see Amin, 2016). These forces often shape little space in unanticipated and unpredictable ways. This chapter also explores how the *Just City* can be approached through the interplay of local government and community residents.

3.1 The Tragedy of EGM Planning

Implied in every policy, plan, and decision making is a value system that directly affects people's lives (Miraftab, 2016). Commonly, at least in capitalist societies, these strategies are underpinned by a utilitarian value system organised around a cost benefit approach to policy and strategy (e.g. Fainstein, 2010; Nussbaum, 2000b; Rawls, 1971). This activity is usually supported by democratic procedures organised around institutional processes. These are often, but not always, actioned through adversarial conduct (Mansbridge, 1990b). Participation and inclusion are usually premised on legal egalitarianism, and commonly organised through legislative parameters or institutional directives. However, there are some flawed assumptions embedded into these value systems. The following highlights the immediate concerns as seen by justice theorists.

Mansbridge (1990, pp 8-9) argues that democratic processes only became synonymous with adversarial processes after the Second World War, when the profession of political science began to describe the democratic process primarily in adversarial terms; she refers to Schumpeter's descriptive theory of adversarial democracy that contends it has no common good nor public interest. With the evolution of deliberative processes, meaning democracy under adversarial circumstances, evolved the principle of legal egalitarianism, which she argued as a concept and principle has remained largely, and problematically, unevolved and unresponsive to the demands of contemporary democracies with diverse groups and needs.

Fainstein (2010) highlights that utilitarianism is primarily concerned with measuring the overall utility of a given strategy, and much that is important to people is lost in this equation. EGM planning is a concrete example of this dilemma because inevitably, as described by Rawls, the logic of utility dictates "some will be sacrificed over the wants of the majority" (1971 p156).

For Sen (1999) and Nussbaum (2000a) among other critics of utilitarianism, the key problem is with adaptive preferences. This refers to people generally adjusting expectations to the norms of the day; hence bias exists in favour of the status quo, and not towards change. Thus, the consideration of utility as a benefit is wedded to the prevailing norms of the day and not to the visions of tomorrow.

Cost benefit analysis, the organising tool of utilitarianism, is highly problematic when a full or true assessment of policy implications is to be ascertained (Fainstein, 2010). A metric lens does not reveal policy consequences that are poorly articulated in metric form, for example in the case of the social impacts of gambling. Nussbaum argues that the tragic question is important to ask in situations of public choice and helps to overcome

the moral limits or perils of the cost-benefit analysis (Nussbaum, 2000b). The cost benefit analysis affects everybody's lives. It is how most policies and plans are made. We use it to answer difficult, but obvious questions about public priorities (Nussbaum, 2000b). We weigh up the pros and cons - the utility - and rationalise accordingly.

For example, if we ask the question: *Should we allow EGMs?* That is a difficult choice, but what Nussbaum calls an obvious question (Nussbaum, 2000b), because there is a clear answer – they should be here or not, depending on a policy stand informed by a utility calculation of benefits and costs. But if we inquire about EGMs differently, by focussing on EGMs as social processes, the conundrum becomes 'tragic'. Tragic refers to Nussbaum's notion of the 'tragic question' which she maintains should be asked instead of the obvious question (i.e. the cost benefit analysis) in situations where there is an obvious conflict between two public goals, i.e. in situations where none of the options are morally justifiable – a clash of duties so to speak (Nussbaum, 2000b). Rephrasing the question about EGMs as social processes, we see the tragic conundrums emerge:

- **The choice between resources and safety:** Municipal goals of economic development/ social infrastructure and community wellbeing.
- **The choice between the strong and the vulnerable:** Protecting personal liberty, i.e. the right to gamble and fostering communal ethics, i.e. consideration of people vulnerable to gambling harm.
- **The choice between regulation and participation:** State control of EGM regulation and local influence on neighbourhood development, i.e. the choice between consistent and legal EGM licensing and context sensitive decision making.

Clearly these are not just obvious difficult questions, but impossible choices. Nussbaum (2000b p 1005) alerts us to the way these duty-clash-questions are not well decided by a cost benefit analysis and calls for a tragic question approach:

In all situations of choice, we face a question that I call "the obvious question": what shall we do? But sometimes we also face, or should face, a different question, which I call "the tragic question": is any of the alternatives open to us free from serious moral wrongdoing? Discussing cases of tragic conflict from literature, philosophy, and contemporary life, I argue that it is valuable to face the tragic question where it is pertinent, because facing it helps us think how we might design a society where such unpalatable choices do not confront people or confront them less often. Cost-benefit analysis helps us answer the obvious question; but it does not help us either pose or answer the tragic question, and it frequently obscures the presence of a tragic situation, by suggesting that the obvious question is the only pertinent question.

She advocates seeking a solution to 'impossible' situations like these by consulting an independent value system, which can assist in positioning a baseline below which the situation is deemed tragic i.e. morally wrong. The purpose is to formulate an answer to the tragic question and to consider how these circumstances may be changed, so that these tragic choices do not need to be made - or made so often. It is in this context of tragedy that the Just City concept is explored for EGM planning in gambling states.

3.2 The Just City

Fainstein's attention to tragic questions as an alternative to cost-benefit analysis involves asking who benefits and what outputs each group in the population receives; then to apply the difference principle (Rawls, 1971) amplified by the capabilities approach

(Nussbaum, 2000a) to extend beyond primary goods; then opt for that alternative that benefits the least well off or minimally does not harm those least well off.

Her aim is to encourage urban planning praxis away from the dominant neoliberal market rationale of economic growth and competitiveness, which has directed urban priorities during the past three decades. She argues for an approach to planning and policy based on justice. She formulates an understanding of justice that considers the fair distribution of material and immaterial benefits, (materially) democratic processes, i.e. transparent processes and relevant participation, and an acknowledgement of the diversity of groups. She argues that the Just City is a way in which urban praxis can incrementally move towards better and more equitable outcomes for people living within the context of a global capitalist economy.

She encourages planners to consider not only their role in relation to the social justice principles; but also, the implications for planning's involvement in the deliberative process generally. This directs attention to the general contention about the need for planners, and all engaged in planning activities, to be justice advocates (Davidoff, 1965; Fainstein, 2010) as well as visionaries (Steil and Connolly, 2009) of future urban policy change. In the context of common planning dilemmas such as collective rights vs goods, process vs outcome and the ever-present tension between growth, equity and diversity, justice is at the centre of deliberation in the Just City.

In recent years there has been a growing interest in applying the Just City to an eclectic range of urban issues. The adaptability of the Just City to various contexts of planning is particularly striking and this is reflected in the breadth of applications. Recent applications have broadly centred around key urban debates such as housing and development (e.g. Kadi and Musterd, 2015; Davison, 2017; Medved, 2018; Scally and

Tighe, 2015; Uitermark, 2011; Uitermark, 2009), recognition and inclusion (e.g. Song, 2015; Low and Iveson, 2016; Steil and Delgado, 2019; Yiftachel and Mandelbaum, 2017; Low, 2013); and climate and sustainability (e.g. Steele *et al.*, 2012; Connolly, 2019; Medved, 2018).

3.3 Key Concepts

Drawing from empirical as well as theoretical fields, Fainstein formulates an understanding of justice that is transcendent in principle but idiosyncratic in form. It is based on three core principles: 1) equity, 2) democracy, and 3) diversity, whilst acknowledging there are inherent tensions between these concepts. In doing so the Just City draws on philosophers such as Rawls (2001,1971) to inform the equity criterion, Nussbaum (2000a) to mediate between principles of equity and the specific context, Young (1990) and Fraser (1997) to inform the diversity criterion, Fraser (2003) in defence of an incremental reform approach; and many others to develop an approach to justice relevant to twenty-first-century cities.

3.3.1 Equity

The primary focus is fairness based on distributional justice (Rawls, 1971, Rawls, 2001). Equity is measured in relation to material and nonmaterial benefits; serves as the litmus test of justice; and is verified by the difference principle i.e. no policy must negatively impact the least advantaged (Rawls, 1971). The key principle of *equity* as justice criterion demands the equity implications be brought into full consciousness by asking: *who will benefit and to what extent?* (Fainstein, 2010 p 36). Thus, equity operationalised within this framework demands urban policies be fairly redistributive of material, as well of nonmaterial benefits, such as economic, appropriate (not necessarily equal) political,

social, and spatial benefits in favour of the least advantaged. By least advantaged she refers to relative economic disadvantage and/or marginalisation of groups. As noted above, the theoretical underpinnings of equity build on liberal theory as presented by Rawls (1971, 2001) but also the neo-Marxist argument for prioritising equity as criterion of justice and a moral basis for policy formulation (Fainstein, 2010 pp 37-41).

The Rawlsian difference principle refers to redistribution always favouring the least advantaged in order to mitigate the inevitable logic of utility that dictates “some will be sacrificed over the wants of the majority” (Rawls, 1971 p 156). Rawls’ argument for pursuing justice within an existing capitalist framework can be seen as what “a realistic utopian understood as justice as a fair distribution of benefits and the mitigation of disadvantage as aim of public policy” (Fainstein, 2010 p 39). The emphasis of equity prioritising the most disadvantaged is a breakaway from usual utilitarian¹¹ governmental understanding of equity as the greatest good to the greatest number of people. But the Just City aligns with Rawls’ (1971) and Sen’s (1999) critique of utilitarianism as being blind to the effects of distribution (Fainstein 2010 p 37). Within a utilitarian policy framework only the sum of utilities determines policy and equity regardless of the potential effects on demographic groups (e.g. Campbell and Marshall, 2006).

Rawls (1971 p157) notes the following about the inequity of utility:

The principle of utility presumably requires some who are less fortunate to accept even lower life prospects for the sake of others.

¹¹ Fainstein (2010 p 38) notes that utilitarianism “assumes a capability of calculating the relationship between means and ends, present value and future benefits and then assessing the total sums of satisfaction among individuals in a society resulting from choosing a particular set of actions”.

This is a poignant point to contemplate in context of the liberalisation of EGMs and gambling opportunity generally.

To this end Rawls' theory of justice is concerned with material benefits distributed fairly based on the difference principle. Although the Rawlsian idea of justice carries a strong focus on "political rights and liberties" (Nussbaum, 2000a p 96) Rawls is not specific in what constitute material benefits. Therefore, Fainstein argues that justice must be context sensitive and specific in terms of material and immaterial rights to be effective in guiding policy. She finds support for her argument in Nussbaum's (2000a) very concrete conceptualisation of Sen's capabilities approach for expanding the concepts of equity to include non-material factors not dissimilar to commonly accepted human rights (Nussbaum, 2001, Nussbaum, 2011).

For Sen and Nussbaum capabilities are synonymous with social justice and best understood as a set of basic human rights or "occasions for choice" (Nussbaum, 2011 p 28). These choices and liberties are couched in a communal ethic (see Nussbaum 2000, 2003, 2011). The capabilities are fundamental and are pre-political rights and cannot be traded one for the other e.g. to receive the right of one you must give up another. This stands in contrast to the economic rationalist view that trade-offs are desirable, and the efficiency of the market is paramount to government intervention (Nussbaum, 2011).

As an illustration, the Victorian gambling policy accepts trade-offs in form of gambling addicts and harm to communities and individuals to accommodate other people's right to gamble, and communities must accept EGMs in sports and community clubs to maintain viability and services. Nussbaum's list of 10 capabilities, which she refers to as central human functional capabilities, are open-ended claims that aim to meet socio-economic and political opportunities implied in the opportunity for a dignified life. These

are broad and encompass concepts such as health and safety, civil, creative, self-determinate, ecological and recreational rights as well as associated enabling rights (Nussbaum, 2000a pp 78-80).

To this end the Just City has equity as its primary focus for urban policy based on distributional material and immaterial benefits in accordance with Rawls' principle of difference. To mediate between an abstract conceptualisation of justice, and the particular and situated, the capabilities approach is applied to achieve a context relevant equity and justice criterion. Rawls' conceptualisation of justice is based on the assumption of justice as intuitively known, meaning in an uncontaminated human version justice will inherently be known. Rawls describes this as "knowing justice under the veil of ignorance" (1971, p 118). He argues that disagreements about justice always come down to the definition of justice rather than justice itself. Rawls' supposition is well captured by Amartya Sen (2009 p vii), citing Charles Dickens' *Great Expectations*:

In the little world in which children have their existence, says Pip in Charles Dickens' *Great Expectations*, There is nothing so finely perceived and finely felt, as injustice.

3.3.2 *Democracy*

As marker of justice the Just City maintains less focus on process than the communicative model. Thus, the merit of *democracy*, as key principle of justice, is primarily based on the value of fostering democratic processes and structures. Hence the key principle of democracy is understood as process ability to consider local participation and information for use in policy and planning, and as mechanism for increasing the transparency of processes. Thus, the Just City argument for democratic processes as a justice principle, is premised on the value of public deliberation and

participation, rather than any relation to equitable outcomes. The value of speech rests upon the dialectic relationship between social movements and ideas, and its ability to mobilise a push for change, rather than deliberation. Democracy, as a justice criterion, serves to stratify the risks associated with relying on institutional settings and processes in achieving the fair distribution of material and immaterial benefits.

In deliberating the role of democratic processes in producing just outcomes, Fainstein turns her attention to the dominant planning theory, the communicative model, to explore the relationship between democratic processes and speech to just outcomes. She advances a strong critique of the procedural model, that focuses on process as an expression of equity. She notes democratic processes with broad participation do not necessarily secure equitable outcomes; and that a sole focus on process prevents a thorough consideration of equity outcomes. In support of this argument she draws attention to various initiatives in Europe and in the US that have produced the most equitable health and security outcomes, noting they were produced outside democratic deliberation. She draws attention to the fact that the progress of (American) civil rights were obtained via court decisions, not directly through democratic processes or deliberation. She also outlines key findings from the Neighbourhood Revitalization Program (NRP) in Minneapolis where 1) equity outcomes of citizen deliberations were found to be unpredictable and varied according to the particular values of participants, and frequently skewed by community activists not necessarily representing the whole of community; 2) participation needed backing by mobilising power to be effective; and 3) the importance of the planning approach, e.g. the degree of intervention exerted by the planner impacted on the processes and in turn on outcomes.

The significance of speech attributed to just outcomes by proponents of the communicative model, is also questioned by Fainstein. She highlights discrete but

profound dilemmas with this approach. Firstly, assuming people's speech is fully informed and free of social conditioning can pose a threat to equity and lead to misinformed bad choices. Secondly, genuine democratic processes require a community of equals. And thirdly, speech as the free expression of thought and ideas, can be repressive (Wolf *et al.*, 1969 cited in Fainstein 2016) when exercised without consideration to communal ethics, leaving minorities or vulnerable groups exposed and with little power to counter influence¹².

Fainstein argues that the dominant planning approach equating justice with democratic processes and consensus building, as theorised by the communicative model (e.g. Healey, 2006 cited in Fainstein 2010; Forester, 1999; Fisher and Forrester, 1993; Innes, 1996), is negligent in considering power relations and social structures present in processes that in turn distort process and block consensus building. Hence, she argues, as other scholars have (e.g. Flyvbjerg, 1998; Hillier, 2002; Fox-Rogers and Murphy, 2014; Yiftachel, 1999, Campbell and Marshall, 2006), that the communicative model is ineffective in securing equal participation and influence – there is too much reliance on speech to produce just outcomes. The value of democracy, as a principle of justice, rests on the importance of public, inclusive, and transparent processes as hallmarks of democracy, but not in any given relationship to equitable outcomes. The practical value of speech relates to the dialectic relationship between social movements and ideas, and its ability to mobilise a push for change, rather than deliberation itself.

¹² Fainstein engages Mills' argument of 'tyranny of the majority/masses' (*On Liberty* 1859), which asserts the ideas of the majority having the potential to be oppressive to minorities and disadvantaged groups and individuals.

3.3.3 Change Process

Fainstein's argument for social movements as key catalyst for local change, rests upon empirical as well as theoretical support (Lefebvre, 1968; Castells, 1983; Corburn, 2005). This involves 1) Lefebvre's right to the city (1968) as a right to mobilise and shape one's urban (Fainstein, 2010 p 5 and p 12); and 2) Castell's grassroots movement theory (1983), which contends that social movements represent the mobilised natural force of people's yearning for fair distribution of benefits and rights (Fainstein, 2014 p 3) and thus social movements can produce municipal revolution even if they cannot achieve social transformation (Fainstein, 2010 citing Castells, 1983). In this context she also draws support for the gradual reform approach from Fraser (2003 pp 70-82); and 3) Coburn's argument for using local knowledge to inform policy and equity (2005).

Fainstein maintains justice can effectively operate within the constraints of current social structures prevalent in Western capitalist societies. This is a clear departure from Marxist urban scholars e.g. David Harvey (Harvey and Potter, 2009) who contends that equity is not possible in a capitalist system and will require transformative reforms. Fainstein does not see justice requiring transformative change. Rather, she regards change as possible through incremental steps - through non-reformist reforms (Fraser, 2003).

3.3.4 Diversity

The value of *diversity* is premised on recognising group identities as a central and inevitable part of the urban form. Fainstein understands diversity as an aspirational goal, whose merit must be assessed against processes and the context in which it operates in regard to race, class, ethnicity, and gender. Spatial, social, and political factors and ambitions for urban space are idiosyncratic factors to be considered. Consequently, the

attributed weight of diversity is assessed on a case by case basis. Consideration to diversity is context sensitive and weighs less than equity in context of a justice criterion (Fainstein, 2010, p76-77).

In recognising the political leverage of diversity and its vulnerability to political exploitation Fainstein (2010) includes the concept with some trepidation. She argues for a recognition of diversity understood in relation to the spatial, social, and political arrangements and ambition of urban space (Fainstein, 2010 p 67):

Diversity, however, is a convenient shorthand, encompasses reference to the physical environment as well as social relations, and refers to policy ambitions that go beyond encouraging acceptance of others to include the social composition of places.

Fainstein draws support for diversity as a justice principle across feminist and multicultural scholars such as Young (2000), Honneth (2003), Fraser (1997), Benhabib (2002), and Mansbridge (1990a), to highlight that not all inequality is based on economic circumstances. Young (1990 p 55) captures this point well:

While marginalisation definitely entails serious issues of distributive justice, it also involves the deprivation of cultural, practical, and institutionalised conditions for exercising capacities in a context of recognition and interaction.

These scholars argue that the liberal and Marxist ideas of the state being an impartial supervisor in assessments of redistribution is fundamentally flawed. They argue the liberal and Marxist narratives are premised on societal homogeneity in that they fail to consider the disposition of disadvantaged groups in redistribution (Fainstein 2010), or in Young's own words "the ideal of impartiality generates a propensity to universalise the

particular” (1990, p. 115). A further objection advanced by multiculturalists and feminist scholars to the traditional liberal emphasis on reason and rights as justice concepts, and ones embedded in adversarial democracy, is that they are inherently biased against communal/feminist ethics and diversity (Fainstein, 2014, pp 9-10) as they are based on a “masculinist conception of adversarial democracy that epitomises the values of individual rights and unconscious biases of the archetypical white male who values disputation and define interests solely in selfish terms” (Mansbridge, 1990 p 9). Furthermore, Mansbridge reminds us that the idea of democratic processes primarily defined as adversarial processes have not always reigned. As mentioned earlier, it was only after World War II that political science began defining the democratic process primarily in adversarial terms (Mansbridge, 1990 p. 9).

The critique highlighted above implies a demand by particular feminist and multicultural scholars for a democracy, and its processes, that can facilitate change and communal ethics, i.e. not presuming the supremacy of self-interest, or an adversarial democracy and its regulatory processes, which “do[es] not meet the deliberative, integrative, and transformative needs of citizens” (Mansbridge 1990 p 9 cited in Fainstein 2014, p10). Thus, a demand for governing processes to accommodate diversity is recognised by the Just City.

However, in formulating the criterion of diversity Fainstein joins the slightly different position of Fraser (1997), who argues differently to other cultural theorists that redistribution and recognition of difference must be recognised as distinct concepts to form part of a justice criterion; but in praxis can only be considered in relation to justice when in coherent form (i.e. groups of identities) and must take second place to equity, as social injustice is believed to ultimately be rooted in economic inequality and therefore

must be given priority, i.e. no recognition without interrogating the consequences for equity. This is expressed by Fraser (1997, p. 12) in the following words:

...we should see ourselves as presented with a new intellectual and practical task; that of developing a critical theory of recognition, one that identifies and defends only those versions of the cultural politics of differences that can be coherently combined with the social politics of equality.

To this end, whilst acknowledging poststructuralists' important contribution to the consideration of difference in deliberating justice, Fainstein still maintains the attributed weight of recognition of difference to be assessed on a case by case basis. It is context sensitive and weighs less than equity in context of a justice criterion for policy formulation and evaluation (Fainstein, 2010, pp 76-77).

3.4 Working with the Inherent Tensions of the Just City

Any attempt to maximize the values of equity, democracy, and diversity simultaneously presents vexing problems of reconciling their multiple meanings and conflicting agendas as well as identifying a coherent social force to press for them. (Fainstein, 2010 p 52)

Fainstein acknowledges that reconciling the three tenets, often in conflict, is a difficult task in the context of realpolitik (Flyvbjerg, 1996) and urban populism¹³ (Fainstein, 2010 p 49). She does not offer a solution to the tension between the three concepts, instead proposing that the concepts of democracy, equity and diversity (the recognition of difference) be used as broad norms to devise specific strategies appropriate to the local (Fainstein, 2014 p 13). She models this approach by evaluating three major world cities,

¹³ Fainstein refers to the risk of inequitable outcomes from the rule of 'tyranny of the majority' (Graham Stuart Mills 1859) which frequently result in detrimental and/or inequitable outcomes for minorities.

Amsterdam, London and New York, against the justice criterion, and demonstrates the three principles of diversity, democracy and equity as transcendent principles however differently interpreted in each case (Fainstein, 2010 p 166):

Within crucial urban policy arenas, context and historical moment make the choice of the most just policy indeterminate in the abstract.

To operationalise the Just City and its inherently conflicting principles the philosophical capability approach is activated through focusing on programs and strategies that practically are available to local decision makers to further justice (Fainstein 2010, p 166). This means urban institutions and programs must be subjected to this philosophical lens; and thus it follows that the litmus test for justice demands scrutiny of the democratic processes applied, for group identities to be considered and for distributional outcomes to enhance the capabilities of the relative disadvantage (Fainstein, 2014a, p.14). Fainstein does not expect transformative change to occur on municipal levels, and as noted previously, sees incremental changes occurring towards more socially just conditions. The Just City is not descriptive nor is it about defining justice, rather its main purpose is about providing an urban theory or guide to evaluate existing programs where social justice is the key focus of urban policy.

To this end, subscribing to Fainstein's Just City means that urban institutions and programs must be accountable to its philosophical lens (Fainstein, 2014a). Consequently, a justice agenda demands that democratic processes be scrutinised, group identities be considered, and distributional outcomes must enhance the capabilities of the relative disadvantage (Fainstein 2014 p14).

3.5 Critiques of the Just City: Theoretical Underpinnings

This section highlights some of the critiques directed at Fainstein's Just City. The various perspectives serve to provide nuance to the understanding of a Just City as outlined so far in this thesis, and to go beyond Fainstein's model. This is important when considering a conceptual Just City model for the inquiry at hand. Its application to niche areas of urban debates such as urban food supply (Bedore, 2010), street art (Müller, 2019), and volunteering (Williams, 2016) has also provided significant insights into the application and relevance of social justice as rationale for and evaluation of urban strategies. Through critique and application, this emerging body of literature has expanded and deepened the debate on social justice in the city and continues to do so. The following section is not an exhaustive account of the various ways the Just City has been applied to urban policies and strategies, and its associated critiques. Rather this section serves to highlight some of the key issues raised by other urban scholars regarding Fainstein's Just City.

3.5.1 Questioning the Status of Equity and Achieving it Through Incremental Change

One of the main discussions and criticisms has centred around whether substantial societal change can occur within the current structures of capitalist societies. Harvey with Cuz Potter (2009) disagrees with Fainstein that justice is achievable within existing structures of current capitalist societies through the proposed non-reformist reform approach. To realise justice, Harvey and Potter argue, a fundamental restructuring of social processes is required. A parallel critique is also offered by Marcuse (2009) who argues that a distributive justice is an important but not sufficient measure of a Just City. He argues this still fails to address the causes of injustice and secure the rights of citizens

fully. Other scholars have argued in a similar vein. For example, Uitemark (2011) argues, in the context of housing provision as a scarce resource, that settling on fair redistribution does not secure the right to housing and concentrates power into the hands of those who must determine what is 'fair'. He argues, drawing on Marcuse (2009), a more combative approach is desirable, so that the existing privileges of material benefits and power can be wrestled, through activist pressure, from the privileged. Marcuse (2009) proposes commons planning, i.e. planning regulation of ownership and control and use of the commons (Marcuse, 2009 p. 101), which he notes "directly deals with the issue of power" (Marcuse, 2009 p 91). He disagrees with Fainstein's argument that a Just City is best approximated on the municipality/urban scale. Rather he maintains that significant change must involve the state, as the municipal level has little agency; and justice requires addressing structural and social processes at a nation state scale (Marcuse 2009, pp 100-101). Whilst Fainstein is not in complete disagreement with this, noting that justice cannot be achieved without support from other levels, she is pragmatic rather than revolutionary in her approach (2009 p 21). She preferences a pragmatic incremental approach to justice that remains within the scope of local councils and urban movements.

Novey and Mayer (2009) conflate Fainstein and Marcuse's arguments to conceive of transformative change as possible on a local level. They draw attention to local reform movements in Latin America where transformative change has occurred at a 'city level' (p 115) in the face of neoliberal policy and market dominance. However, they direct their main critique at the epistemology of the Just City. They are critical of the overall value of the Just City as an evaluation tool because the conceptualisation of the framework is American and Eurocentric, and they particularly question the choice of Amsterdam as an 'exemplar of practical possibility' (p 115), because it holds a particular historical and

cultural context not necessarily representative of other places; following their conjecture a Just City theory would benefit from considering other cities as empirical evidence for formulating such a theory. For example, the observation of local government approaches in Latin America, where local governments have gone against the state approach of neoliberal planning approaches to enhance local decision making and implement processes that expand local rights (p 115), may provide a better empirical basis. To this end, Novey and Mayer (2009) maintain, based on their observations of Latin American examples, transformative change is indeed possible at the local municipality level.

3.5.2 Questioning Limitations to Diversity and Democracy

Critiques relating to the status of, and boundaries for, diversity and recognition as tenets of the Just City, along with the scope for democracy within the Just City, have also been strongly debated.

Frank Fischer (2009) argues for elevating the status of communicative processes as an equal co-author of justice to equity. His argument follows the conjecture that if processes are not deliberatively inclusive, they cannot determine any sort of substantive justice. Low and Iveson (2016) argue along a similar vein, quoting psychological studies, that outcomes are not the only factor determining people's perception of fairness; and that people are not likely to regard an outcome just if they have been excluded from the decision making (p 22).

Some scholars have also argued for an expansion of, or stronger emphasis on, diversity/recognition as a key tenet of the Just City. For example Fincher and Iveson (2012) argue the Just City leaves little room for exploring and determining non-economic

diversity (p 235). Whilst Fincher and Iveson (2008) agree with Fainstein's Just City tenets as key to social justice principles, they demand attention be directed towards all kinds of injustices. They propose a model that considers redistribution in relation to space, services and facilities; diversity and equity in relation to wealth, status and multiplicity (the various identities embodied in groups); and opportunities for encounters with the Other (i.e. different practices, people, and opportunities). Low (2013) here aligns with Fincher and Iveson's 3 tenets. She strongly disagrees with Fainstein that recognition/diversity takes second place to equity, arguing redistribution does not necessarily guarantee fairness and dignity. More recently Low and Iveson (2016) have synthesised their work to propose a framework to guide the planning of public spaces as they believe Fainstein's Just City does not adequately respond to protecting and transforming public space. They make 5 propositions to consider in conjunction with the Just City. Their model retains distributive justice and recognition, but also adds procedural justice (procedural fairness), interactional justice and encounter (a focus on the nature of such encounters), and care and repair (for public space). Their rationale for a clearer criterion for justice is premised on the need for "definitions of unjust that allows a firmer grip on legal and political matters necessary when contesting" (p14).

Steil and Delgado (2019) have also recently contributed to the debate about diversity as a key tenet. They do not believe Fainstein's conceptualisation of diversity goes far enough. They instead argue for replacing the criterion of diversity with the transitional justice concept of anti-subordination. This considers that "equal citizenship is not realisable in a context of durable categorical or group-based inequalities and that both equity and democracy require the redesign of institutions that reproduce the subordinate social status of historically oppressed groups" (p 4). Their rationale is premised on the need for recognition of, and consideration to, historical discrimination and domination of

social groups. They argue that a redistributive justice does not address past wrongs and consider the need for compensation for past wrongful deeds. This brings us back to the point made by Fincher and Iveson (2008) earlier, that there are many kinds of injustices unrelated to redistribution that merit consideration.

Some scholars have altogether reservations about the value attributed to diversity (i.e. the recognition of difference) within a Just City. Peter Marcuse, in personal communication with Fainstein (Sep 22, 2008 cited in Fainstein 2010 p. 68), argues that diversity only has value for the outs, not ins. He sees the value of diversity as a leverage for equity, not as a justice criterion. Yiftachel, Goldhaber and Nuriel (2009) also approach diversity as a useful equity criterion with some trepidation, as they have observed it being exploited. They caution that emphasising recognition of difference can be deployed as a 'dark planning strategy'.

3.6 Expansion and Implementation of The Just City

Whilst the previous section focused on Just City critiques as bases for scrutiny of the suitability of Fainstein's tenets in context of this Inquiry, this section explores how other people have addressed praxis issues.

Operationalising normative concepts is a difficult task. A common critique of the Just City as a guide to urban development refers to its emphasis on critical analysis and application of abstract theoretical concepts. Such a critique does not dispute the merit of social justice as a policy rationale, but rather the critique and resultant modifications are directed at the problems associated with a strong or sole emphasis on critical analysis as tool for urban planning because it provides limited practical guidance or clarity of 'what to do' for planners who operate in the context of the particular (e.g. Steele

et al., 2012; Campbell, 2012; Yiftachel and Mandelbaum, 2017; Perry and Atherton, 2017; Williams, 2016). Campbell (2012) refers to planning as an activity that “operates at the interface of knowledge and action, ‘between is and ought’” (p 141); and following this conjecture the crucial challenge facing justice planning is its ability to be translated into planning action. The issue is then, for planners to be effective they must have the ability to synthesise knowledge and action (Campbell 2012).

The call for making a justice framework practically applicable to context has been echoed by several scholars. For instance, Steele *et.al.*, (2012) advance a conceptual approach to a climate Just City that considers how discourse is made and performed, by a broad spectrum of stakeholders, across political processes, social-ecological relations, and spatial-material distributions. This is then used as a lens through which to understand 1) how climate justice is practiced; 2) what informs this practice; and 3) how to filter innovation into policy and community practice *i.e.* how to engage with new and experimental discourses (p 77) while simultaneously revealing what is not being done and said. Hence, they advocate a practical and temporal approach to justice for environmental policy that considers the synthesis of dimensions between knowledge and action, *i.e.* a situated and substantive approach to urban strategy (Campbell, 2012).

Wolf-Powers (2009) also emphasises discourse as practical strategy for the Just City. Her emphasis is on the possibilities issue framing presents for social justice. Issue framing in furtherance of a Just City involves “rhetorical work that advantages the interests of marginalised groups with respect to the dominant public sphere” (p 161). In Wolf-Powers’ city, the planner is responsible for “keeping counterpublics alive” (p 161). She argues that counterpublics provide crucial “vocabulary and framing devices” (p 163) that activist movements can use in their push for change. She also notes that planners are in a key position to provide expertise and rhetorical assistance to activist movements

as well as being able to interject counterpublics into the dominant publics, such as institutional processes.

Williams (2016) explicitly highlights the gap between *theorising* and *doing* the Just City. She proposes consideration to 'care' as a method for doing the Just City. In her research she investigates how everyday practices of researcher volunteering can be a way of studying how a Just City is being done through small acts of well (good) intentions. Perry and Atherton (2017) call for moving beyond critique to form solutions towards coproducing a more Just City. This can be realised, they argue, by scholars working together with institutions in the context of institutional restraints. The currency is cooperation and critical synthesis.

Yiftachel and Mandelbaum (2017) also advocate a need for a situated practical approach to justice. They demonstrate their situated counter planning approach in Beersheba, Israel, by applying the Just City as a base philosophy and social impact assessments (SIA) as a practical strategy for incorporating the particular. In their approach they also advocate for practical and situated approaches in justice planning that considers the synthesis of dimensions between knowledge and action.

To this end Campbell (2012), Steele, *et al.* (2012), Yiftachel and Mandelbaum (2017), Williams (2016), and Perry and Atherton (2017) all emphasise the importance of approaches to justice policy that focuses on the particular so as "concern with deciding what ought to be done is framed in relation to people who are trying to share their lives with one another in particular places and hence are interdependent, not around individuals operating on their own" (Campbell 2012 p 141). Here Fincher and Iveson's (2012) point comes to the fore in relation to considering normative principles in the

context of the particular. They argue that the tenets of the Just City must serve as tentative commitments to be considered in specific contexts.

As can be observed, since the early writings on the Just City, challenges have been highlighted and remedies have been sought to the challenges and shortcomings identified within this concept. However, what is perhaps the most striking feature is its applicability across a broad spectrum of urban form and situations. How and to what extent equity, democracy and diversity are recognised in the Just City scholarly literature is contextual and contingent upon the temporal, spatial and socio-political context and dispositions of scholars. But whilst its empirical value has been put to many tests, the core of the Just City tenets remain intact across the discussed scholarly terrain, which all seek to counter the discourse of the prevailing neoliberal market rationale of growth and competition through a fair and equal distribution of material and immaterial benefits and rights, some degree and extent of inclusion in decision making processes, and consideration of policy impacts on diverse groups.

To this end, the Just City stands as not only as a useful framework for considering justice as guide to urban planning and evaluation, but importantly also as the context for contesting understandings of its own key tents and justice generally. This evolving debate and subsequent new understandings are key to its continuous applicability. This thesis endeavours to make just such a contribution.

The remaining two sections of this chapter engage with Fainstein's practical strategies aimed at furthering justice. Subsequently, it considers a Just City model suitable for the context of EGMs. It is informed by critiques, existing models, and the EGM literature review, and considers a conceptual model applicable for EGM planning and critique.

3.7 Implications for a 'Just Gambling City'

The aim of this section is to explore how the Just City can be implemented through strategies, particularly in relation to gambling. A synthesis of Fainstein's practical strategies for optimising justice, and associated critiques and adaptations, facilitate critical engagement with the concepts as well as their enactment for the purpose of devising a concept model for this inquiry.

Fainstein devises concrete strategies, based on case studies of Amsterdam, London, and New York, as a guide for urban planners and policy makers which can be applicable to societies where, at least in principle, a commitment to democratic egalitarian norms pre-exists. She translates key capabilities (Nussbaum, 2000a) into concrete strategies relating to housing and other key urban development issues. These are strategies that further:

- 1) **Equity** by focusing on minimum housing standards secured in perpetuity, the redress of deprivation e.g. in regard to housing and transport, and on local benefits and the public share of profits from large urban projects
- 2) **Diversity** by focusing on the zoning and provision of varied public spaces; and
- 3) **Democracy** through a fair, if not necessarily broad, representation of interests and consultation with relevant stakeholders within a context of democratic process. Strategies in furtherance of democracy also involve advocacy on behalf of people who are unable to partake in the decision-making processes or put forward legitimate interests.

3.7.1 Epistemological Challenges: Equity Strategies

A characteristic of these key urban developments is that they are needed to form and operationalise cities i.e. housing, infrastructure, and public space, as no substitute exists to these forms, only variations. Potential associated negative effects must be tolerated out of necessity – they may present a wicked problem; and justice strategies must centre on how this harm can be ameliorated so, at a minimum, it does not further disadvantage the most disadvantaged. This presents some epistemological issues for the Just City as a conceptual model of justice in the context of EGMs.

Fundamentally, EGMs diverge from common urban development on the grounds of existential urban need. Their existence rests solely on justification/rationalisation, not urban necessity. The acceptance of gambling harm as a necessary evil or wicked residue to be distributed fairly is essentially an oxymoron. Therefore, Fainstein's strategies hold some challenges for EGM planning. From an equity perspective the following strategies present opportunities and challenges:

- 1) Redress strategies, as she suggests, are problematic in context of EGMs because that would assume social harm, e.g. suicides, violence, mental illness can be compensated.
- 2) Minimum standard strategies as an interface strategy could be considered in terms of harm minimisation strategies such as limits on maximum bets, removal of deceptive machine design features, product disclosure. However, as a long-term equity strategy, it is problematic; it does not address the issue of disproportionately higher number of machines in disadvantaged areas.
- 3) Strategies that focus on retaining local benefits are a good interim strategy, but they are fraught with danger. As long term strategies, they risk dependency on

EGMs and legitimise them as an acceptable economic and social strategy – an illustration of the problem with adaptive preferences (Sen, 1999, Nussbaum, 2000a).

These issues raised above highlight the important point made by Marcuse (2009) that a distributive justice does not necessarily secure the rights of citizens fully. However, from a pragmatic incremental reform approach, the redistribution of profits, through channelling centralised tax revenues into disadvantaged areas and local venue profits to be shared locally, has merit in context of EGMs. It does not justify EGMs as a state sanctioned economic and social infrastructure in the long-term, but it makes practical sense from a justice perspective, given EGMs are not going to disappear overnight given state dependency on tax revenues earned from gambling. Therefore, there is still merit in approximating justice by ‘nudging our way towards’ – and hence equity strategies in the context of EGMs can best be described as damage control interim strategies.

The above discussion has implications for understandings of equity in the context of EGMs. Benefits in terms of social benefits cannot be considered in the context of a Just City, because they are predatory, hazardous and associated with wide ramifications of harm disproportionately carried by the most disadvantaged. Thus, benefits must be understood in relation to material derivatives only, e.g. revenues from gambling activity. The material derivatives must be redistributed in favour of the least disadvantaged, and costs to be considered as harm exposure, i.e. negative equity.

3.7.2 Diversity Strategies and Challenges

Fainstein’s diversity strategies (2010) also present challenges for EGM planning. Strategies relating to the provision of varied public space and zoning strategies to

promote fluid boundaries and easy access can facilitate culturally and economically diverse neighbourhoods, as they relate to common urban developments. However, adapting these strategies to EGM planning demands careful consideration. As discussed in the previous chapter, EGMs in Australia have a recognised role as legitimate social places and a socially sanctioned recreational activity. EGM venues are highly inclusive of diverse population groups, as spatially, culturally, and socially they are easily accessible to a wide range of groups and people, some of whom often find themselves excluded from other social contexts. From this perspective, EGMs, as an example of 'easy access to varied public space' could be understood, at least when divorced from communal ethics and responsibility, to be a legitimate Just City diversity strategy directly linked to the fair allocation of social benefits (i.e. immaterial) with particular consideration to vulnerable/disadvantaged people. These may be seeking a place to be warm or cool, a place of entertainment and engagement that does not require English proficiency, a place to escape domestic violence, a place that straddles racial and/or other social divides, or a place to absolve loneliness.

However, the consideration of diversity from this position is highly problematic in the context of EGM venues as varied public space, because of their hazardous and predatory nature, Instead this would reflect a highly discriminative social policy for the provision of pseudo-social places that in essence represent a deprivation of cultural, practical, and institutionalised conditions for the diversity of cultural practices (Young 1990). Hence, strategies to promote diversity by the facilitation of open and fluid boundaries and thereby easy access to hazardous infrastructure is an unviable diversity strategy and leaves vulnerable people open to exploitation. This echo concerns expressed by Yiftachel, Goldhaber and Nuriel (2009), mentioned previously, about

accepting diversity as a useful tenet of justice because it can work against diversity by singling out vulnerable groups for exploitation.

The above discussion has implications for understandings of diversity in the context of EGMs. It is not meaningful, from a justice perspective, to consider EGMs for diverse groups based on their broad appeal as a benefit. Rather diversity strategies in the context of EGMs must focus on recognising and protecting diverse vulnerabilities against gambling exposure and enhance the capability of diverse groups to voice their vulnerability through participation in deliberative processes. In support of 'vulnerability' as an explicit and legitimate target for diversity in context of EGMs, I draw on the feminist argument for communal ethics and responsibility (Mansbridge, 1990 Hirschmann, 1992; Nussbaum, 2000a) to which Fainstein's Just City subscribes. However, in the context of EGMs, the emphasis needs a slight shift of focus from the recognition of needs to the awareness of vulnerability. Invariably, a crucial operational task of communal ethics and responsibility as concepts, involves the recognition of diverse vulnerabilities, which is slightly different from needs.

Recognising vulnerability requires observation, but also authentic voices. If vulnerable groups are unable to voice their concerns and needs and unable to participate due to deliberative systems being unaccommodating (Mansbridge, 1990), we risk being negligent in our communal care. The practical implication of this discussion is that in the context of EGMs, diversity only has meaningful value as an independent but relational tenet to first equity (Fraser, 1997, Fainstein, 2010), and secondly democracy. To this end diversity, as a tenet of justice in the context of EGMs, demands a thorough assessment of diverse vulnerabilities to gambling harm at the local scale. For this to occur the participation of relevant voices must be facilitated by considering enabling rights (Nussbaum, 2000a). The aim is to focus strategies on what ought to be done and

considered in relation to the diverse groups of people living as a community (Campbell, 2012). Hence the value of diversity in the context of EGMs is in the consideration of diverse vulnerabilities to exposure and participation, and not as an independent tenet, as argued is necessary by some scholars (Steil and Delgado, 2019; Low and Iveson, 2016; Fincher and Iveson, 2008).

3.7.3 Democracy: Strategies and Challenges

Fainstein's strategies aimed at furthering democracy involve consultation with target populations and advocacy on behalf of those who are unable to partake as well as others. All these strategies are applicable in context of EGMs. However, there is one key issue that requires further attention here. Whilst Fainstein (2009) does acknowledge that issue framing is difficult for counter publics within the constraints of institutional processes, the procedural and instrumental focus of Fainstein's democratic processes avoids explicit attention to the effects of institutional discourse on democratic dialogue i.e. what is accepted into the debate determines what can be known, considered, and demanded (e.g. Flyvbjerg, 1998; Foucault, 1972, 1980).

EGMs depend exclusively on rationalisation for existence, *not* essential urban need. Therefore, the institutional discourse of EGM hegemony holds a particular power that needs interrogating. For example, the way in which EGMs and associated activities have been conceptualised and rationalised forms the boundaries and context for the current debate. Fainstein's democracy is primarily understood as democratic procedures such as consultation with affected citizens, inclusive processes and transparent decision making. However, these criteria are not adequate for fully considering democracy in the context of EGM planning because they could quite possibly be fulfilled without challenge to the institutional discourse boundary. Therefore, the ability to challenge the rationality

of EGMs becomes an important aspect of democracy that cannot be conflated with instrumental procedures. This has implications for how democracy as a justice criterion must be understood in the context of EGMs - as two separate but parallel processes: the first being democratic process, understood as democratic procedures, and the second being democratic discourse as fair opportunities for counter discourse. In support of this 'scholarly incision' into Fainstein's democracy tenet, the approach draws, as marker of justice, firstly from Wolf-Powers (2009) emphasis on discourse as issue framing and a rhetorical instrument for advancing social justice outcomes; and secondly on the demands advanced by Steele *et al.* (2012) for institutional reframing (i.e. being open to accommodate and consider new relevant knowledge)

3.7.4 Incremental Reform: Approaches and Challenges

Fainstein considers the actions of protest movements more crucial to achieving equity than the institutionalised modes for participation. The Just City strategy of incremental change is mobilised through strategies aimed at what institutions and social movements can do to at the local level to assist in this endeavour. Local government, because of their key influence and decision power pertaining to allocation of local resources and land use, and urban movements for their mobilisation power and potential influence on equitable distribution. This activist strategy is applicable to EGMs, as vested interests, such as governments and industry, are unlikely to change without political pressure.

Fainstein acknowledges that a focus on incremental change through subnational/city level strategies has limitations with regard to the degree of change that can be achieved. In gambling states, how reforms are pursued must be considered in the context of regulatory regimes varying across jurisdictions. In Australia, where EGMs are highly regulated by states and territories, incremental reform initiatives have both city and state

level implications. For example, local governments, i.e. councils, can through their delegated authority devise specific strategies and policies on the local level that align with the normative standards of the Just City. In jurisdictions where an appeal avenue for EGM regulatory decisions exists, as is the case in Victoria, incremental change through common law¹⁴ practices, is effectively a state level strategy. Therefore, the just gambling city sphere of strategy making is context sensitive and not necessarily limited to the municipality level, although its mobilising potential rests on the activist appetite of local governments and movements as counter-publics. From this perspective transformative reform is possible at local level, by the virtue of common law practices, partly lending support to the argument advanced by Novey and Mayer (2009) that transformative reforms can occur at the municipality level.

However, for significant gambling reform to occur the state must be involved as it requires legislative changes; judicial precedents are ultimately confined by law. This lends support to the argument advanced by Marcuse (2009), that for significant change to occur the state must be involved as councils have little agency over the licensing of EGMs; and justice must be addressed at a nation state scale involving structural and social processes. This is particularly true for EGMs, as their licencing regime is strictly regulated by the state.

To this end, the reliance by governments on gambling revenues and the presence of a strong industry, indicate change to likely to occur but not through drastic reforms. Instead this will occur through gradual changes in regulatory decision making, activist pressure and counter publics, and through stronger political discourse. Ultimately this will be adopted by institutions as their new reference frame. This is how reforms in public health

¹⁴ Common law refers to the Australian (originally English) law practice of custom and judicial precedents.

generally happen, and it is possibly how gambling reform is going to occur, too (Young and Markham, 2015). Thus, the conceptual model for this inquiry is concerned with strategies available to communities and local councils at the local level, whilst recognising the importance of engaging with various levels of political activism, including transformative reform discourses at the nation level (McFarlane, 2018).

3.8 Mobilising the 'Just Gambling City': The Concept Model

The previous section considered how Fainstein's practical strategies in furtherance of equity, democracy and diversity were activated through incremental reform initiatives by local governments and activist movements. Justice in a gambling state has idiosyncratic demands. Based on the discussion of the implications of Fainstein's Just City as it relates to EGMs, the Just City concept is adapted to accommodate the context of this inquiry in the following way:

- **Equity:** fair redistribution of benefits and disbenefits (i.e. harm exposure/negative equity) by the difference principle.
- **Democratic Process:** democratic procedures
- **Democratic Discourse:** fair opportunities for counter discourse
- **Diversity:** consideration of diverse vulnerabilities to exposure and participation.

Ultimately a justice agenda demands scrutiny of democratic processes, group vulnerability, and distributional outcomes to enhance the capabilities of the relative disadvantage. The following section will address each tenet and build on previous discussion to define the exact criteria for the concept model as it will be considered in relation to Victoria's EGM planning.

3.8.1 Equity as Justice Tenet for EGM Planning: Who gets what?

- *Fair redistribution of benefits and costs (i.e. harm exposure/negative equity) by the difference principle*

The issue of how and to whom the benefits of EGMs will flow is at the crux of the equity criterion. Equity must be considered in relation to the fair redistribution of material benefits derived from EGM activity, but also costs understood as harm exposure, i.e. negative equity. This must favour the least advantaged in terms of relative economic disadvantage, marginalised groups and/or vulnerable groups. In practical terms, this means the risks of potential harm exposure (negative equity) must be fully recognised at the local level, at the point of regulatory decision making - i.e. EGM permit allocation as socio-spatial differentiation. The recognition of socio-spatial differentiation as a result of decision making is important because it directly connects policy and material outcomes. Equity concerns are considered in relation to communities having to trade safe and appropriate public recreational space for unsafe harm producing public space in return for social infrastructure and economic development. The idea of individuals trading one benefit for another is an unreasonable choice – a tragic choice, and an injustice (Nussbaum, 2000a; 2000b). Embedded within the public rhetoric of EGM gambling policy is the acknowledgement and acceptance of the physical, psychological and financial harm incurred by gamblers in favour of the majority, who are considered as enjoying the freedom to gamble on EGMs. This ‘majority joy’ is generally ascribed as a benefit to communities but it contradicts the principle of fair redistribution by the difference principle. Therefore, reiterating the previous section, the redistribution of benefits can only be considered in relation to material derivatives of gambling activity, such as revenues and other material contributions, and costs in relation to gambling

harm or risk thereof assessed either by socio-economic disadvantage or other identified vulnerability factors.

To this end, the equity criteria for the purpose of this research is understood to be the fair redistribution of material benefits to favour the most disadvantaged, and distribution of harm exposure to not disadvantage/harm disadvantaged groups. Disadvantage must be understood in relation to socioeconomic disadvantage but also other pertinent vulnerability factors to gambling harm, for example environmental and demographic factors.

3.8.2 Democracy as Tenet for EGM Planning

Democratic process and democratic discourse equally are concerned with interrogating EGM planning and processes through asking: What and how can we understand risks associated with relying on current institutional settings and processes for just outcomes? A key concern is also of how, and to what extent, local government and resident engagement have the capacity to mobilise influence on EGM decisions to bring about social change. Within this context the influence of present power relations and social structures are explored.

3.8.2.a. Democratic Process as Tenet for EGM Planning: Who can partake and how?

- *Democratic process as democratic procedures*

This tenet focuses on the procedural and instrumental component of democracy (Fainstein 2010). It values the democratic process quality of EGM planning by considering:

- 1) appropriate representation, through direct representation or advocacy as well as inclusion in EGM decision making. This involves giving priority to who might be affected by the decision and as well as equity expertise representation;
- 2) transparency and consistency of process and grounds for decisions; as well as
- 3) consideration to procedural justice/fairness (Low and Iveson, 2016).

The tension between democratic deliberation and equitable outcomes is considered in the context of community groups in juxtapositions, but also in the context of adversarial processes based on reason and rights (Mansbridge, 1990b). This involves attention to power imbalances embedded in adversarial processes and their effects on representation and outcomes. Common planning dilemmas such as the rights and wishes of citizens emerge to be considered in relation to inclusion, transparency and procedural fairness.

3.8.2.b. Democratic Discourse as Principle for EGM Planning: What can be heard and said?

- *Democratic discourse as fair opportunities for counter discourse*

This tenet focuses on the discursive opportunities and limitations embedded in institutional processes. It considers the more latent issues embedded in EGM planning that impact on democratic processes and equitable outcomes. It excavates the role of discourse in constructing, maintaining and controlling the rationality of EGMs (e.g. Flyvbjerg, 1996; 1998, Foucault, 1980; Yiftachel, 1998) through a focus on EGM institutional narratives, also referred to in this thesis as EGM hegemony.

The quality of the democratic discourse will be considered in relation to:

- 1) the ability for counter publics to assert themselves within the institutional processes to challenge the rationality of EGMs and underpinning assumptions, i.e. counter publics against the dominant public sphere¹⁵. This is considered both in relation to city level processes as well as the state judicial and regulatory processes
- 2) the extent to which opportunities for planners/professionals to act as experts to counter publics as well as being able to introduce counter publics discourse into the dominant public sphere (Wolf-Powers 2009) is also considered; and
- 3) the ability and openness of institutional processes to consider various discourses as new knowledge and therefore as a reference frame for decision making (Steele *et al.*, 2012).

3.8.3 Diversity as Tenet for EGM Planning: Who is hurt and left out?

- *consideration of diverse vulnerabilities to exposure and participation*

The main purpose for Fainstein including diversity is to signal that justice is for all diverse groups but it cannot be at the expense of equity. The concept is not to promote diversity, but rather to ensure diversity is not an obstacle to receiving justice. This demands sensitivity to and responsibility for others (Mansbridge, 1990b; Fraser, 1997; Hirschmann, 1992; Fainstein, 2010; Nussbaum, 2000a; 2003), but also a respect for difference (Young 1990). Diversity in EGM planning settles on this premise. However, it differs in that diversity is considered in relation to the distributive effects of negative equity and participatory exclusion. The key question to contemplate in relation to EGMs

¹⁵ Wolf-Powers (2009 p 163) uses the term 'dominant public sphere' as the expression of the social and political hegemony of dominant class and social interests. In the context of this thesis it refers to the hegemonic discourse of gambling policy.

is: *who is likely going to get harmed and who might not be able to partake?* The tenet of diversity focuses on the diverse vulnerabilities to gambling harm as an expression of communal responsibility and recognition that vulnerabilities are diverse e.g. cultural, financial, generational, social (Browne *et al.*, 2016) and environmental (e.g. natural disasters such as floods, droughts). Harm exposure is understood as a distributional effect. Therefore, attention to diversity in EGM planning must consider to what extent the idiosyncratic context of vulnerability has formed part of EGM decision making. Consideration goes beyond what can be learned from aggregated statistical data to consider 'real time and place' knowledge of vulnerability (Campbell, 2012). This also involves elucidating *how* and *to what extent* local knowledge about vulnerability forms part of EGM decision making. For a meaningful idiosyncratic assessment of vulnerability to take place, vulnerable voices must partake in the deliberative processes. Hence consideration to diversity is also in relation to deliberative processes. To this end, the value of diversity in a just gambling city is in the consideration of diverse vulnerabilities to exposure and participation.

3.8.4 The Just Gambling City Conceptual Model

The discussion in the previous section set out the argument for modifying Fainstein's Just City to suit the context of EGM planning in Victoria as well as outlining how each of the four tenets are to be understood. They form the conceptual framework for this Inquiry, and this framework is termed a 'Just Gambling City'. It does not refer to a claim for making gambling just, nor an approach to achieving justice through gambling. Rather it denotes the reality of most capitalist countries with gambling cities, where gambling opportunities are entrenched and represent a significant revenue for both the industry and government. The fact remains that EGMs are not likely to disappear - at least not in

the near future. Thus, the Just Gambling City must be understood as a mitigating term. The conceptual lens is presented in the figure below (Figure 6); the model represents a critical synthesis of the two literature chapters and forms the conceptual lens and analytical tool for this thesis, which has the overall aim providing a Just City critique of EGM planning in Victoria in furtherance of social justice for communities.

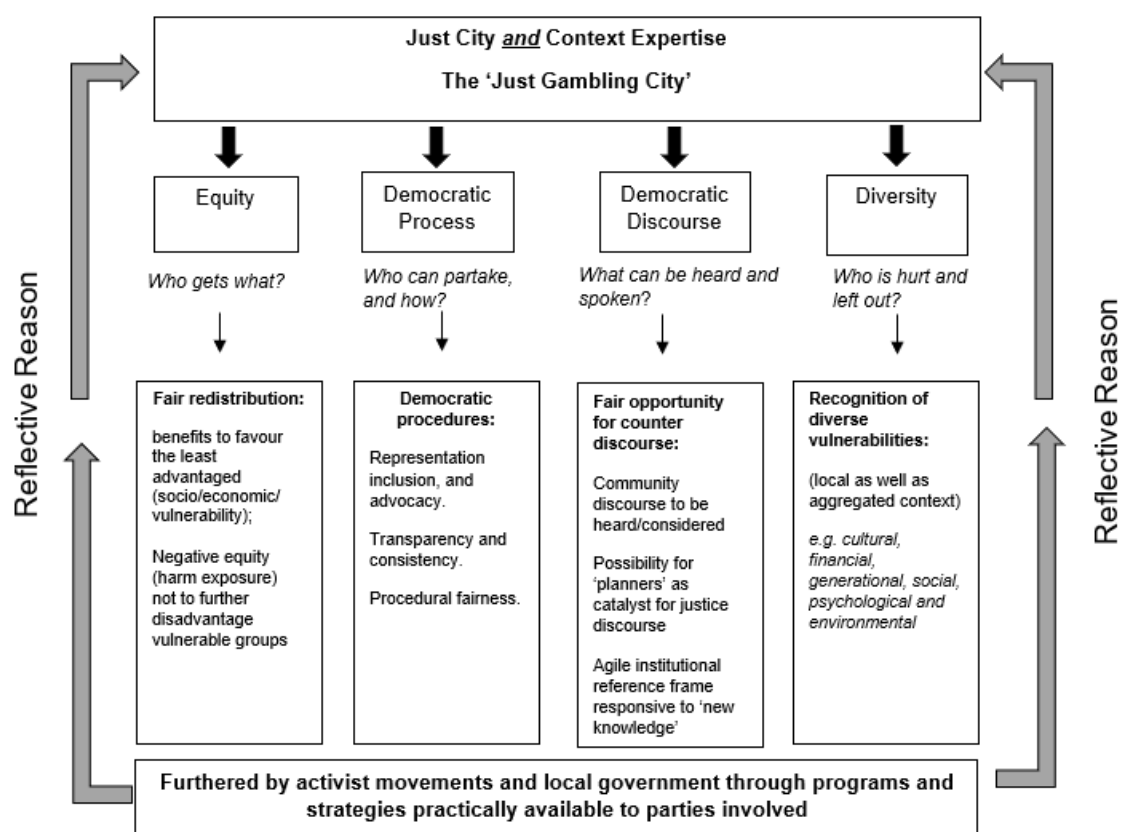


Figure 6: The Just Gambling City Concept Model

3.9 Conclusion

This chapter has scoped the theoretical context for a justice critique of EGM planning and identified EGMs, as an economic and social strategy, as involving a tragic choice, rather than a wicked problem (i.e. landfill, power station, freeway/road). The theoretical and empirical underpinnings of Fainstein's framing principles of justice as well as

associated critiques and concept model expansions have been explored as a lens for EGM theory and praxis. As an alternative to market-driven logic, a justice approach is offered, based on an adapted Just City model, that responds to inequality and power (Fainstein, 2010) by considering diverse vulnerabilities to gambling harm, democratic procedures and discourse, as well as equity outcomes. These criteria will guide the empirical inquiry into EGM planning on the local community level, which follows in chapters 7-9.

To this end, good planning requires critique, direction, and mobilisation. Critiques of social structures does not provide guidance or ethical principles of what constitutes a good city, nor do urban movements' claim to the city necessarily lead to acceptable or just and equitable outcomes. Hence a normative approach is needed to guide the political processes of EGM planning, and activist potential and mobilisation is needed to mobilise normative principles. The Just City responds to this challenge.

Chapter 4: Research Design and Methods

4.0 Introduction

A mixed methods way of thinking is an orientation toward social inquiry that actively invites us to participate in dialogue about multiple ways of seeing and hearing, multiple ways of making sense of the social world, and multiple standpoints on what is important and to be valued and cherished. A mixed methods way of thinking rests on assumptions that there are multiple legitimate approaches to social inquiry and that any given approach to social inquiry is inevitably partial. (Greene, 2008 p 20)

This research takes as its central focus EGM regulatory processes as an issue of social justice and considers the merit and significance of a Just City discourse (Fainstein 2010) for EGM policy formulation. One central research question guides the Inquiry: *How can social justice be furthered through EGM planning decisions?* In response, this thesis critically examines the capacity for local communities to resist undesirable socio-spatial planning decisions related to gambling. The focus is on the institutional processes underpinning EGM distribution in Victoria, associated stakeholder engagement and the political realities and implications of EGM decision making processes.

Grounded in critical inquiry, the study applies a mixed method approach. The statistical tools applied to EGM application data provide an overview and broad understanding of the direct socio-spatial manifestations of Victoria's EGM policy, hence it is attuned to the macro perspectives of the Inquiry; and the case study becomes the instrument for gaining deep and rich insight into the lived experience of EGM planning i.e. the micro perspectives (Fetters, 2018; Fetters and Freshwater, 2015; Greene, 2008), but also the broader complex issues associated with Victoria's EGM planning policy and regulatory processes.

4.1 Critical Theory

Critical inquiry keeps the spotlight on power relationships within society so as to expose the forces of hegemony and injustice that often link to race, class, and gender interests. (Crotty, 1998 p 157)

Social research cannot stand on the sidelines of society. (Muncie, 2006 p 53)

Broadly, critical theory is concerned with theory and practice and their integration. Its aim is to bring new awareness about incongruencies, flaws and false assumptions embedded in social practices and systems that are oppressive and unjust; ultimately with the aspiration of self-reflection and as consequence, aspiration for social action and change (Crotty, 1998; Muncie, 2006; Dant, 2003; Schwandt, 2007; Honneth, 2009).

A distinctive feature of critical inquiry is its “intent to expose enduring structures of power and domination to deconstruct the discourses and narratives that support them and work as advocates for social justice” (Muncie, 2006 p 51). This research draws on critical theory to deconstruct EGM planning in Australia, specifically in Victoria, with the intention to reveal inherent flawed assumptions and biases of the existing policy framework. The intention is to elucidate a reasoning for EGM planning that is “practical, moral, and ethically and politically informed” (Schwandt, 2007 p 54). The literature review on EGMs, chapter 2, drew from a broad spectrum of scholarly fields in gambling to form an understanding of the empirical context of EGMs as it relates to political, social, cultural, institutional, and historical factors for the purpose of critical Inquiry, i.e. critique, and the imagining of new possibilities.

Critical theory is not confined to explanations and descriptions; rather it is focused on practically addressing normative standards (Schwandt 2007). It is realised through the

mode of praxis, which is explained by Dant as a “provocation to thought – thinking differently about the social world will lead to change in the way society is lived.” Implied is an evolutionary ongoingness of reason propelled by “active thought that continually challenges the existing state of affairs in society” (2003 p 160). This means critical inquiry is always reflective, acknowledging temporal and cultural vectors and their embedded power patterns and their implications for independent and free thinking - what is referred to as “unfreedom” (Dant, 2003). Unfreedom is a consequence of hegemony (Crotty 1998) or instrumental reason (e.g. Dant, 2003; Schwandt, 2007; Honneth, 2009). Instrumental reason is by critical theorists considered to “eliminate crises and conflict” and “works to suppress the very self-transformative, self-reflective, critical, liberating impulses on which it was founded” (Schwandt, 2007 p 54). As phrased by Dant (2003 p 159), “Unfreedom is the way instrumental reason has taken on the potency of myth.” The EGM literature highlighted key EGM myths impacting on social justice or unfreedom. These were:

- 1) the gambler defined by self-responsibility as distinguished from the problem gambler;
- 2) social harm as utility;
- 3) the right to gamble as freedom;
- 4) gambling is harmless to most people;
- 5) EGM gambling is a legitimate social and economic strategy; and
- 6) EGM planning is democratic and just.

These are all expressions of instrumental reason sustaining injustice by entrapping action and thought.

A demand on this critical Inquiry, which is concerned with social justice, is not solely seeking to understand and identify instrumental reason, as noted above, but also to focus on the reflective reason emerging from this critical inquiry by focusing on elucidating how reason is conducted and influenced by forces of power and that seeks to reveal obstacles to change towards more just EGM planning (Honneth 2009 cited in Datta 2009). Hence, the point of critique is also to be a new reason or 'worldview' for guiding and mobilising change (e.g. Crotty, 1998; Dant, 2003; Schwandt, 2007; Honneth, 2009).

As a response to these demands this research uses an adapted model of Fainstein's Just City (2010) as expounded in chapter 3, as critical inquiry lens. It considers ethical, moral and political dilemmas based on explicit normative standards. It is also concerned with the practical applications of these norms through a focus on possibilities for subnational strategies informed by the reframing of current instrumental reason (Schwandt, 2007 p 54) as a reflective reason for the future (Honneth, 2009 cited in Datta 2009) as offered by this thesis. Finally, as a rationale for critical praxis, Dant notes (2003 p 164):

we can resist the domination of instrumental reason and explore other possible ways of living. We can think differently and do differently, and critical theory can help us achieve both.

The overall research design is guided by critical inquiry using an adapted model of Fainstein's Just City (2010). The methodological diagram below illustrates the research design for this thesis. The Just City theory and EGM literature chapters form the conceptual lens for the critical inquiry. Fainstein's Just City model is modified to accommodate the EGM planning demands to the following 4 key tenets:

- **Equity:** the fair redistribution of benefits and disbenefits (i.e. harm exposure as negative equity) by the difference principle.
- **Democratic Process:** democratic procedures.
- **Democratic Discourse:** fair opportunities for counter discourse.
- **Diversity:** consideration of diverse vulnerabilities to exposure and participation.

Data analysis is considered in relation to the 4 key justice tenets of a gambling city. The synthesis of findings and theory provides a critique of current EGM planning with the intent to suggest a new urban praxis, based on the reflective reason (Honneth, 2009, cited in Datta, 2009) advanced by this thesis. As a distinct feature of critical inquiry is its evolutionary nature, not settling on ideology and fixed positions, and the way it provokes “active thought that continually challenges the existing state of affairs in society” (Dant, 2003 p 160), this research acknowledges the inherent ‘temporality of reason’. Its contribution is in advancing further understandings, a critique, of the Just City and EGM planning that mobilises yet again a new reflective reason. This reflective intention of critical inquiry and the contribution of this thesis is illustrated in the research methodology model for this inquiry (Figure 7) by the arrows located on either side of the diagram.

The research methodology model, adapted from Yiftachel and Mandelbaum (2017), demonstrates a synthesis of **theory**, i.e. the Just City literature chapter, and **context knowledge**, i.e. the EGM literature chapter, which forms the conceptual lens for this thesis. A resulting adaptation of Fainstein’s model provides the critical lens for analysis and critique to be used for informing new strategies. The emerging new knowledge, manifested as this thesis contribution, represents reflective reason, that in turn contributes to context knowledge and Just City theory, that in turn is to be critically scrutinised. In other words, it can be said that critical inquiry converges and diverges knowledge at the same time. Hence the conceptual framework responds to the critical

demand for research to be continually ‘prodding’ existent knowledge, reminding social Inquiry not to linger on complacency.

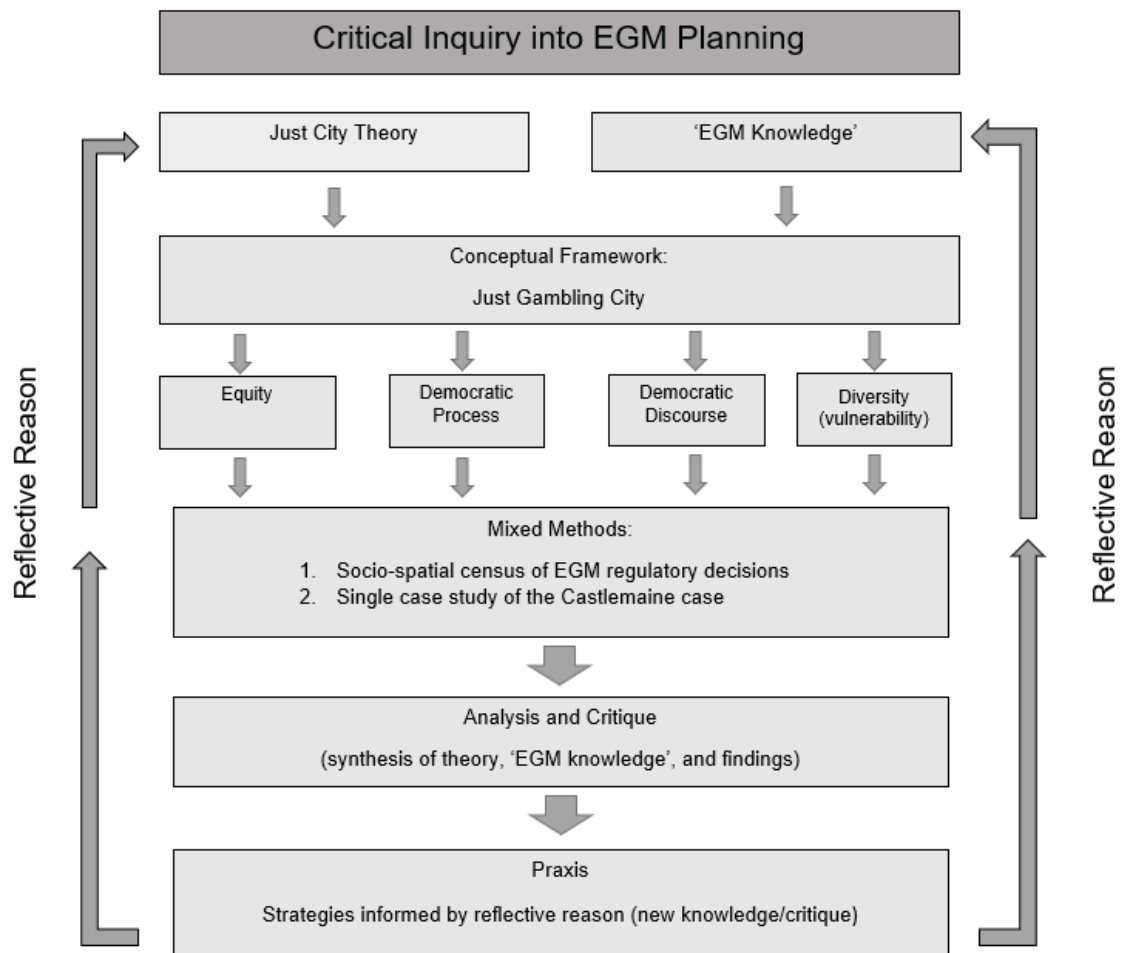


Figure 7: Research Methodology adapted from Yiftachel and Mandelbaum, 2017

4.2 Mixed Methods Approach

This study applies a mixed method approach. Mixed methods are applied to attune to the macro as well as the micro perspectives of the inquiry. The statistical tools applied to the EGM application data provide an overview and broad understanding of the direct socio-spatial manifestations of Victoria’s EGM policy, hence it attunes to the macro

perspectives of the inquiry; and the case study becomes the instrument for gaining deep and rich insight into the lived experience of EGM planning i.e. the micro perspectives (Fetters, 2018; Fetters and Freshwater, 2015; Greene, 2008), but also the broader complex issues associated with Victoria's EGM planning policy and regulatory processes. Data mining (classification and regression tree analysis i.e. CaRT) and descriptive statistics (Chi-square testing) are used to explore how and to what extent the socio-economic and spatial consequences (i.e. fragmentation) of EGM planning has manifested in Victoria through focusing on first the socio, economic, and spatial EGM licensing patterns, and secondly on the response patterns to EGM development proposals by local communities and councils. A single case study method (Yin 2014) is used to gain an in-depth understanding of the practices, discourses and mechanisms for EGM planning as well as the capacity for local communities to resist planning decisions related to EGM gambling.

This thesis does not engage in a comprehensive epistemological discussion on the paradigm debate relating to a mixed methods approach to research and knowledge; rather it assumes, as is broadly accepted amongst social science scholars now, that a mixed methods approach to social inquiry is a method in its own right – a “third methodology distinct from qualitative and quantitative methodologies” (Fetters, 2018 p 262). Nor does critical theory prescribe specific methods as a mode of inquiry (Muncie, 2006) as long as the inquiry/critique is not limited to cause and effect descriptions and explanations (e.g. Dant 2003; Schwandt 2007). Bearing this point in mind, quantitative and qualitative methods are complementary rather than antagonistic to the emergence of new and expanding knowledge (Creswell and Clark, 2007; Hanson *et al.*, 2005; Punch, 1998; Mertens *et al.*, 2003; Greene, 2008).

The rationale for selecting mixed methods is to achieve “a whole greater than the sum of the individual parts” (Fetters 2018 p 265), and hence the methods chosen for this thesis are integrative; they serve to form a synthesis rather than representing parallel studies (Fetters, 2018, Bryman, 2007). Social researchers (e.g. Sosulski and Lawrence, 2008 p 121) have noted that mixed methods are considered particularly powerful when exploring ‘policy solutions, social actions, and justice goals’ as is the aim of this thesis; and because mixed methods inherently draw from diverse knowledge sources it also provides greater diversity and equity of voices in research (Greene 2008).

To this end the research design and methods for this study has been selected to serve and support the purpose of the inquiry (Greene 2008). It also takes up the ‘integration challenge’ that serves to push and expand research knowledge through a synthesis of quantitative and qualitative research findings to an extent that otherwise would not have been possible through parallel or singular studies (Fetters and Freshwater, 2015). This study design therefore gives strength, validity, and integrity to the quantitative as well as qualitative findings (Sosulski and Lawrence, 2008); and it contributes to new learnings and insights (Fetters, 2018) about Victoria’s EGM planning that would not have been possible nor as nuanced through a single method approach.

4.3 Quantitative Research Design

The quantitative methods applied in this study explore the licencing of EGMs as direct manifestations of Victoria’s EGMs public policy. Hence, licensing decisions are material manifestations of EGM hegemony or instrumental reason and represent practically how instrumental reason is practiced in Victorian EGM Planning – in other words, it illustrates current EGM planning praxis. Classification and Regression Tree (i.e. CaRT) techniques are used for empirical analysis of the socio-spatial patterns associated with EGM

licensing decisions over time. In isolation this quantitative contribution would merely be an identification and explanation of various factors featuring in license decision making processes, which would not meet the demands of a critical Inquiry, as discussed in section 4.1. However, the methodological rationale for this approach is that it is a contribution towards a third method - the mixed methods (Fetters 2018); as it facilitates the revealing of the systemic incongruities and inconsistencies of current EGM planning standards as well as a macro perspective on Victorian EGM planning praxis. On this exact point it forms an important contribution to this critical inquiry.

4.3.1 Data Approach

Data from 279 VCGLR license decision files, termed 'Decision and reason for decisions'¹⁶, from 2001-2014 were recorded into Excel spreadsheet to create a variable database. The database can be viewed in appendix 1 'Database 2001-2014'. Each variable was recorded with a number code to suit analysis in SPSS. Five license applications appearing in the VCGLR administrative database were excluded from the dataset because the information was unavailable or unrelated to this study. The reasons for exclusion are listed in Table 1 below.

¹⁶ 'Decision and Reasons for Decision' pdf files contain the details of the VCGLR decision and reasons for decisions of any given EGM application submitted for consideration to the VCGLR. This information is available on the VCGLR public database via:
<https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

Case Number	Venue	Responsible Authority	Reason for not being included
904	Bridge Inn Hotel	City of Whittlesea	Listed twice in the database
703	Preston Club	City of Darebin	pdf unavailable/ no pdf listed
623	Greensborough RSL	City of Banyule	no pdf available/no pdf listed
309	Wilbow Corporation	not specified	lottery extension application/not relevant
304	Club Kilsyth	City of Maroondah	licence issue pertaining to payable rate

Table 1: VCGLR Listings Excluded from the Dataset

The variables were recorded and coded into an Excel spreadsheet and subsequently exported into SPSS version 23 to perform cross tabulation i.e. Chi Square, and CaRT analysis.

The VCGLR decision to grant or refuse an EGM license (granted also includes amended applications¹⁷) was selected as the dependent variable to explore various socio-spatial patterns of decision making. This provided important information about the social justice implications of current EGM planning praxis. Independent variables were selected on their capability to illuminate socio-economic, spatial as well as local agency (local oppositions) patterns associated with EGM licensing. Further it was important that variables were representing factors for consideration by the VCGLR. The following independent variables were selected for use in the analysis.

The position of the responsible authority (local government or council) - the position of council was coded according to:

¹⁷ Amended applications refers to decisions by the VCGLR to approve but with amended conditions to the original application submitted by applicant.

- 1) council actively objected to the application (i.e. council submitted a social and economic Impact statement in opposition to the development, as well as council staff being available for cross examination at the VCGLR hearing)
- 2) council submitted written opposition but did not attend the hearing (i.e. staff were unavailable for cross examination), and
- 3) council did not oppose the application. The rationale for exploring the position of local council was significant given its:
 - i. role as driver of potential incremental change (Fainstein 2010; Fraser 2003)
 - ii. key influence and decision power pertaining to the allocation of local resources and land use
 - iii. key role as advocate on behalf of the community
 - iv. status as the only body having an appeal mandate in EGM license matters

The number of EGMs involved in the application - this was coded according to:

- 1) 50 machines or above
- 2) below 50 machines
- 3) administrative application (i.e. opening hours).

The rationale for this was to explore to what extent the number of EGMs might have influenced the regulator's decision as related to socio-economic and spatial factors, given accessibility and density of machines influence gambling behaviour.

Two ABS SEIFA 2011 indices¹⁸(Australian Bureau of Statistics, 2011) were selected for an exploration of disadvantage:

- 1) Index of Relative Socio-Economic Disadvantage (IRSD)
- 2) Index of Educational and Occupational (IEO)

Both indices were significant factors implicating on resident objections and appeals (Cook *et al.*, 2012, Taylor, 2014).

The IRSD is a general socio-economic index that summarises a range of information about the economic and social conditions of people and households within an area. Unlike other SEIFA indices, this index includes only measures of relative disadvantage (Australian Bureau of Statistics, 2011). This index was selected to explore the social spatial disadvantage patterns (Rintoul *et al.*, 2013) of EGM applications in Victoria.

The IEO index is a general socio-economic index that summarises a range of information about education and occupation level of people and households within an area (Australian Bureau of Statistics, 2011) and therefore reflects educational and occupational level of communities. The index does not include any income variables and was selected to explore socio-cultural patterns associated with the VCGLR decision making and its relationship to local agency.

Community opposition to EGM applications was selected as an indicator to explore local agency and mobilising power. This includes opposition from local residents, organisations and services (typically community services organisations) and adjacent local governments, who also have the mandate to object in license matters. The

¹⁸ A SEIFA (socio economic index for areas) index is a summary measure of aggregated data collected by the Australian Bureau of Statistics (ABS) through the Australian census every 5 years.

rationale for exploring the position of local opposition was significant given its role in mobilising towards incremental change (Fainstein 2010).

The venue type to which the application was connected e.g. RSL club, sports/community club or hotel, was selected to illuminate the policy patterns around social infrastructure and the resultant implications.

The local government area to which the EGM application related; the 'area' was identified as per the Municipality Association of Victoria (see appendix 3) and comprised either Rural/regional or Metro/city. This variable was selected to explore the impact and suitability of the regulatory system with regard to socio-economic and spatial disadvantaged areas. The variables and rationale for selection are presented in the summary table below (Table 2).

279 VCGLR decision document files¹⁹ were examined to determine the coding for each independent variable. The files ranged considerably in length and each file was examined twice to maximise accurate coding. Coding was limited to binary subcategories where possible and meaningful. This was due to the relatively small data set (n=279) involved; too many subcategories would have provided too small categories for the statistical methodology applied. All coding entries are presented in the 2001-2014 database appendix 1.

¹⁹ Available on the Victorian Commission for Gambling and Liquor Regulation website <https://www.vcglr.vic.gov.au/>

Variable Selection Table	Object	Format	Selection Rationale
Dependent Variable	VCGLR decision outcome	1) Granted 2) Refused	Represent EGM planning praxis (i.e. direct policy manifestation of Victoria's EGM policy)
Independent Variable 1	Position of the local authority (i.e. council response to the proposed EGM licence application)	1) Opposed and represented at the Commission hearing 2) Opposed in writing only 3) Did not oppose	'gate keeper' of local EGM planning and indicator of the implications for incremental reforms
Independent Variable 2	The number of EGMs involved in the application	1) 50 EGMs or more 2) Below 50 EGMs 3) Administrative (opening hours)	EGM number influence on the Gaming Commission's decisions as related to socio economic and spatial factors
Independent Variable 3	SEIFA: IRSD	1) Quartiles 2) 50 percentiles (i.e. half)	Indicator of, and implications of, disadvantage
Independent Variable 4	SEIFA: IEO	1) Quartiles 2) 50 percentiles (i.e. half)	Indicator of, and implications of, social and cultural capital (disadvantage and advantage)
Independent Variable 5	Community Opposition	1) Opposition 2) No opposition	Indicator of, and implications of, community agency and of incremental reforms
Independent Variable 6	Venue Type	1) Hotel 2) Club 3) RSL	Indicator of public policy on social infrastructure and implications thereof
Independent Variable 7	Local Government Area	1) City/metro 2) Rural/Regional	Indicator of, and spatial significance of, EGM applications and licensing decisions of EGMs

Table 2: Database Variable Selection Table

SEIFA is defined by the ABS as: people's access to material and social resources, and their ability to participate in society (Australian Bureau of Statistics, 2011). SEIFA 2011 data (local government area) relevant to each EGM application were imported into a Microsoft Excel spreadsheet and converted into rankings by 50 percentiles (i.e. bottom

half and top half) and quartiles (quartile 4 being the most disadvantaged) using Excel functions. Ranking was used rather than scores due to scores being arbitrary and ordinal and therefore not suitable for longitudinal comparison. SEIFA data for local government areas were used rather than smaller statistical units to avoid too much variability (Australian Bureau of Statistics, 2011) and to align with the implicated local council.

The study recognises the limitations of using SEIFA 2011 ranking on a data set that spans over 13 years and 3 census collections and the possibility of municipality SEIFA rankings changing with urban renewal strategies and demographic changes during this timeframe. To mitigate this issue, the 2011 census data was extracted and applied to EGM applications occurring in the time span 2009-2011 (see appendix 2) to serve as a 'control group' for comparison of the overall 2001-2014 cross-tabulation results. A brief comparison of the two datasets and the cross-tabulation results reflected similar patterns. A comparison report, including discussion, between the results of the two databases has been included in appendix 6.

4.3.2 Decision Tree Analysis (CaRT)

Although CaRT is not used for statistical prediction and classification in this inquiry, this section still includes an explanation of how CaRT constructs its tree based on the categorical variables selected for this thesis, i.e. it explains why the tree is shaped and ranked as it is.

CaRT is a data mining technique developed by Breiman (1984) and commonly used for classification or predictive analysis purposes. It models data hierarchically in the graphic format of a 'Tree', making it easy to interpret (Kuhn *et al.*, 2014). In this thesis CaRT analysis was used unconventionally as an illustration and narration of Victoria's EGM

policy outcomes manifested as EGM licensing decisions. It critically explored, by statistically categorising socio-spatial patterns of EGM license decisions over time, the effects of regulatory decision making. Hence, its focus was as a narrative tool rather than for statistical predictions and classification. The time frame was from 2001-2014, and the rationale for this timeframe was due to EGM licensing decisions not being available to the public prior to 2001 – this information was initially retained on the grounds of commercial confidence. The end time, 2014, was determined by the commencement of this thesis at RMIT in 2014. This is, to my knowledge, the first time that CaRT analysis has been used to deepen and broaden the understanding of prevailing issues and influences in relation to EGM licensing decisions, and ultimately Victoria's EGM policy. It was anticipated that this approach would reveal previously unnoticed incongruencies and vulnerabilities as well as confirming associations already evidenced by other research. It is hoped that demonstrating the use of this method will deepen as well as broaden the understanding of government policy on EGM planning in Victoria. The approach will also provide valuable insights into the decision making across the whole state of Victoria in relation to EGM decisions providing the means for policy makers, researchers, local government and planners to (re)consider current practices enabling practices of advocacy, education, equity and justice for the people of Victoria as well as stratifying the risks of current decision-making framework.

CaRT analysis SPSS version 23 was used to explore the influences of social spatial relations to applications and local objections as well as potential influences on what grounds decisions were made, by interrogating the data set for meaningful interpretation and considerations.

The advantage of this model is that it provides an exploratory method to identify statistical associations between variables (Leclerc *et al.*, 2009) and presents them in categories

(also termed nodes). Through this method it is possible to explore how variables interact (Williams, 2011) as it searches for meaningful patterns and interrelations (Hurwitz *et al.*, 2013) using the variables potentially revealing otherwise concealed links among these. The selected variables express themselves as 'algorithmic questions' as illustrated simply in the diagram below (Figure 8), based on the variables selected for the Inquiry.

CaRT Interrogation of VCGLR Decisions

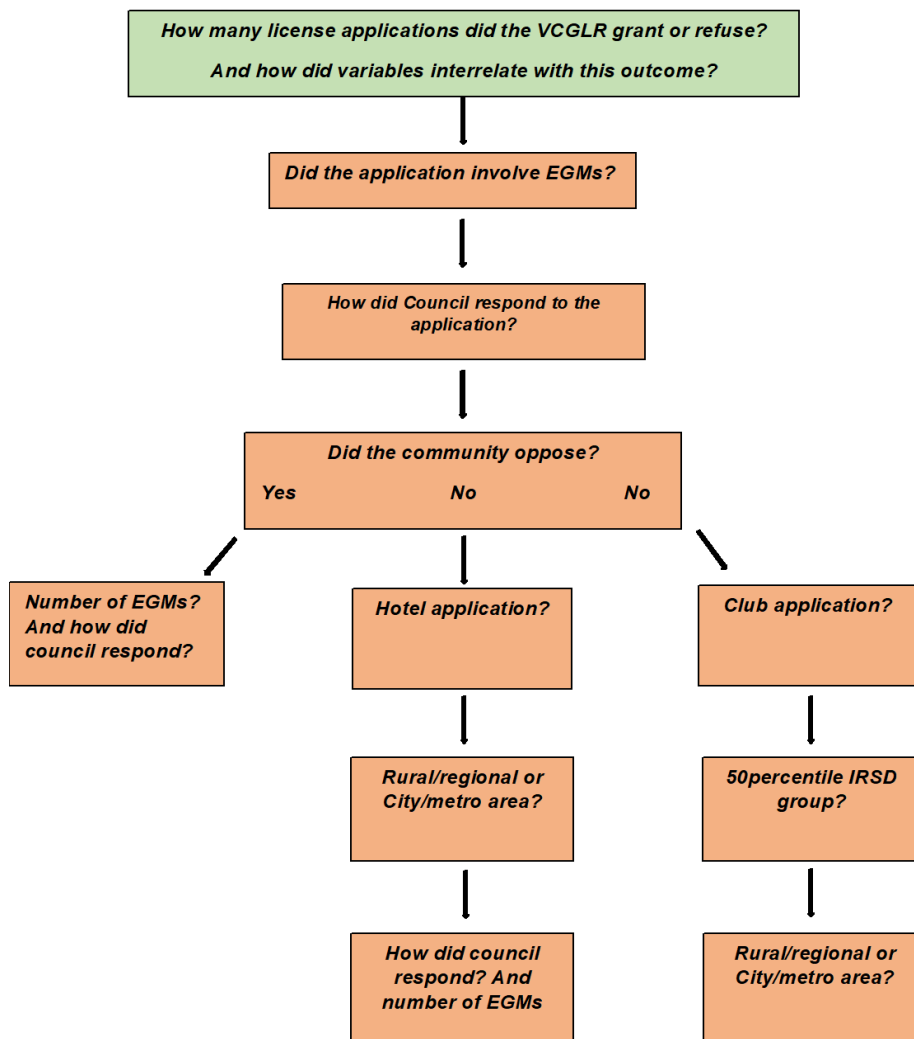


Figure 8: Cart Interrogation of VCGLR Decisions: CaRT Algorithms Shown as Questions

The method is not dependent on a relationship between the dependent and independent variables; it does not assume a cause and effect relationship, nor does it make distributional assumptions (Frisman *et al.*, 2008).

The tree constructed algorithmically from this research data is shown below as illustration (Figure 9) only of how CaRT manifests based on this idiosyncratic data set.

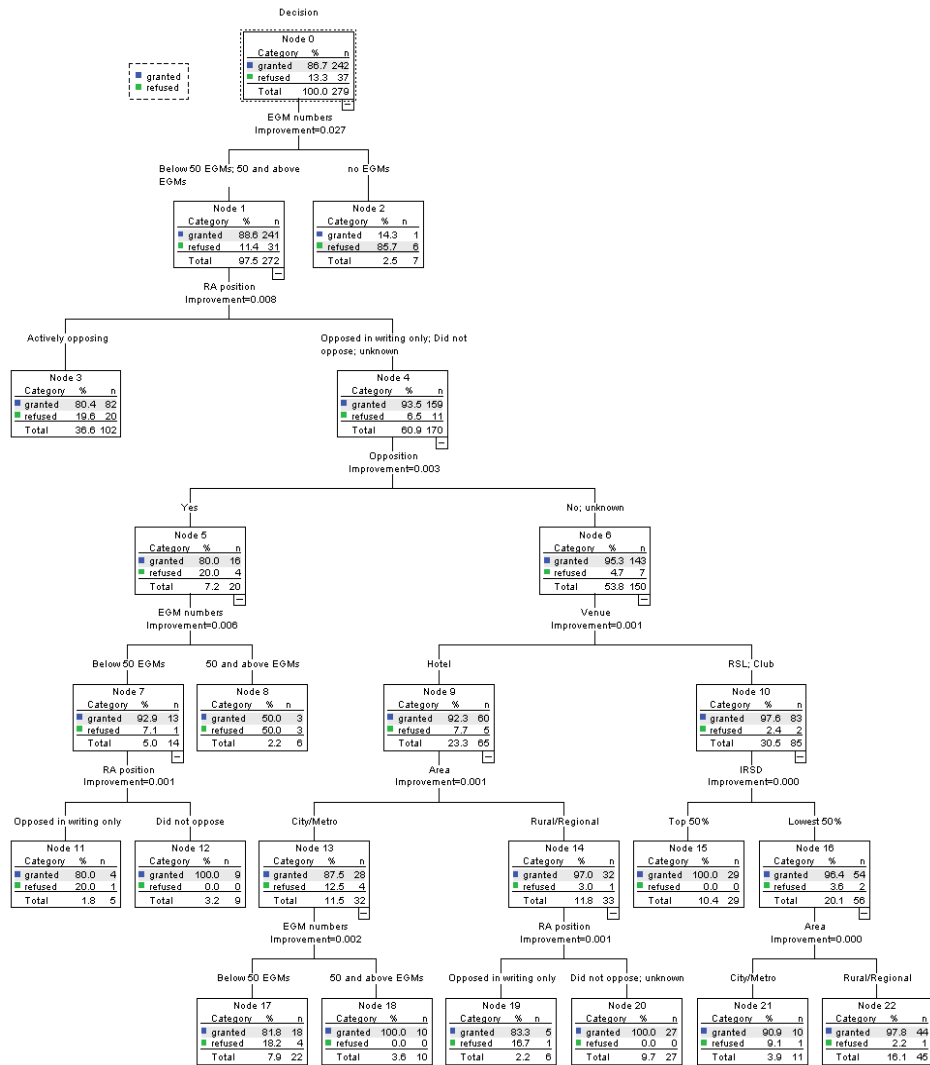


Figure 9: CaRT Tree of VCGLR Licensing Decisions from 2001-2014.

This tree will be represented and discussed in chapter 5. The tree is identified or named by the variable of exploration, the dependent or target variable, in this case VCGLR 'Decisions' (licensing) to grant or refuse applications. At the top of the tree is the root or

parent node. This node contains all observations to be analysed; hence this node holds the entire population of all EGM applications in Victoria from 2001-2014 ($n=279$).

The tree constructs, by algorithmic Inquiry, branches and nodes from the developed variables. The method by which the tree decides to grow is by recursive splitting of nodes based on most purity. The Gini index is used to determine an impurity value which then acts as a binary splitting metric – i.e. it splits a parent node into two new category nodes. The Gini function is used by CaRT in SPSS 23 to grow the decision tree - it decides on the split in the best possible way so each category can be as homogenous as possible (Lemon *et al.*, 2003). In other words, it starts with the variable VCGLR decisions granted and refused as these provide the most purity (all granted and all refused). CaRT statistically sorts variable progressively in relation to ‘most certainty of purity’ – the least pure categories lower down the trees. For example, if a local government objection at a hearing leads to a clearer outcome to refuse applications it will be ranked higher than another variable. This means the best, most pure split, is closest to the top of the tree. It is the most homogeneous category of VCGLR decisions and progressively the variables are organised accordingly to purity to the target variable and simultaneously in relation to all the variables. Larger Gini function values indicate a greater difference with respect to the prevalence of the dependent variable (i.e. VCGLR decisions to grant and refuse) in the two child nodes. The independent variable whose split provides the largest value is selected automatically by the Gini function in SPSS at each step. The most determining factor for splitting is the difference in the proportions of VCGLR decision outcomes (granted/refused) in the child nodes, but also the difference between the proportions of VCGLR granted and refused contained in the child nodes (Lemon, 2003 pp 174-175). CaRT algorithms calculate all possible data combinations simultaneously forming the patterns of branches and nodes at progressive

depth levels. The final split on a branch is termed a terminal node and represents a category classification that cannot be split any further.

The tree continues to split until no further splits are possible either due to pre-set stopping rules (predetermined tree depth and minimum observations in nodes) or until it has reached purity of class. A predetermined stopping rule for this tree was set at 5 minimum observations in terminal nodes to avoid an overly complex tree and tree depth was set at 20. The result of this process is the construction of 'Maximal Tree' as illustrated above. This is the tree that reflects the dataset most accurately (Lemon, 2003). The Maximal Tree follows all idiosyncrasies of the data i.e. it is the best fit tree for the purpose of this analysis as we are concerned with categories and historic patterns, however, it is too idiosyncratic for prediction and classification analysis.

CaRT analysis is criticised for being very sensitive (Rokach and Maimon, 2007) in that small data changes in the data can affect the tree significantly because of the chain reaction of splits are predetermined by the path taken through the tree (Crichton *et al.*, 1997). As a result, the risk can be over interpretation of data outcomes because of the tree's ability to respond to random features in data (Kuhn, 2013). In the case of using CaRT analysis for prediction or classification, care and diligence must be taken in selecting the final tree, the 'Best Fit Tree', for interpretation when concerned with prediction or classification analysis.

Initially attempts were made to statistically 'prune' the tree, using SPSS version 23, to construct a 'Best Fit Tree' model, as opposed to the 'Maximal Tree'. However, no reliable/meaningful prediction model was possible due to a very biased/one sided dependent variable, i.e. a large majority of decisions were approved by the VCGLR.

Hence this study does not attempt to grow a 'Best Fit Tree' - the tree used for prediction and classification analysis. This thesis is only concerned with the 'Maximal Tree' - the best fit tree for illustrating the dataset, showing all the idiosyncratic data categories and their relationships between variables. The details of the SPSS CaRT report can be viewed in appendix 5 'Maximal Tree SPSS'.

4.3.3 Chi-square Analysis and Cross-tabulation

The study also used descriptive statistics, chi-square testing (Platt, 2004) and cross-tabulation (Lewis-Beck, 2004) to identify patterns in the dataset. It does not attempt to draw conclusions beyond the data available. Pearson's Chi-square test χ^2 was used. The chi-square tests results can be viewed in appendix 4 (Chi-square tables). This is useful when exploring data patterns beyond significance testing (i.e. chi-square) as it forms the database for diagram construction. Cross-tabulation results can be viewed in appendix 4. To this end, descriptive statistics were used to explore the relationship between individual variables and data mining (CaRT) explored the relationship between all the variables as a whole as they relate to VCGLR decisions to refuse and grant.

The study tested the null hypothesis and by convention looked for $p \leq 0.05$. SPSS version 23 was used for chi-square testing. The dataset included data from the Victorian Commission for Gaming and Liquor Regulation administrative database (license decisions in the time frame 2001-2014) and from the Australian Bureau of Statistics (ABS) SEIFA 2011 census data.

4.4 Qualitative Research Design and Methods

A single case study method was used for empirical inquiry into key stakeholder experiences and perceptions of Victoria's EGM planning system and processes. The empirical approach allows for deeper and more nuanced investigation of the phenomenon of EGM planning within its real-world context (Yin, 2014). It is well established that generalisability is present in a single case study (Silverman and Marvasti, 2008; Flyvbjerg, 2006), thus this case study also aims to highlight and stratify the risks and regressive consequences associated with current EGM planning praxis.

The case study of the rural community of Castlemaine in Victoria, Australia, built on the findings of the quantitative component of this study, which formed the basis for the theoretical support of the qualitative research design. The study adopted an adaptive design approach to allow for emerging information through data collection to shape the research process (Yin 2014). As well as building on the quantitative data the case study built on the semi structured qualitative interviews with key stakeholders as well as other sources of evidence e.g. other documentation and archival records.

The case study focused on community (i.e. residents, councils, and other involved parties) experiences of licensing of EGMs in Victoria as a critical lens to examine, highlight, and challenge the planning discourses and practices underpinning EGM planning in Victoria. An exploration and analysis of stakeholder engagement with the institutional framework underpinning EGM licensing provided the empirical context for the analysis.

4.4.1 Case for Community Level Research in EGM Planning

The case study responds to the demand for critical inquiry to be informed by its practical, temporal, and political context (e.g. Honneth 2009). Most gambling research is divorced from its cultural context (McDonald *et al.*, 2014 citing McGowan 2004) and as a consequence relatively little is known about the impacts of EGMs on individuals and communities. A study into the health and wellbeing impacts of EGMs on the community level in Victoria (McDonald *et al.*, 2014), funded by the Australian Research Council (2009), and Greenslade 2013 doctoral thesis (as a component of the same research project) previously referenced in chapter 2, is the most significant community level research to date in Victoria. Key aspects of Greenslade's (2013) critical ethnographic research align closely with this thesis as her research examined the long-term effects of EGMs in a rural community. Her findings suggest attitudes to EGMs are linked to persistent hegemonic discourse/instrumental reason and the specific community context. The role of instrumental reason, highlighted in the context of community level research, is extended in my thesis by a focus on EGM planning praxis and such contributes to further nuanced understandings of the impact of EGM hegemony on communities. This is an important element of critical inquiry where focus is on "learning not proving" (Flyvbjerg 2006 p 224). In particular there is a void in community level, i.e. little space, research about EGM planning and praxis, yet little space is imbued with its associated socio-spatial effects. However, the underlying rationale of McDonald and colleagues' study to "assist governments and regulatory authorities to [better] balance the costs and benefits of gambling" (2014 p 6), is a significant point of departure from this research, which critiques the very rationale for 'balancing costs and benefits'.

A community case study of EGM planning praxis, employed as method for this thesis, closes in "on the real-life situations and tests views directly in relation to phenomena as they unfold in practice" (Flyvbjerg, 2006 p 235) hence captures the "ambiguities of politics and planning in a modern democracy" (Flyvbjerg, 2006 p 236). To this end, the case study of this thesis as method and contribution responds to the demands of critical inquiry as well as the current research void on community studies in gambling generally and specifically EGM planning praxis.

4.4.2 The Single Case Study

The advantage of the case study is that it can 'close in' on real-life situations and test views directly in relation to phenomena as they unfold in practice. (Flyvbjerg, 2006, p 235)

The context for this study is the application by the Maryborough Highland Society, under the *Gambling Regulation Act 2003*, to the Victorian Commission for Gambling and liquor Regulation (The VCGLR) for approval of premises for 65 gaming machines in the old Goods Shed in Castlemaine, Victoria. I will refer to the case as the Castlemaine Case. The timeframe is June 2010 to February 2013.

The single case study approach is particularly useful when the objective of the inquiry is to develop a full understanding of the case as it relates to the social phenomena as well as the particular case or real-life context (Yin, 2014; Punch, 1998). Hence this single case study provides an instrument for gaining insight into the lived experience of EGM planning in Victoria as well as the broader complex issues associated with Victoria's EGM planning policy and regulatory processes (Stake, 2000). Whilst it is acknowledged that the single case study method is a challenging and complex qualitative endeavour

(Yin, 2014), it provides a unique opportunity to explore a complex social phenomenon within its authentic empirical context (Feagin *et al.*, 1991). In particular, the anomalous or divergent nature and outcome of the case allows for deeper exploration and expanding understandings of key issues of this Inquiry.

The case study selection is structured around the case study questions and a case study proposition; the latter underpinned by the findings of the quantitative research component of this thesis (Yin, 2014 p 29). At a broad stroke these propositions suggest prevailing problems with fairness and equity in the current EGM planning policy and practices, its underpinning systems and processes, as well as in its consequential urban fragmentation demarcated by geographical location, procedural discrimination, and socioeconomic disadvantage. Vulnerable and disadvantaged segments of Victorian communities are particularly exposed to EGM harm, and the disadvantaged local planning authority (council) and communities appears to have only very limited impact on VCGLR decision-making.

Building on the research questions and indicative case-study selection criteria purposive sampling was used to select the Castlemaine case study from the Gaming Commission's data base in combination with the Australasian Legal Information Institute (AustLII)²⁰ VCAT Database.

There are a number of key analytical criteria for a single case study. Each will be outlined in relation to the Castlemaine Case. The single case study must be a significant case of critical or strategic importance to a particular topic (Flyvbjerg, 2001). The Castlemaine Case holds critical as well as strategic importance for a number of reasons. The case

²⁰ The AustLII provides internet access to Australasian legal material. EGM appeal cases to the Victorian Administrative Tribunal (VCAT) is accessible via the institute website <https://www.austlii.edu.au/austlii/>

suggests a new strategic legal direction and interpretation under the *Gambling Regulation Act 2003*, as well as standing as an anomalous case of community opposition (of some strength and sophistication). In the following section I emphasise the critical and strategic significance of the Castlemaine Case:

The Castlemaine Case is designated a 'Red Dot Decision' by Victoria's Administrative Tribunal (VCAT). Red Dot Decisions are cases considered by VCAT to be of particular interest; in the case of Castlemaine, its significance relates to the first explicit demand by VCAT for greater transparency of the institutional decision-making processes. The issue of interpretation and application is significant as VCAT suggests the approach to applications must require parties to identify economic and social benefits and disbenefits, and direct evidence to those determinative issues.²¹ VCAT also emphasises that the net social disbenefits are considered to outweigh the net economic benefits of the proposal, such that the overall net impact on community well-being would be negative. The range and intensity of community opposition and perceptions of a change to the social character of Castlemaine were also a determining factor for VCAT to rule the proposal as detrimental to the community.

Successful community campaigns and influence on EGM developments are anomalous in the history of EGM planning. The Castlemaine Case involves an unprecedented number of objectors executing a sophisticated and effective campaign influencing the final outcome of the decision-making. EPIC²², as a community group, also achieved the

²¹Mt Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors Para [60] and [154]-[158], [VCAT 101] 2013. Accessed 17 January 2015, http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2013/101.html?context=1;query=gambling%20electronic%20gaming%20machines;mask_path=au/cases/vic/VCAT

²² EPIC is the Castlemaine community group campaigning against the EGM development proposal. The name is a pun and an acronym for Enough Pokies in Castlemaine.

status of being able to tender evidence and cross examine – to my knowledge a first, and at least rare, in the history of VCAT EGM license appeals.

The application for licensing was refused by VCAT – a ruling contrary to the VCGLR ruling. VCAT generally gives strong weight to VCGLR rulings i.e. it maintains the decision made by the VCGLR, and thus the Castlemaine Case stands anomalously, and can provide new knowledge about influencing factors on decision outcomes and community agency more broadly.

Results from the quantitative component of this thesis show that rural and regional municipalities infrequently oppose EGM developments. In this context, the Castlemaine Case is also anomalous; Mt Alexander Shire Council elected to oppose the EGM application made to the VCGLR as well as appeal the VCGLR decision to VCAT.

To this end the Castlemaine Case provides an opportunity to explore and understand in more depth the social, economic, political and environmental factors influencing Council decisions to oppose and appeal EGM developments. It provides a different dimension of knowledge about the phenomenon than the quantitative methods facilitated.

A single case study approach must provide the context of an in-depth and profound exploration of the topic of inquiry (Punch, 1998). It is framed by its unique history, socio-economic, political and geographical contexts (Cook *et al.*, 2012). The grounds for selection take into consideration socio-spatial factors, community activism and grounds for appeal that enable a deep exploration and discussion of the interplay of complex social factors contending the space of EGM planning. Extensive material i.e. proceedings, minutes of meetings, community group and residents submissions, expert submissions, and available and identifiable subjects positioned the Castlemaine Case as accessible for an in-depth exploration of the research questions. As one of the objects

of inquiry in this study is discourse realised in EGM planning processes and the interactions of discourse with the regulatory framework, the single case study is particularly suited as a method.

As an instrument for investigation the case study must also have clear boundaries (Punch, 1998). This case study is clearly framed by temporal boundaries beginning at the point in time where Maryborough Highland Society made public its intent to establish a new gaming venue in Castlemaine to the VCAT decision to overrule the decision made by the VCGLR to grant the application. The procedural and regulatory sequence of events in this timeframe also provides a frame for selecting key documents, subjects and fora for analysis. Thus, the case provides a lens into all key processes in relation to the local Council, the VCGLR, and the appeals processes at VCAT.

The use of multiple data sources is also a key characteristic of the single case study. These sources can be in a number of forms e.g. interviews, document reviews and participant observation (Punch, 1998). Due to the atypical extensive community and professional involvement in the EGM planning process the Castlemaine Case provides easy access to a significant pool of stakeholders (i.e. interviewees). This allows for a wide scope of participants and perspectives, as well as documentary material not available in other cases. The contribution of my own observations of participants also forms part of the analysis.

4.4.3 The Castlemaine Case Context

Castlemaine is a small city located in central goldfields of Victoria in Mount Alexander Shire, land of the traditional owners of the Dja Dja Wurrung people, 120 km northwest of

Melbourne and 40 kilometres from the major regional city of Bendigo (see Figure 10 below).



Figure 10: Municipality Map of Victoria, Adapted from Municipality Association of Victoria (2018)

The shire is predominantly a rural area. Castlemaine is its main township, hosting approximately 6000 residents and approximately 18,000 people in total in the municipality (Mt Alexander Shire, 2017). At the time of the EGM application, Castlemaine had one pre-existing EGM venue, the Cumberland Hotel, which has 30 EGMs producing revenues in excess of 3 million dollars annually. Compared to the Victorian rural average of 5.13 EGMs per 1000 adults, Castlemaine only has 2 EGMs per 1000 adults²³, thus presenting a significant regulatory scope for expansion. The proposed location of the development was in a residential area in the centre of

²³ Maryborough Highland Society Inc v Victorian Commission for Gambling Regulation (2012)

Castlemaine. It was in proximity to a major transport hub, childcare facility and the Salvation Army community centre.

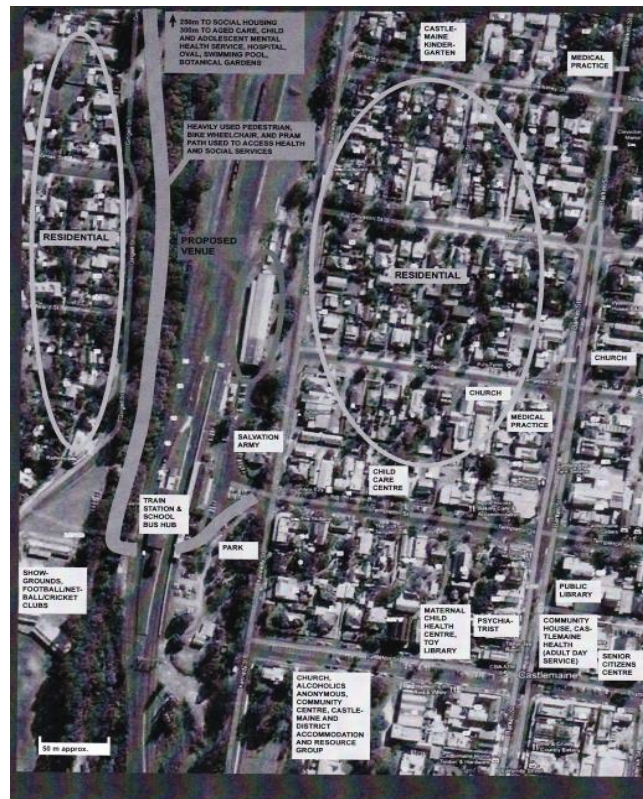


Figure 11: Location of proposed venue and surroundings (Source: EPIC 2011 Critical and Strategic importance)

The development was contested vigorously by the majority of residents as well as the local Council, yet the Victorian Commission for Gambling and Liquor Regulation approved the application. However, on appeal to VCAT the application was denied.

4.4.4 Case-study Methods

Research methods serve to expand and accentuate the studied phenomena bringing new insight or adding to what is already known about it, and thus the method chosen

determines what can be learned (Charmaz, 2006). This case study applies two commonly used methods for qualitative research which are particularly useful for the inquiry at hand: documentary evidence and semi- structured interviews.

Semi structured interviews

Firstly, prior to recruitment and interviewing this research obtained approval from the RMIT Human Ethics Committee. The use of semi- structured interviews is a particularly useful research method for exploring the lived experience and individual understanding of EGM planning processes as well as gaining insight into the diversity of perspectives and circumstances. Hence, the aim is not to find truth, but rather to discover new, and expand and challenge current beliefs and perceptions.

Liamputtong and Ezzy (2005 p 60) note that “Conducting a good in-depth interview is an art that cannot be achieved by following rules or particular methods”. However, I do suggest one rule and that is to always have the relationship in sharp focus, thus building a good rapport with the interviewee.

The semi-structured interviews were guided by a questioning framework that was adaptable to the cohort of interviewees depending on the role of the participant e.g. a Council officer/professional, a local resident or an applicant representative. The level one questions aimed to elicit data that in turn addressed the overall research questions (Yin, 2014, p 90). The template questioning framework is illustrated in the table (Table 3) below.

Interview Question Template	Prompts/purpose
1. Please describe the processes from your perspective.	This question seeks to explore the planning <u>processes</u> from the perspective of interviewees.
2. Please describe your role in the process.	This question seeks to explore the subject's positioning and the <u>role</u> of the interviewee in relation to the EGM planning processes.
3. What do you think about how the process unfolded?	This question seeks information about the <u>perception/judgment</u> of the EGM regulatory processes (generally and/or specifically in the Castlemaine Case) as well as the personal experience of participation in the formal as well as informal arenas of planning.
4. In your opinion how was the process fair and just or unfair and unjust?	This question seeks information about values and <u>perceptions of justice, equity and fairness</u> in planning.
5. How/or can the process be improved?	This question seeks information about <u>visioning/ or critical analysis/appraisal</u> of EGM planning

Table 3: Single Case Study Questioning Frame

The study used purposive sampling and snowballing (Bryman, 2008). Recruitment strategies for interviews included making direct contact with key stakeholders via email

and telephone to schedule interviews, and prospective participants were initially identified in VCAT and VCGLR decision documents. Semi-structured interviews were conducted face-to-face at places of convenience to participants. The interviewing process became a time-consuming and logistically demanding exercise as interview locations were spread over a radius of 150 km, and often conducted with professionals with tight work schedules that it was necessary to accommodate.

The interviews were audio recorded and transcribed, which yielded a large volume of data (in excess of 1500 pages). Most of the participants had at some point partaken in the Castlemaine Case planning process.

My aim of recruitment was to cast my net widely, seeking a nuanced representation across all spheres involved in the processes. However, of note is the lack of industry representation/applicants who declined to participate with the exception of one representative from the applicant's legal counsel.

Participants represented 3 broad groups:

- 1) Participants exclusively relevant to the Castlemaine case such as local residents, Council staff, and local Councillors
- 2) Participants who were professionals specifically engaged with the Castlemaine case but also held extensive experiences beyond the specific case such a legal counsels and expert witnesses
- 3) participants who were professionals with no direct involvement in the case, but who held extensive experience in working with local Councils and communities across the state of Victoria such as peak body representatives.

The table below (Table 4) summarises the participant groups. In my considerations around recruitment, I aimed for stratified perspectives and experiences, meaning I was

interested in localised community perspectives and experiences (the micro level of municipality) as well as general perspectives and experiences (the macro level of the state). This assisted in discerning place-specific topics/issues in my analysis as well as gaining a general perspective extending beyond the case of focus for this research. I did not purposefully recruit for gender balanced representation. However, nine participants would by convention be described as women and eight participants as men²⁴. All had English as their first language. The transcripts were subjected to close and systematic reading to provide the basis for detailed coding and analysis. Participants names and at times genders were altered to conceal their identity - no accurate names were used.

Local Residents	Legal Counsels	Expert Witnesses	Council Staff	Councillor	Peak-body representatives
6	2	4	2	1	2

Table 4: Participant Table

Documentary sources

Documentary sources were specifically targeted, either through intentionally targeting or opportunistic targeting (Patton, 1990), for inclusion in analysis to provide key information important to the research. These sources offered a rich source of information valuable to this social inquiry (Yin 2014, Punch 1998). The analysis involves the following key documentary sources:

Process documents: These documents included the VCGLR and VCAT public document 'Reasons for Decisions' which describe relevant matters and reasons of the decision making by the statutory bodies.

²⁴ The alias given to interviewees in this research does not necessarily reflect this balance

Supportive documents: These documents served as submissions to the statutory bodies i.e. witness statement reports and community group's report submission, however they were not publicly available. Access was only possible at the discretion of the interviewees. These texts included submissions made by professionals and community groups.

Council meeting minutes: These involved all the minutes from Mt Alexander Shire Council meetings that addressed any issues pertaining to Maryborough Highland Society's application for 65 EGMs in the Old Goods Shed in Castlemaine.

Private documents: This text source included my own notes, observational notes, and other local research texts (i.e. student research on the case as presented through the local media)

4.4.5 Data Processing and Analysis

Data processing and analysis was undertaken by employing set procedures to systemise the approach. The following describes the process and procedures undertaken.

Interview coding procedure

Firstly, I listened to each interview in 'chunks' so I could write a succinct summary of each interview incorporating my notes and reflections immediately after having completed the interview. From the summary, I developed initial codes. This served two main purposes:

- 1) I wanted to preserve my immediate and initial understanding and perception of the interview in the spirit of the person interviewed i.e. to limit 'contamination' with other influences, and
- 2) to serve as a comparison tool for later transcript coding

I worked directly from the raw data and used data driven codes to develop themes (Boyatzis, 1998). Each interview yielded numerous initial codes. Although no 'one right way' to code exists (Braun and Clarke, 2006), I developed a thematic coding protocol, which formed the thematic framework for organising the data for two reasons: to ensure consistency and transparency in coding across the whole dataset, and to lessen the risk of contamination through (the researcher's) projection (Boyatzis 1998). The protocol drew from authors such as Braun and Clarke (2006), Boyatzis (1998), Ryan and Bernard (2003; 2003); the latter drawing on techniques from across qualitative fields.

I began the thematic reading with coding key statements i.e. statements that said something interesting, surprising, enlightening, or otherwise meaningful in relation to the research objectives and themes. I endeavoured to be generous and flexible in my initial assigning of codes to allow for emerging themes (Braun and Clarke, 2006). My emphasis was on relevance to the research topic rather than prevalence. I grouped small codes into larger codes through consideration of the meaning of the codes. These meanings/definitions ensured that there was no or little ambiguity later and consistency was maintained across texts.

I initially started coding using NVivo 11, which I find user friendly. However, I noticed my emphasis become very focused on the process of coding rather than the content of the material. I believe this disconnection with the material was due to my own kinaesthetic learning and thinking style. Given my material 'only' consists of 17 interviews I made the decision to code manually and sorted themes into stacks and formed mind maps on the walls - see for amusement the photo (Figure 12) below.



Figure 12: One of Many Coding Walls. Photo by Mette Hotker 2017

After this shift in approach I engaged with the material in a physical way and observed a stronger focus on the content than I did before. Documentary sources such as process and meeting documents were the main text source constructing the sequential organisation of data as well as providing an overview of the case, the involved parties, and the sequential key issues. The latter was assigned topic codes to be included in the coding protocol and this provided a rich source for understanding the institutional framework and processes (action, perceptions, discourse) involved in EGM planning. Supportive documents (i.e. witness statement reports and community report submissions) were also read to extract new or expanding perspectives on topics/ codes; and these were incorporated into the coding protocol. Private documents such as my own notes, observational notes and local research papers were read in their entirety serving to inform, deepen and challenge the analysis.

4.4.6 Text Analysis

Text analysis involved three layers of reading: temporal, thematic and discourse. This format is adapted from Steele (2009).

Temporal Reading of Text

The first layer of analysis involved a temporal reading of text. This involved organising key events into a chronological narrative or story; this analysis is presented in chapter 6. This provided an overview of the case as well as engaging the reader through a story approach (Sandercock, 2003; Bulkens *et al.*, 2015; Throgmorton, 2003; Eckstein, 2003) to the reporting of events. I drew on Eckstein's definition of story as "a verbal expression that narrates the unfolding of events in some passage of time and some particular location" (2003 p14). The story form provided enrichment and empirical grounding for the study by offering an experiential perspective on EGM planning processes and its relation to space, place and justice (Sandercock, 2003; Bulkens *et al.*, 2015). Sandercock suggests the following as key structural dimensions to a good story (2003 p 183):

- Temporal/sequential elements (involving a ticking clock to provide dramatic tension).
- An element of explanation or coherence rather than a listing of things.
- Potential for generalisability; for seeing the universal in the particular (the world in a grain of sand).
- Recognised generic conventions that relate to an expected framework: a plot structure and protagonists.
- A moral message or ordering.

This case study has a particularly strong storytelling framework that formed the structure for presenting the case. Applying Sandercock's (2003 p 183) storytelling framework to Castlemaine Case story led to the following:

There is a temporal sequence that began when the Mount Alexander Shire Council received notice that the Maryborough Highland Society had lodged an application for 65 electronic gaming machines for a proposed new gaming venue in the centre of

Castlemaine. It proceeded through efforts of mobilising opposition to the development followed by setbacks, crises, turning points and finally reached a dramatic resolution three years later with the VCAT ruling to overturn the VCGLR's decision to grant the application. The element of explanation was achieved through a 'grounded theory lite' approach and discourse approach to text analysis, exploring stakeholder experiences of the EGM planning processes underpinning EGMs. I drew lessons from the story to explore how perceptions, issues, and conditions of 'progressive and regressive planning' were manifested through the story and how we may understand and (re)consider planning more broadly in urban planning and public policy. There was the presence of a generic plot and characters – the story of David and Goliath, which tells us the story about facing giant problems or impossible situations; but interestingly sometimes Goliath is David and David is Goliath. The plot was about the invasion of a powerful predatory gaming industry and state powers into a peaceful and idyllic country community, and the neoliberal agenda was also present through the discourse of global and domestic market driven community infrastructure and benefits. Finally, the plot was also about community resistance and mobilisation, coalition building and the triumph of the human spirit. The characters embodied all these forces e.g. the dark forces of power were prevalent, along with: 'the noble community activists', 'a few good men' who came forward to invest in the community with private funds (i.e. pro bono lawyers), as well as the villains (supporters of the development and industry). The moral ordering of the story is clear: on the semantic level faith and strong values produce a will to act, it sustains in adversity and eventually justice prevails.

Thematic Reading of the Text

The second layer of analysis involved the thematic reading of the text to explore and gain an understanding of different issues and themes emerging in relation to the EGM

planning processes with the Castlemaine case as an empirical lens. The thematic reading of the text concentrated on the semantic levels of text - within the explicit or surface meanings of the data – so here I was not looking for anything that was not said. I aimed for a rich description of the text rather than a focus on one aspect (Braun and Clarke, 2006). The themes can succinctly be summarised as:

- 1) themes relating to the institutional/macro context of EGM planning i.e. how legislation, policy and EGMs are understood.
- 2) themes relating to the institutional processes and accessibility i.e. experiences and observations of processes and concepts as process issues.
- 3) themes referring to how stakeholder engagement is perceived in the processes. Stakeholders were physically present but also metaphorically present via proxy representation e.g. the gaming industry, the government, problem gamblers.
- 4) themes relating to the 'environmental' context of EGM planning i.e. factors that were perceived to influence process, efficacy, advocacy, and outcome, and
- 5) themes relating to how stakeholders 'took away' the experience of engagement and lived with it.

The thematic analysis is presented in chapter 7.

Discourse Reading of the Text

The third layer of analysis involved a critical reading of the text. For this purpose, I used a discursive reading of the text to extrapolate the latent and interpretive issues that were emerging. I applied a Foucauldian discourse approach which allowed me to examine the nature and impact of EGM planning in Victoria as well as illuminate the power/knowledge dynamics (Foucault, 1980) shaping participation in the regulatory

processes that governs the spatial distribution of EGMs. I drew on 3 Foucauldian key discourse concepts as outlined by Hall (2001):

- 1) the concept of *Discourse*
- 2) the concept of *the Power-Knowledge nexus*
- 3) the concept of *the Subject*

The following section outlines Hall's (2001) representation of the Foucauldian concepts of power, knowledge and discourse as used for analysis in chapter 8.

Foucauldian discourse expands the traditional linguistic understanding of discourse from language to a system of representation or framework for production of knowledge which also implies conduct i.e. language and practice. A Foucauldian perspective on discourse is therefore concerned with the conduct of discourse e.g. what, where and how discourse is conducted and what is ruled in and out. Central to the Foucauldian understanding of discourse is the concept of *episteme*, meaning the conglomeration of statements and conducts constituting stratified societal knowledge at any given time in history. Foucault terms this 'discursive formation', which over time is subject to change contingent upon new discursive formations or *episteme* and their power to supplement or disperse old discursive formations.

The Foucauldian perspective on meaning and the construction of meaning is that it cannot exist outside discourse (Foucault, 1972 cited in Hall 2001 p 73). Thus, discourse serves as a frame of reference by which we conduct ourselves e.g. understand, talk, regulate, and legislate about a phenomenon. The 'truth' about the knowledge is therefore less important than how we conduct or frame its reference; which Foucault sees as historically and socially contingent.

The Foucauldian understanding of discourse comes to the fore in this study through the close examination of EGM policy discourse and the supporting institutions (apparatus) and processes (technologies).

The Foucauldian theory of power/knowledge (Foucault, 1980) is concerned with the way knowledge is conducted/practiced particularly in institutional settings, where it serves to regulate the conduct/discourse of others (Hall, 2001 p 75). Knowledge is inextricably linked to power, but whilst Foucault is not naïve about the ability of the state to exercise power, the Foucauldian understanding of power is that power is of all yet by nobody i.e. it does not rest permanently with one entity, as for example is asserted by Marxist theory, which asserts power is economically determined, and thus class determined (Hall 2001 pp 75-76). Foucault (1980, p 119 cited in Hall, 2001 p 77) argues that power:

doesn't only weigh on us as a force that says no, but...it traverses and produces things, it induces pleasure, forms of knowledge, produces discourse. It needs to be thought of as a productive network which runs through the whole social body.

Hence the Foucauldian view of power deviates from a one directional power force to one that "goes right down to the depth of society" (Foucault 1977 p 27 cited in Hall, 2001 p 77). Thus, a Foucauldian conceptualisation of power focuses on the *relationship* between power and knowledge rather than power itself, as well as the way it 'operates within the apparatus (systems) and its technologies (techniques) (Hall 2001 p 75). Foucault (1980 p 27) notes that:

The apparatus is always inscribed in a play of power, but it is also always linked to certain co-ordinates of knowledge... this is what the apparatus consists in: strategies of relations of forces supporting and supported by types of knowledge.

Foucault's power/knowledge nexus theory is central to our understanding of the relationship between knowledge, power and 'truth'. He says (Foucault, 1977 p 27 cited in Hall, 2001 p 76): "There is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations."

Knowledge is inextricably linked to power both determines and creates 'truth' i.e. truth is not outside power i.e. what is believed or asserted as truth (Foucault, 1980 p.131). This point implies that the power/knowledge controls the truth and has "dispersive qualities into institutions, systems and practices" (Hall 2001 p 76). The Foucauldian 'truth' is not an absolute truth, rather it is a series of conducted discourses constituting what is believed or asserted as truth; this is also referred to as a 'regime of truth'.

The Foucauldian power/knowledge nexus theory provides an illuminating lens for examining how discourse enables the state to extend its power over Victorian communities through the construction of meta narratives of 'Responsible Gambling' and 'Benefits' as rationale for Victoria's EGM planning policy. However, the dispersive nature of power, i.e. power "needs to be thought of as a productive network which runs through the whole social body" (Foucault, 1980 p 119), is strongly illustrated by the local opposition campaign masterminded by EPIC.

Finally, a Foucauldian notion of subject is inextricably linked to discourse. From this perspective, the subject is not seen *episteme* as a sovereign body, but is considered in relation to the prevailing i.e. "a subject cannot be outside discourse – it is subjected to discourse; it must submit to the rules and conventions to its dispositions of power/knowledge" (Hall 2001 p 79). In this context, the subject becomes the bearer of knowledge, and knowledge or discourse becomes the constructor of subjects; i.e. subject

positions only exists meaningfully in relation to its frame of reference. The Foucauldian subject positioning provides insightful perspectives into the role of various stakeholders in sustaining the hegemonic discourse of EGM planning policy as well as the power afforded stakeholders through such discourse.

4.5 Research Reflexivity

I, as the researcher, am an integral part of this research, articulating my own subjectivity as a method to encourage critical thinking (Meyerhoff, 1992, Reinharz, 1992, Hertz, 1997). My personal as well as past professional experience of living in an area, indeed like most places in Victoria, where EGM venues are commonplace and working with problem gamblers on a daily basis, formed an extra dimensional context for the exploration of the community responses to the proliferation of electronic gaming machines. This reflexive approach aims for “believability, not certitude, enlargement/deepening of understanding rather than control” (Stivers, 1993 p 424). This approach often results in research that questions, challenges, contests and resists the status quo by using methodologies and interpretive strategies that extend current thinking about how knowledge is made and disseminated – bringing new insights and extending current thinking.

4.6 Limitations of Research Framework

Whilst I have discussed the limitations of the research methods throughout this chapter I conclude with the following general considerations of these limitations. This study uses interviews as a knowledge source. The research findings rely on the voices of those who could and wanted to partake, and not those who either chose not to partake or were not afforded the opportunity to partake. Thus, this equity of voice issue is mitigated by

ensuring participation and evidence are elicited from key groups of local supporters, protesters, Council members and expert professionals. The recovery of interview and other documentary data and analysis has been subjected to the capabilities of the researcher and as such is never free from subjectivity nor skill limitations. The latter also applies to the statistical data analysis, which is additionally limited by the relevance of variable selection as a best fit exploration tool for the research question. Finally, at the point of interviewing it was 6 years since the Maryborough Highland Society first let the community know about their intentions to expand into Castlemaine. Time delays naturally and inherently pose a risk to the accuracy of the recall of events. This is countered by drawing on other documentary sources such as Council notes, hearing submissions and media sources for verification of events.

4.7 Conclusion

This chapter has presented and discussed the mixed methods approach used in this thesis. It drew on two empirical data group sets to seek answers to the overarching research question: *How can local communities further social justice in EGM planning decisions?* The empirical investigation into VCGLR decisions to license EGMs was attuned to the macro perspectives of the thesis inquiry i.e. by providing an overview and broad understanding of the direct socio-spatial manifestations EGM policy in Victoria as well as the socio economic and spatial factors featuring in the decision-making process. The empirical investigation into the regulatory institutions, processes and outcomes, through a single case study, was attuned to the micro perspectives and deep insights pertaining to EGM planning and the implications for democratic processes and just outcomes for local communities, as well as the broader complex issues associated with Victoria's EGM planning policy and regulatory processes.

As established previously, this research contextualises EGMs as an issue of justice and a concern of planning. The subsequent chapters provide the empirical frame and an analytical context for exploring the justice implications of Victoria's EGM planning praxis for local communities; and ultimately a vehicle for considering a Just City agenda for EGMs.

Chapter 5: Socio-Spatial Justice Census of Victoria's EGM licensing

Mixed methods is an excellent starting point for empirical research. It uses different techniques to get access to the different facets of the same social phenomenon. (Olsen, 2004 p 6)

5.0 Introduction

This chapter is concerned with accessing the facets of EGM planning that relate to socio-spatial patterns of EGM regulation in Victoria. It explores and critiques the macro context, at the state level, by providing a socio-spatial understanding of the impacts of regulatory decisions over time. Chapter 2 highlighted the powerful political and economic forces contending the arena of EGM planning. This quantitative study highlights the socio-spatial challenges these forces pose to local communities when they object to EGM proposals through the regulatory processes and procedures. This is an important context for the case study. Thus, the approach aims to “deepen and widening one’s understanding” (Olsen, 2004 p4) of EGM planning in Victoria and the justice implications for Victorian communities. As a justice agenda demands scrutiny of discriminative outcomes (Fainstein, 2010), the mixed methods approach is particularly applicable to the Inquiry at hand as it is concerned with policy and strategies that enhance social justice (Fetters, 2018; Sosulski and Lawrence, 2008).

The chapter focuses on reporting, analysing, and discussing the quantitative research findings. As this is a critical inquiry, the emphasis is not on proving particular points or claims, but on deepening our understanding (see Flyvbjerg, 2006 p 206) of regulatory decision making. The focus is on responding to the research question: *What are the social-spatial patterns of EGM licensing decisions in Victoria?* Licensing decisions are

direct manifestations of Victoria's public policy on EGMs, of which one of the key policy objectives is to minimise harm from gambling (Victorian Gambling Regulation Act 2003). A harm minimisation policy would be expected to be reflected through licensing decisions in a number of ways. Firstly, vulnerable communities would have their vulnerability to gambling harm taken into account by the VCGLR, or at a minimum local council of vulnerable communities would be given extra resources to fight EGM proposals (which is not the case) and you would expect to see that reflected in 'active objections to EGMs' being unrelated to disadvantage. Secondly, the pattern of VCGLR decisions would be random or tending towards 'grantings' in the least disadvantaged areas. The findings from this quantitative study indicate the system acts blindly. Furthermore, the interrogation of licensing data brought forward the following key concerns about EGM regulation in Victoria:

1. Decisions are highly biased towards approving EGMs.
2. Local council and community impact assessments are only exiguously considered by the VCGLR.
3. Council objections are socially stratified against the most disadvantaged and rural/regional areas.

The results reveal that public policy and institutional processes afforded the most disadvantaged communities the least protection against EGM exposure and harm. This vulnerability was further accentuated by these areas experiencing more applications. Overall, the findings suggested that there are systemic incongruities embedded in EGM regulation and public policy.

The findings were derived from applying both decision tree (CaRT) methodology as a nonlinear statistical exploration tool, and descriptive statistics to explore a linear

statistical relationship between socio-spatial variables and VCGLR decisions to grant and refuse EGM licenses.

It must be noted that this chapter refers to resident objections as 'community objection'.

5.1 'The VCGLR Decisions' CaRT Tree.

This section presents the CaRT tree (Figure 13) constructed from VCGLR decision data across the years 2001-2014.

VCGLR Decisions 2001-2014

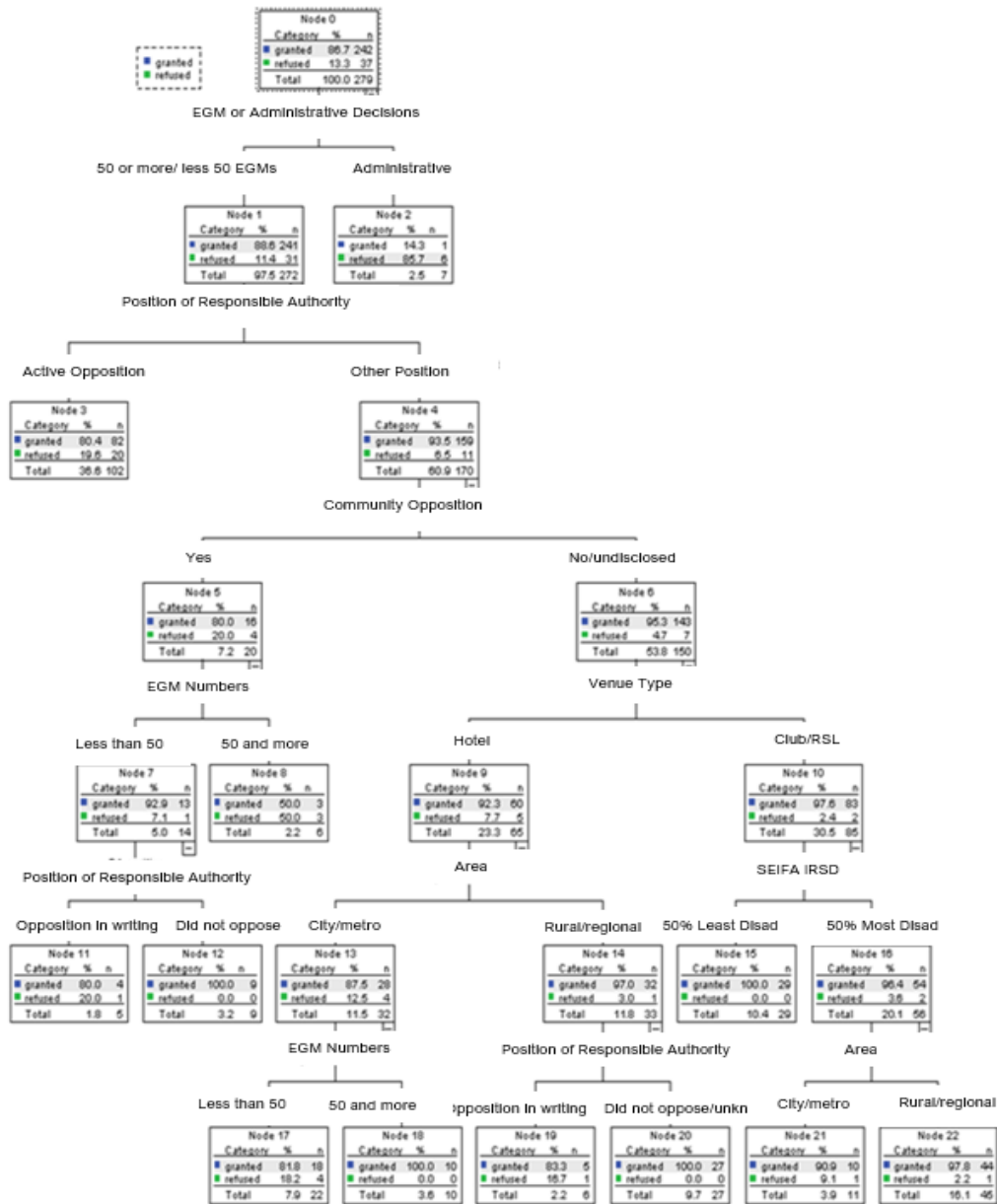


Figure 13: CaRT Maximal Tree produced by SPSS 23

The tree shows the nonlinear statistical relationship of socio-spatial categorical variables to VCGLR decisions to grant or refuse license applications. The tree is easy to interpret, starting from the top and reading progressively down the tree levels. CaRT algorithms constructed the tree by selecting the variable for splitting that would produce the most “optimal partition given the previous action” (Crichton, Hinde & Marchini, 1997 p 717).

The aim of the splitting of nodes is to optimise the purity of data in the subset compared to the parent node. The function used in CaRT for splitting was the Gini impurity function available as a splitting function for CaRT in the SPSS CaRT software used for this research²⁵.

The socio-spatial variables indicating VCGLR decisions to refuse or grant depended upon the path taken through the tree. As a result, the different socio-spatial variable *combinations* indicated VCGLR decision categories in the terminal nodes. For example, 'active council opposition' as a category and terminal node (node 3), was a category combination of all VCGLR decisions (node 0) that related to EGM machine numbers, i.e. '50 or more/ less 50' (node 1), but which excluded applications relating to 'administrative applications' e.g. applications for change of opening hours (node 2).

The most clear (i.e. pure) category associated with VCGLR decisions are terminal nodes found at the top of the tree and the association lessens as one progresses down the tree. As can be observed, 'active council opposition' was near top of the tree indicating a closer association with VCGLR decisions than for example SEIFA (IRSD), which featured low in the tree.

Conventionally, a CaRT methodology is used for classification (see for example Crichton *et al.*, 1997) or prediction (see for example Leclerc *et al.*, 2009). Pruning the (Maximal) tree to Best Fit tree, as required for classification and prediction purposes (e.g. Breiman *et al.*, 1984), was attempted. However, no meaningful results could be obtained, likely due to the strong bias of the data set towards 'grantings' as well as low numbers in many of the nodes as these factors made the predictions unreliable.

²⁵ A more detailed explanation and discussion of the Gini function can be found in Crichton *et al.*, 1997, Lemon *et al.*, 2003, and/or Breiman *et al.*, 1984.

However, the Maximal Tree was the most useful to this Inquiry because it produced a detailed map of the socio-spatial trends of VCGLR decisions over time. The advantage of using a CaRT was that all splits that occurred in the CaRT could be displayed simultaneously in one diagram (i.e. the tree). It was exactly this feature that was of particular interest to this Inquiry. A key purpose of using CaRT is as a visual commentary tool for public policy, as well as utilising its ability to narrate and evaluate policy whilst revealing complex interrelating factors.

The following sections will report and analyse the CaRT results in more detail. Section 5.2 demonstrates how CaRT functions as an exploratory tool to assess the socio-spatial effects of VCGLR decisions over time. The method comprises the decision tree *and* narrative/commentary tables. It identifies potential risks associated with current policy as indicated by the tree and considered through a Just City gambling lens. An additional contribution to knowledge is that this approach enables the effectiveness of the decision tree as visual policy commentary tool to be assessed.

Section 5.3 reports and discusses all the statistical findings, i.e. CaRT, the chi-square testing²⁶, and cross-tabulation²⁷. The findings and discussion are considered through the justice lens adapted for this Inquiry. Finally, some limitations of the study are discussed before the conclusion of the chapter.

²⁶The Chi- square test assesses the relationship between two categorical variables i.e. how likely the data distribution is to be due to chance. The Chi-square test results can be viewed in appendix 4.

²⁷ Cross-tabulation displays the breakdown of the data relationships in tables. The cross- tabulation report can be viewed in appendix 4.

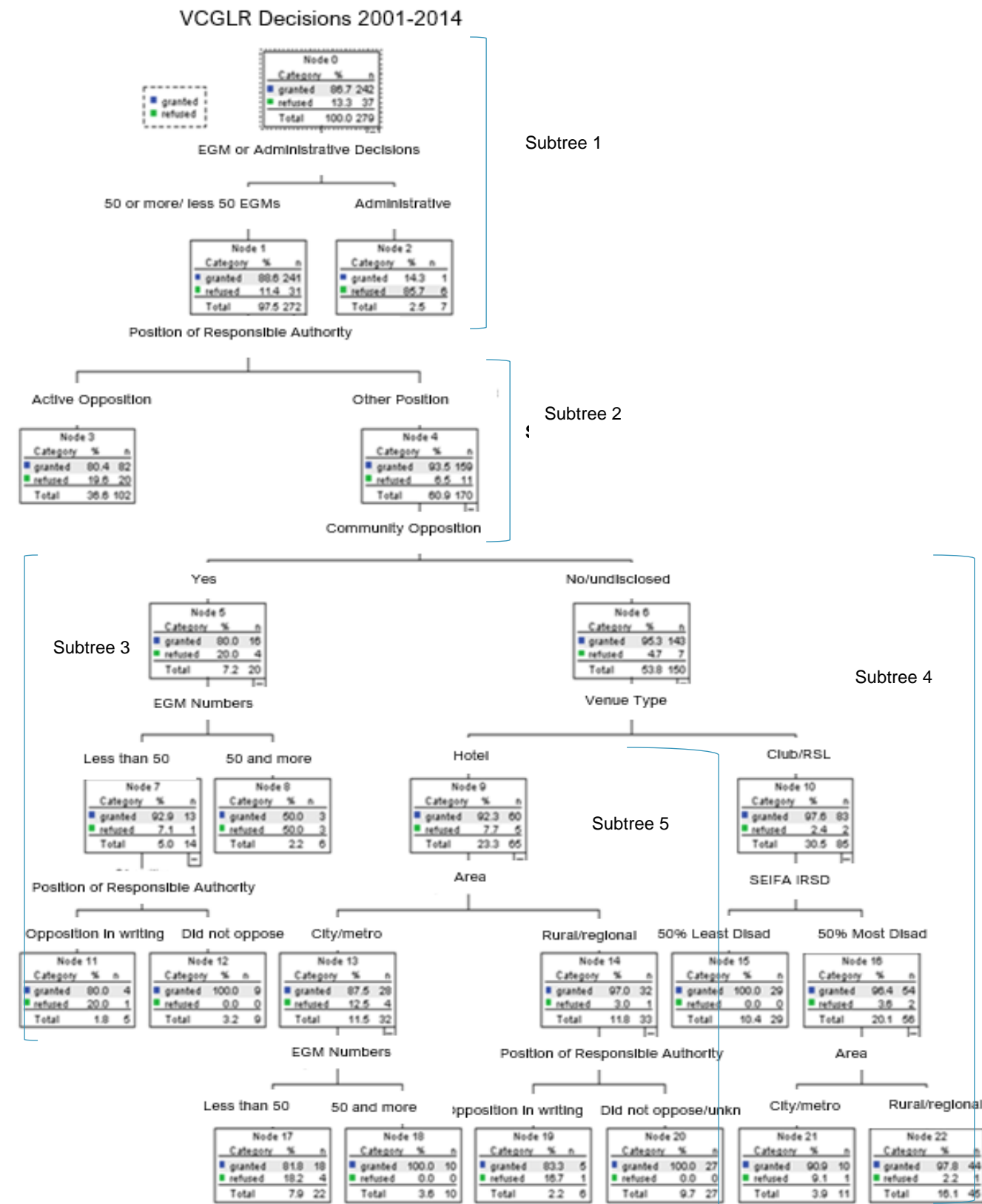
5.2 CaRT as Explorative Social Justice Assessment Tool

CaRT as a social justice assessment tool is illustrated by Figure 14. The emphasis is on the data contents in the nodes. The method scoped the EGM policy context as it related to potential justice impacts on Victorian communities as a result of regulatory practices.

The assessment tool (Figure 14) was constructed from the decision tree and associated commentary tables. The tree was segregated into 5 subtrees for ease of commentary. The tree nodes revealed a number of interesting findings and flagged important issues warranting further attention by policy makers and EGM planning strategies more generally. Identified risk factors were noted in the commentary table under each referring tree node as they related to the four tenets of justice proposed for EGM planning.

The assessment tool is read from the left column to the right. The first column identifies the CaRT sub tree; column 2 denotes the nodes relating to the CaRT sub tree; columns 3-6 refer to comments about observations in the referring nodes and subtrees. The comments highlight the potential risks associated with the identified part of the tree as they relate to the four justice tenets proposed for this Inquiry.

	Node	Equity	Democracy/Process	Democracy/Discourse	Diversity
Subtree 1	0	VCGLR approve most applications. High risk of harm distribution.	High approval rates are not reflective of general community wishes and attempts to oppose EGM developments.		High approval rate does not indicate thorough consideration of diverse vulnerability
	1		May indicate processes are difficult to access; hegemony strong and unresponsive to community needs.		
Subtree 2	3		VCGLR refuse more applications when council actively oppose.	May indicate strong hegemony inhibiting less resourced counter discourse from having any effect	Vulnerable groups/poorly resourced councils may not be able to partake; missing opportunities for identifying local vulnerabilities
	4		It also indicates opportunity for participation and influence provided appropriate expertise is available to draw on.		
Subtree 3	5			Weaker council objection may be greatly boosted when combined with residents' opposition (compare to nodes 11 and 12)	
	7				
	8	Distributional effects of negative equity are considered in relation to applications involving high numbers of machines, i.e. usually new EGM venues.			VCGLR consider vulnerability to exposure regarding big applications when there is community opposition
	11				
	12			Community discourse/counter publics is not considered in its own right i.e. without council opposition	



	Node	Equity	Democracy/Process	Democracy/Discourse	Diversity
Subtree 4	6			Higher approval when no community opposition and active council opposition	
	10				
	15	Least disadvantaged 50% areas: clubs are all approved. Indicates consideration of distributive and redistributive effects.			May indicate lack of thorough consideration of local vulnerabilities i.e. vulnerabilities that are not identifiable through aggregated statistical data; that which can only be revealed by local consultation. For example, drought, flood and bushfire affected communities
	16	More club applications in the most disadvantaged areas.			
	21	High approval rate of clubs in the most disadvantaged city/metro areas			
Subtree 5	22	More club applications approved in rural/regional areas. May indicate extensive use of EGM clubs as social and economic infrastructure in areas where this is lacking			
	9				
	13				
	14	More hotel applications are approved in regional/rural areas.			
	17				
	18	Big venue applications are all approved in city/metro areas. This raises questions about ways in which social and economic infrastructure are provided in new developing suburbs of the metropolitan areas, given the caution exercised by VCGLR in node 8, of similar EGM venue applications.			This may indicate that community discourse may have influence on decisions regarding EGM applications involving large numbers (compare node 8).
	19		Written council opposition appear to have some effect on outcomes		
	20				

Figure 14: Social Justice Assessment Tool

Summarising the commentary, the assessment tool indicated that the Victorian regulatory system may have a number of social justice risks embedded within its practice. These will be explored in the next section.

5.2.1 Summary of Indicated Equity Issues

There is high risk of harm exposure (89% of applications involving EGM licensing are approved) across socio-spatial strata of society. However vulnerable groups, either by socio-economic disadvantage or geographic area, are at risk of experiencing higher levels of harm due to heightened sensitivity to the impacts of gambling. This risk is perpetuated by more club venue applications occurring and being approved in areas of high vulnerability.

5.2.2 Summary of Indicated Democratic Process Issues

A high rate of approvals is incongruent with general citizens' concerns about EGMs. Most councils are opposed to EGMs, due to extensive harm, but less than half of EGM applications are actively opposed, indicating access to institutional processes may be difficult and unresponsive to local needs. However, VCGLR refuse more applications when councils actively oppose them, which points to some opportunity for participation and influence, provided appropriate expertise is available to draw on for mobilising active opposition.

5.2.3 Summary of Indicated Democratic Discourse Issues

High approval rates are incongruent with general community wishes and attempts to oppose EGM developments. This may indicate processes are difficult to access;

hegemony is strong and unresponsive to community needs. Consequently, less resourced communities may not be able to effectively oppose EGMs at the VCGLR or VCAT. It is also clear that community opposition will not be considered in its own right without council opposition.

5.2.3 Summary of Indicated Diversity Vulnerability Issues

High approval rates may indicate a lack of thorough consideration of vulnerability and vulnerable groups, as well as the reality that poorly resourced councils may not be able to partake in the decision-making processes. This means opportunities for identifying localised vulnerabilities are not identified by statistical aggregated data, for example drought, flood, bushfire or other community trauma may be missed in the assessment processes.

The next section combines all the statistical methods and results to form a justice critique of the macro environment – the regulatory context of EGM planning in Victoria.

5.3 Results and Discussion: A Justice Critique

The histogram (Figure 15) below represents the distribution of applications and decision outcomes across the two SEIFA indexes between 2001-2014.

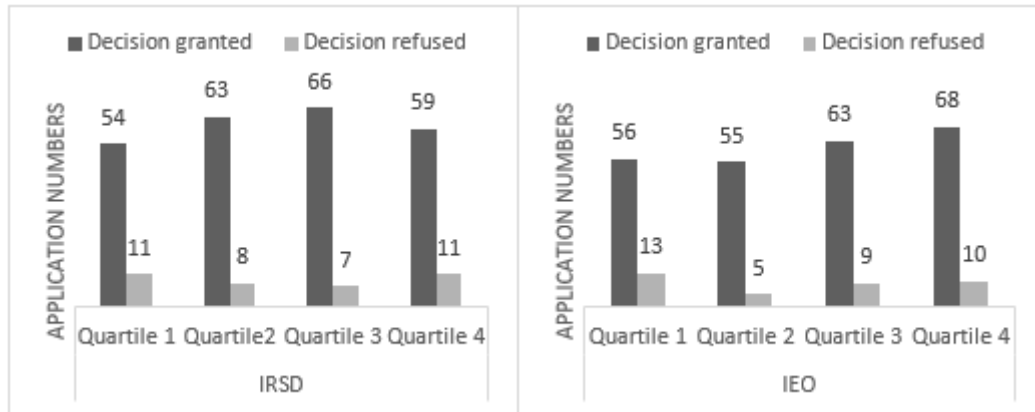


Figure 15: Application and Decision Distribution Across SEIFA Quartiles

The chi-square table (Table 5) below represents the chi-square results.

	VCGLR Decision	Position of the res. Auth.	Community opp.	IRSD quartile	IEO quartile	Area	Venue type
VCGLR Decisions		0.37*	0.66	0.527	0.364	0.031*	0.433
Position of the responsible Authority	x		0.000*	0.001*	.000*	0.000*	0.009*
Community Opposition	x	x		0.157	0.054	0.002*	0.390
IRSD	x	x	x		x	x	x
IEO	x	x	x	x		x	x
Area	x	x	x	x	x		x
Venue type	x	x	x	x	x	x	

Critical values were calculated at the level of significance $\alpha=0.05$ relative to degrees of freedom

Critical values were retrieved from <https://www.medcalc.org/manual/chi-square-table.php>

Table 5: Chi-square test results

Results will now be discussed as they relate to the justice tenets.

5.3.1 Equity

- *fair redistribution of benefits and disbenefits (i.e. risk of harm exposure i.e. negative equity) by the difference principle.*

The issue of *how* and *to whom* the benefits of EGMs will flow is at the crux of the equity criterion (Fainstein 2010). In a just gambling city, ‘risk of harm’ is a disbenefit or negative equity that must be recognised at the point of regulatory decision making, because at this very point negative equity has been publicly sanctioned. The following reports on the findings relating to equity and provides a synthesis and discussion of data.

5.3.1.a. Equity: Results

- CaRT subtree 1 (T_1) indicated the VCGLR grants 88.7% of all EGM applications (N_1).

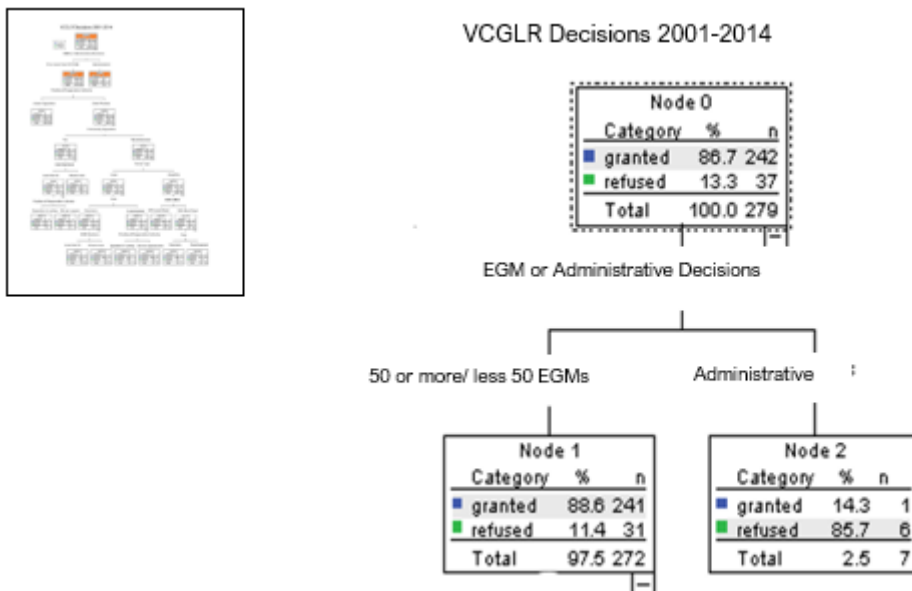


Figure 16: CaRT Subtree 1

- VCGLR decisions were not equally distributed across rural/regional and city/metro areas, $\chi^2(3) = 29.446$, $p = .000^*$. More applications were granted in rural/regional areas.
- CaRT T_4 revealed a more nuanced and complex interrelationship of various socio-spatial factors relating to VCGLR decisions. T_4 signalled trends where no (known) community opposition and active council opposition was expressed towards club applications (i.e. EGMs related to club and RSL venues):

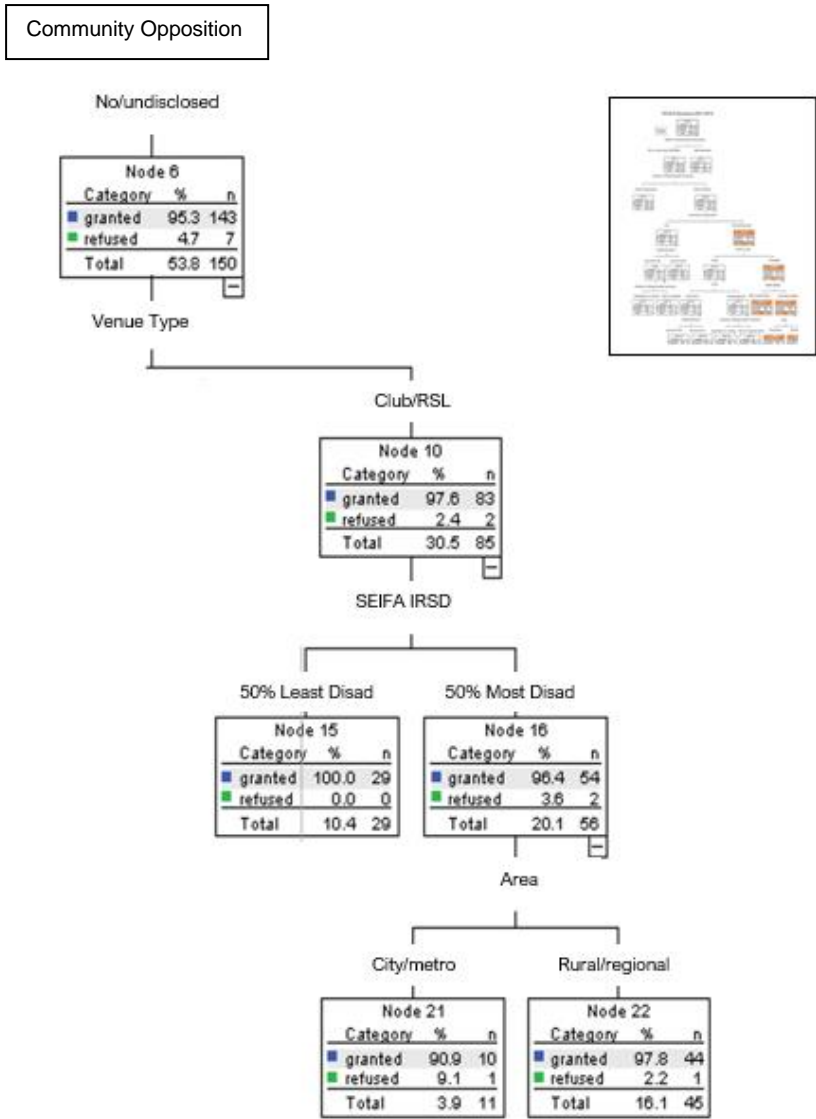


Figure 17: CaRT Subtree 4

In this subtree all club and RSL applications were approved in the top half of the least disadvantaged areas (node 10).

- Twice as many club applications (n=56, node 16) occurred in the most disadvantaged areas (i.e. low 50% of SEIFA IRSD areas, node 16);
- Most club and RSL applications occurred in the most disadvantaged areas in general (node 16);

- There were four times more club applications (n=45, node 22) in disadvantaged rural and regional areas (in this subtree 4) in contrast to disadvantaged city and metro areas (n=11, node 21).
- CaRT T₅ indicated trends where no (known) community ‘opposition’ and ‘active’ council opposition were expressed to ‘hotel’ applications (i.e. EGMs in a hotel venue):

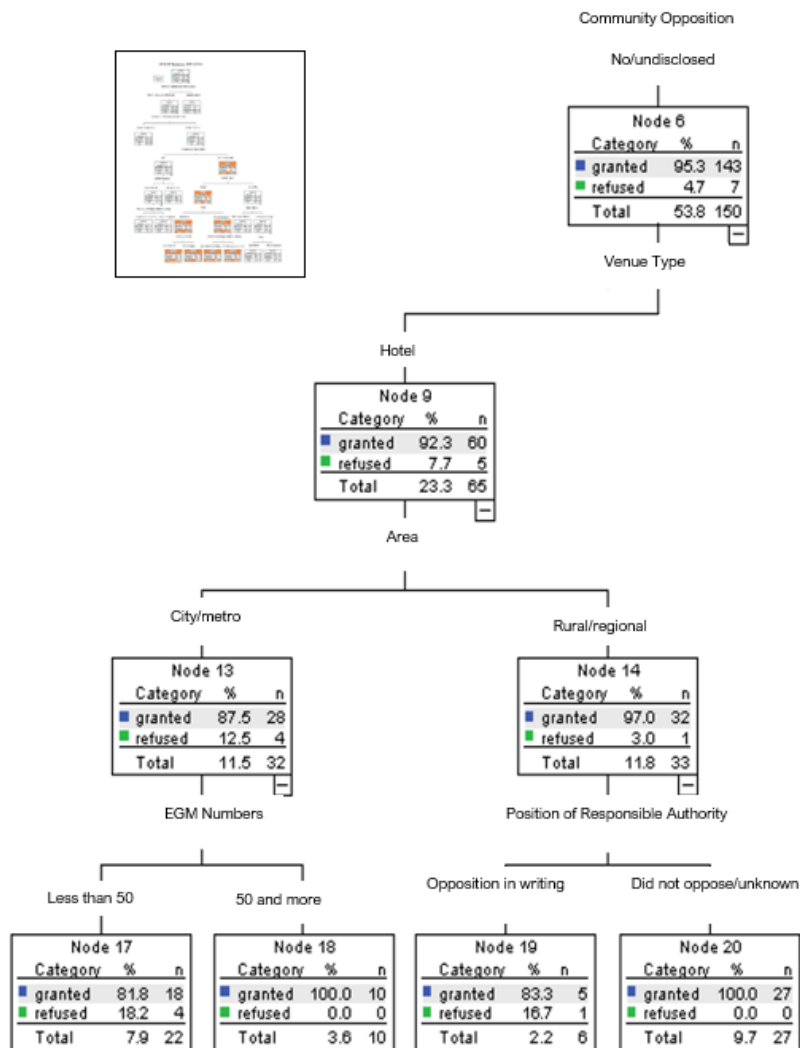


Figure 18: CaRT Subtree 5

- There was almost an even number of hotel applications in city/metro and rural/regional areas (N₁₃ & N₁₄), however 97% of rural/regional hotel applications were granted (N₁₄) in contrast to 87% of city and metro applications (N₁₃).
- 100% of rural/regional hotel applications are granted in the absence of any form of expressed opposition by councils (N₂₀).
- Large EGM applications in hotel venues (i.e. 50 plus machines) were all approved in city/metro areas (compare N₁₇&N₁₈).

5.3.1.b. Equity: Discussion

The VCGLR granted almost 9 out of 10 applications (disregarding administrative applications represented in node 2), signalling that the proliferation of EGM gambling was strongly supported through policy frameworks in Victoria. This has also been noted by scholars about gambling proliferation generally across the world (e.g. Markham and Young, 2015; Rossow and Hansen, 2016; Adams and Rossen, 2012). The strong bias towards approving new or relocated EGMs gives rise to equity concerns, given the extensive harm caused by EGM gambling documented by research (e.g. Browne *et al.*, 2016).

This research did not find an association between VCGLR decisions and SEIFA rankings. This finding is important because it suggests harm minimisation is not reflected in VCGLR decisions. otherwise a negative association between 'grantings' and disadvantage would be expected. CaRT supported the chi-square findings ranking SEIFA IRSD low and did not include IEO at all. These findings do not necessarily contradict previous socio-spatial research discussed in chapter 2 (e.g. Marshall and Baker, 2002; Australian Productivity Commission, 1999; Rintoul *et al.*, 2013), which highlighted more gaming machines were located in disadvantaged areas, because firstly,

this research is concerned with applications, not EGM numbers; and secondly, a large number of machines were already in place in disadvantaged areas prior to 2001, where this dataset begins.

CaRT indicated VCGLR decisions pertaining to clubs were socio-spatially stratified against the most disadvantaged and rural/regional areas. Ethical concerns arise in relation to communities having to forego safe and appropriate public recreational space for unsafe harm-producing public space in return for social infrastructure and economic development.

The higher approval rate in rural and regional areas is a new (significant) finding not previously reported, to my knowledge. It is problematic for rural and regional areas because of their general scarcity of social and economic opportunities, imposing tragic choices (Nussbaum 2000b) upon these communities who must accept rationalist trade-offs.

CaRT (e.g. T₅ N₁₈) indicated support for the sanction of EGMs generally as social infrastructure and economic development. The following quotes from VCGLR decision documents²⁸ also illustrate the regulator's support (i.e. public policy) for recognising EGMs as a legitimate way of providing social and economic infrastructure to Victorian communities:

- 1) In the case of Bridge Inn Hotel, located in City of Whittlesea, 2011: *there is a need for social facilities in the developing area of northern Whittlesea.*

²⁸ Decision documents are available at the VCGLR web database via the following link: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257Bulatory32007816CE?OpenDocument>

2) In the case of Pink Hill Hotel, located in City of Cardinia, 2010:
*acknowledging.....the importance of EGMs to the viability of new
entertainment venues*

The issue of the amplified and multifaceted risk exposure of the most vulnerable communities questions the ethics of current policy and the institutional practices of EGM licensing in Victoria. This is highly problematic from an equity perspective given the recognised role of EGMs in perpetuating inequality through their contribution to the vicious cycle of disadvantage by impacting on poverty, health detriments, and reduction in social and human capital (Browne *et al.*, 2016 p 18).

These results highlighted the need for considering a policy rationale situated in a justice ethics rather than the current utilitarian rationale based on cost benefit assessments of social and economic factors. The results also suggest a regulatory system focused on equality, i.e. everybody is afforded the same rights, rather than an emphasis on equity outcome, i.e. distributional effects as result of regulatory decisions.

The strong bias in favour of granting EGM applications and the inability to establish a positive association between refusals and disadvantaged areas suggest standards of redistributive justice fail by the difference principle and a reasonable standard of fairness (Rawls, 1971; 2001).

5.3.2 Democracy

- *democratic procedures and fair opportunity for counter discourse*

Key concerns to consider here are *how* and *to what extent* local councils and communities can mobilise influence on EGM decisions and *to what extent* discursive opportunities and limitations exist. However, the quantitative data is unable to distinguish

between democratic process and democratic discourse. These dimensions will be explored in chapter 7 and 8 using the case study approach.

5.3.2. a. *Democracy: Results*

- VCGLR decisions were not equally distributed across council positions (i.e. 'the position of the responsible authority'), $\chi^2(3) = 8.507$, $p = .037^*$. The histogram below (Figure 19) illustrates the distribution of refused applications across council positions. For example, incidents of active opposition, i.e. where council submitted a social impact assessment (SIA) in opposition *and* made council staff available for cross examination, were associated with the highest refusal rate.

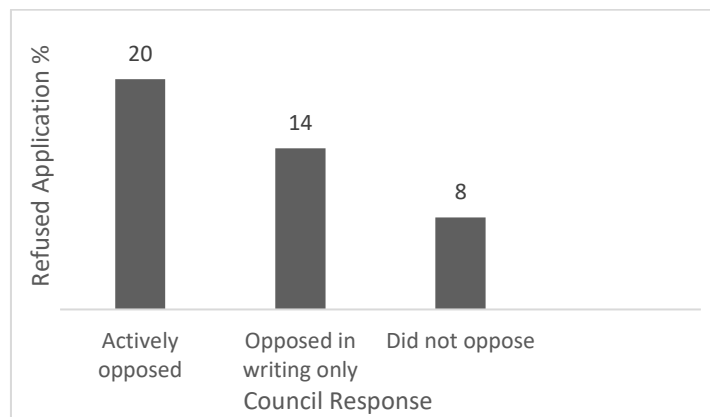


Figure 19: Council Response and VCGLR Refused Applications

- Council positions were not equally distributed across IRSD quartiles, $\chi^2(9) = 29.149$, $p = .001^*$. Councils of the most IRSD disadvantaged areas were least likely to object to EGMs.

- Council positions were not equally distributed across IEO quartiles, $\chi^2(9) = \chi^2(9) = 39.045$, $p = .000^*$. Councils of the most IEO disadvantaged areas were least likely to object to EGMs.

The histogram below (Figure 20) shows the distribution of active council opposition across the most and least disadvantaged areas.

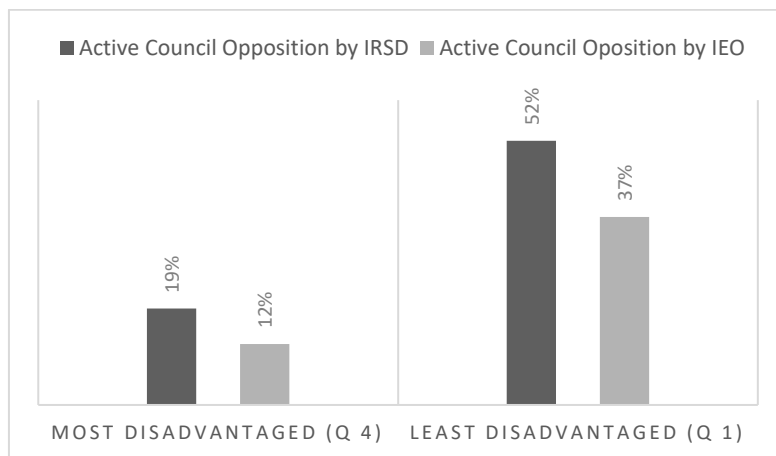


Figure 20: Active Council Opposition in Least and Most Disadvantaged Areas

- Council positions were not evenly distributed across venue type $\chi^2(6) = 16.948$ $p = .009^*$. Councils were most likely to oppose hotel applications and least likely to oppose RSL club applications.
- Council positions were not evenly distributed across areas $\chi^2(3) = 29.446$, $p = .000^*$. Rural/regional councils were less likely to actively oppose applications compared to their city/metro counterparts.
- Council positions were not evenly distributed across community objections $\chi^2(9) = 195.369$ $p = .000^{*29}$.

²⁹ This calculation was not performed with a Fischer's exact (chi-square) test as the computation was too complex (i.e. df 9) for SPSS 23 to calculate. Caution must be taken drawing any conclusion from this result

CaRT subtree 2 (Figure 21) revealed:

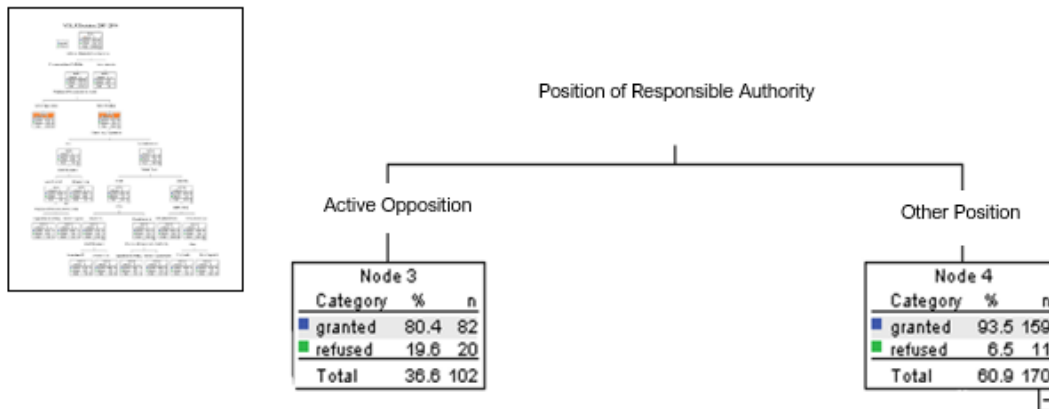


Figure 21: CaRT Subtree 2

- Local councils opposed a third (36.6%) of all EGM license applications (N₃). The VCGLR ruled on the side of councils' active opposition in 19.6% of cases relating to EGM licensing numbers (N₃).
- In instances where councils did not actively oppose, only 6.5% of EGM applications were refused (N₄). Hence, when council actively opposed, a 14% increase in refused applications (19.6% as indicated in N₃) was observed compared with cases where council was not actively opposing (6.5% as indicated in N₄)
- Community opposition was not equally distributed across areas, $\chi^2(2) = 12.307$, $p = .002^*$. City/metro communities were more likely to oppose EGMs than rural/regional communities.
- CaRT indicated community opposition was associated with 23% of applications (no 65/279). The chi-square test did not find an association between community objection and VCGLR decisions.

- However, T_3 (illustrated below in Figure 22) indicated that community opposition in combination with a council submission may influence VCGLR decisions to refuse (node 11).

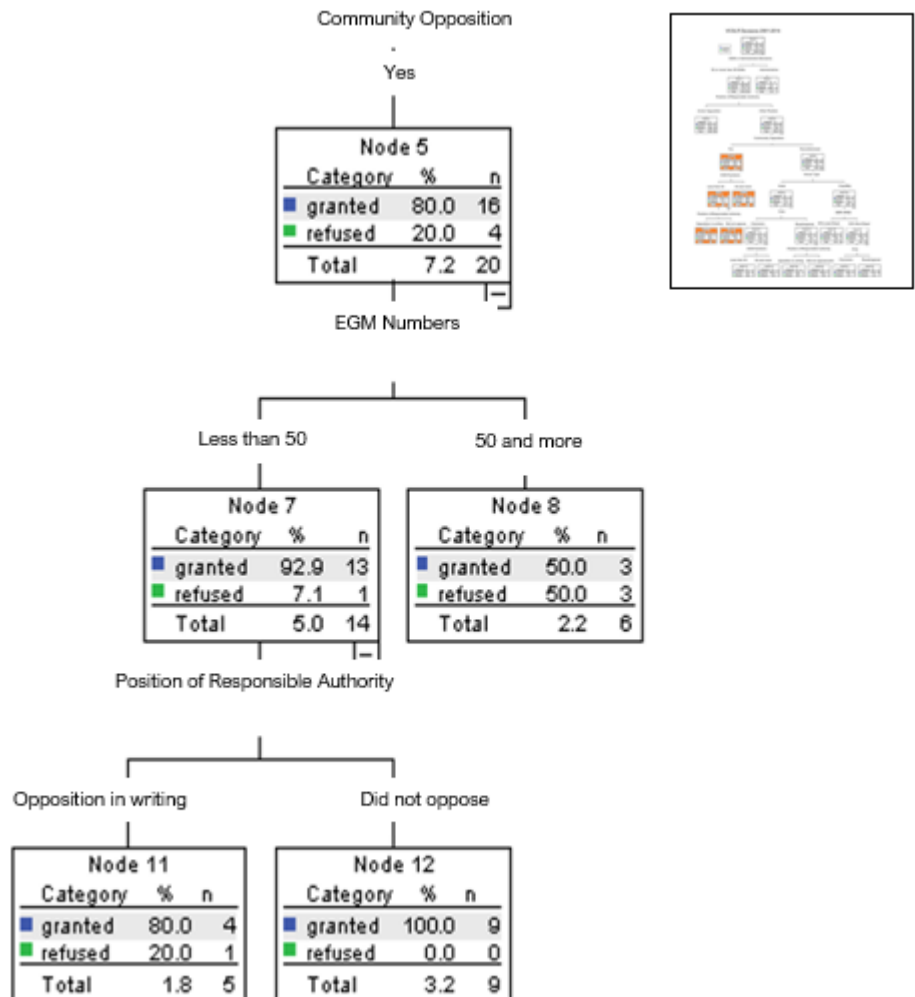


Figure 22: CaRT Subtree 3

- In instances where community opposition occurred, application refusals increased to 20% (N_5), although the number is very small and therefore difficult to draw conclusions from. The cascading nodes depict a more nuanced interplay of variables that warrants further scrutiny:
- CaRT distinguished between applications involving 50 or more EGMs and applications involving less than 50 EGMs; fifty percent of applications involving

the large numbers of EGMs were refused (N₈). Considering the high approval rate in cases involving less EGMs (re N₇, N₁₁& N₁₂), it is likely this atypical refusal pattern of '50%' in N₈ reflected caution exercised by the VCGLR in approving premises with large amounts of EGMs, rather than reflecting community influence on the VCGLR decision making. I make this assumption based on the observation that 92.9% of applications that involved less than 50 EGMs (N₇) and were associated with community opposition were still granted.

5.2.2.b. *Democracy: Discussion*

The VCGLR is mandated by the *Gambling Regulation Act* section 3.3.7 to consider a local council submission when determining licensing matters. CaRT and chi-square findings suggested council's active opposition³⁰ increased refusal rates, hence that the VCGLR takes council submissions into consideration when deciding. However, given the VCGLR only sided with council's active opposition in 20% of cases this raises the question of how or to what extent council submissions are given due weight. The chi-square findings in particular expanded understandings of the impact and scope of the various council positions on influencing EGM outcomes. The data indicated that council effort proportionally increased the chances of a refused application - this finding was statistically significant. The significance of local government mounting 'active' opposition has been voiced by the VCGLR in its decision document: The case of Mansfield Golf Club, Shire of Mansfield, 2012³¹:

³⁰ Active council opposition: council submit a social and economic impact statement to the VCGLR in opposition to the proposal and make staff available for cross examination.

³¹ This VCGLR decision document is available at the VCGLR web database via the following link: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

...the statement provided by the council was accompanied by a set of detailed analyses to support the council's position. However, the author of the council's statement was not made available for cross examination at the inquiry. For this reason, whilst the Commission accepts that the document provided by the council is of considerable academic and intellectual merit, it must reduce the weight it places on it, as the applicant and Counsel assisting the Commission were unable to test the comments.

This quote by the VCGLR points to the importance and weight of an active council opposition as indicated by CaRT (see T₂) and chi-square findings. However, this finding does raise the question of whether the VCGLR is contravening the Gambling Regulation Act 2003 section 3.3.7(3), which prescribes that *VCGLR must give consideration to any council submission* – not just active opposition. However, at a minimum, VCGLR policy practice is problematic from a justice perspective because it suggests procedural fairness and participation is denied to councils which are unable to mount active opposition. These findings therefore raise concerns about both equity and democracy standards when a resource demanding response is required, which is particularly problematic for councils with limited fiscal and professional resources, as is often the case for many rural and regional councils.

In the context of council opposition, the vulnerability of disadvantaged areas particularly comes to the fore. Councils of the most disadvantaged areas were the least likely to oppose EGMs. This is problematic because council is the only body who can formally make a submission in opposition to the VCGLR on behalf of the community, leaving vulnerable communities highly exposed to the risk of gambling harm. This presents a social justice issue for the most disadvantaged communities who often struggle to

engage effectively in political processes, which has also been noted generally to be the case by other scholars (e.g. Cook *et al.*, 2012).

This research could not show an association between community opposition and SEIFA status. But it could show a positive association between community opposition and city/metro areas. The low rate of rural and regional objectors may be explained in part by a lack of human resources and confidence to engage with the regulatory system and/or the possibility of a prevailing perception of the 'value' that EGMs contribute to these communities in terms of improved social, recreational and employment opportunities. This contention was later confirmed by the case study in regard to the difficulties experienced by community members in navigating institutional processes and the want for a social hub. The 'status' of clubs as benevolent also aligns with previously advanced contentions (e.g. Nuske *et al.*, 2016) that Australians generally consider club venues as a more benign and respectable place to go and dine and to be entertained than hotel venues. Councils also appear to be in agreement; club applications were the least contested applications by councils.

The chi-square testing did not suggest a link between community objections and VCGLR refusing applications. CaRT indicated community opposition alone (without council opposition) did not appear to directly influence VCGLR decisions; however, it may inadvertently have done so through strengthening the council submission in the eyes of the decision maker, the VCGLR (see T₃). Whilst there is no legislative requirement for the VCGLR to consider resident submissions, the findings raise general concerns about the democratic quality of the EGM regulatory structure and processes regarding participation and representation by community members impacted by the proposed EGM development.

Only scant research is available to support the findings presented in this chapter about problems with effective participation and inclusion in EGM decision making in Victoria. However, findings by Francis *et al.*, (2017) of inconsistency in VCGLR decision making and hostile processes by Greenslade (2013) lend support to the results of this research findings. On a broader scale the findings may also reflect the concerns advanced by Adams (2004) that activist appetite by citizens can be diminished by democratic structures and processes involved in gambling regulation and lead to a gradual acceptance of hegemonic knowledge claims about benefits that in turn stops them questioning disbenefits. This situation is akin to the concept of adaptive preferences coined by Sen (1999b) and Nussbaum (2000a), referring to the situation where preferences are formed in response to limited circumstances or context.

Overall, the results indicate there were risks associated with relying on institutional settings and processes for just EGM planning because firstly, local council objections were socio-spatially stratified against disadvantaged and rural/regional areas; and secondly, council opposition appeared only to modestly influence VCGLR decisions.

To this end, the results presented in this section pointed to incongruent standards of democracy inherent in current regulatory practices, highlighting problems with relying on current institutional settings and processes for just EGM planning.

5.3.3 Diversity

- *Consideration of diverse vulnerabilities to gambling harm and participation*

The key concern of diversity as a standard of a just gambling city is determining who is likely going to get harmed and how can we know about that. This was approached by assessing to what extent the local and specific context of vulnerability was considered in

EGM decision making, i.e. consideration to diverse vulnerability exposure, or potential distributional effects of negative equity. Chapter 3 discussed how the diversity tenet is understood in context of this Inquiry. It demands consideration of aggregated statistical data *as well as* real time and place knowledge of vulnerability. It demands, like Fainstein's Just City (2010), sensitivity and communal responsibility (Mansbridge, 1990; Fraser, 1997; Hirschmann, 1992; Fainstein, 2010; Nussbaum, 2000a; Nussbaum, 2003), and respect for difference (Young 1990).

There were no findings from this research method that directly signified diversity standards. However, some of the results that related directly to equity and democracy standards also inferred implications for diversity standards.

Higher approval rates and little opposition in rural and regional areas, compared to their city/metro counterparts, suggested less opportunities for the VCGLR to consider the idiosyncratic context of these areas; for example droughts, floods, bushfires, and other *force majeure* events, that can greatly affect the vulnerability of communities and individuals.

VCGLR risks blindness to anything but what is captured by SEIFA IRSD data measured at a local government areas level. Idiosyncratic vulnerabilities outside the SEIFA IRSD and SEIFA vulnerability that might emerge using smaller statistical area units such as mesh blocks, are likely missed in the current system. The importance of accurately assessing local vulnerability has also been emphasised by other scholars, for example Marshall (2009) who has previously argued that local circumstances of individuals and communities are critical to the measure of vulnerability.

To this end the results only infer potential threats to the quality of diversity standards in Victoria's EGM licensing system. This issue will be explored in more detail in the case study.

5.4 Limitations to Results

By using CaRT analysis, we observed the usefulness of data mining as assessment tool of EGM policy as expressed by the regulatory regime. The application of chi-square analysis allowed for evaluation of tree results. It also expanded understanding of the relationship between individual variables and issues emerging from the decision tree. However, there are some limitations that warrant consideration when drawing conclusions from these results.

VCGLR decisions to grant do not reveal the exact number of EGMs for increase or for transfer. Therefore, the findings do not reveal socio-spatial patterns of exact EGM numbers. As well, findings point only to decision patterns not exact EGM numbers. However, VCGLR decisions to grant still represent harm exposure/negative equity as they relate to the municipality area.

The approach applies SEIFA data from the 2011 census data. This may not reflect SEIFA fluctuations over time. However, the use of the 2009-2013 data as control group (see appendix 6) assisted in mitigating risks associated with this approach. As the report concludes, most trends are similar. In particular, the patterns reflected in quartile 1 (most advantaged) and quartile 4 (the most disadvantaged) remained consistent. This is not surprising as over a relative short period of time poor areas remain poor and rich remain rich.

The variable coding was done by the human eye and is naturally vulnerable to human errors. However, all coding was undertaken twice to minimise inaccuracy.

Finally, CaRT analysis is criticised for being very sensitive (Rokach & Maimon, 2007) in that small data changes in the data can affect the tree significantly because the chain reaction of splits is predetermined by the path taken through the tree. The chi-square tests were used to validate and nuance the CaRT results. Interestingly, CaRT does not include IEO in its tree formation. This is likely due to the nature of CaRT, which considers and rates variable relations as an interrelated whole rather than as individual relationships between variables; and IEO data in a whole context does not qualify algorithmically to feature in the parameters set for this decision tree.

5.5 Conclusion

In service of the overall aim of this thesis: to *further social justice for local communities through EGM planning in Victoria*, this chapter has undertaken a socio-spatial census of Victoria's EGM licensing. This served to understand the socio-spatial impacts of regulatory decisions on communities over time as well as scoping and understanding the planning context of EGMs. This is important contextual information for the case study.

The quantitative results represent knowledge 'in its own right' because "whilst ultimately changeable, the real has characteristics which are, in part, unresponsive to how we know about them" (Olsen 2004 p 4). Here, I am not inferring the statistical data is more real or true; only that the socio-spatial patterns highlighted in this chapter are real patterns likely to have adverse justice implications for Victorian communities. 'Knowing' these socio-spatial findings contributes a different dimension of knowledge to what can be discovered by a case study method approach.

A second purpose of the chapter was to test CaRT as a visual assessment tool of public policy. CaRT clearly demonstrated its effectiveness in identifying risks associated with current practices policy practices. The descriptive statistics provided insight into socio-spatial patterns of local objections and regulatory decision making over time between a set of variables. Combined, the findings pointed to systemic incongruities and inconsistencies with EGM public policy in Victoria, which has a key objective to minimise harm and protect the most vulnerable.

To this end, this chapter has scoped the socio-spatial trends associated with EGM regulatory context, in which the case-study takes place. The following chapters shift focus to the single case study to close in the real-life event of objecting to EGMs.

Chapter 6: The Castlemaine Case: A Temporal Account

6.0 Introduction

The previous chapter highlighted that most EGM applications are approved, and rural/regional councils and communities rarely object. The findings also suggested that local objections and influence are not easily achieved under the current regulatory regime. The Castlemaine Case defied these general trends.

This chapter introduces the case study and its incremental milestones in a 'story-format'. The purpose is to provide an engaging temporal account of events but also to evoke and direct interest and attention towards EGM policy change. The purpose is thus to draw attention to the spectacular and dramatic stages of a 'real life' planning event as a response to Victoria's EGM planning. Drawing on the words of Flyvbjerg (2006 p 241) "Often it is not desirable to summarize and generalize case studies. Good studies should be read as narratives in their entirety", as well as Sandercock's (2003) structural dimensions of storytelling, the chapter presents the sequence of events in context of actors and their engagement with EGM planning.

The approach also serves to contextualise subsequent text analyses. In this context, i.e. presenting the Castlemaine Case, the story, constructed extensively from direct text sources and reduced author interpretation, is used to firstly serve as a validity tool for further analysis of textual material (as follows in the subsequent analysis chapters), and secondly, to expose the reader extensively to authentic/raw text to provide an opportunity to dialogue directly with the planning event. In support thereof I draw attention to Peattie (2001 p 260 cited in Flyvbjerg 2006) who argues that "It is simply that the very value of the case study, the contextual and interpenetrating nature of forces, is lost when one tries to sum up in large and mutually exclusive concepts." It is therefore hoped, through

this approach, the reader can dialogue and engage with authentic/raw material allowing further interpretations of events, building and perhaps expanding planning knowledge further than has been accomplished by this thesis. This also honours the demands to critical inquiry to be ongoing and evolving.

The impacts of spatial policies are lived and felt everyday by citizens, but the living response (people relating, hoping, fearing, feeling) to spatial policy is predominantly excluded from policy research reporting. Yet it is the living phenomenon of policy that has the real power to touch us, stir interest, persuade, and exert political pressure. To this end it is rarely, if ever, that research on policy has been the catalyst for change but the living responses to policy that evoke impetus to change (Marris, 1997).

The significant body of research documenting high levels of harm caused by EGMs as well as higher concentrations of EGMs in disadvantaged areas has, to this day, not led to significant policy change – nor has it resonated widely with the general community of planning professionals. As I reflect upon my own professional ‘journey’ I realised that until I started working with people experiencing gambling harm and becoming privileged to hundreds of people’s life stories of gambling, it was only then that Victoria’s gambling policy morphed to life. I felt it and saw it; through people’s stories I experienced the magnitude of the problem and how the human condition is affected by EGM planning praxis. Thus, I believe my research trajectory is illustrative of how story can produce knowledge about space and place and hold the power to change or add nuances to perceptions of issues of planning. It also highlights for me the reconstitutive power of story. Whilst people experiencing harm through EGMs often use story to heal, I noticed this natural propensity for using story to heal during recruiting and interviewing for this research. It became apparent to me that the interviews also serve as stories for reconciling personal and community hurt, personal as well as professional frustrations,

and community fractures experienced in response to EGM planning policy. Particularly illustrative of this is the fact that one professional/expert witness (with many years of experience in the field of EGM processes) wanted to be interviewed although undergoing chemotherapy treatment at the time of interviewing. She noted her will and need to share and record her experience with the regulatory system as a social planner and expert witness in EGM objection cases.

The following provides a timeline overview of key events in the Castlemaine case:

2010

June

- First resident opposition expressed in letters to the editor of the local newspaper.

December

- Council adopts a gaming policy framework to guide decisions on land use planning applications for new gaming venues and increase in EGM numbers in anticipation of a forthcoming application for a planning permit for 65 EGMs in The Old Goods sheds.

2011

October

- Council receives notice that VCGLR has received an application from Maryborough Highland Society for 65 EGM in the Old Goods Sheds.
- Council receives Maryborough Highland Society's application for a planning permit for 65 EGMs.

December

- Council submits its objection to the VCGLR as response to Maryborough Highland Society's license application.

2012

January

- The VCGLR holds its hearings re Maryborough Highland Society's applications of 65 EGM licenses.

February

- VCGLR hands down its decision to approve the application.
- Council resolves to appeal the VCGLR decision to VCAT.

June

- VCAT grants EPIC and CSCC permission to tender evidence and make submissions under section 80 of the VCAT Act.

August and December

- VCAT hearings take place.

2013

February

- VCAT overturns the VCGLR decision. Maryborough Highland Society's application for 65 EGMs is refused.
- Maryborough Highland Society withdraws the planning applications for 65 EGMs in the Old Goods Sheds.

6.1 The Castlemaine 'Story'

The events of the Castlemaine Case are narrated in the following sections.

6.1.1 The Bush Telegraph and Community Momentum

In June 2010, the 'Bush Telegraph'³² news announced that Maryborough Highland Society, a sports and community club and gambling venue located in the neighbouring township of Maryborough, was planning to extend its operations into Castlemaine with 65 new electronic gaming machines to be located in a heritage building in the centre of town; thus trebling the number of electronic gaming machines in town. The news sparked strong outrage by many and by some a heartfelt welcome.

The outraged moved swiftly to mobilise action against the anticipated development – they called themselves EPIC (Enough Pokies in Castlemaine). They were to become one of the most prominent community activist groups ever experienced in the history of

³² The bush telegraph is a colloquial term for the informal dissemination of information, for example the spreading of rumours and gossip.

electronic gaming machines in Victoria - they claimed to speak on behalf of the community.

Meanwhile, as EPIC was growing their membership base by strategising, and networking beyond the town boundaries, the local council was also alerted to the Highland Society's intentions. Council was concerned that the existing local planning scheme was inadequate to defend against any EGM development proposal in the town centre:

We were told by our CEO that this application was going to come before us and that we had a hole in our planning scheme and that we did not have an up to date gaming policy. There was a loophole, if you like. The local planning scheme stipulated that there should be no more pokie venues in the central business area and that drew a line down to the station. No one thought about the possibility of the railway shed, so there it was sitting just outside the no- go zone. (Anna, Local councillor)

Hence council, in anticipation of the Highland Society's forthcoming development application, swiftly moved to adopt a new gaming policy to guide council decision-making on EGM matters. However, the newly adopted planning policy was not yet incorporated into the local planning scheme, so it still only provided limited discretion to determine any application based on its content.³³

In the face of growing resident opposition (i.e. number of local residents opposing the development) to the prospects of more EGMs in Castlemaine, the Highland Society bravely held its first public community meeting to inform the residents about its intended proposal and in turn hoping to garner community support for the development. It was now six months after the 'Bush Telegraph' first reported about intension to expand into

³³ Minutes of Mt Alexander Council Meeting 12 February 2013.

Castlemaine. The meeting was attended by community members with rather focused interest!

In the wake of opposition, a group of supporters for the development formed; they call themselves Castlemaine Community and Sports Club (The Club).

We had a number of meetings with him [the manager of the Highland Society]. He came over to see us. We explained what we were trying to do, and we sort of formed a good relationship. (Warren, Club supporter)

The Club and the Highland Society formed an alliance to strengthen their application before the VCGLR as a community club. This was needed to prove that the Highland Society's status as a club would be of community benefit to the local community of Castlemaine.

The Club held a significant membership base in excess of a thousand people, although questions were raised about the legitimacy of membership recruitment; in particular the tactic of providing meal vouchers to the Highland Society bistro in exchange for signing up as a member raised eyebrows:

They had fairly questionable means of signing people up at times. (Anna, Local councillor)

2 bucks for a membership – it impressed the Highland Society – they proceeded with confidence then; how can we go wrong. They underestimated the strength of the opposition. (Warren, Club supporter)

The opponents saw the Club as a sham to hide the money flowing out of Castlemaine and back to the Maryborough Highland Society

The club said they were independent but were not seen that way, because they had alignment financially with the Society. (Mike, EPIC supporter)

What they did was they created a sham local organisation 'The Castlemaine Sports and Community Club' with 1000 members to make it look like it was a local thing. (Liz, Senior council officer)

But the Highland Society engendered strong loyalty, trust, and admiration among its supporters, many of whom were familiar with its existing facilities in Maryborough.

It is the most wonderful Society. They bend over backwards for making things beautiful for events such as weddings and conferences. So, I was very supportive of them opening here, because we badly needed a venue such as that for events. (Lorraine, Club supporter)

They were going to really loan the people of Castlemaine 4 million dollars to develop this building; after the debt had been paid they were going to hand over to the club in this entirety to our committee; so the plan was they were going to manage the organisation until it was free of debt and then they were going to assign the rights, the whole ownership of it the company the organisation to Castlemaine, which was a pretty generous thing to do. We thought it was amazing, but it seemed to be that a lot of people couldn't believe this, but that is the truth of the matter. (Warren, Club Supporter)

However, the council administration, most councillors, resident opponents and EPIC were not as convinced about the community benefits and charitable nature of the Highland Society, and general suspicion towards the intentions of the Highland Society became cemented.

There was a lot of anger that the Society was going to take the money out of the shire; basically come in take our money you know give some

to our sporting clubs so we can go aren't we lucky; and rip off our community to the tune of millions a year and it wasn't going to even be reinvested in our Shire, so a community run pokies venue sounds like a weird mix, doesn't it? (Anna, Local councillor)

With the two community groups now at juxtapositions the battlelines were drawn revealing the schism of years of gentrification of 'old guard vs new guard' in town.

6.1.2 Weighing up Benefits and Costs of Council Opposition

In the month of October 2011, a year after the news initially broke, council received the Highland Society's planning application for approval of premises for gaming as well as the notice of the license application to the VCGLR³⁴. The proposal was consistent with a number of council policies at the time. The application proposed establishing a satellite gambling venue in the form of a 'community sports club' with a function room for 357 patrons, a bistro/dining and café/lounge for 238 patrons, a dining mezzanine level for 61 people, a bar, 2 meeting rooms, an art room and a gaming room with 65 electronic gaming machines. In addition, the Club (i.e. the Highland Society) would guarantee \$200,000 annually in community contribution whereof a minimum of \$50,000 annually were to be cash contributions to Castlemaine community clubs. The economic benefit projections calculated by the application's consulting firm Urbis Consulting, concluded that the proposal would generate approximately 80 jobs, 56 full time equivalent jobs ongoing and 24 full time equivalents while the project was being developed, and it would turn over 2.6-4.2 million dollars annually. On those figures, it was a substantial and enticing proposal in terms of local infrastructure and economic development.

³⁴ Minutes of Mt Alexander Council Meeting 8 November 2011

Council had to quickly decide its position. It had only 60 days to undertake its own impact assessment and indicate to the VCGLR whether council supported the proposal.

Council had several concerns regarding the proposal:

- 1) that the proposal would triple the numbers of gaming machines in the town
- 2) the location of the proposal was close to a public transport hub, and
- 3) there was evidence of widespread resident opposition to the application, which would likely negatively affect the wellbeing and character of the community.

Responding in an appropriate format would require an extensive investment of council time and resources, internal as well as external, involving:

- 1) appointing legal representation with considerable experience in local government and gaming matters
- 2) undertaking a community attitude survey
- 3) Conducting a review of the socio-economic impact assessment submitted by the applicant
- 4) conducting a review of the proposal in accordance with council's gaming policy framework, and
- 5) undertaking community consultation.

The cost of such a submission to VCGLR was estimated to cost council \$80,000 – a significant expense for a small council.

At a packed council meeting, councillors unanimously resolved not to support the license application submitted by the Highland Society to the VCGLR on the basis that it regarded the anticipated economic and social impact of the proposal on the wellbeing of the community of the municipal district as detrimental – a view generally held by most Victorian councils regarding electronic gaming machines.

Gambling is incredibly important to a large number of councils, who see it as a major detriment to their wellbeing. (Steve, Peak body policy officer)

I haven't come across many examples of where councils have been very positively encouraging of gaming machines. If they don't oppose, they remain neutral, but it is pretty rare that a council would come along and say that we are positively supporting this, although I have seen some examples of it. (Sonia, Legal Professional)

6.1.3 'Justice' Represented by VCGLR Processes

An unprecedented 574 submissions were lodged to the VCGLR in opposition. EPIC also filed a separate, comprehensive submission, and requested that the VCGLR hear submissions from a number of community members. As a result, permission was granted for five people to make a very brief oral submission at the hearing³⁵.

We only got 30 minutes of the 2 days [of the Commission hearing].
(Mike, EPIC supporter)

On the days of the VCGLR hearing, council, instructed by legal counsel, attended the hearing and gave evidence to a hearing room bursting at its seams with community members:

I have never seen that sort of turnout, there is one or two sometimes interested people you usually get the applicants, someone from Council there who are interested, and maybe someone in planning you know just to take notes. But if there is half a dozen people that is a big hearing.

³⁵ VCGLR Matters Determined, Maryborough Highland Society Inc, 2012. Available on VCGLR web database accessed 21 Marts 2015:
<https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

But that one was different... there were people camped outside, there were people with babies, there were prams, there were balloons, there was a Salvation Army band. It was a complete circus, the fact that the community had turned up, they were clearly aggravated enough about it that everybody turned up. (Victor, Senior research consultant)

The VCGLR found that the benefits of the proposal to be neutral. It conceded that it agreed with the Highland Society's estimations of economic and social benefits. It also accepted that there would be an increase in gaming expenditure, but little in terms of problem gambling. In particular, the VCGLR noted the return of profits to the community would be a significant benefit. The VCGLR also noted its position on residents objections:³⁶

If community attitude to a proposal as revealed by a survey, were the paramount consideration in all cases it is almost inevitable that all applications for use of EGMs would be refused and the scheme established by the Act would be defeated.

Thus, the VCGLR considered the proposal in relation to the social character of the town and conceded:³⁷

Opposition to development proposals often dissipates after the development occurs and the benefits of the development materialise, and it considers that it will not greatly affect the social character of the town.

³⁶ Para 88 VCGLR Matters Determined, Maryborough Highland Society Inc, 2012. Available on VCGLR web database accessed 21 Marts 2015: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

³⁷ Para 89 VCGLR Matters Determined, Maryborough Highland Society Inc, 2012. Available on VCGLR web database accessed 21 Marts 2015: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

The VCGLR approved the application for 65 gaming machines in the Old Goods Shed in Castlemaine. One month after the hearing the VCGLR handed down its decision that the application be granted. Council now had 28 days to lodge an appeal at VCAT. Objectors generally praised the efforts of council and EPIC, who had focused efforts on building council's capacity for leading a strong case against the proposal.

6.1.4 Council to Decide on Appeal

After the VCGLR decided to approve the Highland Society application, council received 27 items of correspondence and numerous phone calls from members of the community and local organisations pertaining to an appeal to VCAT. Two of these letters expressed the view that no further council funds should be spent on this matter, however, the remainder were urging council to appeal.

The council administration noted that an appeal to VCAT would be consistent with the council resolution not to support the application; however in seeking legal advice on the anticipated outcome of an appeal to VCAT the council lawyer informed council that:³⁸

There are relatively few cases in which local governments have been successful in overturning a decision of the VCGLR to grant approvals for gaming premises at VCAT. Legal advice provided to Council indicates the prospects of the VCGR [VCGLR] decision being overturned at VCAT are uncertain.

In the face of high probability of losing the appeal, council still resolved to appeal the VCGLR decision to VCAT. The decision was not unanimous – it was five to two³⁹. With one of the objecting councillors moving a motion; that rather than spending money on appeal, council should instead pay \$50,000 to a local welfare organisation to assist

³⁸ Mt Alexander Council Minutes February 2012

³⁹ Mt Alexander Council Minutes February 2012

problem gamblers – the motion was defeated. The prospect of spending an estimated \$100,000 to \$150,000 of taxpayers' money on appeal, not including the \$70,000 already spent on the initial submission to the VCGLR, exerted considerable political pressure on councillors.

There is real pressure on council for making sure they don't waste their money and it is hard because the detriments from gambling aren't necessarily immediate. (Sharon, EPIC supporter)

The position of councillors largely reflected the cultural schism or divide present in town.

Two of those councillors have been drawn from the ranks of the 'Old Guard' and one from the 'Greenies/environmentalists'. Well you can hardly call them new guard, because some of them have been here for most of their lives, and they are in their seventies, but you know they aren't descended from gold miners. (Sharon, EPIC supporter)

And councillors took a very personal stand on EGMs.

As councillors, there was so much coming at us it wasn't really that much internal debate trying to persuade each other to the others point of view. It was such a division everyone held such strong opinions already that you couldn't sway other people really. (Anna, Local councillor)

In particular, personal knowledge or experience of gambling harm shaped the position of councillors.

I had to admit that I had a personal opposition to it. My husband's family have been impacted by problem gambling in the past. He had strong memories that he told me about father attempting suicide at least twice as the result of gambling debts not pokies, but they are what gambling could do to a family. (Anna, Local councillor)

The mayor of the day, his father was a Lutheran minister, who had passed away and his mum put her lifesavings and her house- all her superannuation through poker machines. She lost the lot. He was personally offended that someone would propose this. So, he was absolutely against it. (Liz, Senior council officer)

One of the councillors, who might have been seen to support the pokies, had had a very defining experience himself and very much against the pokies because his experience, which hadn't involved a family member, but he had an experience which had led him to realise that they can do dreadful things to people. So, that meant that the numbers were not as finely divided as we thought. (Anna, Local councillor)

6.1.5 Justice Reflected by VCAT⁴⁰ Processes

Council, now armed with further expert witnesses and legal counsel, appeared before the tribunal during the days of the VCAT hearing (and 6 months after the VCGLR hearing). VCAT granted EPIC and CSCC permission to tender evidence and make submissions under section 80 of the VCAT Act; and EPIC appeared and opposed alongside council with its own witnesses and legal representation consisting of high calibre social justice lawyers from Maurice Blackburn⁴¹ and the high-profile jurist and QC Ron Merkel, all providing services pro bono.⁴²

We had the QC there, and I think that the lawyers who were representing them in counsel would have had a real sense that they wanted to do a good job and that this outcome was really important and so I think and it was, in that room the tension was just intense, so yea I think it definitely

⁴⁰ Victorian Civil and Administrative Tribunal is the appeal body for VCGLR decisions.

⁴¹ Maurice Blackburn is a prominent Melbourne legal firm.

⁴² *Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101 (14 February 2013)

made an impact for the probably the way that they ran, they ran that appeal as well. (Mike, EPIC supporter)

The proceedings were highly adversarial and legalistic with legal counsels exerting much influence upon the process, the outcome, as well as the experience of local residents.

There was so much legal hocus pocus you know backwards and forwards you know dots here and change the l's there and you know whatever. (Warren, Club supporter)

You know lawyers with paperwork going just sign here literally during a lunch break we were watching this occur. (Mike, EPIC supporter)

The competence and calibre of legal representation and counsel became a significant factor and lawyers the key players.

...it was rather intimidating I think the QC's reputation of course was, oh god! And, you know, I can remember the lady who was his deputy well she was good, too; and they knew their job they knew exactly what they were doing and they were very much familiar with what the process was; people like me, I wasn't. and I think to a large extent the Society wasn't prepared for what happened either. (Warren, Club supporter)

The Club members and the Highland Society remained optimistic – their legal counsel had given assurance that victory would be certain. Whilst the proposed business model of the Club was poorly scrutinised during the VCGLR hearing, now at VCAT, EPIC's legal team saw an opening to argue on business terms rather than the conventional social impact terms, the latter a much weaker and nebulous discourse, revealing the Highland Society's business agreement with the Club as lacking in clarity and transparency.

I think they thought so long as we set it up so it looks like this is a local club with an arm-length sort of management agreement they didn't think that that would get interrogated. (Sharon, EPIC supporter)

The application now hinged on the legitimacy of the business agreement between the Highland Society and the Club in order to prove neutral or net community benefit to Castlemaine. Preparing the agreement had proven a difficult task for the applicant's lawyer due to, it appeared, not a hidden agenda, but rather complacency and difficulty in negotiating with community members.

The Castlemaine Sports and Community Club wanted certain things in the agreement, we couldn't get the agreement settled. We couldn't get them to the table on the agreement. Dealing with clubs is very difficult... it was like herding cats getting the Society, as I said, the Society kept trying to change their mind, the club was under-baked, and they were fighting, not fighting, they were a bit fractious let me say, and had a lot of difficulty getting those to meet. The Society was really quite relaxed about it. (Susan, Legal professional)

However, there was ethical concerns for the Club, whose members were requested by the Highland Society legal team to sign legal documents regarding the business model i.e. 'the agreement', without any opportunity to seek independent review of the documents.

They were doing deals with the Club on the run; in the lunch break they would execute a deal; someone would turn up from the office with seven copies of an agreement. Community members were being given paperwork to sign during lunch breaks, so it was a strategy on the run. (Mike, EPIC supporter)

This led to seeming concern from EPIC's lawyers, who rather astonishingly and unprecedentedly, felt compelled to offer free legal advice to the Club members – the opposition.

I can recall at one point our barristers approaching these community members on the other side [of the hearing room] and saying: we think you need legal representation and we just want you to know that we are here for you if you need us, but you need to be aware of what you are signing up to here; and that wasn't strategic and that wasn't designed to bamboozle; it was 'three people at the bar table' with a conscience [and] seeing what was going on, and without any consultation with us, crossing the floor and approaching these people in the gallery and saying you need to be aware of what you are doing here. (Mike, EPIC supporter)

Meanwhile, the patience of the Highland Society's barrister, who was previous legal counsel of Crown Casino, company secretary of TABCORP Holdings, and Chairman of Greyhound Victoria (until he was forced to resign as chair over the 'Live Bait Scandal' which haunted the Victorian Greyhound Racing in 2015⁴³), was wearing thin and couldn't be contained:

We had our barrister saying: where the hell is it [the agreement], come on hurry up sign it! He was sort of floundering a bit because it made him look bad in the eyes of the chairman, I am sure – looked like he was incompetent... I think when our barrister was trying to explain this agreement I could see, watching the chairman, I could see that he was sort of saying what the hell is going on - he was unimpressed. (Warren, Club supporter)

⁴³<http://www.abc.net.au/news/2015-02-23/greyhound-racing-victoria-chairman-peter-caillard-resigns/6226664>: Greyhound Racing Victoria chairman Peter Caillard Resigns viewed 13 April 2015

Undoubtedly complacency on behalf of the applicant's legal representation impacted on the VCAT ruling. Firstly, there was complacency in regard to the level of scrutiny applied by the opposition:

The applicant was totally underprepared, and I think in a way we were kind of shocked with the outcome... We were gifted a decision through the applicant's ineptitude in the end. I think the finding talks about the fact that neither Council nor the Opponents landed the killer-blow - I think that was the words that he used. It was the weakness and the shambolic application of the Society that ultimately decided in our favour. (Mike, EPIC supporter)

And secondly, there was complacency in regard to the VCGLR and VCAT generally ruling in favour of granting EGM licenses.

We got this, was the last note [the lawyer] wrote to us. (Warren, Club supporter)

The applicant's supporting socio-economic analysis also appeared weak, even complacent, and was easily disputed by the opponent's expert witnesses. Whilst the VCGLR accepted these reports and expert witnesses, they were not accepted by VCAT.

They had done something a bit cheap and cheerful. (Victor, Senior research consultant)

Their economic modelling person was so bad... he had not the faintest idea, anyway so they took that of the table [as well as the socio-economic impact assessment]. (Liz, Senior council officer)

By the middle afternoon on day 3 you didn't kind of know who was actually applying and who was going to manage the thing and how it was going to work. They didn't have the social impact they didn't have an economic impact because they had been taken off the table, so the

deputy chair of VCAT who was the VCAT member took his glasses off and said' Mr [addressing the Barrister for the Applicant] based on the evidence I have before me proceed at your peril. (Liz, Senior council officer)

In February two and a half years after the initial news broke about the intentions of the Highland Society, VCAT overturned the VCGLR decision. VCAT ruled that the social disbenefits would outweigh the net economic benefits of the proposal. However, it was noted at para 27 ([2012] VCAT 945):

That it is as much the lack of sufficient probative material from [the Society] on the determinative issues (and the uncertainties and inconsistencies in its material) that has led to the outcome in this case, rather than any knockout blow from the Council or the opponents on any single issue... [the Society] has failed to persuade me overall that the 'no net detriment' test is met for this proposal. Conversely, the Council (with assistance from the opponents), has made out a case that some of the economic benefits of the proposal are uncertain or have been over-stated, and that the social disbenefits of the proposal have been under-stated.

6.1.6 Planning Processes at the Local Level

Two days prior to VCAT announcing its decision council held its February meeting. On the agenda was the Highland Society's planning application which had not yet been resolved. Council had by now received 544 objections to the planning application and EPIC's substantial submission; and only 22 submissions in support of the planning application. Council administration recommended refusing the planning permit on the following grounds:

The application has been assessed in light of a number of issues contained within the Planning Scheme. Whilst the proposal achieves compliance with some aspects of the planning scheme, the proposal has failed to demonstrate that appropriate car parking has been provided, nor has the proposal demonstrated that the installation of Electronic Gaming Machines in this location will not be detrimental in terms of its social and economic impacts to the wider community.⁴⁴

Council staff were severely tired by the drawn-out planning process and frustrated over the political game played by councillors:

We had all the advice from the referral authorities, and we had written the report. So, what do we do? I said put it on the agenda. We are done. I am not playing politics – I was acting in accordance with my statutory obligations and I am not playing politics. (Liz, Senior council officer)

Many community members partook in the public question time; some speaking for the development, noting the proposal had the support of the 'silent majority'.

Mr X stated he supports the Maryborough Highland Society proposal and that this is the view of the silent majority. He stated he did not understand where the 70% opposing view comes from⁴⁵.

The '70%' community opposition was established by a community attitude survey conducted by a research company, external to the local council, which survey methods and approach was scrutinised by the VCGLR and noted by the VCGLR as sound and valid in method and results.

⁴⁴ Mt Alexander Shire Council Minutes 2 February 2013

⁴⁵ Mt Alexander Shire Council Minutes 2 February 2013

One community member requested that council refused the application and proceeded to lead a proportion of the public gallery in a song, this was followed by another community member concurring and leading a proportion of the public gallery in yet another song. However, the councillors resolved to defer the decision to the following meeting.

[council officers] put it on the agenda... had a briefing session with the councillors and they said they wanted staff to leave [except the CEO]. So... the directors and managers [were sent] out, and they almost physically attacked the CEO. They were terrified that they would have to make a decision on the planning application. (Liz, Senior council officer)

Some community members present at the meeting were displeased that council was deferring the decision and abdicating responsibility.

Mr Y advised that he had been a resident of Castlemaine for 32 years and an urban planner... He stated that he felt it is time that council made a decision on the proposed planning permit, as delaying the decision would be poor judgement and indicated weakness on the behalf of council by avoiding their planning responsibilities. He asked for it to be noted that the planning permit application was separate from that of the gaming application and that the planning and VCAT gaming decisions are based on two different sets of legislations. He went on to outline factors why he felt that the planning permit should not be awarded, such as impacts on traffic and amenity, grossly inadequate parking, loss of town character and a shift of business activity and focus; which would be detrimental to existing traders and also could have severe social consequences from the use of gambling machines. He stated that the facility could be developed for a better community use. He advised that

EPIC supports the officer's recommendation but felt that it should be strengthened with other factors⁴⁶

However, council never made a decision on planning grounds. The Highland Society withdrew its planning application after VCAT overturned the VCGLR decision to grant the license application.

6.1.7 'Informal' Community Discourses

The struggle for or against the development was harrowing and unable to be contained within formal institutional processes; it engulfed the community for a prolonged time leaving behind significant scars.

The length of time that it took from the application to the decision it was two and a half years it was a very harrowing time for the community and I think there is still deep division, there is resentment over the decision from people who wanted the club. (Kathrine, community member)

Someone actually accused me yesterday at a listening post, to which I responded well the projected income from losses on the pokies had they gone ahead, for the first year was somewhere in the region of \$3 million, so I think that that would be lost by the community so trade off of the quarter of a million of rate payers money to save that money from leaving the community is probably a good investment – it is still seen by some as council not doing the right thing by its members or at least not in touch with the public. (Anna, Local councillor)

The community debate became hateful. Both sides exhibited vitriol:

⁴⁶Mt Alexander Shire Council Minutes 12 February 2012

There was a lot of hate speech from both sides... Because there was quite bad blood there was horrible letters in the paper. It was just horrible it really was. (Sharon, EPIC supporter)

And council meetings at times became extremely hostile:

It was more the animosity from both sides and sometimes that made council meetings very heated. (Dan, Senior council officer)

Even the formal processes of the VCGLR and VCAT hearings could not guard against the community vitriol at the time, with one objector yelling from the gallery (addressing the applicant's lawyer): You are nothing but a prostitute from St Kilda⁴⁷! (Susan, Legal professional). The community was rendered unprotected from the backlash of institutional processes, which allowed little opportunity for community members to be heard. The struggle for justice occurring within the parameters of institutional proceedings was genteel and distant from the warzone that the community had become in its fight for perceived justice.

It will always be there. My view is that it will be there until this current generation is gone – the people that were affected by it. It did a lot of damage to the town. I think it was unnecessary damage really. So much so that I have been here for [a long time] and if I was a bit younger, I would move from town. I would go away, but yea, that is the damage it caused to the social fabric of this town. (Warren, Club supporter)

6.1.8 The Aftermath of Planning Processes: Community Fragmentation

As I approached people to invite them to participate in this research, I became acutely aware of how the planning processes had fragmented the community. Community

⁴⁷ St Kilda is a suburb of Melbourne historically known as a 'Red Light' district.

members, some still residing, others moved away, were careful and contemplated for considerable time before deciding to speak to me - one participant did not want the interview recorded, others cautioned me to 'be careful' and some declined out of fear the community hostility will reignite.

Everybody gets really nervous about this. I don't, but others do. (Mike, EPIC supporter)

The battle deeply affected personal, business and community relationships, which still prevail years later.

This community will never heal. There will always be a division. (Anna, Local councillor)

The damage done to relationships persists today. (Liz, Senior council officer)

It had more impact than anyone ever realised. It impacted on friendships, businesses. It is amazing that could happen, but it did. (Kathrine, community member)

One EPIC member received death threats and was forced to sell the family business and move away. The family of the council CEO was abused and harassed. One Club member felt threatened and unsafe.

I just had to accept it, but it was extremely damaging to me, you know. I didn't feel at all happy or secure or safe even, you know. Because it was fairly vile and sort of abusive or left a mark on me permanently. (Warren, Club supporter)

The processes and proceedings also left professional scars. Some councillors threatened to fire the council CEO because of listing the planning application as an item

on the council meeting agenda, and council officers were frequently harassed in the community:

It certainly impacted me as an officer in the community. People would hassle you or you know give you a hard time or whatever. So, there was at times a personal impact as well. (Dan, Senior council officer)

For most residents (70%) the outcome of the decision was a victory, but for the Club members it was a bitter defeat. EPIC members and supporters were relieved. They did not expect victory; and although it was council's victory, EPIC also felt victorious.

Oh, my gosh, we won it and we couldn't believe it! We were very lucky that there were a number of things that fell apart for them... (Sharon, EPIC supporter)

Well I was blown away when the Council lawyer rang me to say we won. I think I screamed because I did not, because I was given such a tough time in the witness box really. I was very very excited. The part of the process that took me by surprise was that we won. (Hannah, Expert witness)

6.1.9 Did Justice Prevail?

To this end, 'This being the best outcome for Castlemaine' remained the prevailing sentiment amongst most residents. However, such sentiment was not shared by the Club members and their supporters, who were indeed surprised and shocked by the outcome.

When we got told the bad news it was a bit of a shock to us – it was a shock. (Warren, Club supporter)

The defeat was felt as crushing and oppressive:

We don't have friends in high places, we don't know lawyers and politicians. (Letter to the editor by the club secretary cited by Katherine, Community member)

And there was a sense of Castlemaine having lost an opportunity they would not again have:

They would have made a real fist of that venue. But anyway, they haven't got it – it is a shame it would have been good for Castlemaine. (Susan, Legal professional)

I think the legacy has had a negative impact on council but also had a very positive impact in that we have a certain pride. I have a certain pride as being part of a council that made that decision to challenge and I think the community certainly the objectors will have a great sense of pride that we are known for Castlemaine decision of VCAT. (Anna, Local councillor)

Whilst the planning outcome might have been equitable, in that it protected the community against further EGM harm, the planning processes left the community fragmented and some segments marginalised.

It was not about celebrating we won, you know, it was about saying it is over. That was really critical. (Mike, EPIC supporter)

Memories of vitriol and the sense of injustice felt by some still prevail 5 years on from VCAT handing down its decision to refuse the Highland Society's application for establishing a new EGM venue with 65 machines in the Old Goods Shed in Castlemaine.

6.2 Conclusion

This chapter presented the case study through a sequence of key events. It outlined the temporal sequence of events through a story telling form. This highlighted 'storytelling'

as critical instrument for Inquiry, bringing into life a sequence of events, whilst exposing social practices and systems that are oppressive and unjust (Munice, 2006). Through engagement with experiential and practical knowledge, outlined through a series of events, political and ethical dilemmas come to the fore. This provides a deep and nuanced experience of EGM planning, which might otherwise not have been fully represented through a summary or generalisation of the case study (Flyvbjerg, 2006). For example, the disintegration and marginalisation of 'community' as result of planning processes, the complexities and tensions between democratic processes and equitable outcomes, and the acute sense of injustice felt by both sides of the struggle come to the fore in storytelling. The extensive use of participant language or micro stories (i.e. quotes) expands the language of planning to include the many ungeneralisable nuances of the lived planning experience, which highlights the complexities of democratic processes, perceived justice, and inherent power dynamics.

By using story represented and constructed extensively from research participant excerpts or micro stories, with minimum author interpretation, the 'raw story' can also serve as a useful validity and transparency tool for the subsequent analysis chapters, as well as providing an open platform of experimental knowledge for other critique, beyond what is offered by this thesis.

Chapter 7: Engaging with EGM Planning in Victoria; a Local Level Non-Reformist Approach to Justice

7.0 Introduction

This chapter presents the thematic analysis concerned with exploring how communities can engage with EGM planning to further social justice at the local community level. This means the capability approach (Nussbaum 2000) is considered through a focus on strategies that are practically available to residents and Council (Fainstein 2010) to engage with the formal and informal processes of EGM planning. Strategies of focus here are the institutional processes and community activism. As noted previously, local influence refers to the agency of community groups/members as well local Council as partners and key players in incremental reforms (Fainstein 2010) and planning is defined broadly in this thesis as any public strategy, activity, and associated consequences that is concerned with the production and regulation of public space (Yiftachel, 2000).

Local engagement in EGM planning is explored from a stakeholder perspective through the lived experience of institutional processes charged with implementing state planning policy on EGMs. Drawing from this empirical context the analysis is particularly attentive to procedural and instrumental aspects of democracy as it relates to local influence on EGM planning. Hence the following principles become key concepts for exploration:

- 1) participation and inclusion
- 2) transparency and consistency
- 3) procedural justice/fairness

The statistical findings in chapter 5 confirmed the key role of active council opposition, but it also indicated that even with an intensively resourced opposition case (i.e. council

actively opposing) the likelihood of EGM applications being approved is still very high. This chapter closes in on the particularities that enable councils and communities to influence EGM decisions. As well as interviews, text sources such as legislation, hearing ‘transcripts’, policy documents and council minutes are drawn upon. The thematic analysis approach to text is focused on the semantic level of the text(s). This chapter begins by exploring the formal and prescribed key steps and tasks involved in opposing EGM applications at the local community scale. Subsequently, the ‘informal’ arena – the community sphere, is examined to reveal how and to what extent local agency and activism evolves outside the formal arena, i.e. institutional processes, to influence EGM planning. The key determinants of an effective community group response to EGMs is examined through an analysis of EPIC’s strategy. The chapter concludes with a discussion of the thematic findings. Victoria has a comprehensive EGM regulatory framework that seeks, in principle, to secure local participation in processes. The following sections explore the quality of the democratic processes of EGM planning.

7.1 How EGMs Can Be Considered Under Planning Law

Section 60(1)(f) of the Victorian Planning and Environment Act 1987 requires council to consider any significant social and economic effects which council considers the use or development may have. The reference to ‘development’ in accordance with the Act is interpreted as a tangible/concrete concept; for example, a construction, building or subdivision⁴⁸. As the scope for assessing the social and economic impacts of developments is interpreted very narrowly under the Act, community objections to be considered under Victorian planning legislation, must be amenitised. This means social concerns held by the community must be reframed as car parking, noise levels, or other

⁴⁸ See Section 3(1) of the Planning and Environment Act 1987

issues that would jeopardise the amenity of an area to be legitimate objections for consideration under the Act.

I see pokies from a spatial justice perspective; however, the Act emphasises the spatial consideration – the developmental aspect or land used - more heavily than the economic, social and environmental aspect of space. I have to look at it that way, focus on the spatial aspect.
(Steve, Urban planner/community member)

The Act stipulates, when section 60(1)(f) is evoked, that council, as the local authority in planning matters, must have regard to the number of objectors in considering whether the use or development may have a significant social effect. However, provided land use requirements are met, in practice, there are limited grounds for objection based on the social and economic impacts of EGMs.

7.2 How EGMs Can Be Considered under Gambling Law

The Gambling Regulation Act 2003 Section 3.3.7(1) governs the regulation of EGM licensing in Victoria. The Act confers powers to the VCGLR to grant or amend EGM license permits provided the net impact of the proposed development is assessed to be positive or neutral. As noted by the VCGLR in the Castlemaine decision document “a balance is struck between a lawful and legitimate recreational activity for some and harm for others⁴⁹” (Victorian Commission for Gambling Regulation, 2012 para 9).

The VCGLR makes its decision based on the application having either neutral or positive benefits to the community. This decision, also

⁴⁹ VCGLR: Decision and Reasons for Decision in the matter of Maryborough Highland Society, February 3, 2012. Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

referred to as 'the test' there are strict rules around what an applicant needs to submit when they put in their application and then around the time that councils have to respond. (Sonia, Legal professional)

The 'Test', a phrase adopted in 2008 by the Court of Appeal (Victorian Civil and Administrative Tribunal, 2008) in the case of Macedon Ranges Shire Council versus Romsey Hotel, refers to the mandated assessment approach used to determine the merits of EGM licensing in Victoria. The 'Test' regulates what can be heard, and this will be explored and examined extensively in chapter 8.

The test involves applying a cost benefit analysis that measures the impact on the wellbeing of the community and the net social and economic effects on the community, including having regard to the views of the relevant local authority (i.e. council) as well as having regard to the views of surrounding municipalities. It is as such a scaling exercise of negative and positive social and economic impacts.

For a proposal to 'pass the test' it must be assessed to have neutral or positive impact. The Gambling Regulation Act does not articulate the criteria against which the economic and social impact is to be tested (Livingstone, 2014).

It was really very much a learning exercise for everybody the test was the same then as it pretty much is now: measuring the impact on the wellbeing of the community and measuring the net social and economic effect on the community including having regard to the views of the relevant local government and including having regard to the views of surrounding municipalities so the test was the same. (Sonia, Legal professional)

Nor does the act provide any specific guidance on what the commission should take into account when making decisions (Victorian Commission for Gambling and Liquor Regulation 2012 para 10⁵⁰). This affects the transparency of decision making.

However, the assessment of socio and economic impacts as well as regard to the view of the local council must form basis for VCGLR's decision. The VCGLR notes:

It is noted that these tests are not entirely relevant to the Commission's deliberation in the sense that the only relevant test on which the Commission must satisfy itself, is that from a socio-economic standpoint there is no net detriment to the wellbeing of the local community as a result of this application. It is of critical importance however that the Commission have regard to the Council's view given the Council's role in the community and given their status under the Act⁵¹

Council, being the community proxy, must articulate, based on evidence, the perceived disbenefits in social and economic terms under the *Gambling Regulation Act 2003* and on land use terms, through the narrow social and economic impact lens under the *Planning and Environment Act 1987*. Both regulatory regimes require the utility of EGM proposals to be evaluated:

The real issue that is raised by councils, and by some extent even applicants, is that we are dealing with a phenomenon - a concept that is not capable of being technically or scientifically measured. (Sonia, Legal professional)

⁵⁰ Matters Determined, Maryborough Highland Society Inc, 2012. Available on VCGLR web database Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

⁵¹ VCGLR Decision and Reasons for Decision in the matter of Warun Ponds Hotel, March 1, 2011. Available on VCGLR web database Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

VCGLR and VCAT assessments of (social) vulnerability, i.e. disbenefits, is mainly based on Australian Bureau of Statistics aggregated statistical data (SEIFA) at the local government area level. Local level vulnerabilities can be brought to attention through resident and council submissions. For example, the South Sudanese community representative gave evidence at the VCGLR and VCAT hearing. However, community submissions regarding local vulnerability concerning small numbers are not considered a significant social disbenefit. VCAT⁵² noted that exacerbated risks of problem gambling for the East African community of Castlemaine was deemed relevant but was weighted low as it only related to a small part of the community.

7.3 Objection and Appeals Processes

The objections and appeals processes under Victoria's gambling regulation, i.e. the EGM licensing system, are highly restricted. In this regime, residents are not afforded standing rights, as is the case under planning legislation. Here, residents are represented by proxy only through the local council which has the only mandate to object to license applications and appeal to VCAT. Hence, if council does not object or appeal residents have no real avenue to impact on decision making.

I think it is a real problem because I just think it is false to think that councils will always be prepared to incur the expense of appealing... I think there's got to be a change so there is capacity for third party involvement. (Sharon, EPIC supporter)

⁵² VCAT: Mount Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors (2013), VCAT 101, para 10. Accessed via AustLII online data base Accessed 20 July 2017 via: http://www.austlii.edu.au/cgi-bin/sinosrch.cgi?method=auto;meta=%2Fau;query=gambling%20electronic%20gaming%20machines;results=20;rank=on;callback=on;mask_path=au%2Fcases%2Fvic%2FVCAT;view=date;submit=Search;sfield=full;offset=0

To maximise the effectiveness of objections to an EGM development under the *Gambling Regulation Act 2003*, specific concerns relating directly to the development must be articulated rather than a general political or principled stand on matters of EGMs. Thus, the regulatory processes are not fora for ethical deliberation, i.e. deliberating tragic questions (Nussbaum, 2000b), on EGMs in general. That said, it is acknowledged by the VCGLR that council has the mandate to express community sentiment.

It would be desirable to take the politics out of it, that is a bit of a utopia position and no one can reasonably expect that; I think it is perfectly understandable, and the Commission [VCGLR] has recognised that councils are the body through which people express their opinions, they are the spokespeople for the community, so if you have a community that is generally against more machines then you're perfectly entitled to make it clear that your general disposition is against machines. (Sonia, Legal professional)

7.3.1 Council Objections

There is not much heterogeneity between the councils. They are very similar in their outlooks. Really what differs between them is the level and willingness to invest resources and the level of empowerment they feel to take on these issues. (Steve, Peak body policy officer)

Councils object to a license permit application by submitting a social and economic impact assessment statement, i.e. cost benefit exercise, of the proposed development as opposition to a license application. Such an exercise requires significant professional expertise, which is costly to source. To oppose to the VCGLR council must provide first an assessment of the community sentiment, i.e. a community attitude survey towards the development:

The Victorian Gambling and Research Foundation have done an overall community study that have the ambient level set for gambling machines and you always get 70-80% opposition to more Poker machines... so, you need to get a much better result than that in order to say that this community doesn't want it. (Victor, Senior research consultant)

as well as assessments of the social and economic implications of the proposal:

The predicated economics in this case if you're going to have the same number of machines as country Victoria the felt experience could be quite different or more dramatic because suddenly you have a proliferation of gaming machines they're more accessible they're in a club environment which is probably more attractive for some people than being in a pub environment if you're in a pub you might be a female and you don't want to go to a pub but you feel much more confident going to a club where there are other females and couples and families even. (Graham, Economist)

Council can conduct the assessment if the appropriate expertise is available in house.

However, most councils need to source the expertise externally:

You either need to have expertise within your organisation or you bring it into the organisation by employing people. (Sonia, Legal professional)

The prescribed format for objecting to licensing of EGMs is either in writing (i.e. submitting a SIA in opposition) without making council officers available for cross-examination at the VCGLR hearing, or most effectively by submitting a SIA in opposition and making council officers available for cross-examination at the VCGLR hearing, i.e. active council opposition.

7.3.2 The Challenge of Timelines

I think the unfairness really stems from the tight time limits that are imposed on Councils and the fact that we are dealing with applications that have had usually months in their preparation and then having to be disposed of within sixty days and I do think that is unfair. (Sonia, Legal professional)

The timelines for the application processes are structured in favour of applications for EGMs with council having only 60 days to build an opposing case. The flexibility of extending timelines under the *Planning and Environment Act 1987* is not afforded by the VCGLR in licensing matters. Councils often feel aggrieved by these time constraints that are not experienced by the applicant; hence temporal positioning becomes a key component of strategy for all parties in a very time condensed process, where unequitable temporal positioning is an issue. The following quote is lengthy but illustrates clearly the logistical challenge for opposing EGMs within the Victorian institutional processes:

...for example, an application that comes in over the Christmas period for example; very difficult to obtain a council position on something given that councils generally be on recess over that period; or endeavouring to get the relevant views of stakeholders and one of them will be away over Christmas or even Easter; so there's really no real allowance made in these timetables for particular circumstances including the particular time of the year that the application has been made. The other thing that councils find in terms of it being a little unfair is that the applicant has had all the time in the world they need to prepare an application because they don't submit their application until they're ready to go; so they have had a very long period of time to prepare their social and economic impact statement, to engage their expenditure witnesses to give evidence about what the level of expenditure will be; so councils

see that as a very unfair thing in that the applicant has had all the time it needs to prepare its application; yet when it comes to responding to an application, there is a very tight time limit quite often for an application that has just come out of the blue; and it is not as though council has got any prior notice... so I think councils have seen it as an unfair system because of the lack of flexibility and the tightness of the timetable and the benefit that that effectively gives the applicant. (Sonia, Legal professional)

7.3.3 Challenging Proceedings And Participatory Processes for Council

Any appeal of VCGLR's decisions to VCAT must be lodged by council on grounds of socio-economic detriment and VCAT hears every case *de novo*. Notably, in VCAT proceedings only (and not in VCGLR proceedings), a third party may be granted permission to tender evidence and make submissions under section 80 of the VCAT Act. This is rarely granted but EPIC was granted this status. This status wields significant influence as a party may make own separate submissions, call own witnesses, and has the right to cross examine:

In VCAT of course they managed to become a party, which is fine, however that is quite unusual though, that's very unusual that a group has been made a party; I don't think I can think of any other example of where it ever happened. (Sonia, Legal professional)

In principle council staff can prepare and submit the SIA and appear on behalf of community, as was the case during the VCGLR hearing in the case study, but in reality, the processes involved in advancing a convincing argument and sustaining cross examination as a witness is demanding ,i.e. arguments must be put in a legally clear way supported by expert witness statements.

There are strict rules around what an applicant needs to submit when they put in their application and then around the time that councils have to respond... You rely on the commission's ability to hear and understand what you are arguing and for that argument to be put in a way that is legally clear. That means you basically have to be a lawyer to do it. (William, Expert witness)

This means most councils, especially smaller councils, must source external legal, social, economic and research expertise at significant costs to the municipality to argue their case in a prescribed format, as a council merely taking a principled stand on electronic gaming machines does not bode well:

Once you are so entrenched in your level of opposition you run the burden that your views will be given less weight because it will be said that your views will be based on a philosophical opposition as opposed to a considered opposition. (Sonia, Legal professional)

Council, as proxy for the community, is during the VCGLR and VCAT proceedings, represented and instructed by legal counsel, who must collect and articulate measurable specific evidence of potential social and economic impact as well as scrutinise the projections made by the applicant submission:

You tackle it by producing or putting forward evidence of an expert nature if you can. You need to find somebody who has the requisite level of experience and qualifications to review social impacts and to express opinions about it and the same with economics. The second way is to challenge assumptions and propositions that are made by the applicant and a lot of an applicant's case is based on assumptions and propositions - lot of an applicant's case is based on assumptions and propositions! (Sonia, Legal professional)

This is a difficult exercise beyond most council officers, which requires the engagement of expensive and professional expertise.

The VCGLR must consider any submission made by council⁵³. However, for the council submission to have any significant weight, the VCGLR expects council to be present at the hearing to provide sworn evidence and be cross examined (be available for testing of evidence). At times the VCGLR has explicitly expressed this demand:

A representative from the Council was not available for cross-examination at the inquiry. For this reason, whilst the Commission accepts that the document provided by the Council is of considerable merit, it must reduce the weight it places on it, as the Applicant and Counsel assisting the Commission were unable to test its contents.
(VCGLR, Matters Determined, Cove Hotel, 2013)⁵⁴

In principle, this of course is not an unreasonable expectation. However, the reasonableness of such demand must be assessed against council's ability to be represented at the VCGLR hearing. This is partly contingent upon the local political context, the availability of expertise and fiscal resources, and an assessment of occupational health and safety risks attributed to the cross-examination of council employees. The latter will be discussed later in more details, These contingencies present a serious issue for participation and equitable and just influence on EGM planning processes. Notably for smaller councils, such as rural and regional councils,

⁵³ The *Gambling Regulation Act 2003* Section 3.3.7 prescribes that the Commission must consider any submission made by the relevant responsible authority.

⁵⁴ Matters Determined Cove Hotel, 2013. Available via VCGLR web database Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

participation is particularly hampered by the tyranny of distance and the limited availability of resources and expertise.

Furthermore, overregulation and inflexible systems generally compromise transparency and accessibility:

Well, personally I was quite confused about it all, you know I am no lawyer for a start, and I think you have to be to understand it properly, and I have nothing like that of course... it's rather intimidating especially people like us from a little country town you know people from big city and all these hot shot lawyers and not being really conversant with the system. (Warren, Club supporter)

7.3.4 The Challenge of Navigating Two Parallel Permit Systems

Whilst the opportunity to access processes exists for community members, the reality is, there are many obstacles before access. This limits the ability of communities and local councils to engage with processes. The complexity of planning in EGM matters is excessively complicated by the parallel permit system, which is most confusing to communities as well as professionals (councils and expert witnesses alike). For councils, this presents a challenge as navigating across two systems require strong coordination of, and investment in, a broad pool of expertise to mount a credible and coherent case:

The process, because we didn't understand that, because you're also running/getting permission from the VCGLR it is actually quite complex, so part of my role as an officer was to explain that to councillors; as a planning authority you've got a role, but then you've got the Commission doing licensing so you had to explain those two things; and again making that clear to the community was a challenge; as an officer to make that clear, because for example going back to the [case I mentioned before]

people objected to the planning permit and thought that that would count toward objecting to the license application and it didn't. (Dan, Senior council officer)

[here the interviewee speaks of another case experience than the Castlemaine case]... I'd written the original economic impact assessment I still spoke to it. That was problematic because by then the planning guys were running it and they had disconnected the information - so this is an internal matter, we just didn't get ourselves, didn't get our act together internally. So, when we went to VCAT we hadn't looked at the social piece and the economic piece and put them together well, so I didn't feel well prepared or well briefed, and also, I was in a very busy manager role, so it wasn't my main job. So, that was unfortunate. So, that was a capacity pressure issue. (Dan, Senior council officer)

Community members, who mostly want to object to EGMs *par enlarge*, often do not in their submissions differentiate between planning and licensing concerns for grounds of objections. This has ramifications in terms of objections counting, as submissions in an inappropriate format will not be taken into consideration:

It is intimidating for most people to interact with legal or quasi legal systems and they don't feel enough confidence, those people that do, who have given their contribution in the wrong format are discounted. (William, Expert witness)

7.3.5 Consideration 'of and to' Community Views and Participation

VCGLR has noted it welcomes community input by allowing the public to comment and express views through its website. It also emphasises that 'community opinion' is an important factor which must be considered as well as the evidence of 'community

attitudes⁵⁵. However, the VCGLR has qualified that such considerations must however be comprehensively presented.⁵⁶ But the VCGLR is not required to take resident submissions into account when making their decision:

They can ignore anything that gets submitted anyway and I know of one community member who submitted something on the website and nowhere in the discussion was it even mentioned that there had been a community member submission. (Victoria, Peak body officer)

Stakeholder experience indicate there is little solid ground for resident objections nor resident involvement in the processes:

There is no framework for them to hear the community, there was no way for the community to have a voice... I don't think this process has ever been designed with community participation in mind. I think that there is an intention to exclude community participation. (Sharon, EPIC supporter)

However general community (i.e. resident) attitudes towards a proposed EGM development must be considered in the context of the wellbeing of the community. If the general sentiment of the community is very negative it may have a detrimental effect on 'the wellbeing of the community' and the VCGLR must consider this aspect when making its decision.

In licensing processes, resident agency and concerns about the development are largely regulated out, as council becomes a proxy for community. This leaves residents

⁵⁵ See VCGLR Matters Determined, Bendigo Stadium Ltd Sep 30, 2011. Available on VCGLR web database Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

⁵⁶ See VCGLR Matters Determined, Werribee Football Club Ltd Sep 16, 2011. Available on VCGLR web database Accessed 20 July 2017 via: <https://www.vcgr.vic.gov.au/CA256F800017E8D4/VCGLR/F5A038E692164641CA257B32007816CE?OpenDocument>

vulnerable to, and reliant upon, political council decisions and personal positions on EGMs.

To some extent, the processes are inclusive of local participation, however resident submissions in opposition to EGMs machines are reported to carry little more weight than 'public commentary' and community participation little more scope than spectating:

.....I find from a process point of view its really appalling to have a submission process and then to be able to completely ignore it and to be able to not document anywhere formally in the received decision.

(Victoria, Peak body officer)

Furthermore, council, as a proxy for community, has its power to influence hampered by a narrow, standardised form ill-suited to deal with the real issues associated with EGMs in communities; provided land use requirements are met council is largely restricted to act only as a voice for community:

Council's ability to make changes to their local environment is very limited... so, councils don't feel they have the ability to make these decisions, they have been shunted into this very narrow space they can't control anything about how these machines are placed. (Steve, Peak body policy officer)

7.4 Mobilising Outside the Institutional Context (Informal Context)

Strategy mobilisation involves a process of coalescence of intellectual and political forces through which strategies are recognised given names and positioned in specific institutional contexts. Such mobilisation exploits moments of opportunity where having a strategy responds to some felt need among key actors. Achieving such power involves intellectual work, the mobilisation of imagination and knowledge

and the mobilisation of political power, through coalition formation and leadership and through moving around among different arenas. (Patsy Healey, 2007 p 195).

Resident opposition to EGMs, is, in its essence, a policy unfolding within the structures of formal as well as informal arenas such as the community sphere. In the informal arena, outside the institutional processes, resident mobilisation most effectively occurs. Saliently, in this informal sphere the political representation (McFarlane, 2018) of EGMs can be very clearly observed. The community discourse is specific to Castlemaine but also linked to the wider socio-political context of EGM gambling harm. In this arena, community members can gain scope to effectively mobilise opposition to EGMs. This is done through community campaigning and activism as the informal community sphere is a fertile ground for mobilising activism. However, not all communities possess the level of 'activist fertility' demonstrated by EPIC. It is always contingent upon socio, temporal and spatial factors.

7.4.1 The Fertile Activist Ground of Castlemaine

I have never ever seen the strength of community activism in my life as Castlemaine! By far it is not funny, never seen it before. In particularly the opposition and the awareness and the willingness to go through political and planning statutory processes is extraordinary the level of activism. It is amazing. I don't miss it at all! (Liz, Senior council officer)

The level of activism that occurred in Castlemaine was undoubtedly due to a strong resident tradition of activism. Many of its residents identify strongly with the town's 'uniqueness' and are fierce protectors of its heritage, art, and diversity. Some of its residents, permanent as well as residents of weekend dwellings, are highly connected and hold influential positions beyond the town boundaries. This serves well in bolstering

the protection of the town's 'character'. The fact that Castlemaine is considered uniquely arty, diverse, and growing segregates itself from most rural townships in Australia.

Castlemaine has a very vibrant and diverse community and has a lot of people who have moved here in the last 10-15 years. (Sharon, EPIC supporter)

We are rural but we have very eclectic mix of people here, including a lot of people who are linked to Melbourne through their work or through their culture. (Anna, Local councillor)

This is Castlemaine where all people who have moved here in the last 15 years have all come from Northcote and they are all barristers or whatever. (Liz, Senior council officer)

The 'felt' uniqueness of the town, and people's attachment thereof, served the community well in leading opposition to the development, as factors negatively affecting the 'felt attachment'⁵⁷ people have to their community. The vernacular 'Pokies' have become a lightning rod for activism; a quest for social justice through the contention for space.

There was a real momentum and a sense of purpose around the whole campaign that this wasn't about [The Town], of course it was about [The Town], but I think the wider community was: the community must be heard. (Mike, EPIC supporter)

Forget this is pokies, the next battle in Castlemaine is going to be Aldi. It is the same thing. It is a chain store, it is a global conglomerate, it will change the character. (Liz, Senior council officer)

⁵⁷ How residents' attachment to their town might be affected by EGMs is a consideration taken into account by the VCGLR when making decision to refuse or grant EGM applications.

7.4.2 Activist Behaviours in Castlemaine

[EPIC] had an intelligent and diverse and well-credentialed board of some calibre. It wasn't just a group of community members who were having a little go. [they] actually had a plan and what; [EPIC members] hadn't done it before but were intelligent people articulate and organised and... were passionate and... were supported by a substantial number of community members, who would constantly be giving [EPIC] support, solace communication, baking things, sending things, giving money you know go on do it you know, [EPIC] were fighting the good fight. (Mike, EPIC supporter)

We [The Club members] were just bushwhackers from the bush, you know. (Warren, Club supporter)

Emerging as a passionate, grassroots organisation, the opponents positioned themselves strongly with the iconic name EPIC, an acronym for Enough Pokies in Castlemaine. EPIC recognised the need for a strategic approach to effectively oppose the planning application and persuade council to oppose the license application. The group set up a well- connected and skilful committee.

It moved very quickly from what was a very passionate and well-intentioned but ultimately an ineffective group of and passionately opposing this application to a group of people who got together to say what's the process, what's going to happen here. This is a legal battle, first and for most, so how do we best immerse ourselves in the process and how do we make ourselves heard, so there was that whole legal focus. (Mike, EPIC supporter)

EPIC conducted a sophisticated campaign; involving community members with diverse and high levels of expertise. They claimed to be the 'voice of the community' and were seen by many to speak for the community. In doing so they inadvertently nullified the position of the development's supporters to the outside world.

Whilst both sides, proponents as well as opponents of the proposal, were actively engaged, EPIC's ability to harness and execute activist power in various sophisticated ways overshadowed the efforts of the Club. The *assemblage* or political manifestation of the latter is best described as a 'word of mouth campaign' supported by 'car stickers', 'letters to the editor' and 'meal vouchers as membership incentives. Evidently, The Club lacked agency and strategy. It was unable to draw on connections of powerful networks and skilled personnel, and unable to sustain momentum over the timeframe of the decision-making processes:

We weren't much of a club at the time but that was the objective to establish a club in Castlemaine. (Warren, Club supporter)

Some of the original members seemed to fade away, because they said, 'we can see there is no hope'. (Warren, Club supporter)

To this end, the two community groups, in juxtaposition, employed very different levels of skills and activist acumen. In contrast to EPIC, the Club campaigners were unable to mobilise effective political engagement (McFarlane, 2018), beyond their immediate claims and demands for the EGM club venue in Castlemaine, to a broader political discourse, as was possible for EPIC.

7.5 Five Effective Strategies for Opposing EGMs

Because EPIC conducted a highly effective community campaign, it is constructive to emphasise the following key strategies that proved to be powerful and effective means of activism - a method for responding to EGMs. This is not intended to be an exhaustive list of what to do; rather it seeks to emphasise the key efforts made predominantly outside institutional arenas, towards mobilising effective community activism and engagement as opposition to EGM developments.

7.5.1 First Planning initiative: Exert Political Pressure, Inform the Community and Lobby

Generally, it is difficult for local councillors to make decisions that impact on individuals in their communities. Contentious issues become highly political and exert significant pressure on the individual councillor. Hence raising community awareness of the impacts of gambling and facilitating a critique of a specific proposed development have the power to influence community attitudes to EGMs and the specific proposal, which can in turn exert political pressure on councillors at a local government level. Hence, through actively raising awareness of the consequences of gambling and the proposed development to the local community, councillors are persistently reminded of their democratic service to their community in representing their views:

I was very relieved not to be mayor not to have to be the spokesperson, there were so many emails coming in. (Anna, Local councillor)

They [councillors] had enough information to make a decision, but there was a lot of pressure on councillors and they were not willing to make the call [on the planning decision]. (Steve, Urban planner)

They were terrified to determine the town planning permit.

Council employee (Liz, Senior council officer)

EPIC exerted political pressure by positioning themselves as the interface between the general community and council, claiming to speak for most of the community. Thereby EPIC weaponised a powerful discourse of opposition to the proposal for council to consider. This was largely achieved by meeting with council administration and councillors at several occasions, as well as submitting to council an extensive document in opposition to the proposal outlining grounds for opposition:

We were involved meeting with the council and trying to get them to understand that the level of opposition was quite extraordinary in the community. Mike, EPIC supporter)

As part of building a politically powerful discourse capable of exerting influence, EPIC engaged well-known dignitaries to speak for them at public events. For example, EPIC evoked the political and social movement potency (McFarlane, 2018) of EGMs through the engagement of the parliamentarian Nick Xenophon and the president of the social movement Alliance for Gambling Reform Tim Castello (see Figure 23 below).

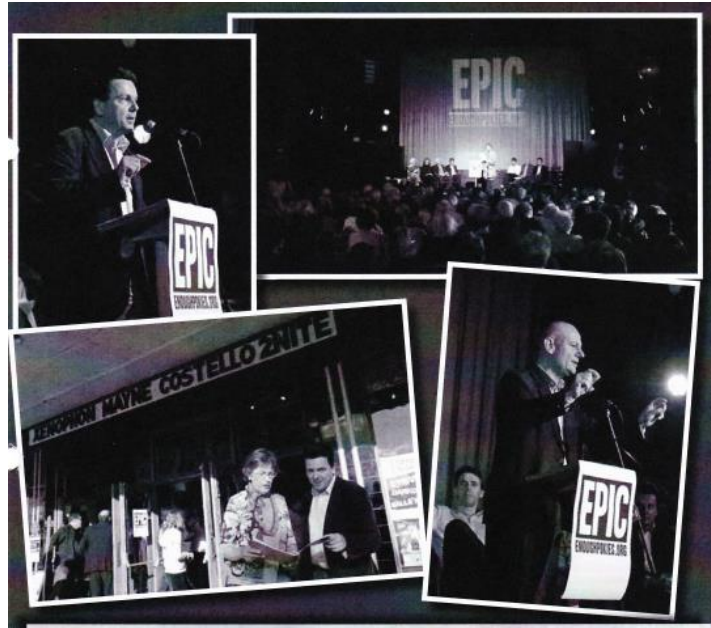


Figure 23: EPIC Campaign: Engaging Political Figures. Top left: Nick Xenophon, MP; bottom left: Tim Castello, Alliance for Gambling Reform. Speaking to the Castlemaine community). Source: EPIC's Submission to VCGLR, 2011

To consolidate communication channels to the Castlemaine community and beyond, they developed a sophisticated media policy that used the media in novel and opportune ways, and which manipulated media streams to their advantage (see Figure 24 below):

EPIC used the media well you know. They were well organised. They had an anti pokie rally at the good shed and they had all the media there. The TV, the newspapers all gathered there. They had a pretty good crowd there and a lot of them came from out of town, but they knew how to do it. We didn't. (Warren, Club supporter)

We decided only a couple days prior to the hearing at VCAT we had so many people there was so much interest in the case at this stage, huge interest locally, and we thought, how do we, we could update our website regularly and let people know what's going on and I said why don't we run a blog, a live blog and this was all this was all pretty new, it wasn't something that and we didn't know what the rules were, whether we

could do it in court , the privacy or whether we were subverting the legal process or but I think we got advice that said hasn't been done before , do it but if it's a problem we'll let you know. (Mike, EPIC supporter)



Figure 24: Media reports on resident opposition to the proposal. Source: EPIC's Submission to VCGLR Dec 2011

7.5.2 Second Planning Initiative: Empower the Community, Give Them the Tools!

Building the capacity of the community to object in a required format is important in mobilising effective community activism. A counter-discourse must be credible and previously legitimised by legislative regimes in Victoria in order to be considered by the

regulators. This can be a difficult and frustrating task as members of the community face the limitations of their social, economic and cultural subjectivity:

It would have been very difficult for a lay person to navigate the Planning and Environment Act and the planning scheme to ascertain on what grounds an appropriate objection could be lodged. (Steve, Urban planner)

EPIC recognised this issue and responded by establishing a planning committee, consisting of local town planners, tasked with instructing the local residents how to object to council on legitimate planning grounds. They used media channels to reach widely into the community:

They managed to get a well- known planner and a group of architects and planners; they had this elite group of people advising... in this particular article from the planning group the guy actually mentions a few points to put into the submission. So that is a really effective way of getting the word out and that transferral of capital: I have the knowledge and I am passing it on to you, so you now have that power of that knowledge. (Kathrine, Community member)

7.5.3 Third Planning Initiative: Document Community Sentiment

VCAT and the local council must take 'community sentiment' into account when forming a decision. It becomes critical to garner documented evidence of community opposition. EPIC responded by organising petitions, holding public events, and documenting community participation at events. EPIC recruited community witnesses and prepared them for oral submissions to proceedings. This provides evidence of community engagement and sentiment:

EPIC and the Council were lucky they had a sympathetic judge in that case, and someone who was flexible enough to understand that a negative impact in the eyes of the population was a negative impact weighing on any positive economic impact to be gained from the application. (William, Expert witness)

7.5.4 Fourth Planning Initiative: Draw on Extended Networks and Resources to Build Politically Robust Discourse.

The process of opposing EGMs is essentially a discursive exercise – a battle of what is to count and what isn't (Healey, 2007). EPIC expended significant efforts to assist council in assembling a case of objection by drawing on extended networks of expertise to gather and contribute knowledge to count in the framing and legitimising of council submission - a politically powerful move:

Being able to do the leg work by preparing witness statements and ensure people were appropriately supported – that stuff takes a lot of time and costs money. (Sharon, EPIC supporter)

EPIC's strategy was focused on how best to support council in their opposition. They focussed attention on effective legal discourse; EPIC's awareness of the discourses legitimised and supported by official processes in the legislative realm helped drive their transition from an emotive discourse to a discourse grounded in professional, rational terms. EPIC's campaign became a legal battle rather than a community battle.

7.5.5 Fifth Planning Initiative: Secure 'Legal Status' and Dare to be Unconventional

Having the opportunity to make your own separate submissions, call your own witnesses, and have the right to cross examine is politically and legally powerful. It gives a party agency within the formal regulatory processes.

EPIC asked to be joined to the party. It was a gutsy move. It showed we are just as big in this fight as the council. We have the right to be here. (Kathrine, Community member)

EPIC and their legal representation recognised this. Using unconventional lawyers, i.e. lawyers that do not usually act in EGM matters, allowed for unconventional demands and unconventional arguments and discourse. They focussed mainly on scrutinising the business case of the applicant, rather than emphasising the social detriment of gaming machines:

We stepped back from the discussion about benefits, the critical part was for our focus on the application itself. What is the structure of what you [the applicant] are proposing, questioned the business case and the club's spurious model... we ran this argument that they were out of towners that it actually wasn't going to be community based, and that it wasn't going to come back into our community. The money was largely going to flow pack into Maryborough and that really rattled them (Mike, EPIC supporter)

To this end, a sense of empowerment and the mobilisation of protest relies extensively on individuals and their capacity to feel and garner agency as well as their ability to draw from networks outside the immediate arena. The access to socio-cultural resources becomes therefore crucial in navigating processes and mobilising action:

I don't think any of us would apologise for the campaign that we ran and I think that we would disagree that we were running a scare campaign , I think we were honest and we, we presented the community with facts, we were clever, we were good, we had a really strong team we had people that knew what they were doing with kind of media and with graphic design with sort of every element that sort of that meant that we came across as a sort of well-polished team and we were but we were also just made up of regular members of the community and I think we

were representative of the community in that way you know we had people who were grandparents, it wasn't just these kind of masterminds that were trying to create a particular outcome I think we were responding to real concerns that had been expressed. (Mike, EPIC supporter)

7.6 Incremental Reform

The Castlemaine case is designated a 'Red Dot Decision' by VCAT⁵⁸, i.e. a case considered by VCAT to be of interest. This indicates that local councils and local activist movements can incrementally change common law practice. VCAT makes, in its red dot summary⁵⁹, a re-statement and updating of principles to govern VCAT decision-making that requires an explicit identification of economic and social benefits and disbenefits for future EGM decisions. This represents the first explicit demand by VCAT for greater transparency of the institutional decision-making processes in regards to argued benefits and disbenefits (Victorian Civil and Administrative Tribunal, 2013 para 60 & 154-158):

Suggested approach to applications, requiring parties to expressly identify economic and social benefits and disbenefits and direct evidence to those determinative issues

7.7 Epilogue: Shadows of Justice

In the context of community protest, further community stratification occurs in the form of collective, polar identities. EPIC members emerged as an anti-Pokies collective and the Club members as a pro-Pokies collective. These collective identities dichotomy-form

⁵⁸ Mt Alexander SC v Victorian Commission for Gambling and Liquor Regulation & Ors Para [60] and [154]-[158], [VCAT 101] 2013, Accessed 17 January 2015, http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2013/101.html?context=1;query=gambling%20electronic%20gaming%20machines;mask_path=au/cases/vic/VCAT

⁵⁹ Ibid.

in response to Victoria's EGM planning; but they also represent groups who share discourse of socio-economic dimensions as it relates to EGMs and common ideas of public space. The socio-economic stratification is illustrated by proponents being cast as 'old guard', 'working-class'⁶⁰ or 'Pokie players'; denoting 'cultural unsophistication and backwardness'. Opponents were cast as 'Greenies' and 'Blow-ins'; denoted as sophisticated and representative of the 'new socio-cultural elite' in Castlemaine.

Whilst EPIC aimed to protect the culture, heritage and local enterprise of Castlemaine against the intrusion of EGMs and associated deleterious harm, the discourse of the Club stood in direct opposition; proclaiming a firm desire for the Club. The community club discourse, predominantly denoted by what traditionally could be referred to as working class values, can be viewed as reflecting the aspiration of the supporters to obtain access to a socio-cultural context, traditionally reserved for the elite, through the establishment of an entertainment club socially, economically and spatially accessible to 'working-class' people:

I will go and play the Pokies in a club. I enjoy the ambience of the place and you know it is just generally pleasant atmosphere. (Warren, Club supporter)

We wanted the club because we wanted this place to meet friends or whatever – just a nice venue – a lot of people wanted a venue for entertainment, a good place for quality entertainers to come. (Lorraine, Club supporter)

It is a Protestant work ethic thing that when it comes down to it, people think that you shouldn't expect other people to get money that you

⁶⁰ Castlemaine is an old mining town. During the past two decades the town has become a popular 'tree change' destination for Melbournians, many of whom are highly educated and socially very well connected. The gentrification this demographic wave has brought to Castlemaine is not welcomed by some of the long-standing residents of the town.

haven't earned, so poor people shouldn't expect to get rich by playing rich, and it is an offence to do it. (Susan, Legal professional)

The cultural effects of EGM planning is a poignant example of what Yiftachel (2000) has referred to as the cultural dimension of planning as a social control mechanism. Victoria's EGM policy supports the prolific distribution of club venues across Victoria. As a result, a gradual dependency has emerged on socio-cultural infrastructure that has serious side effects in terms of gambling harm. Thus the proliferation of EGMs into neighbourhoods and towns reflects, what is best described in the words of Yiftachel (2000), as the "structural conditions for the reproduction of social dependency and inequality" (p 432), and which results in a weakened and disenfranchised community cast in simplistically defined polar camps of 'pro and anti' with little prospects of reconciliation:

The length of time that it took from the application to the decision was two and a half years; it was a very harrowing for the community and I think there is still deep division; there is resentment over the decision from people who wanted the club. (Mike, EPIC supporter)

Someone actually accused me yesterday at a listening post, to which I responded: well, the projected income from losses on the pokies, had they gone ahead, for the first year was somewhere in the region of \$3 million, so I think that that would be lost by the community; so trade off of the quarter of a million of rate payers money - to save that money from leaving the community - is probably a good investment – it is still seen by some as Council not doing the right thing by its members or at least not in touch with the public. (Anna, Local councillor)

In this light, such a constellation of polar identities had the power to destabilise and polarise the very community both groups aimed to serve. Whilst the social fragmentation

was not an intended policy goal, it was however a direct consequence of rigid formal processes tasked with making decisions about a very complex social issue. These factors clearly facilitated the deepening of socio-economic divisions and undermined the social cohesion of the Castlemaine community:

It will always be there. My view is that it will be there until this current generation is gone – the people that were affected by it. It did a lot of damage to the town. I think it was unnecessary damage really. So much so that I have been here for 40 years and if I was a bit younger, I would move from town. I would go away, but yeah, that is the damage it caused to the social fabric of this town. (Warren, Club supporter)

This community will never heal. There will always be a division. (Anna, Local councillor)

The damage done to relationships persists today...it had more impact than anyone ever realised. It impacted on friendships, businesses. It is amazing that could happen, but it did. (Liz, Senior council officer)

To this end, it is illuminating that although the new EGM development never eventuated in Castlemaine, its associated institutional processes had the power to fragment a community that engaged in the whole process of EGM planning.

7.8 Discussion of Findings

This thematic analysis has documented how local residents and councils can engage with EGM planning in Victoria. It has also revealed key procedural challenges and the instrumental violence perpetrated upon local actors and professionals that are associated with navigating procedural structures supporting EGM planning in Victoria.

Planning legislation, as currently practiced and interpreted, emerges as a blunt tool to circumvent the socio-economic harm caused by EGM developments, due to the narrow parameters of planning legislation for considering socio-economic impacts. These findings support previous contentions advanced about planning's general lack of assertiveness when it comes to dealing with socio-economic impacts of developments (e.g. Rowley 2017). This restricts the scope of council and community members in opposing EGMs under planning law. Provided land use requirements are met, there is little community members and council can do to oppose EGMs under planning law. Hence local councils and community members must then direct their engagement with EGM planning through regulatory processes governed by gambling legislation. This has implications for community participation because direct community participation and appeals rights do not exist under this regime. Only council, as a proxy for community, can, through a resource demanding process, oppose EGMs in a weakened, prescribed, standardised form. This involves applying a cost benefit analysis to the social and economic harm caused by EGMs to prove detriment to the community. However, this is notoriously difficult, as social phenomena are generally poorly expressed in standardised, numerical form (e.g. Nussbaum 2000b; Fainstein 2010) and the transparency of decision guidelines are not clearly articulated. Hence objecting to EGMs is only possible in a weakened form, as the system favours numerical arguments and disadvantages arguments of social harm caused by EGMs. This issue will be discussed in more detail in the following chapter.

Councils have a key role to play as the local agent of EGM planning because of its influence and decision power pertaining to allocation of local resources and land use; and because council is an advocate/proxy for community in matters of EGM licensing. The statistical findings pointed to the key role of councils in influencing licensing

decisions against EGM developments. However, the ability to exert influence and act is particularly shaped by spatial, social, economic and political factors. CaRT as an assessment tool, presented in chapter 5, highlighted this issue, which was also confirmed by the findings from the descriptive statistics. Thus, this chapter has both confirmed and deepened the understanding of these spatial, social, economic and political factors as they relate to council objections. Community (i.e. residents) participation is similarly contingent upon these factors. Whilst there appears to be no previous research that can confirm or refute these socio-spatial trends of council objections in EGM planning, the findings support previous contentions about participation and objections in planning that objections and appeals are generally socio-spatial stratified (e.g. Taylor *et al.*, 2016; Ruming *et al.*, 2012; Cook *et al.*, 2012; Taylor, 2014). Cook *et al.* (2012 p 87) note in their report on planning objections and appeals in Melbourne that “....there appears a ‘wealth and education effect’ in patterns of objection and appeal” and “ The capacity for some groups to fund expert advisors and legal support is one of the long-standing criticisms of third party objection and appeals rights..... objectors from lower social-economic backgrounds rely on scant advice and support in negotiating a planning system that in most places, for many residents, is complicated” (p84).

The case study and statistical findings provide a corresponding narrative of council and local activism being socio-spatially stratified against disadvantage. This points to the burden of state domination and instrumental violence is weighing heaviest on the most disadvantaged.

This thematic exploration suggests community participation in EGM planning is akin to Arnstein’s (1969) notion of tokenistic participatory processes, e.g. public hearing and surveys, that invites community opinions, but do not provide “assurances that citizens

concern will be taken into account” (p 219). She describes such processes as merely window dressing:

When power holders restrict the input of citizens’ ideas solely to this level [consultation], participation remains just a window-dressing ritual. People are primarily perceived as statistical abstractions... what citizens achieve in all this activity is that they have participated in participation. And what powerholders achieve is the evidence that they have gone through the required motions of involving those people (p 219)

The Castlemaine case confirms, however incremental it is, that incremental reforms (Fraser 2003; Fainstein 2010) of EGM planning can occur at the local level through changes to common law practice. However, as the findings show, these processes are complex, and less resourced communities and councils may not be able to effectively press for local level reform. Confidence in EGM planning processes being ‘just’ and ‘democratic’ was eroded and perceptions aligned closely with findings from previous qualitative research on planning objections and appeals in Victoria which highlighted (Cook *et al.*, 2012 p 66):

The perceived marginalisation of local government planning processes ultimately contributed to a negative perception of state government planning. The process was described variously as ‘absolutely objectionable’ (R3), ‘offensive’ (R3), ‘an appalling process’.

As well as presenting a democratic process issue, this also raises concerns about equity, when only the most privileged can partake. The findings suggest procedural unfairness, when only active council opposition is thoroughly considered.

Although this thematic analysis is mainly focused on democratic processes, the findings also reveal concerns about diversity standards, which involve consideration of diverse

representation/inclusion and diverse recognition of vulnerability. For example, South Sudanese community vulnerability to gambling harm was dismissed for consideration based on an overall calculation of benefits. This highlights ethical concerns about the utilitarian gambling policy of 'the greatest good for the greatest number', as diverse recognition of vulnerability is dependent on big numbers. It also reduces sensitivity and responsibility for the 'other', which has been strongly argued to be a fundamental feature of a humane society (e.g. Mansbridge, 1990; Fraser, 1997; Hirschmann, 1992; Fainstein, 2010; Nussbaum, 2000a; 2003). EPIC demonstrated the importance of enabling rights in ensuring the participation of vulnerable groups, i.e. the South Sudanese community, by preparing community members for oral submission proceedings.

The thematic analysis reveals that community engagement with EGM planning most effectively occurs outside the formal institutional processes. It is clear local activist movements have an important role to play in mobilising reform change. However, their effectiveness is contingent upon the level of social capital/resources embedded in the movement. EPIC was able to leverage a high level of activism not commonly seen in these cases. Its campaign engaged across political dimensions, from immediate and locally isolated response claims i.e. '65 EGMs in the Old Goods Shed in Castlemaine', to political claims involving politicians and media platforms, to forming alliances with the social movement Alliance for Gambling Reform to make human rights claims' (McFarlane, 2018). This is in stark contrast to the Club campaign, weak in its one-dimensional understanding of EGM through its physical and immediate representation in the town. Hence community activism does not necessarily mobilise change. Firstly, it requires that council supports the mobilisation and objective – a finding CaRT (T₃) also supports. Secondly, it demands the community group can leverage a high level of fiscal

and/or human resources required for mobilising a sophisticated and strategic political campaign.

It is illuminating that the context of loose structures, informal arenas, and 'community anarchy' is perhaps the most powerful incubator of justice planning. In this light, if planners are to be effective and influential in promoting a justice agenda for urban development, planners must consider operating partly in exile from 'formal planning' and look to other horizons to plan for more equitable communities. However, a dark side to 'justice' emerges. The pursuit of 'justice' has also, in Castlemaine, produced a fractious community unable to reconcile; hence planners must also direct attention to justice implications more broadly.

Whilst this chapter has highlighted the many barriers to local participation in EGM planning, the chapter has also highlighted the strategies available to council and community (activist) groups for mobilising action towards social change. The five effective strategies employed by EPIC demonstrate effective strategies for any community activist group to draw inspiration from.

The significance of this chapter's contribution is its empirical investigation that is attuned to the micro perspectives and deep insights about EGM planning and the implications for democratic processes and just outcomes for local communities. However, its contribution is also attuned to the broader complex issues associated with Victoria's EGM planning policy and regulatory processes, and thus also presents a deep and nuanced narrative to supplement the statistical findings, which suggested limited resident and council influence on VCGLR decisions.

7.9 Conclusion

This chapter has been concerned with issues emerging from the semantic level of text, relating to how and to what extent the two key Just City urban entities, the local council and community activist movements, can participate in and influence EGM planning in Victoria. The findings in this chapter converged with the statistical findings that suggested that local opposition, i.e. council, can be effective in stopping EGM proposals, provided their case is well resourced. However, the case study findings also diverged from the statistical findings as the latter indicated that historically rural/regional councils and communities are not likely to object to EGM proposals.

The chapter has highlighted local participation rights exists under both planning and gambling legislation. However, stakeholders generally perceive institutional processes as complex, non-transparent, tokenistic, and lacking in accountability. In particular, procedural fairness is called into question. Local influence *is* possible, provided extensive social, fiscal, and professional resources are available to council and activist groups to mobilise a sophisticated campaign that engages across political domains.

The next chapter will explore the more latent issues embedded in the institutional and regulatory processes that impact upon local agency.

Chapter 8: Planning, Pokies, and Power: Mitigating EGM Hegemony

...[the] political task is to criticise the working of institutions which appear to be both neutral and independent; to criticise them in such a manner that the political violence which has always exercised itself obscurely through them will be unmasked, so that one can fight them.

Chomsky and Foucault (1974 p 171)

8.0 Introduction

Chapter 5 highlighted how local participation and influence on EGM license decisions has historically been difficult. Objection and appeals cases have been socio-spatially stratified against the most disadvantaged and vulnerable communities. This chapter excavates the more latent themes of power embedded in EGM institutional processes.

In this thesis the term 'EGM hegemony' refers to the dominant/institutional discourses and narratives supporting the rationalisation of EGMs, i.e. instrumental reason. The effects of institutional discourse on democratic dialogue need to be given explicit attention in this thesis; primarily because what is accepted into the debate determines what can be known, considered, and demanded. Chapter 3 argued EGMs depend exclusively on rationalisation for existence, *not* essential urban need. Therefore, institutional discourse, referred to as EGM hegemony in this thesis, holds a particular power that needs interrogating. For example, the way in which EGMs and associated activities have been conceptualised and rationalised form the boundaries and context for the current debate. Fainstein's 'democracy' is primarily understood as democratic procedures such as consultation with affected citizens, inclusive processes and transparent decision making. However, these criteria are not adequate for fully considering democracy in the context of EGM planning because they could quite possibly be fulfilled without challenge to the institutional discourse boundary. Therefore, the

ability to challenge the rationality of EGMs becomes an important aspect of democracy that cannot be conflated with instrumental procedure. This chapter contributes to the overall research question: *how can justice be furthered through EGM planning decisions?* by focusing on identifying the “forces of hegemony and injustice” (Crotty 1998 p 157). Hence, this chapter responds specifically to the research question: *What are the barriers and opportunities for achieving social justice in EGM planning for local communities?*

Through a Foucauldian approach to discourse analysis the more latent themes embedded in the institutional processes are excavated to understand the role and consequences of EGM hegemony as it relates to justice for local communities. Whilst EGM hegemony and its implications have previously been identified and discussed by other scholars, as highlighted in chapter 2 (e.g. Greenslade, 2013; Livingstone and Woolley, 2007; Adams, 2004; Browne *et al.*, 2016; Reith, 2013), this case study closes in on the “real-life situations and test[s] views directly in relation to phenomena as they unfold in practice” (Flyvbjerg 2006 p 235). This provides the opportunity to expand and nuance current understandings of EGM hegemony.

The chapter draws broadly on the following three Foucauldian discourse concepts as outlined by Hall (2001):

- 1) the concept of **Discourse** as the institutional conduct of hegemony
- 2) the concept of the **Power-knowledge nexus**, referring to the conduct of discourse in terms of construction and maintenance of EGM hegemony, and
- 3) the concept of the **Subject**, as bearers of hegemony as well as being existentialised thereby.

The aim is to understand and identify EGM hegemony, as well as elucidate how reason is conducted within the institutional processes and influenced by forces of power. Thus it seeks to reveal obstacles to questioning the 'moral base' of EGMs and open for discussion a new direction towards more just EGM planning.

In plain language this chapter closes in on stakeholder experiences of 'what can be heard and spoken' and associated challenges. Hence democratic discourse as a justice principle is the key reference concept for this chapter. The quality of democratic discourse is considered in relation to the ability for agents of local influence, i.e. councils and community groups, to assert themselves within the institutional processes to challenge the EGM planning hegemony. This is considered both in relation to city level processes as well as state judicial regulatory processes.

8.1 EGM Hegemony

The primary policy advisor to the Australian Government on key economic performance and community wellbeing issues, the Australian Productivity Commission (APC), has articulated the key expectations of gambling policy in Australia (Australian Productivity Commission, 2010 volume 1 p 2):

- Public policy should first and foremost aim to preserve the social and economic benefits of gambling.
- Most people gamble with enjoyment.
- Most people gamble without harm.
- Efficient harm minimisation strategies and policies are needed to minimise gambling harm.
- Gambling policy must recognise the importance of self-responsibility.

These assumptions reflect a utilitarian approach to gambling policy in that it involves an assessment of economic and social utility in favour of the majority, and the connected realisation that some must accept less (Rawls, 1971), for example gambling harm and inferior social and economic infrastructure, so others can have more in terms of redistributed benefits and gambling opportunities. As the key policy advisor to the Australian Government, the Commission's assumptions underpin much of the policy development around gambling across Australia.

The *Victorian Responsible Gambling Strategy* is Victoria's public policy on gambling. It is a harm minimisation policy couched in utilitarianism. Its objective is to support and legitimise the availability of gambling opportunities, such as EGMs, whilst recognising their potential for harm. Victoria's EGM hegemony can be categorised through six broad story lines⁶¹, which hold that:

- 1) EGMs are legal;
- 2) gambling responsibly on EGMs is a legitimate leisure activity, harmless to most people;
- 3) if a person does not gamble responsibly, he/she is a problem gambler or pathological gambler - a clinical term attributed to a person experiencing loss of control and harm from their own gambling;
- 4) if a person is a problem gambler or pathological gambler, he/she is one of very few;
- 5) EGMs are a legitimate means of economic development; and
- 6) EGMs are a legitimate means of providing social benefits and infrastructure.

⁶¹ Different discourse events refer to electronic gaming machines. In my representation of the Victorian Gambling Discourse Formation I draw from the medical/psychological diagnostic framework, the national policy intent as expressed by the Victorian Responsible Gambling Foundation, and the objectives of the *Victorian Gambling Regulation Act 2003*.

These six storylines, or myths as Dant (2003 p 159) describes instrumental reason, form the context as well as the legitimisation of decisions made by the relevant authorities. Thus, these storylines can be said to encapsulate Victorian EGM hegemony, or in Foucauldian terms, *episteme*. This hegemony governs the legitimate ways we may understand and talk about EGMs. It is supported and protected by arguments accepted into the debate by the decision maker. The VCGLR and, in instances of appeal, VCAT are, on behalf of the Victorian Government, gatekeepers of EGM hegemony:

There are strict rules around what [i.e. information] an applicant needs to submit when they put in their application [re EGMs] (Sonia, Legal professional)

The issue of what is regulated in and out (Hajer, 1995) or accepted as 'valid information' becomes the catalyst for justice/injustice and power/disempowerment.

8.2 Entrapment of Thought: Hegemonic Knowledge Claims to Fit the Cost

Benefit Model – Passing 'The Test'

Hegemonic knowledge claims determine how EGMs are understood and rationalised, i.e. what is accepted knowledge about EGMs.

To build robust counter knowledge claims, i.e. advance effective arguments in opposition to EGMs, clear parameters and guidelines of what can be argued must be available to parties. However, the decision makers, VCGLR or VCAT, provide no explicit criteria of what constitutes a benefit or disbenefit as grounds for decisions:

There are no clear guidelines or criteria for what constitutes a benefit and disbenefit, harm or costs. (William, Expert witness)

Nor does the VCGLR provide any clarity of how 'evidence' advanced by opposing parties will be considered and tested:

The VCGLR didn't really follow any ordinary rules of evidence. (Sharon, EPIC supporter)

Uncertainty of what 'evidence' is given weight greatly complicates the task of formulating and constructing opposing arguments. The absence of transparent criteria and principles presents a significant challenge to building a case for opposition as confusion prevails as to what can be argued.

8.2.1 Economic Knowledge Claims

Current EGM hegemony has distanced itself from the previous 'vice' understanding of gambling, and now aligns itself with a macroeconomic discourse, where gambling losses are considered a GDP unit term and referred to as 'consumption expenditures' as expressed by the VCGLR:

The Commission accepts that the increase in consumption expenditure that would result from approval of this application would inevitably flow through into GDP as it would with any other kind of consumption expense. (VCGLR, Matters Determined, Numurkah Golf and Bowls Club, VCGLR, 2011).

This legitimises and gives credibility to measuring gambling losses as economic benefits and denoting gamblers as consumers. The application of such a simplistic reductionist economic argument and approach to rationalisation, articulated through a cost benefit analysis, is difficult to dispute by nature in a system that does not cater for the intangibles of social ills and harms; even though the latter is often the crux of arguments against

using cost benefit analysis for social policy (eg. Rawls, 1971; Fainstein, 2010; Nussbaum, 2000b):

They [VCGLR] make it up heavily favouring arguments that can be rendered by numerals or by some metric measurements. OK, but the offsets against that are intangibles [such] as the level of harm in the community the loss of resources flowing from the community, local restaurant, rent, food, into the pokies. (William, Expert witness)

The application of economic modelling to prove benefits gives credibility to arguments advanced in support of EGMs. However, controversy exists around the use of economic modelling on a micro scale as an appropriate tool for measuring impact, because the 'felt economics' is of greater significance than the actual arithmetic effect; nonetheless the strictly controlled processes and standardised format renders it difficult to argue on 'felt economics':

They really need to have a good economic assessment of how gaming can affect family income, their disposable income... the Geotech model... didn't make sense... because it is like rubbish in rubbish out; that is what we all say about models [on a micro scale]... but in situations like this where you're dealing with just a small community of people you really have to have figures that reflect that small community; and if your assumptions are wrong or if the information is not good enough, you won't get the answers that you need - you won't get the accurate answers. (Graham, Economist)

8.2.2 Knowledge Claims of Social Harm: What is the cost?

Historically, it has been difficult to effectively cost the harm caused by gambling (Browne *et al.*, 2016). A significant challenge is therefore to argue against EGMs based on social

costs. They are ill fitted to the required regulatory 'test' involving proof of no net detriment to the community:

EPIC and council were lucky they had a sympathetic judge in that case, and someone who was flexible enough to understand that a negative impact in the eyes of the population was a negative impact weighing on any positive economic impact to be gained from the application.
(William, Expert witness)

Whilst the test in principle considers social costs of the specific by incorporating social impact assessment as a component of the test, the relevance of the test outcome is entirely dependent on measuring utility and the quality of the equations forming the basis for the utility assessment.

By nature, social impact research cannot be futuristic, it is by nature retrospective. The only way of providing social impact evidence is therefore by drawing on existing research, which is largely dismissed by the VCGLR who instead demand a 'specific actual/in real time' impact assessment of a potential future consequence. This is experienced as a 'Catch 22' or a 'wild goose chase' by social planners who appear as expert witnesses at VCGLR hearings. The VCGLR appear unwilling to accept new evidence as a reference frame. and social planners generally perceive the social impact argument as effectively 'exiled' in a system designed to favour numerical arguments:

There is sort of ratios like: for every gaming machine, there's on average .8 of a problem gambler that's going to develop... the tribunal or the Gaming Commission will dismiss if we try and extrapolate that and apply it to a particular case. They dismiss it entirely and that is extremely frustrating like for example if say the predicted expenditure is \$100,000 and we say well 41% of that is going to come from problem gambling in this case. They say you can't use that. You can't extrapolate to this particular case; and that was such a shock to me. I put that in this case

and the council lawyer said take it out. They will not take that seriously. So, the evidence is there, the research is there, and we are not enabled to extrapolate that to a particular case. So, that is a huge frustration! Because, as a social planner, we rely almost exclusively on research as evidence. (Hannah, Expert witness)

However, when responding to the demands of 'specific evidence relevant to the local context' by tendering evidence based on local research "they also dismiss that" (Hannah, Expert witness):

it is 'pick and choose whatever'... I was preparing the gaming policy for a council... I spoke to every possible stakeholder I could possibly speak to, and we did a quantitative study for the municipality... when I tried to use the findings [for an adjacent municipality case]... they dismissed it entirely. I mean it's frustrating, but I am confused as to how they can do that. Because how else do you frame a case if you're not using evidence? ...you see as a social planner and urban planner we always try to project into the future; it is always an unknown event; so, the only way you can do that is by using findings from other events or other cases so it's very frustrating. (Hannah, Expert witness)

To this end, what qualifies as 'ideal evidence' to reject EGM applications remains unspecified and unknown.

8.3 The Subjects: Bearers of Knowledge Claims

Through the disciplinary powers of the statutory processes, institutional norms and forms are adopted and internalised by professions of processes (Foucault, 1977) such as people in judgment, for example lawyers, economists, social planners and urban planners:

Sitting from where I sit, I don't think that the system is flawed. (Sonia, Legal professional)

Power and control are as such subliminally maintained through the rules and conventions of professional discourse, which in turn functions to reproduce these institutional norms, further cementing EGM hegemony and power structures:

They use the same players in every single case – the Rohan Millers [expert witness frequently appearing for applicants] - whereas council is different - and you know they have become this quite sort of polished machine that know what sort of arguments bode well and councils don't necessary [know that]. (Sharon, EPIC supporter)

We get this notion of accepted wisdom and the fact that the gaming industry over and over again both at the VCGLR and VCAT proposes so called expert witnesses who have been there so many times before that they are familiar and that familiarity has led to the sense of comfort with the evidence they present even when it is nonsense and to be honest sometimes it is nonsense. (William, Expert witness)

In contrast, local communities and many councils have not adapted and internalised institutional norms and forms. They are not as well rehearsed in processes, discerning of what arguments bode well, and capable of sustaining cross examination. This tends to disadvantage local participants who have not internalised the institutionalised norms and forms. These findings, i.e. the advantage of experienced expertise/subjects, align closely with the previous highlighted research (Cook *et al.*, 2012) into appeals processes in Victoria which noted that (p 75):

Residents also feltVCAT favoured the proponent, who could afford a 'table of experts' and 'lawyers' (R1)

To this end these findings highlight an urgent need for systemic change to better support local residents and councils when engaging with the institutional processes.

8.4 Conducting Knowledge Claims: 'Regulating In and Out'

Unfreedom is the way instrumental reason has taken on the potency of myth. (Dant, 2003 p 139)

For knowledge claims to be considered by the judicial panel members, they must be submitted to the standardised process of testing. This process is crucial, because it determines whether 'new knowledge' about EGMs is to be accepted into the institutional frame of reference. Whilst the thematic analysis highlighted confusion about the criteria or process for testing evidence, the discourse reading reveals the externalities of this adversarial process. Cross examination is conducted partly by legal counsels as well as the VCGLR and VCAT panel members (bearers of knowledge claims). The externalities of adversarial processes present a challenge particularly to local councils advocating on behalf of the community:

Councils report [that] the Commission will give people a very hard time and they actually find that very difficult personally, so that has created, even in councils that have an activist appetite, have less appetite for taking on opposing out of concern to their staff... they consider it a health and safety risk because staff experience really high levels of burnout and anxiety and stress. (Victoria, Peak body officer)

Using cross examination as means of 'conducting knowledge claims' acts inadvertently to regulate out knowledge claims unsupportive of EGM hegemony. Cross examination is a major deterrent for councils to appear before the VCGLR and VCAT hearings. Councils report mental health repercussions for staff who have been subjected to cross

examination in form of burnout, stress, and anxiety. Even council staff WorkCover claims have occurred as a result of cross examination. Thus, adversarial processes are considered a serious occupational health and safety issue for staff by most councils. These concerns are echoed across a range of stakeholders interviewed for this research:

I think that embedded in the system there is an intimidatory aspect to it; not by any fault of the Commission, just by the sheer fact that it's an adversarial type process; and I know that councils agonise over this question of 'will we actively participate in the hearing and if we do will we let our town planner or whoever prepared the submission to get in there and get cross examined' and I've found from experience that most councils are pretty nervous about doing it. (Sonia, Legal professional)

Its failings though in my view is that it can turn on the fact that you get people like me, who are not seasoned expert witnesses, like I am now, to take the stand. And not everyone can cope with that. (Victor, Senior research consultant)

Knowledge claims about the benefits attributed to EGMs are based on assumptions and predictions and mostly regarded as credible (i.e. regulated in) by the decision makers such as the VCGLR and VCAT:

if this application is granted this will result in the benefit of five new full-time employees. That is a proposition that is being advanced as a benefit of an application; but of course where is the proof of that? and where is the link? so you are entitled to challenge some of the propositions so it is again, there is only so far you can go with that challenge, because unless you have evidence to say contrary what are you supposed to say to that? (Sonia, Legal professional)

However, predictions (i.e. knowledge) of benefits have frequently been proven wrong in retrospective investigations initiated by local councils and gambling researchers, but the

VCGLR and VCAT does not evaluate the solidity of past predictions on which they have based their decisions:

We have been digging a bit and have discovered that often the money that was promised had never been forthcoming on many occasions. Projections of how much a machine would make has also turned out to be wrong by the factor of 10. (William, Expert witness)

[Councils] said that they wished they had had the foresight and resources to do a post facto evaluation of how much money was actually spent at these machines, because at the commission they said that these machines would only take a small amount of money. Much less than the current machines at the venue; and since then it has been a lot higher... and they also wished that they had the resources to do community surveys and monitor that impact on that community; and they had a little bit of frustration that the Commission itself did not do that work to their knowledge. (Steve, Peak body policy officer)

This inconsistency in scrutiny of knowledge claims acts as regulator of EGM hegemony. Failures by the VCGLR and VCAT to appropriately scrutinise these assessments eliminates any new grounds for knowledge i.e. new truths to build and support opposing knowledge claims. This firmly maintains EGM hegemony, or, as phrased in Foucauldian terms, it maintains the power/knowledge nexus of EGM gambling (see Foucault, 1980). In contrast, strong scrutiny is reportedly applied to council staff and council expert witnesses opposing EGMs. The following observation made by a professional illustrates the perceived lack of scrutiny exercised by the VCGLR of evidence in support of EGMs:

They take consultants from the applicant side at face value and will accept basically any argument they throw at them it seems... there is a very low level of credulity towards claims that they make... the applicant's consultant essentially said that: ...it was a good thing that this place was frequented by older people, because they are old and

experienced and wise so very few of them would be fooled by those machines because they know how they work. Now we know that is absolutely not the case... The person who was employed [the VCGLR cross examiner] to do the cross examination was absolutely terrible, utterly hopeless at asking questions, and I am sure that without any preparation I could have done a better job of asking questions of the applicant. His questions made no sense and they were argued without any confidence at all. (Steve, Peak body policy officer)

The spurious testing of evidence and tenuous arguments tendered by applicants as exemplified by the quote above, i.e. “old people are too wise to be fooled by the machines, therefore no risks of problem gambling”, contrasts with the vigorous testing of evidence and arguments tendered in opposition to EGMs. The dismissal of research relevant to local areas, tendered in support of an objection to EGMs, is an example in point and is well illustrated by the following quote:

There is a sense of frustration out in the community well how do I get these new studies put into the mix. The Commission will say by all means come forward with all the new studies we'll be very interested in those studies, but now can you bring these studies back into relevance for this application [to the specifics of this case]. (Sonia, Legal professional)

They discount completely large amounts of evidence. They seem very, very unwilling to engage with anything that is coming out the academic community and that frustrates me. (Steve, Peak body policy officer)

Thus, knowledge claims based on academic and local research evidence challenging the benefits of EGMs are readily dismissed/regulated out, and thus are not accepted into the institutional frame of reference.

Finally, the legitimacy and rationale for EGMs as argued in the regulatory processes is secured through the repetition of knowledge claims that in turn consolidate the discourse

practices and further cement the 'regime of indisputable truths'. Such repetition takes on the "potency of myths' (Dant, 2003 p 159).

There is a relatively small number of so-called expert witnesses who basically serve up the same argument every time. (William, expert witness)

8.5 Challenging EGM Hegemony

The strictly controlled and adversarial institutional processes, as discussed in previous chapters, are ill-equipped to accommodate community concerns that are not in such a standardised form and mostly centred around social concerns. Such discourse conduct risks not only not hearing local knowledge important to the assessment of vulnerability, but it also exiles important opportunities for community members to advance arguments that are not in the prescribed form:

The process is overly legalistic and is made even worse by the fact that on appeal in VCAT the process becomes even more legalistic. At the Commission, it is an adversary system that escalates the issues unnecessarily, it needs almost unlimited resources and it fails to take into consideration obvious concerns that can't be rendered material or tangible as far as pseudo socio-economic projections can be. (William, Expert witness)

In rare cases where political pressure from the local community is significant enough, new knowledge claims from community members disputing EGM hegemony may be heard by the VCGLR. However, this has little practical effect at VCGLR hearings because the VCGLR appears not to test the evidence provided by the community, and therefore community evidence will not have much credibility, nor can it contribute to new knowledge and the institutional reference frame for EGM regulation:

It was either 5 or 6 witnesses that we were allowed to bring, and they had a couple of minutes each, and that was it, and they couldn't be cross examined so they were basically saying have your moment, but it is really not going to be tested. It is evidence that you can lead but we're not going to allow it to be tested, therefore you know we may or may not consider it in our decision. We got the impression that it... was just a patronising move to keep the peace. (Sharon, EPIC supporter)

Limiting the time that discourses can be heard during VCGLR hearings is also a way resident discourse can be regulated out. Hence occupying temporal space becomes an important factor for equitable and fair access to processes and a fair hearing:

Physical time is of essence... We were given I think we had five minutes for six speakers thirty minutes total and that was our allotted time. (Mike, EPIC supporter)

There is little doubt that the strictly controlled and standardised processes discussed in the previous chapter, and inferred by this chapter, impact on local participation. However, segments of Victorian communities, who are well-resourced, have a greater chance of garnering enough power to form and control the protest discourse and thus holding the power/knowledge required to penetrate hegemony.

To mount an effective counter discourse for injection into the power/knowledge nexus of EGM planning, a considerable effort is required for effective mobilisation. The previous chapter discussed the sophisticated community campaign mobilised by EPIC and the council. This chapter highlights the discursive aspects that facilitate a penetration into the power/knowledge nexus and disrupt institutional norms. It is in that moment that an opportunity arises for just planning. In the Castlemaine Case the institutional norms were disrupted by the EPIC legal counsel at VCAT through a number of unconventional strategies. From a Foucauldian discourse perspective, these can be recast as strategies involving:

1) The interjection of counter discourse into the power/knowledge nexus:

We stepped back from the discussion about benefits. The critical part for our focus was on the application itself. What is the structure of what you are proposing? We questioned the business case and the Club's spurious model. (Mike, EPIC supporter)

2) Dispersing power by claiming the power position of the VCAT hearing room:

The VCAT chair was sort of you know shifting uncomfortably in his seat because you know it is not really appropriate for this to be occurring [the QC setting the applicant homework], but never the less it was Ron Merkel QC, and he was in charge, and he had the room in the palm of his hand, and the barrister for the Highland Society is sort of 'head in his hands going what can I do, you know what can I fucking do'. (Mike, EPIC supporter)

3) Unconventional adversarial process behaviour, by acting with magnanimity:

I can recall at one point our barristers approaching these community members on the other side and saying: we think you need legal representation and we just want you to know that we are here for you if you need us, but you need to be aware of what you are signing up to here. And that wasn't strategic, and that wasn't designed to bamboozle; it was a 'three people at the bar table' with a conscience seeing what was going on, and without any consultation with us, crossing the floor and approaching these people in the gallery and saying you need to be aware of what you are doing here. (Mike, EPIC supporter)

These three discursive strategies, of which two were deliberate/planned and one appears to not have been so, challenged the hegemonic power/knowledge of EGM planning.

8.6 The Institutional Ability to Reframe

The lack of institutional reflexivity, or the inability to facilitate reframing, understood as the ability of institutional processes to absorb and respond to new demands and reason, presents an issue broadly relevant to planning. The EGM processes and practices effectively discount (regulate out) any new basis for advancing knowledge claims as well as developing new and more effective and responsible practices. The result is the maintenance of the EGM planning hegemony and, in its wake, an abdication of any responsibility to the democratic quality of the institutional processes and practices:

The Commission does not bother to educate itself about what is happening on the ground. And it needs to do that if it is to be sensible and to make informed and accurate decisions. (William, expert witness)

However, processes are not the sole perceived obstacle to a reflexive system; the systemic culture of the VCGLR is perceived to actively discourage feedback or criticism made by stakeholders:

Complaints from local governments haven't had any impact over the years. (Sonia, Legal professional)

Because I criticised their decision and I said that they hadn't effectively assessed the impacts - and also and I guess that's pretty big statement from an individual - because the tribunal [VCAT] tends to give great weight to the Commission's decision because they are deemed to have the authority and the experience. When an individual comes out and criticises the Commission, they don't like it. (Hannah, Expert witness)

To this end, from a stakeholder perspective, the VCGLR have little interest in adjusting its processes to community needs and wants, and this erodes community confidence in the decision making processes.

8.7 Discussion of the EGM Planning Hegemony

The findings suggested the Victorian system provided 'in principle' opportunities for advancing arguments against EGMs; and for them to be considered by decision makers through formalised deliberative processes. However, drawing on the Foucauldian discourse concepts, it can be seen that the public EGM decision making processes constituted a production of knowledge, through which a fragile rationale of EGMs is reinforced and protected.

Drawing on Foucauldian discourse concepts to approach textual analysis facilitated an insight into the relationship between knowledge and powerful influences – what Foucault (1980) refers to as the power/knowledge nexus; also akin to Flyvbjerg's rationality and power argument which contends that power constrains and controls rationality by means of rationalisation (Flyvbjerg, 1998). Drawing on the lived experiences of the planning processes by ordinary citizens and professionals as well as through hearing and council meeting documents, we observe Foucauldian power/knowledge exercised in EGM planning, where state power and control are inextricably linked to knowledge, i.e. what can be said, argued and understood about EGMs, and the knowledge that is inextricably linked to power. The findings reveal how hegemonic knowledge claims about EGMs becomes a regime of truth, or myths (Dant 2003); and this forms the context as well as the legitimisation for EGMs. Consequently, EGM decision making is locked in an unfreedom of myths (Crotty, 1987), which chapter 2 on EGM literature demonstrated are highly disputable or even untrue; but these myths avert crises and conflict (Schwandt, 2007) over the fragile rationality of EGMs. The question then arises who and what does EGM power/knowledge really serve if not informed decision making? The implied consequence of the various storylines making up hegemony is that, as discussed in detail in chapter 2, EGM decisions are based on the following assumptions: problem

gambling is a disease; gambling behaviour and problems are the sole responsibility of the individual; gambling harm is confined to the gambler; and gambling is harmless and enjoyable to most people. These storylines effectively relieve governments and industry from any responsibility for the widespread damage caused by gambling (e.g. Reith, 2013; Livingstone and Woolley, 2007; Livingstone and Adams, 2011; Cowlshaw and Thomas, 2018). This suggests that the power/knowledge of EGM planning aligns more with the interests of the state government and EGM industry, who both have strong vested interest in the ongoing revenue rationale. This would inadvertently be compromised by social responsibility and institutional reference framing based on a community discourse of extensive social harm. In particular, the EGM industry has a strong interest in keeping the focus on individual pathology, which directs attention and scrutiny away from the predatory and hazardous features of machine design to the pathological gambler.

To this end, the industry domination of gambling knowledge, which was discussed in detail in chapter 2, plays a key role in constructing and maintaining institutional reference framing and ultimately incremental gambling reform. The dominant paradigm, 'gambling as disease', sets the parameters for government responsibility, industry conduct, and issue framing. By legitimising gambling as benevolent economic and social phenomena, distancing EGM planning from harm caused by EGM gambling upon societal groups and individuals and exiling any meaningful consideration or conceptualisation of social harm, local communities eventually lose any belief in democratic processes to facilitate community interests. Ultimately, it represents a threat to democracy generally, as it loses any material meaning (Adams, 2004).

The pattern of rejecting new evidence, of favouring utilitarian arguments over community concerns, and the fear engendered by an adversarial system entrench the hegemony of planning for EGMs. This is further supported by utilitarian principles primarily concerned

with measuring the overall utility of EGMs; and a liberal idea of freedom to gamble. However, this is problematic, as free will can only be free if one is fully informed about the implications of one's choices (Nussbaum, 2000a). As highlighted in chapter 2, most people are ignorant about EGM machine design (Livingstone, 2017; Schüll, 2012) and from this premise, for most people, there is no 'freedom' associated with choosing to gamble on EGMs. The knowledge claims must fit the equation of a cost benefit approach, 'the test'. Findings alert to 'the test'⁶² as inefficient as impact assessment because social costs translate poorly into utility and such an approach overestimates benefits and misses significant disbenefits. This aligns generally with scholars' critique of utilitarianism and cost benefits analysis (e.g. Fainstein, 2010; Rawls, 1971; Nussbaum, 2000b). To this end, advancing knowledge claims of social costs is very challenging in the current format required by the EGM planning processes.

EGM hegemony is not only practiced and maintained through the framing of knowledge claims but also through conduct. For example, the practice of adversarial processes emerges as a serious obstacle to advancing counter knowledge claims, lending support to the argument advanced by Mansbridge that adversarial democracy and its regulatory processes "does not meet the deliberative, integrative, and transformative needs of citizens" (Mansbridge, 1990 p 9 cited in Fainstein, 2014a p10). However other aspects of conduct, such as confusion over what can be argued, inconsistency in the scrutiny of knowledge claims, and the omission of test evidence advanced by community members, all regulate out (Hajer, 1995) new knowledge claims and prevent any change in institutional reference framing. The general lack of any critical examination of knowledge claims advanced in support of EGMs, as well as the lack of retrospective evaluation of

⁶² 'The Test' is the assessment tool used by the regulator to determine the anticipated net benefits of the decision to grant the EGM application.

the soundness of projections which have formed the basis for decisions, eliminates grounds for any new reference frame. Ultimately, such issues relieve the decision maker from any responsibility for poor decision making. This all sustains the utilitarian paradigm that assesses gambling harm as utility, which, as a general measure, tends to overestimate benefits and underestimate costs (see Fainstein, 2010).

The findings reveal counter knowledge claims are not only hampered by hegemonic knowledge claims and conduct thereof, but also subliminally through the rules and conventions acted out by subjects e.g. particularly subjects acting on behalf of EGM applicants. The well-rehearsed knowledge claims made by frequently appearing subjects assist in reproducing institutional norms (Foucault, 1977). The 'reign of the subject' also appear to alienate institutional processes from council and community members, who may be acting within these institutional processes for the first time. Whilst advocates of little space, for example planners, have an important role to play in a gambling state, professional subjects such as planners, lawyers, social planners, and council staff acting as subjects *and* counter publics (Wolf-Powers, 2009) appear to have little penetrating power into the power/knowledge of EGM planning and this hampers their function as justice advocates.

The constant reproduction of hegemonic knowledge claims is concerning. It acts as "unfreedom" (Dant, 2003 p. 159) of thought and highlights the problem of adaptive preferences (e.g. Sen 1999; Nussbaum 2000a), where people adjust their thinking and expectations in accordance with hegemony. The storyline of EGMs as economic and social benefits legitimises them as a development strategy for communities. Hence, councils and communities reduce their expectations of what can be considered acceptable economic and social infrastructure. In the end, hegemonic knowledge claims

act here to sustain the rationale for Victoria's EGMs, by entrapping action and thought by communities.

Challenging hegemony is possible but demanding. The findings of this inquiry have highlighted how this can be done through discursive initiatives capable of penetrating the power/knowledge nexus of EGM planning and through conduct that disperses the related power dynamics.

Overall the findings presented in this chapter lend support to the generally held view that regulatory systems in Australia and internationally act to protect the proliferation of gambling (e.g. Markham and Young, 2015; Rossow and Hansen, 2016; Adams and Rossen, 2012). The findings suggest powerful interests subvert the regulation of EGMs calling the impartiality of the regulatory decision making into question (Livingstone, 2005; Livingstone and Adams, 2011). These power structures and influences, coupled with the well documented extensive harm caused by EGM gambling, particularly to the most disadvantaged people, questions the conventional understanding of utilitarianism as the greatest good for the greatest number – in a gambling state it emerges overtly as the greatest good for the most powerful.

The individual experience with EGM planning processes from various subject positions indicates a climate of repression and distrust of the institutional discourse and conduct regulating EGM planning. This has implications for the wellbeing of all Victorian citizens as it undermines legitimate expectations of, and belief and trust in, a democratic system; a belief which is further eroded by the blurred boundaries between state and EGM industry.

These findings also support the generally held view about the risk associated with relying on deliberative processes for justice, as democratic processes are generally ill equipped

in delivering just policy outcomes in environments of inequality and strong power imbalances (e.g. Flyvbjerg, 1998; Yiftachel, 1999; Hillier, 2002; Fainstein, 2010).

In the end, EGM hegemony can be seen as a powerful state instrument for protection of the EGM rationale, subjugating discourses of harm to a market rationale for EGM, and effectively exiling any meaningful considerations of social benefits or harm. Ultimately the Victorian EGM hegemony casts people as the problem and the electronic gaming machine as benign. In such an environment, any community quest for socially just outcomes is severely challenged.

In conclusion, this chapter found that EGM regulatory processes do not serve democracy and the wellbeing of communities in any meaningful sense; rather they protect a fragile rationale for EGMs.

This chapter's contribution to knowledge has been three-fold. Firstly, it has revealed *how*, as experienced by stakeholders, EGM hegemony is protected. Secondly, it has tested and demonstrated the need for democratic discourse as a justice tenet in the context of EGMs. Finally, it has provided a justice critique based on explicit democratic discourse criteria.

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Chapter 9: A Just City or Just a City?

9.0 Introduction

This thesis has focused on the social justice implications of EGM planning for local communities in the Victorian context. The empirical investigation outlined in the previous four chapters provides a unique opportunity to consider how local needs and demands can practically shape their local environs in context of powerful interests. This brought to the fore ethical and moral dilemmas associated with the current approach, based on measures of utility, which has largely resulted in the emergence of undesirable urban conditions prolific with gambling harm. This is not as a result of essential human needs, but because the normative criteria guiding and driving EGM development policy and planning embraces a market and revenue rationale. Within this neoliberal context, there is a need for a social justice framework to guide EGM policy and planning, as this thesis has highlighted.

But can a socially just gambling city offer any real justice for local communities? Can the Just City planning framework provide adequate protection against injustice in the face of EGMs? Or does a Just City value system also contribute to the ethical and moral dilemmas of EGMs through an equity rationalisation of the redistribution of harm? Under Rawls' 'veil of ignorance' (1971, p. 118), a gambling city can, perhaps intuitively, never be fair and just to all citizens. However, Victorians are not in a position where they can choose to have EGMs proliferated through their neighbourhoods. It has already happened. State and local economies have become dependent on EGM revenues, and an elimination of EGMs from local neighbourhoods will require gradual urban 'detox' strategies.

The thesis departs from a commonly held view that better estimates of gambling harm is an effective trajectory towards a more socially just policy on gambling (e.g. McDonald *et al.*, 2014; Browne *et al.*, 2017). Rather this thesis abolishes the notion of utility altogether, by demonstrating, based on empirical investigation, problems associated with a utilitarian approach to social policy, particularly for gambling. It suggests a concept model for just EGM planning as an evaluative strategy tool, but also as rhetorical device (Wolf-Powers, 2009) for a reform direction and related demands. This responds to the identified void of explicit normative criteria to guide EGM planning at the local community level.

Objecting to EGM planning decisions is a key practical strategy available at the local level. However, local influence is socio-spatially stratified against the most disadvantaged communities, institutional processes are demanding, and EGM hegemony is embedded in a neo-utilitarian rationale. Ultimately, the Victorian EGM hegemony casts people as the problem and the electronic gaming machine as benign. In this environment the community's quest for socially just outcomes is severely challenged. Formal EGM planning processes does not serve a social justice agenda, but a fragile rationale for EGMs.

If the imperative of planning is, as Amin suggests, to “manage social life through interventions in the city's physical, technological and natural environment” (2016 p 160), then planning must become attuned to the global political landscape of planning – big space, as it relates to local specifics; as well as committing to justice as an evaluative standard for policy and planning at the immediate felt and lived level of neighbourhoods – the little space. This research calls out the blindness of the system to the justice and power repercussions of EGM planning for communities, the concept of dark planning (see Yiftachel, 1998), but then goes further to articulate the key criteria of justice to guide

EGM planning by adapting Fanstein's Just City framework to critically explore how social justice can be furthered for local communities.

To this end this thesis has contributed a critical exploration of the shadowland of planning for gambling in the Australian context as a socio-spatial justice agenda, and the effects on local communities. This has implications for extending a critical understanding of both the application of the Just City to planning in Australia, but also for an engagement with the 'dark side' of planning for communities. Five meta-themes emerged from the critical investigation. These include:

- 1) EGMs as tragedy
- 2) Democracy or 'demockery'
- 3) The freedom to gamble
- 4) Strategies for building socio-spatial justice
- 5) Planning as caring for communities.

These will now be discussed.

9.1 EGMs as Tragedy

EGMs represent tragic choice situations. This contention is based on Nussbaum's (2000b) understanding of tragic choices and the demand for a normative⁶³ justice assessment framework. Tragic choice situations are poorly assessed by a cost benefit analysis, and as a consequence the moral basis of EGM planning is never addressed nor debated in regulatory disputes. This dilemma came strongly to the fore in the case study, which revealed community frustration about the absence of opportunities to challenge the moral/ethical basis of EGMs. Consequently, the Victorian Government is

⁶³ Nussbaum (2000b) is a philosopher; she uses the term moral rather than normative.

not confronted with the ethical and moral dilemmas of EGMs as social and economic infrastructure strategy.

Equity 'secured' by an assessment of utility implies that the most vulnerable/disadvantaged must accept the harm burden of gambling and inferior social and economic infrastructure so others can have more in terms of redistributed benefits and the freedom to gamble. The discourse analysis showed that the use of utility as an (in)equity expression was a poor simulacrum and distorted the reality it intended to represent. This thesis contends utility assessments are problematic for gambling impact assessments. But utility is also highly problematic for gambling research and policy reports from an ontological perspective.

The value of persisting with the 'gambling ontology of costs' in gambling literature/studies⁶⁴ is questionable. Whilst many studies are critical in this endeavour, seeking to 'better cost' gambling to prove its detrimental effects as argument for gambling reform, they still base their premise on utility, i.e. the idea that social harm can be costed or priced. Whilst this thesis recognises that 'costs' (see chapter 2) as an ontological coding device, has some value when communicating gambling impacts within a capitalist society and market economy, it has little value as a basis for effective assessment of EGM impacts on a given community. Such a contention challenges the argument that 'getting better at costing gambling' will advance a stronger and more convincing argument for a paradigm shift away from gambling policy based on utilitarianism and market rationale. Improving costing only fine tunes the cost of, for example a suicide, a mental breakdown, a hungry child, to the taxpayer. Little does it tell us about the harm and its extent.

⁶⁴ See the Australian Productivity Commission (1999; 2010), Browne *et al.* (2016; 2017) and South Australian Centre for Economic Studies (2008) as examples of literature concerned with costing harm.

Thus, gambling research, concerned with the effects of gambling on communities but applying costs as an ontological coding device, falls on its own sword by keeping the social ambition muted by market linguistics and thus incapable of expressing the true nature and impacts of gambling harm. The Castlemaine case study revealed how such a utilitarian EGM hegemony disadvantages the non-utilitarian-social, and functions to keep the public debate and policy focused on utility, effectively making meaning meaningless and EGM 'tragedy' sanitised. This supports a general critique of utilitarianism and cost benefits analysis as overestimating benefits and underestimating disbenefits (e.g. Fainstein, 2010; Rawls, 1971; Nussbaum, 2000b).

9.2 Democracy or 'Demockery'?

The subtitle is facetious but strikes at the core of EGM regulatory processes, as experienced by the Castlemaine community and expert witnesses, the latter possessing broad and extensive experiences with EGM processes. The Victorian system relies on democratic institutional practices such as adversarial processes, participation, and public processes for demonstrating acceptable/democratic outcomes of regulatory decision making. However, this thesis' census of regulatory decisions suggests the existence of a socio-spatial differentiation of local participation, and the extent and nature of the arduous but tokenistic processes was revealed by the thematic analysis. Ultimately, a failing of the current system is its reliance on difficult and tokenistic processes to solve a complex social issue. In the end, such tokenistic procedures erode confidence in planning's intent to serve the public.

The power dynamics embedded in institutional discourse regulation are a strong reminder of the powerful social, political and economic forces contending in EGM planning. The Victorian system provides, at least in principle, opportunities for advancing

arguments against EGMs to be considered by decision makers. The rationale for institutional discourse regulation is to facilitate the appropriate 'truth' about EGMs. The reality is, arguments opposing EGMs are difficult to advance and easily dismissed. The power/knowledge of EGM hegemony ensures the protection of a very fragile, i.e. easily disputable, rationale for EGMs, which primarily protects the EGM industry and state revenue interests over community safety. The policy rationale maintains gambling harm as the responsibility of the individual, problematic gambling as an illness, and social harm capable of being 'absorbed' by other benefits, which all absolve the industry and state responsibility for any harm caused by EGMs.

This has also been argued before in previous social critiques of gambling policy in Australia and internationally (e.g. Reith, 2007; Livingstone and Woolley, 2007). The complex parallel and quasi court systems impede deliberation, and the strictly controlled discourse inhibits any meaningful participation and opportunities to challenge EGMs. To follow the contention of the facetious heading, EGM planning processes are, as experienced by most participants in the Castlemaine Case, making a mockery of democratic processes. Democracy in EGM planning appears more akin to the procedural control mechanisms of dark planning as conceptualised by Yiftachel (1998).

9.3 Freedom to Gamble

EGM planning in Victoria is based on libertarian ideas of individual freedom to gamble and the greatest good for the greatest number – the majority of people gamble and enjoy it as a harmless activity. 'Majority joy' is not just highly problematic but also most likely a falsehood. The assumption of 'majority joy' is based on the large amounts of people gambling on EGMs in Australia every year. This thesis is not disputing the number of

people gambling. But it does take to task the validity of the assumption of ‘majority joy’ as a justification for proliferating EGMs throughout neighbourhoods.

Firstly, the many people gambling could be reflective of an adapted preference, rather than an inherent joy for gambling, influenced by the wide availability and accessibility of machines and the normalisation of gambling. Inherent in adaptive preferences are problematic rationalist trade-offs, often actually tragic choices. The CaRT analysis highlighted the possibility of new EGM venues being approved in developing metropolitan areas to provide social infrastructure.

The case study demonstrated how the Club supporters desired a club and social facilities and sought to have that fulfilled by an EGM venue; local councils also frequently accept economic rationalists’ trade-offs in return for provision of social and economic infrastructure. Accepting trade-offs implicitly admits harm, but at the same time the argument turns to saying that gambling is not harmful because joy is produced for the majority. As a result, a normalisation of EGM availability and activity in community hubs and clubs has occurred. This highlights a very pertinent critique of utilitarianism in gambling states, where preferences are generally determined by an acceptance of gambling harm in return for benefits. ‘Adaptive preferences’ is one of the key critiques of utilitarianism advanced by Sen (1999) and Nussbaum (2000a).

The validity or ‘solidity’ of majority joy as a concept in EGM planning is fragile. Would so many people enjoy gambling on EGMs if they were fully cognisant of the facts that:

- 1) any level of EGM gambling has potential to cause harm (e.g. Browne, *et al.*, 2016)
- 2) gambling is associated with a plethora of harm beyond the problem gambler
- 3) the machine is designed to manipulate, exploit, and addict the player

- 4) EGM gambling perpetuates poverty and inequality through exploitation of the poorest and most vulnerable in society.

These factors, if commonly known, would, if not kill the concept of majority joy, at least dampen it considerably. It is not an informed 'joy'.

This very point also disputes the validity of freedom (to gamble). A free choice or will is after all not free if the chooser is not fully informed about his/her/their choice (Nussbaum, 2000a). In particular, it seems problematic to speak of freedom in relation to an addictive product, which the EGM is. However, this freedom is enshrined in the *Victorian Gambling Regulation Act* Section 3. Paradoxically, the freedom (to gamble) is then not freedom from state intervention. It is an overt state intervention – a deliberate state strategy spun to the Australian people as a libertarian right to freedom. But the real freedom is for the industry, not communities and the state who have become addicts of gambling revenues – or, in many cases, to the game itself.

The utilitarian *problematique* discussed above is strongly reflected in current remedial welfare approaches to the effects of gambling on communities in several ways. These approaches mostly aim to absorb and compensate for gambling harm through the redistribution of monetary or service contributions, and disadvantage mitigation strategies such as capping the maximum numbers of EGMs in disadvantaged areas.

To this end, this research is a poignant example of the problem with focusing on the ramifications of sums over ramifications of distributional effects, highlighting key problems associated with applying cost benefit analysis to social policy and planning. In that sense, it aligns closely with the common critique of using a cost benefit approach to social policy (e.g. Fainstein, 2010; Nussbaum, 2000b; Sen, 1999; Rawls, 1971).

The idea that social harm can be absorbed by the economic and recreational benefits enjoyed by others is highly problematic. To this end, this research lends an empirical context to Rawls' critique of utilitarianism that "some will be sacrificed over the wants of the majority" (1971 p. 156).

Currently, diversity is considered in EGM planning by legal egalitarianism, i.e. formalised rights recognition, and diverse vulnerability assessment is founded on socio-economic factors (SEIFA) based on a local government area. This thesis supports previous recommendations made by the gambling literature (see for example Australian Productivity Commission, 2010; Young, 2010b) for a more localised assessment of EGM planning decisions and also argues for a more localised assessment of diverse vulnerabilities. Vulnerability to gambling harm has ecological, ethnic, cultural, social, political, economic, and spatial coordinates, of which many are missed in aggregated statistics as used by the VCGLR and VCAT in ensuring harm minimisation considerations are adhered to. This research suggests little material opportunity exists for effectively considering diverse and local vulnerabilities to gambling harm and participation within the current institutional framework.

9.4 Strategies for Building Socio-spatial Justice at the Local Community Level

This research, being a critical inquiry, requires analysis as well as practical strategies (see for example Fainstein/s Just City 2010 strategies for furthering the justice tenets). Critical inquiry demands practical strategies be considered and informed by the new knowledge (e.g. Schwandt, 2007; Dant, 2003), i.e. reflective reason, emerging from this research⁶⁵. In response to this demand, a synthesis of strategies employed by EPIC,

⁶⁵ See the conceptual research model advanced in chapter 4.

process responses by council, and extant EGM literature discussed in the literature chapter, are synthesised to suggest practical strategies available at the local level which aim to further socio-spatial justice through EGM planning. These practical strategies target various levels of the political terrain⁶⁶ and aim to exploit the (justice) planning potential available at the various levels. These strategies are also possible within the existing structures and they embrace the insight that just EGM planning involve a complex set of actors. Some strategies are specific to councils, other to community groups, and some to both. These planning suggestions are not imperatives; rather they are cautionary suggestions warranting further exploration and critique.

The first level planning strategies are exercised in, and relate exclusively to, the immediate local context. They refer to everyday workings and dealings and relate directly to the proposed EGM development in its local context; for example, the Highland Society application for 65 EGMs in the Old Goods Shed in Castlemaine. These specific strategies are listed in Table 6 below.

Table 6: Level 1 EGM Planning Strategies

Political Terrain Level 1	In Furtherance of Equity	In Furtherance of Democracy	In Furtherance of Diversity
<i>Strategies relating to the immediate local socio-spatial terrain: Localised and immediate strategies and demands in direct response to the local EGM proposal</i>	Gather and provide evidence of distributional outcomes in relation to material and immaterial gambling benefits and disbenefits relevant at the local level. Demand accountability of by-venue-promised community contributions related to new EGM development proposals and existing venues relevant to the area.	Local council gambling policy to be incorporated into the local planning scheme. Local engagement in processes on all levels, i.e. local council, VCGLR, appeal (VCAT). Draw on community resources, networks and expertise to prepare case/opposition. Advance knowledge claims for penetration of tightly controlled	Provide opportunities for voices of various identity groups using enabling capabilities. Document community voices/opinions. Build community capacity to object (e.g. resident action resources). Demand/advance arguments that provide a local assessment of vulnerability, beyond

⁶⁶ McFarlane, 2018, refers to the three political terrains of urban fragments as attending to, generative translation, and surveying wholes.

	discourse (i.e. breaking the power/knowledge nexus).	aggregated statistical data.
	Demand local voices at VCGLR/VCAT hearings (joined as a party to the proceedings).	Argue the ramification of sums over distributional effects (critique of cost benefit analysis).
	Submit documented community opposition.	
	Community campaign to enlist council support/ assert political pressure on local councillors.	

The second level planning strategies involve connecting or relating the immediate context and calling it into question by connecting community activism against the proposed development with political figures and discourses. This is the point where a direct link is made between the EGMs' immediate context and wider political claims. For example, EPIC powerfully involved parliamentarians to speak in support of in their campaign, and the parliamentarians utilised the local, i.e. the empirical context, as political fuel. Suggestions to the specific strategies at level two are illustrated in Table 7 below.

Table 7: Level 2 EGM Planning Strategies

Political Terrain Level 2	In Furtherance of Equity	In Furtherance of Democracy	In Furtherance of Diversity
<i>Strategies relating to the political/parliamentarian terrain: Strategies for connecting the local EGM proposal to a wider political discourse</i>	Connect the local projected distributional equity outcomes to political voices and campaigns.	Lobby to gain the support of local MPs.	Lobby MP re gambling reform in relation to appropriate local consideration of vulnerability.
	Incremental reform demands for full product disclosure of machine and game design through political voices.	Form a media strategy including social media.	Connect and enlist political figures/representatives from relevant identity groups to strengthen 'numbers' and representation.
	Advocate/lobby for regulatory control/ retrospective	Implement a political community campaign (i.e. outside the formal processes).	

evaluation of promised/predicted venue community contribution as well as gambling expenditures.	Demand procedural fairness.
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The third level planning strategies are no longer directly anchored in the immediate and concrete context of a specific EGM development. They represent a translation of the specific to unifying universal claims. For example, EPIC aligned themselves with the anti EGM campaign ‘Pokies Play You’ conducted by the social movement Alliance for Gambling Reform, to support a general push for gambling reforms. The suggested strategies at level three are illustrated in Table 8 below.

Table 8: Level 3 EGM Planning Strategies

Political Terrain level 3	In Furtherance of Equity	In Furtherance of Democracy	In Furtherance of Diversity
<i>Strategies relating to the universal social movement terrain: Strategies and demands that merges into a social movement discourse of general human rights</i>	Demands for government and market accountability based on justice impact assessment. Demands for preventing harm from gambling/ demands for community safety. Demands for general gambling reform.	Connect and form alliance with social movements to amalgamate protest discourses (share critique and reform demands). Support petitions and campaigns.	Connect with social/rights movements across diverse representation to join general critique of discrimination. Advance social critique on cost benefit approach to social policy highlighting its effect on minority and vulnerable groups. Encourage memberships and supports of social rights movements.

As illustrated in the three strategy tables, the suggested strategies represent practical approaches to translating normative standards, i.e. social justice principles, into EGM planning action. They maintain focus on the local level and are concerned with what is practically possible for local communities and available to local decision makers in

furthering social justice. They are not intended as an exhaustive list of recommendations and strategies available at the local level. Instead, they are intended as a practical contribution framed in relation to the social, temporal, spatial, political context in which the planning project takes place (Campbell, 2012).

9.5 Caring - with Communities at the Local Scale

The responsibility for gambling harm has been cast as individual responsibility. However, the Castlemaine Case demonstrates the care capacity of communities to assemble skills, abilities, and power for action and care common. This caring capacity, also referred to by Powers (2019) as 'caring- with', is relational. Caring-with is 'limited or enabled through its relational context' (Powers, 2019 p 5). The Castlemaine case demonstrated that care-with was sociomaterial, temporal, and spatially constituted, but also highlighted that responsibility as care commons was enabled through EGM planning.

The strategies suggested in the previous section highlight instruments for care commons. They involve not only calling out oppression and institutional violence, but also the formation of coalitions of resistance and advocacy for transformative change. Caring about and with communities situates the Castlemaine situation as a case in point of *how* a shared responsibility of democracy can be practiced in an unequal world; and reframes community responses to gambling at the local scale as social and political, rather than individual and private.

Community influence or responses refer to the agency of both community and council as partners and key players of incremental reforms. Local engagement in EGM planning is the lived experience of institutional processes charged with implementing state planning policy on EGMs which includes procedural and instrumental aspects of

democracy as it relates to local influence on EGM planning. Hence principles such as participation and inclusion, transparency and consistency, and procedural justice/fairness become key care concepts for exploration.

Councils have a key role to play as the local care agents of EGM planning because of their influence and decision power pertaining to the allocation of local resources and land use, as well as being the advocate/proxy for their community in matters of EGM licensing. Councils also have a key role in influencing licensing decisions against EGM developments. However, the ability to exert influence and act is particularly shaped by spatial, social, economic and political factors.

As a mobilised activist community group, EPIC demonstrated the importance of enabling participatory rights by engaging in a sophisticated and strategically coordinated campaign, including preparing community members for oral submission proceedings. However, the overturn of Pokies in the Castlemaine Case produced a fractious community unable to compromise or reconcile differences as a result of 'justice planning' - in this case in response to gambling. Local influence is possible provided extensive social, fiscal, and professional capital is available to council and activist groups to mobilise action across political domains to achieve progressive social change.

In the Castlemaine Case, local communities (including the council) engaged with EGM planning through a focus on strategies within both institutional processes and as part of community activism. Planning as caring-with communities at the local scale with regard to EGM planning offers a practical way for engaging ethically with divisive issues. Part of this entails repositioning the framing of local communities as a collective of caring relations and practices rather than fractured and divided neo-tribes. In addition, it also involves reframing the roles of the council as both representing and encouraging the

network of caring relations through the decision-making process. Caring-with highlights the need for an understanding of these relations. This can include caring-with after the decision has been taken, regardless of the outcome. It particularly involves the difficult task of repairing relations in the community, which in the case of Castlemaine, given the levels of community interest and contention, were in some cases beyond repair.

Understanding care as a public concern inside the domain of social policy is central to this agenda (Tronto 2013; 2015). In the public arena care is made visible through local community practices involving activists, professionals and council. Caring-with positions gambling as “political and social rather than individual, autonomous and private” (Power 2019, p.15). This shines a much-needed light on gambling in cities and the relational role of communities operating within institutional and regulatory contexts that overwhelmingly support and promote the uptake of gambling – whatever the social cost at the local scale. To this end, the Castlemaine Case shines a light on gambling and the relational role of communities that seek to resist new developments

9.6 Considerations of Further Research

Fainstein’s Just City and Nussbaum’s tragic question offer a pragmatic approach to the oxymoron of EGMs in a Just City. In and of itself, the ‘Just Gambling City’ as a model for EGM planning is not sufficiently robust to secure social justice for local communities. Its value is as an interim or progression strategy for EGM planning. Overall, strategy must be guided by an answer to the tragic question (Nussbaum, 2000b). Consequently, public policy on gambling must aim to phase out EGMs, at least in local neighbourhoods, ultimately eliminating these tragic choices from the daily lives of Victorian neighbourhoods. More research is needed in this important area to tease out the

implications of this approach through both qualitative and quantitative research in different community contexts and planning and policy systems.

There are limitations to the findings of this research which present areas for future research. This inquiry centred its investigation on the regulatory decisions of EGM licensing in Victoria as a focus of the justice critique. Further application of quantitative and qualitative studies based on different foci, for example EGM appeal decisions, number of EGM licenses approved, or land use planning decisions and associated institutional processes, could nuance and contribute to further understandings of the justice impacts of EGM planning in Victoria.

The critique is based on the empirical investigation undertaken in Victoria. However, Victoria and Australia's EGM regulatory contexts represent their own unique political, cultural and historical contexts shaping accessibility, socio spatial proliferation, and harm. Therefore, similar research on EGM planning, undertaken in other locations of Australia and the world, is necessary to deepen and nuance the current understandings of just EGM planning. Hence, comparable studies from other Australian states are an important lens for scoping a justice impact approach to EGM planning that is more widely informed.

Application of the conceptual justice model advanced in this thesis to other studies of similar contexts would assist in gaining a deeper understanding of how justice can be understood and practiced in the context of other hazardous urban developments, whose existence depends exclusively on rationality, not urban need.

The quantitative research found evidence of discriminative policy outcomes based on SEIFA data per local government area. However, within any local government area there can be socio-economic variability. Future research using smaller statistical area units

combined with GIS location of proposed developments would provide more detailed information on the socio-spatial outcomes of Victoria's EGM licensing.

Future research incorporating other vulnerability measures not reflected by SEIFA used for this research is needed. For example, ethno, cultural, environmental/ecological circumstances are important vulnerability factors not included in SEIFA and thus used for this research. The lack of social infrastructure or alternatives to what EGM gambling venues offer, is also an example of a significant vulnerability factor not included in the SEIFA indices. The point is, many factors other than SEIFA impact on gambling vulnerability. Hence, a replication of the modelling of license outcomes presented in chapter 5, would benefit from the inclusion of more vulnerability variables to explore variable effects on VCGLR decisions as well as resident and council objections to EGM developments. Generally, more research that expands understandings of vulnerability as they relate to EGM proliferation is urgently needed to nuance understandings of vulnerability, and ultimately better consider the equitable distribution of material and immaterial benefits in relation to EGMs.

This thesis used critical and post-structuralist theory as a lens to understand the issue of EGMs and community conflict, as the main focus was on the institutional processes underpinning policy outcomes. Following conversation with a Masters student at La Trobe University in Bendigo, who applied the analytical framework of Bourdieu to the media reporting of the Castlemaine Case (Leone, 2016), it is evident that an analytical social constructivist lens on the community conflict explored, for example through Bourdieu's (e.g. 1984; 1985; 1986; 1989) understanding of social, cultural and symbolic power, or Putnam's (2000) conceptualisation of social capital and civil engagement agency, could unveil socially nuanced and complex factors impacting on community agency in this case study. In particular, these perspectives on place conflicts and citizen

agency have implications for policy as they stratify risks associated with conventional deliberative processes. Specifically, research focused on explicitly identifying enabling rights (Nussbaum 2000) and strategies in relation to context, is also needed if democratic processes are to be materially accessible to relevant parties.

The inherent tensions between the tenets of a Just City and the implications of pluralist democratic condition presents limitations to what extent equity and diversity can be fully realised in a Just Gambling City. This thesis has suggested an approach that seeks to optimise or nudging towards more just in context of the specific. Empirical research that explores this tension in more detail and different contexts would be a valuable contribution to the current Just City debate and its inherent tensions.

Finally, it would be remiss of this thesis not to acknowledge the inherent power/knowledge embedded in a research project like this. I, as the author of this thesis, am a *Subject* in Foucauldian terms. I am the bearer of PhD hegemony, acting and submitting to rules and norms of academic research and writing expected of a PhD candidate. I have decided what knowledge claims to be 'regulated in and out' and in turn chosen what to present as knowledge. In this context the inextricable link between knowledge and power is also evident. Therefore, the use of extensive quotes throughout this thesis is not borne out of my penchant for dramatic stories, but rather a deliberate linguistic strategy to ameliorate PhD power/knowledge through a polyphony of community voices.

Chapter 10 Conclusion

“Cities are not ideal Utopias” (Amin, 2006 p 1009). This thesis has demonstrated the electronic gaming machine is a testament to that insight. The dominance of neoliberal policy, the increased commodification of cities and rapid technological advancements have brought electronic gaming machines to cities across the world along with other gambling opportunities. As a result, gambling as market has grown exponentially. It has become a highly lucrative revenue source for that industry, the state, global investors, and of course the rare winner. The Australian strategy of commodifying EGMs as social and economic infrastructure proliferated throughout neighbourhoods has created a ‘less than ideal utopia’, whose justice condition/*problematique* this thesis has discussed.

The Australian gambling state has materialised through a deliberate state sanctioned process that has commodified a previous informal and illegal backyard recreational activity, into an institutionalised feature and infrastructure across Victoria, and most of Australia. The extent and inequitable distribution of gambling harm caused by EGM planning and policy based on utilitarian principles highlight the urgency and importance of a different approach to EGM planning. Such an approach must be more in tune with the impacts of EGM gambling on the community and social justice more generally.

A post-research glance at VCGLR decisions shows most applications are still granted in Victoria, EGM gambling expenditure continues to grow, and the biggest losses continues to occur in the most disadvantaged areas of Victoria⁶⁷. In NSW, EGM losses are predicted to skyrocket in the near future. NSW residents are expected to gamble \$85 billion over the next decade, bringing in \$22.5 billion in tax revenues to the NSW

⁶⁷ This information is available via the VCGLR official website: <https://www.vcglr.vic.gov.au/> accessed 1 August 2019.

government; and industry donations to political parties continue to occur (O'Malley, 2019). These examples are clear evidence that the ethical dilemmas associated with EGMs in Australia, and addressed by this thesis, have not subsided. On the contrary, they continue to flourish more than ever; and the gambling industry do not expect any threats to anticipated profits:

...we do not see regulatory trouble on the horizon for clubs at the state or federal level (ClubsNSW Annual Report, cited in Boyce, 2019)

The question then arises, how can more socially just EGM planning be considered in the context of the 'Gambling State', where state sanctioned economic and social strategies are based on predatory and hazardous EGM infrastructure? (Schull, 2012, Newall, 2019). Currently, no framework exists for evaluating and guiding EGM planning based on explicit social justice criteria. This research contributes a Just City approach to EGM planning and praxis that aligns more closely with the wellbeing of communities and societies.

EGMs are a visible fabric of our cities and a 'created need' supported in Australia by state strategies and pushed by the gambling industry. Therefore, the planning system, as with other parts of the welfare system, should be prevailed on to repair the damage caused by state strategies and public policy on gambling. Despite gambling remaining a feature of cities, justice, or at least 'more justice', can still be the ambition of the city. Such an ambition would require planning with other parts of the state system to adjust focus, strategies, and programmes through a common understanding, focus and guide to what 'justice' means for affected communities- little spaces.

Gambling policy acknowledges the potential for harm through harm minimisation strategies. These are, for example, in the form of free counselling services, caps on

EGM numbers in disadvantaged areas, and generally strict state regulation. These strategies have been ineffective, partly because no strategies have involved removing/reducing the numbers of existing EGMs in disadvantaged areas, machine capping levels are set too high in the first place, and because of the ease of accessibility to EGMs for anyone over 18. However, most significantly, and as highlighted by this thesis, EGM regulatory assessments based on utility impact assessments are remiss in adequately assessing the effects of EGMs on communities, presently and inter-generationally. As previously highlighted, current EGM planning has been ineffective in addressing the injustices inflicted upon Victorian communities as consequence of policy and planning discourses and practices. As this thesis has demonstrated a different, more socially just approach to gambling is needed.

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Appendix 1: 2001-2014 Database

VGLR Grounds for Decision Data Base 2001-2014			Variables Variable Coding Labels	VGLR Decisions 1=granted 2=refused	Responsible Authority RA position 1= Actively Opposed 2= Opposed in writing only 3= Did not oppose 4= Unknown	Venue Classification Venue Type 1=Club 2= RSL 3=Hotel	MAV LGA A/a/a 2=City/Metro 3. Rural/ Regional	4 = most disadvantaged				Opposition 1=yes 2=no 3=unknown	EGM Numbers 0=No egms 1= Below 50 3= 50 and above	Application type 1- involving EGMs 2= Administrative
LG Area	Venue	Case Code						SEIFA Quartile IRSD	SEIFA Quartile IEO	SEIFA 50% SEIFA IRSD 50% tile	SEIFA 50% SEIFA IEO 50% tile			
City of Banyule	Montmorency Rsl	1418	1	1	2	2	1	1	1	1	2	1	1	
City of Hume	Roxburgh Park Hotel	1417	1	2	3	2	4	4	4	4	1	1	1	
City of Whittlesea	Bridge Hotel	1416	1	1	3	2	3	3	4	4	1	1	1	
Shire of Murrindindi	Rubicon Inn Hotel	1415	1	3	3	3	2	4	1	2	1	1	1	
Shire of Cardinia	Pakenham Hotel	1414	1	3	3	2	2	3	1	4	2	1	1	
City of Greater Dandenong	Dandenong Club	1413	1	2	1	2	4	4	4	4	2	1	1	
Rural City of Swan Hill	Swan Hill Club	1412	1	3	1	3	4	4	4	4	2	1	1	
City of Greater Bendigo	The Foundry Hotel	1411	1	3	3	3	3	3	4	4	2	1	1	
Shire of Macedon Ranges	Victorian Tavern	1410	1	3	3	3	1	1	1	1	2	1	1	
City of Stonnington	Malvern Vale Club Hotel	1409	1	1	3	2	1	1	1	1	1	1	1	
Mornington Peninsula Shire	Baxter Tavern Hotel	1408	1	1	3	2	2	2	1	1	1	1	1	
Rural City of Wangaratta	Malvern Tavern Country Club	1407	1	1	3	3	3	3	4	4	2	1	1	
City of Greater Dandenong	Malvern Tavern Country Club	1406	2	3	1	2	4	4	4	4	2	1	1	
City of Greater Bendigo	Shamrock Hotel	1405	1	2	3	3	3	3	4	4	2	1	1	
City of Greater Dandenong	Albion Hotel	1404	1	3	3	2	4	4	4	4	2	1	1	
Mornington Peninsula Shire	Peninsula Club	1403	1	1	1	2	2	2	1	1	2	1	1	
City of Greater Dandenong	Noble Park Rsl	1402	1	3	1	2	4	4	4	4	2	1	1	
City of Kingston	Edithvale Chelsea Rsl	1401	1	3	1	2	1	1	1	1	2	1	1	
City of Casey	Tooradin and district sports club	1327	1	3	1	2	2	3	1	4	2	1	1	
Shire of Surfcoast	Torquay Hotel	1326	1	1	3	3	1	1	1	1	2	1	1	
Shire of Cardinia	Pakenham sportsclub	1325	1	3	3	2	2	3	1	4	2	3	1	
Hume City council	Sunbury United Sports Club	1322	1	2	1	2	4	4	4	4	1	3	1	
City of Glen Eira	Bentleigh RSL	1321	1	3	2	2	1	1	1	1	2	1	1	
City of Melton	Sugar gum Hotel	1320	1	1	3	2	2	4	1	4	2	1	1	
Baw Baw Shire Council	The Family Hotel	1319	1	3	3	3	2	2	1	1	2	1	1	
Cardinia City Council	Cardinia Park Hotel	1318	1	1	3	2	2	3	1	4	2	1	1	
City of Casey	Cranbourne Hotel	1317	1	1	3	2	2	3	1	4	2	1	1	
East Gippsland shire Council	Bairnsdale Bowls Club	1316	1	3	1	3	4	4	4	4	2	1	1	
Hobsons Bay City Council	Seagulls Nest	1315	1	2	1	2	2	1	1	1	2	1	1	
City of Glen Eira	McKinnon Hotel	1314	1	1	3	2	1	1	1	1	2	1	1	
City of Ballarat	Golf course hotel	1313	1	2	3	3	2	4	1	2	1	1	1	
City of Greater Geelong	Waum Ponds Hotel	1312	1	3	3	3	3	2	4	1	0	1	1	
Bass Coast Shire	Phillip Island RSL	1311	1	3	2	3	3	3	4	4	2	1	1	
City of Greater Geelong	Sphinx Entertainment Centre	1310	1	3	3	3	3	2	4	1	1	1	1	
City of Ballarat	Craig's Royal Hotel	1309	1	3	3	3	3	2	4	4	2	1	1	
City of Maroonah	Coach and Horses	1308	2	1	1	2	1	1	1	1	1	1	1	
Melton City Council	The club Caroline Springs	1307	1	2	1	2	2	4	1	4	2	1	1	
City of Kingston	Cove Hotel	1306	1	2	3	2	1	1	1	1	1	1	1	
Shire of Mitchell	Killmore Racing???	1305	1	1	1	3	2	4	1	4	1	1	1	
City of Banyule	Greensborough Hotel	1304	1	1	3	2	1	1	1	1	2	1	1	
Bass Coast Shire Council	Continental Hotel	1303	1	1	3	3	3	3	4	4	2	1	1	
City of Port Phillip	Village Belle Hotel	1302	1	1	3	2	1	1	1	1	1	1	1	
Shire of Glenelg	Albion Hotel	1301	1	2	3	3	4	4	4	4	2	1	1	
City of Manningham	Moonee valley hospitality Pty lrd	1242	1	2	3	2	1	1	1	1	2	1	1	
City of Greater Shepparton	Shepparton Club Inc	1241	1	3	1	3	3	3	4	4	2	3	1	
City of Knox	Furniture Gully Bowling club inc	1240	1	3	1	2	1	2	1	1	2	1	1	
Bass Coast Shire	The Worthaggi Club	1239	1	1	1	3	3	3	4	4	2	1	1	
City of Hume	The Craigieburn Sports Club	1238	1	3	1	2	4	4	4	4	2	1	1	
City of Moreland	Grids Construction Pty lrd	1237	1	2	3	2	2	1	1	1	2	1	1	
City of Brimbank	Wgh Pty ltd	1236	1	1	3	2	4	4	4	4	2	1	1	
City of Darebin	Grandview Hotel Pty Ltd	1235	1	1	3	2	3	1	4	1	1	3	1	
Shire of Yarra Ranges	The Pink Hill Hotel	1234	1	2	3	2	4	3	4	4	1	1	1	
Shire of Wellington	Sale Community Bowls Club	1233	1	3	1	3	3	3	4	4	2	1	1	
City of Wyndham	Hoppers Crossing Sports Club	1232	1	2	1	2	2	2	1	1	2	1	1	
Shire of Cardinia	Cardinia Hospitality Pty ltd	1231	1	3	3	2	2	3	1	4	2	1	1	
City of Whittlesea	Casa D'Abruzzo club	1230	1	3	1	2	3	3	4	4	2	1	1	
Rural City of Wodonga	Rhetto Pty ltd	1229	1	3	3	3	3	4	4	4	2	1	1	
City of LaTrobe	Taralgon Bowles Club Inc	1228	1	3	1	3	4	4	4	4	2	1	1	
Shire of Central Goldfields	Maryborough Highland Inc	1227	2	3	1	3	4	4	4	4	2	1	1	
City of Greater Geelong	P.J Cook Investments Pty lrd	1226	1	1	3	3	3	2	4	1	1	1	1	
City of Melbourne	King Fish Vic Pty	1225	1	2	3	2	1	1	1	1	2	1	1	
Shire of Mitchell	Hogan's Hotel	1224	1	2	3	3	2	4	1	4	2	1	1	
Rural City of Wodonga	Cafe De Biere-Biere House Pty	1223	1	3	3	3	3	4	4	4	2	1	1	
City of Greater Shepparton	Mt Dandenong Tourist Hotel	1222	1	1	3	3	3	3	4	4	2	1	1	
City of Whittlesea	Epping RSL sub branch	1221	1	3	2	3	3	3	4	4	2	1	1	
City of Whittlesea	Whittlesea Bowles Club	1220	1	3	1	2	3	3	4	4	2	1	1	
City of Ballarat	Jayveer Pty ltd	1219	1	3	3	3	2	4	1	2	1	1	1	
City of Greater Dandenong	Springvale RSL Sub-branch Inc	1218	1	1	2	2	4	4	4	4	1	1	1	
City of Monash	L'Unico Pty ldt	1217	1	1	3	2	1	1	1	1	2	1	1	
City of Port Phillip	Kingfish Victoria Pty	1216	1	2	3	2	1	1	1	1	2	1	1	
City of LaTrobe	Italian Australian Snovline and Social Club	1215	1	3	1	3	4	4	4	4	2	1	1	
Rural City of Swan Hill	Robinnelle Golf Club Inc	1214	1	3	1	3	4	4	4	4	2	1	1	
Rural City of Wodonga	Dandenong Wodonga Holdings Pty ltd	1213	1	3	3	3	3	4	4	4	2	1	1	
City of Casey	Dandenong Cranbourne RSL sub	1212	1	3	2	2	2	3	1	4	2	1	1	
Shire of South Gippsland	Leongatha RSL Sub-branch Inc	1211	1	3	2	2	2	1	1	2	1	1	1	
Shire of East Gippsland	The obst Club Inc	1210	1	3	1	3	4	4	4	4	2	1	1	
City of LaTrobe	Monwell RSL Sub branch	1209	1	3	2	3	4	4	4	4	2	1	1	
City of LaTrobe	Moe RSL Sub-branch	1208	1	3	2	3	4	4	4	4	2	1	1	

City of Ballarat	Ballar Pub Pty Ltd	1207	1	3	3	3	3	2	4	1	2	1	1
City of Port Phillip	The Bay Bridge Hotel	1206	1	1	3	2	1	1	1	1	2	1	1
Shire of Mount Alexander	Maryborough Highland Pty Ltd	1205	1	1	1	3	3	2	4	4	1	3	1
Shire of Glenelg	Society Inc	1204	1	3	2	3	4	4	4	4	2	1	1
Shire of Mansfield	Mansfield Golf Club	1203	1	2	1	3	2	2	1	1	2	1	1
Melbourne City Council	Francis Hotel Pty Ltd	1202	1	1	3	2	1	1	1	1	1	1	1
Shire of Campaspe	Coolaan Nominees Pty Ltd	1201	1	3	3	3	4	4	4	4	2	1	1
City of Melbourne	Queensberry Hotel	1131	1	1	3	2	1	1	1	1	1	1	1
City of Port Phillip	Dick Whittington Tavern	1130	1	1	3	2	1	1	1	1	1	1	1
City of Greater Shepparton	Sherbourne Terrace Flying Horsebar and Brewery	1129	1	3	3	3	3	3	4	4	2	1	1
City of Warrambool	The Lakes	1128	1	3	3	3	3	3	4	4	2	1	1
Shire of East Gippsland	Entertainment Centre	1127	1	3	1	3	4	4	4	4	2	1	1
City of LaTrobe	Morwell Bowling Club	1126	1	3	1	3	4	4	4	4	2	1	1
City of Greater Dandenong	Dandenong Club	1125	1	3	1	2	4	4	4	4	2	1	1
Rural City of Benalla	Royal Hotel	1124	2	2	3	3	4	3	4	4	2	1	1
City of Kingston	Kingston Club	1123	1	1	1	2	1	1	1	1	2	1	1
Shire of Moira	Cobram Hotel	1122	1	2	3	3	4	4	4	4	2	1	1
City of Wyndham	The Tigers Clubhouse	1121	1	1	1	2	2	2	1	1	1	1	1
City of Ballarat	Red Lion Hotel	1120	1	1	3	3	3	2	4	1	2	1	1
City of Greater Bendigo	Bendigo Stadium	1119	1	1	1	3	3	3	4	4	1	1	1
City of Whittlesea	Bridge Inn Hotel	1118	1	1	3	2	3	3	4	4	2	1	1
City of Greater Geelong	Lara Hotel	1117	1	1	3	3	3	2	4	1	2	1	1
City of Whitehorse	Boxhill Golf Club	1116	1	2	1	2	1	1	1	1	2	1	1
Shire of Baw Baw	Warragul Country Club	1115	1	1	1	3	2	2	1	1	2	1	1
City of Warrambool	Rafferty's Tavern	1114	1	3	3	3	1	1	1	1	2	1	1
City of Brimbank	St Albans Sports Club	1113	1	1	1	2	4	4	4	4	2	1	1
City of Wyndham	Italian Sports Club of Werribee	1112	1	1	1	2	2	2	1	1	2	1	1
Rural City of Horsham	Horsham Sports and Community Club	1111	1	3	1	3	3	2	4	1	2	1	1
Shire of Moira	Norham Golf and Country Club	1110	1	3	1	3	4	4	4	4	2	1	1
City of Greater Dandenong	Noble Park Football Club	1109	1	3	1	2	4	4	4	4	2	1	1
City of Greater Bendigo	Kangaroo Hat Sports Hub	1108	1	3	1	3	3	3	4	4	2	1	1
Shire of Yarra Ranges	East Ridge Club	1107	1	2	1	2	4	3	4	4	1	3	1
Rural City of Swan Hill	Swan Hill RSL	1106	1	3	2	3	4	4	4	4	2	1	1
City of Hobsons Bay	kooringal Golf Club	1105	1	3	1	2	2	2	1	1	2	1	1
City of Ballarat	Ballarat Leagues Club	1104	1	3	1	3	3	2	4	1	2	1	1
City of Wyndham	Hoppers Crossing Club	1103	1	1	1	2	2	2	1	1	1	1	1
City of Ballarat	George Hotel	1102	1	3	3	3	3	2	4	1	2	1	1
City of Greater Geelong	Waurin Ponds Hotel	1101	1	3	3	3	3	2	4	1	2	1	1
City of Brimbank	Club Italia Sporting Club	1018	2	1	1	2	4	4	4	4	2	1	1
City of Wyndham	Werribee Plaza Hotel	1017	1	3	3	2	2	2	1	1	2	1	1
Shire of Campaspe	Echuca Hotel	1016	1	3	3	3	4	4	4	4	2	1	1
City of Wyndham	The Tarnet Tavern	1015	1	1	3	2	2	2	1	1	1	3	1
Shire of Surf Coast	The Beach Hotel	1014	2	1	3	3	1	1	1	1	1	1	1
Shire of East Gippsland	Lakes Entrance Bowls Club	1013	1	3	1	3	4	4	4	4	2	1	1
Shire of East Gippsland	Terminus Hotel	1012	1	3	3	3	4	4	4	4	2	1	1
City of Bayside	Marine Hotel	1011	1	3	3	2	1	1	1	1	2	1	1
City of Cardinia	Pink Hill Hotel	1010	1	3	3	2	2	3	1	4	1	3	1
City of Greater Bendigo	Foundary Hotel	1009	1	1	3	3	3	4	4	4	2	1	1
Shire of East Gippsland	Balmisdele Sporting and Convention Centre	1008	1	3	1	3	4	4	4	4	1	1	1
City of Wyndham	Sanctuary Lakes Hotel	1007	1	2	3	2	2	2	1	1	2	3	1
City of Hume	Highlands Hotel	1006	1	3	3	2	4	4	4	4	2	3	1
City of Knox	Wantima Club	1005	1	1	1	2	1	2	1	1	2	1	1
City of Bayside	New Bay Hotel	1004	1	1	3	2	1	1	1	1	1	3	1
City of Greater Geelong	Grovedale Hotel	1003	1	3	3	3	3	2	4	1	2	1	1
City of Whittlesea	Laurimar Tavern	1002	1	1	3	2	3	3	4	4	1	1	1
City of Latrobe	Turfside Tabaret	1001	1	1	1	3	4	4	4	4	2	1	1
City of Greater Geelong	Waurin Ponds Hotel	909	1	3	3	3	3	2	4	1	2	1	1
City of Monash	Matthew Finders Taverner	908	1	1	3	2	1	1	1	1	1	1	1
City of Melbourne	Mail Exchange Hotel	907	1	3	3	2	1	1	1	1	2	3	1
City of Port Phillip	Bells Hotel	906	1	1	3	2	1	1	1	1	1	1	1
City of Whittlesea	Bridge Inn Hotel	905	1	1	3	2	3	3	4	4	1	1	1
City of Wyndham	The Tigers Clubhouse	903	1	1	1	2	2	2	1	1	2	1	1
Shire of Campaspe	Kyabram Club	902	1	3	1	3	4	4	4	4	1	1	1
City of Ballarat	Ballarat RSL	901	1	3	2	3	3	2	4	1	1	1	1
City of Maribyrnong	Club Edgewater	809	1	1	1	2	3	1	4	1	1	3	1
City of Frankston	Frankston RSL Club	808	1	1	2	2	3	1	4	1	1	1	1
City of Frankston	Langwarring Hotel	807	1	1	3	2	2	3	1	4	1	1	1
Shire of Melton	Caroline Springs Hotel	806	1	3	3	2	2	4	1	4	1	3	1
Shire of Cardinia	Pakenham Lakeside Hotel	805	2	1	3	2	2	3	1	4	1	3	1
City of Casey	Casey Towers	804	1	3	3	2	2	3	1	4	2	3	1
Shire of Wellington	Sale Club	803	1	3	2	3	3	3	4	4	2	1	1
City of Whittlesea	Bridge Inn Hotel	802	2	1	3	2	3	3	4	4	2	3	1
Shire of Cardinia	Tasers Entertainment Centre	801	1	3	1	2	2	3	1	4	2	1	1
City of Melbourne	The Victoria Hotel	717	2	1	1	2	1	1	1	1	2	1	1
City of Moreland	Pascoe Vale RSL	716	1	1	2	2	2	1	1	1	2	1	1
Shire of Wellington	Loch Sport RSL Club	715	1	3	2	3	3	3	4	4	2	1	1
City of Casey	Berwick Springs Hotel	714	1	3	3	2	2	3	1	4	2	1	1
City of Wyndham	Point Cook Community Centre	713	1	1	1	2	2	2	1	1	2	3	1
Shire of Cardinia	Worlines Club	712	1	3	1	2	2	3	1	4	2	1	1
Shire of Mornington	Steeples Tabaret	711	1	1	1	2	2	2	1	1	2	1	1
Peninsula	Peninsula	710	1	3	1	3	3	4	4	4	2	3	1
Rural City of Woononga	Wodonga Country Club	710	1	3	1	3	3	4	4	4	2	3	1
City of Hume	Olive Tree Hotel	709	1	1	3	2	4	4	4	4	2	1	1
City of Wyndham	Point Cook Hotel	708	1	2	3	2	2	2	1	1	2	3	1
City of Berwick	Harp of Erin Hotel	707	1	1	3	2	1	1	1	1	2	1	1
Shire of Melton	The Sugar Gum Hotel	706	1	3	3	2	2	4	1	4	2	1	1
Shire of Macedon Ranges	Victorian Tavern	705	1	3	3	3	1	1	1	1	2	1	1
City of Banyule	Watsonia RSL	704	1	3	2	2	1	1	1	1	2	1	1
City of Casey	Casey Fields Community Centre	702	1	3	1	2	2	3	1	4	2	3	1
City of Casey	Lynbrook Hotel	701	1	1	3	2	2	3	1	4	1	3	1
City of Monash	Century Entertainment	626	2	3	3	2	1	1	1	1	2	1	1

Shire of Moorabool	Stoney Club	625	1	3	1	3	2	3	1	4	2	1	1
Shire of Mitchell	Kilmore Trackside	624	1	3	1	3	2	4	1	4	2	1	1
Shire of Macedon Ranges	Kyneton Rsl	622	1	1	2	3	1	1	1	1	1	1	1
Rural City of Horsham	Horsham Rsl	621	1	3	2	3	3	2	4	1	2	1	1
Shire of Campaspe	Wohoa Workers and Service Club	620	1	3	1	3	4	4	4	4	2	1	1
Rural City of Swan Hill	Swan Hill Rsl	619	1	3	2	3	4	4	4	4	2	1	1
City of Latrobe	Moe Rsl Club	618	1	3	2	3	4	4	4	4	2	1	1
City of Maroonah	Club Ringwood	617	2	1	1	2	1	1	1	1	1	3	1
Shire of East Gippsland	The Lakes Entertainment Centre	616	2	1	1	3	4	4	4	4	2	0	1
Shire of Melton	Melton Country Club	615	1	3	1	2	2	4	1	4	2	3	1
Shire of East Gippsland	Bairnsdale Rsl	614	1	3	1	3	4	4	4	4	2	1	1
Shire of Melton	Hrv Management Ltd	613	1	3	1	2	2	4	1	4	2	3	1
Rural City of Ararat	Ararat Tsl	612	2	1	2	3	4	3	4	4	2	1	1
Shire of Gamawarra	Commercial Hotel	611	1	3	1	3	4	4	4	4	1	1	1
City of Ballarat	Ballarat Leagues Club	610	1	3	1	3	3	2	4	1	2	1	1
City of Ballarat	Ballarat Organisation for Animal Riehts	609	2	3	1	3	3	2	4	1	2	0	2
Shire of Macedon Ranges	Romsey Hotel	608	2	1	3	3	1	1	1	1	3	1	1
City of Glen Eira	South Oakleigh Club	607	1	1	1	2	1	1	1	1	2	1	1
City of Casey	Hampton Park Tavern	606	1	1	1	2	2	3	1	4	2	1	1
City of Hume	Graieburn Social And Recreation Club	605	1	1	1	2	4	4	4	4	2	1	1
Shire of Cardinia	Cardinia Hospitality Pty Ltd	604	1	3	3	2	2	3	1	4	2	3	1
City of Warrambool	Mac's Hotel	603	1	3	3	3	3	3	4	4	2	1	1
City of Wyndham	Werribee Football Club	602	1	3	1	2	2	2	1	1	2	1	1
Borough of Queenscliffe	Serrial Club	601	1	1	3	3	1	1	1	1	2	1	1
City of Boroondara	Esplanade Hotel	601	1	1	3	3	1	1	1	1	2	1	1
City of Boroondara	Hawthorn Club	593	2	2	1	2	1	1	1	1	1	1	1
City of Greater Geelong	Ocean Grove Bowling Club	592	2	1	1	3	3	2	4	1	1	1	1
City of Frankston	Langwarrin Hotel	591	1	3	3	2	2	3	1	4	1	1	1
City of Latrobe	Traralgon Bowls Club	590	1	3	1	3	4	4	4	4	2	1	1
City of Knox	Vermont Football Club	529	1	1	1	2	1	2	1	1	1	1	1
City of Ballarat	Ballarat & District	528	1	3	1	3	3	2	4	1	2	1	1
City of Ballarat	Trotline Club	527	1	1	1	3	3	2	1	1	1	1	1
City of Ballarat	Ballarat Golf Club	527	1	1	1	3	3	2	1	1	1	1	1
City of Ballarat	Sebastopol Bowling Club	526	2	1	1	3	3	2	4	1	1	1	1
Shire of Strathbogie	Niggamite Lakes Entertainment Centre	525	1	2	1	3	3	2	4	1	2	1	1
Shire of Bass Coast	Wonthaggi Club Inc	524	1	3	1	3	3	3	4	4	1	1	1
Surf Coast Shire	Torquay Golf Club	523	1	3	1	3	1	1	1	1	2	1	1
City of Glen Eira	Cross Road Australia Pty Ltd	522	2	2	3	2	1	1	1	1	1	0	1
Rural City of Wangaratta	Wangaratta Rsl	521	1	1	2	3	3	3	4	4	2	1	1
Shire of Mornington	Rosebud Rsl	520	1	1	2	2	2	2	1	1	1	1	1
Shire of Mornington	Dromana Red Hill Rsl	519	1	1	2	2	2	2	1	1	1	1	1
Shire of Mornington	Steeple Tabaret	518	1	1	1	2	2	2	1	1	2	1	1
Shire of Bass Coast	Warragul Club	517	1	3	1	3	2	2	1	1	2	1	1
Rural City of Mildura	Merbein Citizens Club	516	1	3	1	3	4	4	4	4	2	1	1
Shire of Bass Coast	Warragul Country Club	515	1	3	1	3	2	2	1	1	2	1	1
Rural City of Benalla	Benalla Bowls Club	514	1	3	1	3	4	3	4	4	1	1	1
City of Brimbank	Deer Park Club	513	1	3	1	2	4	4	4	4	1	1	1
City of Maribyrnong	Zagame's Brunswick Club Hotel Inc	512	1	1	3	2	3	1	4	1	2	1	1
City of Melbourne	Batman's Hill On Collins	511	1	3	3	2	1	1	1	1	2	1	1
City of Whitehorse	Box Hill Golf Club	510	1	1	1	2	1	1	1	1	1	1	1
Shire of East Gippsland	Bairnsdale Bowls Club	509	1	3	1	3	4	4	4	4	2	1	1
Shire of Wellington	Loch Sport Inc	508	1	1	2	3	3	3	4	4	2	1	1
Shire of Wellington	Sporting Legends Club	507	1	3	1	3	3	3	4	4	2	1	1
City of Manningham	Templestove Hotel	506	1	3	3	2	1	1	1	1	2	1	1
Shire of Wellington	Yarram Country Club	505	1	3	1	3	3	3	4	4	2	1	1
City of Glen Eira	Bentleigh Rsl	504	1	3	2	2	1	1	1	1	2	1	1
Rural City of Horsham	Horsham Community and Sports Club	503	1	3	1	3	3	2	4	1	2	1	1
Shire of Campaspe	Kyabram Club	502	1	3	1	3	4	4	4	4	2	1	1
Shire of Bass Coast	Family Hotel (Branbau Pty)	501	2	1	3	3	2	2	1	1	2	1	1
City of Stonnington	Racecourse Hotel	414	1	1	3	2	1	1	1	1	2	3	1
City of Boroondara	Glenferrie Hotel	413	1	1	3	2	1	1	1	1	1	1	1
Shire of Yarra Ranges	Lilydale Crown Hotel	412	1	1	3	2	4	3	4	4	2	1	1
City of Kingston	Royal Oak Hotel	411	1	1	3	2	1	1	1	1	2	1	1
City of Casey	Castello's Berwick Hotel	410	1	3	3	2	2	3	1	4	1	1	1
City of Mitchell	Hogans Hotel	409	1	3	3	2	2	4	1	4	2	1	1
City of Ballarat	Craig's Royal Hotel	408	1	3	3	3	3	2	4	1	2	1	1
City of Latrobe	Monwell Bowling Club	407	1	3	1	3	4	4	4	4	2	1	1
Shire of Moorabool	Courthouse Hotel	406	1	3	3	3	2	3	1	4	2	1	1
City of Greater Bendigo	West Bendigo Sports and Entertainment	405	1	1	1	3	3	3	4	4	2	1	1
City of Manningham	Manningham Club	404	2	3	1	2	1	1	1	1	2	0	2
City of Banyule	Montmorency RSL	403	1	3	2	2	1	1	1	1	2	1	1
City of Brimbank	Sunshine Rsl	402	1	3	2	2	4	4	4	4	2	1	1
City of Greater Bendigo	Windemere Hotel	401	1	4	3	3	3	3	4	4	2	1	1
City of Whittlesea	Royal Mall Hotel	312	2	1	3	2	3	3	4	4	1	1	1
City of Whittlesea	Whittlesea Bowls Club	311	1	1	1	2	3	3	4	4	1	1	1
Shire of Melton	Sugargum Tavern	310	1	2	3	2	2	4	1	4	2	1	1
City of Casey	Endeavour Hills Cricket Club	308	2	1	1	2	2	3	1	4	1	3	1
Shire of Yarra Ranges	Upper Yarra RSL	307	1	1	2	2	4	3	4	4	2	1	1
City of Moreland	Pascoe Vale Rsl	306	2	1	2	2	2	1	1	1	2	1	1
City of Hobsons Bay	The Millers Inn Hotel	305	2	3	3	2	2	2	1	1	2	1	1
City of Greater Geelong	Sphinx Hotel	303	1	3	3	3	3	2	1	1	2	1	1
City of Hume	Rph Pty Ltd	302	1	3	3	2	4	4	4	4	2	3	1
City of Melbourne	North Melbourne Football Club Social	301	1	3	1	2	1	1	1	1	2	3	1
City of Port Phillip	Balaclava Hotel	214	1	3	3	2	1	1	1	1	2	0	2
City of Banyule	Old England Hotel	213	2	x	3	2	1	1	1	1	2	0	2
City of Hume	Canjigumb Social And Koorline Club	212	2	1	1	2	4	4	4	4	2	1	1
City of Frankston	Long Island country Club	211	2	3	1	2	2	3	1	4	1	3	1
Shire of East Gippsland	The Lakes Entertainment Centre	210	1	3	1	3	4	4	4	4	2	1	1
City of Hume	The Meadows Tabaret	209	2	3	1	2	4	4	4	4	1	3	1
City of Brimbank	Sugargum Tavern	208	2	3	3	2	4	4	4	4	2	1	1
City of Brimbank	Milersea Community Club Inc	207	2	3	1	2	4	4	4	4	1	3	1
City of Whitehorse	The Chase Hotel	206	1	1	3	2	1	1	1	1	2	1	1

City of Port Philip	Baladown Hotel	205	1	3	3	2	1	1	1	1	2	1	1
Shire of East Gippsland	Lakes Entrance Bowls Club	204	1	3	1	3	4	4	4	4	2	1	1
Shire of East Gippsland	Lakes Entrance Rsl	203	1	3	2	3	4	4	4	4	2	1	1
Shire of East Gippsland	Italian Australian Social and Sports Club	202	1	3	1	3	4	4	4	4	2	1	1
City of Casey	Berwick Inn Pty Ltd	201	1	3	3	2	2	3	1	4	2	1	1
Shire of Macedon Ranges	Victorian Tavern Gisborne	114	1	1	3	3	1	1	1	1	2	1	1
City of Frankston	Langwarrin Hotel	113	2	1	3	2	2	3	1	4	1	1	1
Shire of Melton	Mac's Hotel	112	2	2	3	2	2	4	1	4	2	1	1
City of Whittlesea	Epping Hotel	111	2	1	3	2	3	3	4	4	2	1	1
City of Boroondara	Riversdale Hotel	110	1	1	3	2	1	1	1	1	2	1	1
City of Melbourne	Golden Nugget	109	2	3	3	2	1	1	1	1	2	0	2
City of Hume	Roxburgh Park Hotel	108	2	1	3	2	4	4	4	4	2	3	1
City of Casey	Castello's Berwick Hotel	107	1	3	3	2	2	3	1	4	2	3	1
City of Kingston	Chelsea Heights Hotel	106	1	1	3	2	1	1	1	1	1	1	1
City of Greater Shepparton	Shepparton Rsl	105	1	3	2	3	3	3	4	4	2	1	1
City of Banyule	Watsonia Rsl	104	1	4	2	2	1	1	1	1	3	1	1
City of Wyndham	Werrbee Football Club Social Club	103	1	3	1	2	2	2	1	1	2	1	1
City of Manningham	Cherry Hill Tavern	102	1	4	3	2	1	1	1	1	3	3	1
Shire of Yarra Ranges	Healsville Rsl	101	1	4	3	2	4	3	4	4	3	1	1

Appendix 2: 2009-2011 Database

	VCGLR Decision	RA position	Venue Type	MAV LGA	Quartile	Quartile	Opposition	EGM Numbers	Application Type
Variables	Decisions	RA position	Venue Type	Area	SEIFA IRSD Quartile	SEIFA IEO Quartile	Opposition	EGM No	Application Type
							1=yes	0=No egms	
Labels	1=granted	1=Actively Opposed	1=Club		1= Quartile 1	1= Quartile 1	2=no	1 Below 50	1- involving EGMs
	2=refused	2= Opposed in writing only	2= RSL	2=City /Metro	2= Quartile 2	2= Quartile 2	3=unknown	3 50 and Above	2= Administrative
		3= Did not oppose	3=Hotel	3. Rural/ Regional	3= Quartile 3	3= Quartile 3			
		4=unknown			4=Quartile 4	4=Quartile 4			
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1326	1	1	3	3	1	1	2	1	1
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1323	1	2	3	2	1	1	1	1	1
1322	1	2	1	2	4	4	1	3	1
1321	1	3	2	2	1	1	2	1	1
1320	1	1	3	2	2	4	2	1	1
1319	1	3	3	3	2	2	2	1	1
1318	1	1	3	2	2	3	2	1	1
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1306	1	2	3	2	1	1	1	1	1
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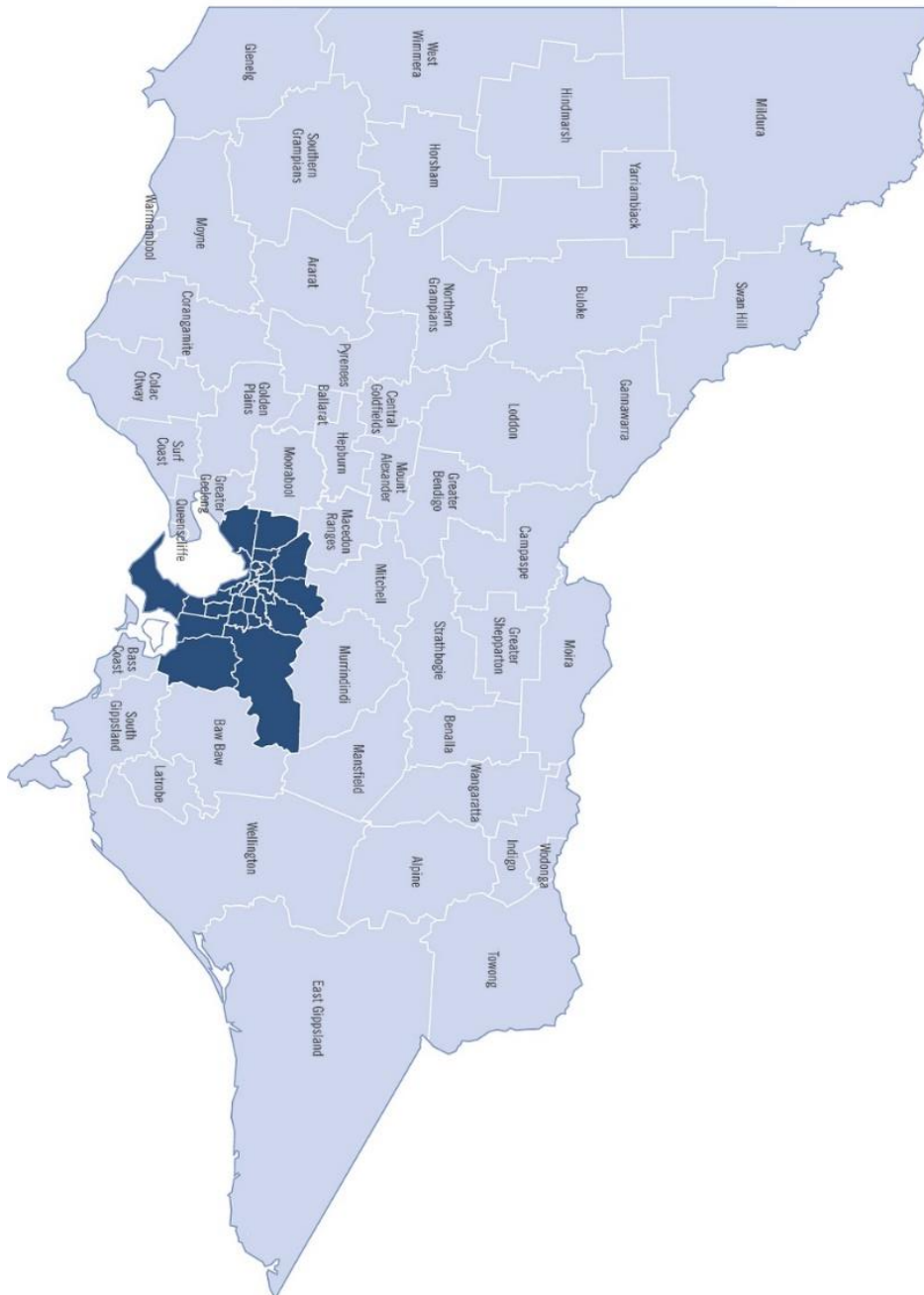
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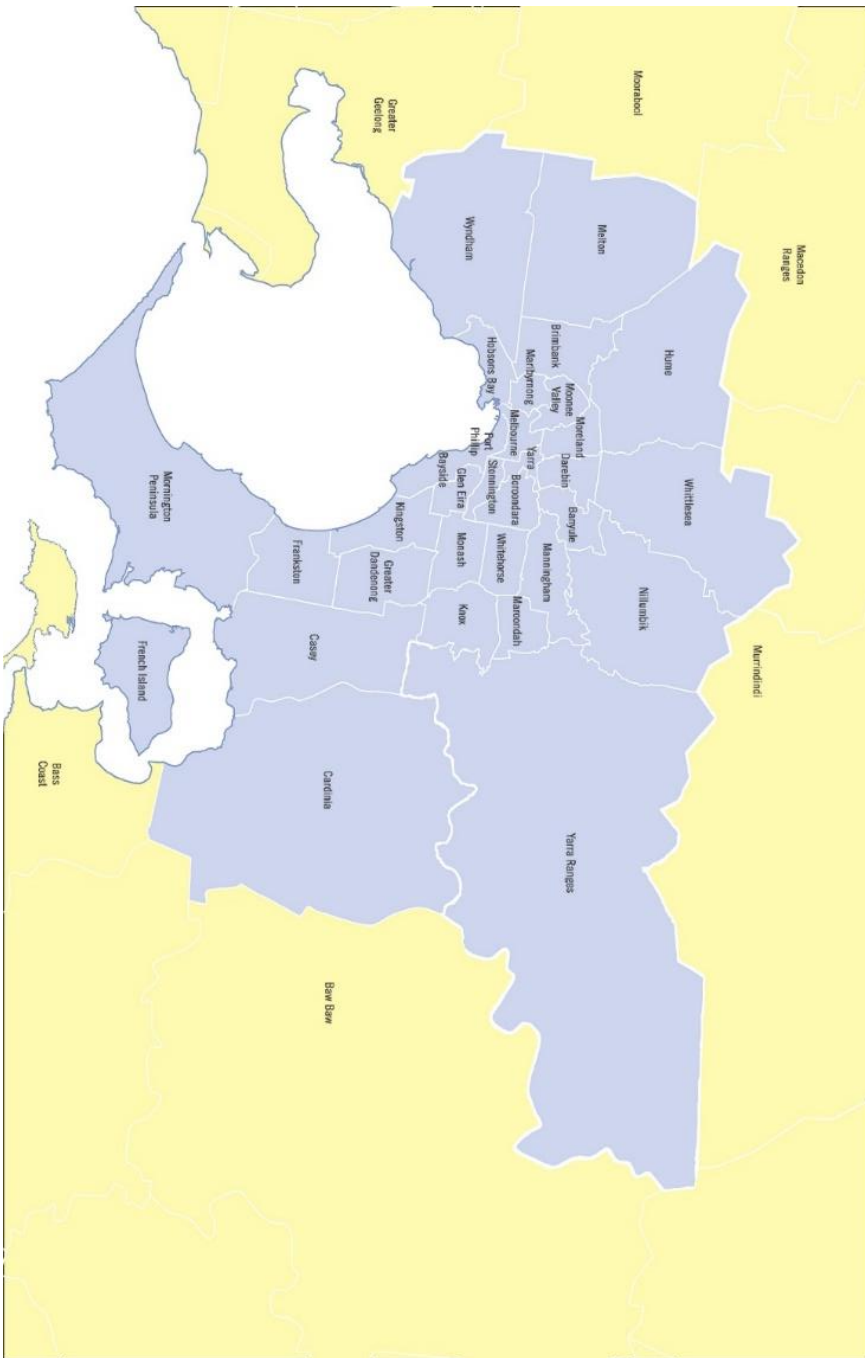
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1115	1	1	1	3	2	2	2	1	1
1114	1	3	3	3	1	1	2	1	1
1113	1	1	1	2	4	4	2	1	1
1112	1	1	1	2	2	2	2	1	1
1111	1	3	1	3	3	2	2	1	1
1110	1	3	1	3	4	4	2	1	1
1109	1	3	1	2	4	4	2	1	1
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902	1	3	1	3	4	4	1	1	1
901	1	3	2	3	3	2	1	1	1

Appendix 3: Municipality Maps

Accessed on <http://www.mav.asn.au/vic-councils/find-your-council>





Appendix 4: Crosstabulation Report

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H1: VCGLR Decisions by Responsible Authority Position

Case Processing Summary:

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * RA position	279	100.0%	0	0.0%	279	100.0%

Decision * RA position Crosstabulation:

Count

	RA position				Total
	Actively opposing	Opposed in writing only	Did not oppose	unknown	
Decision granted	82	25	131	4	242
Decision refused	21	4	11	1	37
Total	103	29	142	5	279

Chi-Square Tests:

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	<u>8.507^a</u>	<u>3</u>	<u>.037</u>	.042		
Likelihood Ratio	8.508	3	.037	.039		
Fisher's Exact Test	8.971			.023		
Linear-by-Linear Association	7.102 ^b	1	.008	.010	.005	
N of Valid Cases	279					

H2: VCGLR Decisions by SEIFA IRSD 50percentile

Case Processing Summary:

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * IRSD	279	100.0%	0	0.0%	279	100.0%

Decision * IRSD Crosstabulation

Count:

		IRSD		Total
		Top 50%	Lowest 50%	
Decision	granted	119	123	242
	refused	19	18	37
Total		138	141	279

Chi-Square Tests:

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	.061^a	1	.805	.861	.472	
Continuity Correction ^b	.005	1	.944			
Likelihood Ratio	.061	1	.805	.861	.472	
Fisher's Exact Test				.861	.472	
Linear-by-Linear Association	.061 ^c	1	.805	.861	.472	
N of Valid Cases	279					

H3: VCGLR Decisions by SEIFA IRSD Quartiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * IRSD	279	100.0%	0	0.0%	279	100.0%

Decision * IRSD Crosstabulation

Count

		IRSD				Total
		Quartile 1	Quartile2	Quartile 3	Quartile 4	
Decision	granted	54	63	66	59	242
	refused	11	8	7	11	37
Total		65	71	73	70	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	
<u>Pearson Chi-Square</u>	<u>2.225^a</u>	<u>3</u>	<u>.527</u>	.540		
Likelihood Ratio	2.245	3	.523	.532		
Fisher's Exact Test	2.236			.529		
Linear-by-Linear Association	.068 ^b	1	.795	.812	.428	
N of Valid Cases	279					

H4: VCGLR Decisions by SEIFA IEO Quartiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * IEO	279	100.0%	0	0.0%	279	100.0%

Decision * IEO Crosstabulation

Count

		IEO				Total
		Quartile 1	Quartile 2	Quartile 3	Quartile 4	
Decision	granted	56	55	63	68	242
	refused	13	5	9	10	37
Total		69	60	72	78	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	<u>3.183^a</u>	<u>3</u>	<u>.364</u>	.372		
Likelihood Ratio	3.167	3	.367	.379		
Fisher's Exact Test	3.041			.384		
Linear-by-Linear Association	.618 ^b	1	.432	.441	.239	
N of Valid Cases	279					

H5: VCGLR Decisions by SEIFA IEO 50percentiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * IEO	279	100.0%	0	0.0%	279	100.0%

Decision * IEO Crosstabulation

Count

		IEO		Total
		Top 50%	Lowest 50%	
Decision	granted	109	133	242
	refused	18	19	37
Total		127	152	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
<u>Pearson Chi-Square</u>	.168 ^a	1	.682	.725	.407
Continuity Correction ^b	.054	1	.816		
Likelihood Ratio	.168	1	.682	.725	.407
Fisher's Exact Test				.725	.407
Linear-by-Linear Association	.168 ^c	1	.682	.725	.407
N of Valid Cases	279				

H6: Responsible Authority Position by IEO Quartiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * IEO	279	100.0%	0	0.0%	279	100.0%

RA position * IEO Crosstabulation

Count

		IEO				Total
		Quartile 1	Quartile 2	Quartile 3	Quartile 4	
RA position	Actively opposing	38	23	30	12	103
	Opposed in writing only	9	7	4	9	29
	Did not oppose	19	30	36	57	142
	unknown	3	0	2	0	5
Total		69	60	72	78	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)
Pearson Chi-Square	39.045 ^a	9	.000	. ^b	
Likelihood Ratio	43.573	9	.000	. ^b	
Fisher's Exact Test	. ^b			. ^b	
Linear-by-Linear Association	21.656	1	.000	. ^b	. ^b
N of Valid Cases	279				

H6b: Responsible Authority Position by IEO 50percentile

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * IEO	279	100.0%	0	0.0%	279	100.0%

RA position * IEO Crosstabulation

Count

		IEO		Total
		Top 50%	Lowest 50%	
RA position	Actively opposing	60	43	103
	Opposed in writing only	16	13	29
	Did not oppose	48	94	142
	unknown	3	2	5
Total		127	152	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	
Pearson Chi-Square	16.107 ^a	3	.001	.001		
Likelihood Ratio	16.261	3	.001	.001		
Fisher's Exact Test	16.233			.001		
Linear-by-Linear Association	12.555 ^b	1	.000	.000	.000	
N of Valid Cases	279					

H7: Responsible Authority Position by IRSD Quartiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * IRSD	279	100.0%	0	0.0%	279	100.0%

RA position * IRSD Crosstabulation

Count

		IRSD				Total
		Quartile 1	Quartile2	Quartile 3	Quartile 4	
RA position	Actively opposing	34	28	28	13	103
	Opposed in writing only	8	10	3	8	29
	Did not oppose	20	33	41	48	142
	unknown	3	0	1	1	5
Total		65	71	73	70	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)
Pearson Chi-Square	29.149 ^a	9	.001	. ^b	
Likelihood Ratio	31.655	9	.000	. ^b	
Fisher's Exact Test	. ^b			. ^b	
Linear-by-Linear Association	16.103	1	.000	. ^b	. ^b
N of Valid Cases	279				

H7b: Responsible Authority Position by IRSD 50percentile

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * IRSD	279	100.0%	0	0.0%	279	100.0%

RA position * IRSD Crosstabulation

Count

		IRSD		Total
		Top 50%	Lowest 50%	
RA position	Actively opposing	63	40	103
	Opposed in writing only	18	11	29
	Did not oppose	54	88	142
	unknown	3	2	5
Total		138	141	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	
Pearson Chi-Square	15.136 ^a	3	.002	.001		
Likelihood Ratio	15.276	3	.002	.002		
Fisher's Exact Test	15.196			.001		
Linear-by-Linear Association	11.533 ^b	1	.001	.001	.000	
N of Valid Cases	279					

H8: Community Opposition by SEIFA IEO Quartiles

Case Processing Summary:

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * IEO	279	100.0%	0	0.0%	279	100.0%

Opposition * IEO Crosstabulation

Count:

		IEO				Total
		Quartile 1	Quartile 2	Quartile 3	Quartile 4	
Opposition	Yes	21	14	20	10	65
	No	45	45	51	68	209
	unknown	3	1	1	0	5
Total		69	60	72	78	279

Chi-Square Tests:

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	12.380 ^a	6	.054	.047		
Likelihood Ratio	13.576	6	.035	.041		
Fisher's Exact Test	12.159			.029		
Linear-by-Linear Association	2.339 ^b	1	.126	.132	.071	
N of Valid Cases	279					

H8b: Community Opposition by SEIFA IEO 50percentile

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * IEO	279	100.0%	0	0.0%	279	100.0%

Opposition * IEO Crosstabulation

Count

		IEO		Total
		Top 50%	Lowest 50%	
Opposition	Yes	34	31	65
	No	89	120	209
	unknown	4	1	5
Total		127	152	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	4.331 ^a	2	.115	.124		
Likelihood Ratio	4.438	2	.109	.134		
Fisher's Exact Test	4.170			.129		
Linear-by-Linear Association	.509 ^b	1	.476	.508	.280	
N of Valid Cases	279					

H9: Community Opposition by SEIFA IRSD Quartiles

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * IRSD	279	100.0%	0	0.0%	279	100.0%

Opposition * IRSD Crosstabulation

Count

		IRSD				Total
		Quartile 1	Quartile2	Quartile 3	Quartile 4	
Opposition	Yes	20	18	16	11	65
	No	42	53	56	58	209
	unknown	3	0	1	1	5
Total		65	71	73	70	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	9.303 ^a	6	.157	.151		
Likelihood Ratio	9.805	6	.133	.180		
Fisher's Exact Test	8.448			.146		
Linear-by-Linear Association	2.742 ^b	1	.098	.106	.055	
N of Valid Cases	279					

H9b: Community Opposition by SEIFA IRSD 50percentile

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * IRSD	279	100.0%	0	0.0%	279	100.0%

Opposition * IRSD Crosstabulation

Count

		IRSD		Total
		Top 50%	Lowest 50%	
Opposition	Yes	39	26	65
	No	96	113	209
	unknown	3	2	5
Total		138	141	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	4.151 ^a	2	.125	.138		
Likelihood Ratio	4.171	2	.124	.144		
Fisher's Exact Test	4.197			.127		
Linear-by-Linear Association	2.791 ^b	1	.095	.112	.062	
N of Valid Cases	279					

H10: VCGLR Decisions by Area

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * Area	279	100.0%	0	0.0%	279	100.0%

Decision * Area Crosstabulation

Count

		Area		Total
		City/Metro	Rural/Regional	
Decision	granted	131	111	242
	refused	27	10	37
Total		158	121	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	
<u>Pearson Chi-Square</u>	4.638 ^a	1	.031	.034	.023	
Continuity Correction ^b	3.903	1	.048			
Likelihood Ratio	4.845	1	.028	.034	.023	
Fisher's Exact Test				.034	.023	
Linear-by-Linear Association	4.622 ^c	1	.032	.034	.023	
N of Valid Cases	279					

H11: Responsible Authority Position by Area

Case Processing Summary:

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * Area	279	100.0%	0	0.0%	279	100.0%

RA position * Area Crosstabulation

Count:

		Area		Total
		City/Metro	Rural/Regional	
RA position	Actively opposing	75	28	103
	Opposed in writing only	21	8	29
	Did not oppose	58	84	142
	unknown	4	1	5
Total		158	121	279

Chi-Square Tests:

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
Pearson Chi-Square	29.446 ^a	3	.000	.000		
Likelihood Ratio	30.095	3	.000	.000		
Fisher's Exact Test	29.429			.000		
Linear-by-Linear Association	21.369 ^b	1	.000	.000	.000	
N of Valid Cases	279					

H12: Community Opposition by Area

Case Processing Summary:

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * Area	279	100.0%	0	0.0%	279	100.0%

Opposition * Area Crosstabulation

Count:

		Area		Total
		City/Metro	Rural/Regional	
Opposition	Yes	49	16	65
	No	106	103	209
	unknown	3	2	5
Total		158	121	279

Chi-Square Tests:

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	12.307 ^a	2	.002	.001		
Likelihood Ratio	12.883	2	.002	.002		
Fisher's Exact Test	12.714			.001		
Linear-by-Linear Association	10.269 ^b	1	.001	.001	.001	
N of Valid Cases	279					

H13: Responsible Authority Position by Venue Type

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
RA position * Venue	279	100.0%	0	0.0%	279	100.0%

RA position * Venue Crosstabulation

Count

		Venue			Total
		Club	RSL	Hotel	
RA position	Actively opposing	34	12	57	103
	Opposed in writing only	10	0	19	29
	Did not oppose	67	21	54	142
	unknown	0	1	4	5
Total		111	34	134	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
<u>Pearson Chi-Square</u>	16.948 ^a	6	.009	.010	
Likelihood Ratio	22.158	6	.001	.001	
Fisher's Exact Test	17.961			.003	
Linear-by-Linear Association	4.578 ^b	1	.032	.033	.017
N of Valid Cases	279				

H14: Community Opposition by VCGLR Decisions

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Decision * Opposition	279	100.0%	0	0.0%	279	100.0%

Decision * Opposition Crosstabulation

Count

		Opposition			Total
		Yes	No	unknown	
Decision	granted	51	187	4	242
	refused	14	22	1	37
Total		65	209	5	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	
<u>Pearson Chi-Square</u>	<u>5.428^a</u>	<u>2</u>	<u>.066</u>	.065		
Likelihood Ratio	4.973	2	.083	.070		
Fisher's Exact Test	5.673			.051		
Linear-by-Linear Association	3.858 ^b	1	.049	.054	.040	
N of Valid Cases	279					

H15: Community Opposition by Venue Type

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Opposition * Venue	279	100.0%	0	0.0%	279	100.0%

Opposition * Venue Crosstabulation

Count

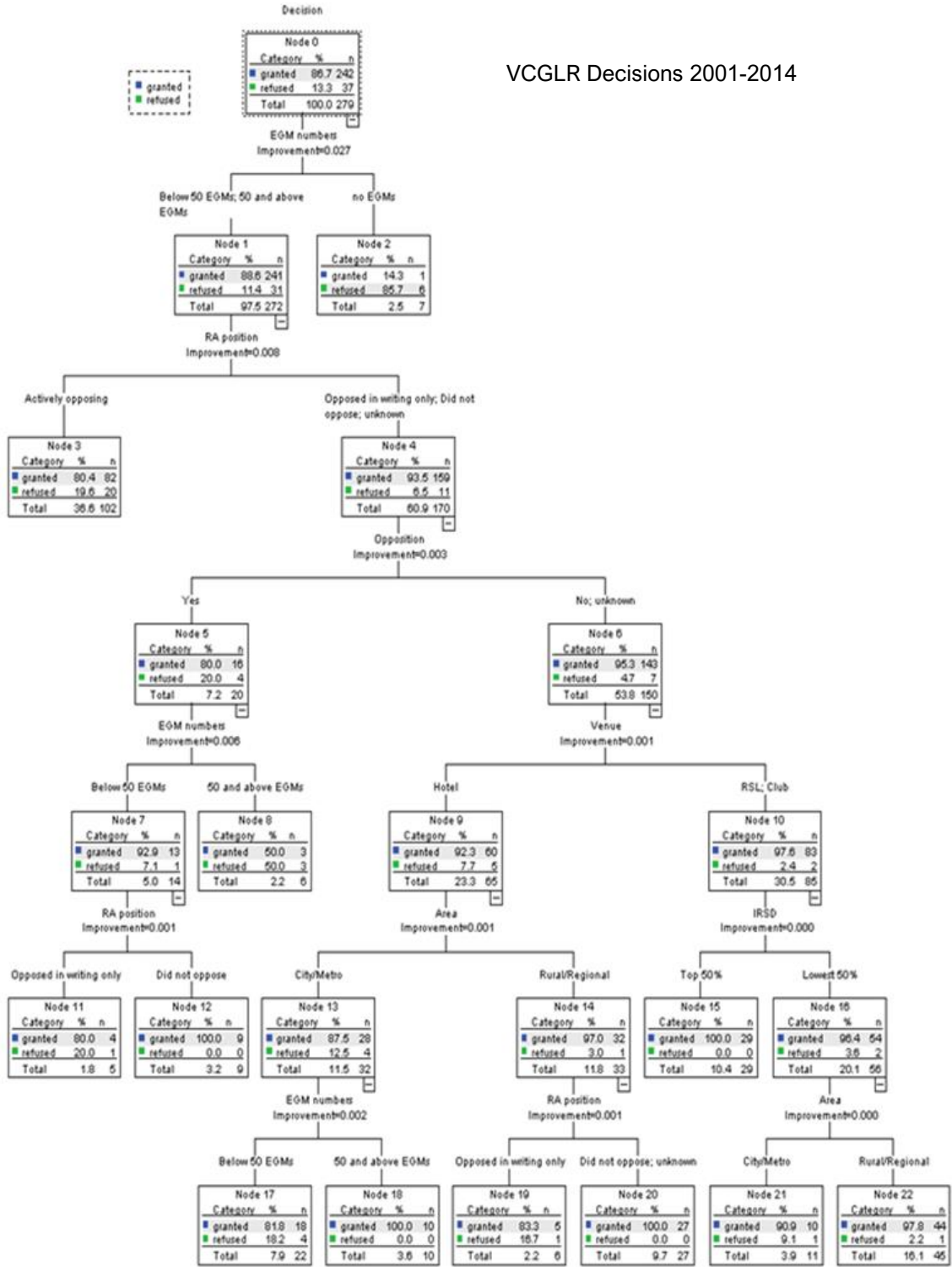
		Venue			Total
		Club	RSL	Hotel	
Opposition	Yes	26	6	33	65
	No	85	27	97	209
	unknown	0	1	4	5
Total		111	34	134	279

Chi-Square Tests

	Value	df	Asymptotic Significance (2- sided)	Exact Sig. (2- sided)	Exact Sig. (1- sided)	
<u>Pearson Chi-Square</u>	4.119 ^a	4	.390	.394		
Likelihood Ratio	5.928	4	.205	.234		
Fisher's Exact Test	4.447			.317		
Linear-by-Linear Association	.076 ^b	1	.783	.832	.419	
N of Valid Cases	279					

Appendix 5: Maximal Tree (SPSS)

VCGLR Decisions 2001-2014



Appendix 6: SEIFA Comparative Report

The 2009-2013 data set represent 45% ($n=126$) of all EGM license applications occurring between 2001-2014. The 5-year dataset was extracted around the 2011 census data (i.e. 2009-2013). The purpose was to serve as a 'control group' for the findings from the 2001-2014 dataset, which expanded over 13 years. This was done to ascertain if the findings from the 2001-2014 could be considered reasonable and reliable, as the findings from a dataset spanning 13 years may not reflect SEIFA fluctuations potentially occurring during this time. To offer qualified and relevant analysis of the 2001-2014 findings, these were compared with the control group, 2009-2013 dataset, to see if similar patterns were reflected in data in close proximity to the ABS 2011 census data. The cross-tabulation of the 2009-2013 data set is presented below. The following explores and compares the SEIFA findings from the two datasets.

1.1 Application Activity by SEIFA IEO and IRSD Areas

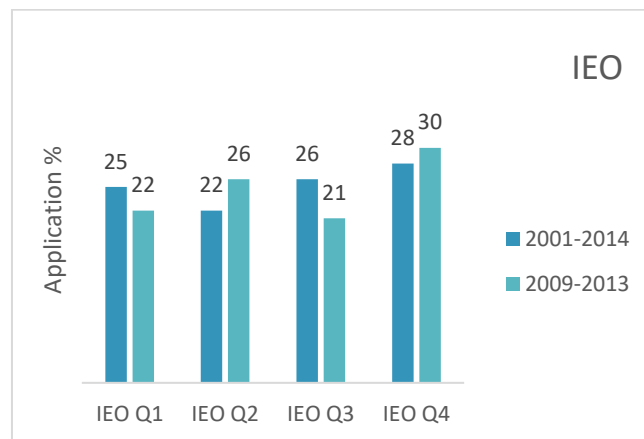


Figure 1: Application Activity per SEIFA IEO Quartiles

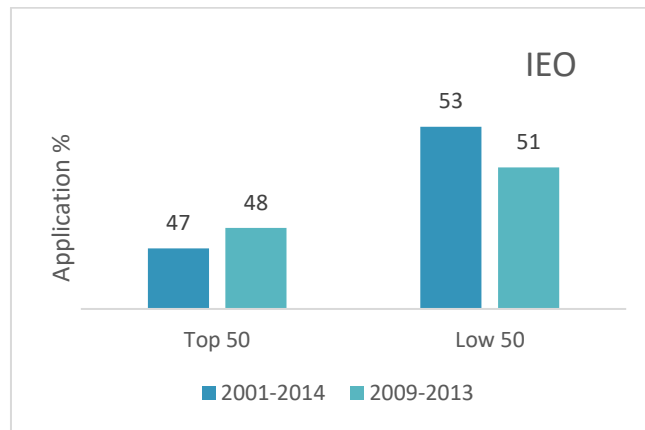


Figure 2: Application Activity per SEIFA IEO 50percentile

As can be observed in figures 1 and 2 similar patterns occurred in both datasets. More application activity occurred in the most IEO disadvantaged 50% of municipalities. Most applications also occurred in the most disadvantaged area, Q 4, and least applications occurred in the least disadvantaged area, Q 1. However, the 2009-2011 dataset reflects a slight accentuation of this pattern compared to the 2001-2014 dataset.

- Findings from the control group and the 2001-2014 database reflect similar patterns.
- 2009-2013 patterns are slightly accentuated.

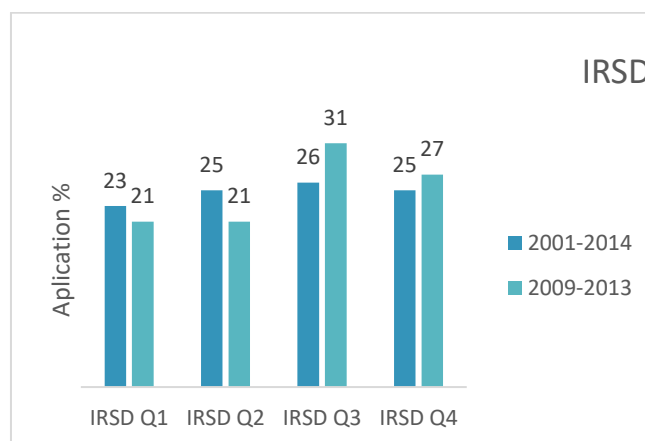


Figure 3: Application Activity per SEIFA IRSD Quartiles

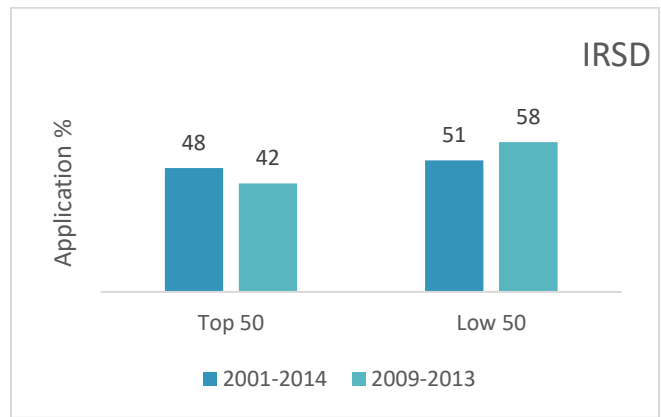


Figure 4: Application Activity per SEIFA IRSD 50percentile

As can be observed in figures 3 and 4 similar patterns occurred in both datasets. More applications occurred in the most IRSD disadvantaged 50% of municipalities. Both datasets also showed that quartile 3 experienced proportionally more applications than any other quartiles.

- Findings from the control group and the 2001-2014 database reflect similar patterns.

1.2 Decisions Granted by the VCGLR (expressed in %) by SEIFA IRSD and IEO Areas

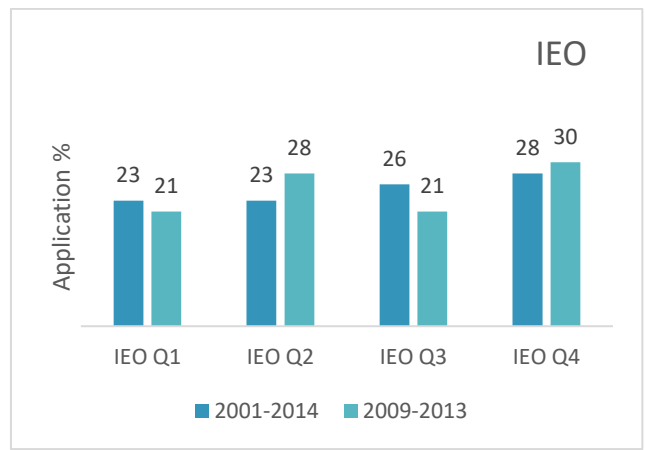


Figure 5: Decision Granted (in %) by IEO Quartile

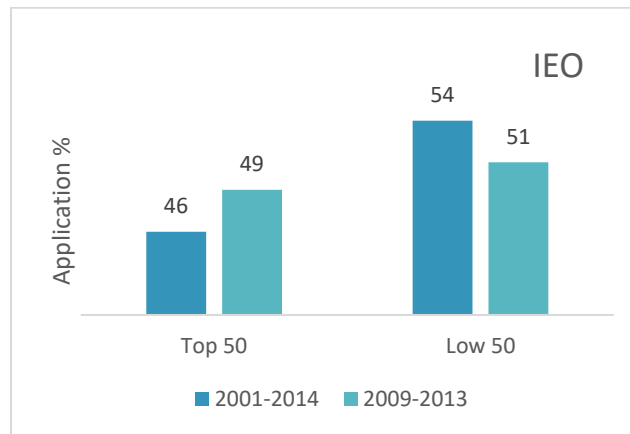


Figure 6: Decision Granted (in %) by IEO 50percentile

As can be observed in figures 5 and 6 similar pattern occurred in the two datasets. The VCGLR granted a (slight) majority of applications in the 50% most IEO disadvantaged areas. Similar patterns are also reflected by the quartiles, with VCGLR approving most applications in the most disadvantaged quartile 4, and the least applications in the least disadvantaged quartile 1 areas. However, a slight difference occurred between the datasets as the 2009-2013 showed an equal proportion of applications were approved in quartile 3 and 1, and the 2001-2014 dataset showed an equal proportion of applications were approved in quartile 1 and 2.

- Overall findings from the control group and the 2001-2014 database reflect similar patterns.
- Some fluctuations in quartiles 2 and 3.

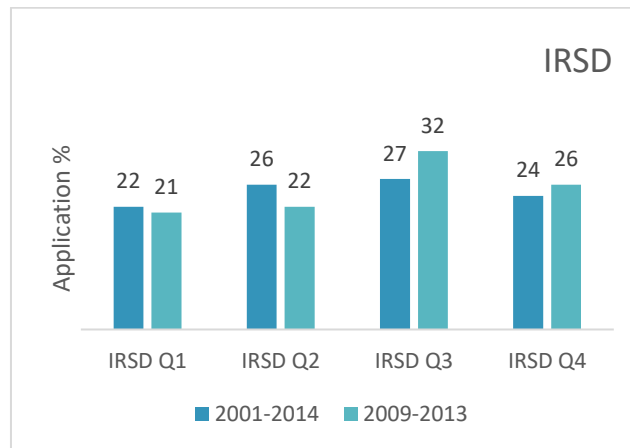


Figure 7: Decision Granted (in %) by IRSD Quartile

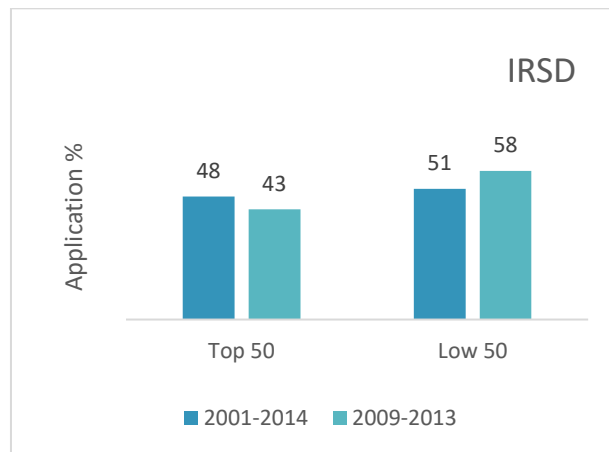


Figure 8: Decision Granted (in %) by IRSD 50percentile

As can be observed in figures 7 and 8 similar patterns occurred in the two datasets. The VCGLR granted a majority (for 2001-2014 only a slight majority) of applications in the 50% most IRSD disadvantaged areas. However, the 2009-2013 dataset show 15% more granted decisions in the 50percentile most disadvantaged areas compared to 3% of the 2001-2014 dataset. This is in part due to a relatively high approving rate in quartile 3 in the 2009-2013 data set. By quartile both datasets showed the VCGLR granted the least applications in quartile 4 and the most in quartile 3.

- Thus, although acknowledging that granting of applications in the 50% most IRSD disadvantaged areas is accentuated in the 2009-2013 dataset, the overall findings from the control group and the 2001-2014 database reflect similar patterns.

1.3 Responsibility Authority Position by SEIFA IRSD and IEO Areas

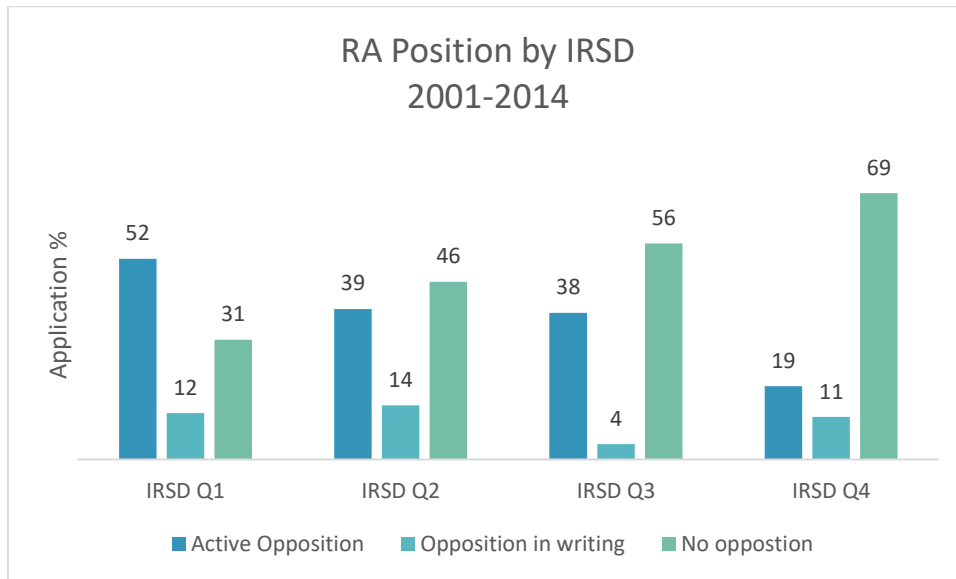


Figure 9: Council Position by IRSD Quartiles 2001-2014

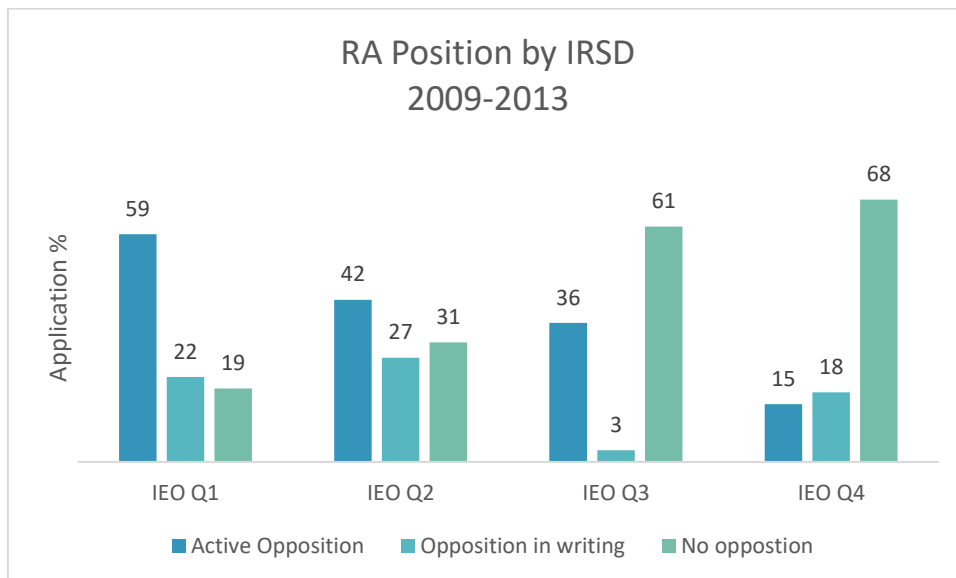


Figure 10: Council Position by IRSD Quartiles 2009-2013

As can be observed in figures 9 and 10 similar patterns are reflected in both data sets. Councils of the least IRSD disadvantaged, Quartile 4, municipalities are more like to

actively oppose applications. The 2009-2013 data set show a slight accentuation of this trend compared with the 2001-2014 data set.

- *Findings from the control group and the 2001-2014 database reflect similar patterns.*

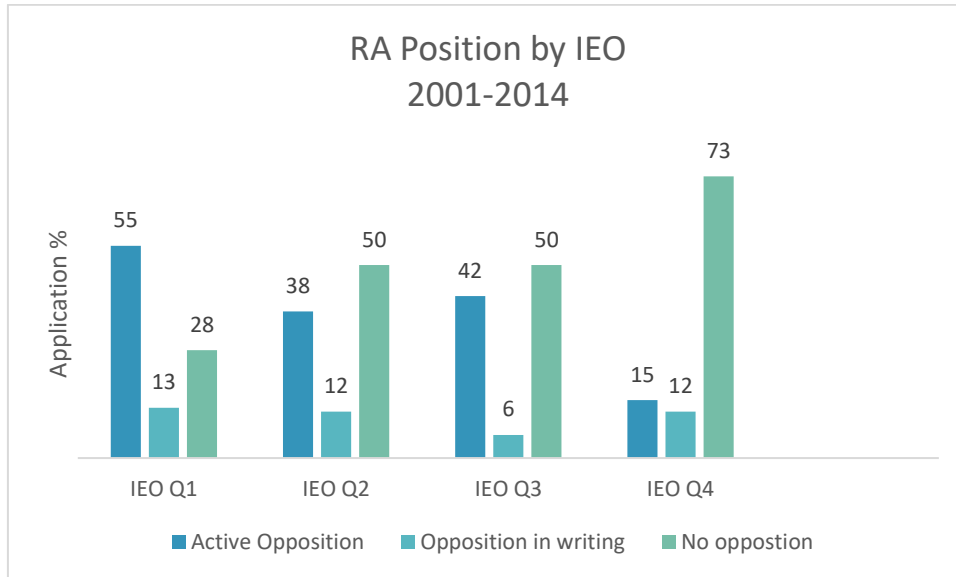


figure 11: Council Position by IEO Quartiles 2001-2014

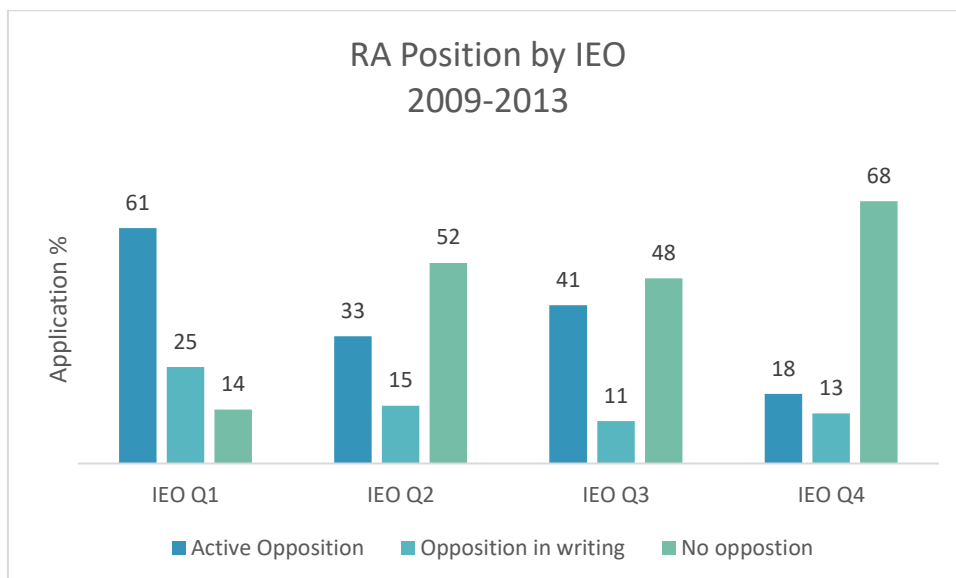


Figure 12: Council Position by IEO Quartiles 2009-2013

As can be observed in figures 11 and 12 similar patterns are reflected in both data sets. Councils of the least IEO disadvantaged areas, quartile 1, are much more likely to oppose EGM applications, and Councils of the most disadvantaged areas, quartile 4, are least likely to oppose EGM applications. The middle quartiles 2 and 3 also follow similar patterns.

- *Findings from the control group and the 2001-2014 database reflect similar patterns*

1.4 Community Opposition by SEIFA IRSD and IEO Areas

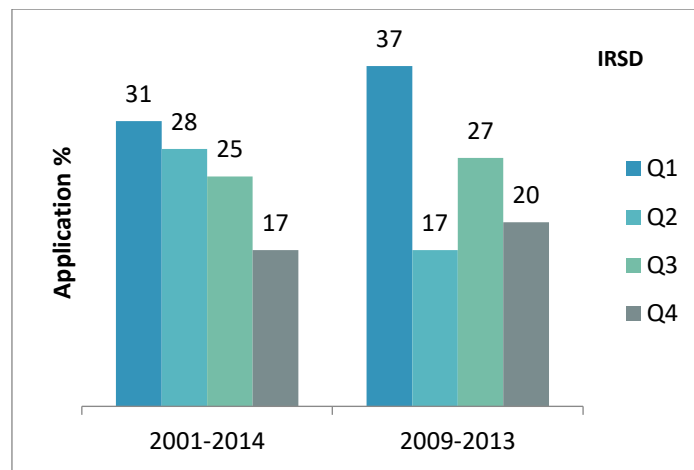


Figure 13: Comparable Community Opposition by IRSD Quartiles

We observe in figure 13 the two datasets have similar patterns. Most community opposition occurs in the least IRSD disadvantaged quartile 1 municipalities; and for both datasets, as can be inferred by figure 13, most community opposition occurs in the least disadvantaged 50percentile municipalities (quartiles 1 and 2). However, by quartile they differ; the 2009-2013 show least community opposition (17%) occurred in quartile 2 versus quartile 4 in the 2001-2014 dataset.

- *Findings from the control group and the 2001-2014 database reflect similar patterns regarding IRSD quartile 1 and 50percentile findings.*

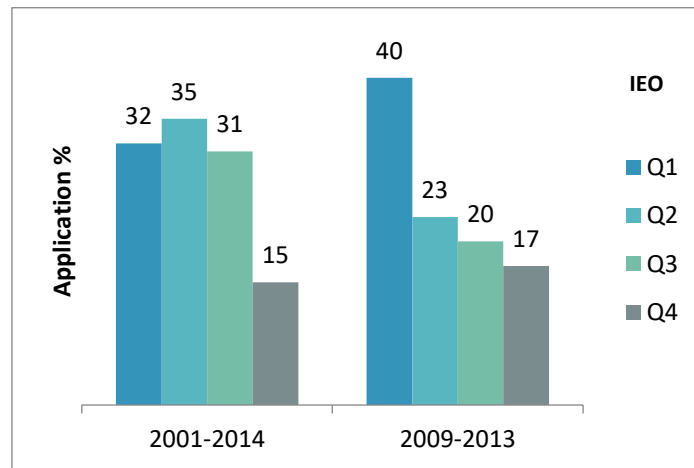


Figure 14: Comparable Community Opposition by IEO Quartiles

WE observe in figure 14 that the two data sets have overall similar patterns. The least community opposition occurs in the most IEO disadvantaged quartiles (Q4). Further, the two data sets show that most of the community opposition occurs in the 50percentile least disadvantaged municipalities. However, by quartile they differ. The 2009-2013 show a more evenly graded distribution of community opposition between quartiles but quartile 1 is an outlier, with significantly higher levels of community opposition than other quartiles. The 2001-2014 does not show an evenly graded distribution and quartile 4 is an outlier with significantly less community opposition occurring compared to other quartiles.

- *Findings from the control group and the 2001-2014 database reflect similar patterns between quartiles 1 and 4, and 50percentile. However, display dissimilar outliers. The 2009-2013 also display a greater difference between least and most disadvantaged quartiles.*

2 Conclusion

This comparison report has shown that the control dataset overall reflects similar patterns across the measured domains as that of the 2001-2014 dataset. Particularly, findings relating to differences between quartiles 1 and 4 persist across the domains of the inquiry. This may be explained by the general societal trends of the poor usually remain poor and the rich remain rich. Fluctuations were mainly observed in the middle

quartiles. This could partly be explained by the middle quartiles may be more likely to fluctuate over the 13-year timespan but could also be expressions of policy changes on local level and/or changes to regulatory decision making. However, findings aggregated as 50% low (quartiles 3 and 4) and 50% high (quartiles 1 and 2) display very similar patterns across all the domains in this report.

To this end, this report shows that using the 2011 census data across the 13-year time span produces findings consistent with that of the control group. Therefore, it can reasonably be assumed that the study results based on the 2001-2014 dataset is a reasonably and accurate reflection of EGM planning and policy outcomes.