

Draft submission to Liquor & Gaming NSW in response to the evaluation of the 2018 gaming machine reforms

September 2021

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission on the evaluation of reforms within the *Gaming Machines Amendment (Leasing & Assessment) Act 2018* ('the 2018 gaming machine reforms'). LGNSW has consulted with councils to help inform the content of this submission.

This is a draft submission awaiting review by LGNSW's Board. Any amendments will be forwarded in due course.

Introduction to the evaluation of the 2018 gaming machine reforms

The NSW Government is seeking feedback to assist in evaluating the gaming machine reforms it introduced in 2018 as part of the *Gaming Machines Amendment (Leasing & Assessment Act) 2018*. The NSW Government is evaluating whether the reforms achieved their stated objectives including:

- Greater transparency of decision-making
- Greater community awareness of decisions, and more community input
- Localised and strategic approach to assessing the potential impact
- No movement of Gaming Machine Entitlements (GMEs) into areas of high risk
- Targeted approach to the allocation of funds generated through a Local Impact Assessment (LIA) process and the GME leasing scheme
- More guidance and direction for applicants and submitters
- More small venues choosing to go 'pokie-free'
- Work with more clubs in new development areas.

Executive Director of Policy and Strategy for the Better Regulation Division John Tansey believes there was significant success but wants more data and feedback. "These areas (local communities) were capped three years ago to ensure no additional machines could be moved into these areas," he said, "and we want to see how effective they have been in reducing gambling harms."¹

In February 2021, the Hon. Victor Dominello MP, Minister for Customer Service, responded to an LGNSW motion seeking increased local government involvement in determination of gaming machine applications with priority consideration given to social impact.

The Minister's response recognised the impact gambling can have on communities and notes NSW Government past actions to:

¹ Department of Customer Service, Media release, 18 August 2021.

- Review the local impact assessment scheme
- Issue guidelines for late night gaming applications
- Make gaming machine data more accessible.

Minister Dominello's response also welcomed local government contributions to gaming machine decisions "through consistent, detailed and evidence-based submissions", noting the valuable insight and data provided by councils about their communities are critical for good decision making.

The Minister noted that he is committed to making gaming machine data more accessible for both councils and citizens and for this reason Liquor & Gaming NSW now publish relevant gaming machine data by Local Government Area (LGA) as well as interactive maps that list information by venue.

Background to the local government role in gaming reform

The role of councils in New South Wales

Councils are planning regulators, community leaders and also are often the point of contact for community concerns and complaints. Councils have a significant role in long term social planning, demographic analysis, stakeholder relationship management and community program development within their LGA and are acutely aware of the significant impacts that gambling-related harm can have on local communities.

Community safety and social justice are priorities for local governments. Councils need to be confident that the significant local impacts of Gaming Machine Entitlements (GMEs) on community quality of life and amenity are fully recognised and addressed, ensuring applications to increase or transfer the amount of electronic gaming machines within a local area are robustly assessed using locally relevant metrics.

Councils too are heavily invested in ensuring that contributions received from gaming profits are distributed back into communities to address community challenges with problem gambling.

LGNSW also appreciates the natural tension between appropriate oversight and minimising regulatory burden and welcomes Liquor & Gaming NSW's engagement with stakeholders to ensure an appropriate balance in this regard.

LGNSW position on gaming machine reforms

LGNSW position

One of the twelve fundamental principles² of LGNSW, the overarching values that guide our advocacy on behalf of the local government sector, sets our position on economic development:

Local government promotes local and regional economic development and employment growth.

At the same time as promoting economic growth, councils aim to ensure that the community is prioritised at all times. One of our planning fundamental principle states:

Our communities' quality of life is a priority of local government planning.

Therefore, councils are keen to support economic development that prioritises the wellbeing and quality of life of members of their local community.

Recommendation 1: That the NSW Government's evaluation of gaming machine reform considers how the quality of life of local communities has been appropriately balanced with economic development and employment growth resultant from gaming machines.

LGNSW Annual Conference Resolutions

Relevantly, councillors from across NSW have raised concerns about gaming harm through resolutions of the LGNSW Annual Conference.

Relevantly to this review, at the 2020 LGNSW Conference, councils resolved:

91 Liverpool City Council - Gaming and liquor licence applications

That Local Government NSW:

- Advocates to the NSW Government for increased local government decision making in gaming machine provisions, including the changed Local Impact Assessment Band that allows moving of or increase of poker machines within the respective local government areas;
- Advocates to the NSW Government for local government's Social Impact Assessments to be prioritised in considerations relating to gaming machine provisions and determination of the band assessment's allocations; and
- Considers a policy position, where public interest is in the forefront of all such decisions, including investigating measures of non-association with alcohol and gaming industries.

² Local Government NSW, *Policy Platform*, April 2021.

Additionally, at the 2019 LGNSW Annual Conference, councils resolved:

87 Ballina Shire Council - Minimising harm resulting from electronic gaming machines

That Local Government NSW lobbies the NSW Government to have Liquor and Gaming NSW:

- i) Undertake increased inspections, monitoring and compliance activity in relation to electronic gaming machines
- ii) Report the outcomes of this increased activity online via the Liquor and Gaming NSW website on an annual basis to inform local government of the action taken

Informed by these resolutions, LGNSW's Policy Platform includes the following position:

Position 14.8: LGNSW advocates for increased local government involvement in determination of gaming machine applications with priority consideration given to social impact.

Given the significant impacts additional or transferred electronic gaming machines (EGMs) can have on a local community, councils want to see a greater capacity for local government to participate in the determination of gaming machine applications, particularly in informing characterisation of local risk by Statistical Areas Level 2 (SA2) areas within their LGA.

Recommendation 2: In recognition of the policy positions of the NSW local government sector, the NSW Government should increase local government involvement in determination of gaming machine applications with priority consideration given to social impact.

Gaming machine revenue during the COVID-19 pandemic

Even despite the extraordinary and unprecedented effects of the COVID-19 pandemic on population mobility, the operation of venues with EGMs available, and household incomes throughout 2020, profits from gaming machines still increased within areas with a high number of SA2 areas categorised as Band 3 (high risk).

Based on Liquor & Gaming NSW data³, a number LGAs experienced a significant increase in venue profits from EGMs. Concerningly, clubs in Western Sydney, with a higher than average proliferation of Band 2 ('medium risk') and Band 3 ('high risk') SA2 areas, accounted for a third of NSW net poker machine profits in the most recent reporting periods.⁴

³ Calculated from Liquor and Gaming NSW Clubs & Hotels Gaming Machine Bi-Annual Report by Local Government Area (LGA) - reporting periods 1 June to 30 November 2019 and 1 June to 30 November 2020.

⁴ Tony Ibrahim, '[NSW poker machine profits surged amid COVID-19 pandemic, NSW Government data reveals](#)', ABC Western Sydney, 5 February 2021.

Local Government Area	Reporting period June to November 2019	Reporting period June to November 2020	Increase (\$ and %)
Blacktown City Council	\$82.59 m	\$95.70 m	\$13.11 m (15.8%)
City of Canterbury Bankstown	\$177.36 m	\$186.75 m	\$9.39 m (5.2%)
Central Coast Council	\$108.81 m	\$123.39 m	\$14.58m (13.7%)
Fairfield City Council	\$187.04 m	\$197.14 m	\$10.1m (5.3%)

Table 1 – Comparison in profits (1 June to 30 November 2019 and 1 June to 30 November 2020).

Whilst there has been an overall modest drop in the number of EGMs across NSW in the two most recent reporting periods⁵, profits continue to rise⁶. The lower number of EGMs in New South Wales has not resulted in a decline in profitability of machines overall, which continues to disproportionately impact at-risk communities.

Councils work at the forefront of community development and have a critical role in working with community organisations and with local communities in minimising the impacts of gambling-related harm. It is imperative that local government has the capacity to provide as much insight and expert advice to ILGA and other relevant parties as possible to contribute to robust assessments of gaming machine applications.

Response to questions for stakeholder comment

LGNSW has canvassed the views of councils to inform responses to the questions provided in the Discussion Paper⁷. At the outset, due to the brevity of details and data contained within the Discussion Paper released by Liquor & Gaming NSW to guide responses to this evaluation, the practical and policy impacts of the 2018 reforms has been difficult to quantify.

All councils that have provided LGNSW with information for this submission have been unable to access relevant local data from Liquor & Gaming NSW with which to inform their analysis of

⁵ Calculated by comparison of Department of Customer Service “State Rankings by Gaming Machines Net Profit” (Clubs Report and Hotels Report), 1 June 2020 to 30 November 2020 and 1 January 2020 to 30 May 2020.

⁶ Extrapolated from report listed above.

⁷ Liquor & Gaming NSW, *Evaluation of the 2018 Gaming Machine Reforms - Discussion Paper* (‘the Discussion Paper’), August 2021.

the impacts of the reforms. This has limited both their own assessment of the reforms in their own LGAs, as well as LGNSW's sector-wide assessment.

Availability of gaming data to inform review of reforms

The impacts of EGM use extend well beyond the venue. Councils have a critical role in the Local Impact Assessment (LIA) process, in providing expert opinion and advice on the likely impacts of applications for changes to a venue's Gaming Machine Threshold (GMT) on local communities. The LIA process is the primary mechanism by which councils are meaningfully involved in providing expert opinion and advice to the Independent Liquor & Gaming Authority.

In their critical role of making representations on behalf of local communities on proposals for increases to GMEs in local communities, it is imperative that councils have readily available data that would enable them to conduct a more robust and localised assessment of the impact of increased and transferred GMEs.

The data available, both as part of the Discussion Paper package and more broadly via the NSW Department of Customer Service websites (Liquor & Gaming NSW & Office of Responsible Gaming) has been largely insufficient for many councils to be able to make a detailed assessment of the effects of these legislative reforms in their local area. No datasets provided in the Discussion Paper report at an SA2 or LGA level, and only very limited datasets on gaming are reported in this way.

Both in response to this review and in response to the resolution passed at the 2020 LGNSW Conference, councils need to have access to clear and transparent data from the Department of Customer Service to best inform decisions they make that will impact on local communities.

To enhance the transparency of data for local government to be able to understand the impact of these reforms and understand relevant local gaming use trends going forward, LGNSW recommends a number of datasets relating to gaming applications and use should be made available publicly via the Department of Customer Service. These datasets would enable councils to better participate in the assessment of applications, identify potential risks to the local community and understand how expenditure is distributed from the Responsible Gambling Fund.

Recommendation 3: That the Department of Customer Service review and enhance the transparency and availability of gaming data to include in a consolidated and publicly available report provided annually to all councils, the:

- a) Total number of GMEs and EGMs by SA2 and LGA level
- b) Transfers of GMEs and EGMs by SA2 level, including those exempt from the LIA process
- c) Total number of community submissions received by LGA
- d) GME and EGMs trend data by SA2 and LGA level
- e) Total LIA revenue by LGA
- f) RGF expenditure by LGA

g) Reporting on the 5% RGF levy on GME leasing, separately from general RGF revenue.

Further discussion regarding these recommended datasets is provided in the response to the Discussion Questions within this submission.

Focus Area 1: Local Impact Assessment (LIA) changes

Discussion Question: *Have LIA banding changes helped the Independent Liquor and Gaming Authority (ILGA) identify high-risk areas?*

Prior to the 2018 reforms, a community's risk was classified from Band 1 ('low risk') to Band 3 ('high risk'), at the LGA level.

LGNSW's 2017 [submission](#) to the public consultation on the Local Impact Assessment review (which, in part, informed the 2018 reforms) expressed concern regarding the risk banding system, owing to the significant disparities between LGAs across NSW based on significant difference in geographic size, population levels and experiences of socio-economic disadvantage.

The 2018 reforms introduced changes to the risk banding system which are calculated by SA2, with the intent to both simplify and standardise (as much as possible) comparisons of risk from gambling-related harm between different areas. These changes increased the weighting of an area's Index of Relative Socio-economic Disadvantage (SEIFA) to 70% of the overall weighting (with the remaining 30% split evenly between density and per capita gaming machine expenditure⁸).

This risk-banding system attributes a risk band to a particular SA2 based on the results of the data calculated using the formula described above, when compared against every other SA2 and Local Government Area in the state. This has been raised as a key issue by councils, as the risk assessment does not consider other issues experienced at the local level that may not be captured by the data inputs, such as demographic make-up and levels of community engagement and participation.

SA2 areas are then segmented into Bands 1, 2 and 3 on the basis of their overall result, with the bottom half categorised as Band 1, the next 30% as Band 2 and top 20% as Band 3.

While this is an improvement on the previous legislation and regulations, this reform has largely not addressed the prevailing issue of better understanding and targeting the impact of any increase or shift in the number of EGMs present in a local community. The potential

⁸ Discussion Paper, p. 5.

impacts of any changes on the availability of EGMs in a community, big or small, can present differently based on the unique issues and circumstances of that community.

Councils express ongoing concern regarding the use of SA2 areas as the basis for determining the LIA band, as SA2 areas are arbitrary boundaries based on geographic location and do not necessarily reflect the relationships between individuals, various populations and local venues.

A key issue for councils is the number of SA2 areas that are classified as 'low risk'. Council feedback indicates that too great a portion of NSW (50%) is currently exempt, from the outset, in needing to engage with the LIA process⁹.

LGNSW considers that the grouping of LGAs into the 3 bands is too simplistic and does not allow for a robust assessment of the risk of harm to the community. As resolved at the 2020 LGNSW Conference, councils want to see a detailed review of this system and changes made to the process that would allow for more robust assessment of individual applications for increases to a GME threshold.

Recommendation 4: That the review consider how the '3-band system' could be strengthened to better identify and minimise risks of gambling harm, and better involve local government in determining the appropriate risk band.

Additionally, with only 15% of the total calculation of an area's risk attributed to the overall density of EGMs available within an SA2 area¹⁰, the effects of cumulative impact are not considered until density of EGMs reaches a high enough level to outweigh the area's SEIFA index classification in order to change the risk classification for that area. This is particularly concerning for councils, who want the opportunity to consider and comment on applications, before this situation eventuates.

Recommendation 5: That the review closely considers how the cumulative impact of increases to EGM density is determined and managed, with particular consideration of how local government can be informed and comment on applications that are likely to have cumulative impacts on the local community but are currently exempt from the LIA process.

Discussion Question: *Have the LIA banding changes helped prevent the approval of more gaming machines in high risk areas?*

As it is not possible to seek an increase of gaming machines in high risk areas (Band 3)¹¹, these banding changes are welcomed by local government.

Discussion Question: *Has the community participated more in the LIA process?*

It is difficult for LGNSW to ascertain whether the community has participated more in the LIA

⁹ Liquor & Gaming NSW, 'Fact Sheet FS3138 - Local Impact Assessment scheme overview', p. 1.

¹⁰ Discussion Paper, p. 5.

¹¹ Liquor & Gaming NSW, 'Preparing an LIA – When an LIA is not required', September 2021.

process without data on community submissions being reported by the Department of Customer Service and ILGA. It is only possible to access individual applications received by ILGA, and it is left to the user to undertake a manual search of all applications within their LGA to understand broader trends and community sentiment.

As one of a number of stakeholders to be notified when an application for an increase in the GMT threshold is received and the criteria are met for an LIA to be undertaken, councils are not notified whether community members have made a submission on applications within their LGA.

Applicants seeking to increase their GME threshold must notify the community by displaying a copy of the proposal at the venue in question and advertising in the local newspaper. Councils have a particularly important role in ensuring that community stakeholders are informed, particularly as councils provide a list of relevant stakeholders to applicants following the lodgement of an application with Liquor & Gaming NSW. Additionally, as representatives of the local community, it is important that councillors are routinely informed of these applications.

Further, Liquor & Gaming NSW's online Liquor & Gaming Application Noticeboard does not include an automatic alert function to notify interested members of the community of applications for gaming machine entitlements, transfers and threshold increases in their LGAs. As a result, members of the community must regularly visit the website to search for any applications.

It is LGNSW's view that enhancements to community notification could be made to encourage greater public awareness and participation in the application process, such as requiring all properties within a set radius of the venue to be notified of the application, similar to development applications. Further, Liquor & Gaming NSW should update its application noticeboard to allow interested members of the community to set up application email alerts for their LGA.

Recommendation 6: That the notification requirements for applications be reviewed and enhanced to:

- a) require further steps to be taken by the applicant to notify the local community of their proposal to increase their number of GMEs
- b) require written notification of applications to both all councillors and the general manager of the council, and
- c) improve the Liquor & Gaming Application Noticeboard's functionality by including an automatic email alert for gaming applications for interested members of the community.

Numerous councils who provided comment to LGNSW to assist in the preparation of this submission reported not being notified of any proposals for gaming machines. This is in large part due to the number of exemptions that apply to the LIA process, which presents the only regulatory trigger for an applicant to notify the council and broader community of a particular proposal.

Notably, the Discussion Paper does not report any increase in community submissions being received by ILGA, and this data is not reported in an accessible format (without needing to investigate each application individually on the Office of Responsible Gambling's Gaming Aware website).

Discussion Question: *Have the reforms had an impact on forfeiture of GMEs?*

Based on the last two reporting periods, there has been a modest decline in the number of gaming machines across NSW¹² from 90,512 at the report to 30 May 2020, to 89,008 at the time of the report to 30 November 2020 (representing a decline of 1,504 machines, or 1.6% of all electronic gaming machines).

Notably, there is no specific reporting of data to ascertain which areas are seeing a decline in GMEs, without manually undertaking a comparison of venues by SA2 or LGA based on the publicly available information. Additionally, the Discussion Paper does not make any mention of any GMEs having been explicitly forfeited as a result of the reforms and it is unclear that the decline is the results of GME forfeiture.

Discussion Question: *Have the reforms supported the movement of GMEs into lower risk areas?*

It is difficult for LGNSW to comment on whether the reforms have supported the movement of GMEs into lower risk areas. The data regarding the transfer of GMEs contained within the Discussion Paper and publicly available via the Office of Responsible Gambling's 'Gamble Aware' website scheme-wide and does not provide any transparency about the particular areas in which GMEs are being transferred, and whether the source venue is in a "high risk area" and the recipient is in a "low risk area".

These reforms may have had some difference in supporting the movement of machines into low-risk areas, as the GME transfer system has had some take up¹³. Councils are supportive, in principle, of mechanisms which more freely enable the movement of EGMs out of high-risk communities.

However, data that would assist the community in evaluating whether the reforms have supported the movement of machines into lower-risk areas is not readily available, without manually reviewing individual applications made to transfer GMEs in order to understand where they are been transferred to. The only dataset reported is the high-level figure accounting for the transfer of GMEs provided on Page 7 of the discussion paper, which provides only a baseline figure based on a metropolitan and rural council split.

¹² Calculated by comparison of Department of Customer Service "State Rankings by Gaming Machines Net Profit" (Clubs Report and Hotels Report), 1 June 2020 to 30 November 2020 and 1 January 2020 to 30 May 2020.

¹³ Discussion Paper, p. 7.

While in principle there is broad support from councils for incentives that promote the movement of GMEs from higher risk to lower risk areas, councils with a higher-than-average concentration of Band 2 ('medium risk') and Band 3 ('high risk') SA2 areas have particular concerns regarding the practical application of the transfer scheme in certain circumstances.

Under the current GME transfer scheme, an operator is exempt from the LIA process where a venue in either a Band 2 or 3 SA2 area seeks to acquire additional GMEs from a venue within the same SA2, same Local Government Area, or a directly bordering SA2 of the same risk profile (even if in a different LGA)¹⁴.

In practical application, these exemptions result in councils not being notified of these types of applications where GMEs are being moved around venues in these higher risk communities. The impact of any transfer of GMEs in any areas, but especially those deemed medium and high risk, can have substantial impacts on the local community.

Councils strongly believe that this component of the transfer scheme should be urgently reviewed in order to ensure that the impacts of the transfer of GMEs within medium and high-risk communities are appropriately assessed.

Recommendation 7: That the LIA exemptions for the transfer of GMEs between Band 2 and Band 3 SA2 areas be reviewed as a priority. As part of this review, the capacity for councils to be notified and comment on these types of applications must be considered.

Focus Area 2: Gaming Machine Entitlements (GME) leasing scheme

Discussion Question: *Have the reforms made it more or less likely that venues will lease or transfer GMEs?*

This question is difficult to answer with the limited data provided within the Discussion Paper. There appears to be no reporting of any data or comparison to ascertain whether there has been any upswing in the number of GMEs leased and transferred between venues following the adoption of these reforms in 2018.

Based on the limited data available, there are 2,326 venues¹⁵ with EGMs in New South Wales. The Discussion Paper reports that since the 2018 reforms, there have been 262 participants in the transfer scheme (131 lessors and 131 lessees), indicating a participation rate in the transfer scheme of 11% of all venues.

¹⁴ Independent Liquor & Gaming Authority, '[GL4014 – Class 1 Local Impact Assessment Guidelines Process Guidelines](#)', as published September 2021, p. 2.

¹⁵ Calculated from Department of Customer Service *Gaming Machines Bi-annual Report by Local Government Area for period 1 June 2020 to 30 November 2020 (2021)*.

The data provided reported that 576 GMEs have been transferred under the scheme overall, accounting for an average of 2.1 GMEs per transfer. The data suggests therefore a very small uptake in the scheme, and low levels of movement of these GMEs where they do occur.

Focus Area 3: Impacts of the reforms on the community

Financial and geographical distribution

Discussion Questions:

1. *What have been the impacts, if any, of directing financial contributions from the LIA process to the Responsible Gambling Fund (RGF)?*
2. *Has this change increased transparency in the allocation of financial contributions under the LIA scheme?*

The Responsible Gambling Fund (RGF) was established under the *Casino Control Act 1992* as a mechanism for advising the NSW Government on the allocation of funds for programs and initiatives that promote responsible gambling and help reduce the harms associated with problem gambling.

Prior to the 2018 reforms, funding generated by the LIA process was distributed directly to local community organisations by the applicant as part of their demonstration to ILGA of the proposal's positive contribution to the local community.

The intended effect of directing financial contributions collected from the LIA process into the RGF is to *“ensure that funds generated through the LIA process are specifically targeted at gambling harm minimisation, health and social related services for the local community, as well as to ensure that contributions are transparent, and to ensure community organisations interested in making a submission during an LIA process are free to either support or oppose a GMT application without fear of losing an opportunity to gain funding.”*¹⁶

While the reforms have had a positive impact for community organisations interested in making a submission during the LIA process without fear of losing an opportunity to gain funding, the centralisation of LIA funding into the RGF has resulted in less ability for councils and other community members to ascertain whether the amount of the contribution generated within a particular community is wholly returned back in gambling harm minimisation measures.

While the total amount of funding received from approved LIA applications is publicly reported on the LIA register by individual application¹⁷, programs funded by the RGF are only reported as part of the Annual Report for the relevant agency (as of October 2021, the Department of

¹⁶ Independent Liquor & Gaming Authority, 'GL4014 – Class 1 Local Impact Assessment Guidelines Process Guidelines', as published September 2021, p. 8.

¹⁷ Liquor & Gaming NSW, 'LIA Public Register', September 2021.

Customer Service)¹⁸. The detail provided at page 120 of the Annual Report outlining the projects funded by the Community Benefit Payment Scheme (i.e. funds collected from the LIA process) shows \$1,050,401 of projects funded for FY 2019-2020, distributed to projects and programs within only 9 LGAs.

However, without reviewing each approved application individually, it is not possible to understand the LGAs from which the funds originate and whether this funding is then returning back to that community in direct grants. The RGF Trust Deed¹⁹, which constitutes the operation of the RGF Trust, does not stipulate that funds received from the RGF are to be spent in the communities in which these applications are approved.

Without transparency for LIA process revenue, it is unclear whether there is equity in the distribution of this revenue in terms of RGF programs benefiting the communities from which the revenue was generated.

Recommendation 8: That the Office of Responsible Gambling should review the terms of the RGF Trust to ensure that there is equity in the distribution of RGF revenue received from the LIA process to ensure that fund revenue generated from applications within an LGA is returned in gambling harm minimisation reduction programs in that LGA.

Discussion Question: *What impact, if any, has the introduction of the 5% RGF levy under the GME leasing scheme had on service provision for the community?*

Considering only the publicly available data, it is difficult for LGNSW to comment on the impact that the introduction of the 5% RGF levy under the GME leasing scheme has had on service provision for the community, as there appears to be no explicit reporting on the 5% RGF levy.

However, in communications between LGNSW and the Better Regulation Division of the Department of Customer Service, we have come to understand that the funds from the 5% RGF levy have contributed to the “*general revenue for the RGF and has not contributed to any additional programs being delivered by the RGF*”.

For greater transparency, it is LGNSW’s view that the revenue received from the 5% RGF levy should be reported separately from the general revenue of the RGF.

Discussion Question: *Have the restrictions on trading GMEs into new development areas impacted the number of clubs in new development areas?*

¹⁸Note the most recent report on expenditure from the Responsible Gambling Fund is contained within the *Department of Customer Service Annual Report 2019-2020*, p. 117-121. The Office of Responsible Gambling RGF webpage is only up to date as to the Annual Report of FY 2018-19.

¹⁹ Department of Customer Service, ‘Responsible Gambling Fund – Trust Deed’, January 2019.

No aggregate data is available via the Liquor & Gaming NSW or Office of Responsible Gaming websites to easily understand whether the restrictions on trading GMEs into development areas has impacted the number of clubs in new development areas.

Cumulative impact of multiple application in low and medium risk SA2 areas

Discussion Question: *Have there been any other impacts or unintended consequences of the gaming machine reforms?*

LGNSW has been made aware by several councils of examples of operators with venues located within Band 1 ('low risk') SA2 area applying multiple times to increase their GME threshold in quick succession, with each application remaining under the LIA threshold of 20 additional GMEs per application. This results in no public notification requirements for the operator to the council, local police and broader community, and a lower onus on the operator to justify the increased GME threshold to ILGA.

An example provided to LGNSW from Liverpool City Council is provided below:

Case Study – Liverpool City Council

A club in Liverpool LGA applied twice last year, 3 weeks apart, to increase the number of poker machines on its premises by 10 EGMs per application. As the venue is in a Band 1 SA2, and the applications were for less than 20 EGMs, no LIA was needed.

This means that the community and council would not have been notified at all that these increases were in hand, raising the number of machines at the club from 26 to 46 almost overnight.

In this example, 20 additional GMEs were requested which would ordinarily require a Class 1 LIA demonstrating a “*positive community contribution*” of the application. An increase of 20 GMEs for this smaller venue represents a 76% increase in the number of GMEs held by this operator, with no avenue for council and broader community participation in the assessment process.

In order to maintain confidence in the LIA process, it is critical that the where multiple applications have been received within a short period of time by a single applicant that then exceed the 20 or lower GME threshold, an LIA is deemed to be required.

Recommendation 9: That Liquor & Gaming NSW review the current legislation to identify loopholes that would enable operators to circumvent the need for a LIA to be undertaken, with particular consideration of the cumulative impact of multiple applications by a single operator, or within the same or neighbouring SA2 area, within a short period of time

Recommendations

In summary, LGNSW makes the following recommendations:

Recommendation 1: That the NSW Government's evaluation of gaming machine reform considers how the quality of life of local communities has been appropriately balanced with economic development and employment growth resultant from gaming machines.

Recommendation 2: In recognition of the policy positions of the NSW local government sector, the NSW Government should increase local government involvement in determination of gaming machine applications with priority consideration given to social impact.

Recommendation 3: That the Department of Customer Service review and enhance the transparency and availability of gaming data to include, in a consolidated and publicly available report provided annually to all councils, the:

- a) Total number of GMEs and EGMs by SA2 and LGA level
- b) Transfers of GMEs and EGMs by SA2 level, including those exempt from the LIA process
- c) Total number of community submissions received by LGA
- d) GME and EGMs trend data by SA2 and LGA level
- e) Total LIA revenue by LGA
- f) RGF expenditure by LGA, and
- g) Revenue generated by the 5% RGF levy on GME leasing, separately from general RGF revenue.

Recommendation 4: That the review consider how the '3-band system' could be strengthened to better identify and minimise risks of gambling harm, and better involve local government in determining the appropriate risk band.

Recommendation 5: That the review closely considers how the cumulative impact of increases to EGM density is determined and managed, with particular consideration of how local government can be informed and comment on applications that are likely to have cumulative impacts on the local community but are currently exempt from the LIA process.

Recommendation 6: That the notification requirements for applications be reviewed and enhanced to:

- a) require further steps to be taken by the applicant to notify the local community of their proposal to increase their number of GMEs
- b) require written notification of applications to all councillors and the general manager of the council, and
- c) improve the Liquor & Gaming Application Noticeboard's functionality by including an automatic email alert for gaming applications for interested members of the community.

Recommendation 7: That the LIA exemptions for the transfer of GMEs between Band 2 and Band 3 SA2 areas be reviewed as a priority. As part of this review, the capacity for councils to be notified and comment on these types of applications must be considered.

Recommendation 8: That the Office of Responsible Gambling should review the terms of the RGF Trust to ensure that there is equity in the distribution of RGF revenue received from the LIA process to ensure that fund revenue generated from applications within an LGA is returned in gambling harm minimisation reduction programs in that LGA.

Recommendation 9: That Liquor & Gaming NSW review the current legislation to identify loopholes that would enable operators to circumvent the need for a LIA to be undertaken, with particular consideration of the cumulative impact of multiple applications by a single operator, or within the same or neighbouring SA2 area, within a short period of time.

* * *

LGNSW would welcome the opportunity to assist with further information during this review to ensure the views of local government are considered.

To discuss this submission further, please contact LGNSW Policy Officer Beau Reid at beau.reid@lgnsw.org.au or on 02 9242 4082.