

Gaming Machines Regulation 2019
Liquor & Gaming NSW
GPO Box 7060
SYDNEY NSW 2001

By email: gm.regulation@liquorandgaming.nsw.gov.au

Dear Policy,

Please find the attached submission in relation to the proposed Gaming Machines Regulation 2019 on behalf of my client, Momento Hospitality Group. The submission seeks consideration of a minor amendment to the proposed Regulation to allow the Independent Liquor and Gaming Authority to approve, on a case-by-case basis, a different 6-hour gaming machine shutdown period for hotels and clubs.

It is understood the general regulation making powers under section 210 of the *Gaming Machines Act 2001* could be utilised to implement the proposed approach. The rational and supporting information for the change, which is considered to present little risk to the achievement of the objects of the Act, are outlined further below and in particular, as they would apply in respect to the Bella Vista Hotel.

Please contact me directly should any further information be required.

Your sincerely



Hon. Troy W Grant
Managing Director
Perspective Advisory Services

17 July 2019

Proposed new variation to the 6-hour shutdown period

Located within the Hills local government area (LGA), the Bella Vista Hotel has been in operation since 2010. An award-winning venue, the Bella Vista Hotel caters to the local community with an offering of multiple bars, various dining options, a beer garden, event spaces and a gaming lounge, and complements Momento Hospitality Group's focus on hospitality in the Hills region.

In 2016, the Bella Vista Hotel was granted approval to vary its trading hours to 9:00am until 3:00am Mondays to Saturdays and from 9:00am until 12:00 midnight Sundays. In granting this approval, the Authority deemed that the change of trading hours satisfied the objects of the *Liquor Act 2007*, including the regulation and control of liquor sales in a way that is consistent with the expectations, needs and aspirations of the community.

However, while Momento welcomed the approval, it resulted in a misalignment between the liquor and gaming operating hours of the Hotel, including the rigid mandatory six-hour gaming machine shutdown from 4am to 10am, as dictated by the *Gaming Machines Act 2001*. This asymmetry has impacted the hotel's operations, with the staggered operating hours disrupting the Hotel's preference to commence trading at 9am.

Gaming Machine Regulations

According to section 39 of the *Gaming Machines Act 2001*, gaming machine operations are to be shut down between the hours of 4:00am and 10:00am, ensuring a consistent six-hour break on all hotel gaming machines across the state. This provision was introduced to further strengthen harm minimisation measures and came into effect on 1 May 2003.

Under the Act, there exists the limited discretion of varying this shutdown by demonstrating that a hotel was historically open for business before 10am before January 1997 (Section 41 (1)). There also exists the ability for a hotel to apply for a limited shutdown period on hardship grounds (Section 40A), though these cases are exceedingly rare.

However, these exemptions count for little to the number of new licences that have been granted in order to cater to the growth of outer suburban Sydney, such as the Bella Vista Hotel.

Momento understands that this rigidity is to prevent hotels potentially staggering their shutdown periods, thereby eroding the strength that the six-hour gaming break is built on. By no means does Momento propose any relaxation on the six-hour shutdown. Research has shown that a six-hour shutdown, in conjunction with other harm minimisation measures in the Gaming Machines Act, is an effective strategy in reducing the adverse effects of gambling.¹

Yet due to the rigidity of the shutdown period, the Bella Vista currently has to observe an eight-hour shutdown, with the conduct of gaming halting when liquor trading ceases at 2am and not restarting until 10am when the gaming shutdown ends.

It is particularly anomalous that the Gaming Machines Act absolutely precludes all hotels from operating gaming machines between 9:00 am and 10:00 am, but does not preclude gaming machines operating between 3:00 am and 4:00 am. The object of the gaming machines legislation is, ostensibly, to minimise harm. Evidence has shown that only one per cent of problem gamblers play gaming machines between the hours of 7am and 10am, as opposed to nine per cent of problem gamblers playing between midnight and 4am.²

¹ "Blue Moon" Evaluation of the 6-Hour Shutdown of Electronic Gaming Machines in NSW (April 2008) prepared for NSW Office of Liquor, Gaming and Racing, p. 41.

² "Blue Moon" Evaluation of the 6-Hour Shutdown of Electronic Gaming Machines in NSW (April 2008) prepared for NSW Office of Liquor, Gaming and Racing.

Momento also understand the need to manage and mitigate risks around varying the shutdown times. Considering the potential of gamblers “rolling on”, only one venue within a 10km radius of the Bella Vista hotel closes later, with the Quakers Inn shutting at 4am.

Noting that ILGA have the powers to vary the shutdown times of “early openers”, there is potential for those powers to be extended to accommodate other hotels on a case-by-case basis.

The Proposal

As L&GNSW is in the process of remaking the Gaming Machines Regulation, consideration should be given to providing the Authority with the discretion to align the six-hour gaming machine shutdown period with a venue’s six-hour liquor shutdown period. This would effectively address the anomaly that presently exists between liquor and gaming machine trading hours.

It is also proposed that it be limited to venues located within a “Band 1” SA2, on payment of a prescribed fee. A benefit of limiting the reform to venues in a Band 1 SA2 is that most growth areas in outer metropolitan Sydney are classified as Band 1. These are the very areas where the Authority has granted, and is most likely to grant, liquor licences to cater for the needs of local communities.

Under the LIA process, Band 1 SA2 areas reflect the fact that the local population has very favourable socio-demographic characteristics, a relatively low density of gaming machines and a relatively low average spend on gaming machines per head of population. It is arguable, that these are areas with the lowest potential for problem gambling.

The discretionary nature of this reform will empower ILGA to assess any application on its merits, both from a commercial and regulatory perspective.

In the case of the Bella Vista, this would mean the shutdown could begin at 3:00am and conclude at 9:00am the following morning, occurring within the seven-hour timespan that the hotel must shut under the terms of the Liquor Act and the Hotel’s licence.

The suggested reform is a limited measure that would raise state revenue through application fees, address the current rigidities of the legislation in a flexible manner, and streamline venue operations, all while maintaining the integrity of the prescribed harm minimisation protocol.