

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

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

NCOSS is pleased to provide feedback on the proposed *Gaming Machines Regulation 2019* ("proposed Regulation") which will replace the *Gaming Machines Regulation 2010* ("current Regulation") due for repeal on 1 September 2019.

NCOSS has serious concerns with the capacity of the existing regulatory regime to meet the objects of the *Gaming Machine Act 2001* (NSW), which are:

- a. to minimize harm associated with the misuse and abuse of gambling activities,
- b. to foster responsible conduct in relation to gambling,
- c. to facilitate the balanced development, in the public interest, of the gaming industry,
- d. to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.¹

Clauses 37 and 41 of the current Regulation require NCOSS to review and provide submissions in response to threshold increase applications. This role provides NCOSS with a unique perspective on how the current Regulation responding to the objectives of the *Gaming Machine Act 2001* (NSW) are operating in practice.

Reviewing threshold increase applications and the accompanying Local Impact Assessments (LIA) is an important function under the Regulations to ensure 'balanced development, in the public interest of the gaming industry'.² It concerning that the responsibility to oversee one of the most important regulatory checks on the development of the gaming industry in NSW falls to un-funded not-for profit agencies to administer. Previously NCOSS made submissions in response to notifications under clause 37 and 41 where the threshold increase posed significant harm to the community. However due to resourcing constraints NCOSS has not been in a position to fulfil this function for some time.³

The last submission NCOSS made in December 2017 was in response to a significant increase by applicant Club Marconi, Macarthur Community and Sporting Club. This submission was welcomed by the Camden community and the Independent Liquor and Gaming Authority as it gave the community and other stakeholders the opportunity to consider transparent and independent information about the impact an increase in gaming machines would have on

¹ *Gaming Machine Act 2001* (NSW) s 3.

² *Gaming Machine Act 2001* (NSW) s 3.

³ The last submission NCOSS made was in December 2017 in response to an application for gaming machine threshold increase for Club Marconi's new club. NSW Council of Social Service, Independent Liquor and Gaming Authority, *Application by Club Marconi, Macarthur Community and Sporting Club at 2a Porrende Street, Narellan* (22 December 2017).

the community.⁴ NCOSS's submission contributed to the reduction of gaming machines allocated to Club Marconi by 50 gaming machines.⁵

It is noted that the proposed Regulation includes a continuing role for NCOSS to review and make submissions on threshold increase applications under clause 32 and 37. NCOSS takes its responsibility under the Regulation seriously and has informed the Independent Liquor & Gaming Authority that NCOSS is unable to meet the requirements under clause 32 and 37 from within existing resources. NCOSS should be removed from the proposed Regulations unless adequate funding is provided for this role for the duration of the proposed Regulation.

Without adequately funding the mechanisms in the Regulation which provide the check and balance on the gaming industry in NSW, the Regulation does not meet the objects of the *Gaming Machine Act 2001* (NSW); specifically to facilitate the balanced development, in the public interest, of the gaming industry.

Gaming Machines Regulation 2019- Other feedback

"Problem gambling"

Notices that offer assistance for "problem gambling" are likely to be ineffective because the language is victim blaming and reinforces that the person, rather than the Electronic Gaming Machines (EGM), is to blame for the harm they have experienced. Many people do not consider themselves to have a problem or the shame of identifying prevents them from taking the information.⁶

It is recommended that all references to "problem gambling" be removed, except insofar as they are required by the Act.

Gaming Machine Threshold

Section 10 of the *Gaming Machine Act 2001* (NSW) delegates power to change the state cap on the number of gaming machine entitlements. Currently this cap is set to 99,000 EGM. It is recommended that this delegated power is used to reduce the state cap. At the very least it is recommended that the Authority prohibit any increase in the Fairfield LGA and other vulnerable LGAs.

The proposed Regulations maintain the high threshold increase ranges under the current Regulations. Nearly half of EGM movements do not require an LIA as most venues apply for up to 20 machines at a time. Since May, NCOSS has received 3 Gaming Machine Threshold Increase notifications where no LIA is required.

⁴ Kayla Osborne. Camden at risk of becoming a disadvantaged area. Macarthur Advertiser. (2018 Feb 28) at <https://www.macarthuradvertiser.com.au/story/5256925/camden-at-risk-of-becoming-a-disadvantaged-area/>

⁵ Application by Club Marconi, Macarthur Community and Sporting Club at 2a Porrende Street, Narellan (Approved in part, February 2019) see <https://www.liquorandgaming.nsw.gov.au/operating-a-business/community-involvement/lia-public-register>

⁶ Hing N, Nuske E, Gainsbury S.M & Russell A.M. Perceived stigma and self-stigma of problem gambling: perspectives of people with gambling problems. International Gambling Studies. 2015 Nov 15; 16:1, 31-48, DOI: 10.1080/14459795.2015.1092566

It is recommended that the threshold increase ranges are reduced to:

Low range:	1-5	[currently up to 20]
Mid range:	6-20	[currently 21-40]
High range:	above 20	[currently above 40]

21 Provision of player information brochures in other languages

Proposed clause 21 places an unrealistic onus on the non-English speaking 'player' to request a brochure in a language other than English. NCOSS considered that the onus should be on the establishment to provide resources in languages other than English. It may be unlikely that a non-English speaking 'player', having identified that they may have a gambling problem and want to seek help, would think to ask the staff at the establishment for a brochure in their language.

It is recommended that proposed clause 22, which requires the club or hotel to display a notice on each gaming machine, includes simple information that will prompt the 'player' to seek a brochure from the staff of the establishment. This notice should be in the languages most relevant to the demographics of the LGA.

28 Display of clocks

The proposed Regulation seeks removal of clause 28, in the current Regulation, requiring hotels and clubs to keep a clock in each part of the hotel, or part of the premises of the club, where approved gaming machines are located. Clause 28 currently stipulates that the time shown on that clock can be readily viewed by any person operating a gaming machine in that part of the hotel or premises of the club.⁷

The rationale for removing clause 28 is that '[t]here is limited evidence on the ongoing harm minimization benefit of requiring venues to have separate clocks in their gaming areas to those that are on gaming machines, and individual's personal devices.'⁸

NCOSS recommends that clause 28 is retained in the proposed Regulation. While there may not be empirical evidence that a separate clock on the wall has added harm minimisation benefits in comparison to the clock provided on gaming machines or personal devices, there is growing body of research that suggests there are many health benefits to reducing screen time and/or regularly looking away from screens.⁹ Furthermore, the burden placed on clubs and hotels to display a clock on the wall is so minor that it would be a disproportionate response to remove the provision where it could have some benefit to people with a gambling addiction.

⁷ *Gaming Machine Regulation 2010 s 28.*

⁸ Liquor & Gaming NSW *Regulatory Impact Statement: Gaming Machines Regulation 2019* (June 2019).

⁹ See example Harvard Health Publishing: Harvard Medical School. Electronic Screen Alert- Avoid this Vision Risk. August 2017. Looking at a screen too long may lead to computer vision. Available from: <https://www.health.harvard.edu/diseases-and-conditions/electronic-screen-alert-avoid-this-vision-risk>

138 Gaming machine lease levy

NCOSS does not have an issue with the lease levy *per se* but is strongly opposed to the new provisions which were introduced under the *Gaming Machines Amendment (Leasing and Assessment) Act 2018* giving rise to this amendment under the Regulation. The new provisions permit the hotel or club to lease unwanted gaming machines rather than selling them back to the Authority which would invoke the forfeiture provisions.¹⁰ These provisions significantly reduce the number of gaming machines that would be on their way out of operation in line with the forfeiture policy and are in direct contradiction to the objects of the *Gaming Machine Act 2001* (NSW), 'to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.'¹¹

NCOSS strongly recommends an independent and transparent review of the entire regulatory regime in NSW, including the *Gaming Machine Act 2001* (NSW), the Regulations and the *Gaming Machine Tax Act 2001* (NSW).

I welcome the opportunity to discuss the issues raised in this submission. Should you have any questions in relation to this matter, please do not hesitate to contact me or the Director, Policy and Research, [REDACTED] or via email at [REDACTED]

Yours sincerely



Joanna Quilty
Chief Executive Officer
15 July 2019

¹⁰ *Gaming Machine Act 2001* (NSW) s 20 (3), (b).

¹¹ *Gaming Machine Act 2001* (NSW) s 3(d).