Liquor & Gaming NSW

Evaluation of the 2018 Gaming Machine Reforms

December 2022

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Glossary

Band	Each Statistical Area Level 2 (SA2) is classified into Band 1 (low risk), Band 2 (medium risk) or Band 3 (high risk) depending on the gaming machine density, gaming machine expenditure and relative socio-economic disadvantage of the SA2.
Cap	A cap is the maximum number of Gaming Machine Entitlements (GMEs) and Poker Machine Permits (PMPs) permitted in a restricted SA2 area that is subject to a cap. Under section 32A of the *Gaming Machines Act 2001*, the Independent Liquor & Gaming Authority may determine from time-to-time the maximum number of GMEs to be permitted in the Fairfield Local Government Area (LGA) or any other restricted increase area.
Community benefit payment	A venue may be required to make 'community benefit payments' following a successful Gaming Machine Threshold (GMT) increase application where a Local Impact Assessment (LIA) is required. Community benefit payments fund programs for not-for-profits and registered charities that support the social wellbeing of the local community.
EGMs	The total number of authorised electronic gaming machines operating includes both 'pokies' and 'Multi Terminal Gaming Machines' (MTGMs).
Forfeiture	Under the NSW trading scheme, GMEs must be transferred (sold) between venues in blocks of 2 or 3. For each block traded, 1 GME must be forfeited to the Independent Liquor & Gaming Authority. Forfeiture requirements aim to reduce the overall number of GMEs in NSW. In limited circumstances, GMEs can be traded without forfeiture.
GMEs	Gaming Machine Entitlements - Each GME held by a venue allows one Electronic Gaming Machine (EGM) to be authorised and operated.
GMT	Gaming Machine Threshold (GMT) is the maximum number of GMEs (and/or PMPs for hotels) authorised for a club or hotel.
LIA	Local Impact Assessment – venues may need to submit an LIA when applying for an increase to their GMT. An LIA aims to inform and support a community consultation process that helps the Independent Liquor & Gaming Authority determine whether approving the GMT increase application will provide a positive contribution to the local community, or have an overall positive impact on the local community (i.e. it helps assess the impact of introducing additional gaming machines into a local community).
PMPs	Each PMP held by a hotel allows one EGM to be authorised and operated in a hotel.
Pre-duty profit	Pre-duty profit refers to the profit from gaming machines, prior to tax. It is not exactly the same as player losses because some larger jackpots are "pooled" when machines are linked across multiple venues and LGAs. However, it is considered the closest indicator of how much players have lost on gaming machines.

SA2	Statistical Area Level 2 – these are medium-sized statistical areas set by the Australian Bureau of Statistics to represent a community that interacts together socially and economically.
SEIFA Index	Socio-Economic Indexes for Areas (SEIFA) are produced by the Australian Bureau of Statistics to rank areas across Australia on the basis of their socio-economic advantage or disadvantage. The SEIFA index used with respect to gaming machines is the Index of Relative Socio-Economic Disadvantage.
Unfilled quota	The number of additional GMEs or PMPs that can still be acquired by a venue to reach its GMT.

1. Executive Summary

Purpose and objectives of the evaluation

This report details the findings from an evaluation of the gaming machine reforms introduced in 2018. Following the announcement of the reforms, the then NSW Government committed to undertake an evaluation after three years to better understand the impact of the reforms.

The objectives of the evaluation were to assess:

1. the extent to which venues have participated in the GME leasing scheme and its impact upon venues
2. the impact of the reforms on decision making and forfeiture
3. the impact of the reforms on the community
4. whether there have been any other impacts of the gaming machine reforms.

The evaluation was informed by stakeholder consultation (interviews, public submissions) and data held by Liquor & Gaming NSW (L&GNSW) relating to the GME leasing scheme, GME transfers, EGM numbers, EGM pre-duty profit, and the LIA process.

The evaluation findings will help to inform and shape future policy directions.

The 2018 Gaming Machine Reforms

Various gaming machine reforms commenced on 3 April 2018 as part of the *Gaming Machines Amendment (Leasing and Assessment) Act 2018*. These reforms involved amendments to the *Gaming Machines Act 2001* and the Gaming Machines Regulation 2010. These legislative amendments implemented recommendations from the 2017 Local Impact Assessment (LIA) Review and introduced the Gaming Machine Entitlement (GME) leasing scheme.

The reforms led to changes to the methodology used to classify local areas based on the relative risk of introducing additional gaming machines. These changes included:

- banding by SA2 rather than Local Government Area (LGA)
- increasing the weighting of the Socio-Economic Indexes for Areas (SEIFA) score when determining banding
- placing ‘caps’ on the number of GMEs that can be introduced into the Fairfield LGA, Band 3 SA2s and any other areas specifically identified by the Independent Liquor & Gaming Authority (the Authority).

In addition, a number of changes were made to the LIA process for venues seeking to increase their Gaming Machine Threshold (GMT). These changes included:

- longer community consultation timeframes
- increased notification requirements to help facilitate consultation
- a requirement to submit a Local Impact Statement (LIS) for GMT increase applications exempt from competing a LIA

- a requirement for venues to make a ‘community benefit payment’ to the Responsible Gambling Fund (RGF).

The GME leasing scheme was introduced to support small venues that may be struggling financially and to improve their ongoing financial viability. The scheme allows small clubs and hotels to lease, rather than sell, their GMEs to other clubs and hotels respectively. Forfeiture requirements do not apply to leased GMEs and lessees are required to pay a levy to the RGF. The levy is either 5% of the lease price or $1000 for each year the lease is in place - whichever is greater.

The overall objectives of the 2018 gaming machine reforms were:

- greater transparency of decision-making, greater community awareness of decisions being made, and more opportunities for community input
- a more nuanced and sophisticated approach to assessing the potential impact of additional gaming machines in an area
- no movement of additional GMEs into high-risk areas (Band 3, as determined by the LIA process)
- a more targeted approach to the allocation of funds generated through the LIA process and the GME leasing scheme
- more guidance and direction for applicants and submitters
- more small venues choosing to go ‘pokie-free’
- more clubs in new development areas.

Methods

The evaluation involved both process and outcome evaluation. It utilised a mixed method approach whereby a range of quantitative and qualitative evidence was collected and analysed. The evaluation considered feedback received from written submissions and stakeholder interviews.

The evaluation was also informed by data relating to the leasing scheme, GME transfers, EGM numbers and pre-duty profit, and GMT increase and GME transfer applications. Data from the three-year period since the reforms commenced (3 April 2018 to 2 April 2021) were considered. Where possible, data from the post reform period were compared to the three-year period immediately prior to the reforms (3 April 2015 to 2 April 2018).

Limitations

Some information, including the number of submissions received in response to an application and leasing data, is recorded manually by L&GNSW. The reliability of these data sets depends on the extent to which data are recorded accurately and consistently.

Quarterly net profit and EGM figures are updated at different dates each quarter. Average pre-duty profit per EGM should be treated as an approximate value as the number of EGMs that were operated to reach the pre-duty profit figure may differ slightly from the number of EGMs reported each quarter. Caution should be exercised when comparing GME transfer data during the pre-reform period (3 April 2015 to 2 April 2018) to GME transfer data during the post reform period (3 April 2018 to 2 April 2021) given the significant banding changes.

The evaluation conducted surveys of venues and communities. Issues were encountered, including small sample sizes and ambiguous answers provided in response to survey questions. These issues limited the usefulness of survey responses to inform the evaluation, and therefore a decision was made to exclude all survey data from the evaluation and its findings. Further details are provided at 3.4.7.

Evaluation findings

Venue participation in the GME leasing scheme and its impact upon venues

Finding 1

The GME leasing scheme has primarily been utilised by hotels, though lessor clubs have tended to lease more GMEs per venue than lessor hotels.

Finding 2

The GME leasing scheme has resulted in a net movement of GMEs from country venues to metropolitan venues.

Finding 3

Participation in the leasing scheme has been limited, particularly among clubs, potentially due to a number of barriers perceived by stakeholders.

Finding 4

Data and industry feedback suggest that, on average, it has been more profitable for lessors to lease their GMEs than operate their machines.

Finding 5

While some hotels are using the leasing scheme to go pokie-free and focus on other offerings for patrons, concessions for country venues which allow them to sell their GMEs without forfeiture have encouraged many country hotels to sell rather than lease their GMEs.

Finding 6

Some hotels are using the leasing scheme to lease their entitlements while ceasing to trade, undermining the policy objectives of the scheme.

Finding 7

Some lessors do not appear to be receiving financial benefits from participating in the leasing scheme because their lease agreements are valued at artificially low prices, undermining the scheme’s policy objectives to help small, financially struggling venues stay afloat financially by giving them the ability to generate recurrent income from leased GMEs.

Impact of the reforms on decision making and forfeiture

Finding 8

While some stakeholders believe the reforms have assisted the Authority to identify high risk areas, other stakeholders called for a more nuanced approach to assessing risk.

Finding 9

While some stakeholders are supportive of the change to banding by SA2 rather than LGA, some stakeholders noted that this change has added additional complexities because some data are not available at the SA2 level and patrons may visit from neighbouring SA2s that may have a different banding classification.

Finding 10

Permitting transfers between different Band 3 SA2s that are capped without an LIA does not allow community members to raise concerns about the impact transfers could have on their local community. Permitting transfers between different Band 3 SA2s also hinders attempts to encourage the movement of GMEs into lower risk areas.

Finding 11

Since the reforms, Band 3 venues have been more likely to transfer GMEs to other Band 3 venues than to Band 1 and 2 venues.

Finding 12

The number of forfeited GMEs has decreased since the reforms due to fewer sales and the forfeiture exemption for transfers by country hotels with a GMT of 6 or less.

Impact of the reforms on the community

Finding 13

LIA exemptions available to applicants seeking a GMT increase limit opportunities for community consultation.

Finding 14

While LIA changes have increased opportunities for community participation through increased notification requirements and longer consultation timeframes, there has not been an increase in the overall number of submissions, or the average number of submissions per application, in response to GMT increase applications requiring an LIA.

Finding 15

Stakeholders highlighted a number of ongoing barriers to community involvement and confidence such as (a) low levels of awareness as to how they can be involved or influence the process, (b) the complexity of the reforms and the LIA process, (c) lack of sophisticated notification processes, (d) limited access to relevant data, and (e) limited publicly available information in relation to the reasons for the Authority's decisions.

Finding 16

The directing of financial contributions from the LIA process to the RGF for allocation to the local community is widely supported by both industry and community stakeholders and has not adversely impacted venue relationships with communities.

Finding 17

Transparency on the outcomes achieved from the community contribution funding could be improved.

Finding 18

Funds generated through the GME leasing levy have contributed $1.4 million in revenue to service provision through the RGF. The funds represent less than 2% of revenue received by the RGF over the three years since the commencement of the 2018 reforms.

Finding 19

Funds generated through the GME leasing levy are absorbed into general RGF revenue to support existing programs and services, and therefore specific outcomes from the levy cannot be isolated from overall outcomes for services provided by the RGF.

Finding 20

The reduced restrictions on trading GMEs into Band 2 new development areas have had no apparent impact on the number of new clubs being established in Band 2 new development areas, though the extent to which the COVID-19 pandemic has affected this is unclear.

Other impacts of the gaming machine reforms

Finding 21

There are some risks for the allocation of funding from the RGF to community organisations as venues may not pay on time or may have their funding deferred or reduced, which places the financial risk on the RGF to honour the funding agreement commitments.

2. Background

2.1 Objectives of the 2018 gaming machine reforms

The *Gaming Machines Amendment (Leasing and Assessment) Act 2018* commenced on 3 April 2018, and involved amendments to the *Gaming Machines Act 2001* (the Act) and Gaming Machines Regulation 2010 (the Regulation). These legislative amendments implemented the recommendations of the 2017 Local Impact Assessment (LIA) review[1] which led to changes to the classification of communities under the LIA scheme, community consultation requirements, and rules relating to transfer of gaming machine entitlements (GMEs). The reforms also introduced a GME leasing scheme (outlined in section 3.4).

The overall objectives of the 2018 gaming machine reforms were:

- greater transparency of decision-making, greater community awareness of decisions being made, and more opportunities for community input
- a more nuanced and sophisticated approach to assessing the potential impact of additional gaming machines in an area
- no movement of additional GMEs into high-risk areas (Band 3, as determined by the LIA process)
- a more targeted approach to the allocation of funds generated through the LIA process and the GME leasing scheme
- more guidance and direction for applicants and submitters
- more small venues choosing to go 'pokie-free'
- more clubs in new development areas[2].

2.2 Local Impact Assessment (LIA) process

The LIA process is used to assess the likely impact of introducing additional gaming machines into an area. Depending on the classification of the area in which the club or hotel is located, the applicant may be required to complete an LIA when applying for an increase in the venue's gaming machine threshold (GMT). The GMT limits how many GMEs – and/or poker machine permits (PMPs) in the case of hotels – each club and hotel may have. A venue must have one GME – or PMP in the case of hotels – for each gaming machine operated. A hotel's GMT cannot exceed 30.

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[1] Liquor & Gaming NSW (2017). *Local Impact Assessment Review*. https://www.liquorandgaming.nsw.gov.au/documents/reports/local-impact-assessment-review-report.pdf

[2] The *Gaming Machines Act 2001* defines a 'new development area' as an area of land in a Band 1 local statistical area (LSA) or Band 2 LSA that: (a) is identified by an environmental planning instrument as an urban release area (or such other description as the Independent Liquor and Gaming Authority considers to be similar), and (b) does not, in the opinion of the Independent Liquor and Gaming Authority, have the full benefit of the services and facilities of the kind provided by clubs. Under the *Gaming Machines Act 2001,* an LSA is a geographical area defined for the time being as a Statistical Area Level 2 under the Australian Statistical Geography Standard published by the Australian Bureau of Statistics.

GMT increases for locally sourced gaming machines are exempt from the LIA process. This includes:

- transfers within the same Statistical Area 2 (SA2)[3]
- transfers within the same LGA, where the band classification of the buyer is the same or lower than the band classification of the seller
- transfers in adjoining SA2s, where the band classification of the buyer is the same or lower than the band classification of the seller.

Venues are required to undertake either a Class 1 LIA or Class 2 LIA depending on the size of the GMT increase they are seeking, and the band in which they are located (see Table 1).

Table 1: LIA requirements based on banding and size of requested GMT increase

Band	Low range increase (up to 20)	Mid-range increase (21 to 40)	High range increase (over 40)
Band 1	No LIA	Class 1 LIA	Class 2 LIA
Band 2	Class 1 LIA	Class 2 LIA	Class 2 LIA
Band 3	If no area cap: Class 2 LIA If an area cap is in place: No additional machines can be sought through the LIA process. Except for Fairfield LGA, additional gaming machines can be sought if the GMT increase application is not required to be accompanied by an LIA.		

Since March 2018, the band for each venue has been based on its SA2 profile. SA2s in NSW are ranked according to the relative risk of introducing additional gaming machines. Their rank is based on an aggregated score which incorporates the Socio-Economic Indexes for Areas (SEIFA) Index of Relative Socio-Economic Disadvantage[4] (70% weighting), gaming machine density (15% weighting), and per capita gaming machine expenditure (15% weighting). The top 20% of SA2s are classified as Band 3 (high risk), the next 30% as Band 2 (medium risk), and the remainder as Band 1 (low risk).

While venues in Band 3 areas can undertake a Class 2 LIA to acquire additional gaming machines, they can also be capped by the Authority so that no transfers can take place through the LIA process. However, “locally sourced” machines may be transferred into Band 3 areas without an LIA. Since 3 April 2018 a cap has been in place to prevent applications

[3] SA2s are medium-sized statistical areas set by the Australian Bureau of Statistics to represent a community that interacts together socially and economically. SA2s are typically smaller than LGAs and designed around whole gazetted suburbs or rural localities. SA2s have a population range of up to 30,000 persons with an average of 13,000 persons per NSW SA2.

[4] A measure produced by the Australian Bureau of Statistics of an area’s relative socio-economic disadvantage.

accompanied by a LIA from being approved in all Band 3 areas. The cap also applies to the entire Fairfield LGA at all times under the Act given the high risk of gambling-related harm if additional machines were introduced into this area.

A hotel or club that lodges a Class 1 LIA as part of an application to increase its GMT must satisfy the Independent Liquor & Gaming Authority (the Authority) that the proposed increase will provide a positive contribution to the local community where the venue is, or will be, situated. In preparing a Class 1 LIA, the applicant must notify the following stakeholders that they have 60 days after being notified of the LIA to make a written submission to L&GNSW:

- Local council
- Local police
- Local health district
- Any organisation that is located in the LGA in which the relevant venue is situated that receives funding from the Responsible Gambling Fund (RGF) to provide gambling-related counselling or treatment services
- Any other community services organisations, as listed by the local council for the LGA in which the relevant venue is situated, that provide services relating to welfare, emergency relief, financial assistance, Aboriginal health, Aboriginal legal assistance, or gambling and addiction counselling or treatment.

A hotel or club that lodges a Class 2 LIA to increase its GMT must also satisfy the Authority that the increase will have an overall positive impact on the local community where the venue is, or will be, situated. In preparing a Class 2 LIA, the applicant must, no later than 60 calendar days prior to submitting the threshold increase application form and LIA, undertake pre-submission consultation with the following stakeholders:

- Local council
- Local police
- Local health district
- Any organisation that is located in the LGA in which the relevant venue is situated that receives funding from the RGF to provide gambling-related counselling or treatment services
- Any other community services organisations, as listed by the local council for the LGA in which the relevant venue is situated, that provide services relating to welfare, emergency relief, financial assistance, Aboriginal health, Aboriginal legal assistance, or gambling and addiction counselling or treatment.

The applicant must inform stakeholders that they have 90 days after being notified of a LIA to make a written submission to L&GNSW.

For both Class 1 and 2 LIAs, applicants must place an advertisement in a local newspaper and display a notice in a conspicuous area outside the relevant venue, or on the perimeter of the site if the venue has not yet been built.

2.3 Changes to the LIA scheme

Changes were made to the LIA scheme under the *Gaming Machines Amendment (Leasing and Assessment) Act 2018* to strengthen harm minimisation measures, improve community engagement and consultation, and provide clearer advice and guidelines for industry. More specifically, changes were made to:

- better define a 'local community' by replacing LGAs with the geographically smaller SA2s when considering gaming harm risks and impacts
- prevent further concentration of gaming machines in the highest risk locations by providing the Authority with the power to cap the number of GMEs in prescribed areas
- provide additional transparency for local communities by requiring venues exempt from pre-application consultation to produce a Local Impact Statement (LIS) for stakeholders following the grant of any GMT increase applications
- give the Authority the power to publish guidelines on the LIA process
- make changes to time periods in which a venue can acquire additional GMEs following a successful GMT increase
- ease restrictions on clubs established in 'new development areas' by extending the exemption under section 37A of the Act for clubs establishing in new development areas to Band 2 SA2s
- extend existing exemptions under the Act for country hotels with respect to transfers and the application of forfeiture
- require all financial contributions made as part of the LIA to be paid into the RGF, which will then allocate funding to community organisations and services.

Under the legislation, as part of demonstrating a positive impact on the community as a result of the proposed gaming machine increase, the venue can make a monetary payment to the RGF to distribute to the local community. Previously, venues made these payments directly to community organisations. The RGF now manages community benefit payments and allocations to local communities under the LIA scheme, rather than individual venues, to ensure greater transparency and equity in the distribution of funds to community organisations. Now, when the Authority decides to approve a venue's application for additional gaming machines, the approval will include a condition that the venue contributes a calculated, set amount to the RGF as a one-off payment or annually for up to five years.

Community benefit payments will generally be directed to the community where the applying venue is located to support the social wellbeing of the community. This can include, but is not limited to, responsible gambling, problem gambling, health, and crisis support. Funds can be directed to state-wide or regionally based organisations where they also provide a benefit for that local community. To determine what organisations are allocated funds, the Office of Responsible Gambling forms community contribution panels[5] to make recommendations to

[5] The community contribution panel consists of a local representative (for example, a Local Government or Health representative), responsible gambling experts (for example, a GambleAware counselling service), a departmental representative, and an RGF Trustee.

the Minister. In most cases contributions will be a one-off, unconditional offer of support to assist the service to continue and further its work in the community.

2.4 GME leasing scheme

As part of legislative changes introduced under the *Gaming Machines Amendment (Leasing and Assessment) Act 2018*, the Government implemented a GME leasing scheme. The scheme allows a small club to lease GMEs to another club, and a small hotel to lease to another hotel. During the lease, GMEs remain the property of the lessor venue but the lessee venue receives all revenue from their use. All leased GMEs are subject to requirements under the LIA scheme for the movement of GMEs. Venues can enter leases for a fixed term of up to five years, with payments negotiated and agreed between the venues, and a standard model lease agreement can be used. The lessee remains responsible for paying taxes and fees associated with operating the EGM.

The policy objectives of the gaming machine leasing scheme are to:

- give small venues the ability to generate recurrent income from leased GMEs, allowing them to continue contributing to their communities
- help small venues to stay afloat financially
- support small metropolitan venues to remain viable without gaming machines and instead focus on live entertainment and high-quality food and beverage offerings.

Several gambling-related harm minimisation safeguards support the operation of the scheme. They include the following:

- The scheme is limited to small clubs and hotels. Only small clubs with a GMT of up to 30, and hotels with a GMT of up to 10, can lease out their GMEs. Most venues eligible to lease GMEs under the scheme are in country areas. At the commencement of the leasing scheme these venues accounted for approximately:
    - 11.7% (11,104) of GMEs – 14% (3,107) of hotel GMEs and 10.5% (7,997) of club GMEs
    - 35% (531) of hotels – 80% (434) of country hotels and 10% (97) of metropolitan[6] hotels
    - 52% (587) of clubs – 60% (361) of country clubs and 40% (226) of metropolitan clubs.
- No increase in the number of GMEs in NSW
    - Venues can only lease out GMEs they own, and only operate the number of gaming machines authorised by their GMT. This means that the scheme will not increase the number of GMEs in NSW.

[6] For the purposes of the *Gaming Machines Act 2001*, clause 147 of the Gaming Machines Regulation 2019 defines ‘metropolitan’ as the area comprising the following LGAs in NSW (all other LGAs are defined as ‘country’): Bayside, Blacktown, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Canterbury-Bankstown, Central Coast, Cumberland, Fairfield, Georges River, Hawkesbury, Hornsby, Hunters Hill, Inner West, Ku-ring-gai, Lake Macquarie, Lane Cove, Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, Parramatta, Penrith, Randwick, Ryde, Strathfield, Sutherland, City of Sydney, The Hills, Waverley, Willoughby, Wollongong, Woollahra.

- As for any GMT increase application, the GME leasing scheme is also subject to the LIA process when applying to lease GMEs.
- All lessee venues are required to contribute to the RGF
  - The leasing scheme requires the lessee to pay a one-off levy payment of the higher of either:
    - 5% of the lease price agreed between the parties, or
    - $1,000 for each year of the lease.
  - The levy payments are used by the RGF to help fund gambling-related counselling and treatment services across NSW.

3. Evaluation of the 2018 gaming machine reforms

3.1 Rationale for the evaluation and strategic alignment

In announcing its gaming machine reforms in March 2018, the Government committed to:

- conducting a review of the impact of the LIA changes on the level of forfeiture three years after their commencement
- reviewing the GME leasing scheme after three years, including consideration of any impact on gambling-related harms in the community.

The evaluation was identified as one of two key projects for the evaluation program in the Department of Customer Service's Better Regulation Division (BRD) Delivery Plan 2021-22. It aligns with the 'Protect' and 'Regulate' functions and will contribute towards achieving the 'NSW is safe' and 'NSW is secure' outcomes. It was also included in the Department of Customer Service annual evaluation schedule for 2021-22 and conducted by L&GNSW.

3.2 Evaluation objectives and key evaluation questions

The objectives of the evaluation are listed below, along with the key evaluation questions related to each objective.

1. To assess the extent to which venues have participated in the GME leasing scheme and its impact upon venues

- What types of venues, and how many, have participated in the GME leasing scheme?
- What facilitators and barriers, if any, have affected participation in the GME leasing scheme?
- To what extent have lessor venues gained financial benefits from the GME leasing scheme?
- To what extent have smaller venues decided to lease their GMEs and operate without gaming machines?

2. To assess the impact of the reforms on decision making and forfeiture

- To what extent have the LIA banding changes assisted the Authority to identify high risk areas and prevent the entry of additional gaming machines into these areas?
- To what extent have the reforms supported the movement of GMEs into lower risk areas?
- To what extent have the reforms had an impact on forfeiture of GMEs?

3. To assess the impact of the reforms on the community

- To what extent have the LIA reforms had an impact on community confidence and involvement in gaming machine regulation?
- What impact, if any, has the directing of financial contributions from the LIA process to the RGF had on the community?

- What impact, if any, has the introduction of the RGF levy under the GME leasing scheme had on service provision for the community?
- Have the reduced restrictions on trading GMEs into new development areas had an impact on the number of clubs in new development areas?

4. To assess whether there have been any other impacts of the gaming machine reforms

- Have there been any other impacts or unintended consequences of the gaming machine reforms?

3.3 Scope

The evaluation focussed on the impact of amendments to the LIA scheme and the GME leasing scheme introduced under the *Gaming Machines Amendment (Leasing and Assessment) Act 2018*. It did not examine LIA banding methodology or consider broader aspects of the process for assessing applications for GMEs. An examination of the impact of the reforms on gambling-related harm was also out of scope, given the range of gambling-related policy interventions over recent years other than the 2018 reforms, and the methodological constraints in linking these specific reforms with changes in gambling harms.

3.4 Methodology

The evaluation involved both process and outcome evaluation. It utilised a mixed method approach whereby a range of quantitative and qualitative evidence was collected and analysed. The central premise of the mixed methods approach is that it provides a better understanding of research problems than either a quantitative or qualitative approach alone (Creswell & Plano Clark, 2017).[7]

3.4.1 Program logic

The NSW Government Program Evaluation Guidelines (the Guidelines) define program logic as a ‘management tool that presents the logic of a program in a diagram or chart (with related descriptions)’ and that ‘illustrates the logical linkage between the identified need or issues that a program is seeking to address; its intended activities and processes; their outputs; and the intended program outcomes’ (p.21).

The Guidelines note that before a program begins it is ‘best practice to have a complete program plan that includes a clear program logic, and a supporting evaluation plan that includes a detailed evaluation methodology’ (p.11). A program logic model for the March 2018 gaming machine reforms is at Appendix A. It outlines the intended immediate, intermediate, and ultimate outcomes of the reforms. The outcomes articulated in the program logic have informed the evaluation objectives.

[7] Creswell, J.W., & Plano Clark, V.L. (2017). *Designing and conducting mixed methods research* (3rd ed.). Sage Publications.

3.4.2 Call for written submissions

Stakeholders were invited to lodge written submissions to inform the evaluation. L&GNSW invited written submissions via emails sent to key stakeholders (including those listed in section 4.4.5), the L&GNSW website, the NSW Government 'Have Your Say' website, an article in the Office of Responsible Gambling's eNewsletter on 23 August 2021, and an article in Liquor, Gaming & Racing News on 28 August 2021. A discussion paper was made available via the 'Have Your Say' website to provide stakeholders with relevant background information about the reforms and how they could provide feedback to inform the evaluation (Appendix B).

The closing date for written submissions was 10 September 2021. A dedicated email address was used for the receipt of written submissions. Written submissions were received from the following organisations:

- Alliance for Gambling Reform (the Alliance)
- Australian Hotels Association (AHA)
- BetSafe
- ClubsNSW
- Fairfield City Council
- Greens NSW
- Local Government NSW.

3.4.3 Stakeholder interviews

To collect more detailed qualitative information on the outcomes and effectiveness of the 2018 gaming machine reforms, L&GNSW interviewed the following stakeholder organisations:

- The Alliance
- AHA
- ClubsNSW
- Independent Liquor & Gaming Authority (the Authority)
- L&GNSW
- Office of Responsible Gambling
- Responsible Gambling Fund Trust.

Four other stakeholder organisations were invited but declined to be interviewed. The NSW Police Force provided written feedback instead of participating in an interview.

3.4.4 Other information and data

In addition to information and data provided via the written submission process and stakeholder interviews, the evaluation was informed by a range of internal information and data, including:

- L&GNSW licensed premises list (as at October 2021) for data on the licence status of venues

- GME transfer data (as at September 2021) for data on GME transfers, total GMEs bought and sold, sale prices of GMEs, forfeiture and transfer patterns between bands
- Quarterly net-profit and EGM data (as at September 2021) for data on pre-duty profit and number of EGMs by band
- Leasing scheme data (as at September 2021) for total number of leases and leased GMEs, and lease prices
- GMT increase and GME transfer application data (as at October 2021) for data on the number of GMT increase and transfer applications
- Register of sales from country hotels (GMT <=6) (as at September 2021) for data on number of GMEs sold, GME sale prices and transfer patterns
- RGF data (as at October 2021) for data on community benefit payments and the leasing levy.

References to GMEs in this report are used as a broad term for both GMEs and PMPs. GME data included in this report, including data on sales, forfeiture, and leases, include PMPs.

Data were considered over the three-year period since the reforms (3 April 2018 to 2 April 2021). Where possible, data from the post reform period were compared to the three-year period prior to the reforms (3 April 2015 to 2 April 2018).

Data on the number of submissions received for each LIA lodged between 3 April 2015 and 2 April 2021 was obtained using an internal records management system. While submission data is not systematically recorded by L&GNSW, the number of submissions received for each LIA submitted was obtained by searching for relevant applications and manually recording submissions received for each application. The number of LIAs submitted between the relevant dates is based on information available on L&GNSW's LIA Public Register.

3.4.5 Surveys of club and hotel operators with GMEs

An online survey was made available to all 3,168 clubs and hotels in NSW with GMEs, via email invitation. The survey sought information regarding the extent to which venues have participated in the GME leasing scheme, views on the LIA changes introduced in 2018 and the impact of the reforms upon venues. A total of 88 survey responses were received (a response rate of 2.7%).

3.4.6 Community survey

An online survey was made available to interested community organisations and individuals, including people with lived experience of gambling-related harm. The survey was accessible via the Have Your Say website. Emails were sent to community-based organisations such as local councils, GambleAware providers, recipients of community benefit payments, LIA panel members and Local Health Districts to invite them to complete the survey. The survey sought information regarding the impact of the reforms on the community. A total of 48 responses were received.

3.4.7 Limitations

Both survey responses provided very limited information due to the following issues:

- The sample size of respondents to both surveys was small. It was unclear if the responses accurately reflected the diverse views of NSW venues and communities.
- Many respondents answered survey questions as being “not sure” or with “don’t know”, which made it difficult to draw accurate conclusions about stakeholder views. This may indicate there was a limitation in the survey design where respondents felt unable to comment, or that respondents were not familiar with the reforms.
- Venues that had participated in the leasing scheme did not complete the venue survey. Only one of the 48 respondents to the survey participated in the leasing scheme. This result meant no insights could be drawn from the survey about participating venues’ views on the leasing scheme.

Given these considerations, survey data was excluded from the evaluation and its findings.

Extraction of data on the number of submissions received in relation to LIAs submitted between 3 April 2015 and 2 April 2021 was a manual process. Submission data was obtained by manually searching an L&GNSW records management system. The reliability of the submission analysis is dependent on consistent records management practices by L&GNSW staff. Records could not be found for a small amount of LIAs.

Leasing scheme data and data on transfers by country hotels with a GMT of 6 or less are maintained manually by L&GNSW staff. Again, reliability of the data depends on the extent to which data are recorded consistently and kept up to date. The Evaluation team worked with relevant L&GNSW business units to gain a better understanding of these data sets.

Quarterly net profit and EGM figures are updated at different dates each quarter. Therefore, the number of EGMs recorded in each quarter may not reflect the number of EGMs that were operated when the pre-duty profit figures were reported. Average pre-duty profit per EGM should be treated as an approximate value as the number of EGMs that were operated to reach the pre-duty profit figure may differ slightly from the number of EGMs reported each quarter.

Caution should be exercised when comparing GME transfer data during the pre-reform period (3 April 2015 to 2 April 2018) to GME transfer data during the post reform period (3 April 2018 to 2 April 2021) given the significant banding changes. As an example, caution should be exercised when comparing pre to post reform GME transfers into ‘lower risk areas’ given that changes were made to the factors that are considered when determining risk (e.g. increased weighting to SEIFA scores). Similarly, the proportion of areas classed as Band 1, 2 or 3 changed following the reforms. Therefore, a change in the number of transfers to or from a band may reflect a change in the proportion of areas classed as that band.

4. Outcomes

4.1 Venue participation in the GME leasing scheme and its impact upon venues

KEQ1: What types of venues, and how many, have participated in the GME leasing scheme?[8]

In the three years since the leasing scheme commenced (3 April 2018 to 2 April 2021), 128 leases were entered into by venues. Of the 128 leases, 118 were for hotels and 10 were for clubs. Of the hotels that participated in the leasing scheme, there were 77 unique lessees and 74 unique lessors. Of the clubs that participated in the leasing scheme, there were 8 unique lessees and 10 unique lessors (Table 2).

Table 2: GME leases, lessees and lessors between 3 April 2018 and 2 April 2021, by licence type

Licence type	Leases		Unique lessees		Unique lessors	
	Count	%	Count	%	Count	%
Hotel	118	92%	77	91%	74	88%
Club	10	8%	8	9%	10	12%
Total	128	100%	85	100%	84	100%

Of the 85 unique lessees, 56 were metropolitan venues and 29 were country venues. Of the 84 unique lessors, 34 were metropolitan venues and 50 were country venues (Table 3).

Table 3: Unique lessees and lessors between 3 April 2018 and 2 April 2021, by licence type and region

Licence type	Unique lessees				Unique lessors			
	Country		Metropolitan		Country		Metropolitan	
	Count	%	Count	%	Count	%	Count	%
Hotel	27	35%	50	65%	47	64%	27	36%
Club	2	25%	6	75%	3	30%	7	70%
Total	29	34%	56	66%	50	60%	34	40%

[8] Figures in the evaluation report differ to figures published in the discussion paper because the evaluation counted unique lessor and lessee venues that had entered into a lease between 3 April 2018 and 2 April 2021, whereas the discussion paper reported on total lessor and lessee numbers since the reforms commenced.

A total of 568 GMEs[9] were leased between 3 April 2018 and 2 April 2021 (Table 4). While a greater proportion of GMEs were leased by hotels (82%) than by clubs (18%), clubs generally leased more GMEs per lease than hotels. On average, 3.9 GMEs were leased per hotel lease (463 GMEs across 118 leases) and 10.5 GMEs were leased per club lease (105 GMEs across 10 leases) (Table 2 and Table 4).

Of the 568 leased GMEs, most (75%) were leased to metropolitan venues. Of the 568 leased GMEs, 51% were leased from metropolitan venues and 49% were leased from country venues (Table 4).

Table 4: GMEs leased between 3 April 2018 and 2 April 2021 by licence type and region

Licence type	Total	%	Leased to				Leased From			
			Country		Metropolitan		Country		Metropolitan	
			Count	%	Count	%	Count	%	Count	%
Hotel	463	82%	135	24%	328	58%	257	45%	206	36%
Club	105	18%	7	1%	98	17%	21	4%	84	15%
Total	568	100%	142	25%	426	75%	278	49%	290	51%

Finding 1: The GME leasing scheme has primarily been utilised by hotels, though lessor clubs have tended to lease more GMEs per venue than lessor hotels.

Finding 2: The GME leasing scheme has resulted in a net movement of GMEs from country venues to metropolitan venues.

KEQ2: What facilitators and barriers, if any, have affected participation in the GME leasing scheme?

<u>Facilitators</u>

The AHA, BetSafe and ClubsNSW suggested that the option to lease GMEs offers greater flexibility to venues where selling GMEs is not optimal for their business. The AHA stated that the decision to sell or lease GMEs is based on the viability of each business. For some venues, the ability to lease ensures that the venue does not jeopardise its relationship with its bank because it allows the venue to receive recurrent revenue from GMEs while retaining them as assets.

ClubsNSW and BetSafe noted that leasing was a good option for venues that want a reliable or recurrent source of income. ClubsNSW stated that some clubs may be prevented from selling their GMEs due to financial covenants.

[9] GMEs leased following the extension of a previous lease were included in this count.

Eligibility barriers

Despite the incentives to participate in the leasing scheme, several barriers to participation were suggested by stakeholders.

"ClubsNSW is aware of significant, unrealised interest among clubs to be both lessees and lessors. Unfortunately, the shift in the definition of local area from LGA to SA2, higher costs due to increased LIA contribution and lease levy, as well as other regulatory restrictions placed on the leasing scheme have meant that it has failed to reach its potential." - ClubsNSW submission

Industry bodies argued that restricted eligibility for the leasing scheme was a barrier to participation. ClubsNSW recommended removing the restriction on clubs with more than 30 GMEs from participating as a lessor, and the requirement for clubs with more than 450 GMEs to undergo a quasi-LIA process if they want to lease GMEs from small clubs (even under circumstances where venues would normally be exempt from completing an LIA).

Financial barriers

The AHA suggested that cost was also a barrier, particularly for hotels in Band 2 SA2s. The AHA claimed that the interaction of the LIA scheme and leasing scheme in Band 2 SA2s made the option of leasing uneconomical in many cases. The costs for such venues included hiring a consultant to prepare a LIA for their application to increase their GMT, a contribution of 15% of the expected profits of the additional entitlements under the LIA scheme, and the GME leasing levy. The AHA recommends that hotels that raise their GMT, lease their GMEs, and are liable for the leasing levy should be exempt from the 15% annual contribution under the LIA scheme for those entitlements.

ClubsNSW argued there were financial risks for clubs in entering leases during the COVID-19 pandemic. The lack of a force majeure provision in the standard leasing agreement may require lessors to make lease payments during lockdown periods, despite being unable to operate their gaming machines. In addition, the requirement to pay a leasing levy is a potential issue for venues during the COVID-19 pandemic, where GMEs may not be able to be utilised for much of the lease period.

A further financial barrier for clubs could be that the average sale price for a hotel GME is much higher than for a club GME, while the average leasing price for clubs is higher than the average club GME sale price (refer to Figure 5). This may be a further barrier to participation in the leasing scheme for clubs as it may be more financially beneficial for them to buy, rather than lease, GMEs.

Barriers resulting from banding changes

ClubsNSW suggested the change from LGA to SA2 as the geographical unit for LIA banding in 2018 is a major barrier. For clubs, complexities created by SA2 banding have necessitated the engagement of brokers to facilitate transfers. It was argued that brokers have tended to encourage sales rather than leases as sales are more beneficial for brokers. It was also argued that clubs are finding it difficult to identify other clubs to transfer or lease GMEs with as the clubs in the immediate vicinity of a venue may have a different banding classification.

L&GNSW noted that an unintended consequence of Band 3 caps is that leases are not permitted between venues in the same Band 3 area. This is because, for the purpose of calculating the cap, the GMT of the lessor venue does not decrease by the number of GMEs leased. This results in the number of GMEs exceeding the cap due to double counting.

Addressing barriers

The leasing scheme was initially introduced to assist small, struggling venues. Therefore, it is not recommended that the scheme be extended to larger venues (i.e. those with a larger number of GMEs) as this would conflict with the policy objectives of the scheme. In addition, information released by L&GNSW when the scheme was first introduced noted that eligibility would be limited as a harm minimisation safeguard.[10]

Expanding eligibility could have a long-term effect on forfeiture as more venues may choose to lease, rather than sell their GMEs. In addition, although a lease can be in place for a term of up to five years, lessors have the option of extending leases. This may result in long term lease arrangements where more GMEs are being transferred without forfeiture.

While the financial barriers resulting from financial contributions made under the LIA process and the leasing levy have been suggested as barriers, it is important to note that LIA contributions support the Authority's assessment of the impact of introducing new GMEs into a community. The mandatory community benefit payments are based on a percentage (15%) of the venue's average gaming machine profit, so while they may reduce the profitability of participation in the scheme, they do not impose a net cost on participants. In some cases, venues may request a review of the required payment.

The leasing levy was introduced as a harm minimisation safeguard and is used to fund RGF initiatives. Unlike GMEs that are bought, GMEs that are leased are not subject to forfeiture. This means lessees can operate more transferred GMEs than what would be permitted by transferring bought GMEs (except in circumstances where the venue is eligible for other forfeiture exemptions). It should be noted that the GME sale and lease prices are driven by market mechanisms, including negotiations between venues.

The initial COVID-19 lockdown (from March 2020) did affect the revenue venues received from operating GMEs. Figure 1 and Figure 3[11] show the quarterly total pre-duty profit by band for clubs and hotels over the three-year period following commencement of the reforms[12]. Figure 1 and Figure 3 show that pre-duty profit returned to normal levels following the initial

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[10] Liquor & Gaming NSW (n.d.) *Reforms to leasing scheme for Gaming Machine Entitlements for registered clubs and hotels* [Fact sheet]. https://www.liquorandgaming.nsw.gov.au/documents/fs/fs3137-leasing-scheme-for-gaming-machine-entitlements-for-registered-clubs-and-hotels.pdf

[11] Figures 1 to 4 show banding as at September 2021 across all quarters.

[12] Pre-duty profit data are recorded quarterly. Quarters closest to the three year reform period used for this evaluation (3 April 2018-2April 2021) were selected for analysis.

COVID-19 lockdown. This is despite the small decline in the number of EGMs being operated over the same three-year period (Figure 2 and Figure 4).

Figure 1: Total pre-duty profit[13] in clubs from quarter ending February 2018 to quarter ending February 2021, by band

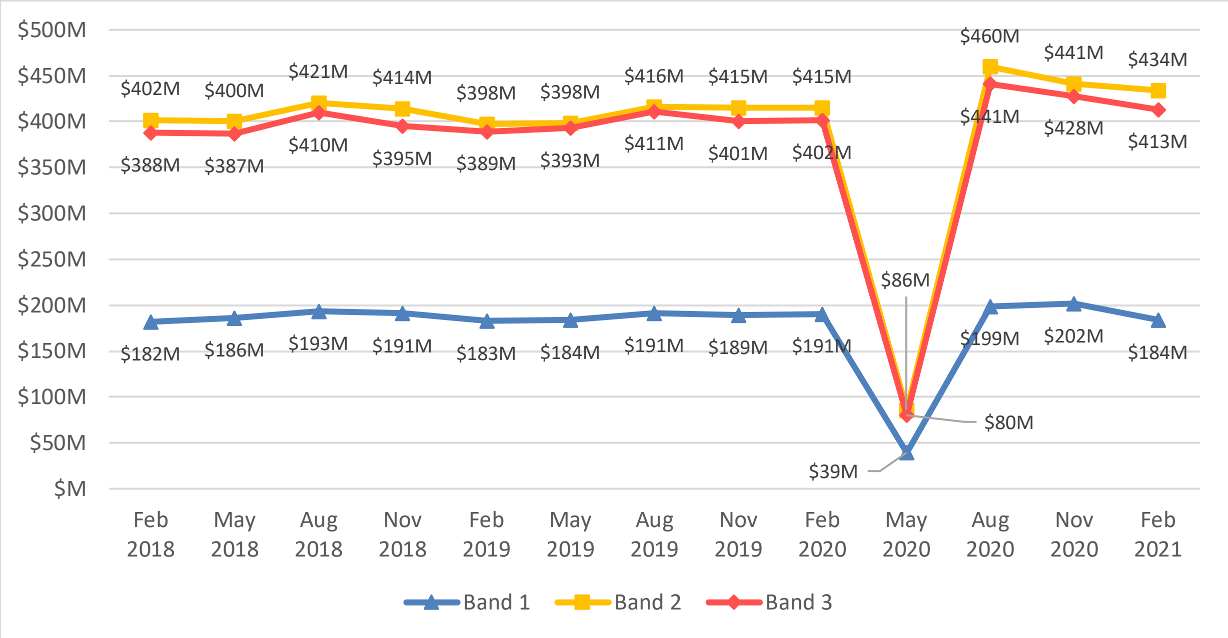
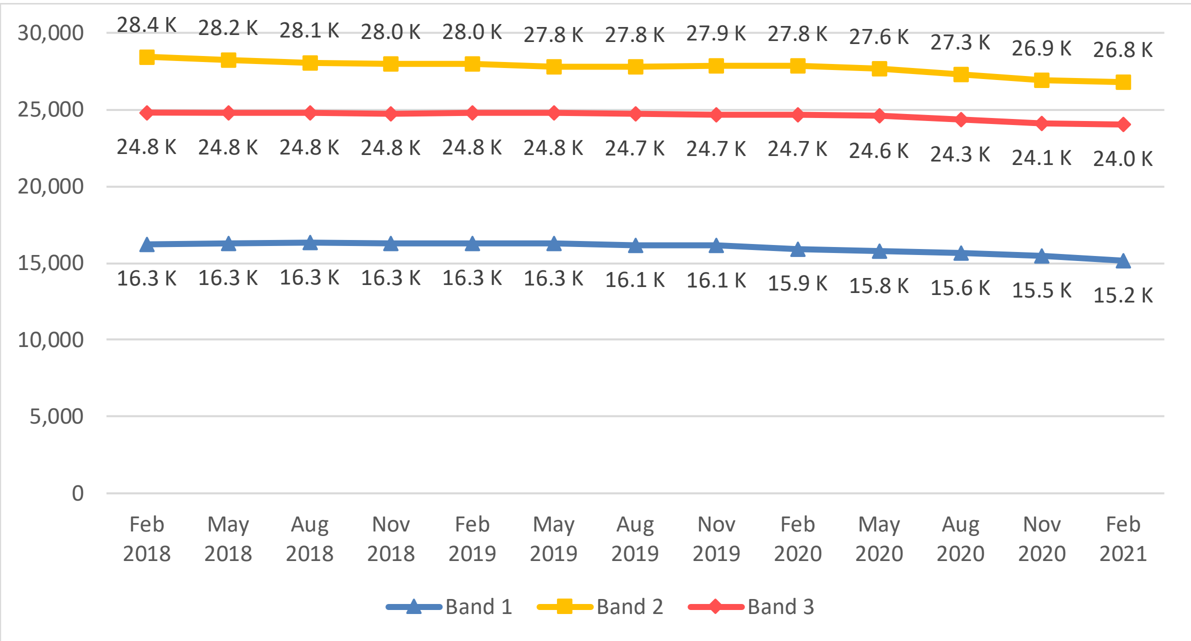


Figure 2: Total EGM count[14] in clubs from quarter ending February 2018 to quarter ending February 2021, by band



[13] Rounded to the nearest million dollars.

[14] Rounded to the nearest hundred.

Figure 3: Total pre-duty profit[15] in hotels from quarter ending March 2018 to quarter ending March 2021, by band

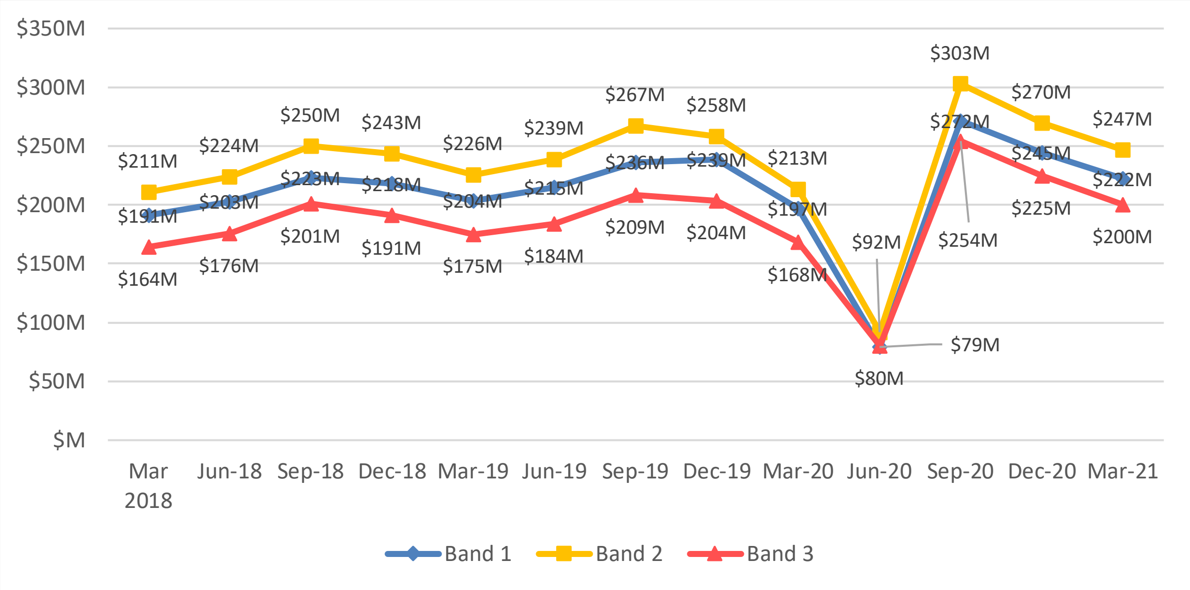
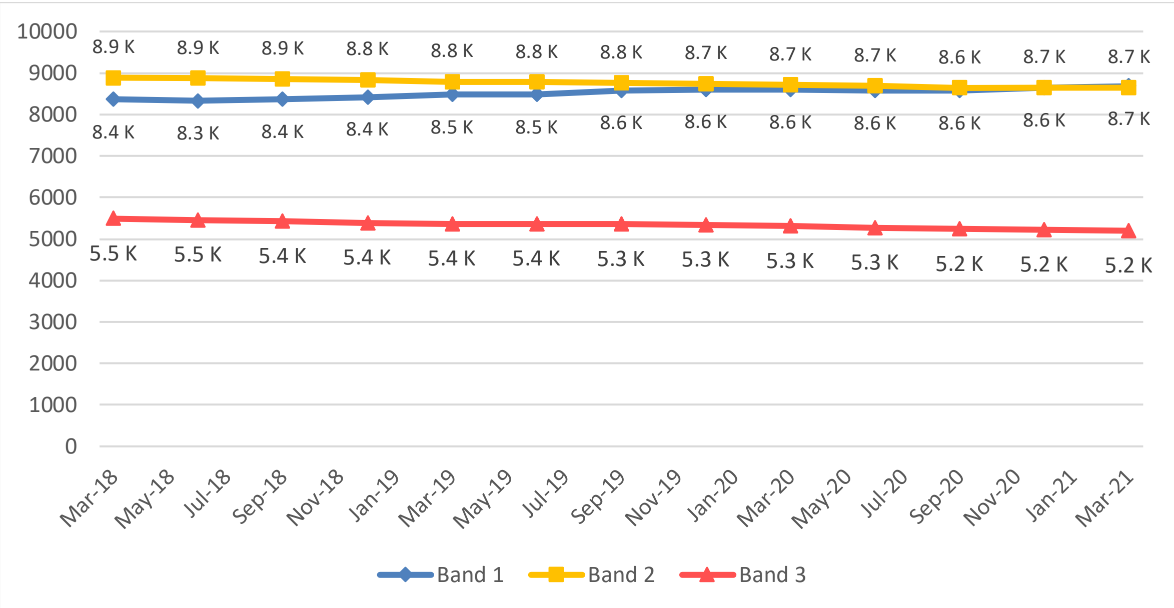


Figure 4: Total EGM count[16] in hotels from quarter ending March 2018 to quarter ending March 2021, by band



An unforeseen consequence of the reforms is the reported increase in venues needing to engage brokers to facilitate transfers. In its submission to the evaluation, ClubsNSW made the following recommendation:

"Explore opportunities with industry stakeholders for other digital initiatives such as an online marketplace or trading desk for GMEs." - ClubsNSW submission

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[15] Rounded to the nearest million.

[16] Rounded to the nearest hundred.

Given the reported additional complexities involved for clubs following the change from LGA to SA2 banding, ClubsNSW may wish to explore options for developing an online register of clubs that wish to participate in the GME leasing scheme to make it easier for small clubs to identify other clubs that may be interested in leasing their GMEs.

Finding 3: Participation in the leasing scheme has been limited, particularly among clubs, potentially due to a number of barriers perceived by stakeholders.

KEQ3: To what extent have lessor venues gained financial benefits from the GME leasing scheme?

Both the AHA and ClubsNSW noted that some venues have been able to generate more income through the leasing scheme than through operating and maintaining GMEs..

To examine the potential financial benefits of leasing versus selling GMEs, the average GME sale price was compared to the average GME lease price (i.e. the total lease price for the full term of the lease) for clubs and hotels separately. Figure 5 shows that the average price for a leased club GME ($64,919.30) is significantly higher (179% higher) than the average club GME sale price per transfer ($23,245.34). For hotels, the average price of a leased hotel GME ($43,702.59) is significantly lower (77% lower) than the average hotel GME sale price per transfer ($192,356.77). However, as noted by the AHA, the decision to lease or sell is a financial decision for each venue and may depend on their unique circumstances. It is important to note that GME sale and lease prices will vary depending on factors such as band classification, location and negotiations between venues.

To examine the potential financial benefits for lessor venues of leasing rather than continuing to operate their GMEs, the average lease price per year was compared to average pre-duty profit in lessor venues over a 12-month period[17] prior to the reforms. Figure 6 shows that the average lease price is higher than average pre-duty profit in the closest 12-month period prior to the reforms for both lessor clubs (average annual lease price = $185,725.32, average pre-duty profit = $143,137.63) and lessor hotels (average annual lease price = $71,548.23, average pre-duty profit = $48,947.33). Based on quarterly pre-duty profit data, some lessors were not receiving any revenue from EGMs during the closest 12-month period prior to the reforms. Therefore, it appears that, overall, lessor venues received more revenue by leasing GMEs than by operating EGMs.

The overall lease price varies between lessors and lessees. From 3 April 2018 to 2 April 2021, overall lease prices ranged from $49,500 to $1,936,000 for clubs and $1,100 to $1,138,500 for hotels (with lease terms ranging from one to five years). Ranges and averages outlined above exclude lease prices recorded at less than $1,000. These leases are likely to occur between related entities where GMEs are transferred between venues at

[17] Pre-duty profit is based on quarterly data. Total pre-duty profit over a 12 month period was calculated for each lessor venue. The average across all lessor venues was then used in Figure 6. The closest 12-month period prior to the commencement of the reforms was used for calculations. For clubs, data from quarters ending May 2020, August 2020, November 2020, and February 2021 were used. For hotels, data from quarters ending July 2020, September 2020, December 2020, and March 2021 were used.

lower prices. Leasing scheme data show lease prices as low as $1. Lease prices were not available for some leases.

Figure 5. Average price of GMEs sold or leased between 3 April 2018 and 2 April 2021[18]

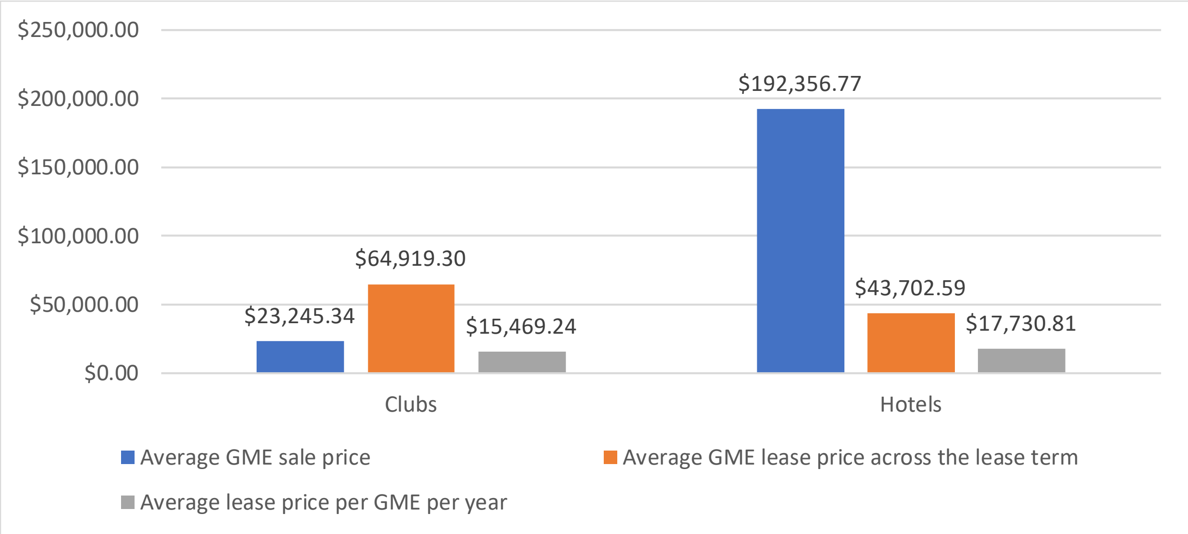
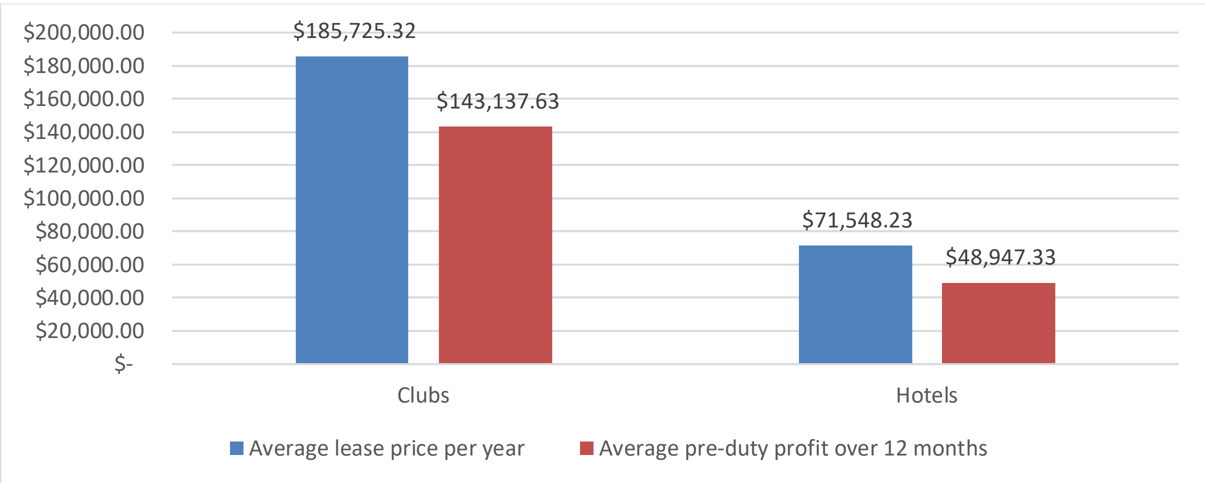


Figure 6: Average lease price per year compared to average pre-duty profit over 12 months, by licence type



Finding 4: Data and industry feedback suggest that, on average, it has been more profitable for lessors to lease their GMEs than operate their machines.

KEQ4: To what extent have smaller venues decided to lease their GMEs and operate without gaming machines?

[18] Average GME sale price is based on the average price of a GME per transfer (average of the average price of a GME for transfers between 3 April 2018 and 2 April 2021). GMEs sold for <$1000 were excluded to remove outliers. Average lease price for a single GME is based on the average price of a GME per lease (average of the average price of a GME for each lease between 3 April 2018 and 2 April 2021). Lease prices valued at <$1000 were excluded.

Stakeholders have reported a shift by some venues to go 'pokie-free' and operate without gaming machines. L&GNSW reported that 'proudly pokie-free'[19] is a recent movement initiated by a group of hotels. Many of these venues appear to be capitalising on their pokie-free status by promoting it, including in cases where they may own GMEs but have leased them out.

The AHA stated that the leasing scheme has allowed hotels to go pokie-free, or partially pokie-free, without jeopardising their relationship with their bank. They reported that some hotels use the revenue from leasing to invest in the venue by refurbishing and improving their offerings. ClubsNSW noted that many clubs keep gaming machines as an additional service for members and that clubs usually only go pokie-free as a last resort before closing.

The Alliance and The Greens NSW expressed concerns about venues promoting a pokie-free status while leasing GMEs. They argued that the leasing scheme allows venues to appear pokie-free while still receiving revenue from gaming machines operated off-site.

The 2018 reforms also introduced a forfeiture exemption for country hotels with a GMT of 6 or less. Under the exemption, country hotels are permitted to sell all 6 GMEs without forfeiture. In the three years since the reforms (3 April 2018 to 2 April 2021), 138 unique country hotels have sold GMEs using this forfeiture exemption.

Based on leasing scheme data, the GMT of 51 unique lessor venues dropped to zero whilst one or more leases was in place. Of these, 4 were clubs and 47 were hotels. In comparison, 137 of 138 venues that were eligible for the forfeiture exemption had a GMT of zero as at October 2021.

It should be noted that the GMT of lessor venues only drops by the number of GMEs leased during the lease term. Therefore, a GMT of zero for lessor venues does not necessarily indicate that the lessor venue is permanently pokie-free.

Forfeiture exemptions for country hotels may have had an impact on country hotels participating in the leasing scheme. The forfeiture exemption available to country hotels with a GMT of 6 or less appears to have been more effective than the leasing scheme in encouraging small country hotels to go 'pokie-free'. Venues that have sold GMEs under the exemption can increase their GMT 24 months after the sale of their GMEs. However, unlike the leasing scheme, venues that have transferred GMEs using the exemption would be required to make a GMT increase application to the Authority and would be subject to requirements under that process.

In addition, L&GNSW raised concerns that some lessor venues may have gone pokie-free but are not trading. L&GNSW have identified a small number of lessor venues that are not trading. Two of these venues are operating as "broom closet" venues where the venue is no longer trading but has been placed in a small part of another venue. In some cases, this

[19] https://www.instagram.com/proudlypokiesfree/?hl=en

occurs when the venue's original premises is undergoing building or renovation and only operates as a broom closet venue for a short period of time.

Two other lessor venues were identified as no longer trading since their lease commenced. At present, the Act and Regulation do not include provisions to prevent venues from ceasing to trade during the lease term. However, benefiting from a lease while the venue is not operating undermines the policy objectives of the leasing scheme. The scheme aims to support small, struggling venues improve their financial viability and continue providing services to the community. The scheme should be implemented in line with these objectives.

As noted above, some leases occur between related entities where lease prices are set at as low as $1. The price of some leases has not been recorded at all, which may indicate the lessor venue is not receiving any revenue from the lease. While this is not prohibited by the Act or Regulation, leasing GMEs for a small price or no price at all undermines the policy objectives of the scheme. Lessees benefit from operating more GMEs at a low price or no cost at all while the lessor, a related entity, does not gain any financial benefit from the lease.

Finding 5: While some hotels are using the leasing scheme to go pokie-free and focus on other offerings for patrons, concessions for country venues which allow them to sell their GMEs without forfeiture have encouraged many country hotels to sell rather than lease their GMEs.

Finding 6: Some hotels are using the leasing scheme to lease their entitlements while ceasing to trade, undermining the policy objectives of the scheme.

Finding 7: Some lessors do not appear to be receiving financial benefits from participating in the leasing scheme because their lease agreements are valued at artificially low prices, undermining the scheme's policy objectives to help small, financially struggling venues stay afloat financially by giving them the ability to generate recurrent income from leased GMEs.

4.2 Impact of the reforms on decision making and forfeiture

KEQ 5: To what extent have the LIA banding changes assisted the Authority to identify high risk areas and prevent the entry of additional gaming machines into these areas?

Identifying high-risk areas

As noted in Section 3, the 2018 gaming machine reforms introduced changes to the LIA banding to more accurately identify high-risk areas. Some of the specific changes introduced were the:

- increased weighting to the SEIFA index
- change from LGA banding to SA2
- removal of the country/metropolitan split.

Some stakeholders were supportive of the increased SEIFA weighting, suggesting that the changes more accurately identified areas that are at higher risk of gambling-related harm.

Industry bodies also suggested that the increased SEIFA weighting was appropriate and prevented the movement of GMEs into lower socio-economic communities.

The Alliance and The Greens NSW argued that it was difficult to determine whether the reforms have led to better identification of high-risk areas without defining risk or having access to data on risks. The Alliance argued that better measures of harm could be used than raw EGM numbers and raw losses. They suggested data such as per capita losses compared to per capita incomes, health and domestic violence incidents could be considered.

Other stakeholders suggested that there are limitations to the current banding approach. BetSafe argued that banding was a ‘one size fits all’ approach and agreed that the calculation required more nuance. Local Government NSW stated that banding was too simplistic and does not allow for a detailed assessment of risks of harm for a particular community.

Regarding the change from LGA banding to SA2, feedback from stakeholders was mixed. A number of stakeholders agreed that the change to SA2s provided a more granular approach than LGAs. The Authority and L&GNSW stated that the revised banding approach ensures decision makers adopt a more localised approach to assessing risk.

The RGF Trustees noted that they are satisfied with the banding changes and that the increased SEIFA weighting was appropriate. However, they suggested that the banding formula does not consider the risk profile of surrounding SA2s.

Additional feedback was received from stakeholders regarding the interaction between neighbouring SA2s, particularly where they may be of different bands. They suggested that the LIA banding calculation should consider the SEIFA factors of neighbouring SA2s. ClubsNSW advocated for a return to LGA banding, stating in their submission:

“EGM density and expenditure per capita at the SA2 level bear little resemblance to reality, as most gaming machine players for relevant venue would reside outside the SA2. In addition, the SEIFA score will be unrepresentative of the socio-economic status of the gaming machines player base.” - ClubsNSW

The AHA argued that banding by SA2 is a more accurate reflection of a local community. They argued that many LGAs are large with many different communities residing within them. The AHA stated that the interactive map on the L&GNSW website shows SA2 as well as LGA boundaries and that it has improved the level of understanding of SA2s.

Some stakeholders argued that since SA2s are less commonly used than LGAs, their adoption added complexities to the LIA process. Further, L&GNSW suggested that data on harms, or existing statistics on problem gambling prevalence, are not as readily available based on SA2s as LGAs, making it difficult to assess the impact of additional GMEs moving into an area.

Again, there was mixed support from stakeholders regarding the removal of the 50/50 country/metropolitan split from the LIA banding calculation. The AHA were supportive of the removal of the split, stating in their feedback:

"The 2018 changes abolishing the metropolitan/country split and giving primary weight to SEIFA has resulted in better banding outcomes for disadvantaged communities." - AHA

L&GNSW suggested there were some limitations to the removal of the split, however, as some metropolitan areas that were previously classified as Band 3 had been reclassified as Band 2, and vice versa. However, it was also noted that, given the increased weighting on SEIFA index, overall risk across the state should be considered rather than treating country and metropolitan relative disadvantage differently.

Some stakeholders raised concerns that a smaller proportion of the state is classed as "high-risk". Since the reforms, 20% of SA2s are classed as Band 3. By comparison, 25% of LGAs were classed as Band 3 prior to the reforms.

Finally, while greater weighting has been placed on the SEIFA index and a smaller proportion of the state is classified as 'high-risk', a large proportion of pre-duty profit is concentrated in Band 3 areas, despite having a lower proportion of EGMs compared to Band 2 areas (Figure 7). Average pre-duty profit per EGM is also higher in Band 3 clubs and hotels (Figure 8).

This is particularly evident in hotels, where Band 3 hotels have the lowest proportion of EGMs compared to Band 1 or 2 hotels (Figure 7) but average pre-duty profit per EGM is approximately 51% higher than Band 1 hotels and 35% higher than Band 2 hotels (Figure 8). Band 3 clubs are operating fewer EGMs than Band 2 clubs (see Figure 2 and Figure 7). Average pre-duty profit per EGM in Band 3 clubs is slightly higher than Band 2 clubs (6%) and much higher than Band 1 clubs (42%) (Figure 8).

When looking at pre-duty profit per EGM by region, average pre-duty profit per EGM is generally higher in metropolitan areas than in country areas (Figure 9), possibly due to a higher population density in metropolitan areas. Average pre-duty profit per EGM is generally evenly distributed across country bands for both clubs and hotels. Notably, average pre-duty profit in Band 3 metropolitan hotels is 72% higher than Band 2 metropolitan hotels and 115% higher than Band 1 metropolitan hotels. While the player base of a particular venue is likely to extend beyond the SA2 the venue is situated in, many stakeholders agree that banding by SA2 provides a greater level of detail regarding the SEIFA Index of a community compared to larger LGAs. Placing restrictions on Band 3 SA2s seems appropriate given that a large proportion of pre-duty profit is concentrated in these areas, particularly Band 3 metropolitan areas. Despite this, venues in lower risk areas may be easily accessible to disadvantaged communities.

Figure 7: Proportion of pre-duty profits and EGMs by LIA band

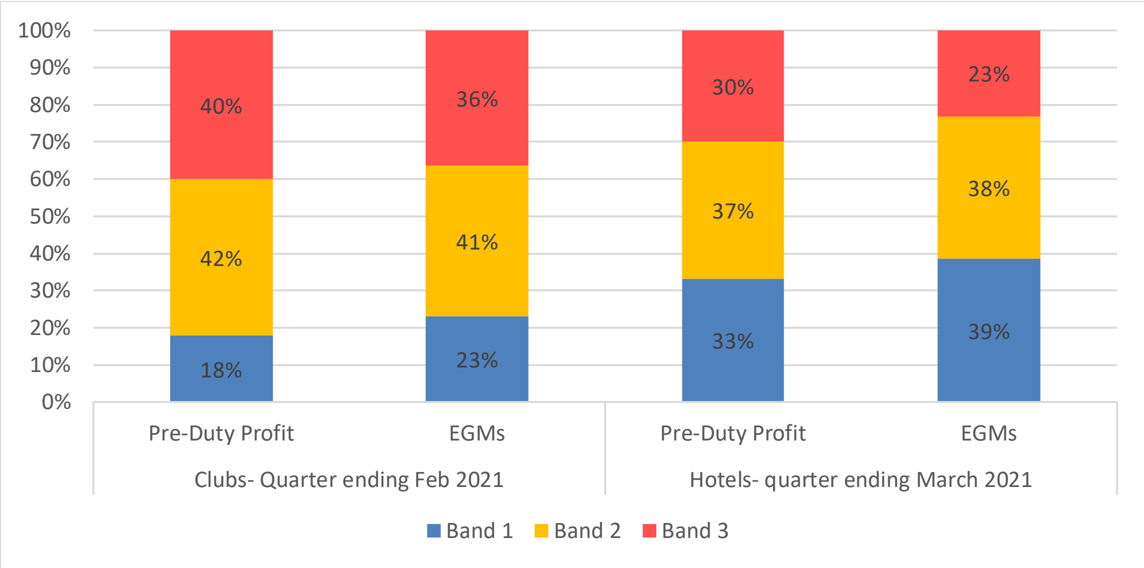
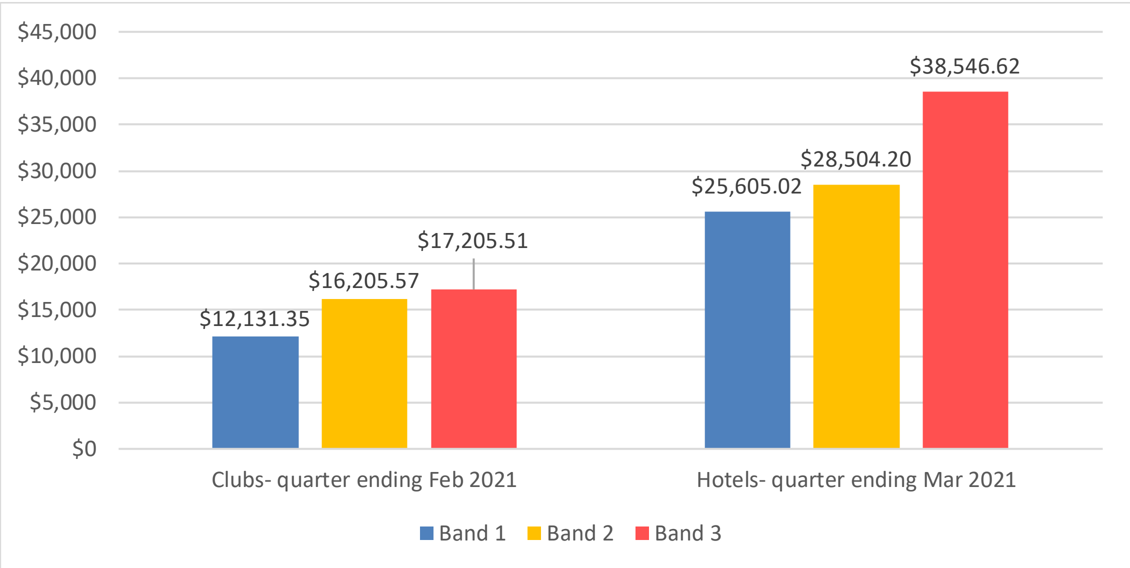


Figure 8: Average pre-duty profit ($) per EGM, by band and licence type[20]



[20] Averages are based on total pre-duty profit per band divided by total EGM count per band. Note that pre-duty profit data and EGM data are updated at different dates. Therefore, the EGM count as at the date the pre-duty profit data were updated may differ to the EGM count as at the date EGM data were updated. Therefore, the average is an approximate value.

Figure 9: Average pre-duty profit ($) per EGM, by region, band and licence type

<u>Preventing the movement of GMEs into high-risk areas: Caps in Band 3 areas</u>

The gaming machine reforms introduced the following additional changes to prevent the movement of GMEs into high-risk areas:

- 'Caps' on GMEs were placed on Band 3 areas where a GMT increase cannot be sought if the application is required to be accompanied by an LIA. This means that a GMT increase can be sought under certain circumstances where venues are exempt from completing a LIA (e.g. a GMT increase application is submitted alongside a GME transfer application, where the GME transfer occurs within the same SA2, within the same LGA where the banding is the same or lower, or to an adjoining SA2 where the banding is the same or lower). These exemptions do not apply to the Fairfield LGA.
- In Fairfield LGA, venues cannot seek a GMT increase if the GMT increase will result in the total GMT for the LGA exceeding the area cap. Transfers resulting from sales within the area may occur, however leasing between venues is prevented.

Stakeholders expressed some confusion regarding how the caps operate in practice. While venues in Fairfield can only seek GMEs from within the same SA2, venues in other capped Band 3 areas can seek a GMT increase and GME transfers from other SA2s under certain circumstances. This has led to transfers between Band 3 venues, usually situated within the same LGA.

Notably, of the total number of GMT increase applications, only a small percentage have required an LIA. This has meant that the Band 3 caps have had a limited impact on GMT increase applications. Local Government NSW shared concerns regarding Band 2 or Band 3 venues that sought to acquire additional GMEs from a venue and were exempt from the LIA process. This prevented councils from being notified about applications relating to the movement of GMEs in higher risk communities.

Figure 10 shows that in the three-year period following the reforms (3 April 2018 to 2 April 2021), 437 GMEs were bought and 916 GMEs were sold by venues in Band 3 areas. A large proportion of GMEs sold from Band 3 venues were sold from Band 3 country venues.

Figure 10: The number of GMEs sold and bought from 3 April 2018 to 2 April 2021 by LIA band and country/metropolitan area

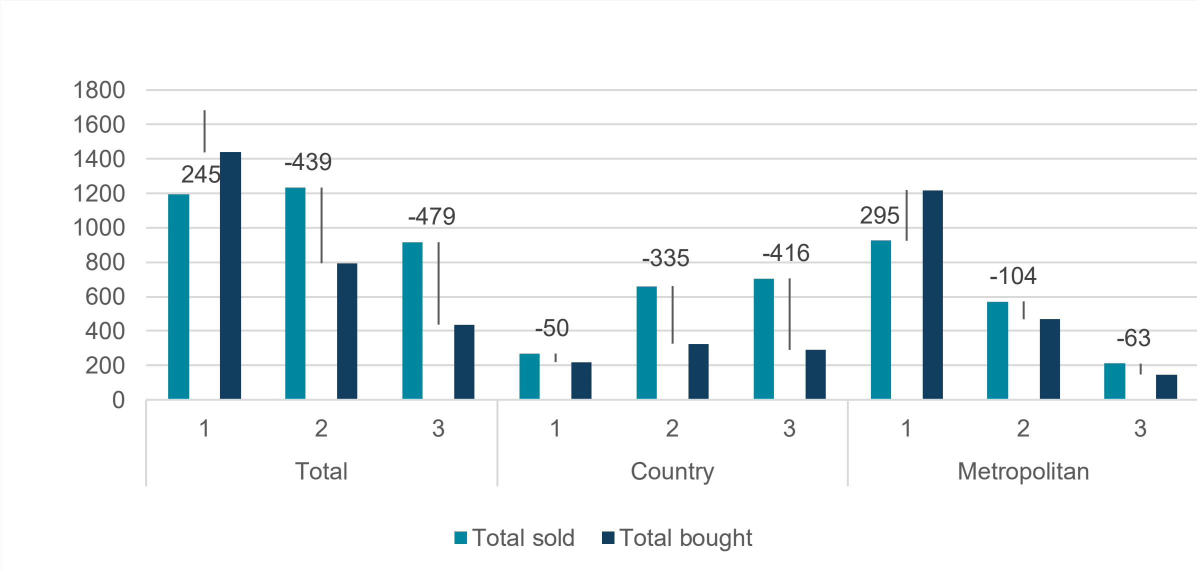


Table 5 also shows that some GMEs have moved from Band 1 or Band 2 venues into Band 3 venues. This has occurred when a GMT increase application was approved under the LIA process prior to the re-banding that resulted from the reforms. Since applicants that have completed a Class 1 or 2 LIA have 2 to 5 years to acquire GMEs following a successful GMT increase application, some GME transfers from Band 1 or 2 areas to Band 3 areas have occurred following the reforms.

Any successful GMT increase applications under the prior LIA process are likely to have expired, so further transfers of GMEs into capped Band 3 areas from lower risk areas are unlikely. Therefore, it is unlikely that additional GMEs will move from lower risk areas into capped Band 3 areas in future, though the current scheme does not prevent the movement of GMEs between Band 3 areas in certain circumstances.

Feedback from some other stakeholders suggested that the Band 3 cap should prevent the movement of GMEs between Band 3 areas entirely.

Fairfield Council suggested that a significant reduction in access to EGMs needed to occur in Fairfield to reduce the level of gambling harm. They suggested that a strategy to achieve this would be to prohibit the movement of EGMs from lower profit-making venues to higher profit-making venues.

Finding 8: While some stakeholders believe the reforms have assisted the Authority to identify high risk areas, other stakeholders called for a more nuanced approach to assessing risk.

Finding 9: While some stakeholders are supportive of the change to banding by SA2 rather than LGA, some stakeholders noted that this change has added additional complexities because some data are not available at the SA2 level and patrons may visit from neighbouring SA2s that may have a different banding classification.

Finding 10: Permitting transfers between different Band 3 SA2s that are capped without an LIA does not allow community members to raise concerns about the impact transfers could have on their local community. Permitting transfers between different Band 3 SA2s also hinders attempts to encourage the movement of GMEs into lower risk areas.

KEQ 6: To what extent have the reforms supported the movement of GMEs into lower risk areas?

Overall, many stakeholders noted that they had insufficient data to comment on whether the reforms had supported the movement of GMEs into lower risk areas. Table 5 shows the movement of GMEs from and to each LIA band. 16% of total GMEs transferred in the 3 years after the reforms have moved to Band 3 areas. Only 27% of GMEs were transferred from Band 3 areas which is lower than movements from Band 1 (36%) and Band 2 (37%) areas.

Of the GMEs that have been transferred to Band 1 areas (55%), 32% are from other Band 1 areas. It should be noted that some GMEs moved from Band 1 or Band 2 areas to Band 3 areas as a result of GMT increase applications that were approved prior to the reforms.

Table 5: The movement of GMEs from and to each LIA band between 3 April 2018 and 2 April 2021[21]

Band	To Band 1	To Band 2	To Band 3	Total
From Band 1	32%	3%	0%[22]	36%
From Band 2	14%	21%	2%	37%
From Band 3	9%	5%	13%	27%
Total	55%	29%	16%	100%

Feedback from stakeholders suggested that venues were generally aware that it is much easier to seek approval for applications for lower risk areas than for higher risk areas.

[21] There is always one buyer per transfer. There can be multiple sellers per transfer. For unique transfers with multiple sellers, the total number of GMEs bought was counted for each seller (i.e. total bought was counted multiple times where there are multiple sellers). Similar patterns are observed when looking at the number of transfers.

[22] 0.3%, figures rounded to the nearest %.

However, L&GNSW noted that there is little incentive to sell a GME from a Band 3 or Band 2 area to a lower band due to the profitability of GMEs in a Band 2 or Band 3 area.

As such, it is unclear whether the LIA changes have supported the movement of GMEs to lower risk areas. As stated above, GME transfers can occur between Band 3 areas which may hinder sales to lower risk areas.

Figure 11 and Figure 12 show banding at the point of transfer. Therefore, transfers that occurred between 3 April 2015 and 2 April 2018 show the LGA banding. Transfers that occurred between 3 April 2018 and 2 April 2021 show SA2 banding. Sales to and from Band 3 areas decreased in the year following the reforms (3 April 2018 to 2 April 2019), and in the two years following that (3 April 2019 to 2 April 2021). Sales to and from Band 1 and Band 2 areas have decreased in the past two years (after increasing in the first year following the reforms), though this may be due to the impact of COVID-19.

The reduction in sales to and from Band 3 areas in the first year following the reforms may have occurred because fewer venues are now considered Band 3 venues. Prior to the reforms, 25% of the lowest ranking LGAs were classed as Band 3. Since the reforms, 20% of the lowest ranking SA2s have been classed as Band 3. However, it should be noted that significant changes were made to the banding methodology following the reforms. This makes it difficult to compare patterns of GME movement prior to the reforms (3 April 2015 to 2 April 2018) to patterns of GME movement following the reforms (3 April 2018 to 2 April 2021).

Figure 11: Total GMEs sold by LIA band from 3 April 2015 to 2 April 2021

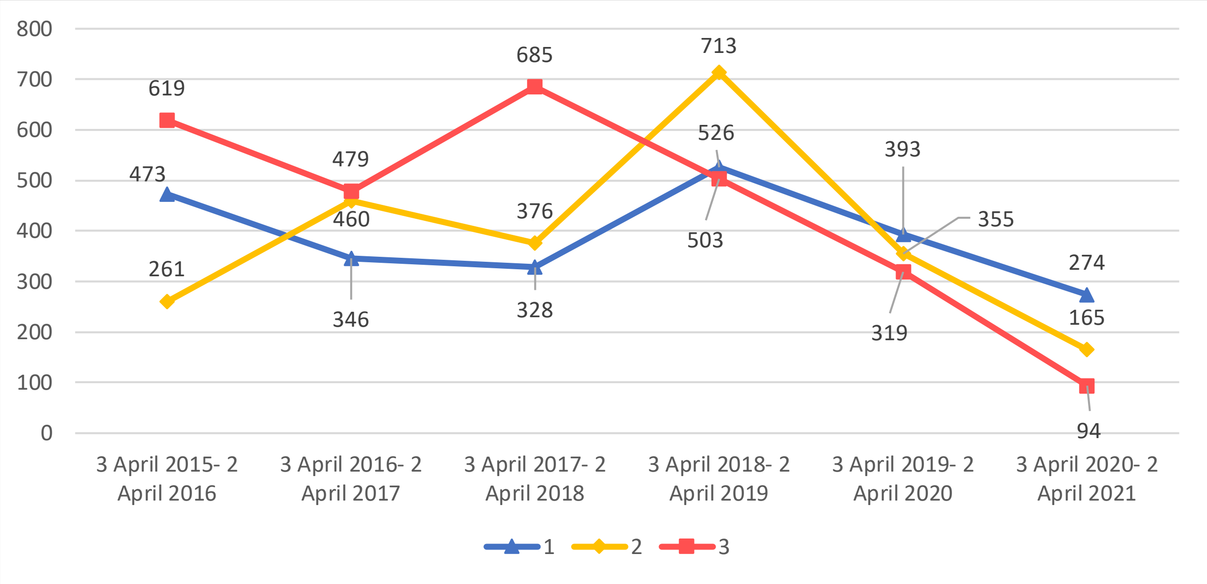
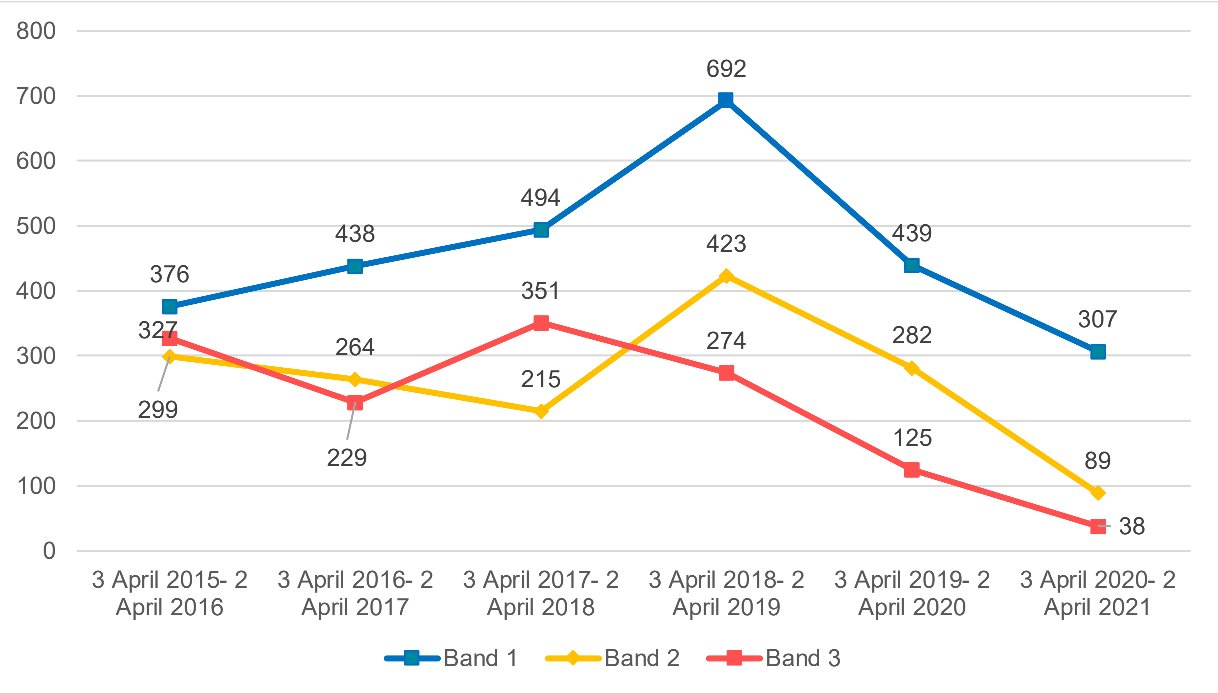


Figure 12: Total GMEs bought by LIA band from 3 April 2015 to 2 April 2021



As noted above, fewer venues are classed as Band 3 following the reforms. According to the NSW Government response to the LIA Review in 2018 [23], the intent of this was to encourage freer movement of GMEs which would lead to greater forfeiture. However, it is difficult to test this because other aspects of the reforms, including the leasing scheme and forfeiture exemptions for country hotels with a GMT of 6 or less, and the possible impact of the COVID-19 pandemic on more recent GME transfers, have resulted in fewer forfeited GMEs overall.

[23] NSW Government (2019). *NSW Government Response to Local Impact Assessment Review*. https://www.liquorandgaming.nsw.gov.au/documents/public-consultations/local-impact-assessment-review/cp5244-review-of-the-local-impact-assessment-review-report-response-recommendations.pdf

Figure 13 and Figure 14 show sales and forfeiture increased in the year immediately following the reforms (3 April 2018 to 2 April 2019), suggesting that the reforms may have encouraged sales and forfeiture. The extent to which the banding changes had an impact on this is unclear.

There was also an increase in GMEs sold from Band 3 country hotels in the year following the reforms. This was largely driven by sales from country hotels with a GMT of 6 or less. Of all the GMEs sold from Band 3 country hotels, 65% were from those venues with the forfeiture exemption (country hotels exemption, GMT <=6). Of the GMEs sold by country venues with the exemption, only 13% were bought by other Band 3 venues.

Finding 11: Since the reforms, Band 3 venues have been more likely to transfer GMEs to other Band 3 venues than to Band 1 and 2 venues.

KEQ 7: To what extent have the reforms had an impact on forfeiture of GMEs?

The following reforms may have had an impact on forfeiture:

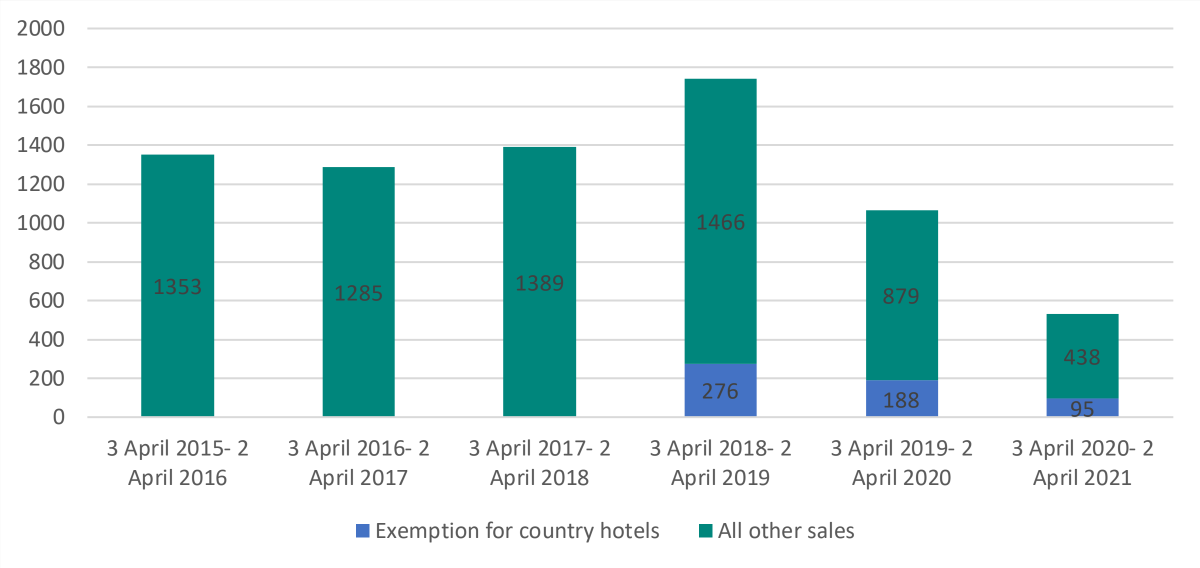
- GME leasing scheme
- Exemption for country hotels with a GMT of 6 or less
- A lower proportion of the state is classed as Band 3, resulting in freer movement of GMEs to encourage forfeiture through sales.

Most transfers among clubs have been purchases as opposed to leases for the reasons captured in Finding 3. Also, ClubsNSW claimed in their feedback that SA2 banding has had an impact on clubs, including fewer club amalgamations and leases between nearby clubs. Therefore, the majority of leases have occurred among hotels.

While it may be reasonable to assume the leasing scheme has had some impact on forfeiture, it is difficult to assess the full extent to which the leasing scheme has had an impact on forfeiture because leases are intended to be temporary arrangements. Furthermore, data and feedback to confirm whether venues would have sold their GMEs, if leasing was not an option, is not available. Having said that, many stakeholders have the perception that the leasing scheme has had an impact on the rate of forfeiture.

The number of forfeited GMEs has decreased following the reforms largely due to a decrease in overall sales. From the period 3 April 2017 to 2 April 2018 to the period 3 April 2018 to 2 April 2019, GME sales increased by 25%. When excluding GMEs sold under the exemption for country hotels with a GMT of 6 or less, sales increased by 6% (Figure 13). However, in considering year to year comparisons, sales decreased by 39% in the following year (3 April 2019 to 2 April 2020) and by 50% in the year after that (3 April 2020 to 2 April 2021). Both the reforms and COVID-19 disruptions may have had an impact on sales.

Figure 13: Total number of GMEs sold, including the number sold using exemption for country hotels



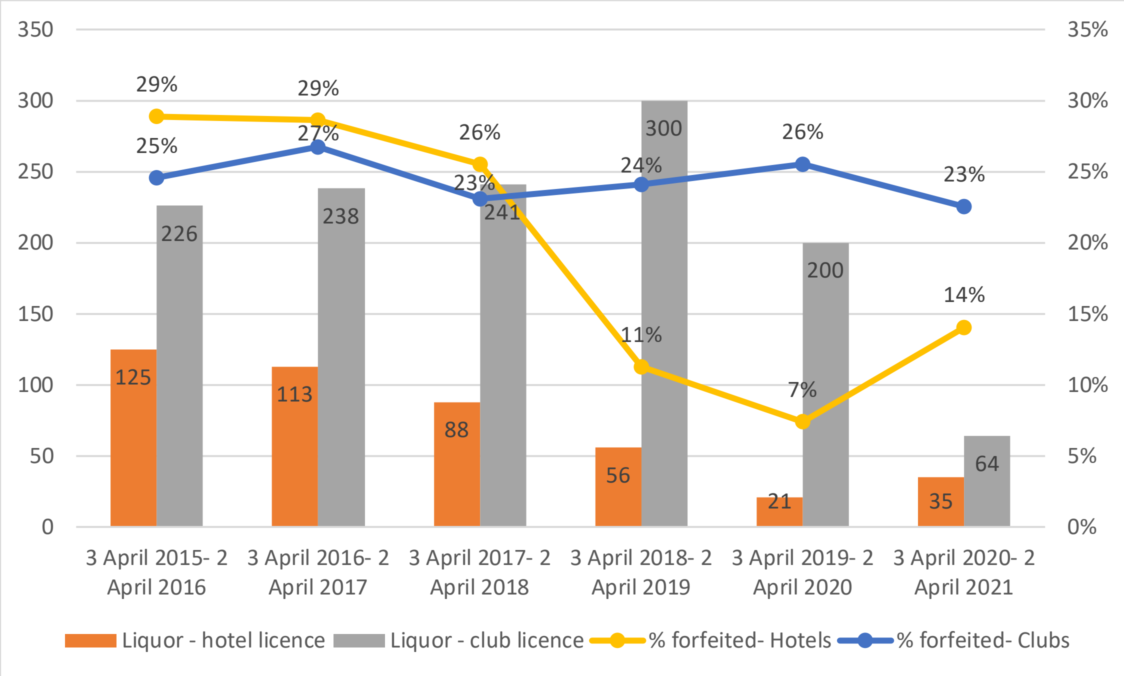
According to GME transfer data from L&GNSW, 20% of GMEs sold in the three years since the reforms (3 April 2018 to 2 April 2021) were forfeited (676 of 3342). Meanwhile, 568 GMEs were leased. Further, there has been a decrease in forfeited hotel GMEs as a percentage of total hotel GMEs sold (Figure 14). This is largely driven by the forfeiture exemptions for country hotels with a GMT of 6 or less where 559 GMEs were sold between 3 April 2018 and 2 April 2021. When these sales by country hotels are excluded, hotel forfeiture rates are similar to club forfeiture rates.

The increase in sales in the year following the reforms (3 April 2018 to 2 April 2019) suggests that the reforms may have encouraged greater movement of GMEs. For clubs, this led to a greater number of GMEs being forfeited in the year following the reforms (3 April 2018 to 2 April 2019) (Figure 14). The same pattern was not observed for hotels due to the forfeiture exemption for country hotels with a GMT of 6 or less (Figure 14).

COVID-19 may have had an impact on GME sales over the period 3 April 2020 to 2 April 2021. In the absence of data showing longer term trends, it is therefore difficult to determine whether reducing the proportion of the state classed as Band 3 has encouraged sales and forfeiture.

In principle, leasing has had some impact on forfeiture because GMEs can be transferred without forfeiture. The long-term impact of leasing on forfeiture, however, is unclear as there is no data to suggest lessors would have sold their GMEs if leasing was not available. Rather, industry feedback suggests some venues are unable to sell their GMEs because they are considered assets by financial institutions.

Figure 14: Number of GMEs forfeited and forfeiture as a proportion of GMEs sold from 3 April 2018 to 2 April 2021, by liquor licence type



Finding 12: The number of forfeited GMEs has decreased since the reforms due to fewer sales and the forfeiture exemption for transfers by country hotels with a GMT of 6 or less.

4.3 Impact of the reforms on the community

KEQ8: To what extent have the LIA reforms had an impact on community confidence and involvement in gaming machine regulation?

The reforms introduced measures to improve community confidence and involvement in the LIA process, including the requirement for venues exempt from completing an LIA to instead submit an LIS, longer consultation periods, and increased notification requirements. The AHA and ClubsNSW suggested that there are more opportunities for community involvement since the reforms through extended consultation timeframes and notification requirements. Having said that, some other stakeholders, including Local Government NSW, stated that it was difficult to assess whether community involvement in the LIA process has increased because no published LIA submission data are available.

Local Government NSW and Fairfield City Council argued that there were less opportunities for consultation due to the number of GMT increase and transfer applications that do not require an LIA. In its submission, Fairfield City Council noted that the community supported the introduction of the cap as a form of acknowledgement of the impact of gambling. They noted that, while the local community has not provided feedback through the LIA process since the reforms, the community is largely unaware of other transfers that occur within the local area and do not have opportunities to provide feedback for GMT increase applications exempt from completing an LIA.

The AHA noted that the introduction of the LIS for low-risk GMT increase applications was a positive step because it gives the community greater visibility over lower risk applications.

Prior to the reforms, the community received no information in relation to low-risk applications. On the other hand, the Alliance stated that an LIS was a lost opportunity and an insult to community organisations. They argued that the LIS was a standard form where applicants tick boxes rather than provide any tailored statement about local impact.

Many stakeholders, including L&GNSW, the Alliance and BetSafe believe that the reforms have not improved community involvement in the LIA process. Some argued that the process is complex and difficult to engage with. L&GNSW suggested that low levels of engagement may have resulted from 'consultation fatigue' where community stakeholders do not feel that their submission will make a difference.

The Alliance also argued that the noticeboard was inefficient and did not improve transparency. They noted that, unlike previous versions of the noticeboard, interested stakeholders are no longer automatically notified of new applications and are required to visit the website weekly to check for new applications. It was also suggested that venues are not notifying all organisations they are required to. Local Government NSW suggested that the notification process could be improved by automating the notification process for interested community members and notifying properties within a set radius of the applicant's premises.

L&GNSW licensing data, combined with data available through the LIA register, show that the proportion of applications requiring an LIA is the same (approximately 12%) when comparing the pre-reform period (3 April 2015 to 2 April 2018) to the post-reform period (3 April 2018 to 2 April 2021).

During the period 3 April 2015 to 2 April 2018, 69 applications requiring an LIA were lodged. At least one submission was received for 52% (35 of 69) of these applications. In the three years following the reforms (3 April 2018 to 2 April 2021), 42 applications requiring an LIA were lodged and at least one submission was received for 48% (20 of 42) of these applications (Table 6). These data therefore indicate that an increase in community involvement per application was not observed during the reform period.

As shown in Table 7, in the pre-reform period (3 April 2015 to 2 April 2018) the average number of submissions received per application (0.96) was slightly higher than the average number of submissions received per application (0.79) during the post reform period (3 April 2018 to 2 April 2021).

Table 6: Number of applications requiring an LIA receiving submissions, pre and post reform

Application lodge date	Decision	Total applications	No. of applications where no submissions were received		No. of applications where at least one submission was received		Unknown	
			Count	%	Count	%	Count	%
3 April 2015 to 2 April 2018	Approved	55	28	51%	27	49%	0	0%
	Withdrawn	10	3	30%	7	70%	0	0%
	Refused	4	3	75%	1	25%	0	0%
	Total	69	34	49%	35	51%	0	0%
3 April 2018 to 2 April 2021	Approved	36	16	44%	17	47%	2	6%
	Withdrawn	6	2	33%	3	50%	1	17%
	Refused	0	0	0%	0	0%	0	0%
	Total	42	18	43%	20	48%	3	7%

Table 7: Average number of submissions received per application requiring an LIA, pre and post reform

Application lodge date	Decision	Total applications	Total submissions	Average per application
3 April 2015 to 2 April 2018	Approved	55	54	0.98
	Withdrawn	10	11	1.10
	Refused	4	1	0.25
	Total	69	66	0.96
3 April 2018 to 2 April 2021	Approved	36	29	0.81
	Withdrawn	6	4	0.67
	Refused	0	0	0.00
	Total	42	33	0.79

Transparency

The Alliance raised concerns that the Authority was approving applications without adequate information about the outcomes of the community consultation process. They provided examples of instances where applicants had not included a list of organisations consulted in the LIA. They also provided examples of two different LIAs that had two identical paragraphs.

Some stakeholders have expressed a desire for greater transparency by the Authority to improve community confidence in the process.

Similarly, the Alliance stated that the Authority and L&GNSW have not published guidelines targeted toward community stakeholders on the type of information that could be included in a submission. They also argued that ‘positive contribution’ is a financial contribution under legislation and that there are no legislated criteria that community stakeholders can refer to when framing their objections.

Many stakeholders noted that a lack of available data prevented detailed comment by the community on the movement of GMEs. Fairfield City Council commented that data on the movement of GMEs were not publicly available. In addition, they argued that more data relating to health and social impact should be made available at an SA2 level to inform LIAs, LISs and decisions relating to applications.

The Greens NSW stated it was difficult to assess the effectiveness of the 2018 reforms because, unlike Victoria, NSW does not publish venue specific gaming machine data. They recommended introducing a framework similar to Victoria to “inform and implement effective harm reduction measures in future”.

The Authority noted that the LIA scheme is tightly prescribed which has led to little room for discretionary decision making. This suggests there is little scope for the community to influence the decision-making process if criteria under the Act and Regulation are met by applicants.

This seems to be evident for GMT transfer applications where an LIA is not required. Based on data outlined above, most GMT increase applications do not require an LIA. Furthermore, feedback from L&GNSW suggests that some applicants are submitting multiple applications for a GMT increase within short periods of time to avoid the requirement to complete an LIA.

In summary, although there are additional notification requirements and longer timeframes for providing feedback through the LIA process, the reforms appear to have been unsuccessful in increasing community involvement overall because:

a) most GMT increase applications do not require an LIA and are therefore not required to consult with the community; and
b) in the limited circumstances where an LIA is required, several barriers to involvement have been identified.

Finding 13: LIA exemptions available to applicants seeking a GMT increase limit opportunities for community consultation.

Finding 14: While LIA changes have increased opportunities for community participation through increased notification requirements and longer consultation timeframes, there has not been an increase in the overall number of submissions, or the average number of submissions per application, in response to GMT increase applications requiring an LIA.

Finding 15: Stakeholders highlighted a number of ongoing barriers to community involvement and confidence such as (a) low levels of awareness as to how they can be involved or influence the process, (b) the complexity of the reforms and the LIA process, (c) lack of sophisticated notification processes, (d) limited access to relevant data, and (e) limited publicly available information in relation to the reasons for the Authority’s decisions.

KEQ 9: What impact, if any, has directing financial contributions from the LIA process to the RGF had on the community?

Overall, internal and external stakeholders consulted were positive about financial contribution requirements under the LIA scheme being paid to, and distributed by, the RGF via a community benefit payment scheme.

“AHA supports this change. The Responsible Gambling Fund is the appropriate body to collect and redistribute financial contributions from the LIA process.” – AHA Submission

Overall, stakeholders believe directing financial contributions to the RGF has had a positive impact on communities with grants being offered based on a strict criterion, with organisations required to show positive outcomes that align with a wider strategic plan. Furthermore, most stakeholders mentioned that the process, including the introduction of LIA guidelines by the Authority, has led to greater consistency and improved transparency as to how contributions are calculated and distributed. Industry stakeholders also mentioned that the process is more streamlined for venues and removes the possibility or perception of venues being biased when making contributions.

“Previously it was all just about whether a cheque was being offered rather than whether it would be of benefit to the community” Alliance - Consultation

“It is a much more straightforward process for the operator as well – to go straight to the RGF and have them allocate it according to the RGF. We definitely wouldn’t want this to go back to the old way” AHA - Consultation

During consultations, there was no evidence to suggest that directing funds to the RGF has had an adverse effect on venue relationships with communities.

Finding 16: The directing of financial contributions from the LIA process to the RGF for allocation to the local community is widely supported by both industry and community stakeholders and has not adversely impacted venue relationships with communities.

However, some stakeholders did raise concerns about the transparency of grants that are allocated by the RGF through the LIA process. Specifically, stakeholders wanted more information on how grants are allocated, the outcomes of the funding, and whether funds are allocated to the same community from which contributions are generated.

"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" Local Government NSW - Submission

When consulted, the Office of Responsible Gambling confirmed that information on how funding is allocated, and the projects funded through the community benefit scheme, including the LIA each project was funded from, is publicly available on the NSW Government's GambleAware website. However, no information on outcomes and evaluations of the funded projects are publicly available.

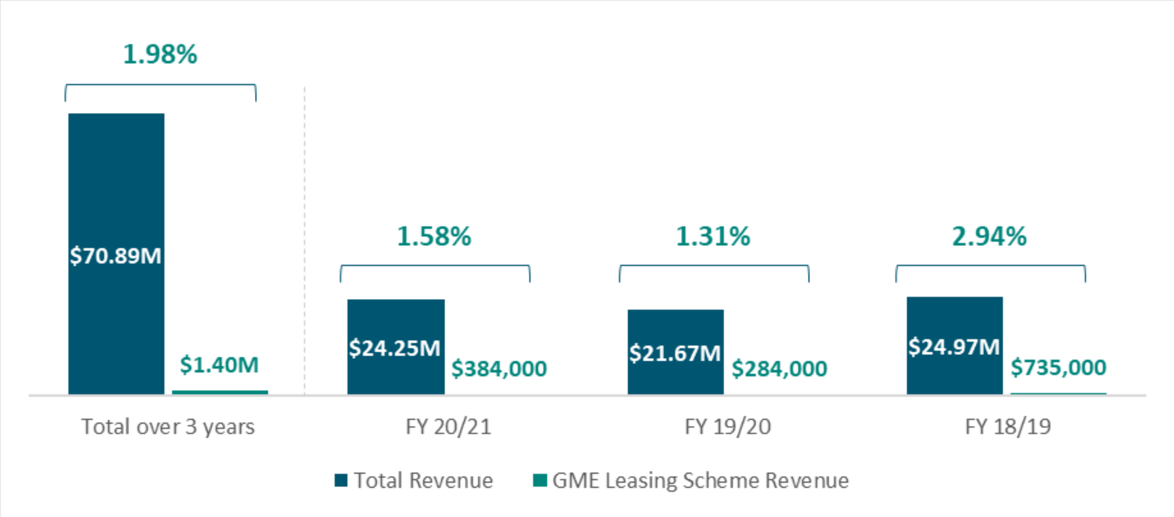
Currently, community organisations receive funding for an initial two-year period, at which stage the funded project is evaluated to assess whether expected milestones and outcomes have been achieved. If organisations demonstrate satisfactory progress and positive outcomes for the local community, funding is then granted for a further three years. As of December 2021, 11 of the 13 grant recipients that had already been funded for two years, had been recommended for further funding.

Finding 17: Transparency on the outcomes achieved from the community contribution funding could be improved.

KEQ 10: What impact, if any, has the introduction of the RGF levy under the GME leasing scheme had on service provision for the community

Since the leasing scheme was introduced, the 5% GME leasing levy has contributed about $1.4 million to the RGF (1.98% of total RGF revenue). The highest contribution from the leasing scheme was in the 2018/19 financial year (roughly $735,000) and this then decreased to around $284,000 in 2019/20 and $384,000 in 2020/21 (see). However, the number of new leases entered into by venues did not decrease over time.

Figure 15: RGF total revenue and revenue from the GME leasing scheme



Finding 18: Funds generated through the GME leasing levy have contributed $1.4 million in revenue to service provision through the RGF. The funds represent less than 2% of revenue received by the RGF over the three years since the commencement of the 2018 reforms.

Currently funds generated through the GME leasing levy are allocated to the RGF's general revenue that supports gambling harm minimisation programs and services in NSW. Therefore, although the funds contribute to harm minimisation services in the community, specific outcomes from the GME leasing levy cannot be isolated from the overall outcomes of services provided by the RGF.

Finding 19: Funds generated through the GME leasing levy are absorbed into general RGF revenue to support existing programs and services, and therefore specific outcomes from the levy cannot be isolated from overall outcomes for services provided by the RGF.

KEQ 11: Have the reduced restrictions on trading GMEs into new development areas had an impact on the number of clubs in new development areas?

In the three years since the reforms (3 April 2018 to 2 April 2021), two clubs were established in Band 1 new development areas. Following this three-year period, one further club has been established in a Band 2 new development area. This club has a GMT of zero. The reforms therefore appear to have had no apparent impact on the number of clubs operating GMEs in Band 2 new development areas. However, ClubsNSW noted that the COVID-19 pandemic may have affected this.

The AHA suggested that extending the provision to hotels would encourage investment in new development areas and facilitate balanced development of the hotel industry. They suggested this could be permitted for hotels applying for a GMT of 30 with a class 1 LIA.

Fairfield City Council recommended that clubs in new development areas should be required to make payments to the RGF and develop a plan of management that addresses harm minimisation. They argued that the ability for clubs in new development areas to acquire 150

GMEs creates a gambling culture and that the impact this could have on neighbouring areas should be considered.

The Alliance raised concerns that clubs in new development areas are exempt from community consultation and RGF payment requirements. However, clubs established in new development areas are required to complete a class 1 LIA. These venues are therefore subject to consultation and community benefit payment requirements.

It is not recommended that the reduced restrictions on venues operating in new development areas be extended to hotels, as the services and facilities offered by clubs differ to those offered by hotels. Given that the reforms have had no apparent impact on the establishment of clubs operating GMEs in Band 2 new development areas, no changes would appear to be required at this stage.

Finding 20: The reduced restrictions on trading GMEs into Band 2 new development areas have had no apparent impact on the number of new clubs being established in Band 2 new development areas, though the extent to which the COVID-19 pandemic has affected this is unclear.

4.4 Other impacts of the gaming machine reforms

KEQ 12: Have there been any other impacts or unintended consequences of the gaming machine reforms?

The evaluation explored other impacts or unintended consequences of the gaming machine reforms. During consultations it was suggested that there is an increase in financial risk to the RGF with payments through the LIA being directed to the RGF.

Specifically, once payment conditions with venues are finalised the Office of Responsible Gambling enters into a separate funding agreement with community organisations for an initial two years, then three years, based on the expected revenue. If venues are unable to fulfil payments set out in payment conditions or request to have payments deferred or decreased, the RGF is still contractually committed to funding community organisations.

Since the reforms were introduced around 30% of venues have deferred payment to the RGF, and although as of December 2021 all deferred payments have been paid, this is an ongoing risk for the RGF to manage.

This risk is also exacerbated by inconsistent conditions regarding if, and when, venues can request a review of the contribution to the RGF through the LIA. Since the introduction of the reforms, some new venues have been provided the option to request a re-calculation of the contribution based on actual profit at any stage after the second year. Other new venues are only permitted to request a re-calculation at the second-year mark, which aligns with when the Office is reviewing agreements with community organisations.

While no applications to the Authority to reduce payments have been approved as at December 2021, this could cause issues going forward and affect how funds are allocated from the RGF to community organisations. The Office of Responsible Gambling noted that inconsistent application of the Authority's LIA and community benefit payment guidelines is already creating uncertainty for the RGF in delivering on funding commitments.

Finding 21: There are some risks for the allocation of funding from the RGF to community organisations as venues may not pay on time or may have their funding deferred or reduced, which places the financial risk on the RGF to honour the funding agreement commitments.

Appendix A: Program Logic

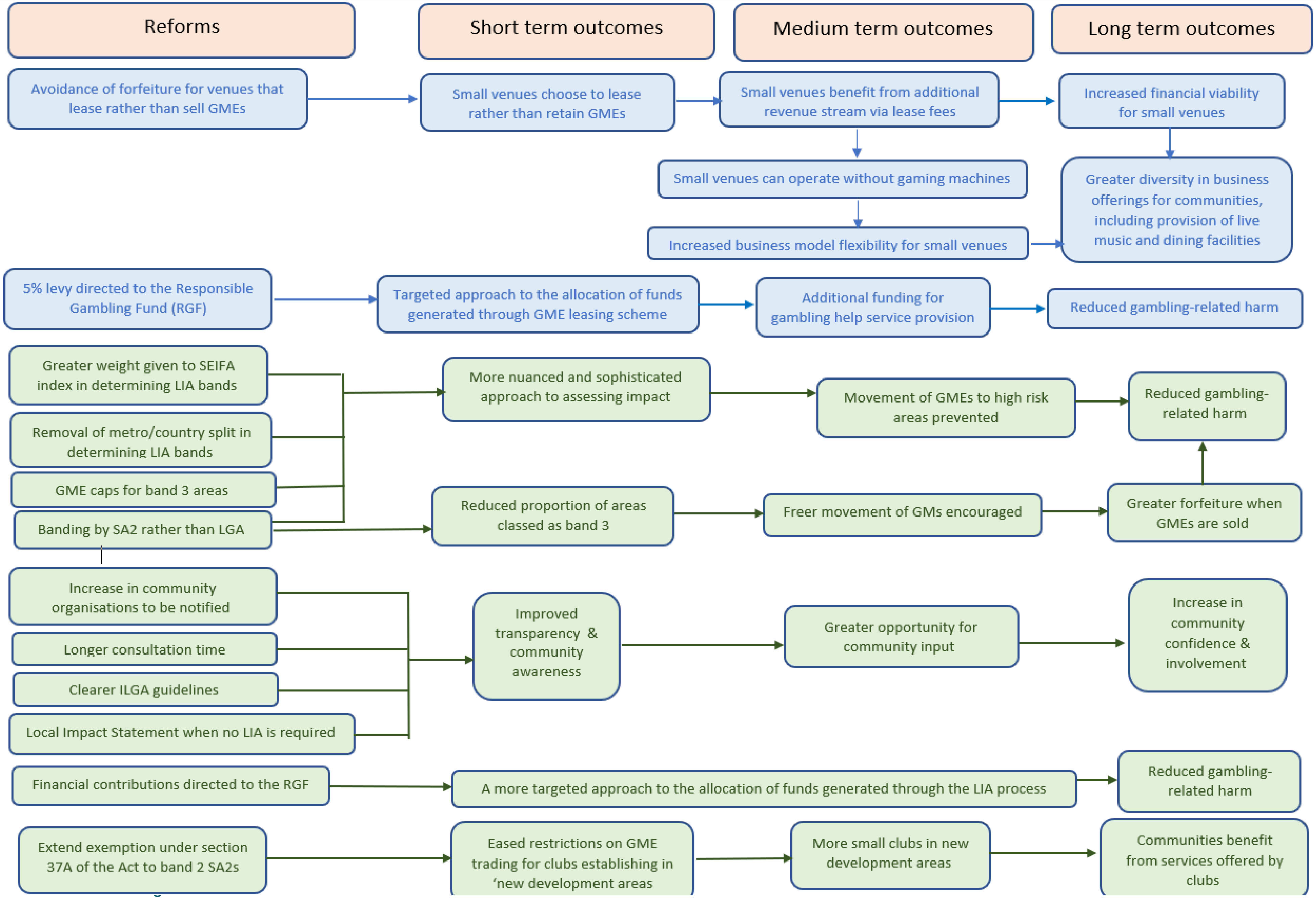
Situation: The *Gaming Machines Amendment (Leasing and Assessment) Act 2018* introduced changes to the Local Impact Assessment (LIA) process and a Gaming Machine Entitlements (GME) leasing scheme that commenced on 3 April 2021. The LIA process is used to assess the likely impact of introducing additional gaming machines into an area. The GME leasing scheme allows a small club to lease GMEs to another club, and a small hotel to lease to another hotel. All leased GMEs are subject to requirements under the LIA scheme for the movement of GMEs.

Assumptions:

- GME leasing scheme will be utilised by small venues
- Higher concentrations of gaming machines are associated with increased gambling-related harm.

External factors:

- Existing gaming machine forfeiture requirements will continue to decrease the number of GMEs in NSW, in addition to any impact from the March 2018 gaming machine reforms
- Social, political, or environmental changes that impact the industry (e.g. restrictions during the COVID-19 pandemic).


Reforms
Short term outcomes
Medium term outcomes
Long term outcomes
Avoidance of forfeiture for venues that lease rather than sell GMEs
Small venues choose to lease rather than retain GMEs
Small venues benefit from additional revenue stream via lease fees
Increased financial viability for small venues
Small venues can operate without gaming machines
Greater diversity in business offerings for communities, including provision of live music and dining facilities
Increased business model flexibility for small venues
5% levy directed to the Responsible Gambling Fund (RGF)
Targeted approach to the allocation of funds generated through GME leasing scheme
Additional funding for gambling help service provision
Reduced gambling-related harm
Greater weight given to SEIFA index in determining LIA bands
More nuanced and sophisticated approach to assessing impact
Movement of GMEs to high risk areas prevented
Reduced gambling-related harm
Removal of metro/country split in determining LIA bands
GME caps for band 3 areas
Reduced proportion of areas classed as band 3
Freer movement of GMs encouraged
Greater forfeiture when GMEs are sold
Banding by SA2 rather than LGA
Increase in community organisations to be notified
Longer consultation time
Clearer ILGA guidelines
Local Impact Statement when no LIA is required
Improved transparency & community awareness
Greater opportunity for community input
Increase in community confidence & involvement
Financial contributions directed to the RGF
A more targeted approach to the allocation of funds generated through the LIA process
Reduced gambling-related harm
Extend exemption under section 37A of the Act to band 2 SA2s
Eased restrictions on GME trading for clubs establishing in 'new development areas
More small clubs in new development areas
Communities benefit from services offered by clubs

Appendix B: Discussion Paper

NSW GOVERNMENT

Liquor & Gaming NSW

Evaluation of the 2018 Gaming Machine Reforms
Discussion Paper, August 2021

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About the evaluation

The NSW Government is evaluating the gaming machine reforms introduced in 2018 as part of the *Gaming Machines Amendment (Leasing & Assessment) Act 2018*. These reforms involved amendments to the *Gaming Machines Act 2001*, Gaming Machines Regulation 2010, and the *Casino Control Act 1992.*

The aim of the evaluation is to assess the extent to which the gaming machine reforms have met their stated objectives (outlined on page 4 of this discussion paper).

Next steps

Liquor & Gaming NSW (L&GNSW) will assess stakeholder feedback received in response to this discussion paper. It will use this feedback, along with other relevant information and data, to inform the findings and recommendations of the evaluation.

How to give feedback

You may be interested in sharing your views if you are:

- involved with the gaming industry, such as a club or hotel operator, and have an interest in the 2018 gaming machine reforms
- a government or non-government body with an interest in the reforms
- a community group or member of the public with an interest in the reforms.

L&GNSW is seeking your feedback on the 2018 gaming machine reforms until Friday 3 September 2021.

If you need to access a translating and interpreting service, please telephone 1300 651 500 or visit the Language Services page of the Multicultural NSW website: https://multicultural.nsw.gov.au/services/

Written submissions

You can upload your submission to the Have Your Say NSW Government Evaluation of the 2018 Gaming Machine Reforms consultation page.

You can also e-mail a written submission to: evaluation@liquorandgaming.nsw.gov.au

Your submission will be published on the Have Your Say and L&GNSW websites after the closing date unless you request otherwise. When lodging your submission, you can request that all or part of it remain confidential. You should give a reason for requesting confidentiality.

Optional targeted questions are included on page 8 of this discussion paper to help you prepare your submission. These are the areas on which the evaluation will focus. You can choose to answer the optional targeted questions or use them to guide your submission**.** You can email your submission or responses to evaluation@liquorandgaming.nsw.gov.au.

Other ways to have your say

Survey of Club and Hotel Operators with Gaming Machine Entitlements (GMEs) - Club and Hotel operators with GMEs will be emailed a survey link on Monday 9 August. The survey will close on Friday 3 September 2021.

Community Survey - Community groups and/or members of the public, including people who play gaming machines, will also have an opportunity to have their say by completing an online community survey. The survey will be available to complete on the NSW Government Have Your Say consultation page and will close on Friday 3 September 2021.

Interviews with industry, government, and non-government stakeholders - L&GNSW will interview relevant stakeholders in the gambling industry and government and non-government sectors. Feedback collected through these consultations will help to inform the evaluation report.

Background

Objectives of the 2018 Gaming Machine Reforms

The overarching policy objectives of the reforms were:

- Greater transparency of decision-making, greater community awareness of decisions being made, and more opportunities for community input
- A more localised and strategic approach to assessing the potential impact of additional gaming machines in an area
- No movement of GMEs into areas of high risk[24]
- A more targeted approach to the allocation of funds generated through the 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’
- More clubs in new development areas.

These were to be achieved through reforms to the LIA scheme and the introduction of the GME leasing scheme outlined below.

1. LIA scheme changes

The LIA scheme commenced in 2009 and is used to assess the likely impact of introducing additional gaming machines into a local community.

Since March 2018, the LIA Band for each venue has been based on its Statistical Area 2 (SA2)[25] profile. The ranking of SA2s is based on an aggregated score which incorporates the Socio-Economic Indexes for Areas (SEIFA) Index of Relative Socio-Economic Disadvantage (70% weighting)[26], gaming machine density (15% weighting), and per capita gaming machine expenditure (15% weighting). The top 20% of SA2s are classified as Band 3 (high risk), the next 30% as Band 2 (medium risk), and the remainder as Band 1 (low risk).

Depending on the classification of the area in which the club or hotel is located, the applicant may be required to complete an LIA when applying for an increase in the venue’s gaming machine threshold (GMT). The GMT limits how many GMEs – and/or poker machine permits (PMPs) in the case of hotels – each club and hotel may have. A venue must have one GME – or PMP in the case of hotels – for each gaming machine operated. A hotel’s GMT cannot exceed 30.

Venues are required to undertake either a Class 1 LIA or Class 2 LIA depending on the size of the GMT increase they are seeking, and the band in which they are located (see Table 1).

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24 Band 3 areas, as determined by the LIA banding process.

25 SA2s are medium-sized statistical areas which are smaller than LGAs, and are designed around whole gazetted suburbs or rural localities. SA2s have a population range of up to 30,000 persons with an average of 13,000 persons per NSW SA2.

26 A measure produced by the Australian Bureau of Statistics (ABS) of an area’s relative socio-economic disadvantage.

Table 1 – LIA requirements based on banding and size of requested GMT increase

Band	Low range increase (up to 20)	Mid-range increase (21 to 40)	High range increase (over 40)
Band 1	No LIA	Class 1 LIA	Class 2 LIA
Band 2	Class 1 LIA	Class 2 LIA	Class 2 LIA
Band 3	No additional machines can be sought through LIA process	No additional machines can be sought through LIA process	No additional machines can be sought through LIA process

In 2017, the LIA scheme was reviewed under the *Gaming Machines Act 2001* by L&GNSW[27]. As a result of this review, legislative changes were made to the scheme.

The key changes to the LIA scheme were:

- a more localised and strategic approach to assessing impact and prevention of movement of GMEs into "high-risk" areas"
  - banding by SA2, rather than the larger Local Government Areas (LGAs)
  - greater weight given to the SEIFA index in determining LIA bands
  - removal of country and metropolitan splits in determining LIA bands
  - caps on total GMEs in Band 3 areas
  - reduced proportion of areas classed as Band 3, encouraging freer movement of GMEs[28]
- greater opportunity for community input and improved transparency for the community
- financial contributions directed to the Responsible Gambling Fund (RGF) for allocation to community organisations to benefit the local community
- reduced restrictions on trading GMEs into new development areas, to encourage clubs to establish in areas that are not currently able to take advantage of the services offered by clubs.

2. Introduction of the GME leasing scheme

As part of legislative changes introduced under the *Gaming Machines Amendment (Leasing and Assessment) Bill 2018,* the Government announced a GME leasing scheme in March 2018.

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[27] Liquor & Gaming NSW 2017, *Local Impact Assessment Review Report*, accessed 21 April 2021, <https://www.liquorandgaming.nsw.gov.au/documents/reports/local-impact-assessment-review-report.pdf >.

[28] For every block of 2-3 GMEs sold, 1 GME is forfeited to the Independent Liquor & Gaming Authority, decreasing the overall number of GMEs in NSW.

The scheme's features include the following:

- A small club (30 or fewer GMT) can lease GMEs to another club, and a small hotel (10 or fewer GMT) can lease to another hotel. Importantly:
  - during the lease, GMEs remain the property of the lessor venue but the lessee venue receives all revenue from their use
  - all leased GMEs are subject to requirements under the LIA scheme for the movement of GMEs.
- Venues can enter into leases for a fixed term of up to 5 years, with payments negotiated and agreed between the venues, and a standard model lease is available to facilitate this
- The lessee remains responsible for paying taxes and fees associated with operating the GMEs, allowing for on-going revenue for small venues and the opportunity to operate without gaming machines
- If a venue leases its GMEs, it is exempt from having to forfeit any GMEs to the Independent Liquor & Gaming Authority
- Introduction of a GME levy paid to the RGF for funding gambling counselling and treatment services for the community.

Key facts and figures

LIA Scheme

- The top 20% of SA2s are allocated to Band 3 (high risk), the next 30% of SA2s are allocated to Band 2 (medium risk), and the bottom 50% of SA2s are allocated to Band 1 (low risk).
- There are currently[29] 1,228 venues in Band 1, who hold:
  - 25,856 active GMEs
  - 906 active PMPs
- There are currently 1,380 venues in Band 2, who hold:
  - 37,932 active GMEs
  - 802 active PMPs
- There are currently 999 venues in Band 3, who hold:
  - 30,250 active GMEs
  - 592 active PMPs.

GME Leasing Scheme

Between March 2018 and March 2021:

- 262 NSW hotels and clubs made use of the GME leasing scheme (131 Lessees and 131 Lessors)
- 576 GMEs were leased between venues
- Additionally, 1 PMP was leased between hotels
- 63 metropolitan venues and 68 country venues leased their GMEs
- 90 metropolitan venues and 41 country venues received leased GMEs.

[29] Current as at March 2021.

Questions for stakeholder comment

You are invited to give feedback to L&GNSW on any of the questions listed below or any other issues you consider relevant. If you choose to answer the targeted questions below, provide a written submission, or would like to request an interview, you can email: evaluation@liquorandgaming.nsw.gov.au

Impact of the LIA reforms on decision making and GME forfeiture

- Have the Local Impact Assessment (LIA) banding changes[30] assisted the Independent Liquor & Gaming Authority to identify high risk areas?
- Have the LIA banding changes helped prevent the approval of additional gaming machines in high risk areas?
- Have the reforms supported the movement of GMEs into lower risk areas?
- Have the reforms had an impact on forfeiture of GMEs?

Venue participation in, and impact of, the Gaming Machine Entitlements (GME) leasing scheme

- What factors, if any, have affected venue participation in the GME leasing scheme?
- Have the reforms made it more or less likely that venues will lease or transfer GMEs?
- Have lessor venues gained financial benefits from the GME leasing scheme?
- Have smaller venues decided to lease their GMEs and operate without gaming machines?
- Have lessor venues ceased trading during the term of the lease?
- Has the scheme had an impact on forfeiture of GMEs?

Impact of the reforms on the community

- Have the LIA reforms had an impact on community confidence and involvement in the LIA process?
- What have been the impacts, if any, of directing financial contributions from the LIA process to the Responsible Gambling Fund (RGF)? Has this change increased transparency in the allocation of financial contributions under the LIA scheme?
- What impact, if any, has the introduction of the 5% RGF levy under the GME leasing scheme had on service provision for the community?
- Have the reduced restrictions on trading GMEs into new development areas had an impact on the number of clubs in new development areas?
- Have there been any other impacts or unintended consequences of the gaming machine reforms?

[30] Changes include increased SEIFA weighting, change from LGAs to SA2s, 20/30/50 banding split and caps on total GMEs in Band 3 areas