

NSW Government response to Local Impact Assessment Review

NSW Government response to a review of the Local Impact Assessment Scheme under the *Gaming Machines Act 2001*

Defining what is a “local community” for the purpose of the Local Impact Assessment scheme

Recommendation

1. Amend the *Gaming Machines Act 2001* to better define a local community by replacing Local Government Areas with Australian Statistical Geography Standard Statistical Area Level 2 to classify and band local communities for the purposes of a Local Impact Assessment.

Government response

Supported

‘Local Government Area’ (LGA) will be replaced by geographically smaller ‘Statistical Area Level 2’ (SA2) to classify and band local communities for the purposes of a Local Impact Assessment (LIA).

The Review found that using LGAs to define local community boundaries had resulted in safeguards for disadvantaged communities not working as intended due to the increasing size of LGAs in NSW.

SA2s are designed to reflect how communities interact economically and socially, are more specific to the localised community than LGAs, and will enhance the Authority’s ability to understand the community profile in its assessment of the impact of additional gaming machines.

Recommendation	Government response
<p>2. The existing three-tiered banding system for the Local Impact Assessment scheme is retained.</p>	<p>Supported</p> <p>The current three-tiered banding system works to ensure that venues in high risk areas are required to undertake rigorous community consultation and impact assessment to acquire additional machines, while allowing venues in low risk areas to benefit from a straightforward regulatory approach. It is also appropriate that a three-tiered system is retained to properly understand and evaluate the proposed change to the definition of community from LGA to SA2.</p> <p>Use of the three-tiered banding system will be retained for the purposes of the LIA scheme with the proportion of areas classified as Band 3 (high risk) decreased to the top 20 per cent of SA2s across NSW, and the split between metropolitan and country regions removed. These changes will focus the LIA scheme on state-wide risk and increase the flexibility for venues to source machines after a successful GMT increase application. This is expected to result in increased levels of forfeiture by encouraging the freer movement of machines. A review of these changes and their impact on the level of forfeiture will be conducted three years from their commencement.</p>
<p>3. The Independent Liquor and Gaming Authority give greater weight to a SA2's socio-economic status by generating a score for every SA2 in NSW based on the following formula:</p> <ul style="list-style-type: none"> • 70 per cent SA2's Socio-Economic Indexes for Areas score • 15 per cent SA2's per capita gaming machine density • 15 per cent SA2's per capita gaming machine expenditure 	<p>Supported</p> <p>The Government will work with the Authority to implement a refined method that ensures that communities are classified based on measures that most effectively correlate with gambling harm.</p>

Recommendation	Government response
<p>4. Amend the <i>Gaming Machines Act 2001</i> to prevent the further concentration of gaming machines in the highest risk locations by allowing the Independent Liquor and Gaming Authority to impose a cap on the number of Gaming Machine Entitlements in prescribed areas.</p>	<p>Supported</p> <p>The Government recognises that the majority of people who play gaming machines do so in a responsible manner. However, for a minority of players, excessive gambling causes harm for themselves and for their families.</p> <p>The Government will seek to implement a cap on the number of gaming machines in all Band 3 areas. This new protection will safeguard those communities most at risk by making them a no-go zone for additional machines. This complements existing harm minimisation efforts to protect those most impacted by gambling related harms.</p>

Improving community engagement and understanding of the Local Impact Assessment process

Recommendation	Government response
<p>5. Amend Clause 41 of the Gaming Machines Regulation 2010 to include further organisations and agencies that a venue is required to notify when undertaking a Local Impact Assessment, including welfare emergency relief and financial assistance providers, Aboriginal legal and health services, and local gambling and addiction counselling or treatment services, and to impose a requirement for the application to provide evidence that the notification has occurred.</p>	<p>Supported</p> <p>The changes to the LIA scheme will enhance community involvement in the process by including additional community organisations that must be notified that an application has been made. The proposed changes will require more community organisations to be engaged directly to assess the impact of additional gaming machines on the community.</p>
<p>6. Amend the Gaming Machines Regulation 2010 to increase community consultation periods for Class 1 Local Impact Assessments from 30 days to 60 days; prescribe time limits on the community consultation periods for Class 2 Local Impact Assessments, and prescribe time limits on decisions made by the Independent Liquor and Gaming Authority with regards to Gaming Machine Threshold increase applications.</p>	<p>Supported</p> <p>The Government supports this recommendation as it gives the community more involvement in decisions on gaming machines in their community and more time to consider and respond to gaming machine applications. This increase will not impose any additional burden on venues, as the additional time allowed for consultation will be offset by the truncated timeframe for ILGA decisions.</p>

Recommendation	Government response
<p>7. Liquor & Gaming NSW to work with industry and community stakeholders to identify better ways to engage the community in the Local Impact Assessment process, including the proactive release of relevant information by Liquor & Gaming NSW.</p>	<p>Supported Applications for any increases in Gaming Machine Thresholds will need to provide more relevant information about the likely impacts to the community, including the number of gaming machines the venue already holds and the average turnover from gaming machines in the area.</p>
<p>8. Amend the requirements for exemptions from undertaking a Local Impact Assessment to require applications for low range Gaming Machine Threshold increases in Band 1 areas (which are currently exempt from the Local Impact Assessment process) to include a Local Impact Statement.</p>	<p>Supported The changes to the LIA scheme will require venues exempt from the LIA process to produce a Local Impact Statement. This change improves transparency around decisions of gaming machines by allowing community organisations to access information of decisions by the Independent Liquor and Gaming Authority.</p>

Assessing “positive contribution” for additional gaming machines in the local community

Recommendation	Government response
<p>9. Amend the <i>Gaming Machines Act 2001</i> to allow the Independent Liquor and Gaming Authority to publish guidelines on:</p> <ul style="list-style-type: none"> • the Local Impact Assessment process, including a formula for a “positive contribution” for the purposes of a Class 1 Local Impact Assessment application; and • standard licence conditions for the transfer of Gaming Machine Entitlements following a successful Gaming Machine Threshold increase application. 	<p>Supported The changes to the LIA scheme will improve transparency around the LIA process by giving the Authority the power to develop and publish guidelines on the LIA process, including specific formulae for the calculation of community contributions associated with an increase in a venue’s Gaming Machine Threshold. Setting guidelines will improve and streamline applications by giving venues a clearer understanding of what is required by the Authority in an application to determine what constitutes a positive contribution. It will also give the community a better sense of what positive contributions additional gaming machines can have within their area.</p>

Recommendation	Government response
<p>10. The NSW Government and Independent Liquor and Gaming Authority strengthen arrangements for determining “positive contribution” to the community, and:</p> <ul style="list-style-type: none"> • consider establishing a centralised community benefit fund to gather and distribute contributions made by venues as part of Local Impact Assessment applications; • amend the Gaming Machines Regulation 2010 to provide the Independent Liquor and Gaming Authority the discretion to require venues to report on the impact of a contribution made following a successful Gaming Machine Threshold increase application; • consider requiring venues to make multi-year financial contributions to community organisations as part of the venue’s Gaming Machine Threshold increase application; • allow venues to make “positive contributions” to community organisations that operate state-wide, or organisations that have an existing relationship with the venue; and • consider donations made by venues above and beyond the tax-free threshold and existing mandatory contributions to ClubsGRANTS towards assessing whether additional gaming machines provide a “positive contribution” to the local community where the additional donations are linked to the additional machines the venue is seeking to acquire. 	<p>Supported in part</p> <p>The Government supports additional reporting on community contributions made during the LIA process. This would improve the transparency and effectiveness of the positive contributions component of the LIA, and would help venues make more effective positive contributions in future applications by providing both the Authority, and the community, with more information on how previous contributions have benefited the community.</p> <p>The Government also supports venues making multi-year financial contributions, which not only enhance the positive contribution for the community of any additional gaming machines, but also encourage deeper community engagement rather than a one-off payment.</p> <p>The Government also considers it appropriate that venues be authorised to make contributions to community organisations that operate state-wide, or those with an existing relationship to the venue.</p> <p>Liquor & Gaming NSW will investigate the merits of establishing a centralised community benefit fund for LIA contributions.</p>

Recommendation	Government response
<p>11. The Independent Liquor and Gaming Authority consider harm minimisation efforts by a venue as an additional measure to “positive contribution” in assessing the impacts of additional machines on the local community where the venue is able to provide evidence that the harm minimisation contributions are linked to the additional machines sought, and are above what they are required to provide.</p>	<p>Supported</p> <p>The Government notes that many clubs go above and beyond their required obligation to offer highly sophisticated harm minimisation services. The Authority will be able to consider these initiatives in addition to whether additional machines provide a positive contribution to the community.</p>
<p>12. The Independent Liquor and Gaming Authority make publicly available all submissions, applications and decisions in respect of a Gaming Machine Threshold increase, including historical applications where available.</p>	<p>Supported</p> <p>The Government supports this recommendation and notes that a public register of LIAs is already available on the Liquor & Gaming NSW website.</p>
<p>13. Amend the <i>Gaming Machines Act 2001</i> to cap the number of Class 1 Local Impact Assessment processes a venue can undertake before it is required to conduct a Class 2 Local Impact Assessment.</p>	<p>Noted</p> <p>The Government supports ensuring that the LIA process is effective and operating as intended. The Government notes this recommendation and will undertake further review of whether imposing an additional cap on the number of Class 1 LIAs a venue can undertake is appropriate and necessary.</p>

Evaluating whether to retain exemptions to the Local Impact Assessment process

Recommendation	Government response
<p>14. Amend section 37A of the <i>Gaming Machines Act 2001</i> to extend existing exemptions for clubs establishing in new development areas to Band 2 classified areas.</p>	<p>Supported</p> <p>The <i>Gaming Machines Act 2001</i> (the Act) will be amended to ease restrictions on clubs establishing in new development areas by extending the exemption under section 37A of the Act for clubs establishing in new development areas to Band 2 areas (rather than just Band 1 areas).</p> <p>The Review found that the make-up of new development areas results in these areas having a lower risk profile, when compared to those with existing development. It is therefore appropriate that the existing exemption be extended to Band 2 areas.</p> <p>This change will incentivise the establishment of clubs in new development areas, which often do not have access to the services offered by clubs, such as sporting facilities and entertainment. This will strike a balance between protecting at risk communities from unchecked increases to the number of gaming machines, while ensuring that those lower risk communities benefit from being able to access the valuable services offered by clubs.</p>
<p>15. Amend the <i>Gaming Machines Act 2001</i> to ease restrictions on the transfer of entitlements from country to metropolitan areas to allow metropolitan venues to purchase entitlements from Band 3 country areas, and allow country hotels to transfer up to two blocks of entitlements to metropolitan hotels in a 12 month period.</p>	<p>Supported</p> <p>The <i>Gaming Machines Act 2001</i> will be amended to make it easier for country hotels to sell Gaming Machine Entitlements by allowing them to transfer up to six entitlements to metropolitan hotels in a 12-month period.</p> <p>The current restriction was intended to prevent the movement of gaming machines from country areas to metropolitan areas. As this has not occurred, the Government considers it appropriate to ease this restriction to allow country hotels to access a broader market for what is often their key asset.</p>

Recommendation	Government response
<p>16. Amend the <i>Gaming Machines Act 2001</i> to extend existing exemptions under section 20(5) to allow country hotels to transfer up to six entitlements without forfeiture in any period of 12 months if the transfer will result in the venue’s Gaming Machine Threshold dropping to zero.</p>	<p>Supported</p> <p>The <i>Gaming Machines Act 2001</i> will be amended to make it easier for country hotels to sell Gaming Machine Entitlements by extending existing exemptions under section 20(5) of the Act to allow them to transfer up to six entitlements without forfeiture within a 12-month period if the transfer will result in the venue’s Gaming Machine Threshold falling to zero.</p> <p>This will give country hotels more flexibility to adapt their business model to changing circumstances, which is likely to benefit the local community. The change will give small country hotels more flexibility in how they utilise their assets and help to secure their financial future.</p>

Changes to the oversight and management of the Local Impact Assessment scheme

Recommendation	Government response
<p>17. Amend section 37 of the <i>Gaming Machines Act 2001</i> to provide that a Gaming Machine Threshold increase where a venue is not required to undertake a Local Impact Assessment expires after 12 months, and to provide the Independent Liquor and Gaming Authority the discretion to extend the expiry date of a Gaming Machine Threshold increase following a successful Gaming Machine Threshold increase application.</p>	<p>Supported</p> <p>The <i>Gaming Machines Act 2001</i> will be amended to clarify where a venue is not required to undertake a Local Impact Assessment, any Gaming Machine Threshold increase will expire after 12 months, and that the Authority has the discretion to extend the time a venue has to acquire additional entitlements following an LIA approval.</p>

Recommendation	Government response
<p>18. Liquor & Gaming NSW and the Independent Liquor and Gaming Authority to provide clearer guidance on responsible gambling and harm minimisation principles to assist in the preparation of applications.</p>	<p>Supported</p> <p>The Government supports this recommendation and notes that the <i>Gaming Machines Act 2001</i> includes harm minimisation objectives which are achieved through the regulation of all activities associated with the manufacture and operation of gaming machines in NSW.</p> <p>The Government supports allowing the Authority to consider harm minimisation efforts as an additional measure to “positive contribution” in assessing the impacts of additional machines on the local community, and include advice on how this will be considered by the Authority in its guidelines.</p>
<p>19. Liquor and Gaming NSW to review ways to enhance the information considered as part of the Local Impact Assessment process, including generating gambling related crime data and gambling prevalence for local community areas.</p>	<p>Noted</p> <p>While the Government notes the importance of factors such as the prevalence of problem gambling, demand for gambling help services, and levels of crime in assessing the impact of increasing the number of gaming machines in a community, it is administratively unrealistic to generate granular datasets for all communities or SA2s in NSW. However, the Government remains committed to the ongoing review of ways this information can be used to improve safeguards for at risk communities in NSW.</p>