



Department
of Industry

Liquor & Gaming

Local Impact Assessment Review

Report – July 2017

About this document

This document outlines the activities that Liquor & Gaming NSW undertook to review the Local Impact Assessment scheme. The Local Impact Assessment scheme assesses the impact of introducing additional gaming machines into a local community. The review assessed whether the LIA scheme helps to achieve the objectives of the legislation, and determine whether the relevant provisions of the legislation remain appropriate for securing those objectives.

Acknowledgements

Liquor & Gaming NSW would like to thank:

- Key stakeholders who participated in the consultation process and provided relevant information and data.
- Interested parties who provided a submission to help inform the review.

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1. Executive Summary

This document is a report to the NSW Government following a review of the Local Impact Assessment (LIA) scheme under the *Gaming Machines Act 2001 (the Act)* by Liquor & Gaming NSW (L&GNSW).

The LIA scheme commenced in 2009 and is used to assess the impact of introducing additional gaming machines into a local community. The LIA scheme requires prescribed registered clubs and hotels, seeking to increase the number of gaming machines they are allowed to hold, to undertake a community consultation on the impact of the additional machines on the local community.

The Terms of Reference for the Review were developed in consultation with industry and community stakeholders. The Review's key purpose is to evaluate whether the LIA scheme contributes to achieving the objects of the Act, and determine whether the relevant provisions of the Act remain appropriate for securing those objects.

L&GNSW undertook a public consultation process from May 2017 to June 2017, including meetings with stakeholders from industry, community organisations and local government. The submission process was assisted by a [discussion paper](#) prepared by L&GNSW.

The Review concludes that the LIA scheme remains an effective tool to fulfil the objects of the Act, including gambling related harm minimisation, responsible conduct of gambling, the balanced development of the industry, and the ongoing reduction of gaming machines in NSW.

The Review notes, however, that changes are required to update how the LIA scheme operates following a number of regulatory changes, including recent NSW local council mergers. The Review makes a number of recommendations to ensure that the LIA scheme remains fit for purpose, and effectively assesses the impact of additional gaming machines on the local community.

This report details these recommendations in response to submissions under the following themes:

- defining what is a "local community" for the purpose of the LIA scheme,
- improving community engagement and understanding of the Local Impact Assessment process,
- assessing "positive contribution" for additional gaming machines in the local community
- evaluating whether to retain exemptions to the LIA process, and
- changes to the oversight and management of the LIA scheme.

The Review did not consider current legislative provisions preventing the use of the planning laws to regulate or restrict the operation of approved gaming machines in any premises, nor did it consider the NSW local council merger process.

2. Recommendations

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 (SA2) to classify and band local communities for the purposes of a Local Impact Assessment.

Recommendation 2

The existing three-tiered banding system for the Local Impact Assessment scheme is retained.

Recommendation 3

The Independent Liquor & 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:

- 70% SA2's Socio-Economic Indexes for Areas score
- 15% SA2's per capita gaming machine density
- 15% SA2's per capita gaming machine expenditure

Recommendation 4

Amend the *Gaming Machines Act 2001* to prevent the further concentration of gaming machines in the highest risk locations by allowing the Independent Liquor & Gaming Authority to impose a cap on the number of Gaming Machine Entitlements in prescribed areas.

Improving community engagement and understanding of the Local Impact Assessment process

Recommendation 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.

Recommendation 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 & Gaming Authority with regards to Gaming Machine Threshold increase applications.

Recommendation 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.

Recommendation 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.

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

Recommendation 9

Amend the *Gaming Machines Act 2001* to allow the Independent Liquor & Gaming Authority to publish guidelines on:

- 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.

Recommendation 10

The NSW Government and Independent Liquor & Gaming Authority strengthen arrangements for determining “positive contribution” to the community, and:

- 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 & 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,
- consider donations made by venues above and beyond the tax-free threshold and existing mandatory contributions to ClubGRANTS 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.

Recommendation 11

The Independent Liquor & 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.

Recommendation 12

The Independent Liquor & Gaming Authority make publicly available all submissions, applications and decisions in respect of a Gaming Machine Threshold increase, including historical applications where available.

Recommendation 13

Amend the *Gaming Machines Act 2001* 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.

Evaluating whether to retain exemptions to the Local Impact Assessment process

Recommendation 14

Amend section 37A of the *Gaming Machines Act 2001* to extend existing exemptions for clubs establishing in new development areas to Band 2 classified areas.

Recommendation 15

Amend the *Gaming Machines Act 2001* 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.

Recommendation 16

Amend the *Gaming Machines Act 2001* 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.

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

Recommendation 17

Amend section 37 of the *Gaming Machines Act 2001* 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 & Gaming Authority the discretion to extend the expiry date of a Gaming Machine Threshold increase following a successful Gaming Machine Threshold increase application.

Recommendation 18

Liquor & Gaming NSW and the Independent Liquor & Gaming Authority to provide clearer guidance on responsible gambling and harm minimisation principles to assist in the preparation of applications.

Recommendation 19

Liquor & 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.

3. Introduction

3.1 Reasons for the Review

On 13 October 2014, the NSW Government entered into a [Memorandum of Understanding \(MoU\)](#) with Clubs NSW. The MoU commits the parties to, among other things, reviewing the LIA process to ensure it continues to meet community and industry needs.

Separately, in August 2014, the [Legislative Council Select Committee on the Impact of Gambling](#) recommended that a review be conducted of the LIA scheme, with objectives that include:

- identifying mechanisms to stop the concentration of poker machines in neighbourhoods and registered clubs where they will cause greater harm; and
- examining the number of entitlements in all LGAs with above average frequencies of problem gambling.

In [its response](#) to this inquiry, the Government supported a review of the LIA process. The issues identified by the Legislative Council Select Committee have been included in the terms of reference for the Review, which were developed in consultation with stakeholders.

3.2 Terms of Reference

The Terms of Reference for the Review were to:

1. evaluate whether and how the LIA scheme helps to achieve the objectives of the Act, including harm minimisation, the balanced development – in the public interest – of the gaming industry, and the ongoing reduction in the number of gaming machines across NSW; and determine whether the relevant provisions of the Act remain appropriate for securing those objectives, and
2. identify opportunities for improving the operation of the LIA scheme so as to increase its effectiveness and reduce costs and complexity, and to provide greater regulatory efficiency.

Specifically, the Review considered:

- (a) the effectiveness of the current LIA scheme in restricting the further concentration of gaming machines in areas with the highest risk of gambling-related harm,
- (b) how best to identify, on an ongoing basis, the comparative risk of gambling-related harm in an area, including the criteria for determining high, moderate and low risk,
- (c) whether the tests for approving an expansion in the availability of gaming in a venue strike an appropriate balance between permitting industry development and minimising community harm, or whether an alternative mechanism might achieve the same outcomes more effectively,
- (d) whether consideration of the impacts of a proposed expansion in the availability of gaming in a venue is required in all circumstances, and if not, define the criteria when the consideration of the impacts is not required,

- (e) where consideration of the impacts of the expansion in the availability of gaming in a venue is required, whether levels of risk should continue to be assessed at the LGA boundary level or at another level, and
- (f) any other relevant matters.

The Review did not consider current legislative provisions that prevent the use of the planning laws to regulate or restrict the operation of approved gaming machines in any premises, or the NSW council merger process.

3.3 Consultation

Public Submissions

Interested parties were given the opportunity to make a written submission to the Review. The submission period opened on 22 May 2017 and closed on 18 June 2017. Information about the Review, including a discussion paper to assist submission makers, was published on the Liquor & Gaming NSW website.

146 submissions were received by the Review. A list of submissions received by the Review is at **Appendix A**.

Stakeholder Consultations

The Review also held face-to-face discussions with the following stakeholders:

- Australian Hotels Association (NSW)
- Clubs NSW
- Independent Liquor & Gaming Authority
- Local Government NSW (including representatives of Fairfield and Liverpool Councils)
- NSW Council of Social Services

A proposed meeting with Wesley Mission was cancelled at the request of Wesley Mission.

4. Background

4.1 Overview of the regulatory framework

The Government recognises the contribution that hotels and clubs make to the NSW economy through the services and employment they provide. In addition, the Government recognises that the majority of people who gamble do so in a responsible manner.

However, for a minority of players, excessive gambling causes harm for themselves and for their families. The Government, therefore, aims to balance harm minimisation initiatives with the need to ensure that the majority of NSW residents who enjoy gambling responsibly, and for whom it does not pose any significant risks, are not unduly impacted.

The objects of the *Gaming Machines Act 2001* (**the Act**) are to:

- a) minimise harm associated with the misuse and abuse of gambling activities;
- b) foster responsible conduct in relation to gambling;
- c) facilitate the balanced development, in the public interest, of the gaming industry;
- d) ensure the integrity of the gaming industry; and
- e) provide for an ongoing reduction in the number of gaming machines in the State by means of the tradeable Gaming Machine Entitlement scheme.

The Act sits atop the regulatory controls associated with gaming machines in NSW and is supported by a number of other regulatory instruments and licences.

4.2 Harm minimisation

The Act achieves its harm minimisation objectives via a number of regulatory mechanisms that govern all activities associated with the manufacture, keeping, operation and promotion of gaming machines in NSW, including:

- technical standards for the design and manufacture of gaming machines,
- the connection of all gaming machines to a central monitoring system ,
- mandatory responsible conduct of gambling training for licensees, managers and gaming-related staff,
- the provision of problem gambling counselling services and self-exclusion schemes,
- a prohibition on external gaming machine advertising,
- restrictions on the location of gaming machines within venues,
- a mandatory gaming machine shutdown period for venues,
- the regulation of promotional prizes and player reward schemes, and
- the provision of player information brochures and display of gambling warning notices.

These mechanisms support a broad policy objective of continually reducing the number of gaming machine numbers in NSW, which is reviewed by the Independent Liquor & Gaming Authority (**the Authority**) every five years.

The Act facilitates the ongoing reduction of gaming machines by way of a Gaming Machine Entitlement (**GME**) trading scheme that requires GMEs to be forfeited when they are sold and transferred to another venue. For every block of two or three entitlements transferred, one entitlement must be forfeited to the Authority, thereby ensuring the number of GMEs in NSW continue to reduce over time.

Underpinning the entitlement trading scheme is a Gaming Machine Threshold (**GMT**) scheme that moderates the transfer of entitlements between venues and Local Government Areas (**LGA**) by capping the number of gaming machines a venue can operate. In most circumstances, the LIA scheme forms an integral part of this process to ensure proposed gaming machine increases in venues and local areas are properly considered.

4.3 Banding of the Local Government Areas

Under section 34 of the Act, a venue can apply to increase their GMT (the maximum number of gaming machines the hotels or club is authorised to operate) by making an application to the Authority. Section 35 of the Act requires a GMT increase application to be accompanied by a LIA. Section 35 provides for different rules for these applications dependent on the classification, or 'banding', of the LGA where the venue is located, and the size of the increase to the venue's GMT.

Section 33 of the Act requires the Authority to classify each LGA in NSW into one of three 'bands' – Band 1, Band 2, or Band 3. These bands are settled as part of a ranking process, with all LGAs ranked according to per capita gaming machine expenditure, gaming machine density and the Socio-Economic Indexes for Areas (**SEIFA**) score. Ranks for each of these measures are then combined to give a final score. LGAs are then divided into country or metropolitan regions with the top 25% by region classed as Band 3, the next 25% as Band 2 and the remainder as Band 1.

At the time of the Review, the bandings have been affected by the decision of the NSW Government to abolish 42 existing councils and replace them with 19 new entities.

4.4 The Local Impact Assessment process

The LIA scheme ensures that an application to increase a venue's GMT is accompanied by an assessment of how the increase will affect the local community. If a LIA is required with an application to increase the GMT, the application cannot be approved unless the Authority approves the LIA.

Under clause 38 of the Gaming Machines Regulation 2010 (**the Regulation**), a Class 1 LIA must include the following:

- if the threshold increase application is for a new venue — a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue;
- details of the benefits that the venue will provide to the local community if the application is approved; and
- details of the harm minimisation and responsible gambling measures that are in place at the venue.

A Class 2 LIA is more rigorous, and the information that must be provided to the Authority is specified under clause 39 of the Regulation. Amongst other things, this includes:

- a detailed description of the venue and area, including a patron profile, demographic and other social and economic information relating to the relevant area;
- appropriate harm minimisation and responsible gambling measures at the venue;

- the positive impact (both social and economic) that the proposed increase in the gaming machine threshold for the relevant venue will have on the local community (including details of the benefits that the venue will provide); and
- any negative social or economic impact that the proposed increase may have on the local community and the action that will be taken to address that impact.

4.5 Facts and Figures

As of 18 June 2017, there were 94,988 GMEs in NSW (73,734 in clubs and 21,254 in hotels) compared with 100,284 at 30 June 2010 (76,020 in clubs and 24,264 in hotels). This is a decrease of over 5,296 GMEs since the LIA scheme was introduced. The operation of the forfeiture provisions of the trading scheme has culminated in an ongoing, permanent reduction of GMEs by about 500 each year.

Table 1 gives an overview of what the gaming machine industry currently looks like in NSW and how that compares to when the LIA scheme first commenced.

Table 1. Number of GMEs in NSW

	Number of GMEs by year						
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Clubs	76,020	75,514	75,222	74,926	74,559	74,229	73,991
Hotels	24,264	24,162	24,061	23,968	23,876	23,773	23,652
Total	100,284	99,676	99,283	98,894	98,435	98,002	97,643
Total NSW population ¹	7,144,292	7,218,529	7,306,737	7,406,614	7,512,966	7,617,230	7,748,270

From the commencement of the LIA scheme in 2009 up to March 2017, a total of 141 applications for GMT increases requiring an LIA have been determined by the Authority. The following tables provide a breakdown of determinations by LIA Class and LGA Bands between 2009 and 2016 as of 7 March 2017.

Table 2. Approvals by LIA Class

	Approved	Refused	Withdrawn	Total
Class 1	131	5	15	151
Class 2	2	3	0	5
Total	133	8	15	156

¹ HealthStats NSW, Government of New South Wales, Population by age (14 March 2017)
http://www.healthstats.nsw.gov.au/Indicator/dem_pop_age/dem_pop_age.

Note: the two Class 2 LIAs which have been approved include one very low range increase and one partial approval.

Table 3. Approvals by LGA Bands

	Approved	Refused	Withdrawn	Total
Band 1	12	1	4	14
Band 2	117	5	11	133
Band 3	4	2	0	6
Total	133	8	15	156

Note: two applications were lodged in a Band 3 LGA under special provisions in clause 40 of the Gaming Machines Regulation regarding dissolved clubs that enabled them to provide a Class 1 LIA.

5. Defining what is a “local community” for the purpose of the LIA scheme

In assessing a venue’s application to increase its GMT, the Authority is required to assess the impact of introducing additional gaming machines into the local community. Under the Act, “local community” is assessed based on the venue’s Local Government Area (**LGA**).

This Part considers:

1. What is an appropriate definition of “local community”?
2. Should local communities continue to be ranked and divided into the three-tiered banding system?
3. If a tiered system is retained, how should the banding ranks be determined?

5.1 Does measuring the impact of additional gaming machines at the LGA level remain appropriate?

Overview

Each jurisdiction in Australia has its own approach to defining local community areas for the purpose of assessing the potential impact of additional gaming machines. Since its introduction in 2009, the LIA scheme has based this assessment on LGAs.

LGAs are a convenient statistical boundary, which reflect how communities are governed by local council, and often are a reflection of how they interact economically. LGAs also tend to capture a large proportion of a venue’s clientele, especially for clubs.

The Review also considered whether local community should be defined according to the Australian Bureau of Statistic Statistical Area Level 2 (**SA2**), or by a radius measure from the venue.

SA2s are medium-sized general purpose areas under the Australian Statistical Geography Standard which are smaller than LGAs. Where possible, the SA2s have been designed around whole gazetted suburbs or rural localities. A SA2 in a regional area will have a greater land size than one in a metropolitan area. SA2s have a population range of 3,000 to 25,000 persons, and have an average population of about 10,000 persons. The aim of these areas is to represent a community that interacts together socially and economically. SA2s are used in Queensland to define local community areas when assessing the potential impact of additional gaming machines.

An alternative to a standardised measure of a “local community” is to assess each venue’s local community by an established radius around the venue. A radial measure would require an ad hoc assessment of the local community on a venue by venue basis. A radial measure is intended to assess the community most likely to be affected by the venue acquiring additional gaming machines. Radial distances vary from jurisdiction, with South Australia adopting a radius of 2 kilometres, and ACT a 3 kilometre radius.

In NSW, the banding of an LGA determines the level of rigour that must be applied to an application for an increase in a venue’s GMT. This includes:

- the level of community consultation that is necessary,
- the need to demonstrate that the increase will result in a positive contribution to the community,
- the need to provide an overall net positive impact to the community, and
- the need to assess the positive and negative social impacts that the increase may have on the community.

The NSW local government merger process has increased the size, both in area and population, of many LGAs, creating variations in the social and economic profiles within LGAs. The LGA boundary expansions have also resulted in a redistribution of venues between LGAs.

Summary of submissions

While the vast majority of submissions identified that the existing LGA structure could be improved to more accurately assess the impact on the community of additional machines, submissions preferred a range of options.

Industry stakeholders, including Clubs NSW, the Australian Hotels Association NSW (**AHA NSW**), the Mounties Group, a registered club group that operates seven clubs across Sydney, and the O'Hara Group, a hotel management and consulting firm, recommended that the existing LGA level is retained with some amendments. Clubs NSW argued that while the LGA structure is imperfect, there may be unintended consequences for adopting either the SA2 or radial model, including impacting on club amalgamations.

Submissions in support of retaining the LGA structure also noted that it encouraged participation in the application process, as both venues and the communities understand LGAs, but may not with other statistical measures.

The Australian Christian Lobby preferred the radial measure, noting that the increased size of LGAs may undermine the effectiveness of LGAs as a measure of a local community.

The majority of submissions preferred a sub-LGA measure, with submissions in support of a SA2 measure or a community within LGAs measure. Local Government NSW (**LG NSW**) proposed that the initial measure continue to be LGAs, but that these are then adapted on the basis of size, location and make-up of the LGAs. A similar proposal was supported by the Gambling Impact Society, Fairfield City Council and the Alliance for Gambling Reform, which supported an initial LGA banding followed by smaller areas within the LGAs.

These submissions argued that the definition of a local community should reflect how people interact with each other, as well as serving as an accurate assessment of the community profile. This approach was also favoured by the Public Health Association Australia, Newcastle City Council, Design Collaborative, NSW Council of Social Services (**NCOSS**) and Wesley Mission, all of which supported adopting a SA2 model. The SA2 model was preferred by these submissions as it reflected communities within the LGA; defined by a set statistical boundary, but with a consistent level of data available.

Findings and recommendations

While continuing to use LGAs as the measure of a local community would be administratively simple, the Review found that the current use of LGAs has resulted in significantly disadvantaged communities being offset by better off communities within the same LGA. For example, within the Richmond Valley LGA, communities will often vary by up to 45 SEIFA percentiles, with communities in Campbelltown differing by over 30 SEIFA percentiles.

This indicates that LGAs have a significant variation in the socio-economic profiles within the LGA. Retaining LGAs will make it difficult for the Authority to accurately assess the relative impact of additional gaming machines on the community that the machines are in. It is clear a more nuanced approach is required.

The Review recommends that the Act is amended to require the Authority to define “local community” by the SA2 measure. SA2s are designed to reflect how communities interact economically and socially, with data measured in the same way as LGAs. SA2s 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 machines.

Adopting a SA2 measure over the current LGA measure will result in the number of communities assessed and banded by the Authority increasing from 166 to 542. This will allow greater differentiation between communities – improving the effectiveness of the LIA scheme as a harm minimisation tool for at risk communities.

Submissions received by the Review noted that any changes would need to be properly assessed before they are implemented. The Review recommends that before a SA2 measure is implemented that Liquor & Gaming NSW undertake targeted consultation with industry and community stakeholders on how a SA2 measure would operate, including:

- assessing the effectiveness of a SA2 measure in identifying at risk communities,
- assessing the likely impacts on at risk communities,
- determining how SA2s will be used (i.e. how many SA2 boundaries will an application have to consider),
- designing easy to understand information for venues and communities about what a SA2 is and how it impacts the application, and
- assessing any other impacts.

Industry stakeholders identified that adopting a SA2 measure may disadvantage “destination areas”. “Destination areas” are areas where people tend to attract a high number of visitors for work or entertainment purposes, such as Sydney CBD and Tweed Heads. These areas tend to have a high gaming machine density and expenditure. Adopting a smaller statistical boundary will likely result in these areas being classed as high risk. The Review agrees that venues in destination areas should not be unnecessarily disadvantaged, and proposes amendments to the banding process below to address this issue.

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 (SA2) to classify and band local communities for the purposes of a Local Impact Assessment.

5.2 Should the current three-tiered banding approach be retained?

Overview

The Authority classifies each LGA in NSW into one of three ‘bands’ to reflect the relative risk of additional gaming machines into a LGA. Bands are determined by a ranking process, with all LGAs ranked according to per capita gaming machine expenditure, gaming machine density and the SEIFA score. LGAs are then divided into country or metropolitan regions with the top 25% by region classed as Band 3, the next 25% as Band 2 and the remainder as Band 1.

The SEIFA score is produced by the Australian Bureau of Statistics and that ranks areas in Australia according to relative socio-economic advantage and disadvantage. The indexes are based on information from the five-yearly Census. The SEIFA score is used by the LIA by using the scores of every LGA to determine its level of socio-economic disadvantage relative to other LGAs in NSW.

The SEIFA score is determined by the Australian Bureau of Statistics, and measures a statistical area’s socio-economic status relative to other statistical areas. SEIFA data is available across a number of statistical areas, including LGAs and SA2s.



Figure 1: LIA Banding Process. Note: a low SEIFA score represents higher socio-economic disadvantage.

The three-tiered banding structure also impacts on what type of LIA a venue has to undertake as part of its application for a GMT increase. Venues are then required to undertake either a Class 1 (streamlined LIA) or Class 2 (rigorous LIA) depending on the GMT increase they are seeking, and the LGA Band in which the venue is located.

Table 4. LIA requirements by 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	Class 2 LIA	Class 2 LIA	Class 2 LIA

Summary of submissions

While several submissions argued to retain the existing three band approach, industry stakeholders argued that a two band system should be introduced, with many community stakeholders arguing for all venues to be subject to the Class 2 LIA process.

Newcastle City Council, Design Collaborative, Wesley Mission and Mounties Group argued that a three band structure is appropriate to retain differentiation of the risk associated with additional gaming machines going into different areas.

Wesley Mission considered that retaining a banding system was necessary to ensure that the Authority is not required to make ad hoc decisions on what LIA process a venue is required to undertake, which improves transparency for community organisations and gambling help services.

Mounties Group supported retaining the existing three-tiered banding system with increased flexibility for the Authority to move venues in and out of Bands according to prescribed factors, including harm minimisation strategies. A similar approach was recommended by Mr Les Caldarevic, who proposed exemptions for smaller clubs based on the club's gaming machine revenue.

Newcastle City Council preferred retaining a three band structure as it enabled venues, community organisations and government agencies to better understand what is happening in their community, with the bands being a useful tool to understand how many machines are in an area, how much money they are making and what an area's SEIFA score is.

Submissions noted that while this information may be available from other sources, a three band system is an effective way to measure the risk to the community comparative to other areas.

Industry stakeholders supported retaining a banding system, arguing that it was appropriate that at risk communities are given additional safeguards to ensure that the community is consulted before additional machines are introduced into the area. Clubs NSW and AHA NSW proposed that Band 1 and 2 were combined into a single low risk Band, with Band 3 retained for high risk areas but reduced to only the 20% most at risk communities. This would result in Band 1 representing 80% of communities, with Band 3 representing the 20% most at risk.

Clubs NSW noted that both Band 1 and Band 2 areas have high rates of LIA approvals, and argued that retaining the three band structure and additional regulatory burden on venues in Band 2 areas was unnecessary. While Clubs NSW noted that this may result in a reduction in the community contributions gained by LIA applications, it was relatively minor in contrast to the existing high levels of contributions made by venues.

LG NSW, Fairfield City Council, Alliance for Gambling Reform, the Public Health Association, NCOSS and the NSW Greens argued that the current banding system should be abandoned. These submissions argued that it was appropriate that all venues are required to undertake a Class 2 LIA. This would ensure that all venues are required to quantify not only the benefits of additional machines, but also the harms.

Findings and recommendations

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. While there was general consensus for the need to maintain comprehensive safeguards for higher risk areas, submissions differed in how to differentiate between high, medium and low risk areas.

Adopting a two-tiered system would treat 75-80% of communities across NSW in the same way, despite significant variation in their economic, social and cultural profiles. This model would reduce the effectiveness of the harm minimisation elements of the LIA process, and would reduce the capacity of communities to be involved in decisions on additional gaming machines in their area, due to reduced LIA requirements.

Adopting a single-tier approach would rigorously test all applications but would have limited utility in low-risk applications in areas suited to have additional gaming machines. The Review notes that while the Government remains committed to the ongoing reduction of gaming machines in NSW, it is appropriate that venues are able to buy and sell GMEs. Gaming machines remain a legitimate form of entertainment for many people in NSW who are not at risk of gambling related harm.

Gaming machines are also a key source of income for many venues, which allows those venues to provide services to the broader community. The LIA process must continue to be focused on the impact of additional gaming machines, rather than an opportunity to oppose all gaming machines generally. The significant additional regulatory burden on venues in low risk areas caused by a single-tier approach is not justified.

Retaining the three-tier system will allow the Authority to effectively assess the impact of additional machines on a community against the objects of the Act, including harm minimisation and the balanced development of industry.

Further, it is appropriate that a three-tier system is retained to properly understand and evaluate the proposed change to the definition of community from LGA to SA2.

Recommendation 2

The existing three-tiered banding system for the Local Impact Assessment scheme is retained.

5.3 How should the Authority determine which Band an area sits in?

Overview

As discussed above, the current banding process is determined by a ranking process, with all LGAs ranked according to per capita gaming machine expenditure, gaming machine density and the SEIFA score. The current formula gives each of these measures equal weighting.

Other jurisdictions require other datasets to be included in the assessment of what local impact assessment process a venue is required to undertake, including:

- prevalence of problem gambling,
- demand for gambling help services,
- levels of crime, and
- access to gaming sensitive sites, including schools, shopping centres and credit providers.

Summary of submissions

The majority of submissions proposed that the current formula used by the Authority be updated. Mounties Group supported retaining the existing formula.

Clubs NSW, Hatzis Cusack Lawyers and AHA NSW proposed that the Authority should only consider an area's SEIFA score. AHA NSW argued that the current formula was not doing enough to protect disadvantaged communities, as it did not put sufficient weight on SEIFA.

AHA NSW noted that SEIFA includes a number of factors that directly correlate with gambling related harm, including the proportion of low income earners, percentage of people who are unemployed and percentage of people that do not speak English well.

Clubs NSW noted that ideally other datasets would be included in the banding process, including problem gambling prevalence, mental health factors and substance abuse prevalence. This data, however, is not practically able to be generated to the same level of certainty as SEIFA. Clubs NSW noted that while not ideal, SEIFA is the best available measure as it is accessible and applicable to all communities, and has a close correlation with gambling related harm.

Community stakeholders, including the Gambling Impact Society, and individual submissions, such as Paul Symond Consultancy, agreed with Clubs NSW that additional factors should be included in the formula for banding areas. Paul Symond Consultancy argued that factors including problem gambling prevalence were more relevant to assessing the level of risk that the number of gaming machines in an area posed, as the number of machines in an area does not necessarily equate to the level of gambling related harm.

The Gambling Impact Society submitted that “the criteria to measure the extent of existing gambling harms within an LGA and locality and risks for future harm are revised and extended based on best practice research into assessing gambling harms”.² The Society argued that any assessment must go beyond gambling prevalence and consider gambling harm.

The Alliance for Gambling Reform proposed that the SEIFA measure was supplemented with additional measures, including prevalence of violence, crime rates, availability of alternate forms of recreation in the local area with similar opening hours, and previous efforts to prevent and reduce problem gambling.

The Alliance for Gambling Reform also proposed that regional caps are introduced to ensure that high risk areas do not have any additional machines introduced into the community. This

² Gambling Impact Society (NSW) Inc, *Response from the Gambling Impact Society (NSW) Inc.*(June 2017), 6.

was supported by LG NSW, Australian Christian Lobby, NCOSS, Gambling Impact Society and Fairfield City Council.

Findings and recommendations

While the current formula has helped reduce gambling related harms across NSW, the Review supports the Authority using an updated formula to rank and band local communities in NSW.

The current weighting was implemented when the LIA scheme was first introduced based on the best available knowledge of what weight should be given to these factors to identify risk of gambling related harm. The current formula, however, gives undue weight to gaming machine density and gaming machine expenditure.

Due to the current weight given to the density of gaming machines and machine expenditure, many disadvantaged communities have limited protections against additional gaming machines being approved for their area. For example, Brewarrina Shire Council, the most disadvantaged LGA by SEIFA is a Band 2 LGA, with Kyogle Council, the tenth most disadvantaged LGA a Band 1 LGA.

While these areas have low gaming machine density, the introduction of additional gaming machines has greater impact than other areas, as the community often has the least capacity to gamble. Amending the formula used by the Authority to band areas to 70% SEIFA score, 15% gaming machine density and 15% gaming machine expenditure per capita will offer low socio-economic areas more safeguards.

Further, the amended formula will ease the unnecessary burden on venues in “destination areas”. These areas tend to have a high transient population - those coming to the area for work, entertainment or tourism. As a result, venues have acquired more gaming machines to respond to visitor demand. Additional machines in “destination areas” is a response to more people visiting these areas for entertainment purposes, with additional gaming machines not necessarily equating to increased gambling related harms in the local area. The proposed formula balances these issues to ensure the clearest correlative factor to gambling related harm - an area’s SEIFA score - is given appropriate weight.

The Review also supports amending the Act to allow for a restriction on the number of additional gaming machines that can be introduced into high risk areas. The Review recommends that the Act is amended to allow for regional caps for high risk areas to be prescribed.

Submissions received by the Review indicate that there are areas with a high concentration of gaming machines that are gaining additional gaming machines when it may be appropriate that no more machines are introduced into the area. The proposed cap will create prescribed high risk areas as “no go” for additional gaming machines.

The proposed regional cap would add an additional safeguard to the Class 2 LIA process required for high risk areas, and would encourage a reduction in gaming machine density in high risk areas. The proposed regional cap should be developed in consultation with the Authority, and should allow for “no-go” zones to include LGAs and SA2s.

Recommendation 3

The Independent Liquor & 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:

- 70% SA2's Socio-Economic Indexes for Areas score
- 15% SA2's per capita gaming machine density
- 15% SA2's per capita gaming machine expenditure

Recommendation 4

Amend the *Gaming Machines Act 2001* to prevent the further concentration of gaming machines in the highest risk locations by allowing the Independent Liquor & Gaming Authority to impose a cap on the number of Gaming Machine Entitlements in prescribed areas.

6. Improving community engagement and understanding of the LIA process

Overview

In assessing the impact of additional machines on the community, the LIA scheme requires venues to give the community the opportunity to comment on the venue's proposed GMT increase. The Act imposes consultation requirements for both Class 1 and Class 2 LIAs, with the Regulation detailing the level of detail required. Relevant provisions are detailed at **Appendix B**.

Clause 40 of the Regulation prescribes the consultation and advertising requirements for LIAs, including which organisations and agencies must be notified of an application, how long they have to respond, and where notice of the application must be placed. During the application process, the L&GNSW website will publish a copy of the venue's application.

Community consultation is intended to assist the LIA scheme in determining the benefits and harms associated with additional machines being introduced into an area. Community consultation provides community organisations and individuals the opportunity to provide further information to the venue and the Authority on how the additional machines will impact the community, and what can be done to offset the harms associated with the additional machines.

Only a venue in a Band 1 LGA making an application for a low range increase of its GMT (up to 20) is exempt from undertaking a LIA.

Summary of submissions

Community organisations, including NCOSS and Wesley Mission, and LG NSW submitted that the current mandated notification requirements were not working effectively. LG NSW argued

“merely notifying required recipients of an application as per section 41 of the Gaming Machines Regulation without providing a pathway and support to make a submission to L&G NSW is inadequate. Furthermore, some councils and organisations have advised of instances of them not being notified, as required, of the applications and LIAs in their area. There are no checks in place to ensure the notification process is working effectively”.³

The majority of submissions also called for more stringent community consultation on all applications. As discussed above, LG NSW, Fairfield City Council, Alliance for Gambling Reform, the Public Health Association, NCOSS and the NSW Greens argued that the current banding system should be abandoned, with all venues required to undertake a Class 2 LIA process for all applications. The Alliance for Gambling Reform also supported expanding the list of information that applicants are required to provide during consultation, and report on as part of their submission, including harm minimisation reporting, disclosure of political gifts and donations by the applicant, and the crime rates in the customer catchment area.

³ Local Government NSW, *Draft Submission to the Local Impact Assessment Review Discussion Paper* (June 2017).
6.

Further, submissions, including NCOSS and Wesley Mission, proposed that the list of prescribed organisations and agencies notified of an application is expanded to include additional gambling help services, as is required in the Northern Territory, and that the reporting of the consultation with organisations is signed off by the community organisations consulted, as is required in the Northern Territory and Queensland. The Alliance for Gambling Reform proposed adopting a plebiscite process for communities to endorse an application.

The Mounties Group proposed that less weight should be given to local government in assessing the applications. The Group argued that local government often does not represent a consensus view of the local community, and are often opposed to any new gaming machines in the area, rather than considering the application at hand.

Submissions from community stakeholders and local government proposed that community consultations, and assessment of submissions made, should be coordinated independently, either by an independent consultant or the Authority.

Fairfield City Council argued that most disadvantaged communities are ill-equipped to engage in complex government processes. The Council argued that it is appropriate that the applicant venue is required to contribute money to an independent body to conduct the consultation, or provide funding to community organisations to develop submissions on behalf of the community.

Conversely, industry submissions raised concerns with the community consultation submissions received, arguing that only submissions that were evidence based should be considered in the assessment of the impact of additional machines on the community.

Clubs NSW submitted that

“the scheme’s intention is to minimise harm and reduce problem related gambling and any submission should be considered based only on the relevant expertise of the interested party in relation to problem gambling issues.”⁴

To ensure that submissions only deal with the specific application, rather than broader issues, Clubs NSW proposes that venues should be required to respond only to submissions that have direct relevance and merit to the application. This was supported by Hatzis Cusack Lawyers on behalf of a client hotel group.

Submissions from community stakeholders and local government that supported a more independent consultation process also noted that the current prescribed timeframes for consultation on Class 1 LIAs are insufficient. These submissions supported extended consultation periods.

LG NSW submitted that it was unrealistic to expect many community organisations and local councils to make a comprehensive submission in the 30 day period from being notified of the application. Albury City Council argued it was critical that local government continue to be consulted, as it was often best placed to understand and articulate both the positive and negative impacts of gaming machines in the community.

⁴ Clubs NSW, *NSW Government Review of the Local Impact Assessment Scheme Clubs NSW Submission* (June 2017), 27.

Submissions were also made that Class 2 LIA process timeframes should be more defined to create business certainty. Clubs NSW noted that undertaking a Class 2 LIA is a significant investment for a venue, and it is appropriate that they are given more certainty of the timeframes of the community consultation process, as well as the approval process by the Authority.

Mr George Smith and LG NSW in their submissions also noted that more should be done to identify better ways of engaging the community in the LIA process.

Findings and recommendations

The majority of submissions received by the Review argued that the current process does not give the community enough of a say on an application for more gaming machines in the community. Community stakeholders and individual submissions considered that the current consultation process benefits venues at the expense of the community, and does not contain sufficient checks and balances.

The Review considers that it is appropriate to retain a streamlined Class 1 LIA process as it is consistent with the Government's commitment to ensuring that regulatory burdens reflect regulatory risks. Changes to the way communities are defined, and the formula used to band the communities, will enhance the usefulness of Class 1 and Class 2 LIAs in testing community support for applications.

The majority of submissions argued that Class 2 LIA applications should always be undertaken to assess the positive and negative impacts of gaming machines on the local community. However, it is critical that the LIA scheme remains appropriate and adapted to the regulatory risks of additional gaming machines, rather than imposing regulatory burdens on venues to assess the risks of existing gaming machines. Submissions opposing changes to a venues GMT should remain focused on the additional machines a venue is seeking.

The Review proposes that a new Local Impact Statement is introduced. While there will not be a requirement to undertake consultation on the proposed Local Impact Statement, venues will still be required to notify community organisations that they are making an application to increase their GMT. A similar approach is in place in the ACT, which offers an effective balance of community consultation and business certainty.

It is appropriate, however, that more is done to engage the community in a discussion about whether additional gaming machines should be introduced into their local area. In response to submissions on the under-utilisation of notification requirements, the Review proposes that the list of organisations that are notified of a LIA is expanded, and that applicants are required to provide evidence of this notification.

Community organisations play an important role in the LIA process, providing a useful mechanism to identify issues important to the local community, as well as bringing experience and expertise on often difficult economic and social issues. Requiring more organisations to be aware of the LIA process will enhance the ability of venues and the Authority to understand the impacts of additional machines on the community.

To ensure that community organisations and local government are given the opportunity to make comprehensive submissions on applications, the Review proposes extending the minimum consultation period from 30 days to 60 days.

While this will increase the time applications take before they are lodged, it is appropriate that the community is given the opportunity to respond to applications that may impact them. To offset the additional burden on venues, the Review also proposes prescribing time limits on Class 2 LIA consultation periods, and requiring the Authority to make decisions within a set time period. The Review recommends that these timeframes are developed in consultation with industry, and for the Authority to consider appropriate checks to ensure timeframes are met.

To ensure that the LIA process continues to give communities a voice in applications on gaming machines, the Review recommends that L&GNSW work to identify new ways to engage with the community. L&GNSW has a dedicated Community Access Team that provides communities with assistance regarding the licensing system and licensing decisions that affect their local area. This team could be used to help facilitate an improved consultation process, including identifying better ways of bringing applications to the attention of the community.

The Review also considers it appropriate that the community is able to access information relevant to the application. The community should be able to comment on the impact of additional gaming machines by understanding the profile of the area, including the number of gaming machines it already holds and average turnover from gaming machines.

This will allow the community to more accurately assess what the impact of the additional machines are, and what an appropriate community contribution is to satisfy the additional machines making a “positive contribution”. The Review recommends that L&GNSW work with industry to make this information more readily available to the community during the LIA process.

While it is appropriate that L&GNSW works with venues and the community to improve the community consultation process, the Review does not support the Authority coordinating community consultations on behalf of venues. Venues should continue to be responsible for managing and paying for community consultation processes. The recommended changes to the community consultation process aim to ensure that venues are better equipped to engage with the community and respond to their concerns.

Recommendation 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.

Recommendation 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 & Gaming Authority with regards to Gaming Machine Threshold increase applications.

Recommendation 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.

Recommendation 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.

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

Overview

Currently, the Authority may approve a Class 1 LIA if it is satisfied that, among other things, the proposed threshold increase will provide a “positive contribution” towards the local community.

Under the existing LIA scheme, such a contribution tends to be a one-off community donation. There are no prescribed guidelines to assist applicants or the community in determining what positive contributions should be, and how they should be allocated.

Summary of submissions

All submissions that commented on this issue supported the Authority publishing guidelines on what constitutes a “positive contribution”.

AHA NSW commented “there has for some time been significant industry uncertainty around what constitutes a “positive contribution” to the local community for the purposes of an LIA 1 application.”⁵ The AHA NSW submission notes that this has made the process less clear, with venues largely relying on “best guesses based on previously successful applications.”⁶

LG NSW submitted that guidelines should be developed to help community organisations understand the process and what they can get from venues. The O’Hara Group, and the NSW Greens noted that if the intended outcome of a ‘positive contribution’ is a financial amount, then this should be specified in the guidelines, including that contributions should be multi-year agreements, and how to determine what the financial amount is. Clubs NSW proposed that guidelines similar to the comprehensive ClubGRANTS scheme could be adopted.

Public Health Association Australia and Wesley Mission proposed that while there is benefit to including clearer guidelines on financial contributions, that the Authority should also be able to consider non-financial contributions, which would encourage venues to become more involved in the community where they reside.

Submissions also proposed that venues provide more information about the application, their venue and their existing gaming machines. The Gambling Impact Society argued that this would allow interested community organisations and individuals to make submissions on what an appropriate positive contribution is relative to the amount of money that the venue will be making from the additional machines.

⁵ Australian Hotels Association NSW. *Australian Hotels Association (AHA) NSW Submission to the Review of the Local Impact Assessment (LIA) Scheme* (June 2017), 15.

⁶ *Ibid*, 16.

All submissions made recommendations on how the LIA process could better respond to gambling related harm. Clubs NSW, BetSafe Pty Ltd and the Mounties Group argued that it is appropriate that a venue's harm minimisation efforts, including past and future proposals, are taken into consideration when assessing positive contributions from additional machines. BetSafe Pty Ltd argued that this would encourage more venues to take a proactive approach to delivering harm minimisation services above and beyond the legal minimums.

LG NSW, the Alliance for Gambling Reform and NCOSS considered that positive contributions should be assessed against the harms of additional machines for all LIA applications. The Alliance also proposed that the assessment of whether the contribution is positive should consider whether other organisations are already delivering the service, and what the tax benefits to the venue of making the contribution are.

Several submissions also raised concerns that the existing LIA scheme and process of determining whether additional machines will make a positive contribution to the community have resulted in the appearance of biased submissions, with organisations receiving a share of the contribution writing in support of the application. LG NSW argued "these donations are well received by local community groups, which usually write a letter of support for the application, in return for the donation."⁷

There was concern that this may cause conflicts of interest for community organisations, who will make a submission supporting the application in order to gain funding, or not make a submission opposing the application to avoid risking future funding from the hotel or club.

Hatzis Cusack Lawyers proposed that an alternative approach would be to have venues pay contributions into the Responsible Gambling Fund, which supports projects and services that aim to reduce and prevent the harms associated with problem gambling. Hatzis Cusack Lawyers considered that this would ensure that the funds raised from the LIA process can be expended in furthering the object of gambling harm minimisation. A similar proposal was raised by other stakeholders of creating a centralised fund to be distributed to community organisations and harm minimisation initiatives.

While Hatzis Cusack Lawyers agreed that a more objective approach was required, they raised concerns that the contributions required for both Class 1 and Class 2 applications are too high, and may discourage venues from accessing additional revenue streams due to the cost of the process. The Mounties Group made a similar submission, proposing that the Authority should allow positive contribution to extend to the benefit of the club acquiring the GMEs, which in turn provide valuable services to the community.

There was general support amongst community organisations and local government for the Authority to require venues to report on the positive contributions that they make. The Alliance for Gambling Reform proposed that every venue should be required to submit an annual Community Benefits Statement, which would detail the contributions made and the contributions' effect.

⁷ Local Government NSW, above n 3, 6.

Findings and recommendations

In its submission, AHA NSW cited the Second Reading Speech for the Gaming Machines Amendment Bill 2008, where the then Minister for Gaming and Racing, the Hon Kevin Greene MP, stated:

“The new LIA system will have clear guidelines on what is required of a venue if it seeks additional machines, depending on the number sought and the location of the venue...

...under this new process, the applicant will simply provide information on the number of additional machines it wants and detail the positive contribution it will make to the local community in support of its application. This seeks to give hotels and clubs a clear idea of what would be required of them in any application to allow them to make an informed decision on the likely success of an application and, therefore, whether it is worth making the application. This type of certainty is something that industry participants have clearly requested during consultation on this issue.”⁸

The Review agrees that it is appropriate that venues and the community are given clearer guidance on what constitutes a “positive contribution”. Setting guidelines will not only improve on outcomes for venues by cutting down on unnecessary back and forth with the Authority to settle an appropriate amount, but will also give venues a clearer understanding of the likely success of their application.

The proposed guidelines will also give community organisations a better sense of what they could receive out of a successful application, improving the transparency of the process.

The guidelines should include the formula used by the Authority in settling what a positive contribution is for different venues in different areas, as well as providing guidance on what non-monetary contributions will be considered. The guidelines should also detail how venues can provide financial assistance to organisations that operate state-wide, not just locally based organisations, including White Ribbon Australia and Black Dog Institute.

Several submissions also recommended that the Authority be given the power to require a venue to pay the set contribution amount to the Authority or a centralised fund to distribute to community organisations and gambling harm minimisation efforts. The Review recommends that the Government consider establishing a centralised community benefit fund to gather and distribute contributions made by venues as part of Class 1 Local Impact Assessment applications. It is intended that this centralised fund would replicate the existing Responsible Gambling Fund, but would be focused on delivering funding for community organisations and projects.

To improve the transparency and effectiveness of the positive contributions component of the LIA, the Authority should require venues to report on the outcomes of their contributions. It is not intended that this reporting would place an undue burden on venues, and is intended to help venues make more effective positive contributions in further applications by providing the Authority and community with more information on how previous contributions have

⁸ New South Wales, *Parliamentary Debates*, Legislative Assembly, 29 October 2008, 10783 (Kevin Greene, Minister for Gaming and Racing).

benefited the community. A similar system has worked effectively in Victoria to help inform the community of the positive contributions these venues make to the community.

Submissions also indicated significant support for the movement away from one-off financial contributions from venues. While one-off financial contributions are beneficial for many community groups, these contributions often do not reflect the ongoing benefit the venue receives from the additional machines. The Review proposes that the Authority consider requiring venues to make ongoing multi-year financial contributions, to ensure that the benefit of additional gaming machines is shared with the community.

Clubs NSW raised concerns that organisations already supported by a club through an existing relationship or the successful ClubGRANTS scheme are disadvantaged by the existing “positive contribution” assessment process. Clubs NSW noted that several clubs have had financial contributions to these organisations not considered as part of the assessment of “positive contribution”. The Review supports clubs being able to make ongoing financial contributions to organisations with existing relationship with the venue.

The Authority should also be able to consider donations made by venues above and beyond the tax-free threshold and existing mandatory contributions to ClubGRANTS where the additional donations are linked to the additional machines the venue is seeking to acquire. The Authority should consider these situations on a case by case situation.

The Review also agrees with Clubs NSW that harm minimisation efforts by a venue should be able to be considered by the Authority in assessing whether the impact of additional machines on the community. It is appropriate that a venue is responsible for the delivery of harm minimisation services, with many clubs going above and beyond their legal obligation to offer highly sophisticated harm minimisation services, including counselling, exclusion schemes and advanced responsible conduct of gambling training.

Harm minimisation contributions, however, should only be considered as an additional factor when considering the impact of additional machines, and only where the venue is able to evidence that the additional contributions are linked to the additional machines sought, and are above what they are required to provide. While harm minimisation efforts should continue to be encouraged, and should be able to be considered by the Authority, these activities should not be considered in the determination of “positive contribution”, as the Authority is not considering the harms that the activities are intended to minimise.

Recommendation 9

Amend the *Gaming Machines Act 2001* to allow the Independent Liquor & Gaming Authority to publish guidelines on:

- the Local Impact Assessment process, including a formula for “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.**

Recommendation 10

The NSW Government and Independent Liquor & Gaming Authority strengthen arrangements for determining “positive contribution” to the community, and:

- 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 & 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.
- consider donations made by venues above and beyond the tax-free threshold and existing mandatory contributions to ClubGRANTS 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.

Recommendation 11

The Independent Liquor & 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.

Recommendation 12

The Independent Liquor & Gaming Authority make publicly available all submissions, applications and decisions in respect of a Gaming Machine Threshold increase, including historical applications where available.

Recommendation 13

Amend the *Gaming Machines Act 2001* 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.

8. Further changes to improve the Local Impact Assessment scheme

8.1 Does the current LIA scheme achieve the objectives of the Act?

Overview

The objects of the Act are:

- (a) to minimise harm associated with the misuse and abuse of gambling activities,
- (b) to foster responsible conduct in relation to gambling,
- (c) to facilitate the balanced development, in the public interest, of the gaming industry,
- (d) to ensure the integrity of the gaming industry,
- (e) to provide for an ongoing reduction in the number of gaming machines in the State by means of the tradeable Gaming Machine Entitlement scheme.

Summary of submissions

The majority of submissions raised concerns that the LIA scheme did not effectively fulfil the object of minimising gambling related harm. LG NSW, Fairfield City Council and the Alliance for Gambling Reform argued that while there should be fewer machines in NSW, the view that the ongoing reduction of gaming machines in NSW is a harm minimisation tool was misplaced.

These submissions argued that significant more work needed to be undertaken on the effectiveness of harm minimisation efforts, including more rigorous assessment of all applications. LG NSW proposed that more guidance is provided on how the Authority assesses the “public interest”. The Alliance for Gambling Reform argued more work should be carried out by the Government to develop a more detailed approach to “responsible gambling”, and proposed removing the object of facilitating the balanced development, in the public interest, of the gaming industry.

AHA NSW and Clubs NSW agreed that the objects of the Act remain valid, but that more work could be done on ensuring that the LIA remains a fit for purpose tool for realising these objects. AHA NSW submitted that the LIA scheme should do more to prevent additional gaming machines moving into the most disadvantaged areas in NSW.

Clubs NSW and AHA NSW also identified that the LIA scheme should continue to ensure the overall reduction of gaming machines in NSW by facilitating the trading, and forfeiture, of gaming machines.

Findings and recommendations

The Review agrees that the objects of the Act remain appropriate to the regulation of gaming machines in NSW.

The changes proposed by the Review respond to the concerns raised by industry, community and local government stakeholders, and members of the public that more could be done to ensure that the LIA scheme is an effective tool to achieve the objectives of the Act.

The changes to the definition of community and the formula used to band communities in NSW respond to the need to address gambling related harm, by ensuring that additional machines do not move into high risk areas without a comprehensive risk assessment and public consultation process.

The Review has also identified a number of regulatory changes, discussed above and in the remainder of this Part, which will assist in improving responsible conduct of gambling, balanced development of clubs and hotels, and the integrity of the gaming industry. The LIA scheme should ensure that these remain at the forefront of decisions by the Authority to ensure that the approval process is appropriately rigorous, and contributes to the ongoing reduction of gaming machines in NSW.

The Review agrees that more can be done to provide guidance on key objects of the Act, and proposes that L&GNSW and the Authority provide clearer guidance on “responsible gambling” and “harm minimisation” to assist in the preparation of applications and responses to applications made during the LIA process.

8.2 Should the exemptions from the LIA process remain?

Overview

Under the current regulatory framework, there are a number of exemptions that apply to the LIA process, including:

- section 35(2)(a) of the Act – where the GMT application is for an increase of 20 GMEs or less in a Band 1 LGA within any 12 month period,
- section 35(2)(b) of the Act – where the GMT increase application relates to a transfer of GMEs from a venue within the same LGA, and
- section 35(7) of the Act – which provides the Regulation may prescribe exemption to the LIA process, and provide any conditions to which that exemption is subject.

However, under clause 36(3) of the Regulation, registered clubs that make an application to increase their GMT to a number above 450, and which are subject to an exemption from the LIA process under section 35(2) of the Act, must satisfy the Authority that:

- consideration has been given to assessing the impact of the additional gaming machines on the amenity of the local area and the action that will be taken to manage any negative impact,
- appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) are in place at the venue, and
- the proposed increase will result in additional benefits to club members or the community.

Incentives are also provided to clubs establishing in new development areas. Under section 37A of the Act, clubs being established in new development areas within a Band 1 LGA which are not seeking to apply for more than 150 entitlements are only required to complete a Class 1 LIA and are subject to reduced forfeiture requirements when the first 50 entitlements are transferred to the new club. This exemption is intended to encourage clubs to establish in areas that are not currently able to take advantage of the services offered by clubs.

Summary of submissions

The majority of submissions received by the Review proposed that all exemptions from the LIA process are removed. Newcastle City Council submitted that “given the demonstrable public health impacts and associated costs for both Government agencies and the community, any increase in Gaming Machine Entitlements should be carefully and comprehensively considered.”⁹

The Public Health Association Australia argued that every application for additional gaming machines should demonstrate appropriate harm minimisation and responsible gambling measures that are, or will be, in place at the venue, as well as a requirement for the community to be involved in the decision making process. The Gambling Impact Society considered it critical that all applications involve a LIA process to ensure that the impact gaming machines have on gambling related harm is considered.

Wesley Mission supported retaining some exemptions to the LIA process, but only if they were simplified. Wesley Mission submitted that the existing exemptions had become overly complex, and that community organisations and gambling help services should be consulted to settle more simple and clear exemptions if they are to be retained.

Clubs NSW supported existing exemptions but proposed changing threshold increase exemptions to reflect the size of the venue applying for the Gaming Machine Threshold increase, rather than a standard number across all venues. This would allow exemptions to reflect the proportional increase to the GMT rather than the number of GMT alone.

Submissions also considered whether section 37A (Special provision for clubs establishing in new development areas) of the Act should be retained or amended.

The Alliance for Gambling Reform proposed that if section 37A is retained that it should be amended to consider the other services offered in the area to assess whether the exemption is available, including schools, child care centres and other forms of entertainment. The Gambling Impact Society supported the repeal of section 37A.

Clubs NSW proposed that section 37A is extended to include NSW Government declared Priority Growth Areas and Precincts. AHA NSW proposed that section 37A is also extended to include hotels, not just clubs.

Clubs NSW support further exemptions where the Authority is given the discretion to give special consideration to move venues between bands where the venue can demonstrate they have a significantly different demographic profile from their broader LGA, or the venue is in a Priority Growth Area or Precinct. The Mounties Group proposed a similar discretion for the Authority.

Clubs NSW also proposed that venues that apply for low range increases in Band 3 areas should only be required to undertake a Class 1 LIA, rather than the mandatory Class 2 LIA. Clubs NSW also submitted that venues with more than 450 machines that would otherwise

⁹ Newcastle City Council, *NSW Department of Industry – Liquor & Gaming Local Impact Assessment Review 2017* (June 2017), 6.

be exempt from LIA requirements under section 35(2) of the Act should no longer be required to provide additional evidence of negative consequences of additional machines, and harm minimisation efforts above what is required by law.

Findings and recommendations

While submissions opposing retaining exemptions argued that a LIA process should be undertaken for all GMT increase applications, the Review considers it appropriate to ensure that venues do not face unnecessary regulatory burdens.

The Review supports retaining existing exemptions that allow venues to make applications without the need to undertake a LIA process where the application involves additional gaming machines moving into a low risk area. However, in response to issues raised by community stakeholders, all venues exempt from undertaking a LIA would be required to complete a Local Impact Statement.

The Review also supports retaining section 37A of the Act. Section 37A acknowledges that clubs should be given incentives to establish in new development areas that do not have the benefit of the services offered by clubs, including sporting fields, entertainment and community space.

While hotels will often offer entertainment and community space in new development areas, the Review does not support extending the section 37A exemption to hotels. Hotels are run for profit by private interests, and do not have the same obligations to provide for the community benefit that clubs are required to discharge.

The Review does not recommend that section 37A is extended to NSW Government declared Priority Growth Areas and Precincts. These areas include a range of different LGAs, including six Band 3 LGAs. It would be inappropriate to allow new clubs to access the exemptions under section 37A for Band 3 declared areas.

However, it is appropriate that clubs are continued to be provided with incentives to establish in new development areas. The Review recommends that the existing exemption under section 37A is extended to clubs establishing in new development areas in Band 2 declared areas. This will strike an appropriate balance of protecting at risk communities from unchecked increases to gaming machine numbers in their local area, while ensuring that those lower risk communities have the benefit of being able to access the valuable services offered by registered clubs.

The Review does not support giving the Authority the discretion to move venues between Bands where the venue can evidence it has a significantly different demographic profile from its broader LGA, or the venue is in a Priority Growth Area or Precinct. This proposal would undermine the objective approach taken to banding, which is based on datasets generated by the Australian Bureau of Statistics. Further, the Review does not support giving venues that have the capacity to undertake detailed assessment of its local community profile the ability to undertake a reduced community consultation process.

The Review also supports retaining the additional obligations that clubs with 450 or more machines are required to discharge to acquire additional gaming machines. These venues

benefit from the large numbers of gaming machines they hold, and it is appropriate that these venues are held to a higher standard than smaller venues.

Recommendation 14

Amend section 37A of the *Gaming Machines Act 2001* to extend existing exemptions for clubs establishing in new development areas to Band 2 classified areas.

8.3 Should changes be made to transfer and forfeiture requirements under the Act?

Overview

The Act prescribes a cap on the number of GMEs in NSW. The cap prohibits any new GMEs from being issued to venues. Following a successful Gaming Machine Threshold increase application, a venue is required to purchase a GME from another venue. Under the Act, clubs can only trade with clubs and hotels with hotels.

Where a venue seeks to trade GMEs that it holds, it must trade the entitlements in blocks of two to three. For every block traded, the venue is required to forfeit one GME to the Authority.

The forfeiture regime has contributed to the ongoing reduction in gaming machines in NSW by requiring venues to give up entitlements before they can be traded to another venue. Where a venue seeks to acquire additional GMEs, it is required to gain approval from the Authority for the transfer. The Authority has the discretion to impose conditions on the transfer.

The Act provides additional rules for prescribed premises, including:

- section 20(5) – country hotels with a Gaming Machine Threshold not more than 8 may transfer one entitlement in any period of 12 months to another country hotel without forfeiture
- section 21(1) – country hotels are only able to transfer one block of entitlements to a metropolitan hotel in any period of 12 months
- section 21(3) – de-amalgamating amalgamated clubs are not subject to forfeiture requirements
- section 37A – allows for clubs establishing in new development areas to acquire new Gaming Machine Entitlements with reduced forfeiture requirements.

Summary of submissions

The Gambling Impact Society and NCOSS supported retaining forfeiture, proposing that when venues go into receivership or close down that the venue's GMEs are forfeited to the Authority, rather than being able to be traded. This would create a "sinking lid" that would increase the rate of ongoing reduction of gaming machines.

Industry submissions, including AHA NSW and Hatzis Cusack Lawyers, raised concerns that the Authority was imposing unnecessary conditions on the transfer of entitlements that jeopardised venues acquiring new GMEs. These submissions noted that this undermined the object of the Act for the ongoing reduction in the number of gaming machines in the State by means of the tradeable GME scheme.

Clubs NSW raised similar concerns, and proposed that the Minister should direct the Authority to develop a set of standard conditions that attach to licences, to give venues a clearer understanding of the process following approval of a Gaming Machine Threshold increase application. Clubs NSW supported that the Authority should retain the discretion to determine how to apply those conditions on a case by case basis, but that the conditions should be publicly available to assist venues in their applications.

The Mounties Group proposed that the Act provide for greater flexibility in the transfer of entitlements with common ownership across LGAs. The O'Hara Group made a similar submission, supporting no forfeiture between hotels with common ownership, or where acquiring the GMEs from country hotels.

AHA NSW also proposed a number of amendments to help struggling country hotels, including easing forfeiture and transfer rules between country and metropolitan areas. AHA NSW noted that many country hotels have been disadvantaged by the conditions imposed by the Authority, which has made it harder to sell their entitlements to metropolitan hotels. AHA NSW is concerned that this forces many country hotels that are seeking to close to stay open for longer at a loss only to allow them to sell their entitlements at a fair price.

Findings and recommendations

The Review supports the ongoing commitment to reducing the number of gaming machines in NSW through a clear and simple trading scheme. The existing forfeiture requirements have successfully reduced the number of gaming machines in NSW, and remain fit for purpose to continue to reduce the number of machines.

The Review does not support a proposed “sinking lid”, where the Authority acquires entitlements from venues that are closing. This would disadvantage venues that are in receivership by restricting how they are able to liquidate what is often their most valuable asset. This proposal would likely inappropriately distort the ongoing values of GMEs.

The Review also does not support easing forfeiture requirements between venues of common ownership. It is appropriate hotels with common ownership that are run for profit continue to be subject to the forfeiture requirements. Nor is it appropriate to reduce restrictions on the movement of gaming machines across local community boundaries.

The Review proposes that the Authority be given the power to publish standard licence conditions that it imposes on the transfer of GMEs. This will improve business certainty for venues on whether the venue will be able to acquire additional GMEs following a Gaming Machine Threshold increase application, which will impact on whether it progresses an application. The Authority should retain the discretion to deviate from these standard conditions where appropriate. The standard conditions would seek to give venues a clear understanding of the process, rather than reducing the discretion of the Authority.

The Review recommends that restrictions on country hotels that prevent them selling their GMEs to metropolitan hotels are eased. Country hotels should be allowed to transfer up to six entitlements to metropolitan hotels in any 12 month period, with metropolitan hotels allowed to acquire entitlements from any hotel in a country Band 3 area. Metropolitan clubs should also be able to acquire entitlements from any club in a country Band 3 area.

The Review also recommends that existing exemptions under section 20(5) of the Act are amended to allow country hotels to transfer up to two block of entitlements without forfeiture in any period of 12 months if the transfer will result in hotel's Gaming Machine Threshold dropping to zero.

These changes respond to concerns raised by AHA NSW that country hotels are often required to keep their doors open past when it is profitable to do so, simply to dispose of their GMEs. Easing restrictions on where venues can transfer entitlements to will assist these venues by giving them a broader market to sell their entitlements to. This will give them more flexibility to adapt their business model to the changing circumstances, which is likely to benefit the local community. This exemption is only available to country hotels with a GMT of no more than eight, and only where it is transferring GMEs to another country hotel.

Gaming machine density is typically higher in country areas than metropolitan areas. Reducing the number of gaming machines in Band 3 country areas is likely to not only assist local businesses to either restructure their business or “create a pathway to retire from the industry with dignity”,¹⁰ but may also reduce gambling related harms in the area.

Recommendation 15

Amend the Gaming Machines Act 2001 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.

Recommendation 16

Amend the Gaming Machines Act 2001 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.

8.4 Should changes be made to oversight and management of the LIA scheme?

Summary of submissions

Submissions from LG NSW, Hatzis Cusack Lawyers, Alliance for Gambling Reform, NCOSS and the NSW Greens proposed that L&GNSW ensure that data used for the LIA is updated regularly, and is made publicly available. Hatzis Cusack Lawyers noted that it was critical that data is updated as often as possible to ensure that areas are banded accurately to ensure venues are required to undertake the correct LIA process.

LG NSW, Alliance for Gambling Reform, NCOSS and the NSW Greens submitted that L&GNSW should be required to release relevant data to be used in the preparation of applications and community consultation, including the proactive release of venue gaming machine data.

¹⁰ Australian Hotels Association NSW, above n 5, 23.

Submissions also noted that to improve transparency of the process, the Authority should publish all Gaming Machine Threshold increase applications, submissions made in response to a LIA, and decisions by the Authority. The O'Hara Group and LG NSW called on the Authority to also publish historical decisions.

The NSW Greens supported more reporting on harm minimisation outcomes by requiring Local Councils to undertake regular reviews of gambling related harms in their LGA, and report back to the Authority.

The Alliance for Gambling Reform and Wesley Mission also proposed that L&GNSW undertake more work on understanding the connection between gambling and crime, and domestic violence, as well as enhancing the Responsible Conduct of Gambling scheme.

Clubs NSW and AHA NSW supported amending the Act to provide the Authority the discretion to extend the expiration date of Gaming Machine Threshold increases approved following a LIA. The proposed discretion would allow the Authority to extend the threshold increase beyond two years for a Class 1 LIA and five years for a Class 2 LIA.

Findings and recommendations

The Review supports greater transparency and understanding in the LIA process. Communities should not only be able to participate in the decision making process around gaming machines, but should also understand how their submissions have been considered.

The Review recommends that all submissions, applications and decisions regarding LIA applications are made publicly available to improve transparency and accountability. The Authority should retain the right to maintain confidentiality on any submission where it has been sought.

The causes and impacts of gambling related harm on the community should continue to be assessed to ensure that harm minimisation tools, including the LIA, remain able to respond to these harms. As noted above, including gambling prevalence data and crime statistics for the purpose of banding areas is not supported, as the datasets available are not tested and adapted to the areas used as part of the LIA.

However, it is appropriate that the NSW Government and the Authority continue to have access to the most up to date research and information to inform decision making with respect to gambling policy. The Review recommends that L&GNSW review what methods of data generation could be used to enhance the information considered in the LIA process, including gambling related crime.

Recommendation 17

Amend section 37 of the *Gaming Machines Act 2001* 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 & Gaming Authority the discretion to extend the expiry date of a Gaming Machine Threshold increase following a successful Gaming Machine Threshold increase application.

Recommendation 18

Liquor & Gaming NSW and the Independent Liquor & Gaming Authority to provide clearer guidance on responsible gambling and harm minimisation principles to assist in the preparation of applications.

Recommendation 19

Liquor & 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.

Appendix A

Local Impact Assessment Review - Submissions

Organisations

Albury City Council	Hatzis Cusack Lawyers
Alliance for Gambling Reforms	Local Government NSW
Australian Christian Lobby	Mounties Group
Australian Hotels Association (NSW)	Newcastle City Council
BetSafe	NSW Council of Social Services
Casula Community Group for Responsible Planning Inc	NSW Greens
Clubs NSW	O'Hara Group
Design Collaborative	Public Health Association of Australia
Fairfield City Council	The Independent Liquor and Gaming Authority
Gambling Impact Society	Wesley Mission

Individuals

Aird, Ian	David, Tony	Hopkinson, David
Anderson, Mal	Davies, Diane	Howell, William
Atkinson, Stephen	de Bruin, Vicki	Jeffries, Alanah
Bain, Ted	de Vries, Diana	Jones, Eric
Baker, Anna-Rosa	Dorse, Jono	Jones, John
Bamber, Natalie	Dowsett, Brigid	Kennedy, Patricia
Bartlett, Carol	Drew, Helen	King, Vikki
Bartlett, Francine	Eiszele, Craig	Klein, Denis
Bell, Allan	Ellis, Barbara	Laweson, Malayn
Borthwick, Aneva	Faithfull, Brian	Lee, Lynda
Bradley, Christopher	Forster, Kathie	Lennox, Richard
Bradley, Phillip	Forsyth, Ellen	Manusu, Frances
Brasile, Maria	Francis, Graeme	Martin, Anthony
Braz, Julie	Francis, Louise	Mathiesen, Raymond
Brown de Coulston, Tristan	Galea, Natalie	May Piggott, Nancy
Brown, David	Gibson, Matt	McClure, Rod
Brown, Nathan	Gorton, Jan	McDonnell, Kevin
Burgess, Michael	Gott, Peter	McIntyre, Lisa
Butler, Scott	Guy, Shonica	McPhee, Kimberley
Butwilowski, Witold	Haddon, Jackie	Miller, David
Caldarevic, Les	Hall, Janette	Mitchell, Kate
Carr, Vincent	Hartcher, Guy	Mol, Geri
Church, John	Healey, Vaughan	Moore, Neil
Costin, Graeme	Henson, Annette	Morgan, Bob
Cunningham, John	Hooper, Robyn	Morris, Peter
Curry, Anthony	Hopewell, David	Mortell, Jacinta

Muntz, Marg	Sanders, Stafford	Ward, John
Musry, Alan	Saunders, Josco	Watson, Frank
Mysak, David	Saunders, Melissa	Watts, Garry
Nakagawa-Lagisz, Malgorzata	Seccombe, Henry	Webster, Patrick
Nickell, Dennis	Sesselmann, Thomas	Wilsmore, Kerry
Norris, Geraldine	Sot, John	Wilson, Greg
Parkinson, Rebecca	Stace, Sara	Wilson, Ian
Peltier, Russell	Stack, Susan	Witherby, Angus
Pembroke, Yoko	Stanford, Richard	Witton, Ron
Posen, Mark	Stephen, Paul	Wong, John
Poulter, Col	Stuart, Alan	Wright, Michael
Powrie, Alan	Stuart, David	Yager, Randa
Pulie, Robert	Vail, Rob	Zeballos, Desiree
Rice, Maree	Vinnicombe, Bob	Zegenhagen, Kim
Ryan, Richard	Walsh, Robyn	Identity withheld

A further three submissions asked that their names were not released.

Appendix B

Gaming Machines Regulation 2010

Division 3 Gaming machine threshold scheme

34 Interpretation

(1) In this Division:

LIA guidelines means the guidelines (as in force from time to time) that are issued by the Authority for the purposes of this Division.

threshold increase application means an application under section 34 of the Act.

venue (or **relevant venue**), in relation to a threshold increase application, means the hotel or club premises to which the application relates.

(2) For the purposes of this Division, the **internal floor space** of a venue includes any outdoor dining area or other unenclosed seating area.

(3) (Repealed)

35 Threshold increase ranges

For the purposes of section 35 of the Act:

- (a) a low-range increase is any number from 1 to 20, and
- (b) a mid-range increase is any number from 21 to 40, and
- (c) a high-range increase is any number above 40.

36 Threshold increase applications—general requirements

(1) A threshold increase application must:

- (a) specify the internal floor space (in square metres) of the venue, and
- (b) in the case of an application made by or in relation to a new hotel or new club—provide a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue.

(2) The gaming machine threshold for a new hotel or the premises of a new club cannot be increased if the hotel or club premises are situated in the immediate vicinity of a school, place of public worship or hospital.

(3) In the case of a threshold increase application by a registered club, the application must, if the club is proposing to increase the gaming machine threshold for the venue to a number above 450 and the application is not required to be accompanied by a local impact assessment because of section 35 (2) of the Act, demonstrate the following to the satisfaction of the Authority:

- (a) that consideration has been given to assessing the impact of the additional gaming machines on the amenity of the local area and the action that will be taken to manage any negative impact,
- (b) that appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) are in place at the venue,
- (c) that the proposed increase will result in additional benefits to club members or the community.

37 Threshold increase applications—consultation requirements

(1) This clause applies in relation to a threshold increase application that is required to be accompanied by a class 2 LIA.

(2) Before any such threshold increase application is made, the proposed applicant must notify each of the following about the proposed application:

- (a) the local council for the area in which the relevant venue is situated,
- (b) the local police,
- (c) the Council of Social Service of New South Wales,
- (d) the local health district for the area in which the relevant venue is situated,
- (e) any organisation that is located in the local government area in which the relevant venue is situated and that receives funding from the Responsible Gambling Fund under the [Casino Control Act 1992](#) for the specific purpose of providing gambling-related counselling or treatment services.

(3) The notice must specify the following:

- (a) the name and address of the venue,
- (b) an explanation of the nature of the proposed application,
- (c) the contact details of the person to whom submissions or inquiries about the proposed application may be made,
- (d) the date on which the proposed application is intended to be made to the Authority.

(4) If the threshold increase application is made to the Authority, the class 2 LIA that is provided with the application must include a report on the results of the consultation process under subclause (1). Such a report is to include details of any meetings or discussions held in relation to the proposed application and the outcomes of those meetings or discussions.

38 Class 1 LIA—information to be provided

A class 1 LIA must include the following:

- (a) if the threshold increase application to which the LIA relates is made in relation to a new hotel or a new club—a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue,
- (b) details of the benefits that the venue will provide to the local community if the threshold increase application is approved,
- (c) details of the harm minimisation and responsible gambling measures that are in place at the venue.

39 Class 2 LIA—information to be provided

(1) General information

A class 2 LIA must include the following information:

- (a) the gaming machine threshold for the venue and the number by which it is proposed to be increased,
- (b) the name, address and licence number of the venue,
- (c) the name of the local government area in which the venue is situated and the name of any other local government area within 5 kilometres of the venue,
- (d) a map of the area within a radius of 1 kilometre of the venue that shows the location of the venue and the location and name of any of the following that are situated in that area:
 - (i) any other licensed premises,
 - (ii) any school, hospital or place of public worship,

- (iii) any sporting or community facility,
- (e) the name and address of the owner of the business carried on under the licence for the venue (referred to as **the business owner**),
- (f) the contact details of the business owner or person representing the business owner.

(2) Specific information about the relevant venue

A class 2 LIA must include the following information:

- (a) a description of the facilities provided by the venue and the activities conducted at the venue,
- (b) the trading hours of the venue,
- (c) details (including a floor plan) of the area or areas of the venue set aside or proposed to be set aside for playing gaming machines,
- (d) a current patron profile (based on a survey of patrons conducted in accordance with the LIA guidelines) that shows the distribution of places of residence, gender, occupation and age of patrons and other relevant information (such as cultural or ethnic background) relating to the venue's patrons,
- (e) an outline of any expected increase in patronage should the threshold increase application be approved,
- (f) details of appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) that are in place at the venue.

(3) Gaming machine data and social profile information

A class 2 LIA must include the following information:

- (a) information relating to gaming machines and gaming machine entitlements in the relevant area for the venue (as provided to the applicant by the Authority),
 - (b) demographic and other social and economic information relating to the relevant area for the venue (as obtained by the applicant from the Australian Bureau of Statistics).
- (4) For the purposes of subclause (3), the **relevant area** for a venue is:
- (a) the local government area in which the venue is situated, and
 - (b) any other local government area within 5 kilometres of the venue.

(5) Assessment

A class 2 LIA must:

- (a) specify the positive impact (both social and economic) that the proposed increase in the gaming machine threshold for the relevant venue will have on the local community (including details of the benefits that the venue will provide), and
 - (b) specify any negative social or economic impact that the proposed increase may have on the local community and the action that will be taken to address that impact.
- (6) For the purposes of subclause (5), the **local community** comprises the following:
- (a) the people in the area (or in the group) from which the persons using the services and facilities of the venue concerned are likely to be drawn,
 - (b) the people in the area (or in the group):
 - (i) that is to derive, or that the Authority considers is likely to derive, social or economic benefit if the threshold increase application is approved, or
 - (ii) that is to suffer, or that the Authority considers is likely to suffer, social or economic detriment if the threshold increase application is approved.

40 Provision of class 1 LIA in relation to amalgamated club premises in certain circumstances

(1) A local impact assessment that is required to be provided with a threshold increase application by a parent club in relation to its main premises is to be a class 1 LIA if:

- (a) the gaming machine threshold of the main premises is being increased as a result of the transfer of gaming machine entitlements from the premises of the dissolved club, and
- (b) the premises of the dissolved club are situated within a radius of 5 kilometres of the main premises of the parent club, and
- (c) trading on the premises of the dissolved club has ceased permanently.

(2) In this clause:

dissolved club, in relation to the amalgamation of registered clubs, means the club whose club licence is transferred under section 60 of the [Liquor Act 2007](#) to another registered club.

main premises of a parent club means the premises that are, in the opinion of the Authority, the main premises of the club.

parent club, in relation to the amalgamation of registered clubs, means the registered club to which the club licence of another club is transferred under section 60 of the [Liquor Act 2007](#).

(3) This clause has effect despite section 35 (4) of the Act.

41 Consultation and advertising requirements

(1) This clause applies in relation to a threshold increase application if a local impact assessment is required to be provided with the application.

(2) If such an application is made to the Authority, the applicant must, within 2 working days of making the application:

(a) provide a copy of the application and the LIA to each of the following:

- (i) the local council for the area in which the relevant venue is situated,
- (ii) the local police, and

(b) notify each of the following that the application has been made, that the LIA has been provided with the application and that the application and the LIA may be inspected on the website of the NSW Office of Liquor, Gaming and Racing:

- (i) the Council of Social Service of New South Wales,
- (ii) the local health district for the area in which the relevant venue is situated,
- (iii) any organisation that is located in the local government area in which the relevant venue is situated and that receives funding from the Responsible Gambling Fund under the [Casino Control Act 1992](#) for the specific purpose of providing gambling-related counselling or treatment services.

(3) The applicant must advise any such person or body referred to in subclause (2) that the person or body may, within 30 days after receiving (or being notified of) the application and the LIA, make a written submission to the Authority in relation to the application and the LIA.

(4) In addition to subclause (2), the applicant must, within 2 working days of making the application:

- (a) place an advertisement in a local newspaper circulating in the area in which the relevant venue is situated, and
- (b) display a notice in a conspicuous area outside the relevant venue (or on the perimeter of the site if the venue has not been built).

(5) The advertisement and notice must:

(a) state that the application has been made and that the LIA has been provided with the application, and

(b) explain the nature of the application, and

(c) advise that the application and the LIA may be inspected on the website of the NSW Office of Liquor, Gaming and Racing, and

(d) advise that any person may make a submission to the Authority in relation to the application and the LIA within 30 days following the date on which the advertisement is published or the notice is displayed (as the case requires).