Fairfield City Council

Submission to the Local Impact Assessment Review Liquor & Gaming NSW

18 June 2017

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1 FAIRFIELD LOCAL GOVERNMENT AREA

Fairfield City Council is located in the south west region of Sydney. In 2016, there was an estimated residential population of 207,022 people. Most of the population increase in Fairfield is the result of immigration, the majority of which is people entering Australia on humanitarian visas.

During 2017, over 6,000 refugees settled in the Fairfield Local Government Area (LGA). The majority of residents were born overseas and in 2011, 30% of the population stated that they did not speak English very well or at all.

In 2011, Fairfield had a SEIFA ranking of 854, making it the most disadvantaged area in Sydney and the third most disadvantaged area in NSW.

Liquor and Gaming NSW (L&GNSW) has identified Fairfield LGA as the area at the highest risk of harm from gaming machines in Sydney and the second highest level of risk in NSW. Classified as a Band 3 area, Fairfield has a very high level of expenditure on gaming machines and a high density of machines.

In 2016, there were 38 venues with 3,836 electronic gaming machines (EGMs). Between 1 January 2012 and 18 January 2017, data from L&GNSW shows an increase of 63 EGMs.

Since 2009, two venues have applied for an additional 67 EGMs. Each venue prepared and lodged Class 2 Local Impact Assessments (LIAs). Fairfield City Council provided comment and assessment of the proposed level of detriment and benefit contained in each proposal. Each of these applications was refused by The Authority.

Fairfield City Council has a policy that accepts gaming as a recreational activity for some but acknowledges that it is an activity that also results in harm for some people, their families, employers and the community. Council's policy does not support any additional EGMs for Fairfield LGA.

Council works with the majority of registered clubs in the LGA to provide events and activities for residents, as well as support for community organisations. Council also engages with clubs and hotels to develop healthy and vibrant town centres and communities.

Council's experience with the LIA process and engagement with a highly disadvantaged community in which gaming is widespread, provides the context for the submission provided.

2 REVIEW OF LOCAL IMPACT ASSESSMENT (LIA) PROCESS – CONTEXT AND TERMS OF REFERENCE

Fairfield City Council made a submission to the 2014 Legislative Council Select Committee on the Impact of Gambling and was invited to provide evidence to a Public Hearing as part of this Inquiry. This review of the LIA process has been established in response to the recommendation of the Inquiry of the Select Committee, as well as being agreed in the Memorandum of Understanding between Clubs NSW and the NSW Government.

L&GNSW released a Discussion Paper with background information, terms of reference and key questions for consideration for this review on 22 May 2017. This Submission is in response to that Discussion Paper.

The review will determine whether the existing scheme appropriately mitigates the risk of harm with the misuse and abuse of gambling activities. More specifically, the review seeks 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; as well as determine whether the relevant provisions of the *Act* remain appropriate for securing those objectives.

2. Identify opportunities for improving the operation of the LIA scheme so as to increase its effectiveness, reduce costs and complexity, and provide greater regulatory efficiency.

2.1 Issues with Key Facts and Figures

Fairfield City Council appreciates the information provided by the Regulator in the Discussion Paper as way of background to the LIA Review. However, the Council feels that excluding some key data for the EGM industry in NSW weakens overall transparency of the review process. For example, no information was provided describing EGM profits and taxation rates in NSW. The absence of such financial data has the potential of reducing the ability to take into consideration the most relevant and current data on the EGM industry when preparing the submission.

There is also concern regarding the accuracy of some of the background information provided. For example, the Discussion Paper states there is one EGM per 81 people in NSW. This figure appears to be calculated using L&G NSW data showing total EGMs in licensed venues in 2015 of 93,332 (hotels: 23,200; clubs:, 70,122) and an Australian Bureau of Statistics' population estimate for 2015 of 7,617,684. This population estimate relates to all population age groups. There is, in fact, one EGM for every 63 adult persons in NSW.

3   THE FAIRFIELD EXPERIENCE

How does the LIA scheme help 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?

3.1   Initial Response

The design and implementation of the LIA process has resulted in a process that functions to largely exclude organisations or individuals that are not the applicant or Regulator in the consultation and decision-making process.

The LIA process is complex, systemically biased in favour of the applicant, lacking in transparency with no requirement for independent, expert analysis. The process has inherent structural and resource barriers that result in the exclusion of the community in the consultation and decision-making process. Exclusion of the community in the LIA process is not in keeping with the objectives of L&GNSW or the *Gaming Machines Act*.

The current LIA process requires responses to an application to be provided from community stakeholders in a short timeframe of 30 days. This, coupled with the financial resources required to provide a competent response, results in a significant barrier for the community who may wish to review, analyse, consult and provide comment or objection to an application for additional poker machines.

The Authority can only consider 'evidence' in making determinations, not community concern or anecdotes. Time and resource barriers make it extremely difficult for evidence to be found or developed to support community concern. This results in exclusion from the process.

There is an imbalance in knowledge, information, data, resources, time and skill between the applicant and the community and agencies who are to be notified and have the role of representing the community including protecting vulnerable, or at risk, communities.

The 2008 review of the SIA process resulted in the LIA process that removed skilled, informed and professional assessment of applications for new gaming machines. The LIA process has not resulted in a system that is accessible and robust in determining the level of harm from gambling, the detriment from the proposal or the actual benefit from proposals in the application.

The current system has less transparency, is 'messier', places responsibility on the community to object to applications and is not accessible to many. This process does not meet the objects of the *Act* nor does it meet the Strategic Approach and guiding principles of L&GNSW.

4 GAMBLING IN FAIRFIELD

4.1 Higher Density of EGMs in Fairfield

When giving consideration to increased EGMs for licensed venues in areas such as Fairfield, it is unreasonable to apply the assumption that dissipation of use and harm across the region is appropriate. Fairfield is highly vulnerable and any increase in EGM numbers will increase that vulnerability and inflict considerable harm.

Fairfield LGA is one of the most disadvantaged areas of NSW. An analysis of the relevant EGM data for NSW demonstrates that key economic indicators for the Fairfield LGA are significantly worse than NSW state averages. For example, the median individual weekly income for Fairfield is approximately two thirds of that of NSW ($369 compared to $561).

According to 2016 data, there are currently 18 hotels and 20 clubs operating 3,836 EGMs across the LGA. In the 2015 period, EGM density in NSW (EGMs per 1,000 adults) was 15.8. In the Fairfield LGA, EGM density was 1.5 times this amount at 24.6 EGMs per 1,000 adults.

4.2 Increases in Gambling Expenditure in NSW and Fairfield

While Fairfield makes up approximately 2.6% of NSW's population, the area's overall EGM profit represented 7.6% of the profit of hotel and club EGMs across NSW in 2012, and increased to 7.9% in 2015. In real value terms, there was a 10% increase in net profit for Fairfield between 2012 and 2015.

The profit from EGMs per adult in Fairfield in 2011 was 2.85 times more than for NSW overall ($2,766 compared to $969.25), and almost three times more in 2015 ($2,915 compared to $972). When adjusted for inflation, the net profit per adult slightly decreased between 2012 and 2015 in NSW by $56, representing a -5.6% change. However, the corresponding decrease in net profit per adult in Fairfield was less than $20, representing a -0.6% change.

The net annual profit from each EGM operating in Fairfield in 2015, was close to double that of the profit recorded per EGM in NSW ($118,460 compared to $61,553), further highlighting the difference in the economic indicators between NSW and Fairfield.

In 2015, Fairfield LGA, the area identified by L&GNSW as the area with the highest level of risk of gambling harm in Sydney, provided over 9% of all the tax revenues from gaming machines across NSW. This was generated by 4% of the machines in NSW located in an area containing 2.65% of the NSW population.

4.3 Increases in EGM Numbers in Fairfield

Fairfield City Council has also identified a period between 2012 and 2015, where EGM numbers increased. As illustrated in the table below, between 2011 and 2012 there were an additional 16 EGMs operating in the LGA and a further increase between 2012 and 2015 of 40 EGMs. Attempts have been made to identify how this increase occurred, however, no explanation has been provided. A clear failure of process has

occurred for the increased number of EGMs in Fairfield to occur without notification to key stakeholders such as police or Council.

Table 1: Increased number of EGM in Fairfield LGA 2011 to 2016

EGM numbers	Fairfield Club	Fairfield Hotel	Total	Increase in EGM numbers
2011	3302	471	3773	
2012	3316	473	3789	16
2015	3352	477	3829	40
2016	3351	479	3830	1

Table 2: Comparison of Fairfield LGA and NSW

		NSW (Nominal $)	NSW Real value (Sept 2015 $)	Fairfield (FF) (Nominal $)	FF Real value (Sept 2015 $)	FF cf. NSW
POP DATA	Adult Population (2011 Census)	5,316,816		140,862		2.7%
	Adult Population (2015 ABS est.)	5,909,061		155,602		2.6%
INCOME DATA	Median Individual income ($ weekly)	$561		$369		65.8%
2012 EGM DATA	EGM numbers	94,110		3,789		4.0%
	EGM DENSITY	17.7		26.9		152.0%
	EGM Net Profit Hotels & Clubs	$5,153,328,044	$5,467,184,958	$389,559,752	$413,285,395	7.6%
	Net Profit per adult (2012)	$969	$1,028	$2,766	$2,934	285.4%
	Net Profit per EGM (2012)	$54,759	$58,094	$102,813	$109,075	187.8%
2015 EGM DATA	EGM numbers	93,322		3,829		4.1%
	EGM DENSITY	15.8		24.6		155.7%
	EGM Net Profit Hotels & Clubs	$5,744,291,747	$5,744,291,747	$453,582,517	$453,582,517	7.9%
	Profit per adult population (2015)	$972	$972	$2,915	$2,915	299.9%
	Net Profit per EGM (2015)	$61,553	$61,553	$118,460	$118,460	192.5%
Diff 2012 to 2015	EGM Numbers change	-788		40		
	EGM N % change	-0.8%		1.1%		
	EGM Net Profit change	$590,963,703	$277,106,789	$64,022,765	$40,297,122	
	Net Profit % change	11%	5%	16%	10%	
	Net Profit per adult change	$2.87	-$56.17	$149.00	-$18.95	33.7%
	Net Profit per adult % change	0.3%	-5.5%	5.4%	-0.6%	11.8%
	Net Profit per EGM change	$6,795	$3,460	$15,646	$9,385	271.2%

Sources Independent Liquor and Gambling Authority (ILGA), LGA Annual Gambling Machine Data for Licensed Hotel and Club Venues 2012 and 2015; ABS: 6401.0 Consumer Price Index, Australia; ABS: Census 2011 Population and Income data; ABS: Population estimates from   http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3235.02015?OpenDocument

5   OVERVIEW OF THE LIA PROCESS AND PROPOSED AMENDMENTS

Fairfield City Council agrees that the current three-tiered banding system, which interacts with a two-level LIA process, may be confusing and unhelpful. The preferred approach would be to adopt a process whereby all license applications are reviewed on a case by case basis, without regard to the number of EGMs being requested, and without regard to the assumed 'level of risk' for the relevant community. This process would more closely meet the objectives of the *Act* as it would facilitate due regard to the harm caused by gambling, provide transparency and better consider the public interest of each application. The *Act* does not require consideration of gambling harm to be restricted to the harm caused by problem gambling.

This process should be undertaken by a panel of suitably qualified and experienced professionals engaged by the Commission for this purpose, using a Public Hearing process, with the application of a formalised 'net advantage' test for which written guidelines are prepared by the Commission. Reasons for decisions should be published and be publicly available at no charge via the internet. Submissions and reports made to the process (whether opposing, supporting or otherwise) should also be publicly available subsequent to their submission at no charge and via the internet.

In determining guidelines for the process, the regulator should give consideration to applying local area caps on EGM numbers for vulnerable communities where EGM density and expenditure is already high. These caps would more easily be determined on a local government level and assess transfer of EGMs to smaller areas with higher risk of gambling harm within the same LGA.

Consideration should be given to a prohibition of any additional EGMs in areas of high risk such as Fairfield. No public good can be achieved within communities with high levels of gambling, such as Fairfield, for any further development of the gaming industry or any additional increases in gaming revenue.

To achieve the objective of the reduction in EGM numbers across NSW, additional EGMs into areas should only be sourced or transferred from Band 3 and Band 2 LGAs. This would result in a reduction of EGMs both in areas of high disadvantage and moderate to high risk of gambling harm, as well as achieving a reduction in machines across NSW.

These guidelines should also specify the matters to be considered by the Panel and indicate what, in the Panel's terms, is likely to constitute a net advantage to the local community. The guidelines should also have regard to the relative density of EGMs, the relative per capita expenditure on EGMs within the LGA and the general level of disadvantage of the population, or specific sub-populations, within the area. Guidelines should also specify what negative community impacts must be considered in reaching a decision.

The current LIA system gives no consideration to different forms of gambling machines available in clubs. Multi-terminal gaming machines (MTGMs) are permitted in substitution for poker machines in clubs, although they are much higher stakes and permit very high losses. Categorisation of EGMs as either poker machine style devices, or MTGMs, should be included in Panel guidelines, noting that MGTMs have the potential for much greater adverse impacts.

6   THE COMMUNITY CONSULTATION PROCESS

"Regulatory activity invariably seeks positive outcomes, like clean water, sturdy buildings, sober drivers, financial stability… From the regulator's perspective the positive outcome sought dominates; from the applicant's perspective the constraint dominates, even if the basic aim is understood and accepted" (Walton, 2015, p. 13).

In gambling regulation, one of the major 'positive outcomes' is minimising gambling associated harm. Any attempt to reduce the regulatory oversight of gambling licensing decisions and relax the current LIA process, in Fairfield City Council's view, should be approached with caution. This is particularly so if the motivation for such changes is based on concerns by some stakeholders of the 'onerous' nature of the process. These stakeholders are most often well-resourced and stand to make significant financial returns from additional EGMs. Communities receive minimal or marginal, if any, benefits from such expansion.

Further, disadvantaged communities have minimal resilience and experience significant adverse impacts from increased concentration of EGMs. Communities with high levels of disadvantage, high cultural and linguistic diversity, as well as a significant proportion of the population being from refugee or refugee-like backgrounds, are not well placed to engage in complex government processes, nor do they have the knowledge and experience to participate effectively in these processes without support and resources.

The LIA provides an opportunity to identify the potential impact on local communities. The stated aim of including the local council and police, as well as the wider community, in the LIA process is to ensure the extensive knowledge and experiences of these key stakeholders is captured. As such, in order to ensure the integrity of the licensing process, it is important that the value of such an active contribution at the local level is facilitated and given the time and attention it deserves.

The applicant should reimburse, or provide funds to a predetermined amount to enable community organisations and other government agencies to assess and make contribution to the panel. This process would facilitate community engagement and enable the community to have a voice to possibly contribute to the consideration of the nature and possible impact of gaming in an area.

As such, Fairfield City Council supports amendments to the current LIA process that will allow local government and other key stakeholders to participate more fully in the process. Allowing for all key local community stakeholders, including local police, gambling help services and welfare organisations, to have a greater say in the process, and for such contribution to be afforded more weight in the decision-making process, can only allow for better decision-making and assist in minimising, or avoiding, gambling related harm.

7   ASSESSMENT OF GAMBLING HARM

The Class 2 LIA process requires an assessment of harm and benefit. The LIA process requires the applicant to provide their estimation of harm. Applicants are not expert in this field and the scope and estimation of harm from gaming requires significant research and rigorous methodology. For the objectives of the *Act* to be achieved, harm must be assessed using robust data and research.

All applications for additional EGMs need to be assessed, using the legal threshold for Class 2 LIAs as a minimum. The following should be used as a benchmark to assess harm and detriment to communities in which additional EGMs are being proposed;

Evidence in both Australian and international jurisdictions, such as Canada, Great Britain and New Zealand, points to a higher concentration of machines in areas of disadvantage (Markham & Young, 2014; Rintoul, Livingstone, Mellor & Jolley, 2013; Robitaille & Herjean, 2008; Wardle, Keily, Astbury & Reith, 2014; Woolley & Livingstone, 2010; Wheeler, Rigby & Huriwai, 2006). There is also an established link between the degree of harm generated from problem gambling and the number of EGMs operating in a local government area (Barratt, Livingston, Matthews & Clemens, 2014).

The Discussion Paper refers to a prevalence of problem gambling in 0.8% of the NSW population, while moderate risk gamblers represent approximately 3% and low risk gamblers, 8% of the population. The Discussion Paper further argues that '*for a minority of players excessive gambling causes harm for themselves and for their families*' (p. 12). However, it should also be acknowledged that it is this 'minority' of people who are sustaining significant financial losses and affecting multiple others. As a consequence, this group are highly likely to experience serious personal, financial, social and psychological harm. If the people involved are already disadvantaged, or experiencing stressful living circumstances, the effects of this additional harm will be significantly magnified.

The Productivity Commission (2010) has reported that it is 'low' or 'moderate risk' gamblers who constitute a large share of regular gamblers, and who in the aggregate amass much of the harm related to gambling. More recently, a Victorian study by Browne et al. (2016) calculated estimates of the level of harm attributable to gambling. Browne and colleagues established that 84% of the harm from gambling in Victoria comes from low and moderate risk gamblers. The study also established that '*gambling has an impact in the same class as depression and excessive alcohol consumption*' (p. 145). For example, when all risk categories (low, medium and high-risk gamblers) are taken into account, the years lived with disability (YLD) was identified as being two

thirds of that of alcohol use and dependence, and major depression (Browne et al. 2016). These findings further highlight that regulatory decision-making needs to shift from the solitary emphasis on high risk problem gamblers and ensure consideration is given to the degree of harm attributed to all levels of at risk gamblers (Browne et al. 2016). To illustrate the degree of harm in NSW, the NSW gambling prevalence statistic stated in the Discussion Paper (from Sproston, Hing & Palankay, 2012) was applied to the harm model developed by Browne et al. (2016), to estimate the gambling derived years of life lost to disability (YLD) in the state of NSW and Fairfield LGA for 2015.

This analysis has identified a high rate of harm associated with gambling in NSW. As many as 700,000 NSW adults experience a level of gambling harm at any one time. The burden of disability from low to moderate risk gamblers accounts for 84.5% of the total burden of harm as a result of gambling. In NSW, the burden of harm from gambling far exceeds that of many other conditions including alcohol harm and dependency, eating disorders, type 2 diabetes, bipolar affective disorder and cannabis dependency. The burden of harm for all levels of gambling harm is on a par with the burden attributable to severe major depression, and equivalent to two thirds of that for all major levels of depression.

Table 3: Burden of Harm – NSW

Condition	Weight	Prevalence	YLD$_1$	Population affected
Gambling low	0.13	8.40%	64,527	496,361
Gambling moderate	0.29	2.90%	49,695	171,363
Gambling high	0.44	0.80%	20,800	47,272
All gambling		*12.10%*	*135,022*	*714,996*
Alcohol harmful use	0.11	2.90%	18,850	171,363
Alcohol dependency	0.55	1.40%	45,500	82,727
All alcohol harm and dependency		*4.30%*	*64,350*	*254,090*
Schizophrenia residual	0.58	0.20%	6,855	11,818
Schizophrenia acute	0.76	0.10%	4,491	5,909
All schizophrenia		*0.30%*	*11,345*	*17,727*
Major depression mild	0.16	0.70%	6,618	41,363
Major depression moderate	0.41	2.50%	60,568	147,727
Major depression severe	0.66	3.40%	132,599	200,908
All major depression		*6.60%*	199,785	389,998
Anorexia nervosa	0.22	0.50%	6,500	29,545
Bulimia nervosa	0.22	0.70%	9,100	41,363
All eating disorders		*1.20%*	15,600	70,909
Bipolar affective disorder	0.18	1.80%	19,145	106,363
Type 2 Diabetes	0.07	7.40%	30,609	437,271
Cannabis dependence	0.33	0.40%	7,800	23,636

YLD$_1$ – utility weight x prevalence of the condition x population size
Sources: Weights (Browne et al. 2016); Prevalence (Davidson et al., 2015; Slade et al. 2009; Sproston et al. 2012).

While Fairfield City Council acknowledges that not all gambling related harm is necessarily attributed to EGM use, EGM gambling in hotels and clubs accounts for more than 50% of Australia's gambling expenditure and the Productivity Commission (2010) have noted that EGMs account for "*around 75 to 80% of 'problem gamblers' and*

are found to pose significant problems for consumers in general" (PC, 2010a, p.13). Further, recent research indicates that each problem gambler affects an average of six others, with moderate risk and low risk gamblers affecting three and one, respectively. This indicates that an additional 1.3 million people in NSW are indirectly affected by gambling problems (Goodwin, Browne, Rockloff & Rose, 2017).

7.1 Relative Risk of Gambling Problems and Burden of Gambling Harm for Fairfield

Fairfield is an area of significant disadvantage. Some demographic indicators (notably those around employment status, relationship status and educational attainment), are associated with increased risk of gambling problems. A comparison of some indicators between Fairfield and NSW indicates that Fairfield's demographic characteristics are likely to lead to an increased local rate of gambling problems.

Fairfield has very high rates of average EGM expenditure, and these alone are sufficient to indicate that the rate of gambling problems in the community is much higher than average. Expenditure per adult is three times the NSW average, and expenditure per EGM twice the average. The ratio of EGMs per adult is 1.6 times the state average. These data alone indicate a significant likelihood of increased gambling problems.

However, other demographic characteristics were reportedly associated with increased risk of 'problem gambling' (PG) status in the 2012 prevalence study (Sproston et al., 2012). For example, being a single person increased the relative risk (RR) of problem gambling status 2.6 times compared to a married person; being separated increased that risk 2.2 times. Having an educational attainment of less than Year 10 completion increased problem gambling risk by 2.7 times. We examined data tables provided in the 2012 prevalence study at s. 7.7 (Sproston et al., 2012), and extracted some additional risk ratios from these. These are shown in Table 4 (below).

Table 4 Relative risks for problem gambling status – NSW vs. Fairfield

Indicator	NSW	Fairfield	Ratio	Relative Risk	Problem Gambling Risk
Married-defacto	52.9	51.1	0.97	1.0	1.04
Sep-div	10.5	11.3	1.08	2.2	2.37
Single	36.5	37.6	1.03	2.6	2.68
u/e	5.9	9.7	1.64	2.5	4.11
f/t employment	60.2	58.8	0.98		
p/t employment	28.2	24.9	0.88		
Total employment	88.4	83.7	0.95	1.0	1.06
Cert/degree	45.8	28.8	0.63	1.0	1.59
Yr 10	26.2	19.4	0.74	2.0	2.70
<Yr 10	14.7	27.0	1.84	2.7	4.96
Inc <30K	48.2	60.8	1.26	0.5	0.38
Inc 30-60k	21.8	21.1	0.97	1.4	1.41
Inc 60-70k	6.4	4.6	0.72	0.4	0.56
Inc 70-100k	5.9	3.0	0.51	0.2	0.47
Inc 100k+	6.6	1.5	0.23	0.4	1.94
Average relative risk - Fairfield vs NSW					**1.9**

Sources: ABS Census data 2011 (BCP NSW and Fairfield LGA), 2012 Prevalence study Sproston et al., 2012)

The calculations in Table 4 indicate that Fairfield residents are at a considerably heightened risk of gambling problems, based on relative risk indicated by demographic characteristics. For example, being separated or divorced is associated with a higher risk of problem gambling status, with a risk ratio of 2.2. In Fairfield, the rate of people in the category of separated or divorced is 1.08 times the NSW average, indicating that the problem gambling risk is increased for Fairfield by a factor of 2.37. Similarly, the unemployment rate in Fairfield is 1.64 times the NSW average. Unemployment has a risk ratio of 2.5 times compared to being employed, indicating that the overall risk for problem gambling in Fairfield is increased by 4.11 times.

Protective factors such as relative income are also incorporated in the calculations. For example, having an income of less than $30,000 pa is associated with a relative risk of 0.5 (ie, the risk of problem gambling status is halved). Fairfield has a larger than average proportion of its population in this category (1.26 times the NSW rate) so the problem gambling risk for Fairfield is *decreased* by this factor. Where a demographic characteristic has a protective effect, but is below the NSW average rate within Fairfield, this will exacerbate risk. For example, having an income between $70,001 and $100,000 pa is associated with a reduced risk of problem gambling (0.2). In Fairfield, however, the ratio of income earners in this category compared to NSW is 0.51. Thus, the effect of this factor is reduced so that for Fairfield the protective effect is reduced to 0.47.

Unfortunately, Fairfield is generally lacking in demographic characteristics that protect against problem gambling status and generally has a higher than average proportion of characteristics that indicate heightened risk. We calculated the simple arithmetic average of these factors to estimate that the risk of problem gambling is 1.94 times greater in Fairfield than the NSW average. Applied to the state-wide average problem gambling prevalence of 0.8%, we estimate that the problem gambling rate in Fairfield is 1.6% of the adult population, or 2,420 people. This is almost certainly an underestimate.

Overall, the number of people directly affected by gambling harm in Fairfield is at least 20,000. Further, as previously indicated, those with gambling harm indirectly affect others. We estimate that in Fairfield, an additional 41,114 people are indirectly affected by gambling problems (Goodwin et al., 2017).

We also used this estimate to calculate the burden of harm associated with gambling and some other conditions for Fairfield. Note that we have not estimated the moderate risk or low risk prevalence rates for Fairfield because of time pressures associated with the deadline for submission of this document, but these are likely to be higher than NSW generally. These estimates are shown at Table 5.

Nonetheless, the burden of harm associated with gambling in Fairfield is likely to be at least 2.4 times that associated with alcohol harm and dependency, and around 20 times that associated with cannabis dependence.

Table 5 Burden of harm Fairfield

Condition	Weight	Prevalence	YLD$_1$	Population affected
Gambling low	0.13	8.40%	1,699	13,071
Gambling moderate	0.29	2.90%	1,309	4,512
Gambling high	0.44	1.55%	1,064	2,418
All gambling		*12.85%*	*4,072*	*20,001*
Alcohol harmful use	0.11	2.90%	496	4,512
Alcohol dependency	0.55	1.40%	1,198	2,178
All alcohol harm and dependency		*4.30%*	*1,695*	*6,691*
Schizophrenia residual	0.58	0.20%	180	311
Schizophrenia acute	0.76	0.10%	118	156
All schizophrenia		*0.30%*	*299*	*467*
Major depression mild	0.16	0.70%	174	1,089
Major depression moderate	0.41	2.50%	1,595	3,890
Major depression severe	0.66	3.40%	3,492	5,290
All major depression		*6.60%*	*5,261*	*10,270*
Anorexia nervosa	0.22	0.50%	171	778
Bulimia nervosa	0.22	0.70%	240	1,089
All eating disorders		*1.20%*	*411*	*1,867*
Bipolar affective disorder	0.18	1.80%	504	2,801
Type 2 Diabetes	0.07	7.40%	806	11,515
Cannabis dependence	0.33	0.40%	205	622

Sources: Weights (Browne et al. 2016); Prevalence (Davidson et al., 2015;
Slade et al. 2009; Sproston et al. 2012).

8 SUGGESTED 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

1. Identify areas that require a reduction in the density of gaming machines

2. Require gaming machines to be introduced into Band 1 areas and new venues be sourced from Band 3 areas and smaller areas with high levels of disadvantage, high density of EGMs and high expenditure on EGMs.

3. Prohibit applications for additional gaming machines in Band 3 LGAs and smaller areas with the same profile as Band 3 LGAs.

4. Prohibit transfer of gaming machines to any area of higher disadvantage than the original venue. The SEIFA index of the area of 3 kilometres around the venues could be considered as an appropriate area.

5. As outlined in response above. Require social impact assessments to be undertaken by suitably qualified and pre-approved professionals and all applications to be assessed in a public hearing by experienced and qualified social impact professionals on behalf of Liquor and Gaming NSW. All costs of this process to be covered by the applicant.

9 SHOULD THE REQUIREMENT THAT A CLASS 2 LIA MUST DEMONSTRATE AN OVERALL POSITIVE IMPACT ON THE LOCAL COMMUNITY BE MAINTAINED? IF NOT, HOW SHOULD IT BE MODIFIED?

The requirement to demonstrate an overall positive impact on the community must be maintained and expanded to all applications for additional gaming machines into an area. This is necessary to meet the objectives of the Act and to ensure public interest and harm minimisation objectives are achieved. There should be no exemption to this requirement.

10 DOES THE CURRENT LIA SCHEME ACHIEVE THE OBJECTIVES OF THE *ACT*?

The current scheme does not achieve the objectives of the *Act* as it does not require social impact assessment for the majority of applications to increase gaming machines. Lack of any impact assessment means that there is no consideration of harm minimisation, no consideration of the public interest and no transparency or meaningful engagement with the community. These are the requirements and intent of the *Act* and the process of assessing public interest. The process results in a system that is effectively unregulated for the majority of applications for additional EGMs in a locality. Evidence that the LIA scheme is not meeting the intent and objectives of the *Act* is clear. This includes the increased number of machines in areas such as Fairfield, despite a reduction across NSW; the lack of the requirement for an assessment of harm caused by additional machines; the disproportionate level of profits made by gaming in areas of high disadvantage and the relatively low level of contributions made to communities in return for the introduction of additional gaming machines.

11 THE EFFECTIVENESS OF THE CURRENT SCHEME IN RESTRICTING THE FURTHER CONCENTRATION OF GAMING MACHINES IN AREAS WITH THE HIGHEST RISK OF GAMBLING RELATED HARM

The current LIA system has failed to restrict the further concentration of gaming machines in areas with the highest risk of gambling related harm.

Data provided by L&GNSW shows that the number of electronic gaming machines in Fairfield increased by 51 machines between 1 January 2012 and 1 January 2016. Holroyd LGA, also a Band 3 area, received an additional 109 machines in the same period. Liverpool, a Band 2 area, received an additional 33 machines.

Fairfield is ranked by L&GNSW as the area of highest risk of gambling harm in Sydney and the second highest ranked area in NSW. Holroyd is ranked as the 20th most disadvantaged area in NSW, a Band 3 area that experiences a high level of harm from gaming machines.

Fairfield City Council has not been informed of any increase in electronic gaming machines within the LGA and has only become aware of this increase due to media reports.

Other agencies that appear to be expected to contribute to an understanding of the impact of gambling in a particular area are not funded to undertake this work, usually do not have staff with the knowledge and experience to provide such advice, and do not have these responses contained in the remit for their agency. Non-response by agencies is often interpreted as having 'no objection' to the application.

Community organisations are often reliant on funding and support from clubs to provide services. Community groups may feel that objecting to applications from clubs could be detrimental to future funding through the ClubGRANTs' program.

12 HOW TO BEST IDENTIFY, ON AN ONGOING BASIS, THE COMPARATIVE RISK OF GAMBLING HARM IN AN AREA, INCLUDING THE CRITERIA FOR DETERMINING HIGH, MODERATE AND LOW RISK

This is a complex question that is best answered by experts in data and impact assessment rather than opinions of interested but uninformed individuals. The current system has some merit but it is probable that a more sophisticated, or nuanced system, may be possible. No system of harm classification should include consideration of gaming industry development.

It is not acceptable to have no system of categorisation of harm but any broad categorisation needs to be supplemented by smaller areas when assessing impact of gaming machines. It is helpful to have at least one level of categorisation at the LGA level as this boundary is used for a multiplicity of government agencies, data sets and governance structures. It is feasible, and helpful, to have a secondary level of classification that relates to the community surrounding the venue and, therefore, most directly impacted by any proposal.

This system effectively is in operation in the Class 2 LIA process as there is a requirement to map the local area to one kilometre surrounding the venue, and impact is assessed on a five kilometre radius. Amending this impact assessment area, the statistical area boundaries will provide some suitable data .

13 WHETHER 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 EFFICIENTLY

Areas that experience a high level of harm from gaming machines should be identified and no further machines should be considered in these areas. In areas of high community harm, it is unlikely that further development of the gaming industry can be justified or balanced. Areas with a high level of harm from gaming machines should be identified to give certainty to the community and to venues.

Harm should be assessed using information and data provided by expert opinion. Please refer to earlier proposed amendments to the LIA process.

In 2012, The Authority determined that assessment of net benefit should be determined over a five year period.

14 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

Every application should require the minimum of a Class 2 LIA. Every gaming machine causes harm that varies according to the immediate area in which they are located and the vulnerability of the community. The level of harm associated to each application for additional EGMs needs to be determined.

Should it be decided that there needs to be a threshold for no requirement, this should be restricted to venues located in areas with local area SEIFA index of more than 1000 and no more machines than five per annum.

15 WHEN 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

Categorisation of LGAs should be maintained in order to facilitate protective policy for areas of high disadvantage. This categorisation should function in tandem with assessment of net benefit of each proposal within the area of impact. This area of impact could be defined by a geographic area as a default, or by the area of membership or category of people who frequent the venue. The flexibility of the community of impact is important in order to remain responsive to each context. Context is very different in the City of Sydney and rural areas. Differences are also evident between clubs and pubs, as well as clubs with communities of interest such as ethno specific venues.

Amalgamation of Councils sought, in part, to increase the population size of smaller local government areas. Amalgamations in the Sydney area are likely to have created more similarities in population size and geographic size than before this process.

The proposed process outlined in this submission would provide guidance and the level of flexibility in assessment that the multiplicity of communities and applications present.

16   OTHER RELEVANT MATTERS

16.1   Reduction of EGMs in Areas with High Level of Gambling Related Harm

A policy that requires gaming machines to be removed from Band 3 areas rather than Band 2 or Band 1 areas, would have the effect of reducing the number of machines across the State as well as reducing the number of machines in areas of high disadvantage. Venues would also benefit from this system as the price of a machine in a Band 3 area would increase, resulting in a gain to venues. Consideration could be given to enabling venues in Band 3 areas to lease gaming machine entitlements to venues in Band 1 areas. This would maintain income for venues in Band 3 areas while reducing the number of gaming machines in those areas.

16.2   Linking Data to Understand Connection of Gambling to Crime Is Required

Police should record the role of gambling in crime. This information is recorded for alcohol and provides invaluable information to assist in creating safer communities and linking crime to venues. This can better target harm minimisation strategies to support the community, plan community services and meet the objectives of the *Act*.

16.3   Strategic Approach of L&GNSW and Objectives of the *Act*

The Strategic Approach outlined by L&GNSW has five guiding principles, including "*Collaborate and consult with stakeholders to shape socio economic outcomes*" and to "*drive harm minimisation while reducing red tape, making it easier to do business*".

One object of the *Act* is:

> "*(3) In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.*"

This objective requires harm minimisation be given overt consideration or 'due regard' when fulfilling the functions of the *Act*, including the assessment of LIAs. The guiding principle "*drive harm minimisation while reducing red tape making it easier to do business*" suggests that the reduction of red tape and ease of business is of, at least, equal importance as harm minimisation in conduct of business relating to regulation of gaming. Equal consideration of the ease of the conduct of business and harm minimisation is in contradiction to the object of the *Act*.

The NSW Regulatory Policy Framework Review Panel, chaired by the Hon Nick Greiner AC, states that reduction of red tape does not necessarily result in reduced compliance nor does it necessarily result in the correct outcomes being achieved. An attempt to reduce 'red tape' to 'increase business certainty' or 'make doing business easier' cannot be reasons to reduce requirements that are necessary to ensure the objectives of the *Act*, such as harm minimisation, are achieved.

16.4 Transparency

There is little, if any, transparency in the current LIA process. Transparency is the cornerstone of public interest and credibility.

Significant data, such as the turnover, profit and tax of the gaming machines operating at the proposed venue, is not available to the stakeholders or community so the impact of the existing gaming machines is not known. Data is not freely available and costs a significant amount for community and individuals. In some instances, data has not been provided despite repeated requests and agreement to the fees to be charged.

How the application is assessed, the qualifications and identity of who is undertaking the assessment is not provided. Issues raised during community consultation and comments from stakeholders are not available to the community. There is no clear view of how the applicant has addressed the concerns raised by the community.

Stakeholders who provide feedback and comment do not have any process to comment on the applicant's response to their comment. There is no 'right of reply' or confirmation that the issues have been raised accurately. There is no independent analysis or assessment of the proposal and the application. This should be rectified.

16.5 Impact Assessment Should Apply to All Applications

NSW operates a largely unregulated system with no equity, little transparency or consideration of gambling harm in the majority of applications. Social and economic impact assessments should be required for all additional gaming machines, regardless of number and location in order to meet the objects of the *Act* which is about gambling harm, not restricted to 'problem gambling'.

> *"(2) The Authority, the Minister, the Director-General, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling when exercising functions under this Act."*

The Class 2 LIA requires an overall net benefit to be provided to the community in order for additional gaming machines to be approved. The Class 1 LIA process only requires a 'positive contribution' to the community and does not require any identification or assessment of detriment or harm caused by the additional gaming machines. There is no requirement for any impact assessment.

In situations where no LIA is required, that is up to 20 machines in a Band 1 area, and within the boundaries of a LGA, no assessment of the impact of these machines is required and no contribution to the community is required. This is despite the fact that areas of disadvantage and advantage can occur in the same LGA.

The Class 1 LIA process and the lack of requirement for a LIA for increases less than 20 machines, appears to have been based on a determination that no gambling harm occurs in these situations. This is a blanket decision, and is also applied to Band 2 and

3 areas, where communities are assessed to be at high risk of harm in certain circumstances.

It is not clear of the evidence used to determine that no harm occurs in every situation that is captured in this process. There is no guidance or standard to applicants, community or regulator for an appropriate level of 'community benefit' to be provided in Class 1 LIA applications.

There is no transparency on how a donation "*that is commensurate with the level of risk of the additional GMEs.*" (p 13, Discussion Paper) is determined. How is the level of risk determined? Who determines the level of risk and who determines what is 'commensurate'?

16.6   Exemption to LIA Process and Harm Minimisation

The Discussion Paper shows in Table 4, on page 13, that four applications in Band 3 areas were approved and two were refused between 2009 and 2016. It is noted that two applications in Band 3 areas were made with a Class 1 LIA as they related to dissolved clubs.

A Band 3 LGA has a high number of gaming machines per capita, high gaming machine profit per capita, and a low ranking of socio-economic relative disadvantage score, and thus is considered to have a relatively high risk of gambling-related harm. A Band 2 LGA has less risk, and a Band 1 LGA has relatively the least risk of gaming-related harm.

Amendment 40 of the *Gaming Machines Regulation* that enables the removal of the Class 2 LIA requirements, goes against the intention of the *Act*, does not support the balanced development of the gaming industry, nor does it take the public interest into consideration.

Communities in Band 3 areas are identified by L&GNSW as having a *"high risk of gambling related harm".* For this reason, the *Act* requires any application for additional gaming machines to complete a Class 2 LIA. The Regulation circumvents this requirement by enabling a Class 1 LIA, which does not require the additional machines to provide an overall net positive contribution to the community.

The *Act* requires a Class 2 LIA to be applied to all increases in Band 3 areas in response to the high level of harm. Regulations must be designed to achieve the objectives of the *Act*, not remove or reduce the legislated legal test designed to protect the community and meet the requirements of public interest.

16.7   Business Certainty and Net Positive Benefit of Additional Gaming Machines

Page 13 of the Discussion Paper shows that 96.3% of Class 1 LIAs were approved and nearly half, or 40%, of Class 2 applications, were approved. Applications for additional gaming machines in Band 3 areas that are at a high risk of gambling harm was 67%, while 96% of applications in Band 2 areas were successful. Band 2 areas would be considered areas that experience a moderate level of harm.

The Discussion Paper, also on page 13, states that:

> "*The limited success of applicants in the Class 2 LIA process may indicate uncertainty on the legislative requirements to satisfy The Authority in their determination. The intentionally stringent nature of the legislative requirements of a Class 2 LIA, and the limited success, implies that many applicants utilise the Class 1 LIA process and seek smaller incremental increases to their GMT over an extended period of time*".

It is difficult to understand how 40% success rate for additional gaming machines in a system that is designed to assess net benefit of a proposal is interpreted as 'uncertainty on the legislative requirements'. It may also suggest that the applicants do not meet the legal test of net benefit of the proposal.

Only 3.6% of all applications requiring an LIA fall into the Class 2 category. Of these, 40% of these applications are successful. Only 4.25% of applications requiring any type of LIA are in a Band 3 LGA, and of these, 67% have been successful.

The decision of The Authority, in relation to Mounties in 2012, provided clarity on the timeframe that should be used to assess net benefit. This determination removed a key element that may have contributed to uncertainty in the assessment process.

The Discussion Paper suggests that venues are 'gaming' the system by applying for incremental increases to avoid meeting the legal threshold and obligation of net positive impact. Action to prevent the industry from avoiding the requirements of the *Act* needs to be taken as a matter of urgency.

The simplest way to ensure additional gaming machines result in community benefit, and prevent the gaming industry avoiding the legal threshold in the *Act*, is to apply a Class 2 LIA process to all applications for additional gaming machines.

16.8   Public Interest and the Balanced Development of the Gaming Industry

The LIA process does not adequately consider the public interest. This is largely due to the barriers to participation embedded in the process. Effective engagement with the process by agencies, organisations and community has been 'designed out'.
The Discussion Paper, on page 6, outlines that:

> "*The review also acknowledged that it was in the public interest to make the process simpler for venues to undertake, as it would increase business certainty, and if the application was successful, the overall number of gaming machines in NSW would fall*".

The public interest is only defined as a State-wide reduction in gaming machines that will result from approval of applications. Approval of applications will also provide business certainty and simplification of the application process for venues. The LIA design did not address the concerns raised as part of the 2008 review of the SIA process that related to the lack of community opportunity to influence Class 1 SIA

decisions. The LIA process has not been designed to ensure that all harm is minimised. The process did not take into account the need to reduce the number of gaming machines in areas of high risk.

There appears to have been no intention for the LIA process to enhance the ability for community groups, individuals and agencies to engage with the process, influence decision-making or improve transparency. The LIA process does not require a consideration of the public interest or a social impact assessment; it simply requires "*the applicant's opinion of social and economic impact*".

The LIA process does not consider the balanced development of the gaming industry. It is not clear what is being balanced in the area in which the balancing is to occur, or when development is no longer required. It is unknown if an assessment of a balanced development of the gaming industry is part of the assessment process or the criteria used to undertake any assessment.

It is difficult to argue that there can be any balanced development of the gaming industry in areas that already have moderate to high levels of disadvantage, machine density and expenditure. Despite this, there have been increases in the number of gaming machines and profit in these areas since this system has been in place. There has been at least one instance where an LGA has moved from a Band 2 category to Band 3 indicating a retrograde level of gaming industry development and an increased level of harm under the current system.

The harm to the community in which EGMs are to be located must be considered as well as the harm that may be reduced as a result of forfeiture of machines across NSW. Harm will be reduced in the area from which EGMs are being removed but harm will be increased in the new location. It is not correct to assume that the benefit that is gained by reducing EGMs across the State is of more importance than the harm that may be caused by introducing additional EGMs into a particular community. The logic of the 'public interest' being achieved by increasing the number of successful applications to transfer EGMs needs to be tested on a case by case basis and cannot be assumed.

Creating regulation, or amending the *Act*, to increase the number of successful LIAs will not result in the objects of the *Act* being achieved. This is particularly true in the locations which currently require Class 2 LIAs. The locations that require Class 2 LIAs are those areas of moderate and high risk from gambling harm. Increased EGMs in these areas are likely to result in more harm occurring than has been mitigated through the reduction of EGMs in areas of lower risk.

16.9   Cost of Participation In the LIA Process, Cost Transfer and Cost Recovery

L&GNSW requires the applicant to pay any costs that L&GNSW incur in the assessment of the application. L&GNSW has not extended the capacity to recoup the costs related to assessment of applications to key stakeholder agencies expected to engage with this process such as Police, Local Government, Health and Family and Community Services. Community organisations are also unable to gain financial support or reimbursement of costs associated with this process. This results in a structural barrier to organisations and government agencies who may wish to respond to an application for additional gaming machines.

Community groups and organisations have few, and constrained, income sources compared to applicants and government. It is unlikely that they have any source of funds to engage experts, buy data or hire consultants. In the previous SIA process, the applicant was required to pay for professional social impact assessments undertaken by approved professionals. This avoided the need for alternate impact assessments to be undertaken by the community and other agencies.

The applicant, who has the highest motivation, and will benefit from the profit of a successful application, has access to resources and can determine the amount of time taken to prepare applications, analyse data, engage specialist consultants and undertake consultation.

It is commonly and widely accepted that one of the main strategies to determine and maintain the 'public interest' in representative democracies is through participation in decision-making and assessment of proposals. A key to participation is transparency and resourcing to ensure equitable power relationships which can be achieved through the ability for community and agencies to recover the costs associated with assessment of the application.

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