



Tasmanian Council of Social Service Inc

TasCOSS Submission on the *Gaming Control Amendment (Future Gaming Market) Bill 2021*

August 2021



**INTEGRITY
COMPASSION
INFLUENCE**

About TasCOSS

TasCOSS's vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians living on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage and promote the adoption of effective solutions to address these issues.

Please direct any enquiries about this submission to:

A handwritten signature in black ink, appearing to read 'Adrienne Picone'.

Adrienne Picone
Chief Executive Officer
Phone Number: (03) 6231 0755
Email Address: adrienne@tascoss.org.au

Introduction

Thank you for the opportunity to comment on the *Gaming Control Amendment (Future Gaming Market) Bill 2021* (the Bill). The changes to the gaming market outlined in the Bill are arguably some of the most significant changes to Tasmania's gaming framework since the introduction of the state's first casino over 40-years ago. As such, this is a unique opportunity to ensure that the market operates in the best interests of the Tasmanian economy and society.

The introduction of a new market model is also an opportunity to ensure that the gaming framework is consistent with other Tasmanian Government priorities and frameworks. The current development of the next *Healthy Tasmania Five Year Plan 2021-26* (the Plan) is particularly relevant given that gambling is a public health issue.¹ The background documentation to the next Plan points out that health and wellbeing is a shared responsibility across government agencies and between levels of government and reiterates the need for a "health-in-all policies" approach to address the social, environmental and economic factors that influence health."²

Our submission therefore focuses on two key issues: to what degree the proposed legislation will benefit the Tasmanian economy and society; and to what degree it is consistent with a 'health-in-all policies' approach. These areas of focus align with the stated aim of the Tasmanian Government's future gaming market policy, which is to:

- Create a sustainable industry,
- Provide the highest standards of probity,
- Ensure returns from the gaming industry are shared appropriately among the industry, players and the community (represented by the Tasmanian Government); and
- Continue to minimise the harm caused by problem gambling.³

Reflecting the key areas of concern from our members, our submission is focused on the gaming market changes in relation to electronic gaming machines (EGMs).

Key Issues

i. Create a sustainable industry

Neither the 2020 Consultation Paper on the proposed future gaming market model, nor the proposed Bill and associated documents, explain what a sustainable industry would look like. Hence, it is not possible to assess whether the Bill will help to achieve that policy aim. TasCOSS notes, however, that there is an assumption that the market changes could result in smaller venues ceasing to operate, as evidenced by the cap on ownership of 25%.⁴

More broadly, TasCOSS also notes that the Tasmanian Government has not shared modelling on the impact of the proposed new framework on the industry, such as whether it expects the changes to result in increased or

¹ See Productivity Commission, *Gambling*, Inquiry Report, vol. 1, 2010, [pc.gov.au/inquiries/completed/gambling-2010/report/gambling-report-volume1.pdf](https://www.pc.gov.au/inquiries/completed/gambling-2010/report/gambling-report-volume1.pdf).

² *Healthy Tasmania — The Next Five-Years: Background Information for Consultation*.

³ Department of Treasury and Finance, *Future of Gaming in Tasmania*, Stage Two Public Consultation, 2021, treasury.tas.gov.au/Documents/Stage%202%20Future%20Gaming%20Market%20public%20consultation%20-%20submission%20process.pdf.

⁴ Department of Treasury and Finance, *Future of Gaming in Tasmania*, Paper 3 — Proposed Future Gaming Market Legislative Provisions — Hotel and Club, p. 12, treasury.tas.gov.au/Documents/Paper%203%20-%20proposed%20Future%20Gaming%20Market%20legislative%20provisions%20-%20hotel%20and%20club.pdf.

decreased use of EGMs, whether it expects greater competition between venues, and the impact of additional compliance costs on small venues and regulatory costs for the Tasmanian Liquor and Gaming Commission (the TLGC). As well as being relevant to the sustainability of the industry, these issues also have implications for harm minimisation. For example, increased competition could encourage venues to offer inducements to gamblers that result in higher gambling losses.

Recommendation:

1. Before the *Gaming Control Amendment (Future Gaming Market) Bill 2021* is introduced into Parliament, the Tasmanian Government conducts and releases economic modelling on the effects of the proposed gaming framework on the gaming industry and holds public consultations on the modelling.

Another element of sustainability that is not addressed in the legislation or associated documents is that the Tasmanian Government will be giving out valuable licences for a 20-year period at no cost. This is a missed opportunity for the Tasmanian Government to achieve the best financial deal for the Tasmanian people and thereby increase the state's overall economic position. The decision not to charge for individual licences is even more inexplicable given the previous Liberal Government's policy position, which was "the rights to operate these machines post-2023 will be allocated and priced by a market-based mechanism, such as a tender."⁵

Also unclear is how the Tasmanian Government decided on a 20-year duration for licences. A duration of this length could be expected in return for payment of a substantial licence fee, under a sovereign risk model. Particularly in the absence of a licence fee, however, a 20-year licence is excessive. TasCOSS supports the proposal by the TLGC that "the duration of licences should align more closely to machine turnover times of around seven years."⁶

Recommendations:

2. The Tasmanian Government introduce licence fees 'priced by a market-based mechanism' for electronic gaming machines.
3. Amend the *Gaming Control Amendment (Future Gaming Market) Bill 2021* to provide for electronic gaming machine licences of a period of seven years.

ii. Provide the highest standards of probity

A key principle of probity in relation to government contracts is "fairness, consistency and transparency of process."⁷ Three key elements of the proposed gaming market model raise questions of probity:

- The first is the proposed tax and Community Support Levy (CSL) rates. It is not clear why the tax and CSL rates for EGMs are different according to the type of venue in which they are located. The rationale offered

⁵ Hodgman Liberal Government post-2023 Gaming Structural Framework, parliament.tas.gov.au/ctee/Joint/TermsOfReference/FGM%20additional%20ToR_a.pdf.

⁶ Tasmanian Liquor and Gaming Commission, 'Comments on the submission to the Joint Select Committee on Future Gaming Markets from the Tasmanian Hospitality Association and Federal Group,' in Tasmanian Parliament, *Future Gaming Market Final Report*, p. 203, parliament.tas.gov.au/ctee/Joint/Reports/FGM/fgm.rep.170927.reportfinalforprinting.sw.pdf.

⁷ See Tasmanian Government, *Procurement Better Practice Guidelines (Principles and Policies)*, purchasing.tas.gov.au/Documents/Probity-Guidelines-for-Procurement.pdf.

is to align Tasmania's gaming tax regime with that of another regional jurisdiction (far North Queensland). However, EGMs cause the same harms no matter where they are located. The lack of sound rationale for the differential rates raises the question of probity. The solution is to ensure that pubs, clubs and casinos pay the same rate of tax and CSL.

Recommendation:

4. **Amend the legislation so that pubs, clubs and casinos pay the same tax and Community Support Levy rates on electronic gaming machines.**
 - The second issue relating to probity, particularly transparency of process, concerns the Community Interest Test (CIT). The CIT has been in place since 2016 and is invoked when a venue seeks a licence for an EGM for the first time.⁸ No venue has applied for a licence so the CIT has never been applied, which means Tasmanians have never had the opportunity to have a say on whether they want poker machines located in their communities. The proposed new framework offers a unique opportunity for this to occur across the state because, should the framework be adopted, from that point on venues will change ownership and new venues will emerge, meaning there will not be another time that all licences are aligned. TasCOSS therefore recommends amending the *Gaming Control Act 1993* to provide for the CIT to apply before the granting of each individual venue licence.⁹

Recommendation:

5. **Amend the *Gaming Control Act 1993* to provide for the Community Interest Test to apply before the granting of a venue licence.**
 - The third issue of probity is the proposed model for monitoring EGMs. Under the proposed model the current role of Network Gaming will be replaced by a Licensed Monitoring Operator who will "monitor the network of EGMs in hotels and clubs, and provide information for regulatory and taxation purposes."¹⁰ The Monitoring Operator's licence will be put to tender and will be in place for 20-years. Given the access to data the Operator will have through its monitoring function, it is important that the Operator can not also be an individual venue licence holder as this would give the Operator an unfair advantage.

Recommendation:

6. **Prohibit the Licensed Monitoring Operator from also holding an individual venue licence.**

iii. Ensure returns from the gaming industry are shared appropriately among the industry, players and the community (represented by the Tasmanian Government)

TasCOSS notes that, according to the *Government Summary*, the biggest winner in terms of revenue from the proposed changes are pubs and clubs, with Federal Group standing to lose the most and 'state and community'

⁸ Gaming Control Act 1993, legislation.tas.gov.au/view/html/inforce/current/act-1993-094#HP4@HD2@EN

⁹ Department of Treasury and Finance, *Electronic Gaming Machine Authorities*, Consultation Fact Sheet, treasury.tas.gov.au/Documents/Consultation%20Fact%20sheet%20-%20EGM%20Authorities.pdf

¹⁰ Department of Treasury and Finance, *Licensed Monitoring Operator*, Consultation Fact Sheet, treasury.tas.gov.au/Documents/Consultation%20Fact%20Sheet%20-%20Licensed%20Monitoring%20Operator.pdf

increasing its share marginally.¹¹ Thus, the main impact of the new model in terms of revenue distribution is to redistribute player losses amongst industry players. There is no mention of the level of Return to Player (RTP), let alone increasing the level of RTP, despite a stated aim of the proposed policy being to ensure returns from gambling are 'shared appropriately' among the industry, players and the community (represented by the Tasmanian Government).

A public health approach to distributing revenue from gambling would recognise that player losses constitute the overwhelming bulk of revenue (particularly given that EGM licences do not attract a fee) and that reducing harm from gambling would see an increased RTP and to the community in the form of activities directly associated with addressing gambling harm.

The latter involves changes to the operation of the CSL. The CSL was established to "improve harm minimisation and address issues of problem gambling in our community."¹² This is appropriate given that as much as half of player losses on EGMs comes from people who are being harmed from gambling.¹³ Currently CSL funds are allocated in three parts: 25% to sport and recreation clubs, 25% to charitable organisations; and 50% to initiatives that address harms from gambling.¹⁴ The proposed reforms will see the CSL double, but there is no commitment to direct those funds towards harm minimisation measures. TasCOSS believes all additional CSL funds should be directed to evidence-informed harm minimisation activities, such as prevention of problem and at-risk gambling, support services for problem and at-risk gamblers, community education about the risks of gambling and research into gambling. This approach is also endorsed by the TLGC.¹⁵

Further, it is our strong view that the percentage allocation of CSL funds to different beneficiaries be included in the gaming market Bill as opposed to regulations, which is the current proposal.¹⁶ Embedding the allocation in legislation better reflects the primary objective of the CSL - harm minimisation.

Recommendations:

- 7. The share of revenue to player to be calculated and made public.**
- 8. The Return to Player is increased through programming changes to electronic gaming machines (*see section iv. below on harm minimisation*).**
- 9. Additional Community Support Levy funds are directed to evidence-informed activities that address gambling-related harms and their prevention.**

¹¹ Tasmanian Government, *The Future of Gaming in Tasmania*, Government Summary, treasury.tas.gov.au/Documents/The%20Future%20of%20Gaming%20in%20Tasmania%20-%20Government%20Summary.pdf.

¹² Department of Treasury and Finance, *Community Support Levy*, Fact Sheet #1, treasury.tas.gov.au/Documents/Future_Gaming_Consultation_Fact_Sheet_no_1_-_CSL.pdf.

¹³ Tasmanian Liquor and Gaming Commission, *Submission to the Joint Select Committee on Future Gaming Markets*, 2016, parliament.tas.gov.au/ctee/joint/Submissions/JSC%20FGM/JSC%20FGM%20144%20Tasmanian%20Liquor%20and%20Gaming%20Commission.pdf.

¹⁴ Department of Treasury and Finance, *Future of Gaming in Tasmania*, Public Consultation Paper, 2020, treasury.tas.gov.au/Documents/Future_of_Gaming_in_Tasmania_Public_Consultation_Paper_February_2020.pdf.

¹⁵ Tasmanian Parliament, *Future Gaming Market Final Report*, p. 203, parliament.tas.gov.au/ctee/Joint/Reports/FGM/fgm.rep.170927.reportfinalforprinting.sw.pdf.

¹⁶ Department of Treasury and Finance, *Future of Gaming in Tasmania*, Paper 1 — Proposed Future Gaming Market Legislative Provisions — General Amendments, p. 16, treasury.tas.gov.au/Documents/Paper%201%20-%20proposed%20Future%20Gaming%20Market%20legislative%20provisions%20-%20general%20amendments.pdf.

10. The percentage allocation of Community Support Levy funds to be set in legislation.

iv. Continue to minimise the harm caused by problem gambling

The harms caused by gambling, particularly on EGMs are well-documented so we welcome the proposed gaming market model naming harm minimisation as an explicit policy aim.¹⁷ We are, however, disappointed that no new consumer protections to achieve that aim have been included in the Bill. TasCOSS therefore argues that the Bill should include specific harm minimisation measures to help give effect to the stated policy aim. The measures set out below have been recommended by experts including the Productivity Commission and gambling researchers, because they will reduce losses experienced by people at risk of harm from gambling without unduly impacting the enjoyment from gambling by recreational gamblers.¹⁸ These measures will also not affect staffing levels in the hospitality industry, which has been one of the concerns raised by the industry when harm minimisation measures have been proposed in the past.

Tasmania's own research into EGM use, the Social and Economic Impact Study (SEIS), shows that almost three-quarters (73%) of EGM users 'never' or 'rarely' spent more than \$1 per spin with the average spend being 71 cents per spin. Only 14% of men and 7% of women spent over \$1 per spin.¹⁹ These measures will also not affect staffing levels in the hospitality industry which has been one of the concerns raised by the industry when harm minimisation measures have been proposed in the past.

Recommendations:

11. Set the maximum bet limit to \$1: the current \$5 maximum bet allows losses of up to \$600 per hour; a \$1 maximum bet will limit losses to \$120 per hour.²⁰
12. Set the spin speed to six-seconds: lowering the speed from the current three-seconds will slow down possible losses.
13. Reduce the maximum jackpot to \$1,000: the current maximum jackpot is \$25,000, which allows long periods of uninterrupted use and therefore risks addictive behaviour.
14. Prohibit 'losses-disguised-as-wins': machines currently celebrate net losses with a visual celebration on the screen, deliberately misleading machine users and keeping people playing longer, making it harder to keep track of losses.
15. Increase the Return to Player rate from 85% to 95%: increasing the Return to Player returns more money to machine users, therefore reducing harm overall. It also ensures a greater share of returns to users, which is in line with the policy aim of an appropriate share of returns to players as well as to industry and community (via taxes and the Community Support Levy paid to the Tasmanian Government).

¹⁷ See for example Productivity Commission, *Gambling*, 2010, Inquiry Report, vol. 1, chap. 4-5; Parliament of Tasmania, *Joint Select Committee on Future Gaming Markets Final Report*, 2017, pp.41-117; The Allen Consulting Group, *Fourth Social and Economic Impact Study of Gambling in Tasmania*, 2017, p. viii, treasury.tas.gov.au/Documents/Volume%201%20-%20Industry%20Trends%20and%20Impacts.PDF.

¹⁸ See for example recommendations in Productivity Commission, *Gambling*, 2010, Inquiry Report, vol. 1-2, pc.gov.au/inquiries/completed/gambling-2010/report.

¹⁹ South Australian Centre for Economic Studies, *Fifth Social and Economic Impact Study of Gambling in Tasmania*, 2021, report commissioned by the Department of Treasury and Finance, vol. 2, p. 98, treasury.tas.gov.au/Documents/Fifth%20SEIS%20Volume%202%20-%20Prevalence%20Survey.PDF.

²⁰ Productivity Commission, *Gambling*, 2010, Inquiry Report, vol. 1, Table 11.2, pc.gov.au/inquiries/completed/gambling-2010/report/gambling-report-volume1.pdf.

16. Regular machine shutdowns: long periods of uninterrupted use make electronic gaming machines more addictive and potentially harmful. Regular programmed shutdowns allow the opportunity for a break in play, allowing a machine user to consider whether to continue gambling.
17. Limit venue opening hours to a maximum of 12-hours per day: currently some electronic gaming machines venues only close for four-hours a day. Limiting access to electronic gaming machines will reduce opportunities to incur losses.

The proposal to extend the interval between the SEIS on gambling from three-years to five-years is based on the argument that additional time will allow more meaningful consideration of the findings and the implementation of potential changes. TasCOSS agrees with this in principle, however we do not believe that to date the findings from each SEIS are routinely reviewed and incorporated into policy or regulatory changes.²¹ As a result, we would support the proposed change provided that:

- Robust mechanisms are in place to ensure findings from each SEIS are made public,
- The appropriate authority (in this case the TLGC) reviews the findings and makes recommendations; and
- The Tasmanian Government responds publicly to the recommendations within a stipulated timeframe.

Recommendations:

18. The projected savings from extending the interval between Social and Economic Impact Study reports (\$1.5 million) is redirected to relevant gambling research which is commissioned by and provided to the Tasmanian Liquor and Gaming Commission.
19. The Tasmanian Liquor and Gaming Commission is resourced to provide a policy response to Social and Economic Impact Study findings and make recommendations to the Tasmanian Government.
20. The Tasmanian Government is required to respond publicly to the Tasmanian Liquor and Gaming Commission recommendations within two months.

Conclusion

The *Gaming Control Amendment (Future Gaming Market) Bill 2021* represents a unique opportunity to enact sound public policy in relation to gaming in Tasmania. In particular, it represents an opportunity to review to what degree the gaming market model benefits the Tasmanian economy and society and to what degree it is consistent with a 'health-in-all policies' approach to public policy.

We have outlined a number of concerns with the Bill in relation to the stated policy aims, in reference to EGMs, and believe that the recommendations put forward in this submission will:

- Allow Tasmanian communities a say for the first time in where EGMs are located in this state;
- Reduce the potential harms caused by EGMs in those communities; and
- Ensure a better return to the community, via the Tasmanian Government, through a more consistent approach to revenue distribution.

²¹ Shortcomings in the Social and Economic Impact Study (SEIS) process were identified in the *Future Gaming Market Final Report*, pp. 67-75.

Summary of Key Issues and Recommendations

i. Create a sustainable industry

1. Before the *Gaming Control Amendment (Future Gaming Market) Bill 2021* is introduced into Parliament, the Tasmanian Government conducts and releases economic modelling on the effects of the proposed gaming framework on the gaming industry and holds public consultations on the modelling.
2. The Tasmanian Government introduce licence fees 'priced by a market-based mechanism' for electronic gaming machines.
3. Amend the *Gaming Control Amendment (Future Gaming Market) Bill 2021* to provide for electronic gaming machine licences of a period of seven-years.

ii. Provide the highest standards of probity

4. Amend the legislation so that pubs, clubs and casinos pay the same tax and Community Support Levy rates on electronic gaming machines.
5. Amend the *Gaming Control Act 1993* to provide for the Community Interest Test to apply before the granting of a venue licence.
6. Prohibit the Licensed Monitoring Operator from also holding an individual venue licence.

iii. Ensure returns from the gaming industry are shared appropriately among the industry, players and the community (represented by the Tasmanian Government)

7. The share of revenue to player to be calculated and made public.
8. The Return to Player is increased through programming changes to electronic gaming machines.
9. Additional Community Support Levy funds are directed to evidence-informed activities that address gambling-related harms and their prevention.
10. The percentage allocation of Community Support Levy funds to be set in legislation.

iv. Continue to minimise the harm caused by problem gambling

11. Set the maximum bet limit to \$1: the current \$5 maximum bet allows losses of up to \$600 per hour; a \$1 maximum bet will limit losses to \$120 per hour.
12. Set the spin speed to six-seconds: lowering the speed from the current three-seconds will slow down possible losses.
13. Reduce the maximum jackpot to \$1,000: the current maximum jackpot is \$25,000, which allows long periods of uninterrupted use and therefore risks addictive behaviour.
14. Prohibit 'losses-disguised-as-wins': machines currently celebrate net losses with a visual celebration on the screen, deliberately misleading machine users and keeping people playing longer, making it harder to keep track of losses.
15. Increase the Return to Player rate from 85% to 95%: increasing the Return to Player returns more money to machine users, therefore reducing harm overall. It also ensures a greater share of returns to users, which is in line with the policy aim of an appropriate share of returns to players as well as to industry and community (via taxes and the Community Support Levy paid to the Tasmanian Government).

16. Regular machine shutdowns: long periods of uninterrupted use make electronic gaming machines more addictive and potentially harmful. Regular programmed shutdowns allow the opportunity for a break in play, allowing a machine user to consider whether to continue gambling.
17. Limit venue opening hours to a maximum of 12-hours per day: currently some electronic gaming machines venues only close for four-hours a day. Limiting access to electronic gaming machines will reduce opportunities to incur losses.
18. The projected savings from extending the interval between Social and Economic Impact Study reports (\$1.5 million) is redirected to relevant gambling research which is commissioned by and provided to the Tasmanian Liquor and Gaming Commission.
19. The Tasmanian Liquor and Gaming Commission is resourced to provide a policy response to Social and Economic Impact Study findings and make recommendations to the Tasmanian Government.
20. The Tasmanian Government is required to respond publicly to the Tasmanian Liquor and Gaming Commission recommendations within two-months.