15 February 2016

Dear Office of Liquor, Gaming and Racing

Monash Council Submission to the Review of Gaming Machine Arrangements in Victoria

Monash Council welcomes the opportunity to respond to the Review of Gaming Machine Arrangements in Victoria.

Monash Council is a leader in advocating to reduce harm from gambling. In 2014 Council led the state-wide local government campaign, *Enough Pokies*, which successfully mobilised over 70 councils, the Municipal Association of Victoria (MAV), The Salvation Army, and the Victorian Local Governance Association.

The campaign sought to highlight the frustrations of councils and communities across the state with the current regulatory framework for Electronic Gaming Machine (EGM) licensing in Victoria and the uneven playing field which exists at the Victorian Commission for Gambling and Liquor Regulation (VCGLR) and the Victorian Civil and Administrative Tribunal (VCAT).

*Enough Pokies* proposed legislative amendments to the *Gambling Regulation Act* to better protect vulnerable communities from the targeted infiltration of EGMs by the gambling industry. The MAV has been given the mandate to continue to advocate for these draft legislative amendments to be enacted by the State Government.

Monash Council supports the MAV’s submission to the Review of Gaming Machine Arrangements. The enclosed submission incorporates MAV’s commentary and where appropriate, includes a localised tailoring by Monash Council.

It is hoped that through this Review, the reforms proposed by *Enough Pokies* and presented in this submission are considered in order to mitigate the significant social, economic and health impacts caused by EGMs in Victoria’s most vulnerable communities.

If you have questions regarding this submission please contact Emily Halliburton on (03) 9518 3574 or EmilyH@monash.vic.gov.au.

Yours sincerely

Stefanie Perri

STEFANIE PERRI
Do you think that the venue operator model is meeting the three objectives listed and why? How do you think the venue operator model could better achieve its objectives?

MAV

The Objectives of the venue operator model were written for a particular period when the duopoly was changing to the venue operator model. Therefore they are of limited relevance to local government and local communities as they relate to the difference between one regime and the current rather than what councils and communities they represent are concerned with – transparency of local expenditure, predatory incentive programs, concentration of machines in venues in communities that can least afford to lose, and machines that are designed to create addiction to gambling.

Monash Council

The Victorian Government states that the overall intention of the venue operator model is to deliver broad community benefits.

Council disputes the notion that EGMs and their increasing concentration in Victoria’s most vulnerable communities delivers any kind of community benefit.

Whilst gambling is a legal form of entertainment, it can have significant health, social and economic impacts to individuals, families and communities. EGMs are the greatest cause of gambling harm in Australia. 80% or more of those with a gambling problem have it because of their use of poker machines.¹

Victoria’s EGMs are concentrated in areas of social and economic disadvantage. These are communities which can least afford to carry the burden. More EGMs attract a higher level of gambling, and greater damage to communities already struggling.² The current regulatory framework for EGMs provides little protection to Victoria’s most vulnerable areas.

Monash Council’s preferred outcome, as prosecuted through the Monash Council-led 2014 Enough Pokies campaign³, is to seek legislative change to the Gambling Regulation Act (See ATTACHMENT A). These reforms are sought to place greater regulation and restrictions on the gambling industry, gambling environments and products which are designed to mislead. Monash Council strongly opposes the targeted concentration of EGMs in Victoria’s most vulnerable and disadvantaged communities.

Victorian councils are significantly disadvantaged when it comes to EGM licensing because the current system of EGM approval heavily favours the applicant.⁴ Between July 2007 and June 2014, 132 out of 142 applications were approved by the Victorian Commission for Gambling and Liquor Regulation [VCGLR].⁵
In contrast to the Government’s position that EGMs stimulate economic activity and deliver community benefit to the local community, Monash Council has deep concern about the proliferation and harm of EGMs in our local neighbourhoods – particularly their increasing concentration in our more disadvantaged areas such as Clayton, Chadstone and Mulgrave.

Monash is in the top five local government areas in Victoria with the highest number of gaming venues, poker machines and losses. Millions of Monash community dollars are lost to local EGMs each year and there is clear evidence of the detrimental impact on health and wellbeing of our local residents, families and communities.

In the 2014/15 financial year, $114 million dollars was lost to poker machines in Monash, the fourth highest losses in any Victorian council area. This equates to a staggering $313,000 being lost each day to poker machines in the Monash community.

Council is concerned about the harm caused by poker machines, particularly as the machines are increasingly concentrated in areas of Monash where the highest proportion of financially-disadvantaged residents live.

It is of great concern to Council that local government is virtually powerless to influence the EGM licensing system that heavily favours the applicant and appears to be a willing collaborator in the targeted concentration of EGMs in Victoria’s most vulnerable communities.

1. **Do you think the current distribution limits are appropriate? If not, what changes would you suggest and why?**

**MAV**

Current distribution limits are adequate and have probably resulted in some harm reduction. However the regional caps system requires reform and should be based on distributing EGMs being concentrated in municipalities at or below the overall Victorian average.

**Monash Council**

Monash Council argues that **further reduction of EGM caps** is required to address the alarming and increasing density and concentration of EGMs in disadvantaged communities. The current caps should be extended to limit the number of EGMs able to be located within a suburb or neighbourhood of below average SEIFA score so that the number of EGMs in these areas are equal to or less than the state-wide average of EGMs per 1,000 adult population.

Further, and in relation to growth councils, there needs to be a commitment to a fixed and stable regional and metropolitan local government area cap. Growth area councils are vulnerable to a direct net increase in the number of gaming machines, as caps are
determined on population. Growth area councils are experiencing rapid population growth and there lies the potential for increased EGMs, this leaves new and growing communities exposed to risk factors associated with gambling. An increase in population growth should not translate to a direct increase of EGMs. It is essential that the Government engages the expertise and knowledge of councils in determining a fixed cap to ensure the voice of local communities is heard [ATTACHMENT B].

2. Are the ownership restrictions appropriate? If not, should they be increased or decreased, and why?
   MAV

   Ownership restrictions are appropriate but current levels do permit a significant concentration of ownership in the hotel sector, and development of large club holdings. These do not serve the public interest. Reduction in the level of ownership holdings is warranted.

   Monash Council

   Council supports MAV’s position.

3. Should the tax differential for clubs and hotels be maintained and, if so, why?
   MAV

   The tax differential is based on the assumption that clubs deliver actual benefits to the community via an 8.33% distribution of revenue to community purposes. This is neither transparent, nor in almost all cases genuine. Our research has indicated that over 70% community benefit claims listed by clubs is allocated to operating costs of the venues themselves. There is a strong case for arguing that the tax differential should be removed.

   Monash Council

   Council supports MAV’s position.

4. Should changes be made to the way clubs are required to demonstrate their community benefit?
   MAV

   If the tax differential is removed the funds derived from the 8.33% impost should be distributed via the Community Support Fund in a more transparent way. If it is not, the Community Benefit Statement should be restructured to require clubs to provide 8.33% of NGR to i) charitable or benevolent organisations with tax deductible gift status; ii) local sporting or community-based services within the LGA of the venue and NOT affiliated with
the club; or iii) services provided by gambling counselling or welfare organisations to support recovering gamblers, veterans or health and welfare services.

**Monash Council**

Council supports MAV’s position.

In addition, Council argues that the way ‘community benefit’ is currently assessed is flawed, vague, subjective and unfairly provides advantage to an applicant over a council or community opposed to an application. In Victoria, only 2% in every dollar lost on EGMs is donated back to community groups.¹² Venues are currently claiming extra parking, refurbished bar-rooms and minor community donations as a ‘community benefit’. One venue in Melbourne attempted to claim a ‘donation’ to a school no longer in operation as an offset to install more pokies.¹³ The current regulatory processes is not adequately holding venues to account in their claims of ‘community benefit.’

New guidelines need to be developed to provide an effective and commonsense definition of what constitutes a ‘net benefit’ or ‘net detriment’ in relation to an application and how this should be approached. For example, expanded floor space for a venue should not objectively be assessed as constituting such a benefit for the community that it outweighs the agreed economic loss that would be brought by EGMs into a disadvantaged area. The obvious value judgments implicit in such an approach (and as has been regularly applied by the VCGLR previously) is not consistent with an even playing field or with community expectations. There is also a critical need for the development of a transparent and accurate assessment model to gauge transferred and new expenditure. Such a model must clearly identify the economic impact and risks associated with applications for new or increase EGMs. The GEOTECH model, currently favoured in assessing EGM applications, is not transparent and does not meet the requirements.¹⁴

Regulatory changes are required to the reporting requirements and the categories of the Annual Venue Community Benefit Statement to ensure that only benefits that demonstrate local community activity, purpose or approval are considered eligible for inclusion.¹⁵

5. **Should any future gaming machine entitlements be issued for a 10-year term, a shorter term or a longer fixed term or in perpetuity and why?**

**MAV**

Entitlements issued periodically permit government to introduce change and regulatory reform without the obstacles associated with perennial rights to such entitlements. Perennial rights also entrench industry influence and may lead to significant resistance to necessary reform, and regulatory capture by industry. Ten year terms are appropriate and should continue.

**Monash Council**
Council supports MAV’s position.

6. What types of allocation process would be appropriate to allocate any new gaming machine entitlements and why?
   MAV
   
   No new entitlements should be issued.
   
   Monash Council
   
   Council supports MAV’s position.

7. Do you have any suggestions to improve the regulatory framework for gaming machines?
   MAV
   
   Reducing maximum bets on Electronic Gambling Machines to one dollar per spin
   
   Based on the available evidence, it appears that a reduction of maximum bets to one dollar would have little effect on so-called 'recreational' gamblers and would have a positive effect for 'problem' gamblers who consistently bet at levels above one dollar.
   
   Amend the Gambling Regulation Act 2003 to:
   
   • require decision-makers at the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to consider the social and economic impacts of increasing densities of EGMs in vulnerable communities at the local level or census collection district level.
   • require community benefits to be genuine and benefit those at most risk of harm from EGM gambling. The applicant would also be required to prove that there is a positive community benefit from increasing the number of EGMs, as opposed to the current 'will not be detrimental' test.
   • prohibit applications for new or increased numbers of EGMs in local communities (at suburb or statistical local area level) with below-average socio-economic indexes for areas scores where the EGM density is currently above, or will become above, the state average.

   Specifically the amendments we seek include;
   
   Remove ‘fostering competition’ as an excuse for more machines and require the VCGLR to judge that an area already has enough pokies
   
   S3.1.1: There are two amendments here. One is intended to remove the provision about fostering competition, in order to permit the Commission to decide that an area already has enough EGMs and that no more are required. The second is to require the Commission to decide whether the EGM facilities in the area are sufficient to meet the needs of those who gamble without hurting themselves or others.
Allow the Commission enough time to make the right decision

s3.3.8: This amendment is to remove the obligation from the Commission to make decisions within 60 days – this is likely to allow for more reflection on applications and give the Commission more room for better decisions.

Allow councils enough time to develop comprehensive submissions

s3.3.6: This amendment is to allow the responsible authority (local councils) 90 days for submissions regarding EGM applications, on the basis that they use their best endeavours to complete the application within that time.

A stronger requirement for the Commission to take council submissions into account

s3.3.7(3): This amendment is to require the Commission to ‘have regard to’ rather than ‘consider’ any submission by the responsible authority. The effect of this change is to increase the extent to which the Commission must take the submission into account in determining the application.

Make the applicant meet social and economic impact tests

s3.3.7(1): This amendment is to require the Commission to be satisfied by the applicant that the economic and social impact test has been met, thus placing the onus on the applicant to demonstrate this.

Only grant applications that benefit the community

s3.3.7(1)(c): This amendment is to modify the social and economic impact test to require the effect of the application to be beneficial to the local community.

Consider the specific community, not just a municipality-wide approach

s3.3.7(4): This amendment is to require the Commission to have particular regard to the social effects of the application on the immediate vicinity of the venue – not just the ‘municipal district’

Monash Council

Council strongly supports MAV’s proposed legislative changes as developed through the Monash Council-led 2014 Enough Pokies campaign [ATTACHMENT A]. Council urges the Government to act in the community interest and implement these changes as part of this review.
ATTACHMENTS


REFERENCE LIST


9 Monash Council 2015, ‘Gambling’, Monash Council [Website], December 2015, 
February 2016.

10 Monash Council 2014, ‘Motion to MAV State Council Meeting submitted by Monash 
Council following input from 33 representatives from 14 councils – 16 May 2014: Re-

dressing the Burden – Electronic Gaming Machine Applications and System Reform’, 
Monash Council, May 2014.

11 Monash Council 2014, ‘Motion to MAV State Council Meeting submitted by Monash 
Council following input from 33 representatives from 14 councils – 16 May 2014: Re-

dressing the Burden – Electronic Gaming Machine Applications and System Reform’, 
Monash Council, May 2014.

12 Alliance for Gambling Reform 2015, Ka-Ching! Pokie Nation (pre-screening promotional 


14 Monash Council 2014, ‘Motion to MAV State Council Meeting submitted by Monash 
Council following input from 33 representatives from 14 councils – 16 May 2014: Re-
dressing the Burden – Electronic Gaming Machine Applications and System Reform’, 
Monash Council, May 2014.

15 Monash Council 2014, ‘Motion to MAV State Council Meeting submitted by Monash 
Council following input from 33 representatives from 14 councils – 16 May 2014: Re-
dressing the Burden – Electronic Gaming Machine Applications and System Reform’, 
Monash Council, May 2014.