

HOUSE OF ASSEMBLY  
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03 May 2022

# Review of the Approved Trading System

*Gaming Machines Act 1992*



10 December 2021

The Honourable Josh Teague MP

*Minister for Planning and Local Government  
(exercising the powers and functions of the Attorney-General)*

Dear Minister

**Statutory review of the operation of the  
Approved Trading System for Gaming Machine Entitlement**

In accordance with section 27E(4) of the *Gaming Machines Act 1992*, I have the pleasure of presenting for your consideration the attached report in relation to a review of the operation of the approved trading system for gaming machine entitlements established under section 27B(2) of the *Gaming Machines Act 1992*.

This review arose from legislation passed by the Parliament on 12 December 2019 which enshrined in the *Gaming Machines Act 1992* a statutory objective of reducing the number of gaming machines in South Australia.

Yours sincerely



**Dini Soulio**  
Liquor and Gambling Commissioner  
Consumer and Business Services

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## 1. Foreword

In December 2019, the South Australian Parliament passed legislation to significantly reform the way that the gambling sector in South Australia is regulated. The measures, contained within the *Gambling Administration Act 2019* and *Statutes Amendment (Gambling Regulation) Act 2019*, have progressively come into operation since this date resulting in a substantial number of amendments being made to the State's various gambling laws, including the *Gaming Machines Act 1992*, *Casino Act 1997* and associated regulations.

Relevantly, section 92 of the *Statutes Amendment (Gambling Regulation) Act 2019* amended the *Gaming Machines Act 1992*, by inserting at section 27E, measures to enshrine Parliament's intention to reduce the number of gaming machines that may be operated in South Australia to a number not exceeding 13 081.

Furthermore, the Attorney-General, as responsible Minister, is required to cause a review to be undertaken of the operation of the approved trading system with a view to determining how it should be modified in order to meet the statutory objective, with a written report to be prepared and submitted to the Minister.

The review and the report must be completed by 12 December 2021, being the second anniversary of the day on which the *Statutes Amendment (Gambling Regulation) Act 2019* received Royal Assent by His Excellency the Governor in Executive Council. In addition, section 27E(5) of the *Gaming Machines Act 1992* also requires the Minister to cause a copy of the report to be tabled in both Houses of Parliament within 12 sitting days after its submission.

The review and report for this purpose has been undertaken by the Liquor and Gambling Commissioner (the 'Commissioner') assisted by officers of Consumer and Business Services.

## 2. Introduction

The *Gaming Machines Act 1992* (the 'Act') regulates the supply and operation of gaming machines in South Australian licensed hotel and club gaming venues. The *Casino Act 1997* and Approved Licensing Agreement (ALA) between SKYCITY Adelaide and the Government also regulates the supply and operation of gaming machines at the Adelaide Casino.

Sitting within the Gaming Machines Regulations 2020 (the 'Regulations') is the Approved Trading System containing the rules and processes under which gaming machine entitlements are able to be traded in South Australia between licensed hotels, clubs, Club One<sup>1</sup> and the Adelaide Casino.

In accordance with the Act, key stakeholders were invited to make written submissions on alternative approaches to the way that gaming machine entitlements are able to be traded, in particular, models which are likely to improve the transparency of the trading system and may have a greater likelihood of achieving the statutory objective.

In preparing this report, careful consideration has been given to the South Australian market, perceived deficiencies of the current approved trading system, the cumulative impacts of successive trading rounds since 2005, jurisdictional comparisons, representations from stakeholders and overall scheme design.

### Reduction Target

It is the intention of the South Australian Parliament to reduce the number of gaming machines that may be operated in the State to a number not exceeding 13 081. This continues a commitment made in 2005 by the then Government, to reduce the number of gaming machines in South Australia by 3 000 (a reduction of approximately 20%), in order to address concerns around problem gambling.

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<sup>1</sup> Club One holds the restricted special club licence issued under section 24A of the *Gaming Machines Act 1992*

The general oversupply of entitlements offered for sale, lack of demand to purchase entitlements and a perception that the approved trading system is complex and lacks transparency, have long been considered the key drivers limiting the ability of the current approved trading system to achieve the statutory objective.

It is not possible to accurately predict future demand for gaming machine entitlements, particularly in light of trading conditions arising from the COVID pandemic. Without some form of Government intervention, it is clear that any prospect of achieving the reduction objective is unlikely at any time in the short to medium term. Furthermore, while the results of the latest trading round when considered in isolation appear promising, it is unlikely to be an effective predictor of longer-term market outcomes once the demand for new gaming machine technology reverts to a maintenance phase rather than supply.

This has led to advocacy that there now seems to be little reason to continue dedicating resources to chasing a statutory reduction in gaming machine numbers.

## Design Objectives

When considering how to modify the Approved Trading System in order to meet the statutory objective, consideration has been given to the elements of scheme design previously outlined in the *Gaming Machine Entitlements Approved Trading System Consultation Paper*, published by the South Australian Department of Treasury and Finance in July 2010, which measured scheme design on the basis of being:

- low-risk;
- fair;
- simple;
- low-cost;
- transparent; and
- voluntary.

Just as these objectives were pertinent to the formulation and design of the Approved Trading System in 2010, they continue to be true and relevant today. As you will note from this report, consideration has also been given to the following matters:

- whether there are grounds to quarantine and/or manage gaming machine entitlements held by the State's licensed club sector;
- whether the scheme should feature a "use it or lose it" condition in relation to entitlements, a requirement of the Victorian entitlement trading model ;
- whether it is necessary to have geographic or sector priority; and
- whether the trading system should enable trading using an open market that is restricted to authorised users.

The four trading models examined in the 2010 review which ultimately led to the former Independent Gambling Authority (IGA) recommending that the Government adopt a 'Periodic' model for trading where the interaction of demand and supply would determine a market equilibrium price and the likely success of offers submitted have also been reconsidered.

- Bilateral Trade
- Notice Board Trade
- Pooled Trade
- Periodic Trade

It is clear that the adoption of this model has over time led to a number of deficiencies, including:

- the conduct of trading rounds being limited to when the Commissioner has given notice by publication of a notice in the Government Gazette;
- no visibility to the market of the number of entitlements being offered for sale, details of entitlements to be purchased and valuations assigned to those entitlements;
- the final price that a purchaser will ultimately pay and a vendor receives remaining an unknown amount until the Commissioner announces the results of the trading round;
- the actual number of entitlements purchased, sold and cancelled remaining unknown until the Commissioner announces the results of the trading round; and
- participants not having direct carriage of the transaction between purchaser and vendor with CBS acting as the intermediary to collect and disburse the proceeds of sales.

## Consultation

In accordance with section 27E(3) of the *Gaming Machines Act 1992*, the holder of the casino licence, a body representative of gaming licensees and Club One were invited to make submissions on the introduction of an alternative trading model, making modifications to the current trading scheme or further legislative reform which will lead to a greater likelihood of achieving the statutory objective.

A Discussion Paper inviting submissions on this review was developed and provided to the following key stakeholders throughout September and October 2021:

- Australian Hotels Association (SA) – a body representative of hotel licensees
- Licensed Clubs Association of SA (Clubs SA) – a body representative of club licensees
- Club One – holder of the special club licence
- SkyCity Adelaide – holder of the casino licence
- TABCORP – holder of the major betting operations licence
- Independent Gambling Corporation – holder of the gaming machine monitoring licence
- Department of Treasury & Finance
- Office for Problem Gambling

The Discussion Paper was also provided to the South Australian Gambling Advisory Council for their consideration and 16 legal practitioners who act for various liquor and gaming machine licence holders.

Submissions were received from—

- Australian Hotels Association (SA) – a body representative of hotel licensees; and
- Licensed Clubs Association of SA (Clubs SA) – a body representative of club licensees.

Their positions represent opposing views both “for” and “against” adherence with the commitment made in 2005, dominance of ‘for-profit’ over ‘not-for-profit’ gaming operators and a perceived bias to one sector over the other. A summary of their respective positions is provided at **Annexure 1**.

A number of options for consideration for modifying the Approved Trading System have been suggested, including options in some form to either not pursue the statutory objective or to make little or no modification to the Approved Trading System. These submissions, together with an examination of historical gaming machine data and similar like schemes in other jurisdictions, have informed the options in this report for consideration by Government.

### 3. South Australian Market

#### Licensed operators of gaming machines

Gaming machines may only be operated lawfully in South Australia by a person who holds a gaming machine licence in relation to licensed premises subject to a General & Hotel Licence, Club Licence or in limited circumstances an On-Premises Licence issued under the *Liquor Licensing Act 1997*. While each gaming machine licence specifies the maximum number of gaming machines approved for the venue, the maximum venue capacity cannot exceed 40 gaming machines.

Gaming machines may also be operated by the holder of the casino licence, SkyCity Adelaide, subject to terms set out in an Approved Licensing Agreement (ALA) between SkyCity Adelaide Pty Ltd and the South Australian Government. Under the ALA, a maximum of 1 500 gaming machines are authorised for operation on the casino premises.

To possess and operate gaming machines on licensed premises, licence holders are required to acquire gaming machine entitlements. Each gaming machine entitlement gives the licensee the right to own and operate a single gaming machine at their venue. Entitlements can only be acquired:

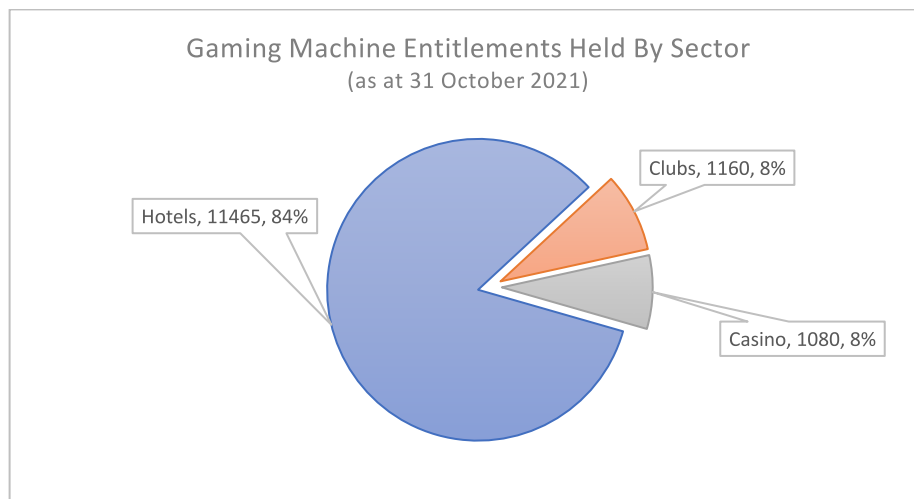
- through the Approved Trading System;
- under a contractual agreement with Club One that has been approved by the Commissioner; or
- in the case of a gaming machine licence held by a licensed Club, under a contractual agreement with another licensed Club that holds entitlements with the approval of the Commissioner.

It is an offence to own or operate a gaming machine without holding a gaming machine entitlement.

Furthermore, the total number of entitlements held by a licensee cannot exceed the maximum number of gaming machines which have been approved for the licensed premises.

As of 31 October 2021, the gaming machine market in South Australia had capacity to operate a maximum of **13 721** gaming machines across all gaming sectors. Of these, hotel and club gaming machine operators were able to operate a total of 12 625<sup>2</sup> gaming machines and SkyCity Adelaide, 1 080 gaming machines.

Figure 1



Unlike a number of other jurisdictions in Australia, the legislation in South Australia does not impose any geographic capacity limits.

<sup>2</sup> Does not include 16 gaming machine entitlements held but not allocated by Club One (the holder of the special club licence)

All gaming machines operated in South Australia must comply with the [Australian/New Zealand Gaming Machine National Standard 2016](#)<sup>3</sup> (or any subsequent version) as amended by the SA Appendix. Permissible gaming machine features are also subject to controls in relation to the relevant gaming sector.

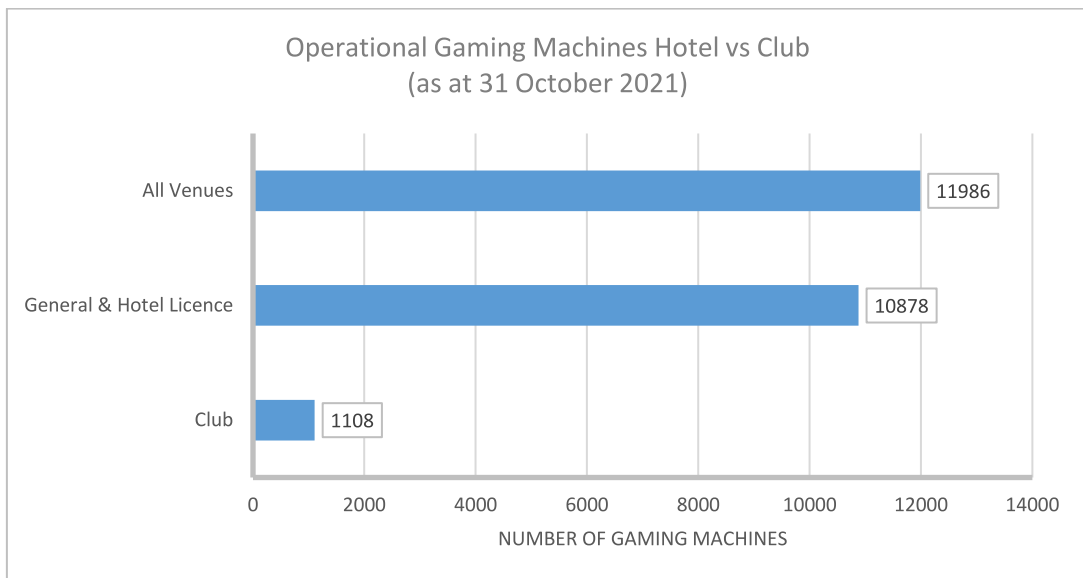
Figure 2

Gaming Machine Feature	Hotel and Club Gaming Areas	Casino Non-Premium Gaming Areas	Casino Premium Gaming Areas
Minimum return to player of 87.5 per cent	✓	✓	✓
A maximum bet of \$5 on any one game	✓	✓	✗
Insertion of \$100 banknotes prohibited	✓	✓	✗
Banknotes not able to be inserted into a gaming machine if the credit balance on the machine is \$100 or more	✓	✓	✗
Gaming machine must not redeem a ticket if it would cause the credit balance on the machine to exceed \$149.99	✓	✗	✗
Gaming machine must not redeem tickets with a cash value greater than \$149.99	✗	✓	✗
Maximum cash value of a ticket issued by a gaming machine must not exceed \$5 000	✓	✗	✗
Maximum gaming machine prize pay-out cannot exceed \$10 000	✓	✓	✗
Progressive Linked Jackpots Permitted	✗	✓	✓

### Hotel and club gaming machine operations

On 31 October 2021, hotels and licensed clubs in South Australia had a total capacity to operate 12 625 gaming machines. However, the state-wide gaming machine monitoring system, operated by the Independent Gaming Corporation (IGC) under licence, reported that there were actually 11 986 gaming machines in operation, an underutilisation of 639 gaming machines or a rate of 5.06%.

Figure 3



<sup>3</sup> <https://www.cbs.sa.gov.au/resources/australiannew-zealand-gaming-machine-national-standards>

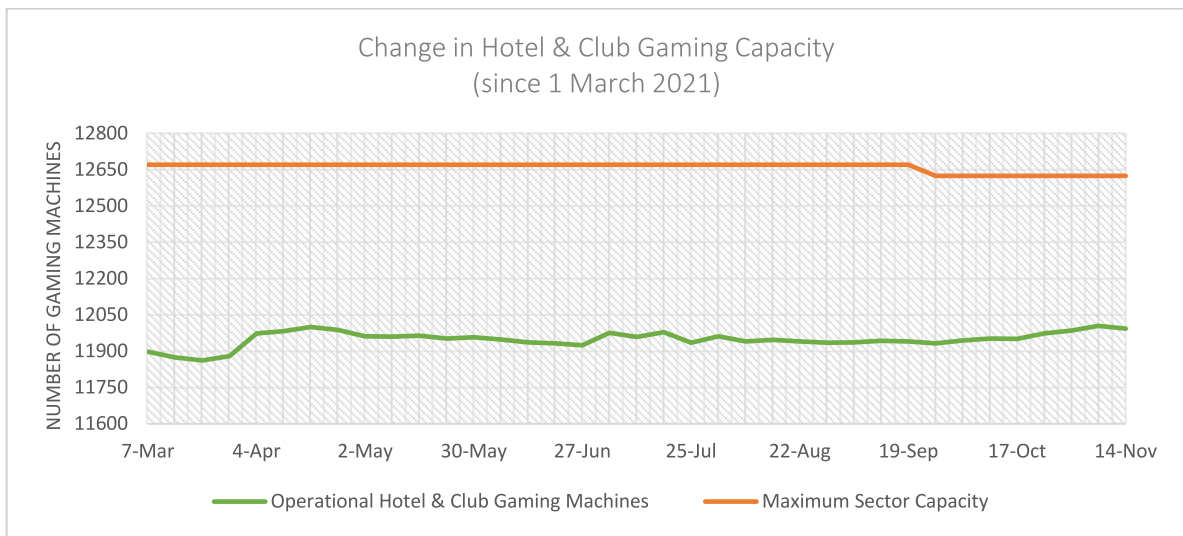


Furthermore, due to various policy settings, the General & Hotel Licence (*'for-profit'*) gaming sector has historically dominated the market over the licensed club (or *'not-for-profit'*) sector in South Australia, currently at a ratio of 9.8:1. This contrasts with NSW and QLD for example where policy settings have historically favoured the *'not-for-profit'* licensed club sector at a rate of nearly 3:1 and 1.2:1 respectively.

The actual number of gaming machines operating on a daily basis however fluctuates. Typically, this is due to gaming machines being decommissioned while awaiting the installation of new gaming machines or undergoing maintenance, gaming venues temporarily suspending their operations for periods of renovation, following lessee default or possession of the premises by an administrator etc.

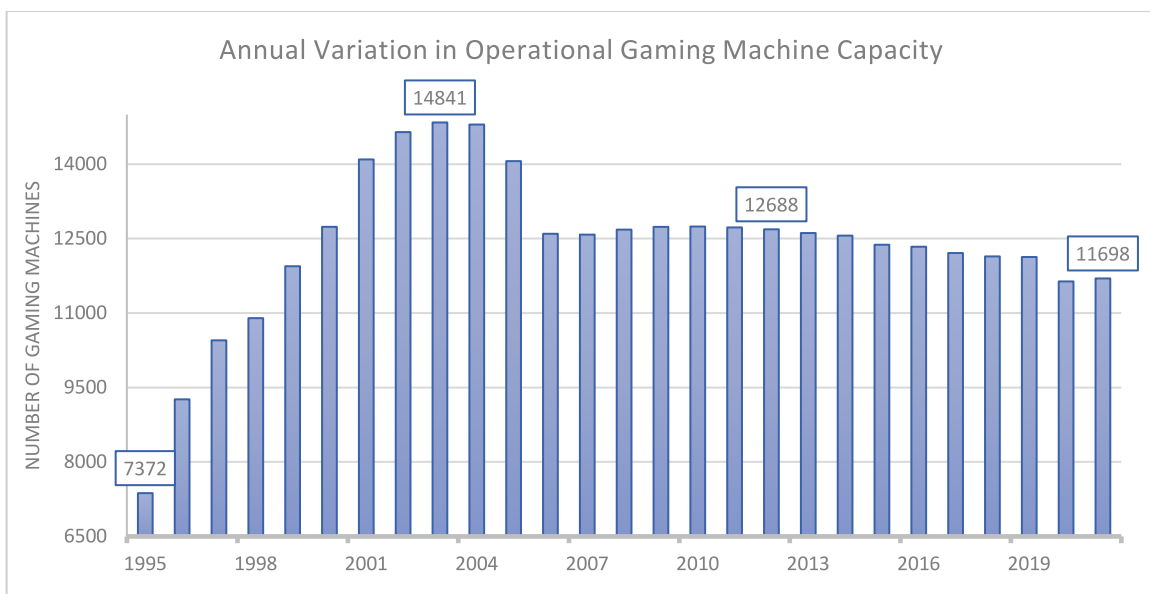
A closer examination of the number of gaming machines in operation on a weekly basis since 1 March 2021 for example, as shown in **Figure 4**, illustrates that gaming machine capacity is underutilised.

Figure 4



**Figure 5** illustrates the change in the number of operational gaming machines in hotels and clubs at the end of each financial year since the introduction of gaming machines in 1994.

Figure 5



Furthermore, it is a mandatory licence condition that hotels and clubs with more than 30 gaming machines, any one of which is able to accept banknotes, must operate an approved facial recognition system to assist with the detection of people who have barred themselves or have been barred due to issues associated with gambling related harm.

### Casino gaming machine operations

Similar arrangements apply to gaming machine operations in non-premium gaming areas of the SkyCity Adelaide Casino except that there are no limits on the maximum value of prizes able to be awarded on linked progressive jackpot systems. However, gaming machines operated in premium gaming areas are exempt from limits on the maximum amount that may be bet on any one game, limits on the maximum value of prizes awarded on linked progressive jackpot systems and transactional limits imposed on ticket transactions.

Furthermore, it is a mandatory licence condition that SkyCity Adelaide must operate an approved facial recognition system to assist with the detection of people who have barred themselves or have been barred due to issues associated with gambling related harm.

## 4. Approved Trading System History

Whether it was the intention or not, the introduction of the gaming machine entitlement concept and associated Approved Trading System, has arbitrarily attached a monetary value to a *'right'* to possess and operate a gaming machine in South Australia. In turn, this has created an asset which can be included as part of collateral in business financing arrangements and a tradeable commodity, adding value to a gaming machine licence.

Furthermore, in the case of gaming machine licences held in respect of premises subject to a lease, lessors are provided potentially with a monetary gain or windfall in the event of lessee default, due to the entitlements vesting in the landlord of the premises if on application, the lessor is authorised to carry on the business under the licence.

It has also meant that where a gaming machine licence may previously have been surrendered when a licence holder wanted to exit the market, it has become accepted practice, at least in part, for the gaming machine licence to be put into long-term suspension and entitlements retained as a form of investment or collateral for subsequent dealings. The effect of this is that it allows a gaming machine licence holder to reactivate the licence at any time in the future without any regard for the impact that reactivation of the licence could have on the local community.

### Inaugural Trading System from 2005 to 2007

The first gaming machine entitlement trading round was held on 11 May 2005. This was followed by two further trading rounds held on 21 September 2005 and 16 April 2007.

These trading rounds were managed by the then Office of the Liquor and Gambling Commissioner (OLGC) and allowed gaming machine licence holders to sell entitlements at a fixed price of \$37 500, or to purchase entitlements at a fixed price of \$50 000. The trading of entitlements was however restricted to only taking place when a trading round was announced by the Commissioner.

The built-in price differential between the amount paid by successful purchasers and the amount paid to vendors provided the mechanism for every fourth entitlement sold by *'for-profit'* gaming operators (for example hotels) to be cancelled resulting in capacity for a gaming machine to be operated being removed from the market.

The three trading rounds conducted over the period 2005 to 2007 resulted in the sale of 308 entitlements, including the sale of 200 entitlements by *'for-profit'* gaming venues.

This gave rise to the cancellation of 50 entitlements and together with the mandatory reduction which took place earlier in 2005, reduced the maximum number of gaming machines able to be operated in South Australia (excluding gaming machines at the Adelaide Casino) to 12 900.

After these three trading rounds, a further 814 entitlements remained to be cancelled to achieve the objective of reducing the number of gaming machines at that time from 12 900 to 12 086.

## Current Trading System since 2012

Between 2008 and 2010, there was advocacy in response to interstate gaming machine rights being sold at more than \$50 000, for the fixed priced trading system to be replaced with a trading model which would incentivise licensees to sell their entitlements and make meeting the statutory objective more achievable.

The IGA also found from its subsequent *'Inquiry into Gaming Machine Entitlements'* held in 2007 that the legislated fixed price was the most likely inhibitor to the level of trading, along with other factors such as general industry uncertainty. The IGA concluded, amongst other things, that the fixed purchase price of \$50 000 per gaming machine entitlement should be repealed and recommended the implementation of a pricing model which took account of the prevailing market conditions.

The Government accepted the recommendation of the IGA and in July 2011, replaced the fixed price trading system with the model that we know of today which derives a sale and purchase price which fluctuates on a round by round basis according to the prevailing market conditions (or known as a Periodic Trading Market Model).

However, the number of gaming machine entitlements traded and final sale price for each trading round is determined after taking into consideration—

- how many sellers and purchasers have submitted offers;
- the monetary amount of each offer according to the licensees own valuation;
- whether entitlements are being sold by a *'for-profit'* organisation or a *'not-for-profit'* association; and
- every fourth entitlement sold by *'for-profit'* venues will be cancelled.

Further reforms introduced in January 2014 also extended the concept of a gaming machine entitlement to the gaming machine operations of the SkyCity Adelaide Casino, thereby allowing SKYCITY Adelaide to also participate in trading rounds to secure entitlements for additional gaming machines to be operated in the expanded casino premises.

A new state-wide reduction target of 13 081 entitlements was also established by regulation (the *'statutory objective'*) and included the addition of entitlements equivalent to the 995 gaming machines allowed to be operated at that time at the Adelaide Casino.

Since the market equilibrium price model was introduced in 2011, the forfeiture formula has resulted in the cancellation of 173 gaming machine entitlements or 14.7% of the total of 1 169 entitlements sold.

**Figure 6** illustrates the level of trading required in order to meet the remaining entitlement reduction target of 640 gaming machine entitlements, when different rates of forfeiture are considered.

Figure 6

Entitlement Loss Rate	1 in 2	1 in 3	1 in 4	1 in 5
Trades required to secure GME loss outcome	1280	1920	2560	3200
Entitlements relocated	640	1280	1920	2560
Entitlements cancelled	640	640	640	640

Under the current approved trading system at least 2 560 entitlements from the *'for-profit'* gaming sector would need to be traded in order to achieve the statutory objective.

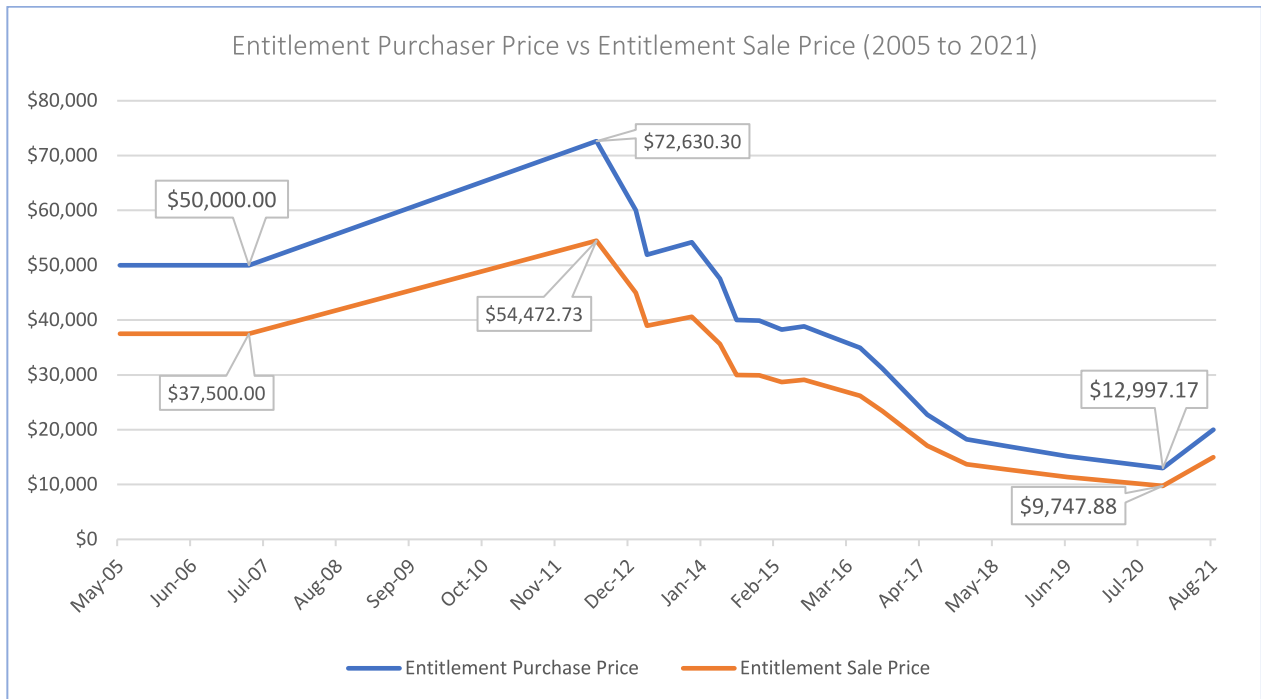
Consequently, any modification to the approved trading scheme must, therefore, continue to preserve a form of forfeiture to support the overarching objective of reducing the number of gaming machines in South Australia, preferably at a rate in advance of what has occurred to date.

### Impact on the price of entitlements

Notwithstanding more recent reform developments which now allow for example, gaming machines to be operated by the insertion of a banknote or by ticket using ticket-in ticket-out technology (TITO), the general oversupply of entitlements offered for sale, lack of demand to purchase entitlements and complex calculation methodology, have long been considered as limiting the ability of the current approved trading system to achieve the statutory objective.

Since the market-equilibrium priced trading system was introduced in 2012, the purchaser price and vendor price in successive trading rounds have reduced from a high of \$72 630 and \$54 472 respectively in 2012, to a low of \$12 997 and \$9 747 respectively in 2020, disincentivising participation in the scheme.

Figure 7



Source: Consumer and Business Services

In particular, the lack of offers to sell entitlements from the *'for-profit'* hotel sector has severely impacted any efforts to achieve the reduction objective with a number of trading rounds only attracting successful offers from the *'not-for-profit sector'* (i.e. licensed clubs and community hotels).

This has directly impacted the price of entitlements as the *'not-for-profit sector'* has typically been willing to sell entitlements at a much lower price than the *'for-profit'* sector, in moves to accelerate their attempts to exit the gaming machine market.

Reforms announced by the Government in 2019 also closed an unintended consequence of previous legislation which allowed the holder of the special club licence<sup>4</sup>, Club One, to recirculate entitlements by offering a number of entitlements for sale when a trading round was announced, and if successful, then receiving every fourth entitlement offered for sale back under the club sector forfeiture rules, in addition to any proceeds from the sale of entitlements.

The latest trading round, which was held during August 2021, has seen a reversal of pricing trends, resulting in a moderate increase in the purchaser and vendor price to \$20 000 and \$15 000 respectively and resulted in the sale of 221 entitlements, including the cancellation of a further 46 entitlements.

A further **640** entitlements remain to be cancelled to meet the statutory objective.

It is not possible to accurately predict demand for gaming machine entitlements, particularly in light of trading conditions arising from the COVID-19 pandemic. While the results of the latest trading round when considered in isolation appear promising, it is unlikely to be effective in predicting longer-term market outcomes.

### Impact on Net Gambling Revenue (NGR) expenditure

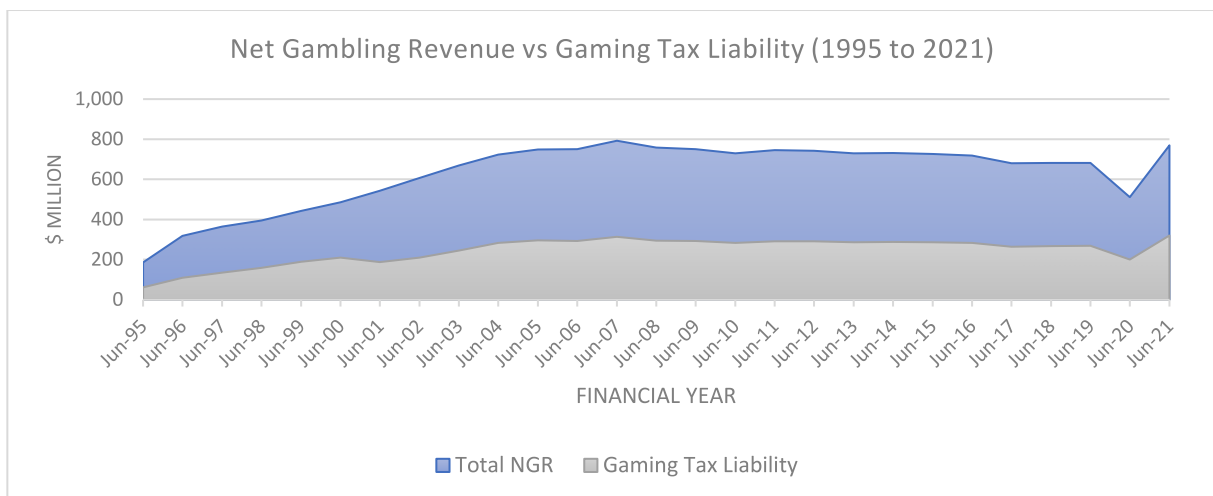
Net Gambling Revenue (NGR) is the total amount of all bets made on gaming machines less the total amount of prizes won. The total net gambling revenue from hotels and clubs for the 2020/21 financial year was reported as \$769.87mil with \$320.44mil collected in gaming taxes.

While it may have been expected that the mandatory reduction of nearly 2 200 gaming machine numbers in 2005 would have resulted in a reduction in NGR, expenditure on gaming machines in hotels and clubs actually continued to increase in the months and years following the reduction, with revenue of \$792.6mil in 2006/07 continuing to be the highest amount of revenue on record since gaming machines were introduced as indicated in **Figure 8**.

External factors have had a moderate influence on gaming machine revenues including the introduction of smoking bans, introduction of a \$250 per day cash withdrawal limit from ATMs and the maximum allowable bet on gaming machines on any one game being reduced from \$10 to \$5.

Noting that the mandatory shutdown of gaming machines as a result of the COVID pandemic had an obvious impact on revenues for the 2019/20 financial year, revenues for 2020/21 financial year has seen NGR returning to levels last seen in 2007/08, despite the gradual reduction in machine numbers over time.

Figure 8



<sup>4</sup> A restricted form of licence issued under section 24A of the Gaming Machines Act 1992

Figure 9

Financial Year Ending	Net Gambling Revenue (mil)	Gaming Tax Liability (mil)	Venue Share (mil)	Gaming Machines in Operations
Jun-95	185.41	62.57	122.83	7 372
Jun-96	319.22	110.10	209.12	9 262
Jun-97	364.25	134.49	229.75	10 451
Jun-98	394.62	158.70	235.92	10 898
Jun-99	442.46	189.05	253.40	11 944
Jun-00	485.98	209.34	276.63	12 738
Jun-01	543.46	187.19	356.27	14 096
Jun-02	606.81	210.81	395.99	14 647
Jun-03	669.07	245.28	423.79	14 841
Jun-04	723.60	283.52	440.08	14 799
Jun-05	749.25	296.28	452.96	14 062
Jun-06	751.03	293.41	457.61	12 598
Jun-07	792.62	313.84	478.77	12 581
Jun-08	758.45	295.03	463.42	12 682
Jun-09	750.65	292.74	457.90	12 737
Jun-10	729.37	282.66	446.71	12 744
Jun-11	745.46	291.59	453.87	12 726
Jun-12	742.78	290.944	451.84	12 688
Jun-13	730.58	285.928	444.65	12 613
Jun-14	731.01	288.231	442.77	12 561
Jun-15	725.90	286.908	439.00	12 377
Jun-16	718.60	283.816	434.78	12 337
Jun-17	680.27	264.866	415.40	12 210
Jun-18	682.24	267.58	414.67	12 142
Jun-19	681.65	268.93	412.72	12 130
Jun-20	511.48	200.26	311.21	11 638
Jun-21	769.87	320.44	449.43	11 698

Source: Consumer and Business Services

## 5. Jurisdictional comparison

Gaming machine operations in most States and Territories in Australia are either subject to a restriction on the number of gaming machines that are allowed to operate and/or have some form of trading scheme in place. For some jurisdictions, these schemes are quite complicated and elaborate due to the policy settings of respective Governments.

A summary of each State or Territory scheme is provided at **Annexure 2**, including details about how the various reductions and trading schemes operate, where applicable. Further detailed information on trading rights in each jurisdiction is available from the respective regulator's website.

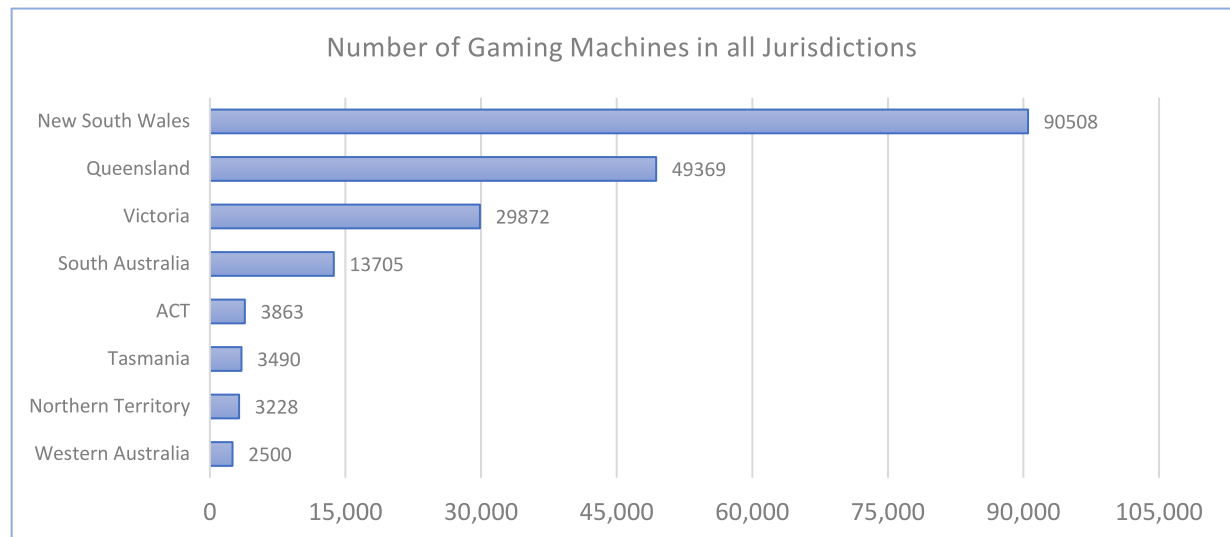
**Figure 10** provides a snapshot of the current number of gaming machines across Australia and whether a reduction scheme is in operation.

Figure 10

State / Territory	Hotel Venue Gaming Machines	Club Venue Gaming Machines	Casino Gaming Machines	Reduction Scheme
South Australia (Actual) <sup>5</sup>	10 897	1 108	1 064	Yes
South Australia (Theoretical) <sup>6,7</sup>	11 465	1 160	1 080	
Australian Capital Territory	50	3 813	0	Yes
New South Wales	22 519	66 489	1 500	Yes
Northern Territory	715	899	1 614	No
Queensland	19 500	24 705	5 164	No
Tasmania	2 305	0	1 185	No
Victoria	13 686	13 686	2 500	No
Western Australia	0	0	2 500	No

Source: Consumer and Business Services

Figure 11



Source: Consumer and Business Services

<sup>5</sup> Reported live machine data as of 7 November 2021

<sup>6</sup> Theoretical maximum number of gaming machines able to be operated as of 7 November 2021

<sup>7</sup> Excludes 16 unallocated gaming machine entitlements held by Club One

NSW and the ACT are the only two other jurisdictions which operate trading schemes requiring entitlements to be forfeited.

### Australian Capital Territory

In 2015, the ACT Government introduced legislation to reduce the number of gaming machines in the territory from 5 022 to 4 000 by the year 2020, to be achieved through a trading mechanism with forfeiture and voluntary surrender of gaming machine rights.

On reaching the target of 4 000 in April 2019, the voluntary surrender scheme ceased, but a 1:4 reduction for trades has continued.

Under the ACT trading scheme, club venue operators can trade authorisations to operate gaming machines in club-to-club trades provided one authorisation is surrendered for every four traded. Hotel venue operators can also trade authorisations to clubs but not to other hotels.

See [gamblingandracing.act.gov.au](http://gamblingandracing.act.gov.au) for further information.

### New South Wales

As part of the NSW Government's gradual gaming machine reduction strategy, a venue operator can only acquire gaming machine entitlements from the existing supply of entitlements in other hotels and clubs. The transfer of entitlements attracts a compulsory forfeiture of one entitlement in every block of two or three entitlements being transferred between operators.

The trading of entitlements is typically managed by hotel brokers acting independently of the regulator, Liquor & Gaming NSW. Blocks of entitlements can be sourced from multiple licence holders, but the transfer only becomes effective when the transaction is notified and approved by Liquor & Gaming NSW.

A [gaming machine entitlement leasing scheme](#)<sup>8</sup> is also available giving the operators of small venues an option to lease their entitlements to larger operators to generate recurrent income.

See [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au) for further information.

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<sup>8</sup> [liquorandgaming.nsw.gov.au/documents/fs/fs3137-leasing-scheme-for-gaming-machine-entitlements-for-registered-clubs-and-hotels.pdf](http://liquorandgaming.nsw.gov.au/documents/fs/fs3137-leasing-scheme-for-gaming-machine-entitlements-for-registered-clubs-and-hotels.pdf)



## 6. Options for consideration

### Options for consideration

Four options have been identified for consideration by Government:

1. **Maintain status quo** – no structural changes would be made to the Approved Trading System, however consideration may wish to be given to funding incentives for venues to surrender their licence and all entitlements.
2. **Modified application of the statutory objective** – forfeiture *measures* in the current rules for trading entitlements would be *suspended* where the number of gaming machines in operation are less than the statutory objective in order to allow entitlements to be traded on the basis of supply and demand.
3. **Supplementary or Sector-Specific Trading System** – the current market-equilibrium pricing methodology would be maintained under a simpler and more *transparent* system, which would allow for supplementary trading for unsuccessful participants and/or separate trading opportunities for the *'for-profit'* and *'not-for-profit'* sectors.
4. **Direct Trading System** – gaming machine operators may *negotiate* the sale of entitlements directly with *prospective* purchasers, however entitlements would need to be traded in discrete blocks approved by the Commissioner to allow for an accelerated rate of forfeiture.

### Option 1 - Maintain status quo

This option would maintain the current rules for trading gaming machine entitlements using the market equilibrium pricing methodology set out in the Gaming Machines Regulations 2020.

This option stems from the most recent trading round which resulted in a moderate increase in the purchaser and vendor price to \$20 000 and \$15 000 respectively and resulted in the sale of 221 entitlements, **including the cancellation of a further 46 entitlements.**

This increase in trade is no doubt in part due to demand from gaming machine licence holders seeking to maximise the number of gaming machines that they are able to operate under their licence now that they have access to a new generation of gaming machines which are able to be operated by the insertion of a banknote or ticket.

On this basis, the Government may wish to maintain the current Approved Trading System for a further period of 12 months to allow the effects of the latest gaming machine reforms to be quantified.

Furthermore, from March 2022, the holders of gaming machine licences will be required to pay to the Commissioner the total value of unredeemed TITO tickets if the accumulated total value of such tickets is \$750 or more. In accordance with the Gaming Machines Regulations 2020, the Commissioner is required to pay these monies to the Gamblers Rehabilitation Fund (GRF).

Noting that the level of funding to the GRF was increased by the Government in 2020, monies from unredeemed TITO tickets could be quarantined by the Minister for Human Services who administers the GRF, for the purpose of such monies being used at a later date to fund incentives for venues which elect to surrender all of their gaming machine entitlements (i.e. go *"pokie free"*) provided they also surrender their gaming machine licence.

The current scheme could also be modified in the interim to improve transparency. Additionally, provision for sector-based trades under the current market equilibrium pricing model could also be explored to prevent *raiding* by the *"for-profit"* sector.

## Option 2 – Modified application of the statutory objective

While the number of entitlements currently held (13 721) exceeds the statutory objective (13 081), the number of gaming machines in operation at any time across all three sectors has consistently been less than 13 081.

On this basis, the Government may wish to consider a mechanism to suspend trading rounds which feature forfeiture and allow trading to occur on a pure supply and demand basis. The rules for the forfeiture of entitlements would still be retained under the regulations but remain suspended unless the number of gaming machines in operation exceed the statutory objective.

To address concerns that this modified option could erode the entitlement rights currently held by the *'not-for-profit'* club sector as a result of *'raiding'* by the *'for-profit'* sector, the Government may wish to consider a mechanism within the rules whereby the Minister may determine that the trading of entitlements is restricted for a period determined by the Minister to the extent that entitlements may only be traded by licence holders of the same licence category.

Essentially when in restricted mode, an entitlement held by the holder of a Club Licence, would only be able to be traded to the holder of a Club Licence or Club One, meaning that entitlements could not for example be traded to a *'for-profit'* Hotel operator.

## Option 3 – Supplementary or Sector-Specific Trading System

This option would maintain the current rules for trading gaming machine entitlements using the market equilibrium pricing methodology set out in the Gaming Machines Regulations 2020 but would provide additional opportunities to achieve the statutory objective either:

- by the inclusion of a supplementary trading round for participants who were unsuccessful in an initial trading round by allowing offers to be resubmitted at the price determined for the trading round; or
- by determining a result for the trading round based on the offers to purchase or sell gaming machine entitlements submitted by the *'for-profit'* sector followed by a supplementary trading round for the *'not-for-profit'* sector where offers could be resubmitted at the market equilibrium price derived in the *'for-profit'* trading round.

Existing rules for the forfeiture of every fourth entitlement to be either cancelled or reallocated to Club One would be maintained.

This option responds to criticism that the current approved trading system favours buyers who can offer high prices to secure entitlements, in particular genuine buyers from the *"not-for-profit"* club sector who are usually priced out of the market by the prices offered by the *'for-profit'* hotel sector. It is argued that generally there are not enough opportunities to buy and sell entitlements and that the policy settings in South Australia are inconsistent with the policy settings that favour the *'not-for-profit'* sector in some other States and Territories.

While there is certainly merit in examining the effects of a regulation change to provide unsuccessful operators with the opportunity to secure entitlements by resubmitting offers based on the determined market equilibrium price, it does place reliance on their being a sufficient number of excess entitlements for sale and purchasers willing to pay the determined price at any point in time.

While providing improved transparency, a provision for sector based trading would also prevent *raiding* by the *"for-profit"* sector.

Subject to future policy settings, the Government may wish to consider providing further support to the *'not-for-profit'* sector, by subsidising the cost of entitlements purchased by a Club sector gaming operator. Additionally, consideration could be given to a "buy-back" scheme which would allow any gaming licensee (except Club One and the Casino Licensee) to surrender gaming machine entitlements for financial compensation (calculated on the sale price of the previous trading round) with all entitlements irrespective of sector of origin and gaming machine licence being cancelled.

## Option 4 – Direct Trading System

This option would call for the current Approved Trading System and market equilibrium pricing methodology to be replaced with a new open market trading system.

While it is envisaged that gaming operators would be able to list entitlements for sale, register an interest to purchase entitlements and negotiate a price for the trading of entitlements directly, additional opportunities to achieve the statutory objective could be realised by limiting trades to discrete **blocks of two or three**, where one entitlement from each block would be forfeited to the Commissioner and cancelled. Blocks of entitlements would also be able to be made up of entitlements from multiple sources to allow gaming venues with only one entitlement to effectively trade out that entitlement and exit the gaming machine market.

While this form of Bilateral Trade was previously dismissed in 2010, noting that the driving factor of this review is to modify the approved trading system in order to achieve the statutory objective, the adoption of limiting trades to blocks of two or three with forfeiture could potentially, address the slow reduction in the number of entitlements to date. This option would also respond to criticism that the current market based trading system is complex and that gaming operators do not have visibility of entitlements available to be traded at any point in time.

This proposal is also consistent with representations made by the AHA (SA) that the trading scheme should be accessible with measures that retain a forfeiture feature, suggesting that the schemes in NSW and the ACT could provide guidance.

To address concerns that this option could erode the entitlement rights currently held by the *'not-for-profit'* club sector, the forfeiture element could be modified so that one entitlement from each block traded would be forfeited to the Commissioner and ultimately vested in Club One where a trade block includes at least one entitlement traded by a club gaming operator. Rules could also be put in place to prevent structuring of entitlements.

Furthermore, to respond to concerns that the market has an inherent bias towards the *'for-profit'* hotel sector, the Government may wish to consider a mechanism within the rules whereby the Minister may determine that the trading of entitlements in blocks is to be restricted for a period determined by the Minister to the extent that entitlements may only be traded by licence holders of the same licence category.

Essentially when in restricted mode, an entitlement held by the holder of a Club Licence, would only be able to be traded to the holder of a Club Licence or Club One, meaning that entitlements could not for example be traded to a *'for-profit'* Hotel operator.

The Minister may also be empowered to suspend and impose the requirement to purchase entitlements with forfeiture, when the number of gaming machines in operation at the end of each quarter as reported by the gaming machine monitoring system is less than the **adjusted statutory objective**.

The **adjusted statutory objective** being the number of entitlements prescribed by regulation as the statutory objective (i.e., 13 081) less entitlements held by the casino licensee.

The suspension mechanism would have the effect that while the actual number of gaming machines in operation across the hotel and club sector remains less than the adjusted statutory objective, gaming machine licence holders would be allowed to trade entitlements purely on a supply and demand basis without forfeiture.

In this case, the requirement for gaming machine entitlements to be purchased in blocks of two and three with forfeiture would continue to apply to the purchase of gaming machine entitlements by the casino licensee or where trade blocks were made up entitlements from more than one sector.

## Additional considerations

### Use it or lose it (traded entitlements)

Historically, gaming machine entitlements have typically been purchased by licence holders to recoup gaming machines lost following the mandatory reduction of gaming machines in 2005. However, the demand for entitlements has increased in recent times following recent reforms which now allow licensees to access new gaming technologies and products.

Without some form of intervention or control, there is a risk that licensees with an interest in multiple gaming sites, may attempt to influence the long term pricing of the market by acquiring entitlements with the intention of not activating them, but rather stockpiling them until there is sufficient demand to purchase entitlements at higher price point.

To combat such attempts, consideration could be given to making it a condition of participating in the Approved Trading System that in the event that the holder of a gaming machine licence purchases a gaming machine entitlement and subsequently fails to operate a gaming machine in relation to the entitlement within six months of the trade being affected by CBS, that the entitlement will be forfeited to the Commissioner.

The entitlement would then be re-listed for sale by the Commissioner at a sale price equivalent to the price paid by the purchaser less a commission and be made available to be purchased. Once sold, the proceeds of the sale would be returned to the defaulting licensee.

I note that a similar arrangement applies in other jurisdictions and while this was an option canvassed in the 2010 Treasury paper, it was dismissed at the time on the basis that the establishment of a market equilibrium price would be a sufficient incentive to ensure that entitlements were effectively used. As the South Australian gaming machine market is currently operating with a deficit of gaming machines, the associated costs of purchasing and operating gaming machines is more likely the cause of the deficit rather than reliance on the market price.

Both industry bodies do not endorse this option.

### Use it or lose it (licence holders)

Consideration could also be given to extending the same 'use-it or lose-it' concept to gaming machine licences more generally, by introducing legislation and making it a mandatory condition of a gaming machine licence to operate a gaming machine in relation to an entitlement within six months of acquiring an entitlement or from the date that the condition was applied.

*"CBS licence data indicates that there are currently 36 gaming machine venues that do not fully utilise the number of entitlements held under the licence, the equivalent of 189 gaming machine entitlements."*

If this concept was to be applied broadly, a six to 12 month transition period could be provided to allow licence holders sufficient time to trade out their underutilised entitlements or to acquire gaming machines before any remaining entitlements would be forfeited to the Commissioner and then cancelled.

Both industry bodies do not endorse this option.

### Re-activation of suspended gaming machine licence

Historically, a gaming operator has been able to place a gaming machine licence into long term suspension (in some cases indefinitely) and still retain ownership of gaming machine entitlements. This practice is problematic when the licence and gaming machine entitlements are re-activated after a long period of suspension as the nature of the community directly impacted by the licence are likely to have changed since the licence was placed in suspension. As the legislative scheme does not require an application from a licensee to reactivate a suspended licence, there is no discretion to require a Community Impact assessment to be undertaken.

While I accept that there are legitimate grounds for a gaming machine licence to be put into suspension, for example to enable renovations to be made to the premises or for the premises to be made ready for sale, consideration could be given to the drafting of legislation which would require a licensee to apply for their licence to be reactivated following a period of suspension. A discretionary power could provide for such applications to be declared a designated application to enable any current community impacts to be considered before gaming recommenced. In the event that reactivation was not granted on community impact grounds, the licensee should be allowed sufficient time to trade out their entitlements through the Approved Trading System.

## 7. Conclusion

Option 1 would allow the impacts of recent reforms with respect to the introduction of new technologies to be monitored over a further 12 months and whether this encourages greater participation in the approved trading system. This would result in an increase of gaming machine entitlements being forfeited under the current requirements.

However, these reforms were not introduced specifically to help achieve the statutory objective and the increase in trading from the last trading round is not likely to be indicative of an ongoing trend of increased trading.

Unlike a number of other jurisdictions in Australia, gaming machine legislation in South Australia does not impose any geographic or sector-based capacity limits. This has highlighted a number of issues, including fundamental differences between the gaming machine operations of *'for-profit'* and *'not-for-profit'* venues.

Taking in to account the South Australian market and cumulative impacts of the approved trading system, Option 2 postulates the suspension of the forfeiture feature in the event that the total number of gaming machines in operation remains less than the statutory objective. This option would seek to encourage increased trading between the *'for-profit'* and *'not-for-profit'* sectors, whilst empowering the Commissioner to still consider sector-specific trading options.

Option 3 would seek to explore alternative methods that recognise the different business models and nature of venues and how to ensure sectors can engage in the trading round in a way that will be mutually beneficial.

Comparatively, Option 4 would provide gaming operators with the greatest transparency, be simple to administer and allow prospective sellers and purchasers to negotiate and transact directly just as you would with any other commodity. However, the Commissioner would continue to have oversight and regulatory approval in order to ensure adherence to a forfeiture scheme to help achieve the reduction objective and that the sale of the entitlement is unencumbered.

In conclusion, without some form of Government intervention, any prospect of achieving the reduction objective, which was established in 2005 as a 'problem gambling' response and pre-dates the evolution of other forms of gambling (e.g. online wagering), is unlikely at any time in the short to medium term to succeed.

## Annexures

### Annexure 1 – Summary of representations

#### Australian Hotels Association (SA)

The AHA raises concerns as to the continued pursuit of a statutory objective set by the Government of the day in 2005 and reiterates that following the first reduction of almost 2 200 electronic gaming machines that monthly net expenditure on gaming machines in hotels and clubs actually rose in July and August 2005. Furthermore, that in successive months, where there was a further gradual removal of gaming machines through trading rounds, expenditure on gaming machines continued to move higher than pre-reduction levels.

The AHA also points to research commissioned by the Independent Gambling Authority and prepared by the SA Centre for Economic Studies<sup>9</sup>, in June 2006 stating:

*“It is impossible to determine whether the reduction in EGMs has had any impact on problem gambling. Nevertheless, the increase in expenditure suggests that it has had no effect since problem gamblers account for a significant proportion of total EGM expenditure (42 per cent according to the Productivity Commission), meaning we would expect some fall in expenditure if there were a reduction in problem gambling.”*

Additionally, the AHA states that the *de-facto* reduction in the number of gaming machines operating in gaming rooms as a result of COVID-19 restrictions provides further evidence that reduced gaming machine numbers do not result in reduced expenditure by ‘problem gamblers.

*“In view of evidence that reducing EGM numbers does not result in a corresponding reduction in ‘problem gambling’, and the fact younger gamblers are not high users of EGMs and older EGM problem gamblers will eventually ‘age out’ of the system, there seems little reason to continue dedicating resources to chasing a statutory reduction in EGM numbers.”*

The AHA does however wish to make representations on how to modify the Approved Trading System in the event that the Government maintains adherence to achieving the statutory objective set in 2005.

Proposal	Submission
Discontinue the operation of a trading scheme which adheres to a Government position set in 2005 to reduce the number of gaming machines by approximately 3 000  <b>AHA Preferred Position</b>	<p><i>The AHA raises concerns that despite the mandatory reduction of electronic gaming machines that monthly net expenditure on gaming machines in hotels and clubs actually rose in July and August 2005.</i></p> <p><i>Furthermore, despite further gradual removal of gaming machines through trading rounds, expenditure on gaming machines continued to move higher than pre-reduction levels advancing their position that the statutory objective should no longer be pursued.</i></p>
Establish an Open Market with <b>no</b> entitlement forfeiture feature	<p><i>Licence holders would be able to buy and sell entitlements in an open market managed by CBS.</i></p> <p><i>The current mechanism to cancel every fourth entitlement sold by ‘for-profit’ venues would be removed, and venues able to negotiate the sale and settlement of proceeds directly under a simplified trading model.</i></p>
Establish an Open Market with an entitlement forfeiture feature	<p><i>As above except that every fourth entitlement sold by ‘for-profit’ venues would continue to be cancelled.</i></p> <p><i>The statutory objective of reducing the number of gaming machines in South Australia is likely to be more effective if entitlements can be purchased and sold in an open market. Under this option, reduction schemes operating in both NSW and the ACT should provide guidance.</i></p>

<sup>9</sup> <https://www.adelaide.edu.au/saces/ua/media/31/the-south-australian-gambling-industry.pdf>

Licensed Clubs Association of SA (Clubs SA)

Clubs SA submits that evidence shows that licensed Club and Hotel operations in South Australia are very different based on their operating models. While Hotels can build large funds to invest at a later time, Clubs reinvest their profits back into the community as the money is earned, making it far more difficult to build ‘war chests’ to use at some time in the future.

They point to the recent introduction of modern gaming machine technology as a case in point, whereby many ‘for-profits’ could immediately upgrade their gaming machine fleet, while at the same time many clubs, without readily available funds, have needed to do this in a staged approach, or not at all.

Clubs SA also submits that prior to the introduction of this new gaming technology, it was clear, that many gaming clubs were already struggling and offering to sell entitlements relatively cheaply. This new technology is now creating an even bigger gap between the ‘haves’ (Hotels) and ‘have nots’ (Clubs).

This difference in business operating models is recognised by policy settings that favour the ‘not-for-profit’ sector in most States and Territories in Australia, even those where club gaming machines far outnumber those in hotels (with the exception of WA where there are no gaming machines in Hotels and Clubs), and we should do the same.

*“Our recommendations support a policy setting that favours the ‘not-for-profit’ sector (without specifically disadvantaging the ‘for-profit’ sector) while increasing trading opportunities to achieve the statutory objective.”*

Furthermore, Clubs SA submits that while there is no evidence that the reduction in gaming machine numbers in the State has reduced gambling, it acknowledges the Government’s mandate and legislative requirement to meet the statutory objective. In support of this position, Clubs SA makes the following recommendations—

*“...subject to policy settings, the current rate of removal of one in four entitlements sold is retained”*

*“...that South Australia adopts a policy setting that quarantines and maintains Club sector entitlements”*

*“...that a “use it or lose it” condition for trading entitlements is not implemented”*

*“...that a gaming entitlement trading policy that provides geographic priority is not implemented”*

Proposal	Submission
<p>Continue the operation of a trading scheme which adheres to a Government position set in 2005 to reduce the number of gaming machines by approximately 3 000.</p> <p><b>Clubs SA Preferred Position</b></p>	<p><i>Clubs SA submits that while there is no evidence that the reduction in gaming machine numbers in the State has reduced gambling, it acknowledges the Government’s mandate and legislative requirement to meet the statutory objective. In support of this position, Clubs SA recommends that subject to policy settings, the current rate of removal of one in four entitlements sold be retained.</i></p>
<p>Retain the current method of calculation of purchaser and seller prices</p>	<p><i>Clubs SA submits that the current approved trading system sets the true market price for entitlements and operates to meet the statutory objective.</i></p>
<p>Modify the existing approved trading system to give more confidence in the system, promote more trades, and assist in meeting the statutory objective</p>	<p><i>Expand the current scheme to allow unsuccessful offers to be resubmitted at the price determined in the initial trading round. The successful purchase of entitlements by clubs to be subsidised by Government.</i></p> <p><i>The 1:4 forfeiture of entitlements to continue under existing arrangements.</i></p> <p><i>A Government “buy-back” scheme would also allow any gaming licensee (including Club One) to surrender gaming machine entitlements for financial compensation (calculated on the sale price of the previous trading round) with all entitlements irrespective of sector of origin and gaming machine licence being cancelled.</i></p>

Proposal	Submission
<p>Establish an Open Market sector-based trading system with an entitlement forfeiture feature</p>	<p><i>Licence holders would be able to lodge with CBS applications to buy and sell entitlements at any time with de-identified information displayed (other than to registered users) on a CBS managed website.</i></p> <p><i>Gaming sectors would trade separately on the basis of:</i></p> <ul style="list-style-type: none"> <li>• <i>a trading round conducted for ‘for-profit’ participants (hotels) using the current market equilibrium derived pricing formula;</i></li> <li>• <i>unsuccessful participants able to resubmit offers at the price determined in the initial trading round to further trade;</i></li> <li>• <i>current ‘for-profit’ forfeiture feature would apply resulting in entitlements being cancelled under the current 1:4 ratio;</i></li> <li>• <i>a subsequent trading round for ‘not-for-profit’ participants (clubs) held with pricing based on result of ‘for-profit’ market equilibrium derived pricing formula;</i></li> <li>• <i>current ‘not-for-profit’ forfeiture feature would apply resulting in entitlements reallocated to Club One under the current 1:4 ratio;</i></li> </ul> <p><i>The purchase price paid by clubs to be subsidised by Government. A Government “buy-back” scheme would also operate allow any gaming licensee (including Club One) to surrender gaming machine entitlements for financial compensation (calculated on the sale price of the previous trading round) with all entitlements irrespective of sector of origin and gaming machine licence being cancelled.</i></p>

**Other considerations**

Stakeholders were also invited to make submissions on a range of additional measures which could be applied to support a modified Approved Trading System. Their responses follow.

Option	Stakeholder Response
<p>Are there grounds for quarantining and/or management of gaming machine entitlements held by the State’s licensed club sector to continue?</p>	<p><i>The AHA submits that the club sector does not require any further special treatment, especially against a backdrop of lower tax rates and the current trading system artificially propping up the club’s sector through Club One.</i></p> <p><i>Clubs SA submits that no club entitlements should be removed to meet the statutory objective (either through a trade or a buyback scheme). Entitlements should be held by the Commissioner or Club One to create a pool from which Clubs can purchase when no other Club entitlements are offered for sale.</i></p>
<p>Should the scheme feature a “use-it or lose-it” condition in relation to entitlements, a feature of the Victorian entitlement trading model requiring entitlements to be activated within 6 months?</p>	<p><i>Both industry bodies do not endorse the use of the “use-it or lose-it” feature.</i></p>
<p>Should the scheme incorporate trading based on geographic or sector priority?</p>	<p><i>Both industry bodies do not endorse geographic priority.</i></p> <p><i>AHA submits that the existing sector benefits afforded the ‘not-for-profit’ sector provide the sector with sufficient sector priority. Clubs SA dispute this position noting that policy settings in most States and Territories favour the ‘not-for-profit’ gaming sector over the ‘for-profit’ gaming sector.</i></p>



Option	Stakeholder Response
Should the trading system be managed using an open access online platform or a user restricted closed access online platform?	<p><i>Both industry bodies endorse an online model managed by CBS which allows venue operators to have oversight of entitlements to be traded.</i></p> <p><i>Depending on the modification action taken, the system should restrict certain functionality and access to venue operators.</i></p>
Free trading within hotel groups (with or without reduction)	<p><i>The AHA submits that entitlements should be able to be freely traded between venues within the same Hotel Group. Under this option the scheme could operate with or without entitlement reduction.</i></p>

## Annexure 2 – Jurisdictional analysis

### Australian Capital Territory

- In the Australian Capital Territory, a venue operator must hold an ‘*authorisation*’ to operate a gaming machine in a hotel or club. Currently, 50 gaming machines are authorised for operation in hotels and 3 813 gaming machines in clubs<sup>10</sup>. As of 1 October 2021, 3 631 gaming machines were in actual operation in the ACT. Gaming machines are not authorised for operation at Casino Canberra.
- In 2015, the ACT Government introduced legislation to reduce the number of gaming machines from 5 022 to 4 000 by the year 2020, to be achieved through a trading mechanism with forfeiture and the voluntary surrender of gaming machine authorisations.
- Under the trading scheme, club venue operators can trade authorisations in a club-to-club trade provided one authorisation is surrendered for every four traded. Hotel venue operators can also trade authorisations to clubs but not to other hotels.
- In 2018, clubs with 20 or more authorisations were able to voluntarily surrender an authorisation in return for a \$12 000 rebate and other trading benefits. On reaching the target of 4 000 in April 2019, the voluntary surrender scheme ceased, but the 1:4 reduction for trades continues.
- See [gamblingandracing.act.gov.au](http://gamblingandracing.act.gov.au) for further information.

### New South Wales

- The maximum number of gaming machines that may be lawfully operated in NSW is regulated and requires a venue operator to hold an ‘*entitlement*’ to operate a gaming machine in a hotel or club. While NSW legislation applies a state-wide cap of 99 000 gaming machine entitlements, a maximum venue capacity of 30 gaming machines applies to hotel operators with the actual capacity in clubs determined by the available floor space.
- Liquor and Gaming NSW reports that there are currently 87 840<sup>11</sup> gaming machines operating in NSW with 22 551 operating in hotels and 65 289 in clubs indicating a policy setting that favours the ‘not-for-profit’ sector.
- Additionally, Star Entertainment Group Limited which operates The Star Casino at Darling Harbor in Sydney, is authorised to operate up to 1 500 gaming machines. On 18 August 2021, an ASX Announcement advised that the casino operator is negotiating the operation of a greater number of gaming machines with the NSW Government on competition grounds noting that the current approved number is less than the permitted number of gaming machines at Crown Melbourne (2 628), Crown Perth (2 500) and the new Queen’s Wharf Brisbane Casino (2 500) which is expected to open in 2022.
- Gaming machines will not however (pending the approval of a suitable casino operator) be permitted to operate in the new Barangaroo casino complex.
- All hotels and clubs in NSW that operate gaming machines are classified using a risk ranking system based on Australian Bureau of Statistics data for the location of the venue at [Statistical Area Level 2](#) (SA2)<sup>12</sup>. Having regard to the relative risk of introducing additional gaming machines into an area, all SA2s are put into one of three bands depending on gaming machine density, gaming machine expenditure and the socio-economic disadvantage of the SA2.
- The classification, referred to as Band 1, 2 or 3 is then used to determine the type of [Local Impact Assessment](#) that a venue operator is required to undertake to support either an application for a new gaming machine licence or an increase to the venue’s maximum gaming machine threshold.
- As part of the NSW Government’s gradual gaming machine reduction strategy, a venue operator can only acquire gaming machine entitlements from the existing supply of entitlements in other hotels and clubs. The transfer of entitlements attracts a compulsory forfeiture of one entitlement in every block of two or three entitlements being transferred between operators.

<sup>10</sup> Source: [https://www.gamblingandracing.act.gov.au/\\_data/assets/pdf\\_file/0006/1886541/Trading-Scheme-Statistics-as-at-1-October-2021.pdf](https://www.gamblingandracing.act.gov.au/_data/assets/pdf_file/0006/1886541/Trading-Scheme-Statistics-as-at-1-October-2021.pdf)

<sup>11</sup> Source: <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>

<sup>12</sup> Source: <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026/main-structure-and-greater-capital-city-statistical-areas/statistical-area-level-2>

- The trading of entitlements is typically managed by hotel brokers acting independently of the regulator, Liquor & Gaming NSW. Blocks of entitlements can be sourced from multiple licence holders, but the transfer only becomes effective when the transaction is notified and approved by Liquor & Gaming NSW.
- A [gaming machine entitlement leasing scheme](#) is also available giving the operators of small venues an option to lease their entitlements to larger operators to generate recurrent income.
- See [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au) for further information.

### Northern Territory

- In the Northern Territory, there is a state-wide cap of 1 699 gaming machines in hotels and clubs, with hotel venue operators able to operate up to 20 gaming machines and club venue operators a maximum of 55 gaming machines.
- New gaming machine licences and increases to current licences can be granted provided it will not breach the cap and that the grant of a new licence is not within 1.5km of the Darwin Casino.
- The latest annual report<sup>13</sup> by Licensing NT states that there are 1 614 gaming machines operating in NT with 715 operating in hotels and 899 in clubs. Additionally, the two casinos in the territory (Alice Springs and Darwin) operate a total of 961 gaming machines.
- There is no trading system.
- See <https://nt.gov.au/industry/gambling> for further information.

### Queensland

- In Queensland there is a cap on the total number of gaming machines that can be operated in hotels and clubs<sup>14</sup>. A venue operator must hold an ‘*authority*’ to operate a gaming machine in a hotel or an ‘*entitlement*’ to operate a gaming machine in a licensed club.
- While a maximum capacity of 45 gaming machines applies to hotel operators, clubs are able to apply for approval to operate up to 300 gaming machines at a single premise. In addition, a club with two licensed premises may apply for a maximum of 450 gaming machines under its licence, while clubs with three or more premises may apply for 500 gaming machines under its licence, as long as there are no more than 300 gaming machines at any one premises.
- The legislated cap limits the number of gaming machines that are able to be operated in QLD to 19 500 in hotels and 24 705 in clubs. There are currently 40 346 gaming machines in QLD<sup>15</sup> with 19 146 operating in hotels and 21 200 in clubs. Additionally, with the opening of the new Queens Wharf Brisbane Casino in 2022, a total of 5 164 gaming machines may be operated across the 4 casino’s which operate in QLD (Gold Coast, Brisbane, Townsville & Cairns).
- The [Electronic Gaming Machine Reallocation Scheme](#)<sup>16</sup> allows for the reallocation of gaming machine operating authorities between hotels but only as a result of a hotel closing, a reduction in the number of approved gaming machines or the surrender or cancellation of a gaming machine licence. The reallocation scheme also allows for the unrestricted trading of entitlements between clubs.
- The authorised sale process under the scheme is conducted by the Public Trustee of Queensland. While sales are conducted by competitive tender in each of the 3 authority regions (South East, Coastal and Western), gaming machine operating authorities (i.e., from hotels) are quarantined and are only able to be sold to hotels in the region from which they originated. Clubs can also lease or transfer entitlements to other clubs on a temporary basis.
- See [justice.qld.gov.au/about-us/services/liquor-gaming](http://justice.qld.gov.au/about-us/services/liquor-gaming) for further information.

### Tasmania

- In Tasmania, there is a state-wide cap of 2 500 gaming machines in hotels and clubs, with hotel venue operators able to operate up to 30 gaming machines and club venue operators a maximum of 40 gaming machines.

<sup>13</sup> Source: [https://justice.nt.gov.au/\\_data/assets/pdf\\_file/0010/943831/licensing-annual-report-2019-20.pdf](https://justice.nt.gov.au/_data/assets/pdf_file/0010/943831/licensing-annual-report-2019-20.pdf)

<sup>14</sup> Source: <https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-2002-0301>

<sup>15</sup> Source: <https://www.data.qld.gov.au/dataset/total-queensland-gaming-machine-data/resource/e8643f53-bd6f-480c-987f-6c5e8ea4bee6>

<sup>16</sup> Source: <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/gaming/electronic-gaming-machines/licensing/reallocation-scheme>

- Currently, there is one gaming machine operator who owns and operates each of the state's 2 305 gaming machines in the State. In addition, the two casinos in Tasmania (Launceston and Hobart) operate a total of 1 185 gaming machines<sup>17</sup>. Although they continue to hold a licence, gaming machines are no longer operated on the two Spirit of Tasmania vessels which operate between Melbourne and Devonport.
- See [treasury.tas.gov.au/liquor-and-gaming](https://treasury.tas.gov.au/liquor-and-gaming) for further information.

## Victoria

- The maximum number of gaming machines that may be operated in Victoria is regulated and requires a venue operator to hold an 'entitlement' to operate a gaming machine. With the exception of Crown Casino, which is able to operate 2 500 gaming machines, no more than 105 gaming machines can be operated in any one venue<sup>18</sup>.
- Entitlements can only be obtained by club and hotel operators in Victoria in one of three ways:
  - the Minister for Gaming determines to allocate entitlements and directs the VCGLR to advertise the availability of the entitlements on the transfer market website. The Minister can determine whether an amount must be paid for these entitlements and venue operators can then submit offers via the website. The entitlement does not transfer to the operator until either the amount payable is paid in full, or a deferred payment arrangement to pay by instalments has been agreed to.
  - the Minister directs the Commission to advertise entitlements that have been brought back, surrendered, unallocated or forfeited to the State. These are also advertised on the transfer market website.
  - venue operators may advertise on the entitlement transfer market website that they wish to sell or purchase entitlements. The sale price is listed, and negotiations may take place between parties prior to the sale being finalised, however the sale must be completed via the transfer market website. If there are any unpaid allocation amounts resulting from a Ministerial allocation, at the time of the transfer, these must also be paid.
- The ratio of gaming machines that can be operated outside Crown Casino is set by Ministerial direction. Currently the maximum number of gaming machine entitlements is set at 27 372<sup>19</sup> with a 50:50 split between hotels and clubs (i.e., 13 686 respectively). At least 20 per cent (i.e. 5 475) of the total must operate outside metropolitan Melbourne.
- Regional caps also apply to 25 defined regions and municipal limits apply to all other uncapped regions (with the exception of the Melbourne Central Business District, Southbank and Docklands precincts). The Minister may also vary the maximum number of entitlements allowed in a region or municipal district.
- The VCGLR reports that there are currently 26 225<sup>20</sup> gaming machines operating in Victoria.
- An **Entitlement Transfer Market** scheme (ETM) is managed by the Victorian Commission for Gaming, Liquor and Racing (VCGLR) which:
  - facilitates the transfer market process through an online noticeboard, which allows venue operators to advertise, monitor and request the transfer of entitlements;
  - allows venue operators to negotiate the sale and settlement of proceeds directly, with the VCGLR only having to be notified of the sale through the ETM; and
  - allows the transfer of an entitlement to become effective only when the VCGLR is satisfied that an eligible sale has occurred, and the transfer recorded on the ETM.
- While there is no legislative mechanism in place to reduce the overall gaming machine cap in Victoria, entitlements will be forfeited to the State if a venue operator fails to commence gaming under that entitlement within six months of the entitlement being transferred to them ("**use it or lose it**"). If not activated, the State may subsequently reallocate those entitlements and make them available for sale to venue operators when a regional cap or municipal limit is varied.

<sup>17</sup> Source: <https://www.treasury.tas.gov.au/liquor-and-gaming/legislation-and-data/gambling-industry-data/gaming-and-wagering-industry-data>

<sup>18</sup> Source: <https://www.vcglr.vic.gov.au/gambling/gaming-venue-operator/understand-your-gaming-licence/caps-and-limits>

<sup>19</sup> Source: <https://www.vcglr.vic.gov.au/gambling/gaming-venue-operator/understand-your-gaming-licence/caps-and-limits>

<sup>20</sup> Source: <https://www.vcglr.vic.gov.au/resources/data-and-research/gambling-data/gaming-expenditure-local-area>

- The Victorian Government has announced that a new gaming machine entitlement allocation and pricing system will commence when gaming machine licences expire in August 2022. This follows the government's decision to freeze the total number of gaming machines in Victoria and the number of machines allowed in a single venue for the next 25 years.
- Under the changes, the number of gaming machines in Victoria will remain capped at 27 372 and the maximum number of gaming machines in a single venue will be frozen at 105. The reforms include:
  - replacing the current 10-year term with a 20-year term, and requiring venue operators to make two sets of premium payments – the first in 2022 and the second in 2032;
  - increasing the maximum number of entitlements held by a club venue operator from 420 to 840;
  - adjusting the 50:50 rule to facilitate the allocation of unused club entitlements to the hotel sector;
  - determining premium payments for entitlements based on a venue's gaming revenue; and
  - making changes to gaming machine taxation arrangements.
- From August 2022, the price for new gaming machine entitlements will be calculated using a formula based on a weighted average of a venue's gaming machine revenue over the past four financial years, with a minimum price applying to club and hotel entitlements. The price paid by new entrants to the market will be calculated using the average gaming machine revenue at a venue of similar size, type and location.
- There will however be a minimum price for all entitlements, regardless of the price determined by the pricing formula. The minimum price will be \$5170 per entitlement for club entitlements and \$32,714 per entitlement for hotel entitlements.
- See [vcglr.vic.gov.au](http://vcglr.vic.gov.au) for further information.

#### Western Australia

- In Western Australia, gaming machines are not permitted in hotels and clubs, only at the licensed casino.
- Crown Perth Casino is authorised to operate 2 500 gaming machines.  
See [dlgsc.wa.gov.au/racing-gaming-and-liquor](http://dlgsc.wa.gov.au/racing-gaming-and-liquor) for further information.