



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into Gaming Machine Amendment Bill 2023](#))

Members:

**MR P CAIN (Chair)
DR M PATERSON (Deputy Chair)
MR A BRADDOCK**

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 8 NOVEMBER 2023

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**Secretary to the committee:
Ms K de Kleuver (Ph: 620 70524)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

WITNESSES

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NG, MR DANIEL , Executive Branch Manager Civil and Regulatory Law Branch, Legislation Policy and Programs, Justice and Community Safety Directorate	1
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Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

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Amended 20 May 2013

The committee met at 11.30 am.

RATTENBURY, MR SHANE, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction
NG, MR DANIEL, Executive Branch Manager Civil and Regulatory Law Branch, Legislation Policy and Programs, Justice and Community Safety Directorate
MANGERUCA, MR GIUSEPPE, Acting Executive Branch Manager, Fair Trading and Compliance, Access Canberra

THE CHAIR: Good morning and welcome to the public hearings of the Standing Committee on Justice and Community Safety regarding its inquiry into the Gaming Machine Amendment Bill 2023. The committee will today hear from the Minister for Gaming, Mr Daniel Ng of the Justice and Community Safety Directorate, and Mr Giuseppe Mangeruca of Access Canberra. Welcome.

The committee acknowledges the traditional custodians of the land we are meeting on, the Ngunnawal people, and acknowledges and respects their continuing culture and contribution they make to the life of the city and this region. We also acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending.

The proceedings are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses use the words, “I will take that question on notice.”

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Please confirm each of you that you understand the implication of the statement and that you agree to comply with it.

Mr Ng: Yes.

Mr Mangeruca: Yes

THE CHAIR: I will lead off with perhaps a very obvious question. Minister, is this a bill that you think the government will be supporting? If not, why not? If so, why?

Mr Rattenbury: What I can say is that the ACT government has not formed a formal position on the bill at this point in time. The reason for that is we are seeking to be guided by the outcome of the inquiry being led by this committee; it will be important to inform the government’s consideration. So this bill has not been considered by the cabinet at this point in time.

In addition, the JACS Directorate is currently in the process of consulting with colleagues across government and also external stakeholders about the implications of the bill. So they are gathering information for the government to form its final position. From a formal government point of view, that is probably the best comment

I can make at this time. Obviously the parties within the government will have views on that but that is I think a separate question.

THE CHAIR: I did note that during the inquiry into raising the age of criminal responsibility, in your capacity as Attorney-General, you volunteered the position of the Greens ministers. Is there such a position you are willing to state now from the Greens ministers' perspective?

Mr Rattenbury: It is not a matter for the Greens' ministers yet. It has not gone to cabinet, so we have not been required to have a position yet. Whereas, when we spoke at the MACR inquiry, it had been through cabinet and there was a defined position. So it has not been formalised in that sense. The Greens have considered a view on this but I do not know how the committee wants to approach those questions.

DR PATERSON: Minister, Clubs ACT's submission suggested expanding the scope of the bill to include the casino, so for-profit venues. I am just wondering what your thoughts about that might be.

Mr Rattenbury: What I do know is that in that case Clubs ACT is talking about for-profit venues, which I think is probably the point they are making. The ACT has a historical policy position of not allowing EGMs in for-profit venues. I think it is a matter of public record that the casino continues to advocate that. We do have legislation that allows them, under certain circumstances, to obtain EGMs. The bill seeks to have a part of the city where EGMs are not rolled out, and it would seem consistent to do that for both not-for-profit and for-profit venues—if that is your question?

DR PATERSON: Yes. So given the fact that currently the casino, a for-profit venue, does not have machines but technically could if they adapted machines, do you think we should just be done with it and say no new areas and no for-profit—no further machine licences?

Mr Rattenbury: I think the purpose of this bill is to take a geographic focus. So I think it would be absolutely consistent and appropriate, if the purpose is to have a geographical area with no poker machines in it, that it applies whether they are not for profit or for profit. I think that would be an utterly consistent approach to take, would make sense and be very clearly in the spirit of the bill.

MR BRADDOCK: Has the government done any analysis on the impacts arising from the bill in both the geographical area and the areas that might border where it has been applied?

Mr Rattenbury: Not in a sense that I have data that I could present the committee with. Certainly the sorts of considerations that have been identified early on—let me take it at a couple of angles. The government, through its policy mechanisms to date, has been attempting to encourage poker-machine-free venues. You have seen that with the licence terms where there has been an incentive for people to return their licences. We have had in place a policy where there is additional money available: \$15,000 for an authorisation and \$20,000 if a venue returns all of theirs. That has been designed to encourage pokie-free venues and to create places where members of the

Canberra community can go to a club-like venue and not be exposed to poker machines.

We have seen one example where the Yowani Golf Club has committed to this. I do not think they have actually handed them all in yet, but they have committed to hand back all their licences and establish a new venue without poker machines. The reason I mention that is: the interesting question is, if this bill were to pass, what approach would clubs take to establishing in the Molonglo Valley? That will be for them to talk to, I think. An obvious question is whether they will identify a model in which they can see an economic pathway to establish a new venue with the capital costs associated with that and a viable model going forward?

Then the question that flows from that is given that in many parts of the city these venues have provided a range of other amenities, if clubs do not establish how will those other amenities be provided? They do not have to be provided by clubs. It might be, if there are not going to be clubs, the government will need to establish those venues or find other ways for the private sector in the broadest term—whether it is the not-for-profit or the for-profit private sector—to potentially provide those amenities. I would not say it is analysis, but this is one of the considerations the government has contemplated as an impact of the bill.

In terms of your question then of adjacent areas, I think there is a question of whether venues will seek to establish on the border of the precluded zones with poker machines in order to essentially tap that market, to describe it that way. The bill does not seek to address that. I am not commenting on whether it does or not, but I think that would be another consideration—will you see essentially an edging effect? I do not draw any particular conclusions from that other than that may also be a factor that arises.

THE CHAIR: Has your directorate done any investigation of whether other jurisdictions have adopted such an approach as proposed in the bill, including internationally, and if there are lessons to be learned if this has been adopted elsewhere?

Mr Rattenbury: I have not seen any advice on that from the directorate but I will check whether Mr Ng has?

Mr Ng: No, Mr Chair, I do not have any information on that at this time. Certainly what the bill seeks to effect is a geographical ban on a certain industry operating in a certain area. Those regulatory settings certainly exist in other professions but I do not believe we have any information currently about whether this particular approach with respect to EGMs is pursued in other jurisdictions. If we can get that before the end of this hearing, I am happy to come back to the committee.

THE CHAIR: So you will take that on notice?

Mr Ng: I will take that on notice.

DR PATERSON: The premise of the bill is that the closer you live in proximity to poker machines, the more likely you are to experience harm. Do you think this bill

will go some way to the government's objectives to reduce gambling harm?

Mr Rattenbury: Yes, certainly, Dr Paterson. The government has seen some research which backs up the point you have just made, which is that proximity to gaming machines is an issue and people who live close to EGMs are more likely to gamble, and gamble more often. That is the certainly the research we have seen. For me, understanding that research has been part of the reason we have endeavoured to also create pokie-free venues within the existing parts of the city so that people either have that choice or do not have as much exposure. At the moment we have a high penetration of EGMs into our residential areas of the city through the existing model, and that brings the risk that research has identified. The corollary of that is if it is harder to get to a venue, people are less likely to go. So therefore, a geographic restriction should have some impact. Clearly, there are a range of other things we need to do in the gambling space that can also have a significant impact, but yes, one would assume, based on that research, there would be some impact.

THE CHAIR: If these machines are not available in Molonglo Valley, it may well lead to an increase in trade and profit to neighbouring clubs where these machines do continue to be available. Have you done any analysis or thought about, if this bill is supported, that it would lead to a favouring of the neighbouring clubs where these machines are available, and perhaps increase their own trade and profit?

Mr Rattenbury: Again, I do not have any specific modelling. I think one can surmise that people who live in these geographic areas may wish to frequent either clubs or play poker machines and, if they are not available in the immediate area, they will presumably go to other places.

In terms of the impact on profitability or revenue, that is another level out of surmising, because there are a range of other regulatory changes the government is proposing and it will depend on a range of things. One would presume there will be other hospitality venues within the Molonglo Valley. Again, I am speculating a little, but one might presume that plenty of people will be happy just to go to a restaurant, a café, some other type of venue or a licenced club that does not have poker machines in the Molonglo Valley. I do not think it is a given that people will travel. I think one can surmise a certain number of people who live in Molonglo Valley may well go elsewhere to play poker machines, if that is what they enjoy in their recreation time or if they have issues with gambling harm and they seek out those opportunities.

DR PATERSON: Poker machine gambling is a legal regulated activity in the ACT. Do you think it is a major impost on Molonglo Valley residents to travel to Woden, Weston Creek or Belconnen to access poker machines?

Mr Rattenbury: I imagine different people will have different views on that. Frankly, plenty of Canberrans are happy to jump in the car and drive somewhere and will not see it as an impost. They will be happy to get out of their own neighbourhood. It would be difficult for others, who perhaps do not have transport options. So you can imagine there would be different responses to that.

THE CHAIR: Is there anything you would like to say in closing, Minister?

Mr Rattenbury: Let me think if there were any other points we were going to make. Perhaps what I can add for the committee's benefit is that the government obviously has a range of other gambling harm measures that are being implemented as well, and they are outlined in the parliamentary agreement, so they are understood issues.

One of those that I think does impact to some extent—it goes to perhaps a few of the questions and their underlying issues—is that the key thing is to reduce the number of authorisations for poker machines in the ACT. We have already reduced from 4,946 in August 2018. There are now 3,793 authorisations available in the ACT, and the government is moving towards 3,500. That is the policy intent.

To some extent, there is already a restriction on the ability to expand the industry in the ACT in the sense that—if this bill were not to pass, or it had never been imagined and not proposed—if venues wanted to establish in Molonglo, they would have had to obtain their authorisations from other venues within the pool of available licences. That is probably understood, but in the issues the committee is thinking about, it may be relevant to your considerations. Outside of that, I do not think there are other major issues.

The government has considered the legality of this legislation. These are preliminary reflections subject to further advice and questions from the committee, but certainly there are trades, as Mr Ng mentioned, that are already subject to geographically based restrictions or designated locations. The sex work industry is one well-known example which is constrained to particular parts of the city.

We also believe that competition laws and policies are unlikely to limit the territory or the Assembly from legislating to prevent EGMs in the Molonglo Valley. There might be some suggestion that competition policy will be an issue—for example, the ACT is a party to the 2016 Intergovernmental Agreement on Competition and Productivity-enhancing Reforms. That agreement commits parties to a number of competition principles, including that government policies binding the private sector should not unnecessarily restrict competition. An exception to this is that if the benefit outweighs the cost of the restriction to the community as a whole and the objective can only be achieved by restricting the competition to that extent. I think this argument may be made in the context of gaming harm that there is a clear other benefit that is seeking to be derived that outweighs the competition considerations that would arise under those intergovernmental agreements. They are perhaps just a few additional considerations that we have identified already that might be useful to the committee.

Mr Ng: Mr Chair, if I can perhaps obviate the need for the question taken on notice and provide a bit of supplementary information to what the minister has provided?

THE CHAIR: Yes.

Mr Ng: In relation to the existence of an approach which is specifically followed by the current bill's approach, we are not aware of that appearing in other jurisdictions. Certainly, it is something we will consider as the government forms its position on the bill finally.

Secondly, the minister mentioned Yowani's activities to surrender their authorisations and machines and I can confirm that the Yowani Club surrendered their authorisation certificate and licencing in March earlier this year, 2023.

THE CHAIR: How many machines was that?

Mr Rattenbury: 21.

THE CHAIR: On behalf of the committee, I would like to thank our witnesses for your attendance today. Are you saying that the question taken on notice has been answered, from your point of view?

Mr Ng: Yes, indeed.

THE CHAIR: Okay. Obviously, the committee can correspond if we have any further questions. We also would like to thank broadcasting and Hansard for their report. If any member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as practical and no later than five business days after the hearing. This meeting is now adjourned.

The committee adjourned at 11.49 am.