

Hon Jan Tinetti
Hon Andrew Little

10 February 2022

REPORT ON THE PROPOSED PROBLEM GAMBLING LEVY: 2022-2025

1. INTRODUCTION

- 1.1 This Report is submitted by the Gambling Commission (the “**Commission**”) pursuant to section 318(5) of the Gambling Act 2003 (the “**Act**”). It makes recommendations on the total annual amount of the Problem Gambling Levy for the period 1 July 2022–30 June 2025, and the levy rate for each gambling sector subject to the levy.
- 1.2 The purpose of the levy is to recover the cost of developing, managing and delivering the integrated problem gambling strategy proposed by the Ministry of Health (the “**Ministry**”).
- 1.3 Section 319(1) of the Act contemplates that, after considering this Report, recommendations will be made that the Governor-General make regulations by Order in Council, requiring gambling operators to pay a levy to the Crown.

2. EXECUTIVE SUMMARY

- 2.1 The Commission’s recommendations are as follows:
- (a) The total amount of the levy for the period 1 July 2022–30 June 2025 be set at \$76.123 million.
 - (b) The weightings of W1 (expenditure) and W2 (presentations) should be set at 30:70.
 - (c) Within the next levy period, the Ministry should undertake a major strategic review of its problem gambling strategy and use that review to determine the necessary funding requirements. Rather than accepting a historically determined budget envelope, the Ministry should re-assess the future analytical and operational requirements of an integrated problem gambling strategy and develop an updated comprehensive strategy with costings based upon those requirements.
 - (d) As part of this review, the Ministry should collaborate meaningfully with the main participants of this process; the gambling industry operators, the problem gambling service providers and those with lived experience, in order to make use of their collective wisdom as part of the process to develop the new strategy. As part of this review, the Ministry should initiate a long-term research programme which looks beyond the 3-year levy cycle in order to inform future decision making about what makes a real difference in reducing gambling harm in New Zealand.

- (e) Serious consideration should be given to including online gambling as a leviable sector within the problem gambling formula set out in section 320 of the Act. Online gambling is already responsible for a growing number of presentations to problem gambling service providers, a trend that is likely to continue as life moves increasingly online.
- (f) The Ministry and the Department of Internal Affairs (the “**Department**”) should investigate whether more refined data can be collected in relation to online gambling expenditure and presentations. At present, “online gambling” appears to be discussed generically but there may be important distinctions from a policy perspective between New Zealand gambling operators which also have an online presence (Lotto, TAB NZ and SKYCITY) and those online operators that are based entirely offshore. Consideration should also be given to refining data in relation to the New Zealand gambling operators which provide both online and terrestrial gambling (Lotto, TAB NZ and SKYCITY). These data may show whether there are material harm differences between participation in the same form of gambling online or at a physical venue.

3. BACKGROUND

- 3.1 As contemplated in the Act, there was a two-step consultation process to developing the recommended levy and levy rates, involving consultation by the Ministry and then by the Commission.
- 3.2 The Ministry prepared a “Consultation document” entitled “Strategy to Prevent and Minimise Gambling Harm 2022/23 to 2024/25”. This document set out the Ministry’s proposed Strategy in draft, together with the costings for it.
- 3.3 On 29 August 2021, the Ministry published the Consultation document and invited submissions on it by 8 October 2021. As required by section 318(1)(h) of the Act, a wide range of stakeholders and potentially affected groups were consulted on the Ministry’s Consultation document.
- 3.4 As part of the consultation process, the Ministry convened 10 consultation meetings. Because of the impact of COVID-19 on New Zealand at that time, the Ministry conducted the meetings online rather than in person (as had been the case for previous levy consultations).
- 3.5 In addition to participation in consultation meetings, the Ministry received 64 written submissions on its Consultation document.

- 3.6 Following consultation, the Ministry revised its approach, taking into account the independent analysis of the written submissions by Allen + Clarke, and feedback from the consultation meetings.
- 3.7 On 16 December 2021, the Ministry submitted the resulting “Proposal document” to the Commission. The Proposal document set out the proposed strategy and levy rates, as required by section 318(2). The Ministry also provided the Commission with a copy of the submissions analysis prepared by Allen + Clarke, together with a document summarising the Ministry’s response to some of the key issues raised by parties in submissions.
- 3.8 The Commission provided all three documents to the invitees to its Consultation meeting, which was held on 27 January 2022.
- 3.9 As required under section 318(4) of the Act, the Commission requested the attendance at that meeting of the Ministry, the Department, representatives of gambling operators who will be subject to the levy, representatives of providers of problem gambling services, and representatives of other groups which the Commission believed were likely to be significantly affected by the levy.
- 3.10 The Commission’s consultation meeting was convened online, rather than in person (as has previously been the case), owing to the extent of the recorded and anticipated presence of COVID-19 in the community. When the meeting invitations were sent in December 2021, the Omicron variant of COVID-19 was starting to emerge in New Zealand, with infections expected to ramp up quickly. The Commission’s decision to convene the meeting online aimed at ensuring that the Consultation meeting would proceed safely and without delay. **Attached** as Annex 1 is a list of those who attended the meeting, and those who were invited but did not attend.
- 3.11 The Commission would like to thank, sincerely, the attendees, both for the level of their engagement and for the quality of their submissions.
- 3.12 As contemplated in section 318(6) of the Act, the Commission engaged an expert, Synergia Limited, to provide independent advice on the Ministry’s proposal. Synergia’s report to the Commission is **attached** as Annex 2.
- 3.13 Section 318(5) of the Act requires the Commission to report, within 10 working days of its consultation meeting, to responsible Ministers with recommendations on the total annual amount of the problem gambling levy for the next three years, and the proposed levy rate for each gambling sector subject to the levy. This Report is submitted in accordance with that requirement.

4. APPROACH TO ANALYSIS

4.1 Section 318(5) of the Act directs the Commission to make recommendations on the total annual amount of the Problem Gambling Levy for the next three-year period and the levy rate for each gambling sector. The consultation undertaken by the Commission focused principally on those two key matters.

4.2 In making its recommendations, the Commission has considered each of the component values of the formula used to calculate the proposed levy rates. The formula is set out in section 320(1) of the Act, as follows:

$$\text{levy rate} = \frac{((A \times W1) + (B \times W2)) \times C \pm R}{D}$$

4.3 The top line of the formula determines the share that each sector must contribute to the levy requirement, while the bottom line of the formula establishes how much, per dollar of expected revenue (or player expenditure), a sector is required to pay by way of levy to the Inland Revenue Department (the “**IRD**”).

4.4 The component values to which reference is made in the formula are described in section 320(2) as follows:

- A** is the estimated current player expenditure in a sector divided by the total estimated current player expenditure in all sectors subject to the levy;
- B** is the customer presentations to problem gambling services that can be attributed to gambling in a sector divided by total customer presentations to problem gambling services in which a sector that is subject to the levy can be identified;
- C** is the Ministry’s funding requirement for the period for which the levy is payable;
- D** is the forecast player expenditure in a sector for the period during which the levy is payable;
- R** is the estimated under-recovery or over-recovery of levy from a sector in previous levy periods; and

W1 and W2 are weights, the sum of which is 1.

4.5 In addition, section 320(3) provides further statutory guidance on the sources of information which must be taken into account in setting the component values.

5. ANALYSIS OF COMPONENT A – CURRENT PLAYER EXPENDITURE

5.1 Component A represents the estimated percentage of total player expenditure for each of the four sectors subject to the levy. Section 320(3)(b) provides that the Component A amount “must take into account the latest, most reliable, and most appropriate sources of information”. Although the Act does not specify a time period over which to estimate the Component A percentage, section 320(5)(a) provides that the period used “may be for less than a year (for example, a week, a month, or a quarter)”.

5.2 In its Proposal document, the Ministry set out expenditure figures provided by the Department from 2009/10-2019/20 as follows:

Gambling Expenditure Statistics 2009/10-2019/20

Gambling Sector	2009/10 (\$m)	2010/11 (\$m)	2011/12 (\$m)	2012/13 (\$m)	2013/14 (\$m)	2014/15 (\$m)	2015/16 (\$m)	2016/17 (\$m)	2017/18 (\$m)	2018/19 (\$m)	2019/20 (\$m)
NCGM	849	856	854	827	806	818	843	870	895	924	802
Casinos	440	448	483	490	486	527	586	572	578	616	504
Lotto NZ	347	404	419	432	463	420	437	555	561	530	631
TAB NZ	278	273	283	294	310	325	342	338	350	332	315
Total	1914	1982	2038	2042	2065	2091	2209	2334	2383	2402	2252

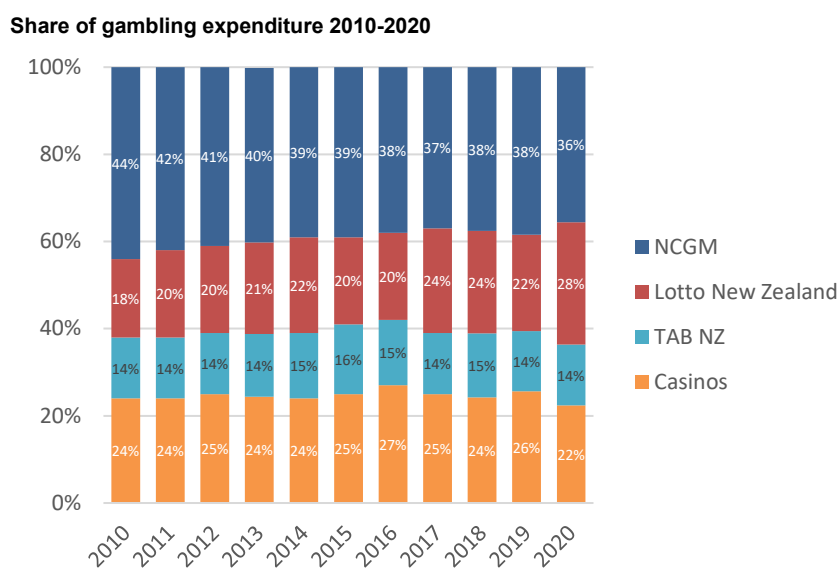
5.3 The Department calculated player expenditure using a variety of sources of information, including its Non-casino Gaming Machine (“**NCGM**”) electronic monitoring system (“**EMS**”), gambling operators’ annual and half-yearly reports and information from the IRD.

5.4 As with past proposals, the Department did not disclose the actual Component A source data (as doing so would result in the disclosure of tax details of individual taxpayers, which is prohibited under the Tax Administration Act 1994). The Component A share for each sector for 2019/20 was as follows:

	NCGM	Casinos	TAB NZ	Lotto NZ
Sector share of Component A	0.356	0.224	0.14	0.284

5.5 The gambling expenditure table above shows that gambling expenditure has increased steadily each year from 2009/10-2018/19, from \$1.914 billion to \$2.402 billion. Gambling expenditure decreased in 2019/20 to \$2.252 billion, probably because of the effect that COVID-19 and the resulting restrictions had on people’s desire and ability to access some forms of gambling.

- 5.6 The diagram below, prepared by Synergia, shows the percentage of total player expenditure (or gambling revenue) for each of the four sectors subject to the levy since 2010.



- 5.7 The gambling expenditure table and Synergia's diagram show that revenue in the NCGM sector has declined as a percentage of overall revenue (from 44% to 36%) over the 2010-20 period and has tracked downwards in dollar terms, until increasing again in 2014/15. Expenditure dropped dramatically in 2019/20, reflecting the impact of COVID-19 restrictions on NCGM venues, but the most up-to-date EMS data (not shown in the table above) show that the sector rebounded significantly in 2020/21 to \$987m.
- 5.8 Lotto NZ revenue has increased from 18% to 28% of overall revenue, and from \$347m to \$631m in dollar terms from 2009/10-2019/20.
- 5.9 TAB NZ revenue has remained consistent at around 14% of overall revenue, and increased in dollar terms from \$278m to \$315m between 2009/10 and 2019/20 (peaking at \$350m in 2017/18).
- 5.10 Casino revenue has remained relatively stable at around 24% of overall revenue, and increased in dollar terms from \$440m to \$616m between 2009/10 and 2018/19, before dropping to \$504m in 2019/20, again because of the likely effect of COVID-19 restrictions.

6. ANALYSIS OF COMPONENT B – CUSTOMER PRESENTATIONS TO PROBLEM GAMBLING SERVICES

- 6.1 Component B represents the customer presentations to problem gambling services attributed to gambling in a sector. Section 320(3)(b) provides that the amount must take into account the latest, most reliable, and most appropriate sources of information. As with Component A, the Act does not indicate the applicable time period but, as it is neither

expressly current, future nor an estimate, it is presumed to require use of reasonably recent actual data.

- 6.2 The data for Component B are generated by the Ministry from data collected by its psychosocial intervention service providers and recorded in the Client Information Collection database. The numbers cover all clients who received a full, facilitation or follow up intervention session and exclude brief screening interventions and all presentations from persons whose primary problem gambling modes did not include one of the levied sectors. Each qualifying client seen in the period counts as one presentation, regardless of how many sessions in fact occurred.
- 6.3 Since 1 October 2011, if a client reported more than one primary problem gambling mode, the presentation has been shared proportionally between the nominated sectors, up to a maximum of five sectors. As the Commission has noted in previous Reports, this change in recording practice means that the presentation figures prior to 2012/13 are likely to be less reliable than, and not easily comparable with, those collected after this date.
- 6.4 Below is a table setting out the presentations attributed to each of the four levy paying sectors from 2012/13-2020/21.

Presentations attributed to the four levy-paying sectors, 2012/13 to 2020

	NCGM		Casinos		TAB NZ		Lotto NZ		Total
	n	%	n	%	n	%	n	%	n
2012/13	3721	59	1403	22	568	9	652	10	6344
2013/14	3871	59	1413	22	651	10	590	9	6525
2014/15	3674	57	1449	22	729	11	624	10	6476
2015/16	3251	54	1221	20	696	12	812	14	5980
2016/17	3060	54	1240	22	593	10	820	14	5713
2017/18	2635	53	1135	23	515	10	657	13	4941
2018/19	2403	55	942	22	489	11	514	12	4348
2019/20	2098	54	898	23	405	10	508	13	3909
2020/21	2331	57	845	21	422	10	513	12	4110

- 6.5 The Proposal document made a number of observations about the presentation data:
- The number of NCGM presentations peaked in 2009/10, but the share of NCGM presentations peaked in 2004/05. Both figures have been declining unevenly since these dates.
 - The number of casino presentations has increased each year since 2004/05, until peaking in 2014/15 and has been declining since then. However, the share of casino presentations has remained steady.

- (c) The number of TAB NZ presentations has risen each year since 2004/05 until peaking in 2014/15. The share of TAB NZ presentations has remained steady at around 10-11%.
- (d) The number of Lotto NZ presentations has continued to increase since 2013/14, until peaking in 2016/17. The share of presentations has remained steady at around 12-14% over the last few years.
- 6.6 At the Commission's Consultation meeting, one of the most discussed aspects of the Presentation data was the steady decrease in the number of presentations to problem gambling services. As shown in the table above, the number of presentations attributed to the four levy-paying sectors have decreased from 6,525 to 3,909 between 2013/14 and 2019/20. This represents a decrease of approximately 40%.
- 6.7 Although the data for 2020/21 show an upturn in presentations, from 3,909 to 4,110 compared to the previous year, this figure remains significantly below the presentations in 2012/13.
- 6.8 The Commission understands from Synergia that the Gambling Helpline data show an even more dramatic decrease. Gambling Helpline responded to over 8,000 calls in 2004, whereas in 2016 (the latest data available to Synergia), it responded to around 2,000 calls.
- 6.9 Several submitters (GMANZ, Clubs NZ and NZCT) argued that, having regard to the decreases in presentations, there was no justification for an increase in the Ministry's funding requirements.
- 6.10 The decrease in presentations to problem gambling service providers and the Gambling Helpline represent an area of significant concern for the Commission, in part because it is widely recognised that those who present to treatment providers represent only a small proportion of the gamblers who actually experience harm.
- 6.11 Submitters also noted the growth in presentation numbers by "other" forms of gambling, which includes people presenting with problems due to online gambling.
- 6.12 The extent to which presentations are attributable to non-levied sectors can be seen from data on the Ministry's website which lists presentations attributable to all forms of gambling (including those not subject to the levy) for 2020/21. The data are below and show that there were 651 (79, 52 and 520) presentations from gambling which is not subject to the levy, in addition to the 4,111 (2,331, 407, 438, 422 and 513) presentations which are attributable to the four levied sectors.

Total unique clients by gambling mode – 2020/21

Gambling mode	2020/21
NCGM	2,331
NCGM %	49%
Casino Gaming Machines	407
Casino Gaming Machines %	8.5%
Casino Tables	438
Casino Tables %	9.2%
TAB NZ	422
TAB NZ %	8.9%
Lotto NZ	513
Lotto NZ %	10.8%
Housie	79
Housie %	1.7%
Cards	52
Cards %	1.1%
Other	520
Other %	10.9%
Total unique clients	4,762
Total %	100%

- 6.13 As online gambling is not a leviable sector, it does not contribute financially to the cost of the Ministry's integrated problem gambling strategy. Several attendees (GMANZ, NZCT, Clubs NZ, SKYCITY, PGF Group and Salvation Army/Oasis) submitted that it should now be brought within the statutory workings of the levy payment system so that online operators contribute.
- 6.14 The Department advised that Ministers are considering the issue of online gambling, noting that New Zealand is an outlier in the OECD in terms of not having a regulatory framework to oversee online gambling, but was unable to advise if or when there would be any legislative change in this area.
- 6.15 The Commission urges Ministers to complete their consideration of online gambling with a view to making online gambling a statutorily leviable sector which contributes to the cost of the Ministry's integrated problem gambling strategy. The above table indicates that the total unique clients for "other" (excluding housie and cards) is now higher than all of the other individual leviable modes except NCGMs, as follows:

Mode	Total
NCGM	2,331
Casino gambling machines	407
Casino tables	438
TAB NZ	422
Lotto NZ	513
Other	520

- 6.16 Data on the Ministry’s website indicate that the total unique client presentations for “other” has been increasing slowly since 2015/16, before increasing significantly from 2019/20, as follows:

Year	Total
2015/16	321
2016/17	335
2017/18	325
2018/19	343
2019/20	390
2020/21	520

- 6.17 While part of the significant increase in 2020/21 is probably attributable to the impact of COVID, with New Zealanders spending more time at home and switching to gambling online, the Commission is of the view that this upward trend is not an anomaly and likely to continue as life continues to move increasingly online.
- 6.18 The Commission suggests that, pending any legislative change to the levy formula, the Ministry and the Department investigate whether more refined data can be collected in relation to online gambling expenditure and presentations. At present, “online gambling” appears to be discussed generically, but there may be important distinctions between New Zealand gambling operators which also have an online presence (Lotto, TAB NZ and SKYCITY) and gambling operators that are based entirely offshore. This refined data may assist policy makers better understand which online operators may be generating harm for New Zealanders, which may in turn guide future legislative change involving the regulation of online gambling for New Zealand, or the inclusion of online gambling as a leviable sector.
- 6.19 The Commission also suggests that consideration be given to collecting more refining data in relation to the New Zealand gambling operators which provide both online and terrestrial gambling (Lotto, TAB NZ and SKYCITY). These data may show whether there are material harm differences between participation in the same form of gambling online or at a physical venue. For example, online sports betting with the TAB may be associated with materially different levels of harm to gamblers than from placing sports bets at a physical TAB venue.

7. COMPONENT C – MINISTRY OF HEALTH FUNDING REQUIREMENT

7.1 Component C is the Ministry’s “funding requirement” for the 2022-2025 levy period. The amount “must take into account the approximate cost to Government of the integrated problem gambling strategy”¹ in the levy period.

7.2 The Ministry’s funding requirement for the 2022-2025 levy period is \$76.123m. The annual sums estimated for each year of the three-year period are as follows:

	\$m (GST excl)
2022/23	24.374
2023/24	26.690
2024/25	25.059
Total (\$m)	76.123

7.3 The Ministry’s funding requirement represents an increase of \$15.784m on the funding requirement for the current period and an increase of \$8.749m on the funding requirement proposed in the Consultation document.

7.4 The table below sets out the funding requirement for the 2022-25 period in each of the Ministry’s five categories of spend:

Costs for categories of funding

Service	2022/23 (\$m)	2023/24 (\$m)	2024/25 (\$m)	Total (\$m)
Public health services	8.050	8.800	7.990	24.840
Clinical intervention and support services	10.571	11.571	12.071	34.213
Research and evaluation	1.765	2.393	1.500	5.658
New services and innovation	2.831	2.769	2.341	7.941
Ministry’s operating costs	1.157	1.157	1.157	3.471
Total	24.374	26.690	25.059	76.123

7.5 Compared with the budget for the current levy period, the Ministry has increased funding for public health, intervention services, new services and Ministry operating costs, and decreased funding for research and evaluation, as follows:

¹ Section 320(3)(c) of the Act

Proposed budget changes compared with current levy period

	Change (\$m)	Total (\$m)
Areas increased		Total
Public health services	+4.310	
Clinical intervention and support services	+8.970	
New services and innovation	+2.941	
Ministry operating costs	+0.534	+16.755
Areas decreased		
Research and evaluation	-0.971	-0.971
Total change		+15.784

7.6 The Proposal document set out the key areas of change as follows:

- strengthening public health and education services, including addressing stigma and for young people/rangatahi (\$0.650 million);
- dedicated funding for the Multi-venue exclusion administration service and database (\$0.800 million);
- building workforce capability and capacity through scholarships (\$0.489 million), and a Level 7 paper on gambling harm (\$0.200 million);
- increasing the FTE rate for gambling harm clinical intervention and support services to align with other Ministry-funded mental health and addiction clinical FTE rates (\$6.796 million);
- investing in digital/online services and supports (\$2.500 million) (included in the Interventions budget (helpline and web support three-year total of \$5.800 million));
- addressing the stigma and discrimination experienced by people who experience gambling harm (\$3.000 million);
- increasing Ministry operating costs to deliver an expanded work programme (\$3.741 million).

7.7 While the increase in the funding requirement generated some predictable opposition from members of the gambling industry that are subject to the levy, the industry's greatest concern related to the efficacy of the Ministry's projected spending, particularly when presentations to problem gambling services have been decreasing and the prevalence rate of problem gambling has been stable. SKYCITY asked for full transparency on both where the levy money is spent as well as the impact of the spending on the results of the strategy. ILT wanted to see the effective delivery of the Strategy, while Pub Charity submitted as follows:

I don't think anyone begrudges money. I think our concern is efficacy. And who's to say what the right number is from a budgetary perspective but simply reinvesting it into existing strategies that have failed to move the prevalence rate, I think is significantly flawed.

- 7.8 Conversely, problem gambling service providers stressed the difficulty in providing their services without adequate budget. DAPAANZ submitted that:

... we would like to stress the lack of adequate funding to develop our workforces is an ongoing and significant burden. Wherever possible, and by whatever means, further funding over and above that proposed should be directed to build this workforce and develop additional training ... to ensure the immediate and future needs of the sector are met.

- 7.9 Salvation Army/Oasis submitted that:

Overall, we support an increase in the levy. If the levy is not generally sufficient to cover the needs of our services, particularly in the realm of public health, health promotion, and social marketing, where we need to have far greater reach and capacity to be truly effective. There's no built-in funding increase to cover inflation and the rising cost of delivering our services. Considering the breadth of the strategy, which includes public health services, clinical intervention, research and evaluation, new services and innovation, and Ministry operating costs, we actually think 76 or so million over three years is very tight, and clearly not enough to achieve the stated outcomes. Historically we've seen this to be the case with other levy periods.

- 7.10 The Ministry's funding requirement was also the subject of discussion in 2019. At that time Synergia noted the following at page 9 of its 2019 report to the Commission:

The work programme itself remains largely unchanged, as do the Ministry's operating costs... Whilst we endorse the efforts made to deliver service improvements and manage expenditure, the amount requested has not changed over the last nine years. This represents, in real terms, a significant drop in funding over that period and raises questions of whether or not it is sufficient to deliver a strategy that delivers on the goals of the strategy.

- 7.11 The Ministry itself picked up on this point at page 61 of the Proposal document, stating that it:

... notes the Synergia 2019 report to the Gambling Commission ... [that] there is evidence to suggest that the levy funding should be increased to reflect the population growth and increased costs to providers.

- 7.12 On balance, the Commission endorses the Ministry's proposed funding requirement for 2022-25. In addition to representing a necessary increase after many years of managing expenditure, additional funding is required to address key changes, such as the initiatives to reduce stigma and discrimination (because stigma has been shown to be a barrier to accessing services, and the continuing decline in presentations (without a proportional decline in prevalence) gives rise to questions about the effectiveness of the current operational strategy). Similarly, as matters currently stand, the Commission supports the proposed increase in FTE rates to bring them into line with other mental health and addiction services.

- 7.13 The Commission also supports the development of workforce capability, given the need to tackle the equity issues, together with the increase in the Ministry's operating costs as they have remained static for the best part of a decade.
- 7.14 The additional investment in digital/online services is curious, not because they are not important, but because the existing services are being used by fewer and fewer people, and, until there is greater clarity why utilisation of the services is so poor, increasing expenditure on it does not seem sensible. Understanding why there is a long-term, continuing decline in presentations to problem gambling service providers, including the Gambling Helpline, needs to be understood before investing in new services.
- 7.15 Synergia recommends that the funding allocated to this area be re-allocated to developing this understanding. The Commission concurs.

Qualification to Commission's support

- 7.16 While the Commission supports the Ministry's strategy and funding requirement for 2022-25, the Commission attaches a significant caveat to this support in so far as it might be seen to represent an ongoing endorsement of a similar approach in future levy rounds.
- 7.17 In circumstances where the level of gambling expenditure continues to rise, presentations to problem gambling services continues to decline and the rate of problem gambling prevalence remains static, the Commission is of the view that it is time for consideration of a fresh approach by the Ministry. Within the next levy period, the Ministry should undertake a major strategic review of its problem gambling strategy and use that review to determine its future funding requirements. Rather than working from a historically determined budget envelope, the Ministry should undertake a full re-assessment of what should be required of a comprehensive public health strategy to address gambling harm, and base future costings upon the re-assessed requirements. The strategy funded by the levy should be based on sound data about both the incidence of gambling harm and what has been shown to be effective in reducing it.
- 7.18 Synergia raised this issue in its 2019 Report to the Commission, suggesting that the Ministry should undertake a thorough review during the current levy period. At page 10 of that Report, Synergia stated as follows:

Given that there are significant signs, outlined above, that the strategy is not reducing the harm generated by gambling, we suggest that the Ministry, in close collaboration with the industry and providers, incorporate into the next three-year cycle a thorough review of the sector, resulting in a much more detailed and fully costed strategy. That then is used to determine the levy during the next review period. Rather than accept a historically determined budget envelope, the Ministry should assess what the needs are and develop a comprehensive strategy based on those needs. The levy should be based on the level of gambling harm and a robust strategy designed to address it.

7.19 As the Ministry did not undertake the review suggested, Synergia has raised the matter again in its 2022 report to the Commission. At page 36, Synergia stated as follows:

While the overall levy is justified, our key issue is that funding needs to be based on need and the actions needed to address that need. It is clear that the current approach, while containing much that is of value, needs not just a refocus but a rethink. A rethink that is done in close collaboration with providers and the gambling industry.

Since our last report gambling expenditure continues to rise and presentations have decreased...

Given that expenditure continues to rise, presentations are decreasing, and the prevalence of gambling harm remains static, there is no rationale to reduce the levy.

In our last report, we recommended the Ministry undertake a major strategic review of the gambling strategy and use that review to determine funding requirements. The two macro trends continue, namely decreasing presentations and increasing expenditure. Our concern is that the Ministry does not know why this is occurring, nor does it know what strategies, other than the policies to reduce the number and location of class 4 machines, have had any impact upon these trends.

Our concern, is less on the overall level of expenditure than on the fact that it would be very difficult for the Ministry to answer very legitimate questions from the gambling industry, namely:

- What impact is the over \$20 million each year having on gambling harm?
- Which of the strategies that have been implemented over the last 10 years has had the most positive impact?
- If the Ministry cannot answer these questions, why not, and how can we be confident that the increased expenditure planned for the next three years is going to have any positive impact at all?

Extending the comments, we made in our 2019 report we suggest that the Ministry has the opportunity for a 'reset'. Factors supporting this are, the fact that gambling is now incorporated within the Mental Health and Addiction Unit, that there is a strong Government push to address issues of equity across all areas of health, and that Government is pushing radical new ways of addressing poor health amongst Māori and finally the health sector is undergoing a major process of reform which opens up significant opportunities to do things differently.

Central to this reset is the initiation of a long-term [beyond the three-year cycle] research programme that is focused on answering the questions noted above, what works, what doesn't and how will we know what makes a difference to the level of gambling harm. The next 12 months should involve the design and planning for this programme, and all funded research should fit within and contribute to this single, overall research programme. The reduction in the research budget in this cycle only emphasises our major concern. The funding is justified, given the trends we are seeing, but with the additional funding comes the responsibility to answer the big questions, so that those who provide the funding can clearly see the impact it is having.

7.20 The Commission fully supports Synergia's suggested "rethink" and the reasons for it. Like Synergia, the Commission supports the proposed funding requirement for 2022-2025, but with that additional funding comes additional responsibility.

7.21 By suggesting that the Ministry undertakes a major review, as outlined above, the Commission is not stating that the current approach has failed, rather it is stating that it is not clear what is working, and what is not, so it is now appropriate to step back and re-evaluate the matter entirely.

Categories of spend proposed by the Ministry

7.22 Each of the five categories of spend is considered below.

Public health

7.23 The Ministry is proposing to spend \$24.840 million on public health in the 2022-2025 period, an increase of \$4.31m on the current period.

7.24 As noted above, the Commission supports the proposed Public Health expenditure for 2022-25, including the additional expenditure identified following the Ministry's consultation.

Intervention services

7.25 The Ministry's budget for Intervention Services for the next levy period is \$34.213 million, up by \$8.97m from the \$25.243m allocated for the current period. The Commission supports the additional expenditure proposed, except in relation to the additional investment in digital/online services (which should be reallocated, as noted above).

Research and evaluation

7.26 The Ministry has allocated \$5.658 million for research for the 2022-25 period, which is a reduction of \$0.971m on the current levy period.

7.27 At page 10 of its report to the Commission, Synergia expresses concern about the reduced investment into Research and Evaluation because:

... without knowledge on what works and what doesn't work, it is difficult to meaningfully invest into service interventions ... Other than the impact of policies that have resulted in a decrease in the number of class 4 gambling venues, and a drop in expenditure on NCGMs, it is unclear what, over the last decade has had an impact on the levels of expenditure and presentations. We recommend a strong focus on monitoring and evaluation to capture what has worked well and what has not worked well over the last ten years.

This requires going beyond the evaluation of pilots, and is about developing long-term research programmes that will help to reveal the underlying causes of both the decrease in presentations ... and the increase in expenditure ...

A focus on evaluation research will also equip the Ministry with needed evidence on what is needed to develop a skilled workforce, that are equipped with the right tools and are culturally responsive to gambling harm.

To support the Ministry in delivering real change to gambling harm, we suggest a significant review of the approach to gambling research, and for the Ministry to invest in a long-term research programme to answer the questions of: "how will we know what works, what doesn't and how will we know if we have made a difference to the levels of gambling harm."

7.28 Synergia recommends that a strong focus on research and evaluation is needed to support an effective public health approach to gambling harm.

7.29 At page 10 of its report to the Commission, Synergia goes on to state that "...there is a major opportunity to 'reset' the research agenda and undertake a long-term research programme that looks beyond the three-year cycle." Synergia suggests that the next 12 months should involve the design and planning for this programme.

7.30 The Commission endorses Synergia's recommendations, including the suggestion for the Ministry to invest in a long-term research programme to answer the key questions identified.

New Services and innovation

7.31 The Ministry has budgeted \$7.941 million for new service, innovation pilots and investments, an increase of \$2.941 million, which the Commission supports.

Ministry's operating costs

7.32 The Ministry's proposed budget for this category of spend is \$3.471 million, an increase of \$0.534 million on the current levy period. The Commission considers this increase to be justifiable given the longstanding constraint in the Ministry's spending in this area, and the need to deliver new services.

8. COMPONENT D – FORECAST PLAYER EXPENDITURE

8.1 Component D provides the forecast player expenditure in a sector for the period during which the levy is payable. The Department undertakes the forecast and reports its results to the Ministry. At the Commission's Consultation meeting, the Department advised that it looked at data going back 10 years to 2012. The data were obtained from a number of sources, including the EMS system, financial statements and information held by the IRD.

8.2 The Department's forecasts of player expenditure for each of the four levied sectors is shown in the table below:

Forecast player expenditure by sector, 2022/23 to 2024/25

Forecast expenditure	NCGM	Casinos	TAB NZ	Lotto NZ
2022/2023 (\$m)	1051.51	618.74	359.98	707.00
2023/2024 (\$m)	1076.44	630.30	365.54	742.00
2024/2025 (\$m)	1105.91	641.87	371.11	762.00

8.3 The Department's rationale for its forecasts is set out in full at pages 66-68 of the Proposal. It is forecasting increased player expenditure in all four sectors.

8.4 At the Commission's meeting, Pub Charity and Christchurch Casino both argued that the Department forecasts were likely to be inaccurate, and high, because COVID-19 is likely to

continue to have a significant impact during the period in question. Pub Charity also predicted that COVID-19 would also lead people to gamble online rather than within a traditional (land-based) venue.

- 8.5 In addition to noting the likely ongoing effects of COVID-19, NZCT also commented on the effect that high inflation would have on the Class 4 sector.
- 8.6 The Department acknowledged the volatility that COVID had created for forecasting and went on to state that it took pre-COVID trends into account in order to provide “more realistic, stable forecasts.”
- 8.7 The Commission observes that the Department forecasts three consecutive years of record player expenditure for all four sectors.

9. COMPONENT R – ESTIMATED LEVY UNDER-RECOVERY OR OVER-RECOVERY

- 9.1 Component R is the estimated under-recovery or over-recovery of levy from a sector in the previous levy periods. Component R was introduced as a new component in the levy formula by the Gambling Amendment Act 2015.
- 9.2 Prior to the 2015 amendment, section 320(3)(c)(iii) of the Act provided that the calculation of Component C “must take into account ... any under-recovery or over-recovery in the previous levy period”. As a result, prior to 2015, an over-spend or under-spend by the Ministry in the previous levy period was reflected in an adjustment to Component C in the following period. The adjustment was accordingly global, rather than by sector, in nature and the resulting benefit or burden was shared in accordance with the effective sector proportions struck for the next levy period, not for the period in which the levy had been over or under paid.
- 9.3 The 2015 amendment removed section 320(3)(c)(iii) and replaced it with an amended formula containing R and a description of Component R, being “the estimated under-recovery or over-recovery of levy from a sector in previous levy periods”. It made a consistent change to section 318(1)(e) by adding the words “(gambling sector by gambling sector)” and changing “previous levy period” to “previous levy periods”.
- 9.4 The 2015 amendments were aimed at ensuring that shortfalls or surpluses in actual recoveries against actual expenditure would be attributed and applied to individual sectors, rather than globally, as was the case before.
- 9.5 In its 2019 report to Ministers, the Commission set out what it considered to be the correct approach to the assessment of Component R; namely that R requires hindsight reconsideration of the previous values of Components C and D. Consistent with this

approach, the Ministry calculated R for the forthcoming levy period by calculating its projected total spending for the period 2004-22. The total was \$314.789m. It then estimated that the levy payments received by the IRD will total \$319.911m by 30 June 2022. R is the difference between the expected levy payments for each sector and the actual amount received up to 30 June 2022.

- 9.6 Comparing the actual amounts recovered from (or paid by) each sector to the target recovery amount for each sector indicated that there would be over-recoveries from the NCGM and Lotto sectors, and under-recoveries from the casino and TAB sectors, as follows:

Sector	Net difference total \$m (GST excl)
NCGM	-3.758
Casinos	0.128
TAB NZ	0.060
Lotto NZ	-1.632
Total	-5.202

10. WEIGHTINGS

- 10.1 The Act requires the Ministry to apply a weighting between current player expenditure (A x W1) and presentations (B x W2) to help determine the cost (C) that each sector that is subject to the levy is required to pay in levy
- 10.2 The weighting, and its application to Components A and B, is fundamental to the formula and to determining the final share of levy payable by each of the four sectors. The selected weighting shifts the balance between sectors paying according to their relative gambling revenue (or player expenditure), or according to the relative number of people presenting for treatment attributable to each sector.
- 10.3 The only legislative guide to what they should be is the general requirement in section 319(2) – that the levy is “to recover the cost of developing, managing, and delivering the integrated problem gambling strategy.” Section 320(2) provides that W1 and W2 must total 1 but gives no guidance on the allocation of value to each.
- 10.4 Unlike previous levy rounds, the Ministry has not proposed a weighting for the 2022-25 levy period, instead stating, at page 71 of the Proposal document, that:

... any weighting from 30/70 to 5/95 would comply with the provisions in the Act. We have previously recommended a 30/70 weighting but have not yet concluded whether we will make a similar recommendation this time to inform Ministers’ decision-making. We are not aware of any factors that might suggest an alternative weighting should be considered this time but would be interested in the Gambling Commission’s views on the appropriate levy weighting that should apply for the next levy period.

10.5 At its Consultation meeting, a number of parties made submissions on the weightings that could be applied to components A and B. GMANZ, Clubs NZ and PGF Group supported a 30:70 weighting, while SKYCITY, Christchurch Casino, TAB NZ and Te Rangihaeata Oranga Trust supported a 10:90 weighting. Salvation Army/Oasis was the only submitter to support a 20:80 weighting.

10.6 When asked for comment on the weightings at the Consultation meeting, Synergia stated that it would likely be making the same recommendation for the forthcoming levy period as it did for the current period; namely a 30:70 weighting. Synergia ultimately did recommend a 30:70 weighting in its Report to the Commission. At page 38, Synergia stated:

Our comments on the macro trends of decreasing presentations and increasing expenditure support a continuation of the 30:70 weighting. Expenditure is a proxy for harm and we need to ensure that this is acknowledged in the weighting.

We do not recommend any changes, because of the arguments we put forward earlier. Until we know what is driving the continuing increase in gambling expenditure and until we know more about the harm that is being created by this expenditure, we cannot justify further changes.

10.7 As it did for the current levy period, the Commission recommends that a 30:70 weighting be adopted for the 2022-2025 levy period.

10.8 The Commission's 2019 Report to Ministers set out, in detail, the arguments put forward by the Ministry, Synergia and the Commission itself in favour of a 30:70 weighting at that time. It is worthwhile replicating some of that material in this Report because the arguments remain as valid for the forthcoming levy period as they were for the current one.

10.9 At paragraph 10.3 of its 2019 Report, the Commission noted the following arguments advanced by the Ministry in favour of a 30:70 weighting:

- (a) Harm is broadly defined. Presentations are limited to only a sub-set of gambling harm, at the acute end of the continuum. They are not representative of all those who suffer harm. There is no sound reason to think that the harm that each sector is associated with will be reflected in the presentations to intervention services from each sector.
- (b) The strategy is not limited to intervention services. It is required to promote public health and to encourage gambling research and evaluation (not limited to problem gambling). The share of presentations to intervention services attributable to a sector is not necessarily an appropriate basis for determining each sector's share of the public health, research and evaluation costs incurred.

10.10 At paragraph 10.6 of its 2019 Report, the Commission noted the following arguments advanced by Synergia in favour of a 30:70 weighting:

- A shift to a 5:95 weighting puts further emphasis on the acute end of gambling harm and runs counter to the Public Health approach required by the legislation.

- There has been a steady decline in both expenditure and presentations attributed to NCGMs and the weighting needs to reflect this shift.
- The NCGM sector accounts for a higher burden of gambling related harm, and the 30:70 weightings still give recognition to this.
- A weighting formula that increases the weight on expenditure is consistent with the public health approach. A 30:70 weighting is an appropriate step in the direction of looking beyond the acute end of the harm continuum and takes into account the wider determinants of harm.
- Expenditure on gambling, which is increasing, by those in highly deprived populations adds financial pressure to families already under stress. An increased weighting on expenditure would reflect this. This is of special significance, given that much of the harm resulting from this expenditure is experienced by children.
- A substantial part of the gambling levy investment (around 34%) is on public health strategies that build resilience in the broader population to problem gambling, support safe gambling environments and supportive communities; a larger expenditure component would better reflect this aspect of how funds generated through levy are distributed.
- Presentations do not of themselves fully capture the harms that are due to gambling; a greater weighting towards expenditure would reflect this.

10.11 At paragraph 10.8 of its 2019 Report, the Commission noted its own arguments in favour of a 30:70 weighting:

- (a) The potentially unrepresentative nature of presentations, which focus on high risk or problem gambling, is illustrated by the fact that estimates indicate that almost 50% of gambling harm is associated with low risk gambling. Concentration on the high risk category which produces presentations (to the exclusion of both low risk and medium risk gambling) means that more than half of the harm associated with gambling falls outside the ambit of the single harm indicator used (presentations).
- (b) Although presentations are heavily focused on high risk or problem gamblers, that category of gambling risk is not fully represented by the presentations that occur. Only a small (and declining) proportion of high risk gamblers receive interventions. It is not known whether those receiving interventions are representative of even the high risk or problem gambling category from which they are drawn.
- (c) Measurement of sector presentations has a subjective element absent from measurement of sector revenue or player expenditure. Accuracy of recording has improved since it was altered to allow recording of (and division between) more than one gambling sector per person receiving interventions but allocation of responsibility in such cases is arithmetical, rather than based on either intensity of treatment or attribution of harm actually suffered.
- (d) Presentations are recorded as a simple headcount of those receiving a sufficiently elevated intervention within the chosen 12 month period. The number reflects

neither the number of interventions or sessions, nor their cost nor the extent of the harm suffered.

- (e) The Component R amount for each sector is calculated by adjusting both estimated Ministry cost (Component C) and estimated player expenditure (Component D) using hindsight information at the end of the levy period but does not involve adjusting historical presentations prior to the levy period (Component B) using presentations during the period. Presentations have not remained constant over time, with NCGMs showing a steady decline and other sectors, especially TAB NZ and Lotto NZ showing an increase over time.
- (f) Presentations ascribed to a sector are not a sound proxy for harm caused by a sector. Unfairness from excessive reliance on an unsound proxy is mitigated by weighting to some degree away from presentations and towards revenue or player expenditure. Even if one wished to ensure that sectors were levied purely according to associated harm, the weighting should be not be so heavily directed to presentations that the final allocation does not reflect what is believed to be the actual association of the sector to the occurrence of harm.
- (g) Generally, heavy weighting to presentations is inconsistent with the wider public health requirements of the Strategy, including the promotion of resilience in the population and the undertaking of scientific research on gambling and evaluation generally which benefit all sectors.

Impact of weighting changes

- 10.12 Changing the weightings does not affect the total levy amount, but does impact upon the contributions by the individual sectors. The higher the weighting on expenditure, the higher the share of the levy will be paid by Lotto and TAB NZ, whereas the higher the weighting on presentations, the higher the share to be paid by the NCGM sector.
- 10.13 The share of levy to be paid by casinos is not sensitive to weighting changes because the casino sector's share of expenditure is relatively close to its share of presentations.
- 10.14 The result of the recommended weightings (30:70) compared to the other three weighting options is shown in the table below:

Levy rate of four leviable sectors

	NCGM	Casinos	TAB NZ	Lotto NZ
5:95	1.19	0.84	0.73	0.38
10:90	1.17	0.84	0.74	0.41
20:80	1.12	0.85	0.77	0.46
30:70	1.07	0.86	0.80	0.52

- 10.15 The cost to each of the four leviable sectors of the four weighting options is shown in the table below:

Dollar cost to four leviable sectors of each levy rate

	NCGM	Casinos	TAB NZ	Lotto NZ
5:95	\$38.483m	\$15.884m	\$8.005m	\$8.402m
10:90	\$37.836m	\$15.884m	\$8.115m	\$9.065m
20:80	\$36.219m	\$16.073m	\$8.444m	\$10.171m
30:70	\$34.602m	\$16.262m	\$8.773m	\$11.497m

11. RECOMMENDATIONS

- 11.1 The Commission is required by the Act to provide recommendations on the total annual amount of the problem gambling levy for the relevant three-year period and the levy weight for each gambling sector. The Commission recommends that the total amount for 2022-25 be **\$76.123m**. The Commission recommends a **30:70** weighting with the levy rate for each of the four sectors subject to the levy being as set out in paragraph 10.14 above.

12. OTHER

- 12.1 Jarrod True, representing Clubs NZ and GMANZ, was critical of the Commission's decision to hold its Consultation meeting online and expressed dissatisfaction about the adequacy of the Commission's consultation on the Ministry's proposed Strategy. His concern stemmed from the Commission's letter of invitation to the Consultation meeting which included the following:

Please note that although the Commission's meeting includes the Ministry's strategy, this has already been the subject of consultation. The Commission, therefore, expects that this round of consultation will be focused on the Commission's reporting obligations, which relate to the total amount of the problem gambling levy and the setting of levy rates.

- 12.2 At the consultation meeting, Mr True submitted as follows:

I think we need an actual proper consultation in relation to the strategy, rather than a brief Zoom meeting and then rushing off in 10 working days to make a report back to the Minister.

- 12.3 Mr True proposed that the Commission adjourn the Consultation meeting and appoint a mediator or facilitator in order to discuss the Strategy in greater detail.
- 12.4 As noted in the Background section of this Report, the Commission's Consultation meeting was held online due to the presence of Covid-19 in the community, with the Omicron variant of COVID having just emerged in New Zealand. The Commission wanted people to be

able to participate in its consultation process safely and without unnecessary delay, as it is aware that new regulations must be struck in time to take effect by 1 July 2022.

12.5 The Strategy development requires a two-step consultation process with the Ministry having responsibility for the first stage of the process, pursuant to section 318(1)(h) of the Act, and the Commission having responsibility for the second stage pursuant to section 318(3) of the Act.

12.6 Section 318(3)-(5) provide as follows:

- (3) On receipt of the proposed integrated problem gambling strategy and the proposed levy rates, the Gambling Commission, or its expert representative, must convene a meeting to consult on the strategy and the rates.
- (4) ...
- (5) Within 10 working days of the meeting convened under subsection (3), the Gambling Commission must submit a report to the responsible Ministers making recommendations on the total annual amount of the problem gambling levy for the relevant 3-year period and the levy rate for each gambling sector or each gambling operator or each class of gambling operator that is subject to the levy.

12.7 While the Act requires the Commission to consult on the proposed strategy and levy rates, it is expressly required to make recommendations on the total amount of the problem gambling levy for the relevant 3-year period and the levy rate for each gambling sector that is subject to the levy. The process followed by the Commission, both in 2022 and in previous consultations, included both elements. Participants in the Commission's Consultation were free to make submissions on any aspect of the proposed Strategy as well as on the calculation of rates (and indeed, on any matter of relevance to the problem gambling levy). Those submissions and comments have been included in this report.

12.8 In her introductory comments, the Chief Gambling Commissioner made it clear to attendees that the Commission's meeting supplements the consultation already undertaken by the Ministry and that the Commission's Report to Ministers is not limited to the total annual amount of the levy and the sector levy rates.

12.9 The Commission declined Mr True's invitation to adjourn the Consultation meeting in order to appoint a facilitator or mediator to assist with amending the Strategy. While recognising that section 318(6) of the Act authorises the Commission to engage experts, including for facilitation or mediation, the Commission was not persuaded that it would benefit from delaying the consultation process in order to engage another expert, in addition to its prior engagement of Synergia, pursuant to section 318(6) of the Act. In this (and the previous 3 levy rounds), the Commission has engaged Synergia to provide independent advice and its report to the Commission is annexed to this document. The Commission is satisfied,

from its experience of running processes of consultation in the past, that nothing further was required in 2022.

13. CONCLUSION

13.1 The Commission thanks the Ministers for this opportunity to review and comment on the proposed levy and rates and is available to answer any questions that they may have in relation to this Report.



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