



ACT
Government

COMMUNITY CONTRIBUTION SCHEME

Guidelines

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COMMUNITY CONTRIBUTION SCHEME – GUIDELINES

BACKGROUND

The community contributions scheme ensures that a portion of revenue from gaming machines is provided back into the ACT community to assist in a number of ways. The scheme is established by Part 12 of the *Gaming Machine Act 2004* (the **Act**). Part 9 of the *Gaming Machine Regulation 2004* (the **Regulation**) provides further rules about what can and cannot be claimed as a community purpose contribution and how these claims must be worked out.

The ACT Government has reformed the community contributions scheme to maximise the benefit of the scheme to the broader community. These changes are intended to increase the funds available to the broader community, including providing more guidance to clubs about appropriate distribution and increasing transparency about how those funds are allocated.

PURPOSE OF THIS GUIDE

As part of measures to improve transparency about community purpose contributions, all clubs in the ACT that receive gaming machine revenue must publicly report on the community purpose contributions they have made each year, as evidence of whether a club has made their required level of community purpose contributions.

These guidelines have been developed to assist clubs, their financial officers and advisers and their auditors in understanding the requirements of the Act and Regulation, and to ensure that reporting of clubs' community purpose contributions is undertaken in a consistent manner and meets the minimum standards expected by the Government.

A list of frequently asked questions is included at [Attachment A](#) for information.

For further clarification on what can be claimed as a community purpose contribution and on clubs' obligations please contact:

Address: ACT Gambling & Racing Commission
Access Canberra
GPO Box 158
CANBERRA ACT 2601

Email: complianceandinvestigations@act.gov.au

SUMMARY OF KEY ELEMENTS OF THE SCHEME

Clubs are responsible for directly contributing 8 per cent of their net gaming machine revenue to purposes that support the community.

In addition, clubs are required to provide 0.8 per cent of their net gaming machine revenue to the following funds:

- 0.4 per cent to the Gambling Harm Prevention and Mitigation Fund (previously known as the Problem Gambling Assistance Fund) to support gambling harm prevention and mitigation; and
- 0.4 per cent to the Chief Minister's Charitable Fund to support community charitable causes.

Non-club licensees are required to pay 0.8 per cent of their gaming machine revenue (after gaming machine tax) to these two funds to support gambling harm prevention and mitigation, and community charitable causes.

The requirements for clubs to report on community purpose contributions provides the community with access to information about where and how the community is benefitting from the scheme. Clubs' annual reports or certified income and expenditure statements must be published each year to ensure that information on community purpose contributions made is supported by context about club operations and revenues.

To ensure that community groups and individuals know about the funding available, clubs must engage with the community and consider community needs in deciding where community purpose contributions should be directed. Details on the engagement undertaken must be included within a club's annual report or certified income and expenditure statements.

The Regulation sets out details about what clubs can and cannot count towards their community purpose contributions and how to work out claims. The scheme supports investment in women's sport at all levels (including professional) and through an incentive where clubs can claim \$4 for each \$3 in contributions made towards women's sport.

Large clubs and large club groups are required to give at least 5 per cent of their net gaming machine revenue as monetary contributions (with the remaining 3 per cent of required contributions being in-kind contributions). The minimum monetary contribution amount has been reduced as a transitional measure, and it will return to 6 per cent of their net gaming machine revenue for club reporting years that cease after 30 June 2021. Where a club can demonstrate they have a long-standing in-kind arrangement in place, this can be reduced to 4 per cent of net gaming machine revenue being monetary and 4 per cent in-kind.

To ensure that clubs meet their community contributions obligations, a shortfall tax applies to clubs who do not make sufficient community contributions. Where there is a shortfall in contributions made, clubs must pay 100 per cent of that amount in tax. The shortfall tax rate has been decreased from 150 per cent as a transitional measure and will return to 150 per cent for club reporting years that cease after 30 June 2021.

Attachment B provides a comparison of the contributions eligible to be claimed under the new and old schemes, and which contributions are no longer eligible to be claimed.

Community Contributions Scheme

MINIMUM CONTRIBUTION RATE

Clubs are responsible for directly contributing to the community, within defined categories, a minimum of 8 per cent of their net gaming machine revenue (**NGMR**) in each reporting year. Funding directed in this manner is known as community purpose contributions. The minimum community purpose contribution of 8 per cent of NGMR may be made across all venues operated under a single gaming machine licence, rather than on a per venue basis.

NGMR is gross gaming machine revenue less:

- any amount of gaming machine tax payable on that revenue; and
- 24 per cent of the gross gaming machine revenue.

In addition to the minimum 8 per cent of NGMR that clubs are responsible for directly contributing to the community, an additional 0.8 per cent of net revenue for each venue that operates gaming machines is provided to support the Canberra community, as follows:

- 0.4 per cent to gambling harm prevention and mitigation through the Gambling Harm Prevention and Mitigation Fund; and
- 0.4 per cent to community charitable causes through the Chief Minister's Charitable Fund.

Note that unlike community purpose contributions, these additional contributions are made on a per venue basis (i.e. 0.4 per cent of the NGMR for each venue is payable to each of the two Funds).

These guidelines do not provide further information on the additional 0.8 per cent NGMR contributions. These contributions are collected each month or quarter by the ACT Gambling and Racing Commission (the **Commission**) as part of a club's normal tax return process.

Shortfall Tax

Any club that does not meet the mandatory minimum contribution must pay shortfall tax at the rate of 100 per cent of the community contributions shortfall. This includes where a large club or large club group does not meet its minimum monetary contribution rate.

The shortfall tax rate has been reduced as a transitional measure, and it will return to 150 per cent for club reporting years that cease after 30 June 2021. For example, for a club with reporting year that ends on 30 September 2021, a shortfall of \$1,000 will result in a shortfall tax payment of \$1,500.

The shortfall tax payment is transferred to the Gambling Harm Prevention and Mitigation Fund.

Non-Clubs

Non-clubs that operate gaming machines are required to pay 0.8 per cent of their gaming revenue (after gaming machine tax) to gambling harm prevention and mitigation and to community charitable causes. Non-clubs are not required to make or report on community purpose contributions. Instead, non-clubs are subject to a higher rate of gaming machine tax than clubs since they operate on a for-profit basis.

COMMUNITY PURPOSE CONTRIBUTIONS

Objectives

Clubs must make community purpose contributions that assist the community, or a part of the community, in one or more of the following ways:

- supporting a charitable cause;
- providing recreation opportunities;
- providing education opportunities;
- improving social inclusion, equality or cultural diversity;
- benefitting or increasing participation in community sport;
- preventing or mitigating harm caused by drug or alcohol misuse or dependence;
- benefitting or increasing participation in women's sport conducted in the ACT, or with participants mainly based in the ACT;
- providing relief or assistance to people living in Australia following a natural disaster;
- providing relief or assistance to the community in relation to a COVID-19 emergency¹; or
- a purpose prescribed by regulation.

Definition of 'community'

Community for the purpose of the scheme is defined as people living in the ACT or the surrounding region, or people living somewhere else in Australia who need relief or assistance because of a natural disaster. The surrounding region includes areas of NSW such as the City of Queanbeyan, and towns including Yass, Murrumbateman, Bungendore, Sutton, Gunning, Gundaroo, Binalong and Bredbo.

The community is comprised of individuals and groups (including community groups, associations and not-for-profit organisations):

- from diverse cultural, language and religious backgrounds;
- of different gender identity;
- of different sexual orientation;
- with disability;
- of all ages, including children and young people; and
- in different social, economic and cultural circumstances.

The Minister can also declare people living in an area to be part of the community for the purpose of the scheme.

Definition of 'COVID-19 emergency'²

A COVID-19 emergency means a state of emergency declared under the *Emergencies Act 2004* because of the coronavirus disease 2019 (COVID-19), or an emergency declared under the *Public Health Act 1997* because of COVID-19 (including any extension or further extension of the emergency declaration).

¹ This applies to contributions made after 23 March 2020 up to and including 23 March 2021.

² As above.

Professional Sport

Payments, benefits and in-kind support for professional sportsmen and professional sportsmen's teams are not eligible as community purpose contributions.

Definition of 'professional sportsman'

A professional sportsman is a male (of any age) who receives gain from playing sport, other than the reimbursement of reasonable expenses for their participation in the sport. This is regardless of whether the person receives the gain from the club or another source.

Gain from playing sport includes:

- wages, income or other benefits to compensate for time spent playing or training for sport or participating in related activities;
- payments for, or provision of, accommodation or personal transport; and
- payments for general living costs.

Gain from playing sport does not include:

- payments for reasonable expenses incurred from participating in sport.

A professional sportsman does not include a member of a team for which the Minister has determined contributions may be claimed.

The definition of a professional sportsman used by another Government agency (e.g. the Australian Tax Office) does not determine the eligibility of a contribution under the scheme. Clubs must consider the definition provided in the Regulation when considering whether payments, benefits or in-kind support is eligible to be claimed as a community purpose contribution.

Meaning of 'majority' of team

A men's professional sports team is one in which the majority of the team's members (i.e. more than 50 per cent of players) meet the definition of a professional sportsman. The 'majority' is worked out based on each team at a sporting club rather than considering all players at the sporting club.

Where the club has professional sportsmen that play at different grades of competition, the club must consider whether during the season the majority of the players that play for each team meet the definition of a professional sportsman (i.e. receive payments or benefits in excess of reasonable expenses). If more than 50 per cent of a team's players meet that definition, the team is a professional sports team.

Example – 'Majority' of professional players in a men's sports team

A club has 120 players that compete every weekend from grades 1 to 6. Despite the fact that any member of the club could be chosen for first grade, during the season a total of 35 players play for the men's first-grade team.

In considering whether the team is a men's professional sports team, the club must work out whether the majority of the 35 players (i.e. 18 or more) receive payments or benefits in excess of reasonable expenses.

Calculating reasonable expenses

Reasonable expenses include payments and reimbursement for expenses associated with sporting equipment, registration fees, jerseys, attendance at training camps, travel costs including payment of hotel or other accommodation costs, taxis and flights for away games, or similar but does not include payments towards wages, prizes or other individual benefits made in place of wages such as rent, living costs, private cars, etc. that exceed the person's reasonable expenses for participating in the sport.

Given each sport has unique costs associated with participation, a club must self-assess the value of reasonable expenses required to participate (in consultation with their auditor's or certifier's requirements). The club's reporting must make it clear how the assessment of reasonable expenses was worked out.

Recognising the administrative resources associated with acquitting expenses for an individual, a club may use reasonable average costs of participation when calculating the reasonable expenses that may be paid across a team. Alternatively, a club may require each reasonable expense to be claimed by a player for individual reimbursement and calculated on an individual basis. In either case, records must be kept to show how the claim was worked out.

Example – Calculating and reporting on reasonable expenses

A club pays a sports organisation a grant of \$10,000. The organisation has advised the club that the funding will not be directed towards professional sportsmen and has a signed a declaration to that effect. In submitting their application for funding, the organisation sets out the purpose for which funding is sought as follows.

East Canberra FC seek funding of \$10,000 for the 2019-20 season for the provision of:

- ***Sports equipment – new balls, goals and training equipment)***
- ***Uniforms***
- ***Two coaches' wages***
- ***In-kind sportsground hire for season***
- ***Player insurance costs***
- ***Five trainers' wages***

The club agrees to provide the funding and self-assesses that the contributions paid towards the team does not exceed the average reasonable expenses for a person to take part in the sport. The club may claim \$10,000 as a community purpose contribution.

Allowable men's professional sport claims

In limited circumstances, costs relating to a professional sportsman or men's professional sports team may be allowed to be claimed as a community purpose contribution. The Minister may determine that the contributions are allowable if satisfied that:

- the contribution will support participation in community sport;
- the team or person's viability to participate in the sport would be adversely affected without the determination; and
- it is in the public interest that the contribution be made as a community purpose contribution.

A determination is made for a set period and is subject to any conditions determined by the Minister.

A determination operates on a contribution that would otherwise not be allowed because it relates to men's professional sport. The determination does not permit a contribution to be claimed that would otherwise be ineligible to be claimed through the scheme. For example, expenditure on gambling activities (other than the provision of external raffle prizes), general living costs for individuals or airline lounge memberships are not community purpose contributions.

Any determination made is a notifiable instrument signed by the Minister and will be made publicly available on the ACT Legislation Register.

A club seeking a determination of allowable community purpose contributions must write to the Minister and provide evidence against each of the criteria outlined above. The Minister's power can only be exercised where they are satisfied that all three criteria have been met.

Women's Sport

All contributions that benefit or increase participation in women's sport conducted in the ACT, or with participants mainly based in the ACT, are eligible to be claimed as a community purpose contribution.

There is an ongoing incentive in the scheme to encourage clubs to increase their community purpose contributions to women's sport. This incentive allows a club to claim \$4 for every \$3 spent on eligible contributions. Where a contribution is made to an organisation that includes both women's and men's sports teams, a club's report must clearly identify the value and proportion of the community purpose contribution that has been made for the purpose of both women's and men's sport. Only the proportion of contributions towards women's sport is eligible for the incentive, and the amount that can be claimed towards men's sport must not include contributions towards men's professional sport (unless a determination is in place, as outlined above).

Where a contribution is made to a mixed gender sports team, the \$4 for \$3 incentive must only be claimed in proportion to the number of members of the team that are women.

Example – Calculating women's sport

A club contributes \$10,000 to a women's sporting team. An MOU is signed with the club that stipulates that the funding will only be used for women's sport. The club may claim \$13,333.33 in total as a community purpose contribution. The community purpose contributions reporting for the club must reflect the actual amount of funds expended by the club and the amount claimed after the \$4 for \$3 incentive is applied.

Claiming Facilities Maintenance

Sports facilities

The proportion of maintenance costs for sports facilities that can be claimed as a community purpose contribution depends on whether the facility has open community access. Where a club provides a facility that has open community access, the club may be able to claim more of the maintenance costs of the facility, and the club will not have to account for the hours the facility is used.

Note also that under the *Gaming Machine Act 2004*, claims for capital payments or depreciation are allowed for assets with open community access in the ACT (i.e. either a capital payment or

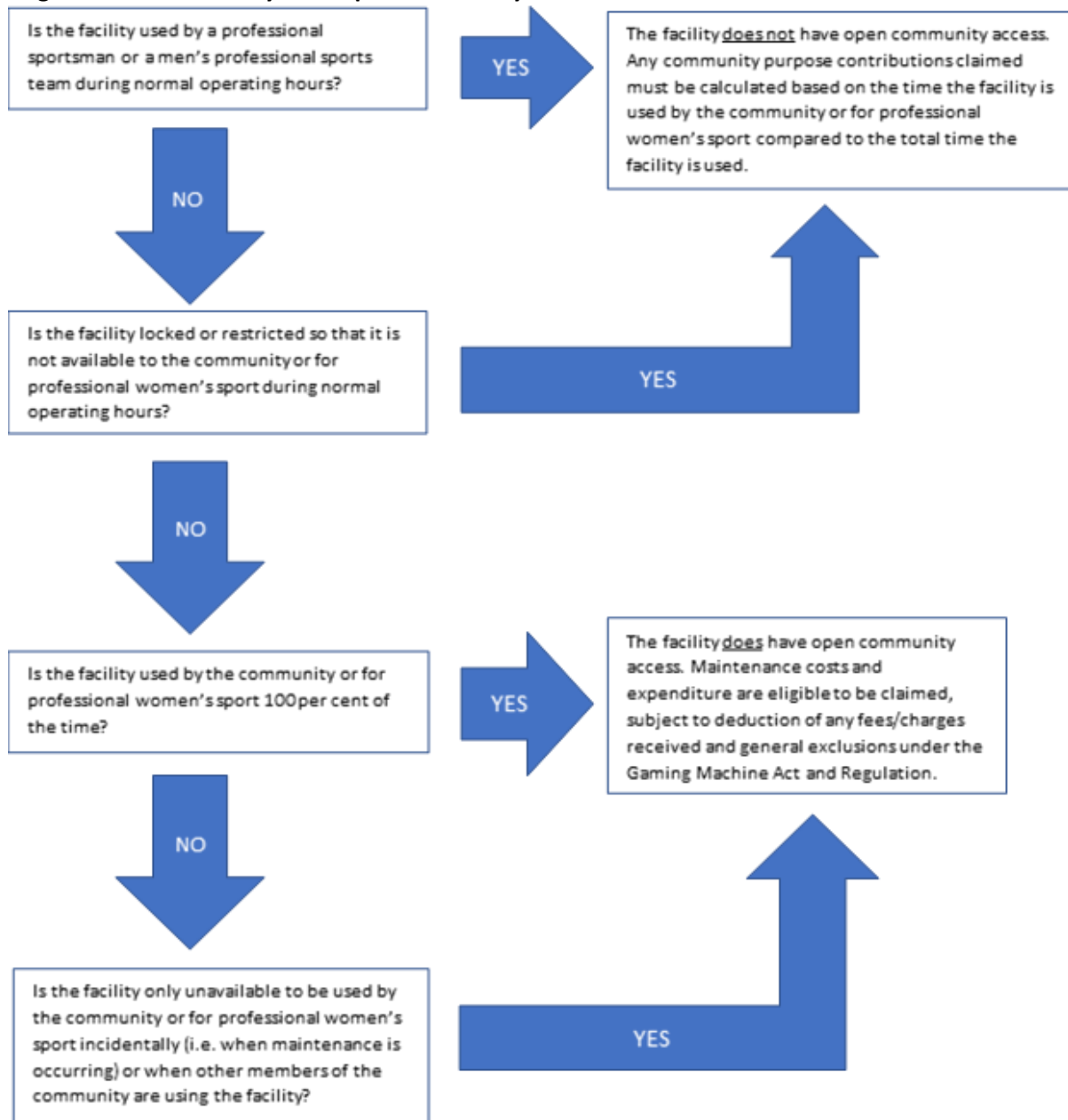
depreciation can be claimed as a community purpose contribution for each ACT asset with open community access, but not both).

‘Open community access’ for a facility, means the facility can be accessed or booked by any member of the community during operating hours apart from when the facility is—

- incidentally unavailable; or
- being actively used by others in the community.

Some facilities may have around-the-clock open community access, such as an unenclosed oval that anyone in the community can walk on whenever it is not being actively used for sport. In other cases, the facility may have operating hours, during which it can be accessed or booked by anyone in the community, such as a tennis court.

Diagram 1: Does a facility have open community access?



Where sporting facilities have open community access, all maintenance costs may be claimed, less any fees or charges for use collected by the club.

Example – Claiming costs for golf club with open community access

A club owns and maintains a golf course which is available to members, their guests and the general public for use throughout the year. The course does not hold professional tournaments throughout the year. The course costs a total of \$2,500,000 a year to maintain including expenses such as water, fertiliser, watering infrastructure, upgrades to golf course sand bunkers, staff costs for maintenance of course and lawn mowers which are used solely to maintain the course. The club receives green fees of \$1,500,000 a year from members of the community using the course and a one-off Government grant of \$100,000 for the club to upgrade the course watering system.

The club may claim a total of \$900,000 as a community purpose contribution.

For facilities that do not have open community access but are available at times for community sport and women's sport (e.g. an enclosed oval made available for some periods during the week), maintenance costs must be calculated as a proportion of the amount of time the facility is used by non-professional and women's professional sport compared to its use by men's professional sport.

Maintenance costs for facilities that are used only for men's professional sport are not claimable.

It is important to note that the calculation is based on the hours the facility is actually used, not hours that the facility is available for use.

Example – Proportion of maintenance costs claimable

A club maintains an oval that does not have open community access. If the oval is used during the year by junior sports teams 50 per cent of the time, and a men's professional sports team for the other 50 per cent of the time, then only half the maintenance costs would be claimable. The club would also need to deduct any fees or charges that were collected by the club from the teams.

Where clubs have chosen to limit access to the sports facility, they will need to record and account for usage. Clubs are not required to comply with this requirement if there is open community access to the facility.

The value of any maintenance claimed as a community purpose contribution for a reporting year must be worked out as follows:

$$\frac{\text{community time}}{\text{total time}} \times (\text{total cost} - \text{total income})$$

community time means the number of hours the sports facility is used during the reporting year—

- by a recipient; or
- for an event or activity organised by a recipient; but
- does not include the number of hours the sports facility is used during the reporting year by a professional sportsman or a men's professional sports team.

total cost means the total amount spent by the club on maintaining the sports facility during the

reporting year.

total income means the total amount of income that the club makes from, or receives for, the sports facility during the reporting year

- for example - fees or charges that the club collects for the use of the sports facility or grants the club receives for operating or maintaining the sports facility.

total time means the total number of hours the sports facility is used during the reporting year, including by a professional sportsman or men's professional sports team.

recipient, of a community purpose contribution:

- means the entity to which the contribution is made; and
- if a group within the entity receives a discrete portion of the contribution—includes the group; and
- if an office or individual who is a member of the entity receives a discrete portion of the contribution—includes the office or individual.

Example – Proportion of maintenance costs claimable

A club maintains a bowling green that does not have open community access. The facility is used for a total of 1,000 hours per annum. The facility is used by the community and sportswomen for training, playing and events for a total of 900 hours per annum and by a men's professional sports team for 100 hours per annum. The club contributes \$120,000 towards the oval's maintenance and receives a \$10,000 grant from the ACT Government towards the cost of watering the facility, \$5,000 in entrance fees from the community watching professional sport teams play and \$5,000 in green fees. In working out the claimable maintenance, the club must deduct the \$20,000 it receives from third parties and then apportion its claim in accordance with the amount of time the facility is used by non-professional and women's professional sport compared to its use by men's professional sport as follows:

$$\begin{aligned} & (900/1,000) * (\$120,000 - \$20,000) \\ & = (0.90) * (\$100,000) \\ & = \$90,000 \end{aligned}$$

In this case \$90,000 would be claimable as a community purpose contribution.

Water charges

Where a club's facility meets the tests above for claiming maintenance costs, water usage/consumption charges (not supply charges) are able to be claimed as part of the costs of maintaining the facility.

For sports facilities with limited access, the charges must be apportioned in line with the community time formula above.

Staff wages, maintenance equipment and consumables

Where a club's facility meets the tests above for claiming maintenance costs, staff wages related to the maintenance of the facility, maintenance equipment and other maintenance consumables (e.g. fertiliser) are able to be claimed as part of the costs of maintaining the facility.

For sports facilities with limited access, the charges must be apportioned in line with the community time formula above.

As expenditure related to gambling is not a community purpose contribution, clubs must ensure that maintenance of gambling facilities, including maintenance of gaming machines, is not included in any claims for sports facility maintenance.

Women's sport

Where a sports facility is used for women's sport, a club can claim \$4 for every \$3 in maintenance costs associated with women's sport, using the formula above to work out the time the facility was used for women's sport as a proportion of the total time the facility was used during the year.

Treatment of visiting professional teams

In some cases, a club may not know whether a team or individual receiving funding from the club as a community purpose contribution is playing against a non-professional or professional sports team. It is not considered reasonable that the professional status of each non-recipient individual or team be interrogated on a week to week basis.

However, a club must be aware of the status of each team or individual receiving funding from the club as a community purpose contribution. To achieve this, it is suggested that where a significant amount of funding is provided, a club's funding contract, memorandum of understanding, sponsorship agreement or equivalent include a declaration from the recipient that they are not a men's professional sports team or a professional sportsman as defined in the Regulation. For smaller amounts of funding it may be appropriate for the recipient organisation to declare their status in writing (e.g. by email) to the funding club. The extent of documentation required is a matter for the club to consider in consultation with their auditor (or certifier of the written statement for clubs with GGMR below \$200,000), noting that the level of assurance provided must be equivalent to that provided for the club's financial statements.

Where it is clear that an event is between two professional teams, claims for these events are ineligible. For example, where the club generates revenue from hosting a pre-season match between two professional teams from a national competition.

Government sportsgrounds

Sportsground maintenance is eligible to be claimed as a community contribution (less any contribution associated with men's professional sport and income received).

Government sportsground hiring fees

Government sportsground hiring fees are not eligible to be claimed as a community purpose contribution.

Recreation facilities

There is a long-standing prohibition on claiming the upkeep of club venue facilities as a community contribution.

Clubs are permitted to claim maintenance for recreation facilities where the facility:

- has open community access (i.e. access is not limited to club members and guests); and
- is a dedicated facility or space built or provided solely for that recreational purpose (e.g. an art studio with a kiln).

A recreation facility for the purpose of the scheme does not include part of a club's premises that is ordinarily used by the club or its patrons, or facilities that are used for sport (which are claimed as community sport contributions). It does include facilities that support an activity undertaken for enjoyment (that is not work) such as music or art.

Shared maintenance costs

In some instances, a recreation facility is located within a building that houses both the recreation facility and a club's business operations (e.g. the club venue or commercial facilities). Where shared maintenance costs arise (e.g. a new roof for the building or ducted heating that services both areas of the building), any maintenance costs must only be claimed for the portion of the building that provides the dedicated community recreation facility.

Example – Working out shared maintenance costs

A club is repairing the roof of a building which houses the club venue, a dedicated community recreation facility and two businesses that rent office space from the club at the commercial market rate. The total cost of the roof maintenance is \$1,000. The recreation facility is 10% of the gross floor area for the building. \$100 of the roof maintenance is claimable as a community purpose contribution.

As expenditure related to gambling is not a community purpose contribution, clubs must ensure that maintenance of gambling facilities, including maintenance of gaming machines, is not included in any claim for recreation facility maintenance.

Charging Fees for Activities and Events

Where an activity or event is held at a club or a facility owned by the club, and the club or their associated organisation charges a fee in relation to the activity or event, this amount must be deducted from the community purpose contribution claim.

In order to claim a community purpose contribution, the club must keep a clear record of the amount received. Where a clear written record is not kept, the club is not entitled to claim any amount for the event or activity.

Individual Benefits

Payments and benefits for staff

Payments to coaches, trainers, umpires and sports administrators are eligible to be claimed, to the extent that they do not relate to men's professional sport. Where a staff member's time is split between two roles (e.g. a part time coach of both a men's professional and junior team), a club may only claim the proportion of time that does not relate to a men's professional sports team.

Maintenance costs for sports facilities, including staff wages for maintenance staff, can be claimed in line with the time the facility was used by the community. Staff wages for administration staff to coordinate and arrange community or women's sport or facilities maintenance can be claimed, but

only to the extent the administration work relates to a contribution that is allowable, and only in line with the time the facility was used for these purposes. Payments or costs must not relate to men's professional sport or be prohibited elsewhere.

The Regulation allows for remuneration of club or recipient employees (including contractors) to be claimed, where it directly relates to the maintenance of sporting facilities. For example, where a staff member's time is split between two roles, being a greenkeeper and hospitality position, a club must only claim the proportion of time that relates to the role of greenkeeper.

Where a staff member has a number of positions or undertakes a range of duties, records must be kept to show how the club has worked out the apportioning of time.

Health services

Claims for health services that are related to the recipient's participation in sport in the community can be claimed, except where they relate to men's professional sport.

Where a contribution towards a health service is claimed, a club must only claim out of pocket expenses. When calculating the amount claimable, a club is required to discount any support, rebates or reimbursements received such as Government rebates (e.g. Medicare), private health insurance refunds, Government grants and/or sport governing body payments.

Example – Claims for health services

A non-professional player receives physiotherapy services related to their participation in sport that cost a total of \$500. The player claims \$100 through a Medicare rebate and \$100 through private insurance. The club may only claim \$300 (the out of pocket cost to the club) as a community purpose contribution.

Broader community health programs are able to be claimed where they relate to a community purpose (e.g. a mental health seminar supporting social inclusion).

Individual entitlements

Remuneration, allowances or other entitlements such as travel expenses including fares, accommodation or vehicles and vehicle hire must not be claimed for an employee of the club or recipient, unless otherwise allowable as a community purpose contribution (for example, those payments allowable to coaches, trainers, umpires, sports administrators and facilities maintenance staff outlined above).

Example – Individual entitlements

A junior ACT athlete has been selected to participate in an interstate competition and approaches a club for assistance with funding their airfares and accommodation for the event. The club provides \$2,000 in cash, which can be claimed as a community purpose contribution.

Airline lounge membership costs cannot be claimed under any circumstances.

Technology, food/drink and general living costs for individuals

The following cannot be claimed as a community purpose contribution when paid for, or given to, an individual:

- phones, tablets, computers and other technology;
- food and drinks; and
- general living costs such as rent, rates, electricity, water, gas and phone charges.

A club may claim contributions towards these items when provided to a group for a community purpose. For example, the provision of a computer to assist a sporting club in organising weekend sport fixtures, or the payment of a gas bill for a charitable organisation, would be community purpose contributions.

Claims During a COVID-19 Emergency

Community purpose – COVID-19 emergency

The Act provides for community purpose contributions to be made for the purpose of providing relief or assistance to the community in relation to a COVID-19 emergency. A COVID-19 emergency is defined on page 7 of these Guidelines.

In order to be claimable, COVID-19 emergency-related community purpose contributions must be made to recipients in the ACT or surrounding region. This is different from contributions made following a natural disaster, which can be claimed where they provide relief or assistance to people living elsewhere in Australia as well as to people in the ACT or surrounding region.

Generally, contributions made for the purpose of providing COVID-19 emergency relief or assistance to the community must comply with other requirements and exclusions set out in the Act and Regulation, unless the contribution is made in line with an ‘emergency community purpose contribution declaration’, as set out below.

Emergency community purpose contribution declaration

Under temporary COVID-19 emergency changes to the Act, the Attorney-General may declare things to be emergency community purpose contributions, where a COVID-19 emergency has been declared. This is called an ‘emergency community purpose contribution declaration’. The Attorney-General may declare that a contribution by a club is a community purpose contribution, despite anything else in the Act or Regulation.

An emergency community purpose contribution declaration is made through a disallowable instrument and published on the ACT Legislation Register.

Payments to club staff

The Attorney-General has made an emergency community purpose contribution declaration for certain payments to club staff (the *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020*, DI2020-139).

Club Staff

To be claimed as a community purpose contribution, the contributions must be made to club employees or emergency-affected club employees. These terms are defined as follows for the purposes of the declaration:

- A *club employee* is a person employed by a club, other than an influential person for the licensee. 'Influential person' is defined in section 8 of the Act, and includes executive officers and influential owners, and a person who can exercise as much influence as those persons. Under the Dictionary of the Act, an executive officer means any person who is concerned with, or takes part in, the corporation's management, however they are described and whether or not the person is a director of the corporation.
 - Club employees include staff who continued to be employed for their ordinary hours of work for all or part of the time that clubs were closed (for example, maintenance staff), and those employed for their ordinary hours of work once clubs reopen, noting that this declaration does not expire until 23 March 2021.
- An *emergency-affected club employee* is a person, other than influential person for the licensee, who was employed by a club on 23 March 2020 and who has been stood down or has had their hours of work reduced (including being reduced to 0 hours) as a result of a COVID-19 emergency.

Contributions

The following are declared to be community purpose contributions:

- Wages or salary, including any relevant allowances, paid to a club employee, but only if the wages or salary results in the club employee receiving an amount equal to, or more than, the minimum wage, including any relevant allowances, assigned to the club employee's classification under the *Registered and Licensed Clubs Award 2010*.
- A payment made to an emergency-affected club employee, but only if the payment results in the club employee receiving an amount equal to, or more than, the minimum hourly wage including any relevant allowances, assigned to the club employee's classification under the *Registered and Licensed Clubs Award 2010*.

Period of the declaration

Only contributions that are made on or after 24 March 2020 up to and including 23 March 2021 are community purpose contributions under the declaration.

Reducing the claim amount where other assistance received

A club must reduce the amount of a community purpose contribution claimed by the amount of any other assistance or relief received from the Commonwealth or the Territory, however described, to support club employees or emergency-affected club employees. This includes any JobKeeper payments and funding received from the Diversification and Sustainability Support Fund.

Examples – Emergency Community Purpose Contribution

- 1. A club has paid \$45,000 in wages to a club maintenance employee, who worked throughout the COVID-19 closure period and during the months afterwards to maintain club facilities. The club claimed \$19,500 in JobKeeper payments from the Commonwealth for this full-time employee. The club allocated \$2,000 in DSSF funding received from the Territory towards the employee's wages. The club can claim \$23,500 as a community purpose contribution.***
- 2. A club has paid \$10,000 in wages to an emergency-affected club employee. The club was not able to claim the JobKeeper payment for this short-term casual employee. The club allocated \$8,000 of DSSF funding received from the Territory towards the employee's wages. The club can claim \$2,000 as a community purpose contribution.***

Recording and reporting

Clubs must keep records of any amount paid to a club employee or emergency-affected club employee that is claimed as a community purpose contribution.

The Act now includes a new community purpose of 'providing relief or assistance to the community in relation to a COVID-19 emergency'. As with existing community purposes set out in the Act, clubs must include in their annual report the percentage of NGMR that was contributed for each community purpose. This includes any emergency community purpose contributions. This requirement applies to annual reports for reporting years that end after 23 March 2020.

For clubs with GGMR of \$200,000 per annum or more, this information must be set out in an audited community purpose contribution statement included in a club's annual report. Where a club with GGMR of less than \$200,000 per annum does not prepare an annual report, community purpose contribution information must be set out in a written statement attached to the club's certified income and expenditure statement.

Providing food to emergency-affected people

The provision of food in an emergency is allowable as a community purpose contribution, under the existing community purpose of 'supporting a charitable cause'. A club is permitted to claim \$2 for every \$1 of their contribution as a community purpose contribution, where the club is providing support to a charitable cause by preparing or providing food for emergency-affected people. In order to claim the additional amount, the club and the recipient must have a written arrangement or agreement to provide food under a defined program (i.e. not the provision of leftover club food).

As this provision will operate only where an emergency declaration has been made, it is not intended that the requirement for a written arrangement or agreement be onerous. For example, an email evidencing an agreement to provide 100 meals per week for four weeks to 'ABC Charity' is sufficient.

Specific Exclusions

Drug and alcohol testing

Claims for payments for drug or alcohol testing, regardless of whether the person is an athlete or participant in recreational sport, are ineligible to be claimed as a community purpose contribution.

Fines, penalties or other costs in relation to disciplinary action

Under no circumstances can a fine, penalty or any other costs in relation to disciplinary action be claimed as a community purpose contribution. This exclusion applies whether the fine, penalty or costs are paid by the club or a recipient and whether imposed under legislation, governing body rules, codes of conduct or another framework.

Training obligations under gaming laws

Club licensees must meet a range of mandatory gambling harm training requirements under the *Gambling and Racing Control (Code of Practice) Regulation 2002*. The cost of training is not able to be claimed as a community purpose contribution. This includes where a club requires their staff to complete this training more frequently than the minimum (for example where a club's Gambling Contact Officers complete training every year, rather than every three years).

Similarly, if a club was to employ a third-party organisation to review their internal procedures and signage to ensure compliance with the Code of Practice, consultancy costs are not eligible to be claimed.

The scheme generally excludes the claiming of expenditure, funds, subsidies or discounts relating in any way to a gambling activity.

Bar vouchers

Clubs may contribute towards external raffles that support a community purpose through the provision of prizes, but are only able to claim gifts, donations and prizes for non-alcoholic beverages under the scheme. In addition, the raffle must not benefit the club, an associated organisation, or men's professional sport.

What is not a Community Purpose Contribution?

The Act and Regulation provide clear rules defining what is not a community purpose contribution.

The Act determines the following payments may not be claimed as a community purpose contribution:

- expenditure in relation to gambling (for example, the purchase of gaming machines);
- payment, by the club or the recipient, of a tax, fee, charge or levy, other than for water consumption (i.e. payable to government or government entities, including a publicly-owned corporation);
- expenditure on the club's business activities prescribed by regulation;
- expenditure on the recipient's ordinary expenses prescribed by regulation;
- capital payments or depreciation by the club or recipient prescribed by regulation;
- if a contribution is made on a condition—the value to the club of the condition being fulfilled;
- if a contribution is an asset—the value of any income earned from the asset (for example, entry or hiring fees);
- a contribution made to another club under a reciprocal arrangement;
- the cost of the club or recipient borrowing funds to acquire an asset; and
- any other contribution prescribed by regulation not to be a community purpose.

The Regulation determines the following payments may not be claimed as a community purpose contribution:

- men's professional sport including wages, income or other benefits to compensate for time spent playing or training for sport or participating in related activities, payments for accommodation or personal transport and payments for general living costs;
- sports facility maintenance where used for men's professional sport;
- recreation facility maintenance (in certain circumstances);
- expenditure on certain business activities of a club;
- training for a club's staff or executives including any training required under a gaming law;
- professional entertainment or social or entertainment activities of a club, for members or patrons;
- providing anyone with free or subsidised alcoholic beverages either directly or indirectly (for example, as a gift, donation or prize);
- providing anyone with a contribution to be used for a gambling activity (except for certain raffles);
- providing free or subsidised meals, snacks, other food or non-alcoholic drinks to the club's members or patrons;
- capital payments and depreciation for assets owned, controlled or being acquired by the club or an associated organisation if the assets do not have open community access;
- capital payments and depreciation for, or other expenditure on, assets owned, controlled or being acquired by the club, if the assets are not in the ACT;
- depreciation in relation to a capital payment for a community purpose contribution;
- a capital payment if depreciation in relation to the payment is a community purpose contribution;
- a contribution for a business association, registered party, associated entity or industrial organisation;
- a contribution made from donations collected by the club or the proceeds of a fundraising activity by the club;
- a contribution for remuneration, allowances or other entitlements for people employed by a club or a recipient unless otherwise allowable as a community purpose contribution;
- a contribution for technology, food/drink or general living costs paid for, or given to, an individual;
- a contribution to, or for the benefit of, a professional sportsman or a men's professional sports team;
- a contribution for maintenance of a sports facility used only by professional sportsmen or men's professional sports teams;
- a contribution for a fine or penalty or a contribution made in relation to disciplinary action;
- a contribution for a drug or alcohol test;
- a contribution for airline lounge memberships;
- notional provisions other than depreciation;
- expenditure that is not out-of-pocket for health services; and
- a fee or other amount charged in relation to an activity or event.

This list is not exhaustive. For further information on eligible community purpose contributions please refer to the Act and Regulation ([Attachment D](#)), and the guidance provided within this document.

Under the Act, the definition of community purpose contribution does not include contributions to the Diversification and Sustainability Support Fund.

Goods and Services Tax (GST) must not be included in any claims, including in-kind contributions. As set out in the above list, payment of a tax by the club or a recipient cannot be claimed as a community purpose contribution.

Please note: Exclusion from the community contributions scheme does not prevent clubs from providing support, payments or benefits (within the bounds of their constitutional obligations to members and other legal obligations), but it does prevent clubs claiming them as a community purpose contribution.

CALCULATING THE VALUE OF A CONTRIBUTION

Conditional Contributions

The Act requires that where a contribution is made on a condition, the value to the club of that condition being fulfilled must not be claimed as a community purpose contribution.

This section of the Act is particularly relevant in relation to sponsorship agreements. Most sponsorship agreements have some sort of reciprocal benefit for the sponsor such as free advertising or free entry tickets. The value of any such reciprocal benefit must not be included in the community purpose contribution claim.

The value of a reciprocal benefit may vary, even for the same type of benefit. For example, the marketing and advertising value of a logo on a team uniform may be higher where the competition is televised. Where the sponsorship agreement itself does not place a value on the benefit received, the club can self-assess its value. The club must keep a record of how it worked out the value of the benefit received.

Examples - Working out the value of a conditional contribution

- 1. A club sponsors a football club at a cost of \$50,000 and in return receives free TV advertising and a corporate box at each home game. The contribution claimed must be \$50,000 less the retail value of the TV advertising and the corporate box.***
- 2. A club sponsors a community group at a cost of \$10,000 with part of the sponsorship agreement requiring the group to hold four events at the club's premises. The contribution claimed must be \$10,000 less the profit made by the club on selling food, beverages, etc. to attendees of the event.***

A community purpose contribution of money is made when the money is given rather than when the club originally agrees to provide the contribution.

Example - Working out when a contribution is made

A club agrees to sponsor a team in June 2020, but the first payment is not made until July 2020. The community purpose contribution is taken to have been made in July 2020.

Working Out the Value of an In-Kind Contribution – Market Value or Cost of Service Provision?

As a general rule, the value of a claim should reflect the actual cost to the club of providing the contribution. Depending on the type of contribution, a club should use either the market value of the contribution or the cost of providing the contribution when working out the value of an in-kind contribution.

The market value of providing the use of club facilities, such as room hire or sporting facilities, may be used in calculating the value of the community contribution. For example, the club's room hire rates as set out on their website for public hire would be the maximum amount that could be claimed as a community purpose contribution. The full hire rate is claimable in recognition that the club has chosen to provide that room to a community organisation free of charge instead of renting to another private organisation. Where partial rent is charged to the community organisation, this amount must be deducted from the final claim.

Where attendees purchase food, drink, etc. from facilities that are provided as part of hospitality services associated with a club's room that has been provided free of charge, the profit made by the club from these sales must be deducted from any claims. This includes where a club has a bar within the room, where facilities are provided for the purpose of selling food or drinks to attendees of an event, or where an admission fee is charged to an event in return for a food or beverage package. Where the profit made by a club exceeds the amount eligible to be claimed as a community purpose contribution, the club is not eligible to claim any amount as a community purpose contribution.

Food provided to a recipient may be claimed as an in-kind contribution (but not food/drink provided to an individual, which is excluded from the scheme as an individual benefit). Where a club provides a recipient with meals at a discounted rate, the club must deduct any amount paid for the meal from the club's community purpose contribution claim. Where the club has incurred no cost in providing the food (for example, where the food is provided to the club for free by a third-party supplier), the club cannot claim the value of the food as an in-kind contribution.

Where a club is claiming facilities maintenance costs and is also claiming an in-kind contribution for providing access to a facility for free or at a discounted rate, the club must ensure that the amount of the in-kind claim is reduced by any amount of the access, entry or use fee that relates to maintenance of the facility.

Any in-kind contribution claim that is not supported by appropriate records, including of the amounts received by the club or an associated organisation, is taken to have a value of \$0.

Examples - Working out the value of an in-kind contribution

- 1. A club provides free room hire to a community organisation for one hour. The market rate set out on the club's website for hiring the room is \$100 per hour for private hire. GST is not claimable therefore must be removed from the club's advertised rate, in this instance \$100 divided by 11 = \$9.09 multiplied by 10 = \$90.90.. The club is eligible to claim \$90.90 as an in-kind community purpose contribution.***
- 2. A club provides meals to attendees of a multicultural awards nights at a discount of 50% of the normal meal rate of \$40. The club must deduct the \$20 paid for each attendee's meal from the club's community purpose contribution claim.***
- 3. A golf club hosts a charity golf day and waives the cost of green fees for participants (\$4,000 - \$40*100 participants). Participants instead make a donation to the charity, which is an eligible recipient and not an associated organisation of the club. The club can claim the green fees as an in-kind contribution, but the club must deduct from the claim the value of any reciprocal benefit received. The club deducts \$300 in advertising benefits received and can therefore claim \$3,700 as an in-kind community purpose contribution.***

Common Expenditure within Group Clubs

Where a club licensee has more than one club venue, the minimum community purpose contribution of 8 per cent of NGMR may be made across all venues operated under a single gaming machine licence, rather than on a per venue basis. Licensees with more than one club venue may record and report on the community purpose contributions made across all their venues, rather than for each venue separately.

For a club group with more than one gaming machine licence, the minimum community purpose contribution of 8 per cent of NGMR must be made, recorded and reported on separately for each licensee in the group.

Monetary and In-Kind Contributions

Two types of contributions are allowed to be claimed under the scheme – monetary and in-kind. Monetary contributions include direct financing or donations, but do not include sponsorship or expenditure where the club receives a reward or benefit of a commercial nature. An in-kind contribution is a contribution in lieu of a donation of funds, such as providing use of a room where the hire of that room would otherwise incur a cost for the recipient.

Large clubs and large club groups must make at least 5 per cent of their NGMR as monetary contributions. Until 30 June 2020, a club or club group was considered to be large where its GGMR was \$4 million or more for the financial year beginning on 1 July 2017, or was \$4 million or more in the current year.

From 1 July 2020, a large club or club group is one with GGMR of \$4 million or more, unless the club or club group is entitled to receive an amount of gaming machine tax rebate. An entitlement to any amount of gaming machine tax rebate, whether the full 50 per cent rebate or a lesser amount under the phased reduction provision, means that a club or club group meets the definition of small or medium club or club group for its reporting year (i.e. the financial year of the licensee).

The scheme does not limit the amount of in-kind support that large clubs can provide, however, it does limit the amount that these clubs can claim as a community purpose contribution. For a large club making the minimum 8 per cent community purpose contribution, this limit is 3 per cent of NGMR (unless it is long-term in-kind support, in which case the limit is 4 per cent of NGMR – see further below).

The minimum monetary contribution amount increases to 6 per cent of a club's NGMR for club reporting years that cease after 30 June 2021. At that time a club making the minimum 8 per cent of NGMR community purpose contribution is limited to claiming 2 per cent of NGMR as in-kind support.

Example - Working out the minimum monetary contribution required in a year – large club
A large club's reporting year is 1 October to 30 September each year. The club must make at least 5 per cent of their NGMR as monetary contributions from 1 October 2019 to 30 September 2020, and at least 6 per cent of their NGMR as monetary contributions from 1 October 2020 to 30 September 2021.

The minimum monetary contribution does not apply to small and medium clubs or small or medium club groups, however, these clubs must still ensure that at least 8 per cent of NGMR across all venues operated under the club's licence is made as community purpose contributions.

Except in limited circumstances where a licensee moves into or out of a large club group (e.g. following a merger or acquisition), a licensee is either a small or medium club or club group for its reporting year, or a large club or club group for its reporting year, based on the licensee's GGMR in that reporting year.

Claims for Long-Term and Semi-Permanent In-Kind Arrangements (Large Clubs)

A large club or club group can make less than 5 per cent of NGMR as monetary contributions in specific circumstances prescribed by regulation. This means that part of the club's minimum monetary contribution may be replaced by in-kind contributions. Where a large club is eligible to reduce its minimum monetary community contributions by the maximum 1 per cent of NGMR, the club must ensure at least 4 per cent of the club's NGMR is made as monetary community purpose contributions.

For a club reporting year ending after 30 June 2021 (e.g. 1 October 2020 to 30 September 2021), the minimum monetary contribution amount increases to 6 per cent of a club's NGMR. At that time, the reduction in minimum monetary community contributions available for long-term and semi-permanent in-kind arrangements will be a maximum of 2 per cent of NGMR.

The reduced minimum monetary contribution only applies where there is a written arrangement or agreement for 3 years or more, the contribution is made to a dedicated facility, space or program, and the recipient is not controlled by or related to the club.

A dedicated space would include the provision of free room hire, provided the room is used by only one community organisation. Where a room is used by multiple organisations during the year for a range of purposes, the room would not be considered to be a dedicated space.

The reduction in minimum monetary contribution must match the value of the long-term in-kind arrangement or agreement (i.e. having an agreement in place for any amount does not automatically allow a large club to make the lower rate of 4 per cent monetary contributions).

A club can have more than one long-term in-kind arrangement or agreement in place, but the base minimum monetary contribution of 4 per cent will apply even where the combined value of the long-term in-kind arrangements is more than 1 per cent of NGMR (or 2 per cent for reporting years that end after 30 June 2021).

Clubs that make less than the minimum monetary contributions under this provision must ensure that their reporting on community purpose contributions sets out the facilities, spaces or programs that have been supported and provide details of the arrangements. The provision of free hire of a club meeting room to several organisations during the week does not satisfy the requirements of a dedicated facility, space or program, and therefore must not be claimed as a long-term or semi-permanent in-kind arrangement.

Example – Long-term in-kind arrangement

A large club provides the ingredients, staff and kitchen space to prepare meals that are distributed to disadvantaged people in Canberra through a charitable organisation. This is a specific program rather than the distribution of leftover meals from the club. The club has a written agreement to provide a certain number of meals to the charity each week, for a four-year period. The club works out the value of the contribution to be \$50,000 per annum. The club can reduce the required amount of its minimum monetary contribution by \$50,000 for each year that the agreement is in place. However, if this reduction means that the club's minimum monetary contribution would fall below 4 per cent of NGMR, the club cannot claim the whole amount of the long-term in-kind arrangement. The minimum monetary contribution of 4 per cent of NGMR must be made by all large clubs.

Evidence Required to Claim In-Kind Contributions

A club may claim an in-kind contribution as a community purpose contribution if it has records of its workings and evidence of its costs and market valuations.

As an example, a club's records should:

- set out how the value of the contribution was worked out;
- provide evidence that the value worked out is based on the cost of providing the contribution or the market value of the contribution; and
- provide evidence that the organisation actually received the benefit being claimed e.g. confirmation from a sporting body of room usage.

IMPROVED TRANSPARENCY

Record Keeping

Clubs are required to maintain adequate records to substantiate all contributions that are claimed as a community purpose contribution. Where a club has made community purpose contributions greater than 8 per cent of NGMR, the club does not need to keep records of its additional contributions unless it includes them in its community purpose contribution statement.

The Act requires clubs to keep written records of the ‘contribution information’ for each contribution made. Contribution information records must include details of:

- the name of the recipient;
- the community purpose for which the contribution was made;
- the way in which the contribution is intended to be used by the recipient;
- the nature of the benefit the recipient will receive by using the contribution in the intended way;
- for a contribution of money:
 - the amount of the contribution; and
 - when the contribution was paid;
- for a contribution of any other kind:
 - the kind of contribution; and
 - the value of the contribution; and
 - when the contribution was made;
- the club venue in relation to which the club made the contribution (note that a contribution may be made by the licensee on behalf of all venues operated under a single gaming machine licence).

If a club or their associated organisation receives an amount that is charged in relation to an activity or event held by a club or at a club facility, the club may only claim a community purpose contribution if it has written records that clearly identify the amount received and the amount received is subtracted from the amount of the contribution claimed. Where a club does not have a clear written record of the amount received by the club or an associated organisation, the community purpose contribution is taken to have a value of \$0.

In accordance with the *Gambling and Racing Control Act 1999*, the provisions of the *Taxation Administration Act 1999* apply in relation to a gaming law. As such, the minimum period required to keep records relating to community purpose contributions is five years.

These records must be made available to the Commission on request. It is an offence if the club does not keep these records.

The record keeping requirements support clubs to meet their reporting obligations, an example of which is provided at [Attachment C](#).

Examples – Club record keeping for community purpose contributions

- 1. A contribution of \$500 was used by the Eastland Cultural Dance Group to hold a fundraising market stall on 1/01/2020. The group used the profit from their market stall to buy traditional dance costumes. The contribution was made by the East Canberra Sports Club Pty Ltd on behalf of the East Canberra Sports Club, the North East Canberra Club and the South East Canberra Club.***
- 2. A contribution of \$500 was used by the East Canberra Archery Club to book a training venue and buy uniforms on 1/02/2020. The contribution was made by the East Canberra Sports Club Pty Ltd t/a East Canberra Sports Club.***
- 3. A contribution of room hire worth \$100 was used by the East Canberra Women’s Roller Derby Team to hold an end of year awards night on 1/01/2020. The contribution was made by the East Canberra Sports Club Pty Ltd t/a East Canberra Sports Club.***

Reporting Requirements

From 1 July 2019, clubs no longer need to provide the Commission with a separate report at the end of the financial year about their community contributions. Instead, a club's annual report must include an audited or certified (see below) community purpose contribution statement detailing the community purpose contributions made during the club's reporting year. This provision is based on a club's 'reporting year' not 'financial year' since not all clubs prepare their annual report on a 1 July to 30 June basis. Licensees with more than one club venue may record and report on the community purpose contributions made across all their venues, rather than for each venue separately.

Clubs with GGMR of at least \$200,000 per annum across all venues operated under their licence must ensure that the club's community purpose contribution statement is audited by a qualified accountant. The statement must be included in the club's annual report, not provided as a separate document. This requirement ensures publication requirements can be met (see below).

Clubs with less than \$200,000 GGMR must prepare a written statement of community purpose contributions, which is annexed to the club's income and expenditure statement for the year. An appropriate person at the club (e.g. a club's Chief Financial Officer) must certify that the statement is true.

A club's annual report or certified income and expenditure statement must include:

- the gross revenue of the club for the reporting year;
- the net revenue of the club for the reporting year;
- the total value of community purpose contributions made by the club during the reporting year;
- the percentage of the club's net revenue for the reporting year that was paid as a community purpose contribution;
- the contribution information (other than the name of an individual who is a recipient) for each community purpose contribution made by the club during the reporting year;
- an account of how the club engaged with the community under section 170 of the Act (to make the community aware that the club must make community purpose contributions and to consider community needs in making community purpose contributions);
- an account of—
 - how the club monitors the way in which the community purpose contributions were used; and
 - the steps, if any, the club takes to prevent the misuse of community purpose contributions.

This information must be prepared as soon as practicable, but no longer than 6 months, after the end of the reporting year. Clubs must then forward their annual report or certified income and expenditure statement, including information on community purpose contributions, to the Commission.

Clubs with reporting years ending other than 30 June 2019 - transitional requirements

For the 2018-19 financial year (i.e. the year ending on 30 June 2019), all clubs must adhere to the previous reporting requirements, including the requirement to provide a financial report to the Commission, for the Commission to report to the Minister, and for the Minister to report to the Legislative Assembly.

Some clubs have an annual reporting year that is not the standard July-June financial year. In addition to meeting the previous reporting requirements outlined in the above paragraph, these clubs must make community purpose contributions equal to a minimum of 8 per cent of their NGMR during the part of the reporting year after 1 July 2019, and report on these contributions in their 2018-19 annual report.

For example, if a club's reporting year runs from 1 October 2018 to 30 September 2019, the club must submit their community contributions report to the ACT Gambling and Racing Commission within one month after the end of the financial year (by 31 July 2019), detailing the contributions made under the previous scheme for the period 1 July 2018 to 30 June 2019. The club's annual report or certified income and expenditure statement for 2018-19 must then detail the contributions made from 1 July 2019 to 30 September 2019 under the new scheme. A club must provide 8 per cent of their net revenue for this three-month period as community purpose contributions.

From 2019-20 onwards, the club will need to meet the reporting requirements set out above.

Publication of contributions information and providing an electronic copy to the Commission

For clubs with GGMR of at least \$200,000 across all venues operated under their licence, information about community purpose contributions will be made publicly available by being published in two places – on each club's website and on the Commission's website. Clubs with GGMR of at least \$200,000 must publish their entire annual report, including the audited community purpose contribution statement. This requirement provides transparency about club operations and revenues, and context for the community contributions made by the club.

For clubs with GGMR below \$200,000, the written statement about community purpose contributions must be provided to the Commission and will be published on the Commission's website. Clubs with GGMR below \$200,000 are encouraged to publish their written statement on the club's website as well.

The information published by the Commission will include summary information of community purpose contributions made by the club industry, as well as individual clubs' annual reports (for clubs with GGMR of at least \$200,000) or written statements annexed to certified income and expenditure statements (for clubs with GGMR below \$200,000).

Within 10 working days after a club gives the Commission a copy of their audited financial statements or certified income and expenditure statement a club that prepares an annual report must:

- give the Commission an electronic copy of the club's annual report; and
- publish the annual report on a website of the club that can be accessed by the public free of charge (access must not be restricted to members only).

In certain circumstances set out in the Act, confidential information may be excluded from the published annual report, or the Commission may agree to the removal of sensitive information. Where this occurs, the annual report must include a statement that information was removed because it was confidential or sensitive, and the nature of the information removed.

Who is qualified to audit a club's community purpose contribution statement?

Clubs with GGMR of at least \$200,000 per annum across all venues operated under their licence must ensure that their community purpose contribution statement for the year is audited by a qualified accountant. A qualified accountant is:

- a member of the Institute of Chartered Accountants in Australia, the Institute of Public Accountants or the Australian Society of Certified Practising Accountants; or
- a person registered as a registered company auditor under the *Corporations Act 2001* (Cth).

The Act or Regulation does not prevent someone internal to the club's organisation conducting the audit (provided they meet the necessary legislative requirements outlined above). However, when determining whether it is appropriate that an internal audit be conducted, a qualified accountant should consider relevant professional and ethical standards and obligations under Commonwealth Law (e.g. *Corporations Act 2001*).

How should a club satisfy itself that a community purpose contribution has been directed towards its intended purpose?

As part of ordinary business practices to ensure accountability to members, clubs already have processes and procedures to control the expenditure of club money and to verify that goods and services have been received. Clubs should seek advice from their auditor or Chief Financial Officer (or equivalent) on steps to be taken to prevent the misuse of community purpose contributions, including expected acquittal processes.

For example, one way a club could satisfy itself is for the funding agreement (e.g. a Memorandum of Understanding or sponsorship agreement) with the recipient to set out the purposes for which the funding has been provided, and (where relevant) that contributions must not be put towards men's professional sport as defined in the Regulation. As part of the funding agreement, the recipient would be required to report back to the club that the funds were used for their intended purpose.

For smaller amounts of funding it may be appropriate that the recipient instead email the club once the funds have been spent outlining how the funds were used. The extent of documentation required is a matter for the club to consider in consultation with their auditor (or certifier of the written statement for clubs with GGMR below \$200,000), noting that the level of assurance provided must be equivalent to that provided for the club's financial statements.

Information about the assurance process used by the club to verify the use of funding must be included within community purpose contribution information.

Reporting Example

A club must include contribution information for each community purpose contribution made by the club during the reporting year. For privacy reasons, a club's audited community purpose contribution statement (or written statement for clubs with GGMR below \$200,000) should not include an individual recipient's name and another suitable identifier must be used (e.g. 'Individual 1' or 'Individual sportsperson 2'). The identifier chosen should allow a club to easily locate and confirm the relevant community purpose contribution record if requested by the Commission.

A club's reporting on community purpose contributions must outline the community purpose for which the contribution was made and the way in which the contribution is intended to be used by the recipient. Where the final expenditure of funding by the recipient differs from what was

originally intended but is still within the same community purpose (e.g. a sporting club purchases more sports equipment and less uniforms than originally intended) it is not expected that a club will necessarily account for this change in their final reporting. Rather a broad outline of the intended original use of the funding by the recipient (based on the original funding request) is considered satisfactory.

Please note: A club may include information in their annual report of non-community purpose contribution funding provided to the community, however it must be clear where this is not a community purpose contribution (e.g. because the contribution has not been audited, appropriate records of the contribution have not been kept as required under the rules of the scheme, or the contribution does not meet an eligible purpose of the scheme).

An example setting out the level of detail expected when reporting each community purpose contribution is provided at [Attachment C](#). This is provided as an example only. When finalising its community purpose contributions reporting, a club must consider its obligations as set out in the Act and Regulation in combination with their auditor's (or certifier's, for clubs with GGMR below \$200,000) assurance processes and requirements.

Historical reporting issues identified through the Commission's audit process

Many claims identified as ineligible in the past have been due to:

- ***clubs being unable to substantiate their claim;***
- ***GST being included in the claim;***
- ***incorrect amount being claimed;***
- ***claim made outside of relevant year; and***
- ***claim consisted of patron donations.***

Consultation with the community

A club must engage with the community about community purpose contributions by making the community aware that the club must make contributions and considering community needs when making these contributions.

Though clubs are founded for the benefit of their members and guests, those members are also part of the local community, and as such the community's needs may extend beyond those facilities and programs provided by their club.

Examples of acceptable club community engagement includes:

- asking members and guests to nominate where community purpose contributions are directed;
- consultation with their local community council, sporting groups, community service providers or other not-for-profit community sector advocate groups such as ACT Council of Social Service Inc (ACTCOSS), Council on the Ageing (COTA) ACT or the Youth Coalition of the ACT;
- consultation with Government Directorates responsible for overseeing the delivery of services and support programs to the community;

- placing a notice on the club’s website or social media pages, in a newspaper or other places where the community accesses information; and
- conducting a forum with local community members.

The quantum of funding available to the community is the significant factor in determining the extent of club engagement with the community. For example, a club with a large amount of NGMR would be expected to engage more extensively with the community than a smaller club.

Clubs may advise the community that the club must make contributions through publication in their newsletters or website, and when undertaking community engagement in the manner outlined above.

Clubs must include evidence of their community engagement in their community contributions reporting. Clubs must outline the steps taken to prevent the misuse of community purpose contributions, to ensure that the funding they provide is used for its stated purpose. This could include remittance advices from recipient organisations when funds are expended or a letter from members of an organisation that receives funding.

A club’s annual report and records must show how the club considered community needs when making these contributions. For example, a club’s board could formally consider the feedback received on community needs at a Board meeting. This consideration could then be used to inform their decision-making processes for allocating community purpose contribution funding. The club’s annual report would include this information to show how community needs were considered.

COMMISSION COMPLIANCE PROCESS

Access Canberra administers the community contribution scheme on behalf of the Commission, including undertaking a review of licensee community contribution reports.

As part of its compliance activities, Access Canberra will monitor that licensees comply with the requirements of the Act and Regulation, including that reports/statements are received within the legislated timeframe. Authorised officers may request further detail from licensees in relation to their claimed contributions.

Clubs are required to maintain adequate records to substantiate all contributions that are claimed and have these documents available for inspection by an authorised officer.

FREQUENTLY ASKED QUESTIONS

- 1. What is the minimum amount of community purpose contributions?**

Clubs are required to contribute a minimum of 8% of their *net gaming machine revenue* (NGMR) for all venues operated under their gaming machine licence directly to the community as community purpose contributions. In addition, they must pay 0.8% of NGMR for each venue to gambling harm prevention and mitigation and to community charitable causes.

Non-clubs with gaming machines are not required to make community purpose contributions, however are required to pay 0.8% of their gaming revenue (after gaming machine tax) to gambling harm prevention and mitigation and to community charitable causes.
- 2. How is the 8% NGMR calculated?**

A club's NGMR is calculated as follows.

NGMR is gross gaming machine revenue less:

 - any amount of gaming machine tax payable on that revenue; and
 - 24% of the gross gaming machine revenue.
- 3. Can a club make less than 8% of NGMR as community purpose contributions?**

The Act does provide that the Minister for Gaming may determine a lower minimum community contribution for the club where satisfied that making the minimum community contribution would seriously affect the club's viability.

A determination is a disallowable instrument (i.e. is subject to disallowance by the Legislative Assembly) and is publicly available on the ACT Legislation Register.

Unless a determination is in place for a club, a club will be liable to pay shortfall tax where the minimum community contribution is not met.
- 4. Who is the community?**

Community for the purpose of the scheme is defined as people living in the ACT or the surrounding region or people living somewhere else in Australia who need relief or assistance because of a natural disaster.

The community is comprised of individuals and groups:

 - from diverse cultural, language and religious backgrounds;
 - of different gender identity;
 - of different sexual orientation;
 - with disability;
 - of all ages, including children and young people; and
 - in different social, economic and cultural circumstances.

5. Who must report on their community purpose contributions? All clubs who hold a class C gaming machine licence.
6. What happens if a club makes less than the required contribution? Any club that fails to meet their required minimum community contribution must pay a 'shortfall tax' at the rate of 100% of the community contributions shortfall. The shortfall tax rate will increase to 150% for club reporting years that cease after 30 June 2021.
7. What happens if a club's financial year is not July through to June? The requirements recognise that not all clubs report on a 1 July to 30 June basis. The provision of community purpose contribution information is based on a club's reporting year, which is not necessarily the standard financial year. Any contributions made or revenue generated outside this period needs to be accounted for in the correct year.
8. Can community purpose contributions be in-kind? Yes. A club may claim a contribution other than a monetary contribution as a community purpose contribution if the club has records of its workings and evidence of its costs and market valuations, as well as records of any amount received by the club or an associated organisation.
- Large clubs and club groups must ensure that at least 5% of their NGMR is made as monetary community purpose contributions (6% for club reporting years that cease after 30 June 2021), unless they have a long-term in-kind arrangement in place where this can be reduced to 4% of NGMR.
9. We are a club licensee with more than one club venue. We incur group expenses that are not paid directly by individual venues, but which otherwise can be claimable as community purpose contributions. How must these amounts be reported? Where a club licensee has more than one club venue, the minimum community purpose contribution of 8% of NGMR may be made across all venues operated under a single gaming machine licence, rather than on a per venue basis. Licensees with more than one club venue may report on the community purpose contributions made across all their venues, rather than for each venue separately. This applies to all community purpose contributions, not just contributions that are group expenses.
- However, it should be noted that a licensee must report the authorised premises in relation to which the licensee made the contribution.
10. Can a club include the GST amount in the value claimed? No. GST must not be included in any claims, including 'in-kind' contributions. For example, if a club would normally hire a room for \$110 inclusive of GST, the club can only claim \$100 as an 'in-kind' contribution.

- 11.** What kind of evidence does a club need to provide to evidence a claim for room hire?
- The Commission requires substantiating evidence to prove that the recipient of the room hire did receive the benefit. Clubs can provide diary entries with thank you/acknowledgement letters confirming the date and service that was provided or booking forms signed by recipients to corroborate a claim.
- 12.** Can a club claim the value of a contribution made on a condition being fulfilled as a community purpose contribution?
- No, where a contribution is made on a condition then the value to the club of that condition being fulfilled cannot be claimed as a community purpose contribution.
- This is particularly relevant in relation to sponsorship agreements. Most sponsorship agreements have some sort of reciprocal benefit for the sponsor such as free advertising or free entry tickets. The value of any such reciprocal benefit **MUST NOT** be included in the community purpose contribution claim.
- For example, a club sponsors a football club at a cost of \$50,000 and in return receives free TV advertising and a corporate box at each home game. The contribution claimed must be \$50,000 less the retail value of the TV advertising and the corporate box.
- Similarly, a club sponsors a community group at a cost of \$10,000 and as part of the sponsorship agreement the group must hold four events at the club's premises. The contribution claimed must be \$10,000 less the profit made by the club on selling food, beverages, etc. to attendees of the event.
- 13.** Can a club claim contributions from collected donations?
- A contribution made out of donations collected by the club, or out of the proceeds of any special fundraising activity conducted by the club cannot be claimed as a community purpose contribution.
- 14.** Can a club claim an amount charged in relation to an activity or event?
- If a club or their associated organisation receives an amount that is charged in relation to an activity or event held by a club or at a club facility, the club may only claim a community purpose contribution if it has written records that clearly identify the amount received and the amount received is subtracted from the amount of the contribution claimed.
- 15.** Can a club claim the provision of alcohol as a prize or a gift?
- No, a club cannot claim the provision of alcoholic beverages either directly or indirectly through the provision of gifts, donations or prizes.

- 16. Can a club claim the costs of maintaining the club's oval?** Where sporting facilities have open community access, all maintenance costs may be claimed, less any fees or charges for use collected by the club.
- For facilities that don't have open community access but are available at times for community sport and women's sport (e.g. an enclosed oval made available for some periods during the week), maintenance costs must be calculated as a proportion of the amount of time the facility is used by non-professional and women's professional sport compared to its use by men's professional sport. The calculation is based on the hours the facility is actually used, not hours that the facility is available for use.
- Maintenance costs for facilities that are used only for men's professional sport are not claimable.
- 17. Can a club claim prize money?** Where money is donated to an eligible association to be used as either prize money or for the purchase of prizes it is claimable unless for a professional men's competition.
- 18. Can a club claim the cost of preparing their community purpose contribution statements?** No, the cost of preparing community purpose contribution statements is a business expense and not a contribution made for a community purpose.
- 19. How long is a club required to keep records relating to community contributions?** In accordance with the *Gambling and Racing Control Act 1999* the provisions of the *Taxation Administration Act 1999* apply in relation to a gaming law. As such, the minimum period required to keep records relating to community purpose contributions is five years.
- 20. What if a recipient uses community contribution funding for a different eligible purpose?** A club's reporting on community purpose contributions must outline the community purpose for which the contribution was made and the way in which the contribution is intended to be used by the recipient. Where the final expenditure of funding by the recipient differs from what was originally intended but is still within the same community purpose (e.g. a sporting club purchases more sports equipment and less uniforms than originally intended) it is not expected that a club will necessarily account for this change in their final reporting. Rather a broad outline of the intended original use of the funding by the recipient (based on the original funding request) is considered satisfactory.
- 21. Will the Commission still publish an annual community contributions report?** No. For reports received after 1 July 2019, the Commission is required to publish, on its website, a club's annual report (including the audited community purpose contribution statement) or written statement, the total amounts a club has contributed into both the Chief Minister's Charitable Fund and Gambling Harm Prevention and Mitigation Fund Contribution, and the percentage of NGMR a club has contributed to each of the nine eligible categories listed under section 172(2) of the Gaming Machine Act 2004.

COMPARISON OF NEW AND OLD COMMUNITY CONTRIBUTION SCHEME

Claims	Previous community contribution scheme	New community contribution scheme
<i>Sports Contributions</i>		
Remuneration for players, coaches, trainers, umpires and administration staff employed by the club or recipient	Eligible to be claimed	Eligible except for professional men's sport [#]
Uniforms and equipment	Eligible to be claimed	Eligible except for professional men's sport [#]
Training, activities and events	Eligible to be claimed	Eligible except for professional men's sport [#]
Ancillary expenses or other costs	Eligible to be claimed	Eligible except for professional men's sport [#]
Hosting of awards night, player prizes, etc	Eligible to be claimed	Eligible except for professional men's sport [#]
Payment of fine, fee or other expense to the governing body	Eligible to be claimed	Not eligible to be claimed
Maintenance costs of sporting facilities	Eligible to be claimed, subject to deduction of any fees/charges received	Fully accessible to the community – all expenditure eligible to be claimed, subject to deduction of any fees/charges received Accessible at times for community or women's sport – eligible in line with proportion of time facility used for community or women's sport, subject to deduction of any fees/charges received Accessible only for professional men's sport – not eligible to be claimed

Hire fees for sports facilities	Not eligible to be claimed	Not eligible to be claimed
Health services (e.g. physio, massage, dieticians, etc.)	Eligible to be claimed	Eligible except for professional men's sport [#] , subject to deducting any support/refunds/rebates from other sources
Drug or alcohol testing	Eligible to be claimed	Not eligible to be claimed
Definition of professional sports person	N/A	Someone who receives payment or gain from playing sport, other than the reimbursement of reasonable expenses for their participation in the sport. Reasonable expenses would include reimbursement for sporting equipment, registration fees, jerseys, attendance at training camps, travel costs including payment of hotel or boarding fees, taxis and flights, or similar but does not include payments towards wages or other individual benefits made in place of wages such as rent, living costs, private cars, and phone charges
<i>Recreational Contributions</i>		
Maintenance costs of recreation facilities	Not eligible to be claimed	Eligible to be claimed in certain limited circumstances
<i>Individual Entitlements for Club and Recipient Employees/Contractors (includes staff and sports persons)</i>		
Individual entitlements including: -travel expenses (e.g. fares and airline lounge membership) -accommodation -vehicles and vehicle hire -phones, tablets, etc -food and drinks	Eligible to be claimed	Not eligible to be claimed*
General living expenses	Eligible to be claimed	All general living expenses not eligible to be claimed

Other		
Gambling harm reduction training	Eligible to be claimed	Not eligible to be claimed
Free drink vouchers as prizes	Not eligible to be claimed	Not eligible to be claimed
Conditional contributions (e.g. food and drink)	The value to the club of a condition being fulfilled is not eligible to be claimed	The value to the club of a condition being fulfilled is not eligible to be claimed
Income earned from asset	Not eligible to be claimed	Not eligible to be claimed
Common expenditure	For a club with multiple venues, must be apportioned based on the number of gaming machines operating at each venue	Apportioning no longer required as the minimum community purpose contribution of 8% of NGMR may be made across all venues operated by the club, rather than on a per venue basis

In limited circumstances, costs relating to a professional sportsman or men's professional sports team may be allowed to be claimed as a community purpose contribution.

* Support of this nature can still be claimed for an individual who is not a club or recipient employee/contractor (e.g. to support interstate travel for a youth soccer team competing in a national competition).

Other scheme requirements	Previous community contribution scheme	New community contribution scheme
Record keeping	Club must keep records of all claimed community contributions	Club must keep records of all claimed community contributions
Monetary contributions	No minimum monetary contribution rate	Large clubs and club groups must ensure that at least 5% of their NGMR is made as monetary community purpose contributions (6% for club reporting years that cease after 30 June 2021), unless they have a long-term in-kind arrangement in place where this can be reduced, in line with the amount of the arrangement, to a minimum of 4% of NGMR
Qualified audit of community contributions	Not specifically required, however financial statements of the clubs with GGMR of at least \$200,000 per annum club must be audited, which includes monetary community contributions made	Clubs with GGMR of at least \$200,000 per annum across all venues operated under their licence must ensure that their community purpose contribution statement for the year is audited by a qualified accountant
Cap on in-kind contributions to the community	No cap on in-kind contributions	No cap on in-kind contributions, however large clubs and club groups must make minimum monetary contributions
Cap on club expenditure on purposes that are not eligible to be claimed as a contribution	No cap on clubs providing support, payments or benefits to the community (within the bounds of their constitutional obligations and other legal obligations)	No cap on clubs providing support, payments or benefits to the community (within the bounds of their constitutional obligations and other legal obligations)
Consultation with community on allocation of contributions	No formal requirement for this to occur	A club must engage with the community about community purpose contributions by making the community aware that the club must make contributions and considering community needs when making these contributions

REPORTING EXAMPLE

What is an acceptable level of detail when reporting?

East Canberra Sports Club Pty Ltd t/a East Canberra Sports Club – Community Purpose Contributions – 2019-20

CLUB AUDITED COMMUNITY PURPOSE CONTRIBUTION STATEMENT

	CLUB REVENUE	2019-20
A	GROSS GAMING MACHINE REVENUE (GGMR) [Total after deducting players' winnings (excluding linked jackpots) and any amount set aside under a linked-jackpot arrangement for the payment of jackpot payouts]	
B	24% OF GGMR	
C	GAMING MACHINE TAX LIABILITY (tax payable under section 159 of the Act)	
D	TOTAL NET GAMING MACHINE REVENUE (NGMR) (A-B-C)	
E	VALUE OF PAYMENTS TO THE GAMBLING HARM PREVENTION AND MITIGATION FUND (GHPMF) (0.75% OF GGMR)	
F	VALUE OF CHIEF MINISTER'S CHARITABLE FUND PAYMENTS (0.4%)	
G	VALUE OF GAMBLING HARM PREVENTION AND MITIGATION FUND PAYMENTS (0.4%)	
H	VALUE OF CLAIMED CPCs OTHER THAN AT (E,F AND G)	
I	TOTAL VALUE OF CLAIMED COMMUNITY PURPOSE CONTRIBUTIONS (E + H)	
J	CLAIMED COMMUNITY PURPOSE CONTRIBUTIONS AS A % OF NGMR (I/D X 100)	
K	REQUIRED COMMUNITY PURPOSE CONTRIBUTIONS (D X 0.08)	
L	EXCESS/(DEFICIT) OF CLAIMED COMMUNITY PURPOSE CONTRIBUTIONS COMPARED TO REQUIRED CONTRIBUTIONS (I-K)	
M	VALUE OF CONTRIBUTIONS TO REGISTERED POLITICAL PARTIES AND THEIR ASSOCIATED POLITICAL ENTITIES	

SUMMARY OF TOTAL CLAIMED

CATEGORY	TOTALS FOR CATEGORY	MONETARY FOR CATEGORY	IN-KIND FOR CATEGORY	Total as % of NGMR
SUPPORTING A CHARITABLE CAUSE				
PROVIDING RECREATION OPPORTUNITIES				
PROVIDING EDUCATION OPPORTUNITIES				
IMPROVING SOCIAL INCLUSION, EQUALITY OR CULTURAL DIVERSITY				
BENEFITTING OR INCREASING PARTICIPATION IN COMMUNITY SPORT				

PREVENTING OR MITIGATING HARM CAUSED BY DRUG OR ALCOHOL MISUSE OR DEPENDENCE				
BENEFITTING OR INCREASING PARTICIPATION IN WOMEN'S SPORT (ADJUSTED)				
PROVIDING RELIEF OR ASSISTANCE TO PEOPLE LIVING IN AUSTRALIA FOLLOWING A NATURAL DISASTER				
PROVIDING RELIEF OR ASSISTANCE TO THE COMMUNITY IN RELATION TO A COVID-19 EMERGENCY				
TOTAL CLAIMED (NOT INCLUDING PAYMENTS TO GHPMF)				
PAYMENT TO THE GAMBLING HARM PREVENTION AND MITIGATION FUND (GHPMF) (0.75% OF GGMR)				
TOTAL CLAIMED (INCLUDING PAYMENTS TO GHPMF)				
POLITICAL				

CATEGORY – BENEFITTING OR INCREASING PARTICIPATION IN SPORT (Example report)

DATE	RECIPIENT	PURPOSE	AMOUNT MONETARY (\$)	AMOUNT IN-KIND (\$)
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Funding for East Canberra Rugby League junior teams (under 5s to 18s) for the provision of sports equipment, uniforms, coaching wages, trainers' wages, administrator wages, player insurance, umpires, minus registration fees received	10,000	0
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Funding for East Canberra Rugby League junior teams (under 5s to 18s) for the provision of player health and nutrition information night.	0	300
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Funding for East Canberra Rugby League non-professional men's teams for the provision of sports equipment, uniforms, coaching wages, administrator wages, umpires, player health and a nutrition information night.	22,966.67	0
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Funding for East Canberra Rugby League non-professional men's teams for the provision of player health and nutrition information night	0	100
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Maintenance costs for Fyshwick Oval for the provision of water consumption charges, fertiliser, turf repair and aeration repairs to men's changerooms, replace oval light bulbs minus maintenance costs attributable to men's professional sport (1 team out of 5 funded is professional)*	45,440	0
01/04/2020	East Canberra Rugby League Inc	Free room hire for committee meeting	0	150
01/05/2020	East Canberra Rugby League Inc	Contribution for club trivia night including cost of hiring MC from Trivia Nights R Us Pty Ltd minus profit from food and beverage sales and costs attributable to men's professional sport (1 team out of 5 funded is professional)	900	0
01/05/2020	East Canberra Rugby League Inc	Contribution for club trivia night including free room hire and staff costs minus costs attributable to men's professional sport (1 team out of 5 funded is professional)	0	1,920

01/05/2020	East Canberra Bocce Club	Funding for new sports equipment	200	0
01/05/2020	East Canberra Community Council	Sponsorship grant for naming rights for community sports day grant amount minus the value of sponsorship to club	3,000	0
30/06/2020	East Canberra Tennis Club	Administration costs for club to run the Australian National Junior Sports Competition	0	1,000
Sub Total for benefitting or increasing participation in community sport			\$82,506.67	\$3,470
TOTAL FOR BENEFITTING OR INCREASING PARTICIPATION IN SPORT				\$85,976.67

*Worked out based on the hours the oval is used for community or women's sport, and on the basis the oval does not have open community access.

CATEGORY – SUPPORTING A CHARITABLE CAUSE (Example report)

DATE	RECIPIENT	PURPOSE	AMOUNT MONETARY (\$)	AMOUNT IN-KIND (\$)
15/02/2020	Canberra Charity Inc	Free room hire for AGM	0	300
21/02/2020	Canberra Charity Inc	Cash donation	5,000	0
Sub Total for supporting a charitable cause			\$5,000	\$300
TOTAL FOR SUPPORTING A CHARITABLE CAUSE				\$5,300

CATEGORY – BENEFITTING OR INCREASING PARTICIPATION IN WOMEN’S SPORT (Example report)

DATE	RECIPIENT	PURPOSE	AMOUNT MONETARY (\$)		AMOUNT IN-KIND (\$)	
			ACTUAL AMOUNT	ADJUSTED AMOUNT	ACTUAL AMOUNT	ADJUSTED AMOUNT
25/9/2019	East Canberra Women’s Rugby League Inc	Funding for East Canberra Women’s Rugby League women’s teams for the provision of sports equipment, uniforms, coaching wages, administrator wages, umpires, player health and nutrition information night.	16,500	22,000	100	133.33
15/02/2020	East Canberra Women’s Rugby League Inc	Free room hire for AGM	0	0	300	400
Sub Total for benefitting or increasing participation in women’s sport			\$16,500	\$22,000	\$400	\$533.33
TOTAL FOR BENEFITTING OR INCREASING PARTICIPATION IN WOMEN’S SPORT						\$22,533.33

**CATEGORY – BENEFITTING OR INCREASING PARTICIPATION IN SPORT
[EXAMPLE FOR CONTRIBUTION MADE BY ONE VENUE]**

DATE	RECIPIENT	PURPOSE	AMOUNT MONETARY (\$)	AMOUNT IN-KIND (\$)
1/7/2019 – 30/6/2020	East Canberra Rugby League Inc	Funding for East Canberra Rugby League junior teams (under 5s to 18s) for the provision of sports equipment, uniforms, coaching wages, trainers’ wages, administrator wages, player insurance, umpires, minus registration fees received	10,000	0

CATEGORY – IMPROVING SOCIAL INCLUSION, EQUALITY OR CULTURAL DIVERSITY
[EXAMPLE FOR CONTRIBUTION MADE BY THE LICENSEE ON BEHALF OF ALL VENUES]

DATE	RECIPIENT	PURPOSE	AMOUNT MONETARY (\$)	AMOUNT IN-KIND (\$)
01/01/2020	Eastland Cultural Dance Group	Fundraising market stall to purchase traditional dance costumes (<i>A Club, B Club, C Club</i>)	500	0

Alternatively, clubs may choose to separately report contributions made by each venue, with another table showing contributions made by the licensee on behalf of all authorised premises under the same gaming machine licence.

KEY LEGISLATION³

Gaming Machine Act 2004

54 Annual report of clubs

(1) It is a condition of a licence for a club that the licensee's annual report for a financial year of the licensee include information about the following for the financial year:

- (e) the total value of any contributions made to registered parties and associated entities;

Note A licensee that is a club must also include information about community contributions made by the club in their annual report (see section 172).

- (f) anything else required by regulation.

(2) Not later than 10 working days after giving the commission a copy of the licensee's audited financial statements or certified income and expenditure statement under section 158, the licensee must—

- (a) give the commission an electronic copy of the licensee's annual report; and
- (b) publish the annual report on a website of the licensee that can be accessed by the public free of charge.

Note The commission must also publish information about community contributions made by the club (see section 172).

(3) For subsection (2), the licensee may remove confidential information or, with the written approval of the commission, other sensitive information from the annual report if the licensee sets out in the published annual report—

- (a) that information was removed because it was confidential or sensitive; and
- (b) the nature of the information that was removed.

(4) In this section:

associated entity—see the *Electoral Act 1992*, section 198.

confidential information, in relation to an annual report, means information—

- (a) that is not publicly available when the annual report is published; and
- (b) that is about the personal or business affairs of a person other than the licensee; and
- (c) where 1 or more of the following apply:
 - (i) the information was given to the licensee in confidence;
 - (ii) publishing the information would reveal a trade secret;
 - (iii) the information was provided in compliance with a duty imposed under an Act other than this Act;

³ Legislation correct as at November 2021. ACT Legislation can be found at the ACT Legislation Register at www.legislation.act.gov.au.

- (iv) the licensee would breach a law by providing the information.

Please note: Part 11 of the *Gaming Machine Act 2004* relates to Finance. In particular, sections 157A to 157D include definitions of **small or medium club** and **small or medium club group**, as well as provisions relating to a **club group**. These sections are not included here but can be accessed at <https://legislation.act.gov.au/a/2004-34/>.

158 Audit of financial statements etc

(1) A licensee must, as soon as practicable (but not later than 6 months) after the end of each financial year of the licensee—

- (a) if the licensee's gross revenue for all authorised premises for the year is at least \$200 000—
 - (i) ensure that the licensee's financial statements for the year are audited by a qualified accountant; and
 - (ii) ensure that the audited financial statements identify the licensee's gross revenue for all authorised premises during the year; and
- (b) if the licensee's gross revenue for all authorised premises for the year is less than \$200000—
 - (i) prepare an income and expenditure statement for the year that identifies the licensee's gross revenue for all authorised premises during the year; and
 - (ii) certify that the statement is true; and
- (c) give the commission a copy of the audited financial statements or certified income and expenditure statement.

Note **Gross revenue**—see the dictionary.

(2) The audited financial statements or certified income and expenditure statement must be accompanied by—

- (a) if the licensee is a club—a report stating the number of club members at the end of the relevant financial year and, if different classes of members exist, the number of members in each class; and

Examples—classes of member

life member, social member, voting member

Note **Member**, of a club, does not include a temporary member (see Dictionary).

- (b) any other details the commission requires in writing.

(3) In this section:

qualified accountant means—

- (a) a member of the Institute of Chartered Accountants in Australia, the Institute of Public Accountants or the Australian Society of Certified Practising Accountants; or
- (b) a person registered as a registered company auditor under the Corporations Act.

Please note: Sections 163A to 163D of the *Gaming Machine Act 2004* relate to the Gambling Harm Prevention and Mitigation Fund. These sections are not included here but can be accessed at <https://legislation.act.gov.au/a/2004-34/>.

Part 12 Community contributions

164 Definitions—pt 12

In this part:

Chief Minister's Charitable Fund means the Chief Minister's Charitable Fund Ltd ACN 627 111 700.

community—see section 165.

community purpose—see section 166.

community purpose contribution—see section 166.

contribution means any money, benefit, valuable consideration or security.

contribution information, for a community purpose contribution—see section 171.

COVID-19 emergency means —

(a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or

(b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) extension because of the coronavirus disease 2019 (COVID-19).

minimum community contribution, for a licensee for a financial year, means the amount applying to the licensee under section 167 or section 168.

recipient, of a community purpose contribution—

(a) means the entity to which the contribution is made; and

(b) if a group within the entity receives a discrete portion of the contribution—includes the group; and

(c) if an office or individual who is a member of the entity receives a discrete portion of the contribution—includes the office or individual.

reporting year, for a licensee, means the period for which the licensee prepares a financial statement or income and expenditure statement under section 158 (Audit of financial statements etc).

tax period—see section 157A.

165 Meaning of *community* etc—pt 12

(1) In this part:

community—

(a) means the people living in—

(i) the ACT or surrounding region; or

(ii) if the Minister declares an area—the declared area; and

(b) includes people living somewhere else in Australia who need relief or assistance because of a natural disaster.

(2) The **community** is comprised of individuals and groups—

(a) from diverse cultural, language and religious backgrounds; and

- (b) of different gender identity; and
- (c) of different sexual orientation; and
- (d) with disability; and
- (e) of all ages, including children and young people; and
- (f) in different social, economic and cultural circumstances.

(3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(4) In this section:

groups includes community groups, associations and not-for-profit organisations.

166 Meaning of *community purpose* etc—pt 12

(1) In this part:

community purpose means—

- (a) assisting the community, or a part of the community, in 1 or more of the following ways:
 - (i) supporting a charitable cause;
 - (ii) providing recreation opportunities;
 - (iii) providing education opportunities;
 - (iv) improving social inclusion, equality or cultural diversity;
 - (v) benefitting or increasing participation in community sport;
 - (vi) preventing or mitigating harm caused by drug or alcohol misuse or dependence; or
- (b) benefitting or increasing participation in women’s sport conducted in the ACT, or with participants mainly based in the ACT; or
- (c) providing relief or assistance to people living in Australia following a natural disaster; or
- (d) providing relief or assistance to the community in relation to a COVID-19 emergency; or
- (e) a purpose prescribed by regulation.

community purpose contribution—

- (a) means a contribution made by a licensee that is a club—
 - (i) to a stated recipient for a community purpose; or
 - (ii) to the gambling harm prevention and mitigation fund (other than by a payment required under section 167 (2) (b)); or
 - (iii) to the commission and transferred to the Chief Minister’s Charitable Fund (other than by a payment required under section 167 (2) (a)); and
- (b) includes—
 - (i) a contribution prescribed by regulation to be a community purpose contribution; and
 - (ii) an emergency community purpose contribution.

(2) However, a **community purpose contribution** does not include any of the following:

- (a) expenditure in relation to gambling (for example, the purchase of gaming machines);
- (b) payment, by the licensee or the recipient, of a tax, fee, charge or levy, other than for water consumption;
- (c) expenditure on the licensee's business activities prescribed by regulation;
- (d) expenditure on the recipient's ordinary expenses prescribed by regulation;
- (e) capital payments or depreciation by the licensee or recipient prescribed by regulation;
- (f) if a contribution is made on a condition—the value to the licensee of the condition being fulfilled;
- (g) if a contribution is an asset—the value of any income earned from the asset (for example, entry or hiring fees);
- (h) a contribution made to another licensee under a reciprocal arrangement;
- (i) the cost of the licensee or recipient borrowing funds to acquire an asset;
- (j) any other contribution prescribed by regulation not to be a community purpose contribution.

(2A) Subsection (2) does not apply to an emergency community purpose contribution.

(3) A regulation may prescribe matters in relation to a community purpose or a community purpose contribution, including matters that are included or not included in a community purpose or a community purpose contribution.

(4) In this section:

emergency community purpose contribution means a contribution declared under section 166A to be a community purpose contribution.

Example

a contribution to people employed by a club for remuneration, allowances or other entitlements mentioned in an emergency community purpose contribution declaration under s 166A

166A Emergency community purpose contribution declaration

(1) Despite anything else in this Act, if a COVID-19 emergency is in force or was in force at any time in the previous 12 months, the Minister may declare (an **emergency community purpose contribution declaration**) that a contribution by a licensee that is a club is a community purpose contribution.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) An emergency community purpose contribution declaration may apply to anything that happens at any time during the reporting year for the licensee in which that declaration is made.

(3) An emergency community purpose contribution declaration—

- (a) has effect for the period stated in the declaration; and
- (b) may be subject to any conditions declared by the Minister.

(4) An emergency community purpose contribution declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

167 Minimum community contribution—clubs

- (1) This section applies to a licensee that is a club.
- (2) The minimum community contribution that the licensee must make, as a percentage of the licensee's net revenue is—
 - (a) 0.4% of the licensee's net revenue for each authorised premises for a tax period, paid to the commission and transferred to the Chief Minister's Charitable Fund; and
 - (b) 0.4% of the licensee's net revenue for each authorised premises for a tax period, paid to the gambling harm prevention and mitigation fund; and
 - (c) 8% of the licensee's net revenue for all authorised premises for a reporting year for the licensee, made as a community purpose contribution.
- (3) For a community purpose contribution of a licensee, other than a licensee that is a small or medium club or a club in a small or medium club group, at least 6% of the licensee's net revenue must be a contribution of money.
- (4) However, part of the amount mentioned in subsection (3) may be a contribution in kind rather than of money if the contribution—
 - (a) is made under a written arrangement or agreement that has a stated term prescribed by regulation; and
 - (b) meets any other requirements prescribed by regulation.
- (5) The Minister may, on application by the licensee, determine a lower minimum community contribution for the licensee if satisfied that making the minimum community contribution would seriously affect the viability of the licensee's authorised premises.
- (6) A determination under subsection (5) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (7) A regulation may prescribe matters in relation to a contribution under this section including—
 - (a) how the value of a community purpose contribution for this section is worked out; and
 - (b) when a community purpose contribution is made.
- (8) Despite subsection (3), for each reporting year for the licensee that ends after 30 June 2019 and before 1 July 2021, for a community purpose contribution of the licensee, at least 5% of the licensee's net revenue for all authorised premises for a reporting year must be a contribution of money.
- (9) Subsection (8) and this subsection expire 2 years after the day they commence.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).
- (10) In this section:
 - small or medium club***, for a financial year—see section 157A.
 - small or medium club group***, for a financial year—see section 157A.

168 Minimum community contribution—licensees other than clubs

(1) The minimum community contribution that a licensee that is not a club must make in a financial year, as a percentage of the licensee's community contribution revenue, for a tax period is—

- (a) 0.4% paid to the commission and transferred to the Chief Minister's Charitable Fund; and
- (b) 0.4% paid to the gambling harm prevention and mitigation fund.

(2) In this section:

community contribution revenue, for a licensee, means a licensee's gross revenue less the licensee's gaming machine tax.

169 Payment of community contributions for a tax period

(1) This section applies to a minimum community contribution paid by a licensee for a tax period under section 167 (2) (a) or (b) or section 168.

(2) The minimum community contribution required to be paid for the tax period must be paid by the 7th day after the end of the tax period.

170 Licensee must engage with community—clubs

(1) A licensee that is a club must engage with the community by—

- (a) making the community aware that the licensee must make community purpose contributions; and
- (b) considering community needs in relation to making community purpose contributions.

(2) A regulation may prescribe requirements for the engagement of clubs with the community in relation to community purpose contributions.

171 Community purpose contributions—record keeping by clubs

(1) A licensee that is a club commits an offence if the licensee—

- (a) makes a community purpose contribution; and
- (b) does not keep a written record of the following information (the **contribution information**) for the contribution:
 - (i) the name of the recipient;
 - (ii) the community purpose for which the contribution was made;
 - (iii) the way in which the contribution is intended to be used by the recipient;
 - (iv) the nature of the benefit the recipient will receive by using the contribution in the way recorded for subparagraph (iii);
 - (v) for a contribution of money—
 - (A) the amount of the contribution; and
 - (B) when the contribution was paid;
 - (vi) for a contribution of any other kind—

- (A) the kind of contribution; and
- (B) the value of the contribution; and
- (C) when the contribution was made;

(vii) the authorised premises in relation to which the licensee made the contribution.

Maximum penalty: 20 penalty units.

Examples—par (b) (ii) and (iii)

1 A contribution of money was used by a community culture group to hold a fundraising market stall.

The group used the profit from their market stall to buy traditional dance costumes.

2 A contribution of money was used by a community sports club to book a training venue and buy uniforms.

3 A contribution of room hire was used by a women's sports team to hold an end of year awards night.

(2) An offence against this section is a strict liability offence.

172 Community purpose contributions—reporting by clubs

(1) The annual report of a licensee that is a club must include—

- (a) the gross revenue of the licensee for all authorised premises for the reporting year; and
- (b) the net revenue of the licensee for all authorised premises for the reporting year; and
- (c) the total value of community purpose contributions made by the licensee during the reporting year; and
- (d) the percentage of the licensee's net revenue for all authorised premises for the reporting year that was paid as a community purpose contribution; and
- (e) the contribution information (other than the name of an individual who is a recipient) for each community purpose contribution made by the licensee during the reporting year; and
- (f) an account of how the licensee engaged with the community under section 170; and
- (g) an account of—
 - (i) how the licensee monitors the way in which the community purpose contributions were used; and
 - (ii) the steps, if any, the licensee takes to prevent the misuse of community purpose contributions.

Note The annual report of a licensee that is a club must be published on the club's website (see s 54).

(2) For subsection (1) (d), the annual report must set out the percentage of the licensee's net revenue for all authorised premises for the reporting year that was made for each of the following:

- (a) supporting a charitable cause;
- (b) providing recreation opportunities;
- (c) providing education opportunities;
- (d) improving social inclusion, equality or cultural diversity;
- (e) benefitting or increasing participation in community sport;
- (f) preventing or mitigating harm caused by drug or alcohol misuse or dependence;

- (g) benefitting or increasing participation in women's sport conducted in the ACT, or with participants mainly based in the ACT;
- (h) providing relief or assistance to people living in Australia following a natural disaster;
- (i) a purpose prescribed by regulation for section 166 (1), definition of **community purpose**, paragraph (e).

(2A) For subsection (1) (d), the annual report for a reporting year that ends after 23 March 2020 must set out the percentage of the licensee's net revenue for all authorised premises for the reporting year that was made for providing relief or assistance to the community in relation to a COVID-19 emergency.

(3) However, if a licensee is a club with gross revenue for all authorised premises for a reporting year of less than \$200 000, and does not prepare an annual report, the information mentioned in subsection (1) must be—

- (a) set out in a written statement; and
- (b) annexed to the licensee's certified income and expenditure statement that is given to the commission under section 158 (Audit of financial statements etc).

172A Community contributions—commission must publish summary

(1) The commission must publish on the commission's website details of the following in relation to each licensee:

- (a) the minimum community contribution received from each licensee under section 167 (2) (a) or (b) or section 168 (1) (a) or (b);
- (b) for a licensee that is a club—
 - (i) the amount of any community purpose contribution mentioned in section 166 (1), definition of **community purpose contribution**, paragraph (a) (ii) and (iii); and
 - (ii) the percentage of the licensee's net revenue for all authorised premises for the reporting year that was made for each of the matters mentioned in section 172 (2); and
 - (iii) either—
 - (A) an annual report received under section 54 (2) (a); or
 - (B) a written statement annexed to the licensee's certified income and expenditure statement under section 172 (3) and given to the commission under section 158.

(2) The commission may ask a licensee to give the commission, within a stated reasonable time, information that the commission reasonably needs to prepare the summary under subsection (1).

172B Community contribution shortfall tax

(1) Tax (the **community contribution shortfall tax**) is imposed on a community contribution shortfall of a licensee that is a club at the rate of 150% for a reporting year.

(2) The licensee must pay the community contribution shortfall tax.

(3) Community contribution shortfall tax is payable 30 days after the day the licensee receives an assessment under the Control Act, part 6 (Tax administration).

(4) If an amount of community contribution shortfall tax is paid, the commission must transfer the amount to the gambling harm prevention and mitigation fund or, if another fund is prescribed by regulation, that fund.

(5) Despite subsection (1), the community contribution shortfall tax is 100% for each reporting year that ends after 30 June 2019 and before 1 July 2021.

(6) Subsection (4A) and this subsection expire 2 years after the day they commence.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

(7) In this section:

community contribution shortfall, for a licensee that is a club in relation to a reporting year, means the amount (if any) by which the licensee's contribution towards its minimum community contribution falls short.

172C Expiry—COVID-19 emergency amendments

The following provisions expire at the end of a 2-year period during which no COVID-19 emergency has been in force:

- (a) this section;
- (b) section 164, definition of **COVID-19 emergency**;
- (c) section 166 (1), definition of **community purpose**, paragraph (d);
- (d) section 166 (1), definition of **community purpose contribution**, paragraph (b) (ii);
- (e) section 166 (2A);
- (f) section 166 (4) and example;
- (g) section 166A;
- (h) section 172 (2A);
- (i) dictionary, definition of **COVID-19 emergency**.

Gaming Machine Regulation 2004

Part 9 Community purpose contributions

Division 9.1 Preliminary

63 Definitions—pt 9

In this part:

gain, from playing sport—

(a) includes—

- (i) wages, income or other benefits to compensate for time spent playing or training for sport or participating in related activities; and
- (ii) payments for, or provision of, accommodation or personal transport; and
- (iii) payments for general living costs; but

Examples

- 1 payments for electricity, water, gas or phone charges
- 2 payments for rates

(b) does not include payments for reasonable expenses incurred from participating in sport.

Examples

- 1 costs for sports equipment
- 2 sports registration fees
- 3 travel and accommodation costs to attend away games

men's professional sports team means a sports team in which a majority of the participants are professional sportsmen.

professional sportsman means a male who receives gain from playing sport.

Division 9.2 Community purpose contributions—Act, s 166 (1)

64 Maintenance of sports facilities

(1) The following contributions are community purpose contributions:

- (a) maintenance of a sports facility that has open community access;
- (b) maintenance of a sports facility that does not have open community access but is available some of the time for the community to use for sports or sports training.

Example

a sports ground that is normally locked but can be used by arrangement by sports teams in the community

Note See s 69F and s 69G for working out the value of these community purpose contributions.

(2) In this section:

open community access, for a facility, means the facility can be accessed or booked by any member of the community during operating hours apart from when the facility is—

- (a) incidentally unavailable; or
- (b) being actively used by others in the community.

Example

a tennis court or bowling green run by a club that is open from 10am to 4pm and is bookable for use by any person in the community during that time.

65 Maintenance of recreation facilities

(1) Maintenance of a recreation facility that has open community access is a community purpose contribution.

(2) In this section:

open community access—see section 64 (2).

recreation facility—

(a) means a dedicated facility or space built or provided for a specific recreational purpose other than a sport; but

(b) does not include part of a club's premises that is ordinarily used by the club or its patrons.

66 Sports and recreation

(1) The following contributions are community purpose contributions:

(a) a contribution to a recipient for uniforms, equipment or training for sports teams or sportspeople in the community;

(b) a contribution to a recipient for sports coaches, trainers, umpires or administrators;

(c) a contribution to a recipient for sports or recreation activities or events available to the community;

(d) a contribution to a recipient that promotes or develops sports or recreation activities available to the community;

(e) a contribution to a recipient for award events for sports teams and sportspeople in the community;

(f) a contribution to a recipient for the purpose of providing health services related to the recipient's participation in sport in the community.

Note See s 69H for working out the value of this community purpose contribution.

(2) In this section:

recipient, of contribution, does not include a professional sportsman or a men's professional sports team (unless the contribution is allowed by a determination made under section 69A).

Division 9.3 Contributions not included in community purpose contributions

67 Club's business activities—Act, s 166 (2) (c)

(1) Expenditure on the following business activities by a licensee that is a club is not a community purpose contribution:

(a) promoting the licensee's activities or activities associated with the operation of—

(i) the licensee; or

- (ii) an associated organisation of the licensee;
- (b) training for a licensee's staff or executives including any training required under a gaming law;
- (c) professional entertainment or social or entertainment activities of a licensee, for members or patrons;
- (d) providing anyone with free or subsidised alcoholic beverages either directly or indirectly (for example, as a gift, donation or prize);
- (e) providing anyone with a contribution to be used for a gambling activity;
- (f) providing free or subsidised meals, snacks, other food or non-alcoholic drinks to the club's members or patrons.

(2) Subsections (1) (e) and (f) do not apply to an amount contributed to provide a prize for a raffle if—

- (a) the raffle is not conducted for the licensee, an associated organisation, a professional sportsman or a men's professional sports team; and
- (b) the amount is otherwise contributed for a community purpose.

68 Capital payments or depreciation—Act, s 166 (2) (e)

(1) The following are not community purpose contributions by a licensee that is a club:

- (a) capital payments for assets owned, controlled or being acquired by the licensee or an associated organisation if the assets do not have open community access;
- (b) capital payments for, or other expenditure on, assets owned, controlled or being acquired by the licensee, if the assets are not in the ACT;
- (c) depreciation in relation to a capital payment mentioned in paragraph (a) or (b);
- (d) depreciation in relation to a capital payment for a community purpose contribution;
- (e) a capital payment if depreciation in relation to the payment is a community purpose contribution.

(2) In this section:

open community access, for an asset, means the asset can be accessed or booked by any member of the community during operating hours apart from when the asset is—

- (a) incidentally unavailable; or
- (b) being actively used by others in the community.

69 Other contributions—Act, s 166 (2) (j)

(1) The following are not community purpose contributions by a licensee that is a club:

- (a) a contribution for a business association, registered party, associated entity or industrial organisation;
- (b) a contribution made from donations collected by the licensee or the proceeds of a fundraising activity by the licensee;

(c) a contribution for remuneration, allowances or other entitlements for people employed by a licensee or a recipient unless otherwise allowable as a community purpose contribution;

Examples—otherwise allowable as a community purpose contribution

1 a contribution for maintenance of sports facilities under s 64

2 a contribution to a recipient for remuneration, allowances or other entitlements for sports coaches, trainers, umpires or administrators under s 66 (1) (b)

3 a contribution to a recipient for remuneration, allowances or other entitlements for a member of a sports team, or a sports person, mentioned in a determination under s 69A

Note Under an emergency community purpose contribution declaration, a contribution to people employed by a club for remuneration, allowances or other entitlements may be declared to be a community purpose contribution (see Act, s 166 (2), def **community purpose contribution** and s 166A).

(d) a contribution for the following paid for, or given to, an individual:

- (i) phones, tablets, computers and other technology;
- (ii) food and drinks;
- (iii) general living costs;

Examples

1 payments for electricity, water, gas or phone charges

2 payments for rates

(e) a contribution to, or for the benefit of, a professional sportsman or a men's professional sports team (unless the contribution is allowed by a determination made under section 69A);

(f) a contribution for maintenance of a sports facility used only by professional sportsmen or men's professional sports teams (unless the contribution is allowed by a determination made under section 69A);

(g) a contribution for a fine or penalty or a contribution made in relation to disciplinary action;

(h) a contribution for a drug or alcohol test;

(i) a contribution for airline lounge memberships;

(j) notional provisions other than depreciation.

Example

notional provisions for long service or annual leave

(2) In this section:

associated entity—see the *Electoral Act 1992*, section 198.

disciplinary action includes sports disciplinary action.

entitlements includes the following entitlements paid for, or given to, a person:

(a) travel;

Example

airfares

(b) accommodation;

Examples

1 hotel accommodation

2 rent or board

(c) vehicles and vehicle hire.

industrial organisation means any of the following:

- (a) an association of employees, or an association of employers, registered as an organisation, or recognised, under the Fair Work (Registered Organisations) Act 2009 (Cwlth);
- (b) an association of employees registered or recognised as a trade union (however described) under the law of a State or Territory;
- (c) an association registered or recognised as an employer's association (however described) under the law of a State or Territory;
- (d) an association of employees which has an exclusive or predominant purpose of protecting and promoting the employees' interests in matters concerning their employment.

registered party—see the *Electoral Act 1992*, dictionary.

69A Determination—allowable community purpose contributions in relation to sports

- (1) The Minister may determine that a contribution to, or for the benefit of, a men's professional sports team or a professional sportsman is a community purpose contribution.
- (2) The Minister may make a determination under subsection (1) only if satisfied that—
 - (a) it will support participation in community sport; and
 - (b) the team or person's viability to participate in the sport would be adversely affected without the determination; and
 - (c) it is in the public interest.
- (3) A determination—
 - (a) has effect for the period stated in the determination; and
 - (b) may be subject to any conditions determined by the Minister.
- (4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

Division 9.4 In-kind contributions—Act, s 167 (4)

69B Term of arrangement or agreement—Act, s 167 (4) (a)

The term for the written arrangement or agreement is 3 years or more.

69C Requirements for in-kind contribution—Act, s 167 (4) (b)

- (1) The requirements are that the contribution in kind from a licensee that is a club—
 - (a) does not exceed 2% of the licensee's net revenue for all authorised premises for the relevant reporting year; and
 - (b) is made to a recipient that is not controlled by or related to the club; and
 - (c) is made for the purpose of providing a defined facility, space or program for the recipient.

(2) Despite subsection (1) (a), for each reporting year for the licensee that ends after 30 June 2019 and before 1 July 2021, the requirement is that the contribution in kind does not exceed 1% of the licensee's net revenue for all authorised premises for the relevant reporting year.

(3) Subsection (2) and this subsection expire 2 years after the day they commence.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

Division 9.5 Working out value and timing of community purpose contributions—Act, s 167 (7)

69DA Providing food to emergency-affected people

(1) This section applies to a community purpose contribution to support a charitable cause.

Note See the Act, s 166 (1), def **community purpose**, par (a) (i).

(2) This section only applies to a reporting year of a licensee that is a club if a COVID-19 emergency is in force for all or part of the reporting year.

Note **COVID-19 emergency**—see the Act, s 164.

(3) For every \$1 that a licensee that is a club contributes under a written arrangement or agreement to provide food to an emergency-affected person as part of a defined program, the licensee's minimum community purpose contribution must be worked out as if the licensee had contributed \$2.

(4) In this section:

emergency-affected person means a person adversely affected by a COVID-19 emergency.

69E Women's sports

(1) This section applies to a community purpose contribution to benefit or increase participation in women's sport.

Note See the Act, s 166 (1), def **community purpose**, par (b).

(2) For every \$3 that a licensee that is a club contributes, the licensee's minimum community purpose contribution must be worked out as if the licensee had contributed \$4.

69F Maintenance of sports facilities with open community access

(1) This section applies to a community purpose contribution mentioned in section 64 (1) (a).

(2) The value of any maintenance claimed as a community purpose contribution for a reporting year for a licensee that is a club must exclude the total amount of income that the licensee makes from, or receives for, the sports facility during the reporting year.

Examples—income

1 fees or charges that the licensee collects for use of the sports facility

2 grants the licensee receives for operating or maintaining the sports facility

69G Maintenance of sports facilities available to community some of the time

(1) This section applies to a community purpose contribution mentioned in section 64 (1) (b).

(2) The value of any maintenance claimed as a community purpose contribution for a reporting year for a licensee that is a club must be worked out as follows:

$$\frac{\text{community time}}{\text{total time}} \times (\text{total cost} - \text{total income})$$

community time—

(a) means the number of hours the sports facility is used during the reporting year—

(i) by a recipient; or

(ii) for an event or activity organised by a recipient; but

(b) does not include the number of hours the sports facility is used during the reporting year by a professional sportsman or a men's professional sports team.

total cost means the total amount spent by the licensee on maintaining the sports facility during the reporting year.

total income means the total amount of income that the licensee makes from, or receives for, the sports facility during the reporting year.

Examples

1 fees or charges that the licensee collects for the use of the sports facility

2 grants the licensee receives for operating or maintaining the sports facility

total time means the total number of hours the sports facility is used during the reporting year, including by a professional sportsman or men's professional sports team.

69H Health services—out of pocket expenses only

(1) This section applies to a community purpose contribution mentioned in section 66 (1) (f).

(2) The value of the community purpose contribution must not include costs for health services that have, or will be, rebated or paid by another entity.

69I Charging fees for activities or events

(1) This section applies if—

(a) a community purpose contribution is used to hold an activity or event, including an activity or event held—

(i) by a licensee that is a club; or

(ii) at a facility owned by a licensee; and

(b) a fee or other amount is charged in relation to an activity or event; and

(c) all or part of the fee or other amount charged is received by—

(i) the licensee; or

(ii) an associated organisation of the licensee.

(2) If the licensee has a clear written record of the amount received by the licensee or an associated organisation, the value of the community purpose contribution must exclude the amount received.

(3) If the licensee does not have a clear written record of the amount received by the licensee or an associated organisation, the community purpose contribution is taken to have a value of \$0.

69J When community purpose contribution is made

(1) This section applies to a community purpose contribution of money.

(2) The contribution is made when the money is given and not when the thing for which the money is given is provided or agreed to.

69K Working out value of in-kind community purpose contributions

(1) This section applies to an in-kind community purpose contribution by a licensee that is a club.

(2) In working out the value of the contribution, the licensee must use the cost of providing the contribution or the market value of the contribution.

(3) The licensee must keep records of its workings and evidence of its costs and market valuations.

69L Expiry—COVID-19 emergency amendments

The following provisions expire at the end of a 12-month period during which no COVID-19 emergency has been in force:

(a) this section;

(b) section 69 (1) (c), note;

(c) section 69DA.

74A Other statements to be included in annual report of clubs—Act, s 54 (1) (f)

(1) If a licensee's gross revenue for all authorised premises for a reporting year is \$200 000 or more, the annual report of the club for the year must include—

(a) a copy of the audited financial statements given to the commission under the Act, section 158; and

(b) an audited community purpose contribution statement.

(2) In this section:

audited community purpose contribution statement means a statement that—

(a) sets out the matters required to be included in the annual report under the Act, section 172 (1) (b) to (e) and (2); and

(b) has been audited by a qualified accountant.

qualified accountant—see the Act, section 158 (3).



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