

Submission to the Future of Gaming in Tasmania

Public Consultation Paper 2020

The Hon. Meg Webb MLC

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Introduction

'This paper provides an opportunity for you to consider and provide feedback on the new regulatory model.' (Consultation Paper pg 2)

The policy and the regulatory framework presented for consideration in the Government's consultation paper include:

- No modelling or evidence of the likely social and economic impacts of this licensing model and regulatory framework on the Tasmanian poker machine industry, the broader Tasmanian hospitality industry, the Tasmanian community, or the Tasmanian economy overall.
- No reference to sources of evidence, data or research that may have informed the material presented or supported the policy and regulatory decisions made.
- No indication of the process used to develop this policy or its regulatory framework, including no indication of the role played by key stakeholders who may have been involved or consulted.
- No consultation questions to frame feedback and indicate where input or evidence provided by interested parties has the opportunity to shape the content.
- No overall cost/benefit analysis for Tasmania of this licensing model and regulatory framework.

Given these deficiencies, the value and authenticity of this consultation process is in question.

This submission provides analysis and commentary on the licensing model and regulatory framework outlined in the paper. It also presents a significant number of questions which remain unanswered on both the framework and the underlying Government policy. These unanswered questions are presented in each section of the submission and are provided in a complete list at the end of the submission.

On the basis of the deficiencies in the information presented in the consultation paper, the analysis and commentary provided, and the questions which remain unanswered, this submission makes one recommendation:

Recommendation:

To minimise social harm and protect the integrity of public finances, the implementation of the proposed model must be put on immediate hold until such time that an open, public process of assessment and scrutiny has been undertaken of the policy and model.

The Government's policy

'Matters specific to the Government's policy itself are out of scope of this consultation process.' (Consultation Paper pg 2)

The Government's policy has not, at any stage, been subjected to appropriate scrutiny, assessment and public consultation. To date, no details have been made public on the policy's development, the evidence base that informs it, the social or economic modelling that underpins it, or the policy objectives that it aims to achieve.

In a ministerial statement to Parliament on 17 March 2016, Peter Gutwein, as Treasurer, set out a range of principles that were to guide the gaming reform process in Tasmania. A notable point made in that statement was:

The processes that led to the development of the earlier Deeds caused concern in the community and cast a shadow over the appropriateness of structural arrangements. The Government does not want a repeat of this outcome. There needs to be a fully transparent public consultation process that enables interested Tasmanians ... to have their say on the future structure of the gaming sector post 2023, with the Government's policy position as the starting point.

On the same date, Premier Hodgman's media release also emphasised the importance of a transparent process: 'Today the Government announced a new way forward for gaming in Tasmania, which makes a clean break with the secretive ways of the past.'

The Hodgman and now Gutwein Government has completely failed to honour that statement.

There has been no process by which the Government's policy has been appropriately scrutinised and assessed in an open, public and accountable manner. In fact, 'interested Tasmanians' have been specifically excluded from having their say on the Government's policy even in responding to this consultation paper.

The Government may point to the Joint Select Committee process in 2016/17 as the opportunity for consultation. However, the first iteration of this policy was tabled as a Federal Group/THA proposal at a very late stage and was not examined by the Committee. This industry-written proposal, later adopted by the Government, is not reflective of the evidence, findings or recommendations of the Joint Committee. Indeed, the Federal Group/THA proposal was contrary to the expert advice provided by the Tasmanian Liquor and Gaming Commission (TLGC), which warned against numerous elements of the proposal. Similar advice and warnings were also expressed by the previous TLGC Chair, Peter Hault, in his evidence to the Committee.

The Government may point to the 2018 state election as the opportunity for the public to have a say on its policy, and may claim a mandate from the result. However, the only gaming policy taken to the 2018 election that presented reasonable detail, an evidence base and clear policy objectives was that of the Opposition. It was the Opposition policy that received the overwhelming focus of public visibility and discussion. Much of that discussion was generated by the Government, who in the course of the election campaign made claims about the Opposition gaming policy that were objectively shown to be false. Scant detail was provided on the Government's own policy and virtually no public scrutiny or critical assessment of their policy was able to be undertaken during the campaign.

At no stage has the Hodgman/Gutwein Government provided an explanation for its departure from the principles originally presented in the Parliamentary Committee process and articulated in the policy position paper entitled *Hodgman Liberal Government Post-2023 Gaming Structural Framework*. Those principles included:

- 'the tax rates and licence fees for casino gaming and keno are to be reviewed against the broader Australian market'; and
- 'in relation to EGMs in hotels and clubs, our policy position is that the right to operate these machines post 2023 will be allocated and priced by a market-based mechanism, such as a tender'.

The central principle of a market-based mechanism was reinforced in evidence provided to the Committee on Future Gaming Markets by Premier Hodgman on 22 March 2017:

Most importantly, we believe the right to operate electronic gaming machines post-2023 should be determined, allocated and priced by testing the market. ... What we are proposing is a game changer in determining the future of electronic gaming machines operating in our state. For the first time we are proposing to put to the market, have the market test, the licence to operate electronic gaming machines in pubs and clubs in our state. Handing the licence to a single operator without a competitive process is something we have consistently been critical of and we believe very strongly it must not happen again...

Treasurer Gutwein's evidence also emphasised the Government's commitment to a market mechanism: '...it is complex and challenging, but from the Government's point of view we are determined that we want to test the value through the market of this licence'; and

There is an opportunity to consider what might be the best model for Tasmania and the best way to take it to the market. We want to take it to the market. ... As to how the tender is framed up at the end of the day, I would think it would obviously take into account the benefits to the community including harm-minimisation options.

At some undisclosed point in the second half of 2017, the Hodgman Government abandoned its previous commitment to testing the market value of the licence to operate gaming machines in Tasmania. Instead, the Government, without explanation, adopted the core proposals set out by the THA and Federal Group in their joint proposal to the Committee.

In changing its position, the Government ignored the recommendations of the Parliamentary Inquiry and the advice of both Treasury and the TLGC. Given this, the Government's policy must be rigorously scrutinised. The Tasmanian people deserve to know what prompted and informed such a fundamental change of position by the Government.

What evidence or modelling informed the change of position? Which stakeholders were consulted, or influenced the change of position? What policy objectives and community outcomes are served by the change of position? The Tasmanian community have had no opportunity to be provided with answers to these entirely appropriate and necessary questions.

Questions to be answered:

1. Why did the Government abandon its repeatedly stated commitment to using a market-based mechanism for licensing the operation of poker machines in Tasmania?
2. How was the Government policy arrived at, given that it contradicts the advice of the TLGC, the Treasury, the Parliamentary Joint Committee and the Government's own clearly laid out principles of reform?
3. Why did the Government reject the TLGC advice which warned against this individual licensing model?
4. Beyond providing an initial critical response to the Federal Group/THA proposal, what role has the TLGC subsequently played in the development of the Government policy and its planned implementation?
5. Why did the Government reject Treasury advice against this model, documented during the Parliamentary Inquiry?
6. What other advice and modelling has the Government sought or obtained which supports its policy?
7. Which local gambling support organisations and harm minimisation specialists were consulted and provided advice to inform the policy and its planned implementation?
8. Which other local stakeholders were consulted to inform the development and implementation of this policy?
9. What consultation has the Government undertaken with the 74% of Tasmanian hotels and 96% of Tasmanian clubs that don't have poker machines to inform the development and implementation of this policy?
10. What policy objectives and community outcomes will be served by the Government's change of policy position?

The role of Government

When it comes to developing and implementing public policy relating to gambling, and in particular poker machines, the Government has two key responsibilities.

The first and most important priority, in recognition of the particular dangers presented by poker machines, is to **minimise the risk of social and economic harm to the community** through evidence-based, best-practice harm minimisation regulation.

The second is to make sure that, once an effective harm minimisation framework is developed, **public revenue is maximised so that any super or excess profits from these machines go to the state**, not to private interests. The way to achieve this is well understood and clear: the application of a market-based price for the licence or licences through a tender or similar means.

On the first responsibility, the Government has ignored, without justification, best practice harm minimisation recommendations from the TLGC. As an original condition of allowing poker machines to operate in Tasmania, the TLGC was set up by Parliament to provide independent policy advice to Government on gambling regulatory matters. The Government continues to ignore the evidence-based, best practice harm minimisation recommendations from the TLGC set out in detail in a 2008 policy response paper, and again in its submission and evidence to the Parliamentary Inquiry in 2017.

On its second responsibility, rather than maintaining its prior commitment to putting what may be Tasmania's most valuable public licence out to tender, the Gutwein Government now seeks to give it away for free – again. In renegeing on its commitment, the Government will likely forfeit hundreds of millions in lost revenue for Tasmanians over coming decades.

Even if it were argued that the Government's proposed model is a better financial deal than the current model, that would be no excuse for failing to use this current opportunity to achieve the *best* financial deal for the Tasmanian people. With the current deed coming to an end, we have an opportunity, as Premier Will Hodgman said so clearly in 2016, to get this right. It remains incumbent on the Gutwein Government to demonstrate, through evidence and modelling, that it has got this right and will deliver the best achievable outcome to the people of Tasmania.

While the Government asserts in this consultation paper that it aims to **'create a sustainable industry'** (pg 1), it provides no definition, principles or parameters of this concept. The term "sustainable" is generally used to describe the use of natural resources in such a way that it does not damage the environment. Inherent in the concept of sustainability is the identification of specific environmental and other values that will be protected, and a plan to accurately monitor the impact on these values and adjust activity as required to preserve them. No material is presented in the Government's consultation paper, nor in any other publicly available documentation, which demonstrates how this policy or its implementation can be understood to be "sustainable".

The consultation paper also asserts that the Government's policy aims to **'provide the highest standards of probity'** (pg 1), but again provides no meaningful description or discussion of what that means or how the model will achieve such standards. Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process. The process by which this policy has been developed and is being implemented could not be further removed from that definition of probity.

Having promised transparency and the opportunity for the community to have a say and having committed to a market-based mechanism to get best value for the right to operate poker machines in Tasmania, the Gutwein Government ignored the findings and recommendations of the Parliamentary Committee convened specifically to give the community a say. It has rejected expert, independent advice from the TLGC, engaged in undisclosed negotiations with Federal Group and THA, adopting the industry-written policy as its own, accepted hundreds of thousands, if not millions of dollars in donations from those same industry entities to assist with its re-election effort – and now releases a consultation paper that forbids comment on the policy that it seeks to give effect to. The Gutwein Government in its adoption and implementation of this policy cannot lay claim to even the most minimal standards of probity.

The claim that this policy **'ensure[s] returns from the gaming industry are shared appropriately among the industry, players and the Government representing the community'** (pg 1) is also unexplained, with no underpinning principles or definition of what constitutes 'appropriately'.

Presenting no rationale for this claim renders it meaningless and misleading. What the policy does provide is an increase in the returns collected by government and a re-arrangement of who in the industry gets the rest. While this may be seen as a better financial arrangement than the deals of the past, it is demonstrably far from the best deal the Government could have achieved on behalf of the Tasmanian people. The abandonment by Government of their commitment to achieve a market value price for the licence to operate poker machines in Tasmania will again see the super profits generated by these machines lost to the state – which is not just inappropriate, it is irresponsible.

Further, there is no suggestion in this policy of any change to the mandated **return to player** rate for Tasmanian machines. This rate is one of the features of the machines that can be modified to play a role in harm minimisation. Globally, Australia (including Tasmania), has a low return to player rate – it is one of a suite of features that classify the machines in this country as ‘high intensity’, which can also be understood to mean more harmful. The opportunity to more ‘appropriately’ share returns with players, and by doing so reduce harm to Tasmanians, has been entirely neglected by the Government in this policy.

Questions to be answered:

11. How does the Government define a 'sustainable' poker machine industry in Tasmania?
12. Where has the Government demonstrated, with evidence or modelling, that its proposed model meets its definition of 'sustainable'?
13. What ethical principles and accountable processes can the Government point to in regards to the development of this policy, licensing model and regulatory framework that would constitute the 'highest standards of probity'?
14. Given it's increased regulatory challenges, what specifically in this regulatory structure provides for the highest standards of probity?
15. What principles, beyond "a better financial deal than last time", underpin an 'appropriate' sharing of returns among industry, players and the Government?
16. What demonstration can be made that this policy constitutes an 'appropriate' sharing of returns in comparison to other options which were available to the Government?

No end-point to the new model?

Next 20 years or forever?

In giving evidence to the Parliamentary Committee in 2017, Premier Will Hodgman said, 'It is within our capabilities to do what we think is in the best interests of the people of Tasmania and future generations.'

Something that has garnered no public discussion so far is the fact that setting Tasmania on the path of individual licensing of poker machine venues will likely remove forever any future single point in time opportunity to make change – such as we had in 2003 and such as we have now.

Under the current model of a single licence with a set duration, Tasmania has had the opportunity to deeply consider its public policy approach to poker machines at particular moments in time. In light of developments in evidence, data and local conditions, the opportunity has been available in Tasmania to reassess and consider changes, adjustments and improvements to the policy and regulatory approach.

The change proposed by the Government under this new individual venue licensing model will establish all the initial licences for a twenty-year period through to 2043. But, as the industry shifts and changes in the intervening years, as venues are bought and sold, as new venues emerge, there is no certainty that individual licence periods will stay aligned.

It may be anticipated that once licence periods become non-aligned, a near-permanent model will be created for our state. Like mainland states with fixed period individual licences, Tasmania will be locked in to this approach without any future single, aligned moment when all licences are up for renewal.

Given the changes proposed by this Government policy, this may be the final time Tasmanians have the opportunity to reconsider the overall basic model and shape of this industry.

With that in mind, can it be said that the Gutwein Government has indeed provided Tasmanians with a genuine opportunity to have their say, and can it claim without a doubt that in pursuing this policy it has acted in the best interests of the people of Tasmania and future generations?

Questions to be answered:

17. Does the Government expect that all individual venue licences will remain aligned for renewal at 30 June 2043, including any new licences granted in the intervening years?
18. Does the Government expect that there will be a future point in time, similar to that in which we now find ourselves, when this new licensing model in its entirety will be able to be reviewed and changed?

Harm minimisation

This consultation paper and policy **'does not propose any specific changes to the harm minimisation framework, [but] harm minimisation has continued to be front of mind during the development of the changes to be introduced under the new arrangements.'** (pg 5).

Why would Tasmania, in redesigning the fundamental regulatory arrangements for its most demonstrably harmful gambling activity, *not* include a thorough reassessment of the harm minimisation framework that accompanies it?

If, as Premier Hodgman said to the Committee into Future Gaming Markets on 22 March 2017, 'It is within our capabilities to do what we think is in the best interests of the people of Tasmania and future generations', it would appear that this Government accepts that the current levels of harm

caused by poker machines are the best outcome achievable for our community. If this is the Government's view, it is at odds with the independent expert advice of the TLGC and the overwhelming weight of evidence from local research and international jurisdictions.

There is no evidence presented in the consultation paper that harm minimisation has '**continued to be front of mind**' (pg 5), no modelling to indicate the likely impact of this policy on levels of harm expected to be experienced by Tasmanians, and no acknowledgement of the expert, independent advice that indicates this policy in fact risks higher levels of harm.

While taking the opportunity to change the fundamental basis on which we licence poker machines, this policy completely turns its back on the opportunity to meaningfully improve harm minimisation through measures which are supported by an overwhelming evidence base, internationally proven, and recommended by the TLGC.

Higher levels of harm under this model

The consultation paper provides no recognition that the individual licensing model presents an increased risk of harm to gamblers, primarily from the heightened likelihood of a competitive environment that hasn't existed under the current monopoly model.

During the Parliamentary Inquiry, both the current and immediate past Chairs of the TLGC expressed significant concerns about the proposal that was originally presented by Federal Group/THA and is now Government policy.

Some of the concerns raised by the Chairs of the TLGC related to evidence from other jurisdictions that have individual venue licence models, where harm minimisation measures are much harder to enforce and competition between venues drives licence holders to compete for patrons and maximise patron losses – a perverse incentive that is against all harm minimisation efforts.

Indeed, in the Parliamentary Inquiry into Future Gaming Markets, even Federal Group itself made the argument that the single operator model in Tasmania was a positive because it dampened competition by decreasing incentives for unscrupulous practices and noncompliance.

In evidence to the Inquiry, the TLGC confirmed its long-standing opposition to an individual venue licensing model on the basis that it would increase social harm and be difficult and more expensive to regulate: 'The TLGC is of the view that a system allowing individual pubs/clubs to tender for the operation of the EGMs is highly problematic.'

Additionally, former Chair of the TLGC Peter Hoult also gave evidence to the Inquiry, noting that: 'interstate experience has shown that such [a direct licencing] ownership model results in dangerous inter-venue competition to attract more gamblers and very high costs for the government in oversight and compliance'.

In regard to claims that Tasmanian regulation and harm minimisation is better in some areas than that applying in some other states, Hoult also observed: 'Given the laissez-faire approach taken in other jurisdictions this is not a massive achievement'.

Ample expert evidence and advice on what would work to reduce harm

The Government continues to ignore the evidence-based, best practice harm minimisation recommendations from the independent TLGC. In 2008, the then Treasurer requested that the

Tasmanian Gaming Commission (as it was then): '...review the findings of the (SEIS) report and provide the Government with advice on an appropriate policy response to best address the issue of problem gambling, those at risk of developing a gambling problem, and consumer protection in Tasmania.'

In response to this request, in October 2008 the Commission released the *Social and Economic Impact Study into Gambling in Tasmania Policy Responses Report to Treasurer*. This document acknowledges that in regards to harm minimisation in Tasmania, 'There are significant problems that remain unaddressed and policy responses are available with the potential to ameliorate those problems.'

The 2008 Commission report states 'the TGC is firmly of the opinion that there is enough evidence available to strongly suggest that:

- problem gambling is a significant issue here in Tasmania;
- the number of problem gamblers is underestimated;
- EGMs are the most dangerous mode of gaming especially for those individuals most likely to become problem gamblers;
- such gamblers contribute disproportionately to EGM turnover and losses;
- there are a range of policy options available to Government that would result in interventions that would reduce the losses of problem gamblers;
- recreational gamblers may well be more tolerant of additional interventions than has been implied by some parties – particularly if they are aware of the reasons behind them; and
- a secondary result of such interventions would be a decline in the profitability of the gaming industry and gambling tax revenue to Government.'

The report presents a wide range of opportunities to implement harm minimisation measures. While the TLGC has never again been requested by any Tasmanian Treasurer to provide a similar review and policy response to subsequent SEIS reports, these evidence-informed observations from 2008 remain true today. Indeed, in its submission and evidence to the Parliamentary Inquiry in 2017, the TLGC reiterated much of this earlier advice, including measures such as \$1 bet limits, slower game speeds, reduced opening hours, time-outs for machines and more.

“The Government and the TLGC will closely observe and monitor the operation of EGMs in Tasmania in the restructured gaming market and will act quickly to address any harm concerns”
(Consultation Paper pg 2).

Lack of action to date on evidence-informed, expert-advised harm minimisation provides the Tasmanian people with little confidence in this claim.

The TLGC has closely monitored and observed the operation of poker machines in Tasmania for over two decades and has regularly and explicitly raised concerns about levels of harm. In doing so, it has formed clear, evidence-based views on measures which would produce a genuine reduction in harm to Tasmanians. These views presented to Governments, past and present, have been almost entirely ignored. Virtually the only harm minimisation measures that have been adopted in Tasmania are those approved by Federal Group and THA, the most influential players in the industry.

Amongst the evidence provided by the TLGC to the Parliamentary Inquiry, then subsequently ignored by the Gutwein Government, was a refutation of the claim that Tasmania has a low level of problem gamblers. The TLGC acknowledged that the methodology for collecting prevalence data is significantly flawed and likely to be a substantial underestimation of the real prevalence of problem gambling. The TLGC has explicitly called for much stronger regulations to help problem gamblers, including a range of specific, readily adopted measures – for example, it describes the \$1 bet limit as a 'simple, cheap, and effective way to reduce the amount that can be lost and therefore reduce harm to problem gamblers'.

Having been alerted to harm concerns and presented with clear evidence from the TLGC in the Parliamentary Inquiry, where was the quick action from Government to address the harm?

Questions to be answered:

19. At this important juncture, why is a thorough review and rigorous, evidence-based improvement of Tasmania's harm minimisation approach not being undertaken?
20. Why does the Gutwein Government persist in ignoring the independent, evidence-informed advice provided by the TLGC on effective and readily implemented harm minimisation measures?
21. What modelling has the Government done on its proposed policy and regulatory framework to gauge the likely impact on levels of harm caused by poker machines in the Tasmanian community?
22. What level of social and economic harm is the Gutwein Government prepared to accept before acting to put Tasmanian people's lives and wellbeing ahead of industry profits?

The regulatory framework

Will appropriate regulatory capacity be established and funded?

While the consultation paper acknowledges an increased regulatory presence will be required under this framework, it indicates no increase to the capacity of TLGC or the Liquor and Gaming Branch of Treasury to engage in oversight and monitoring.

In looking to other Australian jurisdictions to inform our expectations, it is clear that under this policy there would be a need for closer monitoring and enforcement in an environment of increased competition between venues. These jurisdictions show similar models encourage non-compliance with harm minimisation and under-investment in staff training and other measures.

The move to individual venue licences introduces considerably more complexity to the communications, monitoring and enforcement functions of the TLGC. The consultation paper provides no commentary on this change and no indication of need to increase capacity of the TLGC.

While the Parliamentary Inquiry did not have the opportunity to scrutinise the Federal Group/THA proposal, the TLGC did provide a written response that was highly critical of the proposal, including the following statements:

- '[The TLGC is] on the record as having outlined potential increased compliance issues and associated costs (for all) with such a [direct licencing] model'.
- 'A competitive mechanism [which this proposal is lacking] would provide all potential operators (other than those already present) with the opportunity to enter a commercially profitable market (and the State to achieve a fair market price). More importantly from the Commission's point of view, this would represent an opportunity to test the market for the introduction of best practice harm minimisation measures such as mandatory pre-commitment.'
- 'the TLGC has a long record of dealing with compliance breaches in hotel venues and nothing in this model provides comfort that this would not continue and, in fact, increase'.
- 'It is claimed, without evidence, that moving to this model "will not increase the incidence of problem gambling". The Commission considers that the incidence of problem gambling in Tasmania is not insignificant and that there is nothing in this proposal that addresses this.'
- 'The compliance issues particularly for small venues that would become owner/operators of EGMs remain a concern for the TLGC and there is nothing in the proposal that addresses this concern. Additionally, there would be increased regulatory costs for venues and the Commission (Government) under the multiple owner model.'

Rather than an individual venue licensing model, the TLGC preferred a reformed, single licence model, provided it is 'a market tested, competitive process that provides transparency for the community and returns the appropriate revenue to Government (and the Tasmanian community) that such an entitlement is worth.'

The consultation paper does not provide sufficient detail to assess the appropriateness or likely effectiveness of the regulatory framework it presents. It fails to address the numerous concerns raised by the TLGC.

Questions to be answered:

23. What consideration has the Government given to the regulatory criticisms and concerns relating to this model raised by the TLGC at the time of the Parliamentary Inquiry, and how have those concerns been addressed in the policy and implementation?
24. What modelling and quantification has the Government undertaken on the increase in 'regulatory presence' that will be required under this proposed policy and framework?
25. What additional funding and capacity will be required by the TLGC and the Liquor and Gaming Branch of Treasury to meet the need for an increased regulatory presence?
26. Will the Government commit to providing the additional funding and capacity required under this policy to the TLGC and Liquor and Gaming branch of Treasury?

Community Support Levy

What is the rationale for new, variable rates?

While it is a positive move to apply the CSL to poker machines in casinos, correcting an aberration that should never have been allowed in the first place, there is no rationale presented as to why it should be less than the 5% rate applied to hotels.

Under the individual licensing model, Tasmanian venues with poker machines would be in a newly competitive environment. In this environment, a discounted CSL rate to casinos provides an unlevel playing field. Given that casinos are already provided with an economies of scale advantage, with up to twenty times the number of machines of any individual hotel, on what basis do they warrant a 2% profit advantage on top of that?

This is coupled with the lack of detail provided on casino tax rates, which are apparently still the subject of secret negotiations between the Government and Federal Group.

It is incumbent on the Government to explain how the lower rate for the casino CSL is anything other than an unwarranted gift of public money to a private business, which also happens to be a significant party donor.

'The use of the increased pool of CSL funding is subject to further consideration.'

(Fact Sheet #1)

Just as review and improvement of the harm minimisation framework should be an integral part of developing a new licensing and regulatory model, reform of the CSL should be dealt with at this stage of the process, not put aside for a later, undisclosed time.

The allocation and use of the additional funding to be collected under the CSL is flagged for further review and determination, but no detail is provided in the consultation paper as to when and how that will occur, who will be involved in such a review, or the principles that would underpin the process.

Harm minimisation is of primary importance for any responsible Government in forming gambling policy. Given that the TLGC 'considers that the incidence of problem gambling in Tasmania is not insignificant and that there is nothing in this proposal that addresses this', it is entirely unacceptable to fob off reform of the CSL, as the central funding mechanism for harm minimisation, to be dealt with at an indeterminate time in the future.

'It has been suggested that the future model should retain a CSL funding allocation model under the Act, but broaden the categories and revise the allocations to promote flexibility and responsiveness to changes in priorities. This may include moving the allocation to regulations to provide a greater ability to respond to future needs.' (Fact Sheet #1)

This is another vague and unsubstantiated statement in the consultation paper.

'It has been suggested' by whom and under what circumstances? What evidence or rationale supports the suggestion? And where is the suggestion and analysis of it by Government documented?

Similarly, what particular 'changes in priorities' are anticipated that may not be accommodated under a model that retains legislative direction within the Act? What evidence has been presented, and by who, that there is a need to 'promote flexibility and responsiveness'? What tangible examples are on hand to demonstrate that removing the direction of CSL allocations from the Act to regulations is indicated?

On the face of it, it is positive that additional funds will be allocated to the CSL under this policy. However, it is concerning that the policy seeks to remove the legislative direction of those funds, leaving open the potential for those funds to be directed away from genuine and effective harm minimisation. The consultation paper mentions broadening categories and increasing flexibility in the way the CSL is spent, but gives no tangible details or assurances to provide confidence that, overall, the doubling of the CSL will result in a commensurate improvement in the effectiveness of harm minimisation efforts in Tasmania. The Act should incorporate firm, agreed principles, at minimum, that direct the CSL allocation.

Under the current model there is a history of CSL allocations being "distorted" in where they are directed. This has been documented in comments from the Auditor General, Parliamentary review, and by the TLGC. What assurance can Tasmanians have that distortions won't even more readily occur if allocations are removed from the Act and provided with more 'flexibility', as proposed?

It is noted that in the State of the State address given in Parliament on 3 March 2020, Premier Gutwein made the following statement: 'Today, I can announce that from 2023 onwards we will invest \$1.5m p.a. from the increased revenues from Hotels and Clubs that the future gaming policy delivers, to support the National Trust and revitalise our unique heritage properties that drive visitation.'

It is not clear in that statement whether that \$1.5m p.a. is to be drawn from the increased CSL pool, or will come via some other hypothecation mechanism from the general poker machine tax revenue collected by Government under this policy. If it is the former, and it is an indication of the flexibility the Government seeks to introduce into the allocation of CSL funds, then it represents a significant and concerning departure from the sole stated objective of the CSL – which is to improve harm minimisation and address problem gambling.

'The aim of any change to the arrangements for allocation of the CSL is to ensure its continued relevance and greater effectiveness. The objective of the CSL to improve harm minimisation and address issues of problem gambling in our community will not change.'
(Fact Sheet #1)

As the sole objective identified for the CSL, there is no reason why all additional CSL funds collected under this policy shouldn't go wholly to harm minimisation efforts, those being services for the prevention of problem and at-risk gambling, support services for problem and at-risk gamblers, community education concerning gambling, and research into gambling.

The rationale for the current direction of 25% of CSL funds to sporting clubs and 25% to charitable organisations resulted from debate during the passage of the Gaming Control Act in 1993. In that debate a concern was raised that allowing poker machines in hotels and clubs would absorb discretionary income in local communities such that sporting clubs and community groups would be disadvantaged in conducting grassroots fundraising. To offset that disadvantage, it was decided to allocate 50% of the CSL as a pool of grant funding available to those organisations.

Unless it can be shown that the individual licensing model proposed by the Government is expected to further disadvantage sporting groups, charitable organisations or other organisations, the original rationale provides no basis on which the current funding to these groups should increase under an expanded CSL – that is, under a doubled CSL, 25% of the new total will be sufficient to maintain the existing level of funding for sporting groups and charitable organisation. This will ensure that all the additional CSL funds go to the single, identified objective of the CSL – to improve harm minimisation and address problem gambling.

Questions to be answered:

27. Will the Government commit to allocating all additional funds collected under the CSL to harm minimisation efforts, specifically gambling harm prevention, support for problem and at-risk gamblers, community education and gambling research?
28. What guarantee can the Government provide that the proportion of the CSL allocated to gambling-specific services, education and research will not be smaller than under current arrangements?
29. What guarantee can the Government provide that the introduction of 'flexibility' to the allocation of CSL funding will not simply create a handy bucket of funding for pet projects or filling budget gaps instead of delivering a genuine increase in protections?

Hotels and clubs

Who will be most affected by the transfer of financial risk?

No detail is provided in this paper on what consultation process, if any, has been undertaken to inform the policy itself or the implementation mechanisms proposed to give effect to that policy. The paper is silent on whether the whole poker machine industry was consulted, or just the dominant players of Federal Group and THA as the original authors of the policy.

Were small, single-venue owners directly consulted on this policy and its implementation? Were Tasmanian clubs with poker machines directly consulted? If not, how were their views and interests considered?

The paper leaves a large number of unknown financial risks for venue operators. They will be responsible for paying licence fees to the Government and service fees to the Licensed Monitoring Operator (LMO) for both the Core Monitoring functions and the Regulated Fee functions, the rate of which will not be determined until after the tender is awarded. They will also be subject to unregulated, market-based fees for a portion of services they will require.

This is a substantial unknown to which individually licenced venues will be exposed. All these services are currently provided by Network Gaming (owned by Federal Group), and there are no other current providers of such services in this state. Under the current model, the costs for these services are fixed as a part of the overall service package provided through Network Gaming, but under the new model, every venue operator will have to source and fund their own services. It is likely that Network Gaming will be successful in winning the tender to be the LMO under the new model and will remain the only option for the provision of these market-based services under the

new model. As the LMO, and as a wholly owned subsidiary of Federal Group, Network Gaming will have no incentive to keep prices low as every non-Federal-owned venue can be regarded as a competitor in the industry.

Given the new regulatory and financial responsibilities for venues and the government's trumpeting of the greater proportion of revenue going to the venue operator, **what modelling has been done to demonstrate where this licencing model will leave venue operators financially compared to the current model?** Given the stratified nature of the poker machine hotel industry in Tasmania (single-venue owners, multi-venue owners and large operators), where are the case studies or modelling to demonstrate the expected overall financial picture for the various operators in the industry?

It would be expected that responsible policy-making by the Government would have included modelling to anticipate the overall impact on various operator types within the Tasmanian industry. With no such modelling presented by the Government, how are we to assess the appropriateness of the proposed arrangements and likely impact? In five, ten, or 20 years' time, what changes does the Government expect in terms of venue ownership and venue location in Tasmania?

Who will own the Tasmanian poker machine industry?

This paper fails to present evidence or modelling of the expected impact of this new licencing model on the shape of the Tasmanian industry over time. It does, however, appear to flag **the potential for a concentration of ownership** under this model when it indicates that 'The Government may choose to impose a restriction on the percentage of overall EGM authorities held by an individual venue owner or ownership group.' The possible need for such a restriction would indicate that we will need to guard against a shift towards a future oligopoly, duopoly or monopoly.

Having flagged the possible need for a restriction to be imposed, no detail is provided on where that power will be held, at what time such a restriction may be made, or on what principles that restriction will be determined.

Licensed Premises Gaming Licence (LPGL) – points of clarification

'...operators of each hotel and club (of which there are currently 93) will be licensed individually to own and operate EGMs.' (Consultation Paper pg 13).

This statement is confused as it says that operators will be licensed individually, but references the total number of hotels and clubs that currently have poker machines in Tasmania. There may be 93 venues with poker machines, but there are far fewer than 93 owners/operators/ownership groups. It is not clear from this statement whether the licence will be attached to the owner, operator or individual venue. More clarity is needed.

'A venue licence will be issued for 20 years, with a process to enable the licence to be reissued (subject to assessment) prior to its expiry.' (Fact Sheet #2)

The Government appears to have ignored expert advice on the length of the licence period. The TLGC advised a licence period of seven years, Treasury indicated it should be related to the length of machine life (five years), and interstate jurisdictions with fixed licence periods include Victoria at ten years.

- What rationale or evidence informed the Government's proposal to set the licence period at 20 years?
- What will the parameters be for the assessment conducted prior to reissue of licences? Who will conduct this assessment? Will licences be reissued for a further 20-year period?
- If a licenced venue is sold, does the existing licence change ownership with the remaining timeframe in place, or is a new 20-year licence period initiated?
- If a new venue was to gain a licence during the next 20 years, will they be granted a 20-year licence or will they be granted a licence that ends in 2043?

'Venues will pay a progressive annual licence fee between \$1000 and \$2500 per EGM.'

(Fact Sheet #2)

Not only has the Government abandoned, without explanation, its commitment to a market-based mechanism to licence the operation of poker machines, opting instead to give away the licences for free to all existing licence holders, an annual licence fee of \$1000-\$2500 per machine is proposed with no suggestion that this price has been determined through market modelling.

These annual fees appear to be virtually identical to those proposed by Federal Group/THA in their submission to the Parliamentary Inquiry, and the Government has failed to demonstrate that these fees are anything other than a fraction of a likely market price.

Without setting a market price on the LPGLs or on the annual licence fees for venues, this policy will see windfall capital gain and most of the financial benefits that accrue from ending the current monopoly flow to a few big poker machine hotel owners, including Federal Group, rather than to the state.

"Annual licence fees will reflect the increased regulatory costs associated with the venue operator model, and the number of EGM authorities held by each venue." (Fact Sheet #2)

As discussed above, it is not clear that any modelling has been done on the anticipated increased regulatory costs that will result from this new model.

- Can the Government demonstrate that the annual licence fees will meet the anticipated increased regulatory costs?

'A greater assessment of the financial capacity of venue operators will be required during the licensing process to ensure they are able to meet their financial obligations.' (Consultation Paper pg 14)

- Who will conduct the suitability assessments of each venue?
- What will be the parameters of that assessment (e.g. corporate structure and associates, financial capacity and history)?
- Will owners of multiple venue be assessed on each venue or on their total pool of venues?
- What will occur if a current venue owner is deemed to not meet the assessment?

EGM authorities

'...post 1 July 2023, a process will be established by the Commission to allow for new and existing venues to apply for authorities that may become available within the overall EGM cap.'

(Fact Sheet #3)

The consultation paper states that the TLGC will be responsible for re-allocating EGM authorities if they become available, and EGM Authorities will be transferrable between venues of common ownership subject to Commission approval.

- What will be the considerations/basis for the TLGC approval of transfer of machines between venues of common ownership? On what basis will the Commission have the power to refuse a transfer?
- Will EGM Authorities be transferrable to other venues owned by the same operator that are currently without EGMs? Or would this be regarded as a new venue and subject to the community interest test?

Questions to be answered:

30. Can the Gutwein Government demonstrate that single-venue operators will not be worse off under this new model, and that this model does not constitute a more burdensome but no more financially beneficial arrangement for single-venue operators than they have now?
31. What guarantee can the Government provide that this model will not put current clubs with poker machines at risk?
32. What guarantee can the Government provide that this model will not put small and regional hotel venues at risk?
33. Does the Government expect poker machines to disappear from hotels within small rural communities and become more concentrated in larger urban areas under this model? If so, which urban areas are most at risk of an increased concentration of machines?
34. Based on the current ownership of venues and the numbers of poker machines in each (upon which EGM Authorities will be allocated), what is the current proportion held by each current owner and ownership group? What is the largest proportion currently held by any one owner or ownership group?
35. On what basis may the Government choose to impose a restriction on the percentage of overall EGM authorities held by an individual venue owner or ownership group?
36. Where will the power reside to impose a restriction on the percentage of overall EGM authorities held by an individual venue owner or ownership group?

37. Will a restriction on the percentage of overall EGM authorities held by an individual venue owner or ownership group be imposed from 1 July 2023, or at such time that a consolidation of the market to large owners/groups becomes apparent or reaches a certain level?
38. Anticipating the possible need to impose a restriction, what does the Government regard as an appropriate percentage of EGM authorities to be held by any one owner or ownership group?
39. Will the Government provide a guarantee that this model will not result in a concentration of ownership which would see the Tasmanian industry become a duopoly or oligopoly?
40. What guarantee can the Government provide that this model will not result in majority, or even entire, interstate ownership of the Tasmanian hotel poker machine industry?
41. Given that the TLGC advised a licence period of seven years, Treasury indicated it should be related to the length of machine life (five years), and interstate jurisdictions with fixed licence periods include Victoria at ten years, why did the Government decide on a 20-year licence period for Tasmania?

Casinos

The consultation paper is silent on what process, if any, has been undertaken to review existing casino licensing arrangements, including fees and taxes.

At this juncture, when the Government proposes to renew existing casino licences and offer up to two new high-roller licences, the Tasmanian people would expect a responsible government to have applied a rigorous review of arrangements with a view to achieving the best outcome for the state. There is no indication that this has occurred.

Casino CSL rate

See discussion above under Community Support Levy.

Casino taxes

Tasmania has never had different levels of poker machine taxation between casino and hotels (CSL aside). Given that poker machines in casinos are cheaper to operate due to economies of scale and make higher profits for the operators due to regulatory privileges, there is no basis on which casinos should be gifted a lower taxation rate for their poker machines.

Other than Federal Group and the THA, no other individual or organisation giving evidence to the Committee made the case for different tax rates to be introduced for casinos as opposed to hotels. No objective, independent evidence has been presented to justify such a change.

Although the Parliamentary Inquiry had no time to consider the last-minute proposal tabled by Federal/THA, it did commission an analysis from Synergies Economic Consultants which was included as an appendix to the final report. This analysis concluded that the arguments presented in the proposal for lower casino taxes did not 'constitute a compelling case to change the current taxation arrangements applying in Tasmanian casinos'.

Despite this independent advice, the policy the Government took to the election agreed with the Federal Group/THA proposal that the tax rates should be differentiated, and it is a matter of speculation that the Government will set lower tax rates on casinos than those applying to hotels.

The Government's election policy departed from the original *Hodgman Liberal Government Post-2023 Gaming Structural Framework*, which stated that 'The tax rates and licence fees for casino gaming (table gaming and EGMs) and keno are to be reviewed against the **broader Australian market**', and moved to the position that casino poker machine taxes 'will be benchmarked against **comparable** casino operations interstate to ensure that the returns are competitive and fair for the community, players and the casino operator' [my emphasis added in both].

Reviewing Tasmanian casino tax rates against the broader Australian market would see them **increase**. Inexplicably limiting the comparison to regional casinos in North Queensland appears to be the justification that the Government will use to reduce the casino tax rate.

Questions to be answered:

42. In considering renewal of casino licences and the introduction of new high-roller casinos to the state, did the Government undertake a complete review of the licencing and regulatory arrangements for casinos in Tasmania? If not, why not?
43. If such a review was conducted, who was involved in this review, and what modelling was done to indicate an option that will be in the best interests of the Tasmanian people?
44. Why is the Government no longer reviewing casino tax rates against the broader Australian market?
45. Why would casino poker machine taxes be set lower than hotel poker machine taxes given casino poker machines are cheaper to operate (due to economies of scale) and higher profit (due to regulatory privileges)?

Keno

'Keno in hotels and clubs will not change, with Federal Group conducting keno games as the keno operator and hotels and clubs selling tickets in return for a commission. However, the licence to conduct keno will change from a Gaming Operator licence to a new Keno Operator licence.' (Consultation Paper pg 13).

The consultation paper provides no detail on how the keno licence fee of \$500,000 p.a. was determined, and no evidence or modelling to confirm that this represents market value for such a licence. Further, no rationale is provided for the 20-year keno licence period.

Importantly, the paper presents as a foregone conclusion that the keno licence will be awarded for a new 20-year period to Federal Group, with no acknowledgement that the end of a licence period presents an ideal time to put the new licence to tender in order to gain best market value for the Tasmanian people, and no justification for why the Government is choosing not to do so.

It is notable that the consultation paper also contains no mention of keno tax rates and any changes that would responsibly be contemplated at such time that a licence period is ending and another

being granted. Indeed, keno taxes could readily be contemplated at the same time that the tax rates for other elements of the gambling industry are being reviewed and reset.

Evidence indicates that the Tasmanian keno tax rate is currently low by national standards. The Social and Economic Impact Study funded by the Tasmanian Government confirms this. Jonathon Root, Deputy Secretary of the Revenue, Gaming and Licencing Division at the Department of Treasury and Finance, gave evidence to the Parliamentary Inquiry on behalf of Treasury, where he noted 'Keno remains a popular product in Tasmania. The tax rate... is low on a national comparison...'.

It appears that with this policy the Government proposes to provide a keno licence at what is likely to be a cut-price licence fee, having neglected to tender that licence for best market return, and will recoup a demonstrably low level of taxation.

This can be contrasted with other states that achieve a significant return from their keno licences and set higher taxation rates, which in a number of states are hypothecated to a hospital fund. Why has the Tasmanian Government not put in place such an arrangement to best serve the interests of the Tasmanian people?

Questions to be answered:

46. How did the Government determine and set the keno licence fee at \$500,000 p.a.?
47. Was the market value of the keno licence modelled? If so, what is the likely market value of that licence? If not, why not?
48. Why is the Government not putting the keno licence out to tender?
49. What is the rationale for the keno licence period of twenty years? What advice or recommendation was provided by Treasury or the TLGC to the Government regarding the length of the keno licence?
50. Will the keno licence fee be static over twenty years or will it increase? If it will increase each year, will that increase be in line with CPI or with the increased market value of the licence, or determined by some other factor?
51. Given the acknowledgement from Treasury of a comparatively low keno tax rate, why are keno taxes not being increased to a level comparable with other states and territories to ensure the best value return to the Tasmanian people?

Summary list of questions to be answered:

The Government's policy

1. Why did the Government abandon its repeatedly stated commitment to using a market-based mechanism for licensing the operation of poker machines in Tasmania?
2. How was the Government policy arrived at, given that it contradicts the advice of the TLGC, the Treasury, the Parliamentary Joint Committee and the Government's own clearly laid out principles of reform?
3. Why did the Government reject the TLGC advice which warned against this individual licensing model?
4. Beyond providing an initial critical response to the Federal Group/THA proposal, what role has the TLGC subsequently played in the development of the Government policy and its planned implementation?
5. Why did the Government reject Treasury advice against this model, documented during the Parliamentary Inquiry?
6. What other advice and modelling has the Government sought or obtained which supports its policy?
7. Which local gambling support organisations and harm minimisation specialists were consulted and provided advice to inform the policy and its planned implementation?
8. Which other local stakeholders were consulted to inform the development and implementation of this policy?
9. What consultation has the Government undertaken with the 74% of Tasmanian hotels and 96% of Tasmanian clubs that don't have poker machines to inform the development and implementation of this policy?
10. What policy objectives and community outcomes are expected to be served by the Government's change of policy position?

The role of Government

11. How does the Government define a 'sustainable' poker machine industry in Tasmania?
12. Where has the Government demonstrated, with evidence or modelling, that its proposed model meets its definition of 'sustainable'?
13. What ethical principles and accountable processes can the Government point to in regards to the development of this policy, licensing model and regulatory framework that would constitute the 'highest standards of probity'?
14. Given it's increased regulatory challenges, what specifically in this regulatory structure provides for the highest standards of probity?

15. What principles, beyond "a better financial deal than last time", underpin an 'appropriate' sharing of returns among industry, players and the Government?
16. What demonstration can be made that this policy constitutes an 'appropriate' sharing of returns in comparison to other options which were available to the Government?

No end-point to the model?

17. Does the Government expect that all individual venue licences will remain aligned for renewal at 30 June 2043, including any new licences granted in the intervening years?
18. Does the Government expect that there will be a future point in time, similar to that in which we now find ourselves, when this new licensing model in its entirety will be able to be reviewed and changed?

Harm minimisation

19. At this important juncture, why is a thorough review and rigorous, evidence-based improvement of Tasmania's harm minimisation approach not being undertaken?
20. Why does the Gutwein Government persist in ignoring the independent, evidence-informed advice provided by the TLGC on effective and readily implemented harm minimisation measures?
21. What modelling has the Government done on its proposed policy and regulatory framework to gauge the likely impact on levels of harm caused by poker machines in the Tasmanian community?
22. What level of social and economic harm is the Gutwein Government prepared to accept before acting to put Tasmanian people's lives and wellbeing ahead of industry profits?

The regulatory framework

23. What consideration has the Government given to the regulatory criticisms and concerns relating to this model raised by the TLGC at the time of the Parliamentary Inquiry, and how have those concerns been addressed in the policy and implementation?
24. What modelling and quantification has the Government undertaken on the increase in 'regulatory presence' that will be required under this proposed policy and framework?
25. What additional funding and capacity will be required by the TLGC and the Liquor and Gaming Branch of Treasury to meet the need for an increased regulatory presence?
26. Will the Government commit to providing the additional funding and capacity required under this policy to the TLGC and Liquor and Gaming branch of Treasury?

Community Support Levy

27. Will the Government commit to allocating all additional funds collected under the CSL to harm minimisation efforts, specifically gambling harm prevention, support for problem and at-risk gamblers, community education and gambling research?
28. What guarantee can the Government provide that the proportion of the CSL allocated to gambling-specific services, education and research will not be smaller than under current arrangements?
29. What guarantee can the Government provide that the introduction of 'flexibility' to the allocation of CSL funding will not simply create a handy bucket of funding for pet projects or filling budget gaps instead of delivering a genuine increase in protections?

Hotels and clubs

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