



Our Reference: 100/10/05/A

4 May 2005

Gambling Licences Review
Office of Gaming and Racing
Department of Justice
PO Box 18055 Collins Street East
MELBOURNE VIC 8003

Dear Mr Lampe,

Submission to the Gambling Licences Review

Maroondah City Council supports the Bracks Government's review of the electronic gaming machine, club keno and wagering licences and funding arrangements for the racing industry post-2012. Council welcomes this opportunity to provide comment to the Review Steering Committee regarding the issues outlined in the Information Paper and Issues Paper.

The Maroondah City Council submission to the review is enclosed. The submission addresses a number of the issues for consideration highlighted in the Issues Paper.

Should you require further information, please feel free to contact Vivian Tee on 9298 4220.

Yours sincerely,

Michael J. Marasco
Chief Executive Officer
Maroondah City Council

enc. Maroondah City Council Submission to the Gambling Licences Review (6 pages)



Maroondah City Council Submission to the Gambling Licences Review

REVIEW OF ELECTRONIC GAMING MACHINE LICENCE ARRANGEMENTS POST-2012

May 2006

1. Introduction

Maroondah City Council welcomes this opportunity to provide input to the Department of Justice's review of Electronic Gaming Machine (EGM) licences. The following comments are made in relation to the *Gaming Machine Licence Arrangements Post-2012 Issues Paper*.

As a member of the Local Government Working Group on Gambling (LGGWG) and having actively contributed to the LGGWG response to the review, Maroondah City Council strongly supports the concerns, views and positions detailed in the LGGWG submission. Council is also in agreement with the concerns, views and positions contained in the submission from the Council of Gambler's Help Services.

This document is intended to supplement the LGGWG submission in detailing key local issues of particular concern to Council in regards to the EGM licence structure and associated arrangements. This submission considers the review terms of reference in the context of the operation of gaming machines in Victoria over the past 14 years and the expiry of the current gaming operator licences in the year 2012. The positions articulated in this submission are consistent with the Maroondah Gaming Policy 2001.

Council is disappointed that the details of the State Government's proposed amendments to the Victorian Planning Provisions (VPP) were not made available to local government prior to the commencement of the gambling licences review. Council feels that the absence of this information substantially hinders the ability of Council, and other interested parties, to respond to this review. Maroondah City Council requests the opportunity to provide a supplementary submission to the Gambling Licences Review following the release of the details of both the VPP amendments and the report from the Regional Electronic Gaming Machine Caps Review Panel.

2. Review Areas

Within the limited scope of the review terms¹ Council has identified four key areas that have particular pertinence to the current and probable state of gaming in the City of Maroondah and the significant impacts on the Maroondah community. These four areas are:

¹ Council notes, with disappointment, that the review terms of reference as stated in the Issues Paper preclude discussion on some crucial aspects directly associated with the gaming licence structure and arrangements, namely:

- the appropriateness, in the current gaming context, of maintaining the present ceiling on EGM numbers in Victoria (30,000 EGMs) and outside the Melbourne Casino (27,500)
- the need for greater regulation of and public access to information pertaining to the operation of EGMs in Victoria (the issue of product safety and consumer accountability)
- the review of the definition and recognisable value of 'community benefits', particularly in relation to the broad and varied range of purposes and activities that are currently deemed to constitute a 'community purpose'.

- ⇒ Revenue distribution and restrictions on licences
- ⇒ Distribution of gaming machines
- ⇒ Responsible gambling measures and the principle of transparency
- ⇒ Availability of club keno

3. Maroondah City Council Responses

Review Area 1: Revenue Distribution & Restrictions on Licences

3.1 Should any restrictions be placed on the ownership of gaming operator's licences and/or the ownership and management of venues with gaming machines? (*Gaming Machine Licence Arrangements Post-2012 Issues Paper, page 37*)

Council supports the current legislated prohibition on any person having more than 10 per cent voting power in the licensee.

However, Council is highly concerned about the trend in increasing concentrations of ownership/control of EGMs by certain entities or consolidated group of entities, not only in terms of venue operator licensing for hotel venues, but also in the management of club venues. As stated in the Final Report of the National Competition Policy (NCP) Review:

The term 'quasi-clubs' refers to venues which are licensed as clubs but where the commercial arrangements are structured to transfer the power, discretion and profits to other parties. ... The incentive to create quasi-clubs is essentially a Victorian phenomenon. They arise because the regulatory and legislative framework provides strong incentives to find mechanisms to establish super efficient and commercial gaming operations under the auspices of a club.

... Club members can also benefit from arrangements where premises are leased and more professional management contracted in and may have a similar incentive to promote such arrangements. Since many clubs lack capital and free cash flow, like hotels clubs may enter into contracts and agreements for leasing and/or managing venues, catering and so on. Leasing and subcontracting can be efficient modes of operation, especially for cash deficient clubs.

However, the concern arises where the club's contracts and agreements are predominantly with one party and contain profit sharing arrangements which shift most profit to that party.

The Report highlights the following concerns over quasi-clubs:

- The management structure of quasi-clubs greatly reduces the level of control by the venue operator and this may have an unfavourable bearing on the level of transparency, accountability and integrity associated with gaming operations.
- Quasi-clubs receive a preferential rate of return which results in lower tax revenue to the State Government and, therefore, reduced benefits to the community. Quasi-clubs enjoy this tax exemption despite their similarities, in many aspects, with hotel venues.
- The distinction between clubs and hotels becomes blurred.

- As the turnover per machine is usually higher at hotel venues² (and given the similarities between hotels and quasi-clubs in terms of location, operation and marketing), the proliferation of quasi-clubs will lead to an increased level of gaming (and problem gambling) in the community.

Council is aware of at least one club venue in the Maroondah municipality that qualifies as a 'quasi-club' by virtue of its commercial arrangements. Recently, the venue operator of this club applied for a new gaming venue in the City of Maroondah³.

Consistent with the NCP Review conclusions, Council's principle concerns in relation to quasi-clubs are:

- The potential for the substantial diminution of the return of gaming revenue to the local community due to the often sizeable management fees, regardless of whether such fees are based on a fixed rate or on a percentage of the profits;
- The involvement and level of control and influence of professional management companies in the club sector, particularly as such companies are more likely to be primarily profit focussed rather than community focussed – such a development would be inconsistent with the State Government's original intent in the granting of tax concessions to club venues;
- The potential for increased gaming losses in the community due to the similarities between quasi-clubs and hotels as previously described – Maroondah ranked as the tenth highest metropolitan local government area in terms of net gaming expenditure per adult in 2004/05 (\$665 per adult), thus Council is strongly opposed to any increases in gaming losses in the area.

Additionally, Council is concerned about the potential for clubs (as well as hotel owners) that already operate gaming venues and have access to higher levels of resources to further expand the number of gaming venues and EGMs that they operate. This could give many clubs a 'lion's share' of the gaming revenue, similar to the current situation with hotel owners/controllers as highlighted in Table 7 of the Issues Paper (page 36). Such an inequitable distribution of access to gaming revenue would further compound the existing disadvantage of clubs without gaming and create a situation that facilitates the domination of a small number of clubs.

In view of the matters discussed above, Council advocates that the Victorian Commission for Gambling Regulation (the Commission) be required to inspect all contracts between clubs and professional management parties prior to making any decisions relating to venue operator's licences, and that the Commission should grant a venue operator's licence only if it can be satisfied that the commercial arrangement does not represent a profit sharing arrangement and that the management fee set is reasonable.

Additionally, Council is of the view that limits need to be placed on the number of gaming machines approved to any one family, club, entity or consolidated group of entities for both hotel and club venues. This would ensure a fairer and more equitable distribution of the substantial gaming revenue generated in Victoria.

Post-2012 gaming machine licensing arrangements should have consideration to the factors that encourage the development of quasi-clubs and either incorporate measures and mechanisms to prevent the establishment of quasi-clubs or ensure rigorous monitoring and regulation to meet the State Government's stated objectives of transparent, appropriately recognisable and fairly distributed financial benefits to the Victorian community.

² Marsden Jacob Associates (2000), p. 61.

³ Council has opposed this application for a number of reasons; the Commission decision was pending at the time of this submission.

3.2 What is the net benefit of current taxation arrangements? What are the potential benefits of other taxation arrangements? (*Gaming Machine Licence Arrangements Post-2012 Issues Paper, page 37*)

The current taxation arrangements in relation to direct economic community benefit requires hotel venues to contribute 8.33% of the gaming machine revenue to the Community Support Fund (CSF) and for club venues to provide a minimum of 8.33% of gaming revenue for 'community purpose'.

Council regards the current taxation arrangements in relation to the CSF and Community Benefit Statements (CBS) to be inconsistent with the State Government's principles of ensuring 'that the legitimate financial benefits of gambling (both private and public) are transparent, appropriately recognisable and fairly distributed to the Victorian community' (Issues Paper, page 3).

Under the current system, public access to information on the amount of revenue into the CSF and the dollar value of projects/purposes funded from the CSF is not readily available. Council strongly believes that the community should be afforded easy access to this information and that the information provided should be sufficiently detailed to enable a thorough understanding of each project/purpose funded and the dollar value allocated, and to enable determination of the geographic distribution of funding. Further, to ensure the fair distribution of the financial benefits of gambling, the annual distribution of CSF funding to each local government area needs to be proportionate to the recorded net gaming expenditure of the municipality. Public information regarding the CSF could take the form of a detailed Annual Report published on the Government website.

In relation to the CBS, Council is of the view that the activities and purposes that constitute community purposes (as specified in the Minister's Determination dated 24 June 2003) are too broad and the level of information required for completion of a CBS is insufficient to ensure that the financial benefits of gambling are appropriately recognisable. For example, the employment expenses of all staff employed by venue operators (including staff in non-gaming areas) and the value of fixed assets provided for non-gaming purposes have been approved by the Minister as activities constituting community purpose. Accordingly, club venues can claim these expenses as part or all of their required 8.33% contribution. Council is aware that some club venues in the City of Maroondah have claimed the total of their annual 'community benefit' under the categories of staff expenses and/or fixed assets. Such items should be considered part of the commercial operating costs and not as 'community benefits' (unlike activities such as donations, sponsorships and subsidised activities which represent a tangible and recognisable benefit to the community).

Alternatively, the 8.33% contribution from both club and hotel venues in each municipal district can be directly allocated to a specific fund administered by the local government authority of the municipality, or pooled into the existing Community Grants fund which is also administered by the local government authority. Local government is the level of democracy closest to the community and its key role continues to be the promotion of the wellbeing of its local community. Thus, such a mechanism for the intake and distribution of gaming revenue, presently administered through the CSF and CBS, will appropriately ensure both an equitable regional distribution of gaming revenue and that gaming revenue can be dispensed through a transparent process for means that best improve the health and wellbeing outcomes for the local community.

To enhance the State Government's commitment to ensuring transparent, appropriately recognisable and fairly distributed financial benefits of gambling, Council encourages the Government to partly or wholly remove the current tax exemption for club venues and require clubs to contribute 8.33% of gaming revenue to the CSF or an alternate fund. This will eliminate the need for the CBS and the requirement for clubs to provide 8.33% for 'community purpose'. However, the effectiveness of such a system in achieving the State Government's objectives would be contingent on the greater transparency of the CSF and responsibility by the Government to ensure the equitable regional distribution of funds for purposes that directly assist those affected by problem gambling.

Review Area 2: Distribution of Gaming Machines

3.3 What should be the limit/cap on gaming machines in all venues or in specific classes of venues? Should there be fewer but larger venues? Should selected suburban and regional locations be given the opportunity to develop larger style gaming venues with more than 105 gaming machines? (*Gaming Machine Licence Arrangements Post-2012 Issues Paper, page 30*)

There is a proliferation of research about the links between problem gambling and a concentration of gaming, both in terms of the number of EGMs per venue and the number of gaming venues (see Blaszczyński, 1998; Productivity Commission, 1999; Marsden Jacobs Associates, 2000; Svensen, 2001; Hallebone & Marsh, 2001; Ronalds, 2002, SA Centre for Economic Studies, 2005). These links are largely interrelated with the concept of accessibility. The Productivity Commission inquiry identified multiple dimensions of accessibility that may affect problem gambling in different ways. These dimensions include:

- Number of venues
- Opportunities to gamble per venue
- Opening hours
- Conditions of entry
- Ease of use
- Social accessibility
- Location of venues

Using this framework, the establishment of large style venues dispersed in residential/suburban areas (ie such venues cannot be considered 'destination venues') will increase the number of opportunities to gamble per venue. This can increase a gambler's sense of anonymity, facilitate greater social accessibility and encourage the development of venues where gambling becomes the primary activity in the venue rather than being provided alongside a range of other social and recreational activities. On the other hand, a higher number of 'convenience' venues will heighten spatial accessibility due to the increase in the number of gaming opportunities.

It is now widely recognised that these multiple dimensions of accessibility have a significant impact on problem gambling in the community. Consequently, neither potential scenario (ie a growth in large venues dispersed throughout the state or a higher number of smaller venues) provides a satisfactory and responsible approach to gambling in Victoria. Council appreciates the predicament of the State Government in having to come to a decision about appropriate venue size in the context of the current statewide EGM cap. It is Council's view that a comprehensive and prudent assessment of this question cannot be achieved while the existing ceiling on gaming machines remains; such an assessment is only possible when conducted in conjunction with an earnest review of the statewide cap.

Review Area 3: Responsible Gambling Measures & the Issue of Transparency

3.4 What obligations should be placed on the operators and/or providers of gaming machines after 2012 in providing public information, for example, or their responsible gambling practices or the profile of the Victorian population who regularly play gaming machines? (*Gaming Machine Licence Arrangements Post-2012 Issues Paper, page 39*)

There are a number of reasons for local governments to require information about aspects related to the gambling industry such as responsible gambling practices, the profile of gamblers and gaming expenditure. The key uses by local government of such information include:

- To develop effective and up-to-date gambling policies

- To analyse the impact on the local community of gambling and changes in the municipality (for example, proposals for a new gaming venue or an increase in the number of EGMs)
- To gain an understanding of the population groups that experience or are at-risk of experiencing problem gambling and the impacts of problem gambling on individuals, families and the community
- To better comprehend which measures have been shown to effectively minimise the harms caused by gaming and gambling

The value of an evidence-based approach to governance and planning is becoming increasingly evident and essential. Clearly, it is imperative that local governments have access to this data and information to inform effective local-area planning and policy development.

Access to such information will be particularly crucial with the introduction of the proposed amendments to the Victorian Planning Provisions. While the State Government has not yet released the details of this amendment, Council anticipates that the amendment will transfer greater planning authority of gaming venues to local government. This would intensify the need for local governments to be able to obtain a greater range of gaming-specific information than is currently available in order to make appropriate and informed decisions on planning matters.

Maroondah City Council recently prepared an Economic and Social Impact Submission in response to an application to the Commission for new premises approval. In the process of developing this Submission, it became clear that much of the data and information required for Council to make a comprehensive assessment of the community impacts of the application was lacking. Such information included:

- Profile of venue patrons – what are the sociodemographic characteristics of people who use EGMs in Maroondah, when and to what extent do they visit gaming venues? When are the peak periods of usage and in which venues?
- The models and assumptions used by the gaming industry to estimate the projected impacts on gaming expenditure (new, transferred and reduced expenditure) as a result of the proposal
- The extent to which responsible gambling practices (both legislated and additional measures) are implemented and the efficacy of such measures

There is little doubt that ready access by local governments to such information is essential to enable councils to carry out their mandated responsibilities and roles, particularly in facilitating the best social, economic, health and wellbeing outcomes for the community. Access by the general public to such information is also fundamental to a policy and legislative framework premised on the principles of transparency and probity.

Council, therefore, insists that the timely and public release of such information by the gaming industry and gaming operators must form one of the central obligations of the post-2012 licensing arrangements.

Review Area 4: Availability of Club Keno

3.5 Should the availability of club keno be expanded? (*Club Keno Arrangements Post-2012 Issues Paper, page 11*)

Given the similarities in speed of play between club keno and electronic gaming, Council is firmly opposed to any expansion in the availability of club keno. Club keno should continue to be restricted to licensed venues. This restriction will enable easier monitoring of the product, particularly in preventing access by minors, and will be vital to limiting the accessibility of club keno, hence minimising gambling problems associated with the product.

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