Your Ref:

Our Ref: 21/06/17 LB/f
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11 February 2007

Public Hearing
Parliament House

To: The Legislative Council Select Committee on Gaming Licensing

Thank you very much for this opportunity to appear before you.

Please find enclosed:

1. A summary of major issues and concerns related to current legislation and regulation and what changes must be made to avoid or mitigate these problems in the post-2012 Electronic Gaming Machine operator licensing in Victoria;
2. A community consultation report on our residents’ attitudes and comments about pokie machines in the Shire;
3. Some information related to design of pokie machines; and
4. A brochure to give you some understanding and information about our beautiful Shire.

Yours sincerely

John Connor
Councillor

Lorraine Beyer
Social Planner

Kyneton Administration Centre
129 Mollison Street, Kyneton
Hours: Mon–Fri 8:30am–5pm
Services based at Kyneton:
• Chief Executive
• Governance
• Finance Unit
• Property and Valuations
• Information and Communications
• Recreation and Cultural Development

From early 2008:
• Organisational Development
• Community Development
• Community Services
• Social Planner

Gisborne Administration Centre
40 Robertson Street, Gisborne
Hours: Mon–Fri 8:30am–5pm
Services based at Gisborne:
• Economic Development and Tourism
• Community Support
(LOCAL LAWS, ANIMAL CONTROL, TRAFFIC CONTROL)
• Planning Services
• Building Services
• Environmental Health
• Infrastructure Planning and Design
• Environmental Services
• Developments and Major Projects

Service Centres
• Main Street, Romsey
• High Street, Woodend

These service centres will be relocating in the near future.
For current opening hours and location, telephone 5422 0333.
SUMMARY OF MAJOR ISSUES AND CONCERNS

1) Pokie machine data is owned and controlled by the gaming industry. This situation is unique to Victoria.

This is a problem because:
1. The industry is able to use this sophisticated information to design more addictive machines. Rapid technological advances - digital networking/ analysis and brain function/ human behaviour technology - combined with huge budgets for research and development enables this.
2. No government or other agency access, scrutiny, monitoring or research of pokie machine data is possible as the data is under complete control of the industry.
3. The product safety of the various machine types and the relationship between machine characteristics and problem gambling behaviour cannot be assessed.
4. The impact of pokies on communities is not able to be quantified.

Indications
1. Victorian Pokie machines take double the revenue per machine than in other States.
2. Expenditure on Pokie machines is rising rapidly despite being no increase in number of Pokie machines in Victoria.

Solution
1. Ensure post 2012 gaming legislation takes the ownership and control of pokie machine data away from the gaming industry and vests it in an independent body - as is the case in other states and internationally.

2) Research and program funding for Pokie gambling has an extremely narrow focus

This is a problem because:
1. Local governments and lobby groups are left to try and fill the gaps in information without government funding;
2. There is no way to credibly dispute sweeping statements and assertions made by the industry at VCGR and VCAT hearings - where the standard of evidence does not appear to be the same as that required of local government.
3. Policy and legislation is developed without an adequate evidence base;

Indications
1. Government research and program funding is focused on the individual, the problem gambler and their treatment or control.
2. There is no ability to conduct research that focus on the environmental cues, prompts and stimuli that create or exacerbate problem gambling behaviour.
3. Focus on the problem gambler and their treatment diverts attention away from the product safety aspects of pokie machines and the environments in which the product is delivered.
4. There is been no research underpinning major policy decisions. For example no research that establishes what is a safe density of machines; what size towns can
safely accommodate pokie machines; and what affects pokies have on health, social and economic wellbeing at community and individual level.

Solution
1. An ongoing research agenda that is not dominated by the industry and which includes focus on the complex behavioural-environmental interactions between gamer and machine and other systemic issues. Also research that assesses impact on communities.
2. An independent research/resource agency must be established - similar to the Australian Drug Foundation - which would provide the needed independent data for evidence-based policy making, program delivery and product safety.

3) Definition of "strip shopping centre" is not broad enough.

This is a problem because:
1. Current definition does not reflect the intent of the October 17, 2007 legislative change - that is to minimise spur of the moment decisions to play pokies by locating them away from areas where people go about their normal daily activities. (ie To reduce "convenience gaming").
2. There is an absurd situation where a strip shopping centre may exist on one side of the street but not on the other.
3. The definition does not take into account small towns' layouts where shops are usually spread out and not grouped closely together as required by the definition.

Indications
1. The industry, VCGR and VCAT can successfully argue that a pokie venue is not located in a strip shopping centre as per the definition even though the venue is clearly be located in the town where people regularly go about their daily activities.

Solution
1. Broaden the definition of "strip shopping centre" and take into account the dynamics and layout of country and regional towns.
2. Make the definition apply to the opposite side of the street to a strip shopping centre.

4) There is no minimum town size or restrictions where no other comparable forms of recreation/entertainment exist.

This is a problem because:
1. Pokie machines can be installed in the smallest of towns and into fragile economies.
2. There is no evidence to suggest that small rural towns are not harmed by the presence of pokie machines – yet they continue to be approved in these locations.
3. People will be attracted into a gaming venue through lack of any alternative.

Indications
1. Current approval by VCAT for 30 machines to go into the only hotel in the town of Romsey which has a tiny population (3,522 Census 2006) and extremely limited other recreational/socialising opportunities.
2. Country towns and their populations are already under considerable financial stress from being small and from prolonged drought and other issues such as equine flu and high transport costs.
Solution
1. Establish what level of population can sustain a pokie venue without compromising the social and economic health of the community.
2. Establish minimum town sizes.
3. Where there are no comparable recreation/socialising alternatives, compel venues to establish comparable, alternative non-gaming opportunities in the town.

5) Pokie ratios that are acceptable to government are calculated using local government areas.

This is a problem because:
1. Pokies can be concentrated in (usually disadvantaged) towns/suburbs at very high rates per population and still be within the government's acceptable density.
2. It makes a nonsense of the notion that acceptable densities will control or minimize problem gambling and harms to the community (as per 'Taking Action on Gambling').

Indications
1. Patron catchment for pokie venues is accepted as being within a 5km radius from the venue (Livingstone: p. 87). Ratios at LGA level ignores this and disguises high concentrations of pokies.
2. In 'Taking Action on Problem Gambling' the acceptable ratio has been set at 10 pokie machines per 1,000 adults across an LGA by 2010.
3. Assessed by LGA our density of pokie machines is only 2.88. However, in Kyneton there is currently a ratio of 11.8 pokie machines per 1,000 adult population for ABS 'Kyneton suburb' area (town and surrounds) and 16.0 at ABS 'Kyneton urban' area (town boundary). (Kyneton is our most disadvantaged town and has the highest concentration of pokies.)

Solution
1. Density of pokie machines must be assessed and applied at town or suburb level, not LGA level.

6) Lack of 'truth' in the level of benefit pokies contribute to a 'community' and lack of compensation to rural towns.

This is a problem because:
1. There is little pokie revenue left over for towns' economies since one third of pokie revenue goes into consolidated revenue, one third to the machine owners and one third to the venue (which may be owned by interstate or overseas interests).
2. The community continues to be deceived into thinking that pokies contribute to the community. They do not realise that 'community' means the managers and owners and the club members and hotel patrons.
3. There is no independent community input to ensure community benefit money goes where it will do most good for the community. Donations and the like to local communities are decided by the venue and are commonly the more high profile local male sporting clubs where the venue will get the most market and advertising exposure.

Indications
1. While government may spend some of pokie revenue on community services, little if any goes into the towns from which the revenue was derived and where the local community is unable to easily access benefits in the major cities.
2. Calculations in Kyneton for 2005 found $1,208.87 was lost per adult per year, compared to $60.62 returned per adult in direct benefits to the town. In Gisborne losses were $731.33 and direct benefits were $3.19 per adult.

Solution
1. Allocate funding direct to towns to compensate for losses to their community and economy. Precedent is the arrangement established with the racing industry where there is compensation allocated for anticipated lost gaming revenue as a result of pokies.

7) Community Benefit Statements and recent changes

This is a problem because:
1. The changes are largely administrative.

Indications
1. The changes do not benefit local communities in real terms.
2. The changes do not provide transparency of the process and equity in distribution of funds.

Solution
1. The Community Benefit Fund should be stratified into three distinct funding streams to achieve transparency, equity and credibility, as follows:
   - **CBF Stream 1: Venue and Patron Benefit Fund** – monies expended on and within the venue which include benefits to members and patrons and sponsorships of sports clubs where the venue derives marketing/ advertising benefit.
   - **CBF Stream 2: General Community Benefit Fund** – funds deposited into an independent community managed trust by all local pokie venues and which would be expended on programs and projects of greatest benefit to the local community.
   - **CBF Stream 3: Application Assessment Fund** – funds distributed to local governments to be expended on work associated with assessing and responding to applications for additional pokies and pokie venues.

8) Local governments must respond to the steady stream of applications for more pokie machines and pokie venues while unfunded and unsupported in this work

The problem with this is:
1. There is a huge financial burden on ratepayers and local governments, particularly in regional areas where the rate base is small.
2. The interests of residents are not able to be represented adequately in the face of the financial might and information monopoly of the gaming industry.

Indications
1. Costs are
   - $20,000 to $40,000 in legal fees per application;
   - $15,000 - $25,000 in council staff time per application;
   - $10,000 - $20,000 for each social and economic assessment.
2. A cost of around $85,000 may be incurred by local governments for each pokies machine application.

Solution
1. A component of the Community Benefit Fund must be distributed to local governments for expenditure on the work associated with assessing and responding to applications for additional pokies.

9) Unchecked and unregulated developments within the pokie sector - particularly relating to product safety - are able to happen within the parameters of current legislation.

The Problem with this is:
1. That if no material changes are made to the post-2012 legislation beyond some ‘tinkering around the edges’ all the current problems and weaknesses will continue on to the detriment of the community and will likely become worse as technology and sophisticated systems are further developed.

Indications
1. Inherent, multiple and multi-layered problems associated with the current gaming legislation have been identified over many years by a myriad of different sources - most recently through the Post 2012 Licensing Review.
2. To ignore and fail to fix the fundamental problems identified in the current legislation will be perceived by the community as the pokie industry exerting its influence over government to the detriment of the Victorian community.
3. Local governments will continue to struggle along trying to mitigate the financial, social and health impacts while having no resources to do so adequately.

Solution
1. The gaming legislation for post 2012 licensing of pokie machines needs to be significantly different from the current legislation.
2. Addressing the problems and issues in the post 2012 gaming licensing legislation will not necessarily result in significant loss of revenue to government.

10) Pokie machines may be designed to cheat players

This is a problem because:
1. There are serious concerns held about the probity of pokie machines.
2. It leaves the pokie industry and government open to possible future litigation

Indications
1. Public documents relating to a class action commenced in Newfoundland (Piercey) which is based on the deceptive "near miss” feature of Pokie machines (known in Canada as “video lottery terminals”). The statement of claim and supporting affidavit can be downloaded from http://www.chescrosbie.com/vlt.html. See especially paragraph 27 of the statement of claim and paragraphs 45 to 51 of the affidavit. This is the ‘gaff’ which is used in Australian machines.

Local governments have a mandated responsibility for the health and wellbeing of its community. It thus has a duty to ensure that people are not being cheated.
This class action was brought in 2007 against Atlantic Lottery Corporation Inc., a private business corporation in which the Province of Newfoundland and Labrador has a 25% shareholding.

Video lottery terminals or VLTs are a form of continuous electronic gambling which differs from lotteries in that they are electronically programmed to create cognitive distortions of the perception of winning. These cognitive distortions are intended to keep the consumer engaged and losing money. The class action claims that VLTs are inherently deceptive, inherently addictive, and inherently dangerous when used as intended.

The class action has been brought by the Piercey family on behalf of all residents of Newfoundland and Labrador who have gambled on VLTs. The Plaintiffs say that Atlantic Lotto knows or ought to know that VLTs are inherently deceptive, inherently addictive, and inherently dangerous when used as intended, but has embarked on a “responsible gaming strategy” with messages to consumers which place the onus of responsibility for control and the resulting harm from loss of control on consumers. The purpose of this message strategy is to blame consumers for problem gambling and divert attention from the fact that problem gambling is a natural result of design features of the VLT.

The Plaintiffs say that VLTs do not comply with consumer protection law, specifically the Trade Practices Act of Newfoundland and Labrador. The class action seeks relief in the nature of an aggregate monetary award and such other relief that the court considers appropriate. A copy of the Statement of Claim may be viewed by clicking below.

The Plaintiffs are arranging a date to meet with the case management judge to set a date for the class certification hearing.

for more information go to: http://www.chescrosbie.com/vlt.html

Posted: December 4, 2007