

9 December 2016

The Secretary  
Joint Select Committee on Future Gaming Markets  
Legislative Council  
Parliament House  
HOBART TAS 7000  
E-mail: fgm@parliament.tas.gov.au

Dear Secretary,

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes this opportunity to make submission on the inquiry into community attitudes to gambling and the potential structural features of the Tasmanian Casino, Keno and Electronic Gaming markets from 2023 onwards. Tasmania is a strong position to meet the expectations of the majority of the community with regards to the future of Electronic Gaming Machines (EGMs). The Synod supports the position that EGMs should not be permitted in hotels and clubs after 2023, and should only be permitted in the two existing casinos, making them a form of gambling that is destination gambling. That would greatly reduce gambling related harm in Tasmania.

Further, there should be no increase the number of EGMs in the casinos. EGMs in the casinos should also be restricted to a maximum \$1 bet per button push. There should also be a system that allows people to set themselves enforceable limits on EGMs. Finally, it should be mandatory for properly trained casino staff to have to intervene where customers are displaying behaviour that indicates they may be experiencing harm from their gambling. With EGMs restricted to casinos it will be much easier for the casinos to detect that a gambler is having a problem with their gambling.

Losses on hotel and club EGMs fell very slightly between the 2014-2015 and 2015-2016 financial years, dropping from \$114.4 million to \$114.0 million.<sup>1</sup> Between June 2015 and June 2016 the number of hotels with EGMs increased from 86 to 90 and the number of EGMs in those hotels increased from 2,183 to 2,248.<sup>2</sup> The number of clubs with EGMs in that period remained static at seven clubs with 127 EGMs.

A survey of 1,000 Tasmanians commissioned by AnglicareTas and published in November 2015 found half of those surveyed wanted EGMs removed from hotels and clubs and 32% believed the number of EGMs in hotels and clubs should be reduced.<sup>3</sup> Zero per cent of those surveyed said that there should be an increase in the number of EGMs in hotels and clubs<sup>4</sup>, and yet the Tasmanian Government has allowed the number of EGMs in hotels to increase. The *Third Social and Economic Impact Study of Gambling in Tasmania Volume 3* reported that for the people surveyed in the longitudinal gambling study, unprompted responses from participants on measures to reduce excessive gambling in the community identified popular measures as

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<sup>1</sup> Tasmanian Liquor and Gaming Commission, 'Annual Report 2015-2016', 11.

<sup>2</sup> Tasmanian Liquor and Gaming Commission, 'Annual Report 2015-2016', 14.

<sup>3</sup> EMRS, 'Community Views on Poker Machines. Research Report', AnglicareTas, November 2015, 1.

<sup>4</sup> EMRS, 'Community Views on Poker Machines. Research Report', AnglicareTas, November 2015, 5.

getting rid of all EGMs (14.3 – 15.4% of respondents), reducing the number of EGMs (14.8 – 15.3%) and removing EGMs from specific venues (10.5 – 12.9%), which were the three highest responses.<sup>5</sup> Introducing bet limits was next (6.3 – 9.8%).<sup>6</sup>

The *Third Social and Economic Impact Study of Gambling in Tasmania Volume 3* assessed the effectiveness of harm minimization measures based on people who gamble recalling the measure and if the person reported that any of the measures had reduced their expenditure on gambling.<sup>7</sup> The report estimated that cost of the existing harm minimization measures were between \$2,300 and \$8,700 per at risk gambler per year, the majority of which was due to reduced spending on gambling by the gamblers.<sup>8</sup>

### **Staff Intervention at the Casinos**

The Synod believes that the casinos should be required to offer assistance to gamblers showing obvious signs of having a gambling problem.

In the view of the Synod all gambling providers owe a duty to their customers to do all they reasonably can to reduce any harm that may arise from the product they are selling. This is a duty that should apply universally to all businesses. However, in the view of the Synod, gambling businesses fail to fulfil this 'duty of care' to their customers. Instead many gambling businesses seek to do the minimum they can get away with in terms of consumer protection measures. There are a number of reasons for this. People spending more than they can afford increases the profits to the gambling businesses and the costs of the harm causes are externalities to the gambling businesses, meaning the social and economic costs are borne by the gambler, their families and dependents and the wider community.

Secondly, there is no clear legal responsibility to customers. Even where a person has a gambling problem, has revealed that problem to the gambling business, asked for help from the gambling business and the gambling business has then ignored the request for assistance and actively exploited the gambler for their own gain, the courts have overwhelmingly ruled in favour of the gambling business. The courts have been reluctant to give people gambling an individual course of action to receive compensation when they have been exploited by a gambling business in the absence of such course of action being granted explicitly by legislation.

The current ability of gambling corporations to avoid a duty of care to their customers serves as a barrier to the businesses undertaking meaningful measures to reduce problem gambling and other harms caused by gambling activities. It fosters a culture of doing the minimum that governments will let the gambling corporations get away with.

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<sup>5</sup> ACIL Allen Consulting, the Social Research Centre and the Problem Gambling Research and Treatment Centre, 'Third Social and Economic Impact Study of Gambling in Tasmania Volume 3 – Assessment of Gambling Harm Minimisation Measures', Melbourne, 2015, 56, 63.

<sup>6</sup> ACIL Allen Consulting, the Social Research Centre and the Problem Gambling Research and Treatment Centre, 'Third Social and Economic Impact Study of Gambling in Tasmania Volume 3 – Assessment of Gambling Harm Minimisation Measures', Melbourne, 2015, 63.

<sup>7</sup> ACIL Allen Consulting, the Social Research Centre and the Problem Gambling Research and Treatment Centre, 'Third Social and Economic Impact Study of Gambling in Tasmania Volume 3 – Assessment of Gambling Harm Minimisation Measures', Melbourne, 2015, xv-xviii.

<sup>8</sup> ACIL Allen Consulting, the Social Research Centre and the Problem Gambling Research and Treatment Centre, 'Third Social and Economic Impact Study of Gambling in Tasmania Volume 3 – Assessment of Gambling Harm Minimisation Measures', Melbourne, 2015, xxviii.

Therefore, the Synod believes there is a need to turn this around. The existing Responsible Gambling Mandatory Code of Practice for Tasmania should be strengthened by requiring gambling businesses to take all reasonable steps to observe identifiable signs of problem gambling and to intervene appropriately when such signs are detected.

There should be harsh penalties for gambling businesses that engage in 'egregious' conduct, knowingly or recklessly exploiting people with gambling problems. These penalties need to be sufficient to deter such behaviour by gambling businesses and need to empower the courts to award damages to those ruthlessly exploited by unethical gambling businesses.

Under the existing Mandatory Code a duty should be imposed on all gambling venues to develop a policy to identify signs of problem gambling behaviour. This duty to identify will operate similarly to section 308 of the *Gambling Act 2003* (NZ), in that all venues are required to implement a mechanism to identify people with gambling problems.<sup>9</sup> Section 12 of the *Regulations* requires all class 4 venues<sup>10</sup> to provide problem gambling awareness training and is explicit in what constitutes minimum training measures,<sup>11</sup> and obliges that trained staff must be present at all times in the venue.<sup>12</sup> This mandatory staff training regulation requires gambling venues to respond proactively to problem gambling. The requirement for responsible gambling training and having at least one person who has completed the enhanced Responsible Conduct of Gambling training course must be on duty at all times in each area where EGMs operate already contained in the Responsible Gambling Mandatory Code of Practice for Tasmania.

In Tasmania, relevant casino staff could be trained to identify high risk gamblers and then notify management so that action can be taken to prevent further harm from gambling. Clubs Australia has declared support for training of staff to both identify indicators of problem gambling and for senior staff to be able to intervene with patrons displaying such signs.<sup>13</sup> A list of potential "high-risk" characteristics to assist in the identification process may be listed in the Schedule of the Act and be determined and reviewed by the independent statutory authority administering the scheme.

A study in South Australia found that most indicators identified by the self-report study of gamblers as being signs of problem gambling could be observed in venues, and that many were observable within single observation sessions. "Indeed, a number of patrons displayed clusters or sequence of behaviour that would give them a 70% probability of being classified as a problem gambler."<sup>14</sup>

If a person with a gambling problem has been identified by casino staff, the next step would be to intervene in the gambler's conduct. The intervention would need to be appropriate to the

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<sup>9</sup> *Gambling Act 2003* (NZ) s 308.

<sup>10</sup> The New Zealand Gambling industry is divided into four classes in regards to licences, class 4 being a non-casino venue that holds gaming machines. See *Gambling Act 2003* (NZ) Sub Part 2- *Classes of Gambling*.

<sup>11</sup> *Ibid* s 12(2).

<sup>12</sup> *Ibid* s 12(3).

<sup>13</sup> Clubs Australia, 'Part of the Solution. Clubs Promoting a Culture of Responsible Gambling', 2012, p. 25.

<sup>14</sup> Paul Delfabbro, Alexandra Osborn, Maurice Neville, Louise Skelt and Jan McMillen, "Identifying Problem Gamblers in Gambling Venues", *Gambling Research Australia*, November 2007, p.17.

observed behaviour indicating the likelihood of problem gambling behaviour. If the gambler discloses they have a serious gambling problem, the gambling provider should be required to, and given the power to, take all reasonable steps to prevent the gambler from continuing to gamble. This may include providing the details of counselling services as well as asking the gambler to leave the casino, or closing any accounts the gambler has with the casino.

Research with EGM venue staff has shown for some venues staff are unwilling to intervene with a patron displaying problem gambling behaviour out of fear of disciplinary action by the venue owner for causing a loss in revenue for the venue.<sup>15</sup> This would be removed if the venue feared penalty for failing to fulfil a duty of care to its patrons to prevent problem gambling. While parts of the gambling industry, such as Clubs Australia, have declared support for staff training to intervene, they have not indicated support for gambling business being required to allow their staff to intervene.

The Swiss *Federal Law on Games of Chance and Gaming Houses 1998* requires that the casino operators either prevent socially damaging consequences of their gambling facilities or provide a remedy for the subsequent loss. The Federal Council administers the legislation; to define the requirements in which the social measures programme under Article 14 operates, as well as other procedural aspects relating to exclusion orders and licences. There is also a requirement under the Swiss law for casinos to monitor, detect and exclude patrons that are potential or actual problem gamblers. There is a checklist, which identifies key characteristics of problem gambling, and the staff utilise this list in approaching and assessing their patrons.<sup>16</sup> Gambling venues are unlikely to seek to profit from problem gambling expenditure given the private right to remedies under the Act being a significant deterrent to such egregious conduct.

In Canada the iCare system has been developed to assist casinos with tracking and intervening with gamblers displaying problem gambling, see for example <http://www.gamblib.org/catalogue/article/icare-integrating-responsible-gaming-into-casino-op/>.

Under the iCare system data is captured and analysed to identify gamblers at risk. A management system is used to provide staff with information about gamblers behaviours and appropriate interactions, which can be documented. It identifies high risk patterns and provides the opportunity to start a dialogue with gamblers about their gambling. The system has two levels of training. Level 1 is for all staff to provide the confidence and ability to identify 'red flag' behaviours. Level 2 training is for senior staff, which enables them to work with customers to determine what information or assistance is necessary to assist them with curbing their risky gambling behaviour. The provider of the system argues it restores employees' "pride" in working for an employer who cares.

### **Bet Limits**

The Synod strongly supports a \$1 bet limit per button push on EGMs, which should be applied to the EGMs in the casino as the EGMs in hotels and clubs are removed.

The 1999 Productivity Commission report pointed to bet limits on EGMs as a possible measure to reduce problem gambling. At that time, the Productivity Commission found that on average,

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<sup>15</sup> Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, pp. 12.4 – 12.5.

<sup>16</sup> Hafeli and Schneider 2006, a study into Swiss Casinos' early warning signs of problem gambling, quoted in Gambling Research Australia for the Ministerial Council on Gambling 2007, 'Identifying problem gamblers in gambling venues', p.73.

people with gambling problems staked \$1.62 per button push compared to 57 cents for non-problem gamblers<sup>17</sup>.

Canada has a maximum bet limit of C\$2.50 on Video Lottery Terminals. New Zealand has a maximum bet limit of NZ\$2.50 for machines outside of the casinos.<sup>18</sup>

Research commissioned by the gambling industry in 2001 found that only 3.5% of EGM gamblers bet above \$1 per button push. Of people without gambling problems only 2.3% bet over \$1 per button push, while 7.5% of people with gambling problems bet over \$1 per button push<sup>19</sup>. The report concluded that a bet limit per button push of \$1 would be “a potentially effective harm minimisation strategy for a small proportion of players.”

The 2006 study by the SA Department for Families and Communities found that at risk gamblers were far more likely to increase their bet size to chase losses than recreational gamblers. The majority of gamblers (81.4%) did not increase their bets when they found themselves losing while gambling on EGMs. However, 10.2% did increase their bets, either sometimes, often or always. This compares to 48.6% and 34.4% respectively, of moderate and high risk frequent gamblers who increased their bets when they find themselves losing.<sup>20</sup>

The report commissioned by Gambling Research Australia into pre-commitment recommended bet limits should be a key priority in assisting people in keeping their pre-commitment decisions.<sup>21</sup> The research found that 12% of EGM gamblers “often” or “always” used maximum bets to influence their win rate.<sup>22</sup> EGM gamblers, including people with gambling problems, reported that avoiding high or large bets was a more effective strategy to keep within their pre-commitment limits.<sup>23</sup>

The Synod notes that a \$1 bet limit was recommended by the Productivity Commission in their 2010 report on the gambling industry (Recommendation 11.1), to be phased in between 2012 and 2016.<sup>24</sup> In their view “The important point remains that if few players bet above \$1 per button push on average, and they are more likely to be problem gamblers, it becomes difficult to justify a bet limit much above that level, in the view of the harm that problem gambling generates. Put another way, there would be little harm to most players from a significant reduction in the maximum bet limit, and a considerable reduction in harm for some.”<sup>25</sup> The

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<sup>17</sup> Productivity Commission, “Australia’s Gambling Industries”, Report No. 10, AusInfo, Canberra, 1999, p. 16.80.

<sup>18</sup> Caraniche Pty Ltd, “Evaluation of Electronic Gaming Machine Harm Minimisation Measures in Victoria”, Victorian Gambling Research Panel, Office of Gaming and Racing, Victorian Government Department of Justice, Melbourne, Victoria, December 2005.

<sup>19</sup> Blaszczynski, A., L. Sharpe and M. Walker, “The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling”, University of Sydney Gambling Research Unit, November 2001, pp. 10-11.

<sup>20</sup> SA Department for Families and Communities, *Gambling Prevalence in South Australia*, 2006.

<sup>21</sup> McDonnell Phillips Pty Ltd, “Analysis of Gambler Pre-Commitment Behaviour”, Gambling Research Australia, June 2006, p. 14.

<sup>22</sup> McDonnell Phillips Pty Ltd, p. 24.

<sup>23</sup> McDonnell Phillips Pty Ltd, “Analysis of Gambler Pre-Commitment Behaviour”, Gambling Research Australia, June 2006, pp. 29-31.

<sup>24</sup> Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, pp. 11.29 – 11.30.

<sup>25</sup> Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, p. 11.11.

Productivity Commission estimated, from Queensland gamblers data from 2006-2007, that only 12% of recreational gamblers bet at \$1 or more a button push, compared to 50% of problem gamblers.<sup>26</sup>

The Productivity Commission correctly dismissed the speculative argument made in EGM corporate submissions that a reduction in bet size would result in people with gambling problems losing the same amount of money by increasing the length of their gambling. The Commission took the view that “while it is likely some gamblers would play for longer, it is improbable that this effect would be so great as to nullify the impact of the reduced bet limit.”<sup>27</sup>

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<sup>26</sup> Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, p. 11.12.

<sup>27</sup> Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, p. 11.19.