FUTURE OF GAMING IN TASMANIA

Public Consultation Paper 2020

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ACRONYMS

CSL Community Support Levy

EGM Electronic Gaming Machine

FG Federal Group

FGM Future Gaming Market

FTE Full time equivalent

NG Network Gaming (part of Federal Group)

PCP Public Consultation Paper

LMO Licensed Monitoring Operator

THA Tasmanian Hospitality Association

TLGC Tasmanian Liquor and Gaming Commission

INTRODUCTION

The aim of the Future Gaming Market FGM policy is to:

- create a sustainable industry;
- provide the highest standards of probity;
- ensure returns from the gaming industry are shared appropriately among the industry, players and the Government representing the community; and
- continue to minimise harm caused by problem gambling

It is difficult to comment on ways to implement policy to achieve stated aims, if those aims are woolly and ill-defined. For instance, what does 'sustainable' mean in the context of the gaming industry? Does 'create' include propping up an industry in decline? What constitutes an 'appropriate' sharing of the spoils from gaming?

The policy was announced during the March 2018 election, but due to the adversarial nature of that contest, there was no meaningful attempt to explain the rationale underpinning the policy. Premier Hodgman, halfway through the election campaign didn't even know his Government's policy position[1].

Even though the Government has failed to explain its full rationale for FGM policy, the Public Consultation Paper PCP has invited comments on its implementation. Matters specific to the government policy itself are to be outside the scope of the invited comments. I have taken that to mean that questioning the stated aims of FGM policy (e.g. to retain EGMs in pubs and clubs) is outside the scope of the invited comments, but comments on how to implement a policy to achieve the stated aims is acceptable.

Comments on public policy implementation without trespassing on the underlying policy rationale is well-nigh impossible. It's made even more difficult with some policy being '*subject to*' or *'…up to'* and in the case of tax rates for casino EGMs, missing altogether. Arguably EGM rates are not policy per se, rather a way to implement FGM aims.

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[1] From The Examiner 22nd February 2018 a story by Nick O'Malley titled 'Tasmania's proposed pokies model a "free gift" to hoteliers':

Asked why he planned to give away such lucrative licenses during an interview with The Examiner on Wednesday afternoon, Mr Hodgman twice insisted that the government was putting the pokies out to tender, and that a fair price would be achieved for Tasmanian taxpayers.
Asked if it was true that rather than being put up to tender the rights to the machines were being given to the pub and club owners, Mr Hodgman said: "That is entirely untrue. We will make sure Tasmania gets the best possible deal. We are for the first time opening for tender the future of gambling or gaming."

It was left to a staffer to correct the public record.

EXECUTIVE SUMMARY

The universally accepted view is that restricted licences which allow the holder to achieve above average rates of return are best allocated by a market based system or subjected to rates of tax, or a combination of both measures, so as to allow the licensee and the government to appropriately share the returns from a community sanctioned activity.

With the abandonment of a market-based tender it is left to taxes to give the community an appropriate return. The proposals in the PCP fail to do this. The essentially level rate of tax will give venues with higher EGM turnovers an even larger share of the returns from gambling.

A system of stepped tax rates is the only way, in the absence of a market-based tender for licences, for the community to get an appropriate return.

The forgotten third party in the current situation is the players. The FGM policy aims clearly state players should receive an appropriate share. The PCP largely ignores this. A more appropriate share could be done by reducing prices (lowering the house percentage, in other words the expected player loss on each spin of the EGM) and reducing spin rates.

The PCP proposes instead to shift a greater share to industry and to the government. The latter's increased share is at best ephemeral. It is likely to be handed back, or most of it, to FG via reduced tax rates on EGMs in casinos.

Issuing a licence for a long term, say 20 years, or even in perpetuity, satisfies the sovereign risk argument, the need to protect a licensee where an up-front payment has been made to secure a licence. Where there is no upfront fee, there is no compelling need for a quid pro quo in the form of a long-term licence. A long-term licence <u>and</u> fixed tax rates for the term as per the PCP proposals is a luxury not granted to other businesses.

In the absence of a long-term licence, continuing with say, a short-term rolling term as has operated since June 2018, any assistance to the industry will be received each year. A 20-year licence on the other hand would crystallise the value of a licence for the licence holder at the time. It would be a poorly targeted way of assisting the industry to develop sustainability. The EGM industry appears to be in decline which won't be arrested by more or better facilities. There is no guarantee the recipient of a windfall gain from a long-term licence will not dispose of the gift and move on or leverage the gift in other ways. Since 1997 when EGMs were introduced into the community, FG, the largest beneficiary of the current sole licence arrangement, has paid $280 million in dividends to interstate shareholders and spent approximately $200 million buying twelve existing EGM pubs and 19 bottle shops. Shuffling the ownership of existing assets between industry participants does not constitute additional investment in the industry. FG is now asking for more assistance. It's a brazen request given the way it has spent most of its operating cash since 1997.

Taking EGM monitoring arrangements to a public tender is a token gesture as monitoring rates to be paid by licensees won't attract much interest given the small Tasmanian market and won't raise much revenue for the government. It is highly likely FG/NG will win this tender.

The payment of fees to the Licensed Monitoring Operator (LMO) introduces a new layer of mainly fixed costs for each venue. For smaller operators any increased revenue will be largely offset by LMO costs. Coupled with the hassles of compliance and the burden and uncertainty of other costs such as EGM financing, there is likely to be a shake out at the bottom end of the EGM market and a shift to larger operators with multiple venues. Is this the sustainable industry FGM policy aims to create? This appears to be at odds with the industry message during the 2018 election that a local pub with EGMs is the cornerstone of life.

Player losses from EGMs have declined since the peak year of 2009. In nominal terms EGM losses in pubs and clubs have declined by 16 per cent. In casinos losses have fallen by 33 per cent. In real terms after adjusting for inflation, casino EGM losses are down 45 per cent. Applying a lower tax rate to casino EGMs than for EGMs in pubs and clubs would be a handout to a declining industry.

Casinos were once an infant industry and assistance was granted to help develop the conference and high-end tourism market. Casinos are no longer high-end and there are many more players in the conference and tourism sector. To have FG competing against them using concessional EGM tax rates is unfair. Casinos EGM have no role in the tourism industry. They don't attract tourists, who if they do come, don't pay the pokies.

The government hasn't yet decided the tax rate for casino EGMs. The annual concession requested, vis a vis pubs and clubs, is $19 million, based on 2018/19 EGM turnovers. Why is it appropriate public policy to give FG a concessional tax rate for casino EGMs when it is locals who fund them?

The PCP intention is to continue to allow FG the sole licence to conduct keno, subject inter alia, to a suitable tax rate. Keno is a type of lottery which attract tax rates of 80 per cent here in Tasmania and across Australia. The current keno tax rate is only 5.88 per cent. It is not clear how this is an appropriates division of the spoils. In South Australian for instance the keno tax rate is 41 per cent payable into a Hospital Fund.

Shifting EGMs to a direct licensing model at the pub and club level might bring Tasmania into line with other States. But there is very little evidence that better outcomes will result and that the aims of FGM, to create a sustainable industry and to share returns in a more appropriate way, including with players, will be achieved.

SHARING THE EGM SPOILS: PUBS & CLUBS

Understanding the rationale for a policy is a prerequisite to assessing the means to achieve the aims of the policy. It is particularly crucial when looking at how player losses, relabelled as 'the returns from the gaming industry', are appropriated among the industry, players and the Government representing the community.

Back in 2016 the government's policy was that fair returns to the community were best decided by a market-based tender. In a joint submission at the eleventh hour to the FGM Joint Select Committee inquiry, the Tasmanian Hospitality Association (THA) and Federal Group (FG) argued such an approach "*would be very costly and generate considerable uncertainty and massive disruption for all stakeholders.*"[2] Costly for whom? Massive disruption for all stakeholders? Or just for a few pub owners? No evidence was presented in support of these contentions. The suggested way forward was with a uniform rate of tax and a standard licence fee for each EGM. Capturing higher rates of return for the government which may have been achieved with a market-based tender was forgotten.

The government response, outlined in the PCP, is to propose a system of stepped licence fees for EGMs so that, for example a 10 machine venue would pay a license fee of $1,150 per EGM whereas a 30 machine venue would pay a license fee of $1,750 per EGM. This trivial change to the THA/FG proposal was nevertheless acknowledgement that stepped fees have a place in achieving fairer returns to government. But it was the only concession made to introducing progressivity into the structure of taxes and fees, which the current system comprehensively fails to do.

The other change which effects the progressivity of the system of taxes fees and other charges facing the industry is the change in the Licensed Monitor Operator (LMO) arrangements. Currently Network Gaming (NG) performs this task at no extra costs to venues. Venues receive a commission equal to 30 per cent of player losses from which they pay a machine hire fee/levy back to NG of approximately $4,500 per EGM per year. The balance of the commission is used to pay wages and other variable costs, roughly 10 per cent of player losses. What remains covers business overheads, rents and/or returns to owners. This is best shown in the following table. I have chosen two examples , one a 30 EGM club with player losses of $20k per EGM per year (which closely approximates the Glenorchy RSL before its inevitable demise) and a 30 EGM hotel with player losses of $80k per EGM per year, similar to some of the hotels along Glenorchy's famed Golden Mile.

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[2] Page 13 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

	Club	Hotel
Player losses	**$20,000**	**$80,000**
CURRENT		
Commission %	30%	30%
Commission $	$6,000	$24,000
Less		
Machine hire/ levies	$4,500	$4,500
Gross profit before wages, other variable costs.	$1,500	$19,500
Gross profit % of losses	**7.5%**	**24.4%**
Profit after wages/cleaning/electricity etc (before rent/returns to owners)	**-2.5%**	**14.4%**

In the case of the club, the payment of the fixed cost of the machine hire eats up most of the 30 per cent commission. Only 7.5% remains which is not enough to cover variable costs of 10 per cent.[3] A loss is the result. There's nothing left to cover other business overheads, say rates, or to pay rents (in leasehold situations) or returns to owners.

In the case of the hotel, after the same fixed costs 24.4 per cent of losses are left. After wages and other variable costs 14.4 per cent remains. This is in marked contrast to the Club.

[3] Variable costs include direct wages of 7% and cleaning electricity etc of 3%. The wage % is based on the writer's first hand experience. It was confirmed by Dixon Hotel Group in a case study presented to the FGM Joint Select Committee Inquiry http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/JSC%20FGM%20124%20Dixon%20Hotel%20Group.pdf.
The latest Social and Economic Impact Study of Gambling in Tasmania (2017) https://www.treasury.tas.gov.au/Documents/Volume%201%20-%20Industry%20Trends%20and%20Impacts.PDF estimates 240 FTEs are employed in the gaming area of pubs and clubs. This includes Keno and Tote in addition to EGMs. This number translates to approximately 7% of player losses. The number of FTEs is considerably less than industry claims during the 2018 State election.

The proposed changes shift a greater share of player losses to pubs and clubs. As the THA/FG submission said:

"Hotels and clubs with EGMs will get a significantly greater share of the revenue from EGM activity than under the current model ………. The average increase in revenue for hotels and clubs is 57.4%."[4]

The increase in revenue however can mislead as the PCP proposal also includes a significant shift in costs from NG to venues. Fees for monitoring will become extra costs for venues. Most of these will be fixed costs. The LMO, almost certain to be NG following a tender process, will provide the following three functions:

1. Core monitoring functions. This is likely to be approximately $2 per EGM per day or $730 per EGM per year judging by mainland rates.
2. Regulated fee functions, basically installing, servicing and updating EGMs. Let's estimate this at $1,000 per EGM per year.
3. Market based functions (which can also be provided by other than the LMO) which will include training, signage promotion, selection & purchase of EGMs. For the purpose of this table a figure of $1,000 per EGM per year is used.

The impact of the proposed changes on the same two venues was calculated. The proposed tax and CSL rates were obtained from Fact Sheet #2[5] rather than the more confusing figures from the PCP[6]. The proposed changes will impact as follows:

[4] Page 7 of Joint submission http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

[5] https://www.treasury.tas.gov.au/Documents/Future_Gaming_Consultation_Fact_Sheet_no_2_-_Hotels_and_Clubs.pdf

[6] See page 5 https://www.treasury.tas.gov.au/Documents/Future_of_Gaming_in_Tasmania_Public_Consultation_Paper_February_2020.pdf

	Club	Hotel
Player losses	**$20,000**	**$80,000**
PROPOSED		
GST/tax/CSL	46.0%	48.0%
Losses remaining	$10,800	$41,600
Less		
Machine hire	$4,500	$4,500
License fees	$1,750	$1,750
LMO fees		
Core monitoring functions	$730	$730
Regulated fee functions	$750	$750
Market based functions	$1,000	$1,000
Gross profit before wages, other variable costs.	$2,070	$32,870
Gross profit % of losses	**10.4%**	**41.1%**
Profit after wages/cleaning/electricity etc (before rent/returns to owners)	**0.3%**	**31.1%**

Under the licensed venue proposal all losses are revenue to the venue in the first instance but GST, gambling taxes and Community Support Levies (CSL) are immediately payable. The extra net revenue to the club, an increase from $6,000 to $10,800, won't keep it afloat. Player losses of $20,000 per EGM are below the survival threshold. In the case of the hotel with player losses of $80,000 per EGM, net revenue increases from $24,000 to $41,600. After fixed costs plus variable costs of wages, cleaning and electricity the amount left to cover business overheads such as rates, and rental/owner returns will more than double from 14.4 per cent of player losses to 31.1% of player losses. This is an astonishing result. In the case of FG, if its subsidiary NG wins the LMO tender, the profit % will be much higher, as its twelve Vantage pubs won't have to pay the full market rate for LMO services.

How can this be an appropriate split of player losses?

There are probably sound reasons for abandoning the market tender for venue licenses other than the self-interested arguments of THA/ FG. Some licences will obviously be more valuable than others as the case study of the club and hotel above confirms. It is difficult to see how a tender was going to achieve a higher licence price, for the hotel EGM than for the club EGM in the above example.

If it difficult to get the best possible deal for the community from a tender process, then the government should do so via taxes. In fact returns to governments in these situations are usually a combination of an upfront fee plus ongoing taxes and charges, which taken together give the community a fair return and allow the gambling operator to make a rate of return equivalent to other areas of the hospitality industry.

In the absence of an upfront price for the EGM licenses, opting for stepped annual fees which only vary from $1,150 per EGM for a 10 machine venue to $1,750 per machine for a 30 machine venue does little to ensure the community gets a fair return and the spoils are shared appropriately. The best way to achieve this is to extend the system of stepped EGM license fees to EGM tax rates. These are used in other States[7] and they applied here in Tasmania before 1st July 2013 and are still contained in the current gaming legislation.[8] The industry is not totally against the concept.[9]

The THA/FG joint submission argued:

"……the proposed model addresses the considerable community and industry concern about the monopoly gaming licences which have been in place in Tasmania for more than 40 years."[10]

It's true the industry had concerns about FG/NG's share of the spoils. They wanted more for themselves, even though most were achieving rates of return from gambling far in excess of other areas of their businesses and far in excess of all the other participants in the wider tourism and hospitality sector.

The community however is not concerned about FG's monopoly per se, but rather the monopoly profits earned by the industry as a whole. Which the proposal as set

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[7] See Appendix E of the Fourth Social and Economic Impact Study of gambling in Tasmania (2017) https://www.treasury.tas.gov.au/Documents/Volume%201%20-%20Industry%20Trends%20and%20Impacts.PDF

[8] See Section 150 Gaming Control Act 1993 https://www.legislation.tas.gov.au/view/html/inforce/2020-03-04/act-1993-094

[9] See submission given by Dixon Hotel Group to FGM Joint Select Committee Inquiry http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/JSC%20FGM%20124%20Dixon%20Hotel%20Group.pdf.

[10] Page 13 of Joint submission http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

out in the PCP fails to address. Shifting the share from one industry participant to another won't ease the concern. Nor will shifting it to the government when it is highly likely to hand most back to FG via reduced taxes on casino EGMs.

Breaking up FG's monopoly is trumpeted by the government with Goebbels like repetition presumably in the hope that people will assume that more competition will be better for consumers. Ugh? How are players going to be better off when free of the FG monopoly? It seems they're the forgotten people. The silent Tasmanians. They get a mention in one of the aims of the FGM policy which is to "*ensure returns from the gaming industry are shared appropriately among the industry, **players** and the Government representing the community" (*my emphasis*).* That's it. Nowhere in the PCP is any attempt made to give players a more appropriate share, whatever that may mean? Surely it can only mean fewer losses. The industry considers a uniform system of taxes across all States as the benchmark. It's not. It's just the chosen excuse. Gambling taxes notoriously use the fake principle of uniformity across States to justify self-interest. It's little more than bad public policy championing a race to the bottom. If the government's aim is to share spoils appropriately with players, it should be more fair dinkum about constructively pursuing that aim. The way to do it is via low impact EGMs which have a lower house percentage (a reduction of the loss % on every spin), reduced machine speed, and lower bet limits. Low impact EGMs could easily be incentivised with lower tax rates which would result in a more appropriate share to players (in my view) because their losses would be less. The fourth aim of FGM policy, "*to continue to minimise harm caused by problem gambling"* would be addressed at the same time.

The PCP proposals introduce a EGM authority, which is a right to operate an EGM. One is required for each EGM. Which creates an easy way to introduce a low impact EGM by simply endorsing the authority to that effect, thereby allowing losses created by that EGM to be taxed at concessional rates. There is a myriad of data already collected in real time for each machine, so applying two separate stepped tax regimes would present no difficulty. More appropriate returns to government and players would result.

A change to low impact machines could occur when it's in the interest of the licensed operator to do so. That's where different tax rates can assist. Taxes aren't only used to raise revenue; they can be used to allocate resources in a particular way.

If anything, low impact machines may even increase the wage percentage as it will take players longer to lose less, and staff will be required to preside. Given the industry's concern for loss of employment were EGMs to be removed from their premises, one can only assume they will welcome any additional employment. Players losing less, with less effect on employment, would arguably be a more appropriate split of the returns from gaming.

TRANSITION

A big problem in any transition is the unresolved matter of who 'owns' the equity in the currently installed EGMs as at the transfer date. FG or the venues who are currently hiring the EGMs from FG?

In the past when an EGM was installed by NG/FG, the venue operator would agree to pay a hire fee over 48 months which would cover NG/FG's lease commitment on that EGM. At the end of the lease term the EGM would remain on NG/FG's books fully written down. The venue may continue to use the EGM, but the hire fee would be zero. Recently NG/FG have insisted on a reduced term for newly installed EGMs. This has meant higher hire fees. At any point in time an EGM will probably be worth more than the value on NG/FG's books or the amount owing on the current lease. The question is - who does this equity 'belong' to? From a strictly legal viewpoint it almost certainly belongs to NG/FG. But in the current context of venues assuming ownership of EGM after the transition date, the industry are believed to view the equity as belonging to venues, as it has been the payment by the venues of the hire fees over time that has built up the equity in their EGMs.

In the THA/FG joint submission it was stated:

"Network Gaming would also offer other services to hotels and clubs, on a non-exclusive and fee for service basis. Hotels and clubs could also elect to have the company finance and maintain their EGM fleet "[11]

Whether it will be a condition that the successful LMO tenderer will be required to offer to finance EGMs in the same manner as NG/FG has been doing, is not known. If NG aren't the successful tenderer then what will happen to the EGMs owned by NG/FG currently installed in venues? If NG/FG win the tender will they continue to finance EGMs as indicated in the August 2017 Joint Submission?

As demonstrated above the low turnover venues won't be better off with the new proposal. The concerns that THA/ FG expressed about the tender process, that it "*would be very costly and generate considerable uncertainty and massive disruption"* paradoxically is a pretty accurate summary, from the viewpoint of small operators , of THA/FG's alternative proposal as adopted by the PCP. The extra compliance costs and the uncertainties about financing machines will cause a lot on nervousness. The proposal is not tailor made for smaller operators. Does the government wish to shake them out so their EGMs can be allocated to the others in the industry? We're already 50 EGMs under the proposed 2,350 cap following the demise of Glenorchy RSL and the surrender of EGMs by Hobart Midcity (purchased

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[11] Page 5 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

by UTas) and the Waratah Hotel, in Hobart, purchased by the government for low cost housing. There are probably another five venues with 100 or so machines that are as shaky as the Glenorchy RSL, and possibly a further 10 to 15 venues with EGM turnovers less than $25,000 per EGM per year, which are vulnerable. All up between 300 and 400 EGMs may be looking for a new home.

There is likely to be a shake up at the bottom end of the pub EGM market.

FG as the sole licensee, for all its many faults, has been a reasonably benevolent master for small operators. The latter haven't contributed much to NG profits. But having NG do all the compliance, the financing, the training, everything in fact, has been a blessing for them. The PCP has introduced another requirement, termed the license holder suitability assessment.[12] It is difficult to comment on the implementation of this without knowing what it entails. Small venues are likely to face more obstacles. The FGM aim of creating a sustainable industry is starting to look like a plan to shake out the small venues.

Another uncertainty that needs immediate resolution is whether the government's intention to legislate to terminate the 2003 Deed on 30th June 2023 is valid, or whether notice is required in which case the earliest termination date is 30th June 2025.[13] Why the government didn't simply give the required notice to end the arrangement by 2023 pursuant to the Deed is a mystery.

GIFTS AND PERPETUAL LICENCES

The argument for issuing a licence in perpetuity, or for 20 years or so, is based on the sovereign risk argument. If a person pays the government an upfront fee for a license to pursue some activity subject to certain conditions for a stipulated term, then it is reasonable for that person to expect the government to abide by those conditions during the term.

In the case of EGM licences the industry successfully lobbied against an upfront fee which the government initially wanted, to be set via a market-based tender. Without an upfront fee the sovereign risk argument doesn't apply, yet the PCP proposals contemplate a licence term of up to 20 years plus fixed tax rates for the term.

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[12] Page 19 of PCP
https://www.treasury.tas.gov.au/Documents/Future_of_Gaming_in_Tasmania_Public_Consultation_Paper_February_2020.pdf

[13] Page 10 of PCP
https://www.treasury.tas.gov.au/Documents/Future_of_Gaming_in_Tasmania_Public_Consultation_Paper_February_2020.pdf

The current 2003 Deed in the Gaming Control Act 1993 fixed tax rates for the term of the licence. The quid pro quo was for FG to spend $25 million to construct what is now known as Saffire Freycinet.[14]

There is no quid pro quo this time.

If a person secures a licence and joins the work force, can he/she then expect a government guaranteed income stream with no change in tax rates for 20 years? The gaming industry wants assurances that no one else receives. A rolling term of five years as is currently in force pursuant to the 2003 Deed would allow an operator sufficient time and certainty to clear any machine lease/hire commitments.

A licence term with no quid pro quo is a gift to the privileged incumbents. Going back to Premier Hodgman's denial that his government was planning to give away lucrative licences and that they would instead be put out to tender, the fact that they aren't going out to tender and they will now be allocated to existing venues at no charge, ipso facto means venue owners will be receiving a gift.

The larger the profits and the longer the licence term, the greater will be the gift to the new licensees.

There are two aspects to this gift.

First, in the absence of a fixed term for a licence, the gift which essentially is the excess profits allowed to be earned each year, is a gift to the industry as a whole and will be received by whoever holds the licenses at that time.

Second, by adding a time dimension, say, a licence term of 20 year, the grant of the licence constitutes a gift to the current licensee, not to the industry. The value of the gift, the expected future profits from the licence over 20 years, will crystallise at the time of the gift. In this regard it's a poor way of targeting assistance to the industry which is what the industry claims the PCP proposals will do. There is nothing to stop the licensee reaping a large capital gain from the sale of the gifted licence and riding off into the sunset leaving the new licensee to use future EGM profits to service a loan rather than invest in the business as the industry fairy tale scenario suggests will happen.

The industry suggests a 20-year licence will unleash a wave of new investment:

"The potential impact of this cannot be underestimated, especially for the regional communities in which many gaming venues operate. Hotels and pubs play a vital role in the state's growing tourism industry, particularly in regional areas. Tasmania's economy relies heavily on the tourism market and under the proposed model hotels

[14] The amount eventually spent was $32 million. It was 5 years late. At the time the amount was roughly six months' worth of operating cash flows. It was a hiccup rather than an impost. FG retained the asset. It wasn't a payment to government as are most up-front licence payments.

and pubs would be able to undertake significant investments and redevelopments.“[15] If the impact cannot be '*underestimated*,' that leaves open the possibility that it can be overestimated. Being '*able to 'undertake significant investments and redevelopments'* in no way guarantees that the industry will invest, only that it may be able to do so. One would be hard pressed to find a less convincing rationale. It would be remiss to implement such an ill directed handout.

What new investments have flowed from the original exclusive EGM licence granted to FG? Since 1997 when EGMs were introduced into the community, most of FG's after tax profits have been used to pay $280 million of dividends to interstate shareholders and $200 million to buy existing pubs and bottle shops including twelve top performing EGMs pubs grouped under the Vantage banner and nineteen bottle shops flying the 9/11 flag [16]. FG's foray into regional tourism via Strahan Village, West Coast Wilderness Railway, Cradle Mountain and Freycinet Lodge was abandoned. Apart from the mandated Saffire project, FG's two flagship tourism hotels, Henry Jones and MACq01, both on the Hobart waterfront are leasehold properties. Granting a 20-year EGM licence to an industry in the expectation that a flood of new investment will occur particularly in regional areas would be unambiguously reckless given past patterns of behaviour.

The industry itself has put a value on the proposed gift. The proposed changes *"…..would result in a significant increase in the capital value of hotels and clubs by an average of over $1.5 million".*[17] There are approximately 100 pubs and clubs so that makes the total increased value of pubs and clubs $150 million. The value of pubs and clubs attributable to existing arrangements which currently allow super profits are, using the same parameters, $100 million. Added together this gives the value of licences for pubs and clubs as $250 million (compared to the situation with no licences).

Gifting a long-term licence to existing venues is not an appropriate way to share the returns from gaming. If the government is committed to giving the gaming industry a special gift which gives them a grossly unfair advantage over everyone else in the economy, it should at least critically review the term of the licence to achieve a better targeted outcome.

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[15] Page 12 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

[16] See https://tasfintalk.blogspot.com/2017/09/federal-groups-pokie-haul.html

[17] Page 12 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

COMMUNITY SUPPORT LEVY AND EGMS IN CASINOS

The CSL is not a separate impost. It is simply tax that has been hypothecated for stipulated purposes, community handouts and addressing problem gambling etc. Hypothecation, rather than an appropriation buried in the budget papers, helps with the public relations exercise by allocating amounts to community bodies to emphasise the benefits of a gambling industry, and by using other amounts to assist problem gamblers, which in turn helps assuage any unease from exploiting possibly vulnerable people. Industry pretends the CSL is paid by them. It's not. They may shoulder the legal burden of paying tax/CSL but the economic burden falls unequivocally on players. The amount comes out of their pockets. The industry think they are paying to address problem gambling. They're not. The players are. The Good Samaritan has adopted the user pays principle. What a sad indictment of a caring society.

The amount of CSL is a red herring. It's the total percentage amount that is allowed to be retained by operators after GST/tax/CSL that is the only relevant metric.

Hence the CSL payable by the two casinos in respect of EGM losses is a meaningless figure because the government hasn't told us the tax rate. Together these two figures determine how much of the losses casinos will retain. The crucial question is how much of the extra EGM tax from pubs and clubs the government intends to hand back to NG/FG via reduced taxes on casino EGMs?

FGM policy aims cover the industry as a whole. FGM policy is implemented to achieve those aims. If a large chunk of the policy is missing, then it is difficult to comment on implementation which best achieves the overall aims.

FG has made it clear what it wants:

"*The proposed model would also bring the EGM tax rates paid by Wrest Point and Country Club into line with those in place in other regional casinos in Australia, such as Cairns and Townsville. This would make Wrest Point and Country Club competitive nationally and allow greater certainty to undertake future investments.*"[18]

Casinos may compete nationally in the conference market but there are now many other local players in that market. Likewise, in the broader tourism market. Whatever may happen interstate, there is no prima facie public policy reason in 2020 to give continued handouts to the state's two casinos. The landscape was different 25 years ago. The infant industry argument was invoked to provide a leg up to develop the

[18] Page 12 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

conference and high-end tourism markets. The two casinos aren't infant industries any longer.

The State's two casinos definitely do not compete for EGM players from interstate. The Tourism Industry Council Tasmania (TICT) in its submission to 2016 FGM Joint Select parliamentary inquiry[19] stated:

"*…..there is no current market research on the association between gaming activity and visitation to Tasmania…..there is no evidence to suggest the presence of these facilities in Tasmania has any influence on our appeal as a visitor destination*."

In the ten years since the peak in 2009 EGM losses have declined by 33 per cent in the two casinos compared to only 16 per cent in pubs and clubs. The decline in real terms for casino EGMs has been 45 per cent[20]. Despite rising tourism numbers EGM losses in casinos are falling faster than in the community.

Casinos already have a 4 per cent advantage over pubs and clubs by virtue of the absence of CSL on EGM losses. It has all been paid by FG/NG under the current model so it hasn't been a concern, or shouldn't have been, for pubs and clubs. If the PCP proposal for pubs and clubs is applied to casino EGMs, tax will raise by 12 per cent. The industry wishes to see a 15 per cent reduction. The difference between the two in total amounts to $19 million based on 2018/19 GM losses. This represents the annual concession requested for FG's casino EGMs.[21] [22]

It is instructive to check to current distribution of EGM losses before deciding on tax rates. The state average EGM loss for 2018/19 for pubs and clubs was about $45k

[19] See http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/JSC%20FGM%20132%20Tourism%20Industry%20Council%20Tasmania.pdf

[20]From the Tasmanian Liquor and Gaming Commission Annual Reports EGM losses in casinos have fallen from $100.8 million in 2009 to $67.7 million in 2019. For pubs and clubs the decline has been from $123.9 million to $104.5 million The CPI (All Groups Hobart) has risen from 93.0 to 114.1 over the same period.

[21] Page 5 of Joint Submission http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

[22] Currently EGM losses in casinos attract a tax of 35 per cent (26 per cent State gambling taxes plus GST of 9 per cent). The proposed rate for EGMs in hotels is 48 per cent. The average losses for casino EGMs in 2018/19 was $55,428. This includes the 36 EGMs on the two Sprit of Tasmania vessels. If the hotel rate were to apply to casinos that would mean an extra $7,200 per EGMs. There are 1,221 EGMs (including those aboard the Spirits) which would mean an extra $8.8 million. The industry has proposed a tax rate (including CSL and GST) of 20 per cent. Applying 2018/19 looses, this means a tax reduction of $8,300 per EGM or $10.1 million in total. The PCP only contains a proposed CSL for casino EGMs of 3 per cent. The tax rate is unknown at this stage.

per year. This figure is boosted by FG's twelve top performing Vantage pubs.[23] Remove these and the average is about $40k. The Vantage pubs average about $74k. EGMs losses in casinos averaged $55k. The proposed tax rate of 48 per cent proposed for hotels has been applied, together with similar costs, to enable a quick comparison between pubs and clubs (excluding FG), FG's pubs and casinos. The figures are as follows:

	Pubs & clubs excl FG	**Casinos incl Spirits**	**FG pubs and clubs**
Number of current EGMs	**1,940**	**1,221**	**360**
Average player losses	**$40,000**	**$55,000**	**$74,000**
GST/tax/CSL as per pubs proposed	48.0%	48.0%	48.0%
Losses remaining	$20,800	$28,600	$38,480
Less			
Machine hire	$4,500	$4,500	$4,500
Licence fees	$1,750	$1,750	$1,750
LMO fees	$2,480	$2,480	$2,480
Gross profit before wages, other variable costs.	$12,070	$19,870	$29,750
Gross profit % of losses	**30.2%**	**36.1%**	**40.2%**
Profit after wages/cleaning/electricity etc (before rent/returns to owners)	**20.2%**	**26.1%**	**30.2%**

A 30 EGM venue with average losses will make profits of 20.2% on its EGM business before business overheads and rents/returns to owners. This equal $606K pa. FG's Vantage pubs will average $906k. It is likely FG's fixed costs will be much lower than those in this comparative example so profits will be much greater. The respective returns on EGM assets will be stratospheric. Assets employed are minimal as EGMs are hired/leased and there are no upfront licence fees. Is this division of spoils appropriate?

[23] EGM losses for each pub and club for 2015/16 was publicly released/leaked just prior to the 2018 State election. These have been used to estimate individual venue turnovers for the 2018/19 year using updated data in in TLGC Reports.

Casinos EGM have no role in the tourism industry. They don't attract tourists, who if they do come, don't pay the pokies. Why is it appropriate public policy to give FG a concessional tax rate for casino EGMs? The appropriate split of casino EGM returns should be the same as for pubs and clubs. Perhaps to help sell the policy the government could hypothecate the extra into a Major Events fund to conduct events like Taste of Tasmania, Mona Foma etc to better target the entire tourism industry rather than just one operator? Appropriations for Major Events are looking pretty thin in the government's forward estimates.[24] As it is, the government will probably need to find more to top up the CSL as promised in the PCP [25]. There are budget challenges ahead which could be solved now.

It mustn't be forgotten that there isn't an EGM venue anywhere in Tasmania that hasn't already had its investment in EGM facilities repaid many times over in the years since the grant of licences. The community doesn't owe anyone a special deal.

KENO

The PCP indicates FG will retain the right to operate keno in Tasmania **subject to consultation on licence fees tax rates and term.**

Keno is separately defined in the Gaming Control Act 1993:[26]

keno *means a game in which a person wagers –*

(a) that certain numbers selected by that person will be among a group of numbers randomly selected from a total pool of 80 numbers; or

(b) on the outcome of the numbers randomly selected from a total pool of 80 numbers;

For all intents and purposes Keno is a type of lottery which is also defined in the Act.

Lottery *means a scheme or device for the distribution of a prize by way of sale, gift or otherwise if –*
(a) the prize consists of a right to any real or personal benefit or real or personal thing; and

(b) the distribution involves an element of chance for which a payment or other consideration is made or given.

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[24] See Output Group 5.4 in 2019/20 Budget Papers on page 276 of Budget Paper No. 2 Volume 1 https://www.treasury.tas.gov.au/Documents/2019-20-Budget-Paper-No-2-Volume-1.pdf

[25] Page 4 of PCP https://www.treasury.tas.gov.au/Documents/Future_of_Gaming_in_Tasmania_Public_Consultation_Paper_February_2020.pdf

[26] See Section 3 of the Act https://www.legislation.tas.gov.au/view/html/inforce/2020-03-04/act-1993-094

The tax rate on Keno is currently 5.88 per cent of player losses. For lotteries the tax rate is approximately 80 per cent[27]

In the 2018/19 year the Tasmanian Liquor and Gaming Commission (TLGC) reported[28] Keno losses of $35.8 million The government collected $2.4 million of tax and unclaimed winnings. On the other hand, lottery losses of $45.7 million resulted in tax of $36.5 million. That's a staggering difference.

What's more keno hasn't suffered from falling revenue as has EGM. There is still growth in nominal terms.[29]

Given that keno is essentially a lottery, it is not immediately evident why it attracts a rate of 5.88 per cent when lotteries are taxed at 80 per cent.

Keno rates do vary from state to state. In South Australia for instance keno tax of 41 per cent is paid into a Hospital Fund. Hypothecation helps sell the policy. There's a fair chance Tasmanians would buy a similar approach. The industry is always keen to invoke interstate comparisons when arguing for a tax rate which suits. Maybe the Tasmanian community should do likewise. It is not getting an appropriate share of returns from Keno. It's not all going to venues[30] either. They only receive commissions of approximately 21 per cent of player losses, 9 per cent goes to GST and FG receive the rest.

[27] Lotteries in Tasmania are conducted by interstate operators. Tasmania, via a tax sharing arrangement with other States, receives 100% of taxes in respect of tickets sold in Tasmania. Interstate tax rates can be found in Appendix E of the Fourth Social and Economic Impact Study of gambling in Tasmania (2017) https://www.treasury.tas.gov.au/Documents/Volume%201%20-%20Industry%20Trends%20and%20Impacts.PDF

[28] Page 16 of the TLGC Annual Report 2018/19 https://www.treasury.tas.gov.au/Documents/2018-19%20TLGC%20Annual%20Report.PDF

[29] Keno in pubs and clubs is has risen from $25.8 million in 2009 to $33.0 million in 2018/19. In real terms there is little or no change. Keno revenue in casinos is tiny and in annual terms has fallen from $3.1 million to $2.8 million over the same period.

[30] There are approximately 160 venues licensed for Keno.

CONCLUSIONS

The industry has said:

"*Shifting to a direct licencing model for individual venue operators will bring Tasmania's gaming industry in line with other states and territories.*"[31]

Maybe it will bring our industry into line with other states. So what? That doesn't necessarily mean better outcomes. We don't compete for interstate EGM players. We don't need interstate capital to build more EGM facilities.

For all its faults, the sole licence model is superior to what the PCP proposes. There are better ways to achieve the FGM aims by improving the current sole licence model than by venturing into the unknown by implementing the PCP proposals.

There are times when comparisons with other practices here and interstate, raise valid questions. Why is the keno rate so much less than for lotteries when essentially, they're one and the same? And why is it possible that South Australia can have a keno tax which is seven times the rate in Tasmania?

Public policy needs to recognise that casinos, once an infant industry, is now an over indulged adult. EGMs in casinos have no connection with the tourism industry and should not be allowed to be used as an excuse for concessional tax rates to help offset the effects of declining local patronage of EGMs in casinos.

It is not at all evident how any of the proposed changes will assist the FGM aim of creating a sustainable industry particularly given the uninterrupted slide in EGM losses over the last ten years. Ensuring players receive an appropriate share is also forgotten. The proposed changes appear more concerned with allowing the industry to extract as much as possible for themselves as soon as possible.

To assert Tasmanians approved the government's policy in March 2018 is taking a long bow, when the Premier, at the height of the campaign didn't understand it. At best they might have approved the aims of FGM.

Everyone standing in front of the cameras in February 2018 at the Glenorchy RSL when the government announced its FGM policy, knew or should have known that the message that venues like the Club would be saved, was false.[32] Clubs with low

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[31] Page 12 of Joint Submission
http://www.parliament.tas.gov.au/ctee/Joint/Submissions/JSC%20FGM/Supplementary%20Submission/Federal%20Group%20THA%20Submission%20August%2017.pdf

[32] S https://tasfintalk.blogspot.com/2018/02/rsl-pokie-porkies.html

EGM turnovers will, if anything, be worse off. Other claims made by industry need to be treated with caution.

It is highly unlikely that the FGM policy aims of the government will be best achieved by the incomplete proposals outlined in the PCP.

DISCLOSURE: The writer is a non-executive director of a tourism company with EGMs.