

Submission to the Parliamentary Standing Committee of Public Accounts Federal Hotels Agreement Inquiry from Anglicare Tasmania JULY 2003

Term of Reference (a)

The new Deed between the Government and Federal Hotels and its return to taxpayers

Whilst Anglicare welcomes increases in payments to the Community Support Levy (CSL), an increased contribution of \$170,000¹ is negligible compared to the \$180 million per year gross profits earned on electronic gaming machines² on a gross turnover for gaming machines of approximately \$1.7 billion.³ The increase also still falls well short of the original recommendations made by the Legislative Council Select Committee prior to the Gaming Control Act 1993: that 5 per cent of gross profit from gaming machines operated in clubs and 8 per cent from hotels is paid into the CSL.⁴

Further, with millions of dollars having sat unspent in the CSL over the past few years, the use of CSL monies to fund the wages of bureaucrats, and unsatisfactory and non-transparent processes for the allocation of funds, Anglicare requests that the management of the CSL be placed with an agency that is independent of Government. This should be the Tasmanian Gaming Commission (TGC), but for reasons explained in Term of Reference (e), the TGC is not currently an acceptable agency to administer these funds.

Anglicare supports the proposed increase to licence fees, but is, however, concerned that the proposed increase to taxation on gaming further increases the Government's reliance on revenue from gaming.

A further concern is that the Government wants to lock Tasmania into a long-term agreement for a set rate of taxation and licence fees when the rate of return to Federal Hotels is unknown and not researched.

Anglicare calls on the PAC to recommend that the Legislative Council place public interest ahead of commercial interest. Parliament should insist that negotiation of any commercial contract related to gambling follows thorough research and is independently assessed against public policy. Whilst the CSL provides funding for valuable social projects in Tasmania and taxation and licence fees provide valuable state revenue, these funds do not offset the damage to individuals and communities caused by gambling problems. The value of the return to taxpayers cannot be properly assessed until Parliament reforms the TGC in order to ensure that relevant and independent research forms the basis for policy advice and political decisions.

¹ In his Ministerial Statement of 15th April 2003, the Treasurer announced that this would be raised by increasing the contribution to the CSL from clubs from 2% to 4% of gross profits.

² Mr. Hidding, Wednesday 16 April 2003, *Hansard*, Parliament of Tasmania, Question Time: Gaming – Operation of poker machines and casinos. From www.hansard.parliament.tas.gov.au, accessed Monday 30 June 2003.

³ *Tasmanian Gaming Commission Annual Report 2001-2002*, page 17.

⁴ Mr. Armstrong and Mrs Jackson, 7 December 1993, *Hansard*, Parliament of Tasmania, page 7302.

Term of Reference (b)

Issues related to transparency in the negotiation of the Deed

At the time that the new Deed was being negotiated, Anglicare was expecting the TGC to consult with us over a review of the venue limits on gaming machines. The existing Deed states that, “During the period of six months commencing on the 1st day of January 2003 the Gaming Commission and the Companies will jointly undertake a review of the maximum number of Gaming Machines in any one Club or Hotel.”⁵ The TGC said that they would seek community views before undertaking discussions with Federal Hotels.⁶

However, the review was not undertaken. According to the Chair of the TGC the Government had commenced negotiations over a new Deed before the Commission commenced the review. In a letter to Anglicare, Chair of the TGC Don Challen said, “As the new deed will set venue limits at current levels, with no provision for any increase, the Tasmanian Gaming Commission has determined that there is no need to consult with Federal Hotels and the broader community on gaming machine limits in hotels and clubs from 1 July 2003. Federal Hotels has confirmed that consultation is no longer warranted.”⁷ This letter was dated 17 April, one month after the new Deed was signed and 4 months into the 6 month period designated for a review of venue limits. Mr. Challen explained that he was unable to undertake a review of venue limits “until the outcome of the negotiations became clear.”⁸ This is clearly unsatisfactory as the TGC should have been in a position to seek community views before a new deed was negotiated and signed.

It is extraordinary that Federal Hotels, a corporate entity engaged in a business transaction with Parliament, is given veto over whether the correct processes are followed for the review of social policy in Tasmania. Anglicare therefore recommends that the Gaming Control Act 1993 be amended to ensure that any consultations and other issues that relate to social policy be at the discretion of and overseen by an independent gaming commission (see also Term of Reference (e)).

Although the Premier stated that, “In relation to consultation with the community groups I can certainly say that the Treasurer has had a number of meetings with community groups about the issue of gaming in the community and he has taken their

⁵ Deed between the Federal Hotels Limited, Australian National Hotels Limited and Tasmanian Country Club-Casino Proprietary Limited and the Crown in Right of the State of Tasmania, clause 9 (f). From www.thelaw.tas.gov.au accessed 31.3.03.

⁶ In a letter to the Baptist Churches of Tasmania dated 9th October 2002, the Treasurer noted the commitment given by the Chair of the TGC to the Legislative Council Inquiry into the Impacts of Gaming Machines that the review “would involve consulting widely with other stakeholders”. In a letter to Anglicare dated 17th April 2003, the Chair of the TGC reiterated that “it was the Commission’s stated intention to seek community views on the issue of venue machine number limits before undertaking discussions with Federal Hotels.”

⁷ Letter to Anglicare from the Chair of the TGC, 17 April 2003.

⁸ Letter to Anglicare from the Chair of the TGC, 17 April 2003.

views on board,”⁹ Anglicare was not consulted over the venue limits and changes to gaming policy proposed in the new Deed.

The Government should have ensured there was community input prior to directing the TGC to negotiate the new contract with Federal Hotels.¹⁰ The TGC should have provided independent research and policy advice prior to the negotiations. Instead, the TGC was involved in negotiating the new financial and legal contract with Federal Hotels in the absence of both public input and research.

Anglicare questions the role of the TGC in negotiating the proposed new Deed given that as Chair of the TGC Don Challen had not initiated consultations with community groups (as promised by the Treasurer and outlined in the existing Deed) nor commissioned research into venue limits and the impacts of gaming (as according to the commission’s functions) prior to negotiating the new Deed as Chair of the TGC and witnessing its signing as Secretary of Treasury. A truly independent gaming commission would have insisted on proper process and thorough research prior to the signing of a new Deed. The issue of independence of the TGC is raised again in term of Reference (e) of this submission.

Term of Reference (c)

Issues relating to the quality of the deal extracted by the Government in the Deed

Anglicare welcomes a legislated state-wide cap on the number of gaming machines permitted in Tasmania and the setting of a limit on the number permitted in each venue. However, the cap offered in the proposed new Deed was negotiated with Federal Hotels without conducting research into the impacts that gaming machines are having on our community. By setting the overall cap at 3680¹¹, the Government intends to roll out 1 gaming machine for every 84 Tasmanian of gambling age.¹²

The last time Government sought the views of Tasmanians on gaming was in October 2000.¹³ At that time, there were 1630 gaming machines in hotels and clubs and 78 per cent of people surveyed thought that “the Tasmanian community had not benefited from having poker machines in clubs and hotels.”¹⁴ Since then a further 603 gaming machines have been rolled out into clubs and hotels, an increase of 37 per cent. The Government’s proposed cap for hotels and clubs, set at a maximum 2500, means that

⁹ Mr Jim Bacon, Wednesday 16 April 2003, *Hansard*, Parliament of Tasmania, Question Time: Gaming – Operation of poker machines and casinos. From www.hansard.parliament.tas.gov.au, accessed Monday 30 June 2003.

¹⁰ Mr Jim Bacon, Wednesday 16 April 2003, *Hansard*, Parliament of Tasmania, Question Time: Gaming – Operation of poker machines and casinos. From www.hansard.parliament.tas.gov.au, accessed Monday 30 June 2003.

¹¹ Ministerial Statement by the Treasurer Hon. Dr. David Crean, MLC on the subject of gaming machines in Tasmania - 15th April 2003, page 4.

¹² In the 2001 census there were 311 098 people of gambling age (i.e., over 18; figures only available on Australian citizens). From ABS 2001 Census, www.abs.gov.au/ausstats accessed 8.7.03.

¹³ Roy Morgan Research, 9th February 2001, *The Third Study into the Extent and Impact of Gambling in Tasmania with Particular Reference to Problem Gambling*, Follow up to the Baseline Studies Conducted in 1994 and 1996.

¹⁴ Roy Morgan Research, 9th February 2001, *The Third Study into the Extent and Impact of Gambling in Tasmania with Particular Reference to Problem Gambling*, Follow up to the Baseline Studies Conducted in 1994 and 1996.

there would be 870 more machines in hotels and clubs than at the time of this research, an increase of 53 per cent.¹⁵ Anglicare is concerned that, not only is there insufficient research being undertaken, but that the research that is being commissioned is not being used to direct policy. No data has been collected on the effectiveness of patron care policies and yet the Government continues to permit the industry to self-regulate on patron care. No studies have been conducted into the social and economic impacts of gaming machines and yet the Government continues to proclaim that gambling is having a very small negative effect in Tasmania. On the basis of the October 2000 survey, the Government should have considered limiting any further roll-outs of gaming machines.

In his speech to the Legislative Council in announcing the new Deed, Dr. Crean claimed that the existing Deed “still has almost 6 years to run, which would not have offered the Government any direct opportunity to limit the number of gaming machines across the state until 2009.”¹⁶ However, when the Liberal Government signed the Deed with Federal Hotels in 1993, they included a clause in the Deed that says, “In the event that the Legislation [Gaming Control Act 1993] is amended in such a manner that the Crown is prevented from complying with its obligations under this Deed then this Deed shall absolutely cease and determine and the parties thereafter shall have no liability to each other,”¹⁷ and in the enabling legislation, “If there is an inconsistency between a provision of this Act and a provision or term of the Deed, the provision of this Act prevails.”¹⁸ Thus, at any time over the past 10 years, Parliament could have passed legislation to introduce a state-wide cap on gaming machine numbers and to permanently limit the number of gaming machines per venue and could do so now without locking Tasmanians into a new Deed.

In his statement of 15th April, the Treasurer expressed concerns that a cap be introduced and that there be no further increase in the venue limits in order to meet the “Government’s objective of implementing limits on the further growth of gaming machine numbers”.¹⁹ Anglicare therefore urges the PAC to recommend to the Legislative Council that they ensure that caps be introduced on the overall number of gaming machines in the state, the total number of gaming machines permitted in clubs and hotels, and venue limits and that these caps be based on independent research but with a caveat that the cap not be permitted to exceed that announced on 15th April 2003.

Term of Reference (d)

The non-competitive nature of the negotiation of the Deed

Anglicare offers no comment on term of reference (d).

¹⁵ At 30 September 2000, there were 1630 gaming machines in clubs and hotels and approximately 1150 in casinos. From *Tasmanian Gaming Commission Annual Report 2000-2001*, page 8.

¹⁶ Ministerial Statement by the Treasurer Hon. Dr. David Crean, MLC on the subject of gaming machines in Tasmania - 15th April 2003, page 3.

¹⁷ Deed between the Federal Hotels Limited, Australian National Hotels Limited and Tasmanian Country Club-Casino Proprietary Limited and the Crown in Right of the State of Tasmania, clause 10 (b). From www.thelaw.tas.gov.au accessed 31.3.03.

¹⁸ *Gaming Control Act 1993*, part 2 – Deed, clause 7.

¹⁹ Ministerial Statement by the Treasurer Hon. Dr. David Crean, MLC on the subject of gaming machines in Tasmania - 15th April 2003, page 4.

Term of Reference (e)

Any other issues relevant to the Deed

Anglicare urges the PAC to recommend to the Legislative Council that they reintroduce to parliamentary debate recommendations of the Legislative Council Select Committee Impacts of Gaming Machines, namely that:

1. The State Government immediately commission a study to determine the social and economic impacts on the Tasmanian community since the expanded operation of gaming machines in hotels and clubs; that this study be conducted on a regular bi-annual basis to carefully monitor changes; and that this research be conducted independent of Government.

Further to the Legislative Council's recommendation, Anglicare requests that this research forms the basis for advice on gaming policy. This would be to add to, not replace, the existing research into the extent and impact of gaming with reference to problem gambling.

2. That harm minimisation programs be properly researched and funded and reviewed by an independent agency.

The experiences of professional counselling services and independent research into the social and economic impacts of gambling as well as the impacts specifically on people with gambling problems and their families should form the basis of all gaming policy. The problem gambling line of the CSL should be fully expended on programs and research that minimise harm and reduce risks to Tasmanians of exploitative practices.

3. That the Tasmanian Gaming Commission be restructured so as to form a regulatory body that is independent of Government.

The current situation is a scandal. In 1993, the Government of the day reassured the Legislative Council that "to allow time for the appointment of the commissioners, and to ensure a smooth transition from the current arrangements, the amendment provides for the Secretary, Department of Treasury and Finance - who is also the current Commissioner for Gaming - to carry out the functions of the commission for the first twelve months, but he will cease to do so as soon as the new commission is appointed."²⁰ Ten years later, the Secretary of Treasury and Finance remains the Commission's Chair and the TGC still sits inside Treasury.

The current arrangement means that Mr. Challen is expected to provide independent gambling policy advice to government as Chair of TGC and report to Government on government gambling policy as Secretary of Treasury. Further, one of the performance indicators for the Department of Treasury and Finance is measured by

²⁰ Mr. McKay, Leader for the Government in the Legislative Council, 2 December 1993, *Hansard*, Parliament of Tasmania, In Committee, page 5529.

the percentage of departmental recommendations accepted by the TGC.²¹ Nowhere in this circle is there an independent voice.

With no staff of its own and advice coming only from the Department of Treasury and Finance, it is Anglicare's belief that the TGC is simply a division of the Department of Treasury and Finance and not the independent body Parliament intended. Until we have a truly independent gaming commission, Tasmanians cannot be assured of the duty of care expected of Government on gaming issues.

Anglicare urges the PAC to recommend that the TGC be restructured so as "to ensure total separation from Government" as recommended by the Legislative Council Select Committee. Independence of the gaming commission along with well-researched harm minimization strategies and service provision programs must form the cornerstones of good gaming policies and practices in Tasmania.

Sincerely,

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ATTACHMENTS:

1. Summary of recommendations to the PAC
2. Correspondence from Don Challen, Chairman Tasmanian Gaming Commission, to Chris Jones, Anglicare, 17 April 2003.

²¹ Parliament of Tasmania, 2003, *Budget paper No. 2 Operations of Government Departments 2003-2004* Volume 2, page 510.

Summary of recommendations by Anglicare to the PAC

1. The enabling legislation as tabled for the proposed Deed not be passed by the Legislative Council;
2. Parliament ensures that proper processes are conducted in the negotiation of any new deal, which would include public input and relevant research along with independently assessing the negotiation against public policy;
3. Parliament places public interest ahead of commercial interest in future negotiations;
4. Relevant and independent research forms the basis for policy advice and political decisions;
5. The Gaming Control Act 1993 be amended to ensure that any consultations and other issues that relate to social policy be overseen by a truly independent gaming commission;
6. Parliament immediately freezes the roll-out of gaming machines at the current level until an independent gaming commission is established and able to conduct relevant independent research;
7. Once an independent gaming commission has been established, Parliament ensures that caps be introduced on the overall number of gaming machines in the state, the total number of gaming machines permitted in clubs and hotels, and venue limits and that these caps be based on independent research but with a caveat that the cap not be permitted to exceed that announced on 15th April 2003;
8. Once an independent gaming commission has been established, Parliament increases licence fees and contributions to the CSL from the operation of gaming machines in clubs to equal that from hotels; management of the CSL should be returned to the independent TGC; the TGC should then review these contributions annually to ensure that the CSL is able to fund projects that reduce the harm caused to individuals and communities caused by gambling; and
9. Once an independent gaming commission has been established, the commission reviews the risks to forming good public policy on gambling posed by Government reliance on gambling taxation with a view to proposing strategies to reduce risks;
10. The PAC recommends to the Legislative Council that they reintroduce to parliamentary debate recommendations of the Legislative Council Select Committee Impacts of Gaming Machines, namely that:
 - The State Government immediately commission a bi-annual independent study to determine the social and economic impacts on the Tasmanian community since the expanded operation of gaming machines in hotels and clubs;

- That harm minimisation programs be properly researched and funded and reviewed by an independent agency; and
- That the Tasmanian Gaming Commission be immediately restructured so as to form a regulatory body that is independent of Government.