

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON THE IMPACTS OF GAMING MACHINES MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON MONDAY 15 APRIL 2002.

Mr STEWART WARDLAW AND Ms ELIZABETH GILHAM WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mrs Silvia Smith) - Welcome, Stewart and Elizabeth, If I may call you by your Christian names it is a lot easier if we do it that way and please refer to myself in particular as Silvia, if you wish to refer to me. The other committee members I am sure will be quite happy with their christian names as well. Thank you very much for your submission and all the information which was very detailed and the extra paperwork that you gave us as well, including some comments in the various papers across the slate because they have all been interesting as backup to the statements you have made. What I would like you to do is speak to your submission, if that is okay with you, and avail the members of the committee a chance to question you as you go along, if that is all right with you, rather than wait until the end. It is sometimes easier to do it intermittently. So I will hand it over to Stewart.

Mr WARDLAW - What I will do is just give an outline of the approach that the Local Government Association took with the view of preparing this submission and then Elizabeth will venture into more details about the inclusion that is in it. But, first of all, Madam Chair, I would just like to say thank you very much for the opportunity to be here today and to speak to the submission. The question of gaming machines and particularly with the introduction of machines into clubs and hotels has become a major issue for councils throughout the State and this has been evidenced by quite a number of policy decisions that have been taken by the association particularly since 1999 and I would add that a policy decision of the association is something that does not happen lightly. It occurs at a general meeting of councils where all the councils are assembled and they are taken in open session. So it is not as if it is a section of local government or indeed an executive. It is a decision going across the whole 29 councils. And with our submission we have actually drawn on those policy decisions to some extent. In addition to that we wrote to each of the councils in the lead-up to preparing the submission and asked them for any particular comments that they wish to have considered for inclusion, and so the submission has those two elements to it. One is the policies of local government and the other point is issues that councils raised when they knew this hearing was afoot.

What I would like to do is probably just reflect upon a very brief potted version of a summary of our position. The first point that we would make is that local government has maintained concern over the social and economic impacts of the increased number of gaming machines into local communities. By that it means into clubs and into hotels. Insofar as the economic impacts are concerned, the association knows full well that one element of economic impact is, if you like, the revenue the State derives out of that. That is a positive result. It is something that the Government could argue is for the good of the community as a whole. A second element of economic impact is that the decision

to put them into clubs and hotels certainly gave some assistance to local industry. That can be in the form of the building industry. It is in the form of hotels and probably to a lesser extent clubs. That has been a positive impact too.

But it is the third dimension of the impact where most concern lies. That is, what impact the increased availability and access to gaming machines has had on people in the community. It is the people issue that is of most concern, and that is on the individual himself or herself who has a habit of gambling that is uncontrollable, and then that impact then transcends certainly into members of the family and into friends as well. So it is that element of economic impact that has the social consequences that we find of most concern. There have been a number of requests made to the State Government about conducting a proper review of those impacts, and in our opinion those studies have not been undertaken, and that is regretful.

Moving on with further issues that we are concerned about, these are more or less of a regulatory nature. On the one hand regulation controls the number of machines and the location of them, and it is the numbers of machines that we see as a regulatory issue. The second one is the raising of the betting levels per machine. The third one to do with regulation is the approvals process, and that is where the approvals are given by the commission, councils or the community at large do not have any opportunity for redress or being able to take into account communities' views on the approvals process. And then lastly is the lack of appeal rights. So there are four elements in the regulatory role of this issue that we have concerns about: numbers, betting levels, approvals processes and appeal rights.

My last point, Madam Chair, is the question of the commission itself which, as we are all aware, is made up of three people appointed by the Government. It has been the view of local government which has been expressed to the State Government that the commission either ought to be extended to include a local government representative so that the types of issues that local government is aware are of concern to the community can be prosecuted at the commission level, or indeed one of the three positions now be made available to somebody who can represent those interests. So they are the basic points of our submission.

CHAIR - Do you want to expand on those, or is Liz going to expand on those?

Mrs GILHAM - Probably the one that I think we would like to expand on the most is the social and economic impacts, and I suppose the first question you ask is why is there a concern? Where does it come from? And I guess it would be fair enough to say a lot of it is anecdotal evidence, but there are a lot of elected members out there that have concerns that are raised by people in their municipal areas to the extent that it becomes an issue of concern to them. Until an in-depth social and economic impact study is done it's very hard to define the issue or to argue that it's being addressed properly. So that is the absolute crux of our submission that that research must be undertaken.

In preparing this we found the South Australian study very interesting because it was quite clear in that that you can't make presumptions based on other people's research. Even the research within South Australia showed differences within regional areas and cities which didn't compare with Australia-wide information. So that really reinforces our argument that you need to be doing some in-depth research in this State.

CHAIR - You're suggesting then that each State area, regional area, local community are indicatively quite different to each other?

Mrs GILHAM - They could well be, yes. That seemed to be the findings in South Australia.

Mrs SUE SMITH - The impact of gaming machines in small regional economies in South Australia was prepared for the Provincial Cities' Association of South Australia. Was that funded by that particular association, are you aware?

Mrs GILHAM - Yes it was.

Mrs SUE SMITH - Has the Local Government Association put this issue on the Table with the Premier's Local Government Consultative Council or whatever its called?

Mr WARDLAW - Premier's Local Government Council. No, its never been an issue raised in that respect and that's because the nature of it is not a core local government activity. The Premier's Local Government Council subjects or topics are generally things that are very fundamental to service delivery and this, I suppose, would see a more or less a social policy outside of that.

Mrs SUE SMITH - There's probably been a precedent created for it to be put on your list now I might say.

Laughter.

CHAIR - Sorry to interrupt you there, Liz.

Mrs GILHAM - I don't know that there's actually a lot more to add to that.

One of the positive issues that Stewart mentioned was the increase in building activity and employment generated by machines but the downside of that is the potential loss of that income that could be going to other local businesses that could be perhaps more potentially beneficial for the community.

The other side too to the taxation aspect is, I think, one of the arguments that's put is that the taxation revenue is well used throughout the community but it could well be that it's not directed to the communities that are necessarily losing that money most and that, again, is something that could be identified through more in-depth research.

CHAIR - You touched on the aspect of employment. Within the Local Government Association have you any figures or any research or any information that identifies the fact that there has been more employment created within the industry or within other industries, as you say, the building industry, that are being necessitated for refurbishments and things?

Mr WARDLAW - No, the very nature of that type of research is that we don't do that but we would imagine that peak bodies like the Australian Hotels Association, for example, would have numbers on that.

CHAIR - The other question if I might ask at this stage. Here in your submission you commented on your dissatisfaction with the consultation process that had been taking place regarding the extension of gaming activities. Did you have any consultation whatsoever with the State Government on this issue?

Mr WARDLAW - No, that was the very point upon which I think this whole concern arose. If I recall correctly, an example was in the Brighton Council area whereby the council approved an extension to a hotel and thought that it actually had the power under the planning scheme to also exercise some control, if you like, over the placement and the number of machines. It found in actual fact that it didn't and it had no opportunity at all to make any contribution towards that type of discussion because it's purely a decision taken by the commission itself and that is what, I think, ignited this groundswell of concern from local government back probably three years ago now.

CHAIR - You do go on to talk about that you are frustrated because you are not recognised as having a role in determining the numbers and location. How do you envisage that local government councils could have a role in this process?

Mr WARDLAW - I think in the first instance quite properly would be through their planning schemes and their development approval processes. But of course the way the law stands at the moment, the councils are not entitled to do that. They are excluded from doing that in their planning schemes.

CHAIR - I have two local government or former local government people on either side of me here. I am just wondering if they have any comment on that issue?

Mrs SUE SMITH - I am just looking to see how, we have been inundated, one would say, over a lot of years on different processes, looking at different aspects of gaming. There are truck loads of reports that have happened in that particular arena. Yet we continually come up with requiring another one, needing another one or there is something that has not been looked at. How would the Local Government Association feel if, as permits were to be extended or a new permit granted, they had to do a social economic impact statement in the area where they intended to put in new or more machines? I think it was Liz who commented, every area is different and South Australia certainly threw that one up, whether that would have some capacity to see local government involved and to allow community members, or whatever, the same thing.

I think it is trap being followed in New South Wales to some degree, looking at that particular process as part of the whole licensing aspect. Would you like to comment on that?

Mr WARDLAW - From my point of view it is one of a number of tools you can use to form judgments on the advisability or suitability of a particular application to install new or additional machines in a particular locality. But we would also see it as something that councils would underpin by the planning schemes, bearing in mind that in the process of putting into planning schemes there are two or three different levels of control. The first thing in the planning scheme itself when the scheme is prepared or amended is that there is a community consultation process. That is where all the different parts of the community can make a representation about the suitability of a particular zoning either for or against and the very nature of this type of development, it would be what we call a

discretionary land use which means that the council has a discretion to either grant or to refuse and when you get to the development application process, when the council uses its discretion once again the community or part of the community can make a representation either for or against it with variations on the particular decision the council made. If the conflict continues it would then go to the Resource Planning and Development Commission. So there are a number of steps and barriers through the way.

Mr SQUIBB - That would be looking only at the gambling aspect of development?

Mr WARDLAW - It would be for the placement of the machines in premises, that is right. The types of assessment that Sue you spoke of really would be just one tool that you would use to determine whether or not that discretion is being appropriately applied.

Mrs SUE SMITH - I think would you not see that we are drawing a very long bow in what is already seen by some as an interesting planning scheme, that the planning schemes generally zone for hotels, business zoning, whatever, as such and never get into the discretion of what happens in the area of those hotels. I am just trying to work through my mind how and why if down the track a hotel with no gaming machines wanted suddenly to put 10 in, how it changes the focus of interaction with the community any more than if they wanted to put a disco in or -

Mr SQUIBB - Probably less.

Mrs SUE SMITH - some of those particular issues. That is why I am finding it hard to bring any of the planning scheme things in - if something in the law that said the economic impact statement had to be signed off it may have more credibility under law perhaps.

Mr WARDLAW - With the planning schemes now it is that licensed premises are provided for there as a discretionary use and I think in all our minds over the years we have come to understand that a licensed premises is, just not a place where you would sell alcohol or meals. Indeed it does have a number of associated activities going on with it and in the build-up of our perception about what a licensed premises was, of course, the question of gaming machines never entered into that. They simply were not an approved use. They were confined to just one or later two particular establishments in the State. When it was liberalised we then had to fit gaming machines into the licensed clubs. I think that is a major departure.

Mr SQUIBB - Or bingo into bingo halls.

Mr WARDLAW - Yes. The same principle. But I think the critical thing is that with 15 or 25 machines, it is a significant change in the operation of a licensed premises business. It is quite a substantial shift. That is the point.

Mrs SUE SMITH - So licensed premises are discretionary in all planning schemes? Most planning schemes?

Mr WARDLAW - Well, I cannot say exclusively that it would be discretionary.

Mr SQUIBB - Some would be.

Mr WARDLAW - The general principle of it would be discretionary but there would be some targeted sites.

Mrs SUE SMITH - Can you give us any instances of other industries outside of the licensed premises industries where they have to come back if there is a change of use, I suppose it would be called?

Mr WARDLAW - Just an ordinary shopping complex like Eastlands. For example, that can have a change of tenancy that would trigger off change of land use. You might well find that although the shopping complex has been approved, the tenancies fit into a particular land use classification and if they change you then go through the approval process for that change.

Mr SQUIBB - So right within retail, is it? Surely not.

Mr WARDLAW - I understand it can be used.

Mr SQUIBB - It can but does it?

Mr WARDLAW - Well, yes they do. I might find it difficult to come up with particular examples but I would only be too pleased to give the committee some firm information on that because it does occur where in retail premises, the nature of the trading changes as does the land use requirements. It might require more or less parking or it might require all sorts of considerations to come into it.

CHAIR - Finished on that one, I think.

Mrs SUE SMITH - Yes. It just triggered me thinking.

CHAIR - Geoff?

Mr SQUIBB - No, I do not have a question. I am more likely to have a debate.

Mr WARDLAW - Some of them are things like access or egress. It can be parking requirements. They will vary according to the land use.

Mr SQUIBB - Yes, but they would be, I would have thought in most instances, covered in the individual planning scheme anyhow, would they not? Parking, for instance.

Mr WARDLAW - Their standard may be but then they are triggered off by a development application.

Mr SQUIBB - Right. If I owned a hotel somewhere and rather than put in gaming machines I was going to have a disco or a nightclub that started at 11 p.m. and traded until 4 a.m., what impact would that have on the planning scheme?

I would have thought that would have had, particularly if there were residential areas not far away as is quite often the case, far greater impact on the amenity of the neighbourhood than 10 or 15 gaming machines.

Mr WARDLAW - Well, it would be conceivable that you had approval for a licensed premises with dining facilities in it contained in that building envelope. That would attract certain conditions in relation to requirements on the operator and how they operated that business, with a licensed premises with dining facilities. If the owner wanted to conduct an additional activity like a disco, then it might well trigger off things like opening hours, closing hours, a whole number of considerations. I would suggest that a development application in those circumstances would be a frequent occurrence because it is a significant change of the use of the envelope of the building.

CHAIR - I noted that from your submission that over a number of years, in fact since 1997, your association has in motions passed requested social and economic impact studies on the effects of the introduction itself and the effects of what is happening now. Have you sent those motions to the State Government asking for that?

Mr WARDLAW - Absolutely.

CHAIR - And have you received any actual reply or comment from the Government on that issue?

Mr WARDLAW - We have received a reply and comment but they have all been denied.

Mrs GILHAM - The responses are summarised on page 3. That is sort of a collection of responses over the years really.

CHAIR - Right. So you are not having any impact there at all, and you are actually saying in your submission that that is what you want to happen, to have this study done?

Mr WARDLAW - We believe it actually is certainly beneficial in the interests of reviewing public policy, and particularly public policy as important as this one.

CHAIR - Fair enough. You wanted to continue on there, did you?

Mrs GILHAM - I don't think there was anything else.

CHAIR - Are there any other aspects of the issue that you want to bring to us at this point?

Mrs GILHAM - We made a very limited comment on the support services, and again our argument is how do you properly assess whether they are adequate or in the right places if you do not really know where the problem is? But I imagine there are greater experts in that area such as Anglicare and other support services. The last issue was the membership of the Gaming Commission, which was really a suggestion to get local government involved in the process somehow. If you look at the role of the Gaming Commission perhaps that is not the most appropriate place, but there must be some way in which we can be involved in the process.

CHAIR - There needs to be somewhere or some way that local government can be part of the process.

Mr WARDLAW - Although there are two or three functions of the commission in the legislation that I think are more general. Some are very specific: for example, 'to

regulate and control gaming to ensure that it is conducted honestly and free from criminal influence and exploitation'. Well, that is a very explicit function, I suppose, but then if you go to the second one: 'to investigate and make recommendations to the minister on matters relating to gaming policy', I think that is something that quite well has a general application across the general community where wider input would be most valuable. Then function (e), 'to review and determine complaints relating to the conduct of gaming': I think once again there is opportunity there to have this broad general representative input. So of the terms of reference there are at least two there where I think broader representation would benefit.

CHAIR - The other issue that has come up on a couple of occasions now, and which you alluded to, was the impact on the rural communities. Could you broaden what you see as the impact, because we have had comment made to us that some of the impact on local and rural communities has been in the discretionary spending opportunity of people being diverted from the general run-of-the-mill spending to specifically gaming machines at the hotels and clubs that are in those communities. Do you have a comment to make on that?

Mr WARDLAW - I am not so sure it is rural communities specifically versus other communities.

CHAIR - No, local and rural.

Mr WARDLAW - But I think it is the types of communities, the make-up of them, which is really the main crux of it, where some communities are especially vulnerable to access to this type of activity and can have a more profound effect on those more fragile, vulnerable communities than it would have in a more robust one with a different sort of socioeconomic make-up. So it is those vulnerable ones that we are most concerned about, and they are not necessarily confined to rural areas. There are some suburban ones around too.

CHAIR - Yes.

Mrs GILHAM - I just alluded to that very briefly before, and really that is something that unless you have very specific research it is hard to -

CHAIR - I was going to say that could be part of a study, could it not, because what is the impact on local businesses with the change of the discretionary spending dollar? What is the impact there? Research has not been done, and I guess you would not have any information on what that impact is.

Mr WARDLAW - No.

Mrs GILHAM - Only anecdotal stuff.

CHAIR - Only anecdotal again. It makes it very difficult.

Mrs GILHAM - The New South Wales Government have just moved to have all signage that is advertising and promoting gaming machines removed externally from premises in

New South Wales. Does the association have an opinion of advantage or disadvantage in that in Tasmania?

Mr WARDLAW - From the association's point of view it's somewhere, I suppose, our principals having given a particular brief on that and it is something that I would imagine they would support, although we have no specific instruction on that issue.

Mr SQUIBB - And that is an issue that you'll pick up in planning schemes anyhow.

Mr WARDLAW - Yes but within limits once again because you've really only got a discretion to where and size not necessarily content. That's the problem.

Mr SQUIBB - But even size would be something.

Mr WARDLAW - Yes, absolutely.

CHAIR - What other role, other than being part of a board looking into the issues around gaming, can local government play in the issue?

Mr WARDLAW - I think the only role that has ever been debated and discussed and, I suppose, agreed upon is one in the planning area - I don't think that local government sees itself as being the custodian of social morals or anything else like that, it's just very much sort of there, concerned about community interest, concerned about public policy as it affects that interest and trying to make a contribution to have better policy as a result and policy that's more representative of the constituents of council areas. That's the general approach.

CHAIR - One of your other concerns that I just have noted here is you're concerned about the ease of access to the use of these machines. Do you envisage any way that ease of access could be limited?

Mr WARDLAW - No. Our concern about ease of access is just, I suppose, the decentralisation of gaming machines from casinos out into community areas. So that's the type of access that we're referring to. When we say 'ease of access' it's just next door or down the street.

CHAIR - It's not so specialised as it used to be?

Mr WARDLAW - No. Of course with the formal casino premises it's just in two localities in the State. It's there, easy to control, manageable, very defined but now it's decentralised of course the issue is spread out.

CHAIR - You're not considering in that comment that there be a complete roll-back, that we get back to the two main venues?

Mr WARDLAW - There have been some suggestions about local government having a policy about roll-back but I think in all practicalities we've come to realise that those things are so politically difficult.

CHAIR - Yes. And, of course, you do state that the benefits to the State Government are there and that you can see the benefits to the committee through that as well.

Mr WARDLAW - It's just the cost to the community as a result.

CHAIR - And the cost to the community is the real problem.

So I guess in rounding all that comment up is what you're really asking for is that there is a detailed set of researching done to look at what is the reality of the social and economic impacts on local communities?

Mr WARDLAW - And to guide future decision-making with it.

CHAIR - Right, okay.

Sue, have you any questions there?

Mrs SUE SMITH - No I haven't. It's interesting that Federal Hotels actually agreed with some of your positions if you look at 1993 compared with today.

Laughter.

Mrs SUE SMITH - Times change.

Mr SQUIBB - If you were successful in having the composition of the commission changed to allow for local government representation would you still then want the opportunity for each local government component to have a say in what happens in its own area or are you looking more at a - would you be happy with a statewide approach, provided local government has some input into that approach?

Mr WARDLAW - Well, our policy approach provides for both but I would add that those two policies were not made side by side. One was made on one occasion and one on another so it was chronological preparation of policies.

What we'd have to do would be to go back to the councils and say which one would you prefer or is one preferable over another or whatever? But they are actually side by side now they're both live policies.

Mrs SUE SMITH - There is a percentage, as you'd be aware, of the community levy that is put aside for problem gambling research et cetera and all of that money isn't taken up each year and surprisingly that's no different to other States around Australia. What has come out though is that there is a lack of ongoing research, that this is an evolving thing. Do you believe your association would support a percentage of the community services levy that goes into a pool so that we could have a continuing ongoing social economic impact into gaming machines in Tasmania that continues as research work bi-annually or something like that, so it is a standard trigger that is there through the process?

Mrs GILHAM - That would be used to assess the extension that you were talking about before?

Mrs SUE SMITH - No, just to have a continuing brief to look at the social and economic impacts on your State. We tend to have reports when somebody takes a perchance that perhaps we should have a look at this, rather than the security of the finance which is always a question and a trigger that would see an ongoing study of the social impacts.

Mr WARDLAW - We would support the hypothecation of revenues of some sort toward ongoing research. Ideally, we would, I think prefer to see hypothecation out of the tax. Because we would be concerned about the prospects if we hypothecate the levy, then it might well have an unfavourable impact upon the services that it might deliver into the future even though it is not taken up now. But our first preference would be to hypothecate the tax for ongoing research. But in reality if all we could get was unused or surplus levy funds hypothecated that would be our second preference.

CHAIR - I will give you an opportunity to perhaps make a summary statement if you wish to. None of the committee have any further questions. I think we have exhausted our questions. If you would like to make a summary in conclusion.

Mr WARDLAW - All right. Just very quickly then, Madam Chair, number one is what Liz and I have addressed today and are issues that are local government policy made through the forums I have explained. The second point I would make is that the social and economic impacts of gambling is of a very serious concern to councils because of what they see happening in their local communities. But whilst doing that they do recognise that there is a financial value in it for the community at large but it is a social cost of that which is of most concern.

The last points I would make about the regulatory controls is that there need to be more stringent controls over the numbers of machines, about betting levels, more involvement and consultation with the approvals processes and some appeal rights. We would also support the discussions that have been occurring this afternoon about ongoing research into the impacts of gambling on the community so they can be used to guide decision making. Lastly, I just say that besides all that is the representation on the commission to get a broader input from the community to make it seen as if there is a genuine desire to have the community views represented on the commission and just not these more, I suppose, strident expert views that come through the current representation.

CHAIR - Thank you very much, Stewart and Elizabeth for that information and we will look forward to sending you a copy of the report for your perusal.

THE WITNESSES WITHDREW.