

**GAMBLING: PROMOTING A CULTURE OF
RESPONSIBILITY**

**CONSEQUENTIAL REPORT ON GOVERNANCE
STRUCTURES**

February 2005

**INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES**

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1 RECOMMENDATIONS

1. *The governance arrangements for responsible gambling policy should be revised. The minimum change is to make the Department of Gaming and Racing (DGR) responsible for policy development including:*
 - *The development of responsible gambling measures that would apply to gaming machines. In future, the DGR would develop amendments to legislation or regulatory instruments. The Liquor Administration Board (LAB) would then reflect these in the Technical Standards, where applicable.*
 - *The policy aspects of various existing programs including counselling, research, community education and awareness and community projects which are now undertaken by the Casino Community Benefit Fund (CCBF).*
2. *The Government should also consider the option of transferring the administration of existing CCBF funded programs (including counselling, research, community education and awareness and community projects) from the CCBF Trust to the DGR. The CCBF Trust would continue to make recommendations to the Minister on the allocation of funds to community bodies under this option.*
3. *DGR should develop better linkages with the relevant areas of the Department of Health in relation to policy development for the counselling program.*

Consideration should also be given to the following options in relation to the administration of the counselling program:

 - *better linkages with the Department of Health should be developed by either the CCBF Trust or DGR, depending on who is allocated the role of administering the program, or*
 - *DGR should contract with the Department of Health to administer the counselling program. The Minister for Gaming and Racing would continue to approve the program's funding.*
4. *The DGR should ensure it has a strong performance management system in place for the responsible gambling programs.*
5. *The Government should review the revised governance arrangements after five years of operation.*

2 INTRODUCTION

In July, 2003, the Acting Premier approved a request under section 9 of the *IPART Act (1992)* for the Independent Pricing and Regulatory Tribunal (the Tribunal), to conduct a review of the effectiveness of gambling harm minimisation measures. In July 2004 the Tribunal released its report *Gambling: Promoting a Culture of Responsibility*.

In December, 2004 the Premier approved a request by the Minister for Gaming and Racing for the Tribunal to undertake a short, consequential report into the effectiveness of current governance arrangements in relation to the delivery of problem gambling policy and programs. The review is also to report on changes to ensure better co-ordination of policy development in this area. The review excludes the Casino Control Authority.

The Terms of Reference for the current review are included as Attachment A. Subsequent to the receipt of these, the Tribunal sought approval for an extension of the reporting time to February 2005 to enable the restructured Tribunal adequate time to consider the matter.

3 OVERVIEW

3.1 Background

As detailed in the Tribunal's report *Gambling: Promoting a Culture of Responsibility*, the Tribunal found the existing harm minimisation measures were not part of a coherent, integrated policy framework or the responsibility of one agency. Indeed, it was observed three agencies had responsibility for policy matters in this area (excluding the Casino Control Authority) being the Department of Gaming and Racing (DGR), the Casino Community Benefit Fund (CCBF) Trust and the Liquor Administration Board (LAB). In relation to the existing measures, responsibility is split between the DGR and the LAB. Even though the LAB has a close working relationship with a number of branches of the DGR, the determination of relevant measures in this area is the responsibility of the LAB.

The Tribunal made a number of other findings in its 2004 report. These included:

- No single body has overall responsibility for strategic policy and planning.
- The (LAB's) Technical Standards may not be the appropriate basis for developing and establishing responsible gambling measures (for example, policy development for the standards is separate to the DGR's policy role).
- The Department of Health has significant expertise in dealing with a variety of counselling programs.

The Tribunal found that the administration of programs was not sufficiently aligned to policy as a consequence of the dispersal of the strategic planning and policy role across three agencies. In summary, the Tribunal found that:

- The CCBF-funded research does not always inform policy decisions as it is not closely linked to policy development. The CCBF Trust recommends its own priorities for research. The Tribunal noted that the DGR is the conduit to other jurisdictions for the new coordinated and jointly funded national research program.
- There have been significant delays in implementing the policy framework for the CCBF-funded counselling program. This means that the program's "value for money" could not be properly attested.
- The CCBF Trust requires a set percentage of each region's triennial funding for counselling services to be spent on community awareness and education. This regional approach may not achieve the impact that a coordinated state-wide approach would achieve with similar funding. The Tribunal noted the success of the (state-wide) community education and awareness campaign.
- The CCBF-funded community projects program lacks a strong focus on gambling projects and does not appear to be guided by a formal framework. The Tribunal's report indicated a significant portion of recent grants were to projects that did not have relevance to responsible gambling.

Stakeholders were concerned that many measures had been introduced without credible evidence as to their effectiveness. The objectives of measures were unclear as was the process for evaluating them.

Therefore, the Tribunal recommended the Government should develop a coherent and integrated policy framework that guided future decision making. The aim of the policy framework should be to promote a culture of responsibility in gambling. The integrated policy approach should be based on three strategies:

- promoting informed choice
- protecting gamblers to discourage risky behaviours and reduce the prevalence and negative consequences of problem gambling, and
- providing counselling services to problem gamblers and their families and friends to reduce the negative impacts of their gambling behaviour.

The framework should include guidelines to evaluate existing measures and proposed new measures, relying more heavily on evidence from credible research.

The Tribunal also recommended that the DGR should take responsibility for state-wide planning, direction-setting and guidance for responsible gambling policy.

3.2 The way forward

In going forward, there are a number of options to strengthen governance arrangements for responsible gambling.

These are in addition to the recommendation in the Tribunal's main report, for the DGR, as the Minister's key policy agency, to have its leadership role increased and be assigned responsibility for state-wide planning, direction-setting and guidance.

For a policy framework to be effectively implemented, clear policymaking and governance arrangements are required, which allocate functions to the most appropriate bodies. This is consistent with the recommendations the Tribunal made in relation to governance in its 2003 review of NSW Health *Focussing on Patient Care*. In that report, the Tribunal indicated the importance of clarifying the roles and accountabilities of the Department of Health and other entities, particularly the Area Health Services.

The current split in responsibilities between the LAB and the DGR fundamentally weakens the development of a more effective policy approach. Therefore, as part of the reassignment of roles, the DGR should, at a minimum, be unambiguously responsible for all policy in this area, removing this role from the LAB and also the CCBF Trust. This would correct the weaknesses identified in the existing arrangements as discussed previously.

An option is to consolidate the program administration functions of the CCBF and the DGR. The Government has since 2001 had greater flexibility in its dealings with the Trust. Despite this, the Tribunal identified weaknesses in the performance of the Trust in the administration of its programs as outlined in section 3.1. This reflected program administration not being sufficiently aligned to policy and also the Trust being a separate body. If the Government opted to transfer the program administration function of the Trust to the DGR in addition to its policy role, this would ensure the various programs are more aligned with the policy

framework, reduce duplication and together with proper performance monitoring systems should ensure improved service delivery. The DGR's performance monitoring regime would enable the refinement of the programs and the framework, as required.

Figure 1 provides a map of possible governance arrangements. These arrangements clarify the division of key tasks, thereby clarifying the roles of the DGR and the CCBF Trust and the LAB.

The new arrangements should be implemented as a matter of priority, and be reviewed after five years to assess their appropriateness, effectiveness and efficiency. The proposed arrangements for each of the bodies are outlined in more detail below. For completeness, the proposed changes are referenced by agency.

4 OPTIONS TO STRENGTHEN THE ROLE OF THE DEPARTMENT OF GAMING AND RACING

Under the proposed governance arrangements, the DGR would at a minimum have primary carriage for strategic planning and policy development for responsible gambling policy. In addition, the DGR may have responsibility for the administration of the related programs. This would build on its core legislation and policy development role on behalf of the Minister.

4.1 The minimum change - a stronger role in strategic planning and policy

Even though the Tribunal recommended that certain harm minimisation measures should continue without amendment, the development of the existing harm minimisation measures has been disjointed and less than evidence-based. The Government needs to consider whether revised governance arrangements will assist in the development of a more effective policy in future.

To overcome these weaknesses, the LAB's existing policy role for the responsible gambling measures should be transferred to the DGR. In addition, the policy aspects relating to various CCBF Trust programs such as counselling (the development of a strategic framework and program priorities), research (such as determining priorities) and community education and awareness should also transfer to the DGR. This would consolidate responsibility for strategic planning and policy development with one body, the DGR.

The DGR would then be given clear responsibility to develop more effective policy, in particular the proposed integrated policy framework for responsible gambling. The DGR would need to effectively communicate this framework to all relevant agencies and stakeholders.

The DGR would in future develop the responsible gambling measures for gaming machines. Following Cabinet and Parliamentary approval, these would be enshrined in legislation or in regulations. Where applicable, the measures would then be reflected by the LAB in the Technical Standards.

4.2 The consolidated option - also transferring the administration of current CCBF programs

The consolidated option involves the transfer to the DGR of a number of programs currently conducted by the CCBF Trust, in addition to the policy responsibilities outlined in section 4.1 above. This has implications for the CCBF Branch of the DGR, which are discussed later.

The DGR would need to integrate these additional functions with its core functions. The Department should ensure that it has in place performance monitoring systems for the relevant programs and, where appropriate, use the outcomes of these performance monitoring systems to refine the programs to improve their effectiveness.

This consolidated approach would reduce duplication and overcome the weaknesses identified with the existing administration of programs. The programs recommended to be transferred under this option are:

4.2.1 Research program.

One instance referred to in the Tribunal's main report is repeated to highlight the deficiencies in the existing arrangements:

The Tribunal is also concerned about some unnecessary complications and lack of consultation in the administration of the research program. It is clear from the example of research commissioned following the release of the LAB's 'First Determination' regarding the Technical Standards for gaming machines, that too many bodies were involved in the development of research. This led to an unwieldy process and significant delays. For instance, in response to the LAB's First Determination, the gaming industry formed the NSW GIO and commissioned two research reports into three of the measures that were proposed in the Determination. On receipt of this industry-funded research, the LAB then recommended that an independent peer review should be commissioned of the research. This review was then commissioned by DGR with CCBF funding and undertaken by Auckland University.

The transfer of the research program would include administration of the program grants for the various research projects relating to responsible gambling, particularly relating to responsible gambling measures. This would enable one agency to develop the policy, develop linked research priorities and link them to the national research program, where feasible.

4.2.2 Counselling program

The Tribunal found in its 2004 report there had been delays in the implementation of the CCBF's Policy Framework for Treatment Services for Problem Gamblers and their Families. The Tribunal recommended a number of measures to improve the counselling services and the program, including:

- A preference for multimodal treatment strategies.
- The use of appropriate and comprehensive assessment to accurately match clients to interventions.
- The encouragement of a strong client-counsellor relationship.
- Participation by clients in goal-setting for their treatment.
- The development of an accreditation program for problem gambling counselling services, to be introduced and phased-in over approximately three years.
- The development of minimum standards for problem gambling counsellors.
- The review and extension of the information collected on a client known as the client data set, and then incorporation of a minimum client data set into the accreditation program.
- The development of a standardised tool for measurement of client outcomes and requiring follow-up with clients.

In addition to integrating the responsibility for the counselling service policy framework with the DGR's proposed overall policy role as outlined in section 4.1, allocating responsibility for the administration of the counselling program to the DGR is an option that should be considered. This streamlined and coordinated approach would result in one body being responsible for policy development (consistent with the integrated framework), program administration and performance monitoring. Together with the Tribunal's earlier recommendations for counselling, this should improve the performance of the program, especially in relation to service delivery and "value for money".

The counselling program could also include relevant community projects as recommended in the Tribunal's 2004 report. The Tribunal found that not all community projects were for gambling related purposes. It recommended that the Government consider abolishing the separate community projects program, funding for non-gambling projects should be discontinued and remaining projects be funded under the counselling or community education and awareness programs.

The role of the Department of Health.

As noted in the Tribunal's main report, it was apparent that a number of counsellors do not have confidence in the ability of the Trustees to administer counselling services. Some argue that the Department of Health has expertise with counselling services.

The Tribunal noted that the counselling program would also benefit from the assistance of the Department of Health. The Department of Health has significant experience in dealing with non-government organisations and administering a variety of counselling programs.

In most other Australian jurisdictions the health or community service departments oversee gambling counselling programs. Given their experience with other types of human services counselling such as drugs and alcohol, the Department of Health has much to offer in this area. At a minimum, the DGR should develop greater linkages with the relevant areas of the Department in relation to the development of the counselling program. Options to include the Department of Health in the administration of the counselling program include the following:

- Either the Trust or the DGR (depending on who is allocated the role of administering the program) should develop greater linkages and cooperation with relevant areas of the Department of Health, or
- DGR might contract with the Department of Health to administer the counselling program. The Minister for Gaming and Racing would then continue to approve the funding for the program.

4.2.3 Community education and awareness program

The administration of the CCBF program for community education and awareness (incorporating relevant community projects as outlined in section 4.2.2) would become the responsibility of DGR. However, the actual campaigns (whether state-wide or local initiatives such as forums) could be a collaborative arrangement between the DGR and the CCBF Trust. This would ensure the link with the DGR's policy framework as well as achieving greater value for money compared to alternative more decentralised campaigns.

5 THE ROLE OF THE CASINO COMMUNITY BENEFIT FUND TRUST

The options for governance arrangements have major implications for responsibilities and functions of the CCBF Trust. This would necessitate a fundamental reappraisal of its remaining roles. Such a reappraisal would be desirable in any case, given that it is approximately 10 years since the first board of Trustees for the CCBF Trust was appointed. The Trust itself was established under the *Casino Control Act 1992* (which provided for a trust deed appointing trustees), a time when the present harm minimisation framework did not exist, and indeed may not have been contemplated.

The CCBF is financed by a two percent levy applied to the gaming revenue of the casino. Approximately \$12 million is available for various programs each year. The Tribunal notes that there are similar levies in other jurisdictions, some of which apply a levy to a broader gambling revenue base and some have established specific bodies to administer relevant funding. Details of these arrangements are summarised in Attachment B.

The Trust Deed provided for under the Act determines how the Fund is expended, with funding on projects recommended by the Trustees to the Minister, subject to guidelines issued by the Minister. The DGR has two roles, either servicing the Trust via the CCBF Branch and in independently advising the Minister on recommendations of the Trust. The Fund supports a number of activities including counselling services, research, community education and awareness campaigns, and community projects

The Government has since 2001 had greater flexibility in its dealings with the Trust. However, the Tribunal has identified weaknesses in the CCBF's performance in relation to its programs. Accordingly, the option of maintaining the Trust's responsibilities in their current form is not recommended.

Some of the Trust's key functions such as policy and possibly program administration would be transferred to the DGR under the proposed arrangements. However, the Trust would retain the function of making recommendations to the Minister on the allocation of funds to community bodies.

5.1 The minimum change: Transferring the Trust's policy role to the Department.

The policy aspects relating to various CCBF Trust programs such as counselling (the development of a strategic framework and program priorities), research (such as determining priorities), community education and awareness and community projects (as currently categorised) would be transferred to the Department under the minimum change option outlined in section 4.1.

This would mean the Trust would retain its funding and administration roles but these would occur within the policy constraint determined by the integrated policy framework.

5.2 Possibly transferring program administration to the DGR

The Trust would continue to make recommendations to the Minister on the funding of requests for program grants. However, as outlined in section 4.2, an option is to transfer responsibility for the administration of a number of key programs from the Trust to the DGR, including counselling, research and community education and awareness. These should be subjected to the improved performance management systems proposed for the DGR.

The CCBF Branch would also need to be revamped to reflect any changes to the Trust's role. If the Trust loses its policy and program administration functions, then these aspects of the Branch's responsibilities would be removed and integrated with the relevant DGR functions eg. the research role would be aligned with strategic policy development.

6 THE ROLE OF THE LIQUOR ADMINISTRATION BOARD

The Liquor Administration Board (LAB) is established under section 72 of the *Liquor Act, 1982*. The Board's responsibilities derive from this Act and the *Registered Clubs Act 1976* and primarily relate to liquor licensing and the operation of gaming machines. This report does not discuss the LAB's responsibilities under the *Liquor Act*.

In relation to the existing harm minimisation regime, the Board develops and administers Technical Standards for gaming machines that includes harm minimisation measures, and has a role with other measures.

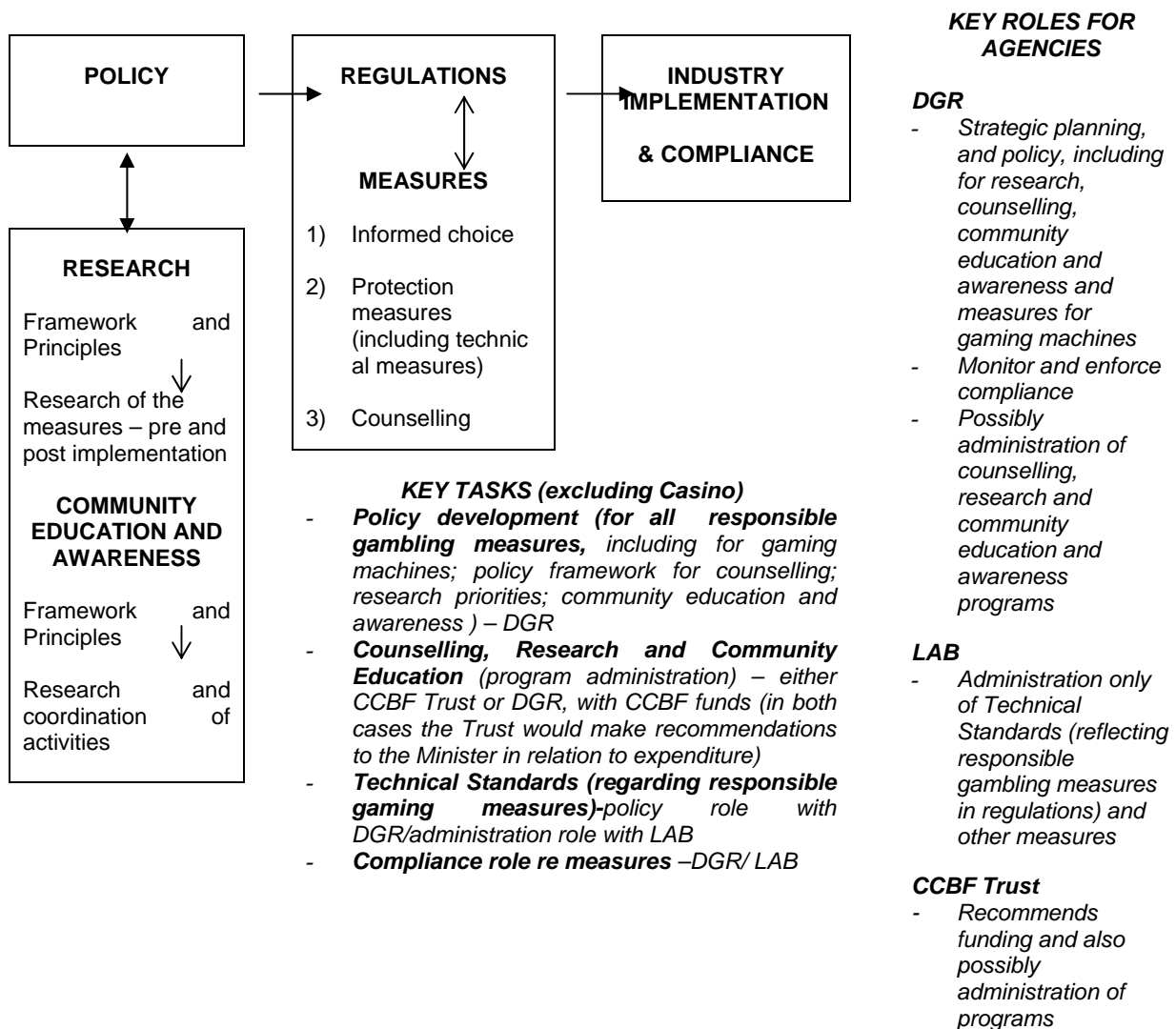
The options for governance arrangements have significant implications for the LAB. There are two options for the Government to consider in relation to the LAB's governance structure for responsible gambling.

The first is the status quo. This is not recommended. In examining the effectiveness of the existing harm minimisation regime, it became apparent that the governance arrangements should be better integrated to enable the delivery of the Tribunal’s recommended integrated policy framework.

Therefore, the second option, as outlined in section 4.1, is the transfer of the policy function for responsible gambling measures from the LAB to the DGR. The DGR would have the associated task of developing amendments to legislation and regulations flowing from future policy changes. The transfer of the LAB’s policy role to the DGR would enable it to have total carriage of strategic planning and policy development for responsible gambling, integrating the current disparate approach to achieve more effective measures. This would remove the decision-making function from the LAB in relation to the responsible gambling measures for the machines.

Thus, in relation to responsible gambling measures, the LAB would essentially be confined to administering the Technical Standards and other measures, found in legislation or in regulations. The Board’s role with regard to responsible gambling measures would be to reflect in the Technical Standards the measures that otherwise are enacted under primary or secondary legislation, where this is applicable.

Figure 1 Map of Proposed Governance Arrangements for Responsible Gambling



Attachment A: Terms of Reference



Premier of New South Wales
Australia



TCO/13285

Mr James Cox
Acting Chairman
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

1 DEC 2004

Dear Mr Cox

I refer to the Independent Pricing and Regulatory Tribunal's report, *Gambling: Promoting a Culture of Responsibility*.

The Minister for Gaming and Racing proposes that, as a result of Chapter 8 of the Report concerning administering the policy, the Tribunal be approached to prepare a consequential report regarding governance matters pursuant to section 9 of the *IPART Act 1992*.

I understand that informal discussions have occurred between the Tribunal and the Department for Gaming and Racing, and the Tribunal is agreeable to the proposal as well as a short reporting period.

As you would be aware, section 9 of the *IPART Act 1992* provides that the Tribunal may enter into arrangements with government agencies (or other bodies) if the Premier has approved of the arrangement. I hereby approve of IPART providing this assistance in accordance with the attached Terms of Reference.

I have indicated to the Minister that funding for the review is to be provided from existing resources within the Department for Gaming and Racing and enclose a copy of my letter to the Minister for your information.

Yours sincerely


Bob Carr
Premier

GAMBLING: PROMOTING A CULTURE OF RESPONSIBILITY
CONSEQUENTIAL REPORT ON GOVERNANCE STRUCTURES

TERMS OF REFERENCE

IPART is requested to review and report upon the effectiveness of current governance arrangements relating to the development and delivery of problem gambling policy and programs.

In particular, this review should examine and report on:

- The efficacy of governance structures (excluding the Casino Control Authority) relating to the delivery of current problem gambling policy and programs.
- Changes to ensure better co-ordination of policy development relating delivery of current problem gambling policy and programs.

The report should be delivered within two weeks of receipt of these Terms of Reference.

KEY GOVERNMENT POLICIES

The following matters are considered to be core Government policies, and are not to be the subject of the consequential report:

- Statutory caps on gaming machines in hotels and clubs
- Tradeable poker machine entitlement scheme for hotels and clubs
- Requirement to undertake a Social Impact Assessment for additional gaming machines in hotels and clubs
- Prohibition on gaming machines in hotels and clubs in shopping centres
- Prohibition on gaming machine advertising and external signage
- Requirement that regulatory officials have due regard to gambling harm minimisation in exercising regulatory functions
- Requirement to establish self-exclusion schemes in gaming machine venues and the casino.



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Premier of New South Wales
Australia

TCO/13285

The Hon G McBride MP
Minister for Gaming and Racing
Level 13, 55 Hunter Street
SYDNEY NSW 2000

- 1 DEC 2004

Dear Mr McBride

Thank you for your letter of 8 November 2004 requesting approval to seek a report from the Independent Pricing and Regulatory Tribunal (IPART), consequential to its report "*Gambling: Promoting a Culture of Responsibility*".

I understand that informal discussions have occurred between the Tribunal and the Department for Gaming and Racing, and the Tribunal is agreeable to the proposal as well as a short reporting period.

I am pleased to support your request to obtain a consequential report from IPART, on the condition that it does not delay the Government's response to IPART's report.

In addition, it would not be appropriate for the consequential report to consider key Government policies, which were specifically excluded from the scope of IPART's review in the initial Terms of Reference to IPART in July 2003.

I have written to the Acting Chairman of IPART, Mr James Cox, and for your information, enclose a copy of my letter together with the Terms of Reference.

I look forward to receiving your Cabinet Minute on these matters in the near future.

Yours sincerely


Bob Carr
Premier

Attachment B Arrangements for Community Benefit Funds

Issue	SA	Qld	Vic
Agency	Department of Families and Communities	Queensland Office of Gaming Regulation (QOGR), Queensland Treasury administers community benefit funds	Victorian Commission for Gambling Regulation (VCGR)
Website	http://www.familiesandcommunities.sa.gov.au	http://www.gcbf.qld.gov.au/about-us/index.shtml	www.vcgr.vic.gov.au
Fund	Gamblers Rehabilitation Fund	Gambling Community Benefit Fund (GCBF), Casino Community Benefit Funds (CCBFs)	Community Support Fund, Community Benefit Levy (Casino)
Trust/Advisory Committee	GRF Committee	Gambling Community Benefit Committee	
Base	Various, including voluntary contribution from central monitoring system administrator, hotels and clubs	Taxes on Lotteries (inc. Pools), wagering, keno and gaming machines (GCBF) Gross revenue of casinos (CCBFs)	Gaming machine taxes (32.57% of gross profit of hotels) Gross casino revenue Gaming machine revenue (Clubs and racing venues)
Rate		GCBF: 8.5% CCBFs: 1%	CSF: 8.33% (Hotels) CBL: 1% Community benefit activities: 8.33% (Clubs and racing venues)
Note		The Community Investment Fund (CIF) receives 8.5% of taxes on Golden Casket lotteries, wagering, keno and gaming machines. Money is allocated from the CIF to (1) Gambling Community Benefit Fund (GCBF) (2) responsible gambling research and initiatives (3) programs of statewide significance. GCBF distributes funds to community projects on a quarterly basis.	BY CLUBS: into community benefit activities (statement returned annually) BY HOTELS: Into Community Support Fund
Other levies	Net Lotteries and Keno revenue into Hospitals Fund (41%) Net pools revenue into Recreation and Sport Fund (41%)	Major Facilities Fund (hotels)	Health Benefit Levy (gaming machines)

Issue	Tas	ACT	WA	NT
Agency	Tasmanian Gaming Commission	ACT Gambling and Racing Commission	Gaming and Wagering Commission	NT Treasury
Website	http://www.treasury.tas.gov.au/domino/df/df.nsf/v-pages/AE911E4602AC955CCA256E8300232B9B http://www.dhhs.tas.gov.au/gambling/csl	http://www.gamblingandracing.act.gov.au/Gambling.htm	http://www.orgl.wa.gov.au/gaming/gct.php	http://www.nt.gov.au/nt/licensing/gaming.shtml
Fund	Community Support Levy Trust Fund monies held in trust within the Department of Treasury and Finance		Gaming Community Trust Fund	Community Benefit Fund
Trust/Advisory Committee			Gaming Community Trust	Community Benefit Committee
Base	percentage of gross profit from gaming machines	net gaming machine revenue	licensed gaming, betting or casino	gross profit of machines in hotels
Rate	4% (hotels) 2% (clubs)	7%	unclaimed winnings	10%
Note	Distributed by the Treasurer: 25% for the benefit of sports and recreation clubs; 25% for the benefit of charitable organisations; and 50% for Gambling research, problem gambling services, community education and other health services	Minimum level contribution by club licensees to non-profit organisations or for community purposes (inc. charities, sport)	For the benefit of the community	Funding support for: gambling-related research and amelioration programs concerned with problem gambling; and Community Benefit Grants (assistance for community development and improvement purposes)
Other levies			Net Lottery and pools subscriptions up to 67.5% hypothecated 40% Hospitals 5% Arts 5% Sport 12.5% eligible organizations up to 5% Festival of Perth, commercial film industry	