



NSW LIA Review 2017

Response from the Gambling Impact Society (NSW) Inc.

The Gambling Impact Society (NSW) Inc. is an ACNC registered health promotion charity providing information, community education, training, support and advocacy on the issues of gambling and gambling harms. We have been operating since July 2000 and during that time have spoken with many individuals, families and communities impacted by gambling.

We promote a public health approach to gambling and place the lived experience of gambling harms and the voice of those affected central to both GIS operations and our health promotion activities. Our committee of management is made up of health and welfare professionals and those impacted by gambling harms. We have a broad membership/supporter base of the general community, community organisations and gambling specific treatment providers.

As foundation board members of the Alliance for Gambling Reform (AGR) we endorse the AGR submission to this LIA review and offer our individual comments as a supplement to that work.

We are pleased to have been invited to contribute to this review.

This document considers each part of the discussion document in stages and makes comment directly to the questions raised. It also provides commentary on the terms of reference as follows:

Terms of Reference

The review will:

1. Evaluate whether and how the LIA scheme helps to achieve the objectives of the Act, including harm minimisation, **the balanced development – in the public interest – of the gaming industry**, and the ongoing reduction in the number of gaming machines across NSW; and determine whether the relevant provisions of the Act remain appropriate for securing those objectives.

2. Identify opportunities for improving the operation of the LIA scheme so as to increase its effectiveness and reduce costs and complexity, and to provide greater regulatory efficiency.

The GIS questions the legitimacy of the objectives and assertions that the development of the gambling industry is in the “interests of the public” when the ANU survey of 2011 found that seven out of ten respondents agreed that gambling in Australia needed to be more tightly controlled and “80% believed gambling was dangerous to family life” (Mond et al., 2011:13).

Unlike other jurisdictions (Victoria and New Zealand) there has never been an NSW public consultation/referendum/plebiscite to gauge community desire for gambling or surveys of attitudes into the extent of gambling in NSW. The GIS therefore questions the foundation of these assertions.

The public benefit from gambling is often presented as balanced against the social cost of gambling harms. The Productivity Commission 2010 estimated the social cost of gambling nationally at \$4.7 billion annually. The GIS acknowledges the challenges in estimating social costs but is concerned that the NSW government has not funded research to estimate the extent or costs of harms nor conducted attitudinal surveys of gambling in NSW.

We are also aware that NSW government provided \$263,000 of public funds to Sydney University to research and identify the most harmful gambling products in NSW. We understand this research was reported to NSW government in December 2015 yet has not been made publically available (Nicholls, SMH May, 2017). Such actions lack transparency.

In addition, individual venue data on gambling turnover and profits remain held under privacy restrictions and not made publically available. The GIS feels strongly that this data should be made available publically along with information on gambling venue donations to the community and other entities. In the case of NSW Clubs there is an onus of responsibility to the community given their status as Not-for-Profit entities with public accountabilities.

In the face of such issues of lack of public accountability and transparency surrounding gambling activities the assertion that gambling industry development is “in the public interest” is erroneous.

Current arrangements in NSW privilege the gambling industry. Clubs in particular hold close affiliations with the NSW government including the current MOU. There are significant conflicts of interest. These are inequitable arrangements, which disadvantage other stakeholders and the community at large.

The GIS is concerned that in an effort to reduce “costs and complexity” for the gambling industry there are significant risks that the community will be further disadvantaged.

Currently there are minimal processes for community engagement and consultation with regards levels of gambling in the community and access to gaming machine (this will be addressed later in this submission).

The provision of gaming machines in the community is a complex issue and one that has as not yet seen sufficient research, resources or processes given to it in NSW. In particular there is a considerable lack of community consultation or research into impacts of existing gambling harms or the impact of increasing gaming machines in a local area. There are few regulatory arrangements in NSW which seriously address harm prevention and harm reduction.

Governments (both Federal and NSW State) have undertaken MOU arrangements with the gambling industry, which create disadvantages to community engagement on the issues and restrict public interest policy. (Refer later section on Community Consultations)

The GIS maintains that these terms of reference privilege the gambling industry at the cost of other major stakeholders and the general community.

1. Does measuring the risk of harm at the LGA level remain appropriate?

The GIS considers it appropriate to measure the risk of gambling harm at the LGA level complemented by a more local level.

There is a need to ensure Local Governments are mandated to respond to LIAs and given appropriate resources to do so. As a local authority they are closest to ratepayers and as in Liquor Development Applications are able to garner local needs and impacts.

However we also recognise that current amalgamations and inherit differences between communities within LGA's means that more local impact assessment are also required. Members of the GIS that the 5-km radiuses used by NSW clubs for membership regulation could be a starting point have suggested it.

Contrary to the LIA discussion paper, the lived experience of gambling harms informs our knowledge that many people affected by poker machine gambling problems prefer to gamble away from their immediate locality to protect their anonymity. People therefore often choose venues within the LGA but at distance from their residence and their immediate locality.

The system of LGA bandwidths makes assumptions about levels of gambling harms and future risks in communities based on primarily gaming machine density data, SEIFA data and prevalence studies in NSW. However there are some considerable anomalies in the use of prevalence studies to assess gambling harms including the lack of consideration of incidence and impact

over time and excluding the impacts upon families (third parties). Additional limitations are noted by Haw et al (2013):

One issue with estimating the prevalence of problem gambling is the time frame used, with some studies using point prevalence (the number of cases at a specified point in time or past 12 months) as opposed to life-time prevalence (the number of cases that have had the condition over their life-time) (Thomas & Jackson, 2008). These differences subsequently result in a variation of the number of people thought to be problem gamblers within a population. Abbott (2001) noted that earlier Australian studies have not included the lifetime scale and Battersby et al. (2006) questioned the validity of point prevalence findings. Furthermore, the way a study is administered and described (Williams & Volberg, 2009) along with other sampling and measurement issues (Lesieur, 1994; Petry & Weinstock, 2007; Raylu & Oei, 2002; Thomas & Yamine, 2000) have been raised as factors that may lead to the underestimation of problem gambling in the community.

Most recent research from the University of Central Queensland challenges common assumptions of harm impacts at “low” and “moderate risk” gambling” levels (terms used in prevalence studies). They have developed a taxonomy of harm for gambling (Langham 2016) using World Health Organisation (WHO) recognised measures of loss of Quality of Life Adjusted Years (QUALYS) and “burden of disease”. These measurements have demonstrated significant levels of harm at both low and moderate risk levels of gambling activity. The Victorian Responsible Gambling Foundation commissioned study (Browne et al., 2016) used these measures and found:

Combined with prevalence data, this finding suggests that 50%, 34%, and 15% of the total harm resulting from gambling in Victoria can be divided among low-risk, moderate risk and problem-gamblers, respectively. (Browne et al., 2016:3)

The study found that when all risk categories were combined, gambling accounted for years lost to disability that equates to about two-thirds of the years lost to disability for alcohol use and dependence and major depression, and much more than many other conditions such as diabetes.

The VGRF conclusions were that:

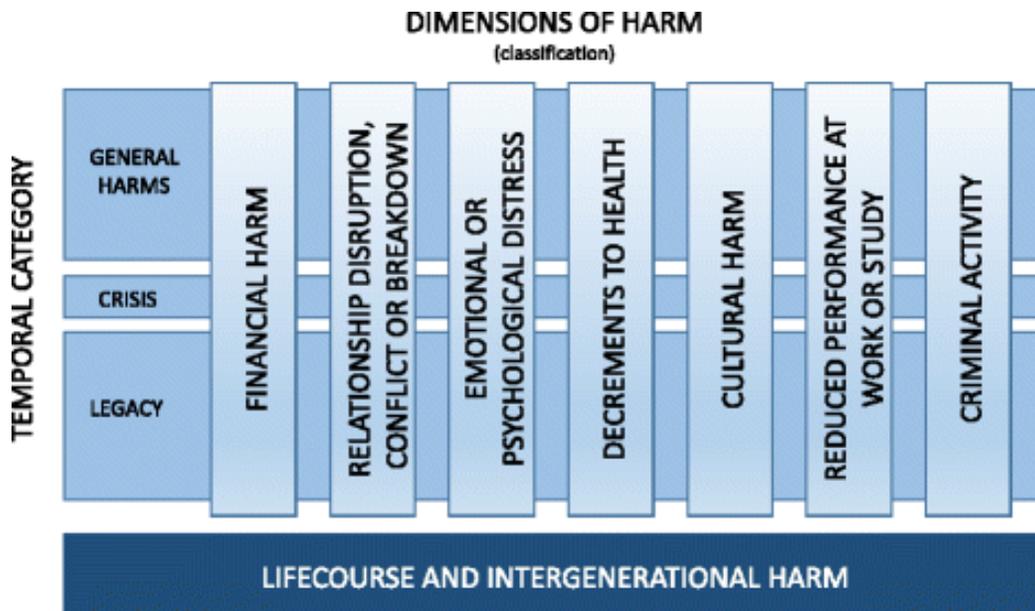
For the foundation – the improved understanding of the quality and quantity of harm will help to better target efforts to prevent or reduce the potential negative consequences of gambling.

For policy makers and regulators – the study concluded there should be a broadening of focus from the prevention of 'problem gambling' to the lessening of gambling harm which is distributed across a broader section of the Victorian community.

Refer: <https://www.responsiblegambling.vic.gov.au/information-and-resources/research/recent-research/assessing-gambling-related-harm-in-victoria-a-public-health-perspective>

In essence this research provides evidence that prevalence data and SEIFA data are insufficient for estimating levels of gambling harm.

The following model underpins the taxonomy of gambling harm developed by Langham et al (2016):



(Langham et al (2016))

The GIS strongly suggests that consideration of gaming machine increases within communities needs an LGA and locally based system informed by this new model for assessing existing harm and the related implications for risk of gambling harms in communities. To assume that some communities are more vulnerable than others based solely upon gaming expenditure, density of machines, SEIFA data and prevalence of problem gambling (as in the current bandwidth arrangements) fails to consider these other important dimensions of harm.

To this end we recommend a system which includes the use of current LGA, ABS and SEIFA data, a new model of assessment of gambling harms, combined with mandatory local government and local consultation processes.

2. Should the LIA scheme continue to classify areas into Bands 1, 2, or 3?

In addition to points made above that relate to this question, the GIS is concerned about the movement of gaming machines within in LGAs

particularly in relations to club amalgamation or venue closures. We consider the Bandwidth system does not ensure enough consideration of local impacts within LGAs and that machines can be moved within an LGA without an LIA. We believe an LIA is necessary for all movements of EGMS.

The LIA review's discussion document also states that:

“In Victoria, regional caps on gaming machine numbers have been implemented in high concentration gaming machine areas and vulnerable communities “(p14).

The GIS supports regional caps and would also suggest NSW legislation to cap individuals venues be reconsidered.

We are also concerned that the current practice of LIA exemptions for Greenfield sites and some transfers between related venues be discontinued. All transfers place communities at risk of harm and need to be assessed appropriately and in context. Likewise the practice of incremental growth with minimal assessment for those applying for machines at the LIA 1 status (under 20 machines) needs to cease.

The GIS supports an LGA based “sinking lid” policy such as that implemented in New Zealand. In that jurisdiction if a venue closes or relinquishes its gaming machines these machines are taken out of circulation. This would provide a clear reduction in machines at the local level and improve the current policy of 1 per 3 machines to be surrendered, which has had minimal impact.

Overall the NSW government needs to effectively address the significant harm caused to communities, individuals and families by the proliferation of gaming machines. The LIA process needs to be strengthened to meet these community expectations.

The current Bandwidth arrangements fail to fully address this issue for reasons explained above.

3. Do the criteria used to determine levels of risk remain valid?

We strongly recommend that the criteria to measure the extent of existing gambling harms within an LGA and locality and risks for future harm are revised and extended based on latest best practice research into assessing gambling harms (Langham, et al 2016, Browne et al 2016). Please refer to our comments at questions 1 with regards gambling harms and risk assessment.

It is important that the continuum of gambling harms are considered and not just evidence of “problem gambling” prevalence. Prevalence fails to capture the full extent of gambling harms on individuals, families and communities.

Whilst gaming machine density and expenditure data is still appropriate, we strongly believe that local data is integral to the LIA process. The LIA review

discussion paper provides evidence that other jurisdictions utilise enhanced criteria and this could provide guidance.

However it is also interesting to note that within all jurisdictions the focus is still upon “problem gambling”. New evidence suggests that gambling harms are significant at both “moderate risk” and “low risk” levels of gambling behaviour.

The onus should be upon the NSW Government is to demonstrate leadership in regulatory reform given this State has the largest number of gaming machines in the Nation and the most historically entrenched form of EGM accessibility in the community.

From a Public Health perspective EGMs are considered “products of dangerous consumption”. They are the predominant contributor to gambling harms and their locations in NSW within social clubs pose significant risks for communities. The enmeshment of these gambling products within the social milieu of the community club create barriers to consumer protection and “normalises” gambling with the community. This has significant impacts on reducing community resilience to gambling risks.

EGMs are highly addictive gambling products and there is considerable evidence (Productivity Commission 2010) to recommend technical changes to their design. This includes: specific game features, losses disguised as wins, free spins, speed of gameplay, note takers and bet size.

The NSW Responsible Gambling Policy with its focus upon educating individuals to change their behaviour as the primary strategy of a “responsible” approach to reducing gambling harms is both simplistic and stigmatising.

Most importantly it denies the lived experience of these social-material arrangements and materially-discursive practices between user, product and the environment in which it is situated. As Bjorn and Osterland (2014:8) state:

Socio-materiality highlights the nexus of doings, materialities, and discourses that people carefully enact. It offers an analytical perspective from which neither artefacts, nor people, nor practices are seen naked and alone, revealing solely their inherent properties. Instead, people, artefacts, and practices are bound together into one entity within networks or assemblages with dynamic boundaries.

These are complex arrangements, which support and entwine the user with the EGM and are both environmentally engineered and product designed. They result in a techno-human relationship focused upon extending “time on machine” often to the detriment of the user. This is the prime focus of both gambling operators and manufacturers (Dow-Schull, 2012) and is the normal outcome of regular EGM use.

The historical and current favourable NSW arrangements between local clubs, EGM regulation and Tax concessions means there are considerable

disincentives for NSW Clubs to consider alternate business models. Yet the Productivity Commissions reports of 1999 and 2010 recommended significant reforms to these arrangements. There are some Hotels who have embraced the campaign for Pokie Free venues. However clubs in NSW, due to their history of enmeshment with this gambling product will need regulatory incentives to do so as part of a comprehensive prevention and harm reduction model.

NSW government has a duty of care towards its constituents. There is significant evidence that the provision of EGMs requires more robust regulatory arrangements. These should provide disincentives to discourage increasing dependence by clubs or any other venue on EGMs and provide Clubs with incentives to change their business model. As indeed other industries have had to accommodate change through economic or social responsibility.

The Product Commission reports of 1999 and 2010 recommended a Public Health approach to address gambling harms. NSW has been slow to fully adopt such an approach preferring a more medical/pathologised disease model. This has had minimal success in addressing the breadth of gambling harms.

A public health approach recommends the adoption of a multi-tiered whole of government approach to prevention, harm reduction and health promotion at a population level. Amongst a range of strategies a comprehensive public health approach includes restrictions on “dangerous product” supply. The GIS considers this should be the focus of the LIA process.

4. Should the existing community consultation process be amended?

L&GNSW has a dedicated Community Access Team that provides communities with assistance regarding the licensing system and licensing decisions that affect their local area. This team could be used to help facilitate an amended consultation process. (LIA Discussion Paper p.15)

There are major omissions with regards community consultations in the current LIA arrangements. The current process sees venues wielding disproportionate political power and financial resources to present their case whilst communities have few opportunities or resources to support their representation.

Clubs and Hotels regularly contract private consultants to research the issues, gather data and draw together major documentation. Such activities are often beyond the capacity of individual ratepayers, community groups and health and welfare services. They require an equal voice in this decision-making process. Ultimately it is the community who will bear the impacts of increases in gaming machines yet they are significantly disadvantaged in the current process.

As an example the GIS in August 2012 was invited by Shoalhaven City Council's (SCC) Community Services Dept. to contribute to their request for a review of the standing SCC policy arrangement of a "neutral stance" on gaming machine applications and LIAs. The SCC Community Service dept. wished to engage more fully in these applications and consult with the community but the policy at that time prevented them doing so. This matter went to the full council for debate and the GIS was invited to make a presentation along with a local club which was seeking to increase its EGMS (LIA 1).

It was noted that in the lead up to that process 50 staff members of local Clubs physically attended and lobbied the council's planning committee to object to this proposed change in policy. Over 100 club staff also attended the full Council meeting in an effort to pressure councillors to maintain the status quo. Despite support for enhanced consultation processes from the mayor at the time (Paul Green) the Council strengthened their position with changing the policy to "no comment" on Gaming Machine applications. Thus further denying the SCC Community Services Dept. and ratepayers a voice in the process.

Within 2-months of this decision there was a change of Council and a newly elected mayor – Ms Joanna Gash (who at the time and for 6-months later retained her seat as Federal MP for the Liberal government). In her Federal capacity Ms Gash had already signed an MOU with local clubs to support their industry as part of a push against the National Gambling Reforms.

Around this time the Ulladulla Ex-Serviceman's club was seeking an increase of 20 machines and an LIA 1 process had been activated. The Club had made an offer to donate \$50,000 in funds to a local Council owned recreation park. Ms Gash negotiated with them further to extend another \$25,000 to a local community centre to which she had close ties. Ms Gash then wrote a letter of support of the applications in her role as SCC Mayor. This clearly contravened her Council's own policy of "no comment".

In this case the SCC Community Services Dept. had sort more equitable and consultative arrangements for the community they serve. Yet on two counts individual councillors and then the new mayor rejected their advice based on personal interests and pressures from local clubs.

It is these sorts of obvious conflicts of interest, which we believe the LIA process, should condemn. The LIA process needs to create equity and clarity for communities by ensuring local Councils are actively engaged in the LIA process. This should be undertaken in a manner which harnesses and reflects the views of rate payers as opposed to individual councillor's personal or political alliances.

A revised consultative process must also demonstrate a mutual process of feedback with the community. The GIS experience of having submitted concerns regards two LIA 1 applications (refer LIA process Shoalhaven Ex-Servicemen's Club – Worrigea 2013 or Ulladulla Ex-Servicemen's Club 2012)

is that currently there is no feedback process to the concerned citizens or community groups who do raise their voices.

The GIS supports the submission of the AGR that there needs to be reform to current arrangements and pathways to meaningful engagement with communities, councils and other stakeholders (community groups, ratepayers, welfare services etc) before any decision about gaming machine increases are considered with a community. Most importantly those with the lived experience of gambling harms should be consulted.

The GIS also firmly recommends that a revised LIA community consultation assessment process (of positive and negative impacts of EGM access and increases) be assessed by an independent authority. This needs to be at arms length from the NSW government and the applicant. In this regard the Independent Liquor and Gaming Authority could be considered for this role (with no delegation of duties) or another more independent authority.

5. Should what constitutes a “positive contribution” be more clearly defined?

There are no prescribed guidelines to assist applicants in determining what positive contributions should be, and how they should be allocated. The Authority, in consultation with industry and the community, might be empowered to develop guidelines outlining what may constitute such a contribution, and the length of time over which the contribution is measured. (LIA Review Discussion Paper p.16)

There is a need for some clear guidelines as to what is meant by a “positive contributions” and in all cases (LIA 1 and 2) this need to be considered against the extent of existing and potential gambling harms in the local community.

However, how can communities decide what are the economic and social parameters of positive contributions if they are uninformed as to the full impact of gambling in the community?

For example in 2013 an application by the Worrigeer Sport Club in Nowra claimed their positive contributions (\$107,000) to funding an existing position of a Parkinson’s Nurse and her vehicle. At face value this would appear to meet a concept of a “positive contribution “. Yet were the members of local Parkinson Groups fully informed with regards the inherent conflicts of accessing gambling funds to support their services? Were they aware that 7% of those affected by Parkinson’s Disease also have gambling problems often due to medically induced impulse control disorders? Did the Parkinson Association consult with their community on this issue? What other sources of funds had already been explored.

These are the kinds of issues communities need information about to make informed and considered judgements about accepting gambling funds. They need information as to how their actions contribute to the ongoing dependence of businesses upon those who develop problems with gambling.

As evidenced by the Productivity Commission (2010) between 40 – 60% of gambling revenue is raised from those who have gambling problems.

6. Should the exemptions from the LIA process remain?

The GIS considers there should be no LIA exemptions for any level of increase in gaming machines or new developments. The GIS supports the Alliance for Gambling Reform's submission and the rationale for this based on number of machines in NSW, gaming machine expenditure in NSW, their complicit role in contributing to significant harm in communities.

7. Further questions for consideration and comment

1. Does the current LIA scheme achieve the objectives of the Act? If not, how could it?

Harm prevention and reduction needs to be the focus of legislation and regulation as opposed to harm minimisation and a policy of "Responsible Gambling"

The current policy of "responsible gambling" is ineffective. It creates barriers to help for those affected (Carroll 2013) and contributes to the stigmatisation of those impacted by gambling problems.

Miller and Thomas (2017) found that "responsible gambling discourses had limited impact on either their own gambling behaviour or help seeking" and that "discourses which focus on responsible gambling may have a negative and potentially stigmatising impact for people experiencing gambling problems". (Miller, Thomas 2017).

Throughout 17-years of operations the GIS has fielded comments, concerns and deliberations from those impacted by gambling harms and those who provide treatment services to them. It has been consistently apparent that this policy is ineffective and leads to further stigma and stereotyping of those already impacted by gambling harms

2. Should the requirement that a Class 2 LIA must demonstrate an overall positive impact on the local community be maintained? If not, how should it be modified?

The GIS supports the AGR submission that all LIA applications need to demonstrate positive contributions and that these should be clearly articulated within clear parameters.

Are there any other relevant matters that should be considered as part of this review?

The Government, therefore, aims to balance harm minimisation initiatives with the need to ensure that the majority of NSW residents

who enjoy gambling responsibly, and for whom it does not pose any significant risks, are not unduly impacted. (LIA Discussion Paper p.12)

As stated the concept of “responsible gambling” is unhelpful and places the onus upon the individual for behaviour change rather than looking at the structural barriers, institutions, socio-political and materially-discursive arrangements which contribute to gambling harms. The Productivity Commission report (2010) provided evidence that 30% of regular gamblers are affected by gambling problems and for every person affected 5-10 others are also negatively impacted.

Latest research demonstrates that even at low risks levels of gambling there are major impacts on quality of life. The concept of what level of gambling has “no risk” is not been measured. Unlike Alcohol use there is no research to provide benchmarks for “safe” or “responsible” gambling. A policy object without known benchmarks is ineffectual.

Statements that suggests the “majority of NSW resident enjoy gambling responsibly” which appear in many industry and government promotions are misleading and stigmatising to those who have or go on to develop problems with gaming machines which are knowingly designed to addict (Scull 2012).

Government promotions, discussion papers and legislative processes need to revise this discourse. The NSW Government needs to engage with those with the lived experience of harms in policy–decision making as recommended by the WHO Ottawa Charter for Health Promotion (1982 and its later revisions) in order to develop more effective language and policy to effectively address the complexities of this issue.

The GIS is happy to be further consulted with regards the development of this LIA review and any other gambling policies and processes.

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References:

Sproston, K., Hing, N., & Palankay, C. (2012). [Prevalence of Gambling and Problem Gambling in New South Wales](#), NSW Office of Liquor, Gaming and Racing.

Bjørn, P., • Østerlund, C.,(Sociomaterial-Design Bounding Technologies in Practice. (2014) Springer.

Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T (2016) *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne.

Langham, E., presentation to the National Association Gambling Studies Conference, November (2016)

Carroll, A., Rodgers. B., Davidson, T., Sims., S., (2013) Stigma and Help – Seeking for Gambling Problems Final Report Nov.2013 Centre for Gambling Research, School of Sociology, Research School of Social Sciences, College of Arts & Social Sciences, The Australian National University

Langham, E., Thorne, H., Browne, M., Donaldson, P., Rose, J., & Rockloff, M. (2016). Understanding gambling related harm: a proposed definition, conceptual framework, and taxonomy of harms. *BMC Public Health*, 16(80), 23.

Miller, E., and Thomas S.L.(2017): The problem with ‘responsible gambling’: impact of government and industry discourses on feelings of felt and enacted stigma in people who experience problems with gambling, *Addiction Research & Theory* □

Mond, J., Davidson, T., McAllister, I., Public opinion on gambling: ANU poll (2011) Australian National Institute of Public Policy,

Nicholls, S, May 2017 <http://www.smh.com.au/comment/smh-editorial/the-failure-at-the-heart-of-nsw-poker-machine-policy-20170525-gwcqd5.html>

accessed 18/6/17

Productivity Commission, Gambling Inquiry Report, Vol. 1, No. 50, 26 Feb, 2010

Productivity Commission, Australia’s Gambling Industries Inquiry Report, Vol. 1, Report No. 10, 26 Nov. 1999