



**Independent Gambling Authority**

**Review of Social Effect Inquiry  
Process and Principles**

**Guide for making submissions**

**Disclaimer**

This document has been prepared for the purposes of public consultation in connection with a review being undertaken by the Independent Gambling Authority. Information provided and statements contained in this document are published solely for the purposes of the inquiry and should not be relied upon for any other purpose.

**Date**

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## 1. INTRODUCTION

### 1.1 Overview

The Independent Gambling Authority (the “Authority”) is required, by legislation, to undertake a review of the social effect inquiry process and principles related to the grant of a gaming machine licence.

The inquiry provides the opportunity for stakeholders to consider and make representations concerning the relevant harm minimisation measures and to provide feedback on how the principles have been working or if further changes need to be made.

The Authority is also required to review the responsible gambling agreements.

### 1.2 Statutory context

#### *1.2.1 Social Effect Inquiry Process and Principles*

Section 10A of the *Gaming Machines Act 1992* (the “Act”) says (in part)—

##### **10A—Principles, codes of practice, etc**

- (1) For the purposes of this Act, the Authority may, by notice in the Gazette, prescribe—
- (a) an inquiry process that must precede an application for a social effect certificate or, if required by the Commissioner, a variation of a gaming machine licence (a *social effect inquiry*); and
  - (b) principles for assessing the social effect of the grant or variation of a gaming machine licence (*social effect principles*);

...

This section of the Act requires the Authority to establish an inquiry process to precede, and principles for the assessment of, the social effect of the grant of what is called a *social effect certificate*. A social effect certificate is required to obtain a *premises certificate* which is in turn required for the grant of a gaming machine licence. The Liquor and Gambling Commissioner (the “Commissioner”) has the function of determining the applications for the grant of a social effect certificate, premises certificate and gaming machine licence.

Section 18 of the Act provides applications for a social effect certificate can only be made if a social effect inquiry has been completed.

Under section 27AA of the Act, the Commissioner may vary or revoke any condition of a licence or impose further conditions on the licence.

The Commissioner may require an applicant for variation of a gaming machine licence to complete a social effect inquiry if of the opinion that the variation of the licence in respect of the premises may significantly alter the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.

If an applicant is required to complete a social effect inquiry, the licence may not be varied unless the applicant satisfies the Commissioner, by such evidence as the Commissioner may require, that the variation of the licence in respect of the premises would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.

These arrangements replaced the provisions of section 15 of the Act which required the Commissioner to have regard to social effect in determining an application for a licence and to do so having regard to guidelines issued by the Authority.

### ***1.2.2 Responsible Gambling Agreement***

Under section 10A(1)(f) of the Act, the Authority may, by notice in the Gazette, prescribe the form of a responsible gambling agreement with a recognised industry body.

Gaming Care and Club Safe are “recognised” under section 10B of the Act (a form of licensing) for the purposes of having a responsible gambling agreement with a gaming machine licensee.

Gaming machine licensees which have a responsible gambling agreement with either Gaming Care or Club Safe obtains the benefit of certain regulatory relief under the Act and the codes of practice.

## **1.3 Policy context**

### ***1.3.1 Social Effect Inquiry Process and Principles***

The previous form of section 15(5) of the Act—required that regard must be had to the social effect when determining an application for a gaming machine licence—derived from the *Gaming Machines (Miscellaneous) Amendment Act 2004*, which largely implemented the Authority’s 2003 recommendations for the management of gaming machine numbers.

The prescribed social effect inquiry process sets out what applicants are required to do as part of the application process which culminates in the submission of a document which details the steps taken by the applicant to address the requirements of the process including, how the stakeholders were engaged, what their comments were, and how the applicant responded to those comments.

The aim of this approach was to try to ensure that, by the time the application reached the Commissioner, or delegate, that everything had been taken into consideration, the applicant and any objectors had already tested each others’ positions and it was possible to predict the likely course of the hearing.

The intention was to ensure that the Commissioner or delegate concentrated on assessing the real, hard issues in applications. It was intended to ensure that not only

was all of the relevant information presented but that considered responses had been provided and that applicants had actually addressed issues raised by stakeholders.

Although the current structure is more complex than what it replaced, it enables early engagement on the key licensing issue of social effect and thereby reduces risk for all concerned.

Under the previous model, an applicant for a licence was required to demonstrate compliance with all requirements for licensing at the same time (every issue from social effect to whether the layout of the venue was conducive to secure management of cash) and this meant that all of those issues were potentially “live” issues until building works were completed and a licence could be granted.

The current model allows the question of social effect to be considered at the start of the process. If a social effect certificate is granted, the next stage is a premises certificate (incorporating plans for the venue) upon which building work can go ahead. Subject to the premises being finished in accordance with the premises certificate and those responsible for the business being found suitable, a licence may be granted.

The Authority is of the view that applicants for a social effect certificate should be responsible for positively satisfying the regulator that the decision criteria have been met. The Authority believes that this is a necessary burden in the process. In designing the inquiry process, the Authority had sought to limit the amount of work that would need to be undertaken in any event to achieve regulatory approvals and to meet “best practice” consultation meeting standards.

Stakeholders making submissions to the Authority about the content of the inquiry process and the social effect principles should have regard to these considerations, as they will underpin the Authority’s deliberations.

### ***1.3.2 Responsible Gambling Agreement***

The implementation of licensing requirements is dependent on having a responsible gambling agreement with a recognised industry body. There are two recognised industry bodies in South Australia—Gaming Care and Club Safe.

The current form of agreement seems to be uncontroversial.

Both Gaming Care and Club Safe regularly report to the Authority’s Board on their engagement with venues.

The concepts of a *recognised industry body* and a *responsible gambling agreement* build on those of the *approved intervention agency* and *approved intervention agency agreement* first developed in the Review 2006 changes to the advertising and responsible gambling codes of practice. The new concepts replaced those original ones in the codes of practice following the 2010 amendments.

Under the 2010 amendments there were restrictions made in regards to trading hours for licensees as follows:

- (a) if the licensee has entered into a responsible gambling agreement and has provided a copy of the agreement to the Commissioner—there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises; and
- (b) in any other case—gaming operations cannot be conducted on the premises before 10 am on Monday to Friday and between 2 am and 10 am on Saturday and Sunday.

In addition, the codes of practice offer regulatory incentives for licensees to have a responsible gambling agreement. For instance, a licensee which did not have a responsible gambling agreement would not be about to have any external signage identifying the premises as licensed for gaming.

#### **1.4 Developments**

To date, one application has been referred to hearing, before the Commissioner, for a social effect certificate—the South Australian Jockey Club’s application for a venue at St. Clair. The application was refused.

There have been several applications approved by the Commissioner’s office for variations to gaming machine licences to increase the maximum number of gaming machines that can be operated at the venue.

#### **1.5 Regulatory process**

This inquiry allows the Authority to consult with all stakeholders generally.

Following written submissions, the Authority may prepare regulatory instruments in draft. The process set out in section 10A of the Act then anticipates—

- ◆ licensees being given 28 days to comment on the draft regulatory instruments;
- ◆ the Authority considering any representations made by the peak bodies before finalising the regulatory instruments;
- ◆ the regulatory instruments being prescribed by publication in the *Government Gazette*.

These regulatory instruments are, as with the codes of practice for which the Authority is responsible, subject to Parliamentary review through the work of the Legislative Review Committee and the disallowance process.

The Authority aims to have regulatory instruments in place by September 2018.

## **2. INQUIRY PROCESS**

### **2.1 Overview**

The Authority will gather evidence by—

- ◆ receiving written submissions;
- ◆ upon receipt of written submissions, the Authority will determine whether they will speak to stakeholders either one to one or in small groups; and
- ◆ other research.

In the past, the Authority has conducted some public hearings as part of review processes. The Authority will not be conducting a public hearing as part of this review. Stakeholders can become involved in the inquiry by making a written submission.

The inquiry is being conducted under the powers set out in sections 13–15 of the *Independent Gambling Authority Act 1995*, which are extracted in Appendix 1.

### **2.2 Registration**

The Authority encourages all stakeholders who wish to make a written submission, to register their interest in advance. The preferred method for registration is by email to [socialeffect@iga.sa.gov.au](mailto:socialeffect@iga.sa.gov.au). Registration enables participants to keep up to date with any unanticipated changes to the inquiry process.

Stakeholders are urged to register their interest no later than 4.00pm on 16 February 2018.

The following information should be provided when registering—

- ◆ name of registrant;
- ◆ organisation (if relevant);
- ◆ an email address; and
- ◆ a contact telephone number.

### **2.3 Written submissions**

The Authority requires written submissions to be provided both electronically and in hard copy (one A4 paper copy only).

Electronic documents must match the A4 paper version.

One reason for requiring submissions to be provided in an electronic format is that they will be published on the Authority's website.

Written submissions are due by 4.00pm on Friday 30 March 2018.

## **2.4 Information about the inquiry**

As part of a call for submissions, advertisements are being published as follows:

- The Advertiser and The Australian on Saturday 20 January 2018; and
- The Advertiser, The Australian and Messenger on Wednesday 24 January 2018.

Stakeholders who have previously provided an email address to the Authority as part of earlier inquiries will also be advised by email of the call for submissions.

The Authority will use its website as the principal means of communication with stakeholders over the progress of, and any changes to, the process for this inquiry.

## **3. ABOUT SUBMISSIONS AND ISSUES IN THE INQUIRY**

### **3.1 Submitter profile**

It will assist the conduct of the review greatly to receive some minimum basic information about the people making submissions. This will be required, by email, from people who register their interest (see section 2.2).

### **3.2 What submissions might address**

#### ***3.2.1 Generally and specifically***

Submissions might address on some or all of the aspects of social effect inquiry and principles as follows:

- ◆ issues arising from the prescribed process (engagement process) and suggested resolution;
- ◆ nature and scope of information to be included in the document to be prepared by the applicant for consultation (the premises baseline document);
- ◆ nature of scope of information included in report submitted to Commissioner (the social effect report);
- ◆ unforeseen outcomes consequent to the implementation of the measure, both positive and negative;
- ◆ improvements, additions, etc;

In regards to the responsible gambling agreement review, submissions might address:

- ◆ unforeseen outcomes arising from the responsible gambling agreement;
- ◆ any issues to the concept of the agreement; or
- ◆ any other issues.

**3.2.2 Available research and reports**

The Authority wishes to be advised of any reviews, studies or research conducted which might be relevant to the review.

A copy of the decision of the Commissioner is available on the Consumer and Business Services' website at [www.cbs.sa.gov.au/licensing-and-registration/liquor/recent-decisions](http://www.cbs.sa.gov.au/licensing-and-registration/liquor/recent-decisions) (2016, December 2016, Cheltenham Park Community and Sporting Club) and the Authority's website at [www.iga.sa.gov.au](http://www.iga.sa.gov.au).

**4. SUMMARY**

The key elements to this consultation are:

- ◆ participant registration [preferred by email to [socialeffect@iga.sa.gov.au](mailto:socialeffect@iga.sa.gov.au)] by 4.00pm on Friday 16 February 2018;
- ◆ written submissions submitted [preferably to [socialeffect@iga.sa.gov.au](mailto:socialeffect@iga.sa.gov.au)] by 4.00pm on Friday 30 March 2018;
- ◆ discussions with stakeholders either one to one or in small groups on a date to be notified.

## APPENDIX 1

### Extracts of sections 13–15 of the Independent Gambling Authority Act

#### 13. Inquiries by Authority

- (1) The Authority—
  - (a) may hold an inquiry whenever it considers it necessary or desirable to do so for the purpose of carrying out its functions; and
  - (b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to—
    - (i) the operations of a licensee under a prescribed Act; or
    - (ii) the operation, administration or enforcement of a prescribed Act.
- (2) On completing an inquiry under this section, the Authority must submit to the Minister a report of the inquiry and the findings of the Authority on the inquiry, and any such report may include recommendations for action to be taken.
- (3) Unless the Authority recommends that the report should remain confidential, the Minister must, within six sitting days of receiving a report under subsection (2), cause a copy of the report to be laid before each House of Parliament.

#### 14. Powers and procedures of Authority on an inquiry or appeal

- (1) For the purposes of proceedings before the Authority (whether under this Act or any other Act), the Authority may—
  - (a) by summons signed on behalf of the Authority by the Secretary of the Authority, require the attendance before the Authority of any person; or
  - (b) by summons signed on behalf of the Authority by the Secretary of the Authority, require the production of any equipment or other item, or any books, papers or documents; or
  - (c) inspect any equipment or other item, or any books, papers or documents produced before it and retain them for such reasonable period as it thinks fit, and, in the case of books, papers or documents, make copies of any of them, or of any of their contents; or
  - (d) require any person to make oath or affirmation that he or she will truly answer all questions put to him or her by the Authority relating to any matter being inquired into or that is before the Authority; or
  - (e) require any person appearing before the Authority to answer any relevant questions put to him or her by any member of the Authority or by any person appearing before the Authority.
- (2) If a person—
  - (a) who has been served with a summons to appear before the Authority, fails without reasonable excuse (proof of which lies on the person) to attend in obedience to the summons; or
  - (b) who has been served with a summons to produce equipment or any other items, or books, papers or documents, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons; or
  - (c) misbehaves before the Authority, wilfully insults the Authority or any member of the Authority or interrupts the proceedings of the Authority; or
  - (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so

by the Authority,

the person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (3) A person is not excused from answering a question or from producing books, papers or documents under this section—
- (a) on the ground that the answer to the question or the contents of the books, papers or documents would tend to incriminate the person; or
  - (b) on the ground of legal professional privilege,
- but if the person objects to answering a question on the ground that the answer would tend to incriminate him or her, the answer will not be admissible against him or her in criminal proceedings (except in proceedings for perjury) or, if the person objects to answering a question on the ground of legal professional privilege, the answer will not be admissible in civil or criminal proceedings against the person who would, but for this subsection, have the benefit of the legal professional privilege.
- (4) The Authority may, if requested to do so by a person who has been required to answer a question by the Authority or who has produced books, papers or documents to the Authority, by order prohibit the publication in any newspaper or by radio or television of the name of the person, any answer given by him or her in proceedings before the Authority or the contents of any book, paper or document produced by him or her to the Authority.
- (5) A person who contravenes an order under subsection (4) is guilty of an offence.
- Maximum penalty: \$10 000.
- (6) The Authority may sit at any time and in any place (including a place outside this State) and may adjourn its sittings from time to time and from place to place.
- (7) In the course of any proceedings, the Authority may—
- (a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the transcript that it thinks proper; or
  - (b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court or tribunal that may be relevant to the matter before the Authority.

#### **15. Representation before Authority**

- (1) A person appearing before the Authority may appear—
- (a) personally;
  - (b) by counsel;
  - (c) if a body corporate—by an officer or employee of the body corporate who has obtained leave of the Authority to appear on behalf of the body corporate;
  - (d) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry or the gaming machine industry or of employees in those industries—by an officer or employee of that association.
- (2) The Commissioner of Police may be represented before the Authority—
- (a) by a member of the police force; or
  - (b) by counsel.

APPENDIX 2

**Gaming Machines—Social Effect Inquiry Process and Principles—Prescription  
Notice 2011**

*SOUTH AUSTRALIA*

**Gaming Machines—Social Effect  
Inquiry Process and Principles—  
Prescription Notice 2011**

NOTES ON CLAUSES

This notice is the formal subordinate legislative instrument required for the implementation of the new venue licensing regime for gaming machines to be implemented on commencement of the *Gaming Machines (Miscellaneous) Amendment Act 2010* (“the 2010 amendments”).

Under the *Gaming Machines Act 1992*, the holder of a hotel, club or special circumstances liquor licence may apply for a gaming machine licence. The Liquor and Gambling Commissioner is the licensing authority for this purpose.

The Gaming Machines Act has always required the Commissioner to be satisfied about certain threshold integrity and security matters prior to the grant of a licence. In addition, since 1 February 2005, the Commissioner has been required (by section 15(5)) to have regard to the social effect of the grant of the proposed licence having regard to guidelines given by the Independent Gambling Authority.

The present licensing arrangements mean that important issues relating to the potential harm caused by gaming machines on a particular site are not addressed until late in what are complex licensing and regulatory processes, typically involving development approvals as well as a range of gaming integrity approvals. In addition, a licence cannot be granted until the premises themselves are suitable for operation. This means that significant capital expenditures must be made before an applicant is even in a position to satisfy the licensing authority on the key issues affecting the grant of a licence.

The 2010 amendments rearrange the order in which the licensing process deals with key issues. They bring to the start of the process the regulatory consideration of social effect, including the harms and benefits that might arise from a gaming venue.

On the commencement of the 2010 amendments, those wishing to develop a site with gaming machines will first apply for a **social effect certificate**. It is a pre-condition that the applicant must conduct a **social effect inquiry**. The Commissioner will then determine the application by assessing the likely social effect of the grant of a gaming machine licence in accordance with the **social effect principles**.

Once an applicant has a social effect certificate, the applicant may apply for a **premises certificate** which will set out the detail of how the venue should be constructed (and for which development approval will be a pre-condition). Once construction has been completed, the holder of a premises certificate may apply for a licence.

Significant variations to an existing gaming venue are also subject to the social effect principles and the Commissioner may require that an applicant for variation of a gaming machine licence conduct a social effect inquiry.

Under the 2010 amendments, it is the responsibility of the Independent Gambling Authority to prescribe the inquiry process for the social effect inquiry and to prescribe the social effect principles. This notice is the regulatory instrument which does so. The notice has been informed by representations made by the peak industry bodies (as contemplated by the incoming section 10A(5) of the Gaming Machines Act).

Both peak industry bodies observed, in face-to-face meetings and in writing, that the process is complex and would be likely to inhibit development. While noting this observation, the Authority concluded that the Liquor and Gambling Commissioner's statutory obligation to assess and take into account social effect was likely to impose a degree of complexity and inhibition in any event. The Authority believes that the thorough community engagement which is required to complete a social effect inquiry will operate to streamline the formal application processes before the Commissioner through an early identification of the issues.

The Authority understands that it was not the intention of the 2010 amendments to make it easier for premises to be licensed for gaming as much as to enable the most contentious issues to be resolved at the earliest possible stage in the regulatory process.

Following those representations, some further process guidance has been incorporated into the notice to address issues raised by industry.

The Authority was grateful to the industry bodies for their level of engagement.

A clause-by-clause explanation of the notice follows.

*Clause 1* provides the preliminaries: short title, commencement date and the authorising provisions.

*Clause 2* makes it clear that the notice prescribes both the inquiry process and the principles.

*Clause 3* provides definitions and interpretation. The key definitions are those of “applicant community stakeholders” and “local community area”.

*Applicant community stakeholders* are defined as including not only those who live and work in the local community area but also those who will participate and benefit from the gaming activity undertaken by the applicant. This is a particularly important concept in the context of community clubs seeking gaming where the benefit of the gaming operation will spread to stakeholders who do not live or work in the local community area.

*Local community area* is defined by reference to the statistical local areas, defined by the Australian Bureau of Statistics, as falling within a radius of 2 kilometres from the relevant premises. Although the use of statistical local areas can produce apparently anomalous results at times, it is important in licensing gaming that valid and reliable statistical data can be used for comparison purposes and to enable the process to be informed about the socio-economic context into which the gaming venue will be placed. This can only be done by using existing statistical collections.

The Australian Bureau of Statistics compiles, in addition to population and other demographic characteristics, socio-economic indexes for areas (SEIFA) which enable real comparisons and assessments of the welfare of statistical local areas to be made. In defining the local community area, there is a balance to be drawn between identifying the most natural catchment for the proposed venue and the practicality of obtaining relevant demographic information. The use of SEIFA and other demographic measures is not determinative in either the inquiry process or the social effect principles but it is important that the licensing process be properly informed.

*Clause 4* defines a social effect inquiry as made up of three distinct periods: structured stakeholder engagement; stakeholder comment; and applicant response.

*Clause 5* provides the detail of the structured stakeholder engagement period. The starting point is the preparation of the premises baseline document and the publication of a timetable. The period is to take 8–12 weeks and is to include structured visitation to local community stakeholders and at least one public meeting.

- Clause 6* defines the stakeholder comment period as a 2–4 week period for stakeholders to make written comments to an applicant during which period the application will not change. The stakeholder comment period is defined in this way to ensure that stakeholders who wish to comment are fully informed about the proposal on which they are commenting.
- Clause 7* describes the applicant response period and sets out the requirements for the social effect inquiry report which the applicant is required to produce. This must include the premises baseline document, a description of the consultation undertaken, all of the written comments received and such responses as the applicant proposes to make to those written comments. The provision also suggests that applicants give consideration to making undertakings to community stakeholders which will become enforceable as conditions of the licence when granted (or varied).
- Clause 8* defines the premises baseline document in terms of both content and structure. It requires narrative descriptions of the proposed development, financial information about the business model (to enable the economic impact of the social dimensions to be understood) and a compendium of statistics about the local community area. The premises baseline document must also include an assessment of the risks posed to the local community by the proposed development and demonstrate how the applicant will manage those risks.
- Clause 9* provides guidance as to publication of material to the local community and as to the use of statistical and other information to simplify the preparation of the relevant documents.
- Clause 10* sets out the social effect principles by reference to a major statement about sustainability and to matters to be taken into account. The social effect principles are intended to ensure that, in most cases, it would be possible for a premises to be licensed where the risks are properly identified after appropriate community engagement and serious and substantial steps are then taken to seek to manage those risks.

*SOUTH AUSTRALIA*

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**Gaming Machines—Social Effect  
Inquiry Process and Principles—  
Prescription Notice 2011**

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*Version No. 002, as at 22 August 2014*

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*Version No. 002*

**Reprinted, incorporating amendments, as at 22 August  
2014**

**GM Notice No. 4 of 2011  
Gaming Machines—Social Effect Inquiry  
Process and Principles—Prescription  
Notice 2011**

The Independent Gambling Authority publishes this notice under section 10A of the *Gaming Machines Act 1992*:

***PART 1—PRELIMINARY***

**1 Citation, commencement, authorising provisions**

- (1) This notice may be cited as the Gaming Machines—Social Effect Inquiry Process and Principles—Prescription Notice 2011.
- (2) This notice comes into operation on the same day as section 14 of the *Gaming Machines (Miscellaneous) Amendment Act 2010*.
- (3) This notice is authorised by paragraphs (a) and (b) of section 10A(1) of the *Gaming Machines Act 1992*.

**2 Purpose**

This notice prescribes—

- (a) an inquiry process that must precede an application for a social effect certificate or, if required by the Commissioner, a variation of a gaming machine licence (a *social effect inquiry*); and
- (b) principles for assessing the social effect of the grant or variation of a gaming machine licence (*social effect principles*).

**3 Definitions and interpretation**

- (1) In this notice—

“**applicant**” means—

- (a) a person intending to apply for a social effect certificate under section 17B; or
- (b) the holder of a gaming machine licence who, upon making

application for variation of the licence, has been required by the Commissioner to hold a social effect inquiry;

**“applicant community stakeholders”** means the local community stakeholders and other stakeholders identified by an applicant as having an interest (other than an arm’s-length business relationship) with the applicant and the relevant premises;

**“local community area”** means each SA2 wholly or partly falling within a radius of 2 kilometres from the relevant premises;

**“local community organisations”** means the organisations which provide social and educational services to the people who reside in the local community area;

**“local community stakeholders”** means—

- (a) the people who reside in the local community area;
- (b) the people who own property in the local community area;
- (c) the people who work in the local community area; and
- (d) the local community organisations;

**“premises baseline document”**—*see clause 8*;

**“relevant premises”** means—

- (a) the premises or proposed premises intended to be the subject of an application for a social effect certificate; or
- (b) the premises the subject of an application for variation of a gaming machine licence;

**“responsible local council”** means the council under the *Local Government Act 1999* for the area in which the relevant premises are situated;

**“SA2”** means an area defined by the Australian Bureau of Statistics as a Statistical Area, Level 2 within the Australian Statistical Geography Standard;

**“SEIFA”** means the current release of the Socio-Economic Indexes for Areas published by the Australian Bureau of Statistics;

**“social effect inquiry report”**—*see clause 7(2)*;

**“SLA”** means a statistical local area defined, as an Australian Standard Geographical Classification defined area, by the Australian Bureau of Statistics.

*Definition  
amended by  
GR Notice No.  
4 of 2014,  
cl. 3(1)(a)*

*Definition  
inserted by GR  
Notice No. 4 of  
2014,  
cl. 3(1)(b)*

- (2) In this notice, unqualified references to “the Act”, to a section or sections, or to a section or sections of the Act are to be taken as references to the *Gaming Machines Act 1992* or to a section or sections of the *Gaming Machines Act 1992* as in force on or after the commencement of section 14 of the *Gaming Machines (Miscellaneous) Amendment Act 2010*.

### **3A Transitional**

Despite the variations made to this notice by the Gaming Machines (Social Effect—General) Variation Notice 2014, a premises baseline document may validly be published quoting SLA-based demographic data (including SEIFA data) until 1 December 2014, as though those variations had not been made.”

*Clause 3A  
inserted by GR  
Notice No. 4 of  
2014, cl. 4*

## ***PART 2—SOCIAL EFFECT INQUIRY***

### **4 Components of a social effect inquiry**

A social effect inquiry is made up of—

- (a) a structured stakeholder engagement period;
- (b) a stakeholder comment period; and
- (c) an applicant response period.

### **5 Structured stakeholder engagement period**

- (1) A structured stakeholder engagement period will commence with the publication of—
- (a) an 8–12 week timetable for structured stakeholder engagement;
  - (b) indicative arrangements (including dates) for the stakeholder comment period and the applicant response period; and
  - (c) a premises baseline document.
- (2) Without limiting the activities to be included in a timetable for structured stakeholder engagement, the timetable must include—
- (a) delivery of the timetable, the indicative arrangements and the premises baseline document to the responsible local council within the first week of the timetable;
  - (b) a program of visitation to local community organisations and other local community stakeholders identified as appropriate for consultation; and

- (c) one or more public meetings with applicant community stakeholders, the last of which is to be held within the local community area and in the final week of the timetable.

## **6 Stakeholder comment period**

The stakeholder comment period will be a 2–4 week period during which—

- (a) the applicant will receive written comments (by mail or by electronic means) about the proposal; and
- (b) the applicant will not engage with applicant community stakeholders or gaming regulatory authorities on matters going to the substance of the proposal.

## **7 Applicant response period**

- (1) The applicant response period will be a period of at least 2 weeks during which—

- (a) the applicant may engage with people who have provided written comments during the stakeholder comment period; and
- (b) the applicant will formulate responses to the comments provided during the stakeholder comment period.

- (2) The applicant response period will end with the publication of a social effect inquiry report, given to—

- (a) the responsible local council;
- (b) each person or organisation which made a written comment during the stakeholder comment period; and
- (c) each person or organisation which requested to be provided with a copy of the social effect inquiry report.

- (3) A social effect inquiry report must include—

- (a) the premises baseline document;
- (b) a record of the actual activities undertaken for structured stakeholder engagement, including—
  - (i) a list of the people and organisations visited during the structured stakeholder engagement period;

*Paragraph (b)  
amended by  
GR Notice  
No. 4 of 2014,  
cl. 7(2)*

- (ii) a list of the people and organisations with whom contact was unsuccessfully attempted during the period (including a concise statement of the attempts made); and
- (iii) notes of public meetings (including attendance sheets completed for those meetings);
- (c) the written comments received during the stakeholder comment period; and
- (d) the applicant's response to the written comments received during the stakeholder comment period, including—
  - (i) an account of the outcome of any engagement between the applicant and people who provided comments;
  - (ii) any changes made to the proposal by the applicant between the commencement of the structured stakeholder engagement period and the publication of the report, accompanied by a concise note explaining the reason for the change; and
  - (iii) any undertakings the applicant has made to applicant community stakeholders to be bound by ongoing special licence conditions upon the grant or variation of a gaming machine licence.

## **8 Premises baseline document**

- (1) A premises baseline document will follow the form of Schedule 1.
- (2) A premises baseline document will define the community of the relevant premises, including by—
  - (a) listing the SA2s of the local community area;
  - (b) describing the local community stakeholders in the language of demographers and planners; and
  - (c) listing the responsible local council and the main organisations which provide social and educational services to the people who reside in the local community area.
- (3) A premises baseline document will locate the relevant premises within the local community area by identifying the relevant premises on a map

*Paragraph (a)  
amended by  
GR Notice  
No. 4 of 2014,  
cl. 5*

which includes roads, railways, waterways, allotments, major buildings and open public spaces.<sup>1</sup>

- (4) A premises baseline document will include the following information about the proposal—
- (a) what the relevant premises (including the area licensed for gaming) will be like—
    - (i) described in words;
    - (ii) depicted in artists' impressions; and
    - (iii) shown in the form of indicative floor plans—and, if the relevant premises already exist, how the proposal will change the relevant premises;
  - (b) the business model underlying the proposal, including—
    - (i) the capital cost of the proposal;
    - (ii) the financing of the proposal (including the on-going cost of finance);
    - (iii) the revenues of the relevant premises (separating gaming and non-gaming revenues);
    - (iv) who will be the customers of the relevant premises; and
    - (v) how the relevant premises will be staffed (separating gaming and non-gaming staff); and
  - (c) how the relevant premises are proposed to be managed, including—
    - (i) arrangements for identification of possible problem gamblers in those premises;
    - (ii) arrangements to inform customers and their families of, and facilitate access to, informal voluntary self-exclusion and formal barring (including licensee involuntary barring); and
    - (iii) enforcement and compliance arrangements for informal voluntary self-exclusion and formal barring.
- (5) A premises baseline document will include a statistical compendium comprising—
- (a) for the local community area—

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<sup>1</sup> A map produced from Google Maps (<http://maps.google.com.au>) will meet this requirement.

- (i) the annual net gambling revenue;
  - (ii) the present number of premises licensed for gaming or in respect of which a social effect certificate has been granted;
  - (iii) the present number of licensable gaming machines (including those licensable under suspended licences and under social effect certificates);
  - (iv) the number of employed persons;
  - (v) the number of resident adults; and
  - (vi) the SEIFA score in each of the—
    - (A) Index of Relative Socio-economic Advantage and Disadvantage;
    - (B) Index of Relative Socio-economic Disadvantage;
    - (C) Index of Economic Resources; and
    - (D) Index of Education and Occupation;
- (b) for the State—
- (i) the annual net gambling revenue;
  - (ii) the present number of premises licensed for gaming or in respect of which a social effect certificate has been granted;
  - (iii) the present number of licensable gaming machines (including those licensable under suspended licences and under social effect certificates);
  - (iv) the number of employed persons;
  - (v) the number of resident adults; and
  - (vi) the aggregated SEIFA score for each of the—
    - (A) Index of Relative Socio-economic Advantage and Disadvantage;
    - (B) Index of Relative Socio-economic Disadvantage;
    - (C) Index of Economic Resources; and
    - (D) Index of Education and Occupation; and
- (c) for the relevant premises—
- (i) the present annual net gambling revenue (if any);
  - (ii) the net annual gambling revenue expected upon completion of the proposal;

*Sub-para-  
graph (iii)  
amended by  
GR Notice  
No. 4 of 2014,  
cl. 7(3)*

- (iii) the number of gaming machines proposed to be licensed and the number (if any) presently included in a gaming machine licence or in a social effect certificate; and
  - (iv) the number of employed persons.
- (6) A premises baseline document will include a narrative statement of the risks identified to the local community as arising from the proposal, by reference to the matters which sub-clauses (2), (3), (4) and (5) require to be included, and how the applicant will manage those risks.

## **9 Process guidance**

- (1) When publishing the documents required by clause 5(1), the applicant should adopt a range of measures, adapted to the circumstances, which a reasonable person would accept were likely—
- (a) to draw the existence of the proposal to the attention of local community stakeholders generally;
  - (b) to ensure that the local community stakeholders living or working close to the relevant premises were well aware of the proposal; and
  - (c) to give ready access to the published documents (such as by publication on a website)—
- but nothing in this notice should be read as—
- (d) requiring an applicant to write to all local community stakeholders; or
  - (e) forbidding an applicant from writing to all local community stakeholders.
- (2) When engaging with stakeholders, the applicant must use the standard letters set out in Schedule 2.
- (3) When presenting statistical information—
- (a) data about the demographics of the local community area and the State must be drawn from the most recent census data;
  - (b) data about net gambling revenue must relate to the 12 month period ending on the 30 June preceding the commencement of the social effect inquiry; and

- (c) data about the numbers of gaming machines approved under licences and social effect certificates must be presented as at the more recent of the preceding 31 December or 30 June.
- <sup>2</sup> (4) When presenting SEIFA scores for a local community area made up of more than one SA2, the applicant must show—
- (a) the scores for each of the SA2, identified by name and number; and
- (b) an aggregate score for the local community area in which the scores for each SA2s are combined by weighting them for their proportion of the population of the local community area.
- (5) When presenting the aggregated SEIFA score for the State, the scores of the SA2s within the State must be combined by weighting them for their proportion of the population of the State.
- (6) When presenting demographic data generally, and SEIFA data in particular, the applicant must identify and account for limitations in the data for the particular local community area disclosed by the Australian Bureau of Statistics.
- (7) If data required by this notice are not reasonably available to the applicant, the applicant must disclose which data are missing and adapt the disclosures accordingly, so as to follow the requirements of this notice as closely as the availability of data allows.

*Paragraph (a)  
amended by  
GR Notice  
No. 4 of 2014,  
cl .6.1(a)*

*Paragraph (b)  
amended by  
GR Notice  
No. 4 of 2014,  
cl .6.1(b)*

*Sub-clause (5)  
amended by  
GR Notice  
No. 4 of 2014,  
cl .6(3)*

### ***PART 3—SOCIAL EFFECT PRINCIPLES***

#### **10 Decision making principles**

- (1) Subject to sub-clause (2), the grant, or variation, of a gaming machine licence should not give rise to a level of gambling activity which is not sustainable having regard to its likely positive and negative impacts on the applicant community stakeholders as identified—
- (a) by a social effect inquiry; or

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<sup>2</sup> *Sub-clauses (4)–(6): It is intended that all the SEIFA index scores and population data required for the purposes of a social effect inquiry using 2006 ABS Census data will be drawn from the downloadable spreadsheet file for ABS product code 2033.0.55.001—2033055001\_seifa, statistical local areas, data cube only, 2006.xls.*

- (b) in evidence taken in the course of the proceeding before the Liquor and Gambling Commissioner.
- (2) In applying sub-clause (1), the following must be taken into account—
- (a) the adequacy of the relevant social effect inquiry;
  - (b) the extent to which the applicant has engaged with local community stakeholders in respect of the proposal;
  - (c) the extent to which the risks identified by the applicant (including those so identified in the social effect inquiry) and by applicant community stakeholders can be managed;
  - (d) the extent to which the net beneficial impacts likely to accrue to applicant community stakeholders other than local community stakeholders offset the net detrimental impacts likely to be experienced by local community stakeholders;
  - (e) the extent to which the level of gaming activity in the local community area, by reference either to net gambling revenue or to the numbers of local machines, would be disproportionate to the level of gaming activity for the State;
  - (f) the extent of support for the proposal among local community stakeholders;
  - (g) the extent to which conditions can be specified in the licence to—
    - (i) ameliorate the social effect of the grant, or variation, of the licence; and
    - (ii) reflect undertakings given by the applicant to applicant community stakeholders; and
  - (h) concerning any undertakings given by the applicant to applicant community stakeholders to be bound by ongoing special licence conditions upon the grant or variation of a gaming machine licence—
    - (i) the relevance of the undertakings; and
    - (ii) the desirability of enforcing the undertakings by the specification of licence conditions.

## Schedule 1

### Form of premises baseline document

#### 1. Introduction

This premises baseline document has been prepared as the first step in the community consultation required for the **proposed introduction of gaming at** *[insert premises name]*/**proposed changes to the gaming arrangements at** *[insert premises name]*/**proposed relocation of the** *[insert old premises name]* **to** *[insert premises name]*\*.

Paragraph  
substituted by  
GR Notice  
No. 4 of 2014,  
cl .8(1)

The consultation is being undertaken by *[insert name of applicant]* (“**the Applicant**”).

The street address of the premises is *[insert premises address]*.

The process which requires this community consultation is called a **social effect inquiry**. When a social effect inquiry is completed, an applicant can seek a **social effect certificate** (to allow the introduction of gaming or the relocation of a gaming venue within the area) or **variation** of the Applicant’s existing licence (to allow an expansion of gaming). These are granted by the Liquor and Gambling Commissioner.

Paragraph  
amended by  
GR Notice  
No. 4 of 2014,  
cl .8(2)

The law was amended in 2010 to make sure that the social effect of new licensing proposals was included in the first stage of decision making. The role of the application for a social effect certificate is to allow those decisions to be made.

If a social effect certificate is granted, the applicant can then proceed to the next step of licensing which is for a **premises certificate**. (In order to do this, the Applicant will also have to have obtained any necessary development approvals.) A premises certificate tells the Applicant what will be an acceptable built environment for gaming and thereby allows the Applicant to go ahead with construction processes. On completion of construction in compliance with the premises certificate, the Applicant may apply for the grant of a gaming machine licence, with all the necessary licensing criteria having been met.

While the premises certificate and licence applications are important licensing steps, it is intended that the assessment of the social effect of the grant of a licence be resolved at the social effect certificate stage, before those steps are undertaken.

The 2010 amendments to the law adapted this approach to expansions of existing gaming venues by giving the Liquor and Gambling Commissioner the power to require a social effect inquiry to precede an application for variation of a licence.

This document is intended to set out the broad range of information community stakeholders will need to engage effectively in the social effect inquiry and any subsequent application for a social effect certificate or application for variation of a licence.

The information in this document is current as at *[date of publication of document]*.

## 2. How social effect decision-making works

There are three components to a social effect inquiry—

- (a) a structured stakeholder engagement period of 8–12 weeks ending with at least one public meeting;
- (b) a stakeholder comment period of 2–4 weeks; and
- (c) an applicant response period of at least 2 weeks, ending with the publication of a *social effect inquiry report*.

Timelines are set out in a separate timetable which the applicant must publish with this document.

While community stakeholders may put in their comments earlier than the end of the stakeholder comment period, it makes sense to see through the whole of the structured stakeholder engagement period and the public meeting, so that the full picture is known.

Once the applicant has completed the social effect inquiry report, the applicant is allowed to apply for a social effect certificate (or, if the proposal is to expand gaming, a variation of the licence). This application must be advertised. Stakeholders are able to participate in the formal decision process by lodging an objection.

The formal decision process is a proceeding before the Liquor and Gambling Commissioner.

The prescribed *social effect principles* require the Commissioner to take into account—

- (a) the adequacy of the relevant social effect inquiry;
- (b) the extent to which the applicant has engaged with local community stakeholders in respect of the proposal;
- (c) the extent to which the risks identified by the applicant (including those so identified in the social effect inquiry) and by applicant community stakeholders can be managed;
- (d) the extent to which the net beneficial impacts likely to accrue to applicant community stakeholders offset the net detrimental impacts likely to be experienced by local community stakeholders;
- (e) the extent to which the level of gaming activity in the local community area, by reference either to net gambling revenue or to the numbers of local machines, would be disproportionate to the level of gaming activity for the State;
- (f) concerning applicant undertakings—
  - (i) the relevance of undertakings the applicant has made to applicant community stakeholders to be bound by ongoing special licence conditions upon the grant or variation of a gaming machine licence;
  - (ii) the desirability of enforcing undertakings mentioned in sub-paragraph (i) by the imposition of special licence conditions.

If the applicant or any of the objectors is unhappy with the decision made by the Commissioner, there is a right of review in the Licensing Court.

**3. The local community**

The local community area is shown on the attached map. It is made up of one or more ABS SA2s *[name them]*, being the areas identified by some or all of them being within a radius of 2 kilometres from the site of the premises. (ABS SA2 refers to a *Statistical Area Level 2* for the purpose of the census and other data collections.)

Paragraph  
substituted by  
GR Notice  
No. 4 of 2014,  
cl. 8(3)

The local community stakeholders are the people who live, work or own property in the area, and the organisations which provide social and educational services to the area.

The residents are *[here provide a profile of the resident population in the language of demographers and planners]*.

The workforce is *[here provide a profile of the resident population in the language of demographers and planners, by reference to available data and by reference to the nature of the main employers in the local community area]*.

The applicant has identified the organisations providing services to the local community; they are listed in *[name of Appendix]*.

The relevant local council is *[name]*.

**4. The proposal and the premises**

The proposal is to create a gaming venue which *[here include long narrative of the what the premises will be like, including non-gaming as well as gaming areas]*.

There will be *[number]* electronic gaming machines.

Artists' impressions and floor plans are included in *[name of appendixes]*.

*[If applicable]* The proposal will change the existing premises by *[set out particulars]*.

*[Here set out particulars of the business model for the venue as proposed.]*

The anticipated capital cost of the proposal is *[amount in dollars]*.

The capital cost will be financed by raising *[amount in dollars]* of debt, with the balance coming from the Applicant and investors. The annual interest cost of this finance is estimated at *[amount in dollars]*. The applicant's required rate of return on invested capital is *[percentage]* or *[amount in dollars]* each year.\*

The anticipated annual revenues will be:

- total non-gaming sales *[amount in dollars]*;
- net gambling revenue *[amount in dollars]*;
- net profit *[amount in dollars]*.

The customers will be *[description in the language of demographers and planners]*

The venue, when completed, will employ *[number]* staff including *[number]* directly involved with gaming. These staff will be *[explain where the staff are expected to come from]*.

The premises are proposed to be managed *[set out general management arrangements]*. In particular—

- *[set out detail of how identification of possible problem gamblers will be done]*;
- *[set out detail of arrangements to inform customers and their families of, and facilitate access to, informal voluntary self-exclusion and formal barring (including licensee involuntary barring)]*;
- *[set out detail of enforcement and compliance arrangements for informal voluntary self-exclusion and formal barring]*.

**5. Statistics**

*[Here set out tables of statistics.]*

**6. Appendixes**

List of schools

List of community services

Artists' impressions

Map

Indicative floor plans

\* **Delete the option which does not apply.**

## Schedule 2

### FORM OF CONSULTATION LETTER CORE TEXT

#### *Initial structured engagement letter*

*Paragraph  
substituted by  
GR Notice  
No. 4 of 2014,  
cl. 9(1)*

I am writing to you about **the proposed introduction of gaming/proposed changes to the gaming arrangements\*** at *[insert premises name]*.

As part of the licensing requirements, *[name of applicant]* is conducting a social effect inquiry. Attached are the premises baseline document and the timetable for structured stakeholder engagement.

**You will see that you are one of the stakeholders listed in the baseline document/You have been identified as a stakeholder the Applicant wishes to consult about the proposal.\***

Please call me when you receive this letter to discuss an appropriate time and place to meet.

If you do not wish to meet, you are still able to attend a public meeting on *[date]*.

***Acknowledgement of comment letter or email***

Thank you for providing a comment about the **proposed introduction of gaming at [insert premises name]/proposed changes to the gaming arrangements at [insert premises name]/proposed relocation of the [insert old premises name] to [insert premises name]\*.**

Paragraph  
substituted by  
GR Notice  
No. 4 of 2014,  
cl. 9(2)

Your comment will be published in the Applicant's social effect inquiry report, which will be finalised no earlier than *[first date for end of applicant response period]*.

If the Applicant decides to change the proposal in response to your comment, I will be back in touch before that date to discuss it with you.

***Response letter or email***

I refer to my letter dated/email of\* *[date]* acknowledging receipt of your comment on the gaming proposal for *[insert premises name]*/Thank you for requesting a copy of the social effect inquiry report during the social effect inquiry process for the gaming proposal for *[insert premises name]*.\*

I attach the social effect inquiry report.

Your comment on the proposal has been included.

*[If applicable]* Your comment is mentioned specifically on page *[page number]*.

The Applicant **will/will not\*** be proceeding with an application for a social effect certificate. This application will be advertised as required by the Gaming Machines Act.

\* **Delete the option which does not apply.**

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***NOTES***

1. The Gaming Machines—Social Effect Inquiry Process and Principles—Prescription Notice 2011 was published in the South Australian Government Gazette on 12 May 2011 (No. 31 of 2011) at pages 1358–1370, GM Notice No. 4 of 2011.
2. This notice became effective on the commencement of section 14 of the *Gaming Machines (Miscellaneous) Amendment Act 2010*. This provision was proclaimed to come into operation on 1 June 2011 (Government Gazette, No. 33 of 2011, 26 May 2011, page 1581).

**Note 3**

**GM Notice No. 4 of 2011**

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3. This version incorporates variations made to the Gaming Machines—Social Effect Inquiry Process and Principles—Prescription Notice 2011, since 12 May 2011, by the following:

<i>GR Notice No.</i>	<i>Title, making and gazettal details</i>	<i>Commencement details</i>
4 of 2014	Gaming Machines (Social Effect—General) Variation Notice 2014 21 August 2014 (Government Gazette, No. 63 of 2014, 21 August 2014, pages 4071–4073)	Whole of notice on 22 August 2014.





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