

## PUBLIC LOTTERIES AMENDMENT (KENO LICENSING) BILL 2016

*Second Reading*

**The Hon. RICK COLLESS ( 1 4:57 ):** On behalf of the Hon. Niall Blair: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### **Leave granted.**

I am pleased to introduce the Public Lotteries Amendment (Keno Licensing) Bill 2016. This bill implements one of the final commitments under the 2010 memorandum of understanding [MOU] with ClubsNSW, which was to review and extend the existing keno licensing arrangements. The current keno licence, which is jointly held by Keno (NSW) Pty Ltd, a subsidiary of Tabcorp, and Club Keno Holdings, a subsidiary of ClubsNSW, was granted in 2007 and does not expire until 2022. Following the commitment under the MOU, an independent review of the keno licence was conducted on behalf of the Government. This review found that there was significant scope to modernise the keno regulatory regime by bringing the licences into the modern regulatory regime as it applies to NSW Lotteries.

As a result, the Government entered into negotiations with the incumbent licensees to reach an agreement that would modernise the regulatory framework, remove the confusion that arose from having keno regulation effectively frozen following the sale of NSW Lotteries in 2010 and grant a new keno operator and product licence to the incumbent licensees until 1 April 2050. These negotiations were conducted at arm's length from Government by a steering committee consisting of senior representatives from NSW Treasury, the Department of Premier and Cabinet, and Liquor and Gaming NSW. The steering committee was supported by expert advisers who provided expert legal, financial and commercial advice to the project. An independent probity adviser also oversaw the negotiation process.

As a result of these negotiations the joint licensees have agreed to pay the State in excess of \$230 million for a 28-year extension of the keno licence. This payment is broken down into a \$25 million upfront fee, \$3 million per annum in licence duty from 2017 to 2021 and \$4.5 million per annum in licence duty from 2022 to 2050. Both of the licence duty figures are indexed at 2.5 per cent per annum. The extension of the keno licensing arrangements provides value to the licensees as it will enable these parties to have certainty of investment and generate long-term earnings from keno.

Venues will also continue to benefit from keno by way of commissions received for the conduct of the game on their premises. Additionally, the revenue that ClubKeno Holdings receives from keno will continue to provide benefits to the club industry and broader community in a range of ways, such as being returned to clubs as additional commissions so that they may be reinvested through promotional activities and equipment upgrades to charitable, sporting and other organisations across New South Wales, reinvested in keno game promotions and equipment, and helping the club industry fund development and support projects.

Registered clubs make a substantial economic and social contribution to this State and are providers of key facilities in regional and metropolitan communities across New South Wales. The most recent club census in 2011 reported that clubs provide more than 700 bowling greens, 350 golf courses, 100 tennis facilities and 90 sporting fields as well as scores of dining and conference facilities. Clubs are also one of the State's largest employers, providing jobs to 42,000 people including 20,000 regional jobs and contributing more than \$3.2 billion a year to the State's economy. The extension of the keno licence, which contributes to the economic sustainability of registered clubs, will allow clubs to continue to deliver these benefits to communities across New South Wales.

I now turn to the detail in the bill. The bill amends section 5 of the Act to introduce a definition of keno. This definition makes it clear what constitutes a game of keno for the purposes of the Act. The inclusion of this definition is critical to the ongoing function of the Act and aligns the Act with the definition of keno that is contained in a contractual agreement entered into by the former Government and the operator of NSW Lotteries during the sale process in 2010. By including the definition of keno in the Act rather than a contractual agreement this Government is addressing a significant risk that should a game of keno be approved outside this narrow definition, it may lead to significant compensation being payable.

The bill before the House will also enable the Minister and Treasurer to accept the offer made by the joint keno licensees and for the Minister to enter into the deed entitled "Implementation Deed" which is set out in annexure 1 to the deed poll that I have tabled. This amendment is necessary to give effect to the negotiated outcomes agreed with the keno licensees and to allow for the revocation of the existing licence and the grant of the new operator and product licences as provided by the implementation deed. By granting new licences to the joint licensees rather than extending the existing licence the Government is able to apply the modern regulatory approach as it currently applies to NSW Lotteries to keno.

This modern regulatory framework applies a principles-based approach rather than the more prescriptive and interventionist regulation that currently applies. It also allows for greater regulatory oversight into areas that may be perceived as high risk. As an example, the modern licences provide for an ongoing review of the licensee's suitability. This review allows the Minister to consider whether the licensee and its close associates remain suitable to hold the licence. This suitability review measures the licensee against a number of criteria such as the licensee's or close

associate's character, honesty and integrity, ownership and governance structures, and whether the licensee retains appropriate commercial and technical experience.

In regard to suitability, it should be noted that while new section 21N (2) allows the Minister to grant the licences without undertaking the suitability requirements as required by sections 11 and 12 of the Act this is on the basis that, as the incumbents, the licensees' have already demonstrated this suitability on an ongoing basis. However, I am advised that Liquor and Gaming NSW has recently undertaken a suitability review and that this review found each of the licensees and their close associates suitable to hold or be involved with the keno licence. The bill also introduces provisions to make it clear that all existing approvals under the current licence, such as the rules of the game, agency agreements, existing prize funds and any other matter related to the operation of the game continue to apply under the new licences.

These savings provisions are important as they allow the game to run uninterrupted while also ensuring that where prizes are due to players, including unclaimed prizes, they are able to be paid by the licensee. In summary, this bill represents a sensible and modernised regulatory approach to the keno licensing arrangements and rectifies issues that the former Government introduced through the privatisation of NSW Lotteries. The bill also reduces regulatory red tape and provides value to the State commensurate with the grant of a long-term concession while also providing the opportunity to deliver benefits to industry, particularly registered clubs through long-term certainty. I commend the bill to the House.

**The Hon. PETER PRIMROSE ( 14:58 ):** The Public Lotteries Amendment (Keno Licensing) Bill 2016 seeks to amend the Public Lotteries Act 1996 in three ways: firstly, to establish new arrangements for licensing of keno under which the existing exclusive keno licence will be cancelled and new exclusive keno licences with a term expiring in 2050 will be granted to the existing licensees; secondly, to provide transitional arrangements to facilitate the transfer of keno operations from the existing keno licence to the new licences; and, thirdly, to insert a new definition of "keno". The Opposition will not oppose the bill. The main purpose of the bill is to give ClubsNSW and Tabcorp an extension of their present exclusive licence to run keno in more than 1,800 clubs and pubs across New South Wales until 1 April 2050.

The current Keno licence is held jointly by Keno (NSW) Pty Limited, a subsidiary of Tabcorp, and Club Keno Holdings, a subsidiary of ClubsNSW. It was granted to them in 2007 and expires in 2022. In 2010 Barry O'Farrell, the then Leader of the Opposition, signed a memorandum of understanding with ClubsNSW which included an agreement that a future coalition government would extend the ClubsNSW licence for Keno from 2022 to 2050. This bill delivers on that deal and gives Tabcorp and ClubsNSW, in its capacity as Club Keno Holdings, the exclusive licence to operate Keno until 2050.

Revenue received from the licence extension is in the order of \$231.2 million in licence fees from 2022 to 2050. The joint licensees will make an upfront payment of \$25 million in the second half of 2016 and will also pay an annual licence duty fee of \$3 million a year from 2017 to 2021, increasing to \$4.5 million a year from 2022, indexed at 2.5 per cent per annum. Negotiations were conducted by a steering committee of senior representatives from New South Wales Treasury, the Department of Premier and Cabinet and Liquor and Gaming NSW. It received expert legal, financial and commercial advice.

The Government argues that the licensees have certainty of investment in venues and will benefit from commissions. The revenue of the clubs will be reinvested into the broader community, but we will also amend section 5 of the Act to introduce a definition of Keno to align it with the definition in the agreement entered into in 2010. This addresses the risk, because if a Keno game is approved outside the narrow definition, it may lead to compensation claims.

By granting a new licence rather than extending the old licence, the Government can apply a more modern regulatory approach as applies to NSW Lotteries. This includes an ongoing review of the licensee's suitability. However, it is worth noting that the Minister can grant the licence without undertaking suitability requirements on the basis that as incumbents, the licensees have already demonstrated their suitability. Existing approvals under the current licence, such as rules of the game, prize, funds and so on remain in place. Keno is, of course, played in registered clubs and hotels and the Star Casino. As I indicated, the Opposition will not be opposing the bill.

**Ms JAN BARHAM ( 15:02 ):** I rise to speak on the Public Lotteries Amendment (Keno Licensing) Bill 2016. I am sure most members would realise this is not normally my portfolio area; it was the area of expertise of my colleague, the late Dr John Kaye, so I would like to acknowledge the assistance that I have received in the preparation for this response from The Greens from John's very capable staff, particularly from Lauren Alden in his office.

This bill seeks to create a definition of Keno to mirror what is in the contractual agreement and ensure that that definition is legislated and contained in an Act of Parliament. The bill also enables the Minister and the Treasurer to accept the offer made by the current Keno licensees, Keno (NSW) Pty Limited, a subsidiary of Tabcorp, and Club Keno Holdings, a subsidiary of ClubsNSW, for a new licensing agreement. The agreement includes a payout of \$230 million for a 28 year extension to the licence. That