

# GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 29 September 2006

Examination of proposed expenditure for the portfolio areas

## GAMING AND RACING, CENTRAL COAST

The Committee met at 10.00 a.m.

### MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. Dr A. Chesterfield-Evans  
The Hon. D. Clarke  
The Hon. C. Cusack

The Hon. E. M. Obeid  
The Hon. M. J. Pavey  
The Hon. I. W. West

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### PRESENT

**Office of Liquor, Gaming and Racing**

**Mr Michael Foggo**, *Commissioner*

**Mr Albert Gardner**, *Director of Compliance*

**Mr John Whelan**, *Director of Policy Research*

**Ms Sylvana Sturevska**, *Manager, Responsible Gambling Fund Branch*

**Mr Paul de Veaux**, *Assistant Director Racing*

**Casino Control Authority**

**Mr Brian Farrell**, *Chief Executive*

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**CHAIR:** I declare this hearing open to the public. I welcome the witnesses to the hearing, at which the Committee will examine the proposed expenditure for the portfolio of Gaming and Racing. Before we commence I would like to make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs.

When reporting the proceedings of the Committee the media must take responsibility for what they publish and what interpretations are placed on anything that is said before the Committee. The guidelines for broadcasting are available at the table by the door. Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or the Committee clerks. Witnesses are reminded that they are free to pass notes and refer directly to their advisers while they are at the table. Everyone should have their mobile phones turned off. I advise that the Committee has resolved to request that answers to questions on notice be provided within 21 calendar days from the date on which the questions are sent. Do you anticipate any problems with that?

**Mr FOGGO:** No.

**CHAIR:** I remind all the witnesses who have appeared before the Committee previously this year that you are giving evidence on your former oath or affirmation. We have a couple of new witnesses. I ask that any witness who has not previously taken an oath or affirmation now do so.

**PAUL DE VEAUX,** Assistant Director Racing, Office of Liquor, Gaming and Racing, affirmed and examined:

**CHAIR:** I declare the hearing open for questioning. The Committee has resolved to have questioning on a rotational basis, starting with the Opposition.

**The Hon. DAVID CLARKE:** Mr Foggo, it has been said that there are more gaming machines in Sydney than there are in Las Vegas. Is that true?

**Mr FOGGO:** I am not exactly sure of the numbers of gaming machines in Las Vegas. I suppose we could research that. In the metropolitan area, as at 30 June there were 63,859 poker machines, and that is out of a total of 99,493 throughout New South Wales.

**The Hon. DAVID CLARKE:** In other words, nearly 64,000 in Sydney alone. By what percentage has that increased over the past three years?

**Mr FOGGO:** I do not have the figures for the past three years. I have some figures from 2002, and that would have been as at 30 June 2002. There were 62,850. If I do a quick calculation on that, I think it is 1,009 over a four-year period.

**The Hon. DAVID CLARKE:** In other words, it is an onwards and upwards progression as far as gaming machines in New South Wales are concerned?

**Mr FOGGO:** Not really. There is a statutory cap in terms of the numbers of gaming machines in New South Wales. That is 104,000. The numbers have been going down slightly over a period of time. If you look at the general figures there were 101,162. So there has been some original reduction in numbers from the period of about 2000 to about 2003-04.

**The Hon. DAVID CLARKE:** What has happened to those access licences?

**Mr FOGGO:** Under the current entitlement scheme in New South Wales, entitlements must be sold in groups of three. For every three entitlements that are sold, one must be forfeited. They are not kept anywhere; they are simply forfeited.

**The Hon. DAVID CLARKE:** What was the Government's take from gaming machines last year?

**Mr FOGGO:** The figure is in Budget Paper No. 3. For the clubs, the tax was \$568 million, and for club gaming devices it was \$418 million.

**The Hon. DAVID CLARKE:** Do you have the figures for the year before?

**Mr FOGGO:** Yes. The actual for the year before was: clubs \$500 million and hotels \$395 million. There was a tax increase, particularly for clubs, during those two years. That is one of the reasons why the revenue has increased.

**The Hon. DAVID CLARKE:** In fact, for clubs, probably about 15 or 16 per cent in one year? The Government's cut went from \$500 million to \$568 million?

**Mr FOGGO:** That is correct.

**The Hon. DAVID CLARKE:** How is the Government's cut from the TAB going? How has that increased over, say, the past three years?

**Mr FOGGO:** I have the figure for 2004-05, which was \$157 million. The revised figure for the last financial year, that is 2005-06, is \$153 million. So it is actually down \$4 million.

**The Hon. DAVID CLARKE:** Would you take on notice the increase over the last three years?

**Mr FOGGO:** Yes.

**The Hon. DAVID CLARKE:** Does your department fund any programs to deal with victims of addiction to gambling?

**Mr FOGGO:** Yes, we have a responsible gambling fund. Two per cent of the tax revenues that are paid by the casino to the Government are hypothecated to that fund each year. It is usually about \$12.2 million in the budget papers, but the actual figures are slightly less than that in terms of the dollar figures.

**The Hon. DAVID CLARKE:** What would you say to the suggestion that that is a paltry percentage to deal with the problems that arise from addiction to gambling?

**Mr FOGGO:** Those issues are a policy issue for Government; it is not appropriate that I comment on them. But it is 2 per cent at the moment.

**The Hon. DAVID CLARKE:** Is it 2 per cent from year to year? Is it a fixed percentage?

**Mr FOGGO:** It is a fixed percentage. It is part of the tax arrangements in the casino control legislation.

**Mr FARRELL:** In the agreement between the Treasurer and the casino operator.

**The Hon. DAVID CLARKE:** Are you aware of the percentage ever having been increased over the past few years?

**Mr FOGGO:** No. It has been 2 per cent since 1994.

**Mr FARRELL:** The casino tax arrangements are part of an agreement between the Treasurer and the casino operator, which was struck in 1994 and goes until September next year.

**The Hon. DAVID CLARKE:** Are you aware as to whether the Government's cut from gambling is increasing as a percentage of the total income of the Government?

**Mr FOGGO:** We had some figures on that. It remains around about the 10 per cent mark. It goes up and down depending on a whole range of issues.

**The Hon. DAVID CLARKE:** You have got some figures on it, have you?

**Mr FOGGO:** Yes, we can put those figures together.

**The Hon. DAVID CLARKE:** Can you take that on notice?

**Mr FOGGO:** Yes.

**The Hon. MELINDA PAVEY:** Ms Sturevska, do you have any role in meeting with financial institutions and any dialogue or discussion with those financial institutions about problems that their clients, that is, families, may be having in having to liquidate assets to deal with gambling problems? Is there any sort of formal dialogue with credit unions and banks about that issue?

**Ms STUREVSKA:** Formal dialogue has started in the last month with other government departments whose core businesses it is to provide free financial assistance to our target groups, which would be problem gamblers and their families. However, under the current funding model where we provide funding for free treatment for problem gamblers and their families, we ensure that there is at least one financial counselling service or a financial counsellor who is available to provide assistance to problem gamblers and their families. That is around New South Wales. That is part of the strategic plan about how to best allocate funding for problem gamblers and their families in New South Wales.

**The Hon. MELINDA PAVEY:** What is your data saying in terms of the need for those services? Is there an increasing need? There is a belief from statistics that only 1 per cent of the population, which has remained pretty static, are problem gamblers, but I think there is some anecdotal evidence within communities and families that they have met suggesting that whilst the official figures say 1 per cent problem gamblers, there may be a stronger impact happening because of the accessibility of gaming machines and devices.

**Mr FOGGO:** Could I answer that in one way? The Responsible Gambling Fund has funded a prevalence study, for which we have got initial figures back. This is quite a large study; it is over 5,000 surveyed people. It is not quite as large as one that happens in Queensland with 30,000. What we are endeavouring to do there is: there is an agreement between all the States as to how problem gamblers are to be identified. We use a Canadian system, the problem gambling index, so we can have some research not only throughout New South Wales but throughout Australia, which is targeting the same base of people.

We are looking at apples and apples, not oranges and apples in terms of who defines what is a problem gambler or who is a problem gambler. We need some further work on those figures that have just come back to us, and we have to do that by the end of this year. That will form a base about what percentage of people in that survey are identified as problem gamblers. But at the moment it is very difficult to see whether that population of problem gamblers is increasing or decreasing until we do a few more years of surveying.

**The Hon. MELINDA PAVEY:** What data do you have now?

**Ms STUREVSKA:** We have got pretty innovative data. Over the last 18 months the counsellors that we fund just log online into a system that we developed where they provide us with basic core sets of information about demographic details of the clients that they see. That comes through to us and we actually use that information. It is de-identified—a person cannot be identified by that data. That information is then used to help us to work out how to spread the money across New South Wales so that there are enough counselling hours available; that is, we purchase enough counselling hours to be made available to problem gamblers and their families.

The question you asked earlier: we actually monitor how many clients are being seen in a region and if over, say, a six or 12-month period we find that most of the counselling hours have been used up with that set criteria, then we would consider increasing those hours to be available to problem gamblers and their families in the next funding round.

**The Hon. MELINDA PAVEY:** So that data is available publicly?

**Ms STUREVSKA:** Yes, on the department's web site. We have got two main sets of data: the data that we collect through what we call the client data set and there is also data collected by our telephone counselling service, which is G-Line New South Wales. That is also available on the web site.

**The Hon. MELINDA PAVEY:** A racing question: We asked the Minister when we were here last about the totalizator rounding issue. There is concern among punters that they make a bet and they have a win and if the win is, say, \$1.99, it gets rounded down to \$1.90, which is effectively cutting that 10 per cent off the punter's win. What policies are you looking at to make that a little bit more equitable?

**Mr DE VEAUX:** When you say "policy", rounding has been in place since about 1982. So when the TAB was privatised in 1998, rounds were in at that time. It was part of the privatisation. The TAB rounds were in place; there is provision legislation. But really it is a matter for the TAB.

**The Hon. MELINDA PAVEY:** In relation to Betfair, there are a lot of concerns out there with bookmakers and the local racing industry that the Government has not yet legislated to protect New South Wales racing from organisations such as Betfair. Where is the Government up to with bringing in a policy or legislation to protect our own industry in New South Wales?

**Mr WHELAN:** It is quite simple: it is still under consideration. We are having a look around at what all the other States in Australia are doing. Victoria has recently introduced race fields legislation, similar to what has happened in Western Australia and South Australia. We are having a look at what all States have done and considering our position.

**The Hon. DAVID CLARKE:** How long have you been considering your position on this issue?

**Mr WHELAN:** Betfair has been around probably a year or so.

**Mr DE VEAUX:** January/February it started in Tasmania.

**Mr WHELAN:** And there was a lot of talk before that as well. I am not sure if you are aware of how Betfair operates, but it is a new system that facilitates gambling and it is a new invention; it had not been considered before. Really, with the emergence of that, that is when we started having a think about how to treat Betfair.

**The Hon. MELINDA PAVEY:** What plans do you have to revitalise the prize money for country racing?

**Mr WHELAN:** Again, the prize money is distributed not by government anymore.

**The Hon. MELINDA PAVEY:** I understand that, but in terms of generating advice and leadership, as the lead department, to revitalise that prize money, is there any plan or proposal?

**Mr WHELAN:** To be honest, I agree that it is important that we really should be focusing on trying to increase prize money, more so than anything else in racing. I feel that it is important that if the new money does go into racing that it should be directed directly into prize money because it is through prize money that it follows its way down through the industry: the trainers will get some; the owners will get some; the jockeys; the stable hands. It will work its way down through the industry and the industry employs 50,000 people. So I would much prefer to see dollars go into prize money than to be distributed elsewhere in the industry where it may be lost and it may be directed only towards a certain group of people.

We are constantly looking at ways to increase prize money, not just in country racing but through all racing in New South Wales.

**The Hon. DAVID CLARKE:** Have you focused on this issue of trying to revitalise prize money for country racing?

**Mr WHELAN:** We have been thinking about it for some time. It is something you constantly think about. It is a positive for racing. Racing is an important industry.

**The Hon. DAVID CLARKE:** Have you got a subcommittee that has been set up specifically to deal with this?

**Mr WHELAN:** No, we do not have any subcommittee. It is discussed internally within the department.

**The Hon. DAVID CLARKE:** Is there any policy paper that has been prepared?

**Mr WHELAN:** No, there has not been. It is at a discussion stage.

**The Hon. DAVID CLARKE:** A very formal discussion, is it?

**Mr WHELAN:** Yes, I suppose it is. There has certainly been no policy paper prepared.

**The Hon. DAVID CLARKE:** Have you got a time frame as to when you think you will be coming up with some program to revitalise prize money for country racing?

**Mr WHELAN:** No, we do not.

**The Hon. DAVID CLARKE:** There is no time period on that?

**Mr WHELAN:** No there is not, other than to say it is something we are constantly working on and thinking about. We do not have a deadline that we are working to.

**The Hon. MELINDA PAVEY:** In relation to the disastrous closure of the Cessnock Greyhound Club and the subsequent reversal of that decision by the court, who do you hold responsible for this situation?

**Mr DE VEAUX:** Firstly, the court did not reverse the closure of the Cessnock club. The court found that there were procedural fairness issues, and has asked Greyhound Racing New South Wales to reconsider the process in determining which race dates are cut from which clubs. The issue is that Greyhound Racing New South Wales is not a government body; it is independent of government. It took the decision to cut the dates in good faith, but in the challenge in the court, as you are well aware, it was found that there were problems with procedural fairness. Greyhound Racing New South Wales is reconsidering that at present.

**The Hon. MELINDA PAVEY:** There is a lot of concern that New South Wales bookmakers at leaving New South Wales for other States because of a number of issues including Internet betting. Do you have any figures on the number of bookmakers leaving?

**Mr DE VEAUX:** I can give you precise numbers, but over the past five years the numbers have hovered around the 300 mark—over and above around that 300 mark in five years. So there has not been any decrease in actual numbers.

**The Hon. MELINDA PAVEY:** Are you hearing any anecdotal evidence that bookmakers are leaving?

**Mr DE VEAUX:** Certainly, turnover has been down in the past two years. That is public record. The actual numbers, no. There have been calls from bookmakers for certain concessions, which are being looked at by the Government.

**Mr WHELAN:** It is important to note the contribution that the TAB and bookmakers make to the racing industry in New South Wales. For the TAB, I think the figure was \$220 million last year; the figure from bookmakers was \$6 million. So if we are talking about the health of and funding for the racing industry, the TAB certainly makes a much greater contribution to the industry than bookmakers.

**The Hon. MELINDA PAVEY:** Yes but bookmakers still play an important role on the track—

**Mr WHELAN:** Absolutely. They create atmosphere and an environment at the race course, and we certainly do not want to see bookmakers go from the race course.

**The Hon. MELINDA PAVEY:** Do you have any plans to make things a little easier for them to be able to compete with TAB in terms of 24/7 betting?

**Mr WHELAN:** As Mr De Vaux said, the numbers have not changed. It has been about 300 for the past few years.

**The Hon. MELINDA PAVEY:** But turnover is down.

**The Hon. EDDIE OBEID:** That is competition.

**The Hon. MELINDA PAVEY:** Competition is poppycock. It is a monopoly.

**Ms LEE RHIANNON:** I want to understand the information you provide publicly on revenue from machines in clubs. It is the case that on your web site you have the details of revenue from various clubs that comes from poker machines. Is that the case?

**Mr FOGGO:** That is the case, yes. On our web site there is an indication for all clubs in New South Wales of what their metered profit is, the tax they pay on that and how much they contribute to the Community Development and Support Expenditure [CDSE] scheme.

**Ms LEE RHIANNON:** Do you have anywhere information on the comparison of revenue raised from different types of machines? Is it on a club basis or is it on a machine basis?

**Mr FOGGO:** We certainly have enormous amounts of data. Our central monitoring system actually gets daily reads from each poker machine in New South Wales.

**Ms LEE RHIANNON:** From each poker machine?

**Mr FOGGO:** Each poker machine each day.

**Ms LEE RHIANNON:** But that is not made public, is that the case?

**Mr FOGGO:** To indicate how much data we get, we actually take three reads from every machine each day: one at 4.00 a.m., one at 6.00 a.m. and one at 10.00 a.m. Part of that is to monitor the shut down. The 6.00 a.m. one is looking at a statewide link jackpot system. So the amount of data there is quite large. I think Unitab writes 7 million lines to its database each day. So there are enormous amounts of data.

**Ms LEE RHIANNON:** I am not asking for all of that to be released but as you have explained it, and with the wonders of technology, would it not be simple to give a revenue reading for each machine in a club over one month or something like that? Have you talked about doing that? Do you do that?

**Mr FOGGO:** There are 100,000 machines out there, and there are more than 120,000 changes to those 100,000 machines each year. You end up with enormous amounts of data.

**Ms LEE RHIANNON:** Sorry, 120,000 changes?

**Mr FOGGO:** They are what we call configuration changes. It could be a new machine being swapped in for an old machine, a new game for an old game, a denomination change from 1¢ to 5¢ or 5¢ to 1¢, or changes to the return to player percentage. An application must be made to the Liquor Administration Board and be approved before those changes are made to each gaming machine. We are not necessarily looking at the same machine for each month. It is quite a changing environment.

**Ms LEE RHIANNON:** Returning to the explanation you gave about the information you provide about clubs, do you provide that same information on your web site for hotels?

**Mr FOGGO:** No, we do not.

**Ms LEE RHIANNON:** Why is that?

**Mr FOGGO:** The reason we provided the information in relation to clubs relates to the Community Development and Support Expenditure scheme. That was the reason behind that.

**Ms LEE RHIANNON:** It still seems to be a big contradiction.

**Mr FOGGO:** There are some privacy issues and confidentiality issues in terms of the data we have.

**Ms LEE RHIANNON:** What privacy issues would there be to do with hotels? If you can release the information for clubs, why can you not release it for hotels?

**Mr FOGGO:** I was about to explain. In relation to clubs, the Registered Clubs Act requires that information relating to gaming machines be notified to the membership each quarter, so that information is publicly available. In terms of hotels, there is no similar provision but there are provisions both in the Registered Clubs Act and the Gaming Machines Act which impose certain restrictions on data being issued.

**Ms LEE RHIANNON:** Sorry, I did not fully understand that last bit. Are we talking about hotels?

**Mr FOGGO:** Yes. What I am saying—

**Ms LEE RHIANNON:** So there are legal restrictions on releasing the information? Is that what you are saying?

**Mr FOGGO:** Yes. Section 206 of the Gaming Machines Act provides for certain restrictions. Exemptions can be granted to those restrictions, and in terms of the information that was provided in relation to clubs an exemption was provided.

**Ms LEE RHIANNON:** Are you saying that it is illegal for you to put up the revenue from poker machines in pubs?

**Mr FOGGO:** I would have to look at that.

**Ms LEE RHIANNON:** Can you take that on notice, because I am trying to understand why there is a discrepancy?

**Mr FOGGO:** There are two issues. One issue for clubs is that members of clubs should know and understand how their club is operating. However, in terms of hotels there are some commerciality issues in terms of how much of a person's business you make available to the public. It is not an easy issue.

**Ms LEE RHIANNON:** When you say "it is not an easy issue" do you mean that it is not an easy issue for you to determine what the situation is under the law or not an easy issue because you are being lobbied? What do you mean?

**Mr FOGGO:** I suppose most people feel that their personal financial dealings are personal to them. There is an issue about privacy. There is an issue about commerciality. There is an issue about those broader community concepts that we have as to whether or not that data should be freely available.



**Ms LEE RHIANNON:** I misunderstood when you were talking about privacy. You mean privacy in terms of perhaps commercial in confidence, that this pub has raised all this money but it should not have to tell anybody about it because it is a business. Is that what you mean by privacy?

**Mr FOGGO:** Yes.

**Ms LEE RHIANNON:** This issue has been debated at different times. Clubs New South Wales Chairman Peter Newell, when writing about this, stated:

Doesn't the safety of 52,000 people who work in registered clubs matter to the Premier? Just because their club does not make political donations to the Labor Party doesn't make their safety any less important than that of a person who works at a pub worth tens of millions of dollars.

He said that in response to a comment that I understand the Premier had made about the issue of safety for people in pubs. Do you consider that the issue of safety as a reason why this information should not be released?

**Mr FOGGO:** It is not appropriate that I comment on political issues, but, with regard to the safety issue, the Australian Hotels Association approached the department in relation to an application under freedom of information legislation. The application sought the release the top 200 hotels' gaming information. Eventually, that freedom of information application went to the Administrative Appeals Tribunal for determination, and it was determined that the information should be released. From my recollection, that information did not provide individual amounts of turnover, tax or profit but it did list the top 200 hotels. Part of the issue was that the freedom of information [FOI] officer who determined that application in the initial stages was of the view that there were some safety issues in terms of robberies. That view was supported by the Commissioner of Police but, nevertheless, the Tribunal overruled it.

**Ms LEE RHIANNON:** Thank you very much. Would you please take that question on notice—if it is a legal requirement?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I note in your allocation from the Casino Community Benefit Fund you have some money going to the University of New South Wales for statistics on gambling. You would be aware that, for a number of years, I have tackled the department on the issue of payment for statistics to enable gaming research. Are they the only statistics you provide, and do you do that as a grant? It is effectively a grant to yourselves, is it not, in the sense that you are providing those statistics? If you give them money and they provide statistics, you are not actually giving the money away at all, you?

**Mr FOGGO:** I am not sure. I do not think it was a grant for them to buy information from us. Over recent days I have received an application from a professor—I cannot recall his name—in relation to the provision of some data at no cost. We are in consultation with that professor at the moment as to exactly what information he requires and how long it might take us to get that information out. We do have a reasonable amount of data that is quite easy to access but, as I think I explained at the last parliamentary estimates committee hearing, depending on the complexity of the data and where we have to get it from, it might take up to a fortnight of a resource to put it into a format that a person wants. We are having some discussions at the moment with the professor from Newcastle about what we have easily available and what we do not. I will certainly seek to assist.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I am not talking the about a one-off situation; I am talking about the general principle that you are making millions of dollars, 11 per cent of the State's revenue, from gaming and some poor old university researchers want to look at where you are doing the harm and what can be done about it, you give them \$53,000 in one case and \$59,000 another, and then they say, "Hang on, can we have some data?" On the costs of data that were given to us by Mr Brown couple of years ago, you would eat up more than that just getting the data, to start with. Is it not just a lovely little circular system? This data should be publicly available for people who want to research it, surely?

**Mr FOGGO:** You said "this data," but the amount of data that we hold is quite extensive. It is all right to have a simplistic view about these things, but in reality people ask for data in relation to

not only gaming machines but types of gaming machines, and whether the colours of the gaming machine is red and white and so on, and that takes considerable work on our part to do.

**The Hon. EDDIE OBEID:** It is time consuming.

**Mr FOGGO:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In other words, there are two sorts of researchers. There are people who want to know if you can get more revenue by changing the colour of your screen, who presumably should pay every cent they can for that, because they are really only gaming to worsen the problem if they you can get more money out of punters with red machines or blue machines, with or without flashing lights. But I am talking about people research into academic purposes in the public interest, to see how many gamblers are losing their money. Surely you should be able to certify a bona fide researcher and, if there is a bona fide researcher, you could let him or her have access to the databases and they could find the stuff for themselves—if cost is such a huge problem.

**Mr FOGGO:** That is certainly the way we are going at the moment. Again, as I explained to Ms Lee Rhiannon, there are provisions in legislation about the release of this sort of data and, while there are exemptions to those provisions, we need to look at those things with a degree of objectivity, I think. We have to look at what conditions we can impose on the provision of that data so that it does not become publicly available. They are some of the concerns that we have. But the instance of the professor from Newcastle University that I was talking about, to my knowledge it is the first time anyone has written to us and asked us to provide data free of charge. It might have happened in the past, but to my knowledge that is the first time.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I know that the cost of data was prohibitive before, because I spoke to Jan McMillan about that. I do not know whether that stopped her from undertaking research. All the discussions I have had with Mr Brown over the years have been about the cost to the department of providing data. Perhaps the lateral thinking way of doing it would be to have an FOI permit or whatever for bona fide researchers to get their own data, because working on databases is not rocket science.

**Mr FOGGO:** Even the FOI legislation contains an exemption, which states that if there is an unreasonable diversion of resources you can refuse. Some of the requests we get are in that league. I have an information technology [IT] branch and I do not want them working full-time picking out data for somebody else. They have a job to do to make my office as efficient and effective as it can be. We do not have the resources to be able to assist everybody.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** If gambling in New South Wales is costing punters dearly—and I believe it is costing far more than it ever returns in revenue, but that is a position cannot be tested in the absence of good data on how much money is wasted and the consequences of that poor decision making about family money—if the problem is your IT department having to divert resources from providing data that you think is important for sustaining system, surely you could licence bona fide university researchers, or researchers genuinely acting in the public interest, to work through that data with certain conditions on publication?

**Mr FOGGO:** As I said, this is the first application we have received. We are looking at some policies and some conditions that we might impose on that, should we grant access to that data at a certain cost or at zero cost. That is what we are looking at. One of the concerns I have, and I spoke before about having some uniformity in the way researchers look at problem gamblers and how we define gamblers, is that I think that we should also impose some glossary of terms and define those terms as to what is turnover, what constitutes profit from gaming machines and those types of issues. There are a lot of ill informed views, and it has never been stated in the press what constitutes turnover and what constitutes profit or player loss.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** If someone is doing bona fide research, presumably they are interested in the precise definition of terms and it is not up to you to define what the turnover is. There are a number of possibilities, and when you write a research paper

you define the terms precisely, one hopes. It is not the fault of the researcher that a shock jock or a tabloid newspaper goes for a headline on a loose definition, surely?

**Mr FOGGO:** But if we are going to be able to aggregate research we have to do so from a similar ways. As I said before, we have to look at apples with apples and oranges with oranges. It is no use the research looking at bananas.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** You are second-guessing the researcher.

**Mr FOGGO:** No, I am not doing that at all.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Well, you are saying they cannot define turnover or profit unless they take your definition. In a sense, you manage data how you think and you define items of data in your conclusions, and presumably these people are going to publish reputable material that will be judged on its merits. Surely you are not going to want to stop that?

**Mr FOGGO:** No, what I am trying to do is, with the plethora of research that is in the problem gambling area at the moment, part of the difficulty has been one research document cannot be aligned with another research document because they do not have the same basic definitions on a whole range of topics.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** This is often a problem in the early stages of research.

**Mr FOGGO:** That is right, and we are trying to overcome those problems.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** And literature develops. Do you have a problem with the idea that researchers are authorised to mind their own data if the problem is the cost of you getting the data for them?

**Mr FOGGO:** I do not have a problem with that, but there are also issues with security of that data, the release of that data, how it is released and it in what form it is released. There are a few issues like that.

**CHAIR:** Are there any questions from Government members?

**The Hon. EDDIE OBEID:** No.

**CHAIR:** We will then commence another 20 minutes of Opposition questions.

**The Hon. DAVID CLARKE:** Mr Foggo, are you aware that toy poker machines are being sold to children in New South Wales?

**Mr FOGGO:** I do not have any personal evidence of that but I have seen some press reports about that.

**The Hon. DAVID CLARKE:** So you are aware?

**Mr FOGGO:** Yes.

**The Hon. DAVID CLARKE:** Is that a matter that concerns you?

**Mr FOGGO:** As the Office of Liquor, Gaming and Racing, there are certainly no legislative provisions under my responsibility by which we can take any action in relation to that.

**The Hon. DAVID CLARKE:** Do you think there might be a moral responsibility that you raise the issue with the Minister?

**Mr FOGGO:** That has been done. Our Minister, Grant McBride, has raised the issue with the Office of Fair Trading.

**The Hon. DAVID CLARKE:** When did he raise the issue with the Office of Fair Trading?

**Mr FOGGO:** We are drafting a letter at the moment to do that. The issue came up late last week or over last weekend. That is an issue that has been raised.

**The Hon. DAVID CLARKE:** So it is a matter of deep concern to you?

**Mr FOGGO:** I am not sure about deep concern.

**The Hon. DAVID CLARKE:** But sufficient for you to raise it with the Minister?

**Mr FOGGO:** To raise it, yes.

**The Hon. DAVID CLARKE:** You would agree that it would be very damaging to children in the community for the practice of these toy poker machines to continue to pervade onto the market?

**Mr FOGGO:** On a personal basis I do not think it is of deep concern to me. I think people, individuals, parents, guardians, have a responsibility to ensure that whatever toy their child uses is appropriate in the circumstances. That can go for anything from a pack of cards, which can also be used for gaming, to a toy gun. It is a matter of personal choice and personal responsibility for parents.

**The Hon. DAVID CLARKE:** But you would not be suggesting there should be no controls over certain toys that are going out there? You are not suggesting that every situation should be left to the parent?

**Mr FOGGO:** No, I am not suggesting that at all. I think there are certainly those toys that can provide an atmosphere that is unhealthy for the child physically or mentally or whatever, so it is appropriate that that occurs.

**The Hon. DAVID CLARKE:** Has your department conducted an analysis of the impact on clubs and clubs ability to provide employment and recreational facilities following the imposition of increased taxes on gaming revenue?

**Mr FOGGO:** No, we do not have those figures on employment.

**The Hon. DAVID CLARKE:** Would that not be a matter of concern to you, that it would impact on employment and recreational facilities and other services provided by clubs to the community?

**Mr FOGGO:** Taxation is an issue for the Treasurer, and I do not wish to comment on that. Suffice to say that tax rates in New South Wales continue to be below those in other States, well and truly below certain States.

**The Hon. DAVID CLARKE:** I am not talking about tax, I am talking about the impact on clubs as far as employment is a concerned. Is that a matter of concern to you?

**Mr FOGGO:** From increases in tax?

**The Hon. DAVID CLARKE:** Yes.

**Mr FOGGO:** As I said, increases in tax are not my responsibility.

**The Hon. DAVID CLARKE:** For any reason? Do you have a concern about employment levels in clubs?

**Mr FOGGO:** Yes. We certainly believe the club movement plays a vital role in providing services and entertainment and all sorts of things throughout New South Wales and we would like to see that industry continue to prosper.

**The Hon. DAVID CLARKE:** It is important, because the clubs employ many thousands of people throughout New South Wales?

**Mr FOGGO:** They certainly do.

**The Hon. DAVID CLARKE:** But you have no figures on the impact of increased taxes on gaming revenue and employment in the clubs?

**Mr FOGGO:** No.

**The Hon. DAVID CLARKE:** Do you think it is something you should be investigating?

**Mr FOGGO:** I think that is an issue for the clubs to bring to us if they feel there are issues with that. If there are issues of tax rates I think the avenue there is to raise it with the Premier or the Treasurer.

**The Hon. DAVID CLARKE:** Have the clubs complained to you that increased taxes are impacting on their employment levels?

**Mr FOGGO:** No.

**The Hon. DAVID CLARKE:** You have had not a single complaint from the clubs about employment levels because of increased taxes?

**Mr FOGGO:** On a personal basis, no.

**The Hon. DAVID CLARKE:** Your department I am talking about.

**Mr FOGGO:** I think during the tax debate, until that was resolved there was always an issue about what the impact of future increases of tax would be, but it was more always projected in the future rather than the actuality.

**The Hon. DAVID CLARKE:** So as far as you are concerned, there is no concern out there by the clubs regarding employment levels?

**Mr FOGGO:** My view is there is less concern now than there was previous to the changes to the tax rates.

**The Hon. DAVID CLARKE:** But there is still concern out there?

**Mr FOGGO:** I think there is always concern about employment rates, it does not matter whether it is the club industry or any other industry.

**The Hon. CATHERINE CUSACK:** Are you aware that I have been asking questions of the Premier's Department regarding your engagement of Robert Griggs with the Department of Gaming and Racing?

**Mr FOGGO:** Yes, I have read that in the parliamentary estimates.

**The Hon. CATHERINE CUSACK:** You are also aware that the Premier's Department has referred me to Gaming and Racing?

**Mr FOGGO:** Yes.

**The Hon. DAVID CLARKE:** What was the duration of Mr Robert Griggs's employment with the Department of Gaming and Racing?

**Mr FOGGO:** Mr Griggs came to the Department of Gaming and Racing following a request from our director general to the Director General of the Premier's Department in July 2003.

**The Hon. CATHERINE CUSACK:** That was a request made by the Director General of Gaming and Racing to the Director-General of the Premier's Department?

**Mr FOGGO:** Yes. At that stage the department was undertaking a number of significant pieces of work, and the then Director General of the Department of Gaming and Racing sought some additional assistance from Dr Gellatly, the Director General of the Premier's Department.

**The Hon. CATHERINE CUSACK:** That was Mr Brown?

**Mr FOGGO:** That is right, Ken Brown.

**The Hon. CATHERINE CUSACK:** Was there any documentation or information as to why Mr Griggs was identified as a person particularly required by the Department of Gaming and Racing?

**Mr FOGGO:** He was not particularly required. Dr Gellatly's letter back to Mr Brown of 16 July 2003 in fact had a discussion about a number of officers that might fit the bill. It was decided that Mr Griggs would be that person.

**The Hon. CATHERINE CUSACK:** Would you be able to table that correspondence?

**Mr FOGGO:** I would like to seek the views of the Director-General of the Premier's Department, seeing he wrote it, before I do that.

**The Hon. CATHERINE CUSACK:** What is the date of the letter from the Director-General of Gaming and Racing?

**Mr FOGGO:** It was 4 July 2003.

**The Hon. CATHERINE CUSACK:** And Mr Gellatly's response?

**Mr FOGGO:** It was 16 July 2003.

**The Hon. CATHERINE CUSACK:** The annual report of the department states that Mr Griggs filled the position from 7 July 2003, which is a date prior to Mr Gellatly's letter of 16 July. Do you know how that could have happened?

**Mr FOGGO:** The letter of 16 July 2003 says :

This letter is to confirm the discussions between us and the need for the DGR to receive additional assistance to meet the objectives of the Alcohol Abuse Summit.

Obviously the letter of 16 July just confirmed the previous discussions.

**The Hon. CATHERINE CUSACK:** Yet it also nominates other people who might be suitable for the position. Were those other officers on the unattached list?

**Mr FOGGO:** I do not know.

**The Hon. CATHERINE CUSACK:** Was Mr Griggs appointed to the position of Director of Communications and Strategic Support on 13 April 2004?

**Mr FOGGO:** I do not know. If it is in our annual report, that is probably the case.

**The Hon. CATHERINE CUSACK:** What was Mr Griggs's senior executive service [SES] level?

**Mr FOGGO:** Mr Griggs was not an SES officer.

**The Hon. CATHERINE CUSACK:** What was he?

**Mr FOGGO:** He was a temporary employee.

**The Hon. CATHERINE CUSACK:** What was the purpose of the correspondence between Mr Brown and Mr Gellatly? Was it to second Mr Griggs from the Premier's Department?

**Mr FOGGO:** Yes, it was by way of secondment. He was at that stage employed by the Premier's Department, as I understand it. We were after additional resources. They were provided in the form of Mr Griggs.

**The Hon. CATHERINE CUSACK:** I will come back to that issue in a moment. When you say Mr Griggs was a temporary employee, was his grading at level 5 SES?

**Mr FOGGO:** His package was, as I understand it, within a similar bandwidth of SES grade 5. But he was not an SES officer, as I have said.

**The Hon. CATHERINE CUSACK:** The annual report describes his position as Director, Communications and Strategic Support Division (SES Level 5).

**Mr FOGGO:** That is the equivalent level. There is a general requirement in providing annual reports that people on SES level 5 or equivalent have a performance report in the annual report. Mr Griggs fitted that category and that is why it is in there in that provision.

**The Hon. CATHERINE CUSACK:** Although his position and level are described as Director, Communications and Strategic Support Division (SES Level 5), he was not an SES officer, he was a temporary employee?

**Mr FOGGO:** That is right.

**The Hon. CATHERINE CUSACK:** Was Mr Griggs remunerated at any time at the SES level 6 salary? If so, for what period?

**Mr FOGGO:** Not that I am aware of. For the time that he was employed with the Department of Gaming and Racing I think his salary was roundabout level 5 SES.

**The Hon. CATHERINE CUSACK:** When did his employment with the department finish?

**Mr FOGGO:** I do not think I have got the exact date here. It was probably August of this year. I will take it on notice. I think it was mid-August.

**The Hon. CATHERINE CUSACK:** Was he the Director of Communications and Strategic Support when that employment finished?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** Who prepared the proposals for the 2004 restructure of the Department of Gaming and Racing?

**Mr FOGGO:** I am not sure I recall a 2004 restructure. At that stage the Director-General would be responsible for it.

**The Hon. CATHERINE CUSACK:** Was there an external person who undertook that restructure or were the restructure proposals internally generated?

**Mr FOGGO:** Restructures within organisations are the purview of the departmental head.

**The Hon. CATHERINE CUSACK:** Sometimes they seek external assistance in preparing their proposals; sometimes they do not.

**Mr FOGGO:** Not that I can recall. The issue, from my looking at the file, was the reason why the department sought additional resources. We had a fair number of high-profile projects happening at that stage. That is when we sought some assistance.

**The Hon. CATHERINE CUSACK:** To be clear, I understand Mr Brown sought the services of Mr Griggs from 7 July 2003, as you have indicated, because he wanted additional resources for some initiatives he was implementing. That lasted until about April 2004.

**Mr FOGGO:** Sorry, I do not think that is quite right.

**The Hon. CATHERINE CUSACK:** If you could hear me out and set me right after I have finished. The Minister then approved on 30 March 2004 a restructure of the department. Then Mr Griggs was appointed on a temporary two-year secondment to the new position of Director, Communications and Strategic Support.

**Mr FOGGO:** I would have to check some records about that. I think when Mr Griggs first arrived in the department he had a title called Executive Director, or something like that. There was some restructuring; I do not know whether it was around 2004 or not. We started a new division, which was the Communications and Strategic Services Division, and Robert Griggs headed that division.

**The Hon. CATHERINE CUSACK:** That was a new secondment?

**Mr FOGGO:** No, it was part of the ongoing secondment.

**The Hon. CATHERINE CUSACK:** When you say he was seconded, are you referring to him being seconded from the Premier's Department?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** Which position did he hold in the Premier's Department that he was being seconded from?

**Mr FOGGO:** I have no idea, I do not know.

**The Hon. CATHERINE CUSACK:** There must be some documentation. If he has been seconded from the Premier's Department, they must have indicated what position he was being seconded from?

**Mr FOGGO:** You would have to ask the Premier's Department that. It is certainly not here. It is not on the papers that I have.

**The Hon. CATHERINE CUSACK:** There must have been some reason why Mr Brown contacted the Premier's Department. He must have been under the impression that Mr Griggs was working in the Premier's Department in order to initiate a request for secondment.

**Mr FOGGO:** I cannot conjecture on that. I have a letter here that Mr Brown wrote to Col Gellatly indicating that he would like some additional resources. I have a response from Dr Gellatly—

**The Hon. CATHERINE CUSACK:** Does that letter request a secondment?

**Mr FOGGO:** It says:

I am writing to formally confirm our agreement for the secondment of Mr Griggs to the Department of Gaming and Racing. As you are aware, my department has been identified as lead agency in the Government's up and coming Alcohol Abuse Summit and also have been called on by the Minister for Gaming and Racing, the Honourable Grant McBride, MP, to initiate a major gambling harm minimisation inquiry and review of alcoholic drinks which appear to target young children.



**The Hon. CATHERINE CUSACK:** In relation to the 2004 restructure of the department and the decision to establish these SES positions, were they formally evaluated to determine what grading they should have?

**Mr FOGGO:** No, they were not. There was never an evaluation of the position of director, communications and strategic services.

**The Hon. CATHERINE CUSACK:** Who decided that it should be a level 5 SES position.

**Mr FOGGO:** No-one, because it had not been evaluated. We had an unevaluated position. Because we had seconded Mr Griggs to that position, he was paid his former salary at the Premier's Department.

**The Hon. CATHERINE CUSACK:** Was that all paid by the Department of Racing and Gaming?

**Mr FOGGO:** In the initial stages, no. The initial agreement for the first year was that Premier's Department would provide financial assistance of \$95,000 towards the secondment.

**The Hon. CATHERINE CUSACK:** Was that regarded as a top-up payment? Brad Fitzmaurice was working in the Premier's Department and filled the Agent General's position in the United Kingdom. I think it was graded at a lower level than his existing salary and he was paid the amount that position attracted by the Department of State and Regional Development and the Premier's Department topped up his salary. Was there a similar arrangement for Mr Griggs?

**Mr FOGGO:** No, he was on a salary. It was a simple arrangement between departmental heads, which often happens. If we are seeking resources from another agencies, there will be a financial agreement or accommodation between the directors general as to who pays the salary.

**The Hon. CATHERINE CUSACK:** There must have been some process whereby the Premier's Department decided to pay \$95,000 and the Department of Racing and Gaming decided what it thought the position was worth. The salary is in two components.

**CHAIR:** The time for Opposition questioning has expired.

**The Hon. MELINDA PAVEY:** The question was asked and we allow the answers to be given.

**CHAIR:** If you do not mind Mrs Pavey, the question has been asked multiple times.

**The Hon. MELINDA PAVEY:** No.

**The Hon. CATHERINE CUSACK:** No, it has not.

**CHAIR:** Mr Foggo, if you would like to finish answering the question, please do so. We will then move on to a new area of questioning.

**Mr FOGGO:** Could the honourable member repeat the question, please?

**The Hon. CATHERINE CUSACK:** The salary was paid in two parts. How was it determined which part the Premier's Department paid and which part the Department of Racing and Gaming paid?

**Mr FOGGO:** Mr Griggs was paid through the Premier's Department and we reimbursed that department. The letter of 16 July states:

As agreed with you, Mr Griggs can remain on the payroll of the Premier's Department for the duration of the secondment. The secondment is to be reviewed in 12 months' time.

The Premier's Department paid \$95,000 and we paid the remainder. We would have made a direct financial contribution, drawn a cheque, and sent it to the Premier's Department.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I know that the number of poker machines is pegged, and you gave the figure of 104,000. Is the take per machine rising and are figures produced on that?

**Mr FOGGO:** Yes. We give a figure in our annual report for the average metered profit taken from machines in clubs and hotels.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Are gambling interests asking you for data on machines to facilitate research about which type of machine gives the best return?

**Mr FOGGO:** Not manufacturers.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But if others asked you for that information, would they get it if they paid for it?

**Mr FOGGO:** The return-to-player percentages approved for poker machines are not that secret—

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** It is not necessarily a return-to-player percentage.

**CHAIR:** Order! Dr Chesterfield-Evans, please let Mr Foggo answer the question before asking a subsequent question.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The trouble is that if he gives a very long answer I can ask hardly any questions.

**CHAIR:** You have 20 minutes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I have to judge, but I might need even more than that. I want to judge whether he has given enough of an answer.

**CHAIR:** Let us try, for the sake of the Hansard reporter, to allow answers to be uninterrupted.

**Mr FOGGO:** We get lots of applications under the freedom of information legislation for access to data. I cannot recall that someone has asked which particular type of machine is most played or brings in the most money for the venue. It would take an enormous amount of our resources to do that. If someone asked we would probably refuse on the grounds that it would be a drain on our resources.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** You have said that there are hardly any requests for research and now you have said that there are loads of FOI requests. Who is making the requests?

**Mr FOGGO:** We get a lot of FOI requests from journalists.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I note that you give out money for gambling services as part of the Casino Community Benefit Fund. Do you monitor the outputs of those gambling services—how many clients they are seeing and how much good they are doing?

**Mr FOGGO:** Yes. As Ms Sturevska said previously, the trustees impose a condition on funding arrangements with service providers. Following each counselling session a set of data must be submitted to the department. Counsellors do that via the Internet and provide that information daily and weekly. From that we have been able to build up a fair amount of data in relation to how many people are seen by particular counsellors in particular areas. Using that methodology, would we look at hot spots. If hours are going up on a percentage basis in an area there may be a waiting list. We are trying to overcome waiting lists, so we might purchase more services in that area.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you get an overall picture of the harm gambling causes to the community from that data? Is there any attempt to collate that data to create a picture of the harm that gambling is doing to the community?

**Mr FOGGO:** No.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** If so, who does that collation?

**Mr FOGGO:** We do not collect data about how much people may have lost on gaming machines.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So although you are monitoring the Casino Community Benefit Fund—

**Mr FOGGO:** We are obviously concerned about the social impacts.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But you are not putting together a pattern of losses and the social effects.

**Mr FOGGO:** It is up to the individual to come forward.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** They have come forward to the gambling service and said that they are in trouble and the gambling service helps them. Surely it is up to you as a policy arm of the Government to work out what effect gambling is having on the State, is it not?

**Mr FOGGO:** Some of the data collected is all over the place. For example, spending \$100 on gaming may be a problem to the individual concerned because they cannot afford it. However, someone else could spend \$5 million on gaming and it may not be a problem.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Presumably, if Kerry Packer does not turn up at the Salvation Army in relation to gambling problems, somebody else might. Presumably you would collate the impact on the families—or someone should do that. If the Government is happy to get 11 per cent of its revenue, it might at least look at the side-effects of that policy and that revenue stream. But you are not doing it, is that what you are telling me?

**Ms STUREVSKA:** Collecting the basic demographic information is the first step towards looking at social impacts. Essentially what we are doing at the moment is, we do not have a clean slate in New South Wales. We do have problem gamblers, and the important thing is to try to provide services for those problem gamblers. I think problem gambling is still in its infancy and social impacts are a really important issue, and I believe they will be looked at. But it is still in its infancy, and it is not appropriate for it to happen now. We do not have all the information that would be required to conduct a social impact assessment properly.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is the department working energetically to get this project together, and when might we expect results from this energy?

**Mr FOGGO:** In terms of the Responsible Gambling Fund, there is a national framework for problem gambling. At the moment we are developing a strategic plan with the Responsible Gambling Fund which fits into that strategic framework. That strategic framework looks at four basic focus areas: public awareness and education, responsible gambling environments, intervention and counselling support services, and national research and data collection. We are working hard to ensure, as best we can, that we put enough resources into that and do it as efficiently and effectively as we can.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Coming back to country pubs and gambling machine entitlements being sold and tied to licensees after the *Benwine v. Liquor Administration Board* decision, is there any movement in the department to look after the interests of publicans who have effectively had their assets stripped by licensees who take their poker machine entitlements and yet had not owned them historically?

**Mr FOGGO:** I think the Minister in the previous parliamentary estimates hearing answered a fair range of the questions in relation to this. But each individual lessor, or lessee for that matter, can take that issue to the courts, and some of them on limited occasions have done that. There is a provision at the moment, that we have put together, whereby, prior to an application for transfer of an entitlement is granted, lessors, or lessees for that matter, can approach the Liquor Administration Board and put in a clog, I suppose, on the transfer of that entitlement, and indicate to us that they have a financial interest in that. If that is the case, the board will contact that person if there is an application for transfer of those entitlements.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is that not a procedural answer when the Liquor Administration Board is likely to be overruled in favour of the lessee, under the *Benwine v. Liquor Administration Board* decision?

**Mr FOGGO:** The difficulty with this issue is that the facts surrounding each case will be different.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Does that not mean that the Liquor Administration Board ought to get the power to investigate each case on its merits? I mean, there are not a million of these cases. Would that not require a small legislative change?

**Mr FOGGO:** It does do that now. But lessors or lessees can appeal against the determination of the Liquor Administration Board, and that is what happened in the Benwine case.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But in that case, where perhaps the poker machines were owned by the hotelier and the poker machine entitlements were owned by the lessee, the lessee simply sells the entitlements, the hotelier is left with poker machines he cannot use, and the lessee has skipped off to the Gold Coast with his white shoes.

**Mr FOGGO:** All these things go back to the facts of the circumstances and what were the commercial arrangements between the lessors and the lessee at the time these entitlements came into existence. Prior to 1998 when pubs had poker machines, there was a range of commercial structures between lessors and lessees about who purchased the gaming machine, who did not purchase, whether they purchased it in joint—

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you concede, though, that this situation of one size fits all, with the lessee getting the poker machine entitlements, has led to cases of gross unfairness?

**Mr FOGGO:** I do not think there is one size fits all in this. I think—

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Let us assume there is not one size. Do you say that one size fitting all has led to unfairness?

**Mr FOGGO:** It is a commercial relationship. I think that if there is a commercial relationship and one party breaks that commercial relationship, to the detriment of the other, the other has the ability to take that issue to the courts. That is what is happening in these cases.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But the ambiguity in the law, which has been taken as read as favouring the lessee, is, in a sense, an anomaly allowed by the law. Would you concede that?

**Mr FOGGO:** No, I would not concede that.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is this matter before the Cabinet, do you know?

**Mr FOGGO:** Not that I am aware of.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** With regard to Betfare, is it true that the turnover of bookmakers has decreased by \$1 billion?

**Mr WHELAN:** \$1 billion?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is it 10 per cent?

**Mr WHELAN:** That question was asked at the first estimates hearing. I think we have the response here.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Are you aware that \$1 billion in gaming revenue has left New South Wales in the last 12 months, and that that amount has grown?

**Mr WHELAN:** No, it is not \$1 billion.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Bookmakers' turnover is down severely, is that not correct?

**Mr DE VEAUX:** It is down on the previous two years. In the previous two years it has been down, that is correct.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is this related to Betfare, do you think?

**Mr DE VEAUX:** That is supposition. I would say probably not, because Betfare only started in Australia in February this year. It was operating overseas before then.

**Mr WHELAN:** As I indicated at the previous hearing, Betfare advised us they only have 4,000 clients in Australia.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So you do not think Betfare is a problem yet?

**Mr WHELAN:** I do not think there is an incredible amount of money wagered on Betfare at this point in time.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But it may become so in future?

**Mr WHELAN:** Who knows.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In your answer to my question on notice you simply stated the situation with regard to people being able to use the Internet up to half an hour before a race meeting in New South Wales.

**Mr WHELAN:** Half an hour before the first race, that is right.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Does that not give New South Wales bookmakers a considerable disadvantage compared with interstate bookmakers?

**Mr WHELAN:** Punters can still go to the racecourse. There is a race meeting at Randwick tomorrow. People can go to the racecourse and bet right up until jump time, with any bookmaker.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But are not New South Wales bookmakers disadvantaged?

**Mr WHELAN:** In the Northern Territory you can certainly get on right up until jump time via the Internet. That is the case, yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In New South Wales, you cannot?

**Mr WHELAN:** That is right.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So that is a disadvantage for New South Wales?

**Mr WHELAN:** You could say that, yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** And New South Wales' turnover is down?

**Mr WHELAN:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you think the two things are related?

**Mr WHELAN:** Possibly.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I gather the enforcement is a Federal matter. You said you have referred the question to the Federal department. That was your answer, was it not?

**Mr WHELAN:** I think we have provided a written answer to the question you asked last time.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Yes, you did. You said that it is basically a Federal matter.

**Mr WHELAN:** This is Internet betting?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Yes. It is your answer to question 7.

**Mr WHELAN:** The answer was, "These are issues relating to the Australian Constitution that impact on New South Wales legislation in this area. These issues are currently being examined."

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is that not cold comfort to the bookies, though?

**Mr WHELAN:** For the New South Wales' bookies?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Yes.

**Mr WHELAN:** The point to be made, and the one that we have outlined here, is the contribution that bookmakers make to the racing industry in New South Wales. \$220 million is the figure that goes to the racing industry from the TAB; \$6 million is the figure that goes to the racing industry from bookmakers. You could also have a look at other initiatives by the New South Wales Government to assist bookmakers in the past. I suppose probably the most important one is the abolition of the turnover tax. Bookmakers pay no tax to the New South Wales Government. We have also introduced betting auditoriums. We have introduced sports betting.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Are you less interested in bookmakers because they do not contribute to the prize pool?

**Mr WHELAN:** No, not at all. As I was outlining, we have certainly introduced a number of measures over the years to assist bookmakers in New South Wales.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In terms of your general questions, I notice a lot of them you have not answered on the basis it would be too expensive to answer and I notice there are 120-odd questions from various people and that you were asked how many massages people have had and how many pianos the department has, and I can appreciate you might not want to put huge amounts of funds to answer those by chasing pianos, but in terms of things like staff levels

and the use of contractors, you have not answered those questions. Surely, if good registers are being kept of contractor use in order to follow the Premier's guidelines and so on, you ought to have a register of contractors and what they cost and be able to keep track of that? They are not unreasonable questions, yet you have not answered them in your answers to the questions on notice.

**Mr FOGGO:** The answers that are provided to the first 94 questions are whole-of-government replies. But in terms of the Department of the Arts, Sport and Recreation, of which we are a branch, our annual report will show how many contractors were employed, and I think there is a figure of \$30,000—if there are over \$30,000 I think they are listed there—plus the total amount of dollars for those. So that information is available from our annual report.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So your department has done all right and the fact that the whole-of-government has chosen not to collate what you might hope is good data is, in a sense, not your valuing? Is that your answer?

**Mr FOGGO:** Somebody has totted up the questions and there are 982 questions that were asked of each role of ours as an agency, and they have probably been asked of every other agency. So there is a fair amount of work to collate for responses in relation to those.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But if some of them are the same questions one might have economised on that. A question like how much money is spent on contractors surely is a legitimate question?

**Mr FOGGO:** It is a legitimate question that can be answered by reference to any agency's annual report.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** And staff levels, again—

**Mr FOGGO:** They are also outlined in the annual reports.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is the CMS being used at all for sending messages to gamblers and is there any research on how that might happen?

**Mr FOGGO:** Not at this stage. Again, to just explain: The technical standards for the gaming machines that now apply in New South Wales are a one-way communication protocol. So the gaming machine itself cannot accept input of data or messages, as it presently stands. There have been some initial discussions with the manufacturing industry as to the provision of a two-way protocol. That would take some years to implement. We are the only State that only has a one-way protocol. But certainly that two-way protocol will facilitate things like messaging and a whole range of other issues.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do other States have two-way protocols?

**Mr FOGGO:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So why do the New South Wales machines not have two-way protocols? Is that a fault with New South Wales' machines or is it a design difference?

**Mr FOGGO:** It was a design difference just because we started down that track a long time before the other States.

**The Hon. CATHERINE CUSACK:** Just returning to Mr Griggs' position, are the SES positions in your organisation formally graded?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** So the position he held was the only one that was not graded?

**Mr FOGGO:** That is right.

**The Hon. CATHERINE CUSACK:** Can you explain that?

**Mr FOGGO:** Mr Griggs was on secondment, so he was seconded from one party to another. The issue of upgrading was irrelevant. In the normal course the secondment was initially for one year and then it was for a further two years after that. I suppose one of the issues for the department was simply that Mr Griggs, after he finished his work with us, would go back to the Premier's Department.

**The Hon. CATHERINE CUSACK:** I am not actually asking about Mr Griggs, I am asking about the position that he held. You are saying that that position did not have a grading?

**Mr FOGGO:** That is right.

**The Hon. CATHERINE CUSACK:** Does that position still exist in the department?

**Mr FOGGO:** No.

**The Hon. CATHERINE CUSACK:** Has it ever had an occupant other than Mr Griggs?

**Mr FOGGO:** No.

**The Hon. CATHERINE CUSACK:** How was it that after the restructure all of the other SES positions got graded except for that one?

**Mr FOGGO:** My recollection was that there was not a restructure as such. We had an additional body of work and we needed a person to do that. That person needed to come to a position and that position was established as the Director of Communications and Strategic Support.

**The Hon. CATHERINE CUSACK:** Can I just quote from your annual report? It says, "On 30 March 2004, the Minister formally approved of the departmental restructure which saw the establishment of a new division, Communications and Strategic Support, under Mr Griggs' responsibility". So the annual report says there was a restructure in March 2004.

**Mr FOGGO:** The restructure involved came about through additional workload on the department. That is what I am saying.

**The Hon. CATHERINE CUSACK:** But an SES position level 5 was created?

**Mr FOGGO:** Sorry?

**The Hon. CATHERINE CUSACK:** An SES position was created.

**Mr FOGGO:** Yes—well, it was established.

**The Hon. CATHERINE CUSACK:** And that position has now disappeared, is that right?

**Mr FOGGO:** That is right.

**The Hon. CATHERINE CUSACK:** Has there been another restructure?

**Mr FOGGO:** No—well, what has happened is that in March of this year the Government decided to amalgamate the former Department of Gaming and Racing with a new department called the Department of the Arts, Sport and Recreation, of which we are now a part. And as part of those machinery-of-government changes there were a number of restructures. My former position, for example, was abolished as part of that, as was this one.



**The Hon. CATHERINE CUSACK:** Was the position of Director of Communications and Strategic Support approved by the Premier's Department as part of the staff establishment of your organisation?

**Mr FOGGO:** I would have to check that. Probably it would have been, yes.

**The Hon. CATHERINE CUSACK:** Because under their guidelines all the SES positions need to have a grading. I would be interested to understand how they could have approved the position without any grading. Who determined Mr Griggs' remuneration at level five SES?

**Mr FOGGO:** Mr Griggs, as we have pointed out, was on secondment from the Premier's Department and the Premier's Department established his salary.

**The Hon. CATHERINE CUSACK:** Why was the position that was held by Mr Griggs—Director of Communications and Strategic Support—never advertised?

**Mr FOGGO:** Simply because it was a secondment. He was seconded from that position to the other position.

**The Hon. CATHERINE CUSACK:** Yes, but an ungraded SES position has been created by the department.

**Mr FOGGO:** That was just to facilitate, basically, secondment.

**The Hon. CATHERINE CUSACK:** So it was just to facilitate Mr Griggs' secondment into the department?

**Mr FOGGO:** That is right.

**The Hon. CATHERINE CUSACK:** That is not common practice though, is it?

**Mr FOGGO:** Usually you have to establish a position and have a person acting in a position. It is just a matter of establishing that position, and if there is a secondment you move the person from the seconding department into that position.

**The Hon. CATHERINE CUSACK:** Can you obtain the exact date that Mr Griggs' engagement with the Department of Racing and Gaming ended?

**Mr FOGGO:** You mean the Department of the Arts, Sport and Recreation. Yes, I will do that. I think it was 11 August but I will confirm that.

**The Hon. CATHERINE CUSACK:** What was the reason for his departure?

**Mr FOGGO:** As I said, there was a machinery of government issue. There was an amalgamation of New South Wales Arts, the Department of Sport and Recreation and the Office of Liquor and Gaming, and as a result of that a number of positions were abolished.

**The Hon. CATHERINE CUSACK:** So he was terminated. Is that how you would describe the conclusion of his engagement?

**Mr FOGGO:** I do not know about terminated. His position was abolished.

**The Hon. CATHERINE CUSACK:** The position only existed for him—we have established that. It was just a mechanism to have him working in the agency. I mean, the position follows him around. You cannot help but imply that.

**Mr FOGGO:** Once the position is abolished a number of things can happen. Mr Griggs was employed temporarily by the Premier's Department on secondment with our organisation. He was on secondment to our organisation. Once the position was abolished one option was for Mr Griggs to return to the Premier's Department.

**The Hon. CATHERINE CUSACK:** On what basis was his case referred to the Statutory and Other Officers Remuneration Tribunal [SOORT] for a determination regarding a termination payout?

**Mr FOGGO:** It was not.

**The Hon. CATHERINE CUSACK:** It was not referred.

**Mr FOGGO:** As I have indicated, he was not an SES officer. SOORT only applies to SES people.

**The Hon. CATHERINE CUSACK:** Are you aware that there was a SOORT determination in relation to this matter?

**Mr FOGGO:** There was not a SOORT determination—that is what I am trying to say—because he was not an SES officer.

**The Hon. CATHERINE CUSACK:** So the matter never went to SOORT?

**Mr FOGGO:** That is right. It could not have gone to SOORT because he was not an SES officer.

**The Hon. CATHERINE CUSACK:** Was a termination payment made to Mr Griggs?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** On what basis was that payment made?

**Mr FOGGO:** We received advice from the Premier's Department that it was appropriate that he be paid a termination payment because his position with us was abolished. My understanding was that the Premier's Department did not have a relevant position so he was offered voluntary redundancy which he accepted.

**The Hon. CATHERINE CUSACK:** On what basis was he offered the voluntary redundancy?

**Mr FOGGO:** It is normal practice. It is part of the normal employment entitlements that a person has.

**The Hon. CATHERINE CUSACK:** I just quote from the SES guidelines—

**Mr FOGGO:** I just indicate yet again that Mr Griggs was not an SES officer.

**The Hon. CATHERINE CUSACK:** The section I am referring to relates to temporary appointments in public authorities. You have indicated to me that Mr Griggs was a temporary appointment to that position. The guidelines state that if a person is employed as a temporary employee then section 72 Industrial Arbitration or Legal Proceedings Excluded and section 77 Removal of Executive Officers from Office do not apply. Therefore any applicable award provisions will apply and the person has access to unfair contracts and unfair dismissal provisions of the Industrial Relations Act. Similarly, if the person cannot be dismissed under section 77 of the Public Sector Employment and Management Act 2002 that allows for the removal for any or no reason or without notice. In other words, those provisions should not have applied to Mr Griggs.

**Mr FOGGO:** We had a letter from the Director General of the Premier's Department indicating that he was entitled to a redundancy package. I am not sure whether the provisions you read out apply in Mr Griggs' case, but certainly it was confirmed by the Premier's Department that a severance package was part of his entitlement.

**The Hon. CATHERINE CUSACK:** So a voluntary redundancy package was paid to Mr Griggs as a result of the direction of the Premier's Department?

**Mr FOGGO:** It was not a direction; it was a confirmation that it was part of his entitlements.

**The Hon. EDDIE OBEID:** Workers are entitled to it.

**The Hon. CATHERINE CUSACK:** In terms of his entitlements, were they determined by the Premier's Department or by the Department of Racing and Gaming?

**Mr FOGGO:** They were determined in accordance with the general entitlements that are available to any staff who accepts voluntary redundancy. There is a Premier's memorandum 977 that sets those out in full. It can be found on the web site.

**The Hon. CATHERINE CUSACK:** You just indicated to me that he was not a staff member; he was a temporary appointment.

**Mr FOGGO:** That is right. He was a long-term temporary appointment, going back some 20 years.

**The Hon. CATHERINE CUSACK:** There is no such thing under the Act as a long-term temporary employee. Do you agree?

**Mr FOGGO:** I have no idea.

**The Hon. CATHERINE CUSACK:** On whose advice have you been relying in relation to this matter?

**Mr FOGGO:** The Premier's Department.

**The Hon. CATHERINE CUSACK:** So you made this voluntary payment available to Mr Griggs on advice from the Premier's Department?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** Was it funded by the Department of Racing and Gaming?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** Were you reimbursed by the Premier's Department?

**Mr FOGGO:** I am not sure. We certainly have an application for Treasury to do that, yes.

**The Hon. CATHERINE CUSACK:** You have asked for the funding to be reimbursed?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** Why have you asked for it to be reimbursed?

**Mr FOGGO:** In terms of voluntary redundancies, the normal practice is that the voluntary redundancy portion of payments is met by Treasury.

**The Hon. CATHERINE CUSACK:** How was his voluntary redundancy calculated?

**Mr FOGGO:** In accordance with the Premier's memorandum 977.

**The Hon. CATHERINE CUSACK:** Is it your position that that applies to temporary employees, because my understanding is that that memorandum only applies to people who are substantive employees?

**Mr FOGGO:** It certainly applies to long-term temporaries.

**The Hon. CATHERINE CUSACK:** Did you ever seek any clarification of your obligation?

**Mr FOGGO:** As I indicated previously, I have a letter from the Director General of the Premier's Department, Dr Gellatly, confirming that redundancy entitlements were available to Mr Griggs.

**The Hon. CATHERINE CUSACK:** Are you able to advise us what the determination was? Was it a number of weeks that he was entitled to?

**Mr FOGGO:** Yes, a number of weeks. He was a long-term temporary employee, over 20 years, and I think that the situation is that he would be paid as though he was a long-term employee over that period of time.

**The Hon. CATHERINE CUSACK:** Do you have any information as to how far back his period of employment goes for the purposes of that calculation?

**Mr FOGGO:** I am advised that Mr Griggs commenced permanent employment with the Department of Housing on 12 May 1986 as a clerk grade 9/10 in the tenant and neighbourhood resource unit. In 1989 he was appointed as a temporary part-time secretary research assistant with the New South Wales Legislature. He was then temporarily appointed as a policy adviser to the Leader of the Opposition on 30 September 1994 through the Premier's Department. He resigned from the New South Wales Legislative Council position—that was his substantive position—on 3 April 1995 and was temporarily appointed to the position of director policy in the Premier's private office with effect from the following day, 4 April 1995. That happened through the Premier's Department. On 21 September 2001 Mr Griggs took up an appointment of director infrastructure and urban developments with the Department of Transport. I do not know the circumstances of that appointment, whether it was a secondment. Then he was seconded to us.

**The Hon. CATHERINE CUSACK:** Do you know the length of period of that secondment to urban affairs and infrastructure?

**Mr FOGGO:** I have no idea. That was done through the Premier's Department.

**The Hon. CATHERINE CUSACK:** What was the actual period of time that was calculated to be applicable for the purposes of calculating voluntary redundancy? There are a lot of resignations and discontinuities.

**Mr FOGGO:** It would have been from 24 January 1989, I think.

**The Hon. CATHERINE CUSACK:** Continuously?

**Mr FOGGO:** Yes. He was in continuous public service, full-time, part-time or temporary, since 1986.

**The Hon. CATHERINE CUSACK:** Is it normal practice in your department that people who have been in temporary positions may apply for voluntary redundancy based on accumulation of all that? I have certainly never heard of such a thing in my life.

**Mr FOGGO:** My understanding is that if persons are employed temporarily for more than two years they are treated as though they are permanent employees. That is my understanding.

**The Hon. CATHERINE CUSACK:** Did you have advice from within your organisation in making these decisions?

**Mr FOGGO:** I relied on advice from the Premier's Department.

**The Hon. CATHERINE CUSACK:** Did the department advise you of the calculation, or did your organisation need to do that?

**Mr FOGGO:** No. Our organisation did the calculations.

**The Hon. CATHERINE CUSACK:** And then you advised Mr Gellatly that that matter had been finalised?

**Mr FOGGO:** Yes.

**The Hon. CATHERINE CUSACK:** On what date was it finalised?

**Mr FOGGO:** In what sense?

**The Hon. CATHERINE CUSACK:** On what date was the payments made?

**Mr FOGGO:** It would have been on or after his last day of duty.

**The Hon. CATHERINE CUSACK:** The discussion about his entitlement to voluntary redundancy occurred while he was employed by the agency?

**Mr FOGGO:** Yes, but without reference to him.

**The Hon. CATHERINE CUSACK:** Are you able to tell the committee, in dollar terms, what that final determination was?

**Mr FOGGO:** Not offhand.

**The Hon. CATHERINE CUSACK:** Are you able to tell us how many weeks he was entitled to receive?

**Mr FOGGO:** No. I would have to have a look at it. It is just not in my head exactly how many weeks. But, if you take the appointment date in 1986 and look at the Premier's memorandum 97/27 you can work it out. You get a number of additional weeks depending on how old you are, how long you have been employed, et cetera.

**The Hon. CATHERINE CUSACK:** The determination was based on his finishing salary, which was at Senior Executive Service level five. Can you tell the committee what that salary was? It is published in the annual report as being \$205,587.

**Mr FOGGO:** I think it would have been that salary, yes.

**The Hon. CATHERINE CUSACK:** That was in 2004-05. Can you tell us precisely what date in August 2006?

**Mr FOGGO:** I will take that question on notice, but I think it was that amount.

**The Hon. DAVID CLARKE:** This committee was told a month ago that your department was expecting Ken Brown's review of the Thoroughbred Racing Act "in coming weeks". I think that was the expression used. What were the broad recommendations of that report?

**Mr FOGGO:** The report is in its final stages, but it has not been finalised at this stage. We expect it to probably be with the Minister within a week—around that time. It is very close to finalisation.

**The Hon. DAVID CLARKE:** That is why I am asking you about the broad recommendations of the report.

**Mr WHELAN:** We have not received the report.

**The Hon. DAVID CLARKE:** So you do not even know the broad recommendations? You have not seen it and you have no idea what is going to be in it?

**Mr WHELAN:** No. I think the announcement was that it would be delivered to the Minister in September. We are still in September and he has indicated that it is almost finalised, but we have not received the report yet.

**The Hon. DAVID CLARKE:** According to an article in the *Sydney Morning Herald* of 25 September, it took a Local Court magistrate to force the department to enforce the licensing requirements in pubs and hotels. Are you familiar with what I am referring to?

**Mr FOGGO:** I know you are talking about Coogee, but I am not sure that your spin on that report is the correct one.

**The Hon. DAVID CLARKE:** Do you think that your department's compliance officers handled the situation quite satisfactorily, and had been handling the situation quite satisfactorily before those incidents to which the magistrate referred?

**Mr FOGGO:** I think that there is always difficulty when alcohol is involved in certain premises. Certainly there are some hot spots around New South Wales at the moment that we are concentrating on. We have a number of strategies in place to try to alleviate those issues.

**CHAIR:** Thank you. We will now go to the balance of the time allotted for the Hon. Dr Arthur Chesterfield-Evans.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I will take up the question I finished with, about the New South Wales poker machines being deaf, as it were—a one-way system. When you say you were first out of the blocks on this, and that New South Wales' machines are only one way, that seems a contradiction in terms, does it not? What is the explanation that?

**Mr FOGGO:** The explanation is that, during the early part of the 1990s, the Liquor Administration Board decided to implement standards for gaming machines. In fact, to my recollection it was the first authority throughout the world to do that. At that point gaming machines were moving from an electromechanical to an electronic format and those new standards facilitated that change to being fully electronic machines. But then that they had the ability to actually communicate with other equipment, be it a monitoring system, link system or whatever. But those were very early days, I have to say, in terms of communication protocols.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** You set a one-way standard and industry said "bewdy", is that what happened?

**Mr FOGGO:** Definitely not. I think initially the industry did not think that having a standard was such a good idea. But that standard certainly raised the integrity of gaming machines to a large extent. It overcame a range of problems that existed in the electromechanical days. That was, for example, that the meters in the machines were physical meters or electronic meters, not very sophisticated and our taxation base relied on those.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** They could be fiddled—and the taxation disappeared, presumably.

**Mr FOGGO:** That could happen.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** It could have happened?

**Mr FOGGO:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** You have said that the machines outside New South Wales had two-way communication and that New South Wales' machines do not, and that that is because of the standard. Is that because the standard in New South Wales did not

specify, and have circumstances overtaken you? Are you sitting there, a little island of non-communication?

**Mr FOGGO:** That is probably right. The circumstance is that we were the first to provide a standard. Others have come on after that. Other States have come on and allowed gaming after that, and they had done so utilising a two-way protocol.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Will New South Wales hastily move to this new two-way protocol to enable gambler-specific messages to go down to CMS?

**Mr FOGGO:** We are in the initial stages of discussion with industry. I think there certainly is a wish within the industry that a two-way protocol be introduced in New South Wales. There is a fair bit of water to go under the bridge before we identify what that protocol might be, and then there are implications for providing that throughout New South Wales. As we said before, there are almost 100,000 Machines in New South Wales and, over a period of time, each one of those would have to be junked and a new will add machine put in place.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But that technology already exists, you said, everywhere except in New South Wales.

**Mr FOGGO:** It exists in various forms. In Queensland they have a thing called "Q-com". In Victoria they have two different protocols. New Zealand has just recently moved to Q-com with some differences, and there are differences overseas. The industry itself is trying to look to one standard throughout the world rather than having these pockets.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So these machines are State specific at the moment, are they?

**Mr FOGGO:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Or is it just the same machine tailored or machine tooled for a certain protocol?

**Mr FOGGO:** They are tooled for a certain protocol. To get to the two-way protocol you would not be able to change one of the New South Wales machines very easily. You would have to start again.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** It would be a retrofitting job?

**Mr FOGGO:** Well, a full retrofit, like a full new system.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Coming back to your questions and the lack of quantitative answers, is it a situation that you are saying 94 questions were asked generically of each department and each department has given a whole-of-government thing, saying it is not in my area, so there is no-one collating the data for the whole State for things like contractors?

**Mr FOGGO:** I do not think there is ever anybody collating information at that level for the whole State.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Are those questions answerable for every department?

**Mr FOGGO:** My understanding is there will be the same answers for every department for those 94 questions.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So the generic answers are the same for all and they are saying we do not collect the data statewide?

**Mr FOGGO:** That is right.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But are you saying each department has it for each department?

**Mr FOGGO:** I would assume so. Certainly we do, and I would assume other departments do the same.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But in your answers these are not the answers to your department. Do you have answers to your department?

**Mr FOGGO:** Not specifically.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** What I am saying is everyone asked for a whole-of-government response and everyone gets a whole-of-government response that there is not an answer for the whole of government and nobody gets an answer for the department. Is that the situation?

**Mr FOGGO:** I think the situation is simply a lot of effort would have to be put into providing individual answers for each one of those questions.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I take your point about the fact that you might not want to the number of massages and number of pianos, but the number of contractors, for example, and questions about staffing levels, and so on, which I think are perfectly reasonable questions, why are they not answered?

**Mr FOGGO:** They are certainly in our case. If you look at our annual reports, those issues will be fully announced in our annual reports, as well as overseas travel, contractors and number of freedom of information applications. I could go on for a long time about the requirements about what needs to go into each agency's annual report. A lot of that information in those questions could be answered by reference to the annual reports.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The IPART report, is that the Morgan report, promoting cultural responsibility?

**Mr FOGGO:** I do not think it is referred to as the Morgan report.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** That came out in June 2004 and you have given a response to it in May 2005 with a consequential report. How is the Government response to that progressing?

**Mr FOGGO:** We can give you a review of all those, if you like. John can do that.

**Mr WHELAN:** There were 113 recommendations in total; 109 were supported or generally supported or noted or not applicable. Of those 109, my advice is there were 69 actionable projects; 32 of those have been completed and require monitoring and 37 are still under way. Of that 37, 27 are on track, and the other 10 either delayed or deferred.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Can you give us details of those? Are you producing regular reports on what is happening about that?

**Mr WHELAN:** Internally, yes. I am happy to give you details. Are you just after the ones that have been delayed?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The ones you say are fixed and going happily, I would be interested to see what you have done and why you consider them completed.

**Mr WHELAN:** Sure.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Some of these things are often vague.



**Mr WHELAN:** As I said, there are upwards of 100. I am happy to take that on notice and get you the detail of how we are progressing with each of them.

**Mr FOGGO:** I spoke previously about the prevalence study, and that was one of the ones we have down here as delayed.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** That was due later this year. When is that coming out?

**Mr FOGGO:** That will come out later this year.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So it is not delayed?

**Mr FOGGO:** We would have liked it prior to this but there were some issues in relation to getting it out there. But it is on track.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** It will come out before the end of the year?

**Mr FOGGO:** Yes.

**CHAIR:** And it will be made publicly available?

**Mr FOGGO:** I am not sure about what will be made publicly available but certainly there will be parts of it.

**CHAIR:** Would you like to ask some more questions, Mr Clarke?

**The Hon. DAVID CLARKE:** Commissioner, getting back to the questions I asked you about the comments in the *Sydney Morning Herald* by a magistrate regarding events at Coogee, I think you said there was a problem out there. I was not asking you to confirm there was a problem, I was wanting to find out why compliance officers from the department had not properly dealt with the problem?

**Mr FOGGO:** There are ongoing problems, and part of the problem is patron behaviour, particularly patron behaviour after they leave the licensed premises. That is an issue we and the police are endeavouring to deal with on a range of fronts. I might ask Albert Gardner, who is our Director of Compliance to also talk about some of the strategies that we have in place.

**The Hon. DAVID CLARKE:** Thank you. Mr Gardner, when you are answering, you might be able to tell us whether your compliance officers had given any instructions or will take any additional actions following that expose by the magistrate referred to in the *Sydney Morning Herald*?

**Mr GARDNER:** With respect to the comments of the magistrate, our response was to review her material that she provided to us, which included fact sheets, which were in some way available to us in other forms via NSW Police. The issues there were not spectacularly new to us. We were aware of those issues and we had been working with those venues and that community in other forms, such as the liquor accord forum and more recently the crime prevention partnership headed by NSW Police and in particular Superintendent Rogerson.

The actions we have taken since that letter from Mrs Gilmore have been to focus a bit more closely, as the commissioner said, on issues not associated directly with the licensed premises. We are looking more at a strategic perspective here and we are looking at some other things such as patron behaviour, transport options, the use of security at a high level rather than venues. There are a number of venues there and they all have security and security conditions, and we are looking at the efficacy of those security patrols and working with the licensed venues. We have spent a fair bit of time with the licensees down there and they have been put on notice that we are doing specific covert operations in those areas, looking at patrons entering and leaving their licensed premises.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**

