

# Address to the Hume Gambling Harm Symposium

Speech given by: VGCCC Chair Fran Thorn

Title of speech: VGCCC – our role in minimising gambling harm

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## Acknowledgements

We are meeting today on the land of the Wurundjeri Woi-wurrung people of the Kulin nation.

I acknowledge them as the custodians of the lands and waterways upon which we meet, and I pay my respects to their elders, past, present and emerging.

I commend Mayor Haweil and the Hume City Council for organising today's symposium and taking such a strong lead on the issue of gambling harm.

The last three years seem to have been a never-ending litany of the exposed wrong doings of major operators in the gambling industry in Australia. In particular, in 2021 many of us were transfixed in horror at the revelations of the behaviours by the then Board and management of Crown Casino brought to light by the Royal Commission into the Crown Operating Licence – everything that people warned about as the fundamental dangers associated with gambling they seem to have embraced over time. It was a salutary tale of an organisation transfixed by one thing – profit – and which had forgotten the licence and obligations, both legal and social, on which it operated.

As a result of the Royal Commission the Government dismantled the previous regulator and created the Victorian Gambling and Casino Control Commission. The creation of new bodies is a pretty stock response from Government's when terrible wrong doings are unearthed. And you might have not been entirely without reason to look at that action quite cynically. However, in this case it has been different – for three primary reasons:

- A singular focus on regulation of gambling meant the focus of the Commission and the organisation moved from oversight of nearly 30,000 licensees to approximately 550. That alone meant that real attention could be paid to the specific behaviours and problems found in that industry. Having said that – it is a still large industry of many parts.
- Secondly, significantly increased powers in respect of the Casino, as well as a clear indication from the Minister and Government that it wanted the new Commission to tackle the problems of the industry more broadly, not just the Casino.
- Last, but not least, a new objective on harm minimisation – not just “problem gambling”.

This last change seemed small and got very little attention - compared to the appointment of a Special Manager (for the Melbourne Casino Operator) and the power to fine Crown \$100M for breaches of the Act or its licence. However, it didn't go unnoticed by the new Commission, and from the get-go we have been thinking about how this changes our regulatory approach and how we can make this a fundamental principle guiding all our actions.

And the change is fundamental. Until last year, the regulator was directed by legislation to focus on minimising harm *caused by* problem gambling. In other words, the only harm of concern was the harm associated with a person displaying an extreme behaviour. Harm was marginalised to people with a “problem”.

As of last year, we are now directed to minimise gambling harm and problem gambling. The legislation now recognises that harm is a much broader concern than just something called ‘problem gambling’, and it directs the regulator to focus on this much broader concept of harm.

Behind all the attention given to our work in the follow up action to the findings of the Crown Royal Commission we went about developing our concept of our mandate as a new regulator.

First up we released a Statement of Intent to the industry – a single page that told the industry what to expect from us. In that Statement we made it clear that it would not be enough for a licensee to meet the bare minimum of understanding and complying with their gaming licence and legal obligations. That legal licence also confers a social licence, and we expect much more, as does the Victorian community.

We expect industry participants to:

- act with integrity and be honest, trustworthy and transparent
- be accountable and cooperative
- understand their regulatory obligations
- comply with and uphold the spirit, and not just the letter, of the law, and
- actively prevent and operate free from criminal influence or exploitation.

We also expect industry participants to minimise the harmful impacts of gambling by actively protecting gamblers and their community. This Statement was our first shot across the bows to the industry – that they must be active in protecting their clients from harm.

These are not just aspirations, we made it clear that we would have zero tolerance for industry participants that opportunistically or deliberately contravene their obligations and the law and/or deliberately attempt to frustrate or obfuscate the work of the regulator. And we continue to pursue that intent relentlessly.

We weren’t just saying things to the industry about behaviour and harm, we acted as well. This has included:

- Imposing harm minimisation conditions on new applications for EGM licences – as a consequence we are now seeing applicants come forward and committing to like conditions as part of their application without being told to do so. We intend to make the process of demonstrating the benefits and disbenefits of EGMs more rigorous than in the past.
- We saved the largest fine arising from the Royal Commission into the Casino Operator and Licence for Crown’s failure to abide by its own very weak Responsible Gambling policy - \$120M, and required guarantees on harm minimisation from Blackstone, the then incoming owner of Crown.
- We’ve implemented a ‘Harm Minimisation Assessment Tool’ to support evaluation of EGM features. We utilise the Tool when we consider new, or variations to existing EGMs for use in Victoria, to ensure that we adequately consider the impacts of gambling harm when approving any EGMs of EGM games. Applications may be refused or approved subject to specific harm minimisation conditions.

- Harm minimisation requirements have been strengthened for the new wagering licence(s). The VGCCC has made it clear to all applicants participating in the competitive process that they will have to address specific criteria for harm minimisation as part of this evaluation. This is the first time that harm minimisation will feature as a requirement to be addressed specifically in the awarding of the licence(s) in Victoria.
- We have been collaborating with the Victorian Responsible Gambling Foundation (VRGF) to provide reliable and comprehensive information to consumers to assist their understanding of:
  - the nature of the gambling they are engaging in;
  - the risk of harm from these activities;
  - what they should expect of licensees in terms of providing a safe gambling environment and the role of staff to support harm minimisation; and
  - their rights, including complaint and resolution processes.
- We've clamped down on YourPlay connectivity, or more correctly lack of connectivity, including shutting down the gaming room of a non-compliant licensee, and successfully prosecuting another.

These are just a few of the concrete steps we have taken in our first 15 months of operation. We are not hesitating to advocate for legislative and regulatory reforms, particularly reforms assisting harm minimisation.

Over the past year we have focused on better understanding the issues that lead to, or exacerbate harm, as well as the options to address these issues. We do this by:

- Learning from our regulatory activities – specifically, our advocacy for reform is informed and assisted by intelligence and data from our regulatory activities. These activities allow us to identify issues in how gambling is being conducted and importantly, whether there are gaps in the regulatory framework that expose the community to gambling harm
- We actively work with regulators in other jurisdictions and those active in the gambling harm sector on emerging issues, and in considering the adequacy of policy and regulatory settings to minimise harm.
- We also engage with the Victorian Responsible Gambling Foundation to consider the latest research to inform options, identify gaps, and to challenge the status quo.

Finally, we recently released *Our Position on Gambling Harm*. It is a statement that tells you – that tells the community-at-large – that tells every gambling operator in this State – exactly where we the Commissioners stand on minimising and preventing harm from gambling. It is our effort to make clear how we will frame everything we do and think about in respect of our role in regulating gambling from a harm minimisation perspective. How it will shape our decision making.

At first read the Position Statement seems reasonably innocuous and simple - but represents something quite unusual. And this is for three principal reasons:

- Its language is unequivocal about the harm caused by gambling – no ifs, buts and equivocations
- It does not make the gambler the “problem” to be solved or blamed
- It tells operators that it is their job to join in minimising harm – not someone else’s.

We're not trying to soften the message so that it offends no one and can mean anything to anyone. We're saying it 'as it is'. As far as we're concerned, these statements are self-evidently true. End of

story. One of the striking things you'll notice is that it represents a fundamental break from the traditional narrative about gambling and harm.

For the past 30 years, concerns about harm have been pushed into the margins. The common narrative about gambling had the effect of marginalising harm by only referring to it in the context of something conveniently labelled, "problem gambling", and that this problem was experienced by a small proportion of people. This labelling has had the effect of minimising the impact of harm and tying harm to human failure.

You'll see no such language from us.

This document is our line in the sand. It makes clear to industry (and the community) that, as far as we are concerned, the future is not going to be the same as the past.

Turning to the Statement itself.

There are several broad themes running through it. We recognise, without qualification, that gambling causes harm to people who participate in gambling activities as well as other people – their family, friends, colleagues, as well as the communities in which they live. We make it very clear that harm should be prevented in the first instance and that other circumstances do not alter the fact that someone has experienced, or is experiencing, harm. Our statement recognises that while community education campaigns and industry regulation are very important in preventing harm, they cannot prevent the risk of harm entirely. Which brings us to the final key theme – gambling operators have a duty to care about, and to act on, preventing harm to their customers. After all, the operators have chosen to provide these products to the community.

Our Position Statement has seven core propositions:

1. **Our harm minimisation objective guides all our regulatory decisions, actions and expectations** (the industry is regulated because it offers a harmful product)
2. **Gambling causes harm** (link between gambling and harm is established, it is a relation of cause and effect, not about prevalence or likelihood)
3. **Recovery from harm does not alter the causal role played by gambling** (the fact that you might recover from the harm does not lessen the harm that was caused in the first place)
4. **Harm is preventable** (but we recognise that the risk of harm is always present while someone is gambling and therefore preventative action is critical)
5. **Gambling markets gravitate towards harmful offerings** (this is a highly profitable and therefore competitive industry. In seeking to make a product attractive to customers it also makes gambling attractive. Have you ever seen a gambling ad that shows people looking anything other than joyful!)
6. **Gambling regulation seeks to prevent harm** (regulation is important, but never sufficient – especially when up against a very innovative and competitive industry. Therefore we need to be collaborative and innovative in how we go about the business of regulating)
7. **Gambling providers have a duty of care for the wellbeing of their customers and communities** (we expect those gambling operators to bear their share of responsibility for preventing harm. That responsibility means operators must be on a constant look out for harm, and where they see harm, or even if they just suspect harm could be happening, they have a positive moral responsibility to act. There's no looking away from harm. Harm, or just the suspicion of harm, cannot be unseen).

To be clear, we're not just talking about complying with the law. Of course, operators must comply with the law. (Does that even need to be said? Strangely, I have found that it does!) What we're talking about

is operators taking responsibility for the consequences of their decisions to offer harmful products to the community – to uphold the interests of their customers and their communities; to show and take initiative; to go over-and-above merely complying with their legal obligations.

Let me put it as bluntly as I can: We expect gambling providers to operate *decently* as well as legally.

Our Statement on Harm is not legally enforceable in and of itself – as a regulator we are bound by the parameters of our powers. But it is what we believe, and it will guide how we take action

The two statements issued by the Commission in its first year of operation contain two mutually reinforcing propositions or messages to the industry:

- If you behave decently and co-operatively with the regulator then we will be supportive – but if a licensee operates deliberately and maliciously out of sync with the laws and their licence, they can expect us to take every action against them at our disposal (and if that is insufficient, over time seek increased legislative powers)
- Failure to honour the duty of care to protect customers and minimise harm invites scrutiny into whether a gambling provider is complying with its other legal obligations – and they can be assured that scrutiny will take place.

I expect when industry reads the Position Statement they ask, “But what does it mean? What do you expect us to do?”

And that’s exactly the point. We want the industry to ask these questions, but not of us. We want the industry to ask these questions of itself. As far as we are concerned, gambling operators are responsible for turning their minds to identifying and preventing harm. It is no longer acceptable for them to sit on the sidelines passively waiting to be told what to do. Those days are over, and the Operators must step up to their responsibilities.

Minimising harm is at the centre of our work. That’s what this Statement is telling you and telling every gambling operator in Victoria. We’re not interested in labelling or marginalising people. We’re not interested in judging whether they have acted responsibly. Our focus is on preventing harm.

We know that to do our jobs to the best of our abilities we need to form partnerships across the community – and local government forms an important player in those partnerships. As a regulator fully committed to minimising harm from gambling, we need your help. In fact, we need the help of every Victorian to identify where gambling harm is happening, how it is happening, what is causing it, and how it can be prevented.

The Victorian Gambling and Casino Control Commission was created just over a year ago reflecting the community’s despair and fury following the Royal Commission into Crown Casino. It was created to reflect changing community standards toward gambling and the harm it causes. Those changing community standards now form the keystone of everything we do.