

# TROUBLE IN TAIWAN?

By Marcus Clinch



..... The prospect of casinos on Taiwan's offshore islands in the immediate future remains uncertain despite a high degree of public optimism by some of those involved with the efforts. A look at this year's developments from afar would, in fact, appear to support that optimism. But as this year has progressed and one looks deeper into the likelihood, that optimism may appear misplaced at this stage. Misplaced optimism and casinos in Taiwan have already burned some early proponents.

There was much optimism in 2008 that legalized gaming would soon be making its way to Taiwan after the Kuomintang (KMT) won both the presidential and legislative elections. Optimism peaked with a January 2009 amendment to the Offshore Islands Development Act that permitted the establishment of casinos on Taiwan's offshore islands as part of integrated resort developments. And optimism peaked again in the lead up to a September 2009 referendum on one of the offshore islands, Penghu, on whether to permit casinos on the offshore island. That referendum, however, failed and casino proponents went back to re-evaluate how best to move forward.

The issue today is that while some lessons have been learned from the 2009 rejection in Penghu, a lot of other lessons have not. This article will provide a background on gaming in Taiwan and examine developments over the last year or so, past and current mistakes, and what needs to take place before viable casinos will appear in Taiwan.

## Background

The January 2009 amendment to the Offshore Islands Development Act permitted the establishment of casinos on Taiwan's offshore islands. The government would license the gaming activities (casinos) on the offshore islands. Gaming would only be decriminalized within the scope of that regulated activity under the governing statute and the criminal code would not be amended—much the same way as lotteries were introduced and operate in the U.S. This presently limits legal casinos to Taiwan's six offshore islands:

Penghu, Kinmen, Matsu, Green Island, Orchid Island and Little Liuqiu.

The amendment stipulated that casinos must be located within international resorts that included an international hotel, tourism facilities, international conference facilities and shopping malls. The overall objective was to develop tourism as well as infrastructure on the offshore islands. The government made a concession to casino opponents, however, by stipulating that the local island governments must hold a referendum before approving casinos—though a referendum would only need to obtain support from more than half of the voters participating in the referendum. The passage of the Offshore Islands Development Act, however, had been a long time coming and casino proponents had targeted the island of Penghu—the largest of the six and the one with the most suited infrastructure—for the first integrated resort development(s).

### Penghu 2009

By the end of July 2009, the Penghu County Business Council president announced that referendum initiators had collected 3,853 signatures in support of the casino referendum. According to the Referendum Act, a county government referendum could only be held with the signatures of 5 percent or more of the voters who cast ballots in the last county commissioner election. A total of 70,427 votes had been cast in the 2005 commissioner election, meaning that at least 3,522 signatures had been needed. The county government then had to hold a referendum within two months of the signatures being validated. The referendum was set for Sept. 26, 2009.

The Penghu County government put forward an "international vacation village construction plan" in the summer of 2009 to develop casino resorts at Houliiao Bay in Baisha Township, and Huxi Port in the township of Huxi. The development of the casino resort zone would have featured tourist hotels, a convention and exhibition center, a duty-free shopping area and a leisure port. It would have covered up to 106 hectares, including 73 hectares at Houliiao Bay and 33 hectares at Huxi Port, as well as infrastructure development on 28 hectares of marine area, making it the largest domestic project of its kind in terms of area as well as investment. It had been anticipated to draw up to NT\$60 billion (\$1.8 billion USD) in investment. The Penghu government planned to solicit business investment according to the Act for Promotion of Private Participation in Infrastructure Projects.

The Penghu County referendum, however, failed to pass. With a total of more than 70,000 eligible voters, only about 42 percent, or a little more than 30,000 people, turned out to vote. Of them, 17,359 voted against the casino plan, while 13,397 voted for it. Most people had assumed that the passage of the referendum had been a foregone conclusion—Penghu has been a stronghold of the ruling party (KMT), the legalization of gambling and the development of casinos on Penghu had the support of the KMT, and the KMT controlled legislature loosened restrictions on the referendum (the referendum had needed only half of the actual voter turnout voting in favor of the referendum to pass whereas the Referendum Act at the time usually required that 50 percent of eligible voters must vote in a referendum) to get it passed.

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## What Went Wrong in Penghu?

One of the main criticisms raised by opponents had been that the government failed to properly consider and assess the overall social and economic impact of permitting casinos. This criticism had always been there but had been left relatively unaddressed in the lead up to the referendum. The Tourism Bureau put out a tender for a study to examine integrated resort developments from a tourism perspective but the tender was not set to be awarded until September 2009 and the project would not have covered a number of the issues being raised. (This would not in fact be awarded until November 2009.) A second criticism had been that the legal and regulatory framework governing gaming in Taiwan had not been implemented and had not even been drafted at the time. (This project would not in fact be awarded until April 2010.) Citizens had to vote on approving casinos without any actual understanding of what that would mean and on the assurances from the government that all factors that could affect their communities had been properly considered.

Opponents picked up on these two failures in the month before the referendum and campaigned aggressively—even bringing in international anti-gaming experts to speak out against the developments. Proponents did not, however, respond in kind to the issues raised, rather assuming that the support would be there, and the government simply publicly dismissed concerns raised with standard “trust us” types of responses. There had clearly not been sufficient engagement with the citizens prior to and in the direct lead up to the referendum, but one more factor ensured that this failure to properly engage proved fatal—Typhoon Morakot.

Typhoon Morakot devastated southern Taiwan seven to eight weeks before the Penghu referendum. The government had enjoyed a relatively free pass by the media and the public up to that point, but its extremely poor handling of the typhoon turned out to be the straw that broke the government's back. The handling of the typhoon increased public frustration over the economy, and the government's insistence on the proposed Economic Cooperation Framework Agreement (ECFA) with China while offering little transparency or assurances about the ECFA at the same time, boiled over and took the shine off of the government's apple in August 2009. Opponents of not just the referendum, but of the KMT government, rallied and the referendum was a prime target. The rejection of the referendum was, in part, more about a growing lack of faith in the government than about the issue of gaming itself.

Proponents in Penghu would not be able to hold another referendum on the casino issue for another three years under existing laws—or September 2012. Kinmen quietly shelved plans for a referendum later that year.

## A Post-Penghu 2011

The firm commissioned by the Ministry of Transportation and Communication, the competent authority, released a draft Gaming Act in April 2011 to coincide with three public hearings on the act at the end of April and early May. One hearing was to be held on each of the three offshore islands considered viable candidates for casinos: Penghu, Kinmen and Matsu. (The study commissioned by the Tourist Bureau was and appears to still be overdue.) The firm hired to draft the act also held a conference in June 2011, bringing together local and international experts, potential stakeholders, and members of that firm have also been speaking publicly on the act and proposed regulatory regime.

The act disappointed many when released. It represents a very bare framework with most of the substantial elements to be filled in

by regulations later. It had been hoped by many that more of the nuts and bolts of the regulatory regime would be in the actual act or at least released at the same time. And its release simply left many interested parties as well as the public with more unanswered than answered questions. A number of these questions have been answered, in part, since that time while others have not. For example, what if China does not permit casino tourists to travel to Taiwan? A more final draft of the act as well as much of the supporting regulations should be completed by the end of 2011. (I am reluctant to go too far into the finer points of the act and regime at this stage as things are still in a state of flux.)

One key issue that arose at the June conference is that there does not appear to be a strategy to proactively engage the public on some of the concerns raised in 2009. There are no plans for referendums though until after the actual passage of the act, likely by June 2012, so this may change in the coming months. It was a surprise after the September 2009 loss that there appears to still be no recognition of the importance of adequately engaging the public.

The hearings held on Kinmen and Matsu though reflect the need for ongoing public engagement and a clear strategy—though the hearings were to discuss the act, many of the same questions and comments from September 2009 arose. For example, Kinmen does not need the casinos economically though most hearing attendees supported the idea of increasing tourism, many raised objections to casinos on the island. The objections were along three lines: forecast tax revenue insufficient versus potential impact to community, benefits unclear and speculation has already led to a surge in stock and property prices. Anti-gaming groups packed the hearing in Penghu, however, and the opposition in Penghu (from those groups) was to casinos in general and not just to casinos on Penghu. Concerns were raised over social and environmental consequences of casinos on all of the offshore islands.

## Trends and Penghu 2012

The approach now for most interested parties has been to mostly monitor developments with the goal of keeping options open while building and maintaining relationships. The government has an ambitious timeframe of approximately five-plus years to the opening of the first casino. There is also great interest from cities and counties on Taiwan proper in integrated resorts as well as from potential stakeholders. There are no plans though to extend the legalization of gambling further at this time and central government support for allowing gambling has been based on boosting the economies of the offshore islands through increased tourism. It has been suggested though that if the offshore islands reject casinos this time around that casinos could be considered on Taiwan proper for later this decade. And the Gaming Act, though originally intended to just regulate the offshore islands, will provide a gaming regime for all of Taiwan thereby allowing for expansion onto Taiwan proper in the future under that regime. There are three main candidates for the casinos at this stage: the islands of Penghu, Kinmen and Matsu.

**Kinmen.** The sense now is that Kinmen will hold a referendum and approve the casino within the next 12 months (50-50 chance of approval). It will then get the first license (or two) and the project will be on a smaller scale. Kinmen is attractive because it is a short ferry ride from the PRC. The unknown factor will be whether the PRC will allow its residents to travel to Kinmen for gaming. The winter weather produces fog there that makes it unattractive to travelers flying in. The Kinmen County government though also has the money to back the project should something go wrong.



**Penghu.** The island cannot hold another referendum until September 2012. It does seem that it will proceed with a referendum once it can. Penghu has better potential for resort development—mostly due to its larger size and developing marine leisure activities—but it is not conveniently located to the PRC. If the residents approve casinos, it will likely get the second nod and larger scale resort developments.

**Matsu.** It, like Kinmen, is located very close to the PRC. It is in contention but would likely only get the go-ahead if Kinmen did not approve casinos.

The drive exists within the government to bring casinos to the offshore islands. The question is whether it can. Stakeholders have raised a number of concerns and could impede casino developments on offshore islands. Concerns include:

1. The apparent lack of a strategy to adequately engage the public on the issue of casinos and the public's concerns over establishing the social and economic impact of permitting casinos.
2. The confidence that China will allow gaming tourism to Taiwan as well as the risk that China could stop the flow of tourists at any time.
3. Lack of existing infrastructure (location)—the islands do not have the attractions or the extent of infrastructure required for broader tourism. The Deputy Minister of Taiwan's Council of Economic Planning and Development (CEPD) acknowledged this to be a concern of interested foreign stakeholders.
4. The existing infrastructure on the islands needs upgrading and improving. Transportation links need to be expanded and improved.
5. Inability to effectively regulate the casinos under one authority. Despite the MOTC being the competent authority and having plans to establish a gaming body, other government departments and agencies may exert influence or jurisdiction: for example, the Consumer Protection Commission has apparently indicated that it will oversee casinos anyway in order to protect local consumers.
6. A more complete Act and regulations not finished at this stage.

The next six to 12 months will be critical in whether Taiwan sees casinos on the offshore islands in the next decade. What will happen in that time, though, remains to be seen.



### ▲ **MARCUS CLINCH**



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