

# **PERTH CASINO ROYAL COMMISSION**

**PUBLIC HEARING - DAY 2**

**TUESDAY, 20 APRIL 2021**

**COMMISSIONER N J OWEN**

**COMMISSIONER C F JENKINS**

**COMMISSIONER C MURPHY**

**MR DAVID LEIGH as counsel assisting the Perth Casino Royal Commission**

**MR PAUL D EVANS appeared for Gaming and Wagering Commission of Western Australia**

**MS FIONA SEAWARD appeared for The Department of Local Government, Sport and Cultural Industries**

**MR KANAGA DHARMANANDA SC appeared for Crown Resorts Ltd; Burswood Limited; Burswood Nominees Limited; Burswood Resort (Management) Limited; Crown Sydney Gaming Pty Ltd; Southbank Investments Pty Ltd; Riverbank Investments Pty Ltd and Crown Melbourne Limited**

**MR NICHOLAS MALONE appeared for Michael Connolly**

COMMISSIONER OWEN: Please be seated.

THE ASSOCIATE: Perth Casino Royal Commission is now in session.

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COMMISSIONER OWEN: We're sitting today to hear - to consider applications for leave to appear in the proceeding of the Royal Commission. Practice number - Practice Direction number 1 was issued on 13 April and is available on the Commission's website but it might be useful if I were to summarise some of its salient features.

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In considering applications for leave to appear, the Commission may have regard to the following factors; whether the person has a direct or special interest in the terms of reference, the potential for the person to be subject to an adverse finding and the ability of a person to assist the Commission in the inquiry including whether granting leave to appear would assist the Commission's inquiry over and above the assistance which may be provided by way of written submissions made by the applicant.

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That last point is important. The leave to appear process is directed at participation in public and private hearings because of special considerations that affect that person. There may be persons who do not satisfy the special considerations test but they may still be able to assist us and have the opportunity to participate by lodging written submissions. That's a separate process and there's some information about it on the Commission's website and that information may be supplemented by a Practice Direction to be promulgated in the coming days. Leave to appear may be sought or granted on a conditional or unconditional basis and the Commissioners reserve the right to alter the status if they consider it appropriate to do so.

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Leave to appear does not carry with it an open ended right to participate in the proceedings in any particular form. Where a person is granted leave to appear, the person or their legal representative may apply to have evidence tendered and heard, apply for leave to examine or cross-examine a witness subject to any Practice Directions or orders made by the Commission and they may make submissions about the findings available to the Commission following the conclusion of the hearings.

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Today is not the only opportunity interested parties will have to seek leave to appear. If at a later time circumstances change or new circumstances emerge where a person believes that they might satisfy the special considerations test that I mentioned earlier, they can apply for leave to appear in accordance with paragraphs 16 and 17 of Practice Direction number 1.

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Now, before we consider applications for leave to appear the Commissioners want to take this opportunity to place on record some comments about three matters. First, in the opening statement of 12 April we mentioned the possibility of hearings taking place in panels, that is, two hearings occurring simultaneously. Lawyers who are acting for more than one individual will need to bear that in mind and make arrangements for in hearing representation accordingly.

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5 The second matter is that we will be greatly assisted by the preparation and presentation of witness statements by witnesses who are called to give oral testimony. Wherever possible counsel or solicitors assisting will provide a list of topics in which the Commissioners are particularly interested to guide the preparation of the statements and a Practice Direction will be promulgated shortly.

10 The final matter is an observation that will be significant for the proper and efficient conduct of the proceedings of the Commission. It is directed in particular to legal practitioners representing parties affected by the proceedings and that includes anyone who has dealings with the Commission not just those given leave to appear and it is something that the parties whom lawyers represent also need to understand. This is an administrative inquiry. It is not a  
15 judicial proceeding. Nonetheless it is important to bear in mind that this Royal Commission is an instrument of the administration of the justice system in its broadest context.

20 Legal practitioners acting for parties will represent the interests of their clients and they will do so with a view to the best interests of their clients. We would expect no less but they will also do in accordance with their professional obligations and bearing in mind that as officers of the courts their paramount duty is to the public interest in the administration of justice. Those professional obligations and the public interest demand that everyone  
25 concerned in these proceedings acts respectfully, courteously and with integrity in their dealings with the Commissioners, the Commission officers, witnesses and each other. Again, we would expect no less.

30 Now, Ms Pollock, are you calling the applications?

THE ASSOCIATE: Application for leave to appear, the Honourable Helen Coonan, Jane Halton AO, Antonia Culsanis, Nigel Morrison, John Horvath AO.

35 COMMISSIONER OWEN: The Commission received an application from Arnold Bloch Leibler, solicitors in Melbourne for leave to appear for the directors or former directors, the Honourable Helen Coonan, Jane Halton AO, Antonia Culsanis, Nigel Morrison and John Horvath AO. At the request of  
40 Arnold Bloch Leibler we have considered the application on the papers and leave to appear will be granted to the named persons in both the regulatory framework and the suitability issues of the Commission. Thank you.

THE ASSOCIATE: Application for leave to appear the Gaming and Wagering Commission of Western Australia.

45 COMMISSIONER OWEN: Mr Evans?

MR EVANS: If it pleases the Commissioners, I act for the Gaming and Wagering Commission of Western Australia and I seek leave to appear before the Commission on their behalf.

5 COMMISSIONER OWEN: You can take it, Mr Evans, that we've read your application and there is nothing that the Commissioners wish to raise with you at this stage.

Mr Leigh?

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MR LEIGH: Thank you, Commissioner. There is nothing that we wish to draw the Commission's attention to.

15 COMMISSIONER OWEN: All right. Well, then leave is granted to the Gaming and Wagering Commission to appear in both the regulatory framework and the suitability issues which the Commission will investigate. Thank you, Mr Evans.

MR EVANS: If it please the Commission.

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THE ASSOCIATE: Application for leave to appear Department of Local Government, Sport and Horticultural Industries.

COMMISSIONER OWEN: Yes, Ms Seaward.

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MS SEAWARD: May it please the Commissioners. The State Solicitor for Western Australia seeks leave to appear on behalf of the Department. We filed our application in setting out the basis for our application.

30 COMMISSIONER OWEN: Ms Seaward, there's only one matter that we want to raise with you. There is a factual error in your application. It indicates that the Department was served with a notice to produce on 1 April. That's actually not correct.

35 MS SEAWARD: My apologies.

COMMISSIONER OWEN: The notice to produce was directed to the Gaming and Wagering Commission. But that aside, we have nothing that - we've read the application and there's nothing we wish to raise with you.

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Mr Leigh?

MR LEIGH: Commissioner, having regard to those terms of reference that have been identified in the application for leave to appear the Commission may consider it appropriate in the first instance to minute leave to appear in relation  
45 only to the regulatory framework. Thank you.

COMMISSIONER OWEN: I understand that was the tenor of your application.

5 MS SEAWARD: Yes. The only comment we would make is we don't know exactly how part A will unfold and the extent to which it may ultimately involve any matters concerning the department but further application can be made.

10 COMMISSIONER OWEN: Yes.

MS SEAWARD: At that point if necessary.

15 COMMISSIONER OWEN: Yes. That - it will be a work in progress. So leave is granted to the Department of Local Government, Sport and Cultural Industries to appear in relation to the regulatory framework issues to be investigated by the Commission. Thank you, Ms Seaward.

MS SEAWARD: If it please the Commission.

20 THE ASSOCIATE: Application for leave to appear Crown Resorts Limited, Burswood Limited, Burswood Nominees Limited, Burswood Resort Management Limited, Crown Sydney and Gaming Proprietary Limited, Southbank Investments Proprietary Limited, Riverbank Investments Proprietary Limited, Crown Melbourne Limited.

25 COMMISSIONER OWEN: Mr Dharmananda.

30 MR DHARMANANDA: If it please you, Commissioners, I appear for those Crown entities named and seek leave to appear.

COMMISSIONER OWEN: Thank you. Mr Dharmananda, you too can take it that we've read the application and there is nothing we wish to raise with you at this time.

35 Mr Leigh?

MR LEIGH: Thank you, Commissioner. We do not seek to be heard.

40 COMMISSIONER OWEN: The - Mr Dharmananda, leave will be granted to Crown Resorts Limited, Burswood Limited, Burswood Nominees Limited, Burswood Resort Management Limited, Crown Sydney Gaming Proprietary Limited, Southbank Investments Proprietary Limited, Riverbank Investments Proprietary Limited, Crown Melbourne Limited to appear in both the regulatory framework and the suitability issues to be investigated by the  
45 Commission.

MR DHARMANANDA: Thank you, Commissioner.

COMMISSIONER OWEN: Thank you, Mr Dharmananda.

THE ASSOCIATE: Application for leave to appear Mr Michael Connolly.

5 COMMISSIONER OWEN: Good morning, Mr Malone.

MR MALONE: Please the Commission. Mr Malone; I act for Mr Connolly and I seek leave to appear.

10 COMMISSIONER OWEN: Yes. All right.

Mr Leigh?

15 MR LEIGH: Thank you, Commissioner. Again, in light of those terms of reference that have been identified by the applicant's lawyers in this application for leave to appear the Commission may consider it appropriate in the first instance to limit that leave to appear in relation to hearings dealing with the regulatory framework.

20 COMMISSIONER OWEN: Yes. Mr Malone, it does seem to us that Mr Connolly's personal interests are particularly in relation to term of reference 10. He of course as you've pointed out in the application, may well be able to assist us in other ways that relate to the regulatory framework but I think it is appropriate that leave to appear be granted but limited to the  
25 regulatory framework issues.

MR MALONE: Yes, Commissioner, that's what we'd seek at first instance.

30 COMMISSIONER OWEN: All right. The leave to appear is granted to Michael Connolly to appear in relation to the regulatory framework issues of the Commission.

Thank you very much, Mr Malone.

35 MR MALONE: Thank you, Commissioner.

COMMISSIONER OWEN: Are there any other matters that we were meant to deal with?

40 THE ASSOCIATE: No.

COMMISSIONER OWEN: All right. We will now adjourn to a date to be fixed.

45 **AT 10.09 AM THE MATTER WAS ADJOURNED ACCORDINGLY**