

**IN THE MATTER OF A ROYAL COMMISSION INTO  
THE PERTH CASINO**

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**WITNESS STATEMENT OF BARRY ANDREW SARGEANT**

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Date of Document: 10 May 2021

Filed on behalf of: The Gaming and Wagering  
Commission of Western Australia

Prepared by:

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I, **BARRY ANDREW SARGEANT PSM**, of **Contains sensitive information**

**Contains** say as follows:

1. This statement is provided in response to the witness summons to give evidence, dated 23 April 2021 and issued pursuant to section 9 of the *Royal Commissions Act 1968* (WA), which is directed to me by the Perth Casino Royal Commission

(PCRC). This statement addresses the matters set out in Schedule 1 to the summons.

2. I am a member of the Gaming and Wagering Commission of Western Australia (GWC).
3. This statement is true and correct to the best of my knowledge and belief. The views I express in this statement are from my own knowledge, except where I indicate otherwise.

#### QUALIFICATIONS AND EXPERIENCE

4. I hold a Master of Commerce degree from the University of Western Australia.
5. I was formerly the Director General of the Department of Racing, Gaming and Liquor (now part of the Department of Local Government, Sport and Cultural Industries) (**Department**) from 1992. I ceased holding that position on 30 June 2017.
6. In my role as Director General, in accordance with section 12(1)(a) of the *Gaming and Wagering Commission Act 1987* (WA), I was the ex officio chairperson of the GWC.
7. I was also an ex officio member of a number of other statutory boards from time-to-time, including the Totalisator Agency Board established under the (now repealed) *Totalisator Agency Board Betting Act 1960* (WA), the Racecourse Development Trust established under the (now repealed) *Racecourse Development Act 1976* (WA), and the Betting Control Board established under the *Betting Control Act 1954* (WA). I was also a member of the Casino

Surveillance Authority established under the *Territory Of Christmas Island – Casino Control Ordinance 1988* (Cth), which oversaw the now defunct Christmas Island Casino.

8. I am currently the President of the Burswood Park Board, a statutory authority responsible for the control and management of Burswood Park (being the parkland located adjacent to the Swan River and the Perth Crown Casino complex). I have been a member of the Burswood Park Board since 1993. From 2007 until 30 June 2017, I also held the statutory position under the *Liquor Control Act 1988* (WA) of Director of Liquor Licensing.

#### **ROLE ON THE GAMING AND WAGERING COMMISSION**

9. Following my cessation as Director General of the Department of Racing Gaming and Liquor in June 2017 the Minister for Racing and Gaming, Mr Paul Papalia, appointed me as a member of the GWC on 1 August 2017, and I continue in that role today. My current term expires on 31 July 2021.
10. I have not undertaken any training relating to the performance of my functions as a GWC member. In my prior position as Director General of the Department, I

undertook short training courses from time-to-time however those courses were focussed on improving management skills.

11. I currently have no areas of specific responsibility as a member of the GWC.
12. In my former role as chairperson of the GWC, I reviewed and approved the board packs that were sent to the other Commissioners and answered any queries they may have arising from the board packs from time-to-time.
13. My remuneration for being a member of the GWC is set out below:
  - 13.1 for the financial year ended 30 June 2018, \$5,027;
  - 13.2 for the financial year ended 30 June 2019, \$15,910.52; and
  - 13.3 for the financial year ended 30 June 2020, \$16,546.92.
14. I expect that my remuneration for the financial year ended 30 June 2021 will be approximately what I received in the financial year ended 30 June 2020.
15. I was not separately remunerated in the position of ex officio chairperson of the GWC.
16. I spend six to ten hours per month performing my role as a member of the GWC, which mainly involves reviewing the briefing papers and attending GWC meetings. The monthly GWC meetings typically take about two hours; however, from February 2021, and the handing down of the Independent Liquor and Gaming Authority of New South Wales “Report of the Inquiry under section 143 of the *Casino Control Act 1992* (NSW)” (**ILGA Report**), dated 1 February 2021, the GWC meetings have increased in length to about three hours. I estimate that

regulation of the Perth Casino typically takes up one third of the GWC meeting time, but that has also increased since February 2021.

## **POWERS, DUTIES AND OBLIGATIONS OF COMMISSION**

17. Prior to joining the GWC in August 2017, I was provided by the Department with an iPad which contained information about the powers, responsibilities and obligations of the GWC and my duties and powers as a member of the GWC. Specifically, I recall that the iPad contained copies of the key legislation and certain policies.
18. I have never considered that the GWC has been obstructed in the exercise of its powers or the discharge of its responsibilities and obligations.
19. I am unaware of the GWC having any specific policies in place regarding the regulation and oversight of the Perth Casino or the risks associated with junket operations, money laundering, cash and electronic transactions at the Perth Casino, and criminals infiltrating casino operations (**RISKS**).
20. The GWC does not have any formal procedures that related to money laundering and criminals infiltrating casino operations. The GWC relies upon the appropriate agencies such as AUSTRAC, WA Police Force, the Australian Federal Police, and the Australian Criminal Intelligence Commission to deal with these type of criminal matters and inform the GWC if there were any such issues at the Perth Casino. This is because they are empowered by statute to conduct

such investigations and are properly resourced and trained to identify, investigate and deal with these matters.

## **SUPPORT FROM THE DEPARTMENT**

21. At all material times the Department has provided all the support for the activities of the GWC. It is the driving force behind the oversight and enforcement objectives of the *Casino Control Act* and has regulation and oversight of the Perth Casino more generally.
22. Over the years, certain instruments have been put in place by the GWC to delegate its powers. By way of example, the delegation dated 28 April 2020 of all of the GWC's powers under the *Betting Control Act*, *Gaming and Wagering Commission Act*, *Casino Control Act*, and the *Racing and Wagering Western Australia Act* to the Deputy Director General of the GWC (Michael Connolly).
23. These delegations were put in place to facilitate the Department acting quickly (between GWC meetings), and were typically exercised by the delegate in respect of relatively minor powers of the GWC, or where the GWC had developed a policy for the exercise of a power.
24. At all material times the Department reports to the GWC regarding the regulation and oversight of the Perth Casino at the GWC meetings. It does so by preparing briefing papers for the GWC to consider at its monthly meeting. The Director

General or Deputy Director General attend the meeting to elaborate on the briefing paper and answer questions as necessary.

25. In my view, the briefing papers prepared by the Department are adequate, the content of the briefing papers is appropriately comprehensive, and they are generally provided sufficiently far in advance of meetings to enable them to be read and understood before the meeting.

26. In my view, the support provided by the Department to the GWC is adequate. For example, the Department:

- 26.1 takes the lead on policy formulation and development, and then provides that policy to the GWC for consideration and approval;
- 26.2 provides technical support and records management services to the GWC; and
- 26.3 provides personnel support, including the selection, management and training of the Department's staff to support the activities of GWC.

## **CONFLICTS OF INTEREST**

27. The GWC's Code of Conduct was first adopted in November 2014 following a Public Sector Commissioner's Instruction. In 2018, the GWC, with the support of the Department, updated the code. This code addresses conflicts of interest throughout, and should have been provided to Commissioners before they joined

the GWC. I recall that the Code of Conduct was subsequently updated at the 11 March 2021 GWC meeting.

28. As a result of the update to the Code of Conduct, I recently formally declared the fact that I was required to interact with Crown Casino representatives in my role as President of the Burswood Park Board.
29. I also set out below two trips I made which were paid for by Crown. I refer to these trips under this heading, not because they were in fact a conflict of interest for me in my view, but rather to explain the circumstances of those trips.
30. In July 2013, I made a trip to Macau. Crown (Mr Felstead) had asked me if I was willing to visit the casino complexes in Macau to see firsthand the standard of the gambling facilities available for high rollers / VIPs so that I, in my Director General role, could better understand Crown's competition in Asia.
31. I understood that I travelled to Macau in my role as the Director General of the Department not as the chairperson of the GWC.
32. The development of the Perth Casino under the *Casino (Burswood Island) Agreement Act* requires the approval of the Minister and such approvals are based on a Cabinet decision. Once Cabinet approval was received, the Minister has a number of administrative approvals to give.
33. The Department provided executive support to the Minister with respect to the *Casino (Burswood Island) Agreement Act*; but I was not a decision maker.
34. Within the Department, I assumed responsibility for *Casino (Burswood Island) Agreement Act* matters, while I assigned responsibility to the Deputy Director



General for the Department's regulation of the Perth Casino for the GWC (under my supervision).

35. When Crown approached me to travel to Macau to better appreciate their competition, my response was that the GWC and Department budget for travel was not available for such fact finding trips. I considered that the budgets were for professional development, conferences, and national meetings of regulators.
36. Approved budgets were tight, so I was not prepared to appropriate money from other areas of the Department's budget nor any of the GWC's funds.
37. Accordingly, Crown proposed to meet the cost of me travelling to Macau.
38. I sought and received the approval from the Minister for Racing and Gaming at that time, in accordance with standard procedure, to travel to Macau on the condition that the costs incurred by the Department would be recouped from Crown.
39. Given the distribution of duties between the Director General and the Deputy Director General, I was the beneficiary of the knowledge gained from the trip which in turn meant that the Department would benefit because I would be able to perform my functions with a greater knowledge base.
40. Upon my return, I verbally briefed the Minister and the GWC on the learnings I had gained from the trip to Macau.
41. I insisted on the Department incurring the airfare and accommodation and then for them to be reimbursed subsequently. This was so I could control the funds that were spent to ensure that I only incurred such expenses as were reasonably

necessary. It also meant that the Department would transparently control the reimbursement of all expenses incurred.

42. I did not stay at Crown's hotel in Macau. Instead, I stayed at the Venetian Hotel in a standard room. This was a deliberate decision on my part to ensure my independence from Crown.

43. My recollection is that my travel itinerary was as follows:

43.1 Sunday: Flight from Perth to Hong Kong, and then ferry to Macau;

43.2 Monday-Tuesday: viewing of casinos and hotels;

43.3 Wednesday: Ferry from Macau to Hong Kong, and then return flight to Perth.

44. My recollection is that while Crown's immediate priority at the time was the commissioning of Crown Towers Perth, Crown sought to have Government have a better understanding of Macau's competitiveness in seeking Government approvals to develop the Perth Casino as an attractive destination for Chinese tourists and high rollers/VIPs.

45. I derived no personal benefit from the trip and I did not provide any favourable treatment to Crown as a result of the trip. I did however gain a useful understanding of the operations in Macau.

46. Crown was subsequently invoiced by the Department and I understand they then paid for the costs incurred by the Department for my flights and accommodation. The trip was reported to the GWC at the August 2013 meeting, and then again at the July 2014 meeting after the media reports.

47. The only other occasion I travelled where Crown covered my travel costs was a short day trip to Melbourne. I recall that the Deputy Director also went to Melbourne.
48. I cannot recall the precise circumstances and the timing of events that specifically led to this occasion. I believe it was in the first quarter of 2014 where I was asked to view the Crown Melbourne offerings, not only as a competitor to the Perth Casino, but also to appreciate the standard of Crown Melbourne, which is what Crown has stated that it is committed to achieving at the Perth Casino.
49. My recollection is that the future direction of both Crown Melbourne and the Perth Casino was to provide an enhanced food and beverage offerings and, in this regard, Crown Melbourne was more advanced than the Perth Casino. I recall that the standard of facilities for premium players was exceptionally high and the offering at the Perth Casino would be premised on these standards.
50. The most significant observation I had was the gaming (poker) machine premium player facilities, including some very intimate offerings for premium poker machine players.
51. I understood that Crown sought to have Government develop a better understanding of the competitiveness of Casino complexes in Australia, like Crown Melbourne, when seeking Government approvals as part of its commitment to the development of the Perth Casino.
52. I was not prepared to use Department funds for the overnight trip to Melbourne. Mr Barry Felstead from Crown offered to meet my costs, and those of the Deputy Director General in travelling to Melbourne. Crown covered the airfare and one

night's accommodation. I recall I stayed at an inexpensive airport hotel that was not owned or controlled by Crown.

53. I had the authority to approve travel within Australia, and I did not consider therefore that the Minister's approval was required.
54. Following this trip the Department incurred the costs of airfares and accommodation and were subsequently reimbursed by Crown. This was done in this way for the same reasons as I have stated for the Macau trip.
55. In my view there was no conflict of interest in the circumstances of either of these two occasions referred to above.
56. From my time as a member of the GWC, I am aware that the Department had a conflicts of interest policy for staff and other persons carrying out duties on behalf of the GWC.
57. In approximately 2015, I think, Mr Connolly first disclosed to me in my position as Director General his personal relationship with Claude Marais, Crown's current general manager of legal and compliance. I did not consider this to be a conflict of interest because Mr Marais was not a key decision maker within Crown and Mr Connolly's association with Mr Marais did not place Mr Connolly under any obligation to Mr Marais. I do not now recall if I recorded Mr Connolly's disclosure to me anywhere (and I do not have access to my records to check).

## COMMISSION AND STAFF CAPABILITIES

58. The GWC members are appointed by the Minister. A vacant position is not advertised, and as Director General of the Department, I was normally told about the appointments (as opposed to being consulted on them).
59. There is no ongoing training for GWC members. It is my understanding that if a Commissioner wished to attend a conference, the Department would support that within reason. I recall this occurred once when my fellow commissioner, Carmelina Fiorentino, wished to attend a professional development conference in 2019, and the GWC agreed to pay half her expenses.
60. The Deputy Director General of the Department, who is by office the Chief Casino Officer (CCO), and government inspectors are public service appointments. Accordingly, a job description was required and the position advertised publicly. The GWC is not involved in the process.
61. During my tenure as Director General, there was no formal on-going training programme specifically for the CCO. Government inspectors do however receive formal training at the time of their appointment. There is not a high turnover of staff in these positions, and the Perth Casino is a mature product in that it has not change significantly over the years, so the Department staff tended to have the skills required to perform their roles. If the Department staff felt they were deficient in a specific area not covered by the formal training (i.e. for a new casino

game), internal training was conducted. This was managed by the Deputy Director General.

62. External consultants and experts were used by the Department to advise on issues related to operation of the Perth Casino. In particular:

62.1 Gaming Laboratories Australia, a subsidiary of Gaming Laboratories International (GLI), was engaged to assist with the audit of casino gaming revenue; and

62.2 on legal matters, the GWC would request the State Solicitor's Office to provide advice from time-to-time.

#### **RESOURCING OF CASINO REGULATION AND OVERSIGHT**

63. The GWC did not have a specific budgeting philosophy for resourcing the regulation and oversight of Perth Casino. A pool of funds was allocated by the Department, in accordance with a budget set by the Department (and approved by the GWC), to undertake the GWC's activities, such as the costs of licencing, undertaking audits, and providing assistance to the GWC.
64. The GWC's expenditure on regulation and oversight of the Perth Casino is not split between Perth Casino activities and other areas of the GWC's responsibility.
65. While the full amount of any gaming and wagering licence fees came to the GWC, these were applied to the meeting the costs charged by the Department for

undertaking the regulatory functions of GWC. The GWC did not approach Parliament for any additional funds.

## **CORPORATE GOVERNANCE**

66. The GWC has very little contact with the Minister. Interactions were more in the nature of a social “meet and greet” every now and again. If the GWC required anything from the Minister, a resolution of the GWC would be passed and then presented to the Minister via the Department.
67. As discussed above, the GWC has a very close relationship with the Department.
68. Department staff attend GWC meetings as required, the meeting is chaired by the Director General (or Deputy Director General), and Department staff fully support the GWC.
69. The GWC is not split into sub-committees with specific areas of responsibility. Given the diverse backgrounds and expertise of the GWC members, some of them will take an interest in a particular area; however, the GWC will not defer to particular GWC members on any issues.
70. The GWC had no specific oversight of the CCO’s performance. For instance, the GWC did not set KPIs for the COO. Given the nature of the COO’s appointment (i.e. he or she was also the Deputy Director General), it left performance management to the public service processes.
71. The Department reported to GWC members on the regulation and oversight of the Perth Casino on an exceptions basis. For example, the Department would only report if the Perth Casino failed an audit or failed to follow a procedure. The

Department would then attend to the compliance issue, and then it would report back to the GWC with a recommendation. These exceptions reports were set out in the GWC papers.

72. The GWC does not have a specific policy or procedures regarding integrity issues relevant to interaction with casino industry participants. It relied on the public service policies and guidelines. The GWC's Code of Conduct addresses these issues at a high level.
73. The GWC typically meets once every month, except for January when members are away. As I discussed in paragraph 14 above, the GWC meetings typically last for two to three hours, and sometimes more. There is no limit imposed on the length of the meetings, other than people's availability on the day and quorum requirements. With the exception of our recent meetings to discuss matters relating to the Perth Casino Royal Commission, the GWC does not meet informally outside of the regular meetings to discuss GWC matters.
74. The GWC meeting agendas and prepared by the Department. When I was Director General, I usually settled the papers. These packs were circulated before the GWC meetings. On occasion, matters were tabled without notice. If the GWC concluded that there was not sufficient time to consider the matter, or the



information provided in the paper (or by the Department staff in attendance at the meeting) was inadequate, the matter was adjourned to the next GWC meeting.

## **DISCHARGE OF DUTIES, POWERS AND FUNCTIONS**

75. The GWC does not have many policies or procedures relating to the exercise of its powers and the discharge of its responsibilities and obligations in respect of the regulation and oversight of the Perth Casino, generally, and the RISKS, specifically. To my understanding, there are a number of reasons for this. The Perth Casino is operated in accordance with a Casino Manual (Operations), which is very detailed in procedures and processes. That manual could only be amended with the consent of the GWC, and the Deputy Director General could consent to minor changes. Further, the Perth Casino is a mature product that has not itself significantly changed since its inception.
76. The GWC does have a small number of policies and procedures. These are very specific, and relate to matters such as Automatic Teller Machines (ATMs), Electronic Gaming Machines, gambling advertising and inducements, the licensing of Security Officers and probity assessments of Crown staff.
77. I am comfortable with the effectiveness of the current licensing, audit and inspection requirements imposed by the GWC in respect of Perth Casino, generally. The Department reports to the GWC monthly on its audits, and I have

not seen a significant number of exceptions being reported. I have confidence in the Department in this regard.

78. Notwithstanding that the Perth Casino is a mature product, the GWC has made changes to its regulatory objectives and philosophy in respect of the regulation and oversight of Perth Casino, generally over time.
79. With respect to the RISKS, specifically the oversight of junket operations, Regulations with respect to the operation of junkets were originally included in the *Casino Control Regulations 1999 (WA)*. Those regulations provided for an approval regime for junket operations before they arrived. The GWC attempted to consider and approve applications for the conduct of junkets in accordance with the regulations; however, the GWC was reliant on the WA Police Force and other Australian and International agencies to provide information as to the criminal history of the applicant. This information was not forthcoming, and the approval regime was not adding any value, particularly given other regulators, such a Boarder Force, who oversaw the visa process for junket operators and participants, were covering this space. The regulations were ultimately repealed by the Minister acting on the resolution of the GWC.
80. With respect to the other RISKS, specifically, money laundering and cash and electronic transactions, I do not believe that this was (or should be) a responsibility of the GWC. While the GWC conducts audits of the Perth Casino's gaming accounts (for the purposes of revenue oversight), neither it nor the Department (during my tenure as Director General) have the skills or resources necessary to conduct sophisticated financial analysis. Similarly, with respect to

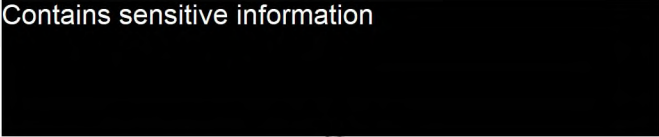
criminals infiltrating the Perth Casino, neither the GWC nor the Department (during my tenure as Director General) have the skills to or resources to identify criminals, but we would work with the WA Police Force if they requested assistance with such matters.

81. The GWC had limited interactions with regulators of casinos in other Australian States and Australian regulators of activities relevant to casino operations. I recall that the Chief Casino Officer has regular interactions with the casino regulators in other states, and that the Victorian regulator would share the results of its periodic review into the suitability of Crown to hold a casino licence with the GWC. Further, there was a national annual conference of casino regulators, but very few members of the GWC attended. However, when it is Perth's turn to host the event, members of the GWC would attend.
82. To the best of my recollection, the GWC has never sought that additional conditions be placed on the Perth Casino license to manage the RISKS. This action was not on the horizon for the GWC prior to the ILGA Report. Following the ILGA Report, the GWC has issued a direction to Crown to cease junket operations.
83. I am unaware of the GWC ever auditing the Riverbank account. The GWC only had oversight over Burswood Nominees Limited's Casino Gaming Account, and not this account. I do not believe I was aware of the Riverbank account until

sometime in 2019, when allegations against Crown were widely reported in the media.

84. I do not believe that the GWC has ever considered whether cl 22.1(r) of the *Victorian Casino Agreement* affects the suitability of Crown to hold the Perth Casino license or Crown Melbourne to be a close associate of Crown.

Contains sensitive information



**BARRY SARGEANT**

**Place: Perth**

**Date: 10 May 2021**