

IN THE PERTH CASINO ROYAL COMMISSION

WITNESS STATEMENT OF NICHOLAS GEORGE TOYNE

Date of Document: 19 May 2021

Filed on behalf of: The Department of Local Government,
Sport and Cultural Industries

Date of Filing: 19 May 2021

Prepared by:

STATE SOLICITOR FOR WESTERN AUSTRALIA
DAVID MALCOLM JUSTICE CENTRE
28 BARRACK STREET
PERTH WA 6000

TELEPHONE: (08) 9264 1888
REF: SSO 1253-21

I, Nicholas George Toyne, **Contains sensitive information**
Contains sensitive in the State of Western Australia, state as follows:

1. I was fulfilling the role of Assistant Director Liquor Control & Arbitration with the Department of Local Government, Sports and Cultural Industries (**DLGSC**) and more specifically, the racing, gaming and liquor industry up to 19 March 2021. I am currently retired.
2. I have been invited to provide a statement to the Perth Casino Royal Commission (**Royal Commission**). This statement has been prepared with the assistance of the solicitors acting for the DLGSC.

QUALIFICATIONS AND EXPERIENCE

3. I have been employed within the racing, gaming and liquor industries for a period of thirty five years. I commenced employment in October 1985 as a Government Casino Inspector (**Inspector**) and retired in March 2021 (see my Curriculum Vitae at DLG.0001.0004.0001).
4. I was employed as an Inspector to inspect, audit and investigate casino gaming activity. Audit programs were developed for operational matters. This included games as well as the audit of the main cage and the junket activity. I was then appointed as:
 - 4.1 Gaming Inspector from 1988 to 1991;
 - 4.2 Gaming Investigator from 1991 to 1993;
 - 4.3 Compliance Inspector from 1993 to 2006;

- 4.4 Senior Inspector Compliance from 2006 to 2012;
 - 4.5 Manager Compliance Liquor from 2012 to 2016; and
 - 4.6 Assistant Director Liquor Control & Arbitration from 2016 to 2021.
5. I am highly experienced in the provision of regulatory services particularly in the liquor and gaming industries.
 6. I authored the original Community Gaming Policy Manual, the Western Australian Government Submission regarding the Productivity Commission Inquiry into Australia's Gambling Industries in 2009 (DLG.0001.0004.0002-DLG.0001.0004.0014), and the publication for the Department of Racing Gaming & Liquor regarding the History of Gaming in Western Australia (DLG.0001.0004.0015).
 7. I also co-authored the National Competition Policy Legislative Review of the *Casino Control Act 1984* (WA) (**Casino Control Act**), the *Casino (Burswood Island) Agreement Act 1985* (WA), the *Gaming Commission Act 1987* (WA), the *Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985* (WA), and the *Gaming Commission Regulations 1988* (WA).

ROLE AS INSPECTOR

8. I was appointed to the role of Inspector pursuant to the Casino Control Act on 14 October 1985 to 19 March 2021. I handed in my identification

cards on 9 March 2021 and from that point onwards, I was no longer authorised as an officer.

9. I received three months full time intensive training on all aspects of casino operations following the initial intake of inspectors. At this point in time, there was no Gaming and Wagering Commission (**GWC**). There was instead the Casino Control Committee.
10. I worked in the Casino Control Division. I learnt the games, the operations of the cage, and the operations of the casino. I learnt how to deal the games and I was expected to be proficient at the games. I also learnt how to cheat at the games and how to investigate unlawful activities in relation to casino games.
11. Subsequent to my initial training, there has not been any further full time training and training has been on the job. I was also involved in the training of other inspectors at the casino when the portfolios were amalgamated in the liquor and gaming fields. Occasionally I would receive new game training which was generally provided by way of a one day training session at the casino given by the operator, where they would introduce new games and variations of new games. Other training included, for example, when the surveillance changed, a one day training session on how to use the new surveillance equipment.
12. I was appointed as an Inspector on a full time basis. The role of an inspector has never been part time as everyone is appointed on a full time

basis. There is a provision within the Casino Control Act which allows for the appointment of an inspector on a full time or part time basis. The GWC has the power to authorise an auditor to be an Inspector for a period of time and to be given those powers.

13. The time available to carry out my role was initially more than adequate to enable me to properly discharge my functions as an Inspector. When we took on the roles of other sections of the industry, liquor and community gaming in general, it became more problematic in that you may be doing an investigation at the casino and then rotated through into gaming, and you would then have to hand over that investigation to another inspector.
14. I was only carrying out the role of Inspector. Whenever I performed other duties I was acting in those positions, and if I was undertaking projects I was taken off the roll of inspectors to allow me to complete those projects. For example, when I was in the role of Senior Inspector Gaming, or Assistant Director Gaming, I wasn't an Inspector while acting in these other roles. However, I was managing the team of inspectors in this role, and reviewing their work, and so I was involved in that way. When I was a Senior Inspector I worked office hours and did not work shift work.
15. In relation to remuneration, I started and was appointed as a Level 3 in 1985. However, with the addition of shift work and associated penalties, this increased my remuneration to a Level 6. This later became a composite salary

which was essentially a Level 6 salary. When I applied for and was appointed to the position of Manager Compliance, this was a Level 6.

16. The Inspector reported to the Senior Inspector, which later became Manager Compliance. Occasionally you might report to the Director but the direct reporting line as Inspector was to the Senior Inspector.
17. My engagement with the GWC only occurred when I drafted agenda items or reports which were then presented to the GWC. When reporting to my Director, there is not a distinction between that and the Chief Casino Officer (CCO). If I felt that there was something the CCO should know, then I would report to the CCO as well as the Senior Inspector. The division in 1985 was very small, and included 16 Inspectors, a Senior Inspector and the Director of the division who also held the position of the CCO.
18. Changes to the role of an Inspector occurred with respect to multiskilling inspectors to enable them to go from one regulation or one part of the racing, gaming and liquor industries, to all sections of the racing, gaming and liquor industries.
19. I have not been deliberately obstructed in the performance of my duties or exercise of my powers as an Inspector by my supervisors or colleagues within the DLGSC. However, I am of the view that the performance of inspectors has been hampered by the policies and procedures of the DLGSC with respect to the

rotation of inspectors through the roster which affected the amount of time spent in the casino and the skill level of inspectors as a result.

20. I have not participated or attended any of the inter-jurisdictional working groups, including the Australasian Casino & Gaming Regulators CEO Forum, National Standards Working Party, Australian Gambling Surveys Working Group, Inter-jurisdictional Working Group – Responsible Gambling Training and Communication Materials, Inter-jurisdictional Liaison – Casino Regulation, Crown Casino Oversight Working Group, Exclusion from Racing and Casino Venues, National Consumer Protection Implementation Governance Committee, Australian Gambling Statistics, Wagering Data Working Group, and the National Assessment Panel – Accredited Testing Facilities. I don't know of any inspectors that attended any of those working groups. They usually involved attendance by Mr Mick Connelly or Barry Sargeant. Policy officers may have been involved but I was not privy to that information.
21. I have only ever attended one conference throughout my employment, which was the Casino Security and Surveillance Conference in Melbourne, in approximately 2008.
22. I do not recall that agenda paper regarding the repeal of the junket regulations (DLG.0002.0002.0021). The first time I saw this agenda paper was when I was shown it for the preparation of this statement. I prepared a report as to what was required to remove

inspectors from active day to day involvement in the operations of the casino, under what we called Principle Directions, officially known as Directions. In that review of directions report I proposed a concept that if junket members and operators obtained a visa into Australia, that this provided some comfort with respect to the probity side of things. I did not write the agenda paper nor did I instruct another person to prepare the agenda paper. The agenda paper does not contain my signature, which I would always put on agenda papers that I prepared. It was however, consistent with the work I did on the National Competition Review.

23. I was the co-author of the National Competition Review of legislation. This involved justifying restrictions within the legislation with respect to the conduct of business. I conducted that review and subsequent to that, when the GWC was looking to amend the junket regulations, there was some reference back to the review which I did.

POWERS, DUTIES AND OBLIGATIONS OF AN INSPECTOR

24. When I first commenced employment, there was a great deal of information provided under the Casino Control Act regarding the powers and responsibilities of an Inspector. As inspectors became multi skilled and took on other roles, I was given details and information about those roles. For example, the Casino Inspector has a lot of powers, but the general method of procedure that occurred, was that the Inspector would report to the Senior Inspector,

and the Senior Inspector and Director would determine whether action was required. It may or may not then go to the GWC for their authorisation for action, albeit the Inspector has the power to infringe, this power wasn't exercised without the CCO's authorisation or authorisation from the GWC itself. However under Liquor, an Inspector had the power to issue an infringement out in the field. This may have changed now, but when I was Senior Inspector, it was part of an inspector's responsibilities to ensure an infringement was issued in the field for breaches of the *Liquor Control Act 1988* (WA).

25. I had a strong understanding of existing GWC policies and procedures throughout my employment.
26. In relation to risks associated with junket operations, money laundering, cash and electronic transactions at the Perth Casino and criminals infiltrating casino operations (**RISKS**), money laundering was not the main topic of concern in 1985. It was probity and relation to criminality of people and whether a junket operator was associated with criminal networks. It was not targeting money laundering directly. It is my understanding that the Federal Government was not targeting money laundering per se as the legislation regarding reportable transactions did not exist in 1985.
27. Subsequent to that, once legislation did come in, money laundering was considered the responsibility of the police and appropriate

regulatory arms of government. The inspectors were not involved in investigating money laundering. Inspectors did report on criminality on the casino floor, for example, the inspectors provided information about known criminals associating on the casino floor and any activities we considered were important for the GWC to know.

CONFLICTS OF INTEREST

28. It has changed over the years. In 1985 it was quite clear – you were not to have relations with casino employees, you should not mix with them outside of work, and what you see and hear here, you are to leave here. Over time this changed and the relationships were not prohibited.
29. Under the Casino Control Act, as an inspector, you are not allowed to gamble there, and subsequently there was no need to go to the casino. If we did attend the casino for social purposes, such as attending a show, in the initial stages we contacted an on duty Inspector to let them know we were on the casino premises. When we became multi skilled, we were not allowed to bet with book makers on the track, we were not allowed to bet at the TAB at the racetrack, but we could bet if we were not on the racetrack. In relation to gaming functions, we were not allowed to be a permit holder for an organisation, and we were not allowed to be in control of operations for a gaming night for an organisation we belonged to.

30. I was provided with generic information regarding departmental policies with respect to how to deal with conflicts.
31. In 2004 I commenced a relationship with an employee of the Burswood casino, who was a table games inspector. I married her in 2005. I declared that relationship to a Senior Inspector and Director who also had to be the CCO. I didn't specifically declare this to the GWC. As Compliance Inspector, this perceived conflict was managed by the fact that I did not conduct audits of the group of tables (known as a pit) that she may be working in, and I did not involve myself with any investigation which she may be involved in. Ultimately in 2006 I was promoted to Senior Inspector where I was not based at the casino. There was a short period of time where I was as there are three Senior Inspectors, being the Senior Inspector Liquor, Gaming and Casino. The three Senior Inspectors rotated through these positions. I did not have day to day dealings with my wife, and then I was moved away from the casino field to the liquor field, and subsequently spent the rest of my time in the liquor field. I did not continue to rotate through the other positions. I was later employed outside the compliance area in management industry services.
32. I have read the contents of this my witness statement and the documents referred to in it and I am satisfied that it is correct and that this is the evidence in-chief which I wish to give at the Royal Commission.

Signed: _____

Dated: _____