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**PERTH CASINO ROYAL COMMISSION**

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**PUBLIC HEARING - DAY 15**

**10.00 AM MONDAY, 26 JULY 2021**

**COMMISSIONER N J OWEN**

**COMMISSIONER C F JENKINS**

**COMMISSIONER C MURPHY**

**HEARING ROOM 3**

**MS PATRICIA CAHILL SC and MS VERITY LONG-DROPPERT as Counsel  
Assisting the Perth Casino Royal Commission**

**MR PETER WARD as Counsel for Mr John Poynton**

**MR KANAGA DHARMANANDA SC and MR JOSEPH GARAS SC as Counsel 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 PAUL D. EVANS appeared for Gaming and Wagering Commission of Western  
Australia**

**MS RACHAEL YOUNG appeared for Consolidated Press Holdings Pty Ltd and CPH  
Crown Holdings Pty Ltd**

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

**OPENING STATEMENT BY COMMISSIONER OWEN**

COMMISSIONER OWEN: Please be seated.

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Good morning. We are sitting today to commence public hearings of evidence in the second phase of the Perth Casino Royal Commission. I am going to call on Ms Cahill, senior Counsel Assisting the Commission to make an opening statement and some of the parties have advised us that they, through counsel, would also like to

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make an opening statement and we've given them leave to do so.

Before I call on counsel, I wish to make some comments on behalf of the three Commissioners to advise the public and interested parties as to what we see is the likely course of proceedings in the coming months.

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I will commence by repeating what I said a couple of times before, namely that the Terms of Reference direct us to inquire into and report on two broad areas. The first area is directed at the regulation of casinos in WA and the various pieces of legislation, in particular the capability and effectiveness of the Gaming and Wagering Commission in discharging its regulatory functions and of the Department of Local Government, Sport and Cultural Industries in supporting the GWC and how the regulatory framework for casinos enshrined in the legislation fits with contemporary norms and best practice and if there are deficiencies, what changes to the statutory regime should be made to bring it in line with those standards.

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The second broad issue concerns the licensee of the Perth Casino in particular, whether the licensee of Crown Perth Casino is a suitable person to hold the casino licence and whether nominated close associates are suitable persons to be concerned in the operations of the casino. And if the answer to that question is, in relation to any relevant corporate entity, "no", in respect of identifying deficiencies, whether there are remedial issues which, if implemented, could render it a suitable person.

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The two broad areas are separate but at the same time closely connected. During May we sat for three weeks on matters almost exclusively directed to the regulatory framework question. We did not finish our investigation of those matters but gathered sufficient information to enable us to submit an interim report on some regulatory matters. We delivered the interim report on 30 June 2021, the date we were required to do so under the terms of the Commission. We understand that the Government proposes to table and release the interim report when Parliament resumes in August.

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In the second phase of our inquiries we will complete what we need to do in relation to the regulatory questions and then attend to information gathering exercise that will be necessary for us to answer the questions about the suitability of the licensee and

its close associates. We will be concerned primarily with matters particular to the Perth entities within the Crown Group and to issues relating to the Perth Casino. Our focus will be on matters that have not been covered fully or at all in other inquiries, recognising that there will inevitably be overlap.

I want to now turn to the question of the extension of time granted to the Commission. As has been reported in the media, the Government has agreed to our request to vary the terms of the Commission by extending the date by which the final report must be delivered from 14 November 2021 to 4 March 2022. The decision to request an extension was not taken lightly. However, the preparatory work has revealed that the questions raised in the Terms of Reference involve more issues than we initially envisaged. The complexity of some of them and the volume of materials that have to be considered are significant. We are also conscious of developments in inquiries about similar matters in other jurisdictions and of uncertainties about the structure and operations the Crown Group of companies in the future. We came to the view that if we are properly to serve the public interest, and to produce a report and recommendation that both the Government and the public would expect of us, the original timeline was not achievable. While there are some things that are out of our control, and that might intervene, we believe the revised reporting date of 4 March 2022 is achievable. I will now turn to the program in the coming months.

The program that we have in mind is not set in stone. We must maintain flexibility so that resources are utilised to the best advantage and unforeseen contingencies can be accommodated. The program for this second phase that we presently envisage is as follows.

There will be four blocks of sittings, each of two weeks or thereabouts with breaks of varying durations between each block. The purpose of the breaks is to enable the parties, Commission staff and lawyers, and the Commissioners to assess progress and prepare for upcoming blocks. Both efficiency and fairness are accommodated by this proposal.

While very little can be neatly compartmentalised and there will inevitably be overlap, the four blocks in order are: first, governance and operations of the Perth entities of the Crown Group, how they have related to the broader Crown structure, and the interaction between the Perth entities and the GWC.

Secondly, what might loosely be called the GWC wrap-up, dealing with matters remaining from the May hearings and those that arise from the block one evidence.

Thirdly, corporate governance and management issues affecting the suitability of the Perth entities and Crown Resorts Ltd.

Finally, the remediation efforts being made by the Crown Group and in particular how they affect the Perth entities. In this part of the hearings we will also deal with expert evidence in selected areas if necessary.

The objective is to complete the evidentiary hearings by mid to late October 2021. Procedural fairness is an important consideration in investigative proceedings of this type, and we are conscious of the part that closing statements play in that respect.

5 With that in mind, we hope that closing statements of Counsel Assisting can be delivered to the parties by mid-December 2021 with responsive statements from interested parties in mid-January 2022. We propose to give the parties an opportunity to speak to their closing submissions if they wish to do so, during the last week of January 2022. This will leave about five weeks for the Commissioners to  
10 prepare the final report so it can be delivered to the Governor on 4 March 2022.

In relation to leave to appear, on Friday 23 July orders were made giving additional parties leave to appear before the Commission. The parties were advised of those orders and a copy of the orders will soon be uploaded to the PCRC website for the  
15 information of the public.

Finally, we want to acknowledge and express gratitude to the lawyers and administrative staff of the Commission who have worked tirelessly in preparation for this phase two. We also acknowledge and thank the interested parties for their  
20 cooperation to date. Generally speaking they have complied with timetables and accommodated Commission requests for information in a timely and satisfactory manner. Continuation of this level of support will assist us to move through phase two efficiently and thus to serve the public interest.

25 Now, Ms Cahill, would you like to make an opening statement?

### **OPENING STATEMENT BY MS CAHILL**

30 MS CAHILL: Thank you, Commissioner.

Commissioners, this week this Royal Commission commences a series of public examinations of witnesses relevant to Part A of its Terms of Reference.

35 The purpose of this opening statement is to first explain the Commission's current approach to the Terms of Reference in Part A and, secondly, to identify the subject matter that will be of particular interest to the Commissioners during this next phase of public examinations.

40 I turn first to Terms of Reference one to four, which constitute the core of the inquiry, the subject of Part A. In substance, this Commission is required to enquire into whether the licensee of Perth Casino and certain related entities are each a suitable person to be concerned in or associated with the organisation and conduct of  
45 the gaming operations of a licensed casino. In relation to the licensee itself, there is a further inquiry required as to whether it is a suitable person to continue to hold the casino gaming licence for Perth Casino.

Part A of the Terms of Reference is premised upon the proposition that suitability is an important prerequisite for a person or entity who is to be involved or is to continue to be involved in organising and conducting gaming operations in WA.

5 This may be seen as one aspect of a wider concept that underpins the regulation of gambling in this state which prohibits gambling and the organisation and conduct of gambling unless it is expressly permitted. That gambling is not generally permitted, but is instead of intended to be a tightly controlled activity reflects the long and well understood risks associated with gambling. Previous inquiries in WA into the  
10 establishment of casinos and their regulation have, to varying degrees, recognised that three risks of particular significance associated with casino gaming are, first, the risk of harm from gambling in the form of fostering addictive behaviour among casino patrons with attendant financial and social harm; second, the risk that a casino will attract criminal activity; and, third, the risk that a casino will be used for the  
15 purposes of money laundering.

It is also the nature of gambling generally that there is a risk players may be taken advantage of by operators who conduct games unfairly or otherwise than in accordance with the rules. Thus, it is important that those entrusted with  
20 involvement in the operation of a casino have the character, will and ability to appropriately mitigate such risks.

A person's financial position can of course be relevant to whether they have the ability to appropriately conduct casino gaming and mitigate risks. But there is also a  
25 public interest in a financially viable casino operation that contributes positively to the West Australian economy. It is also important that the regulator and the public have confidence that risks will be appropriately mitigated and so a suitable person to be involved in casino gaming operations will not only have, but will also demonstrate the requisite character, will and ability to engage in that activity.  
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A suitable person is defined in the Commission's Terms of Reference and for the purposes of this inquiry. It is a very broad definition but offers some non-exhaustive factors that may be taken into account in the assessment of suitability. Sub-paragraphs (a), (b), (d) and (e), which concern such things as reputation, integrity,  
35 experience, governance processes and public confidence, relate variously to the concepts of character, will and ability that I have just articulated.

Sub-paragraph (c) refers to the financial status and financial background of the person who is being assessed as to whether or not they are suitable.  
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Sub-paragraph (f) permits this Commission to have regard to any other matter it sees fit. One such other matter is likely to be the stability of casino operations and the casino operator beyond just financial stability. Public confidence in casino operations is assisted by stable ownership and governance of the operator and  
45 stability in the operations themselves.

The concept of suitability is also expressed in parts 3 and 4 of the *Casino Control Act*. Section 19B of that Act empowers the Minister to determine that a person who

is a close associate of a public company that has entered into a casino complex agreement, or a close associate of a casino licensee, is not or is no longer a suitable person to be concerned in or associated with the gaming operations of a licensed casino.

The language of the statute in respect of the activities a person may not be suitable to be concerned in or associated with, that is, gaming operations of a licensed casino, is reflected precisely in paragraphs 2 to 4 of the Terms of Reference of this Commission. A close associate for the purposes of the Act is defined in section 18(1). Relevantly for present purposes both Crown Resorts Ltd and Burswood Limited are close associates of Burswood Nominees Ltd and Burswood Resort (Management) Ltd who are parties to the State Agreement. This suggests that at least as far as the inquiry the subject of paragraphs 2 and 4 of the Terms of Reference is concerned, the nature and scope of the inquiry may be informed by the sorts of considerations relevant to an exercise of power pursuant to section 19B of the *Casino Control Act*.

Who is a suitable person is not defined in the *Casino Control Act*, nor are the characteristics of such a person identified. However, suitability must at least be assessed by reference to the basal proposition I earlier identified that a person who is entrusted with involvement in the operation of a casino should have and demonstrate the character, will and ability to appropriately mitigate the main recognised risks associated with casino gaming operations.

The statute does not have a corresponding provision that applies to persons who are parties to a casino complex agreement, such as Burswood Nominees Ltd and Burswood Resort (Management) Ltd. The effects of sections 21A and 21B of the *Casino Control Act* is that the minister has a more general discretion to determine that it is in the public interest to, among other things, but relevantly, revoke a casino licence. However, a consideration of what is in the public interest in this context could properly encompass an assessment of the suitability of a party to a casino complex agreement in a manner similar to an assessment of the suitability of close associates. Thus there may be a degree of correlation between the subject matter of the inquiry pursuant to paragraphs 1 and 3 of the Terms of Reference and the matters which inform an exercise of power under section 21B of the *Casino Control Act*.

It is important to appreciate that paragraphs 1 to 4 of the Terms of Reference are framed in a way that requires an assessment of present and not past or future suitability. Therefore, when examining past events, that is Crown's track record, this Commission will be conscious of the need to consider the relevance of those events to an assessment of suitability presently. It is understood that in response to the Bergin Inquiry and subsequently the Crown Group has embarked on a path of remediation involving the departure of several directors and senior executives, the recruitment of new senior personnel and the review and improvement of external policies, procedures and its business practices generally. The adequacy of these remediation steps insofar as they relate to or affect Perth Casino will be an important area of inquiry for this Commission. That inquiry will include although will certainly not be limited to, examining whether the current financial and business

50 models for the Perth Casino, which are premised on the changes that have been made  
to date, are viable to support a financially stable long-term casino operation.

Having made remarks about the question of whether a person is suitable to be  
addressed by this Commission, I turn to identify the entities the subject of inquiry  
55 pursuant to paragraphs 1 to 4 of the Terms of Reference, their relationship to each  
other and the involvement of each of them in the casino gaming operations of the  
Perth Casino. Referred to as Crown Casino Perth in paragraph 1 of the Terms of  
Reference, the current licensee of Perth Casino is (inaudible) Burswood Limited, the  
entity referred to in paragraph 4 of the Terms of Reference, owns all of the shares in  
60 the licensee Burswood Nominees. Burswood Resort Management Limited which is  
the subject of paragraph 3 of the Terms of Reference, among other things is the  
manager of the Perth Casino and the employer of most of its employees. All three  
companies I have just mentioned are part of the Crown Resorts group of companies  
whose ultimate parent is Crown Resorts Ltd, a publicly listed company. Crown  
65 Resorts Ltd is the entity the subject of the inquiry pursuant to paragraph 2 of the  
Terms of Reference. The present relationship between the four companies is  
explained pictorially in the diagram now displayed on the screen.

In order to understand how in particular Burswood Limited and Burswood Nominees  
70 Limited have come become to be involved in the Perth Casino, it is useful to look at  
some corporate history. One basis on which the Government of the day established  
Perth Casino back in 1985 was that it would form part of a casino complex, which  
would include at least an international standard hotel but likely other amenities, such  
as restaurants, bars and concert and theatre venues, which would act as a drawcard  
75 for tourism as well as servicing the local community.

This reflected some views and recommendations expressed in earlier inquiries that  
relevantly addressed whether, and, if so, how a casino should be established in WA.  
Thus Perth Casino first commenced operation in December 1985 as part of a new  
80 development, the Burswood Resort Complex, located on a site on Burswood Island  
most recently used as a rubbish dump. On completion, the complex would comprise  
the Perth Casino, a 400-room hotel, a golf course located within the redeveloped  
Burswood Park, a theatre and convention centre and the Burswood Dome, an  
enclosed special events venue with seating for up to 20,000 people.

85 The Burswood Property Trust has been established on 20 February 1985 as the  
vehicle for development and ownership of the complex and the land on which it was  
to be situated. The developer's interests associated with Mr Dallas Dempster and  
Genting WA Pty Ltd were allocated units in the Burswood Property Trust.  
90 Additional money was subsequently raised to fund the development by issuing units  
in the trust to members of the public.

Western Australian Trustees Limited was the trustee of the trust and was to become  
the Licensee of the casino on behalf of the trust. Burswood Management Ltd was the  
95 manager of the trust. The trust and the casino licence granted to the trustee would,  
unless

terminated or revoked earlier, continue until 2060.

5 The trustee and manager of the Burswood Property Trust were parties to the State Agreement that came into effect in March 1985 which provided for the construction, development and operation of the hotel and casino complex. The State Agreement was ratified by the enactment that year of the *Casino (Burswood Island) Agreement Act*. Although the trustee held the casino licence on behalf of the Burswood Property Trust, the casino and the rest of the resort complex was originally managed and  
10 operated by Genting WA Pty Ltd pursuant to an Operation Management Agreement with the trust.

15 In the decade between 1987 and 1997 there was some dealings of note. In 1987 the Burswood Property Trust sold the Burswood Island hotel to Japanese interests to reduce the trust's debt levels. In 1990 Victoria Co Ltd acquired 50 per cent of the units in the trust and, with others, purchased the hotel from the Japanese interests. As part of this transaction interests associated with Victoria Co Ltd replaced Genting as the operator and manager of the casino and resort.

20 At the same time, Burswood Management Ltd was replaced as manager of the trust by Burswood Resort (Management) Ltd in which Victoria Co at that time took an interest. As already noted, Burswood Resort (Management) Ltd is the entity the subject to inquiry pursuant to paragraph 3 of the Terms of Reference.

25 In 1997, there was, with the endorsement of the State Government, a restructure of the ownership and management of the resort complex. In broad terms the objectives of the restructure were to simplify the legal structure of Burswood Resort and to render it more attractive to potential investors.

30 One important element of the restructure was that the trust repurchased the Burswood Island hotel. Another was that the Burswood Property Trust took control of the operation and management of the hotel and casino through Burswood Resort (Management) Ltd.

35 A key element of the restructure was that a new public company, Burswood Limited, being the company the subject of paragraph 4 of the Commission's Terms of Reference, was to be listed. The purpose of this was to effectively, to use an express, corporatise, the existing trust structure by having the unit holders in the trust exchange all of their units for shares in Burswood Limited such that Burswood  
40 Limited would then become the sole unit holder in the trust.

A further aspect of this corporatisation was Burswood Nominees Pty Ltd replaced the existing trustee of the Burswood Property Trust.

45 Fast-forwarding to 2004, a company controlled by packer family interests, PBLWA Pty Ltd, made a successful takeover bid for Burswood Limited and purchased all of its shares. At around this time, Burswood Partnership Pty Ltd was incorporated as a wholly owned subsidiary of Burswood Ltd. Its name was changed in Riverbank



Investments Pty Ltd in November 2005. The essential purpose of Riverbank Investments was to hold bank accounts for international patrons of Perth Casino to deposit money into.

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Some consideration of that company and its bank accounts is relevant to the topic of money laundering to which I will turn later in this address.

10 In 2007 the PBL Group separated media and gambling interests which led to the establishment of Crown Resorts Limited as the ultimate parent entity of the companies housing its gambling interests, including the Burswood entities referred to in paragraphs 1, 3 and 4 of this Commission's Terms of Reference. Subsequently, PBL (WA) Pty Ltd was renamed Crown (Western Australia) Pty Ltd as demonstrated on the corporate chart on the screen.

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James Packer's CPH Group through Consolidated Press Holdings Ltd acquired approximately 38 per cent of the share holding of Crown Resorts Ltd at the time of the PBL de-merger. As reflected in the report of the Bergin Inquiry, through that shareholding Mr Packer, until recently, exerted some influence upon the management and governance of Crown Resorts group of companies.

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It is relevant to know note that the Crown Resorts group, in addition to operating the Perth Casino and the surrounding complex, operates other substantial resort complex businesses: Crown Melbourne, which includes the Crown Melbourne casino, and a further resort at Barangaroo in Sydney, which was the subject of the Bergin Inquiry. It operates a licensed casino, Crown Aspinalls in London. It holds a 50 per cent group joint venture interest in the Aspers Group which operates four further casino businesses in the UK. It has other separate interests in the Nobu Group which operates high end restaurants and hotels in various locations around the world, and it also owns or has interests in online betting and gaming service providers and developers: BetFair Australasia, DGN Games and Chill Gaming.

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Before I turn to consider particular matters of interest to this Commission in respect of Part A of the Terms of Reference, it is important to note that the Bergin Inquiry has investigated, and the Victorian Royal Commission into the Casino Operator and Licence is investigating, the suitability of Crown Resorts Ltd and certain of its subsidiaries.

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This Royal Commission's Terms of Reference expressly note the conclusions of the Bergin Inquiry that Crown Sydney Gaming Pty Ltd was not a suitable person to continue to give effect to the restricted gaming licence to operate a restricted gaming facility at Barangaroo and that Crown Resorts Ltd was not a suitable person to be a close associate of the person holding the restricted gaming licence.

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The Victorian Royal Commission into the Casino Operator and Licence is presently enquiring into, among other things, whether Crown Melbourne is a suitable person to continue to hold its casino licence and whether it is in the public interest for it to do so. Whether Crown Resorts Ltd is a suitable associate of Crown Melbourne, and whether any other existing associates of Crown Melbourne are not suitable

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associates. The evidence obtained and any conclusions reached by those inquiries do not determine but will nevertheless be relevant to and will inform the scope of Part A of this Commission's inquiry and its ultimate findings in that regard.

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One particular aspect of the relevance of evidence given the to Bergin Inquiry and the Victorian Royal Commission lies in the efficient use of public resources. This Commission is acutely aware that time and public monies should not be spent on unnecessary duplication of work already undertaken by others. In this regard, the approach of this Commission is to utilise wherever possible and appropriate to do so the evidence and resources available to it from these other inquiries and then to commensurately confine its own investigations.

Against the background of that explanation, I will now turn to identify some matters of particular interest to this Commission that it proposes to include (inaudible). The first is to examine the governance and risk management structures of the licensee of the Perth Casino on the basis that good governance of the licensee and appropriately risk management of its gaming operations specific to the environment in which the Perth Casino operates and the risk profile of that environment is an important factor in assessing its suitability to continue to hold its licence.

In terms of governance, this Commission intends to examine, amongst other things, the experience, competence and integrity of past and present directors of each of the entities the subject of inquiry in Part A, the nature, extent and quality of governance of the licensee specifically, and whether that governance is sufficiently independent so as to give proper focus and attention to the interests of the licensee specifically and its responsibilities in respect of the operation of the Perth Casino.

On those last two points, at the time the Perth Casino was established, it was always contemplated that the licensee, or at least entities associated with it, might simultaneously operate other businesses besides the Perth Casino that were part of the Burswood Resort complex. Where, however, a licensee such as Burswood Nominees Ltd is part of a large corporate group with a range of different business activities and interests in different States of Australia and internationally, questions arise as to whether the governance of the licensee is and can be sufficiently bespoke to the Western Australian context to meet the licensee's responsibilities to safeguard its interests and whether the diversity of interests of the corporate group inevitably lead to divided loyalties or conflicts between those interests that may work to the detriment or prejudice of the licensee.

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In relation to that first point, the Commission intends to examine whether and to what extent there may be a head office style of governance and management of the licensee and the adequacy of any such arrangement. In relation to the second point, one possible example of potential conflict may be seen in the consolidated Casino Agreement between the Victorian Casino Control Authority and Crown Casino Ltd, another wholly-owned subsidiary of Crown Resorts Ltd, for the development of the Melbourne casino and the grant of the casino licence to Crown Melbourne. Amongst other things, by clause 22.1(ra)(iii) of that agreement, Crown Casino Ltd has promised to

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ensure that Crown Resorts Ltd maintains the Melbourne casino as the flagship casino of Crown Resorts gaming business in Australia. How Crown Resorts Ltd acts to fulfil that promise and its effect on the operations of the Perth Casino is something  
5 this Commission wishes to examine.

An examination of the risk management structures and systems relevant to the conduct of gaming operations at the Perth Casino is integral to a consideration of the suitability of the entities referred to in Part A of the Terms of Reference. No activity  
10 in life or, more relevantly, business is entirely risk-free. However, to return to an earlier point, the highly regulated nature of the casino operations in this State reflects the particular and significant risk profile of casino gaming. Thus, the proper management and appropriate mitigation of particular and significant risks associated with conducting gaming operations in a casino is all-important and highly relevant to  
15 an assessment of suitability.

One aspect of this issue is to examine the components of the documented system of risk management of the licensee and the corporate group, such as policies, procedures, delegations and the like, and to assess the adequacy of those components  
20 to effectively mitigate risks.

Another aspect is an examination of the adequacy of implementation of the documented system. Of particular importance here is an examination of corporate will or intention, or what is often termed corporate culture. A documented system of  
25 risk management can only ever be as effective as the corporate will to implement it comprehensively and diligently and to engage with the substance of risk management and not merely the form.

Another area of inquiry for this Commission involves looking at aspects of the topics  
30 of money laundering and junkets. Money laundering in the simplest of terms describes financial transactions structured to disguise the source of money that is the financial proceeds of crime or that is used to commit a crime. As I have already noted, the vulnerability of casinos to the risk that their operations will be used to facilitate money laundering is well-recognised and long understood.  
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Casinos typically engage in a very large number of financial transactions every day, the most obvious being the exchange of money for gambling chips and vice versa. Individual transactions can be for very large sums. In recent decades, as the popularity of junkets has grown, many financial transactions ostensibly involving  
40 casino business take place across international borders. All of these elements tend to render casinos attractive places for the laundering of money, especially those casinos that lack the capacity or desire to minimise the risk of laundering occurring.

The Bergin Inquiry examined the vulnerability of Melbourne casino and to a lesser extent the vulnerability of Perth Casino to the risk of their operations being used to facilitate money laundering. The Victorian Royal Commission has also examined  
45 the same topic but understandably with a particular focus on Melbourne casino. The evidence publicly available from that Royal Commission raises questions about,

amongst other things, whether the adoption by Melbourne casino of practices in relation to certain financial transactions with patrons and third parties might mean that potential money laundering was less likely and able to be detected. The establishment and management of the Southbank and Riverbank accounts in that context, the so-called CUP process, whereby international visitors to the Melbourne casino could make card payments through a Crown (inaudible) overseas to fund gambling at the casino, the corporate culture within Crown Resorts Ltd in Melbourne casino, and whether that rendered the casino more vulnerable to money laundering.

This Commission will investigate similar issues with reference to the Perth Casino and the Burswood entities specifically. In doing so, it is important to correctly frame and understand the purpose of that investigation relevant to an assessment of suitability. It is not the responsibility of casino operators to detect crime such as money laundering, even less to enforce the law. It is, however, the responsibility of a casino operator and those relevantly involved in its operations to implement a system to enable the operator to identify patron activity that raises a reasonable suspicion of money laundering or efforts to disguise money laundering such as structuring, and to report such transactions to the relevant regulators and law enforcement agencies.

It is in this particular context that this Commission will examine the risk management system of the relevant Burswood entities and the adequacy of that system to identify suspicious transactions at Perth Casino.

The adequacy of the system is to be assessed not just by consideration of the documents such as written policies and procedures, but by other evidence that falls into two broad categories.

The first category is evidence of where the risk management system has failed or succeeded by reference to where suspicious transactions have or have not been detected by Perth Casino and have or have not been reported to the relevant government agencies.

The second category of evidence is, expressed broadly, evidence of the corporate culture surrounding the operations of the Perth Casino, and the relative willingness of the Burswood entities to identify and report suspicious transactions. Part of the Commission's inquiry relevant to that second category will include examining the response of Perth Casino and related entities to media allegations about money laundering being facilitated or possibly being facilitated by or through the Melbourne casino and Perth Casino operations.

Junkets have become an increasingly important part of Crown Resorts Limited's business at both Melbourne Casino and Perth Casino. International patrons who participate in junkets typically bet large to very large amounts of money over several days of continuous gaming. Junkets are notorious for their vulnerability to money laundering and links to organised crime syndicates. In the wake of significant concerns raised elsewhere about the Crown Group's junket programs, in February 2021 the Gaming and

Wagering Commission in WA issued a direction prohibiting the Perth Casino licensee from conducting junket operations. This Commission is nevertheless interested to examine the following matters to do with Perth Casino's previous junket operations as relevant to an assessment of its present suitability and having regard to the possibility that the licensee may be permitted and may wish to resume junket operations at some time in the future.

First, the adequacy of Perth Casino's documented system to mitigate the risks of committing junket operations to Perth Casino that had links to organised crime or for the purpose of facilitating money laundering. The circumstances that led to the GWC's direction prohibiting junket operations will be a relevant area of inquiry. Second, whether the licensee permitted junket operators or junket participants at the Perth Casino who had been assessed as unsuitable and barred from Melbourne casino to continue to travel to Perth Casino and game there.

Third, it appears that over a period commencing from at least 2010 but possibly earlier, there was a gradual but significant relaxation of the regulation and oversight by the Gaming and Wagering Commission of junket operations.

In particular, in 2010, regulations concerning junket operations, including the requirement for the GWC to approve the junket operators, were repealed. In 2017, residual requirements for the licensee to provide to the GWC the names of junket participants and their passport numbers were also removed. This particular relaxation occurred oddly at a time when concerns were rising, rather than abating, among relevant government agencies about the risks associated with international junket operations at casinos across Australia.

This Commission is interested to explore whether and to what extent Perth Casino and its associates advocated for the loosening of the formal regulation and oversight by GWC of junket operations and, if it did so advocate, the reasons for that.

On a related topic, the Bergin Inquiry examined in some detail and made adverse findings against the Crown Group in relation to an incident in 2016 when Crown employees based in China were arrested by Chinese authorities for breaching Chinese gambling law. This Commission is interested to ascertain whether and to what extent the Perth Casino licensee or other Burswood entities were involved in any of the relevant acts or omissions the subject of evidence before the Bergin Inquiry. It is also interested to examine the Burswood entities' response to the China arrests in terms of its marketing and management of junkets in the aftermath of those arrests.

This Commission also wishes to inquire into Perth Casino's approach to harm minimisation for the purposes of assessing the suitability issues the subject of Part A. The risk of harm to casino patrons from gaming activity is well-recognised and can have very serious consequences. Accordingly, this Commission considers that it is incumbent upon those involved in the provision of casino gaming to the community to take all steps reasonably open to them to minimise the risk of harm from that

activity.

5 Against that background, this Commission intends to look at several matters to do with harm minimisation. The first is to examine whether and to what extent those involved in the conduct of gaming at the Perth Casino have had regard to, or themselves have conducted, research into the risk of harm and its minimisation, both generally and with specific reference to Perth Casino and the West Australian community. This will be relevant to a consideration of the second matter being an  
10 assessment of the adequacy of such systems, policies and procedures as the Perth Casino has for harm minimisation and such adjustments as has been made to that system over time and presently.

15 One particular aspect of this assessment will involve considering whether and to what extent Perth Casino's harm minimisation system devolves responsibility upon the patron to avail themselves of harm minimisation strategies and the appropriateness of such an approach.

20 The third matter is to examine Perth Casino's compliance with its harm minimisation system. This raises in a particular context questions about corporate culture to which I referred earlier.

25 Pursuing the issue of culture, the fourth matter the Commission wishes to examine is Perth Casino's approach more generally to the management and development of its casino business, including marketing and the use of such things as loyalty programs, gratuities and prizes to see whether appropriate emphasis is given to harm minimisation in that context. Separately, an issue that will be considered in respect of Part B of the Terms of Reference concerns the adequacy of support for people who are actually harmed by gaming in the casino, either directly or indirectly.

30 The evidence presently before this Commission suggests that what support is available presently is provided primarily through services funded by the Problem Gambling Support Services Committee, comprised of representatives from the gambling industry and the Government.

35 It might be thought that once harm is actually caused, the support to be provided to individuals in response to that is properly the responsibility of the Government rather than vested industry interests, albeit that the industry who has derived profits from the activities that caused the harm might be expected to contribute financially to the provision of that support. That is a matter that the Commission intends to consider as an aspect of Part B. Nevertheless, in the context of Part A, the Commission will consider, again as an aspect of corporate culture, Perth Casino's current approach to  
40 and participation in the provision of support, financial or otherwise, to those who have been harmed by casino gaming.

45 A further area of inquiry for the Commission, and one related to the issue of harm minimisation, is the operation at the Perth Casino of electronic gaming machines, or EGMs, as they are known.

Mr Nick Toyne, an authorised casino inspector from 1985 until earlier this year gave evidence during the public examinations the Commission conducted in May in respect of Part B. In the course of his evidence, Mr Toyne described EGMs as

5 "probable the most addictive form of gambling that exists". In a similar vein, Janine Belling, the Chief Casino Officer between 2000 and 2012 explained in her evidence in May that "the Gaming and Wagering Commission had quite a significant focus on problem gambling across the entire casino floor but EGMs are traditionally the area of greatest concern".

10

There is a large body of academic literature tending to indicate that electronic gaming machines or EGMs share a number of structural characteristics that may contribute to their addictive and therefore harmful nature, including features that provide positive reinforcement or add excitement such as free games or free spins,

15 bonus features and jackpots. Losses disguised as wins, perhaps another way in which positive reinforcement is provided if, for example, a player bets \$2 on a game and returns \$1.50, that return is celebrated by the machine and the player is congratulated as if they have had a win, despite suffering a net loss. Multiline betting, which increases maximum bet sizes, and speed of play. In Australia the

20 minimum time between games played continuously on an EGM is between 3 and 5 seconds. Studies have suggested variously that faster speed of play enhances the player's enjoyment and satisfaction of the game, and gamblers who have a problematic relationship with gambling tend to play at faster speeds than those gamblers who don't.

25

In any event, it may be readily accepted that faster games can lead to increased harm in the sense that a player has the opportunity to bet and lose greater amounts within a fixed period of gaming.

30 There were 200 EGMs at the Perth Casino in 1985 when it was established. In 2017, the number had grown to 2,500 EGMs and has remained constant since then. EGM revenue now comprises roughly half of Perth Casino's revenue from gaming activities. It is against this background that I draw attention to section 22(6) of the *Casino Control Act* and section 85 of the *Gaming and Wagering Commission Act*.

35 The combined effect of these provisions is that since 1985 electronic gaming machines have not been permitted to be played anywhere in WA except if authorised and played at Perth Casino. And the only electronic gaming machines that can be authorised to be played at Perth Casino are those machines that are not poker machines. Regrettably, the legislation does not define what is or what is not a poker

40 machine. It may be assumed, however, that the prohibition of poker machines was prompted by Parliament's concern that they were harmful or had characteristics that had the potential to cause harm.

In that regard it is relevant to note that the 1974 report of the West Australian Royal

45 Commission into gambling described the playing of poker machines as "mindless, repetitive and insidious form of gambling which has many undesirable features". When the effective prohibition of poker machines was introduced in 1985, it seems that the GWC's predecessor, the Casino Control Committee, made a distinction

between what was then known as a video gaming machine and a poker machine. The regulator regarded video gaming machines as permitted games capable of being authorised to be played at the casino on the basis that machine replicated table games such as blackjack, Keno, roulette and poker and, therefore, required some intervention or decision-making on the part of a player.

As EGMs developed over time, so did the regulator's policy to distinguish between EGMs which were permitted and poker machines which were not. Today, there are two documents that regulate the requirements and standards for EGMs in WA: the GWC's EGM policy, first adopted in 2011 and most recently amended in 2019, and, the WA appendix to the Gaming Machine National Standard, the present version of which is the 2016 standard.

The policy in particular explicitly purports to distinguish between a poker machine and an EGM by stipulating that for a machine to qualify as an EGM, there must be no spinning wheel display, the game must involve some level of player interaction, each game must take a minimum of three seconds to play, the symbols used in the game must not appear on poker machines in any other state of Australia, there must be a 90 per cent return to player, being the minimum average return to player over the game cycle of a machine, and there must be no autoplay feature such that a game cannot commence without a player pushing a button.

Whether the distinctions the GWC makes in this regard are in conformity with the statutory prohibition is a matter for this Commission to consider, particularly in the context of Part B of the Terms of Reference. The extent to which these distinctions are meaningful in terms of harm minimisation is also something the Commission will examine.

Returning the focus particularly to the suitability issues the subject of Part A in relation to EGMs, the Commission is interested to explore a number of matters but I mention two here in particular. The first focuses on the GWC policy and WA standard that I've just mentioned, that regulate the requirements for electronic gaming machines in WA. It would appear that policy development over the period since 2004 has led to changes in the policy itself and also the standard, that have eroded the distinction between electronic gaming machines permitted in WA and the machines known colloquially as "pokies" that are proliferated in the eastern states. The Commission is interested to understand whether and to what extent those involved in the operations of the Perth Casino have contributed to or influenced that policy development, and to the extent that they have, whether in doing so they have exhibited appropriate deference to the prohibition of poker machines in the state, and the need to minimise the risk of harm to patrons of the Perth Casino.

The second matter looks at the approach taken to the strategic development of Perth Casino's EGM business, and encompasses an examination of such things as the introduction of new games, marketing, the introduction and use of software for the monitoring and management of EGMs, and the introduction of new technologies such as the cashless ticket in, ticket out and play and payment system. The Commission



wishes to examine in particular whether when developing the EGM business, the licensee and others involved in the operation of the Perth Casino have given too great a focus to increasing revenues from EGMs at the expense of giving proper emphasis to the need to minimise the risk of harm from EGMs.

I turn from paragraphs 1 to 4 of the Terms of Reference to paragraph 5. The requirement of the Commission to make findings of the type described in this paragraph are conditioned upon the Commission having first made (inaudible) findings in respect of one or more of paragraphs 1 to 4, that an entity specified in the paragraphs is not a suitable person to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino, or that the licensee is not a suitable person to continue to hold the casino gaming licence for Perth Casino.

In substance, this Commission is required to identify any changes that would be required to render the relevant entities suitable. Although not unequivocally clear, the use of the words "if any" in the first line of the sentence implies that the Terms of Reference leave open to the Commission to find, if appropriate to do so, that there are no changes that could be made to render the relevant entities suitable.

It is expected that the nature and scope of this particular aspect of the inquiry, and its findings, will largely be informed by the outworking of the inquiry pursuant to paragraphs 1 to 4. Evidence of any future or further remediation plans for Perth Casino that Crown Resorts Ltd or the licensee has will also be relevant to this aspect of the inquiry.

Paragraph 6 of the Terms of Reference calls for inquiry into the adequacy of communications by the licensee and its associates with the Gaming and Wagering Commission in relation to matters related to or connected with the Bergin Report and any matters referred to in that report.

I begin with observations about the adequacy of the operator's communications to the regulator generally.

First, it goes without saying that the casino operator's communications with GWC must at all times be full and frank, but particularly so where it is responding to requests for information.

Second, the operator must in their communications with the regulator be cognisant of their responsibility to mitigate the risks associated with gaming and the regulator's corresponding duty to oversee the discharge of the licensee's responsibilities in that regard. This will from time to time place a positive obligation of disclosure upon the operator in respect of matters adverse to its interests, whether or not GWC has made a request for information, or there is a legal obligation otherwise to make disclosure.

The reason for the emphasis in paragraph 6 of the Terms of Reference upon communications concerning matters related to or connected with the Bergin Report, and any matters referred to in that report, can readily be discerned from examining

pages from two documents. The first is page 003 of the document GWC.0001.0009.0001. This is a PowerPoint presentation by Crown to GWC members dated 27 August 2019, a matter of weeks after the Bergin Inquiry had been announced. The essential thrust of this presentation can be gathered from the executive summary on this page as a Crown's response to the media allegations that were to be examined in the Bergin Inquiry. On this page the media allegations were unequivocally and emphatically rejected. Crown assured the GWC that the integrity of gaming operations had always been maintained.

A rather different posture was evident at a further presentation 14 months later in October 2020. At page 0005 of GWC.0001.0010.0008 there is an admission that certain shortcomings had been identified during the Bergin Inquiry with an acknowledgement of the seriousness of those issues and the notification of changes to some of Crown's practices including the closure of the Riverbank accounts. That obviously calls into question the reliability of the earlier 2019 presentation and the Commission will, in addition to examining other communications during this period, enquire into the preparation of the 2019 presentation, who was involved in that and the source of information for its contents.

Paragraph 7 of the Terms of Reference permits this Commission to inquire into and make findings about any matter reasonably incidental to the matters the subject of matters 1 through 6. Each of the paragraphs 1 to 4 and 6 to varying degrees and in different ways lead to a consideration of a more general matter of some significance that concerns the nature or dynamic of the relationship between Perth Casino and the GWC.

A casino licensee is accountable to its regulator who is responsible for the oversight of the licensee's conduct of its casino gaming activities. "Regulatory capture" is a term used to describe a situation in which, in an inversion of this relationship of accountability, a regulator is influenced or becomes dominated by the industry or interests it regulates. Regulatory capture can have a number of causes but includes, with reference to the context of casino operations, the familiarity that a regulator may develop with both the licensee's operations and the individuals employed by the casino who conduct those operations. Reducing the risk of regulatory capture calls for transparency, objectivity, personal distance and appropriate formality of dealings between the two entities. A regulated party should not set out to deliberately capture the regulator.

During the first phase of the May examinations in respect of Part B, the Commission heard some evidence about friendships that the Chief Casino Officer, Mr Connolly, has had over many years with Mr Paul Hulme, Mr Claude Marais who were senior executives at Perth Casino in the compliance area. Mr Marais still holds the position of general manager, legal and compliance, although Mr Hulme has now retired. There also appears to have been a trend over many years of gradual relaxation by GWC of its regulation of Perth Casino's operations. Junket regulation, to which I earlier referred, is one example of this.

The Commission is interested to enquire into the nature of the relationship between GWC and the Crown Group more generally in addition to the communications the subject of paragraph 6 of the Terms of Reference in order to examine these issues.

5

Finally, Commissioner Owen has outlined in broad terms the program for blocks of hearings to be held between now and October 2021.

10 The first block commences this Wednesday, 28 July, with the examination of Mr John Poynton, a former director of Burswood Ltd and Crown Resorts Ltd, followed by Ms Maryna Fewster a director of Burswood Ltd on Thursday 29 July, and then Mr Tim Roberts, a former director of Burswood Ltd, on Friday, 30 July.

15 In the following week or two, various current and former executives of the Crown group will be examined, including Mr Joshua Preston, Mr David Brown, Mr Lonnie Bossi, Mr Claude Marais and Mr Barry Felstead. The current Chief Financial Officer of Crown Resorts Ltd, Mr Alan McGregor is scheduled to be examined on Wednesday, 11 August 2021 and Ms Helen Coonan is to be examined on Thursday, 12 August 2021.

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That completes the opening statement of Counsel Assisting.

25 COMMISSIONER OWEN: Thank you, Ms Cahill. It has occurred to me that when I made my remarks at the outset this morning I may have overlooked a couple of comments and wanted to make around procedures and I will now remedy that oversight.

30 In relation to procedural matters, hearing schedules, as they are developed and confirmed, will be made available on the website for the information of the public. Witnesses will be given as much notice as possible before being called to give evidence. And the practice that we've adopted to date of asking witnesses to prepare and submit written witness statements and of publishing those statements with redactions if necessary will continue.

35 Wherever possible, proceedings will be open to the public and available by live streaming. However, it is likely that from time to time we will have to take evidence in private hearings. We are presently considering whether it is appropriate to publish a practice direction setting out procedures for private hearings and the management of materials elicited during those sessions.

40

45 Earlier this month we issued a media statement encouraging contact from persons who wished to provide information about improper conduct related to gambling and associated activities at the Crown Casino Perth. That invitation remains open until Monday, 2 August. We are also happy to hear from members of the public who wish to make a general submission relating to regulatory policy and/or administrative, legislative or structural reforms of changes to the regulatory framework. We will advertise a cut-off time for those submissions shortly.

Now, I think, Mr Dharmananda, you wanted to make an opening statement and I think also Mr Ward and Mr Evans? That's correct.

5 Mr Dharmananda, how long do you think you will likely be?

MR DHARMANANDA: Not very long at all, but if Commissioners, you wish to adjourn ---

10 COMMISSIONER OWEN: I'm happy to start. For the benefit of the public, it might be as well for you to remind us and them exactly for whom you are representing.

MR DHARMANANDA: Yes, I represent the companies mentioned as forming part  
15 of the Crown Group, Commissioners.

COMMISSIONER OWEN: Thank you.

20 **OPENING STATEMENT BY MR DHARMANANDA**

MR DHARMANANDA: This is not going to be a traditional opening in the sense that until this morning we are not fully apprised as to the exact direction of the  
25 inquiry's investigations, but Crown is grateful to the Commissioners for the opportunity to make this statement and, consistent with Crown's desire to assist the Commission in its task, this statement will be brief, recognising that there is much still to be done by the Commission. That there is much to be done is reflected in the recent announcement about the extension of the Royal Commission until March  
30 2022. One can appreciate the burdens on the Commission and on those assisting it. What may not be as easily appreciated is the human toll of the various inquiries on the many people at Crown who, with lockdowns and COVID, are attending to their jobs as best they can.

35 I intend to make three main points. The first is this: Crown is responding appropriately as the object of sustained scrutiny. Crown is addressing its deficiencies. Those matters were aired in the Bergin Inquiry to begin with and then in various other inquiries and investigations, including from various regulators. Crown accepts responsibility for its failings and is working earnestly to change. It is  
40 not adopting the posture of defiance.

The second point is this: that there has been great change and works are continuing. Some of the matters likely to be the subject of attention in the inquiry happened under the watch of a different company in effect. The ways of old have been set  
45 aside and there has been change at the level of structure, ethos and people. Crown has committed to transform its operations, processes for review and culture. There has been careful, and considered attention to a Remediation Plan, the subject of extensive advice from leading experts in AML, risk management, regulatory compliance, governance and culture.

The Remediation Plan, underway since 2020, before the publication of the Bergin Report, has been the subject of scrutiny and is the subject of independent monitoring. The essence of the plan is to attend to each and every area where there is need for improvement. Updates as to the fulfilment of the plan are provided monthly to each relevant regulator. There has been considerable progress. I will touch on some of the more significant changes.

Crown has made significant investment in strengthening its AML/CTF framework including steps taken and actions committed to in relation to the following: Financial Crime & Compliance Change Program, financial crime resourcing and team structure, AML/CTF training, transaction monitoring, customer due diligence, regulatory reporting and the Deloitte forensic review. There will be more, no doubt, in the nature of attention to the work of Deloitte.

As to risk management, Crown has added to full-time roles in the risk management team and a revised risk and compliant culture framework was approved by the Crown Board in March 2021 in combination with changes to the Risk Management Committee process and the enhancement of the process for reporting to that committee. The risk team is reviewing the training programs provided to staff to address coverage of relevant risks.

Deloitte was engaged to review the risk management program in 2019. All recommendations have been implemented with a minor exception of one recommendation which proposed a change in the name of a risk policy document. All this is ultimately to change the culture within Crown. Crown rolled out its new values in 2019 which have been incorporated into relevant policies and documents, and about which individual witnesses will give evidence. An overarching Cultural Reform Plan has been developed and is under the direction of the CEO and Chief People & Culture Officer of Crown Resorts. Deloitte has been engaged to conduct an organisational culture review consisting of four phases of work. Those phases are underway.

Crown has thus embarked upon a substantial reform agenda and some aspects of this reform agenda were the subject of attention before the findings of the Bergin Inquiry were published. Many other parts of the reform program are well-advanced and there will be evolution and betterment of the agenda over time. This will reflect the industry and dedication of the new officers who have joined Crown. Crown has proceeded to hire leaders with excellent credentials. Moreover, these individuals are committed to delivering on the promise of reform. There are fresh eyes on the task supported by strong commitment at the board level to change.

The removal of the influence of CPH and the turnover at board and senior management level have been landmark events. The renewal of the institution at the top sets a solid foundation for the culture reform work to be delivered more quickly than would otherwise have been the case without such transformational change. Cultural reform is a first order priority. There has been substantial improvement and

the people and the tone from the top have changed. The work to be done is to embed and improve culture at all levels of Crown's business. The work with Deloitte is well advanced and will likely conclude by mid-August. There is a clear sense of urgency  
5 at the company to deliver change as quickly as reasonably possible, despite the many other matters to which it must attend.

That goes then to the third point, that is that Crown is committed to completing the task of reform, and this is a matter that is relevant to the PCRC's task. Crown is in  
10 the process of undertaking a substantial reform program of its organisation and culture. That very significant undertaking will take time to conclude but the task is well underway, and any undertaking of such a complex and intricate nature will take time to complete.

15 Crown is absolutely committed to see these reforms through. The Terms of Reference, as the Commissioners know, mandate the PCRC to enquire into whether Crown Perth is a suitable person to be concerned with the licenced casino and to continue to hold the gaming licence. The Terms of Reference expressly require the  
20 PCRC to have regard in particular to the Bergin Report and the evidence before Commissioner Bergin and, indeed, matters that have been sufficiently and appropriately dealt with by another inquiry or investigation such as the Finkelstein Royal Commission.

The text and tenor of the Terms of Reference, especially A5 of the operative part,  
25 means that the PCRC's mission is to consider whether Crown Perth and its associates are presently suitable and, if not, what changes would be required to render them suitable. That invites attention, as the Commissioners know from the Terms of Reference, to the measures that need to be completed to render Crown suitable.

30 The inquiry is not simply about assessing whether Crown has fallen; it is also about whether Crown has picked itself up. Crown will work hard to meet the expectations of the GWC and the State Government. Crown's approach to the regulator reflects the other mentioned changes in the company, and Crown has taken steps to improve the level of transparency with the GWC. There is a very clear intention to engage  
35 with the GWC candidly and in a straightforward manner. That reflects the direction from the board and senior management. Crown will work hard to translate the reform plans from thin paper to thick action, the labour of implementation will continue unabated.

40 The PCRC will no doubt engage with the question of present suitability and any necessary changes required to render Crown suitable, including consideration of the substantial reform program already in train. Crown stands ready to offer its assistance as required to the Commission in that regard.

45 Thank you, Commissioners.

COMMISSIONER OWEN: Thank you, Mr Dharmananda.

Mr Ward, how long will you be?

MR WARD: I will be brief.

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**OPENING STATEMENT BY MR WARD**

10 COMMISSIONER OWEN: Thank you.

MR WARD: Commissioners, I've been asked to make some brief opening remarks on before of Mr Poynton, who will be the first witness from whom you will hear in this stage of the inquiry. I shall set some context for his evidence and particularly in regards his role as a non-executive director of Burswood Limited. What I have to say may have some relevance also to the other non-executive directors that you will hear from this week, but I stress that I do not speak for them.

The first matter concerns the governance and risk management issues that were referred to by Counsel Assisting in her opening remarks. The questions that were requested by Counsel Assisting to be addressed in Mr Poynton's witness statement sought information regarding the way in which risks to the business were dealt with by the Perth entities and by the Melbourne entities, by Crown Resorts, and also within the Perth entities at different levels, so as between Burswood Limited, Burswood Nominees and Burswood Management. Those questions, and the way they were framed, perhaps disclose some deficiency in understanding of the way in which those matters were dealt with within the Crown Group insofar as the non-executive directors, particularly Mr Poynton's role as a non-executive director as Burswood Limited is concerned.

Like many national businesses, Crown operated and still operates today, as far as Mr Poynton is aware, its Perth and Melbourne businesses utilising what he would describe as a shared services structure. To that end, the executive management functions of the Perth Casino were provided by executives of Crown and many of those executives sat as executive directors on the boards of the West Australian subsidiary companies. Primary responsibility for the gaming operations of the Perth Casino, in particular, sat with the executive management and the board of the licensee, Burswood Nominees, who ultimately reported to the board of Crown Resorts and its various committees. Under that shared services structure, responsibility for compliance activities, such as the implementation of an anti-money laundering counter-terrorism financing program, junkets and gaming operations, generally, were dealt with at the Crown Resorts level and policies were generally applied informally across the group.

Until 2018, Mr Poynton's role was limited to that of a non-executive director of Burswood Limited which, as was shown in the organisation chart displayed by Counsel Assisting during her opening remarks, was an intermediary company in the group sitting between the licensee of the Perth Casino and Crown Resorts. As such,

the board of Burswood Limited did not have primary responsibility for the gaming operations of the Perth Casino.

5 Mr Poynton's role as a non-executive director on the board of Burswood Limited was to provide a broader perspective to the board of Burswood, which would in turn feed upwards to the board of Crown Resorts, on the West Australian economy, through his connections with business and government of Western Australia. That broader perspective was critical to important investment decisions, such as the Group's  
10 investment in the Crown Towers project, which was perhaps the most significant investment made by Crown in WA during his tenure. He was not appointed to the board for the reason that he had any particular expertise in casino operations and nor should he have been required as a non-executive director to have such expertise. He has of course gained an understanding of the business through his time as a director.

15 In carrying out his duties as a non-executive director of Burswood Limited, and from 2020 as non-executive chairman of Burswood Limited, Mr Poynton was reliant upon the executive management of the Perth Casino to escalate matters to the board of Burswood and to inform the board as to relevant facts. Whilst some concerns have  
20 been raised in inquiries interstate regarding Crown's gaming operations, as this Commission will hear, the board of Burswood, or at least the non-executive members of the board, were given assurances that the matters raised, particularly concerning electronic gaming machines, did not arise in the Perth Casino.

25 The Bergin Inquiry naturally had a very sharp focus on the premium international gaming operations, given that was the intended operation of the --- the intended market of the Sydney casino. However, it is not a substantial part, and has never been a substantial part of the Perth Casino's business. In Mr Poynton's evidence to the Bergin Inquiry, documentary evidence was tendered showing that the premium  
30 international market generally comprised less than three per cent of the profits of the Perth Casino.

The most serious allegation concerning the Perth Casino that arose in the Bergin Inquiry concerned the operation of the bank account of Riverbank Investments Pty  
35 Ltd which was used to facilitate receipt of funds from international customers. There was no suggestion that Mr Poynton knew at any time before late 2019 that that subsidiary had even been incorporated, let alone that it was operating a bank account for that purpose. There was nothing known to put a non-executive director in his position on inquiries into those matters.

40 Mr Poynton was appointed to the board of Crown Resorts as a nominee of CPH in 2018 following the resignation of Mr Packer. It would be fair to say that he joined the board of the head company at a time of peak reform. There was no evidence before the Bergin Inquiry and no suggestion that Mr Poynton has ever been beholden  
45 to Mr Packer. There is no suggestion that Mr Poynton ever shared information with Mr Packer from the Crown Resorts Board meetings in the manner that was disclosed in respect of others by the Bergin Inquiry. Although Mr Poynton entered into a consultancy agreement with CPH as part of his appointment, he did so specifically



so as not to be considered an independent director. Nonetheless, in his conduct, he acted independently. Mr Poynton wishes it to be noted that the Bergin Inquiry made absolutely no adverse findings concerning his conduct as a director of either  
5 Burswood or of Crown Resorts. To the contrary, although the outcome of the Bergin Inquiry indicated that the degree of influence of CPH would need to be curtailed, the Inquiry's report contemplated that Mr Poynton would continue as a director of Crown Resorts to assist in resolving the issues raised in that inquiry.

10 Notwithstanding that outcome, Mr Poynton was placed under significant pressure by both the chair of Crown Resorts and the NSW regulator, both privately and in media statements, and he ultimately resigned from both boards at the start of this year. That resignation should be in no way taken to be an admission that he had cause to resign. To the contrary, Mr Poynton considered it was in the best interests of Crown that he,  
15 as an experienced and respected director who had only recently been appointed to the board of Crown Resorts and therefore had not been in a position when the problems that led to the Bergin Inquiry developed, he could quite properly help guide the company out of those difficulties and to address the cultural issues that have since attracted so much criticism. Unfortunately he was not afforded that opportunity.

20 Finally, by way of opening in context, Commissioners may have seen a news report a couple of weeks ago in the Sydney Morning Herald suggesting that Mr Poynton was putting together a possible bid for the Perth Casino in the event Crown Resorts was forced to divest itself of the casino as a consequence of this inquiry. Mr Poynton has  
25 asked me to make it clear right at the outset that there is absolutely no truth in that media report.

Thank you, Commissioners.

30 COMMISSIONER OWEN: Thank you, Mr Ward. Your remarks indicate that there is much for us to consider.

Mr Evans?

35 MR EVANS: Thank you, Commissioners.

The email which I received from Solicitors Assisting emphasised brevity in these submissions although I fear they will not be less than 15 or 20 minutes. In order to  
40 balance efficiency and brevity, can I hand up a complete outline.

COMMISSIONER OWEN: Certainly, Mr Evans.

Mr Evans, in view of what you've just said, there are some things that we need to attend to so we might take a break and then hear from you when we come back.

45 MR EVANS: Certainly, Commissioner.

COMMISSIONER OWEN: We will come back at 11.35.

11:21AM

Thank you.

5 **ADJOURNED** [11.21AM]

**RESUMED** [11.38AM]

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**OPENING STATEMENT BY MR EVANS**

15 MR EVANS: I should note that it is quite heavily cited, and we haven't yet completed the exercise of cite checking against the actual exhibit list to date. That is an exercise which will be taken over the next few days. It may mean that we submit by list a supplementary tender bundle, and we'll attend to that tender at a convenient juncture.

20 Can I thank the Commissioners for the outline as to the course which is to be pursued over the coming months. It is a great assistance to GWC in preparing for its appearance before this Commission, and to my learned friend Ms Cahill for her exposition of the key points.

25 There is a strong degree of coherence between the issues identified by Ms Cahill and the issues of concern to GWC, although I will say the issues which trouble GWC vary in emphasis and also in the question of actionability, and I will turn to that in a moment.

30 I also note, with thanks my friend Mr Dharmananda's observations, the position of the Crown Group. They are to be expected. I will say, and I will turn to this shortly, some aspects of them, in particular his second point, do not entirely correspond with the experience of GWC in relevantly recent times.

35 I want to address briefly some of the Part B issues before we turn to the interaction of the next phase of the Commission's hearing with Part A and the matters of particular concern to GWC.

40 The risk of infiltration of casinos by criminal organisations seeking to exploit the nature of casino gaming involving the exchange of potentially large amounts of money by anonymous participants has always been apparent. Every report that we've looked at, which considers the merits of establishing licenced casinos Australia-wide has included reference to the possibility to some greater or lesser extent. Nonetheless, every jurisdiction has licensed casinos and establish a regulatory framework for the licensing of casinos. Money laundering has received considerable attention in the context of Crown's operations. As an operational risk in relation to  
45 casinos, money laundering and criminal influence is not an emerging strategic risk.

It has always been such, and the regulatory regime was devised with that in sight. There is a more fundamental issue in relation to the culture, and therefore fitness and propriety, of the Crown Resorts Group of which money laundering is but one manifestation.

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Every jurisdiction has established a licensing regime which has as a principal feature an assessment of the suitability of the casino licensee to hold such a licence, monitoring and assessment of key associates of the casino licensee and the licensing of the key individuals responsible for gaming activities with a requirement that they

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be fit and proper or a test to be involved in the management of a casino operation. That is the first and principal line of defence against the risks posed by casino gaming activities. Those risks extend well beyond exploitation of gaming by criminals. They include the risk of casino operators acting unscrupulously in relation to those participating in casino gaming by the way in which the rules of the game are set and played and supervised.

15

In relation to those participating in casino gaming by the exploitation of vulnerability or addiction, and in relation to the calculation and payment of the casino taxes, which are one of the two key benefits derived by government and society from the operation of casinos, the other employment and economic activity more generally

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being less vulnerable but perhaps not invulnerable to exploitation. It is clear beyond a doubt that those three risks and those three areas of focus in the regulatory regime have been the key focus of GWC's regulatory attention since its inception as a casino control commission at the establishment of the Burswood Casino.

25

Jurisdictions differ in the precise regulatory construct which they use and particularly in the constitution of the principal regulatory body, its funding, the precision of the functions in which it exists, and the clarity and breadth of the powers with which it is clothed to pursue functions.

30

An express ongoing function of ensuring that the management and operation of casinos remains free from criminal influence or exploitation is a feature of the NSW, Victorian and Tasmanian legislation. It is not a feature of WA legislation.

35

Victoria has perhaps the best resourced regulator, and best drafted regulatory structure. Its regulatory regime includes a specific requirement for periodic reviews of the licensee. It has conducted six of those reviews since 1997 and reported publicly upon those reviews. Information in relation to some of those reviews has already been brought to the attention of the Commission. As this Commission has already heard, in the absence of a comparable requirement or power in this State, the

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GWC placed considerable confidence in those reviews in its ongoing monitoring of the casino licensee in WA and its close associates. And yet, Crown Casino in Melbourne has been at the epicentre of a financial probity and regulatory issues which have led to this Royal Commission.

45

Now, Australia has generally avoided the proliferation of law enforcement bodies and the issues of jurisdictional demarcation which have bedevilled some other federal

systems with a relatively clear demarcation between law enforcement agencies having general or specific authority to enforce the criminal law, and a panoply of investigative powers, constrained by the requirement that the end result of their activities is criminal prosecution, and regulatory agencies having specific authority to  
5 investigate matters within their regulatory remit and specific although sometimes wide powers in aid of those investigations, and a range of remedial options to achieve a regulatory purpose.

10 Aspects of authority and power may blur at the margin between law enforcement and regulatory agencies and inter se, but the principle holds good. Where overlap may exist, institutional or ad hoc cooperative arrangements may be put in place to clarify roles and responsibilities, avoid friction and assure the achievement of the aims of both agencies. That requires an appetite for cooperation by both or all of the relevant agencies.

15 Such arrangements have not been a feature of casino regulation in this state or nationally for at least many years. This Commission has already heard that the GWC has relied upon the WA police to raise issues in relation to potential criminal conduct in which the GWC's investigative powers might assist or where regulatory powers  
20 might be invoked. This Commission has yet to hear in public session from WA police in relation to the resources which that agency commits to the investigation and suppression of criminal activity at the Perth Casino. It is clear that since GWC and the department ceased funding any directly committed policing resources some two decades ago, it would be surprising that if that led to the cessation of policing  
25 activities in relation to the casino and we are confident that is not the case.

Nor has the Commission heard from AUSTRAC in relation to its role in the oversight of an issue which lies at the heart of one of the functions before the Commission, one of the issues before the Commission, that is junket operations.

30 GWC is not a law enforcement agency. Indeed, in no jurisdiction in Australia could the casino regulator be described as a law enforcement agency.

GWC's inspection and enforcement powers are focused upon the laws relating to  
35 gaming or gambling, not the enforcement of the laws of the state or the Commonwealth. It does not even enjoy intrusive powers to conduct roving investigations of suitability that other jurisdictions have invested in their regulators. While it has the power to share information gathered in the exercise of powers with other regulators and enforcement bodies, the ability of the recipient to directly use  
40 that information may, because of the nature of the powers exercised, be inhibited. In contrast to the GWC's inspectors, the WA police, for example, have a general right of access to casino premises for the purposes of the performance of their duties. Nor are GWC officers, public officers under section 9 of the *Criminal Investigation Act*, so as to enjoy the general powers of investigation under that Act. We do not know  
45 yet what recommendations may have been made, if any, by this Royal Commission on an interim basis as to possible changes in the regulatory regime for casinos in particular and gaming more generally, in its interim report to executive government. GWC proposes to make submissions at the conclusion of this next phase of the Commission hearings on changes to the regulatory regime, including its suggestions

50 in relation to a better corporate governance framework for the operation of the casino  
regulator, a framework which clarifies and appropriately prioritises the regulatory  
objectives to be pursued with what will always be finite resources. An appropriate  
financial resourcing base for what will inevitably be an enhanced and expanded  
55 regulatory role, with expanded and more onerous obligations in relation to the  
oversight of Crown Casino in Perth, its national and international associates, and  
importantly other aspects of gambling in WA.

Securing the appropriate human and technical resources, whether dedicated and  
directly employed, seconded or contracted, to fulfil the regulatory role, and to  
60 facilitate information sharing, operational coordination and co-regulation with  
appropriate regulatory and law enforcement agencies, both state, interstate, and  
federally, in particular in relation to priority areas.

Elements of the regulatory regime in the Casino Control Acts of NSW, Victoria and  
65 Queensland and the constituent legislative for the regulatory bodies in those  
jurisdictions already contain pointers to enhancements that can be made.

Future submissions will be informed by evidence which might be led at this phase of  
the Royal Commission which considers the roles, responsibilities and capabilities of  
70 other regulatory agencies and how they undertake, and are planning to undertake  
those roles, and responsibilities in relation to the strategic risks posed by the casino  
and other gambling operations.

A consideration in particular of why other regulatory agencies more proximate to  
75 conduct which has manifested those strategic risks with greater human, technical and  
financial resources and superior regulatory powers have not previously identified and  
responded to those strategic risks. Proper regulatory design cannot consider the role  
of a body such as GWC in isolation.

80 But regardless of the recommendations this Royal Commission has made or may yet  
make in relation to the regulatory regime, until those recommendations are adopted  
and actioned, GWC will remain the principal regulatory body for casino gaming and  
gambling generally in WA. Consequently, it must continue to discharge its  
legislative responsibilities. To that end, the GWC has already made directions and  
85 my learned friend Ms Cahill adverted to one of them, to further regulate the conduct  
of business by Crown Casino in Perth and will continue to consider whether it is  
appropriate to make or vary further directions or to take available and relevant  
enforcement actions regardless of proceedings before this Commission.

90 But this Commission is an important source of information for GWC in relation to  
the ongoing undertaking of its work. It is not the only source of information. GWC  
has been actively engaged with the unfolding issues around Crown Resorts and  
Australian casinos for some time. The Bergin Inquiry was a fertile source of  
information, although the duration of that inquiry, complicated as it was by COVID-  
95 19, and the approach which Crown took in responding to the inquiry, has meant that  
the full results of the inquiry became known only in the very beginning of this year.  
The approach Crown took shared similarities to its response to a partially concurrent  
inquiry by the Victorian Commission for Gaming and Liquor Regulation under

100 section 24 of its legislation into the China arrests, commencing in 2017, which was the subject of specific comment in the Bergin Inquiry report. The China arrests report took more than three years to complete and was only made available to the GWC on 9 February 2021, a few days before it was made public in the Melbourne Royal Commission.

105 Issues related to the suitability of Crown as a result of the China Arrests Investigation were expressly carved out of the Sixth Review of the Casino Operator and Licence undertaken by the Victorian Commission released in June 2018 which, while identifying some failures of governance and risk management, including compliance slippage and recommendations as to remedial action around responsible  
110 gaming and organisational issues and institutional governance, including and in relation to AML/CTF, subject to Recommendation 17, was generally benign.

As evidence in the Melbourne Royal Commission has demonstrated more recently, the response of Crown Melbourne to the Sixth Review and the China arrests inquiry  
115 raises serious concerns in relation to its suitability to hold the casino licence in that jurisdiction. The extent to which that attitude and conduct manifests in that evidence reflects on Crown Perth, similar concerns will arise in this jurisdiction.

As new facts and issues emerged in relation to these matters, GWC actively sought  
120 briefings from its department that supports it, the DLGSC, and Crown Perth, principally from Crown Perth's Chief Operating Officer and Crown Resorts's Chief Legal Officer and AML Compliance Officer, but more recently also from Ms Helen Coonan and Mr Lonnie Bossi. The timeline is of some importance. While the China arrests issues --- and I detailed that in the written submission in some significant  
125 detail. The China arrest issues became known between March and June 2017 and GWC responded immediately by seeking information from Crown as to what became a steady drumbeat of different issues including machine tampering, AUSTRAC violations and failures in Responsible Service of Gambling, each of which was denied by Crown in presentations to GWC.

130 When GWC tested these issues, for example, tampering, Crown's denials appear to be supported. GWC directed its department to inquire into each allegation as it was raised and received reports on those inquiries as they became available. It was not until the evidence taken in the Bergin Inquiry that GWC developed serious doubts as  
135 to the veracity of at least some of Crown's denials.

During this period there was also significant interaction, interestingly, between the department and AUSTRAC, not reported to GWC, in which the department's very clear views on GWC's very limited role in AML/CTF enforcement was made  
140 unequivocally clear.

AUSTRAC has manifested, in our submission, no material interest in obtaining

assistance from jurisdictional casino regulators in actively managing AML/CTF issues by any action that is actually taken until after the Bergin Inquiry.

5 I want to draw particular attention to a GWC meeting on 15 December 2020 and I hope it will be the subject of some attention in the course of this inquiry. It was a seminal meeting for a number of reasons. You've heard some evidence about it. After business hours, on 14 December, Crown provided an email "Crown controls and reform" attaching a large electronic file similarly entitled, which included a two-  
10 page letter in relation to ILGA Inquiry, Crown Casino controls and reforms, and 178 other pages which were not referenced in the cover letter. That was ahead of a presentation by Crown representatives at the meeting of GWC on 15 December. What was attached to that email were in fact essentially the same material delivered two days prior to the end of hearings in the Bergin Inquiry, the subject of criticism  
15 both in that inquiry and the Melbourne Royal Commission.

You've heard evidence already that because of the size and title of the file at the time, no member of the GWC actually opened and read it, expecting it to be the following day's presentation. In fact, it contained important information prepared by third party  
20 consultants, Grant Thornton and Initialism, in relation to the potential for money laundering transactions in relation to the Riverbank and Southbank accounts. These matters were not drawn to the attention of GWC by the department. They were not referred to by Crown in the course of the lengthy PowerPoint presentation made the following day by Mr Ken Barton, the then Chief Executive, Mr Lonnie Bossi, the  
25 Chief Operating Officer, and Ms Helen Coonan, the chair.

Ms Cahill took you to this in the course of referring to Terms of Reference 6. Sorry, I apologise for that --- Ms Cahill took you to the 19 August and 20 October presentations in referring to Terms of Reference 6 but not this matter.  
30

The presentation purported to provide a detailed update on Crown's amended and proposed governance arrangements and internal reform agenda, matters on which Mr Dharmananda just addressed you. Those included the themes of governance, structure, training and culture, and an update on the progress of the anti-money  
35 laundering program. The presentation on those matters was manifestly incomplete without reference to the results of the inquiries limited and late though they were, which Crown had already undertaken as to the prevalence of the risk of money laundering activities within in Crown, through corporate structures the purpose of which remains unsatisfactorily unexplained but gives rise to obvious inference.  
40

Following that meeting, and the delivery of the Bergin Report, at an extraordinary meeting convened on 16 February 2021, GWC resolved to seek a direction from its Minister to arrange an inquiry under sections 21A(5) of the Casino Control Act into matters disclosed to or in the course of Bergin Inquiry. Those matters included  
45 specifically the suitability of Crown Perth as an operator in the light of the findings of the Bergin Report, the suitability of close associates of Crown Perth, the appropriateness of Crown Perth's responses to the Commission prior to and during the Bergin Inquiry, and related matters including the effectiveness of the department

and the Commission in the discharge of their regulatory responsibilities, inclusive of any perceived conflicts of interest and recommendations on potential legislative amendments or regulatory controls to address strategic risks identified in the Bergin Inquiry.

That inquiry would, by section 21A(9), have had the powers of a Royal Commission. Instead, executive government appointed this Royal Commission. This Royal Commission cannot make a recommendation to the Minister as contemplated by section 21B of the *Casino Control Act* which might lead to the Minister immediately issuing a notice to show cause to the casino --- as to why the casino licence should not be suspended or revoked or a monetary penalty imposed and thereafter taking such steps.

For that to happen under the present regulatory framework, GWC will need to seek a direction to enact a further inquiry and make recommendations following that inquiry. The same outcome may be achieved, of course, perhaps more peremptorily, by other means following upon the report of this Royal Commission, but only after changes to the casino and related legislation.

Despite the proceedings before this Royal Commission, GWC still has to act upon any information which it receives in the course of this inquiry, and upon which it is capable of acting in relation to the casino operator and any propriety issues in relation to the casino operator and its associates. It has done and continues to do so within the constraints of its governance structure, support arrangements and funding. The GWC's recommendation to the Minister to conduct an inquiry remains extant and is supported by developments in this Commission and the Melbourne Commission since February 2021.

Any inquiry which is convened can and should be informed by the proceedings in this Commission as the Bergin Inquiry has been --- sorry, as this Commission has been informed by the Bergin Inquiry and the Melbourne Commission but cannot be determined by it.

Consequently, GWC's regulatory activities are facilitated by the Royal Commission exposing information and lines of inquiry to be pursued by GWC in the exercise of its functions. GWC is now engaged in two critical undertakings in parallel to this Royal Commission, in addition to the performance of its usual day-to-day functions.

First, a consideration of what matters disclosed in the course of this Royal Commission are needed to exercise powers available to it under the *Gaming and Wagering Commission Act, the Casino Control Act, or the Casino (Burswood Island) (Licensing of Employees) Regulations* to immediately further regulate or further investigate with a view to further regulating or sanctioning, using available powers, the casino operator or officers or agents of the casino operator.

Secondly, an ongoing consideration of the need to make further recommendations to the Minister to take action under section 21A(5) which may lead GWC to make a recommendation as a basis for action under section 21B.



Out of the welter of media reports, inquiries including this Commission, and disclosures by Crown Resorts in relation to its activities and those of casino operating subsidiaries, GWC is now principally concerned with a number of issues which fall within the Terms of Reference of this Commission and will be considered in the next phase of the Commission's hearing. GWC's interest arises out of the need to discharge its regulatory functions. Those issues are whether Crown Perth, by specific officers or otherwise, misled GWC in relation to matters upon which GWC was briefed, going to the suitability of Crown Perth to be concerned in or associated with the organisation and conduct of the gaming operations it conducts under the Perth Casino licence, including in relation to the matters which follow; whether the systems and processes designed and implemented by Crown Perth and other casino licensees associated with Crown Resorts demonstrate a corporate culture which placed and continues to place the derivation of gambling revenues over profits, and the two are inevitably linked, above the public interest, including by promoting gambling behaviours which were inconsistent with the Responsible Service of Gambling and contrary to the public interest; facilitating money laundering or the derivation of gaming revenues in a way which was otherwise irregular and tended to avoid regulatory review or constraint, whether in Australia or elsewhere, including by the use of Riverside[sic] and Southbank accounts and the transfer of funds referred to by Ms Cahill earlier in what was commonly called the CUP transactions, or China UnionPay card transactions; the miscalculation and misstatement of gambling revenues for the purposes of the assessment and payment of gambling taxes; the encouragement or permission of gambling and the organisation of gambling directly or through junket operators by persons associated with organised crime. Evidence taken in the Melbourne Royal Commission as to the centralisation of functions within Crown Resorts dealing with those issues amplifies concerns. And I would say Mr Ward's submissions in relation to Mr Poynton's position tend to resonate with that. The circumstance that key Crown officers engaged in the conduct investigated by the Bergin Inquiry and Melbourne Commission are based in Perth or alumni of Crown Perth further amplifies those concerns. If so, in each case, whether the conduct with particular reference to the briefings delivered to GWC, was deliberate, reckless or negligent and which officers of Crown Perth and/or Crown Resorts are responsible or accountable for those matters.

GWC is also concerned with the extent and nature of the influence of Consolidated Press Holdings on Crown Resorts, and through Crown Resorts, Crown Perth, and the involvement of continuing close associates of Crown Perth in the form of key casino employees.

GWC will be informed in its decision-making on these matters by evidence given in the proceedings in this stage of the Royal Commission and the conclusions that may be reached by the Royal Commission. It will not necessarily await those conclusions if matters disclosed give rise to a need to take action immediately in addition to the steps it has already taken.

The GWC sought and obtained leave to appear before this Commission to facilitate

the performance of its statutory duties in the light of the Terms of Reference. Given that in considering the suitability of Crown Perth in accordance with Terms of Reference Part A, there are significant implications for the ability of GWC to  
5 perform its regulatory function. The related questions in relation to named associates of Crown Perth give rise to questions under section 19B of the *Casino Control Act* and again Ms Cahill referred you to the Minister's powers under section 19B, she didn't take you to the sub-phrase within the relevant operative provision which  
10 authorises the Minister to act on advice of GWC, any matters which may render those entities suitable and any matters going to the adequacy, and GWC would say candour, of communications between Crown Perth and associates with GWC both during the Bergin Inquiry and preceding it, those are matters to be considered which go to the heart of GWC's functions.

15 In conclusion, GWC proposes to use the exploration of these Terms of Reference by this Royal Commission in the manner which has been indicated for the purposes of fulfilling its regulatory functions. While the Royal Commission has its own functions in accordance with the Terms of Reference, the GWC invites the  
20 Commission and those assisting it to collaborate and cooperate to ensure that both the objectives of this Commission and the proper performance and functions of the GWC can be achieved as efficiently and as effectively as possible.

In the light of those matters, can I raise one final matter which only occurred very recently. It might appear to be administrative, but it is of substantive effect.

25 Late on Friday afternoon Commission staff uploaded a list of documents for the examination of Crown witnesses to be called later this week. Before we could retrieve them, they were deleted, apparently so that Crown can consider applications for non-publication orders. We now face a situation which we regrettably faced on a  
30 number of occasions in the May phase of hearings where hundreds of pages of documents created by the staff assisting the Commission may be made available scant hours or even minutes before the witness is called. That robs any practical utility in the hearing for anyone other than Counsel Assisting. It is, respectfully,  
35 most unlikely that a non-publication order will be made prohibiting counsel appearing before this Commission from seeing documents to be put to witnesses before the Commission. We propose to engage with Solicitors Assisting and with Crown to ensure that we can obtain the maximum utility from the documents which are to be put to witnesses in the course of this Commission.

40 Those conclude our opening submissions. Thank you, Commissioners.

COMMISSIONER OWEN: "Collaboration" and "maximum utility" are bywords by which we operate, Mr Evans. We do our best at all times.

45 Just before we rise, in the interests of transparency and in relation to three witnesses who will be called in the coming days or weeks, I want to make a personal statement. None of this raises in my mind a conflict of interest, but in the interests of transparency I make these statements. One of the witnesses who will appear is

12:06PM

Ms Maryna Fewster. She is the Chief Executive Officer of Seven West Media Ltd and is responsible to the board, Seven West Media Ltd. I have a close personal association with the chairman of the board to whom she reports.

5

Mr Joshua Preston will be called in coming days. His brother and his brother's family are in a close friendship/relationship with some of my children but I have no recollection of meeting Mr Preston, although I may have done.

10 One of the other witnesses to come is Mr James Sullivan, who is an employee of Crown Perth and is involved with the electronic gaming machines. He was in the same class as one of my children at high school and through parts of university and I was acquainted with Mr Sullivan but don't think that I have seen him for the last --- within the last 16 or 17 years.

15

So we will now adjourn and resume at 10 am on Wednesday, 28 July.

Thank you.

20

**ADJOURNED AT 12.08 PM UNTIL WEDNESDAY, 28 JULY 2021**

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