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PERTH CASINO ROYAL COMMISSION

PUBLIC HEARING - DAY 3

10.00 AM MONDAY, 10 MAY 2021

COMMISSIONER N J OWEN

COMMISSIONER C F JENKINS

COMMISSIONER C MURPHY

HEARING ROOM 3

MS PATRICIA CAHILL SC as Counsel Assisting the Perth Casino Royal Commission

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

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

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

COMMISSIONER OWEN: Please be seated.

We are sitting today to commence public hearings of evidence in the Perth Casino Royal Commission. I will call on Ms Cahill, Senior Counsel Assisting the
5 Commission, to make an opening statement. Before I do I wish to make comments on behalf of the three Commissioners that are intended to inform the public about the progress of the inquiry to date and what to expect in the coming days, weeks and months. Some of this will be a repeat of remarks we made in the open sessions on 12 and 20 April.

10 The Terms of Reference direct us to inquiry into and report on two broad areas: the first area is directed at the regulation of the casino in WA under various pieces of legislation and, in particular, the capability and effectiveness of the Gaming and Wagering Commission in discharging its regulatory functions and of the Department
15 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.

20 The second broad area concerns the licensing of Perth Casino, in particular, whether the licensee of the 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 identified deficiencies, whether there are
25 remedial measures which, if implemented, could render it a suitable person. The two broad areas are separate but at the same time closely connected.

We are required to submit an interim report on aspects of the regulatory issues that the commission considers appropriate by 30 June this year and a final report and
30 recommendations on all issues by 14 November this year.

Given the realities of that program, we will be concentrating in these early sessions on the first of those two broad areas, namely the regulatory questions. While there is likely to be some crossover, we will defer consideration of the substantive issues
35 relating to the suitability questions after the interim report has been completed.

In the past three weeks, the commission has received from parties in response to notices to produce relating to the regulatory questions, nearly 2,000 documents extending to more than 60,000 pages. This is in addition to the publicly available
40 materials that we have been collecting. The task of analysing those documents has been immense and is ongoing. However, we are on a tight time frame and we must move to the next phase, which involves the examination of witnesses. The inquiry will have to be taken in stages and each stage may be different with varying focuses and methodologies.

45 The purpose of this first phase of the public hearings, which will occur over the next three weeks or so, is largely to build on the existing knowledge base about the

regulatory regime and the regulator's understanding of its duties and powers and the practical aspects of the way it discharged its functions. It is quintessentially an exploratory information-seeking exercise. While there will be probing, it is likely to be relatively low-key. Those looking for more disputed of exchanges and revelations in these early stages are unlikely to have their expectations met. It is, however, important to build the knowledge base before embarking on the more excursive forensic examinations of the conduct of organisations and individuals. Scrutiny of that type will be necessary if we are to fulfil our remit and the commission will not shy away from matters that are complex or controversial if and when they arise. But that is more likely to occur in later sessions.

There is another reason for this approach: clause 11 of the Terms of Reference requires us to recommend ways to enhance the regulatory framework. This will be one of the most significant and long-lasting contributions that this Royal Commission can offer the public of Western Australia. We want to make sure that we have a complete understanding of myriad issues, including the way the regulator and the casino licensee see the current regime, what the evidence and material tendered --- excuse me. What the evidence suggests are deficiencies in its formulation or application and what experts in the field can tell us about best practice nationally and internationally in casino regulation. With this in mind, the interim report may take the form of a discussion paper identifying issues for consideration. This will afford an opportunity for interested parties and the public generally to make submissions to assist us in devising a fully informed set of recommendations for inclusion in the final report.

When I spoke on 12 April I commented on some infrastructure and practical matters that were seen as important for the efficient running of this Commission. I will give you a brief update on some of those matters. In addition to this Royal Commission, there are four other bodies that have looked at, or are looking at, similar issues to those which we are concerned. The first is the Bergin Inquiry, the second is the NSW Independent Liquor and Gaming Authority inquiry, the third is the Victorian Royal Commission and finally the Victorian Regulatory Review. They are all matters of public record and I do not need to describe them. Those bodies and our commission are separate and independent with different Terms of Reference and constituted under different legislation, but there is a good deal of commonality of subject matter. We have contacted those other inquiries in an attempt to reach an understanding about levels of cooperation, so as to make the best use of efficiencies and available resources in the public interest and to lessen practical burdens on interested parties who will be affected by the work of regulators or inquiries in at least three different jurisdictions. The process is complex due to confidentiality obligations in various statutes and the import of privilege. We are still pursuing those avenues but protocols for information sharing are not yet in place and we continue to rely on the assistance of parties to fill the gaps. We hope that in the not too distant future we will be able to resolve outstanding issues. There is a related issue, namely the use we can make of the allegations, issues, findings, observations, materials and recommendations in, or arising from, the Bergin report. On 12 April I mentioned that we were undertaking a detailed analysis of the Bergin report. One

aspect of that analysis is a review of the source material tendered in the Bergin Inquiry. Part of the discussions with those other bodies relates to access to those source materials. As those discussions progress, we will have more to say about the use we intend to make of the Bergin report. On 12 April we also made mention of
5 the likely cost of this inquiry and of the fact that there was no budget figure properly so-called. That remains the case. The final infrastructure contracts have only just been completed and in coming weeks officers of the commission will be able to enter into more formal discussions with government about necessary resources leading to the compilation of a budget. The Commissioner's repeat that they are aware of the
10 responsibility to keep costs within reasonable bounds and to utilise public resources in the best interests and most efficient manner so as to complete the inquiry on time, and in accordance with the public interest.

I wish to reiterate an observation I made when speaking on 20 April. We expect
15 legal practitioners to conduct themselves in accordance with their professional obligations. They, and the parties whom they represent must act respectfully, courteously and with integrity in their dealings with the Commissioners, commission officers, witnesses and one another. We expect no less.

20 Before I call on Ms Cahill, there is another matter that the Commissioners wish to raise. One of the witnesses from whom we will hear is Mr Barry Sargeant, a member of the Gaming and Wagering Commission and a former Director-General of the department. Mr Sargeant is also a member of the Salaries and Allowances Tribunal for WA. Since May 2018, Commissioner Colin Murphy has been a member of the
25 Salaries and Allowances Tribunal. Mr Murphy disclosed that fact before he was appointed as a Commissioner. While he does not believe that his continued membership of the tribunal would raise any difficulties in him carrying out his functions as a Commissioner, he has elected to resign from the tribunal to avoid any perceived questions of influence or conflict. His resignation took effect from 6 May
30 2021.

One of the functions of the Salaries and Allowances Tribunal is to review judge's salaries from time to time, although since 2017 no reviews have occurred under the Government's legislated moratorium. Commissioner Jenkins and I are, as retired
35 judges, receive a statutory pension that is subject to adjustment as judge's salaries change. We are satisfied this has no impact on our functions in this Royal Commission but wish to make the disclosure a matter of public record.

I want now to say something about the practical matters of the way in which the
40 evidentiary sessions will unfold. So far as is possible, we will allow the examinations and cross-examinations of witnesses to proceed with limited interventions from the Commissioners. At the end of all of the cross-examinations, the Commissioners will then ask the questions that have occurred to them. And then re-examination can occur. That will be the general way in which we approach these matters. I should
45 also say that counsel should be aware that this is being live streamed on to the website. The onus will be on counsel if they wish to make an application that they think cannot be aired fully without the

live streaming being interrupted that they should make that application at the time that the application is to be aired. We will rely on counsel to advise us if they think the live streaming should be interrupted and we hope that in many instances the live streaming could continue and the objection be made in a way that doesn't interfere with proper rights.

Ms Cahill?

MS CAHILL: Thank you, Commissioner. Commissioners, today the Perth Casino Royal Commission commences the examination of witnesses and the taking of evidence in public hearing. The purpose of this opening statement which precedes the calling of evidence is essentially two-fold: first, to identify and explain certain aspects of the terms of reference and, second, to outline the nature and scope of the inquiry proposed in relation to those Terms of Reference.

As already foreshadowed by Commissioner Owen, given the relatively short time frame for this Commission to complete its work, and in particular the requirement to deliver an interim report in respect of the regulatory framework by 30 June, the Commission is adopting a staged approach to its inquiry and relevantly for the purposes of this opening statement and the hearings over the next three weeks, the first stage will be limited to an examination of paragraphs 8 to 11 or Part (b) of the Terms of Reference, which inquire into the framework of casino regulation in WA.

The Terms of Reference can be found at PUB.0004.0003.0001, if that document could be called up now. If we go to paragraphs 8 to 11 and enlarge that, please. Looking at those paragraphs together, paragraph 11 may be viewed in effect as the culmination of the part (b) inquiry. It requires the Commission to inquire into and report on matters which might enhance the regulatory framework. That extends to policy, legislative, administrative and structural reforms and changes.

The inquiry that is the subject of paragraphs 8 to 10 of the Terms of Reference will directly inform a consideration of paragraph 11 and it is to those paragraphs that I now turn.

First, paragraph 8, if we could pop up paragraph 8 by itself, please. Paragraph 8 calls for an inquiry into the adequacy of the existing regulatory framework in relation to casinos and casino gaming in Australia. That is not an inquiry into the adequacy of the regulatory framework generally, but rather its adequacy to address extant and emerging strategic risks. I pause here to observe that to focus particularly upon the risks of casinos and casino gaming is readily understandable. Indeed, the existence of certain risks can be taken as accepted in our regulatory framework which generally prohibits casino gaming unless at a licensed venue operated by a licensed manager.

On this point, it is interesting to note that this is not the first Royal Commission in WA to examine the topic of casinos. In 1974, a Royal Commission with broad Terms of Reference inquired into gambling generally in WA. That report can be found at PUB.0004.0002.0320. The report contains a discussion about the pros and

cons of establishing a casino in WA. Even then, almost 50 years ago, certain risks associated with casino operations were well-recognised, those being the social harms that emerge when a community is given ready access to gambling, and the vulnerability of casino operations to attracting organised crime and other criminal behaviour. Ultimately, that Royal Commission recommended the establishment of a casino in WA, interestingly outside the metropolitan area in Exmouth, but subject to strict licensing requirements and controls in recognition of, and to, mitigate the risks that had been identified. In making that recommendation, the Royal Commission also identified the advantages to WA in establishing a casino. Those being economic benefits in terms of increased tourism and increased stimulated business activity and social benefits in terms of the community's access to an increased range of recreational pursuits. I tender the 1974 Royal Commission report.

COMMISSIONER OWEN: The report of the Royal Commission on gambling, which bears the document identifier Ms Cahill has just announced will be admitted into evidence as an exhibit.

EXHIBIT #PUB.0004.0002.0320 - 1974 REPORT OF THE ROYAL COMMISSION INTO GAMBLING

MS CAHILL: Thank you, Commissioner. Returning to paragraph 8 of the Terms of Reference, the particular risks that are to be examined are extant and emerging strategic risks. Strategic risks are to be identified and distinguished from other types of risk in the context of casinos and casino operation, informed by reference to the public interest. In other words, risks to the maintenance of public confidence and trust in casino operations by reference to the credibility, integrity and stability of casino operations, including risks of harm which threaten the socially responsible, lawful and efficient operation of casinos.

In identifying strategic risks, it is to be recognised, as the 1974 Royal Commission did, that these include not just risks created by operating a casino, but also risks that affect the ongoing stability and viability of a casino operation. The majority of private entrepreneurial concerns have to deal with risks of the latter type, and the Perth casino is no exception. Here we are concerned with such risks insofar as they relate to the public interest in terms of the social and economic benefits that the Perth casino brings to WA.

The recent report by the honourable Patricia Bergin SC of her inquiry under section 143 of the NSW Casino Control Act, identified some strategic risks and these have been specifically identified in paragraph 8 of the Terms of Reference itself. Those being, the risk of infiltration of criminal elements into casino operations, the exploitation of casino operations and junket tour operations to facilitate money laundering and other crimes involving the movement of money in cash or electronic form, and the infiltration of junk tour operations by foreign crime syndicates. This

commission seeks to inquiry into, and ascertain the strategic risks related to casino operations comprehensively, and for that purpose it is proposed to adduce expert evidence about, amongst other things, the extant and emerging strategic risks both here in Australia and internationally. One of the areas of interest for this inquiry as a possible emerging strategic risk is that of online casino-style gaming and whether, and to what extent, it is largely unregulated nature increases the risk of social harms and criminal exploitation of casino gaming or threatens the continued stability and viability of physical casino operations, or both.

10 The Bergin report will of course be very relevant to this inquiry beyond the matters to which I have just referred. Therefore, I take this opportunity to tender the report comprised of two volumes. Commissioner, I will read out the identification numbers. Firstly, volume 1, BGN.0001.0001.0001 and volume 2, BGN.0001.0001.0334.

15 COMMISSIONER OWEN: The two volumes of the Bergin report will be admitted into evidence as exhibits bearing the identifier numbers that Ms Cahill has read out.

20 **EXHIBITS #BGN.0001.0001.0001 TO #BGN.0001.0001.0334 - BERGIN REPORT**

MS CAHILL: Thank you, Commissioner. Staying with, or returning to paragraph 8 of the Terms of Reference for a moment more, it would be incorrect to assume that the commencement of public hearings today marks the commencement of the work of this inquiry. In fact, the work of this commission commenced several weeks ago, particularly in relation to paragraph 8 with an examination of the history of the existing regulatory framework. Several interesting issues have already emerged from that examination, some of which will be relevant to the examinations that are to proceed over the next few weeks and I will mention just a few of those here. The Casino Control Act 1984 was the foundation piece of legislation that facilitated the establishment of the Perth casino. It was followed the following year by the Casino (*Burswood Island*) *Agreement Act 1985 which ratified the agreement for the construction and establishment of the casino complex at Burswood Island.* The Casino Control Act established the Casino Control Committee to regulate the operations of the Perth casino. Its members were appointed by the responsible minister. The committee had the power to appoint a Chief Casino Officer who was the executive officer of the committee responsible for the administration of the regulator's function. The role of Chief Casino Officer continues to the present day, albeit that that person occupying the role is now an officer of the Gaming and Wagering Commission. The committee could also appoint inspectors, casino inspectors and had the power to employ other staff and enter into contracts for the purposes of the Act. By arrangement with the Minister, the committee could utilise the services of officers or employees of the Public Service and the facilities of other government departments. Section 19 of the Act committed, and still commits, the Minister to negotiate and enter into agreements for the establishment and

construction of a casino. Such agreements are now called casino complex agreements under the Act. Section 21 provided for the licensing of a party to a Section 19 agreement. That was done by the Minister having received a recommendation by the Casino Control Committee to do so.

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The Committee would first inform itself by investigating relevantly the financial status, reputation and capacity of the applicant to organise and conduct casino gaming. Notably there were no specific suitability requirements as such, in terms of honesty, integrity and compliance with the law that the licensee had to meet. That appears to remain the position.

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Once a licence was granted, the Casino Control Committee had a range of specific responsibilities under the Act and under the subsidiary regulations to do with the oversight and regulation of the licensee. Many of those responsibilities remain largely unchanged to this day and include such matters as authorising the games to be played at the casino, or changes to the rules of the games played at the casino and the licensing of key casino employees. There were two reports that preceded the enactment of the Casino Control Act. The first was in 1983. The Government Casino Advisory Committee reported to a Cabinet subcommittee on the issue of establishing a casino in WA. That report can be found at PUB.0004.0002.0010. That report had broad Terms of Reference to report on the implications and implementation, of the establishment of a casino in WA. One of the four members of the Casino Advisory Committee recommended against a casino being established, although the committee did make recommendations about establishing a separate board to regulate the casino, and concluded that an effective structure for the control of the casino, were it to be established, could be developed having regard to existing models in the NT and Tasmania.

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I also mention this report to draw attention to one aspect of it to do with the casino regulator, commencing at page 23, paragraph 49, which is at 0041. The regulator is there described as the most important feature in the control of casinos. That causes one to reflect on the importance of the inquiry by this Commission into the regulatory framework generally that is the subject of part (b) of the Terms of Reference.

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There is then a brief discussion, without conclusion, about whether the regulator should be independent of, or subject to, ministerial control. At paragraph 61, page 0042, the report references the earlier report of the Connor Inquiry in Victoria which favoured not only an independent regulator but also suggested that the responsible minister for the administration of the licence should not have either a tourism or revenue raising area of responsibility at the same time. This last point raises the matter of the potential for conflicts and tensions to emerge if the same person or entity oversees both the positive and negative impacts upon the state of a casino operation. I tender the 1983 report of the Casino Advisory Committee, document identification number PUB.0004.0002.0010.

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COMMISSIONER: That document with the identifier number that Ms Cahill has just announced will be admitted into evidence as an exhibit.

EXHIBIT #PUB.0004.0002.0010 - 1983 REPORT OF THE GOVERNMENT CASINO ADVISORY COMMITTEE

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MS CAHILL: The debate without conclusion in the 1983 report about whether the regulator should be independent of Government, stands in contrast to the clear conclusions about the need for a regulator expressed in the Bergin report at pages
10 624 to 625 in volume 2. The Bergin report advocates for an independent regulator that is one, free from government and political influence, two, adequately resourced and remunerated, and, three, able to employ its own staff.

15 Coming back to the situation as it pertains in WA, one might infer that the *Casino Control Act as originally passed, and perhaps consistently with the equivocation in* the 1983 report, opted for something of a halfway house, conferring a degree of independence upon the Casino Control Committee as a separately constituted body but, which, in certain respects, acted by arrangement with the minister and reserving the ultimate decisions about licensing and entry into casino complex agreements to
20 the minister. That halfway house, for want of a better descriptor, persisted until 1987, when the Gaming Commission Act, now the Gaming and Wagering *Commission Act, was enacted. At that time, the Casino Control Committee was* effectively merged with the Gaming and Wagering Commission established under the new Act. The new Commission had broad regulatory responsibility for gaming
25 and wagering generally, including racing and community gaming, as well as casino regulation. This is despite a 1984 report from a committee appointed to inquire into and report upon gaming in WA. That's at PUB.0004.0002.0261.

30 In the context of discussing the benefits of a proposed new general gaming authority, that report concluded that the specialised nature and complexity of regulating casino operations justified casinos being regulated separately. In respect of the gaming authority itself, the Committee recommended that the authority which was to become the Gaming and Wagering Commission that it is today should be independent and autonomous, that it should have its own executive officer and administration and
35 should be financially self-supporting. I tender that report. PUB.0004.0002.0261.

COMMISSIONER OWEN: The document is admitted into evidence as an exhibit with the identifier number that Ms Cahill just announced.

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EXHIBIT #PUB.0004.0002.0261 - 1984 REPORT OF THE COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT UPON GAMING IN WESTERN AUSTRALIA

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MS CAHILL: Thank you, Commissioner.

The Gaming and Wagering Commission Act as passed in 1987 did not reflect those particular recommendations from (inaudible) provided that the Act was generally subject to ministerial direction, the executive director of the office of racing and gaming were to be the chairman of the commission and the acquisition of real and personal property by the commission was subject to the approval of the Treasurer. The Act also contemplated that the commission would primarily be staffed from the office of racing and gaming. This essentially remains the position today, albeit that the relevant government department of the responsible minister is the Department of Local Government, Sport and Cultural Industries. The Director-General of that department is, as the Act provides, the chairman of the Gaming and Wagering Commission. It would seem on its face that the structure of the commission, in particular as it affects the regulation of casino operations, does not have the independence from government and control over its own staff that the Bergin Report regards as important or, indeed, as provided for by the statutory framework in other Australian jurisdictions. This is another of the areas of interest for inquiry by this commission, particularly so because of the contents of paragraph 11 of the Terms of Reference which require consideration of matters which may enhance the future capability and effectiveness not only of the Gaming and Wagering Commission, but also the department.

More generally, amendments in 1987 to the Casino Control Act empowered the minister to implement an inquiry with the powers of a Royal Commission into any matter arising under a casino agreement and it increased the investigative powers of the Gaming and Wagering Commission beyond the powers previously held by the Casino Control Committee. In 1998 a number of further amendments were made to the Casino Control Act. These followed on from a 1996 report which reviewed the operations and effectiveness of the then Gaming Commission Act. That report can be found at PUB.0004.0002.0129.

I mention that amongst other things relevant to this present inquiry, that report discussed junket operators at page 81 and following at page 0234 in the document identifier. At that time junket tours were viewed favourably because of the significant contribution they made to casino revenue and, therefore, to state revenue by way of the tax paid on such tours. The report acknowledged concerns about the perceived correlation between junket tour operators and criminal activity, including money laundering and that in other jurisdictions this required junket operators to be approved by the regulator. Interestingly, the report concluded that such a requirement served little purpose when premium and other players, known in the industry as high rollers, could gamble at the casino on an individual basis without such approvals. I tender the 1996 review of the Gaming Commission Act 1987, document identifier number PUB.0004.0002.0129.

COMMISSIONER OWEN: The document, the 1996 report, will be admitted into evidence with the document identifier number that Ms Cahill has just read out.

EXHIBIT #PUB.0004.0002.0129 - 1996 REPORT OF THE MINISTER FOR RACING AND GAMING ON THE REVIEW OF THE GAMING COMMISSION ACT 1987

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MS CAHILL: In any event, the amendments to the Casino Control Act in 1998, amongst other things, but relevantly and in substance empowered the minister to compel a close associate of a casino licensee to divest its financial interest in the licensee if the close associate was determined by the minister not to be a suitable person, to be associated with the gaming operations of the licensee. I pause here to note that the amendments did not extend the minister's power to divesting the licensee itself of the licence specifically or expressly on the basis that the licensee was not suitable to hold the licence. Further, in respect of the power to divest a close associate of its financial interest in the licensee, the amendments did not extend to defining what amounted to a suitable person or identifying the criteria by which that might be assessed. These are issues that are extant in the current version of the legislation.

20 The 1998 amendments also prohibited a casino licensee from entering into contracts for the supply of goods or services to the licensed casino without notice to the commission who could object to the contract.

25 Notwithstanding the ambivalence expressed in the 1996 report about the need for regulation of junket tour operators, the 1998 amendments also introduced a power to make regulations to, amongst other things, impose restrictions on who may conduct junket tours and require junket tour operators to be approved. Regulations were then made in 1999 which required approval to conduct junkets to be sought from the commission. Approval would be given if the applicant was of good character and good financial standing. Amongst other things, an applicant for approval was required to authorise the Commissioner of Police to make inquiries into their background and provide evidence of any criminal record they may have in another jurisdiction. These regulations were repealed in 2010. The detailed reasons for that are not immediately apparent, nor is it clear whether, and if so what, some other form of regulation of junket tour operators was implemented in substitution. This is another one of the areas of interest for inquiry by this commission.

40 When one looks back from the standpoint of 2021 at the legislative history of casino regulation in WA, the policy developments underpinning the legislation have been iterative and influenced by a number of reports that have been commissioned, which to some extent reflect changing attitudes over time towards regulatory purposes and policies. It may be for that reason that a coherent and definite regulatory philosophy as to the statutory purposes and objectives of the Gaming and Wagering Commission in respect of the regulation of casinos and casino gaming is not easily and immediately identifiable from a review of the legislation. In particular, as to the breadth and content of the regulatory role and, for example, whether it is intended to be proactive or entirely reactive. To conclude on paragraph 8 of the Terms of Reference, the commission will continue its work examining the existing regulatory framework. Legislation in other jurisdictions, both within Australia and overseas

will also be examined for comparative purposes by which the adequacy of the existing legislation may be further assessed. Ultimately, the product of that work will be addressed in the interim report which may take the form of a discussion paper to be made available on the commission's website for comment and submission.

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I then turn to paragraphs 9 and 10 of the Terms of Reference. The focus of inquiry in these two paragraphs is different to that in paragraph 8. It is an inquiry here directed at examining in a qualitative way how the Gaming and Wagering Commission implements and administers the regulatory framework in respect of casino operations in this state and how the Department of Local Government, Sport and Cultural Industries supports the commission in that the commission in that task. An understanding of the underlying statutory purposes and legislative policy objectives of the existing regulatory framework will be an important context for that inquiry.

15 The inquiry the subject of paragraph 9 will likely involve an examination of whether the Gaming and Wagering Commission has discharged its responsibilities under the Act in a manner that is suitable in order to achieve the regulatory purposes and objectives for which those responsibilities were devolved upon it in respect of casino operations.

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Paragraph 10 directs attention first to the capability and effectiveness of the Gaming and Wagering Commission to discharge its responsibilities in that regard and, second, to the capability and effectiveness of the department in supporting the commission. That inquiry is essentially directed towards measuring the success of each of them in practice in achieving their respective objectives and purposes. It is important to appreciate that paragraphs 9 and 10 of the Terms of Reference are concerned with an inquiry into the conduct of the commission and the department and not directly an inquiry into the conduct of individual officers. In later phases of the public hearings, it is likely that this commission will examine specific situations where, for example, it is alleged that an individual officer or officers may have had an actual or perceived conflict of interest. The purpose of doing so is to consider the appropriateness and effectiveness of the Gaming and Wagering Commission's discharge of its functions and responsibilities by reference to actual examples. That inquiry will inform the conclusions that this commission reaches about the Gaming and Wagering Commission's conduct more generally.

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In regard to the general, an examination of the appropriateness, capability and effectiveness of the Gaming and Wagering Commission in discharging its regulatory functions and responsibilities will involve looking into a number of aspects of its operations, including the expertise, training and experience of its Board, Chief Casino Officer and inspectors in casino regulation, the type and sufficiency of the commission's financial and physical resourcing, the quality of the commission's corporate governance, including its approach to the identification and management of conflicts of interest being a matter that is expressly addressed in paragraph 10 of the Terms of Reference, the suitability and effectiveness of the legal and structural arrangements between the Department and the Gaming and Wagering Commission,

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whether, and to what extent, the Commission operates independently and autonomously from both the Department and the responsible Minister, the Commission's understanding of its statutory purposes and objectives, and its approach to the function as a regulator of the Perth casino, whether that has changed
5 over time, or from time to time, and if so, why; whether and to what extent the Commission regulates or attempts to regulate in respect of the risks associated with junket tours at the casino; whether and to what extent the Commission regulates or attempts to regulate in respect of the risks of money laundering associated with the Perth casino (inaudible); whether and to what extent the Commission oversees or
10 attempts to oversee that the casino licence holder or its close associates are or remain suitable persons to hold or be associated with a holder of a casino licence, and in that regard in particular how the Commission has responded in the last few years to the media allegations and evidence published during the course of the Bergin Inquiry concerning Crown Resorts Ltd.

15 The examinations in the first phase of hearings are directed towards the areas of inquiry that I have just identified. This commission will hear from current and former board members of the Commission, current and former chief casino officers and, if time permits, some current and former casino inspectors.

20 The first witness in the hearing scheduled for this week is Mr Duncan Ord, the Director-General of the Department of Local Government, Sport and Cultural Industries and the current chairperson of the Gaming and Wagering Commission. I invite us to call Mr Ord.

25 COMMISSIONER OWEN: Before we do that, could I just get an indication from the bar table as to who is likely to want to be involved in this, Mr Dharmananda?

30 MR DHARMANANDA: We may wish to be involved, Mr Commissioner.

COMMISSIONER OWEN: Yes, and Ms Seaward?

MS SEAWARD: Yes, we may wish to be involved.

35 COMMISSIONER OWEN: Is there anyone else?

MR EVANS: There is a possibility that the Gaming and Wagering Commission may have a couple of questions in relation to Mr Ward in clarification of a couple of matters.

40 COMMISSIONER OWEN: Thank you, Mr Evans.

MR CONNOLLY: There may be also some questions.

45 COMMISSIONER OWEN: Thank you.

Mr Dharmananda, I understand you have an application?

10:43AM

MR DHARMANANDA: Yes, Commissioners. We have an application in respect to a non-publication order in relation to some of the material. I conferred with Ms Cahill before proceedings commenced and I think those matters may not necessarily come to the fore during the course of the day, but we do have that application.

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COMMISSIONER OWEN: I think we are minded to leave it at the present stage, unless you want a temporary order made. I think we will leave it and see how the examination progresses?

10 MR DHARMANANDA: Thank you.

COMMISSIONER OWEN: And you can make the application whenever you wish.

15 MR DHARMANANDA: Thank you. On the basis of what Ms Cahill tells me, I think we can let it stand for the moment. Thank you.

COMMISSIONER OWEN: All right. Thank you.

Now, will we call Mr Ord?

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Mr Ord, would you mind standing? Can you give us your full name and then indicate whether you wish to swear an oath or make an affirmation.

THE WITNESS: I will swear an oath.

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COMMISSIONER OWEN: Start with your full name.

THE WITNESS: My name is Duncan St John Beresford Ord.

30 COMMISSIONER OWEN: Thank you. If you could swear the oath.

MR DUNCAN ST JOHN BERESFORD ORD OAM, AFFIRMED

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COMMISSIONER OWEN: Thank you very much, Mr Ord. You may sit. Ms Seaward.

40 **EXAMINATION-IN-CHIEF BY MS SEAWARD**

MS SEAWARD: Mr Ord, you are the Director-General of the Department of Local Government, Sport and Cultural Industries?

45

MR ORD: Yes.

MS SEAWARD: Mr Ord, you received a summons to attend and give evidence at this Royal Commission?

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MR ORD: Yes.

MS SEAWARD: And as part of that process you prepared a witness statement; is that correct?

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MR ORD: Yes, I did.

MS SEAWARD: I'm not sure if the Commission has a copy that they wish to have in front of him or will we be doing that electronically.

15

COMMISSIONER OWEN: Do you need a hard copy, Mr Ord?

MR ORD: If I can access it in some way it would be appreciated.

20 MS SEAWARD: Mr Ord's statement. The number is DLG0001.0002.0001.

MR ORD: That is, I have it on the screen.

MS SEAWARD: Mr Ord, that it is up on the screen. Is that the statement that you prepared for the purposes of this Royal Commission?

25

MR ORD: Yes, it is.

UNKNOWN SPEAKER: Mr Ord, can you manipulate that statement yourself?

30

MR ORD: I'm just trying to.

UNKNOWN SPEAKER: He probably needs his own copy.

MS SEAWARD: I ask you to look at that document that's in front of you. Does that look like the statement you prepared for the purposes of this Royal Commission?

35

MR ORD: Yes, it is.

MS SEAWARD: Is it 42 pages?

40

MR ORD: Yes.

MS SEAWARD: With 140 paragraphs?

45

MR ORD: Yes.

10:46AM

MS SEAWARD: I understand you have in reading through that identified two small corrections you would like to make to the statement?

MR ORD: Yes, I did.

5

MS SEAWARD: I think the first one you said is at paragraph 23; is that correct?

MR ORD: Yes.

10 MS SEAWARD: Thank you. If the Commissioners look at paragraph 23, the final sentence seems to end mid-sentence.

What did you wish to add at that point? I think the sentence reads:

15 Two examples are the application of public health directions to the casino and

MR ORD: It was related to the opening and closing of the casino due to the pandemic that we needed to be engaged in the protocols surrendering those.

20 MS SEAWARD: So those were the two examples of the matters that COVID led to?

MR ORD: Yes.

25 MS SEAWARD: And paragraph 87? You identified a typo in the very last line of paragraph 87.

MR ORD: Yes. It should be:

30 straightforward affair to respond and engage members instantly for matters of *urgency*.

So it should be "of urgency", not "or urgency".

35 MS SEAWARD: Were there any other corrections you wished to make to your witness statement?

MR ORD: No.

40 MS SEAWARD: Is this statement with those two corrections true and correct to the best of your knowledge and belief?

MR ORD: Yes.

45 MS SEAWARD: I tender the statement of Mr Ord.

COMMISSIONER OWEN: Thank you. The statement of Duncan St John Beresford

Ord OAM, which was signed on 6 May 2021 is admitted into evidence as an exhibit bearing the identifier DLG.0001.0002.0001, noting the corrections at paragraphs 23 and 87.

5

EXHIBIT #DLG.0001.0002.0001 - STATEMENT OF MR DUNCAN ST JOHN BERESFORD ORD OAM

10 MS SEAWARD: Commissioner, in that statement there is a reference, a cross-
reference to a number of documents. An index was provided with that statement to
the commission. I'm not sure of the process the commission wishes to follow,
whether tendering of the statement should therefore involve tendering of each of the
15 documents. By my count they were 33, or whether you would like me to read out the
document identifier for each of those documents and tender those at this point.

COMMISSIONER OWEN: There is an index that has the document identifiers on
them?

20 MS SEAWARD: Yes, there is.

COMMISSIONER OWEN: We will take the index as part of the exhibit that has the
document identifier number that I've read out.

25 MS SEAWARD: Thank you. No further evidence to lead from this witness.

MR DHARMANANDA: Commissioners, two of those documents in the 33
identified in Mr Ord's statement are documents in respect of which we raise an
application. It may be that we don't need to deal with it now because it's not going
30 on the screen, but I thought I would inform the Commission of that.

COMMISSIONER OWEN: Thank you. Ms Cahill.

35 **CROSS-EXAMINATION BY MS CAHILL**

MS CAHILL: Thank you, Commissioner.

40 Mr Ord, just so that I can understand the questions that I am able to put to you and
those that I should put to somebody else, if you could clarify something for me to
begin with. I understand that you have recused yourself presently from involvement
in meetings of the members of the gaming (inaudible) to the extent those meetings
deal with the Commission's responses to this Royal Commission; is that right?
45

MR ORD: That is true.

10:50AM

MS CAHILL: But you continue to involve yourself in the work of the Commission otherwise?

MR ORD: Yes.

5

MS CAHILL: In your capacity as chairperson?

MR ORD: In my capacity as Chair.

10 MS CAHILL: Are you involved in the department's response to this Royal Commission?

MR ORD: Yes.

15 MS CAHILL: Why are you involved in the response for the department but not for the GWC?

MR ORD: Well, I hold the dual roles of the GWC and Director-General of the department. So under that responsibility I've prepared the department's response, or
20 oversighting the department's response.

MS CAHILL: Coming back to your recusing yourself from being involved in the responses on behalf of the GWC to this Royal Commission; why did you decide to do that?

25

MR ORD: To enable the members of the commission to form their own views on the questions being asked of them independent to any views that I might put in as chair jointly with them, given we act essentially as a committee of equals, that I considered that might compromise their submission given that I was also responding
30 on behalf of the department that was serving them.

MS CAHILL: So your decision to nevertheless remain involved in responding to this Royal Commission on behalf of the department, you didn't have a similar concern the other way, that you might compromise the interests of the department by
35 having regard to the interests of GWC?

MR ORD: I considered that a lesser concern.

MS CAHILL: Have you effectively subordinated GWC's interests in responding to the Royal Commission to the department's interests and left the GWC members to deal with the response on behalf of the Royal Commission?

40

MR ORD: No, I discussed with Mr Barry Sargeant, the former chair, who is a member, if he felt that he was able to assist the commission in the preparation of answers to the questions, many of which may have predated current members of the
45 commission. I have also made all documents available and of course I have

participated in the Gaming and Wagering Commission's meetings that have occurred since the calling of the Royal Commission and continued to carry out my chair responsibilities at that level, including answering any questions that they have sought from me and needed to assist them in their preparation for this.

5

MS CAHILL: Just in terms of your role as Director-General of the Department, you maintain all of your responsibilities presently, you haven't transferred those to anyone during the course of the Royal Commission?

10 MR ORD: That is correct.

MS CAHILL: Thank you. Are you happy if, when I ask you questions today, I simply refer to the Department of Local Government, Sport and Cultural Industries in a shorthand way as the "Department", and the Gaming and Wagering Commission as "GWC"?

15

MR ORD: Yes.

MS CAHILL: Your witness statement attaches your current curriculum vitae, your CV. If we could call that up please, DLG.0001.0002.0007. If we turn to the next page, please. That's at 0002. We have your current employment history set out there.

20

MR ORD: Generally, yes.

25

MS CAHILL: Generally. You don't mention in there that you are the Chair of the GWC.

MR ORD: No.

30

MS CAHILL: And you don't mention that anywhere in your CV?

MR ORD: I don't recall that I do, no.

35 MS CAHILL: Is there a reason for that?

MR ORD: No, I just had responsibilities including and included a number of things. That list could go on for pages. It was a summary of some of the things I did.

40 MS CAHILL: It's not exhaustive?

MR ORD: No, unfortunately.

MS CAHILL: Between 2014 and 2017 as you explain in your witness statement, you were the Director-General of the Department of Local Government, Sport and Cultural Industries; is that right?

45

MR ORD: Yes.

10:55AM

MS CAHILL: When the so-called machinery of government changes were made in 2017 you were made Director-General for the amalgamated department?

MR ORD: Yes.

5

MS CAHILL: And that amalgamated department had, and has, responsibility for racing, gaming and liquor; is that right?

MR ORD: Yes.

10

MS CAHILL: Also sport, the museum?

MR ORD: Yes.

15 MS CAHILL: And the art gallery?

Mr ORD: Yes.

MS CAHILL: The state theatre?

20

MR ORD: Yes.

MS CAHILL: The library?

25 MR ORD: Yes.

MS CAHILL: Local government, generally?

MR ORD: Generally, yes.

30

MS CAHILL: And if I read the last annual report correctly, also the cat Act and the dog Act?

MR ORD: That is correct.

35

MS CAHILL: On your appointment as Director-General of the amalgamated department you became chair of the GWC as provided for in the ---

MR ORD: As provided for in the Act, yes.

40

MS CAHILL: And your CV indicates that you previously worked across a range of government departments since 2004?

MR ORD: Yes.

45

MS CAHILL: But your background was not at all in relation to gaming regulation,

was it?

MR ORD: No.

5 MS CAHILL: And, indeed, in terms of regulatory experience generally, is it fair to say that the closest you came before becoming Director-General of the department was that you were the Acting Director-General of the Department of Planning for five months in 2013/14?

10 MR ORD: Well, within my responsibilities as Director-General of the Department of Culture and the Arts, I had the administrative responsibility for the State Records Act which interestingly was an Act that came out of the WA Royal Commission, a very significant piece of regulatory information about government information. And I took that responsibility very seriously. I was Director-General of the DCA for three
15 years or so, but I undertook an administrative review of how that Act was proceeding given itself was a product of its time and much had changed, particularly around digital information that the Act hadn't foreseen and I was concerned that we were at risk of losing information that would support matters such as matters that are being considered by this Commission. So I was very active in trying to put forward and
20 subsequently successful in bringing forward a cabinet submission during this last period of government for a review of that piece of legislation. So I considered that I was well equipped to deal with the principles of regulatory framework, what's in the community's interests, how regulatory legislation becomes dated and the importance of the adequacy of your oversight of that. I didn't have a direct responsibility for it, it
25 was a state record's commission, but I had the administrative responsibility to the minister that it was adequately supported and that we were in fact giving effect to that legislation. As you say, prior to that I was acting Director-General Department of Planning, with planning legislation. I sat on the Western Australian Planning Commission. So I had experience there.

30 MS CAHILL: So supervision of state records, oversight of state records and Department of Planning was your regulatory experience in government prior to your current role?

35 MR ORD: I had roles in state development and indigenous affairs and also in training in which I came into contact with, or had significant role in working alongside a whole range of legislation, from Heritage Act, Aboriginal Affairs
Planning Authority Act, a whole range of State legislation in State development, Native Title Act, and in training I was part of the review of the State Apprenticeship
40 *Act. So I considered that I had been involved as a director or above position in* regular reviews of legislation. In fact, I think because I was reasonably well equipped to contribute to those that that was one of the reasons my career progressed.

MS CAHILL: Before your government experience, or your experience in
45 government, let me put it that way, in the private sector your experience was exclusively in arts administration was it?

10:59AM

MR ORD: That's correct.

MS CAHILL: When you assumed the role of GWC's chair, did you undertake any training or course of education in respect of discharging the functions of a government regulator?
5

MR ORD: No, not at that time, no.

MS CAHILL: Had you ever before?
10

MR ORD: No.

MS CAHILL: Or in relation to casino regulation?

MR ORD: No.
15

MS CAHILL: Or casino operations?

MR ORD: No.
20

MS CAHILL: Not at the time you assumed the chair, and not before or after?

MR ORD: No, I didn't undertake further education on regulatory practice at that time or subsequently.
25

MS CAHILL: Can we go back to your witness statement, please, that is DLG.0001.0002.0001.

MR ORD: Yes.
30

MS CAHILL: Paragraph 8 there. This is in effect a summary of the evidence you just gave about your view as to your suitability for the regulatory oversight aspects of your current position; is that right? Is that a fair representation of paragraph 8?

MR ORD: Yes, it is. In taking on these roles, of course, you brew yourself in what those responsibilities are. And given the matters that were before me in 2017 when I took on the leadership of the new agency I had to take on a number of roles that I hadn't done before, including this one, and in taking that on I prepared myself for this, including reading the legislation, getting briefed by my predecessor, Barry, and he was, of course, joining the commission as a member, so I had access to his guidance and mentorship; briefings from staff, I read through all the incoming government briefings and so on. So I prepared myself to fulfil my duties as chair without becoming an expert on every matter concerning casino operations, which was certainly not --- I would not have had the time or capacity to do that.
40
45

MS CAHILL: If we go to page 0005 and paragraph 19, here you are talking about training for GWC members generally, and when they are newly appointed to the

11:02AM

GWC. I just want to direct your attention to the last sentence there:

5 *Due to the specialisation involved in numerous technical matters and the overall complexity of casino regulations, DLGSC staff are available and do brief members as required.*

MR ORD: Yes.

10 MS CAHILL: So you appreciate, do you, that the task of casino regulation is a complex one?

MR ORD: Yes, extremely so.

15 MS CAHILL: And very technical?

MR ORD: Yes.

20 MS CAHILL: And yet you yourself didn't undertake any training of a formal kind before assuming the role of GWC chair?

MR ORD: No, I had to take the role on of a short duration. It wasn't I had a lead-up time saying you will become the next chair of the GWC and can you undertake appropriate training to fulfil that role, but I did what any new member would do when they were appointed, which is to take advantage of the expertise of the department staff and the way in which the Gaming and Wagering Commission prepared itself in terms of issues coming before it was that the papers prepared for the GWC would include references to its legislation or prior history of the issue and so on and that officers would attend meetings and give all those technical explanations so that we were making the decisions in the community interest based on a whole range of expertise the individual members brought to the commission. They may not have had prior experience in gaming and wagering, but the members came, like I did, with a range of expertise from previous work on legislation or certainly understanding of the critical issues that the community had as expectations about harm reduction from the casino.

35 MS CAHILL: Is it your view that the chairperson of the GWC need not have any prior knowledge or experience of casino regulation in order to adequately equip themselves?

40 MR ORD: I think further in my evidence I outline that I have a view that an independent chair and probably an independent chair with particular skill sets would be an advantage given the Director-General of such a complex department is better harnessing all the resources that the commission then needs to undertake its responsibilities. An independent chair can obviously focus entirely on that so I do see the merit of that as a response to strengthening the governance of the commission.

11:05AM

MS CAHILL: I think the word you used was it would be an "advantage" for an independent chair to have relevant casino regulation experience ---

5 MR ORD: Or legal regulatory experience I think. Whether they need to be an expert on casinos, but an expert on complex regulation, corporations and the like would be an advantage.

MS CAHILL: Did you see it just as an advantage or a necessity?

10 MR ORD: Well, in the situation of the growing complexity and the likely direction of casino operations in Australia in the future, I would see it as a necessity.

15 MS CAHILL: And if a chair does not have that --- doesn't come to the role of chair with that skill and experience, is it your view that it is necessary for them to undertake a course of training or education in relation to the Government regulatory matters or casino regulation, in order to equip themselves in that role?

20 MR ORD: It would always be an advantage if members were able to undertake specialised training in this area. The degree to which you could train in every contingency of a casino operation I'm not sure, but certainly I think there are matters that are --- that where there would be an advantage in having a training program. We've just recently addressed that issue in local government and prepared training materials for every elected member in local government for much the same reason, so I would be of the view that that could be done and should be done.

25 MS CAHILL: That it is necessary that it be done?

30 MR ORD: Well I think, again, the intent would always be to improve and I noticed the Commissioner's comments earlier around the future strengthening and, yes, I think it would further strengthen the oversight if we were able to put in place a training program that could be available to those who got appointed to the commission.

35 MS CAHILL: Commissioner, I understand we break at 11 am and that is a convenient time.

COMMISSIONER OWEN: I thought we said 11.15.

40 MS CAHILL: Did we? I'm happy to proceed.

COMMISSIONER OWEN: Whenever you get to a convenient time.

MS CAHILL: I was told 11 am.

45 Can I ask you now about the other members of the GWC, apart from Barry Sargeant, Mr Ord. All of those other members have been appointed to the commission since you became chair; is that right?

11:08AM

MR ORD: Yes.

MS CAHILL: And these appointments are made by the minister, of course. I think you mention that in your witness statement?

5

MR ORD: Yes.

MS CAHILL: And do I understand from your evidence in the witness statement that you do not have any involvement at all in the minister's process of appointment?

10

MR ORD: No --- well, I do in terms of what the department helps to prepare for vacancies on the commission by preparing Minister's Office by way of briefings. The way we would proceed is to identify the members' term is coming to a conclusion, when it comes to a conclusion, the skills that they bring to the commission, whether they have an interest in being --- if they are eligible, to be renewed or not, and that is presented as a package to the minister's office. Then the minister will proceed to engage in looking at various places for appropriate appointees.

15

MS CAHILL: Can you just pause there please, Mr Ord? I think you are looking at paragraph 18 of your witness statement as you respond to that question.

20

MR ORD: Yes.

MS CAHILL: If we could bring that up on the screen please.

25

COMMISSIONER JENKINS: While that's happening, can I ask whether that briefing to the minister comes from you as head of the department or from GWC?

MR ORD: Well, it's prepared by the administrative staff within the department and submitted by myself.

30

COMMISSIONER JENKINS: As?

MR ORD: As Director-General and chair.

35

COMMISSIONER JENKINS: So you don't distinguish between whether that's coming from the GWC or the department?

MR ORD: Well, it's an administrative function of mine as Chair to advise that these vacancies are occurring, so it is done by the GWC staff in my department, and I submit --- because I report to the Director-General --- sorry, to the Minister as Director-General; and in bringing those matters to his attention I do so through my Director-General's meetings.

40

COMMISSIONER JENKINS: Thank you.

45

11:10AM

MS CAHILL: So, just coming back to paragraph 18, Mr Ord, the evidence that you just gave along the lines of this paragraph, as I understand it was describing what the department or GWC did to inform the minister in respect of whether an existing member should be reappointed; is that right?

5

MR ORD: Whether an existing member was seeking to be reappointed. We --- I didn't form or advise the minister on the appropriateness of that decision.

10 MS CAHILL: But when it came to a vacancy, for whatever reason, there was no question of a person being reappointed, did you have any involvement in that process?

15 MR ORD: No. I wasn't involved in the process of appointing members to the commission.

MS CAHILL: It was not something you would discuss with the minister about suitable candidates?

20 MR ORD: We discussed the issues impacting the commission and members that were on commission when I was appointed chair had a strong responsible gaming concern background, and remembering that we also cover off other elements so there were the ones who were interested in the racing part of the commission's remit. So the casino is only one of the elements of the Gaming and Wagering Commission oversight. And through Minister Papalia's time he made more strategic appointments of people with corporate governance and ultimately, it's the last member with a
25 policing investigations background.

30 MS CAHILL: Just coming back to my question, was the department or GWC involved in consulting with the minister where there was a vacancy about who might fill it?

MR ORD: No.

35 MS CAHILL: At all?

MR ORD: Not about individuals, no.

MS CAHILL: Not proposing suitable candidates?

40 MR ORD: Well, the Minister's Office of course talked to many potential candidates. They had to go through a vetting process around conflicts and suitability to be appointed. Those matters are generally done in such a way that they are confidential, and so there wasn't discussions of a nature of appointments beyond me being notified of the intention to appoint.
45

MS CAHILL: And let me just break that down. Did I understand from something

you said a moment ago that there might be a discussion of generality about a particular type of person with certain experience or skills that might be useful on the board, but not a discussion about individual candidates?

5 MR ORD: That is correct. It was just these are the matters before the commission, matters that members would need to have consideration of, and that was leading us towards greater focus on strategic risks over some of the matters that were before the commission for several years prior to 2017.

10 MS CAHILL: And when the minister had identified a candidate that he thought was suitable and was intending to appoint, he wouldn't discuss that with GWC, the existing membership, before he actually proceeded to appoint?

15 MR ORD: No. Those matters, the minister would, I understand, probably put several people forward and that would be progressed to cabinet and then subject to cabinet consideration, and then ultimately appointment. So generally, as I said, those matters are done with a degree of confidentiality for, obviously, reasons that people being considered may not wish to have their candidature broadly discussed outside.

20 MS CAHILL: Beyond identifying the general objectives that the Minister may have had in identifying and then proposing to Cabinet a suitable candidate, do you have any knowledge of the more detailed process by which the Minister identifies suitable candidates?

25 MR ORD: Well, I think that they use extensive research on background, the experience, and obviously, as I have said, they do consider if anyone was potentially conflicted and sought people of high community calibre because it was obviously always known that the independence of people appointed to the Gaming and
30 Wagering Commission had to be beyond repute, and from my time there are excellent members of very high integrity appointed. So the processes used by governments prior to and during my time appear to have been very appropriate.

35 MS CAHILL: Thinking about the existing membership of GWC, and putting aside Barry Sargeant for a moment, just thinking about everybody except him, do any of the members have in your view substantial skills or prior experience in respect of government regulation?

40 MR ORD: Yes. Katie has obviously been a former minister, government member, and --- officers --- other members have high quality qualifications in accounting, finance and areas of probity and assurance that were a very good match for the matters that they were looking at when reports were being brought forward.

45 MS CAHILL: Specifically in government regulation? Do any of them have substantial experience or prior experience or skills in government regulation?

MR ORD: Well, Katie would be the --- Katie Hodson-Thomas would be the major expert on that current groups, 76 Commissioners.

11:17AM

MS CAHILL: What is it about her experience that you say ---

MR ORD: I think long-standing ---

5 MS CAHILL: I will just finish the question for the transcript, if that's fine ---

MR ORD: Sorry, apologies.

MS CAHILL: Her experience related to government regulation?

10

MR ORD: Yes, as a Member of Parliament, and obviously being on parliamentary committees reviewing legislation, being a minister.

MS CAHILL: Apart from Barry Sargeant again, just reflecting on the current
15 members of the commission, do any of them have prior skills or experience in casino operations or casino regulations specifically?

MR ORD: Not to my knowledge.

20 MS CAHILL: And --- I might leave it there.

COMMISSIONER OWEN: We'll resume again at 11.35. And for those of you who remember the approach of the late Chief Justice David Malcolm to punctuality, you will know that 11.35 means 11.35.

25

ADJOURNED

[11.18 AM]

30 **RESUMED**

[11.37 AM]

MS CAHILL: Thank you, Commissioners.

35 I was asking you before the break, Mr Ord, about the (audio distorted), and I just want to ask you a couple of questions in a general way about the --- as they like to say these days, the skill set, if you like, of the GWC members as a whole.

40 Firstly, do you consider it important for one or more members of GWC to have some background and experience in casino operations and casino regulation?

MR ORD: It is certainly an advantage. Obviously Mr Sargeant fulfilled that role during my time as chair.

45 MS CAHILL: But, just to be clear, is it important for at least one member to have experience in casino operations and casino regulation?

11:37AM

MR ORD: I would think so.

MS CAHILL: And that is Mr Sargeant presently?

5 MR ORD: (Nods head).

MS CAHILL: Now do you consider it important for one or more members of GWC to have some background and experience in crime detection and law and --- (audio truncated) --

10

MR ORD: I didn't at the time that I took on the role because the remit of the Gaming and Wagering Commission extended across community, gaming, racing regulation, and the casino. While the casino --- I think in my statement I said it occupied probably 70 per cent of our agenda time, a lot of the decisions to be made related to community --- essentially community gaming activities and a number of the risks that are merging that we were concerned about were mentioned by the Commissioners, including yourself in your preamble, which were related to the emergence of unregulated online casinos and gaming, increase in sports betting, synthetic lotteries and so on.

20

So, at that point, we believed we were part of a network of regulatory agencies that oversaw casino operations, federal agencies like, obviously, AUSTRAC, ASIC and the like, and at state level of course, fellow agencies that I work with quite closely WA Police and the CCC, and, therefore, our ability to refer matters or have matters referred to us in partnership with those other agencies, were the areas where we imagined that if we were concerned around criminality, that we would pick that up in our interface with other agencies rather than having an expert on the commission itself just focused on the risk of criminality.

25

30 However, Mr Steve Thomas was appointed having formerly served with the WA Police and I've seen the benefit of his perspective on things since he was appointed to the commission. So now in answering your question fully, I would say that that experience and background is a very valuable addition to the skills that are on the commission.

35

MS CAHILL: So, Mr Thomas has a policing background, did you say.

MR ORD: Yes.

40 MS CAHILL: So he, as far as you are concerned, is the member that brings that skill set of experience in crime inspection and law enforcement to the GWC board?

45

MR ORD: Yes. Each of the members will look at the briefing papers or audit findings or reports from different perspectives. Some are financial, accounting taxation, compliance perspective, others around the effectiveness of problem gambling interventions by Crown and so on. He has brought a good questioning

mind to matters of risk related to potential criminality or breaches to our regulations and whether we should be more prosecutorial or perhaps we've had a focus on improvement notices and things.

- 5 MS CAHILL: Do you consider the current membership of the GWC when you look at it as a group or together, to have an adequate range of skills and experience necessary to perform the role of the GWC?

10 MR ORD: Well, that's in the context of the existing legislation. As you've laid out very extensively, the legislation is essentially very similar to that which was essentially created around 1985 when the casino was first considered. And had a strong focus on the oversight of the operations of the casino. Now that the casino is part of a national body, or a national corporation then matters that are outside of the State's jurisdiction come into play, the actual complexity of corporate governance has
15 significantly changed, and of course gaming is becoming more internationalised with inherent national and international risks associated with that. So there would be good cause to consider whether given the significant remit of the Gaming and Wagering Commission across racing, wagering and community gaming, and so on and emerging areas of gaming and the casino, whether that six members and chair is
20 adequate to cover all of the skills you need for that is a matter that would need further consideration.

MS CAHILL: Is there a question in your mind as to whether it does or doesn't?

25 MR ORD: I certainly think that strengthening of the membership to take into account these increased risks would be an advantage. Whether that's a bigger commission, or I've indicated that independent chair could add considerable capability.

30 MS CAHILL: Let's talk about experience and skills of the members and the membership as a whole. In what areas of previous skill and experience do you think that the membership of the GWC could be enhanced? What skills and experience are missing?

35 MR ORD: Well, I think it has been enhanced by recent appointments to have a much stronger focus on corporate and financial risk and strategic risk and, therefore, we have lost members that had a greater focus on other areas of racing and gaming and areas mostly to do with harm minimisation related to people's gaming habits where they may be at risk, and people from lower socioeconomic backgrounds, or people
40 who have got gaming addiction problems.

MS CAHILL: Just to understand that answer, do you say those are areas where the existing skill set of the GWC could be enhanced?

45 MR ORD: Well, by strengthening the strategic oversight that we've now done, we have lost some of what we previously had, which was a strong focus on the community minimisation of harm --- so potentially I'd needed a bigger commission to

bring all those skills to bear, or you say the commission is going to deal with strategic risk and there are other mechanisms to deal with the others.

5 MS CAHILL: Can I just try and get a summary of your evidence. If, and maybe I put the question this way, Mr Ord, if tomorrow you were given the opportunity by the minister to appoint any number of additional members so that you had the skill set and experience across a range of areas that you thought was appropriate for the board, what kind of skills and experience would you wish to add to those that already exist?

10 MR ORD: Look, I think strategic legal, corporate legal, that really understand the structuring of trust companies, and to look at the governance of Crown at that strategic corporate governance and legal area, would be a great advantage to us. And, as I said, given we've strengthened, I think, matters that would be relevant to some of the risks that have been identified in the Bergin Inquiry through the recent
15 appointments, or appointments during the Inquiry, really, then there may be areas of community concern around the community risk of proliferation of gambling behaviours that I would be concerned might be lost over time and in which case, I would like to add some of those back.

20 MS CAHILL: What are the skills and experience that have been added, if I understand what you've just said, recently in the context of these issues that have emerged recently in relation to Crown?

25 MR ORD: Carmelina(?) and Jody have come in with very high quality forensic accounting, finance and audit skills, and they have added a certain amount of rigour to the interrogation of information that have been provided to the commission by Crown. Katie had previously served on the commission and has come back in and again I think provides experience and a good understanding of regulatory practice,
30 and Steve has obviously come in with his policing and business intelligence and data understanding. So they are really strong contributors now and questioning what is coming before them in terms of information we see around Crown, how we interrogate it and how it is presented to the commission.

35 MS CAHILL: What benefit do you see in that forensic accounting expertise that you say has now come into GWC?

MR ORD: Well, I think I've said we were primarily focused on protecting the more gullible punter, I suppose, from a sophisticated casino operator and clearly that was a
40 concern in the early days of preparing such intense quality control of the operations of the casino to ensure the games were fair, that machines operated the way they should, that staff played the games according to all the rules that were established and so on.

45 The area which has opened up as a risk clearly was the source of money that people are using to gamble and this has always been a vexed concern because --- I give an example of a mystical person, or a fake person who walks through and they got

\$100 in their pocket into the casino. I don't really have a knowledge whether that money is undeclared tax income, whether it's money they have stolen from their employer, whether it's money they got from a drug deal, or whether it's hard-earned wages or tax paid and they are just going for a good night out.

5

That is true at the higher end of the gamer who may be a more professional gambler and have a gambling account and put significant amounts into an account and gamble with that and settle on a periodic basis. The risk that has opened up is obviously that the regulations that we understood to exist in the banking system to identify suspicious transactions or suspicious sources of money to protect Crown at that level, Crown's own oversight of its anti-money laundering and counterterrorism activities didn't pick up some of the suspicious transactions, and that though they are reporting suspicious transactions to AUSTRAC, that reporting didn't lead to referrals back to us. It's fairly clear to me that we have powers within the Act to at least do auditing of those bank accounts and such that come before us because we audit them for tax purpose, and there would be an advantage to audit those ourselves for unusual patterns of transaction. And if we have concerns over those to on refer them ourselves to agencies rather than wait for the agencies to come to us.

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In doing that we would need that forensic intelligence capability, either ourselves or going out to contract it in, or a combination of both, and you would need members of the commission with the capabilities to assess what was being told to them and make appropriate directions to Crown, or if we were concerned with criminality, of course then we would have to abide by other legislation which require us to retain confidentiality and refer the matters to appropriate authorities.

30

MS CAHILL: I'm going to change tack slightly here and take you back to paragraph 19 of your witness statement, if I can. That's at page 0005. We were here before the break, Mr Ord, in a different context. Here, I want to focus on the first part of the paragraph, rather than the last, where you explain that there is no formal training program for GWC members, but when they are newly appointed they are inducted by department staff working for the Chief Casino Officer. Can you, first of all, tell me who is precisely, in terms of their role, who performs that induction?

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MR ORD: I'm not sure of exactly the person. It would be the Secretariat for the Gaming and Wagering Commission, the provision of all the policies, procedures, access to systems that they require. It is quite confidential obviously, so it takes quite a bit to get the Commissioners up to speed with accessing the information they require, and being across the procedures of the commission. So the Secretariat or senior staff working under the Chief Casino Officer would undertake that.

45

MS CAHILL: Is it more a matter of just explaining to a newly appointed member where they might go within the database of documents within the department to find relevant policies and other documents?

MR ORD: That's part of it, but also who the key staff are that are their contacts and how to engage. As I said in earlier testimony the Gaming and Wagering Commission

papers are structured in such a way to assist the Commissioners to understand the source of the recommendations or are based on information related to statutes or policies that are not in the actual legislation itself and so on. So they get inculcated into the workings of the committee by way of both access to expert advice and the information is provided meeting by meeting. So they get progressively exposed to the significant and broad expanse of matters that come before the commission.

MS CAHILL: In the second sentence of this paragraph you mentioned that GWC maintains a training budget. What is the approximate amount of that budget annually?

MR ORD: I think it is somewhere between \$30 and \$60,000.

MS CAHILL: When you say here in the next sentence that "members can seek permission to access funds..... To undertake training" does that mean GWC doesn't have an annual training program for members of any description?

MR ORD: Because the funds available are relatively constrained, it was agreed by the Commission itself that they would consider requests to access funds for those purposes through the commission. So members would bring forward and say they would like to attend this conference or I would like to attend this course. None of those were refused. It gave me the opportunity that if the fund was overdrawn, then I could look to supplement it from other --- put up a paper and suggest the budget be increased by Gaming and Wagering Commission and maintain a reserve fund. We were always able to meet member demands within the budget. But there is also quite a lot of materials that are available to members through our membership of other associations in --- national gaming associations and so on, that didn't require cost element that were available for members to access.

MS CAHILL: Understanding your evidence in summary, it is up to individual members to find for themselves a suitable training event and then obtain permission to access the training budget for that?

MR ORD: Yes. I mean, members are appointed as only part-time members and have other aspects to their life. So members tended to bring forward when they were available to do something and where they particularly wished to advantage themselves or take advantage of new information that could be available. So we left that to the members. We did, of course, bring forward two members when there were opportunities that we became aware of they might be interested in.

MS CAHILL: When a member seeks permission to access the training budget, who do they seek permission from?

MR ORD: It is raised at a meeting and agreed by the Commissioner's on vote.

MS CAHILL: I see. So the commission as a group has control of the training budget?

11:57AM

MR ORD: Yes.

MS CAHILL: And you described it a moment ago as "constrained". It is a "constrained" budget?

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MR ORD: I said it was a limited sum. But it was based on budgeting on historic use. So the funds were essentially those funds that had been used in the past and members would draw on that budget during the year and then we would replenish the budget at the end of the year.

10

MS CAHILL: But if the members as a group decided that the training budget wasn't sufficient, then they could as a group decide to increase it?

MR ORD: Yes, they could. They did have control of the overall appropriation and put it into different aspects.

15

MS CAHILL: Is that something that has ever been considered to your knowledge during the time that you have been chair of the GWC?

MR ORD: I think I was noticing a greater interest as the issues before the commission became more national issues that the commission was very keen to take advantage of attending national events. Several were able to travel and go to fairly high-level conferencing on risks in gaming. Unfortunately the pandemic hit and what was emerging as quite a big program was constrained by that.

25

MS CAHILL: Just on that last sentence that I took you to before the break this morning where you talk about department staff being available to brief members as required, who are those staff?

MR ORD: Well, they are the members of the racing, gaming and liquor division of my department.

30

MS CAHILL: And how do members of GWC know which person to contact?

MR ORD: So we have two staff that rotate in being, if you like, the secretariat to the commission. So there is always one of them that is available to members at all times allowing for leave and other times when they might not be available. And they facilitate --- they act as a single go-to person, Emily and Kelly, and they then say, "Okay, then you need to go and speak to this person" and then facilitate that.

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MS CAHILL: So Emily and Kelly are in effect administrative people, are they within unit ---

MR ORD: They manage the agenda process and all the interface with the members in terms of their access to online facilities and staff briefings.

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12:00PM

MS CAHILL: How often, to your knowledge, do department staff brief members on technical or specialist matters?

MR ORD: I'm not aware of the frequency. I haven't tried to intervene, if you like, in
5 controlling any of that. So I wanted to encourage them to feel that they can ask
questions regardless of me knowing whether they are asking them or not, but I am
certainly aware that members have been very active in asking for technical briefings
at GWC meetings in their own right, and they are normally put on notice so they are
10 available to the next meeting. We've had obviously probably an increase in those
technical briefings over the last number of years as some of the issues have become,
as I said, more complex and of high risk.

MS CAHILL: Can I ask you about the remuneration of members of the GWC? You,
15 yourself, are not remunerated for your role as chair separately from your
remuneration as Director-General of the department; is that right?

MR ORD: That's correct.

MS CAHILL: And the other members of the GWC are remunerated in the amount of
20 \$16,000 approximately per annum?

MR ORD: That's correct.

MS CAHILL: What is your view about the adequacy of that remuneration?
25

MR ORD: I understand that is set by the SAT so I don't have a view.

MS CAHILL: You don't have a view because it is set by the SAT?

MR ORD: Yes, it is an independent process, it looks across all government boards
30 and I'm sure use appropriate expertise to determine the value.

MS CAHILL: I want to ask you about the Chief Casino Officer of the GWC, and if
35 we could go to paragraph 33, page 0009 of your witness statement, and you make
reference there to the role not comprising a "standalone position of employment
within the Department". So there is no full-time Chief Casino Officer employed
directly by GWC; is that the position?

MR ORD: As of today that is actually the position, but that wasn't the historic
40 position.

MS CAHILL: Sorry, let's make sure we are not talking at cross-purposes. What is
the position today in relation to the Chief Casino Officer?

MR ORD: The Chief Casino Officer is at this time appointed is Mr Mark Becroft.
45 Mr Mark Becroft is only undertaking these duties at this time.

MS CAHILL: So he works full-time as Chief Casino Officer?

MR ORD: Because of the amount of support needed for the Royal Commission we determined that it was appropriate that he should only undertake those duties.

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MS CAHILL: What was the position before his appointment?

MR ORD: The position of Chief Casino Officer had been held concurrently with the position of deputy Director-General of the Department of Racing, Gaming and Liquor. When the machinery of government amalgamation took place then that deputy Director-General became the deputy Director-General of the new department and maintained holding the same concurrent position as Chief Casino Officer.

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MS CAHILL: It was a convention, effectively, was it, that the Chief Casino Officer would be the person who occupied the position of deputy Director-General of the responsible department?

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MR ORD: I think that --- it was prior to my time that this arrangement came in place, but I understood that the position of deputy Director-General was advertised and a person appointed with the intent that they should hold the concurrent appointments.

20

MS CAHILL: But who actually appoints a person, or used to appoint the person before Mr Beecroft, to the position of Chief Casino Officer?

25

MR ORD: It is appointed by the commission.

MS CAHILL: But as far as you are aware, the commission had discretion to appoint somebody other than the deputy Director-General or they were under some --- acting pursuant to some policy or convention to appoint the deputy Director-General?

30

MR ORD: No, under the --- the Act is clear that the Gaming and Wagering Commission approves the appointment of an officer, generally an officer of the --- under the Public Sector Management Act. So it could be someone other than the --- where hence when I brought forward Mr Beecroft, he wasn't the deputy Director-General and the Gaming and Wagering Commission accepted my advice that he should be appointed Chief Casino Officer.

35

MS CAHILL: Go to paragraph 34, please. You describe there that the appointment of the Chief Casino Officer was typically linked to the division of the department dealing with casino regulation. You make mention of the first time a licence was granted, "the appointment was made to the person occupying the position of Director, Casino Control Division?" And the last sentence:

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45 *From 2007 to recently, a Deputy Director-General of the department has been appointed CCO.*

Why was it always the deputy Director-General who was appointed CCO?

MR ORD: That was prior to my time.

5 MS CAHILL: You don't know?

MR ORD: I don't know.

10 COMMISSIONER JENKINS: Up until that changed, who determined how much of that person's time was spent performing the duties of the CCO, and how much was spent performing their duties as deputy director?

15 MR ORD: The Director-General would generally determine the scope of the position in allowing for concurrent appointments. That job description would be submitted to the Public Sector Commission because it is an SES role, state executive service position, the Public Sector Commissioner then signs off on that job description and then a person is appointed accordingly. In this case there is the added complexity of the Gaming and Wagering Commission approving the person's appointment but I would have an assumption that on establishment of the deputy
20 Director-General it was allowed for that they could hold a concurrent appointment. I hold a concurrent appointment as General Manager of the Perth Theatre Trust along with being the Director-General of the department.

25 In terms of the question around proportionality of work, the deputy Director-General would have had the line reporting of investigators, of regulators and other staff that were deployed on casino operations and, therefore, it provided the line reporting to the Chief Casino Officer on all those reports and compliances and they would take that independent of the Director-General, who was chair of the commission, to the commission. So, essentially by separating the Director-General of what was then
30 racing, gaming and liquor would have had a story of separation from the deputy Director-General's role to oversight compliance and bring those as Chief Casino Officer which clearly has an intent to have a degree of independence to the commission and report to the commission in their own right. COMMISSIONER OWEN: Was there more than one --- if you go from when you took over in 2017,
35 was there more than one deputy Director-General of the department?

MR ORD: No.

40 COMMISSIONER OWEN: And is the --- do we understand that term "deputy", in the conventional sense? Like, if you were away on leave, that person would step into your shoes?

45 MR ORD: Not strictly. When we created a new department I appointed the deputy Director-General from RGL as Deputy Director-General, Regulation, and had him oversee the regulatory functions, because the department was about half regulatory and half service delivery. And I clearly came from a service delivery background so

12:09PM

I took responsibility effectively as a director-general for full line management of all of the service delivery elements and the deputy director-general had oversight of the regulatory elements. If I was on leave he or an alternative executive director would act in my place depending on availability. That would have only been for a week at a time and really just to sign off papers.

MS CAHILL: I might just pursue that now that Commissioner Owen has raised the point. Can we go to document PUB.0004.0004.0001. It should be the latest annual report of the department. If we go to page 0029, thank you. There is an operational structure of the department. Is it possible to increase that, enlarge that? Thank you. This is the department as at 30 June 2020; is that right?

MR ORD: At that time, yes.

MS CAHILL: Has it changed since?

MR ORD: Yes.

MS CAHILL: In what way?

MR ORD: Well, I've sought from the Public Sector Commissioner support to establish a designated Executive Director of Local Government and that has subsequently been brought about. That appointment has been made. So those elements that appear on the right where I'm looking after some elements of local government, investigations, they are now all under the traditional model of local government, a single ED of Local Government.

MS CAHILL: Can we zoom out so we can see the document as a whole, and we obviously can see you as Director-General sitting there over the top of the department. And then on the left-hand side that flows into Regulatory Services on the left. Zoom into that side. Thank you. Within that column of Regulatory Services is included a regulatory review of the racing, gaming and liquor industries, is it?

MR ORD: Yes. That includes racing, gaming and liquor and the other parts of local government and all the other Acts that we have, you mentioned the dog Act and cat Act and there is a range of legislation that fits under that area.

MS CAHILL: If we go to the next page, 0030, there is some inter-agency relationships. Can you just explain what that is about?

MR ORD: We have a series of entities that are independent of the department that we help service; the Liquor Commission, the Local Government Standards Panel established under the Local Government Act, and we have external and internal parties forming that panel, and our pack(?) deals with, under our racing, gaming and liquor area, to do with jockeys and trainers and matters that come forth for potential disciplinary matters there.

MS CAHILL: In the second box, the "Regulator" row, is that identifying external agencies that have a relationship with the department?

5 MR ORD: There again commissions that we support, so Combat Sports Commission, we provide the secretariat for it again. It's got departmental officers that support it. And the appropriation comes through the department. Same with the Gaming and Wagering Commission and the same with the State Records Commission.

10 MS CAHILL: But the designation at the top of the document is "[Department] Interagency Relationships". Can one ascertain from this document or somewhere else in the annual report the nature of the relationship between the department and any particular agency on this sheet?

15 MR ORD: Well, they are all areas that the department has an administrative oversight of. Each of them comes out of specific pieces of legislation and how they operate, their remit, set down in those statutes. So they could be provided to the Commission.

20 MS CAHILL: If we go to the next page, 0031, please. This is the executive structure. If we could make that a little larger, please. I think this might go to a question Commissioner Owen asked you. We see the deputy Director-General out there on the left-hand side.

25 MR ORD: Yes.

MS CAHILL: The deputy Director-General doesn't have deputy responsibility, if I can put it this way, across the whole department?

30 MR ORD: No.

MS CAHILL: A deputy director sits coordinate with the other positions that are mentioned alongside him in this chart, him or her?

35 MR ORD: In terms of reporting to me, this is the direct reports. So the deputy Director-General is a direct report to me but they have, of course, all of the regulatory functions under them where the others are operational divisions of the service delivery side of the agency.

40 MS CAHILL: So if we go back to 0029 and we enlarge that a little, under that heading "Regulatory Services", the deputy Director-General heads up Regulatory Services and everything underneath it?

MR ORD: Yes.

45 MS CAHILL: But nothing else?

12:16PM

MR ORD: No.

COMMISSIONER OWEN: Sorry, if there are regulatory functions within say the local government aspect of the portfolio, the deputy Director-General, who is also
5 the Casino Control Officer, I'm talking pre-2021, has no role to play in that?

MR ORD: No, they had oversight of the general regulatory activities in all our divisions which were essentially those that came from racing, gaming and liquor, those came from local government and legislation. It came under the Local
10 *Government Act. And there was one other part of regulation which was the Combat Sports Commission which was previously under Sport and Rec, but they didn't have any regulatory experienced staff in that department, so we took advantage of the machinery of government to give them a bit more support through bringing them under this. But of course there were staff drawn from each of those areas to support*
15 the deputy Director-General in the functions of their duties.

MS CAHILL: When Mr Connolly was the Chief Casino Officer, he sat at the top of this Regulatory Services column as deputy Director-General; is that right?

20 MR ORD: Yes.

MS CAHILL: And where is Mr Mark Beecroft located, if at all, in this chart?

MR ORD: Mr Beecroft was a director underneath the Regulatory Services in his
25 particular area. You would need to go to a sub-chart of directors to see how the racing, gaming and liquor divisions were established. So they have a structure of RGL per se, had not changed from the time we logged, until now, although we are doing a review at this time to see whether there are ways of enhancing the capacity of the area but sub-structured as it was it under the previous arrangement.

30 MS CAHILL: What was Mr Beecroft's title immediately before his appointment as Chief Casino Officer.

MR ORD: I think it was Director of Racing and Wagering Services, or something
35 like that.

MS CAHILL: So he sat within the left-hand column?

MR ORD: Yes, and he headed up one of the divisions as a manager or level 8
40 manager. There were four level 8's.

MS CAHILL: Now that he has been appointed at Chief Casino Officer, does he continue to retain that title?

45 MR ORD: That is his substantive role, but I asked him to act as Chief Casino Officer and recommended that to the commission when Mr Connolly stood down and we have subsequently taken those other responsibilities and the role that he

previously had and assigned them to another officer.

MS CAHILL: Commissioner, I will tender the department's annual report for 2019, PUB.0004.0004.0001.

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COMMISSIONER OWEN: The department's annual report for 2019/2020 is admitted into evidence as an exhibit with the document identifier that Ms Cahill has just read out.

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EXHIBIT #PUB.0004.0004.0001 - 2019-2020 ANNUAL REPORT OF THE DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES

15

MS CAHILL: Thank you, Commissioner.

Can I just come back to where I was, talking about the arrangement that preceded your involvement with the GWC where from 2007 the deputy Director-General was appointed to the position of Chief Casino Officer. From the time that you assumed the role as chairperson, have you formed any view about the appropriateness of that arrangement?

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MR ORD: Of the past?

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MS CAHILL: Yes.

MR ORD: I mean certainly I was --- I had previous experience of working with RGL to the extent that I was in Aboriginal affairs and had contact around liquor harm minimisation issues and I found what I would call a black letter regulator, they were very, very strong on process and compliance and strictly letter of the law. I was aware of Barry Sargeant's very high standing in the Public Service. When I took on the role, I was impressed by the deputy Director-General Chief Casino Officer's extensive knowledge of the legislation of gaming itself. It had been there for quite some time and really felt that there was enormous support there for the Gaming and Wagering Commission from a quality officer, but well supported by a team of staff in the department, including some very fine directors under him, including Mr Beecroft, who again when he attended and briefed on matters of his particular expertise, was also obviously a long-standing and highly experienced and --- officer that you could rely on, absolutely could rely on. The thing that impressed me about them was that they always came forward with information at a factual level without colouring those with opinions. So the Gaming and Wagering Commission was always brought forward this is the situation, this is the fact, or this is the matter before you and it was never coloured by you should consider doing X and Y. There might be recommendations and based on statutes, but they were recommendations, could be agreed or not agreed or changed. So I was very impressed with my experience in government at the quality of the support that I got and, therefore, I was

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confident we could continue. In fact, one of the decisions I made was to make sure that I didn't, in managing the efficiency of things required of me through the moggging process, to keep the structure and integrity of what was going on intact as it was a critical risk for the agency that it sustained its operations.

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MS CAHILL: Do you have a view about whether a Chief Casino Officer needs to have prior knowledge and experience of casino regulation in order to adequately equip themselves in that role?

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MR ORD: I think that is a very interesting question. There is probably multiple ways of answering it. Yes, I think they have to become experts. That said, the risk would be to simply go and employ someone who is already operating in a casino. You have a single licence holder in this state and you have a single regulator. So there is an advantage potentially of having a party that hasn't worked for a casino and ensuring that they are well-prepared. So if they have a strong regulatory background from another area of government, then I believe they could take the role on and execute it at a very high level. If they are inculcated into everything that there is about casino operations, and I believe that's the pathway in this case and Mr Connolly came I think from fishing regulation and then was given through Mr Sargeant, significant exposure to gaming regulatory activities at a national level and became an expert in that.

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MS CAHILL: So if we go back to your witness statement please at 0010, paragraph 38, you mention that.

The CCO is not upon appointment or periodically required to undertake *a formal training process, nor is such a process provided.*

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And that is so despite the fact that the appointee might not have any previous experience or knowledge in relation to casino regulation specifically?

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MR ORD: I think the approach of most regulatory agencies where you have got such specialisation in government is succession planning and preparing people through taking on lower level positions and being highly experienced by the time they are made or appointed to a high level. A natural career progression can include formal and informal training and education and would be encouraged that that would be the case. In the case of Mr Connolly, as I said I understand he was recruited having been a regulator and then undertook intense exposure to the system and of course Mr Sargeant was an expert having been in that role for a considerable period of time as Director-General.

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MS CAHILL: So prior --- somebody who held the role prior to the recent incumbent, shows them how to do the job, on the job training, effectively is what you are suggesting?

MR ORD: That certainly happens with all levels of regulatory activity in the department. There is a lot of peer support, mentoring. As they rise and take on more

responsibility, their work will be audited and tested to see that it is of standard and so on.

5 MS CAHILL: Is it your view that there should be formal training for a person who is appointed to the role of Chief Casino Officer?

10 MR ORD: Well, it's a question of whether there is the appropriate training available and where that would come from. There are international courses now in casino gaming regulation. To have somebody who had undertaken tertiary qualifications at a level would clearly be an advantage going forward, but these things are really emerging with a huge emphasis in technology today. Now I think there are specialisations that are coming forward in the form of tertiary qualifications. They are not available in WA as a small jurisdiction. I'm not even sure they are available anywhere nationally, but they certainly are internationally.

15 MS CAHILL: Have you spoken to Mr Beecroft about him obtaining such qualifications?

20 MR ORD: Mr Beecroft was acting obviously at my request because of the circumstances of Mr Connolly stepping aside. Mr Beecroft is at an age where he might not seek to take on that type of role ongoing ---

25 MS CAHILL: Sorry, I will just interrupt you. Forgive me, but just to clarify that on the way through, before you complete your answer, Mr Beecroft is only holding the role of Chief Casino Officer temporarily is he?

MR ORD: Yes, until such time as we are aware of the findings of this Commission and then we will obviously respond.

30 MS CAHILL: Sorry, I interrupted you. You were saying he might not be of the age that he would be inclined to take on such a force of study?

35 MR ORD: Well, that could be correct. He's very experienced in other parts of our regulatory divisions and areas as a racing specialist. And I think we wouldn't necessarily want to lose that specialisation. We might want to bring in a new person. But he's very experienced. He did backup Mr Connolly when he was on leave. So he has long experience of understanding the casino gaming environment and was able to step in and I very much appreciate him doing so.

40 MS CAHILL: Do you have a view about whether a Chief Casino Officer should be given and expected to undertake ongoing periodic training during the term of their appointment? Of a formal nature, I mean to say.

45 MR ORD: I would certainly be of the view that the Chief Casino Officer should be a standalone position and that position, it would be appropriate for that position to have a formalised program of training and development built into it in the same way as, you know, we fund the ongoing development of our legal practitioners and so on.

12:30PM

So, yes, I would support that.

MS CAHILL: And that would be something that could be implemented under the existing regulatory framework, couldn't it?

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MR ORD: Yes.

MS CAHILL: Just a matter of resourcing it?

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MR ORD: Yes.

MS CAHILL: And is this a view that you've come to recently?

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MR ORD: I've come to the view that the development of staff in the Public Service at all levels is advantaged by opportunities for those staff to access and maintain ongoing training and development, and that is very much encouraged by the Public Service Commission. We have online learning platforms and we make that available. I have 800-plus staff. So we provide a lot of free training opportunities for staff to engage in. We have training budgets and we fund quite sophisticated development of the staff, where they need technical upgrade qualifications, and we have a program of maintaining people that have the need for formal qualifications to retain their currency, like CPAs in our finance area and all that. So I would have no philosophical disagreement that if we identified that the same level of qualifications, and they were accessible, should apply to specialists within casino regulation, then clearly there is a framework, structure and resourcing component that could meet that requirement.

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MS CAHILL: Can I just understand your answer then. If such training were to be made --- ongoing training for and specific to the role of Chief Casino Officer were to be made available, then your view is that that should be undertaken by the Chief Casino Officer?

MR ORD: Yes.

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MS CAHILL: But you don't have a view about whether that is something that should be proactively implemented?

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MR ORD: Yes, I think it should be proactively implemented. The challenge is to find the appropriate training and whether that is available in Australia, internationally. Clearly we've been spending quite a bit of time in a constrained environment with the pandemic, but I would see it would be advantageous to actually see what is available. We may have to source it elsewhere, we'd have to make sure it was consistent with the regulatory environment that our legislation requires and then implement it. I could see that being an advantage.

45

MS CAHILL: And would you regard this as a responsibility of the department or a responsibility of GWC to arrange and implement an ongoing formal training

program for the Chief Casino Officer?

MR ORD: I would see it as a responsibility of the department. I believe our
responsibility is to provide to the Gaming and Wagering Commission a high-skilled,
5 capable and dedicated staff resource.

MS CAHILL: Including the role of Chief Casino Officer?

MR ORD: Particularly the role of Chief Casino Officer.
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MS CAHILL: So you foresee that the Chief Casino Officer will always be appointed
from the department?

MR ORD: No. I don't think that I can foresee the future, but while the Chief Casino
15 Officer is appointed as a department officer through the department, as opposed to
being either an independent role or there is an independent regulator outside of the
department, then while it is there, then yes, I believe the department would have the
responsibility to ensure that person is appropriately skilled for the role.

MS CAHILL: Now, at paragraph 34 which remains on the screen, Mr Ord, you had
20 described that practice from 2007 until recently of the Deputy Director-General of
the department being appointed CCO, Chief Casino Officer, and then you state that
the practice changed in February 2021 when Mr Connolly and you agreed he should
step aside from that role. Does Mr Connolly remain the Deputy Director-General of
25 the department?

MR ORD: That is his substantive position, yes, but he is not filling that role at this
time.

MS CAHILL: What role does he fill at this time?
30

MR ORD: He's doing a special project to do with the implementation of election
commitment on Banned Drinkers Register. So --

MS CAHILL: Can you just repeat that? I didn't quite hear what you said.
35

MR ORD: He's undertaking the lead of an election commitment for the
implementation of a banned drinkers register across the Kimberley gold fields and
Pilbara district. So of course racing, gaming and liquor includes the liquor regulatory
40 environment, the banned drinkers register is related to the Liquor Act. It is a very
significant commitment and Mr Connolly is well-equipped to lead.

MS CAHILL: Now, you say that you and Mr Connolly agreed that he should step
aside from the role. Did you involve any other members of GWC in the process of
45 reaching that agreement with Mr Connolly?

MR ORD: I had a discussion with Mr Sargeant not about Mr Connolly stepping

aside, but simply the circumstances of the issue that had been raised around Mr Connolly having previously reported that he had some personal friendships with people who were employed at Crown. I confirmed with Mr Sargeant that he was aware and that they had been noted as in his time as Director-General.

5

And then the matter around stepping aside and so I consulted the Public Sector Commissioner and said that I thought that would be appropriate because I was aware that the meeting of the Gaming and Wagering Commission that I would need to chair after the Bergin Report had been handed down, would require me to lead the commission in a discussion around the potential of seeking to call an inquiry and that I believed that the media coverage made it untenable for Mr Connolly to provide any advice on that matter. Hence, I agreed that it needed to be done immediately and I wasn't in a position at that time to consult with the other members of the commission.

15 MS CAHILL: Why not?

MR ORD: Because we were under intense media scrutiny and I believed it was appropriate that we could give confidence to the community immediately that he wouldn't be further involved.

20

MS CAHILL: You don't think it was appropriate to simply phone the other members of GWC and convene an urgent meeting to discuss the matter?

MR ORD: Look, possibly I could have handled a lot of things better and, yes, I could have potentially called an urgent meeting to discuss the matter but in my view it was a matter around me as the employing authority of Mr Connolly. So I took the decision as the employing authority.

30 MS CAHILL: You mean the department?

MR ORD: Yes.

MS CAHILL: Who employs Mr Connolly in what capacity or did, in what capacity.

35 MR ORD: As Deputy Director-General and Chief Casino Officer.

MS CAHILL: And you regarded the department as employing him as the Chief Casino Officer?

40 MR ORD: On behalf of the commission, but that his employment was --- that I as the employing authority had certain responsibilities related to that employing authority role, that meant it would be appropriate for me to take that decision.

45 MS CAHILL: Was it the department or the GWC who originally appointed Mr Connolly?

MR ORD: Mr Connolly would have been appointed by the GWC as Chief Casino

Officer on recommendation of the department.

MS CAHILL: And do you know if Mr Connolly tendered any form of resignation or notice of retirement from the position of Chief Casino Officer to the GWC members?

5

MR ORD: I'm not aware whether he did or didn't. Certainly we made them aware as soon as we could of the situation that Mr Connolly had asked to stand aside and that I had supported that decision.

10 MS CAHILL: Now, can you just explain to me, just so I'm clear on your evidence, what was your motivation for reaching this agreement with Mr Connolly that he step aside from the role of Chief Casino Officer?

MR ORD: What was my understanding?

15

MS CAHILL: What was your motivation to reach that agreement with him?

MR ORD: The media essentially had run a story that Mr Connolly had been fishing with at least one, possibly more, members of the staff of Crown casino and that in doing so, there was a potential of a conflict of interest in his role. They were obviously fairly strong on their view that there could have been and as a consequence Mr Connolly was very distressed, understandably so, and said that he would find it very difficult to continue undertaking his duties while under such duress. I believed that it was appropriate to accept that, and that in doing so we were wanting to show that we were ensuring the integrity of the Gaming and Wagering Commission decisions beyond that moment of time from any accusation they might have been influenced by ---

MS CAHILL: When you say "we" there, who are you referring to?

30

MR ORD: Myself and Mr Connolly in that case. So we had a discussion about what was in the best interests of the Gaming and Wagering Commission, given his personal circumstance and distress, we agreed he should step aside.

MS CAHILL: So you and Mr Connolly had a discussion about what was in the best interests of the GWC without consulting the other members of the GWC?

MR ORD: Yes.

MS CAHILL: Now, you have mentioned that in his role, he maintains the title of Deputy Director-General at the moment, but he doesn't fulfil the duties of that role presently; is that right?

MR ORD: That's correct.

45

MS CAHILL: And did you also enter into an agreement with Mr Connolly that he remove himself from those duties for the time being?

MR ORD: Mr Connolly sought to take leave and in agreeing to that I obviously needed to place someone acting in his role while he was on leave. At the conclusion of the leave, by the conclusion of the leave, I had spoken to the Public Sector Commissioner and sought that he should return to work on a project other than matters relating to the Gaming and Wagering Commission because in the meeting immediately after Mr Connolly had stepped down, the Gaming and Wagering Commission considered the Bergin findings and made the determination that they should seek the minister's support for an inquiry. And that inquiry should include a review of the department. So as chair I essentially sought an inquiry into myself, Mr Connolly and the whole department as well as the matters under consideration for Crown.

MS CAHILL: Just coming back to paragraph 34, please, and those last two sentences, speaking first of all about the practice that was in existence from 2007 until recently, the Deputy Director-General being appointed as CCO, you then say "that practice changed in February 2021". So is there a new practice or policy relating to the manner of appointment of the Chief Casino Officer?

MR ORD: No, Chief Casino Officer is still appointed by the Gaming and Wagering Commission based on the advice from myself.

MS CAHILL: You advice the members of the GWC who should be appointed to that role?

MR ORD: Well, I put up a nominee for that role and they obviously with a CV and background and so on, and they approve the appointment.

MS CAHILL: Do you provide a range of --- did you provide a number of appointees or --- suitable candidates or just one?

MR ORD: I only provided one. There is a limited number of senior staff with the experience and ability to undertake that role.

MS CAHILL: Does Mr Beecroft have prior knowledge or experience of casino regulation?

MR ORD: Yes.

MS CAHILL: Substantial?

MR ORD: I would argue, yes, in that he acted for Mr Connolly on regular occasions over a long period of time so he's become an experienced operator, or experienced regulator across this. His specialisation was more in the racing area than the casino operations because of the division of responsibilities.

MS CAHILL: Exactly what was the extent of his prior knowledge and experience of

casino regulation?

MR ORD: Well regularly acting as a Chief Casino Officer and being involved in as a director and the oversight of various officers who worked on both racing and
5 casino regulation.

MS CAHILL: How regularly did he stand in the role of acting Chief Casino Officer until his appointment?

10 MR ORD: He probably attended perhaps every three or four GWC meetings in one capacity or another. They did go offline for a period to do work on the TAB sale.

MS CAHILL: Do you mean every third or fourth meeting he might attend in some capacity, a GWC meeting?

15 MR ORD: Yes, in my time.

MS CAHILL: But in relation to casino matters?

20 MR ORD: Yes. If Mr Connolly wasn't available, he would cover the support of all the agenda. Other times he might be there to provide advice on matters on betting. He's an expert on betting contingencies and so on. But he was able to respond well to any matters across the regulatory environment so he was well equipped across all our legislative requirements.

25 MS CAHILL: Before his appointment as Chief Casino Officer, how often did he address the GWC board on matters to do with casino regulation specifically?

MR ORD: I think I would have to take that on notice and look at the minutes. I
30 couldn't give you an accurate answer just at the moment.

MS CAHILL: Do you consider that Mr Beecroft has sufficient knowledge, skills and experience in casino regulation to adequately perform his role?

35 MR ORD: Yes.

MS CAHILL: And to your knowledge does the GWC intend, as we are sitting here now, to offer him any introductory or ongoing formal training?

40 MR ORD: Well, Mr Beecroft is managing the leadership of supplying information to the Royal Commission, and at this stage that is occupying a huge amount of his time. Hopefully the commission understands we've done our best to provide all information we can in a timely way. Once those duties are over, I'm sure Mr Beecroft, if he's to continue in the role, will come to me and suggest what support he
45 will need to fully execute those duties as a full-time position.

MS CAHILL: What support is he being provided presently given his responsibilities

in dealing with responding to the Royal Commission?

MR ORD: I've essentially providing unlimited support in that I haven't applied any financial constraint. I haven't been funded to support the Royal Commission. ---
5 (overspeaking) ---

MR ORD: I've given a direction to make staff available so --

MS CAHILL: Sorry, you might misunderstand my question. Understanding that Mr
10 Beecroft is doing work to basically respond to the Royal Commission, he obviously separately has his primary responsibilities as Chief Casino Officer in respect of casino regulation.

MR ORD: Yes.
15

MS CAHILL: What support is he being given in respect of that role, of casino regulation while he has the other duties in respect of responding to the Royal Commission?

MR ORD: So we have removed all of his other responsibilities apart from doing those two things, which we see as intertwined, providing the leadership around the gathering of information and maintaining the casino oversight of the ongoing business of Crown. So we've removed all other responsibilities to ensure he's got the time and he has access to full staff resources who are available to the Chief Casino
20 Officer previously. So we've increased staff --- some staffing in the area as well to assist.
25

MS CAHILL: What have you done in that regard?

MR ORD: Transferred a senior manager from my office of Director-General to the area, and I also sought to bring in a Deputy Director-General from JTSI, Fiona Roche, who came in and is now primarily working in the area of regulation.
30

MS CAHILL: What is her role?
35

MR ORD: She is effectively acting as Deputy Director-General regulation for me, focused on the racing, gaming and liquor area.

MS CAHILL: Can I ask you about casino inspectors. Now, paragraph 39 of your
40 witness statement, you say:

Government inspectors are no longer dedicated casino inspectors..... When to your knowledge were they last dedicated casino inspectors?

MR ORD: I believe that change might have happened around 2015, something like that. Prior to my time. That's why I'm not fully familiar with the date.
45

12:50PM

MS CAHILL: That is as far as you are aware, 2015.

MR ORD: (Nods head).

5 MS CAHILL: All right. Now, the other roles that these casino inspectors that you have now involve or include inspector roles in relation to racing, other gaming and liquor matters, is that right?

MR ORD: Yes.

10

MS CAHILL: And much of the training is on the job as you explain at paragraph 39?

MR ORD: Yes.

15

MS CAHILL: And then at paragraph 40 you talk about not all training being on the job and inspectors being required to participate in group training sessions. Are you talking about group training sessions specifically in relation to casino regulation and nothing else?

20

MR ORD: Yes.

MS CAHILL: And these group training sessions, who conducts them?

25 MR ORD: I'm personally not aware of who. I could find that information out for you.

MS CAHILL: Is it someone from within the department?

30 MR ORD: And experts in regulation. We access quite a few firms who assist in the audit and regulation of machines and so on. So they have a lot of information around how to read the output of their audits and so on and they are part of it as well.

MS CAHILL: So who are these experts?

35

MR ORD: They are companies that do casino gaming regulation audits.

MS CAHILL: I see. Are they local firms or national ---

40 MR ORD: Specialised business so they tend to be national firms, some with international businesses in this space.

MS CAHILL: So is it either someone from the department or one of these external consultants, expert consultants, or both that conduct the training sessions?

45

MR ORD: Yes. I understand it to be a combination.

MS CAHILL: Is anyone from Perth casino involved in the training sessions?

MR ORD: I'm not aware. I would have to find that out.

5 MS CAHILL: In terms of the casino inspectors, and other staff of the department that service the GWC, do the members of GWC themselves conduct any performance reviews of the department's staff in relation to the GWC?

10 MR ORD: Well, all staff have a performance program that they are part of. It's part of the departmental framework. So managers, obviously, who are line managers would undertake annualised performance assessment. In the case of these regulators there is a strong audit of the quality of work that is done by more senior staff, senior inspector or a director, or Mr Connolly himself in the case of his oversight of casino operations. And if there is any concerns on work performance then they would be
15 taken up and if there was a gap in training and training applied and so on. So it was very much an active space of where staff were --- knew they were under constant supervision around the quality of work they were undertaking.

20 MS CAHILL: What I'm interested to know, Mr Ord, is whether GWC, as opposed to the department, conducts any performance reviews of department staff in respect of the work they perform for GWC?

25 MR ORD: Not the GWC itself. It is aware that these things go on, they are reported by the Chief Casino Officer that they are actually happening, but GWC doesn't in its own right undertake its own performance reviews.

MS CAHILL: Do the members of GWC have any influence over which department staff are allocated to GWC work and which are not?

30 MR ORD: Not to my knowledge, no.

MS CAHILL: Do the members of GWC have any power to discipline or dismiss a departmental officer for good cause?

35 MR ORD: I believe the legislation probably gives them the power to seek to investigate an officer if they believe there was wrongdoing and certainly through my office, through the chair, and through the department, to bring forward the usual process under the Public Sector Management Act. They are public sector employees, in which case they would be dealt with through the Public Sector Management Act.
40

MS CAHILL: So who has the hiring and firing decision?

45 MR ORD: Well, the department hires and fires on behalf of the GWC through the Public Sector Management Act.

MS CAHILL: And in the four years or so that you have been chairperson, has any

12:55PM

GWC member come to you and suggested that anybody --- particular person be hired or fired to do GWC work?

MR ORD: No.

5

MS CAHILL: Or should I say in respect of GWC work?

MR ORD: No.

10 MS CAHILL: Coming back to your role as chairperson of GWC, before the Bergin Inquiry commenced, about what percentage of your work time did you spend on GWC matters on average?

15 MR ORD: It was cyclical because of the meeting schedule of Beijing. So when there was a GWC meeting coming up, apart from my regular meetings with Mr Connolly, and in that we discussed the actual work program of the GWC, whether we were on track to deliver against reporting time frames on the GWC, whether matters had come up in the media or whether Crown had been in touch with us over a particular issue. We would have those discussions. If I needed briefing on a
20 particular matter ahead of the meeting, I would get my briefings in place. Then of course, I prepared for the meeting by reading through the agenda and going into the meeting. In terms of hours per month, it would vary according to load. Probably somewhere around the 10 to 20 hours a month would be regular --- just sole focus on that aspect of my job.

25

MS CAHILL: And was it the case, and we are talking pre-Bergin, the pre-Bergin period, or that inquiry, that about half of those 10 to 20 hours were involved with casino specific work?

30 MR ORD: Pre-Bergin..... Probably a bit more because the casino was a more complex matter than others around community gaming and so on. Those matters generally Mr Connolly and I could deal with --- they were progressing satisfactorily just through the course of our normal business. The casino always raised much more strategic issues.

35

MS CAHILL: If we come to paragraph 123 of your witness statement at 0036. I think you may have answered this question along the way, but it might benefit to have it articulated clearly here. You describe at the beginning of this paragraph the racing, gaming and liquor regulation unit within the department. So that is the unit
40 that involves or includes casino regulation?

MR ORD: Yes.

45 MS CAHILL: And that sits in the left-hand column in the organisational chart we saw ---

MR ORD: Yes.

12:59PM

MS CAHILL: --- under the regulatory services; is that right?

MR ORD: That's right.

5 MS CAHILL: And do the officers within the racing, gaming and liquor regulation unit work across all areas of racing, gaming and liquor or do they have specific responsibilities, one for racing, one for liquor, one for casino; how does it work?

10 MR ORD: Yes, there is approximately 75 staff in the total unit. Of those approximately 33 have a significant amount of their workload on casino regulation but not exclusive.

15 MS CAHILL: So as things presently stand Mr Beecroft is the only person who works exclusively on casino regulation?

MR ORD: We do have the secretariat supporting, which I've mentioned earlier, and they would work exclusively on --- or not exclusively on casino because they put the whole of the agenda together, but support exclusion of the Gaming and Wagering Commission.

20 MS CAHILL: And before Mr Beecroft, nobody within the racing, gaming and liquor regulation unit worked exclusively in respect of a casino regulation?

25 MR ORD: That's correct.

MS CAHILL: I think that is 1 o'clock.

30 COMMISSIONER OWEN: Just before we break, we've had a request from the media for a copy of Mr Ord's statement. We are minded to grant that request but only the statement and not the accompanying documents. Does anyone take a different view? All right, we will proceed on that basis and resume at 2 pm. Thank you.

35 **ADJOURNED** **[1.01 PM]**

RESUMED **[2.00 PM]**

40 COMMISSIONER OWEN: Thank you.

Ms Cahill.

45 MS CAHILL: Thank you, Commissioner.

02:01PM

Mr Ord, the GWC doesn't have its own premises, does it?

MR ORD: No.

5 MS CAHILL: And it doesn't have any staff of its own?

MR ORD: No.

10 MS CAHILL: So it is constituted by the GWC members and the Department staff that perform the functions and responsibilities of the GWC under the GWC Act; is that right?

MR ORD: Yes.

15 MS CAHILL: It doesn't have any infrastructure whatsoever?

MR ORD: Not physical infrastructure to my knowledge. Whether any assets are accrued to them, probably be a process of the Budget. There might be equipment like each of the Commissioners --- sorry, the members are provided with an iPad and things like that for meeting agendas. I imagine those assets would be Gaming and Wagering Commission assets.

MS CAHILL: Right. An iPad. What else?

25 MR ORD: I don't recall there would be a lot of other resources apart from the IT services that support the Commission.

MS CAHILL: So there are no printers or phones, anything like that?

30 MR ORD: Not that I'm aware of. They may be provided with some of those things but I'm not personally aware.

MS CAHILL: And all the resources are provided, apart from the iPad, by the Department?

35

MR ORD: Yes.

MS CAHILL: And the IT support is provided by the Department?

40 MR ORD: Yes.

MS CAHILL: And if we can go to your witness statement at paragraph 31 on page 0009, here you are referring to the situation I've just asked you about. You say:

45 *The [Department] undertakes all of the GWC's tasks*

You go on to list them and mention IT services there. Then you refer to policy

development. What is the policy development that you are referring to that the Department undertakes on behalf of the GWC?

5 MR ORD: Apart from the various legislative instruments that are in statute, there are a series of policies that are published by the GWC related to the operations of Crown Casino. And from time to time those policies are subject to review or change. And the Gaming and Wagering Commission will give directions as to what they want changed, what amendments are sought, and then that work is undertaken in the Department and brought back for approval by the Commission.

10 MS CAHILL: I see.

The next one is financial controls. What are the financial controls that you are describing there that the Department undertakes in respect of GWC?

15 MR ORD: That's the budget management processes. Our finance division will process the procurement services. So GWC have a range of matters they procure, particularly around the ordering of gaming machinery and things like that so they will need to go through a normal State supply procurement process and all that sort of work would be done by Departmental offices, Department finance officers and so on. The payment of the GWC members themselves would be there, other expenses related to the holding of Commission meetings and so on.

25 MS CAHILL: So the payment of GWC members, how is the Department involved in that?

MR ORD: Once they are appointed, then we know that they have to be put onto the payroll system.

30 MS CAHILL: Whose payroll system?

MR ORD: It goes on to the Department on behalf of the GWC. It is all accounted for within the GWC budget, but we hold those budgets within the financial system of the department.

35 MS CAHILL: Can I, in that regard, take you back to paragraph 29 of your witness statement. Here you are talking about the funding of the GWC generally, are you?

40 MR ORD: Yes.

MS CAHILL: And you describe two sources of funds. The first is funds appropriated and provided through the State Budget process. Do you see that?

45 MR ORD: Yes.

MS CAHILL: Is that the main source of funding for GWC?

MR ORD: Well, they receive licence fees that relate to the casino licence, and they get some form of revenue from there and then the State budget, but yes, it is the State budget's major appropriation.

5 MS CAHILL: Let me understand this. You identify the first source of funds as funds appropriated through the State budget process, the second one, you say:

GWC also holds a modest cash reserve as equity and has drawn down on that reserve from time to time to meet unexpected costs or shortfall calls.

10

Is there a third source of fee funding which is licence fee revenue?

MR ORD: Licence fee revenue supports the budget process that gives the Commission its budget.

15

MS CAHILL: Let me understand that. So that is part of the first source of funding you've identified?

MR ORD: Yes.

20

MS CAHILL: And the State Budget process, if I can --- tell me if I have my understanding right here, the State Budget process involves, each year, the relevant departments and agencies across the public sector making budget submissions to Treasury for the upcoming financial year; is that right?

25

MR ORD: Yes.

MS CAHILL: And then Treasury prepares a State Budget which may or may not accept your budget submission in whole or part after negotiation, presumably?

30

MR ORD: Yes.

MS CAHILL: And the State Budget is submitted to Parliament?

35

MR ORD: Yes.

MS CAHILL: And there are some estimate committees hearings to settle that State Budget, is that right?

40

MR ORD: Yes.

MS CAHILL: And finally if the budget that is accepted is made the subject of an appropriation bill, that is passed through Parliament?

45

MR ORD: Yes.

MS CAHILL: Right.

Now, the department prepares on behalf of GWC, does it, that aspect of the Department's budget submission to Treasury?

MR ORD: Yes.

5

MS CAHILL: So there is a single Department budget for your Department, and within that somewhere you will see a separate budget for GWC; is that right?

MR ORD: Yes, separate line item in the State budget process right through the
10 Department.

MS CAHILL: Right.

Can I just take you to paragraph 28 above in your witness statement.
15

As to State Budget submissions made by GWC, these are outlined in *a document that will be provided to the Royal Commission contemporaneously with this statement.*

There is a reference to footnote 7 with a document reference at the bottom of the
20 page. We will go to that please, DLG.0001.0002.0011. You will see on the right-hand side of the screen, this is the document that is referred to. And the document talks about in the top paragraph, the first paragraph:

25 *..... neither the DLGSC nor the GW Commission have identified any submission for additional State budget funding that has been made or approved.*

What does the word "additional" refer to there?

MR ORD: The process by which the treasury seeks information from the Gaming
30 and Wagering Commission is an estimate from the Department on forecast of the gaming revenue, recovery of costs and so on through fees and charges analysis, and so on, so materially the Gaming and Wagering Commission moves with the growth of the casino over time, and there is an allocation there. So there is from time to time small increases in the budget as a result of more turnover coming through and more
35 activity at the casino. So in a sense, there is a small increase in the budget generally, annually.

So, while that increase is modest, the Gaming and Wagering Commission, given that it has held some reserves, hasn't had the need, in my time, to go forward and request
40 additional funding on top of the available resources, either by way of the adjusted budget annually or by way of drawing down on the reserves of the commission itself.

MS CAHILL: Do you mind if I clarify something there before you go on.

45 MR ORD: Of course, yes.

MS CAHILL: So when you are talking about State Budget funding, you are talking about State Budget funding to the GWC that is comprised --- that could be comprised either of licence fee revenues from racing and gaming activities or --- I beg your pardon, gaming and wagering activities, or over and above that appropriations from Parliament; is that right?

MR ORD: Yes, it would be open to the Gaming and Wagering Commission to seek to put a submission to the Expenditure Review Committee for additional funds to undertake activities on their behalf. And it is of course anticipated, should we have to do something like extraordinary, like a suitability review or something of that nature, that could be quite significantly expensive to undertake, and hence why we've been working on the basis that we are likely to put a submission forward shortly.

MS CAHILL: Up to this point, your four years as Chairperson, four years or so, the GWC has never made a submission as part of a State Budget process to get an appropriation from Parliament over and above the licence fees revenue that it generates from gaming and wagering regulation; is that right?

MR ORD: Yes. Not over and above the total budget for the Gaming and Wagering Commission, which, as you say, incorporates funds which are derived from that and other sources. Yes.

COMMISSIONER JENKINS: I don't quite understand that. And looking at the statement of comprehensive income in the 2019/20 annual report of the GWC, I can't quite --- are you saying there is an appropriation from Parliament for the funding?

MR ORD: Parliament signs off on the budget line for the GWC. The Department, in all its activities, have a range of self-earned income, and a range of expenses that need to be met by additional revenues through the budget. But all of those sources are aggregated into a single submission that goes before Parliament. So whether you are receiving those as fees and charges or licence fees or the like, or you are receiving those as budget appropriations all comes into one approved budget. And basically that is the budget with approval to expend to that sum because there is expenditure, the budget imposes expenditure limit on the department.

COMMISSIONER JENKINS: So are you saying that generally the GWC is funded by the State Government over and above that self-generating income fees and charges?

MR ORD: Yes.

COMMISSIONER JENKINS: So if I was to look at the statement of comprehensive income, there is a heading of "Income from State Government" and underneath that "Sports wagering (inaudible) support fund", and that is, according to this statement, the only income the GWC receives from the State Government?

02:14PM

MR ORD: Yes, we got an allocation. We receive all the tax, we pay all the tax over when we get money back to cover the cost of running the submission and additionalities and they are the additionalities.

5 MS CAHILL: Commissioner Jenkins, might I just interject here to say I can take Mr Ord through that annual report and get that clarified for you.

COMMISSIONER JENKINS: Thank you.

10 COMMISSIONER OWEN: Can I ask, what is the providence of the document on screen? Is it an extract of a larger document or is it something prepared for the Royal Commission --

MR ORD: It was prepared as a statement for here, yes.

15

COMMISSIONER OWEN: Thank you.

MS CAHILL: Before I take you to that annual report to clarify matters for Commissioner Jenkins, can I ask you a couple of other questions to hopefully aid the understanding of that document when we get to it.

20

First of all, can I take you to a statement of information GWC provided pursuant to section 8(a) of the Royal Commissions Act to this Commission. The document is QNE.0001.0001.0024, and at page 0035. You have authorised this statement pursuant to section 8(a). You see that?

25

MR ORD: Yes.

MS CAHILL: And presumably when you authorised this section 8(a) statement you satisfied yourself, to the extent you reasonably could, that the contents was correct?

30

MR ORD: Yes.

MS CAHILL: Can I tender that statement, 8(a) statement now, please, Commissioner.

35

COMMISSIONER OWEN: Is it the single page?

MS CAHILL: No, it's the entire document between pages 0024 and 0035. I will read out the document ID again, QNE.0001.0001.0024.

40

COMMISSIONER OWEN: The document is admitted into evidence as an exhibit and it will bear the document identifier number that Ms Cahill has just read.

45

EXHIBIT #QNE.0001.0001.0024 - STATEMENT OF INFORMATION FROM GWC PURSUANT TO SECTION 8(A) OF THE ROYAL COMMISSIONS ACT

MS CAHILL: At page 0026 you are responding to a question that began under a
5 request for information on the previous page about section 14(1) of the Casino
Control Act and whether there had been --- if we turn to 0025 so we get the sense of
it for you, Mr Ord, it says:

10 *For the period 2010 to date, provide details of the annual amounts of money
which were provided to the GWC pursuant to 14(1)*

Can we show Mr Ord section 14(1) of the Casino Control Act, please. It says:

15 *The funds available for the administration of this Act [being the Casino Control Act]
.....*

*(a) monies from time to time appropriated by Parliament; and (aa) casino gaming
licence fees all other moneys lawfully received by*

20 Now, the answer to the question in the section (a) statement is that no monies were
appropriated by Parliament, and that's because, is it, that GWC was relying in the
budgeting process simply on the licence fees it received from Perth casino? No
additional funding was provided by Parliament?

25 MR ORD: We didn't seek additional funding, that is correct, but of course our use of
licence fees is appropriated through the budget process through Parliament. So we
took the question to be were we seeking additional funding outside of the funds that
had been identified as the funds needed to regulate the casino, and we hadn't put in
an additional submission above the normal budget submission.

30 MS CAHILL: That is the position under the Casino Control Act. If we can go to
section 9 of the GWC Act, please, and pull out subsection (1). A similar look for the
GWC Act:

35 *The funds available to the Commission consist of..... Monies appropriated
by Parliament..... And interest accrued or otherwise received*

40 The position in terms of budgeting was the same, wasn't it, under this Act, was that
GWC's budget has up until now included only the monies otherwise lawfully
received without including or seeking any additional appropriation from Parliament?

45 MR ORD: Yes, except to the extent that Parliament meets the cost of additional staff
costs and overheads of the Department, the GWC makes a contribution based on the

amount of effort that they draw on, and that's agreed in the budget which comes out of their appropriation and is budgeted. But expenditure over and above that, that the Department outlays, particularly around staff wages, infrastructure and so on, isn't recouped so it is supported through the budget to that extent.

5

MS CAHILL: I want to make sure I understand this fully. When the Department is preparing GWC's budget on its behalf, it prepares the budget up until now routinely on the basis that the budget is comprised only of the expected receipts from licensing revenues?

10

MR ORD: For their recoup, yes, that is correct.

MS CAHILL: Yes. And that budget is then, as part of the overall Department budget, submitted to Parliament?

15

MR ORD: Yes.

MS CAHILL: And when it is approved, you are describing that, in your evidence that you are giving, as an appropriation of those licensing fees to the budget of GWC; is that right?

20

MR ORD: That's correct.

MS CAHILL: But there is no additional appropriation that Parliament provides?

25

MR ORD: No. Well, as I said, they do provide funds, given that the whole of the racing, gaming, liquor division provides resources from time to time, there is a lot of aggregated resources that goes into supporting GWC. So there is an element of the Department's appropriation which is not necessarily covered by that piece of the appropriation that GWC receives from its licence.

30

MS CAHILL: But what you are talking about there is not anything that GWC has any control over in a funding sense?

35

MR ORD: No, that is absolutely agreed.

MS CAHILL: I need to ask you one quick question about the document we were at a minute ago, DLG.0001.0002.0011, just that second paragraph there where --- did you write these paragraphs or is it somebody else?

40

MR ORD: This particular one I think probably I did, yes.

MS CAHILL: And you are talking about a recently commenced due diligence and background analysis of the Blackstone Group. Do you see that?

45

MR ORD: Yes.

MS CAHILL: And how much do you expect that to cost?

MR ORD: Well, it has of course become more complex because there are many other parties beyond Blackstone that will have to have another separate due diligence undertaken potentially, but in the case of Blackstone we estimated the cost
5 somewhere between 250 and \$500,000.

MS CAHILL: And your apprehension is GWC might not have sufficient funds from its existing budget to meet that expense?
10

MR ORD: Yes, given other demands on the Commission at this time, then I would seek --- although ultimately some of those costs are recoverable under the Act, I would seek to ensure that we didn't put the Commission in a situation they couldn't apply the full due diligence they needed because the funds weren't available to do
15 whatever that work that was required. So the solution to that would be is that I would make a submission to the ERC on the basis that this was critically important work.

MS CAHILL: Now, if I take you back to your witness statements at page 0028, paragraphs 92 and 93. Do these paragraphs describe your understanding of how the Department (inaudible) budget for GWC?
20

MR ORD: Yes.

MS CAHILL: Is that budget prepared by the Department and submitted to Treasury as part of the overall budget submission for the Department?
25

MR ORD: It's prepared by the Department for the Commission's review and adoption and submission to Government.
30

MS CAHILL: Yes, but when it is adopted by the Commission, is it submitted as part of the Department's overall budget?

MR ORD: State Budget process, yes.
35

MS CAHILL: As part of the Department's overall budget?

MR ORD: Yes.

MS CAHILL: And as the Director-General of the Department, you must approve the whole budget submission on behalf of the Department?
40

MR ORD: I submit the budget, so I would approve the papers going to the Ministers, and then the Ministers approve the submissions that go through to the Treasurer, and then the process of review of the entire budget is under taken through the Expenditure Review Committee process.
45

MS CAHILL: And in your role as Director-General when you are, if you will, settling the overall department budget for it to be provided to the minister, you would have to make evaluative decisions, wouldn't you, across all the different areas of the Department's budget as to where to focus resources?

5

MR ORD: There hasn't been very much discretion in that regard because the budget process has been fairly restrictive of what the parameter changes can be. Although we are one department, our budget is appropriated by division, related as if we were the departments we were before we amalgamated. So then essentially the funds that were available to sport prior to amalgamation remain sport, and so on, by division. So, to the extent that there has been any melding of resources at a staff level where, for instance, we don't have four finance divisions or four payroll divisions, we've consolidated those, but when it comes down to areas of service delivery, such as regulation of racing, wagering, gaming, then that budget framework remains as it was prior to the machinery of government change.

MS CAHILL: And is your point that as things presently stand, and the experience you've had in the last four years as Director-General of the amalgamated department, there is not much room, if any, to apply for any increased funding in the budget process beyond that that you had this year and the years previously?

MR ORD: Yes. I mean, obviously when machinery of government took place, it was a state fiscal crisis so the budget directions from the Treasurer was that we had to restrict our budget parameter changes to parameter changes that would exist through, for instance, as I said, if there were changes to Crown turnover, there would be more tax coming in or whatever, those parameter changes would be recognised, but there wasn't an avenue where they sought for us to put submissions forward for a new or additional activities related to any of our oversight or service delivery items. There were, of course, a number of election commitments which were particularly costed and added to the agency and were delivered by the agency in accordance with those budgets.

MS CAHILL: Right.

35 Coming back to paragraph 92, the second sentence you say:

All functions and responsibilities of the [GWC] are, in principle, treated equally, with resourced dictated by, among other things, work priorities

40 Is the point you are making here at paragraph 92 that the budget that is put forward by the Department for GWC in any given financial year put forward without record to the specific resourcing or budgeting requirements of the different areas of regulation, racing, casinos, et cetera?

45 MR ORD: Yes. It supports those regulatory functions but it isn't broken down at a micro level to so many hours, so many people on so many particular things, but of course the casino operates under an operating manual with very prescribed

compliance cycles of checks and audits and so on. So it is a historic framework, budget based on a work program approach. That doesn't vary enormously, but the Commission itself may have some particular priorities they wish additional work to be during the annual cycle, and that is where most of the discussion around the budget and its application would be. There are a few periodic processes that come up every few years that will need additional time and they are identified at that time when we are doing that, otherwise it may be a particular issue of concern and more time is put aside to look into that.

10 MS CAHILL: Has the existing resources needs for casino regulation, to your knowledge, ever been actually quantified by either the department or the GWC?

15 MR ORD: I'm sure it was quantified. I think that by the time I came in, the regulation framework for the casino was well-established and didn't change in the time between then, and when we started dealing with issues related to matters that had been before us over the last 12 months, including the pandemic and everything else that has gone on. A lot of things have changed. The actual framework for how the casino was regulated was well-established prior to that and hasn't been altered in my time.

20 MS CAHILL: And costed?

MR ORD: It hasn't been re-costed in my time.

25 MS CAHILL: Since 2017?

MR ORD: No.

30 MS CAHILL: Have you enquired into when it was last costed?

MR ORD: No, I haven't inquired into that, no.

35 MS CAHILL: Paragraph 93, and you gave evidence along these lines a little while ago, I think, when you are describing how the budget is proposed for the GWC in any given year, you talk about it being based on previous year's performance with allowance for projected movement in regulatory activity and known future expenditure items. How does the GWC go about estimating the movement in projected regulated activity?

40 MR ORD: The staff do quite a lot of work on the forward year's activities, what needs to be covered in audit program, in cyclical reviews and so on that are there, and they cost those because obviously the market changes and costs of doing audits increase and so on.

45 So they go through and have a look at what will be required for the year to meet their compliance requirements, that is costed up and informs part of the budget papers being brought to the Commission.

MS CAHILL: Isn't the budget for GWC in substance constrained by the licensing revenue that comes in?

5 MR ORD: Well, as I indicated, the Gaming and Wagering Commission keeps a relatively healthy reserve, and that's acknowledging that you could end up needing to draw down from the reserve to increase the budget for a particular year to undertake additional activities. That's why we keep a reserve fund there. So there is a balancing opportunity to draw down, if required, from the reserve fund. The program and the funds that Parliament has allowed us to keep out of the fees to
10 operate the Commission to date have met the program's compliance needs because obviously it's (inaudible) Treasury's costs and we advise them and they have made adjustments as required.

15 MS CAHILL: Mr Ord, does the regulatory program dictate the budget or does the budget dictate the regulatory program?

MR ORD: I consider that the regulatory program actually determines the budget, but the regulatory program has been very stable for a long period of time. So the budget doesn't alter enormously year by year except for incremental growth.

20

MS CAHILL: But if the regulatory activity was to be increased, is it your view that GWC should look to its reserves to fund that rather than seeking an additional appropriation from Parliament?

25 MR ORD: No, it is just the reserves would enable an immediate response to a matter rather than wait for the resolution on what is a fairly long budget process. But if we understood that we needed to add or significantly change the regulatory framework, then that would be subject to a budget bid for adjustments in the budget of the Gaming and Wagering Commission, and that would be submitted as part of the next
30 year's budget process. So reserves provide the flexibility within an annualised budget to do something, but that wouldn't become the long-term way of funding any additionality or requirement to do something special.

35 MS CAHILL: What are the GWC reserves currently?

MR ORD: I think about 1.5 million, something like that.

40 MS CAHILL: There was a section of information provided to the Commission on 22 April 2021, QNE.0001.0001.0001. If we go to the beginning of the document, please, you will see that this is the beginning of the responses to the statement to the request for a statement of information and at page 0012, where we were before, it is signed by Fiona Roche who you mentioned before lunch, who is the Acting Director-General of your department.

45 MR ORD: Acting Deputy Director-General.

MS CAHILL: I'm sorry, Acting Deputy Director. That is just an error on how she's signed it off.

MR ORD: Yes.

5

MS CAHILL: We don't need to worry about that.

MR ORD: Something I don't know yet!

10 MS CAHILL: I said it was something we don't need to worry about, but this first part of this section 8(a) statement, are you aware was prepared by the Department?

MR ORD: Yes.

15 MS CAHILL: Why did Ms Roche sign this document rather than you?

MR ORD: The time frames for turnaround of documents have been exceedingly tight, and I tasked Fiona with responding to matters where, if I was unavailable on other matters - I've obviously got five new Ministers so I've had a lot of briefings to do with Ministers, and if I wasn't available to sign off and there was any risk we wouldn't have met the time frame, then Fiona was delegated to sign on my behalf.

20

MS CAHILL: Did you have any involvement in the preparation of that first part of that statement of information?

25

MR ORD: Not specifically.

MS CAHILL: Well, at all?

30 MR ORD: (Nods head).

MS CAHILL: There is a second part of the statement that commences at page 0014, responding to items 17 and 19. That was prepared by GWC itself we are told, not the Department. Are you aware of this response?

35

MR ORD: No, I haven't.

MS CAHILL: Have you read it?

40 MR ORD: I haven't had the opportunity to read it, no.

MS CAHILL: Do you know who prepared it?

MR ORD: I understand --- we engaged assistance for the Gaming and Wagering Commission to meet and work through their response themselves, and we also provided independent legal counsel.

45

MS CAHILL: When you say "we", are you talking about the Department?

MR ORD: Yes.

5 MS CAHILL: Do you know who within GWC provided instructions for the preparation of this second part of the document?

MR ORD: As I understand it, this is on behalf of the Commission, then it would have been the Commission members.

10

MS CAHILL: You don't know who, within the membership?

MR ORD: I think they met in, and apart from me, all the others met and worked through the response and prepared it.

15

MS CAHILL: Thank you.

At page 0019, if you go down about two-thirds of the way down the page, there is this section that is headed "inadequacies" and it is responding to a question:

20

Are there any inadequacies in the existing regulatory framework which need to be addressed and how should they be addressed?

25 And then under this heading of "inadequacies", the GWC talks about how these inadequacies should be addressed and talk about the need for an independent chair and we'll return to that in a moment. And then it talks over the page about resourcing. It talks about the resourcing being embedded within the Department and it not having dedicated resources to draw from, and then mentions that it is required to compete for finite resources across various portfolios. Would you agree with that statement?

30

MR ORD: I can certainly understand the perspective of the members in preparing this statement.

35 MS CAHILL: Well, do you agree that that correctly sets out the position that the GWC is required to compete for finite resources allocated across various portfolios, presumably various department portfolios is what they are referring to?

40 MR ORD: I'm not sure whether they are referring to across government or within the department. If it is across government then, yes, it is a competitive process obviously related to resources that need to be deployed on high priorities within government, and we don't have a blank cheque, that is for certain. But I don't believe that it accurately reflects that they are put in any form of competition within the Department because, as I said, it is a line item in the budget, their resources can't be moved somewhere else. And apart from the fact that there were efficiencies made as a result of the machinery of government, I believe the GWC have had access to the same resources as they had previously. I think they are probably indicating that they

45

believe there needs to be more given, the greater risk that has been uncovered in the Bergin Inquiry.

5 MS CAHILL: If we go to page 0022, please. This is a response to item 19 in the second paragraph commencing "The consequential" - I'm sorry, I will go back to the first paragraph so you get the sense of what is being put here. I'm aware you haven't read this before.

10 The GWC reiterates that GWC's functions --- the resources available for it to discharge its function are embedded within the Department, it doesn't have dedicated resources, and the resources that are available must be managed by the Department having regard to competing priorities. Clearly, departmental portfolios that are being considered there. Would you agree with that statement?

15 MR ORD: That the GWC doesn't have dedicated resources is correct, in that there are only a couple of officers whose sole responsibilities lie there, and of course, in that case, they are looking at the broader remit of racing, wagering and the casino. Otherwise, staff are deployed on a range of regulatory functions across the whole division.

20 MS CAHILL: But do you agree with the sense of the statement in this paragraph that GWC is in a position of having to compete for resources, finite resources that the department has available across different portfolios?

25 MR ORD: Well, yes. If they had sought to seek additional resources, then I would agree. It would mean if I was told to self-fund it, I would have to take that from somewhere else in the portfolio which, as I indicated, is very difficult in the way the budget is structured. So, yes, I can understand it is probably the availability of staff and staff time given the general demands on staff of a range of regulatory activities.

30 MS CAHILL: It goes on to say:

35 *..... consequential issues arising from those competing priorities have been exacerbated, over recent years, with the loss of a number of key people, and with their expertise and corporate knowledge through retirement and voluntary redundancies.*

Would you agree with that?

40 MR ORD: Yes.

MS CAHILL: So:

45 *The result has been, unavoidably, that reduced departmental resources have been managed to meet both the demands of a broader departmental portfolio and the increasing demands arising from the rapid changes across the racing and gaming industry.*

Would you agree with that?

MR ORD: Yes. I certainly think that the changes that are affecting the racing, wagering and casino industries, particularly driven by technology, have added significant demand on resources we have available to regulate it. You go on to say:

10 *This has made it practically impossible for Department staff to address all of the requests and requirements of the GWC in a timely manner or at all, in particular the GWC's strategic and macro environmental policy considerations.*

Do you agree with that?

MR ORD: No, I don't. The reason I don't is that that is a statement that is not made conditional on the reality that we've been in for since early 2020. In the COVID situation, under state of emergency, the department's staff and resources were prioritised in dealing with the pandemic. So a whole range of matters related to things that we would have normally done for the Gaming and Wagering Commission were put on hold to deal with the pandemic.

20 We might say also that Crown went into closure, reopening, closure, reopening and various other things. So I can understand that the pandemic isn't the members of the Gaming and Wagering Commission's concern, their concern is their statutory responsibilities at the commission level, but it is more the pandemic from my perspective and the need to reallocate people to deal with the crisis that has inhibited in the last 12 months or more of us undertaking things on behalf of the Gaming and Wagering Commission that clearly they were keen for us to progress. That was really around strategic risk assessment, strategic planning and so on. We had to focus on making sure that Crown compliance was upheld at the operating table level because a failure there would be catastrophic as well. And so a range of things we would like to have done we haven't been able to do because, as I said, I've had to redeploy staff for a range of COVID-related activities.

MS CAHILL: All right.

35 Can I now take you back to your witness statement at page 0035, paragraph 122, please. You say:

40 *..... in my view the support provided to the GWC by the DLGSC has been adequate to address regulatory issues relevant to Perth casino with the exception [in relation to risks] which is defined to be regulation of junkets which are operated as money laundering risks and cash and electronic transaction risks and criminals infiltrating casino.*

45 So, is your evidence that apart from those risks, the departmental support of GWC has been adequate except to the extent that COVID-related issues have stretched

resources of the department which have then not been available to the GWC?

MR ORD: Yes. Because obviously from 2019, mid-2019, in reporting on where the Bergin Inquiry was going, I was obviously as chair and the Chief Casino Officer
5 informing the Gaming and Wagering Commission that we would need to consider potentially having much greater oversight of a range of emerging issues and risks that had been brought to my attention through my engagement with that inquiry. And so they were obviously --- were realising we had a whole range of additionalities from the oversight of the compliance of Crown's operating
10 procedures, policies and so on, and that that was in the form of these risks reviewing the adequacy or lack of regulations over junkets was one, obviously. And then looking at whether there are opportunities for us to look at corporate governance issues and the audit and risk issues around the bank accounts and gaming transactions.

15

MS CAHILL: So this is going to require some increased funding; do you anticipate?

MR ORD: It's a whole level of additional capability to undertake that work. Our staff are structured to look at what happens on the gaming floor and observing and
20 testing that Crown's compliance with the operating model is appropriate. But forensic analysis of banking transactions, corporate changes of the way the corporation is structured and so on would definitely require us to engage in strategic, forensic financial skills and so on that we currently don't have in the department. We could procure those, but it would be a whole additionality to the current regulatory
25 framework for Crown and, yes, we would need both the policy response, I suspect a legislative response and a resourcing response to put that into effect.

30

MS CAHILL: Well, a resourcing response is an appropriation, a specific appropriation from Parliament to increase the funding of the GWC; is that right?

MR ORD: That's how it would be translated, yes.

35

MS CAHILL: But as I understood your evidence a little while ago that is not easy to achieve in your experience of submitting budgets on behalf of the department?

MR ORD: Well, it is difficult to get funds for --- when if the consideration is that you have been adequately resourced to do the tasks you have been given. If it is clear you have to do additional tasks you haven't been funded for, then the cost and demand pressure part of the budget enables you to come forward with the
40 exceptionality of that. I think the grounds obviously in this case would be there to indicate that an area that we had not been actively regulating and investigating needed to be included and there would be a cost to that. Then I would anticipate that would be quite a reasonable submission to put before the budget.

45

MS CAHILL: Moving away from that topic, but still to do with budgeting and finances, Mr Ord, does the GWC have its own agency special purpose account?

MR ORD: I would imagine so. I wouldn't want to not answer you accurately so I

need to check with my financial people.

MS CAHILL: Of the department?

5 MR ORD: Yes. Who would maintain the special purpose accounts but it does sounds like one where we would.

MS CAHILL: I would just about to ask who controls, if GWC does have an agency special purpose account, who controls it?

10 MR ORD: The chief financial officer of the department would have oversight of all bank accounts or special purpose accounts that we have.

MS CAHILL: Who is permitted to operate the accounts, the special purpose accounts, that the department has control over?

MR ORD: Well, it is exercised through the accountable authority, which is myself on a --- clearly we do that on advice and advice would be sent to me on this activity is going to be related to this particular account that we are maintaining, and I would be the approving authority for that transaction.

MS CAHILL: And do the members of the GWC themselves, apart from you, ever become involved in controlling or operating the special purpose account if GWC has one?

25 MR ORD: No. No, those members --- the accountable authority principle would be that I took responsibility for approvals at a transactional level. They approve the budget at the higher end and they get financial reports on a regular basis each meeting on how the budget has been expended and on what, and they question that quite regularly. It's down at quite a granular level.

MS CAHILL: I will take you to a document that I think Commissioner Jenkins was looking at a little while ago, which is the 2019 GWC annual report, which is PUB.0002.0001.0658.

35 And at 0689, if we can go there, please, we are in the financial statements section of the annual report. We have expenses and revenue items there in the usual way. Can we look at the revenue first, please, Mr Ord. We see there "user charges and fees" of about \$4.2 million. Those are essentially the licensing and other fees paid by Perth casino and other bodies that need to be licensed by the GWC in relation to the GWC commission; is that right?

MR ORD: Yes.

45 MS CAHILL: And that larger sum of \$90.3 million or thereabouts, that is a racing bet levy is it in terms?

MR ORD: Yes, that is money paid through our accounts around income received from that purpose, yes.

5 MS CAHILL: If we go back to the expenses and pull those out. We see the large sum of about \$94 million going out to restricted cash and special purpose accounts. If we look at note 2.3 at page 0695, and we pull that out, you will see that they are largely amounts paid to different entities such as the Gaming Community Trust and so forth, But mostly the largest component is the racing bet levy payment to --

10 MR ORD: Surama(?).

MS CAHILL: --- to Racing WA; yes?

15 MR ORD: Yes.

MS CAHILL: Now, if we come back to the expenses at page 0689 and we see the service and contracts fees of \$4.2 million there. Look at note 2.2 at page 0695. Are those amounts paid to the department?

20 MR ORD: Yes.

MS CAHILL: And I want to come back to 2.2, but if we can just come back to 0689 so that I can establish something here and pull out the expenses, please. Is it the case, therefore that for the 2020 period, the income of the GWC was effectively
25 disbursed primarily on the distribution of grants and levies, then to the department and then to board members for their remuneration?

MR ORD: Yes.

30 MS CAHILL: And if we go back to item 2.2, please, on page 695, how are the professional services in the amount of \$4.14 million quantified?

MR ORD: That's where the budget details are provided, which is the recoup of staff costs and a range of other expenses related to servicing the Commission's program,
35 including the work program costs are within that.

MS CAHILL: But what you described before lunch was for the regulatory services division of the Department, particularly in relation to racing, gaming and liquor, that the officers had responsibilities spread across a range of responsibilities. So how do
40 you actually quantify what time they were spending on different activities, in particular casino regulation?

MR ORD: Well, this is, again it's a contribution to the overhead costs of the whole division of racing and gaming, and this is an agreed sum that was historically paid
45 and adjusted each year and accounted for by the activities program that goes with it. So, yes, staff might be 50 per cent casino, 50 per cent on racing, they weren't acquitting that on a --- they put in time sheets of course, but they weren't acquitting

on an activity-based working model where they were accounting for their hours like a law firm or something.

5 MS CAHILL: Can I take you back to page 689. Looking at the revenue, the user charges and fees, including the amount of --- which amounts to \$4.263 million, \$4.264 million, that includes casino licensing fees, does it?

MR ORD: I believe so, yes.

10 MS CAHILL: So when we go to the expenses that we had up at page 695, item 2.2, how do we know whether the casino licence fees are actually expended on casino regulation or something else?

15 MR ORD: Well, the total --- you would know that the total RGL staffing cost is X, the casino is making the contribution of the 4 million. That represents a percentage of the time of the Department and those officers that are working on that should equate to that. Their work time should equate to that sum.

20 MS CAHILL: Do they keep time sheets?

MR ORD: They do keep time sheets, yes.

MS CAHILL: Is that then ---

25 MR ORD: But not down at an activity-based recording.

MS CAHILL: What do you mean? So they don't record when they are working on casino regulation as opposed to any other form of regulation?

30 MR ORD: Well, no, because they are working for the Gaming and Wagering Commission which of course covers more than casino covers, you know, the horse racing and greyhounds and lots of other things. So they are meeting the cost of servicing the Gaming and Wagering Commission's totality of overall responsibilities, and of which a high proportion of that is compliance regulation of the casino.

35 MS CAHILL: How do you ascertain whether the money that is received by way of licensing fees in the broad, whether or not they are actually dedicated to GWC work exclusively or not? How do you ascertain that?

40 MR ORD: I think the view is it is received by the Department as revenue, essentially revenue for the State, and it is then provided to the Department to provide for the needs of the Gaming and Wagering Commission in total. It isn't accounted for on the basis of an exact accounting match for match of the licence fee revenue and the activities of the Gaming and Wagering Commission are undertaking. Other things
45 such as my time related to Crown is met through consolidated revenue, it's not charged back through this model.

MS CAHILL: But what about GWC work in its entirety? So you have the revenue coming in, 4.2-odd million in totality. How do you ascertain whether that money is actually spent exclusively on GWC support or whether it is spent on just regulatory services or other aspects of the Department's portfolios?

5

MR ORD: As I said, because of the work program agreed by the GWC in meeting that work program and the hours put aside to undertake the work program, that has been historically costed and we've stayed within that appropriation.

10 MS CAHILL: So is it costed every year?

MR ORD: We do --- as I said, we run a budget process so we go back to GWC saying that this is our estimation of what it is going to cost to run these activities, and there are adjustments made, as I said, to the budget, really based on historical
15 increases in the revenue available to the Commission.

MS CAHILL: So do you, for example, charge GWC for the use of inspectors on an hourly basis?

20 MR ORD: No, it doesn't work like that. It is literally a provision for the Department to provide services for the Commission, and we provide those services. So it is an A cost for service model to the extent we get down to the micro detail of accounting for every hour of everything that has been done. That's been a historical arrangement and has continued.

25

MS CAHILL: If it's not done at the micro level, what is done at the macro level to get a sense of the value of services provided to GWC?

MR ORD: Well, we report on all the activities we undertake.

30

MS CAHILL: But how are they costed?

MR ORD: They are costed by the fact that staff have to put the time in to and have to contract --- audits and so on. So it is a work program. It occupies a high
35 percentage of the time of some 33 staff, and we have to make an estimate of what that salary cost is going to be. Obviously if we didn't receive the funds, we would have to lower the number of staff available.

MS CAHILL: So is there some budgeting process that is done where you look at the
40 number of staff within the regulatory division, what they are doing, how much their salaries are, and then you apportion the receipts from GWC across ---

MR ORD: Yes, essentially, and the balance is made up from the general
45 appropriation.

MS CAHILL: And do you try to match the value that GWC gets in terms of the amount of time staff spend on GWC work versus other work?

MR ORD: There is definitely high priority obviously given to the statutory compliance function so the staff have their priority to undertake the work that is required of them to meet the agreed inspections, audits program and so on that GWC sets. So from that perspective, yes, the GWC sets the work programs and the staff
5 have to work to that, and then the staff that work to that, the costing or wage contribution comes from the GWC to meet salary costs associated with that program.

MS CAHILL: Can I take you back to where I was some time ago at paragraph 31 of your witness statement on page 0009. There was a digression when I asked you
10 about the administrative task of financial controls that the Department undertakes for GWC. Your next "Communication with the Crown"; is that a spelling error? Do you mean Crown or the Crown, as in the State?

MR ORD: Communication with Crown.
15

MS CAHILL: With Crown Resort?

MR ORD: Yes.

MS CAHILL: Or Perth casino. Is that what you mean?
20

MR ORD: Yes.

MS CAHILL: So it is the department that does that rather than GWC?
25

MR ORD: GWC regularly meets with Crown through invitations for Crown to attend GWC meetings. They've also, as Commissioners, either individually or as a group, met on site at the casino. They have obviously potentially have the powers to request to go and see anything, but they normally ask to go and see elements of the operations, or monitoring systems, how a new game might be rolled out, that sort of thing. So very active from that perspective in face-to-face engagement, and then the more formal letters from Crown seeking approvals from the Commission would
30 come generally addressed to me as Chair, and then be processed through the Department and the included in the agenda papers for meetings, along with proposed papers and responses to prepare to respond to Crown from those submissions.
35

MS CAHILL: All right. I'm trying to understand your evidence here at paragraph 31. You say:

40 *The DLGSC undertakes all of the [GWC's] administrative tasks including communication with Crown.*

MR ORD: Yes, so the formal communication, all notices and letters come through the Department to Crown, following approval by GWC.

45 MS CAHILL: Do you mean they are in the name of the Department or simply that

the department types those, prepares those documents on a GWC letterhead?

MR ORD: They would be --- well, a lot of them are formalised GWC documents because of the approvals process and then they will be submitted as GWC
5 communication. I might respond to a general letter in my capacity as the Chair or in my capacity as the Director-General.

MS CAHILL: What do you mean by that?

10 MR ORD: Crown just writes to me asking a matter, "We've got something coming up, we would be interested in the GWC's involvement" or whatever then I might write back and say, "Thank you very much, noted it. I will make the Commission aware."

15 MS CAHILL: But will you sign it as the Chair of GWC or as the Director-General of the Department?

MR ORD: Well, if it was directed about GWC business, as chair of the GWC. Crown obviously writes to me as Director-General because of other portfolio
20 responsibilities.

MS CAHILL: Now, you say here at 31:

25 *The DLGSC undertakes all of the GW Commission's administrative tasks including communication with the Minister and external agencies and reporting to the Minister and Parliament.*

So, again, do you mean that the Department actually has those communications and reports, or that it just simply administratively prepares the documentation for the
30 GWC to sign and approve?

MR ORD: Yes, the latter.

MS CAHILL: The GWC annual report is approved by its members before it is
35 tabled in Parliament, is it?

MR ORD: Yes.

MS CAHILL: And, similarly, any reporting to the Minister is done with the
40 approval of the GWC Board?

MR ORD: Yes, if it is formal reporting in terms of my role in meeting with a Minister regularly, then I will meet with the Minister in my capacity as Director-General, but there will be an agenda item on racing, gaming and liquor in general and
45 I will report on matters related to the GWC in those meetings.

MS CAHILL: If I could ask the GWC Act to be pulled up at section 7(f), this is one

of the duties of the GWC to advise the Minister as to any matter relating to gambling. To your knowledge, in the four years that you have been Chair, is it the Department that does that or is it GWC?

5 MR ORD: Well, GWC have written to the Minister around matters the Minister needs to make consideration of, some notices and directions and so on and changes offer games I think. So those formal communications would go through the Minister from the GWC. And then just general reporting on matters that the GWC are considering would be provided to the Minister for his awareness. So the Minister
10 was kept informed of GWC activity generally within my briefings.

MS CAHILL: And when you mentioned a moment ago these regular meetings that you have with the Minister, is it in effect an agenda item to talk about GWC matters amongst other things in your portfolio?

15 MR ORD: Generally, yes.

MS CAHILL: And when you are having that discussion of the agenda item, do you have your GWC Chair hat or your Director-General of the Department hat on?

20 MR ORD: Well, if I'm talking about GWC, I have my GWC hat on. If I'm talking around general matters of the nature of the department or its resourcing or something, I will talk to him as the Director-General.

25 MS CAHILL: What about when it is the resourcing of GWC? Which hat do you have on then when you are talking with the Minister about the resourcing of GWC?

MR ORD: Well, I will advise the Minister, obviously when preparing the budget papers as we've discussed, and the budget papers go up to the Minister, that the
30 GWC has approved the budget that has been submitted, and I'll do that in my capacity as Chair. If the Minister raises --- should the Minister raise concerns about the budget papers, then I would respond as Chair or bring the matter back to the Commission.

35 MS CAHILL: Not as the Director-General?

MR ORD: Not in that case, no.

MS CAHILL: What about ---

40 MR ORD: Because the budget is approved at GWC board level.

MS CAHILL: You raised a little while ago the possibility that just depending upon the regulatory activity that the GWC might contemplate undertaking going forward, then one could envisage that there might be a need to approach Treasury for an
45 appropriation from Parliament over and above what is received by way of licensing fees to fund that. You recall that discussion we had a little while ago?

MR ORD: Yes.

MS CAHILL: So if you were going to meet with the Minister to advance a case for that additional appropriation, would you have your Director-General hat on or your
5 GWC Chair hat on when you did that?

MR ORD: Well, essentially I would have a component of both. As the accountable authority, I have to be cognisant of my responsibility to a whole range of legislation related to what the authority does. So matters of budget consideration I have to have
10 a view of it as the Director-General. But in terms of the purpose of why the GWC believes it needs additional resources, and the merits of that case, I would be purely the chair of the GWC. I would advocate on behalf of my colleagues on the Commission.

15 MS CAHILL: You might not have had time to reflect on this, and you may want that time so you should say so if you do, but has it occurred to you that if you were wearing both hats in that scenario there might be a potential for a conflict between the interests of the Department and the interests of GWC?

20 MR ORD: I think if you read my transcript of my evidence, I've said I believe that having an independent Chair of the GWC would remove any belief that holding the concurrent role of Director-General puts me in the difficult position of I'm on the one hand having an interest in limiting the demand for additional resources or whatever, and on the other hand advocating on behalf of the GWC. So, absolutely. I
25 understand that is a tension. I don't believe it is a tension that can't be adequately managed because at the end of the day I don't determine the resources available to the Department, that is determined by Parliament. And ultimately, of course, there is a whole process that goes before that. So, you know, the process of bringing forward submissions and advocating is a robust one, and there is no reason why you wouldn't
30 consider it could be successful.

We hadn't identified a reason over and above the matters I put in here about belief of future requirements, or to undertake due diligence on changes of ownership to seek those additional funds at this time but I could envisage a future where independent
35 Chair meeting with the Minister to discuss the resourcing requirements, GWC would be an effective process, and which the Director-General would be providing a different level of advice based on the overall capacity of the Department to potentially support that need.

40 MS CAHILL: I move to a different topic. I come back to your witness statement at 0016, paragraph 50. When I say "different topic", it flows neatly from what you were just giving evidence about, Mr Ord. And here in the last couple of sentences you are expressing views or recording that you have expressed views to the Public Sector Commissioner in February of this year that GWC would benefit from
45 amendments to its act to provide for an independent chairperson. Can you just explain, apart from that resourcing issue that we just talked about, the other benefits you perceive from that independence?

MR ORD: Well, my belief is that this is somewhat of an anachronism having the role as ex officio, and the Government has modernised boards and commissions to have more independence over a substantial period of time. I also sit on the board of the museum and the art gallery and the library, but they have independent chairs
5 enshrined in their legislation and I've always found that an effective model. Where I can support as an ex officio member, the governance of those institutions, but the chair is robustly independent and able to prosecute interests more broadly and, in particular, to be able to bring that - as a chairperson being able to bring that matter directly to the minister.

10 MS CAHILL: At paragraph 139 of your witness statement at page 0041 you refer to a disclosure that you made at a GWC meeting on 23 February 2021. If we just turn that up, that is GWC.0002.0016.0369. At page 0002 the disclosure there is the requirement to work with Crown in relation to other portfolios. The on we will focus
15 on at the moment, you have identified that Crown Perth is a hospitality venue and provider and you perceived a potential for a conflict of interest.

MR ORD: Well, not in the case of liquor licensing because we delegated that when I became Director-General.

20 MS CAHILL: Yes, but the idea that Crown Perth is a venue for providing hospitality and services in the arts and cultural arena, do you perceive that as being a conflict of interest?

25 MR ORD: Well, Crown sits on the board of Burswood Reserve and the activities that my broader department would get involved with tended to be matters that would be within the reserve precinct but not related to the casino activities.

MS CAHILL: Why did you make this disclosure?

30 MR ORD: This was at the time when we had a discussion at the meeting as to whether our current practice of making conflict of interest disclosures on a agenda-by-agenda basis was adequate or whether we should try to look at having a register of much broader matters like past relationships and so on. And the members who ---
35 most of whom you alluded to are fairly new --- and felt a register model would be more effective. And in order to show leadership on that, I said that I would like to register these. I don't believe these are conflicts that would have appeared in our agenda papers related to agenda items, or if there had been, I would have already declared, but for the purposes of full disclosure that --- though they knew my role
40 more broadly in the department, that I wanted to formally have that recorded. So that was the purpose.

MS CAHILL: So you don't actually perceive yourself the fact that you have dealings with Crown in other capacities that that is an actual potential conflict of interest?

45 MR ORD: I had very limited contact with Crown simply saying that my portfolio

had contact, I didn't personally pursue matters with Crown over those things. So for instance, my department is a co-sponsor of Have A Go Day which is held on the Burswood Reserve. That is dealt with by my recreation division who helped organise that event. They might come into contact with Crown staff because Crown
5 also support Have a Go Day. It is a very big social event for over 55s. But I know that the department has that event which happens once a year so I was laying out the framework that as a department we had those contacts. I had very little contact with Crown apart from those few regulatory officers around the actual Crown business
10 before the commission and a couple of meetings which I think I detailed my evidence when Crown came in to see me to say some of the issues they were confronting around their finances or employment of staff and so on.

MS CAHILL: But, just to come back to my question, you made this disclosure but you didn't actually consider it to be a conflict of interest, actual or perceived, that you
15 have dealings with Crown in other portfolios?

MR ORD: I can certainly understand that perception conflicts can be held by anyone. I think the question is whether you can manage perception conflicts as opposed to --- I've indicated I don't think I had any pecuniary or any other conflicts
20 or that I was conflicted in any decisions I took but there could be a perception that if there was a sports event at Burswood, and I was the Director-General of sport, maybe there is some issue there. My way of dealing with it of course would be not to attend any of the events and so on and so on. But just holding the position of Director-General of a broad-based agency opens up the view that people might
25 perceive you are conflicted in any number of things.

MS CAHILL: Well, looking at one of those any number of things, can I put this to you: do you see it as leading to at least a perception of a conflict of interest, if say in your sports portfolio, you are engaging or your portfolio is engaging with Crown,
30 perhaps for the purpose of seeking a benefit by the provision of hospitality or a venue to hold a certain event whilst at the same time with your GWC hat on of being its regulator in respect of casino operations and there might be a conflict where you perhaps prefer the interests of the sports portfolio over the interests of GWC in your engagement with Crown.
35

MR ORD: I can certainly perceive if that happened that that would be a concern.

MS CAHILL: Do you see how that might give rise to a perception of a conflict?

40 MR ORD: Oh, yes.

MS CAHILL: And have you any thoughts apart from an independent chair of GWC as to how that might be addressed, that perception of conflict?

45 MR ORD: Retirement is looking very good!

MS CAHILL: Could it be addressed, do you think, by complete independence of the

GWC from the department, financially, physically and structurally?

MR ORD: Yes, it could be.

5 MS CAHILL: Paragraph 50 of your witness statement, 0016, when you were making this point about the desirability of an independent chair, you say towards the bottom of that paragraph:

10 *The Director-General could still attend GW Commission meetings on request or as an ex officio member.*

Is that something you regard as desirable?

15 MR ORD: If the GWC was not as you outline in your previous question, entirely independent with all of its own resources and relied on the department, then being ask to attend meetings to account for the support they are getting, I think, would be an important accountability that I would have to take on, or whoever was in my role would have to take on, but it should be at the discretion of the GWC as to whether you attended or not. Not be a right to attend but to be there and be required to attend
20 if the GWC wishes to bring --- I think that would be a good balance. Otherwise, GWC, set in splendid isolation, may well struggle to get the benefit that a director-general can bring to them of guidance and advice and other things. I've tried I think to be a very constructive chair in the time I've been there bringing a whole range of perspectives into the room.

25 MS CAHILL: Paragraphs 111 to 117 of your witness statement you give evidence in terms about your view that --- and these are my words, not yours, Mr Ord --- but in terms you don't consider that casino operations in WA are sufficiently large to justify a separate casino regulator from the GWC. Do you recall that evidence?

30 MR ORD: Yes.

35 MS CAHILL: Does it impact on your view at all if you have specific regard to the complexity and technicality of the sorts of issues such as money laundering risks, risks associated with junket tour operators and so forth, when you focus on those particularly does that affect your view about whether or not there ought to be a separate specialist casino regulator?

40 MR ORD: I see an advantage in it in a national regulator because one assumes it would be constituted under federal legislation and the powers they have to deal with international exposure of casinos would be significant and significantly greater than a state jurisdiction could bring to bear limited by state statute. So I do see that you could create a highly capable national entity that oversaw all casinos in Australia and given that they may well be aggregating into a smaller number of owners with
45 multiple casinos across jurisdictions, there may be some merit in that because there are limits to how much you can understand in the nature of how the business is being governed if it has a lot of its central governance in another jurisdiction, as in the case

of Crown. So that is where I would see an advantage.

5 In terms of WA only independent, then I was of the view that the Gaming and Wagering Commission with extended capabilities could well be an adequate entity to govern the risks that have been identified, accepting that a number of these risks can actually be legislated against rather than just simply accepted as a risk that is tolerable. We can put directions as we have already done from the Gaming and Wagering Commission to limit some high-risk activities.

10 MS CAHILL: I want to come back to this point of conflict of interest in a different way and go to the statement of information under section 8(a) of the Royal Commissions Act dated 15 April 2021. At page 0034 there is mention here in the first full paragraph that the code of conduct of GWC was amended on 23 March 2021 to reflect improved controls relating to recording and maintaining conflicts of interest. That was essentially to do with the maintenance of a register; is that right?

MR ORD: Yes.

20 MS CAHILL: And if we go to that document, which is GWC.0001.0011.0002, page 0009, there is a discussion there about conflicts of interest at the top of the page, third paragraph:

Conflicts of interest can be a key risk area for Commission members.

25 Is this code of conduct only directed towards members or also toward departmental staff who are engaging in GWC work?

MR ORD: This was developed for the commission in its own right and has the same essential key elements of the department's code of conduct.

30 MS CAHILL: Who does it apply to?

MR ORD: It applies to the members of the Commission.

35 MS CAHILL: But it doesn't apply to departmental staff performing GWC work?

MR ORD: They are covered under the department. Because they are public sector employees they are covered under the department's code of conduct which requires the same declaration of conflicts and so on.

40 MS CAHILL: You could have a public sector employee employed by GWC who was subject to the GWC Code of Conduct, couldn't you?

MR ORD: You could, yes.

45 MS CAHILL: So, in any event, you say the department Code of Conduct is in essentially the same terms as the GWC one?

MR ORD: Yes.

MS CAHILL: Here in the second paragraph, the author of this document says:

5 *It is almost inevitable members will have a conflict at some point as they are
either appointed to represent particular stakeholders or for their expertise and
relationships with local governments, communities and private industry.*

Do you understand what is being said there?

10

MR ORD: Yes.

MS CAHILL: Can you explain that to me?

15 MR ORD: Yes, I think it is being aware that in this case Crown is a significant
business employing 5,000 people. It interacts with all sorts of parts of the
community and that the members may well at some point come in contact through
either their past or their current activities outside of the commission which brings
them into conflict with one of those elements. And so it was just to be there as a
20 reminder that there is a broad range of stakeholders hanging off Crown that you have
to be aware of that could pose a conflict.

MS CAHILL: It is the expression of "inevitability" of a conflict that I was interested
to explore with you.

25

MR ORD: I think it was just to heighten the fact that those risks aren't just there
when you begin your role on the commission but may emerge over time and,
therefore, are more likely to emerge over time if you are sitting on the commission
for a period of years.

30

MS CAHILL: When we move away from the GWC members and look at the actual
departmental staff who administer the GWC Act for the GWC and administer the
Casino Control Act, has it --- do you have any concerns about an inherent conflict in
an ongoing and long-term relationship between regulator and regulatee in terms of
35 the long-term associations and relationships that are built up in the course of
performing the regulator's function?

MR ORD: Yes.

40 MS CAHILL: All right. And what is that concern?

MR ORD: I think I did talk to this earlier when I indicated that Crown has --- the
casino has been there for 40 years, around 40 years. It's been a single regulator. We
have a large number of staff who have been there for quite a part of that journey as
45 regulators and you have a large number of staff who have been involved in Crown.
It is a very stable business and people specialise obviously in their areas. That single

regulator, single operator, and given that the way the Casino Control Act is written, that it is so prescriptive around the regulation, that inevitably you have very close contact between regulatory officers and casino officers. And, you know, in a small town like Perth inevitably people will form friendships or form, you know, the sort of familiarisations that come from seeing someone over many years who you know. In addition to that, from time to time staff have been employed by Crown that were former departmental staff because they have a requirement to have their own regulatory division and I believe the department has probably employed ex-Crown staff because of their expertise in gaming operations. So there is a risk in that. That would of course concern me as Director-General and Chair.

MS CAHILL: Are there any restrictions either way on employing ex-Crown staff in the department or vice versa in employing ex-department staff by Crown within a certain period of them leaving their employment?

MR ORD: I'm not aware that there is a framework around that. I'm not aware that there has been that transition in recent years. There may well have been in the past a movement of staff. In fact, I'm certainly aware of a staff member from the department who went to Crown prior to my time as Director-General. Whether there are any protocols around time-out I'm not aware of. There may be some merit in looking at that.

MS CAHILL: You are aware, are you, of these regular operational meetings held between Perth Casino and the department?

MR ORD: I'm aware there is an operational committee, yes. That's where they work out the implementation of standards and various things that are updated as games or technology changes and so on.

MS CAHILL: How often are those meetings held?

MR ORD: I've never attended one. They have been chaired by the Chief Casino Officer so it's not something I've involved myself in.

MS CAHILL: Does the GWC board receive minutes of those meetings?

MR ORD: Not that I'm aware of, but the fact that they occur, and the outcomes of those meetings are all part of the Chief Casino Officer's report --- so the Chief Casino Officer reports at each meeting on activities that they've undertaken. So it would generally be that if new standards have been introduced, the report would say that that had been operationalised through the committee or something of that nature.

MS CAHILL: I turn to a slightly different topic, now, Mr Ord. If we go to page 0015 of your witness statement at paragraph 49, you are describing there your overall management philosophy during your tenure as chairperson of GWC. And you set out what you have done in practice by enumerating in the sub-paragraphs below. Can I take you to little d, please, where you talk about "ensuring clarity in our

purpose"; that is GWC's purpose I take it, is it?

MR ORD: Yes.

5 MS CAHILL: Reading:

Specifically, of protecting the public interest and being a model regulator that *uses powers with a presumption in favour of education and improvement over punishment.*

10

This is clarity of regulatory purpose; is that what you mean?

MR ORD: Yes.

15 MS CAHILL: In other words, the reason for GWC's existence?

MR ORD: Yes.

20 MS CAHILL: And is that first and foremost in your mind, protecting the public interest?

MR ORD: Yes.

25 MS CAHILL: And, secondly, also importantly, being a regulator that uses power in favour of education and improvement over punishment?

MR ORD: Yes.

30 MS CAHILL: Education of whom?

MR ORD: A lot of our regulation was dependent upon on the compliance of Crown staff who operate the casino to take their licence very seriously, the requirements under that licence, the probity aspects of their employment and so on, they were such a large employer. A lot of our business was identifying people when their licenses were up for renewal or it became apparent to us because they self-referred that they had failed in their reporting requirements to us around offences, like traffic offences and things where they have been convicted in the courts. There is a whole range of things that says, "You have to report to the Gaming and Wagering Commission" and there were a number of times when these things were not happening. And where we were calling people in, we did have the capacity to find them or cancel their licence. Our belief was that that was highly punitive to do so, taking away someone's income. We thought a better approach was to firstly to obviously counsel them about --- and put them on notice, if you like, that they shouldn't repeat those matters. But we engage with Crown around their advocacy of requirements in the workplace. You know, how is their training program, their induction program, did they have notices of compliance reminders around their buildings, were they doing staff newsletters and could they reinforce our compliance requirements in their communications with

45

staff and so on. So that is a case study of how that philosophy of actually trying to improve the overall requirement of Crown by working with them to improve their end of what was a responsibility versus just purely penalising people that came before us but not attempting to get to the source of why they were failing in their compliance duties.

MS CAHILL: Staying with this regulatory purpose as you have articulated it here at d, does that on your understanding --- I will put it this way, is that your understanding of the regulatory purpose in administering the Casino Control Act?

MR ORD: Not in its entirety. I was trying to give a sense of my philosophy because that was the question. So I can't say that it is a --- it covers every possible aspect because there is obviously the full compliance with the Act and all the fundamentals of governance that comes in as well.

MS CAHILL: But the regulatory purpose on your understanding underpinning the Casino Control Act at least includes what you have set out in d?

MR ORD: Yes.

MS CAHILL: And regulating the Perth Casino generally, your understanding of the regulatory purpose includes what you have set out in d?

MR ORD: I believe so.

MS CAHILL: If I can take you to section 7 of the Gaming and Wagering *Commission Act, there is duties of the commission set out in subsection 1. You will see that in little (d) that is the paragraph that speaks specifically to casino regulation. Your understanding of the duties of the GWC in relation to casino regulation, do you understand that the other paragraphs of subsection 1 in section 7 also apply to casino regulation?*

MR ORD: Yes.

MS CAHILL: So, for example, paragraph (ba), it is a duty of the GWC to do the things set out in (ba) in respect of casino regulation as far as you understand?

MR ORD: Yes.

MS CAHILL: Right.

At paragraph 54 of your witness statement at page 0017, you set duties of the GWC as you understand them; is that right?

MR ORD: Yes.

MS CAHILL: And those duties apply as much to your understanding of the duties in

respect of casino regulation as to other forms of gambling (inaudible); is that right?

MR ORD: Yes.

5 MS CAHILL: And at paragraph 123 of your witness statement at page 0036, we were here a little while ago, you talk about how the racing, gaming and liquor regulation unit within the department is structured. You describe it is "..... with the intention of ensuring confidence in the efficacy and integrity of Perth Casino operations within the GW Commission" and so on.

10 So, that again is your understanding of the regulatory purpose as it pertains to casino regulation?

MR ORD: Yes.

15 MS CAHILL: And you go on to talk about the philosophy being centrally concerned with consumer protection, protection from unfair practices, the security and efficacy of gaming activities on the casino floor and the casino's compliance with operating policies and procedures, and then you say:

20 *On reflection, this structure and approach has not been and is not sufficiently focused on The Crown Group's corporate governance and Crown Resorts Limited's propriety as a casino operator.*

25 So, is it the case that simply by oversight or error of judgment, the GWC hasn't placed enough attention or emphasis on those matters of corporate governance of the Crown Group or Crown Resort Ltd's propriety as a casino operator?

30 MR ORD: My view, obviously having read the Bergin Inquiry, was that when I considered the totality of all the legislation that covers our regulation at Crown, then it clearly identifies that if the Gaming and Wagering Commission has concerns around the potential of corruption, then it has the responsibility to act. And my view was how would we form that view. I went on to say that we don't have a licence, a periodic licence review mechanism, where you would normally provide full scrutiny of all of the operators' governance, processes, procedures and so on. But if we believe that there was a risk to the integrity of the casino, for instance, in a breach of anti-money laundering procedures, then we would have a requirement under our current legislation to act.

40 So my belief was that we had been very focused on compliance on the casino operating floor but needed to have another level of compliance assessing related to strategic issues that I thought might be enhanced by some legislative amendments to it but also around certainly in the view that I believe a periodic review would be very useful to trigger that but also that we could be reviewing elements of their corporate compliance at that other level and making that a major part of the oversight of the commission.

45

MS CAHILL: But, putting aside any future amendments that might be made to the legislation, under the existing regulatory framework, are you saying that since reading the Bergin Report and seeing the process of the Bergin Inquiry, you now appreciate that the regulatory focus was too limited by the GWC?

5

MR ORD: Too operationally based, yes.

MS CAHILL: And can I just ask you this: you will have read the Casino Control Act in order to fulfil your role as chair, yes?

10

MR ORD: Yes.

MS CAHILL: And considered carefully the duties and responsibilities that the GWC has?

15

MR ORD: Yes.

MS CAHILL: Is that something that other members of GWC are encouraged to do when they join the commission?

20

MR ORD: Yes.

MS CAHILL: If I just take you to section 19B of the Casino Control Act, you would have been familiar with this section of the Act long before the Bergin Inquiry, yes?

25

MR ORD: Yes.

MS CAHILL: And essentially the minister could divest a close associate of an operator of their financial interest in the operator, you understood that much?

30

MR ORD: Indeed.

MS CAHILL: And that was on the minister's determination to make, but on the advice of the commission?

35

MR ORD: Yes.

MS CAHILL: So, is it your evidence in the four years you were in the chair prior to the Bergin Inquiry, it never occurred to you that it was a duty of the commission to be aware of suitability issues associated with close associates of the operator?

40

MR ORD: Oh, no, we were very aware of that. Close associates are important ongoing business for the commission as senior officers changed to do the due diligence processes around them. They were fully aware of that.

45

MS CAHILL: How did you monitor it?

MR ORD: Well, if there were suitability assessment undertaken then that report would come to the GWC.

5 MS CAHILL: But this is a divesting somebody who is no longer a suitable person to be a close associate of an operator.

MR ORD: Yes, so had there been a belief that there was --- that a person who was a senior associate was --- close associate, sorry, was unsuitable then that matter would obviously have to be formed by the GWC or a view of that formed by the GWC and then brought to the minister.

MS CAHILL: But how would you find that out?

MR ORD: Well, we engaged with our fellow regulators. As I said, we didn't have a periodic review. We weren't getting matters of concern raised by other agencies to say that we have concern about a person who is a close associate of the casino. Obviously when the media was raising concerns about some practices at Crown then we went into the mode of seeking responses from Crown as to what their views were of what happened, what they were planning to do about any failings and so on.

20 MS CAHILL: Can I just ask you to pause there. If we look at the position before Bergin and before the media allegation, just looking at section 19B, was it your position that the GWC took more of a reactive pose; if somebody else brought to their attention a question about the suitability of a close associate then it might respond to that or look into it further, but it wasn't proactive in the sense of setting up some kind of approach to monitor on a regular or ongoing basis the suitability of close associates of the operator?

MR ORD: I believe that's true. I didn't take up my responsibilities till July 2017 and it wasn't very long thereafter that I became engaged in matters related to Crown and -- the junket business from mainland China had already been suspended prior to me taking on the role. That was at the end of 2016 and so on. So we were already engaged in the beginning of what has gone on, what is happening, and considering all those issues that would have led to and is there someone responsible that is a close associate if there is wrongdoing, and it progressed from there. The Bergin Inquiry interceded in the beginning of our working out whether we should in fact go towards an inquiry and we participated in supporting that inquiry. So I don't know, to answer your question, what happened prior to my time, but from the time that I was engaged we certainly as a commission were significantly concerned about the matters that were coming before us and working out the appropriate way of ourselves and with our fellow regulators and other states to establish a process to identify whether there were matters that we needed to independently investigate or investigate in unison with other regulators.

45 MS CAHILL: Can I take you to paragraph 21A, subsection (4), please. Over the page, probably. Subsection 4 empowers the commission where it thinks fit to report to the minister and make recommendations about any actions to be taken under

section 21B. If we go to 21B(3), you will see there that the minister may in the public interest censure the licensee, suspend the licence, terminate an agreement other than the casino complex agreement, and impose a penalty. Now, did you have that provision and 21A(4) in your mind when you were --- throughout the four years
5 to date that you have been chairperson of GWC?

MR ORD: Yes.

10 MS CAHILL: And was the regulatory approach of the GWC much the same as it was in relation to 19B, reactive in the sense that if something came across its desk to alert it to a reason why you might consider reporting to the minister in respect of a potential course of action under 21B, then you would look at it, but otherwise you didn't proactively monitor the casino operator, the licensee, in that regard?

15 MR ORD: No, I think we were very concerned because obviously the way the news stories were being prepared that there were activities in Crown Melbourne of concern and there were a series of things that came out from putting guitar picks into gaming machines and so on and we constantly came back to say, "could these things be
20 happening in the casino in Perth", and undertaking our own due diligence checks with staff and so on and, of course, bringing Crown in for questioning. And recognising that if there was a failure in Melbourne, a critical failure around their responsibilities, particularly around their anti-money laundering, counter-terrorism act for reporting requirements, that the Victorian gaming regulator would in our sharing of information regularly advise us that there was a risk that we should then
25 also take on ourselves. And so we were very heightened and in a heightened state for a period of time to see what was going to come out of investigations. We knew the Victorian were undertaking an investigation and we knew they'd share information with us and we were waiting for that. Then when Bergin came, and this was all compacted to a short period of time as far as I was concerned, I was approached by
30 the Federal Government to cooperate with Bergin and I took the view, well, they are going to be drawing on our resources and our intelligence in WA, it is a very high level Royal Commission and was intended to be a Royal Commission that we would get the benefit of them undertaking that very high level review which, indeed, Commissioner Bergin did an outstanding job.

35

MS CAHILL: What about before Bergin, Mr Ord?

MR ORD: Before Bergin I'm not aware of what happened 2016 into '17 when the first --- when Crown first suspended their China operations, other than I was aware
40 that Crown had been saying to the Gaming and Wagering Commission that they believed they had operated legally and that the changes to Chinese view of what was permissible had brought about the risk to their business and that they were suspending that line of business from China.

45 So, we were seeing that Crown was attempting to deal with rising matters of concern that was coming forward by de-risking themselves and we were observing that in practice by the fact that the junket business was ending in WA. It reduced to a very

small level. And we were awaiting the outcome of some other inquiries, essentially creating an evidence base on the basis of which I could go to the minister and say that either we believe there should be an inquiry, or that we've identified there is some wrongdoing in Crown that would require a notice to be served.

5

MS CAHILL: Commissioners, I've just noticed the time. I would probably be a little bit longer. Mr Ord will obviously have to come back. It may be appropriate to hold the balance of this questioning over until then.

10

COMMISSIONER OWEN: Yes. We're conscious of the fact that while Mr Ord remains under examination he has limited access to his advisors. So I think what we might do, Ms Cahill, is suggest that in the morning, first thing in the morning, we give the other parties the opportunity to examine and re-examine and that will finish this aspect of it. But we are quite aware that there are other issues which have not yet been probed, so Mr Ord will have to come back for a further session. But I think that might be the appropriate course. Just for planning purposes, could I get an idea of time?

15

MR DHARMANANDA: No longer than five minutes I think at this stage.

20

COMMISSIONER OWEN: Mr Evans?

MR EVANS: I might fire up the half hour from Mr Dharmananda's five minutes so perhaps 20 minutes or so to clarify a couple of matters that have come to my attention.

25

MR MALONE: Commissioners, there will be no questions from me on this topic.

COMMISSIONER OWEN: Have you got a feeling for re-examination?

30

MS SEWARD: Only at the moment have five minutes but it will depend on the questions from my other learned friends.

COMMISSIONER OWEN: I think what we will do is take Mr Ord at 10 am tomorrow morning so we can complete this section of it and then that gives him some greater liberty in relation to speaking to advisors and then we will move to Mr Sargeant. All right.

35

Mr Ord, can you not speak to anyone about your evidence and certainly not speak to anybody who you know are on the witness list to be called later on.

40

MR ORD: Understood.

COMMISSIONER OWEN: We are adjourned to 10 am.

45

MR DHARMANADRA: Sorry, Commissioners, the application for non-publication will be stood over until tomorrow?

04:10PM

COMMISSIONER OWEN: Yes. The witness statement is public --

MR DHARMANADRA: Yes.

5 COMMISSIONER OWEN: --- but not the documents. 10 am.

**HEARING ADJOURNED AT 4.10 PM UNTIL TUESDAY, 11 MAY 2021 AT
10.00 AM**

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