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**PERTH CASINO ROYAL COMMISSION**

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**PUBLIC HEARING - DAY 4**

**10.00 AM TUESDAY, 11 MAY 2021**

**COMMISSIONER N J OWEN**

**COMMISSIONER C F JENKINS**

**COMMISSIONER C MURPHY**

**HEARING ROOM 3**

**MS PATRICIA CAHILL and MR MICHAEL FEUTRILL as Counsel Assisting the  
Perth Casino Royal Commission**

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

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

**MR KANAGA DHARMANANDA SC and MR TIM RUSSELL 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: Thank you. Just before we start, for the benefit of members of the public, we will be moving shortly to cross-examination by other parties other than Counsel Assisting the Commission. If you want information about  
5 the process of cross-examination, you can have a look at Practice Direction No. 4 from paragraph 25 on. It is not an unfettered right, restricted right to cross-examine, it is subject to limitations. I also want to make it clear that Ms Cahill has not concluded her questioning of Mr Ord, but, although it is not ideal we thought the proper process was to finish this aspect of the cross-examination so that Mr Ord  
10 would be free to have unfettered access to his legal advisors and that is particularly so, as he said yesterday, that he does still bear a responsibility on behalf of the Department for matters relating to this Royal Commission.

Before I call on Mr Dharmananda, there is, I think, one issue, Ms Cahill, do you want  
15 to raise with Mr Ord before we go on?

MS CAHILL: Yes, thank you.

COMMISSIONER OWEN: Mr Ord, could you come forward, and I would just  
20 remind you that your oath continues.

**MR DUNCAN ST JOHN BERESFORD ORD OAM, PREVIOUSLY  
AFFIRMED**  
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**CROSS-EXAMINATION BY MS CAHILL, CONTINUED**

30 MS CAHILL: Thank you, Commissioner. Mr Ord, yesterday you gave some evidence in response to questions that I asked you relating to the agreement that you reached in February of this year with Mr Connolly for him to step aside from the role of Chief Casino Officer. Do you recall that evidence?

35 MR ORD: Yes.

MS CAHILL: Now, before then, at any time between you commencing in your role as Director-General in 2017 but before February 2021, did Mr Connolly ever inform you that he had been friends with a Perth Casino employee, a Mr Hume or Holme(?),  
40 since the 1990s?

MR ORD: I don't particularly recall any names. I didn't know who the staff of Crown were below fairly high level officers that I came in contact with in the Gaming and Wagering Commission, whether he ever mentioned that he knew Mr  
45 Holme(?) specifically, I don't recall.

MS CAHILL: Or a Mr Marais?

MR ORD: No. I don't know of Claude until he appeared in that particular meeting.

MS CAHILL: Or a Mr Nicolls(?)?

5

MR ORD: No, again I wasn't familiar with Mr Nicolls.

MS CAHILL: Did Mr Connolly ever inform you in a general way that he was friends with some people who worked for Perth Casino?

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MR ORD: Yes. I was aware that Mr Connolly had worked in this role for a long time. He discussed that he had a good working relationship with a range of staff. That he considered friends, because he had known some staff who had worked in the department before, and had subsequently gone to work for Crown, so he never withheld, in my sense, anything that would give me belief that he was trying to hide any of those kind of relationships. But he was also a great stickler for the boundary around his particular role. On a number of occasions I asked him to represent me at functions that I couldn't attend in my broader departmental responsibility as he was my deputy, and I often attended functions either on behalf of the Minister or stakeholder functions. He always declined on the basis that he didn't want any perception that it would conflict with his role as a regulator so he was constantly reminding me, if you like, that he had to protect his role as a regulator. So I have a high degree of confidence in him.

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MS CAHILL: What kind of functions are you referring to?

MR ORD: The type of functions I would go to might be stakeholder events, like an awards night for sports or awards night for tourism industry. A few things like that.

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MS CAHILL: And it was that sort of function that Mr Connolly told you he didn't think was appropriate for him to attend?

MR ORD: Yes, in his role, yes.

35

MS CAHILL: Just to finish off, do you have a recollection of about how many times Mr Connolly explained to you or led you to understand that he had friendships with people employed by Perth Casino?

40

MR ORD: It wasn't an ongoing conversation. I think it came up really just in discussion we might have had when we were having one of our briefing meetings about the fact that he was --- he would talk about his weekend. I mean, our jobs were very stressful so you would often just say how did you go on the weekend or whatever and he would mention that he had taken up skydiving. That was the major thing. I thought that it was a high-risk occupation given the stress he was under, so we would have a bit of banter about the fact that he was going off to do skydiving, and he said, "I've got skydiving. I enjoy going out fishing" and so on. There wasn't any particular reference back to anyone that he did it with, but I was aware that that

45

was his release outside of work, was going fishing and skydiving. And that was the nature of the conversation.

5 MS CAHILL: And did you infer that because of his friendship with Perth Casino people that those activities could have been undertaken with people such as them?

MR ORD: It didn't occur to me that he was specifically going fishing with people from them but, as I said, as I didn't know the names --- I mean there are 5,000  
10 employees of Crown. He might have said I've gone out with Claude or something and I wouldn't have known to relate that fact to being someone from Crown. He might have assumed I knew who they were or might not have, but it wasn't the nature of the relationship. It wasn't on the basis that I need to declare these things because he had declared them to the previous Director-General and I think he assumed that  
15 those things were known in the department.

MS CAHILL: What do you mean he had declared them to the previous Director-General?

20 MR ORD: Well, I understand that he made --- that the previous Director-General was aware that Mr Connolly knew people who had worked in the department and were now working for Crown and that that had been a known matter inside that regulatory division, and that Mr Connolly believed he had declared that at that time and it was known ---

25 MS CAHILL: Declared what, Mr Ord?

MR ORD: Well, that he knew these people and that he had a friendship with these people that was known, yes.

30 MS CAHILL: How do you know these things that you've just told me about?

MR ORD: Well, because when I had matters brought to me saying there could be a concern about the relationship, and at the same time Mr Connolly made his formal  
35 declaration at the Gaming and Wagering Commission with Mr Marais attended for the first time.

MS CAHILL: When was that?

40 MR ORD: I think it was late-ish last year. I would have to recall the date. I think it was the October meeting last year.

MS CAHILL: Yes.

45 MR ORD: So I had undertaken some prima facie investigation to see whether there was any matter there should be a concern. The first thing I did was ring Mr Sargeant and say "are we aware of this relationship" because Mr Connolly had told me that he had previously declared that and Mr Sargeant confirmed that he did know, yes.

10:09AM

MS CAHILL: Thank you, Mr Ord.

COMMISSIONER OWEN: Thank you, Ms Cahill.

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COMMISSIONER JENKINS: Can I just clarify that. Was it in your conversations with Mr Connolly and Mr Sargeant that you found out about specific friendships? Or had Mr Connolly told you about them previously?

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MR ORD: Well, in terms of my understanding that Mr Connolly was informing me that he had a friendship with a person at Crown that was going to intercept with the Gaming and Wagering Commission, the first time I became aware of that was at the meeting when Mr Marais --- when then Crown approached the agency and said Mr Marais would be attending. Mr Marais, as I understand it, was a lawyer for Crown but wasn't doing work specifically related to matters that had come before me because Mr Preston had been the legal officer that attended Gaming and Wagering Commission meetings. Mr Connolly said at that meeting Mr Marais was coming in and that they were friends --- that they --- in their private life, they had gone fishing together. They weren't close friends but they had that friendship and he wanted the gaming commission to be aware of that and asked whether he should exit the meeting or not participate in that particular briefing and we chose the latter.

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COMMISSIONER JENKINS: And was that the meeting you referred to in late 2019?

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MR ORD: Yes, that's correct.

COMMISSIONER JENKINS: Thank you.

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COMMISSIONER OWEN: 2020 he said, didn't he?

COMMISSIONER JENKINS: My apologies.

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MR ORD: 2020, yes. Prior to that, if Mr Connolly had informed me or had discussed people that he knew, it wasn't in the context that I need to inform you of this because of matters relating to the Gaming Commission. It may have been in casual conversation, but I never found him ever evasive about his private life in that sense. He was very clear that he just worked and then he did a few things, fishing and going to skydiving.

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COMMISSIONER JENKINS: Thank you.

COMMISSIONER OWEN: Thank you, Mr Ord.

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Mr Dharmananda?

10:11AM

MR DHARMANANDA: Commissioners, Mr Evans will commence first this morning.

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**CROSS-EXAMINATION BY MR EVANS**

MR EVANS: Thank you, Commissioners.

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Mr Ord, in your evidence yesterday you confirmed that in relation to the funding of the GWC, in substance the funds which are available and appear in its budget comprise only those funds which it receives from licence fees in relation to gaming activities, is that correct?

15

MR ORD: And a small amount of supplementation, yes.

MR EVANS: When you refer to the small amount of supplementation, that is departmental resources which are made available?

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MR ORD: Yes, and just those funds related to problem gaming, part of the appropriation, yes.

25

MR EVANS: Yes. But substantially it is the funds which are available as a result of licence fees?

MR ORD: Yes.

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MR EVANS: And you confirmed also that those funds in substance after payment of fees to the members are paid to the department to effectively satisfy the department's operating costs in relation to the gaming function?

MR ORD: Yes.

35

MR EVANS: Now, in discussing how that transfer of funds from the department was calculated, you referred in your evidence to the fact that the casino was making a contribution of the \$4 million?

40

MR ORD: There is also contributions from Racing, Wagering WA to cover elements of GWC activity ---

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MR EVANS: I want to clarify that. It's page 74 of the transcript, line 20. The correct position, I think, was set out in the response which was authored by your department to the notice of 15 April 2021. That's the notice of 1 April 2021, question 1.4. That is document QNE.0001.0001.0024, and the actual amount in 2019/20 which came from the fee paid by the casino for its licensing activities I think was \$2,980,812; is that correct?

10:13AM

MR ORD: Yes, I believe so.

5 MR EVANS: It is a table on the following page. That shows the licence fee growing from \$2.4 million 10 years ago to \$2.98 million in 2019/2020; is that correct?

MR ORD: Yes.

10 MR EVANS: And just to understand how that comes about, you mention, to be fair, it was within passing mentioned, that revenue grows with casino activity. That is actually not quite correct, is it?

15 MR ORD: Well, we apply a licence fee increase, yes ---

MR EVANS: To understand the notion of applying a licence fee increase, in this case the casino licence fee is what is defined as the Annual Specified Amount in the Burswood (Island Casino) Agreement, yes?

20 MR ORD: That is true.

25 MR EVANS: And the Annual Specified Amount, which is defined in clause 23(1)(b) of the Casino State Agreement, started at \$400,000 per annum in 1984, 1985, when the agreement was struck? It was reset in 1990 to \$1.4 million and it has escalated at CPI ever since?

MR ORD: Yes, that's correct. We apply an adjustment to it based on ---

30 MR EVANS: It is simply a CPI figure set in the State Agreement?

MR ORD: Yes. Yes, that's true.

35 MR EVANS: There is no element of discretion in setting the fee? No element other than calculation?

MR ORD: We do make submission to Treasury related to the recovery of costs, and that is normally identified as to what those CPI increases are intended to be.

40 MR EVANS: The fact is all the Commission is entitled to, that is all the GWC is entitled to, as a result of the State Agreement, is a fee which was set 21 years ago escalated at CPI?

MR ORD: Agreed.

45 MR EVANS: Thank you.

If I can take you to paragraph 31 of your evidence briefly. Counsel Assisting referred you to a number of elements of the activities undertaken by the department in support of GWC, and one of those was policy development. Do you recall being

10:16AM

asked about policy development?

MR ORD: Yes.

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MR EVANS: And you referred in your evidence to the development of various instruments and policies of the casino required to support GWC?

MR ORD: Yes.

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MR EVANS: That was at page 56 of the transcript. Now, that is not the only policy development which GWC is involved in, is it?

MR ORD: No. There are policies obviously related to community gaming, racing.

15

MR EVANS: In fact, recently there has been a significant workload for GWC, hasn't it?

MR ORD: Yes.

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MR EVANS: For example, the GWC in recent times, in fact very recently, was involved in the development of a new regulatory framework to support the privatisation of the totaliser and betting agency?

25

MR ORD: Yes.

MR EVANS: The adoption of a new National Consumer Law Framework For Gambling?

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MR ORD: Yes.

MR EVANS: Consideration of the impact of unregulated online gambling activities?

MR ORD: Yes.

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MR EVANS: And the routine policy development in relation to community gaming generally?

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MR ORD: Yes. I think that in my broader response I indicated where the areas of priority were before the Commissioner did include significant focus in those areas.

MR EVANS: Yes. Those were all significant pieces of policy work, were they not?

MR ORD: Yes.

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MR EVANS: Both for the Commission and the resources within your department?

MR ORD: Yes.



MR EVANS: I'm going to take it from there to the question of support provided by the department to GWC in relation to regulatory issues, this is at paragraph 122 of your statement, page 70 of your evidence, and Counsel Assisting put to you some  
5 questions in relation to answers which GWC had provided in the answer to the notice to produce. You indicated that you thought the support provided to GWC by your department had been adequate to address regulatory issues other than the particular risks identified by the Bergin Report?

10 MR ORD: Yes, I did.

MR EVANS: Is it the case that within, as you understand it, within the structure of the casino legislation, the Chief Casino Officer occupies a central place in relation to the regulation of casino gaming?

15 MR ORD: Indeed, yes.

MR EVANS: So the Chief Casino Officer has a number of functions under the Casino Control Act, you're familiar with those?

20 MR ORD: Yes.

MR EVANS: For example, the release of information under section 13, power to grant exemptions to the casino licensee from compliance with section 25, those are  
25 things that the Casino Control Officer is responsible for?

MR ORD: Yes.

MR EVANS: Now, I think this is clear from your evidence yesterday, but I want to  
30 make sure it is absolutely clear to the Commission. Historically, it is the case that the position of Casino Control Officer has always been held by a senior officer within the department concerned with racing and gaming?

35 MR ORD: Yes.

MR EVANS: And originally that was within the Office of Racing, Gaming and Liquor. And more recently, since the machinery of government changes which you referred to, that has been attached to the Office of the Deputy Director-General?

40 MR ORD: Yes.

MR EVANS: And it is still the case that the position of Chief Casino Officer is in fact attached to the job description form ---

45 MR ORD: Yes.

MR EVANS: --- for the Deputy Director-General. And, Commissioners, if you

wish to look at the relevant job description form, it is document DLG.0001.0002.0008 at page 3.

- 5 Just to understand the terminology here, because there is a little bit of public sector structural understanding which is important. Within the Public Sector Management *Act there is a notion of an employing authority. You referred to that concept* yesterday. Effectively there are two key accountability positions in government in relation to any organisation, one is the employing authority for employees, and one is  
10 the accountable authority for financial matters.

MR ORD: Yes, indeed.

- MR EVANS: Commissioner Murphy may well be familiar with the latter. The  
15 notion of employing authority, there is only ever one employing authority for an organisation; is that right?

MR ORD: Indeed, yes.

- 20 MR EVANS: That is always the senior officer within the relevant organisation, in your case the Director-General of the department?

MR ORD: Yes.

- 25 MR EVANS: And it is effectively all employees of that organisation are employed by that employing authority?

MR ORD: Yes, as public servants. Under the Public Sector Management Act.

- 30 MR EVANS: So when one talks about appointment under the Public Sector *Management Act, one in fact talks about an appointment under an employment* agreement with an employing authority?

MR ORD: Yes.

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MR EVANS: And it is that employing authority which is responsible for supervising the performance of the employee?

MR ORD: Yes.

40

MR EVANS: And all matters of discipline pertaining to them?

MR ORD: Yes.

- 45 MR EVANS: You are familiar with the notion that under the Casino Control Act, section 9 explicitly makes provision for the appointment of a Casino Control Officer under part 3 of the Public Sector Management Act?

10:21AM

MR ORD: Yes.

5 MR EVANS: It is the case, isn't it, that the only relevant employing authority for that purpose is now you as the Director-General of the department?

MR ORD: Under the Public Sector Management Act, yes.

10 MR EVANS: So it is very clear that whoever is occupying from time to time the position of the Casino Control Officer is an employee of you as the employing authority of the PSMA?

MR ORD: Yes.

15 MR EVANS: Thank you.

One of the things you said yesterday was that the Casino Control Officer was appointed by the GWC. What I want to put to you is that is not quite right, is it, Mr Ord? Because as the JDF of Mr Connolly, which I just took the Commission to, makes clear, the position of CCO is then embedded into the role of Deputy Director-General.

20

MR ORD: Yes, though under the statutes of the Gaming and Wagering Commission and Casino Control Act, we bring forward that appointment to the Gaming and Wagering Commission for their approval of that appointment. My assumption, and I understand what you are saying around the approving to employ, my view of that would be that the Gaming and Wagering Commission should have an opinion on that the person I'm putting forward is appropriately qualified.

25

30 MR EVANS: Yes, and that is important, because what in fact --- to make the distinction quite clear, what the GWC actually does, which is important, is that the GWC confers a delegation upon the Chief Casino Officer --

MR ORD: And they do, yes.

35

MR EVANS: --- for a number of their functions, and it is actually that which is the relevant act of the GWC in relation to a CCO which is the GWC's action under its legislation; is that correct?

40 MR ORD: I'm not challenging your interpretation of it.

MR EVANS: Perhaps I can take the Commission, to demonstrate the point, to the Resolution 3 of 2021 in the minutes of the meeting of GWC for 16 February 2021 in relation to Mr Beecroft's appointment. GWC.0002.0016.0349.

45

COMMISSIONER JENKINS: Mr Evans, I would be assisted by some clarification as to why the GWC cannot be an employing authority. You put that to the witness and I don't know whether that was a correct statement of law.

MR EVANS: That may be meant to be a matter of submission. I don't think it's a matter I can put to Mr Ord in that regard.

5 COMMISSIONER JENKINS: All right, well, you shouldn't be misleading the witness if --- that's all.

MR EVANS: I hope ---

10 COMMISSIONER JENKINS: If there is a legal basis for the proposition, then I'm happy with it, but --- that's all. I will leave it to you.

MR EVANS: Thank you, Commissioner, I'll take that on board but as I say, I'm putting to Mr Ord interpretation of what the relevant legislation is, and what I will  
15 put in submissions in due course in relation to the position which prevails in relation to ---

COMMISSIONER JENKINS: It's just that you put it to him as a proposition, that that was the fact. My understanding was you shouldn't put propositions unless they  
20 are correct, there is a basis.

MR EVANS: I take it the basis is it lies in section 19 of the Casino Control Act.

COMMISSIONER JENKINS: You can ask him whether that's the case, whether  
25 that's his understanding, but you put it more firmly than that, that was all. You put it as a proposition, that was the --- perhaps it's a matter of style.

MR EVANS: Perhaps it is a matter of style, Commissioner, but that is the submission we will be putting, that it is structurally within the framework of the  
30 Gaming and Wagering Commission legislation and the Casino Control Act, the relevant public sector body which provides support to the Gaming and Wagering Commission, which is the appointing authority, and if I can take you to section 9 of the Casino Control Act for that purpose:

35 There shall be appointed under ..... through the Public Sector Management Act *Chief Casino Officer and such government inspectors.*

That sits in the context which it is explicitly contemplated that the Commission shall otherwise employ only temporary and casual employees other than employees which  
40 are provided by arrangements which are made under the Gaming and Wagering Commission Act for the supply of services, including employees by other government departments. As we would put it, structurally, the Commission has been constituted so as to be wholly dependent on effective a host organisation which employs, other than for temporary and casual employees. That's the proposition we will put in  
45 submission.

COMMISSIONER JENKINS: Thank you.

10:26AM

MR EVANS: Thank you, Commissioner.

5 I was taking you to the resolution of GWC.0002.0016.0349. Apparently this can't be called up. Perhaps I can leave the reference in the transcript and the Commission can see it.

COMMISSIONER OWEN: What was the last number?

10 MR EVANS: .0439.

COMMISSIONER OWEN: Thank you.

15 MR EVANS: It is a resolution which, in its terms, resolve, 3/2021, to support the appointment of Mr Mark Beecroft as Chief Casino Officer and to delegate effectively to Mr Beecroft certain functions under the Casino Control Act. Not to appoint him, but to support his appointment.

20 Mr Ord, just to understand one more thing about Mr Connolly in the context of his role when he became Chief Casino Officer. When that position had previously been held by directorate level officer in the Office of Racing, Gaming and Liquor, the responsibilities of the Chief Casino Officer principally focused upon the casino but included other liquor and gaming regulatory functions; that's right?

25 MR ORD: That's my understanding, yes.

MR EVANS: When that was translated into the new departmental structure, was I right in hearing you say yesterday that Mr Connolly, in that role, picked up policy responsibility not only for the areas which had previously consumed that role, but  
30 also sports, including combat sports?

MR ORD: Yes. Well, for the regulatory functions of the new department I appointed him in his role now to oversight our regulation more generally. So there was combat sports regulation in sports, and then there was the Local Government  
35 Act and subsidiary legislation.

MR EVANS: So all of the policy development issues were in relation to the whole of Government?

40 MR ORD: Yes.

MR EVANS: They now fell within his purview?

45 MR ORD: Yes.

MR EVANS: Did that have the effect of greatly increasing his workload?

10:30AM

MR ORD: Yes.

5 MR EVANS: Is it a necessary corollary of that that he had less time available to spend on casino activities?

10 MR ORD: I would imagine that he needed to delegate more work that he may have personally taken on previously, in order to take on the oversight of matters relating to the other regulatory areas that became under our purview in the same way that I was only Director-General for Arts, and then became Director-General for what was previously six other parts of government.

MR EVANS: Thank you.

15 Commissioners, my understanding is my learned friend will be taking Mr Ord at a later point in time for the balance of his statement. I think the other questions I might have put to Mr Ord are better asked after that examination is taken.

20 COMMISSIONER OWEN: We understand that.

MR EVANS: Thank you, Commissioner.

25 COMMISSIONER OWEN: Mr Dharmananda.

**CROSS-EXAMINATION BY MR DHARMANANDA**

30 MR DHARMANANDA: Thank you, Commissioners.

Mr Ord, can I ask you please to look at your paragraph 73 of your statement. Do you see that?

35 MR ORD: Yes.

MR DHARMANANDA: You say, during your tenure, prior to the release of the Bergin Report, the GWC sought assurances by Crown Resorts Limited were you involved in seeking those assurances?

40 MR ORD: Not personally, that would have been undertaken through Mr Connolly's office seeking from Crown a response to questions that have been raised in the GWC meeting. So action items are always minuted and then the officers undertook consultation with Crown and what they would like by way of communication back.

45 MR DHARMANANDA: Your knowledge of this is from reading some minutes, is it?

MR ORD: From the recalling that we sought Crown to give us an explanation

around the matters of staff having been arrested in China and that that was connected to their promotion of junket activity, and then as a consequence of the matters that came forward around the 60-minutes story whether these things were being dealt with according to the AML policy documents that they have as part of their operating manual.

MR DHARMANANDA: This is at some stage during 2019.

10 MR ORD: Yes, I would believe so.

MR DHARMANANDA: Thank you, Commissioners.

COMMISSIONER OWEN: Thank you.

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Is there anyone on behalf of Mr Connolly?

UNKNOWN SPEAKER: No questions from me.

20 COMMISSIONER OWEN: Ms Cahill, anything arising from that.

MS CAHILL: No, thank you, Commissioner.

COMMISSIONER OWEN: Ms Seaward?

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MS SEAWARD: Nothing arising. Thank you.

COMMISSIONER OWEN: Mr Ord, thank you very much, it's been a great assistance to us. Unfortunately we can't discharge you. We will need you to come back. And it is likely to be in the week commencing 24 May, but we will give you as much notice as we can.

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MR ORD: Thank you.

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### **THE WITNESS STOOD DOWN**

MR DHARMANANDA: Commissioners, while the changing of the guard is taking place, the non-publication order that the Crown has just sought, is it an opportune moment to deal with that non-publication order now?

40

COMMISSIONER OWEN: I think we will deal with it later in the day because we want to get through the evidence.

45

MR DHARMANANDA: Yes, thank you, Commissioner.

COMMISSIONER OWEN: Mr Sargeant, if you would come forward, please, and if

10:37AM

you wouldn't mind just remaining standing at the witness box. Could you just state your full name for the record?

5 WITNESS: Barry Andrew Sargeant.

COMMISSIONER OWEN: Do you wish to swear an oath or take an affirmation?

MR SARGEANT: I will swear an oath.

10

**MR BARRY ANDREW SARGEANT, SWORN**

15 COMMISSIONER OWEN: Thank you. Mr Evans?

**EXAMINATION-IN-CHIEF BY MR EVANS**

20 MR EVANS: Commissioners. Mr Sargeant, you have made a witness statement (inaudible).

MR SARGEANT: Yes, correct.

25 MR EVANS: Do you have a copy of that?

MR SARGEANT: Yes, I do.

MR EVANS: You have read the contents?

30

MR SARGEANT: Yes.

MR EVANS: Commissioners, I tender the witness statement on behalf of Mr Sargeant.

35

COMMISSIONER OWEN: Thank you. The witness statement of Barry Andrew Sargeant dated 10 May and which bears the number GWC.0003.0002.0001 will be admitted into evidence as an exhibit.

40

**EXHIBIT #GWC.0003.0002.0001 - STATEMENT OF MR BARRY ANDREW SARGEANT DATED 10 MAY 2021**

45 MR EVANS: No supplementary questions.

COMMISSIONER OWEN: All right, thank you.



Mr Feutrill?

5 **CROSS-EXAMINATION BY MR FEUTRILL**

MR FEUTRILL: May it please the Commission.

10 Mr Sargeant, when you received a summons to give evidence, you received a schedule of topics you were invited to cover in your witness statement?

MR SARGEANT: Yes.

15 MR FEUTRILL: Your witness statement that has just been tendered. That covers all the matters on the topics you wish to give evidence to the Commission on?

MR SARGEANT: Yes.

20 MR FEUTRILL: What I would like to do today is take you through some of the topics you have dealt with and ask you to expand and clarify some of the matters referred to in your statement. Some questions may go a little further than what you've said and might go a bit beyond the scope, but that is the general idea today if that is ---

25 MR SARGEANT: Yes, I understand.

MR FEUTRILL: I just want to ask you a few questions about your qualifications and experience more broadly, if you don't mind. You were the Director-General of the department of racing and gaming and liquor until 30 June 2017.

30 MR SARGEANT: Correct.

MR FEUTRILL: I am going to refer to that. I know it has a different name now, but I will refer to that as the department. You understand what I mean when I say that?

35 MR SARGEANT: Yes.

MR FEUTRILL: I think the department is now known as the Department of Local Government, Sport and Cultural Industries.

40 MR SARGEANT: That's not quite correct. The department --- it was merged with a number of --- (inaudible) --- so it wasn't just going from the department to --- it was going from two the department levels --- it was just one of a number of departments who were merged to make the new department.

45 MR FEUTRILL: Okay. I was going to ask you --- because I noticed you spoke quite quickly there --- do you mind slowing things down a bit?

10:40AM

MR SARGEANT: Thank you.

MR FEUTRILL: Thanks for the clarification. Do I understand correctly that you  
5 were appointed to the position of Director-General of the department in 1992?

MR SARGEANT: Back then it wasn't the department, it was the executive director  
of the office of racing and gaming.

10 MR FEUTRILL: Okay. And for all intents and purposes you occupied the same  
position?

MR SARGEANT: Yes.

15 MR FEUTRILL: Okay. So you held that position for the best part of 25 years then?

MR SARGEANT: Correct.

MR FEUTRILL: Now, as the Director-General of the department, you were also the  
20 ex officio chair of the Gaming and Wagering Commission of WA?

MR SARGEANT: Again, back in 1992 the wagering side wasn't part of the  
Commission. So it was only the gaming commission of WA at that stage.

25 MR FEUTRILL: Okay. When did that change?

MR SARGEANT: In 2003 when the wagering was brought into the regulation of the  
active Commission --- when the Racing & Wagering WA was created.

30 MR FEUTRILL: All right. For that entire period there was a commission?

MR SARGEANT: Yes.

MR FEUTRILL: One of the responsibilities of that commission was the regulation  
35 of the Perth Casino?

MR SARGEANT: Correct.

MR FEUTRILL: And you were chair of that commission?  
40

MR SARGEANT: Yes.

MR FEUTRILL: In the role of ex officio chair of the committee, and I am going to  
45 refer to that as the GWC just because I don't want it to be confused with this  
commission ---

MR SARGEANT: Okay.

MR FEUTRILL: --- you were not remunerated separately at the time you were Director-General, were you?

5 MR SARGEANT: That's correct, I was not.

MR FEUTRILL: You've got a bachelor's degree and a masters degree in commerce?

MR SARGEANT: Yes.

10

MR FEUTRILL: And before your appointment as Director-General of the department you were employed in a position of Executive Director of Resources and Services in the Ministry of Education?

15 MR SARGEANT: Correct.

MR FEUTRILL: And you held that position between 1991 and 1992?

MR SARGEANT: Yes.

20

MR FEUTRILL: And before that you spent about a year seconded to the position of Commissioner for corporate affairs? Correct.

MR FEUTRILL: That was during 1990 and 1991?

25

MR SARGEANT: I was seconded because the corporate affairs was being transferred to the Commonwealth, and the Commissioner had resigned --- (overspeaking) --

30 MR FEUTRILL: And between 1985 and 1990 you held positions in the Department of Treasury?

MR SARGEANT: Correct.

35 MR FEUTRILL: And prior to that you were teaching accounting and finance at the Western Australian College of Advanced Education?

MR SARGEANT: Correct.

40 MR FEUTRILL: That is now Edith Cowan. All right. So before your appointment as Director-General of the department, did you have any experience in gaming operations?

MR SARGEANT: No.

45

MR FEUTRILL: And I take it from that answer you had no experience specifically in relation to casino gaming operations either?

MR SARGEANT: Correct. None.

5 MR FEUTRILL: During your tenure as Director-General of the department and as chair of the GWC, did you undertake any training or education relating to the regulation or relevantly to the regulation of casino gaming operations?

MR SARGEANT: No.

10 MR FEUTRILL: In the course of that tenure did you attend any conferences regarding casino regulation?

MR SARGEANT: Yes.

15 MR FEUTRILL: Can you recall which conferences?

MR SARGEANT: The Australian casino and gaming regulator's conference. And that used to meet annually. Underneath that there was a CEOs forum, which was to meet probably twice a year. And there was an international association of gaming regulators as well that I attended. Not regularly, but on ad hoc occasions.

20 MR FEUTRILL: So in the case of the Australian regulators, there was an annual conference?

25 MR SARGEANT: Yes.

MR FEUTRILL: And internationally, how frequently would you say you attended an international conference?

30 MR SARGEANT: Half a dozen times in that time frame. It might be more, but I was not a consistent attendee.

MR FEUTRILL: All right.

35 And in taking the Australian conferences, what in general terms is the subject matter of those conferences? What types of matters are raised by the regulatory authorities in Australia?

40 MR SARGEANT: Initially a lot of it was about gaming machines, poker machines outside of casinos because they were being expanded, and initially --- what was it, Tasmania, Queensland, Northern Territory --- I think South Australia and Western Australia had the casino. We had the Melbourne casino and the Sydney casino initially. New Zealand was part of that environment. They were also in the planning stages.

45 MR FEUTRILL: Do you understand the concern was in respect of regulating the gaming machines themselves?

MR SARGEANT: And the principles applied also to casinos but fundamentally it was the regulation of gaming machines outside of the casino environment.

5 MR FEUTRILL: Broadly speaking, does that mean understanding how the machines are calibrated?

MR SARGEANT: That, but also the monitoring of them. It is much easier to monitor machines in a casino than it is throughout a state situation. But the  
10 principles were still there. But over time, the casinos became more prominent because more of the jurisdictions had casinos, so it was an equal sort of distribution.

MR FEUTRILL: When you say "monitoring", what precisely are you referring to by that activity?  
15

MR SARGEANT: One of the things is always the revenues being generated by them. The second one is to ensure that they are being played according to the rules and --- I should imagine that in a distributor network like it is in NSW or --- we don't have them in WA, such as you know. Then you have to ensure that the  
20 communication techniques are there now. Some states actually contracted it out to private sector people. In other places it was the Government that did it.

MR FEUTRILL: Okay. So was the focus of the nature of the regulation, if you like --- I will paraphrase, and you can agree or disagree with me, it's up to you ---  
25 essentially fairness of the machines operating so that those that are playing those games know they are playing a fair game?

MR SARGEANT: In WA's case, we had a return of 90 cents per dollar. So that was the focus of monitoring at the casino. In some of the other states, the gaming  
30 machines could have had a lower payout ratio and they would monitor them according to achieving that ratio.

MR FEUTRILL: Just so I understand, when you say a payout of 90 per cent, that means that the --- if you like, that the house advantage is 10 per cent?  
35

MR SARGEANT: Correct.

MR FEUTRILL: And your monitoring is to ensure those machines are calibrated correctly in that way?  
40

MR SARGEANT: Yes.

MR FEUTRILL: And presumably also, I was going to the second point, which is obviously there is a royalty or payment made to the state for the use of the gaming  
45 machines?

MR SARGEANT: Under the casino agreement, which was attached to the Act.

They originally had to pay 15 cents tax on the race win.

5 MR FEUTRILL: So the focus was also on ensuring the correct amount of revenue was partly making its way to the State coffers?

MR SARGEANT: Correct.

10 MR FEUTRILL: Okay, now, is there any --- to your recollection was there any discussion at these forums concerning what one might refer to as the social vices associated with gambling?

MR SARGEANT: Problem gambling issues were raised quite frequently.

15 MR FEUTRILL: Problem gambling is one matter. What about more broad risks associated with activities in the casino or gaming environment?

20 MR SARGEANT: Well, per se, most of the concern was about the probity checks on people who have been licensed, or if you had people wanting to buy into a casino and have activities in other states, they used to complain about the fact they had to supply in each state. It wasn't a matter of a unified system throughout Australia. Those discussions were pretty basic because it was very much a reliance on police information in regard to probity. But the issues were about having a common application form. So if a person was to apply for a licence to a group in NSW or  
25 WA, then that particular application form would be the same across country. It was very hard to achieve that.

30 MR FEUTRILL: I see. So when you are referring to probity checks, your focus again is on the operational aspects of casino gaming where employees of the casino licensee are being given permission to effectively run games in the casino environment?

35 MR SARGEANT: Croupiers in particular, and then to work around the machines as well.

MR FEUTRILL: And the probity check, the concern there, is that because the people involved in those activities may cheat the customers?

40 MR SARGEANT: Well, there is that aspect, but the upfront is the criminality side. The Casino Control Act talks about having suitable people in the organisation, and so the licensing process was to check that. It didn't mean to say that if the person had some criminal record they couldn't be licensed, but at least the Commission knew about it if they were to be licensed.

45 MR FEUTRILL: Okay. Can I remind you to slow down a bit.

MR SARGEANT: I apologise.

MR FEUTRILL: You may be talking too quickly for the transcribers.

MR SARGEANT: Okay.

5

MR FEUTRILL: What about was there any discussion in the national forum level about the probity of the owners and operators of the licensees?

MR SARGEANT: No, I wouldn't say there was very much of that.

10

MR FEUTRILL: All right.

In terms of the move to the international conferences you attended, can you recall any specific conferences you attended now?

15

MR SARGEANT: Locations, is that what you are looking for?

MR FEUTRILL: Locations and time frame?

20

MR SARGEANT: I think the most recent one, I was in Sydney. There was one in Singapore prior to that. I think Sydney was 2016. I can't recall exactly, but then Singapore 2014. It was some time before then. I think around about --- it was in the US state of Washington 2010, 2009. I had one in Portugal.

25

MR FEUTRILL: So you attended a number?

MR SARGEANT: About six or so, but I did not go every year. I wasn't a regular attendee in the conferences.

30

MR FEUTRILL: In the international sphere, what was the focus of the conference materials of the conference you attended?

35

MR SARGEANT: Well, it varied from year to year. I know one of the things again was to try and get a uniform application process because at that stage many of the applicants were wanting to operate in many jurisdictions, and that included the US as well, like Australia, they are a Federation. So, therefore, the States had particular requirements in that area. I can recall things like developments in marketing, how technology could basically override much of what was offered in Australia in terms of gaming machines, and the technology was there, and it was a warning that that was currently on offer and the machines could be overtaken. Tables wasn't a particular problem because you play roulette, doesn't matter where you play it, roulette is roulette. But it is the gaming machines were the one that could be developed. The machines in Perth are very much standalone machines, whereas you could go server-based, which meant you could have one server somewhere located within the environment and that is then going out to all the machines. Or you could nowadays have the cloud involved. That has not happened, but they are the sort of developments that are coming in, and associated with that was the marketing side which could be done to encourage people to gamble.

45

MR FEUTRILL: So attending the conference, is this both the regulators and the regulated?

5 MR SARGEANT: Yes. With the International Association of Gaming Regulators they used to tie it in with some of the operators, but they were two separate conferences. The only thing they could share were the social functions, so that quite often, it was more open for the regulators to attend the operators conference, but we were very guarded on the operators attending the regulators conference. There was a  
10 distinction between the two.

MR FEUTRILL: When you are referring to electronic game, was that possibly the more recent conferences where there has been, if you like, the advances in online gaming activity?

15 MR SARGEANT: I would say going back to 2010.

MR FEUTRILL: I see.

20 MR SARGEANT: 2010.

MR FEUTRILL: At these conferences, were there any discussions to your recollection or conference papers given concerning risks associated with what we might call the question of probity of operators?

25 MR SARGEANT: It was more aimed at the processing of applications, it wasn't going behind the probity of the applicants, per se.

MR FEUTRILL: Okay.

30 Now, I'm making an assumption here that over the course of your tenure as Director-General, you gained an understanding and appreciation of gaming operations at the Burswood or Perth Casino?

35 MR SARGEANT: Yes.

MR FEUTRILL: And what was the primary source of your --- the information you obtained about how they got the (inaudible)?

40 MR SARGEANT: Well, when I took up the position in 1992, there was a Chief Casino Officer who was the inaugural Chief Casino Officer. He was qualified in law. He had come from the Tasmanian Gaming Commission, and he had also worked as a croupier at the casino. And he was very well respected nationally with the other regulators, and he was a very good source of knowledge for me.

45 MR FEUTRILL: And are we talking about the person's name is, is that David Heldon(?)?



MR SARGEANT: No, Mr Michael Egan.

MR FEUTRILL: Michael Egan. Right. So by what means was he imparting the  
5 information to you, is that in your role as Chair or Director-General of the  
department?

MR SARGEANT: It would have been as Director-General.

10 MR FEUTRILL: What was the procedure by which the information was provided to  
you?

MR SARGEANT: Well, over time we had briefing sessions and he would bring me  
up to speed on particular matters and demonstrate things to me at the casino. It was  
15 just an on-the-job training.

MR FEUTRILL: Okay, so you did on occasion attend the casino and other sites for a  
site visit?

20 MR SARGEANT: I would attend the casino very frequently.

MR FEUTRILL: When you attended the casino, what was the purpose of your  
attendance?

25 MR SARGEANT: Again, initially, it was to create, generate knowledge about the  
environment and the games, but I didn't go there actually to learn how to play the  
games. I was more concerned about the supervision and how the overall internal  
controls of the casino operated. I was there to witness the count, the cash count. In  
those days it was very much a coin count as well, it was a different environment.

30 And initially when I went, they also took me up into things like the catwalks that ---  
they had stopped being used because by that time CCTV surveillance had improved,  
and plus the catwalks were occupational hazard, you get smoke and dust up there, so  
it wasn't --- but you could get a good environment of what was going on. But  
35 particularly the CCTV coverage of the casino was a very important part of that  
operation.

MR FEUTRILL: Okay. The cash count, who was responsible for undertaking the  
cash count?

40 MR SARGEANT: That was the casino operator.

MR FEUTRILL: And what mechanism might --- we might just break it up into  
different points of time. What mechanism at most, initially when you were the chair,  
45 was utilised for monitoring that process by the GWC?

MR SARGEANT: Well, it wasn't monitored by the GWC per se, it was monitored

by the inspectors. We had at that point inspectors embedded into the system. So an inspector would sit there with the cash count and they would be locked up with everybody else until it was all done and then they would come out.

5

MR FEUTRILL: And these inspectors, who employed the inspectors?

MR SARGEANT: The Department of Racing, Gaming, Liquor --- Licence --- I will call it the department.

10

MR FEUTRILL: So the inspectors employed by the department who are physically located ---

MR SARGEANT: One.

15

MR FEUTRILL: --- one. At the casino?

MR SARGEANT: Yes, to participate in the count. They would be ticking off on certain controls.

20

MR FEUTRILL: What, if any other, inspectors were there at that time?

MR SARGEANT: We used to have on average four on duty at the time.

25

MR FEUTRILL: Were they all involved in the cash count --

MR SARGEANT: No, only one.

MR FEUTRILL: What other activities were the inspectors undertaking?

30

MR SARGEANT: They would have done some audits, again checking to see that the games were being played in accordance with the rules, there was audit programs that had been developed. I think some of those had been listed in the initial information that was sought by the Commission into terms of programs that were done. They were transactional-based. But also check the appropriate things like the supervision levels in pits, because that was an important part of the arrangements. We've had procedures to follow in the cage where the money was actually first taken, and then you had procedures involved with the taking of the dropboxes from the tables and the machines into the cash count --- into the counting area. You had procedures involved in opening tables, closing tables. So the whole menu of ---

40

MR FEUTRILL: So the procedures you've just described, I couldn't keep track of all of them, but they are to be found in the operations manual of the casino, are they, or they were at the time?

45

MR SARGEANT: Under the directions, there is the operations manual and there is also the game rules. And they are the two fundamentals that we checked. The third

area of course was to make sure the revenue which was being generated was being properly accounted for.

5 MR FEUTRILL: Okay, so you mentioned --- earlier in your answer you mentioned audit procedures that had been developed. Are the audit procedures provided for in the operations manual or are they separate procedures of the department?

10 MR SARGEANT: It was a procedure to actually audit that particular manual and certain operations so the instruction would be that we would be checking to see what was said to be done, and check what was said to be done was actually done.

MR FEUTRILL: Those procedures, who developed those procedures?

15 MR SARGEANT: They would have been developed initially by Mr Egan.

MR FEUTRILL: By Mr Egan as the Chief Casino Officer?

20 MR SARGEANT: As the Chief Casino Officer.

MR FEUTRILL: And were those procedures, to your knowledge, approved by the GWC?

25 MR SARGEANT: Well, the casino commenced operations in December 1985. At that stage there was a Casino Control Committee. They would have approved the initial procedures, and the Gaming Commission didn't come into operation until about October 1987. So the Commission would have just assumed then from the Casino Control Committee that --- fundamentally the procedures would have started from day one; if they were changed, they would have been approved by the  
30 Commission.

MR FEUTRILL: Okay, so at the time you commenced in your role as Chair of the Committee and GWC in its then form, your understanding was that the audit procedures had been in place for some time?  
35

MR SARGEANT: Yes.

MR FEUTRILL: And there was no change, in 1992 at least, to the audit procedures?

40 MR FEUTRILL: No.

MR FEUTRILL: Were there changes to the audit procedures subsequently?

45 MR SARGEANT: I can't recall. There would have been minor changes because you could have had changes to the manuals. There would have been changes in about early 2000, 2002, I think, when we went from having a 24-hour presence at the casino with the inspectors, and we had an extended period, but not 24, seven days a week, and that meant we had to change some of the procedures which we had

inspectors embedded in them. So it was going back to a more traditional internal control mechanism.

5 MR FEUTRILL: So --- I would like, if you don't mind, just to step me through that. So there was a process you called embedded, inspectors were embedded. What do you mean by embedded?

MR SARGEANT: It was like the cash count. The inspector was there doing things.  
10 Whereas there are some activities regarding some of the international businesses where they were doing buy-ins and settlements, they would have inspectors and those present to witness it. Whereas it is possible that those sort of procedures can be audited after the event to make sure everything ticks, everything is ticked in accordance with the procedures.

15 MR FEUTRILL: Okay. So at some point in time, to the best of your recollection, early 2000s ---

MR SARGEANT: Yeah.

20 MR FEUTRILL: --- the procedure went from one where there were people embedded, as you termed it, to a more audit-based procedure?

MR SARGEANT: Yes.

25 MR FEUTRILL: When you say you are looking at events afterwards for auditing, what to your knowledge was the audit procedure adopted by the GWC, or the inspectors at that time?

30 MR SARGEANT: Well, I can't recall the specifics and I don't know what went through, but if there was a change to the procedures to accommodate the change in inspectors, then the procedure would have been changed, and that then would have been reflected in a change in the audit process to reflect that procedural change.

35 MR FEUTRILL: So you said earlier that the audit procedure --- there was an audit procedure of some kind in place when you became chair. To your knowledge, was there a change in the audit procedure that was taken to the GWC for approval?

40 MR SARGEANT: Well, my recollection and according to what I would have like to have said, yes, it should have gone to the Commission. That wouldn't have been done independent of the department.

MR FEUTRILL: When you say "should have", is that something you remember taking place or is it your --

45 MR SARGEANT: I honestly can't recall but it should have happened, because in my view that was a Commission decision, that was a significant decision to go from 24/7 to having (inaudible-coughing) based, so I would doubt very, very much if that hadn't

gone to the Commission.

MR FEUTRILL: Okay. And to your knowledge, does that remain the position  
5 today, there is a reduced presence and some audit activity?

MR SARGEANT: Oh, yes. There is even a probably more reduced presence  
because we had it in place whereby the inspectors would have been rostered, so for a  
period of time they would be embedded --- I shouldn't use that word embedded ---  
10 because we changed, but they were located out at the casino. That meant  
inefficiencies, because we could roster inspectors who do liquor and community  
gaming as well, and sometimes we weren't getting the full utilisation of them. So we  
changed the system, I think about 2015, and that would have gone to the  
Commission whereby an inspector could go out to the casino to do a particular task  
15 in the audit, and then maybe at a certain time do something at a hotel, or a  
community gaming. So they weren't just going to the casino and staying at the casino  
for the whole shift. So that gave us some economies out of that. But that, I do  
remember, went to the Commission.

20 MR FEUTRILL: Okay. And you think that was in 2015?

MR SARGEANT: 2015.

MR FEUTRILL: And since 2015, to your knowledge have there been any additional  
25 changes to the --

MR SARGEANT: Not that I'm aware of, no.

MR FEUTRILL: Okay, Commissioners, I'm not sure what time you intended to take  
30 a break this morning.

COMMISSIONER OWEN: I think if you go through to around about 20 past.

MR FEUTRILL: Okay. We've dealt with --- you ceased in the position of Director-  
35 General of the Department in June 2017. Was that a retirement?

MR SARGEANT: No, that was as a result of the machinery of government changes  
and the position of Director-General of Racing Gaming and Liquor was abolished.

40 MR FEUTRILL: Right. Do you have any full-time employment now?

MR SARGEANT: I then became a consultant for the (inaudible) Commissioner, but  
they knew that I had already announced my intention to retire in March of 2018. So  
there was just a matter of --- I did some other tasks for the Minister during that  
45 period of time when I was no longer the Director-General of the department.

MR FEUTRILL: As of today you are essentially retired?

11:08AM

MR SARGEANT: Yes.

5 MR FEUTRILL: All right. You were appointed as an ordinary member of the GWC in 2017?

MR SARGEANT: Correct.

10 MR FEUTRILL: And at the time of your appointment as an ordinary member, who were the other members of the GWC?

MR SARGEANT: Mr Duckworth, Professor Colleen Haywood, I think Mr Rob Bovell.

15 MR FEUTRILL: And Mr Ord became the chair of that Committee by virtue ---

MR SARGEANT: He became ex officio chair of the gaming --- he was chair because I was a month out of the position. Yeah.

20 MR FEUTRILL: Each of those members of the committee that you just mentioned, they were appointed while you were chair of the GWC?

MR SARGEANT: Yes.

25 MR FEUTRILL: And as Chair of the GWC, were you provided with any information about the qualifications and experience of people appointed as members of the GWC?

MR SARGEANT: Back in 1992, no.

30 MR FEUTRILL: What about for each of the people you've just described, were you given information about them?

35 MR SARGEANT: In the main I was not consulted. I think over my years as the Chair I might have had influence or suggested two names. The rest of the time I was just advised or requested to draft a Cabinet minute.

40 MR FEUTRILL: I will come back to the process of appointment, but I'm just wondering, were you provided at any time with information about the qualifications or experience of the people appointed to the committee?

MR SARGEANT: No. Other than the two when I did nominate two names I knew beforehand.

45 MR FEUTRILL: Now, in the course of acting as Chair, did you become aware of their qualifications and experience?

MR SARGEANT: After they were appointed, yes.

MR FEUTRILL: Yes. And by what means did you become aware of that?

5 MR SARGEANT: Normally from the individuals themselves or it would have been because I was drafting the Cabinet minute for the Minister and, therefore, you would be putting up a CV of the person that that was being appointed. Sometimes you had to go to the proposed member to get that CV.

10 MR FEUTRILL: Okay, so, perhaps we start with the order of events. A vacancy arises. Talk in the general at the moment. A vacancy arises. Was it your practice to make a recommendation to the Minister as to how that position may be filled?

MR SARGEANT: No.

15 MR FEUTRILL: So when a vacancy arises, you weren't making recommendations that there is a person with particular qualifications or experience would be desirable for the committee?

20 MR SARGEANT: Well, it depends to some extent on what thing we were looking for from people. If I can go back to 1992 when I became the Director-General, Executive Director of the department, there was a change of government in 1993, March. That was the Senior Minister then, The Honourable Max Evans, he was a respected chartered accountant, did talk to me about vacancies coming up, and the question was what sort of people are we looking for. You know, I can generally  
25 remember because that influenced my thinking for the probably the whole 20-odd years in relation to the appointments, looking at the Gaming Commission to start with, and it was more specific about the interests of the community, what it needed, a couple of references to the community interests in the Act. But there was no mention about specific requirements other than saying people had to have integrity, repute,  
30 and have relevant experience.

Looking at what was being provided, I think we discussed that we were looking for someone who could represent the community interests in regulating not only the casino but also community gaming outside the casino. To some extent the Casino  
35 *Control Act also has some reference to the public interest and it does give specific* reference there and, for instance, in the sections on, what was it, 21A, if the Commission was to make a recommendation to the Minister about investigation, he has to look at the public interest of doing it. And I think there is some other reference there to the Commission if they have to, if I remember correctly, do  
40 something with respect to considering the (inaudible) a licence, if it will be in the public interest. So I think between us, I came to the conclusion with him that you were looking for people who could represent the interests of the community, not necessarily to regulate gaming per se, relying more on the expertise within the department.

45 MR FEUTRILL: All right. I want to come back to the question of the interests of the community in a moment, but before doing so, the GWC had a minimum of five

and a maximum of seven members. So you could, theoretically at least, cover the community interests without all five or all seven having that particular qualification. Was there any consideration given to specific skills or skill sets of members that would be desirable for the regulator of gaming, and more particularly the casino gaming operations?

MR SARGEANT: Well, I felt confident the expertise was within the department to provide that advice to the Commission. We did have some lawyers involved in the Commission. If people were available in the accounting field, it possibly --- I can't recall an accountant being approached --- there were some people who didn't want to be on the Commission, they didn't want to be involved in gambling as well. But given the nature of the way that the Commission was working was - because the casino itself was a monopoly. The casino then had to be a regulator from the point of view of what is in the public interest. If I give you an example with respect to the return on gaming machines, that return could have been basically increased from 90 cents in the dollar to 95 cents a dollar. It could have gone the other way. It wasn't legislated in the legislation at all. The original Casino Control Committee set it at 90 cents in the dollar, and basically we've kept that because this state is one of the highest returns in respect of the amount that is gambled on a gaming machine that is returned to a player. So that is a decision to be made, what is in the community interest, in the sense should we do 91, 92. Recently, the Commission has made the decision to adjust the speed of the games on machines because of the way it was initially set up, they used to have a 5-second minimum spin time, but the casino was having many more add-ons and bonus streaks and it was going much later. So the Commission reduced on average 5 seconds, not necessarily 5 seconds as a minimum. Again, that had to be considered from the point of view, what is in the community interest in making this sort of decision. So that is how I viewed it.

MR FEUTRILL: Okay.

MR SARGEANT: And no Minister challenged that particular view. I think I worked with 10 or 11 ministers over that time frame. No member of the Commission ever challenged that to me, that we should be looking at something or they felt it was deficient in what was coming from the department in that area.

MR FEUTRILL: Perhaps before we break, I will ask you one question about that. GWC --- whenever I say Commission ---

MR SARGEANT: I'm guilty of the same thing.

MR FEUTRILL: So the GWC, is it your evidence that it received advice from individuals who were employed by the department about matters such as what the payout ratio should be on electronic gaming machines, and the GWC considered that and whether that ratio met its understanding of community interest?

MR SARGEANT: In principle. I can't recall ever going to the Commission to actually challenge the 90 cents in the dollar, but I do recall that --- the 5-second issue



for the Commission. Another one I do recall is if you play the game of roulette, it normally has one zero on the table. What that means is if it falls on zero, house takes it all. You can have roulette with two zeros, which means you increase the house  
5 advantage. Now, I do recall the casino coming to the Commission at that stage, seeing if they could introduce some two zero games because they were finding the minimum bets were getting too high for people. So the argument was presented to the Commission, and processed through the inspectorate group within the casino, that  
10 if this were to happen, then this would enable the operator to offer the game at a lower level, so I can recall making it quite clear the rules had to specify, if you play a double roulette machine, you would get less odds, but it is cheaper to play. That was the decision the Commissioner had to make, is that in the community interest.

15 MR FEUTRILL: In your time on the GWC, can you think of any instance where the GWC has not accepted the advice of the department on matters of that nature?

MR SARGEANT: I can't recall any, no. There might have been times when things were sent back for a bit more clarification, but generally the casino had the right to apply through a game of rules, games which were internationally played and double  
20 zero roulette is a common game throughout the world, it's not like going out and inventing it purely for Perth, it's a common game. In some jurisdictions that's all you get, is a double zero roulette, but this changed the payout of the game. That's all it does.

25 MR FEUTRILL: Thank you, Mr Sargeant. I think it might be an appropriate time.

COMMISSIONER OWEN: We will resume at 11.35. Thank you.

30 **ADJOURNED** **[11:19A.M.]**

**RESUMED** **[11:35A.M.]**

35 COMMISSIONER OWEN: Yes, Mr Feutrill.

MR FEUTRILL: May it please the Commission.

40 Mr Sargeant, just prior to the break I asked you some questions relating to the appointment of members of the GWC and you made reference with --- I'm paraphrasing, having an eye to the community interests. You made a reference some time later to section 21A of the Casino Control Act and its reference to the public  
45 interest.

MR SARGEANT: The reference there was the fact that it --- the decision we made was to refer to the public interest. Public interest, I think, is similarly defined in the Control Act. It says public interest having regard to --

MR FEUTRILL: Yes. Are you using "community interest" and "public interest" synonymously?

5 MR SARGEANT: In effect, yes.

MR FEUTRILL: And what is your understanding of the GWC's role, if you like, in dealing with the community interest as you understand it?

10 MR SARGEANT: Ultimately is to ensure that the community has confidence in the casino as an institution but also the games that people play, so they feel comfortable and they are going to get what has been offered according to the rules for that, that it is as so. The Act also requires at the Gaming Commission to give due regard to potentially the harm as a result of gambling at the casino, the problem gambling  
15 aspects which has been addressed over time. But, from my experience, the public interest is not defined per se in legislation. It is not an easy one to put a handle on. That's why I was quite encouraged to have a group of people who had very different backgrounds to look at something and try to come up with something which could represent what the community would be thinking is fair and reasonable.

20 MR FEUTRILL: Okay. Can I --- so I understand, I will try and categorise what you said again. If you don't agree with me, feel free to disagree with me. On one aspect of it, it seems, based on your answer, is meeting community expectations about the fairness of the games that they are playing at the casino, and you've dealt with that  
25 earlier today relating to the inspectors making sure that the machines are properly calibrated and paying out correctly and all those things.

The other aspect you said --- I think you said "harm to the community", and you mentioned --- in that context you mentioned problem gambling. Do you consider, as  
30 a member of the GWC, that there is any other aspect of harm to the community that falls within the scope of the GWC's remit?

MR SARGEANT: I would say that looking at that, not from the point of view of appointing people --- but I was conscious that the remit --- the thrust of the *Casino Control Act* talks about the suitability of people, so, therefore, you are going to their  
35 aspect --- it doesn't use the word criminality, but obviously that is part of it. If there is anything to do with involvement of --- either of croupiers who may have some attachments to criminality, then obviously that would be a harm to the community. But paying the appropriate amount of taxes, make sure that they don't otherwise  
40 would underpay, and that ultimately would be some negative aspect to the community.

MR FEUTRILL: When you speak of suitability and you mention croupiers and we've been over that earlier today about probity and permitting people to be involved  
45 in the gaming activities, do you confine suitability to those who are operational involved in the casino operations? Or do you see it more widely than that?

MR SARGEANT: We had key employees, so the chief executives, the chair of boards which were seen to be in control of the operation had to be licensed, and they held key employee licenses. So their suitability as well. We have, in the legislation, provisions regarding associates of the casino, those, if ever there was an occasion  
5 whereby we had information to do with the people who had an association with the casino may not be desirable or suitable. We also had sections there --- to control contracts, so we had the potential, if a contract over prescribed limit, we could investigate and the prescribed limit could be changed obviously as a regulation which you are concerned with, that people who were contracting were suitable as  
10 well. There are aspects of that so people who are involved in it from the point of view of the management, croupiers, and people supplying services to the casino are suitable.

MR FEUTRILL: Okay. Now, the suitability or probity checks are done at the outset  
15 when those people are given permissions to occupy those positions.

MR SARGEANT: That's right.

MR FEUTRILL: Now, with respect to the gaming machines and the table games  
20 where in the past you had people embedded, and I think you said you moved to a more remote audit process, the Commission is actively involved in ensuring it meets the requirements of fairness that we discussed, the fairness in terms of the machines paying out when they should, and that the revenues to the State are being recovered as they should be.

MR SARGEANT: Audits are done, and if there was an adverse finding then that  
25 would come to the Commission to be dealt with. If there was no adverse finding then basically it would be done at the management level if there were adverse findings.

MR FEUTRILL: If there was an adverse finding of an audit, you would expect that  
30 to be reported in to the GWC?

MR SARGEANT: Definitely.

MR FEUTRILL: At a meeting?

MR SARGEANT: Yes.

MR FEUTRILL: Insofar as monitoring the suitability questions, so the individuals  
40 involved at the operational level and those in more senior management, what, if any processes, to your knowledge were complemented by the GWC in monitoring those aspects of ---

MR SARGEANT: When the casino was opened, people were given a licence in  
45 perpetuity. I can't recall when, some time --- may have been in the year 2000, that has since changed into a five-year period, so every five years their licence has to be renewed. What that does is they have to go and get a police clearance from the

police to have their licence renewed, and where I say do a check, the other way, on a sample basis. So we did go from a place whereby it was up to us to actually do the probity checks to having at least a five-year renewal program.

5 MR FEUTRILL: To be clear, you are confining your remarks there to the individuals who you have previously, I will use the expression "licensed" involved in some activity in the casino.

10 MR SARGEANT: Yes. If they wanted to continue to work in the casino, they had to have their licence renewed on a five-yearly basis.

15 MR FEUTRILL: Beyond those matters, were there any aspects of the suitability of probity, to use that word, of the casino operator or the casino licensee, that were within the consideration of the GWC?

20 MR SARGEANT: Nothing ever came before the Commission that I recall during the time that I was there. The casino agreement, which is subject to an act of Parliament, doesn't provide for the renewal of the licence under any investigation. However, we did participate, I know, in my time during the Victorian review they had the Crown  
25 Resorts controlling both casinos, we saw that as a de facto way of ensuring that the probity of the holding company, which was Crown Resorts, and the associated companies, were still of suitable standard and during that time there was no time when the licence wasn't renewed. The last review which was done, I think at the end of 2018, the recommendations which came from that, the Commission did put them  
30 to the operator here to address and come back and respond to them. There is nothing in the legislation, the agreement which required their licence to be renewed annually or five-yearly.

35 MR FEUTRILL: Are you making reference to the Victorian regulator's review of Crown Melbourne?

MR SARGEANT: Five-year review, yes.

40 MR FEUTRILL: Every five years. And is it your evidence that the GWC had regard to the reports prepared by the regulator in Victoria?

MR SARGEANT: Yes.

45 MR FEUTRILL: Were they published publicly or did you acquire them by some other means?

MR SARGEANT: No, we just got them whenever they were challenged, but I can't recall them being a private means. No, I don't think they were private.

50 MR FEUTRILL: Were those reports the subject to your recollection of any discussion at the meetings of the GWC?

MR SARGEANT: The last one, and I would say I can't recall specifically before

then, but I know that we did discuss one some time, but I can't recall the specifics. But definitely the last one, because there was quite a few recommendations came out of it.

5

MR FEUTRILL: Is it your evidence that you put those recommendations to the operator of Crown Casino in Perth?

MR SARGEANT: Yes.

10

MR FEUTRILL: And the licensee in Perth?

MR SARGEANT: And they responded accordingly.

15

MR FEUTRILL: And --- okay.

COMMISSIONER OWEN: Mr Feutrill, could I ask a question. I'm interested in this question of the Victorian system of reviews.

20

In your capacity as Director-General, and as the Chair of the GWC, did you ever turn your mind to that question and ask yourself whether an open-ended licence with no set reviews was the most appropriate way that this should happen?

25

MR SARGEANT: In latter years, probably no, but initial years I can recall discussing particularly with The Honourable Max Evans at some stage. It wasn't embedded in the agreement and I know that if you wanted to change that, there had to be some enthusiasm from a Minister to re-negotiate that agreement with that five-year clause. So it wasn't something which I pursued in my time as Director-General.

30

COMMISSIONER OWEN: Thank you.

35

MR FEUTRILL: We might come back to this topic a little later. For now we have a little sidetracked. I was dealing with the appointment of the members of the GWC. I want to come back to that. You mentioned earlier I think that you were responsible, or you prepared something for the Minister to go to Cabinet. I expect that is some sort of briefing note at the time of the appointment of the new members to the GWC?

MR SARGEANT: Yes.

40

MR FEUTRILL: And you were preparing that briefing note, I expect, in your capacity as Director-General of the department?

MR SARGEANT: Correct.

45

MR FEUTRILL: So you became aware then, before the appointment of the relevant members, of what their general qualifications and experience were. Were there any occasions on which you considered, having regard to the qualifications, that they

would not be a suitable member to the GWC?

MR SARGEANT: No.

5

MR FEUTRILL: The process then, thinking --- I think in your statement you said you were normally told about the appointments as opposed to being consulted on them. Did you have any contact with the nominees prior to their appointment, I mean as the Chair of the GWC and getting a general sense of where they were going to fit in with the rest of the members?

10

MR SARGEANT: No, I didn't. If I become aware of somebody who would be unsuitable, I would place more emphasis on unsuitability than whether they were suitable. I can't recall anybody not making a good contribution in the time that I was there as the Director-General of the department.

15

MR FEUTRILL: Earlier I think there were a couple of occasions you did make a recommendation. Do you recall when that was?

20

MR SARGEANT: One would have been back with Max Evans, it was a woman who was the former Director-General of Education Department, who had retired. And the other one was Mr Rob Bovell, who was recently --- because he had been the chief executive of the Trotting Association and had good knowledge on bookmaking.

25

MR FEUTRILL: I see and he was appointed?

MR SARGEANT: Yes.

MR FEUTRILL: Was that on your recommendation then?

30

MR SARGEANT: Yes. And it was a verbal discussion. It wasn't me putting a briefing to the Minister at all.

35

MR FEUTRILL: I see. You nominated Mr Bovell because of his experience in relation to, effectively, wagering or trotting?

MR SARGEANT: He knew the wagering industry better than any of us on the board, yes.

40

MR FEUTRILL: I see. Isn't that an example where you identified a person who had relevant experience that would be of use for the GWC and you made a recommendation? The other occasion, do you remember the individual in question?

45

MR SARGEANT: She was Ms Margaret Nadebaum, she was the Chief Executive for the Minister of Education back when I was there. I think she had gone to head up one of the (inaudible), and I recommended her. I don't think one that I could push too strong because the Minister was quite enthusiastic about appointing her, that she

11:50AM

was a person, very good upstanding and excellent to represent the public in the community interests.

5 MR FEUTRILL: So she was also appointed on your recommendation?

MR SARGEANT: That one was a mutual discussion. I think Rob Bovell was more of a discussion because the Minister didn't know, whereas the Minister knew quite closely about Ms Nadebaum.

10

MR FEUTRILL: Would it be fair to say that on the two occasions you did become involved in making recommendations, the two individuals in question were ultimately appointed as members?

15 MR SARGEANT: Yes.

MR FEUTRILL: So what was your reasoning for not becoming involved in the appointment of anyone else on other occasions?

20 MR SARGEANT: As a Director-General I saw it more as a Minister and Cabinet's prerogative.

MR FEUTRILL: You didn't consider from the perspective of the Chair of the committee that you had a role in assembling a group of people that would perform the functions of the GWC?

25

MR SARGEANT: Well, I again go back --- I wasn't looking for gambling or gaming experience, other than Mr Bovell was a case in point, but I was looking more from the community interest side, and at times I didn't necessarily have access to people better than what the Minister or the government of the day would have.

30

MR FEUTRILL: I see.

I think you mentioned earlier when you were chair of the community, ex officio capacity, your remuneration was set by your position (inaudible) ---

35

MR SARGEANT: Can I comment, the only time I got additional allowance was when I was a member of the Christmas Island Casino Surveillance Authority. I was the (inaudible) tribunal a 5 per cent allowance for the time that I was on there, and I think we used to get about \$16,000 a year from the Commonwealth and I was paid about 10 or something like that, that was the only time I was paid an allowance, but I was only a member (inaudible) authority.

40

MR FEUTRILL: Okay, thank you for that qualification.

45

Upon your appointment as an ordinary member of the GWC, is there a (inaudible) of appointment or a contract with appointment or something of that nature?

MR SARGEANT: No, all I can recall is after meeting at the Minister's Office, the decision was made that I would be appointed and the Department of Bureaucracy appointed me.

5

MR FEUTRILL: Did you get a letter from the Minister?

MR SARGEANT: Yes, I did.

10 MR FEUTRILL: And you've given some evidence in your statement about the remuneration you've received in that position. How is that remuneration set?

MR SARGEANT: The remuneration was set by --- in effect under delegation from the upper management, it was done by the Commissioner --- the Public Sector  
15 Commissioner. They set rates across the whole breadth of public bodies. And it was one that was there when I became the Chair back in 1992, and all it was increased by CPI or other things over time. I don't think it increased much in principle.

MR FEUTRILL: I see. So the GWC has no role in determining the remuneration of  
20 its members?

MR SARGEANT: No.

MR FEUTRILL: I think you said you spend between 6 and 10 hours per month  
25 performing a role on the GWC and I take it that includes preparing for and attending meetings?

MR SARGEANT: Reading, yes.

30 MR FEUTRILL: There's no meeting in January?

MR SARGEANT: Normally there is not, but if --- there was going to be one in relation to the Bergin Inquiry but that didn't happen. If need be, the date was always set aside, if need be. At times there might have been the odd special meeting we had  
35 some issues to do with people who had been barred from the casino, and we had some special meetings to address that.

MR FEUTRILL: It is fair to say there is a fair amount of material in those papers for the meetings, isn't there? So your six to 10 hours may be an underestimate, do you  
40 think?

MR SARGEANT: Well, its familiarity would somewhat might help because I had been there for some time. Some of the papers you got was a repeat of what the previous meeting might have had. So there was a repetition of the papers. It wasn't  
45 necessarily something that was always new.

MR FEUTRILL: Okay. In your statement you have given evidence that the Deputy Director of the department is by office the Chief Casino Officer. You call it



(inaudible) --- it is there in paragraph 60.

MR SARGEANT: Yes.

5

MR FEUTRILL: What do you mean by the expression "who is by office the Chief Casino Officer"?

MR SARGEANT: The office he holds. He holds a Public Service position which is Deputy Director-General, and assigned to that position is the duties of a Chief Casino Officer, and in previous times it might have been a Director of Gaming and that particular position could have had varies duties to run the bureaucracy of the department --- section of the department, and then as part of that JDF there would have been a job requirement that the person who holds that position is also the Chief Casino Officer.

10  
15

MR FEUTRILL: So is it attached specifically to the position of Deputy Director of the department?

MR SARGEANT: In this case, yes.

20

MR FEUTRILL: And how is it --- what is the process by which it is attached in that way?

MR SARGEANT: It is put in as duties and then if it is a successful applicant, we regard that person appointed as the Deputy Director-General but he also holds the appointment of Chief Casino Officer.

25

MR FEUTRILL: I see. So again in your statement you say that the job description is required and the position is advertised publicly. When it is advertised you are saying the position is advertised with that role ---

30

MR SARGEANT: Yes.

MR FEUTRILL: --- in it for that position as Deputy Director of the department?

35

MR SARGEANT: Yes.

MR FEUTRILL: And so is there any consultation at the time of the appointment of the Deputy Director-General with the members of the GWC about who will be appointed Deputy Director and, therefore in that role?

40

MR SARGEANT: In the case of that, no, I can't recall. They were aware there was a vacancy, but we wouldn't have gone back to consult them.

45

MR FEUTRILL: It follows, does it, the process of the Public Sector Management Act?

MR SARGEANT: Yes.

5 MR FEUTRILL: Okay. Now, does the GWC have any role, to your knowledge, in identifying the particular qualifications and experience for the person to fulfil that role?

MR SARGEANT: No.

10 MR FEUTRILL: Does the GWC have any role, to your knowledge, in identifying the job description for that particular position?

MR SARGEANT: No, it would have been done within the department.

15 MR FEUTRILL: So the department is responsible for identifying the description of the job for both Director-General, Deputy Director-General and for those aspects of the role that meet the description Chief Casino Officer?

20 MR SARGEANT: I would suspect that the JDF emphasises more the Public Service role and then assigned to that is the chief executive --- sorry, the Chief Casino Officer. Similar to what would happen in the case of my position, it was very much a Public Service position and it would identify the ex officio of the position. That's what I can recall.

25 MR FEUTRILL: I'm sorry, I'm going to have to ask you to try to slow down. I've just been given the message that transcription may struggle.

All right. Now, are you aware of what, if any, description there is specifically for the function of Chief Casino Officer?

30 MR SARGEANT: I can't recall if that position was --- that was 2011, 2012. Something like that. I can't recall.

35 MR FEUTRILL: Who filled that position in 2011/2012?

MR SARGEANT: It would have been Mr Connolly as the successful applicant. It would have already gone through the Public Service requirement, gone through advertising and then also the selection panel had to be (inaudible) degree of independence, et cetera.

40 MR FEUTRILL: And to your knowledge, are there any key performance indicators for the function of Chief Casino Officer?

45 MR SARGEANT: The key performance functions for that role would have been those that were developed for the Commission. It wasn't specific ones separate from the Commission's performance indicators.

MR FEUTRILL: I don't quite follow. So what do you mean? There's key

performance indicators for the GWC, is there?

MR SARGEANT: There is.

5

MR FEUTRILL: And who developed those?

MR SARGEANT: Over time, they would have been developed by the department and endorsed by the process and required endorsement by the Commission.

10

MR FEUTRILL: For the GWC? The department developed --- you understand the department developed key performance indicators for the GWC itself?

MR SARGEANT: Yes.

15

MR FEUTRILL: The GWC then endorsed those?

MR SARGEANT: Yes.

20

MR FEUTRILL: And how does the GWC measure performance against those indicators?

MR SARGEANT: Well, it's just that the --- annually you produce what was a target --- was the target performance. And assess that against the actual, and then they were just subject to audit.

25

MR FEUTRILL: And the same key performance indicators applied to the Chief Casino Officer?

30

MR SARGEANT: Basically, you see --- through the structure of the agency, he was the one that was accepting the day-to-day responsibility. So from my perspective I thought it was appropriate that he be judged on that.

MR FEUTRILL: When you say you consider it appropriate he be judged on that, was that in your view as Chair of the GWC or as an ordinary member today?

35

MR SARGEANT: I would suggest more as a Director-General of the department or either of them when I was there.

40

MR FEUTRILL: I see. Would that requirement that you measure the performance of the Chief Casino Officer against the same KPI be recorded in the minutes of the meeting of the GWC, do you think?

MR SARGEANT: Probably not, no. I don't recall that.

45

MR FEUTRILL: Would that have been communicated to the Chief Casino Officer?

MR SARGEANT: The fact that from my perspective, I viewed the performance of

him in relation to the casino --- one of --- sorry, the Gaming and Wagering Commission, one and the same. I can't recall some of the discussions, but Mr Connolly was very much involved in the preparation of the key performance ---  
5 (audio distorted) --- his responsibility was in the agency.

MR FEUTRILL: Okay. Was there an annual performance review of the Chief Casino Officer's performance?

10 MR SARGEANT: I can't recall doing it formally because we worked very closely with one another, but we used to have discussions about aspects of his performance and I can recall it was always good. He did have some issues, some interpersonal skills at times, but other than that I had no fault with his performance.

15 MR FEUTRILL: And is it your evidence that he was involved with you in setting his own key performance indicators?

MR SARGEANT: Yes, he would have been, yes.

20 MR FEUTRILL: Was that done on an annual basis for the year forthcoming?

MR SARGEANT: Because we had to do them for the Gaming and Wagering Commission every year, they were a requirement.

25 MR FEUTRILL: And the following year you measure that against what?

MR SARGEANT: The thing we are looking at is the target number of audits you do. And you would sort of identify some degree of violations which would be determined. One of the problems with it if you wanted to make a performance look  
30 good from the point of view --- cross per --- order of something --- and then you have a cost per the number of adverse findings. Quite often with the casino you wouldn't have many, so it always looks as though it was a very costly exercise, but if you had one or two (inaudible) but that was the performance that I looked at in relation to the position that he occupied.

35

MR FEUTRILL: Okay. Now that's based on --- am I correct in saying that is based on --- effectively --- the audit process that is undertaken by the inspectors ---

MR SARGEANT: The Auditor-General would have checked those.

40

MR FEUTRILL: The Auditor-General checks the KPIs?

MR SARGEANT: The Auditor-General would just --- sorry, the Auditor-General would have just audited the KPIs against those target ones set by the Commission.

45

MR FEUTRILL: But the targets were to achieve a certain number of audits?

MR SARGEANT: Yes --- (overspeaking) ---

MR FEUTRILL: I assume the --- audits turning up too many times.

MR SARGEANT: Yes, you are correct, sorry, yes.

5

MR FEUTRILL: Target number of audits of the casino operation in a given 12-month period, and then the Auditor-General would check to see that the correct target number had been achieved and if it hadn't been achieved, an explanation would be given for why that was so?

10

MR SARGEANT: We could report if we achieved those ourselves. The Auditor-General would only be confirming that what we provided in the statement was correct.

15

MR FEUTRILL: I see.

MR SARGEANT: We prepared the fundamental reports.

20

MR FEUTRILL: So --- now the audits that we are referring to here, I'm now referring to the casino audits, I will use that expression to distinguish it from the Auditor-General's audit, the casino audits are undertaken by inspectors, I think you said earlier ---

25

MR SARGEANT: Correct.

MR FEUTRILL: --- and those inspectors are employees of the department?

MR SARGEANT: Correct.

30

MR FEUTRILL: So, in effect, am I right in saying that the KPI --- in measuring the KPI, we are essentially measuring the department's performance of its function in inspecting the casino?

35

MR SARGEANT: As a service to the Gaming and Wagering Commission.

MR FEUTRILL: As a service to the Gaming and Wagering Commission. Yes. I think I follow that.

40

Now, you've got paragraph 60 of your statement there. You also make reference to government inspectors and you refer to them in the same paragraph as your reference to the Chief Casino Officer. There, the government inspectors are the people --- (inaudible) --- they are employees of the department who undertake the audit functions at the casino?

45

MR SARGEANT: Audit and inspection, correct.

MR FEUTRILL: Yes, audit and inspection. Just for clarity, they are also appointed

by, I assume, the Director-General under the Public Service Management Act provisions?

5 MR SARGEANT: Correct.

MR FEUTRILL: So they are not employees of the GWC itself?

10 MR SARGEANT: No. It is interesting, if you look at the legislation, the section about providing the services, one of the subsections is --- if the Commission want to employ people who are casual or part-time you have to get the permission of the Minister. It was quite clear that the service came from the department.

15 MR FEUTRILL: Yes. So is it your understanding is that effectively --- you are now referring to section 9(1) and 9(2), aren't you ---

MR SARGEANT: I accept that, I can't recall.

20 MR FEUTRILL: You are distinguishing between the one part of the section that refers to the Public Sector Management Act and the other part that refers to getting the Minister's approval.

MR SARGEANT: (Nods head).

25 MR FEUTRILL: Do I take it from what you've said that your evidence, or your understanding of the way that provision operates is that the part of the provision that deals with public sector management, the Public Sector Management Act is essentially a function of the Director-General of the department and if you want to employ casuals or other people, consultants, essentially, then you require the  
30 Minister's approval to do that?

MR SARGEANT: I would have interpreted that either the Director-General could have employed casuals as well, but if the Commission wanted to do it in their own right they would need the approval of the Minister. That is how I would interpret  
35 that. There was nothing in the public sector act, including me, for employing casuals and part-time people.

40 MR FEUTRILL: And is it your understanding, essentially then, just to be clear about this, that the way in which that section or those provisions operated preclude the GWC from employing directly the Chief Casino Officer and/or any of the inspectors that undertook the casino inspections and audits?

MR SARGEANT: Yes, that is my understanding.

45 MR FEUTRILL: Mr Connolly is not currently occupying the position of Chief Casino Officer, is he?

MR SARGEANT: No. Another gentleman has been appointed.

MR FEUTRILL: That is Mr Beecroft?

MR SARGEANT: Yes.

5

MR FEUTRILL: And he was appointed in February of this year?

MR SARGEANT: Yes.

10

MR FEUTRILL: Is he the Deputy Director of the department?

MR SARGEANT: No.

15

MR FEUTRILL: Was the position to fulfil the function of the casino, Chief Casino Officer, advertised publicly?

MR SARGEANT: No, I understand it wasn't.

20

MR FEUTRILL: Do you know how the appointment of Mr Beecroft was made as the Chief Casino Officer?

25

MR SARGEANT: I think as the Director-General of the department then made the appointment and brought it back to the Commission for support because it wasn't advertised. It was the fact that Mr Connolly had stepped aside they needed somebody in that position and the Director-General had identified Mr Beecroft as the appropriate person. I don't know whether his JDF was changed or not, but the Commission was asked whether they would support it, from my recollection of that meeting.

30

MR FEUTRILL: Okay. So your understanding is Mr Connolly stepped aside, is that right?

35

MR SARGEANT: I don't know what's happened but I understand that he stepped aside from that position, yes.

MR FEUTRILL: And what is the basis of your understanding? How have you become aware of that?

40

MR SARGEANT: Just from advice. Not so much me, but advice from members of the Commission. I wasn't --- are you looking for me to say I was formally advised or --

MR FEUTRILL: Yes. Well, how did you become aware of that information?

45

MR SARGEANT: Well, I became aware of the fact probably when the media made the point, but formally I was advised when the Director-General brought the appointment of Mr Beecroft to the Commission.

MR FEUTRILL: So when you say Director-General, you are referring to Mr Ord?

MR SARGEANT: Yes, yes.

5

MR FEUTRILL: And he brought the appointment of the Chief Casino Officer to the members of the GWC; is that your evidence?

10 MR SARGEANT: He did. He was looking for the support because I think the scenario which Mr Beecroft was to be appointed wasn't the normal scenario. Normally you do advertise and get time to do it. But this was a very --- I think an effort to at least fill the vacancy created by Mr Connolly stepping aside.

15 MR FEUTRILL: And when you say "support", what exactly do you mean by that?

MR SARGEANT: Well, it wasn't us resolving to appoint him.

MR FEUTRILL: Right. So there was no resolution to your knowledge ---

20 MR SARGEANT: There was a resolution to support, if I remember correctly, I don't know what the minutes read, but it wasn't the fact that the Commission would make the appointment. It was one because the appointment would have had to be made under the Public Sector Management Act, which would have been a Director-General appointment.

25

MR FEUTRILL: I see. So Mr Ord, in his capacity as Director-General of the department, made the appointment of Mr Beecroft, and he sought, paraphrasing your expressions, support the endorsement of the GWC for that appointment?

30 MR SARGEANT: That is my understanding, yes.

MR FEUTRILL: And is it your understanding that the GWC endorsed that appointment?

35 MR SARGEANT: Yes.

MR FEUTRILL: And did you individually endorse that appointment?

40 MR SARGEANT: I didn't oppose the resolution.

MR FEUTRILL: Well, there is a difference between not opposing and endorsing.

45 MR SARGEANT: Look, I might have had some reservations, but in the circumstance, I couldn't justify, so I was happy to go --- go with the resolution.

MR FEUTRILL: Did you express your reservations at the time?



MR SARGEANT: No, I didn't, no.

MR FEUTRILL: And what are your reservations?

5 MR SARGEANT: Well, I'm not sure what --- Mr Beecroft's qualifications are appropriate (inaudible), that was all.

MR FEUTRILL: What are his qualifications and experience, to your knowledge?

10 MR SARGEANT: It's not in direct casino gaming matters. I can understand --- the reason why I didn't oppose it was because I couldn't think of any other alternative for Mr Ord.

15 MR FEUTRILL: Okay. What is your understanding of the reason Mr Connolly made the position vacant?

MR SARGEANT: There were some reservations in my statement later on that addresses the issue that his friendship with one of the staff within the casino. I wasn't privy to the actual scenario or the background to that situation but it was  
20 decided that it was best for him to step aside given that the Commission was looking at responding to the Bergin Inquiry, and if he was still in that position I understand there were some concerns about the impartiality of the matter.

25 MR FEUTRILL: When did you first learn of the information that suggested Mr Connolly was friends with current or former employees of Crown?

MR SARGEANT: Can you be a bit more specific. Are you referring to Mr Marais per se?

30 MR FEUTRILL: I'm --- I think you just said that you became aware that Mr Connolly made the position vacant because of the --- it became public knowledge that he had a friendship with a number of ---

35 MR SARGEANT: Did I say number?

MR FEUTRILL: Sorry ---

MR SARGEANT: If I said number, I was referring to just the one person.

40 MR FEUTRILL: Who is that?

MR SARGEANT: Mr Marais, Claude Marais. I can't recall what section of the evidence, but I have acknowledged that in my statement.

45 MR FEUTRILL: When did you become aware of that?

MR SARGEANT: In my statement, I can't recall exactly because when I was asked

when it became an issue, what, October or November of last year Mr Ord rang me to find out because Mr Connolly had raised his friendship with Mr Marais sometime, I can't remember if it was 2014 or 2015, but I said --- my best remembrance is  
5  
sometime in 2015 (overspeaking) Director-General.

MR FEUTRILL: So your evidence is Mr Connolly raised with you as Director-General that he had a friendship with Mr Claude Marais. And what did he say to you about the nature of that friendship at that time in 2015?  
10

MR SARGEANT: The nature of the friendship was that he had an interest in fishing. Mr Connolly was a very experienced fisherman and boatsman and had raised the fact that they had been out in a fishing scenario, and I understand there might have been some help with Mr Marais buying a boat. I might not have that totally correct, but I think there was something along those lines. So Mr Connolly asked my view on it.  
15  
Now, when he discussed it with me, the one thing or two things I was aware of, one, I didn't see Mr Marais as an individual who was in decision-making where I was involved with oversight of the casino and, secondly, I wasn't aware, and Mr Connolly confirmed this with me, that there was an obligation that he had to Mr Marais. So in my considered opinion at the time, I didn't think there was a conflict of interest and said I was happy to endorse it. I remember one of the fellow directors of the department raising their concern that I made the right decision. I reflected on it. I think I did. I can't recall how long Mr Marais had been there, but from then right through I retired, I can't recall meeting Mr Marais in the sense of I was quite often  
20  
involved with the senior executives about running the casino. He might recall me at some other stage, the first time I did actually see him face-to-face was at a meeting of the Commission, I think September or October 2019, when they came in to address some of the issues to do with the Channel 9 60 Minutes report. So I didn't see him as a person of influence. And I had absolute faith in Mr Connolly. I had worked with  
25  
him many years. He had come through the ranks as an inspector. And I knew his integrity.  
30

MR FEUTRILL: Okay. I think you said earlier that someone else raised with you whether you made the right decision. Was that in 2015 or later?  
35

MR SARGEANT: No, it would have been around the time I made that decision.

MR FEUTRILL: Who was the person?

MR SARGEANT: I can't recall. I had two or three directors. One of them did raise it with me. And it was good that they did.  
40

MR FEUTRILL: So you had a discussion at the time and you call them a director, I presume a director of the department?  
45

MR SARGEANT: One of the senior people of the department.

MR FEUTRILL: Did you bring it to the attention of any members of the GWC at

that time?

MR SARGEANT: I don't recall. I don't recall.

5

MR FEUTRILL: Do you think it is something that would have been of interest to the members of the GWC at that time?

MR SARGEANT: At that time I didn't see it as an issue. I didn't that there was the ability for Mr Marais to influence Mr Connolly. If you are talking about now in the context of what I now know, I may have erred in that regard, but at that time I didn't see it as a conflict of interest, and I think most members of the Commission would have seen Mr Connolly never showing any sort of bias or favour towards Crown.

MR FEUTRILL: What was the source of your information about Mr Marius's role within the Crown organisation? Was that Mr Connolly's or your own information?

MR SARGEANT: My own observation.

MR FEUTRILL: So you knew who he was?

MR SARGEANT: I knew basically who he was and I knew he wasn't involved in what I can --- I used to use the word movers and shakers whether that is an appropriate term, that's people within the organisation.

25

MR FEUTRILL: Were there any other relationships with any other current or former employees of Crown which you are aware?

MR SARGEANT: There would have been one of our inspectors. Mr Hume had resigned and went to work for the Crown. Obviously Mr Connolly knew him from a previous time, I couldn't stop that sort of --- (inaudible) see that as an issue, that I would address --- he never raised it as an issue, and I never knew --- Mr Connolly never raised with me what the association with Mr Hume was.

MR FEUTRILL: I see. So you were not aware that he continued to have something more than a work relationship with him after Mr Hume left the employ of --

MR SARGEANT: That's correct. I can't recall Mr Connolly raising Mr Hume as an issue with me.

40

MR FEUTRILL: Anyone else?

MR SARGEANT: The only other one was the Chief Casino Officer, Mr Egan did go and work for Crown. I think Mr Egan was retired about 2009 or something like that (inaudible). I think it's 2009, but (inaudible).

45

MR FEUTRILL: All right, now can I return to another topic, which is you mentioned some reservations about Mr Beecroft's qualifications and experience. Are

you aware of his qualifications and experience?

MR SARGEANT: Offhand, I'm not aware now. Because he was appointed some time ago.

5

MR FEUTRILL: In February this year?

MR SARGEANT: Yeah, but you mean the department? He's a long serving employee of the department. A very good officer. A very good officer.

10

MR FEUTRILL: Yes. At the time that he was --- that the GWC endorsed his appointment as Chief Casino Officer, what information was provided to the other members, those who weren't in your position as Director-General of the department about his qualifications and experience?

15

MR SARGEANT: I don't think any CV was provided. I can't recall at this stage.

MR FEUTRILL: What was the nature of the discussion about the appointment of Mr Beecroft at the GWC level?

20

MR SARGEANT: Under the legislation we needed a Chief Casino Officer. Mr Beecroft was a good officer. And Mr Ord was recommending that the Commission endorse it. I didn't have any alternatives to put up in the circumstances, to be honest. If one is going to object to it strongly, one has to give a solution to the problem, and we needed a Chief Casino Officer under the legislation. So I don't think Mr Ord had much choice, to be honest.

25

MR FEUTRILL: Well, isn't one option for the position to be advertised publicly?

30

MR SARGEANT: That could be addressed but this was the immediate concern now is to get a person in place.

MR FEUTRILL: So is it your understanding that the appointment of Mr Beecroft is permanent or temporary?

35

MR SARGEANT: I don't know how Mr Ord has put it in place, whether it was temporary or permanent, I don't know.

MR FEUTRILL: And are you aware as a member of the GWC as to what specific functions Mr Beecroft has been asked to perform as the Chief Casino Officer?

40

MR SARGEANT: Well, he would be performing those which were associated to Mr Connolly's JDF to do with regulation of the casino, so he would be involved in supervising the inspectors and performing any delegated aspects of the duties.

45

MR FEUTRILL: Sorry, you said "he would have". Does that mean you don't have specific knowledge of what his specific function/role is under his appointment as the

Chief Casino Officer?

5 MR SARGEANT: No JDF was supplied to the Commission for the position, but there are specific references in the legislation, et cetera, about the Chief Casino Officer. Now, those particular functions would be performed by the person designated as the Chief Casino Officer.

10 MR FEUTRILL: Yes, you used an acronym, JDF?

MR SARGEANT: Sorry, job description form. Sorry.

MR FEUTRILL: I made the assumption but for the benefit of the transcript.

15 MR SARGEANT: The job description form. But he did not occupy the full position. There was someone.....

MR FEUTRILL: Do I understand --- just so I understand the current position, and I don't know that I do, actually, Mr Beecroft is fulfilling the function of both Chief  
20 Casino Officer and Deputy Director-General of the department, is he?

MR SARGEANT: No. I understand he is only filling the function of the Chief  
Casino Officer in relation to his other duties that he performs. He's the director and  
25 does things to do with policy. So he's not doing the Deputy Director-General position.

MR FEUTRILL: I see. So he is now fulfilling the function of effectively  
supervising --- I think you used that expression --- the Government inspectors who  
30 are undertaking the inspection and audit task at the Perth Casino?

MR SARGEANT: That is what I would have expected.

MR FEUTRILL: So you don't know?

35 MR SARGEANT: I don't know.

MR FEUTRILL: It is an assumption you are making?

40 MR SARGEANT: Yes.

MR FEUTRILL: I just want to ask you some --- take you to your statement again if  
you don't mind at paragraph 21. I have questions to ask about the department's  
support. We have I think already touched on this somewhat already today but I  
45 would like to come back to this paragraph in particular. You said in there that:

*At all time material times the Department has provided all the support for the activities of the GWC.*

You will recall where you answered questions of mine concerning section 9 of the Casino Control Act. When you use the expression "support" what do you mean by that exactly?

5

MR SARGEANT: Well, the monthly meetings of the Commission involved various sections, that is to do with casino, community gaming and wagering. So the department would provide all the agenda papers to all the assessment of matters which the Commission had to consider under those three broad headings. So that is what the department was --- a service in the case of the casino it would consider any submissions from Crown for changes to something, it would consider new games, consider the discipline of any members, report the audits that had been undertaken and of any adverse ones. At the last meeting, not the last one, the one before, we had some adverse reports about casino employees that hadn't reported convictions when they were required under the legislation to report them to the Commission within a certain period of time. So we had to address those with the COVID closed lockdown at that time it was postponed. They are the sort of activities which the department would have actually provided all the information for the Commission and then put it forward for them to make a decision.

20

MR FEUTRILL: So again I'm going to try and summarise some of the evidence you've given today. If you don't agree with it, just explain why and correct me. So, from the answer you've just given, do I understand you to be describing what you might broadly refer to as administrative services, so collating the papers for the members of the GWC, providing the information to the GWC for its meeting purposes, that's one aspect of the support and the other aspect we've dealt with earlier today which is the provision of the inspectors who undertake the inspections and audit function who in turn their reports may make their way into papers that are given to the GWC? So am I right in saying there are essentially two aspects to support this; there is administrative and there is regulatory support?

30

MR SARGEANT: Correct. And the regulatory support extended through community gaming as well. They provided all those as well, not just casino reports.

35

MR FEUTRILL: Yes. I'm not confining it --- I intended to confine it more to the casino but I understand what you are saying, and I appreciate that the GWC has a wider function than merely regulating casino gaming. So it is covering all of those -- - all of the activities of the GWC but specific for the purpose of this inquiry we are dealing with the casino. So the support you mean there is administrative and regulatory?

40

MR SARGEANT: Yes.

45

MR FEUTRILL: Now, can I go back to --- if I could put people into the regulatory bucket of support, individuals, as in the people who are performing that function --- are you aware who actually fills those roles as a member of the GWC?

MR SARGEANT: I don't understand the question at this stage.

MR FEUTRILL: Sorry, it was a rolled up --- you are quite right. I will rephrase it. As a member of the GWC, and perhaps you might know this also from your earlier position as Director-General, how many people within the department fulfil the  
5 function of a government inspector, so someone who has undertaken the audits and inspection functions?

MR SARGEANT: Offhand I couldn't tell you, but part of the problem there is they are not dedicated to just casino. They are inspectors across the breadth. Could be 16  
10 but I really can't recall the numbers. It is that sort of quantity of people.

MR FEUTRILL: Okay. In terms of employment fragility, your full-time employee equivalents, are you able to give an indication of how many full-time employee equivalents are occupying or fulfilling that function?  
15

MR SARGEANT: I would be just guessing.

MR FEUTRILL: Was it something you were aware of when you were Director-General?  
20

MR SARGEANT: No, I just saw them as a resource provided to the Commission in relation to the whole gambit of functions and sometimes it would vary depending on what the issues were available or confronting the Commission. If Crown had put in quite a big submission for something then we would have to take some inspectors  
25 who would normally do audits, off to work specifically on that particular program. I just saw them as a pool of people supporting the Commission. They are casino, they are community gaming and they are wagering.

MR FEUTRILL: I see. So their functions were --- these individuals, whoever they may have been, were specifically allocated to perform the functions of the GWC. Is that the effect of what you just said?  
30

MR SARGEANT: Those inspectors, yes.

MR FEUTRILL: They had no broader role within the department?  
35

MR SARGEANT: Sorry, yes, they also performed some liquor inspections but I was concentrating on the gaming. The inspectorate had some liquor duties as well but there were two types of liquor inspectors, one's that did the audit of going out and checking on facilities and then there were one's who were just there to check that the plans et cetera were being prepared. They had nothing to do the Gaming and Wagering Commission, those inspectors.  
40

MR FEUTRILL: I see. Were they people with the same kinds of qualifications and experience as the gaming inspectors?  
45

MR SARGEANT: They were --- the gaming inspectors and the wagering inspectors

and the liquor inspectors were basically a pool of people who did the audits across those wagering responsibilities and also the liquor responsibilities.

5 MR FEUTRILL: I see. So they are employed by the department?

MR SARGEANT: Yes.

MR FEUTRILL: In a governance inspectorial role.

10

MR SARGEANT: Yes.

MR FEUTRILL: And they carry out inspections for the GWC and for the liquor licence?

15

MR SARGEANT: Yes.

MR FEUTRILL: I think I probably know the answer to this. When it comes to those involved in performing administrative services, are they individually allocated to the GWC?

20

MR SARGEANT: No. If I could just put a qualification to the fact that you said preparing papers for the GWC, the inspectors would prepare them, another group of people would collate the agendas, take the inspector's reports. So the inspectors weren't involved in actually putting the agenda together. They would prepare the documents, but someone else would actually --- the secretariat would prepare and put them into agenda papers. So they would be a different group of people. And that is where Mr Beecroft was working in that area, that line, that sort of support.

25

30 MR FEUTRILL: The secretariat?

MR SARGEANT: Yes.

MR FEUTRILL: Who is within the secretariat then?

35

MR SARGEANT: Mr Beecroft --- we call it a policy area. I don't know what it is now, but I had a policy area and part of that policy area had responsibility of actually providing an executive officer support or secretary support to the Commission.

40 MR FEUTRILL: So approximately how many people employed in the secretariat area?

MR SARGEANT: I'd be guessing but Mr Beecroft --- look, currently, because of the amalgamation of the new department, or the various --- sport and recreation came together, I couldn't say what the numbers are. Again I would only be guessing.

45

MR FEUTRILL: I see. Were there any allocated specifically to performing the functions of the GWC?



MR SARGEANT: I'm not aware, that I think Mr Ord will answer that far better than I could.

5 MR FEUTRILL: At the time that you were chair or Director-General, were there any specific allocation of people to perform administrative functions for the GWC?

MR SARGEANT: No, they would perform them as required and do other functions as well. A lot of their functions could be involved in drafting minutes for the  
10 Minister. Ultimately it would require not just a gaming decision, there could be related matters. But they were purely a policy area.

MR FEUTRILL: As between the GWC and the department, is there any agreements or arrangement in place that deals with the employment of the regulatory staff and  
15 the administrative staff who provide services to GWC?

MR SARGEANT: There wasn't.

MR FEUTRILL: So is there any instrument recording, for example, the charges that  
20 would be levied for the provision of services by the department to the GWC?

MR SARGEANT: No.

MR FEUTRILL: So I take it that the department as the employer of all of the  
25 relevant people pays their remuneration?

MR SARGEANT: The department pay their remuneration. Yes.

MR FEUTRILL: Presumably that is through a budgetary process through the  
30 department itself. And there is a recoupment of some of the costs associated with that from the GWC, when services are provided? Were you involved as the Director-General or as Chair of the GWC, in the identification of how --- what charges would be levied against the GWC for the performance of those services?

35 MR SARGEANT: It was a process generated more as a departmental one. You put the budget together and look at the revenue sources available and then the revenue source basically was fairly static from the Gaming and Wagering Commission but there was no formal agreement.

40 MR FEUTRILL: All right. When we talk about budget processes, there are two budgets being prepared, one for the department itself, which is obviously bigger and there is one separately for the GWC; correct?

MR SARGEANT: Yes.  
45

MR FEUTRILL: I want to come back to that process and I will do that in due course. Before I do, can I ask you some quick questions? You mentioned earlier ---

you raised earlier that the ability of the GWC to employ casual, temporary staff and also I think consultants, you didn't reference consultants but the provision relates to consultants as well.

5 MR SARGEANT: Yes.

MR FEUTRILL: And in your statement you have said at paragraph 62 that external consultants were used by the department to advise on issues related to the operation of the Perth Casino and you make references to Gaming Laboratories Australia,  
10 having been engaged to assist in the audit of casino gaming revenues. When was Gaming Laboratories Australia engaged to your knowledge?.

MR SARGEANT: Look, it is not one that is ongoing. I can't recall the specifics but it is the sort of organisation which was used. Since I've been a member, they were  
15 used to give some advice on the return to player for poker/gaming machines. They had been employed to look at the casino revenue returns but they would have been engaged by the department. Not through the Commission.

MR FEUTRILL: Right. Now obviously --  
20

MR SARGEANT: That's my understanding.

MR FEUTRILL: So your understanding of the engagement of Gaming Laboratories Australia, is that of today, or when you were Chair and Director-General?  
25

MR SARGEANT: No. More of today. We didn't use them that much. Actually, I can't recall. We may have used them once for something. I know we used them once for wagering for something, but I can't recall for the Commission. But there could have been something --- but this is more in recent times, since I was a  
30 member.

MR FEUTRILL: To your knowledge has the GWC itself ever considered directly engaging the services of consultants or experts to provide it with advice in relation --  
35

MR SARGEANT: I'm not aware other than (inaudible).

MR FEUTRILL: Is it fair to say that, the reason for that is, it is something that would be left to the department itself to determine whether they would engage the  
40 services of external experts?

MR SARGEANT: In this scenario that would have been done in consultation with the Commission. It wouldn't have been done independently.

45 MR FEUTRILL: Would it have been done in consultation with the Commission because it's something the Commission would have to pay for ultimately?

MR SARGEANT: Ultimately we would pay for it through a charge from the department.

MR FEUTRILL: Speaking specifically now about Gaming Laboratories Australia. You may not remember, if you don't that is perfectly fine, was there identified a gap in the expertise or abilities of the department that was specifically being fulfilled by  
5 Gaming Laboratories Australia?

MR SARGEANT: In the case of the one about the return to player, the department didn't have the skill base to do it. And in the case of the review of the revenue, again the department would not have had the skill base to do that.  
10

MR FEUTRILL: I see. So the department itself identified, if you like, a gap in its own skill set?

MR SARGEANT: (Nods head).  
15

MR FEUTRILL: And in consultation with the GWC it then obtained the advice from external consultants?

MR SARGEANT: That would be my recollection. I would be very surprised if it was done independent, just to say here is the report, and now you are going to pay for it, somehow. It would have been aware that we needed some help in that regard.  
20

MR FEUTRILL: And is this a process --- is this something that happened on more than one occasion or is the only one ---  
25

MR SARGEANT: It will be more than one but more in recent times than before because the casino did change their management system and it was more IT based and we didn't have the skill base to assess it.

MR FEUTRILL: So when you say "recent times" can you put a time frame on it?  
30

MR SARGEANT: Since I have been a member, which would have been 2017.

MR FEUTRILL: So ---  
35

MR SARGEANT: I can't recall bringing them in but I know we used them for something to do with wagering and we did something with bookmakers, but I can't recall to do specifically with the gaming --- I am wrong there. If it was a bookmaker one, we actually required them to do some work on the betting system that the bookmaker was --- and I think in that instance, the bookmaker was expected to pay for it and not the Commission.  
40

MR FEUTRILL: So, there --- the Director-General wouldn't require the approval of the Minister to go and engage external consultants?  
45

MR SARGEANT: No. As long as you complied with the supply conditions then we didn't have to consult with the minister or the department.

MR FEUTRILL: So if, for example, the department identified a gap in its skill set and its expertise, there would be nothing to prevent it in consultation with the GWC of talking --- talking specifically now about the operations of the Perth casino, there would be no reason at all why it couldn't engage the services of an appropriately qualified expert to provide it with advice and meet the deficiency in the skill set of the department?

MR SARGEANT: That's correct. Sometimes, not in this case, you could have the set up of what I would call a common use contract, that is, people who have already been accredited and you can just go to that particular panel of people and choose one without having to go through the process of advertising, et cetera. And getting compliance.

MR FEUTRILL: Okay. If I might just --- I'm going to leave that topic for now, I will come back to it but I just want to deal with something that should take up a little less time, it should take us through to the lunch adjournment, if you don't mind.

As a member of the GWC, I expect you became aware of some notices that were served on the GWC by this commission. Were they brought to your attention?

MR SARGEANT: No.

MR FEUTRILL: They were not?

MR SARGEANT: Not until after the event.

MR FEUTRILL: Yes, but after they had been served on the GWC you became aware of them?

MR SARGEANT: Yes.

MR FEUTRILL: And are you aware through your position on the GWC, that the responses had been made to those notices by the GWC?

MR SARGEANT: I haven't seen the response that went --- this is the subpoena from the Bergin Inquiry you are talking about?

MR FEUTRILL: No, I'm talking specifically about this Royal Commission. It served notices ---

MR SARGEANT: Sorry, I'm getting confused.

MR FEUTRILL: Sorry.

MR SARGEANT: I was looking at it from the Bergin point of view. Can you repeat the question?

MR FEUTRILL: Are you aware that this Royal Commission has served notices on the GWC to produce documents and information to this commission.

5 MR SARGEANT: Yes, I am.

MR FEUTRILL: And are you familiar with the responses that the GWC has made to those notices?

10 MR SARGEANT: Yes, I am.

MR FEUTRILL: Were they provided to you before they were sent to this commission?

15 MR SARGEANT: At short notice I think we received them, but the information was --- a lot of the information came from the department.

MR FEUTRILL: I understand that. So you were provided with them before they were sent to the Commission?

20

MR SARGEANT: This Royal Commission, yes.

MR FEUTRILL: Yes, this Royal Commission. Understand me, when I use the word "commission" I mean this Royal Commission. You were given some notice of it  
25 before it was sent to the Royal Commission?

MR SARGEANT: That is my recollection but bear in mind it was a very rushed exercise to try and bring it together because we had responses which had been looked at by us as a group of Commissioners and we knew there was a raft of information  
30 been requested from the Department and indirectly it should have gone to the Commission first and then the Commission will sort it from the Department so I could be getting some things confused.

MR FEUTRILL: I don't believe there is any difficulty with --  
35

MR SARGEANT: I didn't refresh myself on the sequence of these events so --

MR FEUTRILL: --- these documents so I'm going to refer to Annexure A and Annexure B --  
40

MR EVANS: I have no difficulty with that. They've already been referred to.

MR FEUTRILL: I don't know if these have been tendered, Commissioners, but I will take Mr Sargeant to QNE.0001.0001.0001, which should be entitled "Annexure  
45 A".

If I could ask that Mr Sargeant be given an opportunity to scroll through it so you can

see the document on your screen.

5 MR SARGEANT: Can you go back one. I remember seeing that one, that document with the --- I think it was something to do with some payments, wasn't it?

10 MR FEUTRILL: Are you looking at the page, unfortunately my copy doesn't have the page numbers on it, the document with the stationery of the department at the top?

MR SARGEANT: I remember seeing that. 2.6.

MR FEUTRILL: Yes.

15 If you take your time just to read through it and if you could confirm for me if you have had the opportunity to see/read that document before it was produced to this Commission.

20 MR SARGEANT: I was under the impression that that had come to the --- probably to the Commission. Now, I'm not --- I can't --- it's on letterhead from the --- yeah, I can't recall, to be honest, exactly. I remember seeing it, there's no doubt I've seen it, but I can't recall the sequence of it.

25 MR FEUTRILL: All right.

If I could just draw your attention to two features of it; one is it is on the letterhead of the Department of Government, Sport and Cultural Industries, and if you turn to the last page, which is a signature, it has been signed by Fiona Roche who appears to be Acting Director-General.

30 MR SARGEANT: All I know is I had seen it. I know that we as a Commission had to respond some information. Definitely saw that before that was submitted but this one (inaudible) what came to the Commission was definitely cleared before it was submitted to the Royal Commission.

35 MR FEUTRILL: All right. Now, you are saying this document was taken to the Commission before it was submitted to the Royal Commission?

40 MR SARGEANT: I can't confirm that. That's what I'm saying. I can recall seeing it but I can't recall --- I know the question came to the Commission, and it was addressing the Commission some questions. I saw that one responded to, and I'm talking about the Gaming and Wagering Commission now, not the Royal Commission, the GWC, what was basically said on the GWC, to be supplied (inaudible) to the Royal Commission. I haven't got the scenes direct from the department to the Royal  
45 Commission and not via the GWC.

MR FEUTRILL: Okay. So you don't recall if there was a meeting at the GWC where you discuss this?

MR SARGEANT: In detail, no.

MR FEUTRILL: Can you look at annexure B then, the next document in sequence.  
5 Again, I ask you to read through it.

MR SARGEANT: Can you stop that out and roll it out. Continue now. Regulatory framework.

10 MR FEUTRILL: Take as much time as you like, Mr Sargeant.

MR SARGEANT: I can't control the roll of it. Can you move it forward so I can just go to the next bit of this. It's a good size, that. Keep going.

15 This document, I saw before that was submitted because I remember the reference to the Perth Royal Commission. I think later on in there there is reference to the fact that the powers of the Commission very much are limited to the site of the casino area. I'm happy to confirm that. We did see this before you, yeah.

20 MR FEUTRILL: You can see this one has the GWC's stationery at the top of the page. It hasn't been signed by anyone on behalf of the GWC. Is it your evidence that it was tabled at a meeting of the GWC?

MR SARGEANT: It was a meeting of the GWC members to consider the response  
25 to the Royal Commission. And the Chairman, Mr Ord, was not present.

MR FEUTRILL: The Chair was not present? Why was Mr Ord not present?

MR SARGEANT: He --- in the circumstance he thought he should step aside and  
30 not be influencing the Commission members per se.

MR FEUTRILL: Okay. So who was the source then of the information that was set out in this document? Who provided information for this document to be drafted?

35 MR SARGEANT: The information would have been compiled from the legal people that were supporting us members of the Commission to help bring it together for us.

MR FEUTRILL: Were you involved in the provision of information that led to this?

40 MR SARGEANT: I was involved in editing it.

MR FEUTRILL: And is it your evidence you read it at the time it was prepared?

MR SARGEANT: Yes, I did.

45

MR FEUTRILL: And at the meeting that you just described?

12:53PM

MR SARGEANT: It wasn't a meeting in person. We were doing it by Zoom and things like that but we had access to it, yes.

5 MR FEUTRILL: So you had a meeting by Zoom.

MR SARGEANT: Yes.

10 MR FEUTRILL: And were you satisfied that the contents of this document were accurate?

MR SARGEANT: I was happy with the content. I thought it was well-drafted.

15 MR FEUTRILL: Okay. Was it approved by some formal resolution or was it approved in some other way?

20 MR SARGEANT: There were some minutes of the record of the meeting and I can't recall now whether it said a "resolution" on it but the minutes were prepared, and recorded the fact that we supported it.

MR FEUTRILL: Was anyone else --- were any members in the meeting who dissented from the contents ---

25 MR SARGEANT: Not that I'm aware of, no. I'm not aware of.

MR FEUTRILL: All right.

MR SARGEANT: This was the document submitted on 22 April, is that the one?

30 MR FEUTRILL: Yes, it was. It was.

Commissioners, I'm about to move to a different topic. I wonder if it might be a convenient time?

35 COMMISSIONER OWEN: Yes, but before we break, can I ask that the *Casino Control Act section 29A* be brought up. *Mr Sargeant, I'm sorry to do this to you, I want to set you some homework. I hope it doesn't give you indigestion.*

40 You mentioned as part of the regulatory oversight functions, in answer to a question from Mr Feutrill, the question of looking at contracts and provision of services, I presume that this is the provision of the Act which gives that power?

MR SARGEANT: Yes.

45 COMMISSIONER OWEN: And will see in both 29A(a) and (b) to "prescribed subject matter" and "prescribed monetary limits". What I would like you to think about over lunch is whether or not there were at any time in your period, bear in mind that this came into the Act in the late 1990s, during your time after this came into



operation, whether there were any prescriptions of subject matter or monetary limits and, if so, what part did the Gaming and Wagering Commission, as opposed to the Department, play in the formation of those prescriptions?

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MR SARGEANT: I think I can answer it for you now.

COMMISSIONER OWEN: Fine. Thank you.

10 MR SARGEANT: The main control was monetary level and there was a prescribed level and the Gaming and Wagering Commission was consulted on anything to do with setting the levels. I think it was varied once. If I remember correctly, there is only one contract now that has prescribed it to a firm that provides IT services to Crown. That is my recollection now.

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COMMISSIONER OWEN: But so --- from where would the initiation of that process of proscription and approval come?

MR SARGEANT: From the Department.

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COMMISSIONER OWEN: Is it your evidence that the Gaming and Wagering Commission was involved in the process by which the prescribed limits or subject matter were formulated and the consideration of individual contracts?

25 MR SARGEANT: To the best of my knowledge, yes.

COMMISSIONER OWEN: Thank you. All right. 2.00 pm.

30 **ADJOURNED**

**[12:57P.M.]**

**RESUMED**

**[2:00P.M.]**

35

COMMISSIONER OWEN: Before we recommence, there may be an interruption at around about 3.15 with a matter to deal with this building. I will be looking through the contempt powers if it occurs!

40 Mr Evans, we had a request for Mr Sargeant's statement from the media. We intend to --- there is no documents attached, so it is just a statement, but as a matter of courtesy we're letting you know --

MR EVANS: Yes, I've actually communicated with (inaudible) we have agreed.

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COMMISSIONER OWEN: Thank you, and whilst you are on your feet, Mr Evans, that question I asked about the prescriptions under section 29A, at some stage could you tell us what was the method by which the prescription was made, because there

don't seem to be any regulations?

5 MR EVANS: My understanding it is by Gazettal notice rather than regulation, but it should be discoverable with the Gazette. I will have some inquiries made.

COMMISSIONER OWEN: Thank you.

10 Mr Feutrill.

MR FEUTRILL: May it please the Commission.

15 Commissioners, I think I omitted to tender the two documents, annexure A and B, to which I took Mr Sargeant to prior to lunch. I will formally tender those documents. It can probably go under one item.

COMMISSIONER OWEN: Separately numbered.

20 UNKNOWN SPEAKER: Those documents might already be tendered.

MR FEUTRILL: I don't believe they were. I don't have a --- I understand the response from the 15 April is in. It was tendered yesterday. But the 22 April was not tendered yesterday. I haven't tendered the letter, I only wish to tender the annexures.

25 COMMISSIONER OWEN: Yes. Then the document QNE.0001.0001.0001, which is annexure A, will be admitted into evidence as an exhibit if it hasn't already been admitted.

30 **EXHIBIT #QNE.0001.0001.0001 - ANNEXURE A**

35 The document QNE.0001.0001.0014, which is annexure B, will be admitted into evidence as an exhibit.

**EXHIBIT #QNE.0001.0001.0014 - ANNEXURE B**

40 COMMISSIONER OWEN: Thank you.

45 MR FEUTRILL: Mr Sargeant, in your statement you have said that the GWC did not have a specific budgeting philosophy for resourcing the regulation and oversight of Perth Casino and you said a pool of funds was allocated by the department in accordance with the budget set by the department and approved by the GWC to undertake the GWC's activities. I'm referring you to paragraph 63 of your statement. Are you familiar --- do you remain familiar with the provisions of the *Financial Management Act*?

MR SARGEANT: Not at present, no. Can you remind me?

5 MR FEUTRILL: Well, the process you describe is because of paragraphs 63, 64 and 65. Are you describing the budgeting process there in substance as the means by which the GWC complied with its requirements under the Act? You understand the GWC --- (overspeaking) --- estimate?

10 MR SARGEANT: Mm.

MR FEUTRILL: And so when you say the department prepared the budget, it was prepared by the chief financial officer of the department, wasn't it?

15 MR SARGEANT: For submission to the GWC.

MR FEUTRILL: Yes. And so the person who was the CFO of the department fulfilled the same function as CFO of the GWC?

20 MR SARGEANT: Correct.

MR FEUTRILL: And I think while you've expressed this statement in the past tense, as in what the position used to be, that remains the case today based on your experience ---

25 MR SARGEANT: I would confirm that, yes.

MR FEUTRILL: Could I just by way of an example of this just take you through the process we've described. I have questions to ask you about the --- I guess the budgeting process itself to see if there are any differences between what happened in the past and what is currently happening. If I could ask that the document GWC.0002.0016.0228 at page 1 be called up. This is a minute or agenda of a meeting on 27 March 2018. Just to draw your attention to the following, the second page, page 2, under the heading "11 SUBMISSION MATTERS" and then there is a reference to the GWC budget. Then further on in the document to page 212, there is an item for that agenda item, 11.3. Now, the author is --- do you know how to pronounce that name?

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MR SARGEANT: No, I can't.

40 MR FEUTRILL: That person occupied the position of chief financial officer of the department at the time?

COMMISSIONER JENKINS: Is that a question?

45 MR FEUTRILL: Yes, sorry, her name is Shanaeya Sherdiwala. She was the director and chief financial officer for the department in March 2018.

MR SARGEANT: I will have to accept ---

MR FEUTRILL: You don't know?

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MR SARGEANT: No, I can't recall that.

MR FEUTRILL: Okay. To begin with, do you have any recollection of attending the meeting on 28 March 2018?

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MR SARGEANT: I would suspect so, but I can't --- the minutes will reflect whether I did or didn't. I would expect I did.

MR FEUTRILL: Can I ask general questions about the process at least --

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MR SARGEANT: Yes.

MR FEUTRILL: --- so if I draw your attention to the page 213 and there is a heading "Recoup to DLGSC" an amount of \$4,170,575, and there is an explanation briefly, "to support the Commission". And the next heading is "Casino gaming licence Fee --- \$2,929,286".

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MR SARGEANT: Yes.

MR FEUTRILL: And if you move into the memorandum proper there is a memorandum to Mr Ord as Director-General from someone describing themselves as the Chief Financial Officer of 14 March 2018. If I could just draw your attention to page 217 and there is a reference under "cost of services" to "Services provided by DLGSC". Those other services, your evidence earlier today dealt with the regulatory and administrative nature provided by the department to the GWC.

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MR SARGEANT: Yes.

MR FEUTRILL: And the revenue under the services, the next heading further, down identifies fees that the GWC obtains from casino licensing, and they are identified there again as a budgetary item. To your knowledge, in what manner, and I'm speaking now about when you were Director-General of the department and Chair of the GWC, in what manner was --- were the amounts identified in the annual budgets for the services provided by the DLGSC determined?

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MR SARGEANT: The main structure was to look at the number of people in the area and what is being supported, and over time I think would have been set, probably many years ago, it just got an adjustment. Either if the numbers were down or if the costs had gone up because of salary rises, et cetera. But there was no process whereby you went down and individually identified exactly what people were doing. There was no contract in that.

45

MR FEUTRILL: So is it the case that it was a direct recovery of the employment

costs of those individuals?

5 MR SARGEANT: There would have been overheads because we had rent and things to pay. It wasn't just the department had overheads to cover. So there was a direct cost, but the department has more than just salaries to meet.

10 MR FEUTRILL: So there was a charge for the salary costs of the employees in question, plus some overhead component?

MR SARGEANT: That's correct. That is my recollection of it.

15 MR FEUTRILL: And who determined the overhead deponent and the recovery of that?

MR SARGEANT: That was mainly left up to the finance people to work through.

20 MR FEUTRILL: And was the breakdown provided to the GWC of the way in which that was calculated?

MR SARGEANT: Not that I recall, no.

25 MR FEUTRILL: And who determined who can or which employee costs would be included in the budget item for the service provided by the department?

30 MR SARGEANT: That I would have just left to the management of the particular division. So in latter years, divisions, that was coming through from the Deputy Director-General area because we had licensing people as well as regulation under those and there were some break ups in those sections, it wasn't something that I addressed personally, and it wasn't something that the Commission addressed.

35 MR FEUTRILL: Coming back to some of the earlier evidence, the department - and again you can feel free to disagree with this, I will try and summarise it - the department identified and determined the number of inspectors or officers who would be required to fulfil the functions of the GWC. It employed them, it prepared a budget for cost recovery of the services to the GWC, and then presented essentially that budget to the GWC at a meeting annually?

40 MR SARGEANT: Annually. The only qualification I can put on that is there would have had to be some allocation of people to their liquor duties. Because as I said before, the inspectors covered the gaming, which included casino and community, and wagering, it also did some liquor. So there should have been some recognitions in that process for the fact that a percentage of the regulator's time and inspector's times would have been devoted to liquor licensing.

45 MR FEUTRILL: So you think there was some form of apportionment of the costs between liquor and gaming?

MR SARGEANT: I expect so, yes.

MR FEUTRILL: When you say expect so, do you know so or --

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MR SARGEANT: No, I don't know so, I can't confirm that.

MR FEUTRILL: To your knowledge, was the breakdown of this ever provided to the members of the GWC for clarification?

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MR SARGEANT: I would say no.

MR FEUTRILL: So at the time then that the budget was annually delivered to the members of the GWC, was there any discussion around the budgetary items, to your recollection?

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MR SARGEANT: I can't recall a detailed discussion.

MR FEUTRILL: Is it fair to say it was essentially approved without really any question?

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MR SARGEANT: I would say that would be a fair comment, yes.

MR FEUTRILL: And that was during the period that you were Chair of the GWC?

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MR SARGEANT: That would be the case, yes.

MR FEUTRILL: And has that remained ---

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MR SARGEANT: In my opinion, yes.

MR FEUTRILL: --- (overspeaking) --- since you have been a member?

MR SARGEANT: In my opinion, yes.

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MR FEUTRILL: In your statement you've also given evidence that you are unaware of the GWC having any specific policies in place regarding the regulation and oversight for the Perth Casino or the risk associated with junket operations, money laundering, cash and electronic transactions at the Perth Casino, and criminals infiltrating casino operations, which you have described or defined in your statement as "risks". When I'm referring now to risks, that is what I'm referring to, and that's at paragraph 19 of your statement.

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You've also said that, and I'm now drawing attention to paragraph 75 of your statement, that the GWC does not have any policies and procedures relating to its exercise of its powers and discharge of its responsibilities and obligations in respect of the regulation and oversight of the Perth Casino generally, and the risks --- that's those risks specifically --- and if I could just draw your attention to paragraph 75 of

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your statement, I have questions about this.

5 You have provided an explanation for --- that the absence of many policies and you identify a number of reasons. One is that the Perth Casino is operated in accordance with a casino manual which is very detailed in its procedures and processes. What is your understanding of the manner in which that casino manual addresses the risks, as I say those risks that you've defined, in your description of risks?

10 MR SARGEANT: That manual addressed the risks within the casino footprint. That is where the audit was. So it was about compliance with procedures, compliance with the rules and the procedures included accounting for the money, table divisions, movement of chips and things along those lines.

15 MR FEUTRILL: I understand that, but what I'm specifically asking about is your understanding of how that manual addressed specifically money laundering and criminals infiltrating casino operations and matters of that nature.

20 MR SARGEANT: In the other parts of my evidence, I did make comment about whether the Gaming and Wagering Commission is basically the appropriate body to look at money, address money laundering broadly. And if you look at the powers that particularly the Commonwealth bodies have, they are empowered statutorily to look at money laundering. They are resourced. They are trained to identify, investigate and deal with money laundering. So my view was, in the case of that risk  
25 for the casino, it was something that was covered by another body, it wasn't one that we had the resources for. That doesn't mean to say that we don't have concerns for the money laundering if it was found within the context of the casino footprint.

30 MR FEUTRILL: So I understand from that that, if you like, the real reason, as I say, you are not suggesting, are you, that the operations manual actually did cover and deal with those risks to your knowledge?

MR SARGEANT: No, definitely --- if I had implied that, that is not correct.

35 MR FEUTRILL: So the reason you've given for effectively not addressing the risk effectively is because of the evidence you've given elsewhere about it being matters that were within the remit of other government authorities as to to investigate criminal activity, including at the casino?

40 MR SARGEANT: Well, we weren't a law enforcement agency in that regard. We do have specific powers to investigate matters, if you look at the powers under section 19. Then if we identify something, we do have those powers to investigate, but it is still a matter of us then reporting to the Minister on the outcome of those investigations. So if we are involved in anything of criminality, we rely very much  
45 on the WA police for those matters, and as I said, with respect to the money laundering in the broader sense, outside the footprint of the casino, we are relying on particularly the AUSTRAC.

MR FEUTRILL: So when you are saying "we" in that, are you identifying the "we" with the members of the GWC or the department or both?

5 MR SARGEANT: I would say both.

MR FEUTRILL: Both.

10 So in paragraph 26.1 of your statement, you have said that --- going back to support, this is a supporting matter, provided by the department to the GWC is adequate, and you say that, for example, that the department takes the lead of policy formation and development, and you provide that policy to the GWC for consideration and approval. In what you just described about, if you like, leaving "Risks" to other government agencies to investigate and prosecute, et cetera, is that a policy that was developed by the department and provided essentially for endorsement by the GWC, 15 or was it developed in some other way?

MR SARGEANT: If I can put it into context, I think it was a policy that is not in the same terms of the agency, but when I joined the department and the Commission 20 AUSTRAC was in place then --- and I can't say it was something developed separately, but it was something I inherited and continued along those lines. So I can't recall going back to the Commission and preparing a paper to specifically change that position.

25 MR FEUTRILL: Well, what was the position of the Commission before AUSTRAC, the GWC and/or the department before the introduction of that legislation by the Commonwealth?

MR SARGEANT: I don't know. It was something --- that legislation came to me in 30 1989 and I joined in 1992. I can't go back and give any reference to a specific position then.

MR FEUTRILL: Okay. Just dealing with that topic then, the AUSTRAC subject matter, this is dealt with in paragraphs 79 and 80 of your statement. And leaving to 35 one side 79 which deals with junkets, you are really discussing with me at the moment with what you have said in paragraph 80; correct?

MR SARGEANT: Yep.

40 MR FEUTRILL: And you've said there, when you talk about these risks, you called it criminal infiltration risks. You said:

*I do not believe that this was (or should be) a responsibility of the GWC .*

45 We've been dealing with this aspect of it. You said it was. Why do say you don't believe it should be the responsibility of the GWC?

MR SARGEANT: I don't think we are in a position to provide the sophisticated



financial analysis tools that would be required there. If you look at the expertise now in criminals trying to launder money in organisations such as AUSTRAC is far better resourced than I think the Gaming and Wagering Commission would be, particularly  
5 when I've gone to conferences and they have talked about the involvement of AUSTRAC, there always comes an issue of State versus Commonwealth legislation too. One of the aspects of the AUSTRAC legislation, and this I think was an issue for the Commission, is once they have lodged a document with AUSTRAC then the secret provisions, I understand, are invoked. It means it's very hard to get  
10 information on those aspects. But I was of the view and I'm now expressing it from hereon more than anything else, but I am still of the view to have a well-resourced agency to do it rather than spread over a number of agencies.

MR FEUTRILL: You say well-resourced agency; are you drawing a distinction  
15 there between the GWC and a Commonwealth agency, or are you suggesting that it would be better to have a well-resourced State agency with responsibility for investigating risks of this nature at the casino?

MR SARGEANT: I think a Commonwealth one, because our legislation is restricted  
20 to WA. And particularly now with the way that the casinos operate in the international market, moneys are coming in, overseas, and come in from other parts of Australia. So it's not so easy, in my opinion, for a State-based organisation to go to the extent to which a Commonwealth-based organisation could.

MR FEUTRILL: Okay. I think at this point your evidence is addressing the  
25 question of detection and prosecution of criminal behaviour. Would that be fair?

MR SARGEANT: In detection in what, in WA or?

MR FEUTRILL: In a casino environment of matters such as money laundering or  
30 other forms of infiltration of criminal elements.

MR SARGEANT: If it was evident within the footprint, so to speak, then we would  
35 have a responsibility, if it was evident.

MR FEUTRILL: If it was evident. So that is a question of if whether, you become  
aware of something in the course of the exercise of the functions of the GWC, you then are aware of it and need to do something about it.

MR SARGEANT: You would. And in the first instance we would probably involve  
40 the West Australian police.

MR FEUTRILL: The question is whether you would go looking. So to be proactive  
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MR SARGEANT: That --- go looking to the extent of --- what is happening on the  
45 floor is one thing, but if we were to go looking and invoking the powers which are available under the Casino Control Act and the Gaming and Wagering Commission

to investigate, we would have been looking for some sort of evidence that something was wrong.

5 MR FEUTRILL: In that answer, are you accepting then, are you, that there is power or that there would be power of the GWC under the current legislative framework to carry out a proactive investigation of risks such as money laundering or other forms of criminal infiltration?

10 MR SARGEANT: We could do, within WA.

MR FEUTRILL: And do I understand your evidence to be that the reason that you have effectively not undertaken that proactive task is because you don't have the skill set within the GWC to do so?

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MR SARGEANT: That is one aspect of it. But I also consider that --- because it goes beyond West Australian borders, I'm not sure how effective our investigation would be. If --- from my perspective, I would have relied on someone like the Commissioner of Police or someone to raise an issue with us rather than us being able to devote resources to finding something. That doesn't mean we're not

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conscious of it within the footprint of the casino.

MR FEUTRILL: There is a power, isn't there, for you to seek advice from the Commissioner of Police under the Gaming and Wagering Act?

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MR SARGEANT: Look, I can't recall. I will have to accept that.

MR FEUTRILL: If you can't recall ---

30 MR SARGEANT: No, I just can't recall that. That is under the Gaming and *Wagering Commission Act (WA)*.

MR FEUTRILL: I think that earlier today you accepted there is a power of the GWC, and/or the direct departments for that matter, to employ experts, consultants, as required to fulfil any gaps --- fill any gap there may be in the skill set of the department. So it is certainly possible, is it not, to utilise the services of people expert in forensic analysis and that sort of thing outside of the department?

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MR SARGEANT: It is possible, but, as I said before, we'd be looking for something evidentiary to justify going down that path.

40

MR FEUTRILL: I see. Is it a question of resources then? Funding?

MR SARGEANT: I don't think so. It's a matter of the priority in which we would operate. No, the resources, whilst they are limited, I don't think it would have been a stop-gap exercise to not to go forward.

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MR FEUTRILL: Can I ask you some questions --- you mentioned AUSTRAC and

it's a Commonwealth authority that gathers information, effectively, and passes the information on to other agencies.

5 MR SARGEANT: Sorry, I don't think they pass on to us because we're not a law enforcement agency under their legislation so it would be limited where they would pass it on to.

10 MR FEUTRILL: That is what I was going to ask you. Are you aware of any memorandum of understanding or anything of that nature with AUSTRAC or other agencies that would allow them to pass on information that would assist you to regulate the casino?

15 MR SARGEANT: The only memorandum was with other --- like the Victorian regulator and those sort of agencies. We had a memorandum of understanding for exchange of information. And we didn't have a memorandum with the West Australian Police, the department over the years has had a very good working relationship with the police. So there was no formal memorandum.

20 MR FEUTRILL: The West Australian police force would be a relevant source of information about criminal activity in the state generally. Would you agree with that?

25 MR SARGEANT: Yes.

MR FEUTRILL: I presume it would have intelligence relating to any criminal activity in the casino in particular? So it is --- the West Australian police force is a source of information that could have been utilised by the GWC; would you agree with that?

30 MR SARGEANT: When you say could have been utilised, I was probably putting it the other way. I was relying more on the police to raise matters with us rather than us going the other way.

35 MR FEUTRILL: Right.

So, just in a general sense, would it be fair to say that the position of the GWC as you understand it was to leave the investigation of criminal activity to agencies specifically tasked with that responsibility?

40 MR SARGEANT: Yes.

MR FEUTRILL: And rely on them to raise with you any concerning behaviour there may have been at the Perth Casino?

45 MR SARGEANT: Or whether we could use our powers to investigate something which may not be directly related to the casino at that point but could have some impact on the casino.

MR FEUTRILL: Aside from the investigation of actual criminal activity that is taking place as I say, or something that has historically happened, would you agree with me, because of the nature of the activities involved in the casino, there is a risk it will attract criminal elements to the establishment?

MR SARGEANT: It could do, but the issue is there is no way that we would know who they are unless the police provided that information.

MR FEUTRILL: I accept you wouldn't know who they were, but it would be something such as money laundering, for example, is an activity that might be undertaken, or the casino may be used for that purpose.

MR SARGEANT: Part of the answer to that depends on how they are doing it. If they were to come to the casino to try and money launder, for instance, one of the rules in the manual with respect to what we call winnings checks, if someone was to front up to the cage with a stack of chips and want a cheque, then the cage procedures require them to check that they had actually gambled the money. So there was something internally. The issue was when if money laundering was being used like has come to light with respect to the Riverbank account. That is not so easy for us to detect.

MR FEUTRILL: Mind me speaking in generalities rather than specifics, because I asked you a question about whether the risk of there being infiltration had been identified. And if so, what the GWC had done to satisfy itself that the licensee was managing those risks adequately?

MR SARGEANT: What would you class as infiltration? What sort of example would you think that would be?

MR FEUTRILL: Well by way of example, the use of organised crime connected with junket operations as an example. That is one example that springs to mind.

MR SARGEANT: Well, the issue with junket operations is we rely totally on the police to assess the credibility of those organisations. You will probably ask questions about it later on in respect to the change in the regulations, but it is a matter which would have to come from the police whether someone was suitable or not. There was no evidence that the police had any concerns with the junket operators.

MR FEUTRILL: Really what I'm asking you is did the GWC identify the possibility of --- it's called association of criminals with gambling activities as a risk that required management by the licensee?

MR SARGEANT: I understand that, yes.

MR FEUTRILL: And it was identified as something that required management by the licensee?

MR SARGEANT: It was identified but whether it was specifically set out in a policy --- I don't think it was set out in a specific policy. But the issue is that whenever I was to deal with the licensee over any matters to do with money laundering we were given the assurances they were complying with AUSTRAC requirements and that is  
5 spelt out, currently the thing about knowing your client et cetera.

MR FEUTRILL: So you were satisfied that the risk was adequately managed because of the requirement to meet the AUSTRAC ---  
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MR SARGEANT: Yes.

MR FEUTRILL: --- reporting obligations?

15 MR SARGEANT: That was my assessment, yes.

Mr FEUTRILL: You have foreseen that I want to take you to the junket issue as well, to understand a little bit more about that. You have mentioned in your statement, I think you just mentioned it again now, that there was a change in the regulations relating to the way junkets were to be regulated by the GWC. What is your  
20 understanding of a junket?

MR SARGEANT: It's basically a person who organises a group of people to come to the casino and in return for that service they will get a commission on the activity that that particular group provides to the casino in terms of turnover.  
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MR FEUTRILL: Okay, now before the change of the regulations, the GWC was involved in the approving of junket operators and junket representatives; wasn't it?

30 MR SARGEANT: Yes. What happened was the legislation was introduced in about 1998 or 1999, because we did recognise it as a risk, so it was --- the Act was amended and as a result of that, developed regulations to go through approval process for junket operators. What we found over time is we would have to give the --- we would give the application to the police to help determine the probity and the regulations labelled the GWC, because we hadn't been regulating before to provide  
35 an interim approval to the junket operators. The problem came because the police couldn't get an adequate clearance about those junket operators, and I understand also Interpol stopped issuing any information which is for licensing purposes, those junket operators continued to operate under interim approval. So we were giving  
40 them status which we just could not substantiate.

MR FEUTRILL: Do I understand it correctly to be that they were approved without, effectively, the probity having been being satisfied, and continued to operate under an interim approval on that basis?  
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MR SARGEANT: Well, prior to the Act there was no probity. We continued that on an interim basis.

MR FEUTRILL: So that your understanding is that before the Act was amended to insert the provision dealing with junkets, that junket operations were taking place at the Perth Casino?

5 MR SARGEANT: Yes.

MR FEUTRILL: And they were unregulated at that time?

MR SARGEANT: Yes.

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MR FEUTRILL: What is your understanding of the reasons for the introduction of the section in the Act to allow for regulation of junkets? MR SARGEANT: Because we recognised that it was a risk.

15 MR FEUTRILL: And what was the risk especially with junkets, specifically?

MR SARGEANT: Well the risk was that the people who were involved with the junkets were the criminal elements. So we were looking to see that they were suitable to be dealing with the casino.

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MR FEUTRILL: And is that a relation to international crime, the criminal elements, both domestic or both?

25 MR SARGEANT: It had to be. A lot of the source of the junkets was coming from Indonesia. So it would be getting clearance from the local police about them coming into Australia and providing these services.

MR FEUTRILL: Okay.

30 I want to come back to the process by which the regulations were amended. Before I do, in your statement you said that the GWC has issued a direction to Crown to cease junket operations.

MR SARGEANT: That's correct, yes.

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MR FEUTRILL: Now that is a direction given under the Casino Control Act. And if I could ask you to have a look at the direction itself, which is GWC.0001.0006.0019, page 40.

40 COMMISSIONER OWEN: While that's being brought up, did I understand your evidence, Mr Sargeant, to be that prior to the introduction of the regulations out of the 1998 amendments to the Act --- I think the regulations were 1999 --- is it your evidence that junkets at the Perth casino were unregulated?

45 MR SARGEANT: That's my understanding from my memory, yes.

COMMISSIONER OWEN: Do you have any knowledge of whether there were directions in force at any start time between 1985 and 1998?

MR SARGEANT: I'd be guessing. I cannot recall.

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MR FEUTRILL: Okay ---

MR SARGEANT: This is the current directions.

10 MR FEUTRILL: When was that direction issued?

MR SARGEANT: It would have been the February meeting,.

MR FEUTRILL: 2021?

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MR SARGEANT: 2021.

MR FEUTRILL: And by what process was the direction issued? Was there a proposal that the direction be given --- put to the GWC by the department?

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MR SARGEANT: Correct.

MR FEUTRILL: And were the terms of the direction framed by someone within the department?

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MR SARGEANT: Correct.

MR FEUTRILL: Was there any deliberation about the direction that should be given?

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MR SARGEANT: There was discussion, but I think generally there was full support for the directions to be given.

MR FEUTRILL: What was the reason for giving the direction at that time?

35

MR SARGEANT: Crown had announced the cessation of it, and given the issues to do with the money laundering, the Commission said, well, let's basically make it quite clear that henceforth they won't be able to participate in the junket, and they would have to come back and make a submission to the Commission, I would suggest, in the future if they were to want to resume this activity. But Crown had announced their cessation anyway.

40

MR FEUTRILL: Okay, but that was essentially a voluntary thing by the Crown group.

45

MR SARGEANT: That was them. They weren't directed to cease it, yes.

MR FEUTRILL: But this now provides direction that they are not ---

MR SARGEANT: They are not.

5

MR FEUTRILL: --- in the conduct of junkets, which over the page it is defined to have the same meaning as in the Casino Control Act. It goes on to address specifically something defined as "premium player activity" and "privileged player activity". Again, those activities are defined in the direction itself. Do you see those as something different to junket operations?

10

MR SARGEANT: They are different. A junket is where one is organising it, whereas if I had sufficient means I could come in as a privileged player in my own right, come in as a premium player in my own right.

15

MR FEUTRILL: So what is the thinking behind that kind of activity as well as the junkets?

MR SARGEANT: Well, I think at this stage, even --- those players could still be sourcing their money from nefarious means, so I don't think the commission discussed it in too much detail other than the fact that it was presented in that manner, but that's --- you've got both the operator and the players who could give you the same outcome in respect to concerns about the criminality infiltrating the casino.

25

MR FEUTRILL: Also, there is a qualification to it which is limited to table games in the definition. What do table games involve?

MR SARGEANT: Traditionally these players play baccarat, which is a table game. So rather than define it to table game, it was --- sorry, to baccarat, it was left "all table games". But the machines, it is a different client base. I don't think many of them would --- these high-end players would want to play.

30

MR FEUTRILL: So when you are referring to machines, you are talking about electronic gaming machines primarily?

35

MR SARGEANT: Yes, only electronic gaming machines.

MR FEUTRILL: Okay, so do table games include roulette and things like that ---

40

MR SARGEANT: Yes.

MR FEUTRILL: All right.

45

MR SARGEANT: As I said, traditionally these players play baccarat because it has the least house odds, I think the house odds on bank are just over 1 per cent. So it is about an even chance game.

MR FEUTRILL: So the directions are intended to prevent junkets and, if you like,



high-end --- high net worth players from overseas essentially utilising the Perth casino table games.

5 MR SARGEANT: In theory it could be a local high-end if that was the case. A privileged player.

MR FEUTRILL: Yes, I think it is limited to non-residents.

10 MR SARGEANT: There are some people that have residential status who are sourced from Asia who do it, but I accept that in the vast case it is the overseas people.

MR FEUTRILL: All right. What steps, if any, has the GWC taken or is it taking to  
15 monitor compliance with this direction?

MR SARGEANT: At this stage I can't answer that. It was passed, as I said, in a February meeting. Since then I'm more concerned with issues to do with the Bergin Report and the Royal Commission to turn our minds to that. But it is something  
20 which could be addressed in due course. But I hadn't seen the agenda items and I know the Commission itself hasn't given or issued any directions or requests to the department to generate an audit program for this.

MR FEUTRILL: All right, so at the time this direction was approved, there wasn't  
25 any view at that time that the department, through its inspectors, would undertake some form of inspection and audit to ensure compliance with this direction?

MR SARGEANT: There would be, but because Crown voluntarily said they weren't doing it, So the agency setting up the program is not there.  
30

MR FEUTRILL: All right. So, still staying with junket regulations more broadly, can I take you back to your statement at paragraph 79. I think there is a typographical error in this. I just want to check that I'm right about that. In your last sentence, you describe the process prior to the amendment to the regulations you say:  
35

*..... The regulations were ultimately repealed by the minister acting on the resolution of the GWC ..... I assume you mean "recommendation" there?*

MR SARGEANT: --- the resolution would have been in the form of a  
40 recommendation to the Minister. They would have been "resolve to recommend to the minister".

MR FEUTRILL: So then, how did that process, you were Chair at the time, so how did that process work by which the GWC passed a resolution making a  
45 recommendation to the Minister? Then what, what was the next step?

MR SARGEANT: Normally as the head of department I would have drafted the minute to go to the minister, based on the resolution of the Commission, GWC, and that would have outlined the case as to what we were proposing.

5

MR FEUTRILL: So you would have been --- you've now moved, I guess, from the role of Chair of the GWC to the role of Director-General of the department?

MR SARGEANT: Yes.

10

MR FEUTRILL: Preparing a briefing note to the Minister, presumably this would require Cabinet approval?

MR SARGEANT: It would have been in the form of a minute to start with getting his approval to draft the amending regulation. If he said no, it would stop there. If he said yes, we would then get permission to draft the regulation through Parliamentary Council and in that case the Minister could go straight to Executive Council to have that approved. The regulation change and the required Cabinet approval.

20

MR FEUTRILL: Right, I see. So if the minister was satisfied that the regulations required amendment, or in this case repealed --- large parts of them, he could make that recommendation to the governing council?

MR SARGEANT: That's right.

25

MR FEUTRILL: And then the regulations would be amended?

MR SARGEANT: And then those regulations are subject to disallowance by the Parliament. Now, there could be instances where the minister might say I want to go take this to Cabinet, but I can't recall. I don't think that happened in this instance.

30

MR FEUTRILL: A little earlier --- the genesis for the change to the regulations was a request from the licensee or the operator of the casino, wasn't it?

35

MR SARGEANT: That's what I recall. I can't quite recall the detail but it was quite a few years ago this happened.

MR FEUTRILL: Yes.

40

Commissioner, there is a bit of a debate about one of these documents. I might just not deal with it at the moment but take the witness to a --- sorry, I've got the wrong document; this one actually isn't the subject matter here --- (inaudible) --- any objection. Perhaps my friend will let me know if it is.

45

I refer to GWC.0002.0016.0001, page 1. This is an agenda for a minutes of a meeting in February, (inaudible) I said 2009, it could be 2010, I think, the

following year --- I draw your attention to item 8.2.

COMMISSIONER OWEN: There may be a problem with that document.

5

MR FEUTRILL: Oh, the document has not arrived. Perhaps we can put that to one side. In any case your recollection is that the genesis of the request to bring about a change to the regulations emanated from the operator or the licensee?

10 MR SARGEANT: I'm pretty sure they initiated --- (inaudible) --- we didn't go there --- on my recollection, yes, they did request it and it was looked at by the department.

MR FEUTRILL: The department --- so a person within the department considered this?

15

MR SARGEANT: Yes.

MR FEUTRILL: And made a recommendation to the GWC?

20 MR SARGEANT: Yes, that would have been the process.

MR FEUTRILL: And the GWC accepted that recommendation and made the resolution we --- spoke about earlier?

25 MR SARGEANT: Yes.

MR FEUTRILL: A little earlier today, you gave some evidence --- I think this may also be dealt with in your statement about --- there was some evidence given regarding a change from inspectors, government inspectors being embedded I think you said, to more of a remote audit process. And I think you mentioned that the year was 2015.

30

MR SARGEANT: Yes.

35 MR FEUTRILL: This may be the subject of some --- this is the document I referred to earlier. It may be the subject of some debate. Before I take you to that, or might need to take you to that, is it your recollection that the process that led to a more remote form of inspection and audit also commenced with a request from the licensee and operator of the casino?

40

MR SARGEANT: The decision in 2015?

MR FEUTRILL: Not the decision, but the request to change the way in which the casino was regulated internally at that time?

45

MR SARGEANT: I don't recall that request.

MR FEUTRILL: All right. I don't want to put you on the spot, Mr Sargeant, if you

can't remember, but I ask the --- this document is GWC.0002.0016.0148, it starts at page 1, and there is an application for non-disclosure of parts of this document, so it has been redacted already. I don't want to deal with that aspect of it at this stage. The  
5 redaction parts I don't need to take the witness to. I just want to take the witness to the letter that starts at page 6 of the document, which is a letter of 29 January addressed to Mr Sargeant.

If I can ask you, Mr Sargeant, on the parts that have also been redacted, to take an  
10 opportunity to read it.

MR SARGEANT: I read that section and a, b, c.

MR FEUTRILL: Yes.  
15

MR SARGEANT: I read e.

MR FEUTRILL: Is the handwriting in this document yours?

MR SARGEANT: No. I didn't initial that at all, so somehow it might have gone  
20 straight through to the section. I didn't see my initials on it.

MR FEUTRILL: Do you recall whether --- do you have a recollection now whether  
25 you ever received this document?

MR SARGEANT: I can recall the issue. This is table supervisions which is a  
difference to the idea of us reducing or taking the inspectors out --- to roster them  
out. This is a table supervision issue, which is built around the casino CCTV  
30 coverage.

MR FEUTRILL: So you say it is unconnected --

MR SARGEANT: Unconnected, yes.

MR FEUTRILL: All right. Then --  
35

MR SARGEANT: From my perspective here, I was aware that that is the pit bosses  
and the configuration of how many tables that they can supervise.

MR FEUTRILL: Okay. So there was a --- this may be ---  
40

COMMISSIONER JENKINS: Mr Sargeant, do you recognise the handwriting?

MR SARGEANT: No, I don't, as a matter of fact, no.  
45

MR FEUTRILL: I'd like to ask that Mr Sargeant be shown GWC.0002.0016.0155,  
page 1, the commencement of the document. I think this document has already been  
put into evidence, or has been dealt with yesterday. Is that the whole page 1, is it? Is

that the reference, 1? Looks like it's all been redacted. That will make it a bit difficult. Perhaps we could take you through to page 17 and agenda item 6.2.

5 MR SARGEANT: So this was August.

MR FEUTRILL: Yes.

10 MR SARGEANT: Would this have been the recommendation which led to the decision to adopt the presence to 20.5 hours a day?

MR FEUTRILL: Yes. Do you have a recollection of ---

15 MR SARGEANT: I think the decision of the Commission was to endorse the recommendation.

MR FEUTRILL: Yes. I want to take you to attachment one to that agenda paper and it's a document starting with heading "casino compliance strategy".

20 You can take your time and read the whole document. I just have a couple of questions about it.

MR SARGEANT: Page 20. Next one.

25 MR FEUTRILL: Which page are you reading from, Mr Sargeant?

MR SARGEANT: I don't have a page reference here --- (overspeaking) --- revenue tax but they use ATF quite a bit and that's what it meant.

30 MR FEUTRILL: That's fine.

MR SARGEANT: Okay, "What are our priorities?" You can scroll to the next section, thanks. Next page, thanks. That's it, is it?

35 MR FEUTRILL: There is an organisational chart at the very end of the document. Sorry, is it part of a process document, a flow chart of the process?

MR SARGEANT: Compliance planning and action process.

40 MR FEUTRILL: It's on page 25. Yes, you've been through that as well?

MR SARGEANT: Okay.

45 MR FEUTRILL: Is it your understanding that this attachment to the recommendation which is that of Mr Connolly that the document entitled "Casino Compliance Strategy" was accepted by the GWC at that meeting?

MR SARGEANT: It was, it was accepted as an aspirational document.

MR FEUTRILL: What do you mean by that?

5 MR SARGEANT: Essentially as to how we could go forward. I wasn't saying --- I don't recall, and I don't know how the minutes reflected it, but I can't recall it being saying you must do that to get that.

10 MR FEUTRILL: Okay. But has there been a change in your knowledge of this particular strategy since it was ---

MR SARGEANT: No, no, no.

MR FEUTRILL: Does it reflect your view of what the GWC strategy is today?

15 MR SARGEANT: Yes, but I don't think we've achieved as much of it, but the philosophy would have been there.

MR FEUTRILL: Okay. So, in other words, the strategy and objectives remain the objectives of the GWC --

20 MR SARGEANT: I'm not sure whether that's been brought forward to some of the new members of the GWC. There has been quite a generational change.

25 MR FEUTRILL: To your knowledge, has there been any suggestion at the GWC that there is a need to review the casino compliance strategy of the GWC?

MR SARGEANT: Well, the Commission has been talking about the need to have a planning session for some time. And I think of organising one but this document would be --- given that Mr Connolly is not there, I don't know whether the people  
30 preparing it would have actually identified that that is a document to be a starting point.

MR FEUTRILL: I just draw your attention to the heading "How would the department achieve these objectives", so it is not (inaudible) how they achieve these  
35 objectives, referring directly to the department, and it says that the department will take a proactive and risk-based approach in targeting and continuing operational compliance activities, et cetera. There is a reference there specifically to a risk-based approach to how the department would approach a compliance strategy. In your  
40 view, does that represent a shift in the GWC's approach to compliance?

MR SARGEANT: I think quite often you would have found that the interchange between department and GWC, as a compliance strategy --- but the move to having the inspectors not being there on a --- not being rostered to go on there is part of the strategy towards a risk-based anyway, so it was being embodied in what was  
45 happening and the programs being undertaken.

MR FEUTRILL: So you are saying --- GWC --- I guess on recommendation the

department was moved to a risk-based sense of management?

5 MR SARGEANT: Particularly on the floor of the casino. That is more on the casino footprint. I don't think it was embracing what we were talking about earlier about the bigger picture, the risks that were identified in the Terms of Reference for the Royal Commission. It was more about the ---

10 MR FEUTRILL: You were not managing the other risks --- (overspeaking) ---

MR SARGEANT: I'm saying it's about the floor of the casino.

15 MR FEUTRILL: Right. But would you accept that it reflected a change in approach from, say, the time it was embedding inspectors, they are there really counting money, as I think you said earlier, and ensuring that the things that were being inspected were being done on a day-to-day basis?

MR SARGEANT: The philosophy started some time ago. It hadn't been documented as such.

20

MR FEUTRILL: When do you say that philosophy began?

25 MR SARGEANT: The decision to go from 24/7 surveillance back in 2002. There would have been a greater acceptance of the need to be a more risk-based place because you couldn't have someone there certain times of the day, so you were addressing it. But this would reflect more of the status as at the 2015 point.

30 MR FEUTRILL: Was there like a formal bright line in the sand moment with the GWC where there was a recommendation that we move (inaudible) to a more prescriptive approach to regulation than a risk-based approach?

MR SARGEANT: I can't recall that ever being the case.

35 MR FEUTRILL: Would you accept it was more an incremental approach?

MR SARGEANT: Yes, I would.

40 MR FEUTRILL: You say it would be fair to say there wasn't any specific recommendation by the department to change the approach?

45 MR SARGEANT: Correct. This is probably the most --- well, the recommendation would have been quite specific about going from 24/7 to having inspectors there at certain times. Then the next one was the decision to put them more on a roster. They are the two monumental decisions of the Commission.

MR FEUTRILL: Again, you can disagree ---

MR SARGEANT: --- (overspeaking) --- GWC.

MR FEUTRILL: Would it be fair to say that the move to a risk-based, more risk-based approach was something that really happened without any consideration being given to the change from prescriptive approach to risk-based?

5

MR SARGEANT: I don't understand where you are coming from. Can you rephrase it?

10 MR FEUTRILL: The conscious decision to change an approach to regulation would be we have a prescriptive approach one day, and we decide that we are going to move to a risk-based approach the next. There would be a conscious decision made to change the methodology of regulation. Here, based on what you've said, it would appear to have been a more iterative and incremental approach without someone deciding they wanted to do it directly.

15

MR SARGEANT: I can't recall what happened in 2001, 2002 when the change was made, but that was a recognition that we had to go to a more risk-based. So whether it was a decision which meant that as in the next day it was totally risk-based, I can't recall, but obviously it was incremental to get to a stage.

20

MR FEUTRILL: What was driving the change to a risk-based approach?

25 MR SARGEANT: Well, we feel it was more cost-effective, and the question you had to ask is were we getting --- what value-added was being achieved by having inspectors there 24/7.

MR FEUTRILL: So there was, I assume, it was driven partly by fiscal efficiency and partly by utility?

30 MR SARGEANT: Yeah, and a philosophy, I think, that you could achieve your objectives without having to have people there 24/7.

MR FEUTRILL: When you say "philosophy", where was the philosophy emanating from?

35

MR SARGEANT: It would have been the department.

MR FEUTRILL: From within the department itself?

40 MR SARGEANT: Yes.

MR FEUTRILL: And who in particular would have been the source of that --- (overspeaking) ---

45 MR SARGEANT: I can't recall but it would have been --- we had --- I think we still have him on staff, an accountant who was --- maybe not --- I know he was driving quite a bit about the risk-based side of the activities and moving more towards



an audit approach rather than just the surveillance approach.

5 MR FEUTRILL: In a risk-based approach, would you accept that it requires the party regulated to also take some responsibility for ensuring compliance with the regulations?

10 MR SARGEANT: That's part of the philosophy, and that is normally internal controls. You would also ask the question, do you need to do something when they have their own controls in place. So all you do is check to see that those controls are being complied with. It does, I agree.

15 MR FEUTRILL: It requires you to effectively trust them to do the right thing, as it were.

MR SARGEANT: Yes. Yes.

20 MR FEUTRILL: And rather than standing there watching over their shoulder to be satisfied they are doing the right thing, you need to take other steps: audit and inspection?

25 MR SARGEANT: It meant that --- well, casinos are a classic case of internal controls, so it is a matter of you utilising that internal controls because the management has got as much of an interest as the regulator to ensure that things are complied with.

MR FEUTRILL: Why do you say that?

30 MR SARGEANT: Well, management have an objective of compliance. I believe that the chair of Burswood or chair of Crown, because they are absent from the organisation, would have an incentive just as much as I as the chair of the Commission to make sure there is compliance.

35 MR FEUTRILL: Do the GWC under take any process to investigate the internal compliance system of the licensee and the Crown Resort?

40 MR SARGEANT: I can't recall that far back what would have happened, but as part of the decision as I can recall there was some reference back to the internal controls, internal audits, but I can't recall the precise nature of the decision and what was considered from the point of view of the operator.

45 MR FEUTRILL: All right. In your time as chair, do you have any recollection of utilising the power to make a recommendation to the Minister under section 21A of the Casino Control Act, the section referring to the one that that requires investigation?

MR SARGEANT: We didn't recommend to the Minister to do an investigation, but I can't recall --- but we did recommend that we take some action against the licensee

on two occasions. But we had done the work within the department. And the Commission had recommended to the Minister that they take action and had given them notice that there was going to be a penalty imposed. I think it was twice in my  
5 reaction. So twice over the time that I was Chair.

MR FEUTRILL: And did the information come to you as a consequence of the inspector --- audit and inspection process or by some other means?

10 MR SARGEANT: I can't recall. One was a juvenile that had been let into the casino and had lost quite substantial amounts of money. The other one I can't recall the detail of it. And how that came to my knowledge, I'm not sure. I just can't recall, but I remember there was one about the juvenile gambling in the high-end facility. It would have been, I think, that one around year 2000.

15 MR FEUTRILL: Commissioners, that concludes the questions I have for this witness at this point in time.

COMMISSIONER OWEN: But you will be coming back to other matters in due  
20 course?

MR FEUTRILL: It is our intention to come back to other matters in due course and perhaps touch on some of those things in a bit more detail at an appropriate time, but now would provide an opportunity to the other counsel to ask any questions they  
25 may wish to ask.

COMMISSIONER OWEN: I'm pleased to note that we has gone past 3.15 without incident. Do you have any questions?

30 MR EVANS: No, thank you, not at this stage.

COMMISSIONER OWEN: Ms Seaward?

35 **CROSS-EXAMINATION BY MS SEAWARD**

MS SEAWARD: I did have one or two short questions on some of the issues on the relationship with the department I had one or two questions.  
40

Mr Sargeant, you were asked a series of questions about the support provided by the department to the GWC, and I think in the course of those answers you spoke of the support consisting of two aspects, firstly the inspectors conducting their audits and inspections, and then what was I think summarised at one point as administrative  
45 tasks. I just wanted to touch on those administrative tasks. Is it fair to say that there are quite a lot of tasks that would fall under that category? And by that I mean there is the clerical tasks of physically preparing the collating and gathering board papers, for example, but in addition to that, officers within the department will be preparing

the underlying papers themselves; is that correct?

MR SARGEANT: Yes.

5

MS SEAWARD: And the appropriation of papers could vary, but in some cases it would be involving a task of researching different policy or factual options, would that be right? Compiling a paper that collates all the information that has been gathered and all of the research that has been gathered?

10

That is a "yes" for the transcript?

MR SARGEANT: Yes. I apologise.

15

MS SEAWARD: Thank you. It's the end of the day. And that work can be quite complex and quite detailed work that goes into those papers?

MR SARGEANT: Yes.

20

MS SEAWARD: And the purpose of doing that work is to put forward options for the GWC to then consider for themselves?

25

MR SARGEANT: The intention is that the members are fully informed, and if they weren't, they need clarification, then there was no hassle or no problem in deferring an item.

30

MS SEAWARD: Yes, that would be my next point, so it was a two-way street then during the GWC meetings; questions could be asked by the Commission members to the departmental officers that were present?

MR SARGEANT: Yes.

35

MS SEAWARD: And if further information was needed, the departmental officer would go away and gather that information?

MR SARGEANT: Yes.

40

MS SEAWARD: And to the extent, as a part of doing that work and providing that support to the Commission, there was a feeling that external consultants were needed. That was an option that was open for the GWC to discuss with the department about adopting?

45

MR SARGEANT: They'd never ever be denied if they need something. That would always be considered.

MS SEAWARD: You were asked some questions about the regulation of junkets, and there was --- you were asked some questions about when the casino control regulations came in in 1999 that had those junket approval processes in place. You

said, to the best of your recollection, there wasn't anything beforehand. Was that your evidence?

5 MR SARGEANT: That is, and as the Commissioner referred to whether that was in the directions, I can't recall if it was in the directions.

10 MS SEAWARD: I was going to ask whether it may have been possible that prior to those regulations coming in, there were directions instead that dealt with regulation junkets?

MR SARGEANT: It's possible, I just can't recall.

15 MS SEAWARD: You were then asked some questions about the directions that the GWC endorsed and were then put in place earlier this year. And you were asked some questions about what steps the GWC put in place, or the department put in place to ensure that they were complied with.

20 It is the case, isn't it, that no junkets are currently taking place?

MR SARGEANT: That's correct.

25 MS SEAWARD: That's for two reasons, isn't it; firstly because Crown has voluntarily agreed not to conduct junkets, but also the international borders are not open, are they?

MR SARGEANT: Correct.

30 MS SEAWARD: So, at this point in time, there is no need to put in place steps to enforce the directions because they physically can't be contravened?

MR SARGEANT: That's correct.

35 MS SEAWARD: And if and when at the very least the borders open, that is theoretically when junkets become possible again? That's correct?

MR SARGEANT: That's correct. And I don't see it a difficult exercise to audit that. It won't be a difficult thing to organise.

40 MS SEAWARD: It will be part of the ordinary audit tasks that the current inspectors undertake, it can easily be added to the tasks that they do?

45 MR SARGEANT: I consider it similar to what's happening when the casinos had to close for COVID. There was a reopening process that had to be done. Those facilities would require quite an extensive procedure to get all the tables back and chips under control as well. As I said, it would be something very straightforward and won't be very complicated.

MS SEAWARD: Thank you. You were also recently shown document GWC.0002.0016.0155, which was the August 2015 agenda papers, if that could be brought up, and page 22. You were asked some questions about this page. This  
5 page, doesn't it set out the casino compliance strategy, does that in the first paragraph, sets out what the strategy will be, and its objectives is in the next heading. Then there are two parts. The first part deals with how the Commission will achieve those objectives, that's correct?

10 MR SARGEANT: Yes.

MS SEAWARD: So it's not just limited to the department, it firstly sets out what the Commission will do. That paragraph notes the Commission will use offices from the department to conduct various compliance-related activities, is that a fair summary?

15 MR SARGEANT: Yes.

MS SEAWARD: Then the remainder of the document goes on to describe how the department will achieve those objectives, correct?

20 MR SARGEANT: Yes. As I indicated there, sometimes the word "department" or "Commission/GWC" can be interchanged because the objectives are effectively the same.

25 MS SEAWARD: But this sets out, doesn't it, that this is what the department will do, but that is to inform the Commission as to what they are doing so the Commission can see how the strategy objectives are being met?

30 MR SARGEANT: That was the aspirational objective of the document.

MS SEAWARD: No further questions, thank you.

COMMISSIONER OWEN: Anything?

35 COMMISSIONER MURPHY: No questions from me, Commissioner.

### **QUESTIONS BY THE COMMISSION**

40 COMMISSIONER JENKINS: I just have a few questions, Mr Sargeant. Can I ask about the risk-based strategy. Would you agree that in order to employ a risk-based strategy, the first thing you've got to do is do a risk assessment?

45 MR SARGEANT: Yes.

COMMISSIONER JENKINS: So what risk assessments did GWC instruct were to be carried out after that compliance strategy was employed?

MR SARGEANT: Given what I've just said to you, I don't think that was undertaken. I can't recall that had been undertaken. The only thing I can say in defence of that is when it comes to looking at particularly the activities on the gaming floor, the risks over time hadn't changed dramatically. As I indicated in the evidence, it is a very mature product. The playing of many games are the same because they were 1985 to 20 --- 21 and 2015, so I don't think it was a major issue from that point of view. But had we, as counsel has indicated, talked about changing our approach to those risks, then I think we would have to do quite a detailed risk assessment to take that on if we proceeded down that path.

COMMISSIONER JENKINS: Because you spoke in relation to junkets, that you had for a long period of time appreciated there were risks associated with junkets, so if you were going to a risk-based strategy, it would be relevant to have a look at junkets again, wouldn't it, to see whether there were risks there that you could address?

MR SARGEANT: Looking at what you are saying now, I agree. But at the time, when I say "we", it would be more the department, the Gaming and Wagering Commission had been asked, you are looking at where we are going to go back into that particular area to identify, what we could do to mitigate or change what we experienced back in 2009. And that was not addressed, no.

COMMISSIONER JENKINS: You've said in your evidence that money laundering with respect to the Riverbank account was not so easy for you to detect. I'm not sure whether you were referring to the GWC or the department. You may have said but I haven't made a note of that. Do you recall who you were referring to there?

MR SARGEANT: I was probably in the evidence referring to myself in the sense that I wasn't even aware that the accounts were open and operating until, I think it was about August or September 2019, that they had the Riverbank accounts operating.

COMMISSIONER JENKINS: I wanted to ask you about that, because having read the Casino Control Act, there is provisions in there which says that basically the accounts operated by the casino have to be available for inspection by the inspectors. Are you saying that the Riverbank account was never made available for inspection or did the inspectors never ask to inspect the accounts? What are you saying there?

MR SARGEANT: I only became aware of it, as I said, since 2019, and even then it was in the context of Crown responding to the 60 Minutes investigation and it probably didn't register to me at that point. But later on when I had asked what came in, first of all I was trying to say did they actually advise us formally when they opened the accounts. The information I've got so far, and I've gone back to about 2012, and there is no record of any advice from Crown that the accounts had been opened, to the Commission, or to the department. I haven't been able to see what exactly provided, but I haven't seen it but Crown was (inaudible) their revenue reconciliations. I don't know what the inspectors were looking at or whether they

actually asked questions when it came in. I have no detail as to what was going on with respect to the Riverbank accounts. I've only come into it since I've been a Commissioner, and something which, had it come when I was Director-General, then  
5 I had known about it, I would have had to find out what was going on, so I can't answer the question about what was supplied. I don't know.

COMMISSIONER JENKINS: In respect to your evidence about relying upon other agencies, I just wanted to ask you the extent to which you spoke to those other  
10 agencies, either as Director-General or as Chair of the GWC or directed the department --- sorry, being convoluted because I only want to ask one question at the end of the day, but basically what I'm asking you is that in assessing that AUSTRAC and Border Force and WAPOL were carrying out functions which would detect money laundering at the casino, what inquiries were made of those entities to  
15 actually get formal advice that that was what they were doing?

MR SARGEANT: I didn't make inquiries formally. I had some informal associated with the WA police, but nothing formal. I didn't do that. I accepted that nothing had come to us from those bodies and particularly would have been WA police or  
20 AUSTRAC. I didn't expect it would come from other bodies, but particularly WA police if there were some issues. I did rely on them to raise issues with us rather than the other way around.

COMMISSIONER JENKINS: And in respect of the licensee, did the licensee say  
25 anything in its submission to the GWC about removing junket authorisations and regulations which led you to believe that those other authorities were covering the field, so to speak?

MR SARGEANT: I can recall that when we had discussions or any issues raised  
30 with this area, they were looking to --- particularly the Border Control --- over visa entry, and the other was the AUSTRAC requirements with respect to money laundering.

They didn't mention, I can't recall them mentioning anything about AFP and those  
35 sort of bodies. It was normally the Border Force and AUSTRAC was the reference, from my memory.

COMMISSIONER JENKINS: Do I understand from your evidence as you didn't  
40 make any formal inquiries with these entities, that neither did you seek, either on behalf of the department or GWC, to enter into memoranda of understanding with them over these ---

MR SARGEANT: Correct.

45 COMMISSIONER JENKINS: Can I move to another topic now, and that is the question of recouping of the value of services provided to the GWC by the department. I think your evidence was that you think that was done --- the value of those services was determined by finance people within the department; is that right?

MR SARGEANT: There would have been some reference back to the various heads about their requirements but essentially the finance people ran the process.

5 COMMISSIONER JENKINS: Is your understanding that the department sought to recoup the value of all the services it provided to the GWC, from the GWC?

MR SARGEANT: Yes. The department's budget was premised on that principle.

10 COMMISSIONER JENKINS: You mentioned, going now to another topic, you've acknowledged that the GWC has a role to play in respect of suitability of close associates of the licensee; do you recall that evidence?

MR SARGEANT: Yes.

15 COMMISSIONER JENKINS: And you said that the GWC could make inquiries in relation to those issues if information came to it which raised issues about suitability. Is that the import of your evidence?

20 MR SARGEANT: If they raise it with us, we could have --- if the Commission decided to do something, it wouldn't be done by the department in its own right because it does require the Commission to make recommendation to the Minister.

COMMISSIONER JENKINS: Sorry, say that again?

25 MR SARGEANT: If you look at the requirement to do things, the Minister would get involved in it. So I'm saying it's not something that would be done by the department. The Commission would be involved in any decision to investigate if we received information I don't think the department would just go off and do it on its  
30 own volition.

COMMISSIONER JENKINS: So I was going to just raise the example when there was information about Melco becoming perhaps a close associate of Crown or the licensee, did you --- do you recall whether the Commission, the GWC ever discussed  
35 that?

MR SARGEANT: We did because the --- Melco was --- this is the one where they were going to take more than 10 per cent because we would have discussed it from the point of view of having to approve them under the Casino (Burswood Island)  
40 *Agreement Act where we would have to get a probity approval notice. But that eventually did not transpire to the full extent correctly, so that we didn't have to go and do the investigation. We were looking to do it in conjunction particularly with Victoria. If it had gone through.*

45 COMMISSIONER JENKINS: So how far did you get in that process? Was it an agenda item at a meeting or?



MR SARGEANT: I think it was, but again I can't recall. It was something we were conscious of. The fact is if they were to take more than 10 per cent, then they would have to get a probity approval notice from WA from that one. That was very much  
5 on our agenda. And given that it was required under the Casino (Burswood Island) *Agreement Act we didn't necessarily rely on the associates provisions under the Act*, because we were looking at the 10 per cent margin. If we fought that issue, it was less than 10 per cent, we could use the close associates provisions, but it was more looking at from the point of view of the (inaudible) talked about more than 10 per  
10 cent. That's how we were proceeding on that one.

COMMISSIONER JENKINS: I'm then going to your witness statement and I've made a few notes on that about things that I wanted clarified, so bear with me.

15 The first one was in respect of --- it's paragraph 20 but it's also referred to in our --- you've also referred to this point in your evidence. It is referring again to other entities being relied on by GWC in respect of criminal matters. Can I just ask you, under the Casino Control Act, it is actually the inspectors, the government inspectors who are on the ground in the casino, the casino footprint, as you've described it.  
20 Having regard to that, aren't they in the best position to see what is happening at the casino, to inspect the books, in a better position than, say, WAPOL, who doesn't have those powers?

MR SARGEANT: I suspect it would work this way: if WAPOL had suspicions  
25 about an entity of some form which could be related back to the casino, we would do the work that you are referring to. We could use our powers, and inspectors had the skills to look at the books within Crown Perth.

COMMISSIONER JENKINS: So in that respect would it be helpful to have an MOU  
30 with the police which set out the roles that you each might take?

MR SARGEANT: I can't deny that advantage, but it wasn't something which we or I pursued in that time frame.

35 COMMISSIONER JENKINS: Looking at paragraph 22 of their statement, there is a reference to a delegation dated 28 April 2020. This is perhaps more something the parties might be able to tell me more than you, but I just didn't recall having seen that delegation. Has that --- Mr Evans, is that a written document?

40 MR EVANS: It is a written document. I have a feeling it might have been produced in one of our bundles and I think a copy might be annexed to either Mr Ord's or Mr Connolly's statement from memory, or referenced in there. They are readily available.

45 COMMISSIONER JENKINS: That would be helpful. Thank you.

Mr Sargeant, can I ask you what is your understanding of why that delegation was made?

MR SARGEANT: If I recall correctly it was to do with COVID issues. We were available to do things quickly. The classic one is we had many people who had taken out permits to conduct lotteries in raffles, and they couldn't sell them. So rather than  
5 get a commission meeting to decide or get regulations, it was easier to go ahead and let them cancel or vary dates or things along those lines. That was one of the principal things about anything else that could come up that could be handled very quickly, when it was COVID-driven.

10 COMMISSIONER JENKINS: Thank you. Moving on then to paragraph 30 of your statement, you refer there to a trip you made to Macau.

MR SARGEANT: Yes.

15 COMMISSIONER JENKINS: It says at the end of that paragraph:

*..... so that I, in my Director General role, could better understand Crown's competition in Asia.*

20 Could you elaborate on why it was important for you to better understand Crown's competition in Asia?

MR SARGEANT: Well, Crown's perspective was that the particular Chinese market was going to be very much a part of their strategy. And they were looking beyond  
25 completion of the hotel now and when matters were coming before, particularly the Minister and the Government rather than the Gaming and Wagering Commission, which required action under the Casino (Burswood Island) Agreement Act to implement, they just thought that people like I in particular didn't appreciate what their competition was out there. I hadn't been there for many years. So they were  
30 keen for me to travel to Asia and to look at the facilities. That is what they were proposing. As I indicated there, I didn't think I had the budget item there.

COMMISSIONER JENKINS: And did you have any view at that time in 2013 about  
35 the Chinese Government's view about Chinese citizens coming to Australia to gamble?

MR SARGEANT: No, I didn't, no.

COMMISSIONER JENKINS: But your understanding was that you were going there  
40 because that was the business strategy of Crown?

MR SARGEANT: I understood that Crown were looking to have the three sites, the Sydney, Melbourne and Perth as a suite of sites to attract the gamblers from  
45 mainland China, and it was very much a strong part of their strategy. That was their commitment to the Crown Towers Hotel agreement, a very important part of that. But they were looking beyond, once the hotel was completed, as to what they might need to do, and of course, as we know, what they planned to do, what eventuated

changed once the Chinese situation deteriorated.

COMMISSIONER JENKINS: Thank you, Mr Sargeant.

5

COMMISSIONER OWEN: Mr Sargeant, I have a few questions to ask of you. Could paragraph 12 of the statement be brought up. I want to ask you some questions --- I want to get a feel for the way in which the board of the Gaming and Wagering Commission operates. And someone once wrote in criticism of a board of  
10 a company that there was a lack of robust and sceptical questioning. That can of course be done respectfully. But in terms of the way this, and I'm asking you about your period when you were chair of the Gaming and Wagering Commission, and as a member of the Gaming and Wagering Commission, can you give me an impression of the way the Commission interacted in terms of their approach to the resolution of  
15 issues that came before them?

MR SARGEANT: I wouldn't say that the Commissioner was questioned by the department extensively on the matters that was --- particularly when it came down to technical aspects of the games. If you look at the Commission composition now, I  
20 would say there is much more questioning. The group Minister Papaliah has appointed, I think, question things much more in-depth than previous Commissions. That is my perception. The reliance on the department and me signing off on it in a sense, it was then just checking to see that we were being fair and what was in the community interests.

25

COMMISSIONER OWEN: All right. If paragraph 17 of the statement could be brought up. This is what was given to you?

MR SARGEANT: Yes.

30

COMMISSIONER OWEN: And I'm going to make an assumption, and I ask you to make the assumption, that this is the sort of material that was presented to other new members of the Commission as they came on board. I am going to ask ask you to make that assumption.

35

MR SARGEANT: I presume so, yes, yes, yes.

COMMISSIONER OWEN: Have you had any experience --- I think in paragraph 8 --- no need to bring this up, but at paragraph 7 you mention a number of other  
40 statutory boards on which you have been a member and sometimes ex officio chair. Leaving them to one side, have you ever had any experience of being on, say, on a not-for-profit board in recent times?

MR SARGEANT: No.

45

COMMISSIONER OWEN: Again, I will ask you to assume what I'm going to say to you, that with almost all not-for-profit boards of any size and complexity, there is a rigorous process of induction and formation about the underlying philosophy which

drives the organisation. You can call it culture, you can call it all sorts of things, but it is really about the philosophy, and in the case of the Gaming and Wagering Commission, I would have thought that the regulatory philosophy that underpins, that arises from the legislation and the statutory remit, is an important factor. Now, there is nothing there to suggest --- apart from the black letter law, there is nothing there to suggest that there was any form of induction or formation at that level of regulatory philosophy; is that a fair statement?

10 MR SARGEANT: That is fair call. Fair.

COMMISSIONER OWEN: Just going to paragraph 58, you gave some evidence about this this morning and you said there have been two occasions in which you have made suggestions to the Minister of people who should go on to the Commission, and on both of those occasions (inaudible) were accepted, but it looks to me as if, generally speaking, that is not the case, and you as the chair of the Commission, and the other members of the Commission were simply told who was going to be their fellow members, their new members. Is that a fair statement?

20 MR SARGEANT: Yes.

COMMISSIONER OWEN: Just sitting back now, does that strike you as at all odd?

MR SARGEANT: It does, but working closely with government over the years I probably accepted it as a norm in this area.

COMMISSIONER OWEN: Is it your experience that over recent times the approach of government generally to statutory boards of this nature has been changing and perhaps coming closer to a more contemporary standard as they are used in the commercial world and in the not-for-profit world?

MR SARGEANT: I wasn't aware of that, but in the case of the Gaming and Wagering Commission it was a matter of these people being selected to prepare a draft for the Cabinet for the appointment. I wasn't --- I hadn't any involvement in the commercial boards nor had I had any involvement with the not-for-profit.

COMMISSIONER OWEN: I come to other matters. I turn to the question of conflicts generally. You mentioned that there was a discussion, you can't remember the exact details, there was a discussion with Mr Connolly about his association with Mr Marais and you also recall that you were aware that there was a work relationship with Mr Hume, which Mr Hume then went on to work for the casino. Now, those two things aside, and leaving Mr Connolly totally to one side, in your period as the chair of the GWC, were you ever advised of any other possible conflicts of interest between an officer of the department and the casino?

MR SARGEANT: The only --- it never arose but the Chief Casino Officer, which I referred to this morning who was the inaugural Chief Casino Officer, he took some secondment and went to work, I think, Workers Compensation. When that

happened, the casino approached him to join them, and there was nothing in the legislations to stop him, and he did join the staff of Crown. He would have known many, many people within the agency, but I had the utmost respect for Mr Egan and I know he wouldn't have gone beyond those bounds. But no, not once did I have any other issue raised. I was aware that one of the inspectors was married to a croupier. That was the one person. But I think he was married before I arrived anyway.

COMMISSIONER OWEN: And the next question I want to ask you, I only want a quantitative answer. I don't want you to name names or give circumstances but in your broader remit, as the director of the department as it has been, as it is from time to time, not only the casino, was the issue of conflicts a significant one or did it hardly ever arise?

MR SARGEANT: Hardly ever, ever arose.

COMMISSIONER OWEN: Can I come to this question of the footprint of the casino. This is paraphrasing, but I think what you said in evidence was that if something were to occur within the footprint of the casino, I'm talking here about criminal activity of some description. If something were to occur within the footprint of the casino, then yes, that would be within the GWC's remit, but if it is outside the footprint then it becomes more difficult for the reasons which you have -- is that a fair statement?

MR SARGEANT: That is a fair summarisation.

COMMISSIONER OWEN: I want to ask you a bit more about the concept of the footprint of the casino. Let me put it to you this way. Criminal activity that might arise, for example, by the use of a bank account, it is --- it is to do with the casino, but the bank account is held in the CBD or maybe in Sydney. In your understanding, the way you've used that term "the footprint of the casino", is that within the footprint of the casino?

MR SARGEANT: No. What I would suggest again, if it had come from the police or other source to identify some issue, then we could use our powers to access some information. Again, I understand that we've got limited where we can go to, because the powers are basically West Australian-based, and then there is always the issue of whether it is the State responsibility or a Commonwealth responsibility to access information, but I wouldn't see that (inaudible) CBD.

COMMISSIONER OWEN: But is there not, if it is to do with records, for example, is it not a statutory obligation for records to be held within what you are referring to as the casino footprint?

MR SARGEANT: From Crown's point of view, they would be. But are you --- for instance, are you talking about the accounts of some of their clients or are you talking about Crown's clients?

COMMISSIONER OWEN: I'm talking about Crown --

5 MR SARGEANT: Definitely. If it was the ANZ Bank, I would have no qualms about accessing the accounts if we needed it. I was thinking more about the accessing the accounts of people who were putting money into the bank account.

10 COMMISSIONER OWEN: This is going to be a very broad question, but again I'm going to paraphrase and please tell me if I haven't got this right, but when you were in exchanges with Mr Feutrill about the regulatory function that involves community interest or public interest, and I think you agreed with those terms in your mind were interchangeable ---

15 MR SARGEANT: Yes.

20 COMMISSIONER OWEN: --- there were really three things; one, the fairness aspect so that the user of the facility could be confident that that game was being played according to the rules that had been set and agreed, that's the fairness aspect, the second one is harm minimisation, and the third was the questions of suitability.

25 And the broad question is this: in terms of the regulatory approach to ensuring that the gaming operations of the casino are free of criminal intervention, that there may be a distinction between being a law enforcement agency and actually detecting and prosecuting crime, which may well be, as you've said, the province of other authorities or agencies and for which other agencies have more resources and more expertise, that on the one hand, but the insurance, the assurance, that whatever it is that is said to you about processes - I'm talking here about processes - for the minimisation of the effects of criminal infiltration is tested. In other words, there is an audit process rather than the actual detection and the investigation, detection and prosecution of the illegal activity if that is what is found.

30 I should say there is no insinuation in that question. It is a question here of process. So the distinction that I'm drawing, between a role for the Gaming and Wagering Commission as a frontline detector of investigator of and prosecutor of criminal activity on the one hand, and the regulatory role of a Gaming and Wagering Commission as an assurance process, an audit process for the processes that are said to be in place.

35 MR SARGEANT: Well, I would agree it is the latter one, it is the processes that we would be undertaking. I'm very confident we had the fairness aspect under control in looking at some of the other aspects of the remit of what you've just said, we weren't as much concentrating on the process side beyond --- that is the process of what Crown was going on within the gaming footprint of the casino.

40 COMMISSIONER OWEN: Thank you. Mr Evans?

MR EVANS: Nothing at this time. Thank you, Commissioners.

04:02PM

COMMISSIONER OWEN: Anything arising, Mr Feutrill?

MR FEUTRILL: No.

5

COMMISSIONER OWEN: All right. Thank you.

Mr Sargeant, I'm not able to discharge you. We will need you again. We will give you as much notice as we can. So far as this aspect of your evidence is concerned, it's been very, very suitable for our purposes. Thank you very much. **THE WITNESS STOOD DOWN**

10

COMMISSIONER OWEN: Mr Dharmananda, the question of the non-publication order, what we would like to do is hold it over for a little longer because there are some issues that we want to raise with you. But what might be helpful is if your instructing solicitors could prepare a minute of order --

15

MR DHARMANANDA: Yes.

20

COMMISSIONER OWEN: --- and then we'll address that tomorrow.

In the meantime, the current situation is maintained, that the closed documents are available only to the parties who have been given leave to appear and they are not to be published in anyone else in any way.

25

MR DHARMANANDA: Thank you, Commissioners. We will attend to a draft of that in the form of proposed orders.

COMMISSIONER OWEN: Mr Evans?

30

MR EVANS: Commissioner, you asked me whether I could locate an order for the purposes of section 29A, which had been made. I have located one. It is in the Government Gazette for 7 September 2002, No. 159, page 383 which follows on from amendments to the casino control regulations. It appears to set a million-dollar contract limit. There are exclusions to the type of contract which it applies. That is the only one I've been able to locate at this time.

35

COMMISSIONER OWEN: Thank you very much. We will adjourn and resume at 10.00 am tomorrow. Thank you.

40

**HEARING ADJOURNED AT 4.04 PM UNTIL WEDNESDAY, 12 MAY 2021 AT 10.00 AM**

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