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**PERTH CASINO ROYAL COMMISSION**

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**PUBLIC HEARING - DAY 9**

**10.00 AM WEDNESDAY, 19 MAY 2021**

**COMMISSIONER N J OWEN**

**COMMISSIONER C F JENKINS**

**COMMISSIONER C MURPHY**

**HEARING ROOM 3**

**MR MICHAEL FEUTRILL SC and MS ESTELLE BLEWETT and MS GEORGINA CLARKE as Counsel Assisting the Perth Casino Royal Commission**

**MR NICK MALONE as Counsel for Mr Michael Christopher Connolly**

**MR PETER SADLER and MS MONICA MECEVIC appeared for Gaming and Wagering Commission of Western Australia**

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

**MR KANAGA DHARMANANDA SC 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**

10:00AM

COMMISSIONER OWEN: Thank you. Please be seated. I think we have Professor Hayward. Would you come forward please? Thank you. Would you give us your full name for the record, please?

5

PROF HAYWARD: Colleen Patricia Hayward.

**COLLEEN PATRICIA HAYWARD, AFFIRMED**

10

COMMISSIONER OWEN: Thank you, Ms Hayward. Sit down, thank you. Mr Sadler.

15

**EXAMINATION-IN-CHIEF BY MR SADLER** MR SADLER: Thank you, Commissioner.

20 Professor Hayward, were you summonsed to appear before the Perth Casino Royal Commission today.

PROF HAYWARD: Yes.

25 MR SADLER: And the Commission provided with that summons a list of topics which were to be covered during your examination?

PROF HAYWARD: Yes.

30 MR SADLER: And the Commission invited you to prepare a written statement in relation to those topics?

PROF HAYWARD: Yes.

35 MR SADLER: Do you have a copy of that statement which you prepared?

PROF HAYWARD: I do.

MR SADLER: Have you read the contents of that statement?

40 PROF HAYWARD: Yes.

MR SADLER: And are the contents true and correct to the best of your knowledge and belief?

45 MR SADLER: I do. Commissioners, I tender the witness statement of Professor Colleen Patricia Hayward AM, dated 12 May 2021, which has the number

10:01AM

GWC.0003.0004.0001.

5 COMMISSIONER OWEN: Professor Hayward's witness statement will be admitted into evidence as an exhibit.

**EXHIBIT #GWC.0003.0004.0001 - WITNESS STATEMENT OF COLLEEN PATRICIA HAYWARD, DATED 12 MAY 2021**

10

**CROSS-EXAMINATION BY MR FEUTRILL**

15 MR FEUTRILL: Thank you, Professor Hayward. I'm going to take you through some of the topics referred to in your statement and ask you to expand. I just want to clarify on some of them. I might go a bit beyond those topics, as well. That will be the general nature of the questions I have for you. If I could just start by referring you to your statement and paragraph 4 of it, dealing with your qualifications. Do I take it from that, that for the early part of your career you were a teacher?

20

PROF HAYWARD: It is correct.

25 MR FEUTRILL: And at what point in time --- did you continue teaching for a period of time? When did that conclude?

25

PROF HAYWARD: Towards the end of 1985.

MR FEUTRILL: And what did you do after that?

30 PROF HAYWARD: Having taken long service leave, I then started employment with the State School Teachers Union of Western Australia.

MR FEUTRILL: You worked with the union, how long were you in that role?

35 PROF HAYWARD: In and out for about ten years.

MR FEUTRILL: Then you did a Bachelor of Applied Science in 1991?

40 PROF HAYWARD: Yes.

MR FEUTRILL: Was that part of the work you were doing in the union or was it for a change of career at that point?

45 PROF HAYWARD: It was really just because the course looked interesting and I like to learn.

MR FEUTRILL: Okay. And did you continue with the union from then on, what

10:03AM

was the next step?

5 PROF HAYWARD: I went back into the union for 1990, '91 and '92 and '93 and then it was either '94 or '95 when I left there, probably '95, I think and thereafter worked with, part time with the Perth Aboriginal Medical Service and the Aboriginal Legal Service.

10 MR FEUTRILL: I see. And then you undertook a postgraduate certificate in Cross Sector Partnerships in 2008 at Cambridge University?

PROF HAYWARD: Yes.

15 MR FEUTRILL: What does that course involve?

PROF HAYWARD: Essentially, it's looking at how otherwise disparate groups come together for a common goal. So generally the disparate groups comprise government, corporate and not-for-profit and because they all come from a different interest base, getting the dynamics right between those parties is important if anything's going to be achieved out of any project work.

20 MR FEUTRILL: I see. And you've been on a number of boards of various organisations, including the Government Employment Superannuation Board from 1990-1996.

25 PROF HAYWARD: Yes.

30 MR FEUTRILL: Was that position as a consequence of your involvement in the union movement?

PROF HAYWARD: It was. I was a members' rep on the Government Employees Superannuation Board, so that was a position that was nominated through the then Trades and Labour Council, now Unions WA.

35 MR FEUTRILL: I see. In your statement you said, other than your experience you gained during your time as a member of the GWC, you have no specific qualifications or experience relating to the regulation and oversight of casino gambling. Do I take it from that, that the only experience you've received in respect of that is since you have been appointed or were appointed as a member of the  
40 GWC?

PROF HAYWARD: It is. I hesitate because you will note there that I'm also a member of the Fremantle Football Club and part of the AFL accreditation is a series of modules in terms of what players and officials are and are not allowed to do under  
45 that umbrella, and that includes gambling.

MR FEUTRILL: I see. And an element of regulation of the football industry, as well?

10:06AM

PROF HAYWARD: Yes, yes.

5 MR FEUTRILL: Okay. Now, are you familiar, or were you familiar with the qualifications and experience of the other members of the GWC for the time you were a member?

10 PROF HAYWARD: No, other than what people may have raised anecdotally. For instance, I knew that one of the now former commissioners was a retired police officer. That was something that only came up in conversation, not anything that was normally privy to us as members of the Commission.

MR FEUTRILL: Alright. Now, I'm referring to GWC ---

15 PROF HAYWARD: Yes, that Commission.

MR FEUTRILL: You understand what I mean by that?

20 PROF HAYWARD: Yes.

MR FEUTRILL: It's to avoid possible confusion. I'm talking about two Commissions here.

25 PROF HAYWARD: Yes.

MR FEUTRILL: Now, the time of your appointment as a member of the GWC I think was in 2006?

30 PROF HAYWARD: Yes.

MR FEUTRILL: Were you aware at that point in time of any specific gap in the skills of the members of the GWC you were intending to fill?

35 PROF HAYWARD: No, no.

MR FEUTRILL: Do you understand your appointment was made because, I think in your words you describe it as, you were "community-minded" and you had experience on other boards?

40 PROF HAYWARD: That's my understanding.

MR FEUTRILL: Alright. Did you consider that you could bring your knowledge and experience of appropriate board governance and practices to the GWC?

45 PROF HAYWARD: Absolutely.

MR FEUTRILL: Now, in paragraph 12 of your statement, you have referred to a

training occurring, you describe it as "on the job". What exactly do you mean by that?

5 PROF HAYWARD: For me, I think just about every meeting had an element of training included, with that being as we talked through the nuances of a particular paper that was part of that agenda. There was also some --- what I referred to as "on the job training" --- where at various times the GWC attended Crown to have a look at particular facilities and workings.

10 MR FEUTRILL: Alright. I want to get a sense of how the meetings generally ran. Not every single meeting, but I'll take that in two parts. You mentioned that when there was a report to the committee --- sorry, to the GWC, there was an element of on-the-job training in respect of that. Do you mean by that, that members of the  
15 committee were asking questions of the person whose report it was?

PROF HAYWARD: Absolutely.

MR FEUTRILL: And receiving answers, and were those questions about the way in  
20 which the person who prepared the report was undertaking their regulatory tasks?

PROF HAYWARD: Some of it was. Lots of it was about the actual content of a particular paper. Whether or not it made sense, whether there was sufficient  
25 background for the GWC to be able to make a decision.

MR FEUTRILL: And to whom were the questions directed? Were they always --- were the papers presented typically by the author, or was there someone else who provided the answers to your questions?

30 PROF HAYWARD: There was a bit of a mix. Generally the questions went to the chair of that meeting, but I also recall a period of time when authors of papers, especially ones that were really detailed, would attend the meeting to be able to answer questions directly.

35 MR FEUTRILL: I see. You've mentioned in your statement also there was a lot of experience on the board, and in that context you're meaning to do with the regulation of casinos and you've mentioned three people in particular --- Mr Sargeant, Mr Ord and Mr Connolly --- are they the people you're referring to only when it comes to people with experience on the board, or are there other members you mean by that?

40 PROF HAYWARD: They were the three main ones. Sometimes I think that, depending on the memory of people at the table, for instance some other people around the GWC table might have seen me in that light if we were referring to an issue that was still in my period as a Commissioner and I could give the background to a particular issue, but generally, it was Mr Sargeant, Mr Ord and Mr Connolly.  
45

MR FEUTRILL: I see. Obviously they were each --- you understood each of them to be employees of the relevant department?

PROF HAYWARD: Yes.

5 MR FEUTRILL: Were there any members of the board that you considered to have experience that were not department employees?

10 PROF HAYWARD: In my view, that depended on the issue at hand. There would be people who had particular expertise from their other involvements over time, but that was much less regular.

15 MR FEUTRILL: Okay. Now, I want to go back to your answer to an earlier question, where you mentioned there were visits to the casino.

PROF HAYWARD: Yes.

20 MR FEUTRILL: Approximately how many of those visits do you think there would have been during your quite long period on the GWC?

25 PROF HAYWARD: Once again, depending on what issues were at hand, then we might go more often, but I think over that period it wouldn't have been even once a year.

30 MR FEUTRILL: I see. And what were the nature of the visits you undertook? What were you doing at the casino?

35 PROF HAYWARD: Generally having a look at whatever new developments, for instance as new games were being introduced, we specifically had a look at the training room, where people who would be handling those games were trained to make sure that they knew the rules, were doing the right thing. So, that was one element. There was another element where lots of the security was automated in terms of the security cameras that were introduced. We went and had a look at that as well. There were other instances, but they are two that spring to mind.

40 MR FEUTRILL: And were there any occasions when you observed the government inspectors undertaking their task of surveying or monitoring the activities on the floor of the casino?

PROF HAYWARD: Not that I can recall.

45 MR FEUTRILL: Now, I think we may have touched on this a little earlier, but you've mentioned in paragraph 24 of your statement that there were times when you asked for further information and the GWC would have department research the matter and come back to the members. And, in that context, you've also indicated that there's a lot of knowledge and expertise provided by Mr Sargeant and Mr Connolly. Would it be fair to say that since all the knowledge of the manner in which gambling --- sorry, gaming and casino gaming was and should be regulated in Western Australia came to you as a committee member through --- sorry, as a

Commissioner through the department employees who were either on the committee of the GWC or employees of the department?

5 PROF HAYWARD: Yes, that's true.

MR FEUTRILL: You've also indicated that your view of the way in which the GWC operated was that people played to their strengths --- you used that expression in your statement --- and you've nominated that your strength you brought was rigour and a value mindset. Can you just explain what you mean by those two --- I mean "rigour" I understand --- but can you explain in the context of your role what you mean by that?

15 PROF HAYWARD: An example for me is that if we didn't have community-mindedness in the mix and it was strictly regulation, there would be no such thing as responsible service of gambling. That's an add-on to what happens on the main floor that is very much about people as opposed to profit.

MR FEUTRILL: Can you just explain that in a little more detail? Are you suggesting that if there were not a community-minded person on the GWC, then it would simply be a case of does the game operate fairly? Can you collect the correct revenue and it would be approved, but you were looking at it from a different perspective?

25 PROF HAYWARD: From that perspective, as well as, yes.

MR FEUTRILL: So what's an example where you would involve your community mindedness in reviewing a game?

30 PROF HAYWARD: Some of that was about the speed of games and how much I guess a person on an unlucky day could spend the faster the game obviously if they were insistent on staying there and playing more, potentially the more they could lose. So, one of the things that the GWC was particularly mindful of was speed of games. The lapse between games, so that if a punter, for want of a better word, it gave them breathing space to think about whether or not they wanted to stay playing or walk away.

MR FEUTRILL: Is this in connection what I might term "problem gambling", or is it something else you're referring to?

40 PROF HAYWARD: I think it's yes, definitely about problem gambling. One of the disappointing things is that lots of people that we or I might classify as a problem gambler, that particular person might not classify themselves as. So, some of it is about trying to help people who may not otherwise be in a position to help themselves.

45 MR FEUTRILL: And what steps did you take in order to assess games from that perspective of community interest that you've just described?



PROF HAYWARD: So the speed of games example.

5 MR FEUTRILL: Looking at the game, what elements were you looking for to protect community interest?

PROF HAYWARD: I'm not sure that I'm understanding the question.

10 MR FEUTRILL: You have mentioned the speed of the game. How were you able to identify the speed of the game?

15 PROF HAYWARD: We got reports on how that was actually played out. We also had --- there was an external, I suppose voracity check in terms of whether that was right. So it wasn't either the department or the GWC or the casino saying the speed of the game is x, that was actually verified by an external and independent assessor in terms of that. Sometimes, if there was a particular game where we wanted that information, we would ask for it specifically and that would be detailed and come back to us.

20 MR FEUTRILL: And to your knowledge, were there any specific policies set by the GWC regarding matters such as the speed of games, or that they should meet certain criteria against which the department officers were to assess them?

25 PROF HAYWARD: There were decisions made and to my knowledge, carried out, but I didn't ever see a policy manual per se.

MR FEUTRILL: When you say "decisions made and carried out", what are you referring to there?

30 PROF HAYWARD: GWC decisions.

MR FEUTRILL: So, after a decision had been made by the GWC saying it was carried out, is that what you mean by "decisions made"?

35 PROF HAYWARD: If a paper came to us and we made a decision, you would expect that that decision is going to be implemented.

MR FEUTRILL: Yes.

40 PROF HAYWARD: Is that what you're asking?

MR FEUTRILL: How did you verify that it was implemented after the decision had been made?

45 PROF HAYWARD: Sometimes we asked for progress reports in six months time or in 12 months time, depending on the issue, so that we could actually do that check ourselves.

10:20AM

MR FEUTRILL: I see. When you say there wasn't a policy manual or anything of that nature, was there any way in which you collected, for example, prior decisions on things you've just been describing, as in the type of games, in a central repository that you could review?  
5

PROF HAYWARD: Not by the GWC.

MR FEUTRILL: Do you know if it was done by the department?  
10

PROF HAYWARD: I don't know with any certainty.

MR FEUTRILL: Were there any occasions when you sought the assistance of a third party --- what I mean by a third party, a non-departmental person or non-member of the GWC --- to assist you with your functions on the GWC?  
15

PROF HAYWARD: The main one was that example that I just used in terms of there being an external independent check of the operations of a game such as the speed of the game.  
20

MR FEUTRILL: And who engaged that? Who was the person --- first of all, who was the person you engaged, do you remember?

PROF HAYWARD: I don't.  
25

MR FEUTRILL: It was a third party consultant of some sort, was it?

PROF HAYWARD: Yes, it was an organisation, a firm.

MR FEUTRILL: And was that organisation engaged directly by the GWC, or was it some other process?  
30

PROF HAYWARD: I'm not certain.

MR FEUTRILL: And who --- do you know who requested the advice that was sought from the third party?  
35

PROF HAYWARD: It --- that was a regular process, that was part of having the games approved.  
40

MR FEUTRILL: I see, and that process had been undertaken by the department at the first instance or someone in the GWC? When you were approving a game, perhaps we start with when a new game was sought to be approved, who had responsibility for reviewing the game and making the recommendation to the GWC?  
45

PROF HAYWARD: Representatives from Crown would present to the GWC. They would demonstrate how the game would work and from that point, the GWC either

withheld approval or approved in principle.

5 MR FEUTRILL: When you say the GWC, do you mean directly to the members of the GWC, or via a person who was employed by the department first? In other words, did people from Crown visit or make presentations directly to the GWC?

PROF HAYWARD: Yes.

10 MR FEUTRILL: And was that the point at which you considered you were then making a decision to approve it or not approve a new game?

PROF HAYWARD: Not while representatives from the casino were in the room. That was something we did as the GWC in our own right.

15 MR FEUTRILL: And was there typically a paper prepared by someone from the department before or after the presentation by Crown?

PROF HAYWARD: Often before.

20 MR FEUTRILL: And in that paper, was there an assessment undertaken of the games by the departmental person?

PROF HAYWARD: That's my recollection.

25 MR FEUTRILL: And so if a third party was involved, was that then at the request of the GWC first, or did it come to you, if you like, prepackaged having already been obtained by someone from the department?

30 PROF HAYWARD: I think it followed. Our approval was only ever in principle. I mean, you don't have a business, go off and produce or manufacture ten machines, for instance, only to then find that approval is not there. So, for any of that manufacture, you actually need at least in-principle support to be able to expend that money. That's just business principles. Part of what then came forward for final  
35 approval included that additional information from the external testing.

MR FEUTRILL: I see, and was it your understanding that the external person was engaged by someone within the GWC itself, or was it the department first?

40 PROF HAYWARD: That's the same question as before and I still don't remember.

MR FEUTRILL: It's not a memory test, that's fine. Okay. Now you've mentioned in paragraph 34 of your statement that recommendations were made by people within the department and they were not always accepted. Are you able to provide an  
45 example of the circumstance where a recommendation was not accepted?

PROF HAYWARD: I know there was some. I couldn't point to a specific one.

MR FEUTRILL: And just talking in generalities then, if it wasn't accepted, what would typically be the procedure after a recommendation was not accepted? Would it be returned to the department for further consideration, or was it the end of the matter from your perspective?

PROF HAYWARD: It depended on the issue at hand. While I can't come to specifics, there are some where the board made a decision and it wasn't just to not accept the recommendation that had come forward. We went with a different decision and there was some instances where it was referred back to the department for additional information to come forward.

MR FEUTRILL: I see. I will just move to a slightly different topic if you don't mind. I did have another question, but I think I'll leave it for now. Can I ask you to turn to paragraph 22 of your statement and turning to the materials that you received when you were first appointed as a member of the GWC and I guess materials you received over the course of the time you were a member, now you've said you were provided with a copy of the Gaming and Wagering Commission Act and at some point you received a document, a publication of the Public Sector Commission, which is the "Board Essentials" document. Do you recall whether you were provided with other regulations and Acts that were dealt with by the GWC?

PROF HAYWARD: I can't recall specifically.

MR FEUTRILL: Did you become familiar with the Acts over the course of your time as a member of the GWC?

PROF HAYWARD: Both the Act and the regulations, and I'll clarify linked to the previous question, when board papers came to the GWC, they included background which referenced specific clauses in the Act and specific regulations that were pertinent to that matter.

MR FEUTRILL: Did you understand as part of your function was the regulation under the Casino Control Act as well as the Gaming and Wagering Commission Act?

PROF HAYWARD: Yes.

MR FEUTRILL: And the regulations under the Casino Control Act, as well?

PROF HAYWARD: Yes.

MR FEUTRILL: Were you familiar at the time with the State agreement between the State and the licensee of the Perth Casino?

PROF HAYWARD: I don't recall that.

MR FEUTRILL: You were not made familiar with the ---

PROF HAYWARD: I don't recall that.

MR FEUTRILL: You don't recall whether you were or you weren't, you can't say  
5 one way or the other?

PROF HAYWARD: That's right.

MR FEUTRILL: Were you provided --- were you aware of the existence of  
10 something that's referred to as the "Casino Operations Manual"?

PROF HAYWARD: That sounds familiar. But, once again, I can't be certain.

MR FEUTRILL: Okay. Are you familiar with the powers that the GWC could  
15 exercise under the Casino Control Act regarding the regulation of the Perth Casino?

PROF HAYWARD: Once again, it would depend on the matter that was at hand and  
the information that came forward to the GWC in making our decision.

MR FEUTRILL: Do you recall whether there were any occasions when a  
20 recommendation was made that the GWC give a direction to the licensee of the Perth  
Casino?

PROF HAYWARD: I'm not sure if this example fits in that context, but one that  
25 springs to mind is the amount of money that could be held in the escrow account.

MR FEUTRILL: And that's the escrow account of the ---

PROF HAYWARD: Of the casino, yes.  
30

MR FEUTRILL: --- of the casino. And you think there may have been a direction to  
made regarding the amount to be held in that account?

PROF HAYWARD: I know there was a direction made. Whether that falls under  
35 the regs is what I'm not certain of.

MR FEUTRILL: I see. But there was a recommendation made that the GWC make  
a direction and, so far as you can recall, that recommendation was accepted and the  
40 direction was made?

PROF HAYWARD: Yes.

MR FEUTRILL: Were you provided at any time with any document that set out or  
summarised the various powers of the GWC under the various pieces of legislation  
45 that's relevant to the exercise of its functions?

PROF HAYWARD: I don't recall that.

10:30AM

MR FEUTRILL: When you say "don't recall", do you mean you don't remember or you have a positive recollection you did not receive one?

5 PROF HAYWARD: I don't recall.

MR FEUTRILL: One way or the other?

PROF HAYWARD: That's right.

10

MR FEUTRILL: When you were provided with a publication, the Public Sector Commission's "Board Essentials", did you familiarise yourself with it?

PROF HAYWARD: Yes.

15

MR FEUTRILL: Are you still familiar with it?

PROF HAYWARD: Yes.

20

MR FEUTRILL: And are you familiar with the instructions that the Public Sector Commissioner also issues from time to time?

PROF HAYWARD: If they're circulated to us, I always took them seriously.

25

MR FEUTRILL: You would be aware of the instruction concerning a code of conduct, for example?

PROF HAYWARD: Yes.

30

MR FEUTRILL: And do you recall whether the GWC itself had a code of conduct?

PROF HAYWARD: No, I don't recall.

35

MR FEUTRILL: Perhaps if I could ask the document GWC.0002.0016.0122 be called up. This document, Professor Hayward, is an agenda paper for a meeting on 25 November 2014. Can I ask if the witness could be shown page 0173 of this document? Now can you just consider that document and I will ask if it has any --- if it's refreshed your memory at all regarding the previous question I asked?

40

PROF HAYWARD: I can see that it's there, but I ---

MR FEUTRILL: You don't remember?

PROF HAYWARD: No.

45

MR FEUTRILL: Whilst you were a member of the GWC, do you recall if there was any document provided to the GWC which is referred to as a Statement of Expectations from the Minister, the responsible Minister?

PROF HAYWARD: No, I don't recall.

5 MR FEUTRILL: Are you familiar with what I'm talking about, the document that's referred to within the public sector as the Statement of Expectations? You are aware of it?

PROF HAYWARD: Unaware.

10 MR FEUTRILL: Are you aware of a document referred to as a Statement of Intent that government agencies provide from time to time in response to ministerial statements of expectation?

PROF HAYWARD: No.

15 MR FEUTRILL: At any time while you were a member of the GWC, were you provided with a document referred to as a charter of the members?

PROF HAYWARD: Not that I can recall.

20 MR FEUTRILL: Was there a document referred to as a charter developed at any time during the period you were a member of the GWC?

PROF HAYWARD: Still don't recall.

25 MR FEUTRILL: Don't recall. Well, was there a document then that you were aware of that set out matters such as the role, composition and processes related to the key governance activities of the GWC or a series of documents of that kind?

30 PROF HAYWARD: I don't know if I'm thinking about what you're asking. Could you re-word? So, you're talking about almost a skills matrix of the GWC?

35 MR FEUTRILL: Well, that might be a way of describing it. It's just a document that would set out --- for example, for a new member or existing members, a document that would identify for them in one place an explanation of your role, the functions of the GWC and the processes that related to its key governance criteria?

40 PROF HAYWARD: I don't recall that in regard to me. I don't know what followed in terms of other members of the Commission --- of the GWC as they came on board. I can't speak to that.

MR FEUTRILL: Again, I just want to clarify, when you say you don't recall, you don't remember receiving one yourself in the time you became a member?

45 PROF HAYWARD: That's right.

MR FEUTRILL: And you're saying you didn't receive one or you just don't know if

you did or didn't?

PROF HAYWARD: I don't remember receiving one.

5

MR FEUTRILL: Do you remember if there was a document of that kind developed during the course of your tenure as a member of the committee --- the Commission?

PROF HAYWARD: Not that came to the GWC as a body, just reinforcing. I don't know, there may well have been something developed where a new member of the Commission was given that specifically at the time of their appointment, but because I was already on, it wouldn't have related to me.

MR FEUTRILL: Okay. But what I'm asking, there wasn't any meeting you can recall which the GWC discussed, for example, it's a good idea that new members receive a document of that character, something that sets out the --- gives an explanation of what their function is as a member. They should be provided it because, for example, you didn't receive one, it would be a good idea if others received it. There was nothing of that kind that you can recall?

20

PROF HAYWARD: No, not that I can recall.

MR FEUTRILL: Now at any time while you were a member of the GWC, were you provided with a document that might be characterised as a risk management policy and practices of the GWC?

25

PROF HAYWARD: So, a risk management of the GWC?

MR FEUTRILL: Yes, so some --- and it may not have been called that --- but a document or a process that governed from the GWC's perspective, identification of risks and the way in which you were to manage the risks identified.

30

PROF HAYWARD: I don't recall anything like that about the operations of the GWC. I can remember there being a paper on risk, you know, just over 12 months ago that was presented by Crown in terms of their assessment of their risk as we headed into COVID. But that's not about the risks of the operations of the GWC. So, is that what you're asking?

35

MR FEUTRILL: I'm asking --- I'm not concerned at the moment with Crown and Crown's identification of its risk, I'm talking about the GWC itself. Was there a time at which, at any time you can remember during your period as a member, where there was a process undertaken to identify risks specific to the GWC's functions and a process undertaken to manage those risks?

40

PROF HAYWARD: I don't recall a specific paper. I do recall conversations when the membership of the GWC was less, because we always had to ensure that meetings were quorate, but that wasn't in terms of a paper.

45



MR FEUTRILL: Okay. Can I ask if the witness can be shown, still in the same document, page 0218. It might assist to direct your attention to --- really what I am asking you about, this is taken from the Public Sector Commission's document, the "Board Essentials". I'm asking you really about whether there were occasions when the key questions that you can see under --- that start on the fourth paragraph "from a governance perspective" --- there are three bullet points there --- whether there were occasions when those were specifically the subject of any deliberations of the GWC you can remember?

10 PROF HAYWARD: Not specific consideration.

MR FEUTRILL: And when you say "not specific", are you meaning to say they were considered in passing when other decisions were being made, or are you saying there wasn't like a separate meeting or a separate occasion where you sat down as a Commission and considered it across the entire organisation?

PROF HAYWARD: In my view, those questions were answered in terms of people's behaviour and the behaviour of the GWC, not a specific "Let's answer that question, now let's answer the next one and then the next one".

MR FEUTRILL: Okay. Really what I'm asking you about is whether there was a point in time at which the GWC thought well, it would be a good idea to prepare some formal documentation of what our risks are and our processes for management. I think you've probably already answered that question by saying you can't recall that taking place.

PROF HAYWARD: I can't recall.

MR FEUTRILL: Some of the other documents --- sorry, the heading further down "From a compliance perspective", in terms of managing risk, were there occasions where you considered whether you could as an organisation answer that question?

PROF HAYWARD: That came about from the detail included in the board paper.

MR FEUTRILL: When you say "board", each board paper, so you would consider -- - I am putting words in your mouth, but I think I'm trying to answer the question for you --- you were considering those things in the context of specific items on the board agenda; is that correct?

PROF HAYWARD: That's my understanding.

MR FEUTRILL: Rather than looking at it in global?

PROF HAYWARD: Yes.

MR FEUTRILL: Along a similar vein, were there any times while you were a member of the GWC where either in the meeting or in a separate session there was a

consideration given to the various skill set across the membership and whether you had any gaps in that skill set?

5 PROF HAYWARD: I don't recall ever having any formal consideration of a skills matrix for members of the GWC.

MR FEUTRILL: When you say "no formal consideration of a skills matrix" was there any informal discussions of that kind that you can remember?

10

PROF HAYWARD: Not in the specifics that I understand that consideration happens with other boards.

15 MR FEUTRILL: Yes, so you are talking now of your experience on other larger boards, but larger organisations presumably, where there is a skills matrix process, you're familiar with that process?

PROF HAYWARD: And a regular review.

20 MR FEUTRILL: And a regular review at intervals approximately once a year or once every two years perhaps?

PROF HAYWARD: Yes.

25 MR FEUTRILL: Where the board will sit down and say, what are our collective skills? Do we have all the skills we need to perform our functions?

PROF HAYWARD: Yes.

30 MR FEUTRILL: And you're saying nothing of that character happened while you were a member of the GWC ?

PROF HAYWARD: Not that I can recall.

35 MR FEUTRILL: When there were changes to the composition of the membership from time to time while you were a member --- and I just want you to answer these questions in general, and you can answer them in that way --- when there was a change to membership, was there any process at that time by which a consideration was given these are the skills that are leaving the organisation, what do we need?  
40 What sort of person do we need to come in to replace them?

PROF HAYWARD: The GWC was not involved in either communicating the skills that we thought were leaving, or that we thought needed to come in. We were not part of that process.

45

MR FEUTRILL: Was there any consideration that you can recall given to that question while you were a member?

PROF HAYWARD: Not by the GWC.

MR FEUTRILL: Did you give a consideration to it yourself?

5

PROF HAYWARD: In my head.

MR FEUTRILL: But you didn't --- you don't recall voicing it?

10

PROF HAYWARD: Conversations would have only been casual about, "Gee, wouldn't it be good if". There was no formal process.

MR FEUTRILL: And who were those conversations --- was this in the context of a meeting or with the chair or someone else?

15

PROF HAYWARD: Yes, in the context of a meeting. I can remember there being a conversation like that when I was leaving, for instance.

MR FEUTRILL: Right. But so far as you can recall, there was no ---

20

PROF HAYWARD: --- no formal process.

MR FEUTRILL: --- deliberate decision-making process to tell you that?

25

PROF HAYWARD: No, no.

MR FEUTRILL: While you were a member --- again, I'm going to ask you this in a general sense --- either in a specific meeting or during the course of your regular meetings, was there any discussion or deliberation on developing a strategic plan for the GWC?

30

PROF HAYWARD: I can't recall a specific conversation.

MR FEUTRILL: To the best of your knowledge was there a strategy of the GWC?

35

PROF HAYWARD: Not that I can recall.

MR FEUTRILL: So, there wasn't --- in your mind when you're sitting making decisions for the GWC, there wasn't a clear view in your mind of what the strategy of the GWC was against which you were making decisions?

40

PROF HAYWARD: No, nothing was framed that I can recall. Nothing was framed in terms of a strategic plan.

45

MR FEUTRILL: Okay, so I'm referring now to perhaps a document, something that was documented. So a strategic plan document. Was there some informal sense in which you considered as a collective you understood a strategy that was being followed by the GWC?

PROF HAYWARD: I don't think so. I think as matters presented and needed to be dealt with, they were dealt with. My experience in other organisations where there is a deliberate strategic plan is that you seek particular opportunities that help you meet that strategy. The work of the GWC was different to that, in my view.

MR FEUTRILL: Okay. I want to explore that with you ---

PROF HAYWARD: Yes.

MR FEUTRILL: --- if you don't mind. To start with, there is the other organisations you are involved with there is something that you understand to be a strategic plan?

PROF HAYWARD: Yes.

MR FEUTRILL: And would it be fair to say that when decisions are being made in those organisations they are usually measured against the strategic plan. How does this fit in with our overall strategy?

PROF HAYWARD: Yes.

MR FEUTRILL: And that is one of the factors taken into account when you're deciding whether to take a particular step or prove a particular thing?

PROF HAYWARD: Yes.

MR FEUTRILL: If there is no plan of that nature when a decision comes to be made, there's nothing to guide you in that sense, is it part of our overall strategy? So, are you saying that in the context of the GWC, decisions were made on a more ad hoc basis, without any clear idea of the direction or strategy of the organisation?

PROF HAYWARD: Actually, I don't know that I would say that. Ad hoc makes it sound like it's not a deliberate consideration, which is why I said if something needed to be attended to, the GWC did its best to attend to it. Now, you wouldn't always be able to predict what those things were. The agenda --- for this particular agenda that's on the screen now for instance has got the MS Super Lottery, that was a totally different concept here in WA. It's great now, but there was a lot of risk that the GWC identified for the fundraisers of that particular lottery when it first came up. It's proven to be successful and lots of other organisations have tried to copy it, but you couldn't in a straight plan have predicted that something like that would come forward and yet it still needed to be dealt with. So I'm hesitant about "ad hoc", because that sounds like it's kind of almost a fly in the ointment, it's almost an aside and things, I think, were more deliberate than that.

MR FEUTRILL: I didn't mean to infer there wasn't deliberate consideration of the matters that came before the GWC at all, so I wasn't in any way intending to be pejorative by using the expression "ad hoc". I was simply meaning it was a decision

made on a case by case basis rather than consideration the decision against an overall strategy of the GWC?

5 PROF HAYWARD: Yes, I can definitely agree with that.

MR FEUTRILL: So taking the example that you've just given of the MSC, for example, it would not be necessarily directly in view for the GWC when it was developing, if it had developed a strategic plan, but it may fit in with an overall view  
10 of the GWC of what the regulation of gaming in Western Australia might look like in the future.

PROF HAYWARD: Indeed. But that's not a straight plan.

15 MR FEUTRILL: Okay. With an organisation such as the GWC, would you agree that it would be useful to consider overall what view the GWC should take of say, for example, risks associated with gambling and have a clear idea of what, if you like, tolerance of risk there may be for the GWC as a whole?

20 PROF HAYWARD: We certainly considered the risks associated with problem gambling.

MR FEUTRILL: So problem gambling is one possible risk. One can think of other risks that are associated with the operation of a casino game. For example, whether  
25 the machines are correctly calibrated, whether the revenue is derived and returned to the State. Was there a consideration of any other kinds of risks associated with the operation of the casino, in particular?

PROF HAYWARD: Once again, I'm not too sure if I'm answering the question  
30 you're asking. The prospect of a minor being allowed onto the floor is a risk. The prospect of people after a night out getting into an altercation in the carpark is a risk. You've mentioned the calibration of machines, the return to player. I'm not sure if I'm answering your question.

35 MR FEUTRILL: You are, in part. What I'm concerned with is when you said it wasn't a strategic plan, management of risks associated with the regulation, what I'm putting to you is that management of risks associated with the regulation of the casino, in particular, is something that could fit into a strategic plan of the GWC, how it would approach the management of those risks?  
40

PROF HAYWARD: Certainly it could, if there was a strategic plan.

MR FEUTRILL: Yes. Can I just take you to another page in this document. It starts  
45 at page 231. It might be easier if I hand you a written paper copy of this. I don't know if the Commissioners have got --- this is appendix D, headed "Good Governance Principles". I just ask you to take a moment to read through it.

PROF HAYWARD: Okay. Is there a particular bit?

MR FEUTRILL: What I'd ask you to focus on are the seven major headings and then, the questions under "Quick Probe" under each heading. Just familiarise yourself with the document.

5

PROF HAYWARD: It would be easier for me to reference when you make a specific ---

10 MR FEUTRILL: Okay. Obviously the GWC was aware of the existence of good governance principles or the Public Sector Commissioner's document that this appears in --- I've forgotten the name of it momentarily --- "Board Essentials". Was there any occasion at which you can recall the GWC approaching its governance by reference to the good governance principles and looking through each of these and asking itself the question of whether these principles were met?

15

PROF HAYWARD: I don't recall us doing that.

20 MR FEUTRILL: Would you agree with me that in respect of item 1, there wasn't clarity regarding the roles and responsibilities of the board and individual members? It says here, rather than the CEO, the Chief Casino Officer and the Minister, in terms of providing you with some sort of form of documentation.

PROF HAYWARD: I don't understand what you're asking.

25 MR FEUTRILL: Well, in your view was there clarity in your mind about the roles and responsibilities of the board, its individual members and the Chief Casino Officer and the Minister?

30 PROF HAYWARD: I can only answer from the perspective of the GWC. Is that what you're asking?

MR FEUTRILL: I'm asking from your perspective as a member of the GWC, in your mind was there clarity about those things?

35 PROF HAYWARD: Whether or not we understood our roles and responsibilities? Yes, I think we did.

40 MR FEUTRILL: Okay. And, what did you understand your roles and responsibilities as the GWC to be?

45 PROF HAYWARD: Knowing that a piece of string has no length, my answer will also have no length. It's about dealing with anything that came before it. It's about raising any matters that you saw or heard in the news. It's about if a matter contained in a paper warranted further question. It's anything that was before the GWC. I don't think that's what you're asking, but I don't actually know what you're asking.

MR FEUTRILL: You're quite right, it was a bit of an open-ended question. I'll come

back to asking you some more specific questions about roles and responsibilities in a moment because you've answered the question, you said you had a clear understanding of it. I'll come back to ask you some specific questions about that.

5

PROF HAYWARD: Yes.

MR FEUTRILL: What about item 2? In your view did the members have the necessary skills, experience and knowledge to enable the board to collectively fulfil its role?

10

PROF HAYWARD: We did fulfil our role, so the answer must be yes.

MR FEUTRILL: Okay, but I'm asking you whether you felt during your time as a member that all the necessary skills to fulfil the functions were on the membership of the GWC?

15

PROF HAYWARD: We didn't ever do a skills matrix, so what I considered as a person, what I considered to be skills attributable to any other member of the GWC, or the GWC collectively were only what I as an individual considered. We didn't do a skills matrix.

20

MR FEUTRILL: So without undertaking --- obviously there are limits to the utility of conducting a formal process --- but without conducting or turning your mind formally to the process, how could you be satisfied that you had the required skill set on the GWC at the time?

25

PROF HAYWARD: The GWC couldn't.

MR FEUTRILL: Could not be so satisfied?

30

PROF HAYWARD: We had no input to what skills were coming to the GWC.

MR FEUTRILL: Would it not be something you could request, make a request to the Minister to appoint someone to the committee to fill a gap, for example?

35

PROF HAYWARD: It's not the usual way that one deals with a Minister. I've never experienced that where you question a Minister about Cabinet decisions about who would be on a commission or board.

40

MR FEUTRILL: No, I'm not suggesting that you would question a decision that was made. I'm suggesting that you could request, let's say, for example, there was an identified --- and this is a hypothetical --- shortage of a particular skill on the GWC, you could ask that a further person be appointed to fill that gap, could you not?

45

PROF HAYWARD: I don't think that ever happened from the GWC. I also don't think it ever happened with any other government boards of which I have experience.

11:00AM

MR FEUTRILL: What other government boards are you referring to there?

5 MR HARRISON: The Government Employee Superannuation Board, the State Training Board, currently the Alcohol and Other Drugs Advisory Board.

MR FEUTRILL: You're saying in your experience, none of those government boards have identified ---

10 PROF HAYWARD: Generally, you are advised of the decision of Cabinet. You don't ever see what paper went forward to Cabinet.

MR FEUTRILL: But what I'm suggesting to you is you could actually request that a decision be made to fill a gap in your skill set, if there were one identified on the  
15 GWC? You don't agree with that?

PROF HAYWARD: I think it would be a wonderful innovation, but it would be an innovation.

20 COMMISSIONER OWEN: Ms Hayward, leave government bodies to one side for one moment.

PROF HAYWARD: Yes.

25 COMMISSIONER OWEN: Has any of the other boards or bodies on which you've been involved had a nominations committee.

PROF HAYWARD: Yes.

30 COMMISSIONER OWEN: Has that worked well?

PROF HAYWARD: Yes.

COMMISSIONER OWEN: And, would that be an appropriate advance, in your  
35 view, for a body like the GWC?

PROF HAYWARD: I think it could well be.

MR FEUTRILL: Can I ask you to turn to the third topic which is "Strategic focus", I  
40 did ask you some questions about this earlier.

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: In your view, you considered that the GWC set an overall strategic  
45 direction of the organisation?

PROF HAYWARD: I'm taking that in the same way as, did we have a strategic plan, and we didn't.



MR FEUTRILL: Okay. And so evidently then you couldn't monitor the performance against intended outcomes, if you didn't have such a plan?

5 PROF HAYWARD: No.

MR FEUTRILL: And I asked you some questions about 4, as well about "Risk management", and I want to come back to these in a bit more detail, so I did ask you a very broad question. You quite rightly pointed it out to me. But, this particular  
10 aspect of the governance principle is directed to process and did you consider that there was a system of risk oversight in place on the GWC during the time you were a member?

PROF HAYWARD: Once again, there are different facets to that. The biggest risk  
15 that was clear, in terms of the working of the GWC or the GWC being able to perform its work, was making sure that meetings were quorate. There was no risk information that came to us for input, in terms of for instance, the machinery of government changes and the additional pressure that that put on the department, even though we knew that that developed a risk. I've already indicated that when the  
20 casino presented to the GWC, there was, it wasn't unusual for there to be risks identified by the casino in terms of bringing those matters forward. So, there's different facets to it.

MR FEUTRILL: So, can I try and paraphrase what you've just said so I'm clear on  
25 the nature of what your answer is. Are you suggesting that while there may not have been an overall system of risk identification and management, in your view the GWC was addressing risk on a case by case basis as each paper, or each decision was presented to it for consideration at a meeting?

30 PROF HAYWARD: My view is that it was.

MR FEUTRILL: And again, taking you into the private sector world that you've  
previously been on boards or private sector world, is it your experience in that  
35 environment that risk is normally a very significant item in any agenda paper? It identifies what the risks are associated with a decision to be made as a primary focus?

PROF HAYWARD: Sometimes yes, otherwise it might be a report from that body's  
40 audit and risk committee and lots of other places, of course, have audit and risk committees.

MR FEUTRILL: Okay. So, in your experience with the GWC, were the papers  
presented focusing on identification of a risk associated with a decision to be made,  
45 in your experience?

PROF HAYWARD: I don't know that I would say it was as clearly articulated as that, but the background presented in any particular paper coming to the GWC would

include those things.

MR FEUTRILL: But it was not presented in a way that identified ---

5

PROF HAYWARD: There wasn't a heading of "risk".

MR FEUTRILL: Would you say then that the identification and management of risk was largely left to the members of the GWC itself upon reading the papers?

10

PROF HAYWARD: I think often, risks were identified in the papers.

MR FEUTRILL: Yes.

15

PROF HAYWARD: And that allowed the GWC to explore those further.

MR FEUTRILL: Okay. Now, to your knowledge, was there --- can I take you to heading 5, "Control systems". In your view was there a system in place for the supply of information to the board that supports effective policy and coordinated decision-making?

20

PROF HAYWARD: Sorry, can you ask that again?

MR FEUTRILL: In your view, did the GWC --- I'll call it the board, or the members as a whole --- have a system in place to ensure that the flow of information to it --- the board, that is --- supported effective policy and coordinated decision-making? You've mentioned some things in your statement about the production of board papers, but I'm really focusing the question on the system.

25

PROF HAYWARD: Once again, I'm not sure if I'm answering the question you're asking. The board papers came as the board papers. They were generated from the department. There were times when the GWC would ask for a paper to be developed on a specific issue, although I'd be hard-pressed to be specific around an example. But generally, we considered papers that came forward via the mechanisms within the department. Is that what you're asking?

30  
35

MR FEUTRILL: I think this topic is more about identification of accountability to ensure that particularly what you're being presented with meets your regulatory, or your statutory obligations and that you're accountable for the decisions you make. Is there a system in place that addressed those features of decision-making, to your knowledge?

40

PROF HAYWARD: I'm going to, I think, be answering a different question again.

MR FEUTRILL: Focus on the quick probe questions, for instance, was there an audit subcommittee?

45

PROF HAYWARD: No, not of the GWC.

MR FEUTRILL: And was there a procedure in place for ensuring compliance with legal, financial and record keeping requirements?

5 PROF HAYWARD: The compliance with legal and financial came about from the content of the board papers. The record keeping requirements was for the department, not for the GWC.

10 MR FEUTRILL: Okay. So, that function was left to the department, the record keeping?

PROF HAYWARD: Yes.

15 MR FEUTRILL: And were there any procedures that you had in place to ensure the record keeping was being undertaken correctly in accordance with whatever the obligations of the GWC were?

PROF HAYWARD: I understand there was a record, a minute book.

20 MR FEUTRILL: Okay. I'll come back to some more specific examples of this in a moment. Can I take you to the heading under question 6. This is a question about culture and, of course, it's not that easy to put your finger on it and you can answer this at a level of impression, really. During your period as a member of the GWC, would you agree or would you consider the board, together with the CCO and the chair in this case, set the tone for ethical and responsible decision-making through the GWC?

PROF HAYWARD: Yes, I do consider that.

30 MR FEUTRILL: And what would you say about the way in which --- just as a general level of impression --- the board functioned in your tenure on it? In other words, was it a functioning and good board, or were there any problems you perceived with the way it was operating?

35 PROF HAYWARD: There were examples associated with two commissioners who weren't on the GWC at the same time, so two board members who were, in my view, consumed by a personal interest. So, they pushed that barrow at every turn. That's not to say that the matters they raised ought not have been raised or considered. But that was their hobby horse.

40 MR FEUTRILL: When you say "personal interest", what's the nature of the interest. There are two, so I'll take them each --- one at a time. The first one you had in mind, what's the nature of the personal interest you're referring to?

45 PROF HAYWARD: A former board member who had a friend who had lost their house over problem gambling and so, the question of problem gambling came up at every turn.

11:11AM

MR FEUTRILL: So there was a particular interest of that person in problem gambling?

5 PROF HAYWARD: Yes.

MR FEUTRILL: Because they, if you like, had a particular interest in that topic, you called it a hobby horse?

10 PROF HAYWARD: Yes.

MR FEUTRILL: That's the first example, what about the second example?

15 PROF HAYWARD: The second example was for someone who had a really strong push for profits from gambling going to the community sector to be able to financially support community organisations and the like.

MR FEUTRILL: Just give me an example how that would affect or be implemented through the functions of the GWC?

20

PROF HAYWARD: Well, it couldn't be which was part of the problem, but over the 14 or 15 years they are the only two examples that I can recall where you either wished for a different membership, or could even question people's commitment to doing the best job they could.

25

COMMISSIONER OWEN: Or wish for a stronger chair, closed discussion?

PROF HAYWARD: Sorry?

30 COMMISSIONER OWEN: Or wish for a stronger chair, close discussions when things got out of hand. That's a gratuitous aside, don't take any notice of it.

PROF HAYWARD: Although, that's probably right.

35 MR FEUTRILL: Just on that topic, obviously there are people who had a particular interest which you described, to your view, was that affecting the decision-making of the GWC at the time as a whole?

40 PROF HAYWARD: I don't think so. I think when such matters were raised the GWC took them seriously, considered them to the extent that they could, made the relevant decision and moved on.

45 MR FEUTRILL: And did it affect the dynamic on the Commission at all at the time? In other words, were these people difficult to deal with, had an influence on your personal relationship with those members?

PROF HAYWARD: To be honest, I wouldn't classify that I had a personal

11:14AM

relationship with any other members of the GWC. You go there, you do the work at hand and then you leave the room.

5 MR FEUTRILL: Sorry, I meant more a --- personal relationship was probably the wrong way of expressing it --- working relationship. Did it affect your ability to work with those members during this period?

PROF HAYWARD: I don't think so.

10

MR FEUTRILL: Would it be fair to say in summary then, in spite of these particular interests of a couple of members, the board in your view continued to function effectively to perform its role?

15 PROF HAYWARD: Absolutely.

MR FEUTRILL: That might be a convenient time to take a break.

COMMISSIONER OWEN: We'll come back at 11.30. Thank you.

20

**ADJOURNED**

**[11.14 AM]**

25 **RESUMED**

**[11.30 AM]**

COMMISSIONER OWEN: Thank you, please sit down.

30 MR FEUTRILL: I think in answer to one of the questions I asked you earlier, you said you couldn't recall whether the GWC adopted a code of conduct. I wonder if you could be shown document GWC.0001.0011.0003. You may, if you wish to, scroll through to the page. Do you recall receiving a document looking something like that during the time you were a member?

35

PROF HAYWARD: Sorry, I thought it was going to scroll.

MR FEUTRILL: Would you like to have a look through it before answering the question, or does the cover page jog your memory at all?

40

PROF HAYWARD: It doesn't jog my memory, but I will say that's dated January 2018 and we didn't have a GWC ....(audio loss).... so it's a bit hard to tell with the GWC exactly when that happened.

45 MR FEUTRILL: Okay, but I think I'm right in saying --- I think I heard your answer earlier that it doesn't jog your memory, so you have no recollection of this document?

PROF HAYWARD: It actually doesn't jog my memory.

MR FEUTRILL: Do you have, just to be clear about this, any recollection of any other code of conduct being prepared during the time you were a member of the GWC?

5

PROF HAYWARD: I didn't remember that, although I know from one of the papers that you've shown this morning that there was.

MR FEUTRILL: Okay. But when you left the GWC, did you keep the papers that you had that were personally yours or, did you return everything that had been provided to you at the time you left?

PROF HAYWARD: When I commenced with the GWC, we used to get our papers in paper form, so they were lever arch files. Along the way, I returned those to the department for secure disposal, so didn't save any hard copy material. As we, like lots of other places, moved to e-papers, that was on a departmental iPad. All of those papers I deleted as I went and also returned the iPad. So, there is nothing that I kept beyond my term.

MR FEUTRILL: You've retained none of the records ---

PROF HAYWARD: Nothing.

MR FEUTRILL: --- you received. You've said in your statement that you were familiar with conflict of interest procedures from the other boards that you've been on at the time you joined the GWC.

PROF HAYWARD: Yes.

MR FEUTRILL: During the period that you were a member, were there times where you or other members of the GWC made declarations of actual or potential conflicts of interest during board meetings?

PROF HAYWARD: Declarations of conflict were a specific agenda item at each meeting. It wasn't something that was skirted over. It was a proper item that was considered at each time, and there was also as a formal part of the agenda, space for people to indicate whether they had been in receipt of any gifts, gratuities or hospitality. There were twice when I registered that and there were a couple of other examples where I asked the question, you know, does this present any kind of conflict or something that should be formally in the minutes where the indication was no, it's not.

MR FEUTRILL: Okay, can I take the first --- you gave two examples. Were you referring to gifts or the actual conflicts at the time you made declarations?

45

PROF HAYWARD: Neither of those, they were hospitality.

11:35AM

MR FEUTRILL: The twice you made declarations were hospitality?

PROF HAYWARD: Yes.

5

MR FEUTRILL: What was the procedure, having made the declaration and, first, who was it, in each case? What was the nature of the declaration of interest?

10 PROF HAYWARD: One was attending the opening of what was then known as the Pearl Room and the second was going to the opening of Crown Towers hotel complex.

MR FEUTRILL: So the Pearl Room is a room at the casino and you attended an opening of that?

15

PROF HAYWARD: Yes.

MR FEUTRILL: And was that at the invitation of Crown Resorts or one of the Crown companies?

20

PROF HAYWARD: I don't know anything about Crown companies. I felt confident in accepting each of those invitation, they were some time apart in terms of when they came, because they didn't come to me as an individual and at my home address or individual email address, they came via the department. So, I knew already that the department knew of the invitations. I took the fact that they were forwarded on to all members of the respective GWC that the department was in agreement with us attending. And for any of us who did attend, we declared that we had attended at the subsequent GWC meeting.

25

30 MR FEUTRILL: Okay, and do you recall who attended? Who were the other people who attended?

PROF HAYWARD: I would be guessing in terms of the Pearl Room, who from the GWC attended. From the opening of Crown TOWER's hotel complex, there were at least two other GWC members and I'm not going to remember their names. I mean, I can't --- that's just gone.

35

MR FEUTRILL: That's perfectly okay.

40 PROF HAYWARD: Yes.

MR FEUTRILL: So, having made a declaration on those instances, what was the procedure then to deal with that at the board meeting?

45 PROF HAYWARD: That was recorded in the minutes.

MR FEUTRILL: So the procedure was to record the declaration in the following minutes?

PROF HAYWARD: Yes.

5 MR FEUTRILL: Okay. And I think you mentioned two instances where you made a declaration, but they were not considered to be of sufficient importance, if you like, to record. Can you give me an example of those, what they were?

10 PROF HAYWARD: One, which kind of sounds a little silly now, but I hope points to how seriously I took my role on the GWC, I was going to a function at the Crown Towers, one of their function rooms and because it was a wet evening we had parked in the undercover carpark without knowing that the only way I could get from that carpark through to Crown Towers was to cross the main gaming floor of the casino itself. Now, I hadn't done that. I steered clear of that while I was a member of the  
15 Commission and that was something that I raised in terms of "I've been on the main gaming floor. I didn't stop, I didn't play any games, but I've been there and that may show on camera. I just need to let the Gaming and Wagering Commission know."

MR FEUTRILL: I see. And the other example, do you remember what that was?

20 PROF HAYWARD: Look, I can't recall, it would have been something similar, I think.

MR FEUTRILL: And in respect of other members, were there any occasions to your recollection where there was a declaration of a conflict of interest, as in an item on  
25 the agenda in which they had an interest of some kind?

PROF HAYWARD: Look, I can't recall that. One of the things that was --- it feels like it was introduced four or five years ago --- is we had to do an annual statement that went to declarations, including related party benefits. Now, I completed mine  
30 each time. I didn't see the completed forms of the other GWC members, so whether there was anything in that, I have no idea.

MR FEUTRILL: Are you referring to, as part of the Public Sector ---

35 PROF HAYWARD: I am.

MR FEUTRILL: --- Commissioner's paperwork?

40 PROF HAYWARD: Yes.

MR FEUTRILL: Was there, to your knowledge, other than recording declarations of that nature in the minutes, any other --- was there a place where there was a record kept, if you like, a register of all of the declarations from time to time?

45 PROF HAYWARD: I don't know if there was a register, but I do know that each declaration, if it was accepted as a valid declaration, was recorded in the minutes of that meeting.



11:40AM

MR FEUTRILL: Okay. Now, during the period that you were a member of the GWC, Mr Connolly was the deputy director of the department and also the Chief Casino Officer.

5

PROF HAYWARD: Not for the whole period.

MR FEUTRILL: I understand, not for the whole period. For what period was he in those roles to your recollection?

10

PROF HAYWARD: Mr Connolly was there when I first started on the Commission. He then went to another government department. From memory, it might have been Fisheries or whatever the name of that department was. That was for a number of years and then, he came back to this department. I wouldn't be able to put a

15

timeframe on his return.

MR FEUTRILL: Okay. Now, he also filled the role of deputy chair of the GWC from time to time, didn't he?

20

PROF HAYWARD: Yes.

MR FEUTRILL: Did he attend, to your knowledge, effectively all meetings of the GWC either as deputy chair or as the Chief Casino Officer?

25

PROF HAYWARD: I don't recall a time when Mr Connolly's presence in the room was because he was Chief Casino Officer. I don't remember that hat ---

MR FEUTRILL: I see.

30

PROF HAYWARD: --- being worn when he was in the room, albeit, the difficulty in separating those things. When Mr Connolly was in the room, it tended to be because he was in his departmental role, in terms of Deputy Director-General.

35

MR FEUTRILL: I see. Now, any of the meetings that Mr Connolly attended, if he had an actual potential conflict of interest regarding an item of business on the agenda, would you have expected he would have made a declaration to the meeting of that conflict?

40

PROF HAYWARD: If he was part of the decision-making process, yes.

MR FEUTRILL: And, speaking generally again, if he had an actual potential conflict of interest regarding his performance in the role of Chief Casino Officer, would you have expected he would declare that to the members of the GWC?

45

PROF HAYWARD: I would expect that he would declare it to the department. I don't know that I had an expectation about a declaration to the GWC.

MR FEUTRILL: Why do you say you would not have had an expectation that the Chief Casino Officer would not have declared any conflict of interest to the GWC itself?

5

PROF HAYWARD: Yes, I don't think I said that he wouldn't have. I said that I didn't anticipate it.

MR FEUTRILL: Yes, I think you did have that expectation, but why did you not have that expectation that as the GWC with responsibility for control of the casino, that the Chief Casino Officer wouldn't declare conflict of interest?

10

PROF HAYWARD: I saw it as part of his role as an employee of the department.

MR FEUTRILL: So was it your expectation that the department would deal with any conflict of interest that he might have had?

15

PROF HAYWARD: That is my expectation.

MR FEUTRILL: And is it your expectation that if he had declared a conflict of some nature to the department, someone in the department would have made the members of the GWC aware of it?

20

PROF HAYWARD: I think that's --- to me, that's the same. It's not something that I anticipated at the time. I think we can all have some hindsight in this process.

25

MR FEUTRILL: I'm talking in the abstract, at the moment. For example, if there was a paper that Mr Connolly had prepared, by way of example, and he had a conflict of interest in respect of that paper, is it not something you would have expected to have known about before you were required to make a decision on that?

30

PROF HAYWARD: Oh, absolutely.

MR FEUTRILL: So your expectation would be that there was a declaration of the conflict by the Chief Casino Officer that it would have been brought to the attention of the GWC?

35

PROF HAYWARD: Yes.

MR FEUTRILL: And do you recall if there was any time during which you were a member of the GWC there was any declaration or information provided to you of a declaration of a conflict of interest or an interest of Mr Connolly?

40

PROF HAYWARD: There may have been, but I don't recall anything specific.

45

MR FEUTRILL: Again, just going back to some of the questions I asked you earlier, when you say you don't recall, does that mean you don't have a positive recollection either way --- it may have happened or it may not have happened?

11:45AM

PROF HAYWARD: That's correct.

5 MR FEUTRILL: When you joined as a member of the GWC, was Mr Connolly in the position then or someone else?

PROF HAYWARD: I don't know.

10 MR FEUTRILL: Okay. Now you mentioned a period during which he was and he wasn't the Chief Casino Officer. In that period, do you recall who was fulfilling the function of Chief Casino Officer?

15 PROF HAYWARD: It may have been an employee named Nicola, but once again, I don't remember her last name and I'm guessing as to whether or not she was in the position.

MR FEUTRILL: So you don't have a clear recollection of who that person was in that period?

20 PROF HAYWARD: No.

MR FEUTRILL: Do you remember the process by which the Chief Casino Officer was appointed?

25 PROF HAYWARD: That was a matter for the department, not the GWC.

MR FEUTRILL: So, are you saying that the GWC had no role to play in the selection of the person who filled the function of Chief Casino Officer?

30 PROF HAYWARD: That's my understanding.

MR FEUTRILL: So, can you just explain how the process worked from your recollection and understanding?

35 PROF HAYWARD: I don't know. It didn't come to the GWC. For me, that was a matter that was internal to the department and the department used whatever its processes were to align that employment.

40 MR FEUTRILL: Was there any opportunity for you to be consulted on the appointment to your recollection?

PROF HAYWARD: None to which I'm aware.

45 MR FEUTRILL: I don't want to put words in your mouth, but is what you're describing that the appointment was made and you were told about it afterwards, is that essentially the basis?

PROF HAYWARD: Yes, that's correct.

5 MR FEUTRILL: Were you provided with any information concerning the expected role or performance of that person in the function of Chief Casino Officer?

PROF HAYWARD: Not that I can recall.

10 MR FEUTRILL: Were you ever given, to your recollection for example, a document that set out the terms and conditions of their appointment?

PROF HAYWARD: I don't recall anything like that coming to the GWC.

15 MR FEUTRILL: What was your understanding of the function of the Chief Casino Officer?

PROF HAYWARD: Probably naively, I saw it as an oversight role of other functions performed within the department.

20 MR FEUTRILL: Okay, so can I just ask you then what you mean by "other functions performed within the department", because bearing in mind the name of this office is Chief Casino Officer ---

25 PROF HAYWARD: Yes.

MR FEUTRILL: --- so what are the other functions you are referring to in that answer?

30 PROF HAYWARD: Well, Mr Connolly wasn't alone in terms of working on casino matters, so I saw him as Chief Casino Officer as overseeing, supervising or managing others within the department who worked in that area.

MR FEUTRILL: Okay. Are you now referring to the inspectors, in particular?

35 PROF HAYWARD: They would definitely be included.

MR FEUTRILL: Okay. Are there any other people you had in mind when you're thinking of his supervisory role?

40 PROF HAYWARD: There may well be, you know, policy people, but once again, I'm guessing a bit.

45 MR FEUTRILL: Alright. So were you aware as a member of the GWC who he was supervising?

PROF HAYWARD: Only in terms of broad function. So for instance when I said "Yes, the inspectors would definitely be in that mix", there would be others that I expect would be in the mix would me being able to even name the positions.

MR FEUTRILL: Okay. Were you --- was there a --- I will take you back one step. Sorry, I withdraw that. With respect to the inspectors, how were they appointed, to your knowledge? Were they appointed by the GWC itself?

5

PROF HAYWARD: No, they were departmental employees.

MR FEUTRILL: And who selected them for the position as inspector, to your knowledge?

10

PROF HAYWARD: That had nothing to do with the GWC, that was a departmental process and decision.

MR FEUTRILL: Was there any process by which the GWC was consulted on the appointment of inspectors?

15

PROF HAYWARD: No.

MR FEUTRILL: What about the number of inspectors required?

20

PROF HAYWARD: Periodically, we received information about that. Mostly as it related to whether the automation of security --- my words --- the automation of security at Crown meant that not as many departmental inspectors were required to be on the floor.

25

MR FEUTRILL: Right.

PROF HAYWARD: We were also advised when the focus of their work shifted because of the possibility of industrial action by them coming to the fore.

30

MR FEUTRILL: Okay. With respect to at least one of those I would like to come back to that and ask you some further questions.

PROF HAYWARD: Yes.

35

MR FEUTRILL: At this point I want to ask you some more general questions about this process. So, in your answer, are you describing essentially being informed of decisions that had been made within the department after those decisions had been made concerning, for example, the number of inspectors? So you were told these are the numbers of inspectors that will be doing inspections at the Perth Casino?

40

PROF HAYWARD: Yes.

MR FEUTRILL: Was there any opportunity, in your view, for the GWC to review or consider the adequacy of the number of inspectors and their performance of their function at the Perth Casino?

45

PROF HAYWARD: In terms of what I've referred to as the "automation of security at Crown", the GWC was much more concerned that that automation met requirements in terms of the department being able to go back and investigate anything, much more than the particular role or numbers of inspectors.

MR FEUTRILL: Okay. That particular event ---

PROF HAYWARD: Yes.

MR FEUTRILL: --- resulted in a reduction in the presence of inspectors on the floor in the casino, I think you said earlier. Was it your understanding it resulted in a reduction of the number of inspectors required to perform inspections and audits altogether, or just the way they were performing the role?

PROF HAYWARD: I can't recall, because the inspectors did more than inspect at the casino.

MR FEUTRILL: Okay, so the inspectors had --- I know I'm focusing here on the casino in particular.

PROF HAYWARD: Yes.

MR FEUTRILL: To your knowledge, were there specific employees of the department allocated to perform the work of supervision, or monitoring of the activities at the Perth Casino?

PROF HAYWARD: There had been, but the GWC didn't actually have anything to do with the inspectors.

MR FEUTRILL: Were you provided with any information about the number of inspectors, who they were and what activities they were undertaking at the Perth Casino?

PROF HAYWARD: I expect that at some stage we probably were provided with how many. I don't recall being provided with the names of any employees and, quite frankly, I'm not sure that I'd think that would have been appropriate in any case. We received reports as part of our monthly cycle of meetings that indicated how many inspections generally had happened. One of the things that was --- I guess it's almost charitable to call it a "work in progress", was the almost frustration, certainly the question for the GWC as well as the department about the worthiness of that information. You know, 14 inspections, it doesn't actually tell you anything. So, there was a constant dialogue around, how does the department get better information to the GWC? And from the GWC, what does that look like? What is that better information?

MR FEUTRILL: From your perspective, what information would you have liked to have seen to assist you to perform your role as a member of the GWC?

PROF HAYWARD: In reality, I think some of that would have been trial and error. You don't know what you don't know, so I would have expected that to be a bit of an iterative process, where we tried for something --- and once again, this is personal  
5 perspective only, I don't recall the GWC as a body saying "and here's what we want", I think we were still shy of that in terms of time --- but it seems to me that there would be some benefit in where inspections were taking place, if there was any consistency in terms of when inspections, I suppose, revealed anything that needed to be reported. Was there any of that consistency? Potentially it would have been  
10 interesting, I think, to know that inspector X didn't ever find anything wrong, whereas inspector Y was involved in just about anything that was found. Some of those things. When I say it would have been iterative, is that might have been interesting to start off with, but as the GWC considered it, found that actually there wasn't a lot of interest in that, or it didn't really inform the GWC well enough. That's  
15 all hypothetical.

MR FEUTRILL: I need you to answer this question, because I'm not sure I completely have got the full grasp of what you just said. Are you suggesting that you felt that you didn't have the information, that you weren't receiving the information  
20 that you thought you needed to perform your role on the GWC fully and completely?

PROF HAYWARD: Yes. In regard to the report that we received about inspections, it was mostly around how many had taken place. That didn't tell the GWC much at all, other than that there were that many that had taken place. My understanding,  
25 from comments made within those GWC meetings, was that that was also a matter of some frustration for the department, because it also didn't inform the department of much, and it left the department lacking in terms of what information they could give to the GWC.

30 MR FEUTRILL: If you felt that you were not receiving a report in a form that was effectively informing you, what steps did you take to change that form of reporting?

PROF HAYWARD: That was raised in GWC discussions on a fairly regular basis, in fact, I don't think every meeting, but pretty close to, around the GWC members  
35 indicating that the information given in terms of inspections didn't actually inform us of much at all other than the number of inspections.

MR FEUTRILL: If this was an ongoing issue ---

40 PROF HAYWARD: Yes.

MR FEUTRILL: --- why was it not resolved in some manner by a request for, if you like, to implement some iterative process as you described, or some other mechanism for getting information to you?  
45

PROF HAYWARD: My recollection is, as I described it, a work in progress, there were concerns about there being potential industrial action by those employees within

the department, and certainly from a personal perspective, some inspection by people employed to do that was better than the potential of no inspections, because people were taking industrial action.

5

MR FEUTRILL: And, what was your understanding --- and I know this may break down to different periods of time ---

PROF HAYWARD: Yes.

10

MR FEUTRILL: --- what is your understanding of the nature of the inspections that were taking place? You can answer that by reference to different periods if there were different types.

15

PROF HAYWARD: This is really trusting memory. Pre the electronic surveillance at the casino, people would be --- inspectors would be on the floor seeing what they saw, whatever that might have been. Post the electronic surveillance they had an ability, as I understand it, to go back at any time and ask to look at particular incidents in detail. Does that answer your question?

20

MR FEUTRILL: Yes, it does. My next question is, if you ask for a better quality of information, or a different kind of information, how does that translate in industrial action by the inspectors?

25

PROF HAYWARD: People can take industrial action for a range of reasons and some of that might be that their numbers are decreased, they don't want to be the one to go. It might be that the parameters of their job changes. It's a personal decision, and I guess from the individuals as well as their respective union.

30

MR FEUTRILL: But by way of example, if their function is to carry out inspections of some kind, they carry out the inspection and they receive information as a consequence of that inspection and your concern is well, I want to know more than just how many of these you've done. They're there, they've done it, surely it's just a matter of them providing you with more information about what they've observed?

35

PROF HAYWARD: Once again, I'm guessing. But my guess would be, if they saw that as a change in the way they did their work, they could well have concerns.

40

MR FEUTRILL: So, was it expressed to you from the department that they didn't want to change the process because it may result in industrial action?

PROF HAYWARD: Yes.

45

MR FEUTRILL: And so that was essentially the answer to your collective concerns about the form in which the material was being presented ?

PROF HAYWARD: It wasn't ever the end of the story. Certainly not in my time. It's an ongoing, it's an ongoing issue.



12:01PM

MR FEUTRILL: Well, what, if anything, was done? What steps, if any, were taken to bring about a change in the form of information you received?

5 PROF HAYWARD: My understanding is that the department was at least part way through reforming that section of their operations.

MR FEUTRILL: I see and that's why you described the area as a "work in progress", is it?

10

PROF HAYWARD: Yes.

MR FEUTRILL: During the time you were on the committee were there reports to you about the progress of that work in progress?

15

PROF HAYWARD: Not with any detail that I can recall.

MR FEUTRILL: And over approximately what period of time would you describe it as being a "work in progress" from when you first raised concerns to being placed into departmental consideration?

20

PROF HAYWARD: Once again, I'd be guessing if I gave you a timeframe.

MR FEUTRILL: Okay. Now, were you provided with any information that allowed you to consider collectively as members of the Commission, the cost of performing, in particular, these inspection services?

25

PROF HAYWARD: It sounds familiar to me that there was some conversation around that, but I can't recall any of the specifics.

30

MR FEUTRILL: Alright. So, were you provided or do you recall being provided with information by which --- or was there a process by which the cost and numbers per area of interest of the GWC was identified? By that, I mean casino inspections, more general gaming and wagering activities. I don't know what other areas were your responsibility, but where it was broken down into, if you like, cost centres.

35

PROF HAYWARD: Once again, I'd be guessing.

MR FEUTRILL: Okay. Now, the department provided the government inspectors to perform inspections?

40

PROF HAYWARD: Yes.

MR FEUTRILL: Were there any other services to your knowledge provided by the department to the GWC? Administrative, or other people on the floor, or people observing or auditing processes for the casino?

45

PROF HAYWARD: All of the support that the GWC received came from the department.

5 MR FEUTRILL: And was there, to your recollection, any process by which you identified the nature of the services that GWC wanted provided, aside from inspections and so forth? As in, what if anything, you required by way of accounting, normal administrative support staff, those sorts of things.

10 PROF HAYWARD: Um, maybe if I answer about the support that we got from the department and you can tease out anything I might have missed.

MR FEUTRILL: Yes.

15 PROF HAYWARD: So, the department with the GWC's approval would set the schedule of meetings. They would provide the board papers. That included any research and backgrounding within the particular papers. Included in that was reference to particular elements within the Act and the regulations. Sometimes it would include if there was a history. So for instance, if an employee at Crown  
20 transgressed and was to be fined, you didn't want the fine applied there to be out of alignment with other fines that had been previously given. So, some of it would be that background. They took the minutes within the meeting, any follow-up came through them. It really was all support.

25 MR FEUTRILL: And was there any process by which you identified in a documented way, what services would be provided on an annual basis by the department to the GWC, meaning, inspector services, support services, accounting services, broken up in those categories?

30 PROF HAYWARD: I don't recall that happening. So almost a fee for service kind of schedule without the fee. I don't recall that happening.

MR FEUTRILL: Well, even the schedule of service is one, but secondly, at what cost the services were to be provided to the GWC?

35

PROF HAYWARD: No.

MR FEUTRILL: So, in terms of just governance of the GWC itself, how were you able to identify that you were receiving the services you required at a cost that was  
40 appropriate for the GWC?

PROF HAYWARD: We couldn't.

MR FEUTRILL: Was that of any, to your recollection, concern to any members of  
45 the GWC, that you weren't able to identify within the budget what costs had been allocated to what item lines?

PROF HAYWARD: We had a budget and we ensured that we ran to budget, or that

the department was able to cover any overrun, although I don't remember there being an overrun. I imagine it would have been an issue had we not been receiving those services, but we were, so I don't recall the question being asked.

5

MR FEUTRILL: Okay, can I come back to the budget processes. I've got some other questions I want to ask before I get to that. It seems like it's a particular process that was undertaken each year that I want to come back to. Now, I just want to return, if I could just momentarily, to the Chief Casino Officer. Was it your understanding that that person reported directly to the GWC?

10

PROF HAYWARD: No.

MR FEUTRILL: So, what was your understanding of the way in which the Chief Casino Officer reported?

15

PROF HAYWARD: To the department's Director-General.

MR FEUTRILL: I see. And was there any opportunity, to your knowledge, for the GWC to measure the performance of the Chief Casino Officer in performing that role?

20

PROF HAYWARD: No. My understanding was that the role was entirely within the department's parameters.

25

MR FEUTRILL: So your understanding was it was really of no concern to the GWC who was appointed, how they were appointed or the terms of their appointment were or whether they were performing the role?

30

PROF HAYWARD: I think to say there was no concern is an overstatement. I think if there was ever an impression that whoever held that position was not performing their role, it would be an issue for us. But that didn't arise in those terms.

MR FEUTRILL: How would you have --- if the person was not reporting to you, the GWC, and you were unaware of the terms of their appointment and the role they were fulfilling, how would you have measured their performance to raise a concern about the way in which that role was being performed?

35

PROF HAYWARD: I think it would have been more in terms of asking a question arising from one of the papers coming to the GWC. If it looked like there were gaps, if it would look like there were omissions.

40

MR FEUTRILL: I see. I just want to understand your earlier answer then. I may have used the word "directly" when I referred to the Chief Casino Officer. Are you saying the Chief Casino Officer did report, in some form, to the GWC at times?

45

PROF HAYWARD: I don't recall ever receiving a paper that was specific and peculiar to the Chief Casino Officer. You know, there wasn't a Chief Casino

Officer's report. There wasn't anything like that, that I can recall.

MR FEUTRILL: So, is it your understanding you received reports from Mr  
5 Connolly when he was in that role as the deputy director of the department?

PROF HAYWARD: Yes.

MR FEUTRILL: Wearing that hat?  
10

PROF HAYWARD: Yes. Which is not to say that it wouldn't have been informed  
by his other position as Chief Casino Officer.

MR FEUTRILL: I appreciate that. Insofar as you were concerned as a member of  
15 the GWC, you were receiving a paper from someone called Mr Connolly and the  
subject matter of your business and you read it and understood it in that context, that  
he was the deputy director of the department and also occupied the office of Chief  
Casino Officer?

20 PROF HAYWARD: I think that's fair to say.

MR FEUTRILL: Now, I may have already asked this question. If I have I  
apologise, I've forgotten. I think I did ask you. Were there occasions when you  
sought advice from external parties outside of the department? Sorry, I have asked  
25 this question before.

PROF HAYWARD: No, no. I don't know that you have asked it like that. Certainly  
there would be information from time to time that would come to the GWC from the  
State Solicitor's. Is that the sort of thing you mean?  
30

MR FEUTRILL: That would be an example where you received advice --- I don't  
want you to tell me about the nature of the advice, but you received advice from  
outside the department, yes. And you're saying there were occasions when that  
happened?  
35

PROF HAYWARD: Yes.

MR FEUTRILL: Were there external --- when I say "external", I mean non-  
governmental people from whom you sought advice on matters specific to the  
40 regulation of the Perth casino?

PROF HAYWARD: The main example is the one already given, in terms of  
checking the integrity of gaming machines.

45 MR FEUTRILL: We've been down this path. I won't return to it. Okay. I would  
like to ask you some questions about junkets.

PROF HAYWARD: Yes.

MR FEUTRILL: Now, you're familiar with the expression "junket" I take it?

PROF HAYWARD: Yes.

5

MR FEUTRILL: What is your understanding of the meaning of the word "junket" in the context of regulation of Perth Casino?

10 PROF HAYWARD: In very, I suppose plain English, groups of people often targeted in terms of who they might be coming to the casino for a gaming experience.

15 MR FEUTRILL: When you say "groups of people targeted", are they targeted in particular, to your knowledge, in a particular area or location?

PROF HAYWARD: I think it was all about how much they could afford to lose.

20 MR FEUTRILL: Right. By that do you mean are we talking international people, or are we talking local people as well?

PROF HAYWARD: I don't know about local people. Certainly in my head, I'd always associated junkets with international players.

25 MR FEUTRILL: Okay, now to your recollection --- and again, you can break this up into periods during which you were a member of the GWC --- was there any regulation of junket operators or junket representatives by the GWC during your time as a member of the GWC?

30 PROF HAYWARD: My understanding is that there was. I also understand that was ineffective.

MR FEUTRILL: The regulation was ineffective?

35 PROF HAYWARD: Yes.

MR FEUTRILL: I would like to come back and ask you some questions about that. So then, do you recall what the current, if there is any current process for regulating junkets --- at the time that you left the GWC?

40 PROF HAYWARD: This is a point where I'd like to state that I'm unclear as to how much of my memory is based on actual memory in situ and how much of it is what I now know.

45 MR FEUTRILL: Appreciate that.

PROF HAYWARD: Does that make sense?

MR FEUTRILL: If what you now know is a sort of oblique reference to the media

reporting ---

PROF HAYWARD: Some.

5

MR FEUTRILL: --- and other things, I would like, if you could, to try and cast your mind back and put yourself in the position you were in at the time.

PROF HAYWARD: Yes.

10

MR FEUTRILL: Perhaps if I could just ask you, what was your understanding of the GWC's regulation, if any, of junket operators and junket representatives at the time you resigned or as a member of the GWC?

15

PROF HAYWARD: From all the conversation that there was over time about junkets, junket operators and in that mix, a question of the possibility of money laundering, lots of the conversation was also around the question of whose role those various elements went to. For instance, my understanding is that it's AUSTRAC's business to track the potential or possibility of money laundering. The WA Police, at least for WA and otherwise I guess Federal Police, have a role in terms of the question of, is this a person with whom we want to do business? So, there were elements within the regulations for the GWC that might have looked good on paper, but were not able to be policed by the GWC.

20

25

MR FEUTRILL: That hasn't actually --- there's a lot in what you've just said I want to explore with you.

PROF HAYWARD: Yes.

30

MR FEUTRILL: But it hasn't directly answered the question I asked which was, what was your understanding of the regulation, if any, that GWC was undertaking of junkets at the time you left as a member?

PROF HAYWARD: I know that there were. I can't give you specifics.

35

MR FEUTRILL: So then, in your recollection there was some form of regulation of junkets at that time?

PROF HAYWARD: I think so.

40

MR FEUTRILL: Okay. Now, insofar as --- and I'm just talking in levels of generality at the moment.

PROF HAYWARD: Mmm-hmm.

45

MR FEUTRILL: So far as regulation of junkets what is your understanding in the reason for there being an interest of a regulator, whether it be GWC regulating the eastern States or AUSTRAC or the police, what is the concern of those regulatory

bodies and criminal investigation bodies in junkets in particular?

5 PROF HAYWARD: For me, any concern was always around the possibility of money laundering.

MR FEUTRILL: And what did you understand to be, if you like, the risk associated with junkets in particular or money laundering?

10 PROF HAYWARD: Once again, a personal perspective, I think if someone who's coming into this country, they have a different level of commitment to this country. So, if you're an Australian citizen, it feels like you are more inclined to meet your responsibilities as an Australian citizen. If you're a visitor to this country, you don't have those same responsibilities about building an Australian society.

15 MR FEUTRILL: Yes, but that's true of whether they might be involved in money laundering or not. So what was your understanding specifically about junket and junket operators that exposed the Australian community to risk of money laundering? If you don't know, that's okay as well, but did you have an understanding of that?

20 PROF HAYWARD: I am guessing that if you're part of a junket because you've got lots of money, there could well be a question about how come you've got lots of money?

25 MR FEUTRILL: Right.

PROF HAYWARD: And , therefore, if it's yours, how much you can afford to lose, gain, take out of the country with you.

30 MR FEUTRILL: In broad terms, is your answer that there are movements or potential movements of large sums of money, the source of which may or may not be legitimate?

35 PROF HAYWARD: I understood that junkets were about people with money because otherwise, why would you? As an agent, why would you recruit somebody to be part of a group if that person didn't have money?

40 MR FEUTRILL: So, there are a number of people with money, but some people may have obtained that money legitimately and some may have obtained it illegitimately.

PROF HAYWARD: I think that was a question for people.

45 MR FEUTRILL: Alright. What was your understanding of --- let's take international players as an example --- how the money would arrive in Australia?

PROF HAYWARD: I don't know that.

MR FEUTRILL: Were you aware of any of the accounts that the Perth Casino was

operating for junket operations?

PROF HAYWARD: No.

5

MR FEUTRILL: Were you aware of whether there was any inspectors undertaking an audit of those accounts from time to time?

PROF HAYWARD: I don't know.

10

MR FEUTRILL: Were there any reports that you can recall at GWC meetings where people reporting to you on activities that involved consideration of the Perth Casino's bank accounts?

15

PROF HAYWARD: No.

MR FEUTRILL: Was it something in which you had an interest as a member of the GWC, to understand where the money was coming from and how it was being managed within Western Australia?

20

PROF HAYWARD: I think it's fair to say that it was a matter of interest for the GWC. I think it's also fair to say that on a question of such things as Crown's bank accounts, certainly for myself, I would have seen that as not my business. It might have been interesting to know, but I wouldn't have ever expected Crown to report their --- you know, in broad papers, I would not have expected to see Crown's financial statements.

25

MR FEUTRILL: I'm not referring so much to the financial statements, but a record or an audit of the --- let's take this in steps. If there was a process by which the funds received --- let's just take it as a hypothetical, that Crown Casinos has got a process in place whereby it reports certain types of transactions that are either suspicious or is required to report to AUSTRAC.

30

PROF HAYWARD: Mmm-hmm.

35

MR FEUTRILL: Would you not consider it to be of some interest to the regulator of the Perth Casino as to whether they were meeting their reporting obligations to AUSTRAC?

40

PROF HAYWARD: I honestly don't --- I couldn't tell you what the information sharing protocols are between those agencies.

45

MR FEUTRILL: But in terms of the systems that they had in place to --- what I'm saying to you is the systems that the Perth Casino may have had in place for its own purposes to identify reportable transactions or suspicious transactions, was it not something of interest to you as a member of the GWC to ensure that you verified those systems were adequate?



PROF HAYWARD: Once again, I'm not sure if this answer is actually to your question. If Crown was required to report to AUSTRAC, I don't know whether Crown would also see or have a responsibility to report to the GWC. They may  
5 have, they may not have and the data sharing protocol is between AUSTRAC and the GWC. I don't know what that arrangement is, if Crown did notify AUSTRAC that AUSTRAC had an obligation to report to the GWC. I don't know those things.

MR FEUTRILL: I'm really trying to explore whether you or anyone else on the  
10 GWC considered there to be some form of residual risk associated with junkets that may not have been captured by pure obligations to report to AUSTRAC, or relying on the police to identify criminal activity after the event.

PROF HAYWARD: Once again, don't know that I'm answering your question. Were  
15 things like that of interest to the GWC? Yes. Were we concerned that things happened properly within the letter of the law? Yes. Did we always feel that we had a role in unpacking that and finding out what was actually going on? No. Is that your question?

MR FEUTRILL: I think you're referring to, if I might say, the process of  
20 investigating whether there has been historical activity that's, if you like, potentially illegal and/or ---

PROF HAYWARD: Probably no.  
25

MR FEUTRILL: If you are referring to you didn't consider yourself to have a role in  
investigation of crime that had taken place historically, I understand the answer you  
have given. I'm more focusing here on the question of whether you appreciated or  
considered the possibility of there being a risk of that activity and that there were  
30 systems in place to identify that activity and report it to appropriate authorities.

PROF HAYWARD: Once again, don't know that I'm answering your question. Was  
it of concern? Yes. Was it discussed? Yes. Regularly? Yes. Did we feel like we  
had the resources or the authority to investigate that ourselves? No.  
35

MR FEUTRILL: Would you consider it to have been within the authority and the  
resources of the GWC to undertake some form of audit, for example, of the  
governance and risk management procedures of the Perth Casino, to consider  
whether their own systems and governance were addressing appropriately risks such  
40 as those in connection with junket operators?

PROF HAYWARD: That sounds reasonable.

MR FEUTRILL: So was there any consideration given to undertaking an audit of  
45 that nature by the GWC, to your knowledge?

PROF HAYWARD: It feels like that might have happened, but I couldn't give you  
specifics.

MR FEUTRILL: Okay. When you say "it feels like it may have", is this an example of where you have no positive recollection one way or the other in answer to that question?

5

PROF HAYWARD: No, it feels like it might have happened, but I couldn't give you specifics.

MR FEUTRILL: Okay. Can I come back to --- if you don't know, you can obviously answer --- are you familiar there is a power in the Casino Control Act to make regulations concerning junkets?

10

PROF HAYWARD: Answering really precisely, the GWC didn't make the regs.

MR FEUTRILL: So who made ---

15

PROF HAYWARD: My understanding is that if the GWC wanted a change in the regulations, either that something that was already in there be amended or that there needed to be a new regulation, or there was not a need for a regulation, that that was a recommendation GWC/department to the Minister. It wasn't a decision by the GWC.

20

MR FEUTRILL: Yes, I appreciate that. So, there was a process by which the GWC made a recommendation that regulations require an amendment, for whatever reason.

25

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: In answer to my question, you are familiar there was a power within the Casino Control Act to make ---

30

PROF HAYWARD: To make recommendations to the Minister, yes.

MR FEUTRILL: Let's say for regulations to be made?

35

PROF HAYWARD: Yes.

MR FEUTRILL: A little earlier you mentioned that there had been some regulation of junkets that you said, I think, was ineffective, or words to that effect?

40

PROF HAYWARD: Yes.

MR FEUTRILL: Is that a reference to changes that were made to the regulations at one point in time to remove the requirement for the GWC to, if you like, vet operators and representatives of junkets?

45

PROF HAYWARD: Yes, that's my understanding.

12:30PM

MR FEUTRILL: And do you have a recollection now of participating in a meeting about that subject matter? If this helps, it was in 2010, early 2010.

5 PROF HAYWARD: I may well have. The minutes of the following meeting would indicate whether I was there or not.

MR FEUTRILL: Yes. But again, if you don't remember, you don't remember. But do you have a recollection of participating in any meeting at which the regulations  
10 were changed in that way?

PROF HAYWARD: I couldn't be precise at this time and this many years on.

MR FEUTRILL: Alright. Do you have any recollection of what the process was,  
15 prior to the change, for the approval of operators of junkets and their representatives? You don't have a recollection?

PROF HAYWARD: No, no, but ---

20 MR FEUTRILL: Do you remember how it was regulated prior to the change?

PROF HAYWARD: No.

MR FEUTRILL: Okay. Now, I would like to take you to the paper that was  
25 presented to the meeting and see if it refreshes your memory at all. If it does, I would like to ask you some questions about it.

PROF HAYWARD: Mmm-hmm.

30 MR FEUTRILL: If it doesn't, it doesn't. This is GWC.0002.0016 .0001 and that's the first page of the agenda papers. Then if you could move forward to page 0337, which is item 8.2.

PROF HAYWARD: Yes.

35

MR FEUTRILL: Can I ask you just to have a quick read of that, the beginning of that paper, to see if it jogs your memory at all about that matter. I appreciate this is some time ago and it may not.

40 PROF HAYWARD: I feel like I need to be able to scroll through.

MR FEUTRILL: Would you like that opportunity? We might have a written ---

PROF HAYWARD: Yes, if that's possible.

45

COMMISSIONER OWEN: If there is a hard copy, I think that would ---

MR FEUTRILL: My apologies, we don't seem to have produced one for this

document.

5 PROF HAYWARD: And from the minutes of this meeting, can I have a look at the actual decision, please?

10 MR FEUTRILL: Yes, you can. The minutes appear at GWC.0002.0016.0002. I'll just draw your attention to the first page of that. Sorry, this is at page \_0014. These are actually not signed. I don't think we've got a copy of the signed minutes. But it does record that you were present at the meeting and the specific item number is 8.2 on page \_0023, item 8.2 at the bottom of the page there.

PROF HAYWARD: Mmm-hmm.

15 MR FEUTRILL: If you can't remember, I'm not asking you to reconstruct your recollection, but do you have any clear recollection of the events leading up to that resolution?

20 PROF HAYWARD: It looks familiar, is the best that I can say.

MR FEUTRILL: Okay. Now, can you remember, as best you can now --- first of all, do you recall whether you voted in favour of that resolution?

25 COMMISSIONER JENKINS: Just before Professor Hayward answers that, I really wonder whether it's fair to her to ask these questions when she hasn't had the opportunity to refresh her memory from those papers.

30 MR FEUTRILL: Yes, I agree with you, actually. I was going to ask some questions in a more general sense. Perhaps if I could go down that path rather than trying to deal with the specifics.

COMMISSIONER JENKINS: Professor Hayward, if you feel you can't answer the questions without refreshing your memory then let Mr Feutrill know.

35 PROF HAYWARD: I will, thank you.

40 MR FEUTRILL: If you would like the opportunity to take five minutes to scroll through the agenda paper, we can, before I ask the questions. It may actually jog your memory.

45 PROF HAYWARD: I can absolutely talk to the way the GWC operated generally. I don't remember at all too many, if there were any, matters on any issue that went to a vote per se. It's always been my philosophy that if you've got to do that at a board level, there hasn't been enough conversation or information. So it's not a matter of "did I vote in favour". I think, just under that process, the GWC would have been in agreement with that resolution and that would have included me.

MR FEUTRILL: Okay. I think, Commissioners, I can deal with this without

needing to delve into the specifics. I think you mentioned earlier in answer to one of my earlier questions that there was a consideration that the position or direct regulation of junkets was ineffective and I think you also mentioned there were other  
5 regulatory bodies that were undertaking activities that might be --- would address some of the concerns. In that specific context, what is your understanding of how those other bodies were addressing, in particular, the concerns about money laundering through junkets?

10 PROF HAYWARD: Um, I don't recall any information coming to the GWC that went to how AUSTRAC did its business. I do recall that from time to time, not necessarily on this but generally, that we would get information about how WA Police, not so much how they check, but what results of their check came. Once again, I'm not sure that that's what you're asking.

15 MR FEUTRILL: No, it is. Is your understanding --- I think you said you didn't get any specifics on how AUSTRAC undertook its activities --- how were you satisfied, then, that the activities of AUSTRAC itself was going to cater for the risks, if you can put it that way, associated with junket operations in Perth Casino?

20 PROF HAYWARD: I'm trying to get to what you're actually asking. Are you asking if we didn't know how AUSTRAC did its business then why could we bring in a removal of regulations that assumed they were. Is that what you're asking?

25 MR FEUTRILL: More or less, yes.

PROF HAYWARD: Okay. I don't think that we could reasonably assume, other than that we all expect that government departments at State and Federal level are doing their job and if they were charged with that as part of their job, they should  
30 have been doing it. I think that's how we live our lives.

MR FEUTRILL: Yes, alright.

35 PROF HAYWARD: I mean, I don't have to check with my neighbour if their water is operating. I expect that it is, because we've got a Water Corporation.

COMMISSIONER JENKINS: Professor Hayward, what role do you think AUSTRAC played?

40 PROF HAYWARD: My understanding was that the tracking of potential money laundering.

COMMISSIONER JENKINS: When you say "tracking", do you mean tracking and then investigating ---

45 PROF HAYWARD: Yes.

COMMISSIONER JENKINS: --- or just tracking?

PROF HAYWARD: No, and investigating.

COMMISSIONER JENKINS: Thank you, Mr Feutrill.

5

MR FEUTRILL: Thank you.

Now, is your recollection that the only concern related to junkets was this question of money laundering, or was there any other aspects to the operation of junkets that you considered to be ---

10

(Fire alarm test)

PROF HAYWARD: Do we just wait?

15

MR FEUTRILL: We're going to have to, yes.

COMMISSIONER OWEN: I've just developed post traumatic stress disorder from five years in this building.

20

MR FEUTRILL: I appreciate the time. I think we will run over time at this stage and we'll go past lunch and into the afternoon.

COMMISSIONER OWEN: Let's deal with that at 1.00 pm, just before we break, because we'll speak to Mr Sadler about programming.

25

MR FEUTRILL: May it please.

Sorry, Professor Hayward. I wanted to just complete this appreciation of your understanding of junket operations. You mentioned one of the aspects of it that was of concern was its ability to facilitate money laundering. Was there any other aspect of junket operators or junket representatives that was in your view of concern to regulators and in particular the GWC?

30

PROF HAYWARD: For me, the question of money laundering, including the means by which people had the money in the first place was always a concern. I think for the question of "is this person of good character", that kind of question was more a question for border control police than the GWC.

35

MR FEUTRILL: I see. Also, border control is another element or another dimension to, if you like, the other regulatory bodies involved. So, what was your understanding of the checks that would be undertaken by border control to, if you like, identify the identity of those involved?

40

PROF HAYWARD: It's the same answer as when I talk about AUSTRAC. We weren't informed about how they did their business, um, and I don't know about the data sharing protocol between Border Force and the GWC.

45

MR FEUTRILL: I'm going to summarise what you said in a number of answers and if you don't agree, just let me know.

5 PROF HAYWARD: Yes.

MR FEUTRILL: Is it the case that you were provided the information about, in broad terms, that this was being taken of --- money laundering by AUSTRAC, identity of those involved by border control or Department of Immigration and, therefore, those concerns were not something that the GWC needed to inquire into?

PROF HAYWARD: I don't think we had the ability to inquire into it like those other organisations did.

15 MR FEUTRILL: Okay, but prior to the change in the regulations in 2010, the GWC had been inquiring into the identity of those involved, so would you agree with me that you had the ability to at least do that?

PROF HAYWARD: I think that's an example when I mentioned that, I acknowledged that the regulation was there. I had a question about the effectiveness of its implementation.

MR FEUTRILL: So coming back to effectiveness, just so I can dwell on that for a moment. One way is to obtain the resources to become more effective. So you could --- if you didn't have the ability internally to do it, you could obtain resources externally, could you not?

PROF HAYWARD: I guess the duplication of resources is always a question. But that's what it would have been. It would have been a duplication.

30 MR FEUTRILL: Duplication of the resources being undertaken by other agencies?

PROF HAYWARD: Yes, yes.

35 MR FEUTRILL: I'm now speaking of the position prior to the change in 2010 when you were undertaking some regulation, some approval processes. If you thought as an organisation you didn't have the resources internally to do that, was there any consideration given to obtaining those resources?

40 PROF HAYWARD: As I said, the opportunity to request resourcing, to duplicate resources to undertake work that's the responsibility of another agency, I'm not sure that you would have been very successful.

MR FEUTRILL: Okay. Now, a little earlier in answer to one of my earlier questions, you mentioned that there had been a change in the way that the inspections --- I'm paraphrasing --- that the way the inspections and audits were undertaken on the floor in the casino. You recall those questions? Are you familiar

with the expression "risk-based regulation"?

PROF HAYWARD: Yes, not a term that I use often, but yes.

5

MR FEUTRILL: So, what is your understanding of that expression?

PROF HAYWARD: That rather than inspection being, you know, this happens at 5 pm every Tuesday afternoon regardless of what else might be happening, that it is irregular, intermittent and in some ways a surprise.

10

MR FEUTRILL: Okay, and what is your understanding of the risk element of that process? What does that involve? You've gone from being ---

PROF HAYWARD: If a place like the casino knew that inspections happened at 5 pm every Tuesday afternoon, they could dress up anything they liked ready for 5 o'clock on a Tuesday afternoon. If they didn't know when an inspection was going to happen or how often or with what regularity, it's much harder for them to do it, which means when the inspection happens, if there is something to undercover or something to see that shouldn't be there, you're more likely to find it.

20

MR FEUTRILL: Okay, what was your understanding of the regulatory model employed by the GWC for the Perth Casino?

PROF HAYWARD: At least post the electronic surveillance that irregular, intermittent, by surprise.

25

MR FEUTRILL: And by that, would you characterise that as a risk-based approach?

PROF HAYWARD: Yes.

30

MR FEUTRILL: Now, after moving to that approach, what was your understanding of the way in which the element of surprise --- we'll put it that way --- would be employed? In other words, how did they select when, how and where they would use that?

35

PROF HAYWARD: That would be for a matter internal to the department.

MR FEUTRILL: Was it your understanding that one of the reasons for the reduction in the presence on the floor was because of efficiencies, in terms of monetary, fiscal efficiencies?

40

PROF HAYWARD: I think there were efficiencies in the surveillance.

MR FEUTRILL: What do you mean by that?

45

PROF HAYWARD: Well, if previously you needed an inspector on the floor to be able to have line of sight of whatever was happening --- good, bad or indifferent ---



but under --- with the electronic surveillance you had an ability for an inspector to go in and say, "I'd like to see the footage at 11 o'clock last Wednesday", and be able to see it. That, to me, is much more efficient than if you blinked and you missed it, it's gone.

MR FEUTRILL: So was it your understanding it was based purely on operational efficiency rather than reduction in cost to the department and GWC?

10 PROF HAYWARD: It was absolutely about the efficiency of being able to surveil on a needs or requests basis.

MR FEUTRILL: So is it your understanding there was no aspect of it that involved budget constraints on the GWC or the department in carrying out inspection and audits?

PROF HAYWARD: There may well have been some financial benefit in not needing so many people if, in fact, that ended up happening, but that wasn't the basis of any decision.

20 MR FEUTRILL: I see. So your recollection is that the decision was based on creating efficiencies in surveillance?

PROF HAYWARD: Yes.

25 MR FEUTRILL: Okay. Could I ask you to refer back to your statement briefly at paragraph 36.

PROF HAYWARD: Sorry , which number?

30 MR FEUTRILL: Paragraph 36. You made mention to a dip as a consequence of the machinery of government reforms, but what you have gone on to say is:

35 *The quality of the support given to the GWC by the Department was satisfactory within the limitations of the budget and the availability of full time employees (FTEs) of the Department.*

40 In one sense, that might be read as damning with faint praise insofar as it deals with you're saying they did a good job of what they had --- to paraphrase it. Are you intending to say in that paragraph that you thought the budget was inadequate and that the quality and support given to the GWC could have been better had there been more funding available to perform that function?

45 PROF HAYWARD: And/or different priorities. For instance, I think at that time around the MoG reforms there was a real push on that now bigger and amalgamated department having a particular focus in the area of local government. So, in a whole budget, if that's the priority as determined by the Minister, then that's where some of those resources had to go.

MR FEUTRILL: I see. So was it your understanding that you really had no say in the funding you received from, more broadly, the government to perform your function?

5

PROF HAYWARD: The GWC had its own budget. We did not have control over the department's budget separate to the GWC budget.

MR FEUTRILL: Okay, so in terms of the budget --- so if you, for example, considered you needed some additional resources, how are you able to request in your budget the allocation of those resources to GWC, to your knowledge?

10

PROF HAYWARD: The GWC budget went through the same cycle as, my understanding is of any other budget. It was proposed as a draft. It came forward to the GWC. The GWC endorsed it or not. If there were --- if there was a need determined by the GWC for additional expenditure, then the GWC requested that the department find those funds.

15

MR FEUTRILL: Okay, so who prepared the initial budget paper?

20

PROF HAYWARD: The department's Chief Financial Officer.

MR FEUTRILL: Okay. Then that was, to the best of your recollection, presented to the GWC for consideration?

25

PROF HAYWARD: Yes.

MR FEUTRILL: And how did you review it for, if you like, the adequacy of the funding or adequacy of the things taken to account in it? What material did you receive within it?

30

PROF HAYWARD: Once again, not sure that I'm answering your question. There was often a comparison in terms of the previous year's budget. Is that what you mean?

35

MR FEUTRILL: No, what I mean is, I think earlier you said --- or there were times when we said that we wanted more funding for something in particular and we requested it. So, how are you identifying those things you needed additional funding for?

40

PROF HAYWARD: Well, you couldn't at the time of budget approval, because you can only approve within what you know at the time. This was --- so you approve it for a whole year and it's a year in advance. If something comes up within that year, you can't hold it off till the end of that year before you make your request. It has to be able to be made when there is an issue, if there is an issue.

45

MR FEUTRILL: Okay, I see. So, you're talking in that example where there's

something not actually dealt with in the budget and a need for an expenditure comes up, and there is a request for funds, it has got to be found from somewhere.

5 PROF HAYWARD: Yes.

MR FEUTRILL: Can we find the funds for it?

PROF HAYWARD: Yes.

10

MR FEUTRILL: Were there any occasions when you can recall when you were a member of the GWC when a budget prepared by the CFO of the department was not approved?

15

PROF HAYWARD: You can't operate without an approved budget. So, we received monthly statements as well as the annual budget. If there were any matters for clarification, we asked those matters --- we asked for that. Sometimes the CFO would attend a meeting to be able to address those questions. In terms of an annual budget being approved, while I don't recall a time, the process would have been once again iterative. It would have gone backwards and forwards until all the budget was in a form that the GWC could approve it.

20

MR FEUTRILL: So your recollection is any opportunity or process by which you consulted with a CFO before the preparation of a budget? So for example, if ---

25

PROF HAYWARD: No, they'd bring a draft budget. So that's not in advance of the preparation of it.

MR FEUTRILL: I see.

30

PROF HAYWARD: The GWC budget for one year was largely based on what had happened in the year before. Does that help?

MR FEUTRILL: Yes. I think this is probably an appropriate time.

35

COMMISSIONER OWEN: Do you have an estimate of how much longer you might be?

MR FEUTRILL: I'll be, best estimate, an hour and a half, or an hour or so.

40

COMMISSIONER OWEN: Well, it might be better --- we have Mr Duckworth.

MR SADLER: We have Mr Duckworth ready to go at 2.

45

COMMISSIONER OWEN: If we were to say for Mr Duckworth not before 3, and could you inquire from him whether he would be available on the morning of 26 May and would it be appropriate for him to be provided with any particular document or documents to look at?

01:01PM

MR FEUTRILL: It would. I had considered that for Professor Hayward. Unfortunately, I wasn't able to undertake the process quickly enough, but it may be beneficial to see some of the documents (inaudible).

5

COMMISSIONER OWEN: If I can leave that to you to talk to Mr Sadler, to identify the documents. And is there a clean hard copy of the particular 2010 document that Professor Hayward could look at, or are you not going to go back to that?

10 MR FEUTRILL: We do have it now and perhaps she should review it over lunch.

COMMISSIONER OWEN: It may also be useful to go to the document at which the change from the risk-based ---

15 MR FEUTRILL: Yes.

COMMISSIONER OWEN: And I can't remember whether that's 2015 or 2017.

MR FEUTRILL: It's 2015.

20

COMMISSIONER OWEN: So, perhaps ---

MR FEUTRILL: We can deal with that one as well, if you like.

25 COMMISSIONER OWEN: You can deal with those, as well. Alright, then 2 pm.

**ADJOURNED**

**[1.03 PM]**

30

**RESUMED**

**[2.00 PM]**

COMMISSIONER OWEN: Please be seated. Thank you, Professor Hayward.

35

MR FEUTRILL: Professor Hayward, you have had an opportunity to consider some documents over the luncheon adjournment. I understand that you hadn't got them as early as they could have been, but have you had a chance to read them?

40 PROF HAYWARD: Bits.

MR FEUTRILL: Okay. Could I ask you to turn to the document --- you should have a hard copy extract --- on the top right-hand corner it will have GWC.0002.0016.0001\_037 and it's headed "Agenda item 8.2".

45

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: Can I draw your attention to the first box which is "Recommendation(s)" and the first two major paragraphs under the heading "Background".

5

PROF HAYWARD: Yes.

MR FEUTRILL: Now, having read that, does that assist to refresh your memory at all regarding the circumstances in which the regulations came to be changed in 2010?

10

PROF HAYWARD: Vaguely.

MR FEUTRILL: Okay. Can I ask you, is it your recollection --- here today, I mean --- that the genesis for the change came from a request from the licensee?

15

PROF HAYWARD: That's what the paper indicates.

MR FEUTRILL: And is that your recollection of what the process was?

20

PROF HAYWARD: I have a vague recollection of this, without the specifics.

MR FEUTRILL: Okay. Can I ask you to move through the paper to the page 9 of the actual paper itself there's a heading "Approval process".

25

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: And if I could draw your attention to everything that appears under that heading on that page and the following page and ask you whether that has assisted you at all to refresh your memory about the process in place before the changes in 2010?

30

PROF HAYWARD: Yes, once again, my recollection is vague.

MR FEUTRILL: Is it a bit better than it was earlier today, or not?

35

PROF HAYWARD: I can read what's in the paper and answer accordingly, but how much that aligns with my actual memory, would need a different kind of test.

MR FEUTRILL: Okay, alright. Can I just draw your attention then under the heading "Conclusion".

40

PROF HAYWARD: Yes.

MR FEUTRILL: I think I may have asked you some questions earlier today about this and if you read that paragraph, I think largely what you've said reflects what's in that paragraph, but I have some other questions to ask you about that.

45

PROF HAYWARD: Yes.

MR FEUTRILL: So, you'll see there that it refers to: *The objectives of the junket approval process (to prevent criminal involvement in the lucrative junket market) can be accomplished without the requirements for formal approval.*

5

There's a reference to border security, the Department of Immigration. As part of that, which I think you gave some evidence earlier today about that.

PROF HAYWARD: Mmm-hmm.

10

MR FEUTRILL: There is a reference there to an addition under section 26(2) of the Casino Control Act:

15

*Police have the authority to prohibit individuals from entering and remaining in licensed casinos.*

Do you have any recollection on whether that had an influence on your decision-making at the time?

20

PROF HAYWARD: I don't remember that specifically, but certainly I had an impression that the police had a particular role to play.

25

MR FEUTRILL: Okay. Was it your understanding that they could issue prohibition notices under the Casino Control Act to prevent people from entering into the casino?

PROF HAYWARD: Once again, I wouldn't state categorically.

30

MR FEUTRILL: Alright. Now could I draw your attention to the last sentence there which is:

*The Commission can promulgate regulations.*

35

Do you have any recollection whether it was influencing your decision-making at the time that the ability to continue to regulate was available to the GWC?

PROF HAYWARD: I think that's always a good thing, but I couldn't say to you how much that was in my thinking or not at the time of this decision-making.

40

MR FEUTRILL: Okay and, likewise, the power to give directions, is that something that you considered to be available to the GWC?

45

PROF HAYWARD: Same thing. I think it's good that the ability is there. I couldn't say to you the degree or not, that it was in my thinking at the time.

MR FEUTRILL: Okay. Now, are you aware, and do you recall at all at any time

during the period that you were a member of the GWC ---

PROF HAYWARD: Mmm-hmm.

5

MR FEUTRILL: --- of an instance where you were informed of the Western Australian Police exercising power to prohibit someone from entering the casino?

PROF HAYWARD: I know that WA Police were involved in a number of matters that did come before the GWC. But once again, I wouldn't like to say definitively that it was in regard to this.

MR FEUTRILL: Right. To your recollection, did any of those involve junket operators or junket representatives?

15

PROF HAYWARD: Once again, I couldn't say definitively.

MR FEUTRILL: Okay, and now, are you aware or again in the time you were a member, of whether the GWC issued any directions to Perth Casino relating to junket operations after the changes to the regulations in 2010?

20

PROF HAYWARD: I don't recall.

MR FEUTRILL: I think a little earlier in answer to one of my questions you said you had --- I'm going to paraphrase you, it might not be quite right what you said --- you had a recollection or a vague recollection of there being some remaining or residual regulation associated with junkets in the current regulatory framework.

25

PROF HAYWARD: Is there an availability for someone to read back?

30

MR FEUTRILL: No. I'll ask you the question again, or put the proposition to you again, which is are you aware --- and this is at the time --- I think I put the question to you earlier at the time that you resigned from or left as a member of the GWC --- of any remaining or existing regulatory structure the GWC has in place to deal with junket operations?

35

PROF HAYWARD: I don't recall. I should clarify, though, my term expired rather than me having resigned, so just for clarity.

MR FEUTRILL: It expired and you didn't seek renewal, or you weren't renewed?

40

PROF HAYWARD: Wasn't able to be renewed.

MR FEUTRILL: Right.

45

PROF HAYWARD: The State Government has a standard around the length of time that any person can sit on any of its boards and I had already exceeded that.

MR FEUTRILL: I see, I see. I understand. Can you explain or provide your understanding then of after the decision was made to change the regulations in 2010, what was your understanding of whether or not the GWC would remain or continue to have any role in the regulation of junkets on an ongoing basis?

PROF HAYWARD: Do I remember whether we had a role, or do I remember whether we exercised that role?

MR FEUTRILL: Do you remember whether you had a role?

PROF HAYWARD: For the regulation of junkets, no, I don't remember.

MR FEUTRILL: Was it your understanding ---

COMMISSIONER JENKINS: I didn't hear that answer.

PROF HAYWARD: I'm sorry. No, I don't remember.

COMMISSIONER JENKINS: Whether you had a role --- whether the GWC had a role?

PROF HAYWARD: Yes.

MR FEUTRILL: More particularly, do you remember if the possibility of that continuing role had any influence on your decision-making in 2010?

PROF HAYWARD: I don't remember if that was a consideration, or the extent to which it was.

MR FEUTRILL: Do you consider, or did you consider at the time you left the GWC that the GWC should have a continuing role in the regulation of junkets?

PROF HAYWARD: I think I, like many in society, welcomed this process in terms of making a whole range of clarifications.

MR FEUTRILL: But I'm actually referring to what your state of mind was when, effectively the last day you were on the board, did you consider at that time that the GWC should have had a role to play in the regulation of junkets?

PROF HAYWARD: The consideration was much more around should the GWC call for an inquiry, what's the process for that? What kind of notice could be taken of findings coming out of some of the hearings in Victoria and New South Wales? It was --- so, in lots of ways, the consideration was almost a higher level than the specifics of authorising junket operators or not.

MR FEUTRILL: Okay. I'll put a slightly different question to you. I'll put it to you another way, which is, were you satisfied by the assurances that you were given



regarding the Department of Immigration doing checks on entries into the country and the obligations on Perth Casino to fulfil its obligations under the AUSTRAC legislation, the AML legislation, there was no need for the GWC to remain involved  
5 in regulation of junkets in Western Australia.

PROF HAYWARD: I think we were concerned, the GWC was concerned that the regulation of junket operators be carried out properly.

10 MR FEUTRILL: By whom, by what organisation?

PROF HAYWARD: In my mind, on the question of whether or not there was a possibility of money laundering, in my mind that was much more about AUSTRAC than the GWC or the department.  
15

MR FEUTRILL: And in that context, is your earlier answer earlier today that you considered if they were doing your job properly that was covered? Did you have faith in them to do their job correctly?

20 PROF HAYWARD: If they were doing their job well.

COMMISSIONER OWEN: Could I just clarify one thing? You made a distinction -  
--

25 PROF HAYWARD: Yes.

COMMISSIONER OWEN: --- you asked for clarification, are you asking whether I thought the GWC had a role, or whether we exercised the role? Do you remember you seeking that distinction? Can I focus on the second?  
30

PROF HAYWARD: Yes.

COMMISSIONER OWEN: And ask you this. As you sit here now and post-2010, so 2015, 2016, any time around there, do you have any recollection of any  
35 information being given to the Gaming and Wagering Commission about junket operations?

PROF HAYWARD: I'd be guessing. I think there was, but I wouldn't be able to recall the specifics.  
40

COMMISSIONER OWEN: Even the sort of the type of information?

PROF HAYWARD: No, once again, I'd be guessing.

45 COMMISSIONER OWEN: Well, let me just give you a couple of examples to see if it helps.

PROF HAYWARD: Yes.

COMMISSIONER OWEN: Anything about the revenue figures that might be attributable to international business as opposed to local business? In other words, dollars. If you can't remember ---

5

PROF HAYWARD: Yes, it rings a bell, but I couldn't be --- I couldn't answer specifically.

COMMISSIONER OWEN: And anything about, for example, say the number of junket parties who have come in any particular period?

10

PROF HAYWARD: Once again, that sounds specific, that sounds likely, but I couldn't respond specifically. I'm sorry.

COMMISSIONER OWEN: Thank you. Mr Feutrill.

15

MR FEUTRILL: Thank you. Just to follow up, what about, were you receiving any information from any other regulatory bodies, I mean, casino regulators in Australia about any probity checks they were undertaking on junket operators in their jurisdictions?

20

PROF HAYWARD: Only in terms of advice that came to the GWC from representatives of the department. So, the department here, the office of the department here would be in contact with officers of the department in a different jurisdiction and would update us generally verbally.

25

MR FEUTRILL: And in that context, do you know whether there were any checks being undertaken to see if, for example, operator A was prohibited in, say, for example Victoria, in Western Australia to see there was consistency across jurisdictions?

30

PROF HAYWARD: I think there was certainly attempts at an alignment. I know we had conversations over a period of time about proposed involvement of a Mr Ho and I don't know whether that was in WA as much as in other jurisdictions, but that was something that certainly came into our agenda here. Now, that aligned with those other jurisdictions.

35

MR FEUTRILL: Is that a reference to the Melco transaction, does that ring a bell? Don't know? Can I ask you to move to a different topic now, which is the events --- you recall before lunch I asked you some questions and you gave some answers about changing the way in which the inspection was undertaken at the Perth Casino?

40

PROF HAYWARD: Yes.

MR FEUTRILL: And you should have had an opportunity over lunch to consider a paper that was prepared by the Deputy Director-General of the department in August 2015, which is GWC.0002.0016.0155 at page 17 which is \_0017. It's agenda item

45

6.2.

PROF HAYWARD: Yes.

5

MR FEUTRILL: Again, I'd like you to draw your attention first to the major box under "Recommendation". And the first paragraph that makes a reference to attachment 1. You can take it from me, the minutes record that you were not in the meeting in June 2015, but if I could ask you just to turn to the attachment 1, which starts on page\_0022 and it's headed "Attachment 1 Casino Compliance Strategy".

10

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: Do you have any recollection now of having considered this document around the time of the meeting in August 2015?

15

PROF HAYWARD: The fact of the various diagrams, because we didn't usually get diagrams in our papers, makes me think that this should be familiar, but once again, I wouldn't like to be drawn on any specific item.

20

MR FEUTRILL: Alright. So if I just take that diagram just as an example, you see at the very top it's got a box headed "Strategic plan 2015-2018"?

PROF HAYWARD: Yes.

25

MR FEUTRILL: A little earlier in the day I asked you some questions about the existence of a strategic plan and you said there wasn't one or you couldn't recall there being one. Is that a reference to a strategic plan of the GWC or some other organisation?

30

PROF HAYWARD: My comments were about being unfamiliar with the GWC having a strategic plan. This looks like it's the strategic plan of the department.

MR FEUTRILL: I see. So when one reads the words "Casino Compliance Strategy", was it your understanding it was a strategy of the GWC or the department?

35

PROF HAYWARD: The department.

MR FEUTRILL: And was it your understanding that you were approving the department strategy or your own strategy?

40

PROF HAYWARD: I don't recall the GWC having a strategic plan.

MR FEUTRILL: No, sorry.

45

PROF HAYWARD: I also don't recall any strategic plan from the department coming to the GWC for approval.

MR FEUTRILL: Sorry, I think we might be at cross-purposes. I'm referring here to the document headed "Casino Compliance Strategy".

5 PROF HAYWARD: Okay, what page are you on?

MR FEUTRILL: Last digits are \_0020 attachment 1.

PROF HAYWARD: Sorry, go on.

10

MR FEUTRILL: I'll ask the question again. I think you may not have understood the question. Was it your understanding that this casino compliance strategy was that of the GWC?

15 PROF HAYWARD: I'm reading the first sentence, which says that it was so, but I don't have that recollection.

MR FEUTRILL: Okay. Can I just leave that page and take you to another part of it?

20 PROF HAYWARD: Yes.

MR FEUTRILL: Now you might recall earlier today I asked you some questions about whether or not there were any aspects of this that were driven by budgetary considerations.

25

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: Can I draw your attention to the page\_0019 and the two paragraphs at the beginning of that page. Earlier today, I think, the evidence dealing with essentially the first of those paragraphs, and I asked you the question about the budgetary constraints because of the second paragraph on that page, and I think in answer to one of the questions, you said you didn't think --- you said words to the effect that it wasn't a consideration, that the budgetary constraints were not a consideration in the decision to approve the changes in the way that the inspections or audits were undertaken. Does that continue to be your evidence, having considered the papers?

35

PROF HAYWARD: I don't recall considering that at all. And I know I have the mindset of while I appreciate that departments have finite budgets, it's up to them to manage it. So, if they're taxed in one particular or stretched in one particular area, it's up to them to manage that, it's not up to the GWC to manage that aspect of the department's operations.

40

MR FEUTRILL: The department was supplying inspectors and other people to the GWC to perform some of the functions of the GWC.

45

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: If there were budgetary constraints on the ability of the department to perform those functions, was it not a matter of interest to you as a member of the GWC?

5

PROF HAYWARD: Well, it could well be, but it's up to the department to manage the department's budget.

MR FEUTRILL: Do you consider by your answer, are you considering essentially the GWC budget was part of the department's budget?

10

PROF HAYWARD: Yes.

MR FEUTRILL: So, you are not really drawing any distinction between funds available to the department and funds available to the GWC?

15

PROF HAYWARD: Oh no, I'm absolutely drawing a distinction. The GWC also had a finite budget.

MR FEUTRILL: I see. The GWC, this budget was prepared for it by the CFO of the department?

20

PROF HAYWARD: Yes.

MR FEUTRILL: It was approved by the GWC?

25

PROF HAYWARD: Yes.

MR FEUTRILL: The revenue for the budget came from what sources, to your recollection?

30

PROF HAYWARD: From the department.

MR FEUTRILL: From the department, and the expenses that were incurred on behalf of the GWC were incurred by who, from your understanding?

35

PROF HAYWARD: They were covered in the budget.

MR FEUTRILL: In other words, who paid?

40

PROF HAYWARD: The department.

MR FEUTRILL: Just to try and summarise some of the evidence you've given ---

PROF HAYWARD: Yes.

45

MR FEUTRILL: --- again, you can disagree with this, but to reconcile those things, would it be fair to say, your view in 2015 was if you could create the efficiencies you

described in the way in which the casino was being inspected and audited without having an impact on the oversight and if it had a budgetary advantage to it, then it was something you were in favour of?

5

PROF HAYWARD: Yes.

MR FEUTRILL: I'll leave matters of finance and move to another topic. I take it that you are aware or became aware of an ABC program, the Four Corners' program that was aired in 2014 entitled "High Rollers - High Risk. Australian casinos and the threat posed by organised crime."

10

PROF HAYWARD: I recall that there was an ABC show, I didn't see it.

15 MR FEUTRILL: You didn't view it at the time?

PROF HAYWARD: No.

MR FEUTRILL: Do you recall if it became the subject of some discussion at GWC meetings?

20

PROF HAYWARD: I think it did.

MR FEUTRILL: And do you recall it being raised around the time of the airing of the article in the GWC meeting?

25

PROF HAYWARD: Yes, sorry, what was the question?

MR FEUTRILL: Do you recall it being raised around the time the article was aired on the ABC at a meeting of the GWC?

30

PROF HAYWARD: There was GWC discussion, yes.

MR FEUTRILL: And do you remember what, if anything, was the result of that discussion? Was any action to be taken?

35

PROF HAYWARD: I don't recall.

MR FEUTRILL: Can I ask you to have a look at GWC.0002.0016.0121. I think I have the wrong reference, I'm sorry. It's .0016.0135\_0003. I'm just going to point some things out to you. I'm not asking you to remember these events, but this is to put the question I want to ask you in context. If you go to page\_0018, heading "General Business". There's reference there having been raised there at that meeting, I'm not asking you to remember that, but towards the bottom there's a thing:

45

*The Deputy Chairman advised he would prepare an information paper in relation to Junket operators at Crown Perth for the October meeting.*

Then, if I could take you to the agenda papers for the December meeting which is at 0002.0016.0121 at \_0053. There's an item there of a report from the Deputy Director-General entitled International Commission Business - Crown Perth. Do you  
5 have any recollection of reading the paper around the time it was prepared and any discussion at the meeting in December 2014?

10 PROF HAYWARD: If I was there, I would have taken part in the conversation, but I can't recall.

MR FEUTRILL: Do you recall whether there was any discussion or concern at the meeting about carrying out any investigations into links between junket operators in Macau with connections to organised crime and operators of casinos in Australia, including Crown Perth? In other words, was there any consideration given to  
15 whether it was something that the GWC should investigate, the veracity of the allegations and some of the allegations in the ABC report?

PROF HAYWARD: I don't remember.

20 MR FEUTRILL: Don't remember at all, positively you don't remember or "it could not have happened, it could have happened"?

PROF HAYWARD: Yes, I don't remember.

25 MR FEUTRILL: As you sit here today, is it something that you think the GWC should have taken an interest in?

PROF HAYWARD: An interest, absolutely. An involvement is a different matter.

30 MR FEUTRILL: As in taking some steps to investigate the veracity of the allegations, I meant.

PROF HAYWARD: So, once again, my response is almost hypothetical, because I didn't watch the program. I'm refamiliarising myself with this paper now. We're  
35 seven years on. What I imagine would have been a question in my mind was whether or not the department had sufficient resources and/or authority to be able to investigate?

40 MR FEUTRILL: Well, the department had a power to give directions, didn't it?

COMMISSIONER JENKINS: I think that was the GWC's power.

MR FEUTRILL: Sorry, the GWC had power. Was it your understanding that the GWC had no power to investigate?  
45

PROF HAYWARD: Well, the GWC wouldn't have investigated.

MR FEUTRILL: Why do you say that?

PROF HAYWARD: Because we're a group of individuals sitting as a committee once a month.

5 MR FEUTRILL: Would you not be able to make a request that the department carry it out?

PROF HAYWARD: Oh, well that's why I said I don't know that the department would have had a) the resources, but more the authority to be able to do that. That  
10 would have been one of my questions.

MR FEUTRILL: You could have sought advice about that from the State Solicitor's Office?

15 PROF HAYWARD: Potentially.

COMMISSIONER JENKINS: Professor Hayward, have you read the Act, the Casino Control Act or seen what the powers of the GWC were?

20 PROF HAYWARD: Yes, not for a long time, to be honest. One of the --- sorry, if I may, one of the things that occurs to me through this, you know, just this process for me today --- and I'm sure for you --- is what improvements can be put in place all the way through, you know. And just from today's I'm looking and thinking gee, that direction from for instance the Public Sector Commission should have been in the  
25 first meeting each year every year, regardless of what change and regardless of when it came in. Now, that's an improvement that's ongoing. Similarly, there should be --- I think there could and potentially should have been a revision in terms of the provisions of the Act each year, then, regardless of who's changing, but there wasn't, um, yes.

30 COMMISSIONER JENKINS: Thank you, thank you.

MR FEUTRILL: Professor Hayward, I'm not intimating any criticism, I'm just seeking to understand what was taking place at the GWC at the relevant time and I  
35 know we can look at this in hindsight through a different lens, so I'm not intending any criticism of you at all. Can I ask you, there was some other events relating to the parent company of the local licensee Crown Perth in 2016. If I make reference to the China arrests, will you know what I'm referring to?

40 PROF HAYWARD: Yes.

MR FEUTRILL: So again, I just want to take you to some documents to put you into a reasonable context for what information was before the GWC at the time. So if we call up GWC.0002.0016.0194\_0004 this is part of a minute of a meeting of the  
45 GWC held on 25 October 2016 and under item 12 "General business" there was a reference there to:



*The Chairman advised that he was unable to provide any additional information on the detention of Crown employees in China.*

5 Then, a little further on in the timeline, if we call up GWC.0002.0016.0210\_0004, minutes of a meeting on 25 July 2017 and there's a reference there to, again, advice about what was taking place in China and that Mr Joshua Preston, the chief legal officer, would be invited at the following meeting to give a presentation.

10 PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: If I ask you to cast your mind back to August 2017, do you recall a meeting at which a presentation was given about the China arrests?

15 PROF HAYWARD: I think we had more than that one.

MR FEUTRILL: And do you recall a presentation at one of those meetings by Joshua Preston representing Crown?

20 PROF HAYWARD: That makes sense. I think at one stage Mr Barry Falstead would have also attended.

MR FEUTRILL: And was the information to your recollection that you were provided, that a number of current and former employees had been first detained and then convicted of offences under the criminal law of the Republic of China?

25

PROF HAYWARD: That's my understanding.

MR FEUTRILL: Was there any discussion --- I'm not suggesting when Mr Preston was present, but at other times --- regarding what we might call the circumstances within Crown organisation as a whole, the Crown Group, that led to the arrest and conviction of its employees with charges against Chinese law?

30

PROF HAYWARD: Can you ask that again?

35

MR FEUTRILL: Yes, I will. Sorry, it was a terrible question. More generally, was there any concern expressed about the fact of these arrests taking place and the conviction of Crown employees or crimes against the laws of a foreign country?

40 PROF HAYWARD: So, was the GWC concerned that that was happening?

MR FEUTRILL: Yes.

PROF HAYWARD: Yes.

45

MR FEUTRILL: Was there any consideration given to the possibility that the Crown Resorts as the parent of the licensee of the Perth Casino may not have been operating lawfully in China, or may have encouraged its employees to break the law in that part

of the world?

PROF HAYWARD: I think logic would say that would be a live question.

5

MR FEUTRILL: Was it a question that occurred to you at the time?

PROF HAYWARD: I think it did.

10 MR FEUTRILL: And what then --- did you express that to the other members of the GWC at the time?

PROF HAYWARD: My recollection is that, not just me, that was part of the conversation. How do we know? There is no way that we could know.

15

MR FEUTRILL: Could know what?

PROF HAYWARD: If casino operators in China were operating legally in China. There's no way that the GWC here in Perth could know that.

20

MR FEUTRILL: No, but the fact of the convictions, you'd been made aware of that?

PROF HAYWARD: Yes.

25 MR FEUTRILL: And ---

PROF HAYWARD: That puts a lot of currency, I guess, in the laws of a foreign nation and one with which I'm not at all familiar, so I'm unable to judge.

30 MR FEUTRILL: Yes, but from the perspective of the --- remember, the parent that owns not operates the Perth Casino, was there any consideration given to the governance of that organisation that may have led to a circumstance where its employees were convicted or exposed to the risk of conviction in China?

35 PROF HAYWARD: I can't recall if we discussed the question of did Crown here direct its employees in China to act in a way that brought them into contact with the law in China --- is that what you're asking?

40 MR FEUTRILL: Not necessarily direct, but whether they had in place risk management systems that would have prevented them from being exposed to those risks in the first place?

PROF HAYWARD: My recollection is that the conversations were much more around the veracity, I guess, of Chinese law.

45

MR FEUTRILL: To your knowledge did the GWC call for any explanation of the --- formally call for an explanation of the circumstances that led to the conviction of these employees in China?

PROF HAYWARD: My recollection is that we were updated as there was any progress being made.

5 MR FEUTRILL: Did you turn your mind at all to the suitability of the parent company of Crown Perth in those circumstances?

PROF HAYWARD: I don't recall that being a consideration.

10 MR FEUTRILL: So, do you remember if any steps were taken after you had the presentation from Mr Preston by GWC?

PROF HAYWARD: Requesting further information as it came to hand.

15 MR FEUTRILL: I see. And do you know what came of that process?

PROF HAYWARD: Once again, I don't know whether my memory is of matters in the meetings or matters in the media.

20 MR FEUTRILL: Okay. But do you recall where that particular process ended? You said that you were ---

PROF HAYWARD: Didn't they get imprisoned?

25 MR FEUTRILL: I mean, following up with Crown Perth as to information from it about the circumstances which led to the conviction of its employees. Were any steps taken by the GWC to follow up that inquiry?

PROF HAYWARD: From the perspective of?

30 MR FEUTRILL: The GWC taking an interest in how ---

PROF HAYWARD: I don't believe that at that time we asked Crown if they were a good parent. Is that what you're asking ?

35 MR FEUTRILL: Shortly, yes. Or an explanation of the circumstances that led to its employees being exposed to those risks.

PROF HAYWARD: Well, we asked that each time there was a report.

40 MR FEUTRILL: Who did you ask?

PROF HAYWARD: Anyone who was presenting.

45 MR FEUTRILL: So these further questions are asked of Mr Preston, are they, at the meeting in August 2017?

PROF HAYWARD: Mr Preston was the one who presented so, yes, there would certainly have been questions asked of him. We wanted to know the circumstances.

5 MR FEUTRILL: I see. Could I ask you, again, to put some more questions into context. Can you be shown GWC.0002.0016.0214\_0002 which is an agenda item for a meeting in October 2017, item 6.3, allegations against Crown Melbourne, and it makes reference to some allegations, Mr Andrew Wilkie MP tabled in the Federal Parliament. Do you have a recollection of those events?

10

PROF HAYWARD: Yes.

MR FEUTRILL: Do you understand those allegations to have involved essentially four things: tampering with machines, manipulating return to players, avoidance of AUSTRAC reporting obligations and encouraging continued gambling by problem gamblers. They were essentially the four headings. Do you remember that?

15

PROF HAYWARD: Well, they're here.

20 MR FEUTRILL: Yes. I'm asking if you remember it, or --- first.

PROF HAYWARD: Mostly, I remember, I guess, the public outcry engendered by Mr Wilkie and the fact that Crown in Melbourne was being investigated.

25 MR FEUTRILL: Was it of concern to you that allegations were made concerning the avoidance of AUSTRAC reporting obligations, for example, given the reliance on AUSTRAC as essentially a defence against ---

30

PROF HAYWARD: I think the GWC discussed each of those four dot points.

MR FEUTRILL: Okay, and what action if any, did the GWC determine to take in respect of those allegations?

35

PROF HAYWARD: That, I can't recall.

MR FEUTRILL: Can I ask you to please show the witness --- my electronics are slightly malfunctioning, I'm sorry. So, these are the minutes of the meeting at GWC.0002.0016.0217\_0002. At the top of the following page is a resolution to the department to conduct further inquiries. Do you remember that process at all?

40

PROF HAYWARD: I remember Mr Wilkie being very public about his calls for inquiries into the casino specifically and in regard to gambling generally.

45 MR FEUTRILL: And do you recall resolving that the department should conduct further inquiries into that matter on behalf of the GWC?

PROF HAYWARD: My recollection is that we discussed each of those four dot points.

MR FEUTRILL: And is your recollection today that you requested someone to carry out an investigation into those matters?

5 PROF HAYWARD: That's what I've said, I remember the discussion ---

MR FEUTRILL: Yes.

PROF HAYWARD: I don't remember the action taken on the discussion.

10

MR FEUTRILL: Okay. Do you have any reason to doubt that the resolution there recorded is correct?

PROF HAYWARD: To note the report?

15

MR FEUTRILL: And that the department will conduct further inquiries into this matter?

PROF HAYWARD: I don't see why that would be reported if it wasn't the case.

20

MR FEUTRILL: Okay. Do you have any --- and I'm going to go back to this, I'm sorry --- but do you have any recollection of what was the nature of the inquiries that you're expecting to be undertaken?

25 PROF HAYWARD: No.

MR FEUTRILL: Alright. Can I take the witness to GWC.0002.0016.0216\_0055, which is an agenda item for a meeting in November, 2017, item 6.6, "Update - allegations against Crown Melbourne". Do you recall receiving that agenda item paper and reading it at the time?

30

PROF HAYWARD: I'm imagining so.

MR FEUTRILL: But you don't remember it? You don't remember what the paper was about?

35

PROF HAYWARD: I remember what the paper was about.

MR FEUTRILL: And do you recall that the paper dealt with, largely dealt with the question of tampering of machines and the --- manipulating returns and it addressed those concerns that Mr Wilkie had expressed in his allegations in Federal Parliament?

40

PROF HAYWARD: As I've indicated, I know that all four dot points were discussed. I can't remember what action specifically arose from that, if it was limited to two of the dot points, then it was limited to two of the dot points, but I don't recall that.

45

MR FEUTRILL: Alright. Do you have any recollection of considering the question of whether there should be some further investigation made into the allegation concerning avoidance of AUSTRAC's reporting obligations for instance?

5

PROF HAYWARD: I thought that's what this paper was.

MR FEUTRILL: Well, the paper ---

10 PROF HAYWARD: It says the report included an undertaking for the department to conduct further inquiries of Crown Perth and the Commission resolved, blah, blah, blah. I'm expecting the rest of this paper, which I can't see yet, talked about what that was. Does it not?

15 MR FEUTRILL: Please take the time to read it. So you can read the first part at 0055.

COMMISSIONER JENKINS: We're only looking at the top of it. The witness is saying she can't see all of the document.

20

MR FEUTRILL: I see, right. That's better. Is your understanding that you had an expectation that all four dot points would be dealt with?

PROF HAYWARD: No, that's what I'm saying. We'd discussed all four.

25

MR FEUTRILL: Okay.

PROF HAYWARD: I can't remember the actions ascribed to them coming out and it kind of won't matter how many times you ask me that, I don't recall.

30

MR FEUTRILL: So, I'm going to ask you again.

PROF HAYWARD: Of course.

35 MR FEUTRILL: Do you remember anything arising out of these allegations that led to further inquiries being made into the bullet point concerning avoidance of AUSTRAC obligations and the bullet point concerning encouraging continuing gambling by problem gamblers?

40 PROF HAYWARD: Answer's the same, sorry. Look, we did consider these things, of course, unrelated to this particular matter. So, responsible service of gambling and the issue of problem gamblers, for instance, was an issue more broadly considered and only related to allegations against Crown in Melbourne. I couldn't tell you whether anything that came from that, that I do recall, was related to this or  
45 that more general consideration, for instance. I'm sorry, I just can't differentiate between the two.

MR FEUTRILL: Do you have a recollection of the GWC receiving reports prepared by the regulator in Victoria?

5 PROF HAYWARD: All of our papers came via the department here.

MR FEUTRILL: But do you have a recollection of receiving a report prepared by the Victorian regulator into essentially a review of the suitability of Crown Melbourne to be the licensee in Melbourne?

10

PROF HAYWARD: If it was included, it would have been an appendix, I imagine.

MR FEUTRILL: But you don't have a recollection?

15

PROF HAYWARD: Only the WA department would have presented papers to the GWC here.

MR FEUTRILL: Yes, if I could just take you to GWC.0002.0016.0239\_0277, which is an agenda item for a meeting August 2018, agenda item 11.4:

20

*Crown Melbourne - Sixth Review of the Casino Operator Licence.*

Do you have a recollection now of receiving any papers before concerning that?

25

PROF HAYWARD: Okay, so not by them. I'm sorry, but I'm interpreting things really literally here.

MR FEUTRILL: Yes.

30

PROF HAYWARD: This is not a paper by the Victorian regulator. Kellie Pemberton is an officer of the department here in WA.

MR FEUTRILL: Yes.

35

PROF HAYWARD: So, she has collated material and put it into a report for the GWC here. This is not the Victorian regulator reporting to us.

MR FEUTRILL: I understand that. Maybe the way I asked the question was confusing. What I was trying to ask you is whether you had any recollection of receiving a copy of that report and reviewing its recommendations and findings as a member of the GWC?

40

PROF HAYWARD: I don't think that I read it. I can see there that there's mention of a link.

45

MR FEUTRILL: Yes, it may not have been in the pack, I don't know. But it appears --- just for clarity in case you can recall reading it --- at page\_0288, the report proper starts there and says "Sixth Review of the Casino Operator and Licence June

2018".

PROF HAYWARD: Yes, I don't remember reading it, to be honest.

5

MR FEUTRILL: Do you have any recollection of any discussion at any meetings of the GWC concerning the Victorian regulator's review of Crown Melbourne and any implications it had for Crown Perth?

10 PROF HAYWARD: Can we go back to the previous paper? Does that deal with it?

MR FEUTRILL: I don't believe you're at that meeting that paper was tabled, but I'm talking about any other meetings you attended?

15 PROF HAYWARD: Whatever was happening with Crown in Victoria, Crown Melbourne, was always a matter of concern for the GWC here. So if matters arose there or --- we understood that the context and lots of the mechanics were different here, it still was a point of conversation.

20 MR FEUTRILL: Okay. Now we fast forward it a year from June 2018 and that paper was put in the board papers until around the middle of 2019.

PROF HAYWARD: Yes.

25 MR FEUTRILL: By then, there had been a number of --- do you recall there being a number of allegations made in media publications concerning Crown Resorts Limited and its subsidiaries?

PROF HAYWARD: I think media does that consistently.

30

MR FEUTRILL: Yes, but do you recall around this time that the Bergin Inquiry was established in New South Wales?

PROF HAYWARD: Yes.

35

MR FEUTRILL: In around August 2019, and there'd been some media allegations around that time; do you remember those?

40 PROF HAYWARD: I remember that there were media allegations. I don't actually have a lot of trust in the media and the way they report.

45 MR FEUTRILL: No, I understand that might be the position taken, but there was a deluge of articles around this time. Do you have a recollection of a presentation being given to the GWC by representatives of Crown concerning the junket processes and some of the media allegations at the time?

PROF HAYWARD: If there was any issue that was I suppose topical at the time, we always asked for a report.



MR FEUTRILL: Do you remember a presentation being given to you from a representative of Crown about the allegations that had been in the media and junkets in particular?

5

PROF HAYWARD: I think there was.

MR FEUTRILL: Do you remember that taking place, or not?

10 PROF HAYWARD: More likely yes than no.

MR FEUTRILL: But do you have a clear recollection of it having taken place?

PROF HAYWARD: Clearly not.

15

MR FEUTRILL: During the period that you were a member of the GWC and after the Bergin Inquiry had commenced, were any steps taken by the GWC to conduct an independent investigation or inquiry into some of the allegations that had been made?

20

PROF HAYWARD: An inquiry into Crown Perth?

MR FEUTRILL: Request for information?

25 PROF HAYWARD: Based on what was happening in New South Wales?

MR FEUTRILL: Yes, the allegations in the media and the reasons for the commencement of the Bergin Inquiry.

30 PROF HAYWARD: The GWC like to be kept informed of anything that was going on, either with that inquiry or anything in Melbourne. Um, lots of the position adopted by the GWC was a wait and see response.

35 MR FEUTRILL: By "wait and see", do you mean wait and see what the outcome of the other investigations were?

PROF HAYWARD: Yes, yes.

MR FEUTRILL: Before taking any regulatory steps itself?

40

PROF HAYWARD: Before knowing what steps would even be appropriate.

45 MR FEUTRILL: And was consideration given to the reasons --- I'm not being critical --- but adopting the wait and see approach, was there any consideration of why that was preferable to another approach?

PROF HAYWARD: Um, WA is a different context to gambling in the other jurisdictions. So our context is different, um, if something happens in a different

context, it doesn't automatically mean that it applies here in our context.

MR FEUTRILL: Can you explain that a little bit more. What do you mean by  
5 "gambling in WA is in a different context"?

PROF HAYWARD: Well, we don't have pokies, you know, on every corner,  
essentially.

10 MR FEUTRILL: Yes, but speaking of regulation of casinos in particular, is there  
any differences you perceive between the context in Western Australia and in other  
States in Australia for casino regulation?

PROF HAYWARD: Once again, I'm trying to, as I wane here, I'm trying to not let  
15 my tiredness obscure what you might actually be asking. But if something is  
happening in another State, it doesn't automatically mean that it's happening in this  
State. So running off and instigating a whole lot of reviews based on something  
that's happening in a different jurisdiction doesn't necessarily equate.

20 MR FEUTRILL: So was it a concern that you didn't want to duplicate what was  
being done elsewhere, primarily? Is that what you mean by that?

PROF HAYWARD: Well, if there was an investigation, for instance, in how a  
casino was operating in New South Wales, that that particular inquiry found to be  
25 fully investigated, but nothing to see here, I'm not sure why we would run off and  
instigate an investigation into that same thing when New South Wales, in that case,  
found there was nothing to see.

COMMISSIONER OWEN: Mr Feutrill, Professor Hayward, would you like us to  
30 take a short break? I'm quite happy to take 5 minutes or so just to give you a break.

PROF HAYWARD: 5 might be good. I'm not sure how much it will help, but it  
won't be a bad thing.

35 COMMISSIONER OWEN: We'll just take a 5-minute break.

PROF HAYWARD: Thank you.

COMMISSIONER OWEN: Will we get to Mr Duckworth today?  
40

MR FEUTRILL: We will not get to Mr Duckworth today.

COMMISSIONER OWEN: Can you get a message to Mr Duckworth. Five  
45 minutes.

**ADJOURNED**

**[3.06 PM]**

**RESUMED**

**[3.11 PM]**

5 COMMISSIONER OWEN: Thank you. Please sit down. Thank you, Professor Hayward and Mr Feutrill.

MR FEUTRILL: May it please the Commissioners.

10 Professor Hayward, you'll be pleased to know there's only a couple of topics to go.

PROF HAYWARD: Topics or questions?

MR FEUTRILL: Topics, more than two questions.

15

PROF HAYWARD: Okay.

MR FEUTRILL: I do appreciate it's getting late in the day and you've been sitting there for some time. I would like to ask you if you have a recollection that during  
20 2017 there was a review conducted of all gambling and liquor compliance activities performed by the department, to assess the effectiveness of the programs in place that were employed at that time? Do you recall that process taking place?

PROF HAYWARD: So that was an internal departmental process, was it?

25

MR FEUTRILL: It was a departmental process and it also involved the GWC. This may help you. GWC.0002.0016.0202\_0013 is agenda item 5.2 of the meeting of 21 February 2017. The author is the Director-General. It's an information paper about a process that the department was undertaking.

30

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: Can I draw your attention to the first paragraph?

35 PROF HAYWARD: Yes.

MR FEUTRILL: Can I draw your attention towards the bottom of the page, there's a reference to a report released by the Victorian Office of the Auditor-General titled "Regulating Gambling and Liquor". It is an attachment to the paper and it  
40 highlighted a range of issues for the Victorian Commission for Gambling and Liquor Regulation, which I've been referring to as the Victorian Regulator, and it highlighted some shortcomings, one of which was that.

45 .... "the VCGLR have not paid sufficient attention to areas of risk in the casino's operations, such as the detection of people excluded by Victoria Police, responsible gambling and money laundering".

As an example. And then the author goes on to say something about it is his view as somewhat unfair. But in any event do you have a recollection of reading through this paper in the early part of 2017, understanding there was a review being undertaken of compliance within the department that affected the GWC?

PROF HAYWARD: I'm reading that it happened.

MR FEUTRILL: Do you remember it happening?

PROF HAYWARD: Not particularly. I remember that there was a review. I don't, I don't recall with clarity this paper.

MR FEUTRILL: With respect to the review, do you have a recollection of what aspects of the GWC's regulatory functions were reviewed, if any?

PROF HAYWARD: No.

MR FEUTRILL: So, when the GWC became aware there was a review being undertaken, to your recollection was there any consideration given to whether the GWC would want to be involved in shaping the review of its functions?

PROF HAYWARD: I don't recall that coming to the GWC.

MR FEUTRILL: So, was it a case of there being activities or the compliance system reviewed by the department and you receiving reports on how that review is undertaken?

PROF HAYWARD: That's my understanding.

MR FEUTRILL: Do you have a recollection about the reading or understanding some of the shortcomings of the Victorian regulator, whether that caused you to have any pause about whether Western Australia is being regulated adequately?

PROF HAYWARD: In the context of that previous paper that was shown?

MR FEUTRILL: Yes. I'm sorry, in the context of this particular event, the reason that the Director-General was required --- asked to do this task to conduct a review.

PROF HAYWARD: So this has got nothing to do with anything that's happened in Victoria that we've already considered. Is that what you're saying?

MR FEUTRILL: It's a reference to the report attached to this agenda.

PROF HAYWARD: So that was the blue cover that was up before?

MR FEUTRILL: No.

PROF HAYWARD: Okay.

5 MR FEUTRILL: I'm going to ask you at this one that's at page\_0015. Regulating Gambling and Liquor, Victorian Auditor-General's Report. Do you remember reading through this report at all?

PROF HAYWARD: Not in detail.

10 MR FEUTRILL: Do you remember having it drawn to your attention at all that one aspect of that report was to identify some shortcomings with the regulator in Victoria concerning money laundering?

PROF HAYWARD: Have you got a timeframe?

15

MR FEUTRILL: Yes, at the time of this meeting and during the review in 2017.

PROF HAYWARD: Okay, and how does it compare with the blue cover?

20 MR FEUTRILL: The blue cover came later. The blue cover was a review of the Crown Melbourne's licence via the regulator.

COMMISSIONER OWEN: In June 2018.

25 PROF HAYWARD: Okay, so this is before that?

MR FEUTRILL: Correct.

PROF HAYWARD: And your question?

30

MR FEUTRILL: My question is whether you have a recollection of having it being drawn to your attention that the Victorian Office of Auditor-General had reached conclusions about shortcomings in the Victorian regulator.

35 PROF HAYWARD: Okay, and the paper for which this was an attachment, could we go back to that?

MR FEUTRILL: Yes, it's at page\_0013.

40 PROF HAYWARD: It says there in that second last paragraph.

MR FEUTRILL: Yes, but I'm asking you whether you can remember now?

PROF HAYWARD: I don't recall reading that report in detail.

45

MR FEUTRILL: Right. Do you recall any discussion about the Victorian Auditor-General's report at GWC meetings at all?

PROF HAYWARD: Anything that happened with regard to Crown in Melbourne or Sydney was a consideration for the GWC here.

5 MR FEUTRILL: But do you remember discussing this particular report at all?

PROF HAYWARD: I'm sorry, at this point in the day, I'm hard-pressed to recall anything. I couldn't tell you what I had for lunch.

10 MR FEUTRILL: Okay.

PROF HAYWARD: Well, I could actually, and it was very nice, but ---

MR FEUTRILL: I understand.

15

COMMISSIONER OWEN: Mr Feutrill, what are the remaining subject headings where you want to go?

MR FEUTRILL: The remaining subject is delegation and that's the last one.

20

COMMISSIONER OWEN: Alright, thank you.

MR FEUTRILL: I think we will leave some time for some further questions by others, but we should take not too long, I think.

25

COMMISSIONER OWEN: I think we're probably more interested in the process here, in the area of delegation. The witness's recollection of process.

MR FEUTRILL: Yes. To assist, I hope, with your recollection if the witness could be shown GWC.0001.0007.0184. Actually, I think I've got a hard copy somewhere. There may be an issue with disclosure on one of these documents. I'll do all these without putting them up on the screen because I don't want to inadvertently reveal something I shouldn't.

30

COMMISSIONER OWEN: I think we can manipulate the screen so that we can see it.

35

MR FEUTRILL: So, this is a delegation signed and dated 28 April 2020, so it would be a bit over a year ago.

40

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: I infer that the signature referred from the bottom of the page is yours?

45

PROF HAYWARD: Yes.

MR FEUTRILL: This was signed. What was your understanding of the powers that

were being delegated under that document?

5 PROF HAYWARD: By that do you mean could I rattle off those four Acts chapter and verse? Because the answer's no.

MR FEUTRILL: What sorts of things did you think it was authorising the holder of the delegation to do on behalf of GWC?

10 PROF HAYWARD: Routine matters.

MR FEUTRILL: Routine matters, such as?

15 PROF HAYWARD: Raffles.

COMMISSIONER JENKINS: Sorry, what was that answer?

PROF HAYWARD: Raffles.

20 COMMISSIONER JENKINS: Approving raffles?

PROF HAYWARD: Yes.

25 MR FEUTRILL: What about changes to the casino's operations manual?

PROF HAYWARD: Once again, I'd need to look at the paper.

30 MR FEUTRILL: Is that something you would consider to be a routine matter, or is that something you would expect to be outside your ---

PROF HAYWARD: For me, a routine matter is things that in the past had previously have come to the GWC for resolution and so there was a pattern because of almost the regularity, a pattern of approval. So, the question for the department, as well as the GWC, is to what extent do you want those matters that are routine to keep coming before the GWC so that it can routinely approve, as opposed to the exceptions of things where they're a first off, or there's something a little bit different.

40 MR FEUTRILL: On the face of this delegation, what you've described doesn't emerge from its words. Was there some other way it was recorded, new limitations on the delegations that you can recall?

PROF HAYWARD: Not that I can recall.

45 MR FEUTRILL: If I could ask you --- you might be able to explain this, because it's only a year ago.

PROF HAYWARD: Mmm-hmm.

MR FEUTRILL: This document is GWC.0002.0016.0299. Would it assist if I just provide the Commissioners with the hard copy, or are you able to see it?

5 COMMISSIONER OWEN: We're able to see it, thank you.

PROF HAYWARD: Thank you.

MR FEUTRILL: I think these are the minutes of the meeting at which the ---

10

PROF HAYWARD: And which item would you like me to consider?

MR FEUTRILL: It's item 9.2. Now, I need to ask this question in the context of the other documents. This is the agenda. Now it's a little harder to juggle these electronically; I don't know if it can be done. The agenda item is

15

GWC.0002.0016.0029\_0345. So, that's the paper that came to you, describing the instrument of delegation.

PROF HAYWARD: Mmm-hmm.

20

MR FEUTRILL: If you look at attachment 1 and put that alongside what you actually end up signing, they are different.

PROF HAYWARD: So you're saying that page is not the same as that page; is that what you're saying?

25

MR FEUTRILL: That's exactly what I'm saying.

PROF HAYWARD: Okay.

30

MR FEUTRILL: And if I could just ask you to have a look at the minutes, because I wasn't able to understand as I was reading them myself, you might be able to explain it. If you look at the minutes under item 9.2, there's a resolution not to approve the delegation and yet, there was a delegation signed in different terms to the one that was proposed. Sorry, 9.3 deals with the one that was signed.

35

PROF HAYWARD: Yes, sorry, so your question?

MR FEUTRILL: Do you recall how it is that you came to refuse to sign a delegation

40

---

PROF HAYWARD: So is what you're asking why (v) and (vi) were not included on that piece of paper; is that what you're asking?

45

MR FEUTRILL: No.

PROF HAYWARD: Okay.



MR FEUTRILL: I'm asking why it came to be in the form in which it did, namely a very short document that does not describe in any detail of the delegations of powers, versus this more detailed version in attachment 1 with a number of subparagraphs.  
5 Why was it you refused to sign that but you chose to sign something in a different form?

PROF HAYWARD: No, I'd have to sit and work my way through that.

10 MR FEUTRILL: Okay. And so is there any other place that you're aware of where it is a recording that the delegation that was signed was in some way confined to specific topics that you referred to as "routine matters"?

PROF HAYWARD: There were particular matters that required each member of the  
15 GWC to sign. Have you got a copy of all those other ones?

MR FEUTRILL: I don't know that I understand what you're referring to. Are you talking about other delegations to specific individuals?

20 PROF HAYWARD: Yes.

MR FEUTRILL: Alright, well I don't have those in front of me.

PROF HAYWARD: Because I think that's part of this story.  
25

MR FEUTRILL: Okay. So do I understand what you said correctly --- there should be a series of other delegations to other people, what you describe as "routine matters"?

30 PROF HAYWARD: Yes.

MR FEUTRILL: And your understanding is that overall delegation deals with all those other matters, as well?

35 PROF HAYWARD: I'd have to have a look at that whole story. I'm sorry.

MR FEUTRILL: That's okay. I have no further questions.

COMMISSIONER OWEN: Thank you. Mr Dharmananda?  
40

MR DHARMANANDA: Nothing arising, thank you.

COMMISSIONER OWEN: Ms Seaward?

45 MS SEAWARD: No questions, thank you.

COMMISSIONER OWEN: Mr Malone?

MR MALONE: No questions, thank you, for the witness.

COMMISSIONER OWEN: Do you have anything?

5

COMMISSIONER JENKINS: I just have a few questions for you, Professor Hayward. Pardon me for not knowing the exact chronology, but were you present at the meeting where Mr Connolly declared a friendship with Mr Marais?

10 PROF HAYWARD: I don't know who Mr Marais is.

COMMISSIONER JENKINS: Claude Marais?

PROF HAYWARD: I don't know who that is.

15

COMMISSIONER JENKINS: You don't have any recollection of that?

PROF HAYWARD: No.

20 COMMISSIONER JENKINS: Do you have any recollection of subsequently hearing that Mr Connolly had a friendship with a Crown employee who was in the legal and compliance part of Crown?

PROF HAYWARD: Only when that hit the papers earlier this year.

25

COMMISSIONER JENKINS: But you have no recollection, whilst you were a GWC member, of being advised of that formally?

PROF HAYWARD: I don't recall it, no.

30

COMMISSIONER JENKINS: So do you have any recollection of being advised whilst you were a GWC member that he had friendships with other Crown employees, Jon Nicholls and Paul Hulme?

35 PROF HAYWARD: No, and I don't recall those names, either.

COMMISSIONER JENKINS: You may have answered this question to Mr Feutrill, but I just want to make sure I've covered this off and find out your opinion on this issue. Do you think that departmental officers who are performing duties on behalf  
40 of the GWC should disclose to GWC conflicts of interest or potential conflicts of interest that they might have?

40

PROF HAYWARD: I think they should definitely declare within the department, I think, declaration to the GWC is an improvement that could come from this process  
45 here.

45

COMMISSIONER JENKINS: Next, I want to move onto a topic of money, finances.

PROF HAYWARD: Yes.

5 COMMISSIONER JENKINS: Now, you said in answer to a question that, I think, the GWC's money came from the department or something to that effect.

PROF HAYWARD: That's my understanding.

10 COMMISSIONER JENKINS: Right. So that's what I wanted to explore with you. Did you appreciate that for example, casino licence fees are under the *Casino Control Act to be paid to the GWC?*

15 PROF HAYWARD: That does sound familiar, although I don't know that --- oh, that might have been in our financial statements. Once again, I'd have to cross-check the financial statements that came to us monthly.

20 COMMISSIONER JENKINS: So without having a look at those, what was your, or what is your understanding as to how the GWC paid for the services it received from the department, if at all?

PROF HAYWARD: I don't think that it did.

25 COMMISSIONER JENKINS: In answer to a question from Mr Feutrill, I think you said that you did think that the funding for GWC was not adequate at times. Am I right, or wrong about that?

PROF HAYWARD: I think it was much more a question of whether or not funding for the department was adequate.

30 COMMISSIONER JENKINS: So my question is, is that if you thought that and if you thought that that was impacting on the ability of GWC to perform its role, did you ever consider putting a submission to the government requesting more funds for the work of GWC?

35 PROF HAYWARD: My understanding is that there was no facility for the GWC to make that sort of submission. The department would do that through normal budget processes.

40 COMMISSIONER JENKINS: And, do you recall a time where you were advised by departmental officers that they were going to do that on behalf of the GWC?

PROF HAYWARD: They didn't generally discuss with us the departmental budget processes.

45 COMMISSIONER JENKINS: In relation to the China arrests ---

PROF HAYWARD: Yes.

COMMISSIONER JENKINS: --- I just noted in one of those documents you were shown, it was a report that you received in December of 2014 and Mr Connolly, I think, advised the GWC that the Chinese market preference --- well, there was a  
5 Chinese market preference for junkets and that this was a business strategy, in essence of Crown, to promote junkets. Was that your understanding at that time?

PROF HAYWARD: That, that sounds right.

10 COMMISSIONER JENKINS: And then you hear that Crown employees in China have been arrested, is that right?

PROF HAYWARD: Yes.

15 COMMISSIONER JENKINS: Did the GWC then ever discuss how those arrests might jeopardise the Crown's business strategy, in the sense that if it couldn't recruit junket participants from China, then that might affect its bottom line?

PROF HAYWARD: That certainly was raised with the GWC.  
20

COMMISSIONER JENKINS: And in that context, did the GWC think that it might be advantageous to get some independent advice as to whether that might affect the ability of the revenue from the casino to be maintained; that is, State revenue from the casino to be maintained?  
25

PROF HAYWARD: I think it was mostly seen as not so much our business, but the business of Crown.

COMMISSIONER JENKINS: Did you take any note of the part of the board pack  
30 which advised you what the outstanding amount of the funds advance facility was?

PROF HAYWARD: No, I can't recall.

COMMISSIONER JENKINS: That was, as I understand it, the amount of funds that  
35 Crown had advanced to international players which was outstanding.

PROF HAYWARD: I don't recall that.

COMMISSIONER JENKINS: Thank you, I have no further questions for Professor  
40 Hayward.

PROF HAYWARD: Thank you.

COMMISSIONER OWEN: Professor Hayward, I've only got two questions. As I  
45 understood your answer to a question that Commissioner Jenkins posed to you in terms of the disclosure of the conflicts of interest, you said the departmental officer performing functions for the Gaming and Wagering Commission as things presently

stand should disclose that conflict to the department, but not necessarily to the Gaming and Wagering Commission. Is that what you said? And you went on to say it would be an improvement if they were to disclose. So that's a policy reform.

5

PROF HAYWARD: Yes, I think it would be an improvement.

COMMISSIONER OWEN: In answer to a question from Mr Feutrill on the subject of disclosure of conflict of interest and in particular to Mr Connolly ---

10

PROF HAYWARD: Yes.

COMMISSIONER OWEN: --- the note I took of what you said was that you would expect him to disclose conflicts, disclose to the Gaming and Wagering Commission conflicts and the words were "if he were part of the decision-making process". Do you remember saying that?

15

PROF HAYWARD: Yes.

COMMISSIONER OWEN: Could you just explain to me what you mean by that? And the context, of course, is that you have Mr Connolly, who's got three hats. He's the Deputy Director-General Regulation, he's the deputy chair of the Gaming and Wagering Commission and he's the Chief Casino Officer. So, what did you mean by that phrase "if he were part of the decision-making process"?

20

25

PROF HAYWARD: In --- in my view, not only related to that specific question, but globally, if someone has a conflict and they take that conflict into how and what the decision coming out of that conversation is, that's --- it's a situation of jeopardy not only for that person, but whoever the decision-making body is. If you've got a conflict, you should absent yourself from the decision-making.

30

COMMISSIONER OWEN: But what actually is the distinction that you draw with someone with the position Mr Connolly holds, when is he part of the decision-making process and when is he not part of the decision-making process?

35

PROF HAYWARD: I think mostly he chose not to be. He would put things --- where the GWC raised either a difference with the recommendation, a request for further information, a request for a specific report, he always took it on board. He didn't ever push his own, what I would perceive as his own agenda.

40

COMMISSIONER OWEN: I can put it a slightly different way; that the distinction is not as to whether he's acting as deputy chair ---

PROF HAYWARD: Yes.

45

COMMISSIONER OWEN: --- and whether he's acting in one of those other two capacities. But it's, again as you would say, a case by case basis as to the depth of his involvement in the process; is that what you're saying?

PROF HAYWARD: Yes.

5 COMMISSIONER OWEN: Alright, thank you. And my other question comes back to budget. You said, again in answer to a question from Commissioner Jenkins, you didn't think, or you don't think that the Gaming and Wagering Commission has the facility to seek additional resources from the government.

10 PROF HAYWARD: That's correct.

COMMISSIONER OWEN: I'm reminded a little bit here of Oliver Twist, "Please sir, may I have a little more? " You may get the cane by asking, but if you don't ask, you have no chance of getting just a little bit more.

15 PROF HAYWARD: True.

20 COMMISSIONER OWEN: What is it about the position of the Gaming and Wagering Commission that leads you to believe that you don't have an Oliver Twist-like facility?

PROF HAYWARD: It actually refers to my understanding of the budget process in terms of who was allowed to ...(audio dropout)... the government committee structure, in terms of putting forward their budget and their budget request. Sometimes that's, from a departmental perspective, just straight up. Sometimes it is where the State Government has additional money but it targets, you know, you can come forward with your bids, but it's got to comply with A, B or C. So, there are a couple of different processes. But it's always, in my experience, through the respective department.

30 COMMISSIONER OWEN: But isn't the position here that your chair is the Director-General of the department who is charged with the responsibility to support you? So, if the GWC, if the members of the Gaming and Wagering Commission were to say to their chair, "We believe we need additional funding for processes or projects X, Y and Z," that that isn't a facility that could at least get into the budget deliberations, even though they may be unsuccessful?

PROF HAYWARD: It could well, it could. It would still go up as a departmental bid.

40 COMMISSIONER OWEN: Alright, thank you. Mr Sadler? I'm sorry, Mr Feutrill, was there anything arising from those questions?

MR FEUTRILL: No.

45 **RE-EXAMINATION BY MR SADLER**

MR SADLER: I just have one question and I think it's slightly obvious, but it's probably best recorded on the transcripts. Professor Hayward, could you please describe for the Commission your ability to recall the subjects discussed post this morning's break, including Crown employees in China, the Victorian Casino Regulator's report into Crown and, for example, the Auditor-General's report into the Victorian Casino Regulator?

PROF HAYWARD: Once again, I'm not sure if I'm answering your question. It must be something about lawyers and me! When I concluded my term with the GWC, I did what I tend to do with anything else when I leave a board or a committee, or when I leave a particular employer, and that is rule a line and move on. Of course, there are going to be some bits that stay in your head and stay for a long time and there'll be a whole lot of other things that don't, because they don't have relevance to the context into which you move.

MR SADLER: At the start of today, I asked you if the Commission invited you to address a number of topics, provided to you.

PROF HAYWARD: Yes.

MR SADLER: What matters did you discuss in your witness statement?

PROF HAYWARD: All of those questions.

MR SADLER: And were any of the subjects discussed post the morning break discussed in your witness statement?

PROF HAYWARD: I'd have to have a look, but I --- I don't think so.

COMMISSIONER OWEN: I don't understand that last exchange, I'm sorry. Junkets were discussed, money laundering was discussed.

MR SADLER: Junkets, money laundering. The Victorian Regulator report, the Auditor-General's report. I think the purpose of the question was just to record for the transcript these weren't matters discussed in Professor Hayward's report and we'd understood that matters of this nature would be notified as issues that we'd come back to and address these issues for the Commission's benefit.

COMMISSIONER OWEN: Well, we may have something to say about that on another occasion. But the purpose of the topics that are given is to assist in the preparations, it's not to canvass all of the material that might be relevant.

MR SADLER: I agree.

COMMISSIONER OWEN: We can leave it at that. Professor Hayward, thank you very much for your assistance.

PROF HAYWARD: Thank you.

5 COMMISSIONER OWEN: You have fulfilled your obligations under the summons and you're released. Thank you very much.

PROF HAYWARD: Thank you very much. Good luck.

10 COMMISSIONER JENKINS: You're free to rule another line.

PROF HAYWARD: I appreciate that. Thank you, and good luck.

15 **THE WITNESS WITHDREW**

MR FEUTRILL: Before we rise, may I raise a few matters of housekeeping. I just need to formally tender the documents, if I could. My apologies, I haven't been keeping track of what has been tendered, so I don't know if I'm going to tender them again. But, one document is GWC ---

20 COMMISSIONER OWEN: What has been happening a little is that we just produce a list towards the end of the day and by direction of the Commissioners, it's included in its entirety in the transcript.

25 MR FEUTRILL: That is convenient for me.

COMMISSIONER OWEN: That does help in saving a double-up of tenders of things that are already exhibits.

30 MR FEUTRILL: If that's acceptable to you. We will just notify you of the tenders, and the other parties, as well.

COMMISSIONER OWEN: Yes, please.

35 MR FEUTRILL: May it please.

COMMISSIONER OWEN: We won't be sitting tomorrow or Friday. And it's not because we're playing golf, it's that our host, the WA Industrial Relations Commission need their facilities, so we'll adjourn until 10 am on Monday. Thank you.

45 **HEARING ADJOURNED AT 3:49 PM UNTIL MONDAY, 24 MAY 2021 AT 10.00 AM**



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