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PERTH CASINO ROYAL COMMISSION

PUBLIC HEARING - DAY 34

10.00 AM MONDAY, 6 SEPTEMBER 2021

COMMISSIONER C F JENKINS

COMMISSIONER C MURPHY

HEARING ROOM 3

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

MS RACHAEL YOUNG as Counsel for Consolidated Press Holdings Pty Ltd and CPH Crown Holdings Pty Ltd

MR PAUL D EVANS as Counsel for the Gaming and Wagering Commission of Western Australia

MS FIONA SEAWARD as Counsel for the Department of Local Government, Sport and Cultural Industries

MR JOSEPH GARAS SC and MR JESSE WINTON as Counsel for Crown Resorts Ltd; Burswood Limited; Burswood Nominees Limited; Burswood Resort (Management) Limited; Crown Sydney Gaming Pty Ltd; Southbank Investments Pty Ltd; Riverbank Investments Pty Ltd and Crown Melbourne Limited

MR NICHOLAS MALONE as Counsel Mr Michael Connolly

10:00AM

COMMISSIONER JENKINS: Please be seated.

5 I refer to the comments I made last Wednesday about Commissioner Owen's absence from hearings. Commissioner Murphy and I will continue to conduct the hearings pending Commissioner Owen's recovery. Commissioner Owen will listen to the evidence and/or read the transcript of it. The parties will be advised if Commissioner Owen has any questions arising from the evidence. Thank you.

10 Mr Ord, would you please come forward. Remain standing, Mr Ord. Would you like to take the oath or the affirmation?

WITNESS: The oath.

15 COMMISSIONER JENKINS: Please state your full name for the record.

WITNESS: Duncan St John Beresford Ord.

20 **MR DUNCAN ST JOHN BERESFORD ORD, RE-SWORN**

COMMISSIONER JENKINS: Thank you, Mr Ord. Please take your seat and make yourself comfortable.

25 Yes, Ms Seaward.

MS SEAWARD: Thank you, Commissioner. Since Mr Ord last gave evidence, he has two more witness statements that I will now proceed to tender.

30 COMMISSIONER JENKINS: Thank you.

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

MS SEAWARD: Mr Ord, since you last attended you have prepared two more statements and there should be two in front of you. Can I ask you to identify the one with the number in the top right-hand corner, DLG.0001.0003.0002?

40 MR ORD: Yes.

MS SEAWARD: And is this a witness statement you prepared dated on the front cover 22 June 2021?

45 MR ORD: Yes.

MS SEAWARD: If I ask you to turn to the back page, that is your signature on 23

10:02AM

June 2021?

MR ORD: Yes, it is.

5

MS SEAWARD: And it has 60 paragraphs?

MR ORD: Yes, it has.

10 MS SEAWARD: Are there any corrections you wish to make to this statement?

MR ORD: No.

15 MS SEAWARD: And is the contents of this statement true and correct to the best of your knowledge and belief?

MR ORD: To the best of my knowledge and belief, yes.

MS SEAWARD: Thank you.

20

Commissioners, I tender the witness statement of Mr Ord signed 23 June with the reference DLG.0001.0003.0002.

25 COMMISSIONER JENKINS: Thank you. The witness statement of Mr Ord will be an exhibit in this Commission bearing that number.

EXHIBIT #DLG.0001.0003.0002 - SECOND WITNESS STATEMENT OF MR DUNCAN ST JOHN BERESFORD ORD DATED 22 JUNE 2021

30

MS SEAWARD: There should be another statement in front of you and that should have the number in the top right hand corner, DLG.0001.0008.0001.

35 MR ORD: Yes.

MS SEAWARD: Confusingly, that is also dated 22 June. Can I ask you to turn to the back page. Is it signed on 23 June?

40 MR ORD: Yes.

MS SEAWARD: If you can turn back one page, it has 63 paragraphs?

MR ORD: Yes.

45

MS SEAWARD: Is that correct? Are there any corrections you wish to make to this statement?

10:04AM

MR ORD: No.

5 MS SEAWARD: And is the contents of this statement true and correct to the best of your knowledge and belief?

MR ORD: Yes.

10 MS SEAWARD: Thank you.

Commissioners, I tender what is the third witness statement of Mr Ord, dated 23 June with reference DLG.0001.0008.0001.

15 COMMISSIONER JENKINS: The statement of Mr Ord will be an exhibit bearing that number.

20 **EXHIBIT #DLG.0001.0008.0001 - THIRD WITNESS STATEMENT OF MR DUNCAN ST JOHN BERESFORD ORD DATED 23 JUNE 2021**

COMMISSIONER JENKINS: Thank you, Ms Seaward.

Yes, Ms Cahill.

25 **CROSS-EXAMINATION BY MS CAHILL**

30 MS CAHILL: May it please the Commissioners.

Good morning, Mr Ord.

MR ORD: Good morning.

35 MS CAHILL: We established on the last occasion you gave evidence that you became chairman of the GWC on 21 July 2017. When you commenced as Director-General of the Department, you were provided with a briefing document by Mr Connolly, weren't you?

40 MR ORD: Indeed, yes.

MS CAHILL: Can we pull that up, DLG.8001.0045.9601. Did you study that document at the time?

45 MR ORD: Yes.

MS CAHILL: Did you analyse it from the perspective of information that it should

contain that it did not?

5 MR ORD: I took it at face value that it was a briefing for preparation for me joining the Gaming and Wagering Commission.

MS CAHILL: Did you think that it did not contain information that it should have?

10 MR ORD: No.

MS CAHILL: Did it refer to any matters or issues that you wanted to find out more about?

15 MR ORD: Look, I was aware I needed to learn a lot about gaming, as it wasn't an area I was familiar with. I was also aware that the former Director-General, Barry Sargeant, was joining the Commission at the same time as a member, rather than the chair, and that I had discussed with him immediately prior to taking on the responsibility of being Director-General of the new Department, and consequently from that decision the chair, that I would draw on Barry's experience and he would
20 guide me as a mentor through my early responsibilities on the Commission.

MS CAHILL: So I was asking you about the briefing paper, not a discussion with Mr Sargeant. In relation to the briefing paper, did it contain any matters or issues that you wanted to find out more about?
25

MR ORD: I wasn't aware of any at the time, no.

MS CAHILL: Did the briefing paper raise, in your mind, any issues of concern that you thought required your immediate attention?
30

MR ORD: Look, I would have to review the briefing paper again and make comment on that. It's a long time since I've read it.

MS CAHILL: Didn't you read it over the weekend for the purposes of giving
35 evidence today?

MR ORD: I didn't receive it on the weekend, no.

MS CAHILL: Do you recall whether there were any statements or contentions
40 within the document that you did not agree with?

MR ORD: I would need to review the document in full.

MS CAHILL: The briefing paper doesn't mention key performance indicators. Can
45 I ask you about key performance indicators, or KPIs.

From your involvement in managing other government departments before you became DG of this Department, you understood that key performance indicators of

a department or a statutory body such as GWC, amongst other things, measure whether the entity is performing the functions and achieving the objectives expected of it; is that right?

5

MR ORD: Yes, it is related to the budget appropriation and requirements from Parliament for that department, yes.

10 MS CAHILL: And KPIs measure whether a department or body is achieving those objectives effectively?

MR ORD: It is one of the measures.

15 MS CAHILL: And efficiently?

MR ORD: It is one of the measures of efficiency. There is obviously all the matters that you would include in an annual report which goes to the heart of also KPIs. They are key indicators, particularly used by treasury to assess the effectiveness of expenditure, but the actual annual reporting to Parliament questioning and estimates and so on is used really to assess the performance of agencies along with, of course, Auditor-General's reports, which are comprehensively covering a lot more than KPIs.

20 MS CAHILL: KPIs are also used by the Department itself and the body itself to which those KPIs relate to measure its own performance?

25

MR ORD: Indeed, yes.

MS CAHILL: And you understood, therefore, at July 2017 that framing KPIs that accurately reflect the functions and objectives for which an entity is established is very important; would you agree?

30

MR ORD: Indeed.

MS CAHILL: And that KPIs should be kept under review by the governing body of an entity, such as the GWC, in order to ensure that the KPIs remain relevant and appropriate to accurately reflect the functions and objectives of the entity?

35

MR ORD: Yes. Amalgamated departments such as the one I was to head up, of course, had a significant number of KPIs across a very broad range of activities. In the normal form of government, you would review critical ones where there was significant change, review those in priority, and work through. To review every KPI in such an agency at the same time would be extremely difficult given that the resources needed to do it particularly falls on a number of key officers.

40

45 MS CAHILL: You were the chair of the GWC come July 2017 ---

MR ORD: I was, indeed, yes.

MS CAHILL: --- and that wouldn't have been a task of the size that you are explaining now to review the KPIs of GWC, would it?

5 MR ORD: There would still have required the same staff members of the Department to work on that. The Department services, the Wagering Commission, and also the performance of RGL, against KPIs over a period of time have been consistent. So weren't great variabilities. We were entering a new period where the whole agency was going to be reviewed --- audited by the Auditor-General and the
10 Auditor-General had indicated one of the key areas they were interested in was progressive review of KPIs, so that was across the whole agency. So I was looking at it from a prioritisation of which ones we did, in which sequence.

MS CAHILL: So is the effect of your evidence then that when you came into the
15 role as chair of the GWC, you did not give immediate attention to the appropriateness of the existing KPIs?

MR ORD: I believe the KPIs were appropriate to the entity as it was, as I inherited it. It had very good audit outcomes in the past from audits undertaken around its
20 performance. So I had no reason to believe that they should immediately be addressed.

MS CAHILL: Based on what the Office of the Auditor-General had previously said?

25 MR ORD: From the audits that I was aware of that had been undertaken, though that changed, obviously, after we were going for some time and OAG then suggested that we do review them.

MS CAHILL: Or actually, a year later in August 2018, not 2017, when the time
30 came to set the KPIs for GWC for the coming financial year, it was the case, wasn't it, that Ms Fiorentino, a member of the GWC, queried whether the existing KPIs were fit for purpose?

MR ORD: She did. That's part of their governance review as board members to
35 discuss those matters and she had been appointed. With a new set of skills that the Gaming and Wagering Commission hadn't had for some time, and she was very particularly interested in matters around the application of financial resources and so on.

40 MS CAHILL: I just asked you whether or not she queried whether they were fit for purpose. What is your answer to that? What is your direct answer to that question?

MR ORD: She did query it, and we agreed.

45 MS CAHILL: Thank you. Well, you say you agreed, but you didn't take any immediate steps to review the KPIs, did you?

MR ORD: Well, we had it on our list of things to do as an action item for the

10:12AM

Commission. Those matters would be done by staff as we were able to do so.

5 MS CAHILL: Well, it's a fairly important thing to attend to if the KPIs are not fit for purpose; would you agree?

10 MR ORD: Yes, I agree, and I certainly take responsibility that we weren't able to do it at that time. I did later bring the Auditor-General into the conference because we were having difficulty to define with them. We did raise with them what changed KPIs might look like, and OAG had some views on this as they did with many of our KPIs, and they weren't necessarily ones that were easy to meet or some of the --- around how we collect data and so on.

15 MS CAHILL: Can we come back to Ms Fiorentino's querying the KPIs in August 2018, Mr Ord, which is what I asked you about?

MR ORD: Certainly.

20 MS CAHILL: Now, through to December 2018, you did not take any steps to review the KPIs, did you?

MR ORD: No.

25 MS CAHILL: And through to June 2019, you didn't take any steps to review the KPIs?

MR ORD: Well, I believe I did take steps to, as I said, I included engagement with the Office of the Auditor-General. We weren't able to complete that work.

30 MS CAHILL: Through to June 2019, you didn't take any steps to review the KPIs, did you?

MR ORD: Well, I believe I did.

35 MS CAHILL: What was the delay caused by, between August and December 2018?

MR ORD: Staff resources, and time.

40 MS CAHILL: Department resources?

MR ORD: Yes.

45 MS CAHILL: And not prioritising this above other things the Department was doing; would you agree?

MR ORD: You have to risk assess across a very broad range of outcomes in the agency, and we didn't prioritise this over others that we had to prioritise because of priorities that were indicated through the audit process of the Auditor-General. So

10:14AM

they gave us an idea of where we needed to prioritise.

5 MS CAHILL: You and the other GWC members were informed in October 2019 that the Office of the Auditor-General had recommended that the KPIs for GWC should be reviewed to better reflect the desired performance of the GWC for the forthcoming year?

10 MR ORD: Yes.

MS CAHILL: October 2019; you recall that?

MR ORD: Yes.

15 MS CAHILL: If we go to this document, and not on the public screen please, GWC.0002.0016.0289. These are agenda papers for the GWC October 2019 meeting.

20 If we go to page 193, you will see there a letter from the Office of the Auditor-General dated 5 September 2019. There is an auditor's report at 0197, and at 0199. In the middle of the page you see there --- we are in the middle of the Auditor-General's report there, there is a report on the performance indicators. You see in the second paragraph under "Opinion", there is a positive opinion expressed about the KPIs for the GWC; you see that?

25 MR ORD: Yes.

30 MS CAHILL: Notwithstanding that, if we go to the attachment at 0195, you will see a moderate rating of the KPI targets, meaning that there was a finding of sufficient concern to warrant action being taken by the entity as soon as practicable. Do you see that?

MR ORD: Yes.

35 MS CAHILL: That gives you an idea of priority, doesn't it?

MR ORD: Yes, it does.

40 MS CAHILL: Yes, and then if we go to 0196, you will see there that there's a finding about two of the KPIs and a recommendation that they be reviewed "to better reflect the desired performance of the Commission for the forthcoming year". Do you recall that?

MR ORD: Yes.

45 MS CAHILL: Do you see the management comment on that page?

MR ORD: Yes.

10:17AM

MS CAHILL: "Management agrees to review the target", were you part of the management that agreed to review that target?

5 MR ORD: Indeed, yes.

MS CAHILL: In your capacity as Director-General of the Department?

MR ORD: Yes.

10

MS CAHILL: Not as Chair of the GWC?

MR ORD: Well, obviously Chair of the GWC, I was anxious to meet the review of the KPIs, but it was also my responsibility as the Department to do so because I reported to Parliament on performance of the agency.

15

MS CAHILL: Would you accept that you were designated as the responsible person in this attachment?

20 MR ORD: Yes.

MS CAHILL: So did you understand your responsibility here to be the primary responsibility to review at least the two KPIs that are referred to in this attachment?

25 MR ORD: Yes, when practical to do so.

MS CAHILL: Well, no, as soon as practicable.

MR ORD: As soon as practicable to do so.

30

MS CAHILL: Is that what you understood?

MR ORD: Yes.

35 MS CAHILL: And did you see it as your responsibility to review not just those two KPIs, but all of them as soon as practicable?

MR ORD: Yes.

40 MS CAHILL: And thereafter, after receiving this report from the Office of the Auditor-General, you appreciated that the other GWC members were looking to the Department to update the GWC's KPIs?

MR ORD: Yes.

45

MS CAHILL: Generally, not just in relation to the two the Auditor-General had mentioned?

10:18AM

MR ORD: Indeed, yes.

MS CAHILL: Yes.

5

And when that had not happened by the December 2019 meeting, the members expressed concern. Do you recall that?

MR ORD: Indeed, yes.

10

MS CAHILL: And it was agreed at that meeting, wasn't it, that the review of the KPIs would be undertaken as a priority in 2020 by an external agency if necessary?

MR ORD: Yes.

15

MS CAHILL: And you agreed to that?

MR ORD: I did.

20

MS CAHILL: And was the reference to having to go to an external agency if necessary because of a lack of resources within the Department?

25

MR ORD: If I'm able to give a slightly more comprehensive response, the Office of Auditor-General --- well, when we did an amalgamation of the departments, we had to amalgamate all our critical systems, finance systems, HR systems, payroll systems. That not only had to be amalgamated into a single system, but we had to migrate to the cloud because the building that we were occupying, which had a central server system, that system was turned off --- was being turned off due to the GovNext changes, so we had no alternative but to go to cloud. Integrating all those simultaneously and moving to the cloud posed a large number of risks that the Office of Auditor-General was concerned about around data integrity and around the potential for attack by cyber interests and so on.

30

35

It was a very, very complex and technical matter and that was of extreme risk and, of course, gaming in data, liquor data, a lot of the theft was all data that would be subject to this transition. My critical concern as both Chair of the GWC and as Director-General was to ensure that there were no breaches to the securities of all this system going on, so ---

40

MS CAHILL: Can I ask you to just pause there, Mr Ord. I'm asking you a question about whether the reference to going to an external agency to review the KPIs was because of a lack of resources within the Department at that time. What is the answer to that question?

45

MR ORD: The answer is that the resources were allocated to greater priorities, not necessarily that there was a lack of them. It was that they were doing critical work, including work to support the integrity of the GWC.

10:21AM

MS CAHILL: At this time had you looked into when the KPIs for the GWC had last been updated?

5 MR ORD: No, I was aware that they hadn't been updated for some time.

MS CAHILL: Since 1992? Does that sound right?

MR ORD: Yes, that would probably be true.

10

MS CAHILL: And do you recall that in February 2020 the GWC members in meeting acknowledged that the limited resources of the Department made it difficult for the Department to review the KPIs at that time?

15 MR ORD: Yes. We also, of course, had COVID which was in the later period, but in the earlier period it was the amalgamation of the departments which limited our ability to immediately do a review of those KPIs.

20 MS CAHILL: All right, so February 2020 was a little too early, wasn't it, to see the effects of the pandemic on the resourcing and resources available at the time ---

MR ORD: That's right, we were dealing with this other matter I was referring to, which was around the amalgamation of what had previously been six other pieces of government.

25

MS CAHILL: Amalgamation of systems?

MR ORD: Yes.

30 MS CAHILL: And it was also in February 2020, wasn't it, that the GWC members agreed that in order to review the KPIs, it was actually imperative to do a risk management framework review; do you recall that?

MR ORD: Yes, that's true.

35

MS CAHILL: And you agreed with that?

MR ORD: I did.

40 MS CAHILL: Was it, at this time, that the Department had engaged Riskwest to develop a risk management framework?

MR ORD: Yes.

45 MS CAHILL: And that was for the Department as a whole, not just GWC, was it?

MR ORD: Riskwest were doing a range of work for the Department. They tend to

do a lot of the Government agency business. We had a number of bits of Government --- of our business that required reassessment of risk, partly due to the amalgamation and partly because of emerging risk issues.

5

MS CAHILL: Was Riskwest preparing a risk management framework for the Department?

MR ORD: Yes.

10

MS CAHILL: Was it also at this point, that's February 2020, preparing a risk management framework for GWC?

MR ORD: They were preparing to do so, yes, by having workshops and such with staff.

15

MS CAHILL: It was in April 2020, wasn't it, that there was a meeting of GWC members with the Office of Auditor-General?

MR ORD: Yes.

20

MS CAHILL: Was that in relation to a GWC KPIs as a whole, or just the two that the Auditor-General had previously expressed concern about?

MR ORD: It was primarily about the two, although I thought it would be useful for the Auditor-General team to talk about their approach to KPIs. It was different --- a lot of small agencies were previously audited by contractors to Office of Auditor-General and I had noticed that OAG, as we became a much bigger agency, had a different view around how KPIs should be structured, and treasury's view, of course, is that a big agency, the KPIs are strategic and had a view themselves around the nature of those. So KPIs might have been considered KPIs at a subdepartment level, once aggregated up weren't considered appropriate.

25

30

So there was a whole range of KPIs I had that the Auditor-General suggested should be reviewed, including these. So that conversation about the --- how do you measure the effectiveness of the GWC was one that I was very keen for OAG and our Commissioners to engage in.

35

MS CAHILL: So in terms of the review of the KPIs after this meeting with the OAG in April 2020, was it the case that the Department and GWC were continuing to wait for the Riskwest risk management framework review to be completed?

40

MR ORD: That was a stepping stone to assess where our risks lay. Having only two KPIs ---

45

MS CAHILL: My question was, were you still waiting for the Riskwest risk management review to be completed?

10:25AM

MR ORD: Yes.

5 MS CAHILL: And that was something that, in GWC's mind and in your mind as Chair, had to proceed, had to happen first, before the KPIs could be reviewed?

MR ORD: Logically, I believe so, yes.

10 MS CAHILL: And a year later, April 2021, was it the case the Riskwest risk management framework had still not been reviewed for the GWC? It hadn't been completed?

15 MR ORD: Yes, and I did in my witness statement explain what happened when COVID hit, and what was suspended in terms of work programs in order for the Department to be reallocated --- (overspeaking) ---

MS CAHILL: Well, let's go to that, DLG.0001.0008.0001 at page 005, numbered paragraph 8.

20 Is that what you are referring to here?

MR ORD: Yes.

25 MS CAHILL: You say in the first sentence:

The net effect of COVID-19 on the GW Commission was the suspension of processes, including the review of KPIs for the GWC.

30 Do you mean their "suspension", or do you mean "delay"?

MR ORD: It's more of a delay. We were --- obviously, the --- a range of gaming activities were actually suspended during the first COVID period, including closure of Crown and ---

35 MS CAHILL: But I'm asking you about the processes you've referred to here. I'm not asking you about activities down at the casino. And the simple question was do you mean "suspension" or do you mean "delay", and you answered delay, that is your evidence?

40 MR ORD: Yes, they were delayed, yes.

MS CAHILL: Thank you.

45 Now, linking this then to the Riskwest review, which was being undertaken by an external body, is it the case that the lack of resources attributable to the pandemic meant that Department staff couldn't instruct Riskwest so that Riskwest could then get on and complete the framework?

MR ORD: Yes. The work to Riskwest tends to do is workshop based, with teams of people and so on. That wasn't practical at that moment in time. So we weren't able to instruct Riskwest to complete that work. And they did complete some other work
5 that they had sufficient advancement of to do, which was around liquor.

MS CAHILL: Now it was the case, wasn't it, that the Department didn't grind to a halt completely in terms of its normal functions during the pandemic?

10 MR ORD: No, I'm very proud of my staff for the fact that they stayed at their desks and continued to operate a lot of the services of the Department.

MS CAHILL: So in relation to a lot of the services that the Department does ordinarily, there was a priority, a prioritisation, wasn't there, about which would
15 continue to be attended to in priority and which would give way to resources that needed to be applied to pandemic-related activities; is that right?

MR ORD: Indeed.

20 MS CAHILL: And who made those decisions about which conventional or usual activities were to be prioritised above others?

MR ORD: Well, there were a range of mechanisms for that. There was primarily a Director-General's group in which we met to discuss what were critical issues. In my
25 domain, of major concern to the Government was around liquor. And we imposed for the first time ever in the State, State-wide liquor restrictions. So our regulatory division, racing, gaming and liquor, and obviously liquor is within that division, was heavily focused on addressing issues with the liquor industry itself and also issues around the concern that, I think it was expressed that they didn't want a run on liquor
30 stores like there was on toilet paper ---

MS CAHILL: You will recall that my question --- I'm sorry to interrupt, Mr Ord, but my question was about the normal activities of the Department, not pandemic-related activities. And the normal activities of the Department were prioritised, weren't they,
35 those that would continue to be given attention?

MR ORD: Well, we continued to employ people, to pay staff, to exercise grant programs and the like, yes.

40 MS CAHILL: Yes.

MR ORD: And we continued to monitor gaming of course, yes.

MS CAHILL: Yes. So some activities were prioritised above others, the normal
45 day-to-day activities of the Department and its responsibilities as to which would continue ---

MR ORD: Yes, and I had to make my ---

MS CAHILL: Sorry, I will just finish my question --- will continue to be supported and those which would be subordinated to pandemic-related activities.

5 MR ORD: Yes.

MS CAHILL: And the KPIs and the risk management framework review were subordinated to pandemic-related activities; is that right?

10 MR ORD: Yes.

MS CAHILL: And who made the decision that those KPI and risk management framework activities would be subordinated?

15 MR ORD: I would imagine it was Mr Connolly as Deputy Director-General Regulation. Specifically, I don't recall making a direction to say "please stop that work", but I was aware that we were reprioritising to do the matters that I referred to around liquor.

20 MS CAHILL: Were the GWC members consulted before any decision was made by Mr Connolly or anybody else about how to prioritise the activities of the Department during the pandemic?

25 MR ORD: I don't believe so. We obviously informed them of what was happening in relation to the pandemic and obviously what we were doing to ensure integrity of the information we had to control in relation to Crown opening and closing and those matters. I don't recall that we specifically said "we can't complete the risk assessment" or that "we're going to have to delay the KPIs". That came out in discussions as we went on in future meetings, where they asked where those matters
30 were up to.

MS CAHILL: GWC members should have been informed if other activities of the Department had been prioritised above these, shouldn't they?

35 MR ORD: In a perfect world, absolutely.

MS CAHILL: Can you explain why that appears it did not happen?

40 MR ORD: Well, it's probably due to the fact that I didn't do it.

MS CAHILL: Now, if we look back on the questions I've asked you, Ms Fiorentino raises concerns about the suitability of the KPIs back in August 2018. Now, through to --- was it May 2021 that you left the Department?

45 MR ORD: Left the role, yes.

MS CAHILL: And left the role of Chair?

10:33AM

MR ORD: Yes.

MS CAHILL: In that time, the KPIs had not been substantively reviewed, had they?

5

MR ORD: No.

MS CAHILL: Would you accept that you did not do enough during your time as Chair to ensure that the KPIs for the GWC were relevant and appropriate?

10

MR ORD: Related to that matter, yes.

MS CAHILL: Would you accept that you did not do enough during your time as Chair of the GWC to ensure that it had an adequate risk management framework?

15

MR ORD: No, because I considered it had a good risk management framework in the way in which it governs gaming and other matters related to its legislative responsibilities.

20 MS CAHILL: What was that?

MR ORD: In the framework of all the policies and procedures we had in the agency.

25 MS CAHILL: You had reviewed all of those and formed the view that they comprised and constituted an adequate risk management framework; is that your evidence?

MR ORD: Yes.

30 MS CAHILL: Now I want to change topics and talk about junkets. The briefing document you received when you commenced as Director-General of the Department in July 2017 and as Chair of GWC, does not provide any information or advice about junkets to the Perth Casino. Did you have an appreciation, when you commenced in the role, that there was a risk of criminal infiltration of junkets coming to Perth Casino?

35

MR ORD: Look, I wasn't familiar with casinos. It's not an area of interest to me personally so I was unaware of what junkets were until they came up in discussion at the meetings.

40

So, in terms of my overall understanding though, of the risk of casinos, I'm well read and obviously I read incoming government briefings and all that before I took over the Department because there had been elections before, and in that gave a general overview of gaming operations. Junkets weren't specifically part of the framework of that being referred to, given the fact that there hadn't been changes to regulation and so on.

45

MS CAHILL: Just coming back to my question --- the risk of criminal infiltration of junkets coming to Perth Casino, when did you become aware of that risk?

5 MR ORD: I became aware of that really through the media reporting.

MS CAHILL: When, did you become aware of that risk?

10 MR ORD: Well, that would have been when the first reporting around 2016, 2017, so around the time I took up the role, there was media reporting around what happened in China with Crown and I obviously read that and listened to the reporting and understood the nature of where that concern came from.

15 MS CAHILL: So the question I asked you a moment ago was did you have an appreciation, when you commenced in the role, that there was a risk of criminal infiltration of junkets coming to Perth Casino?

MR ORD: I didn't understand what a junket was, but I did understand that there could be concerns around people trying to launder money at a casino.

20

MS CAHILL: Right.

When you commenced as DG of the Department and Chair of the GWC, did you understand whether and how --- if so how, the Government regulated junkets that came to Perth Casino?

25

MR ORD: I understood from our first --- when we had conversations, and Mr Connolly and Mr Sargeant were able to give us an understanding that we had formally regulated junkets but that had ceased some years earlier owing to the introduction of legislation which they understood would provide the same level of assurance that those who were coming into Australia on what were essentially resort-orientated activities with gambling involved, that they would be cleared through foreign affairs processes and financially through financial transaction assessment, banking assessment around risk and so on.

30
35

MS CAHILL: So when did you learn about that?

MR ORD: I couldn't recall an exact date but I would imagine that it would have been within the first three months of me taking over, somewhere around there.

40

MS CAHILL: So did you understand, in effect and in substance when you learnt about the extent of the regulation, that at that time the Department and GWC did not conduct any probity checks of junket operators or junket participants?

45 MR ORD: It was my understanding that that probity was done elsewhere and that the GWC could rely on that probity.

MS CAHILL: So just to answer my question, did you understand that the GWC and

the Department did not conduct any probity checks of junket operators or junket participants?

5 MR ORD: Yes, that was explained to me.

MS CAHILL: And as I think you've just said, the reason for that was because there was an assumption that by the Department and by GWC that Border Force effectively undertook that task of conducting probity checks?

10

MR ORD: Yes. I mean, there had been a Productivity Commission inquiry ahead of the decision by the GWC to remove those regulations in which they said that they were duplicating other processes so they were acting on other, I guess, advice from other reviews as to whether it was a --- what the Department of Gaming and Wagering Commission previously done was effective and warranted. I have a different view now as to whether that was a good piece of advice or not, but at the time that appeared to be the basis on which the Gaming and Wagering Commission considered lifting regulations at that period.

15

20 MS CAHILL: So let's stay with the period where you have just commenced as Chair of GWC and Director-General of the Department. And aside from the issue of probity checks, probity vetting of junket operators and junket participants, did you understand that the Department did not oversee Perth Casino's junket operations to satisfy itself that the risks of money laundering were adequately mitigated?

25

MR ORD: I understood that Crown had a requirement under the federal legislation to maintain a strong anti-money laundering program themselves and that we were auditing a framework around which they held a licence in Western Australia. It was my belief that Crown, who were highly compliant on all matters we were auditing, would be applying the same due diligence to that work and that they wouldn't put their licence at risk by deliberately seeking to breach what were very significant pieces of federal legislation clearly aimed at ensuring there wasn't money laundering for a whole range of good reasons.

30

35 MS CAHILL: So do I understand your evidence to be this --- that you understood that Crown was subject to federal legislation in relation to money laundering?

MR ORD: Yes.

40 MS CAHILL: And you assumed that Crown complied with that legislation?

MR ORD: I had good reason to believe they did.

45 MS CAHILL: Did you understand the Casino Manual imposed any requirements to comply with the legislation upon Crown?

MR ORD: Yes.

MS CAHILL: And you understood that Crown complied with the Casino Manual?

MR ORD: Yes.

5

MS CAHILL: Separately from that, you understood that GWC did not oversee directly any mitigation of the money laundering risk at Crown Perth?

10 MR ORD: That's how I understood it beyond the fact that we were doing the audit programs, comprehensive audit programs, of Crown and, therefore, broad compliance on all legislative responsibilities. We had regular reporting that that was of a high order. So, yes, I believed that they were complying with their legislative responsibilities.

15 MS CAHILL: You mentioned a little while ago that when you commenced in this role, DG of the Department and Chair of the GWC, you were aware of media interest in people coming to Perth Casino from abroad and engaging in money laundering activities? Do you recall that?

20 MR ORD: I would say I was aware of the concern around people coming in from China, and where Crown's activities in China were being questioned. I didn't associate that necessarily with money laundering. As I said, I had a view myself that there was always a risk of a casino, that's just what you would, kind of, think about, and a general member of the community would probably answer the same way. My
25 understanding of the stories was that Crown had been recruiting people to gamble in China against Chinese law. I was interested in that story and what that actually represented.

30 MS CAHILL: When you began in the role, were you told or did you become aware that the Casino Manual had only very recently been amended, i.e. within the last couple of months before your arrival, to remove the requirement for junket operators to be approved and to remove the requirement for names and passport numbers of junket participants to be provided to GWC?

35 MR ORD: No, I wasn't aware of that.

MS CAHILL: I will show you this document, GWC.0004.0019.0012. Have you seen this document before?

40 MR ORD: Well, I reviewed it on the weekend. It was one that I did receive, and I didn't recall and I don't recall having seen it prior to the weekend. I did note it was dated 14 July, which is just after I had started. Given the nature of it, I would have expected it to be on an agenda of the Gaming and Wagering Commission in --- at an
45 August meeting.

MS CAHILL: I asked you whether you had seen it?

MR ORD: No, I don't recall seeing it but I would have to look at the agenda papers

to see whether, in fact, it came up. I don't recall it, but if it was in an agenda paper, I don't want to mislead the Commission.

5 MS CAHILL: I can help you with that, Mr Ord. There is no evidence we've seen of this being provided through agenda papers to the GWC members.

MR ORD: Right.

10 MS CAHILL: But there is evidence to suggest that Mr Connolly received this document by email from AUSTRAC on 17 July 2017. Now, you don't recall Mr Connolly showing you this document at around that time?

MR ORD: No, I mean, it was very early days.

15 MS CAHILL: The question is simply do you recall whether Mr Connolly showed you this document in around 2017?

MR ORD: No, I don't.

20 MS CAHILL: Do you recall him showing you any time after that?

MR ORD: No.

25 MS CAHILL: If we go to page 0004, we're looking at a section here that talks about state-based regulation. Can you see the --- if I describe it as the second full paragraph under the first two dot points ---

MR ORD: Yes.

30 MS CAHILL: --- it's just a sentence that says:

AUSTRAC found that there is inconsistency between the states and territories in relation to the extent of the junket oversight they undertake.

35 And if I could ask for the table underneath that to be popped out, please.

You will see there, Mr Ord, that the WA Regulator, that is GWC, has the least regulatory oversight of junkets in the sense that it has only one of the five oversight
40 activities that it undertakes, which is review of casino procedures. Do you see that?

MR ORD: Yes.

45 MS CAHILL: Did you become aware at any time, during your time as DG of the Department or Chair of the GWC, of the degree of regulation of junkets by GWC compared to other casino regulators in Australia?

MR ORD: No, I believe that we were consistent with other states. I did become

aware through the Bergin Inquiry report when I read it around Queensland having much stricter overview, but otherwise I believed we were operating a consistent approach.

5

MS CAHILL: Now, if we go to page 0006, please. Section 4.4 "Overreliance on the due diligence undertaken by DIBP", which is a reference to Border Force.

Mr Ord, you see the second sentence of this paragraph:

10

Several of the entities engaged by AUSTRAC for this campaign, both casinos and regulators, indicated that they place heavy reliance on the probity undertaken by DIBP when granting junket participants their visas.

15 You see that?

MR ORD: Yes.

MS CAHILL: Well, that was GWC's decision at the time, wasn't it?

20

MR ORD: Yes.

MS CAHILL: And that remained your view throughout your time as Chair of the GWC?

25

MR ORD: That was my understanding, yes.

MS CAHILL: If we go over to the next page, 0007.

30 In that first paragraph, you will see in the second sentence --- Border Force advises that when junket participants are coming in on tourist visas, unless they self-declare a criminal history or Border Force has holdings on them, they don't normally seek a police clearance certificate.

35 It goes on, in the second paragraph, to be very clear, that given the high risk of money laundering associated with junket activities "wholly relying on DIBP's tourist visa processing practices is unlikely to be sufficient to effectively identify high risk junket participants", and they consider "the heavy reliance on the due diligence undertaken by DIBP to be misplaced and to constitute an anti-money laundering and
40 terrorism financing vulnerability".

Now, did anyone within the Department inform you of AUSTRAC's concerns, as set out in these paragraphs, at any time during your tenure as Chair of GWC or Director-General of the Department?

45

MR ORD: No.

MS CAHILL: Does it come as a surprise to you to read that?

MR ORD: Yes, I'm surprised that AUSTRAC didn't formally write to me as Chair and follow-up on it. If they had such concerns, then I would have thought that the responsible thing to do would be to continue to advocate until such time as you got a
5 response. Undoubtedly if this had been delivered to me directly and with that level of qualification around their concern, then I would have acted.

MS CAHILL: So your evidence is if you had been given this you would have done something about it.
10

MR ORD: Yes, I think even allowing for the benefit of hindsight and our belief at the time it would go back to 2017, Chinese activities had ceased but there were still high roller gamblers coming into Australia, and given they had raised the money laundering vulnerability, that would be a clear high order risk for the Gaming and
15 Wagering Commission, and my knowledge of all the members and their concerns over time, they would have insisted on action.

MS CAHILL: So you weren't shown this report in July 2017, you were aware though, weren't you, that Mr Connolly travelled to Melbourne in late September
20 2017 to participate in a conference organised by AUSTRAC to consider regulatory issues surrounding junkets?

MR ORD: Yes, so we had a discussion. We were in a --- as you know, at that brief period of time the State was in some financial trouble, and I was under direction to
25 avoid travel at all costs, for the whole Department. However, in discussion with Mick as the director --- as my Deputy Director-General Regulation, he raised the importance of this conference and I agreed that he should actually be there, should attend it, and report back to the Gaming and Wagering Commission on matters that arose. So by that stage, we were obviously aware of media around the Crown issue
30 around China and so on, and so he went and represented us, or represented me.

MS CAHILL: So what did he tell you was the purpose or objective of the conference?

MR ORD: He said that there were regular meetings of gaming regulators and he was
35 chief casino officer to discuss risks, and that they got together and worked out at a state-by-state level what was going on in each jurisdiction, and that he always took the opportunity to reach out to meet the others when he could. So it was a regular event. I know Mr Sargeant attended some of these events himself, including
40 international forums.

MS CAHILL: I wasn't asking you about a regular regulator's conference, I was asking you about a conference organised by AUSTRAC. Do you recall that?

MR ORD: Look, I probably wouldn't have understood the difference, he approached
45 me on the basis that this was a conference where the other states were getting together to discuss risks and I agreed that he should participate.

MS CAHILL: So you don't recall him telling you anything specifically about a discussion in respect of junkets or junket regulation?

5 MR ORD: He probably would have come back I imagine ---

MS CAHILL: Let's stay first with what he was telling you about the reason for the conference before he went. That's what I'm asking you about at the moment?

10 MR ORD: Well, I can only recall that he asked me if he could attend this conference --- or the conference there had actually asked me whether I wanted to attend the conference, and as I wasn't sufficiently across the subject matter to attend, but I supported him attending.

15 MS CAHILL: But he didn't say anything about a particular focus of the conference being junket regulation?

MR ORD: Not that I recall.

20 MS CAHILL: All right. Then we get to when he comes back. What did he tell you, and I presume the other GWC members, about the outcomes of that conference?

MR ORD: I don't recall specifically the briefings. He generally would update the GWC when we met on his attendance on any meetings as did members, because
25 members of the Commission arranged gaming meetings as well, and they were fairly general in nature. But there was nothing that I recall specific to this paper or AUSTRAC's briefing on it.

MS CAHILL: I want to show you this document, which should not be put on the
30 public screen, please, GWC.0004.0019.0023. This is an email if we go down to the bottom of the page. An email that Mr Connolly sent to AUSTRAC dated 29 September 2017. That is after he went to the conference. You read this over the weekend?

35 MR ORD: Yes.

MS CAHILL: Did Mr Connolly share the contents of this email with you at the time?

40 MR ORD: I don't believe so.

MS CAHILL: Now, do you see the third sentence on this page where he says that the Gaming and Wagering Commission does see junkets as an area that requires close monitoring?

45

MR ORD: Yes.

MS CAHILL: Was that something of which you were aware at the time?

5 MR ORD: There had always been discussion by the GWC about this, the effectiveness of this federal oversight of junkets, and I think in terms of Mr Connolly's views around monitoring, it was that we were very alive to being --- having representation from the Federal Government around anything they might wish for us to do in relation to Crown. I think it goes on around the creation of an MOU to give effect to an exchange of information.

10

MS CAHILL: Stay with me with the third sentence for a moment. I'm asking you about this statement that GWC does see junkets as an area that requires close monitoring. Do you regard that as a correct statement as at 29 September 2017?

15 MR ORD: Well, in the context that I placed it in, yes.

MS CAHILL: And that all members, as far as you were aware, took the position at the time that junkets were an area that required close monitoring?

20 MR ORD: Look, I would imagine so. It's very hard to speak on behalf of the individuals who were on the committee at the time. Some had different areas of interest than junkets, but I think the broad idea that people were coming in to gamble significant sums would always be a matter of concern for those on the Commission.

25 MS CAHILL: Just coming back to this sentence, "Gaming and Wagering Commission does see junkets as an area that requires close monitoring", was the assumption at this time that the close monitoring was being conducted by AUSTRAC and Border Force?

30 MR ORD: Yes, that would be my view, yes.

MS CAHILL: Because there was no monitoring as far as you were aware going on by GWC?

35 MR ORD: That's right. They were in the belief that it was being monitored by federal agencies.

MS CAHILL: It goes on to say:

40 *..... we are in the process of undertaking a full review of compliance activities at Crown Perth.*

MR ORD: Yes.

45 MS CAHILL: You see that?

MR ORD: Yes.

MS CAHILL: Were you aware of that at the time?

MR ORD: Yes.

5

MS CAHILL: Was one aspect of that full review of compliance activities to see whether or not in fact GWC should be assuming a monitoring role in relation to junket activity?

10

MR ORD: Potentially as a consequence of a compliance audit. It was agreed it had been some time since there had been a full compliance review, and that it would be timely to do one. And I would imagine at the end of that, if there were vulnerabilities to our oversight, then that would have led to us seeking to do something about that.

15

MS CAHILL: Did you have any sense at this time that junkets were a compliance activity that was to be reviewed?

20

MR ORD: Well, compliance with the whole framework was what I understood was going to be reviewed ---

MS CAHILL: Just answer my question: did you have any sense that junkets were a compliance activity that was to be reviewed?

25

MR ORD: Not in terms of an approval process, no.

30

MS CAHILL: As you say, if you go over the page you read over the weekend that the email goes on to say that GWC is interested in exploring an MOU to exchange key information. If we go over the page, please. Did Mr Connolly discuss with you the possibility of an MOU with AUSTRAC in advance of writing this email?

35

MR ORD: Not in advance of writing the email to my knowledge, but subsequently he discussed that he had had discussions with AUSTRAC and other state jurisdictions and I think they were trying to get together to come up with a standard MOU.

MS CAHILL: When was that?

40

MR ORD: Well, I recall those conversations more in the 2019 era rather than at this date.

MS CAHILL: Did he inform you about any progress he did or did not make in negotiating an MOU with AUSTRAC?

45

MR ORD: Yes. I was somewhat frustrated that it seemed to take a long time to get what would could imagine would be a relatively simple agreement. But I think AUSTRAC's concern was around provisions in their Act around confidentiality and the MOU had to allow for respective restrictions that state (unclear) information in

their legislation and so on. So what on prima facie you would imagine could be a short process could take a protracted period of time.

5 MS CAHILL: I come back to the full review of compliance activities. If we go to this document which I ask not be put on the public screen, please, GWC.0002.0016.0225, which is the August 2017 agenda paper for the GWC meeting. If we go to page 0013, please. This is a paper by Mr Connolly to the GWC members in respect of a compliance review. The purpose is articulated over the page
10 at 0014. At the top there, "to ensure that regulatory process and practice employed by department is effective in monitoring promoting and measuring compliance within regulated industries."

The third paragraph on this page, do you see where it says:

15

The review will examine existing processes and make a range of recommendations for changes to improve effectiveness and efficiency of operations.

20 MR ORD: Yes.

MS CAHILL: That includes defining key performance and other indicators?

MR ORD: Yes.

25

MS CAHILL: And it goes on to say:

..... to ensure that regulatory effort is concentrated on areas of greatest regulatory risk, that is, the risk of non-compliance.

30

Reading all of that at the time, there is nothing in that that you disagreed with?

MR ORD: No.

35 MS CAHILL: That I've just read out to you?

MR ORD: No.

MS CAHILL: And you understood that the review was fundamentally important for
40 all of GWC's regulatory activities, not just casino regulation?

MR ORD: Yes.

MS CAHILL: And if we go to page 0015 under the heading of "Timing", it is
45 anticipated the review will take six to eight months with monthly updates.

MR ORD: Yes.

MS CAHILL: Was the compliance review and the way in which it was to be rolled out, as explained in this memorandum something that Mr Connolly discussed with you beforehand?

5

MR ORD: Yes, that he was suggesting that we do it post the Machinery of Government. His view was that it was timely to recalibrate and ensure we were focusing on the greatest area of risk.

10 MS CAHILL: Did he seek your approval to proceed with this compliance review before he prepared this paper?

MR ORD: Yes.

15 MS CAHILL: Did you then oversee, in your capacity as DG of the Department, Mr Connolly's work on the compliance review?

MR ORD: He regularly reported progress on it in our regular catch-up meetings.

20 MS CAHILL: You recall that the first report, the first monthly update, was produced to the September 2017 meeting in respect of casino revenue and tax verification procedures?

MR ORD: I believe so.

25

MS CAHILL: Did you discuss with Mr Connolly the order in which different compliance activities would be addressed in the review?

MR ORD: No. This was early days and he was the expert that I was relying on to give advice to me on the priorities and I took that advice.

30

MS CAHILL: In October 2017 you recall he provided the next monthly update, which was a review of table games integrity?

35 MR ORD: I believe so, yes.

MS CAHILL: And then in November 2017 there was the month --- the monthly update was in respect of security and surveillance?

40 MR ORD: I believe so.

MS CAHILL: And then in December 2017 the monthly update was the integrity of EGM gaming?

45 MR ORD: Yes.

MS CAHILL: At that point, GWC members expressed concern in the meeting, didn't they, about the quality and content of the material coming out in these monthly

updates and whether the compliance review was achieving its desired outcome?

5 MR ORD: Yes, they asked for more details rather than summaries of the work being done.

MS CAHILL: Were you one of the members who had concerns about the material and where the compliance review was headed?

10 MR ORD: Look, I was of the view that Gaming and Wagering Commission members should receive as much information as they required to make decisions and therefore, of course, if they didn't believe that papers were comprehensive enough, then I always supported us rewriting or supplementing those papers.

15 MS CAHILL: You were a member of the GWC. Did you think the papers were adequate?

20 MR ORD: Well, I had the benefit of more direct briefings than GWC members who were receiving a paper which they would review and then discuss. So I was a more informed member, and I was of the view that the work that Mr Connolly was doing was sound and was suitable and fit for purpose, but I accepted that the papers weren't adequately comprehensive enough for the other members.

25 MS CAHILL: Did you speak to Mr Connolly about that?

MR ORD: Mr Connolly, of course, attended those meetings, and there were always frank and open discussions and he was always --- he always took on board comments whether they were negative of his work or not, and was happy to comply with getting the work done.

30 MS CAHILL: Did you speak to Mr Connolly about that?

MR ORD: I didn't chastise him for the quality of the paper, no.

35 MS CAHILL: Did you speak to Mr Connolly about that?

MR ORD: I don't recall doing so, no. Beyond the minuting of the meeting, of course, the actions.

40 MS CAHILL: Now, I think because there wasn't a meeting in January 2018, we get to February 2018 and then another monthly update on community gaming was due to be provided and the agenda item was withdrawn. Why was that?

45 MR ORD: I think it was work pressures, the work hadn't been completed.

MS CAHILL: And it would appear that the compliance review stopped at that point?

MR ORD: We ran into a whole range of other matters we had to address ---

11:07AM

MS CAHILL: Did the compliance review stop at that point?

MR ORD: I don't believe it progressed beyond that point at that time.

5

MS CAHILL: Right. And you were about to tell me the reason why?

MR ORD: It was work pressures within the Department.

10 MS CAHILL: Well, doing other things in priority to this?

MR ORD: Yes.

15 MS CAHILL: You accept, though, that it was vitally important to conduct the compliance review?

MR ORD: Yes.

20 MS CAHILL: And the purpose of the compliance review was vitally important to the GWC?

MR ORD: Yes.

25 MS CAHILL: To ensure that its activities and operations were effective and efficient, yes?

MR ORD: Yes, accepting we had a program of works that were maintained. This was about future improvements or sought for future improvements to current processes.

30

MS CAHILL: Well, it was also relevant ---

MR ORD: And there was auditing going on, and so on.

35 MS CAHILL: It was also very relevant to defining the KPIs, wasn't it?

MR ORD: Indeed, yes.

40 MS CAHILL: And to ensure that regulatory effort was concentrated on the areas of greatest regulatory risk?

MR ORD: Yes.

45 MS CAHILL: So surely it was your responsibility as DG of the Department and Chair of GWC to ensure that the compliance review was completed?

MR ORD: We always intended to complete the work. There were a series of delays

bought about by, as I said, the pressures the Department was under in a range of other areas, particularly we had major inquiries in liquor licensing, significant legislative reform work going on as well, and we had to, at times, prioritise those matters because there were lives at risk.

MS CAHILL: Well, an estimate of six to eight months was given in August for completion of the review, that is August 2017. And presumably you were well aware of the resources available to the Department at that point, yes?

MR ORD: I had just taken over what was essentially previously four departments, and I had to learn all of those plus deal with the realities that were hitting us at the time. So what I had understood the capacity of RGL to undertake some of this work and the reality when we looked at the pressure to meet a range of election commitments, and particularly the unfolding issues over in Kimberley around liquor, then we had to reprioritise those resources. We didn't try to mislead the Commission in believing we could complete the work in that timeframe. It became impossible due to the same officers covering those areas and having to reprioritise their workloads.

MS CAHILL: So, Mr Ord, you would understand and agree with me, wouldn't you, that when one prioritises different activities and subordinates a currently less important activity to another, there will come a point where that subordinate activity has become so delayed that it then becomes of a great priority to complete it?

MR ORD: Yes, and I was critically aware of that, and to try and fill in the gap, I commissioned the Ernst & Young compliance review using our audit company to try to catch up and ensure that we were compliant.

MS CAHILL: When was that?

MR ORD: I think I did that late 2020 or mid-2020, or something around that. I was concerned that we hadn't completed everything that we needed to do and I was concerned it wasn't finished.

MS CAHILL: Three years down the track?

MR ORD: Yes, yes.

MS CAHILL: Would you accept that as Chair of the GWC, you did not do enough during your tenure to ensure the progress and completion of the compliance review?

MR ORD: Look, in hindsight, I could have tried to prioritise that over other matters, but I still contend that I was of the belief that our current program of audit of the activities of Crown related to the things that we were auditing was appropriate, the risks were being managed and that this work to, if you like, modernise and improve our oversight of risks would be accommodated and done as soon as we could do them.

11:11AM

MS CAHILL: You recall in July 2019, 60 Minutes broadcast a story on the Crown Group?

5 MR ORD: Yes.

MS CAHILL: And you understood that the story raised issues about criminal infiltration of Crown Casinos?

10 MR ORD: Yes.

MS CAHILL: In particular by junkets.

MR ORD: Yes.

15

MS CAHILL: And you knew what a junket was by July 2019?

MR ORD: Yes.

20 MS CAHILL: And I want to show you an email you sent to the director of corporate communications of the Department the following Monday after that 60 Minutes program was broadcast, DLG.8001.0003.5307.

25 We need to go further down into the email chain, please. Scroll through. Just pause here.

So do you see his name, Damien Carbon, who was the director of corporate communications from your office; is that right?

30 MR ORD: Yes.

MS CAHILL: You will see at the bottom of this page that he has sent through to you, and a couple of other people within the Department including Mr Connolly, links to newspaper articles.

35

And you say above that, at 9.58 am:

Can see why Packer cashed in his chips! Hope our probity audit is rigorous.

40 When you hoped the probity audit was rigorous, you were referring to the probity audit of GWC, not the Department?

MR ORD: GWC probity audits, yes.

45 MS CAHILL: And did you know what the probity audits were that were being conducted by the GWC at this point?

11:13AM

MR ORD: Broadly, yes.

MS CAHILL: And what were they?

5

MR ORD: Well, they were around audits of gaming machines, audits of the various accounts, taxation audits and the like.

MS CAHILL: These were newspaper articles linked to the subject matter of the 60 Minutes report; do you recall that?

10

MR ORD: Yes.

MS CAHILL: To do with high rollers and junkets. And your response is "hope our probity audit is rigorous", you were referring to probity audits around junkets and high rollers, weren't you?

15

MR ORD: No, I was meaning --- in that case I meant our probity audit, should have been audits, I suppose, are rigorous across the whole business. That's what I was thinking.

20

MS CAHILL: In terms of "probity", what are you referring to there?

MR ORD: Well, the allegations that had been made that essentially Crown was facilitating people to bring in where the source of the funds could be inappropriate and to facilitate them gambling that money in the casino.

25

MS CAHILL: Money laundering is what you are referring to?

MR ORD: Well, that was the accusation, that it potentially could be money laundering.

30

MS CAHILL: Didn't you tell me before that you understand that AUSTRAC was responsible for mitigating that risk?

35

MR ORD: Sure.

MS CAHILL: So I understand your evidence to be before that as a consequence GWC didn't oversee that risk itself.

40

MR ORD: Well, I didn't think that GWC was responsible for checking the bona fides of people coming into Australia and the sums of money they were bringing with them. I never had the belief that we weren't responsible for ensuring Crown Perth was running an appropriately --- an appropriate business at all aspects of its business. I was fully aware they had an anti-money laundering policy and governance around this and my expectation was that that was rigorous and protecting Crown Perth from people coming in to launder money, using their business to launder money.

45

11:16AM

MS CAHILL: So just in relation to money laundering, what is the probity audit of GWC that you are referring to here?

5 MR ORD: As I said, it is a very quick response. I was referring to the fact that I hope that our probity audits of Crown were up to scratch.

10 MS CAHILL: Did you think at the time that GWC conducted probity audits in relation to junket operators, participants and risk of money laundering?

MR ORD: I believed that we were covering the critical business activities of Crown, not that we were doing probity audits of people coming in as junkets or the junket operators but we were covering off the activities once people landed and were active in the casino.

15 MS CAHILL: So a probity audit in relation to a potential money laundering activity?

MR ORD: Well, certainly, yes.

20 MS CAHILL: You thought that's what GWC was doing?

MR ORD: I thought we covered that off, yes.

25 MS CAHILL: Thank you. That ills a convenient time, Commissioner.

COMMISSIONER JENKINS: Thank you, yes. We will adjourn until 11.30. Thank you. Morning tea, Mr Ord. We will be back at 11.30. Thank you.

30 **ADJOURNED** [11.17AM]

35 **RESUMED** [11.31AM]

COMMISSIONER JENKINS: Thank you, please be seated. Ms Cahill?

40 MS CAHILL: Thank you, Commissioner.

Mr Ord, I had you at that email chain of 29 July just before the break and coming in the aftermath of that 60 Minutes program, the weekend before. You make reference to that 60 Minutes program in your third witness statement, I think, in DLG.0001.0008.0001. And if we go to 0015, here we are at paragraph 48.

45 You start talking about the Bergin Inquiry and you say, first of all, let me tell you about the 60 Minutes story. If we go to paragraph 49, you say:

After the story the GWC Commission immediately requested a formal Crown response.

5 That response was in terms, was it, that there was nothing to be concerned about as far as Perth Casino was concerned?

MR ORD: In essence, they sought to give assurance that these matters were --- that they contested elements of the story, I guess one might say, and that Crown Perth
10 was not subject to accusations of a similar nature to the ones outlined in the program, which was around people bringing money into Crown Melbourne and, as I understand it, there was --- Sydney was included in that story.

MS CAHILL: Would you agree that the GWC accepted Crown's explanation at this
15 time uncritically?

MR ORD: No, I think what our focus was, at the time, was whether the practices that were outlined, and they did go back I think in that story to 2012 and 2016 primarily, and related to people coming in from China and so on, that we were aware
20 that the China business had concluded in 2016, and we were given assurances by Crown that the accusations were largely historic and they had taken action to correct risks that had arisen from that anyway, and that they had acted on legal advice that their activities were, in terms of the recruitment of people out of China, were within Chinese law. So we were concerned about whether there would be allegations
25 against them and so on. And they gave that assurance at that time so we really believed at that stage that we had required them --- and that coming before the Commission we wouldn't be misled on those matters and, therefore the risks that had been aired by that report were already being addressed within Crown's business. So we took a watch and wait and see approach to see whether there was follow-up, as I indicated from the AUSTRAC that we would get contacted by a federal agency to say that there was a problem in Perth and you need to do something about it ---
30

MS CAHILL: So my question, Mr Ord, was whether GWC accepted the explanation of Crown at this time uncritically. And I understood you to say, a moment ago, in
35 the middle of that very long answer, that you assumed that Crown wouldn't mislead you ---

MR ORD: Yes.

40 MS CAHILL: --- in relation to the explanation it gave.

MR ORD: Yes.

MS CAHILL: So you accepted what it said uncritically?
45

MR ORD: I'm not sure it is quite the same thing, but we accepted that we were being told the truth.

11:35AM

MS CAHILL: You are aware, aren't you, of the evidence given by Ms Chopping, the new Director-General and Chair of the GWC, to this Commission last week where she expressed the view that, in the past, the GWC and the Department had an excessive level of trust in Crown.

MR ORD: Yes.

MS CAHILL: Would you agree with that evidence?

MR ORD: I think it would be a reasonable view to take for a new DG. I would probably do the same if we were in reverse roles.

MS CAHILL: I just asked you whether you agreed with that evidence?

MR ORD: And I said "yes".

MS CAHILL: And you would you agree that specifically on the occasion of Crown giving its response to GWC about the content of the 60 Minutes report, you, as Chair of the GWC, placed an excessive level of trust in Crown in accepting that response uncritically?

MR ORD: Yes.

MS CAHILL: Now, you go on in this paragraph 49 over the page of your witness statement to explain, in effect, that, and in terms at paragraph 50, that it was reasonable for the GWC to await the outcomes of the investigations by AUSTRAC, Border Force, Bergin Inquiry and the VCGLR before inquiring --- GWC inquired itself into the issue of that junket activity at Perth Casino; do I understand that correctly?

MR ORD: Yes.

MS CAHILL: In that regard, if we can come back to the email chain I showed you before the morning tea break, that is DLG.8001.0003.5307.

You have got this explanation from Mr Connolly that begins at the bottom half of the first page. Just before I ask you about that email, did Mr Connolly ever say to you or suggest to you that someone from Crown had told him about the 60 Minutes program before it was broadcast?

MR ORD: Not that I recall.

MS CAHILL: All right. Mr Connolly is giving you an explanation on the Monday morning saying he hasn't seen the television story yet but in terms he has a sense of the allegations. And in this second paragraph, he explains that in WA "we do not approve or licence junket operators"; did you already know that?

MR ORD: I believe that that same kind of explanation had been made at a Gaming and Wagering Commission prior to me receiving this email.

5 MS CAHILL: So did you already know that fact in the first sentence?

MR ORD: That we didn't licence them?

MS CAHILL: Approve or licence junket operators.

10

MR ORD: Yes.

MS CAHILL: You already knew that.

15 MR ORD: Yes.

MS CAHILL: And then he goes on to say:

20 *It has historically been extremely difficult to conduct any sort of probity assessment of individuals that have come out of some other countries and in particular Indonesia and China.*

And then he says:

25 *In the late 80's and early 90's, the Gaming and Wagering Commission funded a police unit tasked with vetting and gathering intelligence on junket players and operators but this area was discontinued probably 15 or more years ago.*

30 Then he goes on to say that they relied on border protection agencies. Then in the third paragraph he says "we have been criticised for this approach before"; were you interested to find out by whom GWC had been criticised and why?

35 MR ORD: Look, I understood that a lot of gaming regulation in WA is criticised. There is healthy debate in the community that many people are totally opposed to gaming. So, no, it didn't come as a surprise that we were under criticism of any activity that took place.

40 MS CAHILL: That's not what I asked, Mr Ord. We come back to the second paragraph. He's explained that there is no approval or licensing process for junket operators or participants in WA, that there used to be a police vetting exercise that was defunded 15 years or so ago, and since then the GWC has been relying on border protection agencies. He says "we have been criticised for this approach before and I expect will be criticised again". My question is were you interested to find out by whom GWC had been criticised?

45

MR ORD: I didn't pick that up on the basis of the question --- as an issue that I would pursue on that basis. I was aware that many of the resources that are applied, police units and so on, may well have been discontinued as part of decisions of

government around budget. I was very familiar with that because I was managing a major restructure to achieve budget savings at the time.

5 MS CAHILL: Did you want to know what the criticism was of this approach of relying on Border Force agencies?

MR ORD: I took it --- I took it, and I'm sorry if I misread the paragraph, that it was about the taking away of the police unit.

10

MS CAHILL: So did you want to know how that had come about and why?

MR ORD: We did discuss it at a later date.

15 MS CAHILL: When?

MR ORD: One of our general meetings, I think, he mentioned that we did have a police unit that had been disbanded in a savings measure.

20 MS CAHILL: So this reference to having been criticised for this approach suggests to you, doesn't it, that someone who was making the criticism perceived that there was something more GWC could be doing to vet the probity of junket operations coming to Perth Casino.

25 MR ORD: Yes, I would agree and I think I have stated in my views around the future that those matters, if they were ever to return, of course, I led the direction notice to ban junkets. But if there was ever a reintroduction, then clearly they would have to be subject to an extraordinary amount of scrutiny.

30 MS CAHILL: Now at this point on 29 July, Mr Connolly was suggesting to you, wasn't he, that the way to respond to this 60 Minutes broadcast in terms of the regulator's response, GWC's response, was to wait to see first of all how the Victorian and NSW regulators responded?

35 MR ORD: Yes, because the specific focus of the 60 Minutes story was actually focused around activities happening inside of Crown and we had made immediate contact with the Victorians and they indicated they were going to investigate those particular matters. Then given there hadn't been a case study in Perth that we could investigate ourselves, it was mentioned that we were subject to the same, as a unity
40 business, essentially, that we would wait to see whether --- the Victorians were going to advise us that they had actually found breaches and wrongdoing there, and of course, the outcome of Bergin Inquiry later was that they had the resources to do a really significant investigation and sought us to participate in that.

45 MS CAHILL: You understood that those inquiries would likely take some time to complete?

MR ORD: Yes, I understood, not obviously as long as they did, because COVID

interrupted the inquiry. So I was expecting it was going to be concluded within the original time frame, which was relatively short.

5 MS CAHILL: What did you understand that to be?

MR ORD: I think, from memory, it kicked off in 2019. I think it was due to report at the end of 2019.

10 MS CAHILL: So within 12 months?

MR ORD: Less than I think was the original target date.

15 MS CAHILL: And did you understand that the inquiry by the Victorian Regulator would take a similar amount of time?

MR ORD: No, I understand that that was going to be, because it was quite specific around the cage activities, that they would conclude that work relatively quickly.

20 MS CAHILL: How soon?

MR ORD: I would have thought within three months.

25 MS CAHILL: And Mr Connolly also suggested to you at this time that there be a uniform process set up across different jurisdictions to deal with junket operators and participants, didn't he?

MR ORD: We had been discussing ---

30 MS CAHILL: Can you just answer the question directly, please?

MR ORD: Yes, we did have those discussions.

35 MS CAHILL: Thank you. And you understood that that would take some time to get up and running if it proved capable of being done?

MR ORD: Yes.

40 MS CAHILL: So did you turn your mind to whether any interim arrangements should be put in place by the GWC pending the completion of the interstate inquiries, or setting up this cross jurisdiction regulatory framework to mitigate the present risk of criminal infiltration or money laundering at Perth Casino?

45 MR ORD: Well, at that stage, we didn't have any evidence before us that this was actually happening in Crown.

MS CAHILL: Is that what it took for you to act, Mr Ord? You would actually have to see criminal activity or money laundering at Perth Casino before you thought you

should be moved to act to mitigate a risk?

5 MR ORD: Well, in this particular instance, we didn't have the belief that we were subject to that risk. And that there were inquiries that Crown had informed us that they were taking extreme due diligence, and so we didn't seek to put any further direction notices in at that stage.

10 MS CAHILL: You use the language of "extreme due diligence". What do you mean by that?

MR ORD: Well, they were reviewing all policies, procedures and activities in terms of high rollers coming into the casino to ensure that they were appropriate people and weren't laundering money. That was my understanding of their assurance system.

15 MS CAHILL: With hindsight, do you accept that you should have put interim measures in place at July 2017 to mitigate the risk of money laundering occurring through junkets at Perth Casino?

20 MR ORD: With what I learnt, obviously, through the information that came through the Bergin Inquiry, then, yes.

MS CAHILL: Can I take you to a different topic now, which is harm minimisation, Mr Ord. Can I take you back to that briefing note that you were given by Mr
25 Connolly when you commenced as Director-General and chair of the GWC in July 2017? That's DLG.8001.0045.9601.

If we go to page 9626, do you see two-thirds of the way down the page "prevalence of Problem Gambling"?

30 MR ORD: Yes.

MS CAHILL: And immediately underneath that, you are told that WA has a low prevalence of problem gambling.

35 MR ORD: Yes.

MS CAHILL: Just hold that thought, and then we go to your second witness statement DLG.0001.0003.0002, at page 004 paragraph 14, where you say "problem
40 gambling is a massive risk to the community".

In your mind, are those two statements consistent?

45 MR ORD: I have a concern about problem gambling myself, which was probably inconsistent with what was in that briefing.

MS CAHILL: Did your view of the extent of problem gambling in Western Australia change over time that you were the Chair of the GWC?

MR ORD: Not particularly. I had been Deputy Director-General of Aboriginal Affairs and I had grave concerns around problem gambling within --- particularly in remote communities.

5

MS CAHILL: So what did you understand its prevalence was in WA when you came to the role of Chair of the GWC?

MR ORD: That there was problem gambling in selected vulnerable populations. Not necessarily related to Crown Casino or matters to be regulated, but in a broader community sense, not all gambling is regulated.

10

MS CAHILL: Now, what sense did you have of the prevalence of problem gambling at the casino when you became Chair?

15

MR ORD: I had the understanding that the State was more highly regulated than other jurisdictions, in particular because so much problem gambling was associated with pokie machines and their prevalence in other States where they were in hotels and clubs and various other places, and that WA had taken a precautionary view to limit the number of electronic gaming machines that could be held in a casino, and not to allow others to become overly populated in the broader community or agree to EGMs being held elsewhere.

20

MS CAHILL: So you've used two different expressions, there, poker machines and EGMs.

25

MR ORD: Yes.

MS CAHILL: Is there a difference between the two, in your mind?

30

MR ORD: Well, there are defined differences under our regulations. When Crown was --- or when Burswood was originally approved as a casino, there was an agreement that they could have electronic gaming machines. As long as those gaming machines didn't replicate what a poker machine was, as I understood by poker machine, which is a spinning wheel machine, so ---

35

MS CAHILL: Sorry, can you just come back to my question?

MR ORD: Yes.

40

MS CAHILL: Is there a ---

MS SEAWARD: He is answering, with respect, what he understands the difference to be.

45

COMMISSIONER JENKINS: Ask your question again, I missed it.

11:51AM

MS CAHILL: Thank you.

5 I'm asking you if there is a difference, in your mind, between poker machines and EGMs.

MR ORD: Yes.

10 MS CAHILL: Is there anything you want to add to that answer?

MR ORD: Yes, please. So poker machines derive from a mechanical device which is to spin reels and were known as fruit machines or salt machines. Most people understand what they look like, three lemons come up or something or other. An electronic gaming machine is an interactive entity. It wasn't allowed to have spinning reels, it had to have a defined return to player, 90 per cent return to player, of the distribution of money invested in the machine, and those differences between an EGM and a pokie machine were enshrined in regulation. The difference is pokie machines have become electronic and have migrated towards electronic gaming machines. So the distinction between the two, currently, is quite slight.

20 MS CAHILL: You recall in December 2017, Crown Perth briefed GWC members on the Responsible Service of Gaming, or RSG, initiatives at Perth Casino?

25 MR ORD: Yes.

MS CAHILL: And if we go to the February 2018 agenda papers, GWC.0002.0016.0251 at page 0004, we're in the minutes there of the December 2017 meeting. If you have a look at paragraph 5.3, it is referring there to the presentation that was given.

30 MR ORD: Yes.

MS CAHILL: And in the second paragraph:

35 *Following the presentation members agreed to request ongoing statistical information from Crown Perth in relation to the number of third party referrals, referrals from Crown employees and the outcomes of those referrals.*

40 What was the purpose for which that statistical information was collected?

MR ORD: The GWC committee were particularly interested in controls related to Responsible Gaming. That's particularly around people who seek to self-nominate to be unable to go and gamble, for people who through court or other orders are not allowed to be on premises and so on, and the degree to which Crown monitored that and recorded people who were turned away from the business, if you like, because they were not approved to be on the premises, people who were removed and people who were subject to interventions from Responsible Gaming officers. So they were the statistics, that hadn't previously been provided, that the Commission wanted to

start monitoring so they could see the effect of what Crown had said were significant ramping up of their efforts to improve their compliance. One of the major initiatives was the introduction of facial recognition, so they were better able to identify people and not rely on officers on the door to recognise people who had a banning notice. We were interested to see the effect of these and ensure that there was continuous improvement in the program.

MS CAHILL: So you wanted to see the effect of changes that were introduced, and whether you could see continuous improvement. Did the GWC obtain any assistance in analysing or interpreting the statistical information it was receiving?

MR ORD: No, no, it was being audited as a program so we could see it was happening and the Commissioners were reviewing the outcomes of that. Of course there was, through our contributions to national research into problem gambling, there was information coming forward and there was national statistics so we often used proxies to see the gambling rate per head and these sort of things, to see whether there appeared to be an emerging problem with either much greater takers of gaming revenue per head or participant, and so on.

MS CAHILL: What do you mean using proxies?

MR ORD: So the combination of using information ---

MS CAHILL: What do you mean using proxies?

MR ORD: The data that were onspent per head on gambling for instance, at a State level, there were variations around the State. We would have a look at those to see whether Western Australia was showing any increase from its traditional baseline.

MS CAHILL: Can I just pause? I'm asking you about the second paragraph of 5.3 which relates to third party referrals, referrals from Crown employees and the outcome of those referrals. So that is a specific subject matter, isn't it?

MR ORD: Yes, that's true.

MS CAHILL: And it relates to the prevalence of gambling related behaviour evidencing that a gambler or their friends or family were at risk of harm to the extent that someone refers them to an RSG service?

MR ORD: Yes.

MS CAHILL: Whether it is an exclusion order, or counselling or something like that?

MR ORD: Yes, from the program they run.

MS CAHILL: And is your evidence that GWC wanted to know about that

information particularly in order to understand what improvements were being made by Crown and whether they were having an effect?

5 MR ORD: Yes.

MS CAHILL: So the statistical information that was being given in that regard, GWC didn't get any assistance from any experts to analyse or interpret that information?

10

MR ORD: No.

MS CAHILL: And did it undertake any research or have anyone undertake research on its behalf to assist in analysing or interpreting the statistics?

15

MR ORD: No. It was shared with the problem gaming committee in the Department of Communities and others who were undertaking a formal review of problem gambling and would involve multiple state agencies and their research and data capabilities.

20

MS CAHILL: Was that mainly what GWC did with it, shared the information?

MR ORD: And obviously we considered this information when we were making approval decisions. We always made approval decisions really based on three tenets, whether it was compliant with the Act, what the potential impact of that approval on harm minimisation, and did it go towards the appropriate development of the business, which was other requirements of our consideration. So a balance of interests model.

25

30 MS CAHILL: Can I come back to 5.3, the third paragraph:

Members discussed the availability of studies regarding the impact gaming machine and game design may have on gambling addiction.

35 First of all, were you aware, during your time as Chair of GWC, of the fact an amount of academic research available on the topics of gambling behaviour and harm minimisation generally?

MR ORD: Yes, I was aware there was national research on the subjects.

40

MS CAHILL: And in relation to EGMs specifically?

MR ORD: No.

45 MS CAHILL: You weren't aware that there was --- of the extent of academic literature on EGMs and addictive behaviour?

MR ORD: Not specifically on the EGMs we had regulated at Crown.

MS CAHILL: Did the GWC, during your tenure, as a matter of course keep abreast of academic research in the area of problem gambling and harm minimisation?

5 MR ORD: We would receive briefings and papers, and we had an officer in the Department who was dedicated to Responsible Gaming. She serviced the Problem Gaming subcommittee and there was work done within the subcommittee around the issue.

10 MS CAHILL: Who was that?

MR ORD: I'm sorry, she didn't report to me. She reported through to the Deputy Director-General, so Mr Connolly would be able to give you advice on that officer.

15 MS CAHILL: Looking at you as Chair of the GWC at the time and the GWC membership, not the subcommittee, but the actual GWC as a group of members, did the GWC as a matter of course keep abreast of academic research in the area of problem gambling and harm minimisation?

20 MR ORD: There were a number of members who were particularly focused on this issue from when I first began, and they brought forward matters that came from them reading research. So it was an active debate continuously in the Commission. We didn't have a kind of research program, if you like, that would have informed members if they had been full-time Commissioners, for instance, and obviously, ours
25 were not full-time Commissioners. So, no, we didn't have an active program of research in Responsible Gaming to the point where you would say that every Commissioner was an expert on the subject matter.

30 MS CAHILL: Do you agree with the benefit of hindsight that the GWC during your tenure ought to have had a standard agenda item for every meeting dealing with harm minimisation and Responsible Service of Gaming?

35 MR ORD: Well, I believe it was integrated into all of the processes of the committee meeting and it was discussed in the statistics were primarily focused on that subject matter.

MS CAHILL: So you are not suggesting it did have a standing agenda item on ---

40 MR ORD: No, I'm saying it seemed to be incorporated in the agenda.

MS CAHILL: Coming back to my question then, do you agree, with the benefit of hindsight, that there should have been a standing agenda item for each GWC meeting dealing with harm minimisation and RSG?

45 MR ORD: I think that would be a very positive initiative, yes.

MS CAHILL: Would you agree it should be the first and priority agenda item for the

GWC?

5 MR ORD: Well, it comes down to the role you ultimately set for the Gaming and Wagering Commission. If it is to be that its key responsibility is RSG, then it probably needs to be constituted, probably needs legislation that reflects that and then ultimately, yes, I would concur it would be the major priority.

10 MS CAHILL: But absent that, your answer would be "no"?

15 MR ORD: Well, responsible service of anything, say liquor, for instance, which we also regulated, then it is clear in legislation the responsibilities of a licensee for the Responsible Service of Alcohol, we can audit against it, and so on. If we are doing research into the harm of liquor, then we do inquiries and section 64 inquiries. I had those underway in my tenure, heavily involving health, police and a whole range of agencies because, you know, this has to be evidence based, academic institutions and the like. If the Gaming and Wagering Commission is to have those powers and responsibilities to do that for all the gambling, gaming, then they would have to draw on and have the same powers to compel to get all that information. To just, say, take some random research from Melbourne and apply to WA, I don't think that would be practical or appropriate. It would have to be drawn from a statistical and evidence-based approach in Western Australia, in which you would need significant cooperation from a whole range of agencies. The State Government has focused heavily on how to share a lot of this data. It is quite complex to get access to a lot of the fundamental raw data. You would need to actually do causal connections between somebody who, you know, may be going to Crown Casino occasionally and the problems that they may manifest as a problem gambler in other circumstances.

20 MS CAHILL: Do I understand your position correctly that the --- you don't perceive the GWC to be presently empowered or resourced to foreground RSG and harm minimisation as a key focus and objective of the GWC's function?

25 MR ORD: Yes, that's my view. The limitation of that is that through the statutes and policies and standards that are applied, obviously, they attempt to control harm by way of saying you can only have X number of machines and you can only do this et cetera, et cetera.

30 MS CAHILL: Now, coming back to December 2017 and those minutes that I took you to a moment ago where it was talking about harm minimisation in relation to EGMs, you knew at least by December 2017, didn't you, that electronic gaming machines are of particular concern in terms of the risk of harm arising from their regular use?

35 MR ORD: Yes.

40 MS CAHILL: And from the commencement of your time as Chair of the GWC, you were obviously aware of the prohibition of poker machines in Western Australia?

MR ORD: Yes.

5 MS CAHILL: And did you understand that the reason why poker machines were prohibited in Western Australia was because of the risk of harm arising from their regular use?

10 MR ORD: I was aware that the proliferation of poker machines elsewhere in Australia was seen as something the Western Australia won't replicate. It was through my lifetime and regular political discourse on the fact that they didn't want to go down the road of having poker machines licenced in many venues. Clearly, when they established Burswood casino originally, they limited the availability of machines to electronic gaming machines and not to have poker machines.

15 MS CAHILL: Yes. So we're just talking about poker machines here. You understood that they were prohibited in Western Australia, including at the casino?

MR ORD: Yes.

20 MS CAHILL: And did you understand that the reason why they were prohibited was because of the risk of harm arising from the regular use of the poker machine?

25 MR ORD: Proliferation in the community and, therefore if they were everywhere, then there is more likely that people would use them.

MS CAHILL: But they are nowhere in Western Australia, are they, according to law?

30 MR ORD: According to law, no.

MS CAHILL: And you understood the reason why the law stipulates that they are nowhere is because of the risk of harm from the use of poker machines?

35 MR ORD: I would imagine that was the main concern, yes. There may have been in many others and it has ruined the pub culture in Melbourne.

40 MS CAHILL: I understood from what you said a moment ago in relation to an earlier question of mine, that you understood by the time you commenced in the role of Chair of the GWC or shortly thereafter, that the electronic gaming machines had been developed and become available in Australia subsequent to the prohibition on poker machines being introduced in Western Australia.

45 MR ORD: Look, I'm not fully aware of the full history of when EGMs were approved for Crown or for Burswood casino (inaudible) on commencement that they were allowed to have electronic gaming machines.

MS CAHILL: So do you remember when the poker machine prohibition came in?

MR ORD: That was clear in the legislation when they originally proclaimed the casino. It was clear in the reading speeches that pokies were not to be there.

5 MS CAHILL: Let's go to the briefing paper that you were given by Mr Connolly when you commenced in your role. Just for the transcript, identify DLG.8001.0045.9601.

10 If we go to page 9655, you see poker machines there being discussed at the bottom of 9654, and if we go to the bottom of this page, do you see that paragraph that commences "contemporary poker machines are sophisticated electronic machines which look very similar to other gaming machines"? Can you pick that up.

MR ORD: Yes.

15

MS CAHILL: And then it goes on to talk about what poker machines now provide with some dot points, identifying that they are similar to gaming machines and, therefore, makes it very difficult for the ordinary person to differentiate between the two.

20

MR ORD: Yes.

MS CAHILL: And that is a position you understood at the time, and you still are of that view, that it is very difficult for an ordinary person to distinguish a poker machine from an electronic gaming machines?

25

MR ORD: Yes.

MS CAHILL: And then over the page at 9656, do you see second half of the page "Comparison of Poker Machines and Gaming Machines"?

30

MR ORD: Yes.

MS CAHILL: Under the first paragraph:

35

The issue confronting the Gaming and Wagering Commission nowadays is that there is a very fine line between electronic gaming machines and poker machines.

40 And again, that accords with your understanding; yes?

MR ORD: Yes.

MS CAHILL: Then you have given information in tabular form as to how the GWC seeks to differentiate between the two types of machines. This is as at 2017, when you commenced in the role.

45

MR ORD: Indeed.

MS CAHILL: And you understood, didn't you, that this table was not --- contained information, not that it had been imposed on GWC, but how GWC had worked out itself how to differentiate between a poker machine and an EGM?

5

MR ORD: Yes.

MS CAHILL: Because the legislation prohibiting poker machines did not itself identify or define what is and what is not a poker machine?

10

MR ORD: Yes, that's right, so the GWC created guidelines.

MS CAHILL: And you also understood that the differentiation, as it is set out in this table, is expressed in an appendix to the National Gaming Machine Standard?

15

MR ORD: Yes.

MS CAHILL: So, just to be clear, the very fine line between poker machines and EGMs you understood to be a very fine line that GWC itself had drawn?

20

MR ORD: No, I think I took it that it had been easier to define and, as I said, with the evolution of poker machines, they were effectively becoming electronic gaming machines. The issue of definition is, is Australia now full of electronic gaming machines more so than is Australia full of pokies? It is an emotive issue around the definition.

25

I would still come back to --- regardless of the effect of an uninformed player if they could pick the difference, that the prime control in Western Australia was a limitation on numbers of machines and the fact that they could only occur at Crown. And that the guidelines as agreed by the Gaming and Wagering Commission were implemented.

30

MS CAHILL: But you understood that the GWC could change its requirements for an EGM at any time, couldn't it?

35

MR ORD: Yes.

MS CAHILL: To make EGMs in Western Australia more distinct from poker machines than they were at this time and currently are?

40

MR ORD: You could. It is a question of whether that would be something that would be accepted by the consumer. We're not forcing people to play these games, they choose to play them because it is entertaining, one assumes.

45

MS CAHILL: So if we come down to this table that you should have on the screen, do you see just a little below, halfway down, there is an item "Return to player"?

MR ORD: Yes.

5 MS CAHILL: And it differentiates a gaming machine from a poker machine in that the gaming machine RTP is 90 per cent or higher, and for a poker machine it is 85 to 87 per cent?

MR ORD: Yes.

10 MS CAHILL: So did you assume, when reading this material and understanding that difference between the two RTPs, that a 90 per cent RTP was less harmful than a 85 to 87 per cent RTP?

15 MR ORD: I took it that the 90 per cent afforded the consumer a better outcome for the risk they were taking in playing the machine.

MS CAHILL: Did it have any significance beyond that in your mind?

20 MR ORD: In terms of whether it did less harm, I assume it would come down to the volume of how much you were prepared to gamble. But primarily I saw it as advantaging the consumer.

MS CAHILL: Materially?

25 MR ORD: Not materially given --- but I think a very important principle to establish that there is a fixed return to player for those machines, and the fact that it is a higher rate than provided for in any other state jurisdiction is a good thing.

30 MS CAHILL: It just means it is fairer to the player.

MR ORD: Fairer to the player, yes.

MS CAHILL: All right.

35 Can we come to the speed of play, which is a couple of items underneath that. Do you see the row that talks about speed?

MR ORD: Yes.

40 MS CAHILL: Although it has got 1 to 2 seconds under poker machine, we should read that as meaning 3 to 5 seconds per play having regard to the note in parentheses under "Speed"?

45 MR ORD: Yes.

MS CAHILL: So the minimum speed of play for a game on a gaming machine has to be 5 seconds and for a poker machine, 3 to 5 seconds?

12:15PM

MR ORD: Well, 3 seconds is the National Standard.

MS CAHILL: All right. So a difference of 2 seconds.

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MR ORD: Yes.

MS CAHILL: Was and is your assumption that a minimum speed of play of 5 seconds is less harmful than one of 3 seconds?

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MR ORD: I'm not an expert on these things. One would assume that the slower the game cycle over any period of time, there would be less possible to gamble but that would have to take into a whole lot of, you know, realities around the people that play this and not so much --- so my assumption is it is a slower game speed.

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MS CAHILL: So why does the GWC stipulate a 5-second minimum. What's the benefit of that?

MR ORD: I think the issue is that the --- part of the rule was there should be player engagement and manual engagement of setting off the game, no autoplay functions, and the ability for player choice. So to allow for those, having a bigger cycle means that, I believe, people can make a bit of an informed decision about what they are going to do next in the next cycle.

MS CAHILL: And the 2 seconds is material in that regard?

MR ORD: I would assume --- well, we set a 5-second standard, it must have been --- it was done prior to my time. I know the Gaming and Wagering Commission, in viewing these things and in viewing Crown's submissions around this later on, was of the view that the 5-second minimum was the 5-second minimum they wished to maintain.

MS CAHILL: Did it have any scientific basis?

MR ORD: I wouldn't know. I dare say it did in times when it was set as a standard prior to my time as Chair.

MS CAHILL: So you, yourself, can't say what the 5 seconds is based on, why it is 5 seconds, and not 8 seconds, or 30 seconds, or 1 second?

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MR ORD: I think that there is clearly an expectation around how a game would perform and the 5-second minimum must have been established on a whole matrix of issues, including particularly given it is a game for people to enjoy, and what cycle of speed would be needed to keep the player engaged or for the player to get a good experience at what they are doing.

45

MS CAHILL: "Symbols", just above "Spinning reels". You see that?

MR ORD: Yes.

5 MS CAHILL: So you can have a card and some casino-based symbols, if you put it that way, for a gaming machine, but you can't have fruit and things like that that you have in a --- and other symbols that you have in a poker machine?

MR ORD: Yes ---

10 MS CAHILL: What is the reason for that differentiation?

MR ORD: I think that poker machines were heavily identified with a set of symbols, that are long-standing and people would recall an orange or lemon or whatever it might be. And they didn't want that to be simply replicated in a gaming machine.
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MS CAHILL: Why not?

MR ORD: I'm assuming it was an attempt to make the gaming machine more of something that was not about repetitive behaviours.
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MS CAHILL: And somehow the symbols contributed to that?

MR ORD: You would think that was the rationale ---

25 MS CAHILL: Do you know?

MR ORD: Well, the issue with spinning reels and this repetitive go through lemons, two lemons, one lemon, is well identified as a poker machine type process.

30 MS CAHILL: But you can have that with a card symbol though, couldn't you?

MR ORD: Well, you could, yes. So the differentiation is somewhat ambit.

MS CAHILL: Illusionary?
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MR ORD: Illusionary, yes.

MS CAHILL: You don't know if it is based on any scientific evidence or academic study?
40

MR ORD: I'm certain that the developers of gaming machines do have a look at how people respond to their games as they do in games available on your computers. They've got a lot of thought put into how they operate.

45 MS CAHILL: Have a look at the bottom line "Winning combinations (lines)", poker machines can have multi-line and multidirectional winning lines, but gaming machines can only have horizontal and vertical.

MR ORD: Yes.

MS CAHILL: What is the reason for that?

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MR ORD: I'm not aware of the reason for that.

MS CAHILL: And you never found out during your time as Chair of GWC?

10 MR ORD: I had assumed that the winning combination lines were around not replicating a poker machine.

MS CAHILL: But for what purpose?

15 MR ORD: It is to do with where the alignment of wins comes from, so the gaming machine is independent and often a tile, and they come up in horizontal or vertical patterns.

MS CAHILL: Did you understand it to have any harm minimisation characteristics?

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MR ORD: No, just differential.

MS CAHILL: Given your understanding that both EGMs and poker machines had the potential to cause harm when used regularly, during your time as Chair of the GWC, did it strike you as odd that the differentiation between poker machines on one hand and EGMs on the other was so fine?

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MR ORD: I was aware, as everyone would be, that gaming as an industry that has arrived, gaming generally, is an industry of massive proportion. It has arrived. It wasn't around 15 years ago or in very different form. So the uniqueness of a game in a casino today versus what it would have been 20 years ago is dramatically different. So undoubtedly software developers developing games for casinos were applying more gaming concepts into their machines so that they were more experiential, people were more doing things and getting engaged with them, free plays, lots of things that replicate what you see in games you might play at home.

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So my understanding from that perspective is that we were reaching a crunch point around this, around how the software development programs were going to play out and how that differentiation between poker machines if they were totally evil and electronic gaming machines if they are not, how that differentiation would apply.

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MS CAHILL: What do you mean a "crunch point"?

MR ORD: The point where the software development of games --- you can't just put one game on an EGM and leave it there for 50 years. They get refreshed regularly, different types of games. That, as software developers put their efforts into it, that they were getting more and more complex. The games were getting much more complex and interactive and that was going to make it very difficult to differentiate if

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they were doing the same in pokers, they would end up coming together. So the only way of resolving that would either to say, then don't have any gaming machines in Crown at all.

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MS CAHILL: Well, the GWC was administering the gambling legislation in Western Australia, wasn't it?

MR ORD: Yes.

10

MS CAHILL: And you understood that included a prohibition on poker machines?

MR ORD: Yes.

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MS CAHILL: And you understood that the reason for that was because of the harmful risks associated with using poker machines?

20

MR ORD: Well, I didn't say that if there were --- if the same limited number of poker machines in Crown as there are EGMs now, I couldn't tell you that they are more harmful than if they are EGMs. I don't know. You are asking me about poker machines being introduced into WA. I'm saying you have to take that into the broader context of the fact that poker machines are quite prevalent around the other jurisdictions, not just in a casino. So that said, yes, I understand we weren't meant to have poker machines in Crown either, or anywhere else in the state. Remember, our coverage was not just the casino, it was gaming, more generally. We were aware of the risks of proliferation of pseudo poker machines. It was a concern and one that, undoubtedly, and I'm very pleased the Commission is looking at this. It should be brought to the Government's attention and it is a political decision. If they don't like the fact that EGMs have become like pokies, then there is a simple solution to the problem.

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MS CAHILL: Have EGMs in Western Australia become like poker machines in your view?

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MR ORD: I have given testimony that they are very close, and I'm not sufficiently an expert to be able to tell you the level of differentiation that would apply, that would convince you that an uninformed person would know the difference.

MS CAHILL: I'm asking you about your own view.

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MR ORD: I'm just a citizen, and I have that view.

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MS CAHILL: And you mentioned a moment ago that poker machines "proliferate", that's my word, not yours, in the eastern states. Do you mean poker machines, or do you mean EGMs, or do you mean both?

MR ORD: I understand that people are using the poker machine software because they consider it is more attractive to people who like using those kind of machines,

that our machines are slow, they ---

5 MS CAHILL: And by that, you mean machines that fulfil the criteria under the poker machine column in this table that I'm showing you. For example, 3-second minimum speed of play rather than 5?

MR ORD: Yes, those kind of things.

10 MS CAHILL: Those kinds of things.

Now, can I ask you about approving games to be played at the casino, particularly approving games to be played on EGMs, the electronic gaming machines. This, during your term as Chair of the GWC, was a significant part of the function and work of the GWC members in meeting, wasn't it?

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MR ORD: Yes.

20 MS CAHILL: And if we come back to this briefing paper at page 9655, it's just on the previous page at the bottom, there is a reference there to clause 22(2) of the Casino (Burswood Island) Agreement.

And that is recited, and when we go over the page to 9656, at the top, it says:

25 *The above clause puts an onus on the Commission to approve a game if: It is played in another casino in Australia or elsewhere; and The rules are acceptable to the Commission.*

30 It then goes on in the next paragraph to explain that if the game is not played in another casino, the GWC has the discretion whether to approve the game if the rules are acceptable and it is not considered to be a poker machine. Does that accurately set out your own approach and understanding about what decision you had to make in terms of whether to approve a game during your tenure as Chair of the GWC or to not approve one?

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MR ORD: As I said, we applied those three foundation principles --- whether it was the request consistent with the Act, and, secondly, did we believe that the request would significantly change the harm profile of the casino and, thirdly, did it meet this requirement under the act of allowing for the responsibility of doing business. So it perhaps misses out some of the elements that we would apply to a decision where we had discretion as to whether to approve or not.

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MS CAHILL: Well, let's go to that specifically. It says to you in the first paragraph "the above clause puts an onus on the Commission to approve a game if it is played in another casino in Australia or elsewhere". So if it is played outside of Perth Casino in a casino and "the rules are acceptable to the Commission". So if the rules

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are acceptable, and it was played in another casino outside Perth, did you understand that the Commission had a discretion to not approve the game or was it obliged to approve the game?

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MR ORD: Well, given if the rules are acceptable to the Commission, it was clearly an opportunity to say those rules aren't acceptable and there would be a reason for it. Where this would apply, and it did apply a number of times during my tenure as chair, was where they asked for some changes for roulette, introducing a double zero in roulette and I think they asked for some changes to poker and the argument was that this is done elsewhere in Australia, players are familiar, when they come to Crown Perth and some of those functions were not there or whatever that changed the player engagement experience and so they might ask for an amendment to the game or rules as we had certified them to allow for commonality between jurisdictions.

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MS CAHILL: I will come to variations in approved games in a moment. Can I just stay with the top paragraph here where you have a game that is being played outside of Perth and the rules are acceptable to the Commission. Did you consider that you were then obliged to approve the game?

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MR ORD: Yes.

MS CAHILL: And would that have included even if the game amounted to a poker machine?

25

MR ORD: Oh, no. No.

MS CAHILL: Now, in terms of the rules, working out that the rules were acceptable to the Commission in this first example, how did you ascertain what the rules of the game were as opposed to its features?

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MR ORD: Well, whenever these papers were brought to the Commission then that workaround, what was being asked of us, was done by officers, obviously submissions from Crown themselves, which had to be technical submissions, and officers would review them and give a paper that told the Commission what the change was about and how it worked. We often asked for a demonstration so we got an understanding of what the difference was between the rules as approved or changed and so on. So none of us were experts on games of this nature so we acted on advice from officers that did do all that review work.

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MS CAHILL: Can we just take an example so I can understand what the process was. If we go to this document, it should not be put on the public screen, please, agenda papers for the meeting on 23 October 2018, GWC.0002.0016.0256 and we go to page 0087. This is an example. We've got two games that approval in principle is being sought from the GWC; one is called Casino Cruise and the other is Called Mighty Coin Wealthy Tiger. It doesn't appear any analysis or guidance from the Department here. There is just a recommendation that the Commission determine

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whether to approve in principle. You see that?

MR ORD: Yep.

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MS CAHILL: Now, if we just look ---

MR ORD: But there is a process. So the Commission would get a proposal, they would look at the game normally through a real-time simulation of what the game would look like, they would be told whether the game was consistent with games previously, so generally change of iconography, but based on the same game that existed prior. They would then agree in principle. They would then be sent to a certifying agency who would then receive the actual game as it was manufactured and confirm it was certified with the national standards and the standards the State applies and then that would come back with a certification certificate saying that it is compliant. So, in those circumstances, and then of course these approvals are always reversible. So the games would then be audited and audited against those standards and certification. And if there was a breach in performance in the game, then obviously that would show up in the audit approval process and either approval could be reversed or a change of game. So not every game was approved.

Just on prima facie the Commissioners had concerns about how the game actually looked. Of course they were checked by officers that they met our guidelines and Crown were experienced in presenting games. They had to contract specialist game developers for our standards.

MS CAHILL: So, let me just distil a couple of things from your answer that you gave. If you go back to the briefing paper that I showed you at 965 I think it is --- that table there, show Mr Ord the table, when you talked about the accredited testing facility in effect assessing and then providing a report on a new game before it was approved, was the testing authority assessing whether the machine met the criteria in the right-hand side column?

MR ORD: Yes, that was my understanding.

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MS CAHILL: And ensuring that it didn't breach the requirements of the poker machine in the left-hand column?

MR ORD: That's right.

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MS CAHILL: And did that inform the GWC's assessment of whether or not the rules of a particular game were acceptable?

MR ORD: The certification process?

45

MS CAHILL: Yes.

MR ORD: Yes.

MS CAHILL: So the GWC was in effect treating the items in the table as if they were or bore upon the rules of the game?

5 MR ORD: Yes, that they would be bought to the Commission by Crown having already been subject to the specifications given to the gaming developer. So, if you like, the process would be Crown had a number of contractor game developers, not many, who were prepared to develop games for EGMs. They would give a sample. We would look at the sample, give a view that it could be approved subject to a
10 certification. Sorry, I should have turned this off. And that following that certification then the Gaming Commission would be informed that the game had been signed off and could go into production or could be introduced and then there was a follow-up audit to ensure that the actual outcome met the standards that were actual certified.

15 MS CAHILL: If we come back to our specific example in the agenda papers for 23 October 2017 at page 0387, item 6.4. Over the page we have the first game, which is Casino Cruise Jackpots. And this is a PowerPoint presentation that Crown comes along and gives the GWC in a meeting.

20 MR ORD: Yes.

MS CAHILL: This is a typical way in which games were considered for approval by the GWC?

25 MR ORD: Yes.

MS CAHILL: And if we go over to page 0090, there is an explanation of the game in broad terms; yes?

30 MR ORD: Yes.

MS CAHILL: And continuing over to 0091. And as was evident on the previous page, usually they play you a video which shows you the game actually being
35 played.

MR ORD: Yes.

MS CAHILL: So you would have had the testing facility's report on the game at this
40 point?

MR ORD: No, because they were, if you like, software examples of it, the testing lab would approve the final production programmed algorithms that were going into the machine. So this was a --- not --- you couldn't do it, you would have to have a
45 gaming machine to do it, to show the exact one. So there was another step. That's why the games were agreed in principle, but subject to the certifiable model.

MS CAHILL: So in a situation where you are dealing with a game that is played in

5 other casinos outside of Perth and the accredited tester tells you ultimately that it met the criteria for an electronic gaming machine in Western Australia, does the GWC have any other discretion it exercises or takes any other consideration into account or is it sufficient that you've got the accreditation from the facility telling you that it is not a poker machine?

10 MR ORD: Yes. We took it that the certifying entity that certified the game met the statutory requirements and, therefore, could be signed off as a game. That's why it was formally certified.

MS CAHILL: Right.

15 MR ORD: And they are licensed by national body.

MS CAHILL: Coming back to the briefing paper, DL G8001.0045.9601 at 9656, the second paragraph is in that different position where you've got a game that is not played in another casino and then the Commission have a discretion whether or not to approve the game if the rules are acceptable and it is not considered to be a poker machine. So in that scenario where it is not played outside of Perth Casino, it is a new game to Perth, and the testing facility has told you it's not a poker machines, what other considerations does GWC take into account before deciding whether or not to approve the game?

25 MR ORD: During my time most of the games were simply a replacement for a game that had already been existing and they wanted to refresh the look and so on.

MS CAHILL: A variation?

30 MR ORD: A variation, essentially. When there was something a bit different, and that tended to be games that had more features in it, and there were a few new games that had new features, then the Commission considered whether those features were such that they had any concerns about it. Generally they were more engagement with the game, free games, and things like that which overall they saw as relatively benign.

MS CAHILL: Are you talking about games that were variations of earlier ones or games that were completely new?

40 MR ORD: Games that were new for an EGM. I said where that change was happening was from relatively simple push and play single ones, so that was a simple one to run, which had additional features in it, like bonus plays and these additional features, and they were becoming more prevalent as new games more generally.

45 MS CAHILL: Can I just ask you to answer this question quite succinctly and directly: if you've got a new game, not played outside of Perth Casino before, it is unique to Perth Casino if it is introduced, the testing facility has told you it is not --- certified that it is not a poker machine, what are the consideration, the factors that

GWC takes into account in deciding whether or not to approve that game?

5 MR ORD: Well, they consider whether there is an arguable case why the game should be introduced and, secondly, did they think the game itself would, you know, be --- pose any particular risk, I guess, to the user. They were ---

MS CAHILL: In what way? What were the sort of things you looked for?

10 MR ORD: People asked about, or members considered whether they thought a particular game might have some, or one of the discussions was the increasing amount of games that had Asian or Chinese iconography in them and whether that was particularly focused on a particular catchment group. So we were concerned about what you call the psychological connection between imagery and the potential
15 of particular customer of Crown.

MS CAHILL: Targeting consumer groups?

MR ORD: Yes.
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MS CAHILL: And the addictive qualities or characteristics potentially of a machine, was that something that members looked at?

MR ORD: Certainly we discussed whether there was anything particularly different
25 to this game that might thinking about it would become more attractive to players. But, overall, there was very little variation, honestly, in between what we had already approved and the few new games that came on. They had a few more features, but not a lot.

30 MS CAHILL: When you say "looking to see whether it would more attractive to players", you mean to the point that they would become addicted?

MR ORD: We didn't consider that addiction was a likely outcome. There are other
35 mechanisms to deal with people who might be on the machine for some period of time. One of the things Mr Connolly brought back from one of his trips was around an intervention software in SA which could track people's time on a machine, and we approached Crown and said could they introduce the software here. We believe that a more effective mechanism would know how long people were on a particular machine in terms of addictiveness and to flag a directive to a Responsible Gaming
40 officer. So they were already required to monitor people's time on machine and approach them if that time was excessive and offer them a time out break and encourage them to go home and all sorts of things. In this case we wanted a digital intervention to do that. They weren't able to do it at the time with the Advantage software that they had but they committed to review to see whether the software
45 could be updated to do that.

MS CAHILL: Can I just make sure I haven't misunderstood some of the evidence you have just given to the Commission. Is it the case that the GWC did not consider

it a likely outcome that approving a new game to be played on an EGM would result in addiction?

5 MR ORD: We didn't consider that there was any likelihood of greater addiction than the one that existed with the current programs. We were more interested in trying to find mechanisms to potentially divert people from spending excessive time on the machines.

10 MS CAHILL: And the reason you were focused on that was because that recognised the addictive characteristics of EGMs generally; is that right?

MR ORD: Yes.

15 MS CAHILL: You were talking about the bulk of the approval work a moment ago being in relation to the variation of existing games rather than approving wholly new games at Perth Casino. We're talking about EGMs here, to be played on EGMs. Did you understand that essentially most EGMs, most new games played on EGMs were approved as variations to either Video Bingo or Arishinko?

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MR ORD: I'm not sure my understanding was exactly that, but, yes, that they derived from a common base.

25 MS CAHILL: So if we go back to our example of the Casino Cruise jackpot game that I was showing you a moment ago, page 0091, back to 0089, please. Sorry, 0090. You see there it describes Casino Cruise as being a derivative of the approved game of Mystic Wolf. That is an example of being asked to approve a variation of an existing ---

30 MR ORD: Yep.

MS CAHILL: --- game and I think Mystic Wolf itself is a derivative of Video Bingo. How did the GWC during your time distinguish between a game that was entirely new and a game that was a variation of an existing one?

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MR ORD: I understood we were informed of the process by which the game had been developed. And Crown coming in would give us a background to the game and part of the reason why they wished to introduce the new game and who the developer was and what they were hoping was the experience for the player that came from it.

40 Apart from additional features around free play and so on, and more player interaction, there wasn't a lot of difference between the historic games and new games that had been introduced.

MS CAHILL: What do you mean by that "not a lot of difference"?

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MR ORD: As I said, they looked like this, these kind of screens with tiles and rotations and its player feature, for instance, a jackpot, a particular jackpot feature, or a free play feature that was being added.

MS CAHILL: Just coming back to my question, when we are looking at new games to be played on --- sorry, I will rephrase that --- games to be played on EGMs that required approval, how did you distinguish between a new game and a variation of an existing game?
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MR ORD: We were just simply informed of that by technical officers who were assessing these submissions.

10 MS CAHILL: Who are you referring to, technical officers?

MR ORD: Department staff, Mr Connolly himself, who was an expert in this area and Crown submissions and then, as I said, it got determined through the certification process that it was compliant.

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MS CAHILL: Or that it wasn't a poker machine?

MR ORD: Yes.

20 MS CAHILL: That didn't tell you whether it was a new game or a variation of an existing game, did it?

MR ORD: No, not necessarily.

25 MS CAHILL: No. Why do you say Mr Connolly was an expert in EGMs?

MR ORD: Because he had spent a long time in the role of being the Chief Casino Officer and had spent a lot of time studying the features of these particular games. As you said, it was a large part of our business.

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MS CAHILL: Were there any policies or procedures that the GWC had developed to distinguish between approving a new game on the one hand and approving a variation to an existing game on the other?

35 MR ORD: No, I don't believe so.

MS CAHILL: Was the approach to approving a variation to an existing game the same as or different to the approach of approving a new game?

40 MR ORD: The members were, in getting these presentations, were keen to understand how the game was played, how it actually manifested itself to ensure it was consistent with what their expectation of an EGM. They went out to casino as a group on several occasions to actually see the actually real artefact because getting it on a screen in a meeting room is, you know, difficult to sense the way in which the game plays out. So that's essentially --- they did knock some games back because
45 they didn't like the presentation of the way the game played and they were concerned either that it would start to look too much like a spinning reel demonstration, or thing

and --- or they were concerned about the refresh times and to whether that truly reflected a five-second standard. So while we could assess them on the technical framework, the Commissioners themselves were still very concerned and involved in making sure they could raise any concerns they had and that they would be applied to Crown before we went into the certification stage. Some of them were just knocked out because they didn't like the game look.

MS CAHILL: Before it went to accreditation?

MR ORD: Yes, they were never developed formally as a game after that.

MS CAHILL: And is that whether it was a variation on an existing game or only when it wags a new game or did it apply to both situations?

MR ORD: I think it was mostly new game development that was of concern, the variations did tend to simply be a colour pallet change.

MS CAHILL: So when we come to variations, and you've got the testing facility saying it is not a poker machine, were there any factors in addition to that that GWC took into account when deciding whether or not to approve a variation?

MR ORD: Well, the factors that they were concerned about, as I said, they often talked about whether the game --- how the game presented and whether there was any concerns that it could represent some change in the neutrality of the game, if you like. Is there something that changes this in such a way that it is not what we or the consumer would have been expecting?

MS CAHILL: Didn't you say a moment ago that that was predominantly in the area of new games?

MR ORD: Yes. So when we are talking about variations, you've got an existing approved game, Crown comes along with a variation to that game, testing facility says that it is not a poker machine, is it automatically approved or is there a discretion that the GWC has to nevertheless reject that game?

MR ORD: They could have rejected. They tended not to on the basis that they understood that Crown as an operating business needed to refresh the product on a regular cycle and that, you know, the program of them coming in for a refreshes was consistent with what they expected.

MS CAHILL: So if the GWC could have rejected a variation to an existing game that was not a poker machine, what was the basis upon which it could do that?

MR ORD: Well, I think Crown took the view that regardless of whether they would challenge such a thing if it wasn't necessarily in the statutes that they could reject it and coning back to some of the previous matters we've looked at, my view is Crown was very interested to know whether the Commission had any concerns about the

games they were putting up. So when concerns were raised they did appear to try to address it with the game developers.

5 MS CAHILL: What sort of concerns are we talking about in relation to variations?

MR ORD: Well, probably it was just the nature of the iconography.

MS CAHILL: The symbols?

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MR ORD: Yes.

MS CAHILL: Now, can I take you forward to 2019 and you recall the topic of when the appendix to the National Gaming Machine Standard was changed at the request of Crown.

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Now, you received this letter from Joshua Preston of Crown Perth dated 14 November 2018, that is CRW.008.042.8653. This precedes the application in 2019 or the submission requesting an amendment to the Appendix. And at this point in late 2018 Mr Preston is setting out the RSG framework for Crown Perth. At the very beginning it refers to a recent telephone discussion between you and Mr Preston as well as a request from the GWC to provide a detailed submission on RSG and so forth. Was this a request that the GWC made as a consequence of recommendations coming out of the Sixth Review from the VCGLR of the Melbourne Casino operator?

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MR ORD: Yes. I think in our meeting prior to this they had raised concerns that they wanted to see what Crown was doing to improve their RSG activities. So, based on that request to me, I rang Mr Preston and said that the Gaming and Wagering Commission would like and gave him an outline of what they would like in a submission. They wanted a submission and then opportunity to engage with him.

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MS CAHILL: Was it the case that the VCGLR recommendations coming out of the Sixth Review caused the GWC to reflect on whether it had been up to that point placing sufficient emphasis in its oversight on RSG issues?

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MR ORD: From the time I took over there was --- I would say a gradual increase in concern around Responsible Gaming matters more generally by all members and that led to a number of things, including visits on site. Even one of the Commissioners went and did the Crown training course and so on. So, yes, there was increasing desire to see how Crown was improving their RSG things. As you know, there was a lot of debate in Parliament at the time from Member Wilkie who was raising concerns about Responsible Gambling and we were trying to reflect on that to ensure that Crown was best practice.

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MS CAHILL: So it wasn't the VCGLR review that caused GWC to make this request but rather interest in the question of, or the issue of RSG that had arisen elsewhere?

MR ORD: Well, all these things reinforce themselves. So, as I said, they had been growing concerns about RSG and were keen to see the response. We had two members on the Commission at that time who were particularly focused on the issue and we were trying to respond to member interests to increase that. So, yes, I think this was related to the Victorian outcome specifically to ask for a formal presentation from Crown but we had been engaging with Crown long before this.

MS CAHILL: Right. If we go over the page, please, 8654 and the fourth dot point.

COMMISSIONER JENKINS: Do you have much more on this?

MS CAHILL: I will just finish this question and then pause. It actually has two components, but it will be very brief, Commissioner.

Do you see the significant financial commitment and investment into RSG over the past decade with annual RSG expenditure now exceeding \$1 million?

MR ORD: Yes.

MS CAHILL: Did at the time did you consider that to be sufficient expenditure on RSG relevant to the revenues from EGMS that that Crown was receiving each year?

MR ORD: I didn't have a review on that, rather that they were reporting the increase expenditure.

MS CAHILL: Was the sufficiency of that amount something that was considered or discussed by the committee at that time?

MR ORD: No.

MS CAHILL: That's a convenient point.

COMMISSIONER JENKINS: Thank you. Mr Ord, we will take lunch now. We will resume again at 2 pm. If you could be back here in time to commence. We will now adjourn to 2 pm. Thank you.

ADJOURNED **[1.01 PM]**

RESUMED **[2.01PM]**

COMMISSIONER JENKINS: Please be seated.

MS CAHILL: Thank you, Commissioner.

Where we were before lunch, Mr Ord, was I had taken you to Mr Preston's (inaudible) and I had asked you about the annual RSG expenditure that he had of Crown that he had informed you about. If we return to that document, this time at
5 page 8668, and we see at the bottom the commencement of a discussion about other harm minimisation strategies. Over the page at 8669 you see the underlined material about a third of the way down the page. There is the reference to the Gaming Machine Standard.

10 MR ORD: Yes.

MS CAHILL: There is a reference as we work through the standard for the banknote acceptor, or the limit to the amount of money accepted in WA through the EGM compared to other states. You understood that to be a harm minimisation strategy
15 that limited it to \$100?

MR ORD: Yes.

MS CAHILL: And then there is the return to player specification. Did you
20 understand that Crown was portraying that to you as a harm minimisation strategy, the 90 per cent or above?

MR ORD: Yes.

MS CAHILL: And we go over the page, there is a reference to the speed of play and you see the 3 seconds in the other States and Territories compared to the 5 seconds applicable in Western Australia. Yes?
25

MR ORD: Yes.

MS CAHILL: And you understood that the 5 seconds as opposed to the 3 seconds was another harm minimisation strategy that Crown was referencing from the National Standard?
30

MR ORD: Yes.

MS CAHILL: If we go to this next document, CRW.709.132.6302, it is a letter from Barry Felstead to you on 27 March 2019. That is four months after the letter I just took you to where an amendment to the WA Appendix is sought by Crown Perth.
40

MR ORD: Yes.

MS CAHILL: And down the bottom of this page you will see in the second line that the amendments that are being sought to the appendix via this letter, the rationale was given that the existing appendix without amendment commercially
45 disadvantaged Crown Perth as against interstate and international operators. You understood that was the basis on which this amendment was being proposed?

MR ORD: It was part of the basis.

MS CAHILL: What was the other part?

5

MR ORD: That the development of games with a range of free play and interactive features had extended the playing time on average, and they had it assessed to eight seconds or eight seconds plus, and they were seeking to bring it back to our guideline 5 seconds aggregate.

10

MS CAHILL: That would apply equally to EGMs with a 3-second minimum speed of play interstate, wouldn't it? Game features would increase the speed above 3 seconds?

15

MR ORD: Well, above 3 seconds, but whether it would get to 5 seconds I'm not a technical expert on that, but certainly in terms of those features adding to our 5 seconds taking it up to 8 seconds, then they were arguing that that was having impact on customer experience of the games and that Crown --- in the context of my time as Commissioner, was that WA had gone into a significant recession, Crown's business, obviously its international business had declined, its revenues were falling quite dramatically and we were seeing those numbers in the gaming statistics, and clearly with having invested 1.5 billion in infrastructure at Crown Perth on the expectation, I imagine, of the Chinese market and so on, that Crown were then going through their business item by item and looking for areas that they were struggling with in terms of what they perceive was their performance, and I guess the EGMs represented an investment in technology, maintaining them, operating them and so on. So the case put to us was that would we consider them being able to normalise to the State standard of 5 seconds ---

20

25

30

MS CAHILL: Three seconds, do you mean?

35

MR ORD: Well, three is the minimum rate, we had 5 seconds. They were saying eight seconds but they wanted us to agree to the three-second rule on the basis that when you add all the features together, those with free play would be five, those that didn't have those features would be five. So that we could audit to say there was no games played with less than the 5 seconds, which was our agreed policy standard.

40

MS CAHILL: A couple of things there. Let 's have a look at page 6304. Here we have in the second half of the page the proposed amendments to the standard. And if we can blow up the table, please. Speed of play "shall exceed 3 seconds and shall not have auto play"; you see that?

MR ORD: Yes.

45

MS CAHILL: Just explain to me how that is different, therefore, from the interstate three second minimum speed of play?

MR ORD: Because we were --- they were only asking for this amendment to games

with these additional features.

MS CAHILL: Where does it say that?

5

MR ORD: I'm not sure it was in their proposal, it's where we got to with our discussions, that games that didn't have the features would retain the 5 seconds and --
-

10 MS CAHILL: And how many games did that apply to at Perth Casino?

MR ORD: I would have to take advice on that, I couldn't remember.

MS CAHILL: The vast majority of them had additional features, didn't they?

15

MR ORD: A number would, yes, I don't know ---

MS CAHILL: A vast majority.

20 MR ORD: So you are telling me, so I assume that's accurate.

MS CAHILL: You don't know?

MR ORD: No, I don't know. I would need to take technical advice on that. But
25 with those features then. You have the minimum rate, you have the added features which added the extra time, and you would average 5 seconds. So, with added features, 5 seconds, with no features, 5 seconds. That is what was being put to us.

MS CAHILL: So what did you do in terms of ---

30

COMMISSIONER JENKINS: That's not what was being put to you. That's what you, as you say, the GWC arrived at after discussion. It wasn't Crown's submission.

MR ORD: Well, their submission was around the time of these games. And, yes, we
35 arose to the split, that certainly wasn't in the original proposal, I agree with that. But it was where we got to in our discussion with them that we wouldn't accept the 3 seconds for a simple game.

COMMISSIONER JENKINS: Sorry, Ms Cahill.

40

MS CAHILL: Thank you, Commissioner.

In the course of having these discussions, did you interrogate the position in the eastern states and to what extent the 3-second minimum speed of play requirement
45 for EGMs and poker machines in the east had regard to these additional features which extended the speed of play?

MR ORD: We didn't do an independent assessment of that, no.

MS CAHILL: Did you have a look at it at all?

MR ORD: Well, we got the GLI report, which was what had been the basis of the
5 analytics. And, like all of these decisions, we knew if we agreed in principle we
would have to be designed to meet the new standard and we'd have it certified related
to the decision of the Commission. And then that would be agreed in line with the
decision of the Commission. What the play rates on the east coast were, we didn't
10 have a jurisdiction over those. So it was about us sticking to our standards in total of
5 seconds for those additional games.

MS CAHILL: Well, you might or you might not, depending on how the game was
actually played with the additional features; isn't that right?

15 MR ORD: Well, you audit that through the actual process of people playing the
game and it will come up once you actually assess that and audit the performance of
the machine with a number.

MS CAHILL: Has that now been assessed or was it after the appendix was
20 introduced?

MR ORD: Yes. As I understand, there was an audit. The final outcome of that, I
believe, went to the Commission after I left, but I was aware that the audit was being
completed in my last meeting and I understand that the audit did indicate some
25 issues.

MS CAHILL: What do you mean by that?

MR ORD: Well, that's all I can say. The staff officer said the audit is complete. We
30 think there is a few issues with it, so at the next meeting there would be a full report
and we would understand whether they had met that target number or not. I
obviously left the Commission then so I don't know what the outcome of that audit
was. Again, it indicates the process of licensing a certification and ultimately
auditing in real-time performance as an important cycle. And if the machines aren't
35 doing and we aren't getting the metrics around minimum standards, then clearly we
would require reversal of that approval or a change to the algorithms to the machine
to ensure they did meet that target of 5 seconds.

MS CAHILL: If we look at page 6304, I think we're still on 6304, item number 4 in
40 the table, the proposal is to change the return to player from 90 per cent to 87.5 per
cent. You understood that was a harm minimisation measure from what you'd been
told four months before in the letter to have the 90 per cent-plus return to player?

MR ORD: Yes.

45 MS CAHILL: And what did you understand to be the reason for changing this down

to 87.5 per cent?

MR ORD: Well, I understood that Crown were obviously seeking to get an
5 increased return on these machines ---

MS CAHILL: Make more money?

MR ORD: Yes, to make more money.
10

MS CAHILL: By weakening the harm minimisation strategy?

MR ORD: That would be the implication.

MS CAHILL: And similarly with the speed of play, make more money by diluting a
15 harm minimisation strategy?

MR ORD: Not necessarily because the harm minimisation standard had been set at 5
seconds. You could argue that the fact that machines were much slower with the
20 added features may well have meant people spent less money over a set period of
time, but we hadn't made a decision to slow the machines down. We had set a
guideline, and 5 seconds was the guideline. So the issue was whether we would
accept that if they brought it back to our standard, would we agree that they could
come back to that standard.

MS CAHILL: The standard was five seconds, wasn't it?
25

MR ORD: Yes.

MS CAHILL: And they were proposing to change the standard to 3 seconds?
30

MR ORD: That they would meet the national minimum standard of 3 seconds but
with the added features, that that would always average 5 seconds.

MS CAHILL: Do you say that's what you approved?
35

MR ORD: I believe we approved, yes.

MS CAHILL: We'll come back to that. If we look at 6305. And we see in relation
40 to "Independence of Outcomes", that's all been struck through. You see that there?

MR ORD: Yes.

MS CAHILL: And what did you understand to the point removing the requirement
45 in particular of the symbols not appearing in a fixed reel strip?

MR ORD: When you read the GLI report that analysed the performance of the
game, they indicated that the item was redundant because it was already covered
under

national performance standards of the certification process.

5 MS CAHILL: Did you appreciate when you were looking at this proposal that what was being sought to be done here was to bring EGMs to be approved at the Perth Casino closer in their characteristics to poker machines as they presently exist under the National Gaming Machine Standard?

10 MR ORD: No.

MS CAHILL: Didn't occur to you?

15 MR ORD: I had already explained that we believed that the differentiation was technical, ie by the nature of our guidelines, and by expectation was that those guidelines would still be adhered to in any variation that we approved for certification.

20 MS CAHILL: Isn't this really what was happening, there was already just a very fine line between what constituted an EGM and what constituted a poker machine?

MR ORD: Yes, I've said that, yes.

25 MS CAHILL: And these amendments that were being proposed made the line even finer?

MR ORD: To a degree, yes.

30 MS CAHILL: Now, ultimately in relation to the return to player request for an amendment that was sent off to the minister for consideration, wasn't it?

35 MR ORD: I discussed with the Minister all of the matters that had been proposed to us, and including their request for a change to return to player, on the basis that I thought the proposal in total was significant and was a proposal that I wished the Minister had a view on and that I wished the Minister to direct his powers to us, direction powers to us. The Minister made it very clear he wouldn't agree to any reduction in the return to player and in terms of a proposal to normalise around the 5 seconds he would leave it to the Commission to make the decision.

40 MS CAHILL: So just to answer my question, yes, you took the return to player question over to the Minister?

MR ORD: Yes.

45 MS CAHILL: And GWC concerned itself with whether or not to approve the change in the minimum speed of play and the removal of the requirement for independence of outcomes?

MR ORD: Yes.

MS CAHILL: Yes?

MR ORD: Yes.

5

MS CAHILL: Now there was an agenda paper prepared by Mr Connolly dated 22 July 2019, GWC.0002.0016.0281, and you see the recommendation in the grey text box that the Commission approve the changes to reduce the minimum game speed to 3 seconds, and there is no mention to only where there is additional features. That's the recommendation, just "3 seconds" straight, and to remove the reference to the independence of outcomes.

10

Now, on the last occasion you were examined by this Commission you gave evidence to the effect that you were aware of a friendship between Mr Connolly and Mr Marais; do you recall that?

15

MR ORD: Yes.

MS CAHILL: And that you knew they had gone fishing together?

20

MR ORD: I became aware of that, yes.

MS CAHILL: And have you seen, since you gave evidence on the last occasion, media reports of Mr Marais's examination by this Commission?

25

MR ORD: Only what was reported on television.

MS CAHILL: Yes, media reports. And those media reports reported on his evidence about the familiarity between Mr Connolly with Mr Hulme, Mr Marais and Mr Preston?

30

MR ORD: Yes (inaudible).

MS CAHILL: Were you aware of that familiarity and the degree of familiarity between those gentlemen before the media reports came to your attention?

35

MR ORD: No, only through questioning in the Commission.

MS CAHILL: Had you known at the time, in particular when you were considering this submission from Mr Connolly about the extent and nature of the friendship between those gentlemen, would you have considered it appropriate for Mr Connolly to have carriage of these recommendations?

40

COMMISSIONER JENKINS: Yes, Mr Malone.

45

MR MALONE: I rise just on the basis of the way the question was put in relation to the scope and nature of the relationship. It is all relevant to Mr Marais's evidence.

Mr Marais can give evidence about his friendship, but I'm not sure he can give evidence about the extended scope of others.

5 COMMISSIONER JENKINS: (Inaudible).

MR MALONE: Sorry.

COMMISSIONER JENKINS: Perhaps if you put the question again.

10

MS CAHILL: I will.

Mr Ord, you've seen or heard media reports about Mr Marais's evidence?

15 MR ORD: Yes.

MS CAHILL: And that evidence encompassed evidence about the relationship between Mr Connolly, Mr Hulme, Mr Preston and Mr Marais?

20 MR ORD: Yes.

MS CAHILL: You understood that?

MR ORD: Yes.

25

MS CAHILL: Including reference to emails that the four gentlemen exchanged; yes?

MR ORD: Yes.

30 MS CAHILL: And you understood that it disclosed a degree of familiarity between them --

MR ORD: Yes.

35 MS CAHILL: --- and friendship over a period of time; yes?

MR ORD: Yes, indeed.

40 MS CAHILL: Had you known, during your tenure as Chair of GWC and Director-General of the Department, about that friendship between those four gentlemen, the nature of it, the degree of familiarity, as you've read about in the media, would you have thought it appropriate for Mr Connolly to have carriage of these recommendations the subject of this agenda paper?

45 MR ORD: I certainly would have concern around him authoring the paper himself in that circumstance. I would have wanted to see multiple authors of the paper because there are other technical officers in the Department but, that said, you know, the paper accurately depicts --- or accurately portrays the issue that the Commission had

to consider, the approach to do the change was made in writing through Crown directly to me as Chair, and then for --- I instigated the process by which we would evaluate that and have the discussion in the Commission. I had --- I don't believe Mr
5 Connolly was a supporter of this more broadly. I think we were looking at it from the point that Crown made it very clear at the time that they were bleeding money and that there would be a consequence of staff being stood down. So I'd looked at that part of my responsibility is around the responsible development of business.

10 And when we considered this, although we didn't particularly like the concept of making any change to the EGMs, we had to balance that against the potential of people losing employment at a critical time, and that they were simply saying that the machines are becoming slower and less productive ---

15 MS CAHILL: Mr Ord, can we come back to my question, please?

MR ORD: Well, I'm trying to answer it. Sorry.

MS CAHILL: The source point is my question about Mr Connolly's relationship
20 with Mr Preston, Mr Marais and Mr Hulme, as you now understand it ---

MR ORD: As I now understand it ---

MS CAHILL: Sorry, I will just finish my question. Your understanding, based on
25 what you have read or heard about in the media when Mr Marais gave evidence on this Commission. Focused on answering that question and that question alone, if you knew then at the time that this matter was under consideration by the GWC, what you understand now about Mr Connolly's relationship with those men, would you or would you not have wanted him to have the carriage of this issue offering his
30 recommendation and the substantiation of it to the GWC?

MR ORD: No.

MS CAHILL: And why is that?
35

MR ORD: Because I became aware through the questioning of the Commission that they were actually on an operations committee. And that's where a lot of the technical consideration between Crown and the Department was interfaced. And I wouldn't have thought it was appropriate for, if they were close friends and on the
40 operations committee, for the paper to be authored by Michael by himself in that circumstance. Inadvisable.

MS CAHILL: Why is that?

45 MR ORD: For the very reason that this, as I said, was a matter where we were aware that it was a difficult issue for us to manage, that we had to make a balance of interest assessment, and you don't want any of that coloured by any accusation that it

could be bias or influence.

MS CAHILL: So you are talking about a difficult decision with a balance of interest.
5 If you look at this paper, it's short, isn't it, we go over the next page, that is the extent
of the discussion from Mr Connolly, about a page and a half on this difficult issue.
Did you think he had dealt with the matter significantly?

MR ORD: There were other papers, including the GLI report which was actually
10 quite comprehensive in explaining the technical matters around the request for
changes. So the Commission was heavily engaged in the discussion and, as I said,
they didn't agree with the proposal as requested by Crown. They made a number of
changes. And also were very cognisant that they had the power to reverse this if they
15 had concern that it had taken us into another realm, including, you know, sudden
spike in turnover, the turnover increase was fairly modest after the introduction of
this.

And when you consider that it coincided with an upturn in the economy and a range
of other things that had driven an increase in people's spending over the Bali effect, I
20 think they call it, people not being able to travel and so on, then it didn't appear the
change had a profound impact on turnover.

MS CAHILL: So, not much point in it?

MR ORD: I think they were hoping maybe it would do more than it did would
25 probably be an assumption.

MS CAHILL: Can I come back to your very difficult decision required a balance of
interests. One interest was Crown continuing to remain profitable in the operation of
30 the Perth Casino; yes?

MR ORD: That was my view, yes.

MS CAHILL: Another interest was making sure that the risk of harm was
35 appropriately minimised in relation to EGMs.

MR ORD: Yes.

MS CAHILL: And this paper doesn't talk about that, does it?
40

MR ORD: No, but it was very much part of our discussion as to what the net effect
would be of that speeding up of that cycle of games.

MS CAHILL: Well, what expert advice did you get about that?
45

MR ORD: We didn't put it through an expert panel, if you like.

MS CAHILL: An expert anybody? An individual?

MR ORD: No.

5 MS CAHILL: Did you ask for any departmental officer to even attempt to analyse the affect on harm minimisation strategies of these amendments?

MR ORD: No.

10 MS CAHILL: Why not?

MR ORD: Because we believed that the adjustment was relatively minor.

MS CAHILL: How would you know if you didn't investigate?

15 MR ORD: Because the GLI report was fairly explicit around this, the time frames of the way the games were played out, the fact that they were free play, and jackpot-type initiatives that either returned a no-cost benefit or returned a benefit to players, so we couldn't see that that was necessarily going to lead to anymore investment, and that was fairly clearly outlined in the way that the report had been drafted.

20 Crown's whole thing was also about the fact it had to move from a strategy to have an international market to an Australian domestic market. So if you remember, State tourism was about bringing interstate visitors to WA, they were saying, well, people expect Crown to have an experience that is, you know, comparable to the experience they have elsewhere.

25 MS CAHILL: We're talking about harm minimisation. If you could stay with that, please.

30 MR ORD: I stated we didn't do independent analysis of the harm minimisation. Had we believed we were significantly changing this then we would have probably deferred it and undertaken further research on that, but that wasn't the issue that was before us.

35 MS CAHILL: Let's go to page 0001, please. At the bottom:

40 *In relation to the speed of EGM game play Crown is seeking a reduction in minimum spin/play time from 5 to 3 seconds. Crown argue that the original determination of a 5 second minimum was made at a time when games were almost exclusively [didn't have the additional features]. In more recent times all EGM games approved by the Commission have had additional game features*

45 So the 3 seconds is going to apply pretty much to all of the EGMs; you understood that?

MR ORD: Yes.

5 MS CAHILL: And so they say that, on that basis, the base game speed will on average be 5 seconds. How did this compare with machines in the eastern states that had a three-second minimum play?

MR ORD: Well, they were probably doing the same speed.

10 MS CAHILL: Right. So you were bringing it to where the machines were in the eastern states, including poker machines; yes?

MR ORD: Well, I don't know, I'm sorry.

15 MS CAHILL: Well, you do know because the briefing letter that you were given, DLG.8001.0045.9601, 6304. Sorry, 9656. If we blow up the table, poker machine with harm minimisation issues is increased three to 5 seconds per play. So bringing it down to the 3 seconds put it on a par in terms of speed of play with a poker machine; didn't it?

20

MR ORD: Yes.

MS CAHILL: And you would need to know, wouldn't you, what the harm minimisation implications of doing that were before you could approve the amendment that Crown was proposing?

25

MR ORD: Yes, I agree.

MS CAHILL: But you didn't do that?

30

MR ORD: No.

MS CAHILL: And the reason?

35 MR ORD: We took the prima facie that they were bringing the machine to average the 5 second which was the WA Standard.

MS CAHILL: Yes. But you would accept that a poker machine at 3 seconds could be averaging up to 5 seconds?

40

MR ORD: Yes, but whether that --- whether it was always intended the WA machines be slower or our machines did 5 seconds I'm not aware of because it pre-dated my time. I didn't consider that the 5 seconds we related to the speed of a poker machine were the agreed standard speed for our machines. So their case was the 8 seconds, they are running 8-plus seconds and want to bring it back to the WA average of 5 seconds, and we believed that that was the standard we were assessing.

45

MS CAHILL: Isn't the problem with all of this, Mr Ord, the GWC just simply wasn't

critically analysing this proposal from the perspective of the public interest in minimising harm caused by EGMs?

5 MR ORD: That's a position I'm prepared to accept that you put to me. Yes.

MS CAHILL: And really, all the GWC was looking at in relation to this proposal was whether Crown was going to make enough money out of EGMs.

10 MR ORD: We accepted their submission to consider the machines running at the WA 5-second standard as one of the mechanisms I was seeking to do to ensure Crown remained viable.

15 MS CAHILL: Yes. And so there wasn't a balancing of interests at all; you simply weighted the proposal in favour of considering Crown's financial interests ahead of the public interest in minimising harm caused by EGMs?

MR ORD: In that situation, yes.

20 MS CAHILL: Was that an oversight?

MR ORD: I would need to see evidence that there was greater harm created by it because I don't know.

25 MS CAHILL: Well, you never went looking.

MR ORD: Well, we would because we would have the audits on performance, and we would also see --- for harm to happen under your indication, you would have to see a significant increase in expenditure.

30 MS CAHILL: So you wait for that to happen, do you, before you make a decision whether or not to approve something in anticipation?

35 MR ORD: No, I think the issue is you've got a constant process of approval, check and adjust if you have to because you are --- you are always going to be making some decision as the business evolves in Crown's situation. It's not a static industry. Hypothetical --- you would have to guess hypothetically what things may be. You have to keep testing and see whether there is an issue that needs to be addressed. So I believe that an approval in-principle followed by a check that the approval is
40 consistent with statute, then tested through audit and review, is an appropriate model to regulate a casino, and if a major problem or a significant shift in an anticipated outcome occurs, then you would correct it.

45 MS CAHILL: So, let's have a look at page 0030 of this agenda paper if we can go back, please, to GWC.002.0016.0281, and attachment 4, these are the amendments that the GWC is asked to approve to the appendix to the National Standard.

You will see there you've got the fixed reel strip prohibition being removed in item 1

"Appearance", and then we go over the page, sorry, number two, "Speed of Play" is reduced from 5 seconds to 3 seconds and it specifies that that it shall not have autoplay. There is no reference to the additional features. It is only applying in
5 respect where machines have additional features or games have additional features.

So what you were telling me before about what was being approved, this is different from what you thought you were approving?

10 MR ORD: Yes, that's correct.

MS CAHILL: Did you read this attachment when you --

MR ORD: Yes, it would come in the agenda papers, and where there were proposals
15 for change, it would be marked up versions like this in the papers, and the members would agree or not agree to the proposed changes.

MS CAHILL: Attachment 5 was the policy amendments that were asked to be approved in relation to the 2011 policy. That begins at page 0032. And at 0033 you
20 will see the amendments that are being asked to be made there, so you have the symbols not being in a fixed position, that is on a fixed reel, each game takes a minimum of 3 seconds, and again there is no reference to the only in circumstances of additional features. So you accept that what was being sought to be approved here and what was ultimately approved was just a 3-second minimum?

25 MR ORD: No, I believe the Commission made it clear that the 5 seconds remained for single-play game in their decision, and that for games with added features, that the amendments would be applied, subject to them meeting an average of 5 seconds.

30 COMMISSIONER JENKINS: While Ms Cahill is looking at that, can we go to item 4, the winning combinations, the deletion of that. I understand that allowed multi-line playing. Did you understand that the Commission had approved multi-line playing?

35 MR ORD: No, I don't believe we discussed approving multi-line playing.

COMMISSIONER JENKINS: Thank you.

MS CAHILL: I was about to take you to that where you see numbered paragraph 4
40 is deleted? It is not referred to in the agenda paper. You were not aware that that was what you were approving?

MR ORD: I did not believe that we were approving any change to multi-line
45 playing.

MS CAHILL: And if you had been aware, would you have approved that?

MR ORD: We approved it on the basis that there was no fundamental change to the

WA Standard, that that would be certified. The GLI report indicated that there were a couple of redundant clauses in our --- the couple of clauses deleted that were requested by Crown were not material to the WA standards, and we accepted that we were approving as long as the certification proved that.

MS CAHILL: So the multi-directional winning combinations, though, or the multi-line, that wasn't part of the redundant aspects of the appendix or policy to which you were referring a moment ago?

MR ORD: No, not to my knowledge.

MS CAHILL: That's again in that table I showed you, one of the distinctions between a poker machine and a ---

MR ORD: Yes, that's right, yes.

MS CAHILL: Yes. All right. So do you have any explanation as to how this deletion occurred?

MR ORD: No.

MS CAHILL: And how it was approved?

MR ORD: I don't recall it ever being minuted for approval for deletion.

MS CAHILL: Can we have a look at GWC.0002.0016.0285. The meeting of 23 July 2019 at page 0002, this is item 5.3. You see in the first paragraph there:

The DDG provided further information and recommended that in addition to approving a minimum game speed of 3 seconds for base games which incorporate game features also mandate a minimum game speed where no game features are incorporated with the base game.

That is the point you are making about the additional features?

MR ORD: Yes.

MS CAHILL: "Members agreed to approve the changes requested including those related to game design", et cetera, and then in the box:

Resolved to approve changes to the WA Appendix and relevant policies and remove references from those documents relating to independence of outcomes.

Are you able to say whether the multi-line or multi-direction betting is or isn't part of the policy as we speak?

MR ORD: No, I would need to take advice on that, I'm afraid.

5 MS CAHILL: Can I change topics now, we're still on harm minimisation but I want to ask you about the Problem Gambling Support Services Committee, or PGSSC, established under the auspices of the GWC. Is it fair to characterise that committee as the main way in which support is provided by the Government for those harmed by gambling in Western Australia?

10 MR ORD: It is a mechanism by which the Gaming and Wagering Commission engages with key stakeholders, including other government agencies, the casino, racing and wagering WA and lotteries Commission.

15 MS CAHILL: That is not the question I asked. If you could just pay attention to the question, please. Would it be fair to say that the PGSSC is the main way in which support is provided by the Government of Western Australia to those harmed by gambling in this state?

20 MR ORD: Well, I don't know because I don't know what other government agencies do in that space.

MS CAHILL: So, four years as Chair of the GWC and you don't know?

25 MR ORD: Well, I don't know everything that happens in every State agency, although I've worked in a number ---

MS CAHILL: About problem gambling?

30 MR ORD: Yes, that's right. So Department of Communities, which is a huge department, may have additional services that support that sort of group that I wouldn't necessarily be aware of. I'm certainly aware of the problem gambling support that we did through the Gaming and Wagering Commission.

35 MS CAHILL: What involvement did you have with the PGSSC during your tenure as Chair of GWC?

MR ORD: The Committee was chaired by Mr Connolly.

40 MS CAHILL: I'm just asking about your involvement, so can you answer that question?

MR ORD: Well, I chaired the last meeting, the 2021 meeting of the Committee on behalf of the Commission.

45 MS CAHILL: And that was your only involvement with that Committee?

MR ORD: That was the first time that I had attended and chaired that meeting.

MS CAHILL: Was that your only involvement with that Committee?

MR ORD: Direct involvement?

5

MS CAHILL: Yes.

MR ORD: Yes.

10 MS CAHILL: Now, there are a number of stakeholder representatives on the PGSSC, isn't there?

MR ORD: Yes.

15 MS CAHILL: Including Crown Perth?

MR ORD: Yes.

20 MS CAHILL: Those stakeholders also contributed funding to the Committee, didn't it?

MR ORD: Yes.

25 MS CAHILL: And if we go to GWC.0005.0002.0001 for a list of contributions to the Committee by stakeholders since its inception, and in addition to these contributions from stakeholders there was a \$500,000 appropriation from State Treasury annually after a certain point in time, wasn't there?

MR ORD: I believe so, yes.

30

MS CAHILL: When you were Chair of the GWC, did you turn your mind to the adequacy of the funding to this Committee?

35 MR ORD: I was aware that that was the budget item for this committee, and it was consistent along with most of the areas that I had under my responsibility ---

MS CAHILL: Just coming back to my question, Mr Ord ---

MR ORD: Well ---

40

MS CAHILL: My question, can you answer my question.

MR ORD: Well, the question, then I didn't seek to address whether there should be more funds for this committee.

45

MS CAHILL: Coming back to my question, did you turn your mind to the adequacy of this funding during your tenure as Chair of GWC?

MR ORD: I took it that it was an adequate sum based on prior experience.

5 MS CAHILL: Mr Bossi, the current CEO of Crown Perth, gave evidence to this Commission last month, in which he said in terms that when he became CEO he perceived an immediate need to increase the financial contribution from Crown Perth and he did so by 25 per cent. That is without any insight into what the Committee did or what its funding requirements were, he just perceived that what they were providing wasn't enough. Would you agree with the proposition that to this point the
10 Crown Perth's funding of the PGSSC has been inadequate?

MR ORD: From the reports we were getting, the services we were providing, by way of counselling and so on, were adequate, we weren't being asked by the service
15 providers for significant extra funds, that they weren't able to meet client base that had been referred to them. You can always spend more money on marketing campaigns and the like, of course.

MS CAHILL: Services?

20 MR ORD: And services. Could Crown contribute more? Well, evidently. But when Mr Bossi came in to be CEO, we'd had a significant rebound as a result of post-COVID re-opening, and there were more people and more people spending higher amounts at the casino, and so he understood that it would be appropriate for them to ramp up Responsible Gaming and I concurred with that and increased their
25 contribution from the Gaming and Wagering Commission as well.

MS CAHILL: I take you to DLG.8001.0056.3953, which is a Director-General briefing at around --- I don't know if this is the actual date of the document, but there is reference to an approval date of 1 July 2020. And it refers in the background
30 section to the annual appropriation of \$500,000 from Treasury, from State Treasury and explains that in 2015 because of Government cuts to financial counselling funding, that appropriation was redirected via a memorandum of understanding to the Department of Communities to fund commercial counselling generally in the metropolitan area. Are you familiar with that memorandum of understanding and
35 that arrangement?

MR ORD: Yes.

MS CAHILL: So that was the PGSSC's \$500,000 appropriation ---
40

MR ORD: Going to Communities.

MS CAHILL: Going to Communities. For financial counselling generally, not related specifically to problem gambling?
45

MR ORD: Well, I understood that it was targeted at problem gambling, yes.

MS CAHILL: How did you understand that?

MR ORD: From the briefings I was getting from the Committee. I didn't believe that it was just being spent on --- it certainly not my understanding. My understanding was money was given, was to provide the Responsible Gambling Support Service, counselling service.

MS CAHILL: The last paragraph in this background section talks about the restoration of funding to the Department of Communities in relation to financial counselling in 2017. But, notwithstanding that, an extension to the MOU in July 2019 to continue to send the PGSSC's appropriation to Department of Communities. Was that your decision to do that?

MR ORD: I think it was the Committee agreed that the contracts in place with private providers of these counselling services was working very well, and therefore, to maintain that approach was a good outcome.

MS CAHILL: And so that was the rationale for the extension?

MR ORD: Yes.

COMMISSIONER JENKINS: Sorry, you are saying the Problem Gambling Support Services Committee specifically decided that?

MR ORD: They wouldn't necessarily be a deciding body, but they made recommendations in --- which the GWC approved the reports from that committee. So they recommended the maintaining of the sending of the money to Communities and Communities contracting service providers.

MS CAHILL: But it was a ---

COMMISSIONER JENKINS: Yes, I thought the \$500,000 went to the Department.

MR ORD: Yes.

COMMISSIONER JENKINS: It was an appropriation to the Department, not to the GWC. So I'm confused as to the role the GWC had.

MR ORD: Well, the Department --- it's just the Committee reported to the GWC, not --- there wasn't a separate reporting line back into the Department. The department's officer supported that committee and ran the program, the total effort on behalf of us around our Responsible Gambling activities but the reports went to the Gaming and Wagering Commission. So, I mean, ultimately if it came back to me as Director-General, I was Chair of the Commission so it came back to me through the Commission. Yeah, but you are probably correct that in technical terms they weren't an approving authority for the \$500,000.

COMMISSIONER JENKINS: Thank you, Mr Ord.

MS CAHILL: The decision to enter into the MOU, the entry into the MOU and the extension of the MOU were all Department ---

5 MR ORD: Would be a DG decision, yes.

MS CAHILL: Yes, not GWC decision?

MR ORD: Sure.

10

MS CAHILL: And not committee decision?

MR ORD: Yeah, but we use the Committee to advise us on a range of matters to do with gaming, that's why they were there.

15

MS CAHILL: Would you accept that during your tenure as Chair of the GWC, it did not give sufficient emphasis to harm minimisation when regulating the Perth Casino?

MR ORD: Look, I'll say yes.

20

MS CAHILL: Well, when you say "I'll say yes", do you accept that or not?

MR ORD: Well, I think that's what you want me to say, so I will say it. I'm sorry.

25

COMMISSIONER JENKINS: Mr Ord, I should make it clear that you are not here to please Ms Cahill. You are here to give honest evidence, so it is important that you say what you want to say, not what you think anyone wants to hear.

30

MS CAHILL: I will ask you again, Mr Ord. Would you accept that during your tenure as Chair of the GWC, it did not give sufficient emphasis to harm minimisation when regulating the Perth Casino?

MR ORD: No.

35

MS CAHILL: Why do you say that?

MR ORD: Because I believe the members, myself were innately interested in the well-being of the community. That's why I went into Public Service, that's why they sat on a Committee like that, put the hours they did in. There wasn't a minute we weren't concerned about the potential for harm.

40

MS CAHILL: What about when you considered the Appendix to the National Gaming Machine Standard?

45

MR ORD: It was a balance of interests and we did not believe that it was going to do a significant or even a measurable degree of additional harm.

MS CAHILL: I will change topics away from harm minimisation now and ask you about financial management of the Department and in particular the GWC more generally. If we go to your third witness statement, DLG.0001.0008.0001 at
5 paragraph 11 at page 006, you express your understanding that there is no requirement under any legislation that the casino gaming licence fee be spent on or reserved for casino regulation specifically. Is that something that you turned your mind to at any time during your tenure as DG and Chair of the GWC? Before that issue was raised by the Commission?

10

MR ORD: No. I was of the belief that the licence fee contributed towards the cost of regulating the casino and that it was likely that the Department was spending significantly more of its resources in that support.

15 MS CAHILL: Was the entitlement to --- sorry, I will put that more neutrally. Was the issue of how the casino licence fee to be expended something you obtained legal advice about before the issue was raised by this Commission?

MR ORD: No.

20

MS CAHILL: At paragraph 12 you refer to particular legislation which you say is relevant and informative in determining how available funds should be apportioned to the pursuit of the GWC's different objectives. During your tenure as Chair of the GWC, who was it that made decisions about how the casino licence fee specifically
25 was to be expended? Was it GWC members or the Department?

MR ORD: The --- I think I took you through this before around the creation of the budget which the GWC approved. So the Department prepared a budget for the GWC to consider based on the service fee and other matters and the activities that
30 would be covered through that service fee. That was historically based, and the GWC could agree or not agree to that approval of that budget.

MS CAHILL: So is your answer then, well, if the budget provided for the casino licence fee to be expended in a certain way as presented to the GWC, and then the
35 GWC approved the budget, then that's how the GWC became involved in deciding how the casino licence fee was to be expended?

MR ORD: Yes.

40 MS CAHILL: Now, at paragraph 19, page 0007, in referring to your earlier evidence to the Commission about the special purpose account, you are referring there, if we go over the page, to the evidence I think that you had previously given where you said you weren't certain about whether the GWC had its own agency special purpose account, and you say that you are now advised that the GWC did have such an
45 account operated by the Department under delegation. That was obviously something you weren't aware of during your time at the GWC?

MR ORD: Well, I knew about the accounts. Whether they were classified as special

purpose when you asked me the question when I was on the stand, I said I wasn't certain.

5 MS CAHILL: Do you think you should have known when you were Chair of the GWC whether it had special purpose accounts and, if so, who operated them?

MR ORD: Well, I knew about these accounts and who operated them. Their classification as a special purpose account, that is a treasury term, I simply didn't
10 want to answer incorrectly when you asked me.

MS CAHILL: Is it a bit more than a treasury term? Doesn't it have specific implications under the Financial Management Act whether an account ---

15 MR ORD: Well, yes, because you can't spend money ---

MS CAHILL: Sorry, I will just finish the question. Doesn't it have particular implication on your understanding under the Financial Management Act whether the account is a special purpose act or not?
20

MR ORD: Yes.

MS CAHILL: At page 010, paragraphs 30 and 31, you provide some evidence about the GWC budget and its relationship to the amount that the Department invoices to the GWC for professional services.
25

MR ORD: Yes.

MS CAHILL: So that I can understand what you are putting here, do you intend to say that the Department to your knowledge invoices one-twelfth of the annual budget on a monthly basis to the GWC?
30

MR ORD: Yes.

35 MS CAHILL: And presumably that was something you were told or found out for the purposes of preparing this witness statement?

MR ORD: The witness statement states that this has been prepared by myself and from advice of officers. So this was the Chief Financial Officer that provided this information as part of my witness statement.
40

MS CAHILL: But it is not something that you were previously aware of yourself, you had to find this out from either speaking to the CFO or some other ---

45 MR ORD: No, I was aware of the history, when I took over from Barry, that the budget for the service fee, if you like, the costing back of the department's expenditure on behalf of the Commission was agreed as a fixed sum, and that it would be reported on that without adjustments. I know there was an adjustment in

2015/16 because there was an additional addition of the capital cost for the Navigate system. So there was an adjustment in that year. But in the four years I was there, then this amount was not adjusted to an actual cost.

5

MS CAHILL: Right. So if the Department, subsequent to this witness statement, provided the Commission with information suggesting that there may have been adjustments in those years to which you have referred, you wouldn't be able to say whether that was correct or not based on the information you've been given?

10

MR ORD: No. My understanding is that they were a fixed sum and they weren't then adjusted. So --- other than being made aware there had been an adjustment in 2015/2016, which was prior to my time.

15

MS CAHILL: Now, at paragraph 36 at page 011 you discuss the 70:30 budget distribution between liquor on the one hand and the racing and gaming functions on the other. So it was decided by the former Department of Racing, Gaming and Liquor, and then you say at 37 on page 012 that that 70:30 distribution was adopted by the new Department, the amalgamated Department, as the appropriate distribution of the budget within the Racing, Gaming and Liquor division.

20

MR ORD: Yes.

25

MS CAHILL: Did it occur to you, when you took over the Department, that the distribution of the budget within that division should be reconsidered once all those different departments had amalgamated together?

30

MR ORD: I certainly had a view that I had a budget for the Department of over 200 million. So this represented 2 per cent of the budget that I had to review all of the Department's expenditures --- in fact, the Department's expenditure grew closer to 400 million. This was not a material sum to cause enormous concern about, and so it's not something we were going to do immediately when we were looking at the large material sums that posed potential risk, apart from not being able to operate within its appropriation.

35

MS CAHILL: You were there four years?

40

MR ORD: Well, yes, but you have to remember the first 12 months we were doing the Machinery of Government changes. It was significant. I had to downsize the staff by some 10 per cent, I lost 40 per cent of the executive officers and so on. I had to amalgamate all the systems, I had to meet all the election commitments, and, you know, that was a massive task for a period that then got impacted within two years, or the end of the second year by COVID and everything that followed. So relatively I think we did a huge job to get the amount of work that we have done. You are asking me around why we didn't make microanalytical changes at this particular area, which is great, but, you know, I was having to address Auditor-General, risks around cybersecurity risks. It was an enormous job.

45

MS CAHILL: So what you describe as a microanalytical issue, Mr Ord, meant that for the four years that you were Chair of the GWC, the GWC could not even get its very outdated KPIs reviewed?

5

MR ORD: Yes, I accept that and I clearly have let them down, and I'm very apologetic for that.

10 MS CAHILL: But it wasn't a microanalytical issue, the budgeting for the Gaming and Wagering Division of the Department, was it?

15 MR ORD: We were providing sufficient funds to do all that the Department had previously done. I worked on a continuity of service model, so we were to not drop the ball on our regulation, and we kept the staffing levels to the agreed possible up, and the audit programs up. That was my direction. Business, keep maintaining business continuity. We needed that appropriation in the budget to meet that cost and, you know, we didn't redirect any of those funds. Whether we were in fact putting more effort into the casino and not less effort into the casino in the split, because that was analysed over time, and we didn't seek to apply a further penalty to
20 the Commission by seeking further funds out of their budget.

MS CAHILL: Mr Ord, the questions I asked you earlier today, amongst others, focused on the inability of the Department to review KPIs, to complete a risk management framework, and to complete a compliance review for the GWC in the
25 four-year period that you were the Chair because of a lack of resourcing within the Department; you recall that?

MR ORD: Yes.

30 MS CAHILL: Now, each one of those activities and tasks that ought to have been completed was absolutely vital to understanding whether the existing regulatory services provided by the Department to the GWC were effective and efficient to regulate gaming and wagering in this state; you would agree?

35 MR ORD: Yes.

MS CAHILL: And so if you were to give priority to anything in the racing and gaming space during your four years, it would have been the completion of those tasks; would you agree?

40

MR ORD: Yes.

MS CAHILL: And instead you gave priority to, as I understand your evidence, the business as usual, simply doing what you had done before, or those who had come
45 before you had done in terms of day-to-day regulatory activities. Is that right?

MR ORD: In the circumstances of profound change in the Department, then maintaining what I believed was a high quality compliance program was my priority,

and so I ensured that that capability was preserved and acted on.

5 MS CAHILL: You had no means of knowing it was high quality because the three tasks that were to be undertaken to test that hypothesis were put to one side and subordinated, whilst other tasks were prioritised ahead of them, for four years, isn't that so?

10 MR ORD: No, I don't agree with that because there is audit programs, the work done by the team resulted in significant documentation of the compliance work, and we had annual review of audits, and there was annual reporting which was very comprehensive of all the activities taking place. I believe there was plenty of evidence of the good work we were doing. We clearly --- that there were matters that related to what has been disclosed in terms of money laundering, and I haven't
15 seen a witness appear before the Commission yet that is a money launderer, so I don't understand their motivation or how they actually penetrated the accounts yet, but I'm assuming that will come.

20 But I believe otherwise we did a very good job of ensuring that Crown operated within the provisions of their operating manual, and that they complied to a high degree. That is work that was reviewed constantly by Commissioners and they were satisfied with what was a very comprehensive reporting framework. I mean, you can see the extensive amount of documentation. I have seen many Royal Commissions where you can't find documents. I think we've done an outstanding job of providing
25 you with an extraordinary range of documents. And never in the minutes of any of our meetings, if there were concerns raised, were then minuted and acted upon.

30 MS CAHILL: Do I understand the effect then, the summary of your evidence that you've just given, that, setting aside money laundering, the GWC and the Department did a very good job of regulating the casino on your watch?

MR ORD: I think they did the best job they could possibly do within the resources they had.

35 MS CAHILL: It was a very good job, was it?

MR ORD: I believe it was a good job, yes.

40 MS CAHILL: Right. Now you explained at paragraph 40 of your witness statement at page 012 that in the 2021 financial year, Department officers had observed increased audit inspections and investigations from the racing, gaming and liquor division of the Department, and that as a consequence, paragraph 41, you say that the officers made a recommendation to you to increase the GWC payment, the budget for the GWC payment for professional services to the Department by 5 per cent.

45 So with your DG hat on, you approved an increase in the invoicing, if you will, of the GWC by the Department for professional services, is that right?

MR ORD: I proposed the amendment addition of 5 per cent, which I believe was afforded by the Commission in recognition of the increased workload that existed for audits.

5

MS CAHILL: Presumably with your GWC hat on on the other side, you participated in approving the budget that had that additional 5 per cent payment in it?

MR ORD: I mean participated, it was obviously put to members and they made their support known as a majority.

10

MS CAHILL: But you voted on it?

MR ORD: I'm not aware whether I did or not but generally decisions were made in majority, so probably not in that case.

15

MS CAHILL: You probably didn't vote?

MR ORD: I probably didn't vote, no, if it was a matter that I was the Director-General, the budget would come forward and they would discuss it and would say, do you agree with it. I wouldn't be voting in per se in saying "I want this approved".

20

MS CAHILL: Is that because of the apparent conflict between setting the budget and then approving it?

25

MR ORD: Well, yes. The members obviously, if they wanted to change or not approve, then they would be independent to do so. I wouldn't oppose that.

MS CAHILL: I have no further questions.

30

COMMISSIONER JENKINS: Thank you, Ms Cahill. Any other counsel?

CROSS-EXAMINATION BY MR GARAS

35

MR GARAS: Thank you, Commissioner.

Mr Ord, my surname is Garas and I act for the Crown company.

40

According to your first witness statement, you say you have over 37 years of experience as a senior public servant, Director-General and CEO, and that covers both public and private sector; is that correct?

45

MR ORD: Yes.

MR GARAS: Did you draw on that experience when managing the Department and

the GWC during your tenure as Director-General?

MR ORD: Yes.

5

MR GARAS: Now, since stepping down from your position as Director-General have you been following this Royal Commission, and in particular have you viewed any of the audiovisual recordings or read transcripts particularly in relation to the opening statements that were made on 26 July?

10

MR ORD: No.

MR GARAS: I just want to take your attention to one thing that was raised by Counsel Assisting, which Counsel Assisting described as the concept of regulatory capture. Are you familiar with that phrase?

15

MR ORD: Yes.

MR GARAS: I want to just take you to aspects of what was put by Counsel Assisting. Counsel Assisting described that phrase as a situation in which an inversion of the relationship of accountability, or in an inversion of that relationship, a regulator is influenced or becomes dominated by the industry or the interests it regulates. And then that can have a number of causes, but includes, in the context of casino operations, the familiarity that a regulator may develop with both the licensee's operations and the individuals employed by the casino who conduct those operations. So that's the description that was given by Counsel Assisting.

20

25

And then this proposition or contention was advanced, that there also appears to have been a trend over many years of gradual relaxation by GWC of its regulation of Perth Casino's operations. That inevitably would cover part of your period or tenure as Director-General and an example that was given in relation to that was junket regulation.

30

Now, another criticism related to the adequacy of Crown's disclosure in relation to the aggregation issue relating to the Riverbank account as identified in the Bergin Inquiry.

35

Now, I appreciate you may have views about those criticisms of the Commission, we may come to that, but what I would like to understand, or have the Commissioners understand, is the historical context regarding these matters so that the Commissioners can reasonably evaluate those criticisms and indeed; criticisms of Crown. If we start with junket regulation, this Commission has heard and read a good deal of evidence about the removal of the junket approval process in 2010, and you've addressed that topic in your first statement. Now, is it correct that one of the drivers of the removal of that approval process was the National Competition Legislative Review of the Casino Control Act?

40

45

MR ORD: I believe so.

MS CAHILL: Now, you've explained in your statement that that review considered that the junket approval process in Western Australia represented a restriction to competition; do you recall that?

5

MR ORD: Indeed.

MR GARAS: I want to refer to two other aspects which appear to be quotes that you've taken from that review, firstly, that the requirement to licence junket imposes economic costs on the casino that do not occur in other jurisdictions where this is not a requirement. The other Australian jurisdiction that licensed junket operators is NSW. It is obviously the historical position. And you further quote that the provisions of section 25A of the Casino Control Act may serve to restrict competition if other jurisdictions have less demanding requirements concerning junkets. Junket operators are likely to favour casinos in jurisdictions with the least demanding requirements. And so you recall those passages?

15

MR ORD: I believe that was out of the Productivity Commission report.

MR GARAS: Thank you. Can I assume, given your very lengthy service in the public sector, that you are familiar with the history of the National Competition Policy?

20

MR ORD: Yes.

25

MR GARAS: It was an initiative of the Council of Australian Governments, or COAG; is that correct?

MR ORD: Yes.

30

MR GARAS: That is the peak intergovernmental forum in Australia?

MR ORD: Yes, was.

MR GARAS: It's since been replaced by National Cabinet, is that correct?

35

MR ORD: True.

MR GARAS: That was in May 2020; correct?

40

MR ORD: Yes.

MR GARAS: COAG implemented the National Competition Policy.

MR ORD: I believe so.

45

MR GARAS: So do you agree that the removal of junket approval process involved

advancing the requirement of the National Competition Policy?

5 MR ORD: Well, it would have been a conscious decision to remove them. Clearly the trigger point was the Productivity Commission report, and broadly, as I understand, state jurisdictions sought to meet their obligations under the COAG agreement.

10 MR GARAS: Thank you. I want to turn to anti-money laundering and the Riverbank issue. Now, prior to the release of the Bergin Report, it is correct, isn't it, that the GWC acted on an incorrect view about its duties and responsibilities? Which resulted in the GWC not investigating transactions that might have indicated money laundering; is that a fair assessment?

15 MR ORD: Yes.

MR GARAS: The GWC believed that that should be the role of AUSTRAC and other enforcement agencies; is that correct?

20 MR ORD: That was our belief at the time, yes.

MR GARAS: Thank you. I just want to take you to a particular passage in your witness statement, your first witness statement, that is DLG.0001.0002.0001, page
25 _0030. If we could just magnify paragraph 101, please. Importantly, at paragraph 101 you explain that the Commission has not, to your knowledge, ever undertaken or caused to be undertaken an audit of the Riverbank account with a specific focus on money laundering or suspicious transaction concerns, but you've also observed there that you understood that the Riverbank account information was provided to the Department. Now, that would have been by Crown; correct?

30 MR ORD: I believe it was submitted some years ago and then the submission of that account information ceased.

MR GARAS: It then recommenced in late 2019; correct?

35 MR ORD: I haven't been informed --- those details were not known to me before I left the role I was in, so I've only heard that the account that we received it sometimes, not again, I'm not aware whether we received them later.

40 MR GARAS: Thank you. So going back to that second sentence in paragraph 101, you say that you understood according to your statement that the information was provided to the Department but it was only viewed at a more general level as part of the system of periodic audits of Perth Casino accounts designed to assess State taxation revenue and preventing tax fraud and/or evasion. So that was your
45 understanding?

MR ORD: That was my understanding, yes.

MR GARAS: And that is really the position, correct me if I'm wrong, but that's the position that was adopted by the GWC because of that erroneous view that it took about the scope of its responsibilities; is that correct?

5

MR ORD: The GWC wasn't aware of Riverbank accounts, it hadn't been informed by Crown that it existed. These bank statements came to officers in the Department as a series of bank statements, and the focus of the Department was on the actual gaming accounts, so this was a subset of those. I understand from the explanation that Crown provided me that Riverbank was established for the purposes of doing international currency processing, and then I assume in Australian dollar terms it got aggregated up into the SYCO system and that was the system that we were primarily analysing.

10
15 MR GARAS: Are these matters based on your own knowledge, Mr Ord, or are you making assumptions about the extent of the Department and the Commission's knowledge ---

MR ORD: That is the advice I was given by financial analysts in our Department.

20

MR GARAS: I can tell you that there was material provided in relation to the Riverbank account, and in fact ---

COMMISSIONER JENKINS: Hold on, just be careful here. We had evidence about that, and I don't know if it was all of Riverbank's accounts that was provided.

25

MR GARAS: That's correct but by the time we got to late 2019, Commissioner, there was indeed a large bundle of material provided for the previous 12 months regarding each of the different currency accounts, including the Australian dollar ---

30

COMMISSIONER JENKINS: Just be careful about what you are putting to the witness that's all.

MR GARAS: I appreciate that, Commissioner.

35

Mr Ord, from at least late 2019, information in relation to the Riverbank account, including bank statements, were provided to the Department. Were you aware of that?

40 MR ORD: I was aware that information was provided by Crown, including at the end of 2019, the analytics done by Grant Thornton. I was also advised, because Crown presented to the Gaming and Wagering Commission, that the Riverbank accounts were dormant, they were closed, and therefore the information coming to us would have been of past transactions that were subject of the Bergin Inquiry by then.
45 So they had been analysed. So there wasn't a particular reason why we would be doing particular work on that account at that time.

MR GARAS: Now, you are referring there to material in October 2020 and

December 2020; is that correct?

MR ORD: Yes.

5

MR GARAS: I will bring up a document for your assistance, so if we could please bring up GWC.0004.0015.0001. What you will see when it comes up, Mr Ord, is a letter from 14 December 2020, and within the introduction to that letter you will see reference to the presentation on 27 October 2020. These are the particular events that you were referring to, aren't they? And in particular this letter identifies the issue, as had been identified in the ILGA Inquiry regarding the aggregation in SYCO concerning the Riverbank account; does that accord with your recollection?

10

MR ORD: Yes.

15

MR GARAS: Now, before the October --- I won't take you to the October presentation, but before the October 2020 presentation and going back into late 2019, the Department and the Commission had been provided with bank statements in relation to the Riverbank account. Were you familiar with that?

20

MR ORD: No.

MS SEAWARD: I think he needs to clarify what Riverbank statements were provided, given there were different bank statements.

25

COMMISSIONER JENKINS: Mr Garas, I'm not quite sure whether you need to put the positive proposition to him, given that there might be a dispute as to what statements were or were not available. Surely you can just ask him was he aware of whether any Riverbank statements were provided to the Department or to the GWC.

30

MR GARAS: Yes, well, I think I have asked that question, Commissioner.

So, Mr Ord, are you aware of whether any statements were provided to the Department or the Commission regarding the Riverbank accounts before their closure?

35

COMMISSIONER JENKINS: So discounting what we got on 14 December ---

MR ORD: Yes.

40

COMMISSIONER JENKINS: --- 2020, so other than those, were you aware?

MR ORD: I became aware from officers advising me later that the Crown had provided some statements related to Riverbank in the past. That was the summation of my knowledge.

45

MR GARAS: Thank you.

Now, if we go back to your statement, can we please bring back up DLG.0001.0002.0001. Go to paragraph 104, please, on page 31.

5 This paragraph, 104, summarised to some extent an exchange you had with Counsel Assisting earlier today, which is your view about the performance of the Department and the Commission being "good" as you put it and the reasons for it, with the exception of matters relating to anti-money laundering. Do you still adhere to that view?

10

MR ORD: At this stage, yes.

MR GARAS: Thank you.

15 If we go to Mr Ord's third statement, please, that is DLG.0001.0008.0001. If we could just go to paragraph 62, please.

If I can take your attention from about the third line down, Mr Ord, you've expressed your confidence in relation to the staff of the Department and the members of the Commission. Do you still adhere to that view?

20

MR ORD: Yes.

MR GARAS: In your dealings with Crown personnel then, did you find them to be professional and respectful?

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MR ORD: Yes.

MR GARAS: During your tenure, did you personally ever give favourable treatment to Crown?

30

MR ORD: No.

MR GARAS: Are you aware of anyone else within the Commission or the Department that gave favourable treatment to Crown?

35

MR ORD: No. I mean, you have to give some degree of definition of what "favourable treatment" means. Did we knock back every request Crown made? Obviously not because we were engaged in approving a number of requests that Crown requested of us. As I said, it was a dynamic business and a business under some considerable stress. So we were being asked to approve a number of things that were of advantage to Crown. I never believed that in us approving that we ever deliberately set aside all our other obligations, but we honoured the overall balance of interests and recognised certainly during my tenure that we were living in extraordinary times, and I believed that Crown acted in good faith in their dealings with me personally as I attempted to act in good faith with them. Where the Commission had concerns about matters being requested of them, they were always open to take on those concerns and they were fully aware that they were under

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enormous amount of scrutiny, and that a range of decisions that had been taken prior to my time as Chair, for instance, the marketing of gambling in China and so on, had been problematic and were doing their very best to, you know, correct the business outcomes that were resulting from that and the public concern. So I took it that they were trying to preserve and get back to the integrity of business. That said, there were matters that were known to Crown senior executives in Perth, particularly around the effectiveness of their AML program, and I've seen those internal documents, they didn't brief me on that concern. They could have done. I understand they didn't do it. But they were internal documents and I assume subject to internal discussions around how you would address those shortcomings. I didn't discuss shortcomings in my Department with Crown either.

MR GARAS: Thank you. When you referred to matters that weren't briefed to you, are you referring to the meeting on 15 December 2020? Perhaps I can ask you, what specifically were you referring to in relation to not being informed of matters?

MR ORD: There was an internal document created in Crown, I understand in Crown Melbourne, around weaknesses in the AML system. I understand that went to senior executives and also in that document it indicated the weaknesses there would also potentially apply to Crown Perth. Clearly that is a significant piece of information that would one assume that Barry Felstead as CEO of Crown Perth would have been concerned about, their were vulnerabilities in the AML program. Given that was the key document we were relying on, their program response to federal legislation, if there were vulnerabilities there, then they could have shared that with us and said "We've done some internal audit work and we're concerned about the vulnerabilities in the program." They didn't bring that forward and I only found out about that as a result of Commissions of Inquiry. That is the only item I've seen where I believe that fuller --- they would have had aware of information they could have provided us, and it wasn't provided, but it was an internal memo and I understand they would have seen that as an attempt to do an internal fix.

MR GARAS: Are you able to identify timing in relation to when that came into existence?

MR ORD: No, I would have to look at the documentation that's on the record. I believe it was tabled in the Victorian inquiry.

MR GARAS: Is this a document you've seen?

MR ORD: Yes.

MR GARAS: Can I ask that the letter of 14 December be brought up again, please, it was GWC.0004.0015.0001.

The context of issues regarding aggregation, do you recall receiving this letter?

MR ORD: Yes. I remember it came in to my email about 5 o'clock on the night

before the Gaming and Wagering Commission. Generally the agenda papers for the Commission are prepared a week or more in advance so members can read all the documentation. I took that this letter was significant and asked for it to be actually
5 provided to the members of the GWC overnight. Not all were able to retrieve it in time for the presentation. So I don't believe all members of the Commission would have read the letter and certainly not the attachments.

10 MR GARAS: Were you informed that this letter related to the meeting (inaudible), or is that just an assumption that you made?

MR ORD: I assumed that the letter was going to be linked to what they were going to present the next day. I was a bit surprised to get it at 5 o'clock.

15 MR GARAS: You've read the letter yourself?

MR ORD: Yes.

20 MR GARAS: So you can recall that it actually dealt with issues that had arisen from the ILGA Inquiry relating to aggregation?

MR ORD: Yes.

25 MR GARAS: And can I just direct your attention to the second paragraph which refers to Annexure A? Did you read Annexure A?

MR ORD: That was the Grant Thornton reports, was it?

30 MR GARAS: No, I will take you to it --

MR ORD: Thank you.

35 MR GARAS: --- if we can move to page 3, page 2 first, you will see the letter itself ends halfway down page 2. And if you go on to page 3, please, this is the annexure to the letter?

MR ORD: Yes, I did read that.

40 MR GARAS: So you read the section below "ILGA Inquiry --- Immediate Controls"?

MR ORD: Yes.

45 MR GARAS: Items a), b) and c) identified that the accounts had been closed back in December 2019?

MR ORD: I think I referred to that in my testimony earlier.

MR GARAS: b) indicates that Crown had issued a direction to the cage that in no circumstances should transactions be aggregated in SYCO, and had issued a new bank statement monitoring policy which was then attached as attachment one. Do you recall looking at those?

MR ORD: Yes.

MS CAHILL: So these were attempted by Crown to put into place a remediation program to address the very issues that had been identified?

MR ORD: That was my understanding.

MR GARAS: Then paragraph c) dealt with a direction prohibiting all cash deposits into Crown Perth's casino bank account, and that was attachment 2?

MR ORD: Yes.

MR GARAS: Over the page, please, d) dealt with further policy regarding third party transfers, again attached. And then can I take your attention down to the paragraph beginning:

Importantly, in respect of paragraphs (a) - (e) as committed during the *presentation to the Commission, Crown has submitted proposed amendments to the Casino Manual (Operations)*.

Further down, and this is what you are referring to, then Crown enclosed copies of the Grant Thornton and Initialism reports.

MR ORD: Yes.

MR GARAS: Did you read that entire annexure?

MR ORD: These annexures?

MR GARAS: That annexure. At least annexure A that explained the materials enclosed?

MR ORD: Yes, I read A. I didn't get to any attachment. I think it came through the Department and they just sent me the letter. So I read the annexures if they were attached to the letter, but I didn't read the actual reports that I understand were submitted at the same time.

MR GARAS: I understand. Did you discuss the contents of this letter and attachment with any members of the GWC?

MR ORD: No, I don't have my diary because I left Government, but I would imagine on 14 December I would have been occupied doing Departmental work, it was a busy

time of the year. So I would have read this, asked for it to be sent to the members and then we had the presentation the next day and we engaged through that.

- 5 MR GARAS: Can I ask document CRW.706.005.0253 be brought up, please. Can we keep this one to personal screens, please. I am going to take you, Mr Ord, to a communication that was sent by Ms Chopping, your successor.

- 10 We don't have that document on our screen. You will see halfway down the page, Mr Ord, there is an email from Ms Chopping to Ms Coonan on 16 June 2021. Did you have any input in relation to the preparation of that email?

MR ORD: No.

- 15 MR GARAS: I will ask for (inaudible) the questions over the page, can we go to the next page, please.

- 20 I direct your attention specifically to questions 6 and 7. This seems to capture what was, or what is the concern that you indicated about the proximity between the receipt of the letter on 14 December and the following --- or the meeting on the following day. Is that a fair characterisation of the queries raised at 6 and 7?

MR ORD: I'm sorry, what is the question you are asking me?

- 25 MR GARAS: You indicated before that there were concerns at least, on the Commission's side, about the receipt of the letter on 14 December, ahead of the meeting on 15 December. Is that what these questions relate to?

- 30 MR ORD: Yes, I imagine that members were concerned at the timing of the letter and the presentation the next day, where it intended to --- because they didn't have sufficient time to go through everything and therefore wouldn't have been informed enough to ask questions of Crown at that meeting, that would have been their ---

- 35 COMMISSIONER JENKINS: I don't think you are being asked to imagine anything, Mr Ord. Did you have any conversations with members which indicated to you that those were their concerns ---

MR ORD: Yes.

- 40 COMMISSIONER JENKINS: --- or were they your concerns?

- MR ORD: No, they said that at the time. After Crown left the meeting, they said they were concerned that they'd only received information they thought relevant the night before.

- 45 COMMISSIONER JENKINS: Thank you.

MR GARAS: Can I ask you then, did any member of the Commission or yourself

ask any questions of Crown during that meeting regarding the contents of the 14 December letter?

5 MR ORD: We asked questions on the presentation which of course focused on all the measures Crown were doing to --- essentially a run down of that annexure A. So, yes, I believe we were engaged in terms of what was presented to us at the meeting. I don't recall everything that was presented at the meeting. I can't remember whether there was a PowerPoint or they just discussed it, but I was certainly aware that the
10 intent was to give confidence to us that they had acted to address the critical risks that had been identified, and to put those ameliorations in place.

MR GARAS: Thank you. Can we bring up another document on the personal screens, CRW.706.005.0257. What I'm showing you here, Mr Ord, is the response
15 from Crown to Ms Chopping's email of 16 June. I will take your attention specifically to page 260, please.

You will see here the combined answer to questions 6 and 7 in that email that I took you to just a moment ago that Ms Chopping had said. Crown responded to the
20 questions explaining that the provision of the reports to the Commission in the letter of 14 December was not intended to align with the Commission's meeting the following day.

Given the volume of the materials in the letter, Crown envisaged the *Commission would consider them after the meeting and raise any questions with the relevant individuals at Crown.*
25

Have you ever seen this response before?

30 MR ORD: No, it was directed to Ms Chopping. I haven't been working ---

MR GARAS: When did you depart from your position?

MR ORD: 30 May.
35

MR GARAS: And has the contents of this response ever been conveyed to you since its receipt?

MR ORD: No.
40

MR GARAS: Now, at the meeting on 15 December, what specifically, to the extent you can recall, was asked of Crown in relation to the matters raised in the annexure to the 14 December letter?

45 COMMISSIONER JENKINS: That's a very broad question, Mr Garas. Is there anything in particular you ---

MR GARAS: The aggregation issue. What questions were asked, if any, regarding

the aggregations concerning the Riverbank account?

5 MR ORD: We were aware that --- you have to remember we were working to
provide information ourselves to the Bergin Commission of Inquiry. The inquiry
was ongoing. I took it Crown's presentation to us was addressing issues as to
whether there were extant risks that they would have reasonable expectations that we
would give a directions notice to them to cease doing. And they were essentially
10 assuring us that they were taking those actions pre-emptively, and we were satisfied
that we would not have issued further directions beyond the actions that they had
taken, because we didn't intend to close Crown until Bergin had reported, and we
also weren't wishing to necessarily signal any information we were providing to the
Royal Commission. So it would have been somewhat inappropriate to go into
15 discussion on some critical documents ultimately around which the entire Royal
Commission hinged.

MR GARAS: But was there discussion at all about the remediation steps that had
been taken as explained in that letter of 14 December?

20 MR ORD: Yes, I believe we discussed those. In terms of the aggregation, we were
comforted to that degree that Crown was actively --- or dealing with the cage issues
where aggregation had been identified as occurring, and that was going to cease as a
result of Crown's interventions.

25 MR GARAS: Subsequent to the meeting of 15 December then are you are aware of
the Commission or the Department raised any further queries with Crown regarding
the subject matter of that letter of 14 December?

30 MR ORD: No, as I said, we were waiting for the finalisation of Commissioner
Bergin's findings before determining whether we needed to go and instigate our own
inquiry, and ultimately of course we did.

MR GARAS: And that's what gave rise to this Commission?

35 MR ORD: Yes, I drafted the original Terms of Reference which is very close to the
ones that I've been put under the sword for doing. So talk about bringing it down
upon yourself.

MR GARAS: Thank you, Mr Ord. No further questions.

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COMMISSIONER JENKINS: Thank you, Mr Garas. Anyone else? Mr Evans?

CROSS-EXAMINATION BY MR EVANS

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MR EVANS: Thank you, Commissioner. Just a couple of questions, all arising out
of Mr Garas and Ms Cahill.

You've been just been taken, Mr Ord --- you recall my name is Evans, and I act for the Gaming and Wagering Commission. Mr Garas has just taken you through the meeting of 15 December which has assumed some importance in these proceedings.

5 Can I put this question to you fairly directly: there were three senior executives of Crown present, I think, at that meeting; do you recall that?

MR ORD: Yes.

10 MR EVANS: Did any of them say in that meeting, to your recollection, aggregation is an issue in relation to which we've acted, but we now have evidence from consultants that we have appointed of actual money laundering to the Riverbank accounts?

15 MR ORD: No. There was no declaration that the reports that were attached identified money laundering at the Perth Casino. Clearly that would have been an extraordinary matter to be given immediately at that moment.

MR EVANS: The second point and, it is slightly related to that, can I take you to a bit of evidence you had a moment ago, which was you had a recollection that there was a document which had come into the public attention through the Melbourne proceedings, which was an internal document of Crown in relation to weaknesses in its internal controls in relation to money laundering. You recall that?

25 MR ORD: Yes.

MR EVANS: So we have no doubt about what that is, can we bring up CRW.004.0022.6540. I will just check to see if this rings any bells as to what the relevant document is. This is what's called the 100 day report prepared by Louise Lane, the Group General Manager for AML. Is this the document you were referring to?

30 MR ORD: I believe so.

MR EVANS: Thank you. The final thing I want to ask you, I will concede I may not have got this correct because I was listening on the feed this morning rather than being here, but Ms Cahill was taking you through some matters in relation to junkets; do you recall that before the luncheon adjournment? And I took it you said at one stage when you were questioned about the role of the GWC in auditing junkets that you thought that the GWC was doing probity audits on junkets once the gamblers got into the resort or got to the casino. Do you recall saying something to that effect?

MR ORD: Yes --- well, the focus I think I gave clear testimony, very upfront in this, and the focus to which we have been the Act focuses was on ensuring the integrity of the operations of the casino, and not from my read of the legislation saying that we had to be aware of where the money was coming from, that people chose to gamble and so on, and so the information --- (overspeaking) ---

MR EVANS: That was the question I was going to put to you, when you were talking about probity there, you were talking about the integrity of the games and the gaming process, not ---

5

MR ORD: Yes, receipt of funds, the appropriateness. Because clearly with money laundering, I suppose you could money launder by gambling and losing and taking your winnings, whatever is left over and saying, well, that's now clean, or you might put it into a bank account and take it out again and do no gambling. So my assumption was that our oversight of the way in which funds were taken in through the cage and accounted for was being checked through our audit processes and, therefore, the potential of what I think was referred to smurfing should not have been there. If that was done in the banking system, not in the gaming account system, then I believe our ability to track that was problematic, which is why I said I thought we needed additional legislative powers and probably additional expertise to go and analyse the receipt of funds in the casino from the point at which it is deposited at the bank.

MR EVANS: So the probit audits which you were referring to there are essentially, (a), the integrity of the playing of the game, whatever that may be, and (b) the drawing of cash and chips for other means of presenting value in that game?

MR ORD: Yes.

MR EVANS: Thank you. No further questions.

COMMISSIONER JENKINS: Yes, Mr Malone.

30 CROSS-EXAMINATION BY MR MALONE

MR MALONE: Thank you.

I am Malone, Mr Ord, I appear on behalf of Mr Connolly.

MR ORD: Yes.

MR MALONE: This Commission has heard evidence from Mr Connolly as to the various roles and responsibilities he had within the Department. I just want to, being the individual who is his Director-General for a while, take you through that and get your comment on that.

Mr Connolly provided evidence that he was responsible to some degree in the area of local government. Would you agree he had responsibilities in that space?

MR ORD: Yes.

MR MALONE: That included being the presiding member of the Local Government Standards Panel?

5 MR ORD: Yes.

MR MALONE: Mr Connolly had responsibilities in the gaming and wagering space, more generally than just the subject of this Commission?

10 MR ORD: Yes.

MR MALONE: He had responsibilities in the areas of liquor?

MR ORD: Yes.

15

MR MALONE: Combat sports?

MR ORD: Yes.

20 MR MALONE: He also provided first responses to ministerial questions?

MR ORD: Indeed, yes.

25 MR MALONE: And since the onset of COVID-19 he also had responsibilities under the Government's emergency response to that virus?

MR ORD: Yes.

30 MR MALONE: In your view, was Mr Connolly charged with these responsibilities because of his professionalism?

MR ORD: Yes.

MR MALONE: And because of his competence?

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40 MR ORD: Yes. I mean, merging the departments, there was only one Deputy Director-General position in any of the Departments that merged. So we merged a range of small Departments. As a Deputy Director-General with a background in regulatory practice, and because of my responsibilities for running the business and also across sport and arts and all the other bits that I had responsibility for, I created the Deputy Director-General (Regulation), and so that our regulatory staff including our government regulators and so on could form up into a regulatory division.

45 MR ORD: That meant even though we were reducing staff numbers considerably, we were also utilising the capacities across a range of different things. So for instance, local government had a series of police investigators, and they proved useful to adding to our broader investigative team because RGL didn't have that

expertise, I think you heard we used to have the police presence and then that was lost. We did everything we could to strengthen it, but Mr Connolly ended up being the head of that regulatory division.

5

MR MALONE: Yes, and in respect of each of those areas I've just taken you through, each one required significant time to be invested by Mr Connolly, and focus?

10 MR ORD: Yes.

MR MALONE: I will put this to you directly: in undertaking all of these roles that Mr Connolly had, would you say there was enough hours in the day to get each job done, each segment of the office required?

15

MR ORD: Mr Connolly was under enormous pressure because of the circumstances we were facing in --- I think I mentioned earlier we had inquiries around the harm of liquor, it was well documented in the media around.

20 MR MALONE: And there was like the Perth inquiry.

MR ORD: The City of Perth Inquiry and a number of other inquiries. We were being litigated against. It was a real joy.

25 MR MALONE: Yes. So to my question then, were a number of matters that required significant focus and time to be put towards them. Would you agree with that statement?

MR ORD: Yes.

30

MR MALONE: No further questions, thank you.

COMMISSIONER JENKINS: Thank you. Mr Murphy.

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QUESTIONS BY THE COMMISSIONERS

40 COMMISSIONER MURPHY: One question. Mr Ord, if you could clarify for me, counsel took you to in talking about junket regulation, a document the National Competition Policy legislative review of the Casino Control Act which talked about reducing restrictions on junkets. Can you just clarify, my understanding is that that is a document prepared by the Department? The Department prepared that review? If you don't know, that's fine.

45

MR ORD: This happened in 2012, long before my time, but I understand that the Productivity Commission report then came down to the Department to prepare a paper on what that would look like if the State dealt with that recommendation

from the public sector. So, yes, I think you are right that the final report was drafted by the Department.

5 COMMISSIONER MURPHY: That's fine. Thank you. Commissioner?

COMMISSIONER JENKINS: Thank you, Commissioner Murphy.

10 Mr Ord, I have a few questions. In respect of the relationship between Mr Connolly and employees of Crown Perth, whilst you were a Director-General you had a conversation with Mr Connolly, one or more conversations with Mr Connolly about his relationship with Mr Marais; is that right?

MR ORD: After I became aware of it, yes.

15

COMMISSIONER JENKINS: How did you become aware of it?

MR ORD: Mr Marais, after Mr Preston stood down, so traditionally we dealt at the Gaming and Wagering Commission with Joshua Preston. He stood down at the ---
20 follow --- following his questioning at the Bergin Inquiry. We were to have one of the Crown presentations at Gaming and Wagering Commission, and Claude Marais was to take the role of legal representative for Crown at that meeting. Mr Connolly advised the Gaming and Wagering Commission, just ahead of Mr Marais appearing, that Claude Marais was a personal friend of his and wanted us to be aware of that
25 because Mr Marais was now appearing for the first time before the Commission. That's when I first found out about it.

COMMISSIONER JENKINS: So that was the first time you had any knowledge of the matter; is that right?

30

MR ORD: Yes.

COMMISSIONER JENKINS: So, and I think you said today that you didn't know then about his relationship or friendship with Mr Preston or Mr Hulme prior to
35 evidence being given in this Commission of those matters; is that right?

MR ORD: Yes. I didn't know that he was particularly a personal friend. I knew that he knew Joshua Preston obviously because he came regulatory to meetings. I wasn't aware of who was representing Crown at the Operations Committee. So, no, I didn't
40 know about the personal relationships. I knew that Mr Connolly had worked with one of the members of Crown, but exactly the who and how it all fitted together wasn't something that I was aware of, and he hadn't come to me on the basis of "I want to let you know that these are personal friends, I'm going fishing with them, and they sit on this committee." So I didn't find out about most of that until these
45 hearings.

COMMISSIONER JENKINS: So then Mr Connolly made a formal declaration of the conflict with Mr Marais, didn't he?

MR ORD: He did.

5 MS CAHILL: But he didn't do that in respect of either Mr Preston or Mr Hulme, did he?

10 MR ORD: No. Not at that time. He did say that he had made declarations of relations to my predecessor who confirmed at the meeting that they --- that Claude had been previously referred to him and he was aware of it, and he ---

COMMISSIONER JENKINS: What you are saying --- I want to get this clear: whilst you were Director-General, you say Mr Connolly did not make any declaration of a conflict of interest with you in relation to Mr Preston or Mr Hulme?

15 MR ORD: No.

20 COMMISSIONER JENKINS: And I understand, correct me if I'm wrong, that having now heard about those relationships, that still doesn't change your view of Mr Connolly?

MR ORD: The way I contextualise it is Mr Connolly believed he had made the declarations of these personal relationships with the previous Director-General and that that, if you like, had stood as a recorded conflict of interest. And, therefore, he didn't feel that he needed to redo it to me.

25 COMMISSIONER JENKINS: Regardless. Sorry to interrupt you, but I think I understand what you are saying, is you've not contextualised it in that way. You've not only contextualised it, you've rationalised it in that way, and in your view that is an explanation for his failure to make any such declaration to you or to the GWC
30 about those relationships; is that right or am I wrong?

MR ORD: No, I think as I learnt about the fact that they sat on the Operations Committee, I think that would have been appropriate and should have been declared to the Gaming and Wagering Commission formally and in writing.

35 COMMISSIONER JENKINS: Right. So, having said you think they should have been declared, does that in any way affect your view about Mr Connolly and his professionalism in respect of him carrying out his duties as the Chief Casino Officer?

40 MR ORD: I believed, and still believe that Mr Connolly was an honourable man and believed that he could firewall his professional obligations from his personal obligations. I think I saw plenty of evidence that he took his responsibility as Chief Casino Officer very seriously from the regulatory perspective, not on the basis of any interest in Crown getting assistance from him in getting things through. So from that
45 perspective, probably you could rationalise it. I think the issue at heart is, and I do understand he's been questioned on this, is that practical, is that realistic when you have such close ---

COMMISSIONER JENKINS: That wasn't actually my question. My question was: in light of what you now know, has it affected your view of Mr Connolly? Sorry to cut you off, but my view is that you don't --- it hasn't affected your view of his objective professionalism?
5

MR ORD: Look, I would have to await the outcome of the Commission to find if there is evidence that he unduly influenced something. Hopefully there isn't that evidence, and then I think I feel very sad for Mr Connolly, I'm loath to say that I feel that he acted with impropriety because I just don't have the personal evidence that he did. To be saying hypothetically, am I disappointed about the conflict, do I feel that it is reflected poorly on myself and the agency I led ---
10

COMMISSIONER JENKINS: No, Mr Ord. Let me get this straight. I'm asking you whether you have taken a view that it reflects poorly on Mr Connolly and his objective professionalism.
15

MR ORD: Yes, I think it probably does.

COMMISSIONER JENKINS: Now, can I take you to the issue of the calculation of casino tax revenue. Whilst you were Director-General, did the issue of whether the Perth Casino should include, as part of its revenue, the dollar value of Crown Rewards loyalty points converted to electronic gaming machines or table game credits as part of its casino taxable revenue arise?
20
25

MR ORD: No.

COMMISSIONER JENKINS: So, whilst you were Director-General, did you think that the casino was including them as part of their casino taxable revenue or not?
30

MR ORD: I didn't believe they did, no.

COMMISSIONER JENKINS: And why did you think they weren't?

MR ORD: Because I understood that our auditing of tax, and if it was not a legitimate deduction, that the auditing of tax had been scrutinised extensively through the Auditor-General and other processes as well as our own auditing and they were compliant with the Taxation Act.
35

COMMISSIONER JENKINS: I'm not here referring to a deduction, I'm referring to them as being part of the income, if you like, the sums received by Perth Casino ---
40

MR ORD: As revenue?

COMMISSIONER JENKINS: --- from casino gaming. That is, the value of Crown Rewards point that were converted by patrons into credits for EGMs, or value that enabled them to use at a table game.
45

04:03PM

MR ORD: Then the answer is "no".

5 COMMISSIONER JENKINS: No. So you didn't know whether or not they were included as part of revenue?

MR ORD: No.

10 COMMISSIONER JENKINS: The Problem Gambling Support Services Committee, what is your understanding, is it a subcommittee of the GWC or not?

15 MR ORD: It was established, as I understand, effectively to act as a subcommittee on the basis that it was to bring together said key stakeholders and it would be chaired by a member of the GWC.

COMMISSIONER JENKINS: You've said that it was chaired by Mr Connolly, but Mr Connolly wasn't a member of the GWC, was he?

20 MR ORD: No. He was an officer of the --- Chief Casino Officer.

COMMISSIONER JENKINS: If we were to take the view that the Gaming and Wagering Act says that a member of the GWC must be on any subcommittee ---

25 MR ORD: Yes.

COMMISSIONER JENKINS: --- but there isn't a member of the GWC on the Problem Gaming Support Services Committee, should that affect our view as to whether it was a subcommittee of the GWC?

30 MR ORD: Well, I took that it was and we did get a GWC member on it at the end when I took over and realised that as chair and I attended as chair as the member of the GWC in which of course I was and recognised that we needed that membership. I understand this again it was a processed that I inherited and whether the Commission had made a determination that the Chief Casino Officer should sit on the committee
35 I'm not aware of, it would have been predated my time.

COMMISSIONER JENKINS: Would it also be right to say you weren't aware whether the GWC had delegated any of its powers to the committee?

40 MR ORD: I don't believe they delegated any of their powers, no.

COMMISSIONER JENKINS: So on what basis did the committee make decisions to deal with GWC's money?

45 MR ORD: Well, they made recommendations which came back to the GWC and GWC approved.

COMMISSIONER JENKINS: Did you ever turn your mind as to whether it was appropriate to have gambling operators on the committee as members of the committee?

5

MR ORD: I thought that it was appropriate that they were there. I mean, they had a responsibility to have an effective RSG program. By having them in the committee it bought the place in which harm could potentially happen at those who were trying to provide the services together in a forum. The forum was to try to get the best outcomes for people who might have a gambling problem. So it would seem productive to have them there, contributing intelligence that they knew around their programs' activities and things they were doing themselves.

10

COMMISSIONER JENKINS: Just to play devil's advocate in this regard, would you then think it was appropriate to have tobacco manufacturers on that anti-smoking committee?

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MR ORD: No.

COMMISSIONER JENKINS: Did you appreciate whilst you were Director-General that fully automatic table games at the Perth Casino have a different banknote acceptor limit to EGMs or did you think it was the same?

20

MR ORD: Again I would need to take advice. It's not something I recall that we discussed.

25

COMMISSIONER JENKINS: Do you recall whether at any time the Department or the GWC approved the Perth Casino opening the Pearl Room during any COVID lockdown period?

30

MR ORD: I do believe there was a request to --- oh, during the COVID lockdown period, no. Sorry. Not during lockdowns, the casino was locked.

COMMISSIONER JENKINS: With respect to the discussion or exchange you had with counsel about the reduction in the rate of play, the speed of play ---

35

MR ORD: Yes.

COMMISSIONER JENKINS: --- you are talking about making changes because of the economic position at that time that Crown was in. Did you or the --- did you think or the GWC ever discuss the fact that if the GWC made these changes to increase Crown's profitability it would be at the expense of local patrons both financially and potentially in terms of harm?

40

MR ORD: We took a different view, that the games were getting more complex and, therefore, they were slowing down, Crown would progressively lose revenue. You can't --- there is not really a way of just incrementally changing that so we understood that if there was a change then it would have changed the turnover rate.

45

COMMISSIONER JENKINS: Well ---

5 MR ORD: And, as I said, we had the belief that we could monitor that and if it was only marginal then it would address the viability concerns Crown were raising without significant issue or risk to players. You've got to remember if the games are more interesting, there may be a much broader group of people playing it. It doesn't mean an individual player is the one that is paying more for it. It is an ecology.

10 COMMISSIONER JENKINS: So reducing speed of play, you think that that will encourage more patrons rather than the same patrons gambling more?

15 MR ORD: Well, they were arguing that the games needed to be interesting enough to attract somebody who is just having a nice out and experiencing a good time at the casino. So if you assumed that a broader diversity of players may play the machines, then there is less opportunity for the domination of a single player on a machine. So that is the sort of concept was, as an entertainment venue, there isn't a value proposition for Crown having problem gaming, people's lives being ruined, is a disaster for a casino. So clearly their interest is to have many people playing for a small period of time, not one person playing solely.

20 COMMISSIONER JENKINS: And you talked about a related matter in your evidence about you understood that there was a time that someone could play on an EGM before intervention. What is your understanding of what that time was whilst you were Director-General?

25 MR ORD: The way I understood the RSG program operated was it was largely people who were, if you like, RSG officers on the floor, that their task was to observe people at the machines and I guess there was also of course, you know, the cameras that look at the systems and so on, and that RSG officers would, you know, be directed to intervene if someone was there for a long period of time.

30 COMMISSIONER JENKINS: That's what I'm interesting to know is what either you regarded as a long period of time or probably, more importantly, what you understood to be the period of time in the RSG policy at which somebody would have to be spoken to by the length of time they had been playing?

MR ORD: Yeah, well, I would imagine ---

40 COMMISSIONER JENKINS: No, I don't want you to imagine. Either you know or don't.

MR ORD: I don't know if there is a scheduled time for intervention.

45 COMMISSIONER JENKINS: So, in your mind, what would you regard as a long time?

MR ORD: I would imagine if someone is at a machine for more than an hour you would probably want to intervene.

5 COMMISSIONER JENKINS: Final matter, Mr Ord this has got too with what you understand to be the affect of the reduction in the rate of play. Can I just understand, in respect of a machine with bells and whistles, on a losing game how long do you think that that would take between when a player can press the "start" button to start the game to when they can press the button to start a new game?

10 MR ORD: Under our standards, five seconds.

COMMISSIONER JENKINS: If that was a losing game, no bells and whistles, how long would it take?

15 MR ORD: No bells and whistles?

COMMISSIONER JENKINS: Sorry, I think I probably misled you before. It is a game that is capable of having jackpots and bonus plays, but on this particular occasion it is a losing game. Somebody puts their \$1 in, presses a button to start the game, how long do you say it is before they can press the button to start a new game if they've lost on the first game?

20 MR ORD: That is a technical --- I would have to get advice from a gaming expert on the technical differential between average speed rates on a single machine and the exact performance game by game by game. As I understand it, the gap between press and being able to do it again is the five-second rule, whether it is losing or winning. It assumes if there is winning, there is a lot of other things and it is longer.

30 COMMISSIONER JENKINS: Just one other question on that. Did you understand what Crown presented to GWC on this topic that the average time they said it took to play a game with bonuses and jackpots, free games et cetera, included in determining that average they had taken into account periods of times where the players were not playing at all?

35 MR ORD: In terms of assessing the eight-second rule?

COMMISSIONER JENKINS: Yes.

40 MR ORD: No, if they did time out or have a drink, obviously you couldn't include that in the data.

COMMISSIONER JENKINS: Thank you, Mr Ord. Anything arising Ms Cahill?

45 **FURTHER CROSS-EXAMINATION BY MS CAHILL**

04:15PM

MS CAHILL: Yes, thank you.

5 Just briefly, just in relation to Mr Garas's questions about the relaxation of junket regulations by the GWC, you weren't involved because you weren't there at the time in the repeal of the junket regulations in 2010 were you?

MR ORD: No.

10 MS CAHILL: So you can't speak to the reasons why the GWC recommended the repeal of those regulations or why they were in fact repealed?

MR ORD: No.

15 MS CAHILL: And in relation to the amendments to the Casino Manual, they preceded your arrival in 2017 and again you can't speak to what motivated the GWC to approve the amendments to the Casino Manual can you?

MR ORD: No.

20

MS CAHILL: Thank you.

COMMISSIONER JENKINS: Sorry, Ms Cahill.

25 MS CAHILL: That's fine, thank you.

COMMISSIONER JENKINS: Yes, Ms Seaward.

30 **RE-EXAMINATION BY MS SEAWARD**

MS SEAWARD: Thank you.

35 Mr Ord you were asked some questions by Counsel Assisting about priorities for the GWC, including the review of the KPIs and the compliance review?

MR ORD: Yes.

40 MS SEAWARD: As part of your answer to those questions you talked about other competing priorities. I wish to make sure the Commission has an understanding of those competing priorities because your answers go to a numbers of questions. You mention that one of the initial priorities was the merge of the various departments?

45 MR ORD: Yes.

MS SEAWARD: In terms of other priorities you identified as part of that merge, you mentioned I think the cloud and cybersecurity issues and merger of IT systems?

MR ORD: Yes.

5 MS SEAWARD: And then staff positions, including any staff cuts that had to take place as part of that process?

MR ORD: Yes.

10 MS SEAWARD: Were there any other priorities that you as the Director-General of this new, large department in terms of the merger had to deal with in that first year?

MR ORD: There was fairly significant election commitments around legislative reform. So, we've talked a lot about harm today. As I indicated there was considerable community concern around the harm of liquor. The legislative reforms which had to be enacted by the same team that essentially looked after gaming were related to changes to liquor barns, the scale of liquor barns and all this sort of thing, around ability to establish regulations to do with mail order liquor and also matters to do with being able to seize liquor from grog runners and stuff like this. So very complex, needed a lot of community consultation, and we were also running the Section 64's inquiries into the (inaudible) Kimberley. So the legislation was an absolute priority of Government to get the legislation through obviously in response to what became known as the Robens Inquiry. And, as I said, lives were at risk and we did prioritise those sort of matters. I had the unfortunate death in combat sports so that was another matter going and of course there was the panel inquiry into the City of Perth which we were supporting and there was an enormous amount of work that needed to happen from the regulatory team in supporting all of those matters.

MS SEAWARD: So you've mentioned ---

30 MR ORD: And Local Government Act, sorry, there was a whole tranche in the new Local Government Act as well.

MS SEAWARD: Those matters you've just mentioned there, the liquor matters, combat sports, City of Perth, did all of these involve the same officers as would also be servicing the GWC or only some of those programs?

MR ORD: Well, key officers that service the GWC, particularly Mr Connolly and others, senior staff, had to be involved in all of those because of the seniority of oversight of the drafting of --- drafting orders for legislation and all the rest of it. So it was a very intense period to get that work through the Parliament. We were successful in getting all of our legislative agendas through. The sacrifice of that unfortunately was that we weren't able to review some of these, or complete the review of some of these other matters.

45 MS CAHILL: And those programs you've just spoken about, what period of time did it take for those programs to be completed once you took over in 2007?

MR ORD: Essentially two years. We got the legislation for liquor through I think about by mid-2019 and local government final ones were right up to the death knock on the election. So it took four years for local government.

5

MS SEAWARD: Were there any other priorities that you wish to inform the Royal Commission about that impacted on your ability to also deal with the GWC priorities?

10 MR ORD: As I said, the KPIs, they are not KPIs that can be determined by the Commission. They are KPIs that are determined by Treasury and the Office of Auditor-General. So you have to prepare potential KPIs and then work with treasury and OAGS if they meet their objectives. We found, given that we were doing something, aggregating something like 60 KPIs across the whole Department, that
15 was really intense work. And the Office of Auditor-General, I don't need to lecture a former Auditor-General, but the Auditor-General required a very clear line of sight around how you could verify the integrity of the data that went into the KPI. I'm sure the Auditor-General would have a view that a number of small agencies, the line of sight down to the source information, or source data, wasn't as strong as the
20 expectation became.

To give an example, in arts we had a KPI related to the number of paid attendances of venues. That had been used for a long period of time. Companies reported their outcomes and we took their data and turned it into the KPI. They said "but you don't
25 go into the ticketing system to prove that dollar figure so we won't accept it". So they were the sort of problems we were dealing with, a total up-ending of all of the way in which KPIs across the whole Department had previously been configured and approved and that's where we were at. We were trying to get them done but it was a huge body of work and very difficult and the Auditor-General had a view around
30 those that were particularly of great priority.

MS SEAWARD: No further questions.

COMMISSIONER JENKINS: Thank you, Ms Seaward.

35

Mr Ord, that concludes your evidence this afternoon. It's been a long day, I know. So the situation is that because Commissioner Owen is not here he may have some questions remaining. I doubt very much whether you will be required to return for further oral testimony, but it is possible that you will be asked to answer in writing
40 some questions. So we will leave the summons in place but this is probably the last time we will see you. So thank you very much.

MR ORD: Very grateful.

45 COMMISSIONER JENKINS: Thank you for your testimony.

We will adjourn until 10.00 am tomorrow morning.

THE WITNESS STOOD DOWN

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**HEARING ADJOURNED AT 4.23 PM UNTIL TUESDAY, 6 SEPTEMBER
2021 AT 10.00 AM**

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