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PERTH CASINO ROYAL COMMISSION

PUBLIC HEARING - DAY 48

10.00 AM MONDAY, 25 OCTOBER 2021

COMMISSIONER NJ OWEN

COMMISSIONER CF JENKINS

COMMISSIONER C MURPHY

HEARING ROOM 3

**MS PATRICIA CAHILL SC and MR THOMAS BOYLE as Counsel Assisting the
Perth Casino Royal Commission**

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

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

**MR MARTIN CUERDEN SC as Counsel for Consolidated Press Holdings Pty Ltd and
CPH Crown Holdings Pty Ltd**

**MR KANAGA DHARMANANDA SC and MR TIM RUSSELL 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**

MS JENNY THORNTON as Counsel for Dr Ziggy Switkowski

COMMISSIONER OWEN: Please be seated, thank you. Mr Dharmananda, I understand you wish the witness to make an opening address in.

5 MR DHARMANANDA: It is not quite an opening, Commissioner, I should make plain at this stage of the proceedings. May it please the Commission, we were informed after the close of business on Wednesday that the opportunity to make some statements about remediation this morning. We are grateful for that opportunity. The topic, of course, is a large one. The process of remediation is to be
10 the subject of evidence this week, although not all listed witnesses can truly speak to that task.

The process of remediation is complex and has many facets. It is likely a matter better addressed after the evidence is in, including critical material contained in
15 documents that are to be tendered.

A process for the tender of documents is yet to be finalised. The focus on remediation comes after 45 days of hearing into regulatory matters and aspects of the history of certain events at various Crown properties. The PCRC will know that an
20 important part of the task of the Commission is to consider Crown Perth's present suitability, as is apparent from the text of the Terms of Reference. That calls for an examination and consideration of the process of remediation set in train by Crown.

Some useful background to that process is set out in this statement and evidence of
25 Mr Nick Weeks who was summonsed in the Victorian Royal Commission, and his statement and his evidence has now been put on to the hearing book and, if I may for the purposes of the transcript, identify that material CRW.998.001.0423. That's Mr Weeks' statement. And then his evidence in the Victorian Royal Commission is at COM.0004.0034.0182. We commend that material when it comes for the
30 consideration of all of the material relevant to remediation to the Commission.

As the PCRC knows, the Crown group remediation plan is a living document that is updated and provided to regulators across the country from time to time. Before
35 turning to aspects of the current version of that document, seven matters may be observed. First, there has been wholesale change at the board level. You will shortly hear from Mr Switkowski, an eminent Australian, who is to chair the CRO board once relevant probity checks are complete. Mr Morrison, a new board member, who is to give evidence --- I'm not sure exactly when, there has been some movement around the timing of his evidence --- has exceptional skills in the area of the casino
40 industry and their operation. Mr Bruce Carter, who will be shortly after relative probity checks are completed to join the Burswood Ltd board, has an exceptional record in the industry and in corporate Australia. You will hear from him, too, sometime this week. You will hear also from Anne Ward, another very accomplished director with legal background.

45 Second, there has been a comprehensive refreshing of senior management across the Crown properties. This is reflected most evidently in the appointment of Mr McCann as CEO. He is to give evidence tomorrow.

Third, significant expertise has been added in the area of AML, with the addition of Mr Steven Blackburn, a market leader, who is to give evidence later in the week. His evidence records the extensive expert assistance that has been sought and obtained
5 by Crown. We await what the views of McGrathNicol on the AML matters, whose expert evidence is scheduled for next week.

Fourth, certain activities that may have raised risks are simply not possible any longer. This includes third-party transfers, cash deposits into Crown's bank accounts,
10 and the aggregation of deposits, junkets, and so on. A comprehensive listing of those matters will no doubt be the subject of submissions.

Fifth, there has been attention given to the culture of Crown across all its properties. The survey work has revealed areas for further attention, but it may be seen, though,
15 that much has been achieved around the delivery of the key themes and messages behind Crown's values. Both the lead author of the relevant Deloitte report, as well as a reviewer of the report engaged by the PCRC, is to give evidence next week.

Sixth, Crown has given thought to the identification and isolation of risks for the purposes of both active and reactive action. The system for the identification and
20 elevation of risks has been considerably improved.

Seventh, Crown has a group recognises that it must comprehend, take into account and adjust for the findings and recommendations in each jurisdiction. Crown read
25 and acted upon Commissioner Bergin's findings after 60 days of public hearings. Crown responded to Commissioner Finkelstein's inquiry, which took eight weeks of public hearings and a report from which is due to be published tomorrow.

Crown will heed and act upon such findings as may be made by the Commission in Victoria. In a similar way, consistent with the manner in which the terms of
30 reference have been drawn, Crown Perth will be mindful of this Commission's findings as it advances through the process of remediation.

Turning to the document which records the state of the remediation plan as at 30
35 September 2021, on private screens, please, CRW.701.006.4272, it may be seen that it is a long document, 67 pages long. It is comprehensive and covers matters such as board appointments, continuing education --- if we flick through the pages, please, operator --- the creation of risk and internal audit function, a transaction monitoring program, AML training, forensic reviews, culture reform and RSG. As much of the
40 detail of the work has been done and is being done, that, in our respectful submission, is best understood by reference to relevant documents that we propose to tender at an appropriate time. Recognising the documents already made available are voluminous, over 100,000 documents in response to 44 notices to produce, Crown
45 hopes to assist the Commission with the identification of specific documents that will assist the Commission in its important task of considering the scope, breadth and nature of the remediation process.

They are the opening remarks.

10:09AM

COMMISSIONER OWEN: Thank you, Mr Dharmananda. Do we now move to Mr Switkowski?

5 MS THORNTON: Thank you, Commission. Ms Thornton on behalf of Dr Switkowski.

COMMISSIONER OWEN: Dr Switkowski, thank you for making your time available. I'm handing over to your counsel.
10

ZIGGY SWITKOWSKI, AFFIRMED

15 **EXAMINATION-IN-CHIEF BY MS THORNTON**

MS THORNTON: Dr Switkowski, you have prepared a witness statement dated 20 October 2021 in response to the summons you received from the Commission on 8
20 October; is that correct?

DR SWITKOWSKI: That's correct.

MS THORNTON: You have a copy of that statement with you?
25

DR SWITKOWSKI: I do.

MS THORNTON: That's a document bearing number CRW.998.002.0944?

30 DR SWITKOWSKI: That's the one.

MS THORNTON: And is that your signature on page 7 of the document?

DR SWITKOWSKI: Yes, it is.
35

MS THORNTON: Are the contents of your statement true and correct?

DR SWITKOWSKI: Yes.

40 MS THORNTON: Commissioners, I tender that statement with its annexure.

COMMISSIONER OWEN: Statement of Ziggy Switkowski dated 20 October 2021 bearing identifying number CRW.998.002.0944 with the annexure is admitted into evidence as an exhibit.
45

EXHIBIT #CRW.998.002.0944 - STATEMENT OF ZIGGY SWITKOWSKI

WITH ANNEXURE DATED 20 OCTOBER 2021

MS THORNTON: Dr Switkowski, you heard counsel from Crown address the
5 Commissioners this morning on Crown's remediation process. I appreciate you were
only appointed chairman in waiting of Crown two months ago, but do you have any
past experience of organisations going through a challenging period and
implementing a remediation process?

10 DR SWITKOWSKI: I believe I do, Ms Thornton.

MS THORNTON: How do you believe your past experience can assist you as the
chairman of Crown to implement its remediation program?

15 DR SWITKOWSKI: Well, I'd like to refer to one of the companies of which I was --
- and still am --- the chair, NBN Corporation, because there are some similarities in
terms of the experience with that company and its evolution over the last several
years with what I observed at Crown. So, if I may for a few minutes, Ms Thornton?
Do I have a couple of minutes?

20 MS THORNTON: You do.

DR SWITKOWSKI: In 2013, when the government changed, NBN was a relatively
young company, although it had grown to 3,500 people, and at the change of
25 government, the board of NBN, all but two board members stepped down or were
asked to step down and two board members were left. When I joined the board about
that time, we had a board composition of three, which was the quorum that was
required and it was in that position for some time.

30 As well, the CEO had resigned and then over a period of time, about half of the
executive team left in short order. So you had an organisation that was undergoing
substantial change, particularly in the leadership, while at the same time, it was
trying to manage what was one of the country's largest infrastructure projects.

35 So the process by which that was managed and a journey of --- a transform of a
journey happened over a number of years, kind of feels like a bit like what might be
in front of Crown. The workforce at the time was a bit demoralised. The industry of
telecommunications with the advent of NBN was unsettled, and the performance of
the organisation at that point also wasn't what people had expected.

40 So as the board was rebuilt, and in the first instance I was also in the role as
executive chairman, and I was in that role for six months until the government
identified a new CEO. So the early stages really were about rebuilding the board,
repopulating the executive team, redefining a strategy, because the change of
45 government brought with it a change of direction for NBN, communicating the new
priorities and communicating extensively with the workforce, and trying to take them
on that particular journey, which has now been a journey of about eight years.

Some aspects of that that mirror what I think is happening in Crown are that the organisation, because it was a regulated monopoly and government-owned, it was heavily scrutinised by regulators, by media, because NBN was and continues to be somewhat politically controversial. One side of politics that is in opposition is inclined to be very critical of everything that goes on in NBN and the media trying to be very attentive to all of the opportunities for stories about NBN.

With the passage of time, the selection of a very good CEO, the population of the executive of people with experience in the industry, the rebuilding of a board, again with people experienced in the industry and particularly experienced in governing a government business enterprise, has I think resulted in a pretty robust organisation that has been tested in the last couple of years by COVID, but which today, in terms of outputs from various surveys, is populated by people who are --- feel engaged, who believe that they are part of a successful enterprise, an enterprise which lots of people now want to join and talk about, which may well not have been the case at the beginning when it was not necessarily socially acceptable to acknowledge that you worked for NBN at the time.

So I see that there are steps that are being already taken at Crown but will need to be taken further, but at least in that instance, I have had some experience with and, therefore, it sort of underpins my belief that most of what is required to be done at Crown to make it operate in the way that the community expects it to, is doable, it's not rocket science, there's a lot of work to be done but the momentum is there and I think I have at least some experience in working with my board colleagues and the CEO to progress the journey. Thank you.

MS THORNTON: Thank you, Dr Switkowski. Commissioners, that is the evidence of Dr Switkowski.

COMMISSIONER OWEN: Thank you very much. Thank you, Ms Cahill.

CROSS-EXAMINATION BY MS CAHILL

MS CAHILL: Dr Switkowski, can I begin by gaining an understanding of the extent of your current knowledge of Crown affairs and the issues relevant to the subject matter of this commission's inquiry. Your appointment as chair of the board of CRL still awaits regulatory approval, does it?

DR SWITKOWSKI: Yes.

MS CAHILL: In each jurisdiction?

DR SWITKOWSKI: Yes.

10:18AM

MS CAHILL: Have you received any indication of when the approval or approvals might be expected?

5 DR SWITKOWSKI: No. Actually, I believe I am now approved in Western Australia.

MS CAHILL: At paragraph 2 of your witness statement, which ought be on the screen, you refer to having attended meetings as an observer, a number of meetings
10 of the board and of board subcommittees, since 27 August 2021. You are there referring to CRL board and CRL board committees, are you?

DR SWITKOWSKI: I am.

MS CAHILL: And at paragraph 23, page 0947, you speak to the induction and training that you are undertaking within Crown --- if we can go to paragraph 23, please, page 0947 --- you explain in the process of that briefing what you have reviewed, including the Bergin report. Have you read into that report extensively or just reviewed the findings?
20

DR SWITKOWSKI: I have read the report, as in reviewing all of the pages, but I wouldn't describe it as a deep understanding of the elements of the report.

MS CAHILL: When you refer to reviewing submissions to the WA Royal Commission, what are you referring to there?
25

DR SWITKOWSKI: Submissions from the --- submissions from --- actually, I wonder if I have seen submissions from Crown to the --- it must be opening submissions from Crown to the Perth Royal Commission.
30

MS CAHILL: Have you received verbal or written briefings about the Victorian and WA Royal Commissions more generally?

DR SWITKOWSKI: Only in --- certainly of the Victorian Royal Commission, in terms of closing comments and that is all. In terms of the Perth Royal Commission, I have just an understanding of the process, not the substance.
35

MS CAHILL: Have you reviewed any of the evidence or been briefed about any of the evidence given by Crown officers, particularly senior executives to the WA Royal Commission?
40

DR SWITKOWSKI: No.

MS CAHILL: You also refer in paragraph 23 to these briefing sessions you've had with various executives. These are essentially information-gathering sessions for you, are they?
45

DR SWITKOWSKI: They are.

10:20AM

MS CAHILL: Has there been any particular emphasis in those sessions on subject matter topics?

5 DR SWITKOWSKI: There have.

MS CAHILL: And what are those?

10 DR SWITKOWSKI: They would be a corporate governance, responsible gambling, risk, and there were others that don't come to mind, but there are probably half a dozen with those sort of titles.

MS CAHILL: You speak here of having spoken to a number of executives, including Mr Bossi, the CEO of Crown Perth.

15

DR SWITKOWSKI: Yes.

MS CAHILL: Have you spoken to any of the directors of the Burswood Ltd board to obtain a briefing about the governance of that company and its business?

20

DR SWITKOWSKI: Unless you include Bruce Carter as a member --- and I'm not sure what his official status is, probably chairman in waiting for Burswood --- I have been --- I have talked to him, I have observed the process of charting, at least in draft form, a charter for Burswood Ltd, and other than occasional conversations with fellow directors that would be the limit.

25

MS CAHILL: You haven't spoken to Ms Fewster?

DR SWITKOWSKI: No.

30

MS CAHILL: Now, you mentioned that paragraph 31 at page 0949, that you are broadly aware of the requirements of article 3.12 of the Burswood Ltd constitution. Have you reviewed or been made aware of the main features of the State agreement that applies to the operation of the Perth Casino?

35

DR SWITKOWSKI: I have simply --- I have been alerted to the existence of the agreement, and occasional reference to parts of it, but have I had a comprehensive briefing? Not yet.

40 MS CAHILL: Is it something that you intend to obtain a comprehensive briefing about?

DR SWITKOWSKI: Absolutely.

45 MS CAHILL: Have you reviewed or been made aware of the main features of the Burswood Property Trust deed?

DR SWITKOWSKI: The briefings I have had have been to try to understand the structure of the governance process in Perth at Burswood. In terms of the details, no, of these various agreements overall, no.

5

MS CAHILL: But you have been briefed about the trust structure as a matter of fact?

DR SWITKOWSKI: I have.

10

MS CAHILL: And its components?

DR SWITKOWSKI: I have.

15

MS CAHILL: Thank you. Now, at paragraph 13 on page 0946, you say that one of the expected roles you will have as chairman is overseeing the governance and cultural change management program that is underway. Would it be fair to say that one of your particular strengths as a company director and chairman in terms of your skills and experience to date is in respect of corporate governance?

20

DR SWITKOWSKI: I have some experience in that area, yes.

MS CAHILL: What I'm really asking is would you consider that your particular forte?

25

DR SWITKOWSKI: It's one of the skills I would bring to a board, yes.

MS CAHILL: Now, at paragraph 9, page 0945, you mention having conducted a number of governance reviews for different entities. Do you envisage the need for a comprehensive governance review of the Crown Group?

30

DR SWITKOWSKI: I think that need has been established and steps have been taken for that to happen.

35

MS CAHILL: So you would say that is already underway, would you?

DR SWITKOWSKI: I would say, yes. My observation is that it is underway.

40

MS CAHILL: In relation to the role of chair, specifically --- and here I'm talking about the role of chair of the CRL board --- at paragraph 37, page 0950, you, in that first sentence, set out how you see that role and you use the language of building a capable and coherent board.

DR SWITKOWSKI: Yes.

45

MS CAHILL: What, in your view, is required of a chair to discharge that responsibility of building a capable and coherent board?

DR SWITKOWSKI: Well --- and this is happening in real time --- the definition of

what the organisation will need in terms of a board, that is, the skill set that should be present across the membership, the number of board positions, the ability to work coherently as a team and then obviously of course my ability to help lead them along an agreed path.

MS CAHILL: You go on to describe the chair role as providing care and sustenance to the CEO and executive team, and that care and sustenance is expressed with quotes around it. Can you just explain to the Commissioners what you mean by that phrase of "care and sustenance"?

DR SWITKOWSKI: Well, I think one of the roles of the chairman, of course, is to be available to the CEO not only to talk about matters strategic, but also operational matters, and to keep an eye on morale as well as monitor performance, and that extends to the senior team because my experience is that, as chair and for many boards, the main interaction is with the CEO and his or her direct reports.

MS CAHILL: You've no doubt reviewed the CRL board charter?

DR SWITKOWSKI: I have.

MS CAHILL: CRW.505.001.0848. At 0853, it contains in section 4 a description of the responsibility of the chair in that first paragraph. Is that, in your view, an adequate description of the role and its responsibilities?

DR SWITKOWSKI: Well, it's pretty good for three lines.

MS CAHILL: Is it sufficient, in your view, or should it be elaborated?

DR SWITKOWSKI: It's probably sufficient, because I don't know the charter should be overly detailed about any of these elements. It is really difficult to get that right.

MS CAHILL: Now, in your role as chair of CRL, how would you describe your role in relation to the governance of Crown Perth specifically?

DR SWITKOWSKI: Right. I mean, I view Crown has having three major businesses --- Crown Melbourne, Crown Sydney, Crown Perth, or Burswood Ltd --- so my role in terms of Crown Perth will be similar to the way I would approach Crown Melbourne and Crown Sydney, somewhat differently to just the corporate group. I think I mentioned before, or in my submission, I would expect to attend Crown Perth board meetings as an observe --- well, not an observer, as ex officio member. So my personal oversight of Crown Perth would be firstly in discussion with the Crown Perth chair --- presumably that will be Bruce Carter --- through the CEO about normal operational matters, through my own observations in attending the Crown Perth board meetings. That would be the same approach that I would take to the other two operating entities.

My presence at these board meetings is partly to understand and help the local

operation and partly to absorb what is happening in those organisations and exporting experience and best practice to other parts of the organisation --- other parts of the group.

5

MS CAHILL: So when you spoke a moment ago about the dialogue between you and the CEO in relation to these different businesses, were you referring to the CEO of the Sydney business or the CEO of the Group?

10 DR SWITKOWSKI: CEO of the Group, Crown Resorts.

MS CAHILL: If I can come back to the CRL board, your predecessor as chair Ms Coonan gave evidence to this Commission in which, when describing the previous culture of Crown, she referred to what she called asymmetrical information, where some information was given to some directors and not others. Is asymmetric information in the sense Ms Coonan describes something that's of concern to you and, if so, how, in your view, can a chairperson best address it?

20 DR SWITKOWSKI: I assume that Ms Coonan was referring to asymmetric information on the board that she was a member of?

MS CAHILL: Yes.

25 DR SWITKOWSKI: Well, I mean, that's a position you would hope never to be in. Certainly, on the boards where I have had any influence, and I would assume around Crown Resorts, all board members should be well informed, communication should flow freely and be transparent within that board and there should be complete trust. I have not experienced any situation where board members were excluded from --- well, from relevant information, all information, frankly.

30

MS CAHILL: And how is that the culture you have just described infiltrated? Is that by example, or how?

35 DR SWITKOWSKI: Well, in the selection of board members, to the extent that you can determine, you are going to select and appoint board members that treat --- that value trust, that value team work, and that value inside the organisation transparency. A lot of that depends upon the behaviour of the chair and the way the chair runs meetings and communicates with board members and relevant management. So I carry that responsibility when I'm a chair of a board.

40

45 MS CAHILL: Now, Ms Coonan, again when describing Crown's previous culture, also thought it correct to say that there had been a concern that the way in which information was presented to the CRL board, it's to be inferred she means by executives or management up to the board, wasn't necessarily open and balanced to enable the board to see the full picture. In your view, how can a chairperson take steps to ensure that the board they chair is presented with full and objective information from management?

DR SWITKOWSKI: I think fairly quickly management get a sense of what's expected of them when there's a new administration in place, like a new board. The other important thing that you can do as a chair is to treat people who come to board meetings in a way that encourages honest disclosure --- that is not threatening ---
5 they feel part of a team looking for answers and solutions, and again that places the role of the chair and the nature of the people that are appointed to the board.

Frankly, this is the going in position. I don't think this is of itself a huge challenge, if
10 you have the opportunity to rebuild the leadership. Boards where there is a problem are troubled boards.

MS CAHILL: Returning to your witness statement at 37, page 0950, this is your last paragraph of your witness statement, you say that you see your role --- if you see
15 down the fourth line --- as keeping an eagle eye on issues of integrity, compliance and culture. Can I ask you how do you envisage going about that in practical terms?

DR SWITKOWSKI: Well, I have indicated I can do it --- I propose to attend the board meetings of the subsidiaries. I also propose to attend all subcommittee
20 meetings. Now, that's a bit ambitious because there's quite a lot of subcommittees, I'm discovering, at Crown, but certainly subcommittees to do with compliance, with risk, responsible gambling, financial crime, audit, people are meetings that I would expect to attend and contribute. I think through these subcommittee meetings, through regular interactions with subcommittee members, board members and the
25 CEO, and having the benefit now of reporting processes that are being put in place, I should be very well aware of what's going on.

MS CAHILL: You indicate in paragraph 26 on page 0948, that initially your task as chairman --- this is in the first sentence, Dr Switkowski --- will be to continue to
30 build up the board and help the CEO with the continuing recruitment of key members of the executive team. Looking first at the building up of the board, we can go to the skills matrix in the last annual report if you wish, and let me know if you do, but the general question is which qualities and what experience are you looking for particularly in new board appointments that you are envisaging?
35

DR SWITKOWSKI: Well, if I may start with the numbers, I think at the moment, assuming everybody is approved by regulators, I think we will find ours in a position of six board members, including the CEO. I think looking across the Crown terrain that the board probably should have eight members. So there is a need for a further
40 two directors. I'm not sure that today is the right time to be looking for those directors, given announcements that are ahead in terms of the outcome of the Victorian Royal Commission and potentially also from Perth.

So preliminary, however, without actually initiating searches, I would be looking for
45 two more board members. I think there is a geographic imperative. Here I'm going out on a limb expressing a view without consulting with my colleagues, which I would normally do, but I think we need some strengthening on the Sydney side and we probably would be helped with having another board member on Crown Perth.

Once you get the geographic dimension covered, then in terms of skill set, again prior to any real consultation, the only skill set that potentially needs strengthening would be financial skills on the board. Regulatory skills, industry experience, industry relations, risk and compliance, a whole range of things that you see in the skilled matrix, I think the board representation has started off very well, the board renewal. Possibly stronger financial skills would be helpful in the two directors that we might be looking for.

10 MS CAHILL: I think you already telegraphed part of the answer to this next question. Acknowledging what you've said about not going out to search for board appointments presently, over what period in broad terms do you estimate that rebuilding will take place?

15 DR SWITKOWSKI: If we had a full complement of directors by the middle of next year, that would be a reasonable time line, recalling also that new appointments have to go through a probity review by regulators.

MS CAHILL: The last remediation plan that this Commission was provided by Crown has suggested or indicates the proposed reforms will be the implementation of a centralised governance structure for the group is being reconsidered in the light of matters raised by this Commission and the Victoria Royal Commission. Can I ask you what your view is about the benefits or disadvantages of a centralised governance structure for the Crown Group?

25 DR SWITKOWSKI: Yes, as I tried to explain earlier, I do view the Crown Group as being made up of three separate subsidiaries, and there may be smaller entities elsewhere that I haven't yet discovered are there. The proposed organisational structure is a fairly familiar one, conventional one. Each of the subsidiaries would have their own board and, as I understand it, each of the subsidiaries has its own CEO, so those entities are easily understood and structured.

Each of the subsidiary boards should have a main board member on their board, and will have me as an ex officio member as well.

35 The role of the CRL board will be to oversee each of these entities as well as all of the non-operating needs that are captured in the charters of the subsidiaries.

The group --- the value or the responsibilities of the group are you are accountable for the whole of the company. That accountability ultimately includes me, and maybe lands on my desk. There are a number of functional roles --- IT, for example, finance, human resources, finance would probably include, or does include audit, risk, compliance, responsible gambling, people in remuneration, which would be head-office shaped and implemented at the local subsidiary level.

45 The head offence functions that are the responsibility of head office are usually also functions where there are certain economies, not just financial economies but also

economies of process design on behalf of the subsidiaries. Capital allocation is very important at the group level as well.

5 As I tried to emphasise a while ago, it's not all one way. The subsidiaries will have experience and local knowledge. That is important for the group to appreciate and maybe benefit from, maybe in terms of importing best practice from the subsidiaries.

10 What has taken me a long time to describe is actually a very normal structure for a company like Crown, in my view.

MS CAHILL: So the question I was actually asking you was not so much to describe the existing or proposed structure, but I was asking for your view about the benefits or disbenefits of centralised governance structures.

15 But can I take your answer and ask you this: you are describing the existing organisational structure for the group, or something that is in the process of being brought about?

20 DR SWITKOWSKI: I think the latter. In the process of being constructed.

MS CAHILL: Would you describe that as a centralised governance structure or something somewhat less than that, where elements of the governance are centralised and other elements are not?

25 DR SWITKOWSKI: Again, the way you've just described it is probably right, but the shorthand is a very normal recognisable corporate structure.

30 MS CAHILL: But is the gist of it, for our purposes, Dr Switkowski, that there are some aspects of governance of the individual businesses that reposes in the local legal structure or corporate structure?

35 DR SWITKOWSKI: Well, I think the answer is yes, in the sense that the subsidiaries will look like the corporation in terms of responsibilities, but with a strong local flavour.

40 MS CAHILL: We might come back to that in a moment. Can I ask you this about Perth Casino and the Burswood entities in particular. You mention at paragraph 29 of your witness statement, page 0949, that you understand there to be a process of review underway with a view to rationalising the different entities. Do you understand that the Burswood Property Trust is one of the structures that is being examined with a view to rationalising it in the pursuit of simplification?

45 DR SWITKOWSKI: I'm not sure that I do understand which of the entities are under review. I know that a number of them are, and I know that there are some legacy situations that will need to be sorted out. I have confirmed --- I have had a briefing on the structure for Burswood Ltd, but I cannot say I understand what all of the units do.

MS CAHILL: If, for whatever reason, that trust structure is not, through any reform process, rationalised, modified or dispensed with, do you agree that it's an important part of good governance to ensure that the trust operates in accordance with the requirements of its legal structure, such as the terms of its trust deed?

DR SWITKOWSKI: Yes.

MS CAHILL: Coming to Burswood Ltd and the board specifically, you referred to at paragraph 27 on page 0948 to having observed discussions at CRL board meetings, where a draft charter for the Burswood Ltd is being discussed. How many meetings, Dr Switkowski?

DR SWITKOWSKI: The matter did come up during a recent board meeting, and in at least one other meeting, perhaps of a subcommittee, on audit and governance, in terms of the preliminary thinking around a revised charter.

MS CAHILL: So was that in the last week or two, or does the work extend back further than that?

DR SWITKOWSKI: The last board meeting, which was probably a week ago, and then maybe some early expressions of views a week or two before then. Everything, Ms Cahill, for me has been done in the last four weeks.

MS CAHILL: Thank you. Just coming back to paragraph 27, in that third sentence there you explain that the work on the charter is ongoing to, amongst other things, allow the forthcoming report of the Victoria Royal Commission to be considered and incorporated. How do you perceive the report of the Victorian Royal Commission bearing relevantly on the contents of the Burswood Ltd board charter?

DR SWITKOWSKI: Only to the extent --- firstly, making that qualifying statement seems to be prudent, given we do not know what the Victorian Royal Commission may or may not opine on, or what their findings may be. I see that as just a cautionary comment. In terms of charters, I would expect the architecture of charters to be very similar between Melbourne, Sydney and Burswood, so, I mean, that will be a starting point. But then they will end up having a very strong sort of local overlay and they will be different as a result of that. I actually don't think this is terribly complicated, no matter what I may have written down.

MS CAHILL: Is the intention, as far as you are aware, to finalise and implement the Burswood Ltd charter before the report of this Commission's handed down?

DR SWITKOWSKI: Before the --- I'm sorry?

MS CAHILL: The report of this WA Royal Commission is handed down?

DR SWITKOWSKI: Well, I think that's --- I mean, that is a question we are

wrestling with. How far do you go in redrafting or drafting charters and putting in place certain policies that may or may not be consistent with the findings of this Royal Commission? I think we'll have a good crack at getting the draft done, but then may never be taken to a board --- both board's final approval until this Commission reports.

MS CAHILL: Now, what I want to do now, Dr Switkowski, is take you to the draft board charter for Burswood Ltd that the Commission's been provided, but it's been provided literally within a matter of minutes before the hearing began this morning, so you'll just have to forgive me and bear with me if my knowledge of this document isn't as it should be than if I'd had more time to look at it. You've obviously reviewed the draft?

DR SWITKOWSKI: Well, because the document is undergoing change on a --- well, perhaps even a daily basis, I don't know what you've got in front of you.

MS CAHILL: Let's pull up CRW.701.009.5375. Hopefully it's been updated. If we go to page 53 --- well, I'll just show you the start of the draft document, that's at 5378. I wanted to take you to section 5, 5383.

DR SWITKOWSKI: Yes.

MS CAHILL: Here is set out the responsibilities and powers of the board. Section 5.1 appears to articulate the relationship as a wholly owned subsidiary to CRL and to acknowledge that relationship. 5.2 deals with not doing anything to interfere with the casino licence, and then 5.3 deals with the reporting into the group of matters to do with the management of the subordinate Burswood entities. Then we come to 5.4, and it specifies that the board's responsible for, it says:

Overseeing the risk, compliance and overall governance culture at *Crown Perth*.

DR SWITKOWSKI: Yes.

MS CAHILL: Is the intention to give it (inaudible) from the CRL board?

DR SWITKOWSKI: Sorry, you were just beginning to break up on that.

MS CAHILL: Sorry. This first bullet point under 5.4, the board's responsible for overseeing the risk, compliance and overall governance culture of Crown Perth. Does it have that governance responsibility exclusively or is that governance responsibility shared with the CRL board?

DR SWITKOWSKI: Well, I would see that being of a hybrid nature. It clearly has responsibility for the implementation of risk, compliance and overall policy, monitoring --- measuring, monitoring, remediating, acting upon. At the same time, there has got to be, and it will probably be a dotted line to the chief compliance

officer back at corporate on the overall policy process that the Crown Limited board has approved.

5 MS CAHILL: See, if we go to the next bullet point, Doctor, you'll see there that in relation to establishing the vision and strategies for Crown Perth, the charter is explicit about the consultation requirements that are imposed upon the board with the group. So one can perhaps see more readily there the, if you will, shared nature of that responsibility?

10

DR SWITKOWSKI: Again, a reasonably familiar structure.

MS CAHILL: Yes, but when we're talking about board charters, there's an important feature of clarity about them, isn't there? It's very important that they are clear about what responsibilities a board has, what responsibilities it doesn't have and if responsibilities are shared, that they are and how; would you agree with that?

15

DR SWITKOWSKI: I would agree with that.

20 MS CAHILL: Yes.

DR SWITKOWSKI: Particularly if you have the opportunity to create a charter from scratch, which is what we are doing here, I think.

25 MS CAHILL: Might it be that the first bullet point with this fundamental, you would agree, responsibility of overseeing risk, compliance and overall governance culture of Crown Perth ---

DR SWITKOWSKI: Yes.

30

MS CAHILL: --- that it might require more elaboration to be explicit about the extent to which that is an exclusive responsibility or one that is either demarcated as against a responsibility that CRL has, or shared in some other way?

35 DR SWITKOWSKI: I'm not sure I understood that, Ms Cahill.

MS CAHILL: You will see the second dot point ---

DR SWITKOWSKI: I have two pages up instead of the one and it's a bit hard to read.

40

MS CAHILL: I understand. Maybe if we pop out 5.4 at the bottom of page 5383.

DR SWITKOWSKI: Thank you.

45

MS CAHILL: What I have been referring to are the first and second dot points. I'm just trying to draw a contrast in the drafting to your attention.

DR SWITKOWSKI: Well, to me, the first two points are clear.

5 MS CAHILL: The first bullet point, the point I'm trying to engage with you about here, is that it is --- it appears that the Burswood Ltd board is being given exclusive and comprehensive governance responsibility for Crown Perth. Is that what's intended?

10 DR SWITKOWSKI: I don't think so in my own view.

MS CAHILL: If we go over the page, and we look at the second- and third-last dot points, which deal with --- and I will ask the operator to pop those out for you, so they are the two middle dot points that you're seeing in the emphasised section, you'll see the Burswood Ltd board has, for example, an internal audit oversight function?

15 DR SWITKOWSKI: Yes.

MS CAHILL: It says, first of all, that the board has to approve internal audit plans, ensuring activities are aligned to the key risks of the business, consistent with the overall group internal audit plans. Again, recognising that the plans need to be consistent, is it envisaged that CRL, either through its executive management line or its risk committee, would also have some oversight in terms of approval of Crown Perth's annual internal audit plans?

20 DR SWITKOWSKI: I think so.

MS CAHILL: Similarly, in relation to the next dot point, if Burswood Ltd board is going to be reviewing and monitoring internal audit activity updates, it's envisaged that also Crown Group, either via its risk management team or the risk management committee, or both, will also review them?

25 DR SWITKOWSKI: Yes. Can I then extend your comments by noting that the population of the Burswood Ltd board typically will include a main board director and the CEO, and others --- in this case, Ms Marina Fewster --- so the very fact that we have shared personnel between the Group and the subsidiary ensures a degree of -- an expected degree of alignment and engagement between the Group and the subsidiary on these sorts of matters.

30 In practice, that's the way it seems to work.

40 MS CAHILL: So do I gather from that, then, you don't see it as particularly important to identify a clear demarcation between where Burswood Ltd's governance responsibilities end and CRL governance responsibilities begin?

45 DR SWITKOWSKI: I think it's important that Burswood Ltd and CRL understand their roles, but I'm not sure that I put a lot of energy into defining where the demarcations are. In addition, I expect it to be present on both sides and I'm not representing head office in that role.

MS CAHILL: Who are you representing in that ex officio role?

DR SWITKOWSKI: It depends on the issues. I think it will depend on the issues.

5

MS CAHILL: Can I just ask you to elaborate on that?

DR SWITKOWSKI: Well, I'm sort of doing it in the abstract, not having gone to any of these meetings or seeing how the dynamic works, but with trust and goodwill around, all round, it will work.

10

MS CAHILL: I might just come back to that question, though. In what capacity are you sitting as an ex officio member of, if I can put it this way, a regional board?

DR SWITKOWSKI: I could attempt to itemise what I might do. Maybe some of that is a reasonable --- might be reasonably helpful. It could lead to short circuiting of decisions by the subsidiary. If on the committee the chair and the CEO of the parent company are also part of the discussion and the challenge, expediting decisions with the main board would be a benefit. I could also, on the other hand, play a role where what seems to be a very idea locally, I can foresee running into problems elsewhere and I would make that point.

20

So I don't --- I honestly don't believe that I will attend these meetings with a particular hat on.

25

MS CAHILL: Now, do I understand from all that you've said therefore that you don't envisage that, while a Burswood Ltd board might have some governance responsibilities, it won't have autonomy from the CRL board or the CRL group?

DR SWITKOWSKI: Yes, I don't know how the word "autonomy" fits into this sort of organisation.

30

MS CAHILL: Before I go there, I will just say this: is that why, in section 4.1 of the charter, it requires at least one independent director of CRL, the group's CEO, as well, to be members of the Burswood Ltd board?

35

DR SWITKOWSKI: Not necessarily, because I notice in --- I think I've noticed in Crown Limited's charter that the subsidiary anticipates or has the ability to appoint quite a large number of directors and I don't know what the right number is. At the moment the quorum appears to be three, or it might be two, but I'm thinking its three. Then I don't believe that the population will be --- or the appointment should be structured as to somehow or other achieve a balance of votes. Rather, a balance of skills and experiences.

40

MS CAHILL: Can I raise with you two considerations: first, that Western Australia has conferred a licence to operate Perth Casino, not upon CRL or the CRL group, but upon Burswood Nominees Limited; the second consideration, that the operation of

45

Perth Casino is the subject of the State agreement to which CRL is not a party, but to which Burswood Nominees Limited and Burswood Resort (Management) Limited are. Having regard to those two considerations, do you consider there's a case for
5 conferring at least a degree, a modicum of autonomy upon Burswood Ltd, in terms of its governance of the operation of Perth Casino and the performance of the obligations under the casino licence?

10 DR SWITKOWSKI: Again, I'm not comfortable with the word "autonomy", but I'm very comfortable with where you're going.

MS CAHILL: Well, if it extended to --- if where I was going extended to the proposition that autonomy, if it were a desirable objective, could be achieved by having a majority of independent directors, in the sense of being independent of CRL
15 on the Burswood board, how would you respond to that?

DR SWITKOWSKI: Again, I understand the spirit, but I'd hate to be constrained with a particular formula.

20 MS CAHILL: Do you consider that it could work practically?

DR SWITKOWSKI: Oh, yes. Anything that we've talked about could work practically with people who are capable and with goodwill.

25 MS CAHILL: A predominantly independent board at Burswood Ltd level need not exclude having the benefits of the centralised management structure; would you agree?

30 DR SWITKOWSKI: Such a model could work.

MS CAHILL: So the implementation of managerial frameworks and support structures for risk management and so forth, those could be all implemented, albeit that the strategic direction and oversight of those structures would all be in the hands of a predominantly independent board?
35

DR SWITKOWSKI: Again, it could work. It all feels a bit strained to make it that way, and a fair departure from what, you know, normal companies do.

40 MS CAHILL: So when you were talking before about a conventional structure such as you understand is presently being proposed, what I've just put to you, you would consider to be an unconventional structure?

DR SWITKOWSKI: Yes.

45 MS CAHILL: It would require, this unconventional structure, at the very least, a very clear setting out of who was doing what and why; you would agree?

DR SWITKOWSKI: If it can be done, yes.

MS CAHILL: And you're hesitating there?

5 DR SWITKOWSKI: Only because --- yes, I am hesitating. I think it is very difficult to anticipate all the circumstances that might arise in the life of an organisation. At the end of the day, subsidiaries are subsidiaries of Crown Resorts Limited, and accountability, et cetera, is clear, it rests with CRL.

10 MS CAHILL: Separately, Dr Switkowski, what's your view on the importance or not of having directors on the Burswood Ltd board that are locally based, in the sense of being resident in Perth?

DR SWITKOWSKI: I think that is important.

15 MS CAHILL: Well, at paragraph 30 of your witness statement, page 0949, in the second sentence there, you say:

... (if they are local) they may be more familiar with the interests of the Perth community.

20

I want to ask you if there is a little more to it than that. You would accept, wouldn't you, as well understood, there are particular risks associated with the operation of casino's gambling-related harm, money laundering and criminal infiltration (inaudible)?

25

DR SWITKOWSKI: I do.

30 MS CAHILL: Might it not be important to have local directors with a deeper understanding of the community in which they live, not only in respect of that community's interests, but also in respect of the community's vulnerability to the risks that a casino poses to that community?

35 DR SWITKOWSKI: Ms Cahill, your definition of community has as its boundary the city of Perth?

35

MS CAHILL: Western Australia.

DR SWITKOWSKI: Western Australia. Yes, I agree with your point.

40 MS CAHILL: Local directors may also have an investment in their own community, that's Western Australia, to mitigate those risks as well as foster the benefits of the casino?

45 DR SWITKOWSKI: I guess that's a statement you would make about all local communities Australia-wide, yes.

MS CAHILL: That is the case for having local directors on the Burswood Ltd board;

11:08AM

you would agree?

DR SWITKOWSKI: It is --- yes, it's the case.

5

MS CAHILL: And perhaps more than one?

DR SWITKOWSKI: Look, I'm not --- I'm certainly not arguing against having local directors. I think every --- all the statements you've made, I would agree with on that matter. As for what is the right number, I don't know.

10

MS CAHILL: Just in terms of the appointment of directors generally to the Burswood Ltd board, and recognising, if you will, the carve-out under the proposed charter for the CEO of CRL, independent director of CRL, what is your view as to the most appropriate way in which directors to this subsidiary board should be recruited and appointed?

15

DR SWITKOWSKI: Well, the most --- I think there's only one way. Having identified the particular skill set that you would like to have, then you would use the process for building a pool of candidates and then selecting from those candidates?

20

DR SWITKOWSKI: If I could come back to paragraph 26 at page 0948, that first sentence that I took you to before. In addition to building up the CRL board, will you be involved as chair of CRL in the immediate term to build up the board of Burswood Ltd?

25

DR SWITKOWSKI: I would expect to be consulted, yes.

MS CAHILL: Have you had any discussions internally about that topic to date?

30

DR SWITKOWSKI: No.

MS CAHILL: At paragraph 31, page 0949, you refer to article 3.12 of the Burswood Ltd constitution. I'll just ask for it to be called up on the screen so that you can have it there when I ask you this question, PUB.0026.0002.0001, page 0010. If we just pull out 3.12 so Dr Switkowski can see it. The question is this: Doctor, how, in practical terms, do you perceive Burswood Ltd complying with that article under your stewardship?

35

DR SWITKOWSKI: The company that is referred to there presumably means Burswood Ltd?

40

MS CAHILL: Correct.

DR SWITKOWSKI: I don't see the significance of the question. It's straightforward. We need to have the head office of the company located in Western Australia.

45

MS CAHILL: Just to answer the question, how, in practical terms, do you see that

clause being complied with while you are chair?

5 DR SWITKOWSKI: Well, it will be the --- the board meetings will be conducted in Western Australia, or most of them will be, there will be Western Australian representation on the board. I'm not entirely sure where to go after that.

10 MS CAHILL: Thank you. Now, I have to this point been asking you questions about your view as to the governance role that Burswood Ltd might have in relation to the Perth Casino operations. Do you have any view about whether that governance role should more probably repose in the board of Burswood Nominees limited, that company being the actual casino licence holder and the relevant party to the State agreement?

15 DR SWITKOWSKI: I really don't understand the structure of Burswood Ltd to answer that. Can you help me by telling me who would be the personnel associated with the entity you just described?

20 MS CAHILL: So Burswood Nominees limited is the holder of the casino licence.
DR SWITKOWSKI: Yes.

25 MS CAHILL: The trustee of the Burswood Property Trust, and it is the subsidiary of Burswood Ltd.

DR SWITKOWSKI: So really we are talking about Burswood Ltd?

30 MS CAHILL: Well, can I ask you this: what do you say to the proposition that the responsibility for the oversight of the licence holder should rest more directly upon the board of that licence holder?

DR SWITKOWSKI: Yes.

35 MS CAHILL: And not upon a board of a company that does not hold any direct obligations or responsibilities in respect of the licence or the performance of the State agreement?

40 DR SWITKOWSKI: I don't know practically how that real difference of language plays out in reality.

MS CAHILL: By that answer, do you mean that you don't perceive a distinction of substance between governance oversight by Burswood Ltd or Burswood Nominees?

45 DR SWITKOWSKI: I don't understand the structure of the whole, or entities around Burswood to be strong on that. I'm inclined to what you have just said, but I need to understand all these entities and what they are --- what they are responsible for.

MS CAHILL: May I ask you about this, coming back to paragraph 31 of your

witness statement at page 0949, and here I'm taking you to the Melbourne casino agreement, you say that you are broadly aware of clause 22.1 of that agreement, and I will ask for that to be pulled up, PUB.0016.0018.0001. We need to go to clause
5 22.1, (ra)(iii). Thank you. Do you have that in front of you now, Dr Switkowski?

DR SWITKOWSKI: I do.

10 MS CAHILL: Crown Casino Ltd has promised to ensure that CRL maintains the Melbourne Casino as the flagship casino of the Crown Resorts gaming business in Australia. You say in your witness statement that you would not expect that clause to cause difficulty as a matter of practice. Does it not mean that for so long as Melbourne Casino must be the flagship casino of Crown Resorts gaming business, Perth Casino can never be the flagship?

15

DR SWITKOWSKI: I presume these words have been in place for some time? When do they date from?

20 MS CAHILL: I'm not sure, but the question I'm asking you is your evidence is this won't cause practical difficulty, you don't envisage it causing practical difficulty?

DR SWITKOWSKI: I'm sorry, I should be more careful. I assume it hasn't caused any practical difficulties for some time.

25 MS CAHILL: But isn't the difficulty at least for the state of Western Australia, in practice, that the licence is conferred on Burswood Nominees will be operated by CRL in a way that the licensee will never aspire to operating the flagship casino of the Crown Group, let alone the flagship casino in Australia?

30 DR SWITKOWSKI: And I guess --- look, I shouldn't be debating this with you, but I guess such has been the case for some time.

MS CAHILL: Do you see that as a difficulty in relation to CRL's operation of the Perth Casino?

35

DR SWITKOWSKI: Not in practice.

MS CAHILL: And why not?

40 DR SWITKOWSKI: Because it hasn't been. When I looked at this in the case of Melbourne, I thought to myself how do I define "dominant"? How do I define "flagship"? How do I anticipate issues that, in the last 20 years, appear not to have caused any grief?

45 MS CAHILL: Can I move to the topic of remediation, Dr Switkowski?

COMMISSIONER OWEN: Would that be a convenient time?

11:19AM

MS CAHILL: Yes.

5 COMMISSIONER OWEN: Dr Switkowski, we'll take a 15-minute break, so that means coming back at 2.35 your time, I think.

DR SWITKOWSKI: Very good.

10 COMMISSIONER OWEN: 11.35.

ADJOURNED [11.19AM]

15 **RESUMED** [11.36AM]

COMMISSIONER OWEN: Thank you, Dr Switkowski. Ms Cahill.

20 MS CAHILL: Thank you, Commissioner. Dr Switkowski, I wanted to move to the topic of remediation. First of all, just in terms of gathering and understanding --- of your understanding of what's being remediated, when senior counsel for the Crown provided an opening statement to this Commission on 26 July of this year, he said that Crown is addressing its deficiencies --- "deficiencies" was the word he used.
25 What is your sense of understanding of the main deficiencies which Crown is presently attempting to remediate?

DR SWITKOWSKI: I would put them in the following categories. There are a range of things required in the management of financial crime, compliance with the
30 AML/CTF Act, for a start, having in place an appropriate customer due diligence process, a Know Your Customer program, having in place systems that record and then pass on relevant numbers, relevant metrics, to regulators, and a range of employee and cultural issues around the approach to the business of Crown. And many more things than that. I think the opening remarks reinforced in my mind how
35 much is going on and I think the regular reports that we are providing the Royal Commission extend to 70 pages worth of action items, so there is a lot being driven internally as well as supported/enabled by outside advisers.

MS CAHILL: Do you have a sense in your own mind of which of the deficiencies
40 that you are aware of that you consider to be the most acute or the most urgent to address?

DR SWITKOWSKI: I think --- the issue that I think is important and an area which has already made good progress, is the resetting of the priorities of the enterprise. I
45 see Crown has been accused of putting profit ahead of customers or their experience or their safety, et cetera. I don't know whether that shorthand description is correct, but I have observed not just at Crown but other companies that I have worked at, that

the requirements with a compliance program, complying with the requirements of the regulator often finds companies not --- or companies not given sufficient priority to matters to do with compliance and financial crime. I think it's important --- I think
5 Steve McCann has a big job in composing and in communicating and reinforcing what Crown stands for and what are going to be the metrics of performance beyond the simple financial metrics that may well have been the dominant form of measurement in the past.

10 MS CAHILL: Presumably because you accepted the role of chair of CRL, you took the view at the time of your appointment that Crown has the potential to remediate itself; is that right?

DR SWITKOWSKI: Yes, that's right.

15

MS CAHILL: Is there anything specific that you have seen or obtained information about since your appointment that gives you some confidence or optimism about Crown's potential to remediate?

20 DR SWITKOWSKI: Firstly, let me concede that I have not seen a lot of people, I have not travelled to facilities, because it hasn't been possible. So my impressions are largely as a result of the various reports and consultancy reports that I have seen and my interactions with the board and all of the people that attend board meetings. But I have been in business a very long time and I have tended to observe that the
25 people in these large organisations are, as a group, relatively similar. Men and women come to work, they want to do a good job, they want to be paid appropriately, they want to know what the objectives are of an organisation. Some of that needs attention within Crown, particularly in the redefinition of what's important. The fact that Crown has been found lacking in areas of compliance is ---
30 it's an unfortunate state of affairs. I think they have acknowledged that they have those sorts of issues, but they are issues that I've seen elsewhere in the banking system, in financial services, for example, that can be broken up into digestible pieces, remediated, brought back together again in a reasonable period of time.

35 Just by way --- if you will indulge me, Ms Cahill --- of an observation of a general nature, over the last couple of years, the boards of this country have had to deal with a number of things that were unexpected or moved more quickly than that had thought. Even putting aside all of the COVID-related challenges, the two items that have been elevated to areas of prominence on board agendas are cyber security and
40 compliance. The appreciation of the importance of complying with regulations, understanding the needs of, if I can use the phrase, social licence, has become much more high profile in the last couple of years now than they were before and, in some cases --- and I think compliance may well be one of those examples --- regulators have moved faster than the corporations have so gaps have appeared and in some
45 cases when trouble occurs, you can see how much of a gap has appeared.

Now, as I said earlier in the day, it's not rocket science, I think all of these things can be identified, fixed, reassembled and you'll have a great company.

MS CAHILL: If I can just try to condense your answer there and you tell me if you agree with how I put it. You having fastened on particularly compliance as a deficiency that needs remediating, your optimism about the potential to remediate comes from your experience that generally compliance issues are able to be remediated? That's what your experience tells you?

DR SWITKOWSKI: I think not just compliance, but any number of issues. But yes.

MS CAHILL: I wanted to put the converse question to you. Is there anything specific to CRL, the Crown Group, that you have seen or learned about since your appointment that gives you some concern about Crown's potential to remediate?

DR SWITKOWSKI: I'm not concerned about the potential to remediate. I am concerned by how much has to be done at the same time.

If you were to design a change management program in a large organisation, you wouldn't attempt to do all of these things at the same time while doing everything else, like changing leadership, et cetera. So I think --- I think within Crown there is an appreciation of that, but there also --- we, if I can put it that way, are not in control of our destiny when it comes to these things.

MS CAHILL: What do you perceive to be the potential consequence of that concern, simply that whilst trying to do many things at the same time, it will take longer or do you have a concern it will affect the quality of remediation?

DR SWITKOWSKI: Firstly, it will certainly cost a lot more, and that's really not a gate, you have to do it so you do it, but it will cost more. We may --- depending in which these remediation steps are ordered, we may end up doing things redundantly as reports come in from Royal Commissions, et cetera, as to what the priorities should be. Remarkably we continue to attract excellent people who want to be part of the core, so to speak, so that's not an issue, but the coordination, the prioritisation, the need to keep things simple and understandable in contrast with having a huge volume of metrics and reports coming at you.

Having said that, I wouldn't say this is an acknowledgement of how hard it all is. It is hard because a lot of people are working very hard, but it is all within the capability of competent people to execute.

MS CAHILL: Now, the point at which you arrive at CRL as chair is where a remediation program has already been commenced both in terms of its development and in part its implementation. To the extent that you've informed yourself about the scope and contents of that remediation program, do you have any concerns about its adequacy or appropriateness?

DR SWITKOWSKI: No, I don't, and I really can't. If you take the regular report that is offered up by the executive in charge of compliance, Steven Blackburn, it is very,

very comprehensive. So the only concerns I have is what I've just described that you, that is we are doing an awful lot simultaneously.

5 MS CAHILL: You don't presently see a need for the program to be modified in any respect?

10 DR SWITKOWSKI: I wouldn't exclude the possibility that that will be a view I will have once I'm, you know, there. But at the moment I have no basis for saying that.

MS CAHILL: Now, coming to a couple of specific aspects of the remediation program --- and I apologise, I return yet again to paragraph 26 of your witness statement, page 0948 --- that first sentence where you were talking about one of the immediate tasks as chair was to build up the board, and then you say:

15 *And help the CEO with the continuing recruitment of members of the executive team.*

20 Which roles in the executive team are you referring to specifically there?

DR SWITKOWSKI: Well, I can tell you that --- I'm in observer mode, so my role is deliberately observer-like. But I have been consulted in the last month on the recruitment of three executives, one of which is the CEO of Crown Sydney, another one is the --- I don't know what the title will end up being, but the head of corporate communications and probably marketing, and the third appointment which has been made was the general --- the corporate secretary. So they are the sorts of --- the only positions that I would normally express a view on, if invited, would be on the positions that are direct reports to the CEO.

25 30 MS CAHILL: Do you expect to be involved in the recruitment of any key executive roles specifically for Crown Perth?

DR SWITKOWSKI: Obviously if invited to comment, I will, but I don't have any expectations at this stage.

35 MS CAHILL: Can I come specifically to risk management. You explain at paragraph 9 of your witness statement, page 0945, the first sentence, that you have substantial experience in risk management and then at 25, page 0948, you go on to say that you are becoming familiar with Crown's processes for identifying and managing risk. That includes, does it, the remediation program that is being proposed for those risk management processes?

DR SWITKOWSKI: Yes.

45 MS CAHILL: Given your experience in relation to risk management, what's your view about the adequacy and likely effectiveness of the remediation program in relation to risk management specifically?

DR SWITKOWSKI: Look, I do not have an original view. I've observed the documentation, and the itemisation of risk, and the mitigation steps that are in place. It seems to be well organised. The reporting systems, as is true of many things
5 around the company, have been revised and put in place and appear to be appropriate, but I have not been in the middle of the workforce. I have not talked to a lot of people other than the most senior people, so clearly my impressions are going to be qualified by the inexperience in recent weeks.

10 MS CAHILL: You mention in this paragraph that's on the screen that you have reviewed the most recent risk appetite that's been approved by the group risk management committee, and if we go to that risk appetite which is set out at the risk management strategy, CRW.512.041.0055, at page 0067, that overarching starts unhelpfully at the bottom of the page and then goes over to the next one, Dr
15 Switkowski, but that overarching appetite statement is the one that you're referring to?

DR SWITKOWSKI: Did I refer to the risk appetite statement?

20 MS CAHILL: I'm asking you if this is what you are referring to as the overarching appetite statement in the risk management strategy?

DR SWITKOWSKI: I'm not even sure how we got on to this by the recent questions, but can you --- what was the chain of questions that led us to the risk
25 appetite statement specifically?

MS CAHILL: I'm just --- in your witness statement you refer to having reviewed the risk appetite statement?

30 DR SWITKOWSKI: Oh, yes, yes.

MS CAHILL: So I'm just trying to establish that this is what you're referring to?

DR SWITKOWSKI: Yes.

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MS CAHILL: You consider that statement to be adequate?

DR SWITKOWSKI: What --- I don't know for sure, because risk appetite statements are often --- my experience is that they have certain phrasing of the risk appetite and then he have a matrix or a table describing what it means against certain risks. Then
40 you have a proper feeling of what you've accepted or not accepted. Now, this goes part of the way there.

MS CAHILL: All right. Can I just take you to that third dot point where it says:

45

Crown does not have appetite to accept material risk related to any activity *that would be inconsistent with its social licence to operate*

Do you see that?

DR SWITKOWSKI: I do.

5

MS CAHILL: That "licence" appears to be incorrectly spelt there, so that might be one modification to the appetite statement that would be worthwhile, but if we go to my question in relation to this, what in your view are the essential elements of the social licence that Burswood Nominees limited has to operate the Perth Casino?

10

DR SWITKOWSKI: I think that's captured in the most recent work on the purpose statement and the values, and I think the purpose statement makes reference to Crown people working together to deliver an exceptional experience, in an environment that its communities would find safe, or words to that effect, and in a way that's an acknowledgement that the interests of the community being confident in the integrity of the product, confident they'll have an enjoyable, safe, honest experience at casinos, is a key priority for the organisation.

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MS CAHILL: You mentioned the word "safe". The social licence includes a responsibility to mitigate the risk of gambling related harm caused by offering gambling services at Perth Casino?

DR SWITKOWSKI: Yes.

25

MS CAHILL: Now, at 7.2, page 0068 of the page we are on, if we pop that back in, at 7.2, you have the risk appetite statements and reporting tolerances. Is that what you were referring to a little while ago when you said you needed to see the appetite statement in the context of the tolerances?

30

DR SWITKOWSKI: It's a version of that, yes.

MS CAHILL: And if we go to the bottom of 0068, you see that there's a "regulatory/legal" heading in the bottom row?

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DR SWITKOWSKI: Yes.

MS CAHILL: And then if we go over the page, within that "regulatory/legal" heading, page 0069, you'll see at the bottom there the reference to subcategories of RG and RSA?

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DR SWITKOWSKI: Yes.

45

MS CAHILL: Responsible gaming and responsible service of alcohol. Now, the quantitative metrics that trigger a requirement to report to the risk management committee, relevantly to Responsible Gaming, is expressed as material Responsible Gaming issues, including sustained adverse media. If I can just ask you to put aside "sustained adverse media" for a moment and pay attention to "material Responsible Gaming issues" other than sustained adverse media. What does "material

Responsible Gaming issues" mean to you?

5 DR SWITKOWSKI: I would have to invent an understanding of that. I'm not sure how to respond to your question, Ms Cahill.

10 MS CAHILL: Does it reflect perhaps a deficiency in the risk appetite statement and thresholds for reporting that it's not clear when in relation to Responsible Gaming a risk event occurs that needs to be escalated?

DR SWITKOWSKI: It might. I have, with these sorts of statements in general, difficulty when the threshold is something that is allegedly material. I don't know how to quantify materiality, at least on the basis of my experience.

15 MS CAHILL: Can I turn to AML, please. On your understanding, financial crime and specifically money laundering and terrorism financing risk has been an important focus of Crown's remediation program to date; is that right?

20 DR SWITKOWSKI: That's right.

MS CAHILL: You understand a great deal of effort has been put into addressing the processes for the identification and management of risk in those areas?

25 DR SWITKOWSKI: I believe that that has happened, yes.

MS CAHILL: And you understand, do you, that PwC has been retained to prepare an enterprise-wide risk assessment for Crown?

30 DR SWITKOWSKI: I understand PwC is doing work for us, if that's the area, okay.

MS CAHILL: You're not aware of that?

DR SWITKOWSKI: No.

35 MS CAHILL: You understand what an enterprise-wide risk assessment is, though?

DR SWITKOWSKI: Yes.

40 MS CAHILL: Would you agree that such an assessment is critically important to undertake in order that someone like Crown who is developing a risk identification and management program, can identify comprehensively the risks to which it is exposed in its business?

45 DR SWITKOWSKI: Yes.

MS CAHILL: It's only with that comprehensive assessment that one can then have some confidence that it can develop a program of systems and processes that comprehensively address those risks?

DR SWITKOWSKI: In an ideal world that is the case. In our real world, you are often doing things in parallel, even in the absence of having the overall architecture defined for you.

5

MS CAHILL: By that, do you mean that you are trying to develop systems and processes to identify and manage risks without having the confidence because the assessment's not been completed, but you know what all the risks are?

10 DR SWITKOWSKI: Yes.

MS CAHILL: Have you been able to form any view of your own about realistically when the AML or financial crime risks remediation program is likely to be completed and fully implemented?

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DR SWITKOWSKI: I have no way of determining that at this stage.

MS CAHILL: Do you have confidence in Mr Blackburn, who is leading the remediation program, in relation to AML or financial crime risk?

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DR SWITKOWSKI: I have found him to be a very impressive executive.

MS CAHILL: To what extent do you consider that the success of the remediation program in relation to financial crime risk is dependant on Mr Blackburn continuing in his role?

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DR SWITKOWSKI: Well, it is dependant upon his leadership, very much so.

MS CAHILL: Changing topics slightly here, but staying with financial crime risk, you'd be aware, or you may be aware that currently the GWC has in place a direction that, in effect, prevents the Perth Casino operator from participating in the conduct of junkets or premium or privileged player activity?

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DR SWITKOWSKI: Yes.

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MS CAHILL: You appreciate that international patrons of that character pose a particular financial crime risk to Perth Casino?

DR SWITKOWSKI: Yes.

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MS CAHILL: If the GWC were to remove that ban in the future, would there be any circumstances in which you would contemplate the reintroduction of international commission business to the Perth Casino?

45 DR SWITKOWSKI: Ms Cahill, all I can say is I understand the Crown's position is that they will not reintroduce activity with junkets, and I don't have a separate view.

MS CAHILL: I want to turn now to ask some questions about gambling-related harm, and come back to your witness statement, please, at paragraph 23, page 0947.

5 Here you are talking about the briefing and induction that you have been given to date. It goes over two pages again, unhelpfully. Can you read that, Dr Switkowski?

DR SWITKOWSKI: I can.

10 MS CAHILL: I think it's been highlighted for you.

DR SWITKOWSKI: Yes. Yes, I can read that.

15 MS CAHILL: It appears that you haven't received yet a briefing session specifically in relation to gambling-related harm minimisation. Is that the case?

DR SWITKOWSKI: I've not had an in-person briefing but I've certainly had a presentation on responsible gambling, and harm minimisation.

20 MS CAHILL: By whom?

DR SWITKOWSKI: The relevant legal firm. Do you want me to name them?

25 MS CAHILL: Do you mean Allens?

DR SWITKOWSKI: Allens.

MS CAHILL: But I'm asking about a management briefing.

30 DR SWITKOWSKI: I covered that off with Steven Blackburn, but it wasn't the main topic of our conversation.

35 MS CAHILL: Do you think you ought to have had a substantive stand-alone briefing on gambling-related harm minimisation by this point?

DR SWITKOWSKI: Well, the briefing from Allens I think complemented a similar discussion at the board level, so I have had some, but it would be fair to say that you could pick any one of these topics and make the case that I should spend more time on them, and I will.

40 MS CAHILL: If we go to paragraph 32 of your witness statement, this is under the specific topic of gambling-related harm minimisation in response to some questions that were posed by the Commission for your response. You say there that the Crown has a responsibility to minimise gaming-related harm. What do you consider to be
45 the limit or extent of that responsibility?

DR SWITKOWSKI: Personally, I think this is really, really important, and probably an area where all casinos could do more, and the hope is that eventually technology

and various data analytics will help in that process. I don't know how to quantify it at this stage. I have often been puzzled by the fact that around the world, there are scores of similar casinos, but there appear to be no benchmarks that are useful. So I think the benchmarking process will be an element of this work that I'll show more than an average amount of interest when I get into the position.

MS CAHILL: Is your viewpoint that Crown has a responsibility to inform patrons about the risks of gambling-related harm?

DR SWITKOWSKI: It is.

MS CAHILL: And to provide help or support if requested to do so by a patron?

DR SWITKOWSKI: Yes.

MS CAHILL: Do you consider that Crown has a responsibility to modify or restrict when or how it offers gambling services in order to minimise the risk of gaming-related harm to patrons generally or to patrons individually?

DR SWITKOWSKI: I do.

MS CAHILL: In particular, do you consider that Crown has a responsibility to modify or restrict when or how it offers electronic gaming machines to the public in order to minimise the risk of gambling-related harm to patrons generally or individually?

DR SWITKOWSKI: Yes.

MS CAHILL: Going back to this paragraph 32 of your witness statement, which is still on the screen, the third sentence, you express your understanding that Crown has programs in place aimed at reducing the risk of gaming-related addiction and social harm. Do you have a view about the adequacy or effectiveness of those programs?

DR SWITKOWSKI: The briefing that I had with Allens indicated that Crown's approach to this area was not only appropriate, but very good. But, again, I qualify my statements by saying I have not actually seen it at work. But the commentary about harm recognition and the provision of Responsible Gaming centres for counselling and advice, things along those lines, read well.

MS CAHILL: Are you aware of whether any enterprise-wide risk assessment has been undertaken by Crown in relation to gambling-related harm specifically?

DR SWITKOWSKI: Not immediately, no.

MS CAHILL: What do you say to the proposition that just as an enterprise-wide risk assessment is important to understand the nature and extent of money laundering or terrorism financing risk in Crown's operations, it's equally important to conduct an

enterprise-wide risk assessment to understand the nature and extent of the risk of gambling-related harm caused by its operations broadly?

5 DR SWITKOWSKI: It is. That's not to say that it isn't already in place, or it is, I just don't know.

MS CAHILL: I'm just putting to you the proposition and asking you to respond to it in the abstract, not whether or not it's actually ---

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DR SWITKOWSKI: I agree with you.

MS CAHILL: You are aware that Mr Blackburn has the primary responsibility at executive level for gambling-related harm minimisation and the remediation program in that regard?

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DR SWITKOWSKI: Yes.

MS CAHILL: Unlike his expertise in financial crime, it appears that Mr Blackburn has no particular background or experience in gambling-related harm minimisation; would you agree?

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DR SWITKOWSKI: I have heard that said, yes.

MS CAHILL: Do you consider it appropriate for Mr Blackburn to have overall responsibility for gambling-related harm minimisation, given, first, his lack of experience in that area and, second, his significant responsibilities in the financial crime risks area?

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DR SWITKOWSKI: I'm less troubled by the lack of experience, because capable executives get to understand these areas quickly, and he has the right to recruit the skills that he needs. Whether he has the personal capacity to take on everything that's been asked of him, I can't say. I have confidence in the CEO, Stephen McCann, and his judgment. I also know that Stephen and --- Stephen McCann and Steven Blackburn have had conversations along the lines that Steven Blackburn's needs for additional resources will be supported.

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MS CAHILL: My question from your answer is this, Dr Switkowski: do you perceive a difference between the expertise that is required at the most senior level of management to oversee the harm minimisation remediation versus AML? I will just explain what I mean there. Mr Blackburn's being recruited into the financial crime risk area specifically because of his experience in that area; is that your understanding?

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DR SWITKOWSKI: It is.

MS CAHILL: Would you be comfortable with someone being put into that position to oversee the financial crime risk remediation program who didn't have any financial

crime risk experience?

5 DR SWITKOWSKI: I wouldn't be if that person was the only person involved in that oversight, and that's why the discussions with Stephen, I believe, have gone in the direction that if he needs additional personnel and additional skills, he will get them.

10 MS CAHILL: A question on harm minimisation. Do you consider that the Crown Group is presently giving sufficient attention and priority to ensuring that it adequately identifies and manages the risk of gambling-related harm for its casino operations?

15 DR SWITKOWSKI: I can't tell at this point.

MS CAHILL: Can I move to a different topic, which is organisational corporate culture. I'll come back to paragraph 13 of your witness statement, page 0946. You say there that one of the expected roles you will have as chair is overseeing the culture change management program that is underway, and presumably you would
20 agree with the proposition that establishing and maintaining a positive corporate culture is integral to good governance?

DR SWITKOWSKI: Yes.

25 MS CAHILL: And that's on this basis, isn't it, Dr Switkowski: you can have all of the shiny systems and processes, the shiniest systems and processes in the world, but they are to no avail if the culture of the organisation does not proactively embrace the purpose for which those systems and processes have been implemented?

30 DR SWITKOWSKI: I like that, in the sense that there's got to be a clear understanding of the purpose and reinforcement of the right values, that then leads to the right priorities and then everything else follows.

35 MS CAHILL: That was the next question. The corporate culture that has to be instilled has to have a real sense of the values which underpin the purpose of the processes?

DR SWITKOWSKI: Yes.

40 MS CAHILL: You agree, therefore, that it will be necessary for Crown to embed a positive corporate culture in the way in which we've just discussed in order to render effective the remediation programs that are being currently developed?

45 DR SWITKOWSKI: Yes.

MS CAHILL: At paragraph 11 of your witness statement, page 0945 --- and I think earlier when you said some remarks in chief at the beginning of the giving of your evidence this morning, you indicated your experience previously in managing

corporate and cultural change programs. Would it be fair to say from what we've learnt about the Crown Group to date that the cultural change program required here is the most far-reaching in your experience to date?

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DR SWITKOWSKI: In my personal experience, probably.

MS CAHILL: Yes.

10 DR SWITKOWSKI: Not in my experience observing other companies manage change.

MS CAHILL: At paragraph 15, page 0946, you mentioned sitting on the people remuneration and nomination committee. You see this, do you, as an important way in which you personally cannot only drive but also monitor positive cultural change?

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DR SWITKOWSKI: I do.

MS CAHILL: That's particularly in terms of the recruitment of key members of the senior executive team; is that right?

20

DR SWITKOWSKI: To start, yes.

MS CAHILL: And is that on the premise that cultural change has to start from the top?

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DR SWITKOWSKI: It's --- the premise is that leadership is critical in this, and leading by example is critical and that people that you do recruit in the organisation, at this stage, every new recruit is a critical decision and will be a carrier or an exemplar of the right behaviours and, therefore, the culture. Can I also expand on the fact that there's --- it's quite understandable that culture is seen as being company-wide, but I think as the transformation occurs, it will be --- it will move at different paces depending upon parts of the organisation. So there are micro cultures in big organisations, including of Crown. So what I will expect we will observe is there will be some groups, and maybe even some subsidiaries, that will move at one pace and others will move at others, because various things matter or the nature of the starting position varies, and eventually it will come together, but it will come together in part.

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MS CAHILL: Can I ask you, then, about culture at a more granular level, which I think is perhaps what you are driving at there? While cultural change does start from the top, would you agree that it is probably relevantly and most significantly embedded at middle management level?

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45 DR SWITKOWSKI: That probably is right.

MS CAHILL: Well, it's at middle management level, isn't it, where you have that more direct oversight of the day-to-day operations of an organisation?

12:15PM

DR SWITKOWSKI: Yes.

5 MS CAHILL: Which is why I put that proposition to you. That's where the culture is actually, if you will, enforced to the boots on the ground?

DR SWITKOWSKI: That's where the transformation may be driven from, yes.

10 MS CAHILL: While you would not expect to be involved in recruitment at middle management level, would you nevertheless agree that having the right people from a cultural perspective in middle management positions is as important as getting your key senior executive cohort right?

15 DR SWITKOWSKI: It certainly is very important. It absolutely is very important. It should then lead us to a conversation around training and how --- training and communications. How the expectations and the priorities that people have of the organisation, people, the stakeholders, for example, are communicated and how employees are helped to --- in their work to achieve those key result areas when it requires a change in their priorities or their work patterns.

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MS CAHILL: You say at paragraph 33 of your witness statement, page 0949, that you have seen but not absorbed in detail the Deloitte culture review?

DR SWITKOWSKI: I have.

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MS CAHILL: Now, just so that I make sure we're talking about the same document, I will bring it up on the screen, CRW.701.004.9441. That gives you a slight clue, the front page.

30 DR SWITKOWSKI: I have seen that front page.

MS CAHILL: And if we just leaf through to the next --- that's the document you are referring to?

35 DR SWITKOWSKI: Yes.

40 MS CAHILL: Just there at page 9442, in front of you, you have the Crown purpose statement and then that very high level statement of values and behaviours. Do you have any concern with how the purpose statement and the values and behaviour statements have been articulated at this high level?

45 DR SWITKOWSKI: Look, Ms Cahill, my understanding is that the purpose statement has been rephrased and that the values have been modified and are a work in progress. They are not --- the values are not inconsistent with what's on the chart, but words like "integrity" appear in the revised values and probably others. As I tried to remember for the purpose statement, together we create memorable experiences in a way that is safe and has integrity with our communities, or something like that.

MS CAHILL: Now, acknowledging what you've said about not having absorbed this document in front of you in detail, I presume you have nevertheless, or at least had regard to the executive summary of this document?

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DR SWITKOWSKI: Yes.

MS CAHILL: If we go to 9447, executive summary, in the right-hand column under "Overarching Findings", if we could bring that whole right-hand column out, please, for Dr Switkowski, do you see there at numbered paragraph 1, in terms, what is being said there is that the culture of compliance has not yet been embedded and that there are poor policies and processes. My question in relation to that the observation there is this: in relation to embedding a culture of compliance, what do you see in practical terms are the key ways of achieving that?

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DR SWITKOWSKI: Well, you've got to be clear about where you are taking the --- where you want the company's culture to move to. I mean, here it has reference to conflicts between profit and adhering to policies and processes. To be clear about that, you have to help employees, make available relevant training programs, and training programs that have an element of continuity and refreshment in order to embed an understanding of what's required. You've obviously got to make information more accessible, which apparently in the summary employees claim is not necessarily the case at the moment.

MS CAHILL: So one of the points made in summary is that there are high levels of training --- this is in the last sentence --- but people don't always know where to access policies. So training alone will not practically achieve that compliance culture; you would agree with that?

DR SWITKOWSKI: I would agree with that, but I would also say it is not unique to Crown. I have seen these sorts of observations and criticisms made elsewhere.

MS CAHILL: In numbered paragraph 2 there is this observation about perceptions of board and senior management from management at a lower level and what's been (audio distorted). What I wanted to ask you about on this topic more generally is regarding management renewal in the context of cultural change. What is your view about the wisdom of retaining people in key executive positions who have overseen and share responsibility for the past unsatisfactory culture?

DR SWITKOWSKI: That is a difficult situation, and in an accelerated renewal process such as what Crown is attempting to do, personnel who are part of the historical issues are unlikely to successfully transition into the new organisation.

MS CAHILL: Numbered paragraph 3, the gist here relevantly for our purpose is that nearly half of the survey respondents did not hold a positive perception of the relationship with their manager, with low confidence in speaking up and challenging others. Reading that executive summary, did you perceive this as reinforcing the

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importance for Crown of driving cultural change at middle management level?

5 DR SWITKOWSKI: Well, I did see that and I was surprised, because typically in
employee surveys, the one group that is always highly rated are supervisors, and they
are highly rated by the people that they supervise. They are distinguished from
leadership because they are close to the teams and they are not part of the larger
decision making, whereas this has not occurred at Crown. There are, in my
10 preliminary views, a couple of reasons for this. Firstly, I think the survey itself has
to be --- I don't quite understand how to interpret it, given that I think it was done in
the February to May timeframe, 2021, in the immediate aftermath of the release of
the Bergin report where feelings were running hot about everything, understandably.

15 The other thing I have anecdotally kind of heard is that the former organisation
decision making was very top-down, which was discouraging of any initiative on the
part of our employees. That is to me a credible observation from what little I know
about Crown and former people. So it isn't just, in my mind, the middle
management. You've got to end up with an organisation where the goals and key
20 result areas are clear and the priorities are clear. So if the priority is financial, that
should be clear. Obviously, in Crown, it cannot be financial, or only financial. That
has to change. Then you have to have people who live those values demonstrably.
When you have a top-down culture, you are very dependant upon decisions that are
made by a few, and the way they get acted upon is through fairly blunt instruments,
often maybe a direct reward system, or who is hired and who is fired. So these are
25 important, but not straightforward issues. I do think cultural change will start at the
top. It will be reinforced through continuous training. It will require an
appropriately designed remuneration and reward system, and all of those things are
being considered and developed as we speak.

30 MS CAHILL: Moving to the topic of regulatory relationship, or the relationship that
Crown has with regulators, here we can speak specifically about the relationship with
the State-based regulator here, GWC. I assume you've been briefed or otherwise
informed yourself about some evidence heard by this Commission regarding the
relationships between individual officers of Crown Perth and the regulator?

35 DR SWITKOWSKI: I have.

MS CAHILL: And the closeness of those relationships?

40 DR SWITKOWSKI: I have read media about that, yes.

MS CAHILL: What, in your view, is the appropriate posture that Crown should
adopt with respect to the regulatory relationship and its dealings with the regulator,
both at an organisational and individual officer level?

45 DR SWITKOWSKI: I think when it comes to casino and gambling regulation, the
regulators have a role not only in the definition of the rules and the regulations, and
in the measurement of or the oversight of compliance, they probably have the

opportunity for a more cooperative arrangement than when you are dealing with other regulators, and the one that comes to mind would be AUSTRAC, which has a different approach.

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So I would --- it would generally be described as you have a professional relationship with regulators. You tend not to have a social relationship with regulators. I'm not sure that I would be black and white on that, but typically you wouldn't do that.

10 MS CAHILL: What is your response to the proposition that maintaining an entirely objective and independent relationship with the regulator is in Crown's own interests as an effective third line of defence in assurance and testing of the effectiveness of Crown's risk management?

15 DR SWITKOWSKI: It sounds right. I'm not sure that regulators belong at the third line, but they are near the third line.

MS CAHILL: Do you agree in that context that rigorous scrutiny by the regulator of Crown's operations would be to Crown's advantage and to be encouraged?

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DR SWITKOWSKI: Yes.

MS CAHILL: Finally, Dr Switkowski, two big picture questions. The first one is this: what was your motivation for accepting the role of chair of CRL?

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DR SWITKOWSKI: Well, when I was approached to consider it --- firstly, it had not been a consideration of mine before the conversation I had with the then executive chair. The interest to me was in the challenge associated with transforming Crown from what it appeared to be at that time into a world class organisation whose business was casinos, gaming, real estate, et cetera. I could recognise in the steps that would be required to get from today to tomorrow, actions that I knew how to implement. So it was an exciting corporate opportunity that caught me at the right time.

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35 MS CAHILL: You may have already partially answered the second question, but it has a temporal component that I'd ask you to consider specifically. What, in your view, will Crown look like in 12 months time if you are to make the contribution you intend as chair of the group?

40 DR SWITKOWSKI: Responding to the words "look like", it will literally --- it has world class facilities. Clearly so. So the casinos, the hotels, the entertainment areas will continue to be invested in and will continue to seek to stand apart from competition and, in fact, in the global community of very good casinos.

45 In 12 months time we should have restored trust with our regulators. That's really important. Now, I'm assuming that we will get the opportunity to put into action many of the things that we've talked about this afternoon. We may know more tomorrow, and then after your Commission's report in a few months time. If it were

possible to extrapolate from today's position and exclude the, you know, cataclysmic changes then, yes, good working constructive relationships with regulators, an organisation largely free and recognisably free from the previous generation. The
5 rest is in how well we will be --- our services, et cetera, are received, how strongly the reputation is recovered and what a trusted benchmark organisation we are on the way to becoming. We won't be there in a year, but we should be demonstrably on the way.

10 MS CAHILL: Thank you, Dr Switkowski, I have no further questions.

COMMISSIONER OWEN: Thank you. Are there any applications?

15 **CROSS-EXAMINATION BY MR EVANS**

MR EVANS: My name is Paul Evans and I act for the Gaming and Wagering Commission.

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DR SWITKOWSKI: Mr Evans.

MR EVANS: Can I just ask you a couple of questions in relation to the process of selection of new members of the board for Crown Resorts and also senior executives.
25 You mentioned in answer to some questions by Ms Cahill that you have been consulted in relation to three senior executive appointments and also in relation to the composition of the board and the skills were present on the six currently nominated or appointed directors?

30 DR SWITKOWSKI: In terms of the board, Mr Evans, I only had an opportunity to comment on Ms Ward.

MR EVANS: I think your comment was that you had looked at the distribution of skills and you saw a possible need to augment financial skills but otherwise were
35 satisfied with the distribution of skills amongst the members?

DR SWITKOWSKI: Yes.

MR EVANS: And I think you mentioned that by reference to some type of skills
40 matrix.

DR SWITKOWSKI: Yes.

MR EVANS: Now, we understand that Korn Ferry were retained by Crown Resorts
45 to undertake an executive search in relation to board membership?

DR SWITKOWSKI: Yes.

MR EVANS: I take it you weren't involved in that process?

DR SWITKOWSKI: No.

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MR EVANS: But did you see the skills matrix that Korn Ferry worked from in undertaking that search?

DR SWITKOWSKI: Skills matrix for new directors, no.

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MR EVANS: The skills matrix you are referring to is one of your own devising?

DR SWITKOWSKI: Crown Resorts has a skills matrix which all directors complete and I was asked to complete it as I joined the board.

15

MR EVANS: You have put together the skills matrix of yourself and your peers and formed the view about the range of skills currently available and the areas where there might be scope for augmentation; is that right?

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DR SWITKOWSKI: No. I know my skills matrix. I don't have access to the assessments of my colleagues. What I have is two months experience with them.

MR EVANS: It's the case, isn't it, of the six directors currently appointed or nominated, three include --- and I say this including yourself --- have experience or background in the gaming industry or gaming related industries?

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DR SWITKOWSKI: Yes.

MR EVANS: Do you regard that as being essential to the operation of Crown Resorts at the parent entity level?

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DR SWITKOWSKI: I think three out of six is very good, yes.

MR EVANS: Does that suggest you would prefer more?

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DR SWITKOWSKI: More gaming experience?

MR EVANS: Yes.

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DR SWITKOWSKI: Would I look for somebody and appoint exclusive on the basis of their gaming experience at this point? I think there are other skill sets that may be more relevant to complement the board.

MR EVANS: Thank you. Can I turn to one particular appointment, and you said you were consulted in relation to the appointment of the company secretary?

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DR SWITKOWSKI: Yes.

MR EVANS: As we understand the role of the company secretary within the CRL board structure in accordance with the board charter, can I just bring up CRW.505.001.0853, this is the Crown Resorts charter that Ms Cahill took you to previously.

DR SWITKOWSKI: Right.

MR EVANS: The role of the company secretary is dealt with at paragraph 5.

DR SWITKOWSKI: Yes.

MR EVANS: Now, that charter contemplates that the company secretary was accountable directly to the board through the chair, which is contemplated to be yourself, subject to regulatory approvals.

DR SWITKOWSKI: Yes.

MR EVANS: On all matters to do with the proper functioning of the board. Now, we heard from Mr McGregor last Friday that the company secretary organisationally was to be accountable to him. Do you understand that to be the case?

DR SWITKOWSKI: I've probably been informed of that, yes.

MR EVANS: Mr McGregor is the second ranking executive within Crown?

DR SWITKOWSKI: Yes.

MR EVANS: He is presumably accountable to the chief executive officer. Do you see any inconsistency in the company secretary being accountable both directly to the board and to senior executive management?

DR SWITKOWSKI: No. It's quite a familiar arrangement.

MR EVANS: Do the responsibilities to the board or executive management take priority when it comes to the performance of their functions?

DR SWITKOWSKI: They are usually capable of accommodating both.

MR EVANS: Thank you. One thing I see in the role of the company secretary is to advise the board and its committees on governance matters.

DR SWITKOWSKI: Yes, I can read that.

MR EVANS: That's the principal responsibility, is it not?

DR SWITKOWSKI: Yes, I'm not sure that I would agree with that.

MR EVANS: Well, it says advising the board and its committees there are, and I think you have observed this, a number of committees in place within Crown?

5 DR SWITKOWSKI: Yes.

MR EVANS: That includes a people committee, an audit and risk committee --- sorry, an audit committee and a risk committee?

10 DR SWITKOWSKI: Yes.

MR EVANS: We understand from the evidence which has been given already that a number of senior executives within the new Crown structure have what is called direct access to either the board or board committees; is that your understanding? So
15 Mr Blackburn, for example ---

DR SWITKOWSKI: Mr Blackburn, for example, yes.

MR EVANS: Is it contemplated that direct access, because it will necessarily
20 involve the preparing of papers, and so on, will be exercised through the company secretary --- that is, the company secretary will see the papers and direct them to the relevant committee or the relevant board meeting?

DR SWITKOWSKI: Discharging his or her secretarial responsibilities, yes.
25

MR EVANS: Thank you. Now, we understand that the officer who has been appointed as company secretary is also a qualified legal practitioner?

DR SWITKOWSKI: Yes.
30

MR EVANS: We have also heard evidence earlier that the role within Crown, the role of the company secretary and general counsel, were now to be separated and (inaudible) given obviously general counsel and principal legal officer of Crown?

35 DR SWITKOWSKI: That is my understanding.

MR EVANS: Do you know, as part of the process of the appointment of the new company secretary, what their legal advisory function is to be to the board, if any?

40 DR SWITKOWSKI: No, I do not, but I wouldn't expect that that would --- he would be the first person that I would turn to for legal advice. That would be Ms Ivanoff.

MR EVANS: Could I turn up CRW.701.009.5375. It's the Burswood Ltd draft board charter I think you were taken to. If we just blow up the top line of that
45 document, the top few lines, this is from apparently Mr Craig Durham, group company secretary and legal counsel, in his capacity as legal counsel. I take it the balance of the first page and the balance of the second page have been blocked out on the basis they are redacted for privilege?

DR SWITKOWSKI: Yes.

5 MR EVANS: This is the draft, you understand, charter. I'm not interested in what the content of the blacked out sections are, but is it your understanding that Mr Durham, in relation to the preparation of this document, was acting at least in part in his capacity as the legal practitioner and providing legal advice?

10 DR SWITKOWSKI: I don't know what Mr Durham's role was.

MR EVANS: So we simply draw a conclusion from the description which appears on the heading of that document?

15 DR SWITKOWSKI: Well, you might reasonably draw that conclusion.

MR EVANS: Thank you. Can I turn then to that board charter a little further down? Perhaps if we could scroll down two pages. I just want to ask you some questions slightly in elaboration of what Ms Cahill asked you. I think it is part 5, responsibilities and powers of the board. At the bottom, (audio distorted). If we could just roll that up and expand just the first few lines, the first three dot points in 20 5.4, thank you. The third bullet point there contemplates challenging management and holding management to account, as a responsibility of Burswood Ltd. Now, when it comes to holding management to account, you've been a very senior executive of a number of organisations as a CEO office holder of both I think Telstra and Optus?

25 DR SWITKOWSKI: Yes.

MR EVANS: You would be, I think, familiar and would accept that when it comes to the people side of a business, there is a relatively well-known and limited set of conditions under which you can motivate and incentivise personnel and also ultimately hold them to account, that is the criteria by which you appoint them, the KPIs you set for them, the way in which you remunerate them, the way in which you discipline them and, ultimately, the way in which you terminate them?

35 DR SWITKOWSKI: Sounds right.

MR EVANS: Now, if you are going to impose or set a responsibility for somebody, and if you are going to accept the function of holding people responsible, is it a necessary requirement of accepting that responsibility that you have those five tools available to you?

40 DR SWITKOWSKI: I'd have to see the examples. I don't know that hiring and firing would be on that list. So I'd have to think about that.

45 MR EVANS: To use a more specific example, if you as CEO of an organisation were to accept responsibility to your board for achieving a particular outcome, would

you expect to be empowered with all of the tools necessary at your disposal to appoint and, if necessary, remove the employees responsible for achieving those targets that had been set for you?

5

DR SWITKOWSKI: Qualified, yes. Qualified by the fact that it's often in consultation with the next level of management or the board.

10 MR EVANS: Thank you, I understand that. Now, put that in the context of Burswood Ltd, that next level of management or the board is in fact the CRL board, isn't it?

DR SWITKOWSKI: Yes.

15 MR EVANS: It is the case that under the charter as contemplated in the organisation as you've described it for Burswood Ltd, at the minimum, the Burswood Ltd board will comprise a member of the CRL board, the CRL CEO and at the moment only one external director?

20 DR SWITKOWSKI: Yes.

MR EVANS: And will it remain the case that the Burswood --- the Crown Perth senior management employees report to, for operational purposes, the Crown Resort CEO?

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DR SWITKOWSKI: The Burswood Ltd employees would report into Burswood Ltd CEO.

MR EVANS: And the Burswood Ltd CEO would report to?

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DR SWITKOWSKI: The Crown Resorts' CEO.

MR EVANS: Thank you.

35 DR SWITKOWSKI: And accountable to the board.

MR EVANS: Accountable to the board, obviously. And for the various functions under the Burswood CEO, where there is a comparable group reporting entered or a comparable group responsible entity, such as AML, treasury, human resources, would have an accountability and a reporting line to the relevant group executive?

40

DR SWITKOWSKI: Yes, whether it might be a dashed reporting line, it would be very sort of dependant on the particular function.

45 MR EVANS: Could I ask you one more question in relation to accountability? In the concept of holding people accountable for their responsibilities, the framework -- perhaps I can summarise it this way. As I understand the very lengthy remediation plan, I think you have indicated it is 70 pages and the Commission has

copies of it, does that really boil down to two fundamental pillars --- processes and people? Putting in place new processes and, to the extent necessary, putting in place or reskilling people?

5

DR SWITKOWSKI: That's got to be an overarching --- I don't know how I would describe it, but in the context of achieving something. You know, so if you say they have got the context right, then it is all about processes and people, absolutely.

10 MR EVANS: So there is a strategic imperative, or a strategic objective which is set and it would be set by the Crown Resorts' board?

DR SWITKOWSKI: Yes.

15 MR EVANS: And that will then define various key operational principles?

DR SWITKOWSKI: Yes.

MR EVANS: And below the operational principles, there will be a set of policies, and below those will be a set of procedures to implement those policies?

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DR SWITKOWSKI: In theory that's the way it works.

MR EVANS: And we have seen that to some extent, I'm not sure we could say to a full extent, in this Commission in that we've seen variation charters, for the major functional units of Crown Resorts. Below that we have seen specific to Perth the casino manual operations, which sets out a large number of policies, and we have seen also standard operating procedures.

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30 DR SWITKOWSKI: Right.

MR EVANS: And all of those are implemented by people at various levels?

DR SWITKOWSKI: Yes.

35

MR EVANS: And part of the policies and procedures involves, effectively, a monitoring and supervision down through the organisation and feed back up to ensure that people are relevantly following the policies?

40 DR SWITKOWSKI: Yes.

MR EVANS: And from time to time, there is the possibility that those will fail --- that is, either the policies will fail or the people will fail?

45 DR SWITKOWSKI: Yes.

MR EVANS: It's a function of a well structured and implemented organisation to have mechanisms in place to identify failures?

DR SWITKOWSKI: Yes.

MR EVANS: To act upon them promptly?

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DR SWITKOWSKI: Yes.

MR EVANS: And, where necessary, to sanction those who must take accountability for a failure?

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DR SWITKOWSKI: Sanction sound like a harsh first step, but I agree with where you're going.

MR EVANS: You indicated I think in testimony to Ms Cahill a little earlier there were some relatively blunt instruments and sometimes people may have difficulties adjusting to significant change, and the options in relation to them may be relatively limited?

15

DR SWITKOWSKI: Agree.

20

MR EVANS: Now, in terms of this Commission having confidence in relation to accountability mechanisms that may be put in place in Crown, I'm going to put to you a question from your history in relation to Tabcorp?

25

DR SWITKOWSKI: Yes.

MR EVANS: You referred to your experience in Tabcorp in a number of instances in your evidence?

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DR SWITKOWSKI: I have.

MR EVANS: You were a member of the board for, I think, nearly 20 years?

DR SWITKOWSKI: 14.

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MR EVANS: 14 years. During that period you were chair of the people committee?

DR SWITKOWSKI: I was.

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MR EVANS: And that is a committee responsible for recruiting, selecting, remunerating key executives?

DR SWITKOWSKI: Yes.

45

MR EVANS: And you were also on the audit and risk committee?

DR SWITKOWSKI: I was.

MR EVANS: In around the middle of 2010 and --- between 2010 and 2014, Tabcorp fell into error in relation to its AML/CTF compliance in a number of respects, did it not?

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DR SWITKOWSKI: It did.

MR EVANS: It received as a result, I think, what was then the largest pecuniary penalty which had been afflicted for an AML/CTF contravention at that time?

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DR SWITKOWSKI: That's right.

MR EVANS: Can you describe what mechanisms the board or the relevant committees put in place to ensure the accountability of those who were involved in those contraventions? I take it, for the information of the Commission, it is in the judgment, that this was found to be error, that it was not deliberate and it did not pervade the senior levels of the organisation?

15

DR SWITKOWSKI: Well, I would say, Mr Evans, AUSTRAC elected to make no adverse comments about the board, which is what I was interested in at the time.

20

MR EVANS: We understand that, but that's why I'm interested in what mechanisms the board and the directors of the --- one thing, you personally, pursued in relation to accountability through the organisation to demonstrate, if it was the case, a censure for the failings which had occurred and to remediate them?

25

DR SWITKOWSKI: Right. So, firstly, let me stop short of naming names or titles, but a number of senior executives left. And the team that was involved in compliance in the context of financial crime, was restructured. This was then, of course, accompanied at the same time with a major effort, such as maybe a scaled down version of what Crown is trying to do for revising --- well, re-engineering the processes of compliance and bringing in people who were experienced in matters to do with AML, CTF and Know Your Customer. But the time --- so the allegations of Tabcorp were made by --- the charges were made in the middle of 2015 and a conclusion was reached in the early part of '17. In that 18 months the regulator AUSTRAC chose to compliment Tabcorp on its reaction to the charges and to the fine, as it turned out, and I think to the state, which is four years later, Tabcorp is still working very hard to achieve best in class practices in these areas.

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I think the other things, Mr Evans, there is an inclination for people to quickly ask who did it and were they punished. Very often in a corporation, responsibility is shared, errors are made sometimes because there's a lack of understanding of the processes, or of the objectives.

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I know in Tabcorp's case, and I think in other companies that have since also been in the headlights, the understanding of the gravity of the requirements of regulators, and what it took to be compliant, was simply inadequate in 2015. It isn't any longer. It

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was still probably inadequate in 2017. It isn't any longer. It's this gap that emerged between the expectations of regulators, perhaps governments, and the interpretation of those expectations by corporates, they were not aligned. Much of that has now
5 been taken care of.

MR EVANS: One of the findings to which Tabcorp agreed in reaching a resolution with AUSTRAC was that financial crime reporting had been Burswood Resort (Management) Limited under-resourced significantly through the relevant period; is
10 that right?

DR SWITKOWSKI: That is right.

MR EVANS: And was the resourcing of the financial crime function ultimately a
15 responsibility of the Tabcorp board?

DR SWITKOWSKI: Ultimately all of those decisions are.

MR EVANS: Thank you, no further questions.
20

COMMISSIONER OWEN: Thank you, any other applications? No.

25 **QUESTIONS BY THE COMMISSIONERS**

COMMISSIONER OWEN: I have a couple of questions for you. The first is just to make sure that I understand your evidence. It is relating to the board composition. You express this as being your personal view, and because you didn't want to be held
30 to something you hadn't discussed with the other members of the board, but do I understand the position to be this: so far as concerns the CRL board, you would favour an increase in the total number from six to eight in due course, and you would like to see that by about the middle of next year?

35 DR SWITKOWSKI: Yes.

COMMISSIONER OWEN: And that there were two particular considerations that would exercise your mind in relation to those appointments. One is an increase in the depth of financial expertise on the board?
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DR SWITKOWSKI: Yes.

COMMISSIONER OWEN: And the second is a geographical spread or geographical consideration which might see the addition of directors who are based
45 or located in Sydney and in Perth; is that right?

DR SWITKOWSKI: Yes.

COMMISSIONER OWEN: That's the CRL board. Then in relation to the Burswood Ltd board, again, while you didn't want to be held to numbers, you seem to indicate that you would at least be open to consider the appointment of an additional external independent Perth-based director to the board of Burswood Ltd; is that also ---

DR SWITKOWSKI: Commissioner, that's right. That's right.

COMMISSIONER OWEN: All right, thank you. Mr Evans asked you some questions about accountability, and that's a subject to which I want to come. Can I preface this by saying that I --- terminology can sometimes be difficult here, so I will just tell you what --- it's the difference between accountability and responsibility. I will tell you what my working understanding of that is. If you look at responsibility in a way as an obligation to perform nominated duties, that's responsibility; and accountability is more about answerability for outcomes from the exercise or non-exercise of responsibility. Is that a reasonable understanding? Does that gel with your understanding in broad terms?

DR SWITKOWSKI: In broad terms, yes.

COMMISSIONER OWEN: All right. Now, can I ask that the draft board charter be brought up again. It's CRW.701.009.5375. If we could go to --- we'll start at 5383. If you could blow up 5.3. This is not actually on topic, but I wanted to ask you this -- do you see 5.3 talks about the directors, and that's the directors of Burswood Ltd, exercising delegated authority. What do you understand by the directors of Burswood Ltd exercising a delegated authority? Delegated from whom?

DR SWITKOWSKI: From whom, I'd be guessing. I'd be guessing.

COMMISSIONER OWEN: I won't ask you to guess. We can explore that in due course. Now, if we then go over the page --- it's pinpoint 5386 --- you'll see just before the heading 6.2, that last sentence in 6.1, if that could be blown up. The centralised management of these areas, and perhaps I should have shown you --- we'll go back to it in a minute --- the areas that are the responsibility of the board of Burswood Ltd, the centralised management of those areas doesn't abrogate the responsibility of the company's board to monitor and exercise the oversight. Do you see that?

DR SWITKOWSKI: Yes, I do.

COMMISSIONER OWEN: Now, I may not have --- these may not be your exact words, but in answer to a question from Ms Cahill when there was an exchange about the relationship and the interaction between the Burswood companies on the one hand and CRL on the other, you said words to the effect, "Well, subsidiaries are subsidiaries, but ultimate accountability rests with CRL". Do you remember saying that?

DR SWITKOWSKI: I do.

5 COMMISSIONER OWEN: What I want to ask you is what do you mean by the ultimate accountability of CRL and is an accountability to whom, given that the context is the exercise of responsibilities by a subsidiary, in this case Burswood Ltd, on the one hand, and the accountability of the holding company board on the other?

10 DR SWITKOWSKI: Well, firstly, let me acknowledge the precision of my comments or thoughts do not rival yours, and I apologise for that, but I've always believed that the parent company ultimately is accountable for the outcomes, and it may be that they have delegated responsibilities, or it's agreed about a division of responsibilities between the parent company and a subsidiary company, but if something goes wrong, it gets elevated to the parent company quickly and the
15 accountability sits there.

COMMISSIONER OWEN: Would you agree that there remains an accountability at the subsidiary board level as well?

20 DR SWITKOWSKI: Yes, yes, I would.

COMMISSIONER OWEN: My last question is this: you are an experienced business person and an experienced company director. I take it you are aware that one of the primary responsibilities of a director is to act in the best interests of the
25 company as a whole; do you know that phraseology, it is fairly well known phraseology?

DR SWITKOWSKI: Familiar, yes.

30 COMMISSIONER OWEN: I'm not asking you for a legal interpretation or a legal construction of what that means, but I'm interested in that phrase the company as a whole, and I'm asking you for your experience, a practical understanding. In a corporate group situation, what's meant by --- what do you understand to be meant by "the company has a whole"? What is the company as a whole?
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DR SWITKOWSKI: If I was outside the company and I were a shareholder, or a member of the community, what I see would be the company as a whole.

40 COMMISSIONER OWEN: So it goes beyond shareholders? You're not seeing the company as the epitomisation of the shareholder body?

45 DR SWITKOWSKI: No, definitely goes beyond shareholders. It would include suppliers, it would include the community, and, frankly, you could, as you know, do a proper definition of stakeholders to include employees, regulators, et cetera.

COMMISSIONER OWEN: All right. If you take that as being --- you spoke in terms of a corporate group situation as being conventional or reasonably well understood. If we take the situation of the Burswood entities, the Crown Perth

entities, and I appreciate that you said that while you've had a briefing on the structure, you're not entirely across what each of the entities does at Burswood level. But if you take it that you have Burswood Nominees Limited, which is the holder of the licence, and it's also a trustee, it's a trustee of a unit trust, within that trust there are responsibilities given to a third entity, which is called Burswood Resort (Management) Limited, which is to manage the operations.

10 DR SWITKOWSKI: Yes.

COMMISSIONER OWEN: Then you come to Burswood Ltd, which is the holder of all of the units and which appears, from the evidence that we have received, to have the primary governance responsibilities for the Burswood entities, and then through perhaps even some interposed companies, you get up to the Crown Resorts limited board. Now, given that structure, would you see any reason to change what you've told the Commission about your view of accountability residing in the holding company board, ultimate accountability residing in the company board, or your view of the depth and reach of that phrase "company as a whole"?

20 DR SWITKOWSKI: No. I mean, I continue to believe that accountability is ultimately with the parent company.

COMMISSIONER OWEN: Thank you.

25 COMMISSIONER JENKINS: Dr Switkowski, I have a few questions for you. I also want to ask you about the Burswood entities. Have you turned your mind to the board membership of Burswood Resort (Management) Limited and Burswood Nominees Limited?

30 DR SWITKOWSKI: No.

COMMISSIONER JENKINS: To date, the membership of both boards has been executive-based, and I was wondering whether you had turned your mind to the issue as to if those boards are governed by executives, whether they are responsible to CRL and ultimately to its board, or whether they are responsible in the governance of the Burswood Resort (Management) Limited and BML to Burswood Ltd?

DR SWITKOWSKI: I'm not well placed to respond to that. I would be inclined to think they would end up with Burswood Ltd, but it's off the cuff, I apologise.

40 COMMISSIONER JENKINS: You were taken by Commissioner Owen to clause 5.3 of the draft Burswood charter and it referred to the delegation of powers --- or delegation --- let me have a look at 5.3. Insofar as the directors are exercising the delegated authority and responsibility for the governance and oversight of the operations of Burswood Nominees and/or BRML, I think in fairness to you, you told Commissioner Owen that you didn't know what that meant?

DR SWITKOWSKI: That's true.

5 COMMISSIONER JENKINS: I won't ask you to hypothesise, then. Moving on to the next question, it relates to the Victorian requirement that the Melbourne Casino be the flagship casino of the Crown Group and that Crown operate all its Australian casinos to the benefit of Victoria. Do you agree that that appears to have an implied requirement that the interests of Western Australia be put after or rank after Victoria's interests, even in relation to the operation of the Perth Casino?

10 DR SWITKOWSKI: Yes, perhaps.

COMMISSIONER JENKINS: Is that the way you intend to govern CRL?

15 DR SWITKOWSKI: Well, I'm going to firstly have to understand what the intent behind some of these things really is. Often the phrasing goes back decades. The intentions were well-meaning, but have kind of been frayed by circumstances in the intervening period. I really don't know --- let me give you an example.

20 I think in the same document, it says three quarters of board meetings of CRL have to be in Melbourne. Now, in the age of COVID, what does that mean? If all our meetings in the future are on video, are we no longer compliant with that requirement? There are a few things like that, I think, mmm, yes. I honestly don't know how to answer your question, but I think the question itself reveals an approach that's a bit dated. I'll have to seek advice and comments from my colleagues as to what we do about that.

25 COMMISSIONER JENKINS: My question is dated or the subject matter is dated?

DR SWITKOWSKI: No, no, the phrasing and the subject matter.

30 COMMISSIONER JENKINS: Can you explain how you think it's dated?

DR SWITKOWSKI: Well, I just attempted to give you an example about a condition that talks about so many meetings a year have to be in Melbourne. I think it's probably part of the same area that you've been looking at.

35 COMMISSIONER JENKINS: Can I ask you a broader question. If that provision does apply, can you see --- do you think there's any justification for CRL operating its casino businesses in Western Australia so as to rank Western Australia's interests second to Victoria's?

40 DR SWITKOWSKI: I'll just --- I would ask the question how have we operated in the last decade? Has there been a problem?

45 COMMISSIONER JENKINS: I know that was your answer to Ms Cahill's questions. There could be many reasons why it hasn't been a problem, but I am asking you sort of a more philosophical question, or maybe even a practical question as to whether there could be any justification for CRL operating its casino business in

Western Australia so as to place Western Australia's interests behind Victoria's?

5 DR SWITKOWSKI: I can't think immediately of an example of where that would be an issue.

10 COMMISSIONER JENKINS: Taking over of the chair of a company which is the ultimate shareholder of the only casino in Western Australia, in governing CRL, is there any particular responsibility or duty that CRL has in relation to governance of a monopoly casino licensee that is unique to that business as opposed to any other business?

DR SWITKOWSKI: Probably not.

15 COMMISSIONER JENKINS: You gave evidence that Crown Resorts' purpose statement had been rephrased and its values had been modified. Do you know when exactly that occurred?

20 DR SWITKOWSKI: Well, what I referred to is that this is a work in progress, and the phrasing that I saw in the last few days was different to what appears in a lot of documents that go back a month. So any modification of a work in progress has occurred in the last, I would have thought, couple of weeks.

25 COMMISSIONER JENKINS: Do you know why they have been changed, modified, however you would like to put it?

30 DR SWITKOWSKI: I think there's been a review of the company's purpose statement and values, unsurprising, with the arrival of a new CEO and the progressive changes on the board, that may have driven what I think a small change, are the words that are used in those areas.

35 COMMISSIONER JENKINS: That's what I really want to know. Is this a change because we have got a new team, we want a new look, or was there something deficient about Crown's earlier purpose and values which had to be remedied?

DR SWITKOWSKI: Firstly, I'd say the changes are small and probably reflect the continuing discussions around the employee survey results, and maybe even input from the culture work that is being done by Deloitte at the moment.

40 When I saw that, I thought to myself, well, it is a work in progress and it's being tuned to get it right.

45 COMMISSIONER JENKINS: What was wrong with them? That's what I want to know. What did Crown think was wrong with them that needed to be rectified?

DR SWITKOWSKI: I don't know the answer to that question.

COMMISSIONER JENKINS: Thank you.

COMMISSIONER OWEN: Ms Thornton.

5 **RE-EXAMINATION BY MS THORNTON**

MS THORNTON: I have a few questions for Dr Switkowski.

10 Dr Switkowski, you have been asked a number of questions by Ms Cahill, Mr Evans and the Commissioners about the Burswood first draft of the charter and its constitution. In your two months as what you have described as chairman in waiting and being an observer to the committees, have you had any involvement at all in the drafting of that board charter?

15 DR SWITKOWSKI: I've been involved in conversations about the draft. I don't think I've greatly influenced the charter itself.

MS THORNTON: Have you had an opportunity in those two months to familiarise
20 yourself with those documents?

DR SWITKOWSKI: Ms Thornton, are you asking about the draft charter for CRL?

MS THORNTON: Burswood.
25

DR SWITKOWSKI: For Burswood Limited. Yes, I have become --- I've had some opportunity.

MS THORNTON: So would it be fair to say you haven't reached any final views on
30 that Burswood charter?

DR SWITKOWSKI: It would be fair to say --- that would be fair, but also I see that the process is that there is a certain amount of drafting going on that involves a number of people, including Board Member Bruce Carter. Once people get
35 comfortable with the draft, it will go back to Burswood Limited for discussion, review and editing as appropriate. Once Burswood Limited are comfortable with that, it would presumably be recommended to the Crown Resorts limited board.

40 So there are steps ahead of us, and there is also now, from our point of view, deadline that we have to meet. In fact, we have to retain a certain flexibility, given what's going on around Crown at the moment.

MS THORNTON: So it would be fair to say it's still a evolving document?

45 DR SWITKOWSKI: I would call it that, yes.

MS THORNTON: You were asked questions by both Ms Cahill and Commissioner

Jenkins about the casino agreement between the Crown Melbourne and the Victorian commission for gambling and liquor regulation. Have you had an opportunity in your two months to review the requirements of that agreement in any detail?

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DR SWITKOWSKI: No. In fact, I got that document last night for the first time, so I really haven't had time to absorb it all.

MS THORNTON: You were taken to the requirement in that agreement that the Melbourne Casino remain as the flagship casino of the holding company. Could that be a reference to the size of the casino, taking into account the size of Victoria and Melbourne, in particular?

DR SWITKOWSKI: I'm sure that's an ingredient. I mean, it does illustrate the ambiguity in the words, you know, "flagship" and whatever other descriptors have been applied.

MS THORNTON: You were asked by Ms Cahill about your experience in an organisation that had experienced substantial corporate changes, similar to that being undertaken by Crown at the moment, and I think your answer was that you hadn't personally, but you had observed other companies going through similar changes. Are you able to give us examples of changes of companies that you've seen going through similar change?

DR SWITKOWSKI: I have one other. Firstly, NBN comes up because I'm very familiar with it, and there are some interesting coincidences in the early months of NBN with what I see happening in Crown. But I have thought about which other companies have had to cope with dramatic changes to the leadership at the board and executive level as well as the circumstances of COVID.

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And the one that comes to mind is Virgin, Virgin Airlines, which, in the last couple of years, have gone through a change of ownership, which has been accompanied by change of management, and because it's been privatised, change of board and change of governance design, and at the same time being hit as hard as any company by the consequences of COVID.

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As far as I can tell, their difference to ours is their platform hasn't been contaminated by non-compliance and breaches, et cetera, such as might be the case in parts of Crown, but the impact upon governance and decision-making, while at the same time dealing with a large employee base that is traumatised, if I can use that word, by COVID, makes them quite a good case study.

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MS THORNTON: Thank you. Were you taken by Mr Evans to the AUSTRAC litigation with TAB, and for the Commission's reference, there was a decision by Justice Perram, Chief Executive Officer of Australian Transaction Reports and Analysis Centre v TAB Limited [2017] FCA 1296, and you said to Mr Evans, and he referred you to the fact that there was no finding by Justice Perram, or the findings that he made were that, although the board and senior management did receive

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compliance reports during the relevant period, neither the board nor senior management were aware of the deficiencies, nor were either involved in the contraventions.

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DR SWITKOWSKI: That's right.

MS THORNTON: So there was no finding against the board in that decision, no adverse finding.

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DR SWITKOWSKI: In fact, my recollection of the media release that AUSTRAC provided had a paragraph in there commending the company on its response to their allegations and ultimately outcome of their prosecution of the case.

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MS THORNTON: Dr Switkowski, you've spent almost three hours or over three hours giving evidence to the Commission this morning. Is there anything further you would like to add to or clarify your evidence that you give?

DR SWITKOWSKI: No, thank you for the opportunity, but no thanks.

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MS THORNTON: Thank you, Commissioner.

COMMISSIONER OWEN: Thank you. Dr Switkowski, I think in view of the fact that there is an event that occurs tomorrow, it would be wise for us to leave the summons in place, in case there are things that we need to come back to you on. So I won't perform any discharge of the summons at the moment, but thank you very much for your time and for your assistance to us. We are very grateful to you. You can now resume what is left of the afternoon.

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THE WITNESS STOOD DOWN

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COMMISSIONER OWEN: I think we will come back at 2.15, rather than 2.00 pm, if a message could be relayed to this afternoon's witness, and whoever is representing them. We will adjourn until 2.15. Thank you very much.

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**HEARING ADJOURNED AT 1.22PM UNTIL TUESDAY, 26 OCTOBER 2021
AT 10.00 AM**

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