

**IN THE MATTER OF A ROYAL COMMISSION INTO
THE PERTH CASINO**

SECOND WITNESS STATEMENT OF KEVIN JOHN HARRISON

Date of Document: 27 August 2021

Filed on behalf of: The Gaming and Wagering Commission of
Western Australia

Prepared by:

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I, Kevin John Harrison of c/o Quinn Emanuel Urquhart & Sullivan, Level 41, 108 St Georges Terrace, Perth, Western Australia, say as follows:

INTRODUCTION

1. This statement is provided in response to the summons dated 30 April 2021 and issued pursuant to section 9 of the *Royal Commissions Act 1968* (WA), which is directed to me by the Perth Casino Royal Commission (**PCRC**).

2. This is my second witness statement provided to the PCRC. My first statement is dated 14 May 2021 (GWC.0003.0008.0003).
3. In this witness statement, I do my best to address the list of questions provided to me late last week. Because of the limited time, I have been able to consider only a limited number of documents to assist me in preparing this statement and otherwise rely upon my unaided recollection.
4. As described in my first witness statement, I am a former member of the Gaming and Wagering Commission of Western Australia (GWC). My appointment commenced on 1 January 2006 and, after a number of renewals and a short break in January 2009, ended on 31 December 2015.
5. This statement is true and correct to the best of my knowledge and belief. The facts and matters set out in this statement are from my own knowledge, except where I indicate otherwise. Any views I express are my own except where I indicate otherwise.

TOPIC 1: ACCOUNTABLE AND ETHICAL DECISION MAKING (AEDM) TRAINING PROGRAM

6. In answering the question(s) under this topic, I have had regard to the following documents: GWC.0002.0016.0122_0173, GWC.0001.0007.0187

In your capacity as a Commissioner of the GWC, were you offered the opportunity to undertake and did you undertake the AEDM training program?

7. In November 2014, a draft Code of Conduct for the GWC together with a formative guide from the Public Service Commission to assist board members in understanding their obligations entitled “Board Essentials” was presented (GWC.0002.0016.0122_0173). The Code of Conduct was adopted by the board and AEDM training was planned in 2015 but was not presented during my tenure.

TOPIC 2: FINANCIAL MATTERS

8. In answering the question(s) under this topic, I have had regard to the following documents: GWC.0002.0016.0136

The adequacy of briefing papers and any oral briefings received by the Commission from the Department concerning the Commission's finances, including the service fee charged by the Department.

9. On commencement with the GWC, the Department's Chief Financial Officer Terry Ng provided an oral briefing on the GWC's finances including revenue and operating expenses for gaming and wagering. He advised the service fee charged by the Department was arrived at on advice from Department heads on the cost of salary, wages and overheads for employees of the Department involved in discharging duties on wagering and gaming.
10. Annual budgets were presented detailing any proposed variations to income and expenses. The annual change in the service fee was generally minimal based on the increase, or proposed increase, in public sector wages and salaries or restructures within Department sections. Monthly results with budget comparisons and year to date results and comparisons were presented at each GWC meeting together with statements of cash flow and financial position. The monthly financial report was supported by papers with previous year comparisons of revenue raised for casino games, the casino tax and its calculation, the collection of wagering and gaming activities revenue, and the remittance to Treasury of Video Lottery Terminal and Continuing Lottery revenue. Explanations were provided for any substantial (usually more than 10%) variation between actual results and budget for both the monthly and year-to-date results. Generally I thought that the briefing papers and oral briefings in

relation to finance matters were adequate, though a more comprehensive explanation of how the service fee was calculated would have been useful.

Your understanding of the Commission's responsibility to review and approve the Commission's finances, including the service fee charged by the Department, and how this responsibility was discharged by the Commission.

11. The GWC is responsible to review and analyse results through the receipt on a monthly basis of an income and expenditure statement and a statement of financial performance. The papers presented on a monthly basis were approved at each GWC meeting. Queries raised by members that were not covered in the accompanying notes were answered by the meeting Chairman or the responsible officer if he or she was in attendance. If the question was not adequately answered it was followed up by the Department head or commented on at the next meeting.
12. The service fee charged by the Department was reviewed on presentation of each annual budget. Once accepted the fee generally remained static for the rest of the financial year unless a major variation was forthcoming.

TOPIC 3: DELEGATIONS

13. In answering the question(s) under this topic, I have had regard to the following documents: *Gaming and Waging Commission Act 1987*.

Your understanding of the Commission's intention in delegating all of its powers other than the power of delegation to Departmental officers and the effect of a delegation of that kind.

14. The delegation by the GWC of all of its powers other than the power of delegation to Departmental officers was intended to facilitate timely and efficient processes.

15. There were no staff within the Commission to whom the GWC could delegate, and the Departmental officers to whom powers were delegated were highly experienced in the operations of wagering and gaming.

Your understanding of how the Departmental officer would exercise delegated powers. Specifically address:

(a) whether you understood that the Departmental officer would exercise the powers delegated by the Commission unfettered by any control or oversight by the Commission; or

(b) whether you understood the delegation to reserve a power to the Commission to ratify or reject any exercise of delegated power.

16. While the Departmental officer could exercise delegated powers to ensure expediency, it was on the basis that the matter which was approved under delegation was tabled at the next GWC meeting for GWC members' notice. On signing, the approval is deemed to be the approval of the GWC and is hard to overturn. To the best of my recollection there was no register of " Documents signed under delegated powers" so I do not know if all documents signed under delegation were actually tabled at meetings of the GWC.

TOPIC 4: MEDIA ALLEGATIONS

17. In answering the question(s) under this topic, I have had regard to the following documents: GWC.0002.0016.0134, GWC.002.0016.0121.

As regards the allegations in the ABC Four Corners program 'High Rollers, High Risk? Australian casinos and the threat posed by organised crime' which aired on 15 September 2014:

(a) whether you were aware of the allegations and reports at or around the time they were published;

(b) whether you recall the information provided by Crown Perth to the Commission and the Department about them and, if so, your view as to the accuracy and sufficiency of that information; and

(c) whether you recall what, if any steps were taken by the Department or the Commission in respect of the allegations and reports.

18. The ABC Four Corners Programme "High Rollers High Risk" on 15 September 2014 came to my attention through board papers for the GWC meeting on 23 September 2014 (Minutes: GWC.0002.0016.0134). At this meeting and a following meeting on 14 December 2014 (GWC.002.0016.0121), the Deputy Chairman provided a report on International Commission Business at Crown.
19. Key points of the Deputy Chairman's report included
 - 19.1 unlike Macau, junket operators do not control private gaming rooms at any casino in Australia;
 - 19.2 junket operators are not subject to probity checks from the GWC or the Department and are no longer licensed under the *Casino Control Act 1984*;
 - 19.3 junket operators are subject to Department Of Immigration and Border Protection Controls;
 - 19.4 Perth Casino conducts its own due diligence in protecting its own commercial interests;
 - 19.5 Perth Casino are required comply with AUSTRAC and AML reporting requirements It is an offence to provide details of these reports to any other party.
20. GWC officers conducted a range of activities in maintaining the integrity of the gaming. However they had no involvement in assessing the role of junket groups or

premium players, determining the source of gaming funds, or monitoring the level of inducements or incentives provided to players.

21. I am not aware of any action taken by the GWC or Department specifically in respect to the ABC report during the remainder of my term.

TOPIC 6: MINIMISATION OF HARM FROM CASINO GAMING

22. In answering the question(s) under this topic, I have had regard to the following documents: GWC.002.0016.0077, PUB.0002.0001.0588

The topics in this section relate to your knowledge and understanding of the relevant matters during the period during which you were a member of the GWC.

Your knowledge and understanding of the nature and extent of harm, if any, caused by casino gaming at Crown Perth and of any research that has been conducted to identify and assess the nature and extent of harm, if any, caused by casino gaming at Crown Perth.

23. The Australian Medical Association's Health Effects of Problem Gambling position statement issued in either 2012 or 2013 clearly defined the social, physical and mental effects on problem gamblers and their families with reduced household income and social disruption. Available information indicated that problem gambling was less prevalent in Western Australia due to the lack of Electronic Gaming Machines (EGMs) in the state. However, with the EGMs in the State confined to the Perth Casino, a focus was required on the resulting harm. I am unaware of any data that has identified the extent of harm caused by casino gaming at Crown Perth although the Productivity Commission in its report in 2010 indicated that problem gambling from EGMs was less in Western Australia than in other jurisdictions due to destination gambling rather than widespread accessibility.

Your knowledge and understanding of any sources of funding to mitigate any harm caused by casino gaming at Crown Perth, how that funding is applied and whether, and if so, how the effectiveness of that application of the funding is evaluated.

24. The Problem Gambling Support Service Committee (**PGSSC**) consists of representatives including the Perth Casino, GWC, Lotterywest, Racing WA, WA Bookmakers Association, and local governments and communities. The committee is self-funded through voluntary contributions from some its constituent representatives. The Department provides administrative support with an annual contribution which in my last year was \$56,000 (PUB.0002.0001.0588).
25. The PGSSC objective is to educate the community of Western Australia on the impact and consequences of problem gambling and to facilitate and promote the help services available to those people affected by gambling related harm. Services provided include a 24 hour confidential helpline, a face to face counselling service and an on-line counselling service.
26. In addition to its contribution to the PGSSC, the Perth Casino is involved in a Beyond Gambling Grants Programme (**BGGP**). In 2012, a one-off payment of \$2 million was made by Crown Perth followed by an annual appropriation by Crown Perth of \$500,000. Management of the funds is undertaken collaboratively between the Department and the Department of Communities which administers the grants program.
27. The BGGP objectives include:
 - 27.1 raising the awareness of the effects of problem gambling on individuals, families and communities;
 - 27.2 strengthening the capacity of individuals, families and the community to reduce the level of gambling in the community; and

27.3 increasing the capacity of the non-government sector to work with individuals, families and the communities on the impact of problem gambling.

(GWC.0002.0016.0077_0028)

28. I am not aware of any evaluation of the funding for the PGSSC or the BGGP.

Your knowledge and understanding of:

(a) Crown Perth's responsible gaming program and any other activities undertaken by Crown Perth to minimise any harm from casino gaming;

29. In 2006, Crown Perth established a "Responsible Service of Gambling" (RSG) unit to co-ordinate responsible service of gaming programs. The RSG unit consists of a manager (who is a qualified social worker) and ten team members providing 24 hours a day 7 days a week service. Included in the RSG unit activities have been:

29.1 the development of a training program to assist staff in the observation and reporting of patron behaviour indicative of problem gambling;

29.2 the introduction of a 'self-exclusion program' and 'third party exclusion programs;

29.3 increased signage around the Perth Casino warning against leaving children unattended;

29.4 developing a RSG website;

29.5 establishing a dedicated Responsible Gambling Information Centre providing gambling related assistance, referral information and advice; and

29.6 engaging with external community service stakeholders in raising awareness of problem gambling.

(GWC.0002.0016.0077_0029)

(b) the Commission's role in overseeing or regulating that program and any such activities; and

30. The GWC had an advisory capacity in respect of the activities conducted by the RSG unit.

(c) how the Commission has performed its role in overseeing or regulating that program and any such activities.

31. We received statistics on self-exclusion and third party-exclusion programs. The GWC was also briefed by the RSG unit on how it operated and liaised with Departmental inspectors, but I am unaware of those details, and am otherwise not aware of others measures of the effectiveness of the RSG unit.

Your understanding of the Commission's policy about or regulation of ATM placement at Perth Casino.

32. In August 2008, after consultation with the Perth Casino licensee, the GWC resolved to adopt a policy in respect of the (then) Burswood Entertainment Complex in relation to the placement of ATMs and the amount of money that could be withdrawn in a 24 hour period.
33. The policy was fully implemented in January 2010. It allows for ATMs to be located on the same level as the casino main entry, close to the location of the security officers and under existing CCTV coverage but limits access to encourage patrons to have breaks in play as part of harm minimization requirements.
34. Effective 30 September 2011, the following policy position in respect to the provision of ATMs at the (then) Burswood Entertainment Complex was adopted:

- 34.1 ATMs are prohibited from being located in the area covered by the casino gaming license; and
- 34.2 ATMs are prohibited from being located within 40 metres (walking distance, as opposed to “as the crow flies” distance) of any entrance to the gaming floor, unless the ATM has a withdrawal limit of \$400 per customer per day.

TOPIC 7: DETERMINATION OF APPLICATIONS BY CROWN PERTH

Your understanding of the circumstances in which the Commission will seek independent expert reports in order to assist the Commission to determine applications by Crown Perth.

- 35. When neither the Department nor the GWC have the in house technical skills available to verify or inspect game source code they arrange this testing to be done by an accredited testing facility who provide, within the certification, details of the game, return to player information, configuration, settings and other key game information. The testing facility also provides a HMAC SHA1 signature that enables inspectors to confirm that the game software operating on any machine is software that has been tested, certified and approved.

Your understanding of the process that the Commission should follow in deciding whether to declare a game, including a game played on an Electronic Gaming Machine, to be an authorised game for the purposes of the Casino Control Act 1984 (WA) and in deciding whether to alter the approved rules of any game.

- 36. The GWC will declare a game, including games played on EGMs an authorised game if the application for approval is accompanied by an accredited testing facility confirmation that the game would conform to the GWC approval standards. If the application is not accompanied by an approval confirmation the GWC may provide

“in principle” approval subject to receipt of a satisfactory report and approval certificate from an approved testing facility.

37. All submissions and presentations are prepared by the casino licensee who supplies all the required submission documentation including the testing certification, rules and any procedure amendments, deeds of indemnity and certification from their solicitors as to the suitability of any proposed rule amendments.

Your understanding of the effect of the phrase “except for a game played with poker machines” in s 22(2) of the Casino Control Act.

38. My understanding of this rule is that it specifically bars the GWC from approving poker machine games.

TOPIC 8: POLICY ON ELECTRONIC GAMING MACHINES

39. In answering the question(s) under this topic, I have had regard to the following documents: GWC.0002.0016.0126_0022, GWC.0002.0016.0115_0009, GWC.0001.0007.0191

Your knowledge of the consideration given to increasing the minimum speed of play to 6 seconds for Electronic Gaming Machines in 2014.

40. At a meeting in March 2014, the GWC was provided with a video demonstration of a spinning reel poker machine followed by video and machine demonstrations of a number of EGMs using rotating balls dropping into tubes, to determine the outcome of the game. The EGM manufacturer Shufflemaster had developed this delivery mechanism for a number of games approved for use at Crown Perth. Whilst members accepted that the machines using the ball delivery system are not poker machines and all the approved games met the requirements of the WA Appendix to the Gaming

Machine National Standard 2016, the Chief Casino Officer was requested to liaise with Crown Perth with a view to decreasing the game speed by a further 20%.

41. At a meeting of the GWC in June 2014 the Chief Casino Officer reported on his enquiries and outlined a number of adverse consequences that would result from any amendment to the existing arrangements. In order to reduce inconsistencies in the requirements between game types and considering the potential economic and other unwanted outcomes resulting in increasing the time taken to play an EGM, it was agreed no further action be taken.

Your knowledge and understanding of the rationale for the 90% return to player requirement for Electronic Gaming Machines.

42. All EGMs in Western Australia are certified by an authorised testing facility to provide a minimum return to player of 90%, which is the amount specified in the Western Australian Appendix of the Australian Gaming Machines National Standard. I was not involved in setting the return to player percentage in the standard and I don't know why that number was chosen.

TOPIC 9: REGULATION AND OVERSIGHT OF PERTH CASINO

43. In answering the question(s) under this topic, I have had regard to the following documents: GWC.0002.0016.0155

Your knowledge and understanding of how the scope and content of the audit and inspection program at Perth Casino is determined and reviewed.

44. The scope and content of the audit and inspection program is covered under the Casino Compliance Strategy (GWC.0002.0016.0155_0022). This strategy has a pro-active and risk-based approach with a strong focus in areas considered of high risk and the likelihood of unwanted or unlawful activity Detailed activities have been adopted for

the Casinos table games, EGMs, revenue and tax collection, surveillance, security, the control of contracts and approved suppliers and employee licensing.

Your knowledge and understanding of how the audit and inspection program at Perth Casino is implemented.

45. The audit and inspection programs were implemented by the development of operational plans in accordance with the Casino Compliance Strategy.

Your understanding of the basis for the Department changing from the 'RG system' to the 'Sharperligh' or 'Navigate' system to calculate the taxable revenue of the Perth Casino.

46. I have no recollection of this. I think this change occurred after my term on the GWC had ended.

Your understanding of the steps taken by officers or employees of the Department since 2015 to confirm the veracity of the calculation by Crown Perth of taxable revenue of the Perth Casino.

47. My understanding is that, from late 2015, officers or employees of the Department complied with the Casino Compliance Strategy in relation to revenue and tax (GWC.0002.0016.0155_0023). This was right near the end of my time on the GWC.

Your understanding of the reasons for the decision to remove a dedicated casino inspector presence at the casino in 2015.

48. In June 2015, the GWC adopted a 2015/2016 Casino Compliance Strategy (GWC.0002.0016.0155_0022) with the objective of ensuring the ongoing suitability of the Casino licensee and employees, maintaining compliance with relevant legislation and other GWC requirements, maintaining public confidence in the conduct of casino gaming and ensuring the casino revenue and tax are accurately reported and paid to the State. The Department was to take a proactive and risk based

approach in operational compliance similar to that being adopted by other Australian and overseas regulators.

49. Identified in this approach was the removal of a dedicated inspector due to the reduction in table games supervision from the benefits and use of new surveillance technology and with the introduction of a 20.5 hour inspectors roster instead of a 24/7 roster.
50. The removal of a dedicated inspector was approved on the conditions that:
 - 50.1 a risk based approach was maintained for casino audits and inspections;
 - 50.2 annual certification from accredited testing facilities relating to the accuracy and completeness of revenue and tax information;
 - 50.3 ensuring that the number and scope of audits and inspections meet budgeted key performance indicators and that the activities can provide the GWC with assurance relating to the integrity of the casino operations; and
 - 50.4 the Department maintains a capability to react to incidents and issues that occur from time to time outside the normal risk based audit regime.
51. The Department also saw a reduction of inspector presence as an opportunity of reducing costs in line with the then-Government's workforce renewal policy and the pressures on the Department to operate within its salaried limits (GWC.0002.0016.0155_0019). This was not the primary reason, though, it was simply an opportunity that came about as a result of the change in direction towards using surveillance footage.

TOPIC 10: DEPARTMENTAL EMPLOYEES AND OFFICERS

Your knowledge of any personal relationships and friendships between employees and officers of the Crown Group, on the one hand, and employees and officers of the Department, on the other.

52. I have no knowledge of any personal relationships and friendships between employees and officers of the Crown Group, and employees of the Department, other than details expressed in recent media releases.

Your knowledge of any gifts or benefits, including hospitality, provided by the Crown Group, including by its officers or employees, to officers and employees of the Department.

53. I have no knowledge of any gifts or benefits, including hospitality, provided by the Crown Group, including its officers or employees, to officers and employees of the Department.

Your knowledge of travel undertaken by Departmental officers and employees in circumstances where Crown has reimbursed some or all of the cost of the travel.

54. At the August 2013 meeting of the GWC, the Chairman presented a verbal report on his trip to Macau in July 2013. The visit to Macau was undertaken on the invitation of Mr Barry Felstead, the then Chief Executive Officer of Crown Perth. The extensive expansion of casino facilities in Macau was seen as affecting the operations of Crown Perth and its proposed expansion. The initial response to Mr Felstead was that budgetary restraints meant it was not possible to undertake the proposed travel. Mr Felstead therefore proposed that Crown Perth meet all travel costs. Accordingly the submission to, and approval by, the Hon. Terry Waldron MLA, Minister for Racing and Gaming was premised on the understanding that Crown would be invoiced for all travel costs incurred.

Your knowledge of functions at a venue at Crown Perth, for example, a retirement function or Christmas meal, attended by Departmental officers and employees.

55. The only function at a venue at Crown Perth where I was aware Departmental officers and employees were in attendance was the opening of the Pearl Room. In addition to the Director-General and Deputy Director-General of the Department, members of the GWC, including myself were in attendance in a crowd of 300 to 400 (estimate) guests. My invitation to attend the function was received through the GWC office, not at my personal address. Attendance at the function was noted at the next meeting of the Commission.

TOPIC 11: HISTORICAL RISK ASSESSMENT OF CASINO LICENSEE

Your knowledge as to whether the Commission conducted a risk assessment in relation to the Perth Casino licensee or its conduct prior to November 2020.

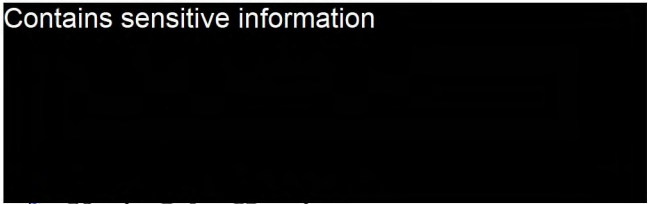
56. I have no knowledge of the GWC conducting a risk assessment in relation to the Perth Casino licensee or its conduct prior to November 2020.

DUAL ROLE OF CHAIRMAN AND CHIEF EXECUTIVE

57. During my time on the GWC the Chair of the GWC was, by legislation, the head of the Department. I thought that posed a risk of conflict and considered that when the *Gaming and Wagering Act 1987* was up for review it should have been considered and removed.
58. As mentioned at paragraph 7 of my first statement, I chaired a review of the *Western Australian Tourism Act 1983*. As part of that review in 1994, a similar dual-office role (which I held, as CEO and Chair) that existed under that Act was considered and

removed. My experience in continuing in the split role (as CEO) was that it resulted in a more efficient and less conflicting experience.

Contains sensitive information



Kevin John Harrison

Place: Perth

Date: 27 August 2021