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**PERTH CASINO ROYAL COMMISSION**

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**PUBLIC HEARING - DAY 55**

**09:59AM THURSDAY 11 NOVEMBER 2021**

**COMMISSIONER NJ OWEN**

**COMMISSIONER CF JENKINS**

**COMMISSIONER C MURPHY**

**HEARING ROOM 3**

**MR MICHAEL FEUTRILL SC and MR DAVID YATES and MS ELLY STURGEON  
as Counsel Assisting the Perth Casino Royal Commission**

**MR RICHARD HARRIS as Counsel for Ms Victoria Whittaker**

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

**MS RACHAEL YOUNG as Counsel for Mr James Packer and Consolidated Press  
Holdings Pty Ltd and CPH Crown Holdings Pty Ltd**

**MR KANAGA DHARMANANDA SC and MR LEON FIRIOS and MR JESSE  
WINTON as Counsel for Crown Resorts Ltd; Burswood Limited; Burswood Nominees  
Limited; Burswood Resort (Management) Limited; Crown Sydney Gaming Pty Ltd;  
Southbank Investments Pty Ltd; Riverbank Investments Pty Ltd and Crown  
Melbourne Limited**

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

COMMISSIONER OWEN: Please be seated. Thank you, Ms Waldren.

5 Before we start the program today, assuming we are still sitting at 11.00 am, we will invite you to join the Commissioners in the customary Remembrance. Then that might be an appropriate time to take the morning tea break, that would be 11.00 am. Mr Feutrill?

10 MR FEUTRILL: Commissioners, there are a couple of housekeeping matters I would like to deal with before we start.

COMMISSIONER OWEN: Please.

15 **HOUSEKEEPING**

MR FEUTRILL: First, the next witness is Ms Waldren, as you know. Given the topic and subject matter of her evidence, it would probably be best to make an assumption that all documents that will be viewed during the course of her evidence will be the subject to an NPO. They will be confined to the Commissioners' screens and interested parties' screens.

25 Second, I want to clarify, before any of the interested parties examine Ms Waldren, the scope of her instructions and the nature of reliance that may be placed on the opinions that are expressed in her report. It is probably easiest if I do this by reference to the report itself. It will be necessary to take the Commission and the parties through the parts of the report that are affected by what I am about to say.

30 Could we call up PCRC.0021.0001.0121 and scroll to 0164, which sets out in landscape form "Scope" for Ms Waldren's part of the report. I draw everyone's attention to the topic "Theme 1".

35 I preface what I am about to say by indicating that in the context of compliance reviews or assessments of experts in this field, they are, or may be, called upon to express a view about whether or not AML/CTF programs are compliant with the AML/CTF Act and Rules. The view expressed in doing so, of course, does not mean that there is in fact, as a matter of law and fact, noncompliance with the *AML/CTF Act and Rules*. *It is the view expressed by the expert as to, essentially, their* understanding of the Act and Rules and whether or not the program is compliant.

45 The question dealt with in Theme 1, and the focus here is on "Crown satisfies its obligations under the AML/CTF Act", is of course calling for the expression of an opinion based on the author's understanding of what those obligations are, not calling for an expression of opinion as to the legal effect of the AML/CTF Act.

Likewise, if you see the way the scope is broken up, it starts with a theme and then there are tasks in the column on the left-hand side. The first task indicates whether there should be an assessment as to whether there is a compliant AML/CTF program.  
5 Again, that is calling for the expression of an opinion, based on their understanding of what compliance is required, it is not requesting a legal opinion on the meaning of the Act and Rules.

10 Could I also draw attention to one other aspect of the theme, which is the focus of the question. You will see an asterisk and after it "material deficiency". Then it is described as:

15 *Where a material deficiency means a gap or inadequacy within the AML/CTF Program which exposes the Perth Casino Licensee to a risk that it will fail to identify, manage and mitigate money laundering and counter terrorism activity.*

20 That is the focus of the theme and the task. The question of the extent to which Crown Perth or Burswood Nominees, as the Casino licensee, is appropriately identifying, managing and mitigating money laundering and terrorism financing risk in connection with the gaming operations at the Perth Casino is obviously a matter of relevant inquiry for this Commission.

25 However, to the extent the report expresses opinions about actual compliance with the AML/CTF Act, the report and evidence of Ms Waldren will not be adduced or relied on to support a contention in the Commission that Crown Resorts or Crown Perth, Burswood Nominees, is in breach of any provision of the AML/CTF Act and Rules.

30 That is, essentially, taking the legal question out of the scope, for clarity. When they are reviewing or considering the scope of theme 1, to be clear, the report and evidence of Ms Waldren will be adduced and relied on as evidence relating to the question of whether there is a material deficiency in the current AML/CTF program, meaning a gap or inadequacy in that program which exposes the Perth Casino  
35 licensee to a risk that it will fail to identify, manage and mitigate money laundering or terrorism financing activity.

40 As to the third task, likewise, taking the legal question out of the framework, the report and evidence of Ms Waldren will be adduced and relied upon as evidence relating to the question of whether Crown Perth currently has an AML/CTF program appropriate for an entity of its nature, size and complexity, having regard to the money laundering and terrorism financing risks faced by Crown Perth and the profile of Crown Perth Casino, including the matters identified in the task, namely  
45 designated services, customer risk, country risk, delivery and channel risk.

Given that Ms Waldren has responded to the questions as they were framed, it is necessary to clarify some of the opinions expressed to make it clear to the interested parties the extent to which reliance, in the framework I have just placed, will be put

on those opinions, so it is clear to what extent the Commission may rely on those opinions for those items I have identified as to the underlying risk assessment.

5 To deal with that, because there is an element of some of these items being rolled up within the expressions of the overarching opinions, I need to identify the relevant passages and the extent to which they are relied on.

10 Could I now take you to pinpoint 0145, which is a summary of the findings or conclusions and opinions. I should say (inaudible) that Part A is the joint report of Ms Waldren and Ms McKern, and they each contain summaries of the opinions expressed in subsequent reports in volumes B and C.

15 In table 5 on that page, the tasks are identified by cross-reference to the scope. There is an expression of a conclusion or opinion, which says "as required under the AML/CTF Act and Rules". That would be received on the basis that it is expressing Ms Waldren's understanding of those requirements. The focus is on the material deficiency, as the relevant opinion expressed based on that understanding of the requirements.

20 In task 2 there is a reference again to not allowing it to demonstrate compliance with 9.1.5. Again, that is expressing or would be received on the basis of Ms Waldren's understanding of those requirements. This actually relates to the assessment of the enterprise-wide risk assessment methodology and approach, and is not directly  
25 dealing with the current AML/CTF program.

Over the page is table 6. You will see there is a conclusion in 1. The first sentence would not be relied upon but the second, starting "this is on the basis that" is the  
30 effective opinion.

Could I then move to volume B, which holds the main opinion or discussion. You see on pinpoint 0179 a slightly expanded version of the table by way of an executive summary. In a similar manner, in paragraph 2.2.1 we would not rely on the first sentence, but on the second, on the balance of that paragraph. We would not rely on  
35 the opinion expressed in 2.2.2.

In 2.2.3, again reading the words "to allow Crown to satisfy its obligations under the AML/CTF Act and Rules" as an expression of an opinion of Ms Waldren's understanding of those obligations, it is relied upon as to the opinion of the  
40 deficiency expressed in that paragraph.

2.2.4 is relied upon.

2.2.5, in a similar way to 2.2.3, is relied upon as to the deficiency in the program,  
45 based on Ms Waldren's understanding of the requirements of the AML/CTF Act and Rules, the AML/CTF program as referred to at the conclusion of that paragraph.

2.2.6 is relied upon as to the deficiency in the AML/CTF program.

The balance of that Executive Summary section under 2.2, which is paragraphs 2.2.7 to 2.2.10, are relied on but they don't really address this issue.

5 In section 3 on pinpoint 0183 at paragraph 3.2, in a similar way, what is relied on is the expression as to the deficiency in the risk assessment based on Ms Waldren's understanding of the requirements of the AML/CTF Act and Rules.

10 In a similar way for paragraph 3.4 on page 0185, it is relied upon as to the deficiency in the risk assessment, based on Ms Waldren's understanding of the requirements of the AML/CTF Act and Rules.

15 In section 4 at page 0190, something has gone wrong with the paragraph numbering but there is a paragraph 4.8.1. This corresponds to the table I took you to earlier as to whether or not there was compliance with the requirements of part 9.1.5 of the Rules in the context of the enterprise-wide risk assessment. Again, it is relied on as to the adequacy of that assessment, based on Ms Waldren's understanding of part 9.1.5 of the Rules.

20 On page 0191, paragraph 6.1.1, there are some bullet points. Then over the page it starts with a view expressed about the obligations. That is relied upon as to the opinion expressed concerning the deficiency in the risk assessment, again based on Ms Waldren's understanding of the obligations under the AML/CTF Act and Rules.

25 Commissioners will be aware that the Crown parties have provided a response to Ms Waldren's report and Ms Waldren has provided a response to that. Could I take you to PCRC.0004.0012.0001, where an opinion is expressed concerning the obligations of Crown. It is on 0003 and perhaps the earlier page, 0002.

30 In that paragraph, Ms Waldren is expressing disagreement with parts of Crown's position paper. But the very last paragraph effectively affirms one of the opinions expressed in the original report. Again, that is relied upon as to the deficiency in the risk assessment, based on Ms Waldren's understanding of the obligations under the AML/CTF Act and Rules.

35 COMMISSIONER JENKINS: Sorry, Mr Feutrill, which paragraph are we at?

MR FEUTRILL: Sorry, page 0003. At the very top of the page, it says "Therefore, in MW's opinion".

40 COMMISSIONER JENKINS: Yes.

45 MR FEUTRILL: I have tried to be comprehensive and pick up any paragraphs in the report or the responsive document where opinion is expressed in a way that it picks up either a requirement for compliance or obligation under the AML/CTF Act and Rules to make it clear that we are relying on it to the extent it reflects Ms Waldren's opinion --- sorry, understanding of the Act and Rules.

If I have overlooked any paragraph that I haven't specifically mentioned but it deals with that topic, it will fall within the general clarification I have made. But if any interested parties have found a paragraph of that nature or come across it, they could certainly request further clarification if there is any doubt.

I think that deals with the reliance that may be placed on the opinions expressed in Ms Waldren's report and documents. Could I perhaps call her?

COMMISSIONER OWEN: Yes. Thank you, Mr Feutrill, that clarifies those matters. If the parties wish to raise anything, they can do so at an appropriate time. Is this to be taken as sworn evidence this morning?

MR FEUTRILL: Yes.

COMMISSIONER OWEN: Ms Waldren, do you wish to affirm or take an oath?

WITNESS: I will affirm, thank you.

**RACHEL WALDREN, AFFIRMED**

**EXAMINATION BY MR FEUTRILL**

MR FEUTRILL: Could we bring up PCRC.0021.0001.0121. Ms Waldren, you have prepared a report entitled "Perth Crown Royal Commission AML Forensic Report - Volume A" with Ms McKern of McGrathNicol?

MS WALDREN: Yes, that's correct.

MR FEUTRILL: Separately, you prepared a report which is at pinpoint 0176?

MS WALDREN: Yes, that's correct.

MR FEUTRILL: You are aware Ms McKern prepared a report as well, which is on 0203?

MS WALDREN: Yes, I'm aware of that report.

MR FEUTRILL: Volume A, section 5 on pinpoint 0145 contains a summary of the opinions and conclusions you have expressed in volume B?

MS WALDREN: Yes, that's correct.

MR FEUTRILL: Those opinions and conclusions are your own?

10:23AM

MS WALDREN: They are my own.

MR FEUTRILL: And are they (inaudible).

5

MS WALDREN: I'm sorry, I couldn't hear that.

MR FEUTRILL: They are your honestly held opinions?

10 MS WALDREN: Yes, they are.

MR FEUTRILL: Volume A contains some joint opinions or joint work of you and Ms McKern; is that correct?

15 MS WALDREN: That's correct.

MR FEUTRILL: To the extent that section contains opinions, are they your opinions?

20 MS WALDREN: Yes, they are.

MR FEUTRILL: Are those honestly held?

MS WALDREN: Yes, they are.

25

MR FEUTRILL: As to volume B, which is your report, are the opinions and conclusions expressed in that document your own?

MS WALDREN: Yes, they are my own.

30

MR FEUTRILL: Are they honestly held?

MS WALDREN: Yes, they are.

35 MR FEUTRILL: Is there anything in either volume A or B that you wish to change or modify for any reason?

MS WALDREN: No. There are one or two typos there, but no.

40 MR FEUTRILL: Nothing affecting the substance?

MS WALDREN: Nothing affecting the substance, thank you.

45 MR FEUTRILL: Can I take you to some other documents. The first is PCRC.0004.0015.0001. I don't know if it is attached to it or if there is a document ending 0002. It may not be part of the same document.

10:24AM

MS WALDREN: Yes, I have those.

5 MR FEUTRILL: You have been provided with copies of these documents previously?

MS WALDREN: Yes, earlier this week I have been provided with those.

10 MR FEUTRILL: You have considered them and prepared a response to them?

MS WALDREN: Yes, I did.

MR FEUTRILL: Can I show you PCRC.0004.0012.0001.

15 MR FEUTRILL: This is the response you prepared in response to the Crown Perth position paper?

MS WALDREN: Yes, that's correct.

20 MR FEUTRILL: Is there any matter raised --- I will take you to the document referred to as the Crown Perth Responsive Position Paper. You know what I'm referring to when I say that. Is there any matter raised in that responsive position paper that has given you reason to change or modify any opinion or conclusion you have expressed in either volume A or B of the report I have taken you to?

25 MS WALDREN: No, there is nothing in that responsive paper that changes the opinion I have expressed.

30 MR FEUTRILL: Likewise, is there anything in that document that has given you reason to change or modify any of your opinions or conclusions, in the joint component of volume A of the report?

MS WALDREN: No, there is not.

35 MR FEUTRILL: As to the document in front of you, is that all you wish to say by way of response to the Crown Perth Responsive Position Paper?

MS WALDREN: Yes, it is.

40 MR FEUTRILL: Are the opinions and conclusions expressed in that document your own?

MS WALDREN: Yes, they are.

45 MR FEUTRILL: Are they honestly held by you?

MS WALDREN: They are.



MR FEUTRILL: Likewise, as I asked you in relation to the earlier report, is there anything in this particular document which you wish to modify or change?

5 MS WALDREN: No, there is not.

MR FEUTRILL: Commissioners, as there are no interested parties who wish to examine Ms McKern, I will tender the first report, which is volumes A, B and C, as a compendious or composite document, if that is convenient?

10

COMMISSIONER OWEN: So we can keep track of this, the document entitled Perth Crown Royal Commission AML Forensic Report - Volume A, 28 October 2021, prepared by McGrathNicol Advisory and Murray Waldren Consulting and bearing the identifier number PCRC.0021.0001.0121, the document entitled Perth Crown Royal Commission AML Forensic Report - Volume B, 28 October 2021, prepared by Murray Waldren Consulting and bearing the identifier number PCRC.0021.0001.0176, and the document entitled Perth Casino Royal Commission AML Forensic Report - Volume C, 28 October 2021, prepared by McGrathNicol Advisory and bearing the identifier number PCRC.0021.0001.0203 are all admitted into evidence as a composite exhibit.

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**EXHIBIT #PCRC.0021.0001.0121 - PERTH CROWN ROYAL COMMISSION  
AML FORENSIC REPORT - VOLUMES A, B & C DATED 28 OCTOBER  
2021**

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MR FEUTRILL: May it please the Commission, I also tender the documents that comprise the Crown Perth Responsive Position Paper, PCRC.0004.0015.0001, and the following document ending 0002.

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COMMISSIONER OWEN: My copies don't have the number. That is the Allens Linklaters letter of 8 November 2021.

35 MR FEUTRILL: Correct.

COMMISSIONER OWEN: And the position paper, which has attached to it some material from Pricewaterhouse?

40 MR FEUTRILL: That's right.

COMMISSIONER OWEN: Those documents can go in as a single composite document.

45 MR FEUTRILL: That makes sense.

COMMISSIONER OWEN: Thank you.

**EXHIBIT #CRW701.011.1829 - DOCUMENTS COMPRISING CROWN  
PERTH RESPONSIVE POSITION PAPER, PCRC.0004.0015.0001 AND  
DOCUMENT ENDING 0002**

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MR FEUTRILL: Could I also tender the response to the response, which is  
PCRC.0004.0012.0001.

10 COMMISSIONER OWEN: The document headed "MURRAY WALDREN  
CONSULTING RESPONSE TO THE CROWN PERTH RESPONSIVE POSITION  
PAPER" and bearing the identifier number PCRC.0004.0012.0001, is admitted into  
evidence as an exhibit.

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**EXHIBIT #PCRC.0004.0012.0001 - MURRAY WALDREN CONSULTING  
RESPONSE TO CROWN PERTH RESPONSIVE POSITION PAPER**

20 MR FEUTRILL: Commissioners, there are a couple of matters I wish to clarify with  
the witness before interested parties have an opportunity to examine Ms Waldren.

COMMISSIONER OWEN: Sorry, Mr Feutrill, could I address Mr Dharmananda for  
a moment?

25

In relation to the Crown position paper, it refers to some documents that have not  
previously been referred to. Can we take it that Crown will ensure those documents  
will be ---

30 MR DHARMANANDA: Will be put in.

COMMISSIONER OWEN: --- put in, in due course.

MR DHARMANANDA: Yes.

35

MR FEUTRILL: As it pleases the Commission.

Ms Waldren, do you have a hard copy of the volumes A to C report? It might be  
easier for you to use that.

40

MS WALDREN: I do.

MR FEUTRILL: I assume yours has the PCRC numbers in the top right-hand  
corner?

45

MS WALDREN: Volume A does. Volume C, yes, it does.

MR FEUTRILL: Could you go to PCRC.0021.0001.0183, paragraph 3.3.3. What is the nature of the risk assessment you consider should have been completed in accordance with what is referred to as the ML/TF risk assessment and methodology, appendix B?

MS WALDREN: Could you repeat that again?

MR FEUTRILL: What is the nature of the risk assessment you consider should have been completed?

MS WALDREN: As referred to in appendix B?

MR FEUTRILL: Yes.

MS WALDREN: Yes. There is a detailed methodology which is appendix B to Crown's program and it forms part of Crown's program and that risk assessment methodology sets out the approach that Crown ought to adopt in assessing its ML/TF risk, which takes into consideration a number of key factors, as it should, in assessing ML/TF risk, which include an assessment of Crown's customer risk, its products, the channels in which it offers its products and the jurisdictions it deals with. That methodology in appendix B sets out the approach to undertaking that assessment at both an inherent and a residual risk level.

MR FEUTRILL: What are the steps undertaken (audio distorted) in the ---

MS WALDREN: The Act and the Rules set out that in undertaking an ML/TF risk assessment, a reporting entity who has obligations under the Act by virtue of offering a designated service, must take into consideration its own size, nature and complexity; that is, provide context to the risk assessment, and it must assess those risks it might reasonably face.

In considering those risks it might reasonably face, the Rules set out that it must include an assessment of the entity's customer types, including politically exposed persons or PEPs, the products which are offered, also referred to as designated services, the channels in which those services are offered and the jurisdictions it's exposed to. Once all of those are assessed, that gives the entity an understanding of the inherent ML/TF risk it might be exposed to.

MR FEUTRILL: What do you mean by "channels"?

MS WALDREN: Channels are the way that the product or the designated service is offered. So that is often summarised as face-to-face or non-face-to-face, a virtual or digital channel, for want of a better word.

MR FEUTRILL: Can you give an example of a channel, so it is clear what you are describing?

MS WALDREN: Yes, a channel in the casino context might be a patron account or it might be --- an electronic gaming machine is a channel in which a patron would be able to receive a designated service through Crown.

5

MR FEUTRILL: Staying with that paragraph, why do you say there has been no documented assessments completed in accordance with that?

MS WALDREN: During the course of our documentary review, we were unable to locate any outcome of an ML/TF risk assessment in accordance with that methodology. During the course of our interviews conducted with key Crown personnel, we asked each relevant stakeholder during the interview whether such document existed and we were advised that no such document existed in accordance with the methodology set out and forming part of the part A program.

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MR FEUTRILL: Can you turn to page 0184 at paragraph 3.3.6. In the first sentence you have used the expression "ML/TF risk". What do you mean by that expression (inaudible)?

MS WALDREN: A holistic assessment would be an assessment taking into consideration all of those things that I just outlined and are set out in the Rules. When we talk about a holistic assessment, that would be an assessment of Crown Perth in its entirety. So in understanding what that would look like, if you can imagine that you would look at all of the different types of customers, products, channels and jurisdictions that each of the relevant businesses in the casino operate and offer, and you would get a good understanding of what those are, so what the particular customer types of Crown Perth are. You would then collate all of that information and complete an assessment of the likelihood and impact of ML/TF risk or Crown being exposed to ML/TF risk at that entity level.

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In Crown's case, because they have a joint program which means there are multiple entities under the one program and they have formed what is referred to as a designated business group, that risk assessment would be done at an entity level and then rolled up collectively across the three properties to form what Crown refers to as an enterprise-wide risk assessment.

35

MR FEUTRILL: Why do you say in that paragraph that the external reports you have referred to earlier do not provide an assessment of Crown's inherent risk, likelihood and consequence, control environment or residual change risk assessment?

40

MS WALDREN: Each of the external reports that we referred to in the report and that we have been provided are targeted reports addressing specific risks or controls. So they are not what I just outlined is required under the Rules and what we would expect to see as an overall or holistic enterprise-wide risk assessment.

45

MR FEUTRILL: What is the consequence or significance, from a risk assessment perspective, of the absence of the holistic assessment, in your view?

MS WALDREN: In terms of Crown being able to identify, mitigate and manage its ML/TF risk, which is the primary purpose of its program, the consequences are significant because in the absence of a risk assessment, Crown is not able to satisfactorily say what risks it might be exposed to and it cannot demonstrate, based on my experience in industry practice, what controls have been put in place to mitigate that risk. Therefore, my opinion was that it was not appropriately risk-based to mitigate the risks that Crown is supposed to in the absence of that risk assessment.

10 MR FEUTRILL: Are you able to give an example of the kind of risk that may not be identified in the absence of a holistic assessment?

MS WALDREN: In Crown Perth's example?

15 MR FEUTRILL: Yes.

MS WALDREN: I believe in the Deloitte Phase 2 report that we have been provided with, an example there as being identified as the patron accounts operated at Crown to which deposits were made have not historically been considered as a channel through which money could be deposited and potentially risks of money laundering taking place, whether inadvertently or otherwise. And so that has not previously been considered as a channel risk and, therefore, has not been assessed. It potentially leaves Crown exposed to the risk of money laundering through that particular channel.

25 MR FEUTRILL: On page 0185 in paragraph 3.4, you have used the expression:

Given the joint AML/CTF Program must be aligned to the current ML/TF risks *as identified in the risk assessment*.

30 What do you mean by the alignment point in that sentence?

MS WALDREN: Well, the primary purpose of the program under the Act and the Rules is to identify, mitigate and manage your ML/TF risks. So the first element of that requirement is to identify risk. If you haven't done that identification of risk, having considered those elements that I mentioned earlier, customer, product, channel and jurisdiction, then you cannot say that your program is aligned to the risk assessment that you have undertaken. So the program in this instance, in my opinion, is not aligned to the risks that Crown might reasonably face.

40 MR FEUTRILL: Moving to a different topic, if I may, which is on pages 0196 and 0197. You are dealing here with the topic of resources.

MS WALDREN: That's correct.

45 MR FEUTRILL: In paragraph 8.3.2, the first sentence refers to:

*..... the AML Team have been operating outside internal service level*

*agreements .....*

What is the source of the information you have relied on to make that statement?

5

MS WALDREN: The source is various internal management information reports that provided detail of alerts that are being reviewed outside of the 28-day service level agreement, internal service level agreement.

10 MR FEUTRILL: When you say "alerts", are they alerts by reference to transaction monitoring?

MS WALDREN: Yes, they would include transaction monitoring, they may also include manual Unusual Activity Reports being raised.

15

MR FEUTRILL: In paragraph 8.3.8 on pinpoint 0197, you refer in the first sentence to:

20

*For the successful implementation and embedment of any change program, first line resources will need to have a clear understanding .....*

What is the significance point of implementation and embedment of any change program for the resources associated with first line of defence?

25 MS WALDREN: Obviously Crown is going through a very significant, I would say wholesale, change program in relation to its financial crime and, specifically, its AML/CTF program. That has been largely driven at the moment by the second line, so the financial crime team, which is appropriately reviewing all of the different policies, procedures, standards and the pending EWRA, or enterprise-wide risk  
30 assessment.

Ultimately the first line, or the business, owns the risk. It is responsible for not only owning that risk, but making sure the controls that have been designed in the second line are implemented in the business. That is, they can reduce the risk potentially of  
35 money laundering or terrorism financing taking place.

To do that in the context of a fairly significant change program, my opinion is that the first line resources need to both be equipped with the knowledge and awareness of those changes, uplift the documents they currently have in place or design new  
40 documents or standards to address those changes being made, and then be able to demonstrate that the changes have been implemented. That is generally done via assurance activities, once the controls have been implemented. So that, therefore, demonstrates it has been embedded.

45 The position in relation to the first line resources at Crown Perth is that they are currently operational but are still waiting for a number of these significant changes to take place because they are still in the design phase. The first line resource in Melbourne, and potentially Sydney when it operates/opens, are currently not in place.

They have been stood down, obviously, as a result of the pandemic and the delay in the Sydney opening. So they will need to take into consideration the different changes that have been made, once those other casinos open.

5

MR FEUTRILL: Does the implementation of the changes have any implications for the resourcing in the first line of defence?

10 MS WALDREN: It will have an impact on the first line in terms of their time to implement those changes will take some time and a number of the processes, such as the source of wealth form that has been recently introduced, it has an increased time effect, if you like, on the first-line resources. So the increased focus on compliance, if you like, is detracting from their normal business as usual activity, which is gaming and patron welfare.

15

MR FEUTRILL: Could I go back to pinpoint 0916, paragraph 8.2, where you express an opinion that the existing resources are insufficient to manage Crown's current BAU activity effectively and are unlikely to be sufficient to embed the change program across the three lines model. Then you set out in paragraphs 8.3.1 through and following the factors you have taken into account.

20

Can you explain in what way you have drawn on your experience or expertise to form that opinion, based on those factors?

25 MS WALDREN: Yes. I have worked both in industry as a compliance officer and in recent years as a consultant across many reporting entities, and understand that any change requires considerable time and effort to implement and embed in any organisation, regardless of the size or complexity.

30 So in relation to Crown specifically, it is our view that the business as usual resourcing is currently not operating across all three properties and yet still are having difficulty in maintaining their SLAs and keeping on top of the alerts being generated at Crown Perth.

35 MR FEUTRILL: You used the expression "SLA", can you explain what that is in long-form?

40 MS WALDREN: Yes. That is those service level agreements we referred to earlier in relation to the time that is considered appropriate to review unusual activity or transaction monitoring alerts.

MR FEUTRILL: Thank you, Ms Waldren. I have no further questions.

45 COMMISSIONER OWEN: Thank you, Mr Feutrill. Are there any applications? Mr Dharmananda.

MR DHARMANANDA: Thank you, Commissioners. There are some matters that I expect instructions on, as a result of what Mr Feutrill said in respect to the aspects

10:51AM

of the report on which the PCRC will not rely, but I can do that in the break after the 1 minute's silence.

5 COMMISSIONER OWEN: Thank you.

**CROSS-EXAMINATION BY MR DHARMANANDA**

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MR DHARMANANDA: Ms Waldren, my name is Dharmananda and I appear for Crown. Can I ask who asked you to prepare a response to the position paper provided by Crown?

15 MS WALDREN: The instructing solicitors, Corrs Chambers Westgarth.

MR DHARMANANDA: When were those instructions given?

20 MS WALDREN: I received the position paper on Monday evening this week and I was asked to prepare a response to the position paper on Tuesday.

MR DHARMANANDA: Did anyone assist you in the preparation of that response?

25 MS WALDREN: No, the response is largely my own. My business partner reviewed that for quality assurance purposes.

MR DHARMANANDA: By "business partner" do you mean Ms Murray?

30 MS WALDREN: That's correct.

MR DHARMANANDA: Did you share a draft of your response with anyone before it was finalised?

35 MS WALDREN: I shared a draft with the solicitors instructing.

MR DHARMANANDA: Did they provide any commentary or assistance with respect to the report?

40 MS WALDREN: There was some feedback provided, that's correct.

MR DHARMANANDA: The matters in your responsive report, are they matters that occurred to you before you issued your original report?

45 MS WALDREN: Well, largely. I don't think there were any matters raised in the position paper that had not been considered, but we were directly --- I was directly responding to the comments in the position paper in our response.

MR DHARMANANDA: If they were matters that occurred to you before the



position paper was provided to you, why did you not include those matters in your original report?

5 MS WALDREN: There was no reason why I either included --- excluded them or felt they were required to be included.

MR DHARMANANDA: Who do you consider your client is on this engagement, Ms Waldren?

10

MS WALDREN: I have been engaged to assist Counsel Assisting the PCRC.

MR DHARMANANDA: Were you provided at any stage of this engagement the Federal Court guidelines in relation to the obligations of an independent expert?

15

MS WALDREN: Yes, I was.

MR DHARMANANDA: When was that?

20 MS WALDREN: At the time we were engaged.

MR DHARMANANDA: Is that the letter written by the PCRC or the letter from the Government of Western Australia?

25 MS WALDREN: I don't believe it was --- sorry.

MR DHARMANANDA: Page 0152 of the joint report, please, operator.

30 MS WALDREN: I don't believe it was included with that particular engagement letter.

MR DHARMANANDA: So when was it provided to you?

35 MS WALDREN: I couldn't say exactly, I'm sorry. I believe I have been provided with it during the course of this engagement.

MR DHARMANANDA: When were you originally engaged, Ms Waldren?

40 MS WALDREN: Well, formally engaged pursuant to the letter you have on screen. We were contacted some months ago to discuss our potential engagement. Then during the course of the Commission, the focus was elsewhere, so I think we were re-engaged to discuss the scope of our engagement in approximately August/September.

45 MR DHARMANANDA: In August or September you started having dealings with Counsel Assisting the Commission?

MS WALDREN: That's correct --- I'm sorry, I had dealings with the solicitor on

behalf of the Counsel Assisting the Commission.

5 MR DHARMANANDA: A member of Corrs Chambers Westgarth?

MS WALDREN: Yes, that's correct.

10 MR DHARMANANDA: So you have had various communications with them since August?

MS WALDREN: I believe that would be correct.

MR DHARMANANDA: Your report is dated 28 October.

15 MS WALDREN: That's correct.

MR DHARMANANDA: But you were formally engaged on 20 September?

20 MS WALDREN: That's correct.

MR DHARMANANDA: Were you carrying out any work during your communications with Corrs before your formal engagement?

25 MS WALDREN: No, other than to discuss scope, there was no work undertaken prior to that engagement.

MR DHARMANANDA: In essence, you completed your report in about five weeks after your formal engagement?

30 MS WALDREN: That's correct.

MR DHARMANANDA: The report has three parts, as Mr Feutrill identified, and volume A is a joint report with McGrathNicol?

35 MS WALDREN: Correct.

MR DHARMANANDA: Were you involved in preparing volume A or just volume B?

40 MS WALDREN: No, I was involved in preparing parts of volume A.

MR DHARMANANDA: You and Ms Murray were the only two people working on volume B?

45 MS WALDREN: Yes, that's --- I apologise, there was some assistance provided by a staff member of McGrathNicol to help with triaging and documentary review, at first instance.

MR DHARMANANDA: What do you mean by "triaging"?

5 MS WALDREN: There was some 350,000-odd documents provided to us and, as a result, we needed to do certain word searches for the relevant documents that were specific to our scope, so we utilised the services of a McGrathNicol staff member to help us do that, to identify those relevant documents that we had requested and that had been provided pursuant to the notice to produce.

10 MR DHARMANANDA: Did you say you were provided with 300,000 documents; did I get that right?

15 MS WALDREN: I believe that's the number of documents that is in the document repository, electronic repository system. I certainly haven't been provided or reviewed all of those documents.

MR DHARMANANDA: You were the lead author of volume B?

20 MS WALDREN: That's correct.

MR DHARMANANDA: Did you have other engagements during the time of this engagement?

25 MS WALDREN: As in other clients?

MR DHARMANANDA: Yes.

MS WALDREN: Yes, I did, yes.

30 MR DHARMANANDA: So you did not work exclusively on this report?

MS WALDREN: A large part of my time has been spent on this particular matter but I have had other engagements, yes.

35 MR DHARMANANDA: Can I get a sense of how many hours you work on an average day?

40 MS WALDREN: It would vary but this particular matter has taken up quite a considerable amount of my time and quite lengthy days, including weekends, as you would expect.

MR DHARMANANDA: 8, 9, 10 hours?

45 MS WALDREN: I couldn't give you a definitive time but most certainly my usual day is between an 8 or 10-hour day, and there have been days where I have worked longer on this particular matter, particularly of late as the report was coming due and since the report was submitted on the 28th, yes.

10:59AM

COMMISSIONER OWEN: Ms Waldren, we will break now for the commemoration. As is customary, we will observe a minute's silence to commemorate and recognise the sacrifice that countless people have made in the service of their country. Could we be silent for 1 minute, please.

(A minute's silence observed for Remembrance Day)

COMMISSIONER OWEN: Thank you. You will be pleased to know I overlooked engaging a bugler to play The Last Post. Thank you, Ms Waldren. Mr Dharmananda?

MR DHARMANANDA: Commissioner, do you want to break now?

COMMISSIONER OWEN: Yes, I think it probably is sensible. We will break for 20 minutes and come back at 11.20 our time, 2.20 your time, Ms Waldren.

MS WALDREN: Thank you.

**ADJOURNED** [11.01 AM]

**RESUMED** [11.20 AM]

COMMISSIONER OWEN: Please be seated. Thank you, Ms Waldren. Mr Dharmananda?

MR DHARMANANDA: Thank you, Commissioners. Ms Waldren, before the break you informed us that you are aware of the Federal Court practice direction concerning experts. Is that correct?

MS WALDREN: I am aware of it, yes.

MR DHARMANANDA: You are aware that that practice direction requires a person called upon to give expert evidence to record and acknowledge the existence of the direction and say that the expert has complied with it? Are you aware of that?

MS WALDREN: I am aware of that, and during the break I also just reflected that I may not have received that code as a result of this particular engagement, but I have received it in relation to other engagements in which I have been engaged as an expert. I do recall that I have been asked whether I was familiar with it and the answer to that would be yes. But I cannot say that I have received that.

If you have a copy of it as a result of the engagement that you could show me, I'd be

grateful, but during the break I was not able to locate it in my files.

5 MR DHARMANANDA: Ms Waldren, we don't have copies of the communications you have had with Corrs, none of them. I am informing you that the direction requires you to acknowledge the content of that direction when you file an expert report. You are familiar with that requirement?

10 MS WALDREN: I am familiar with that requirement, yes.

MR DHARMANANDA: Your report does not have that, does it?

MS WALDREN: No, it does not.

15 MR DHARMANANDA: Before the break, you mentioned that you received feedback from Corrs in relation to your response to the Crown position paper. Do you recall that?

20 MS WALDREN: I do.

MR DHARMANANDA: How did that feedback come to you?

25 MS WALDREN: I had a conversation with counsel and the solicitor instructing yesterday afternoon and it was in relation, initially, to two documents that were referred to and provided as a result of the position paper and a notice to produce. I had not seen the unredacted version of the --- one of the reports, and Mr Yates brought that to my attention.

30 MR DHARMANANDA: Was there any other feedback provided to you?

MS WALDREN: There was some feedback provided later in relation to one element of the responsive paper, which dealt with paragraph 11 of Crown's Responsive Position Paper.

35 MR DHARMANANDA: Was that feedback in writing or orally?

MS WALDREN: No, we just had a telephone conversation.

40 MR DHARMANANDA: Did you keep a note of that conversation?

MS WALDREN: I have kept a note. I had sent an email in relation to that conversation.

45 MR DHARMANANDA: I call for that email to be produced, Commissioners.

COMMISSIONER OWEN: We note the call.

MR DHARMANANDA: Ms Waldren, before the break, you mentioned you had the

assistance of someone from McGrathNicol to undertake searches of the documentary database. Do you recall that?

5 MS WALDREN: I do.

MR DHARMANANDA: What were the key words used for the purposes of those searches?

10 MS WALDREN: They were words we had included in the notice to produce that related specifically to the scope of our engagement. Examples of that would be ML/TF risk assessment, AML/CTF program, management information, and the like.

15 MR DHARMANANDA: Is there a record of the key words that were deployed for the purposes of conducting these searches?

MS WALDREN: No. I believe we had a telephone conversation with the staff member at McGrathNicol who was assisting us and we requested that certain finders be set up in the Nuix document tool that we were given access to for the purpose of this engagement.

MR DHARMANANDA: What was the documentary tool you were given access to?

25 MS WALDREN: It's Nuix. I think it is called Greentail.

MR DHARMANANDA: Thank you. I would like to understand the work you performed in the five weeks or so that you were given from your formal engagement. You conducted or participated in a number of interviews?

30 MS WALDREN: Yes, that's correct.

MR DHARMANANDA: You reviewed documents that were received or made available to you?

35 MS WALDREN: That's correct.

MR DHARMANANDA: You wrote the report together with Ms Murray and McGrathNicol, including the exchanging of drafts with respect to the report?

40 MS WALDREN: The exchanging of drafts, I believe we provided a draft report and then finalised that report the subsequent day.

45 MR DHARMANANDA: I would like to explore each of those activities. Before I do, were there any other activities you completed with respect to the task entrusted to you by your scope of work?

MS WALDREN: No, I think they were the main activities.

MR DHARMANANDA: In relation to the interviews, in volume A at page 0143, would you go to that, please? You are working from a hard copy, Ms Waldren?

5 MS WALDREN: Yes, if that's all right?

MR DHARMANANDA: That's perfectly fine. Do you see there is an identification of the interviews that were conducted, and the ticks represent those that you attended or Murray Waldren attended as per the orange ticks; is that correct?

10

MS WALDREN: Yes, that's correct.

MR DHARMANANDA: By my count, there were 21 people interviewed, spanning over a period of about eight days; is that correct?

15

MS WALDREN: I haven't done the precise calculations but I will take your word for it.

MR DHARMANANDA: I presume you would have prepared for each of the interviews?

20

MS WALDREN: That's correct.

MR DHARMANANDA: After the interviews, did you have either an occasion to reflect on what you learnt or have a session debriefing with Ms Murray, if she attended the interview?

25

MS WALDREN: Generally, that is the way we work, yes.

MR DHARMANANDA: Who was involved in the selection of the Crown employees who you actually had the interviews with?

30

MS WALDREN: Ms Murray and I identified those employees who we wanted to speak to for the purpose of our scope. McGrathNicol identified those they wanted to speak to for the purposes of their scope. Where possible, we interviewed them together to avoid any duplication and, obviously, being more efficient with the person or persons being interviewed.

35

MR DHARMANANDA: Did you have any regard to your scope in terms of considering whether you should interview someone from internal audit?

40

MS WALDREN: No, I didn't.

MR DHARMANANDA: You did not attend all of the interviews, did you?

45

MS WALDREN: I believe I attended all of the interviews that have a tick against them for Murray Waldren Consulting attending, yes.

MR DHARMANANDA: But some don't have a tick for Murray Waldren and you did not attend those?

5 MS WALDREN: No. That's correct.

MR DHARMANANDA: You received notes in respect of those meetings?

MS WALDREN: No, I did not.

10

MR DHARMANANDA: Can I take you, please, to 0128 internal numbering?

MS WALDREN: I'm sorry, what was that number? I just missed it.

15 MR DHARMANANDA: 0128, paragraph 1.4.2. Can I ask you to read that to yourself.

MS WALDREN: Yes.

20 MR DHARMANANDA: Certain results of interviews were shared with you. Do you see that is recorded there?

MS WALDREN: I do.

25 MR DHARMANANDA: So those notes were made available to you, Ms Waldren?

MS WALDREN: They were made available in the draft report I was provided from Ms McKern. I didn't receive any ongoing notes of the focus groups, and the like.

30 MR DHARMANANDA: Did you, in the course of the interviews, ask any of them to walk you through the underlying AML/CTF related systems, policies, procedures and controls?

35 MS WALDREN: We discussed multiple systems and controls during some of the interviews and we walked through the AML program and the attached policies and procedures in detail with Mr Blackburn, in particular.

MR DHARMANANDA: Mr Blackburn ---

40 MS WALDREN: Sorry?

MR DHARMANANDA: --- only or in particular?

45 MS WALDREN: No, no, the program in particular and for each of the relevant personnel at Crown who were identified as being the key person for other elements of the program, such as the transaction monitoring, the assurance, KYC and so forth. We talked in detail with those particular personnel in relation to those aspects that they were responsible for.



MR DHARMANANDA: You say that the documents made available to you numbered around 300,000; is that correct?

5 MS WALDREN: I believe that's what is in the database, yes. They weren't all made available to me, I had access to them. They covered a wide range of issues relating to both McGrathNicol and Murray Waldren scope, so not all of them were relevant for my inquiries.

10 MR DHARMANANDA: When you say your inquiries, did you divide up the task of documentary review with Ms Murray?

MS WALDREN: No, sorry, I meant the scope of Murray Waldren's inquiries, being task 1 or theme 1, I think, and the underlying task that Mr Feutrill took us through at  
15 the outset.

MR DHARMANANDA: Did you, therefore, have sole responsibility for documentary review or did you share it with Ms Murray, insofar as the scope for Murray Waldren was concerned?

20 MS WALDREN: I had the predominant responsibility for reviewing all of the documents, as I was responsible for writing the report.

MR DHARMANANDA: Can I show you, please, a list of documents at  
25 CRW.701.011.1819.

MS WALDREN: Yes, I have that.

MR DHARMANANDA: This is a listing of documents provided to us by Counsel  
30 Assisting the Royal Commission as the list of documents made available to the AML experts who (inaudible). Are you familiar with this list?

MS WALDREN: I have seen this list, yes.

35 MR DHARMANANDA: There are 20,000 or so documents listed in this list.

MS WALDREN: I believe that's correct, yes.

MR DHARMANANDA: You say you had access to 300,000 more documents, do  
40 you?

MS WALDREN: No, I'm just going off the number that is in the electronic document system. That might be pages, for all I know, so I apologise if I have misled you in that regard. But there was a significant number of documents.

45 MR DHARMANANDA: Not all of the documents were received at the outset of your engagement on 20 September; is that correct, isn't it?

08:05PM

MS WALDREN: Yes, that is correct. They came through on an iterative basis.

5 MR DHARMANANDA: NTP078, which was issued on 14 October, sought among other things appendices to the phase 2 Deloitte report, the final version of the EWRA. Do you know when those documents were produced to you?

MS WALDREN: I couldn't tell you off the top of my head, no.

10 MR DHARMANANDA: Would 18 October sound about right?

MS WALDREN: Yes. Well, I'm just having regard to the phase 2 Deloitte report and that is dated 15 October. I couldn't tell you what the date was but it's possible it was the 18th, since that report was published on the 15th.

15 MR DHARMANANDA: So you had a short amount of time to get across quite a large pool of documents, Ms Waldren?

MS WALDREN: Yes, that's right.

20 MR DHARMANANDA: You did not have as much time as you would have liked?

MS WALDREN: No, I wouldn't necessarily say that.

25 MR DHARMANANDA: When we look at appendix B at page 0143, there is a reference to the activity of document review in the first line. Do you see that?

MS WALDREN: Yes.

30 MR DHARMANANDA: Then there is a reference to appendix B. Do you see that?

MS WALDREN: Yes, I do.

35 MR DHARMANANDA: Operator, could you please call up CRW.701.011.1818. Is this appendix B, Ms Waldren?

MS WALDREN: Is this the same document you just shared with me before, being the ---

40 MR DHARMANANDA: No.

MS WALDREN: No, I'm not sure if this is appendix B, I'm afraid.

45 MR DHARMANANDA: Operator, could you please scroll down the page. Did you create appendix B, Ms Waldren?

MS WALDREN: No, I did not.

MR DHARMANANDA: Who created appendix B?

5 MS WALDREN: I'm not sure. Is this appendix B that you are showing me here?

MR DHARMANANDA: As best as we can understand. It has 65 (inaudible) listed.

MS WALDREN: No, I don't believe I have seen this document previously.

10 MR DHARMANANDA: When you state in your report to "refer appendix B", to what are you referring?

15 MS WALDREN: We had intended to create a list of all documents referred to. In the short space of time we did have in the week the report was due, that document list was provided by Corrs Chambers Westgarth to Allens, taking into account the documents that were referred to in both the McGrathNicol and Murray Waldren Consulting reports, as referenced by footnote.

20 MR DHARMANANDA: This is just a listing of documents identified in the footnotes?

MS WALDREN: As I said, I am not the author of this document, so I couldn't say.

25 MR DHARMANANDA: In your report at page 0143 you refer to appendix B. Do you see that?

MS WALDREN: I do.

30 MR DHARMANANDA: As the repository of the data relevant to your document review?

MS WALDREN: Yes.

35 MR DHARMANANDA: I would like to know which documents you reviewed. Where do I go to find that?

40 MS WALDREN: All the documents I reviewed are footnoted and referenced in either volume A, of which I was a part author, and all of them in volume B. They are all of the documents I had reference to for the purpose of my report.

MR DHARMANANDA: Can we proceed on the basis that you examined the documents identified in the footnotes to volume B?

45 MS WALDREN: You can, yes.

MR DHARMANANDA: Any documents referred to in the footnotes to volume C you may not have reviewed?

MS WALDREN: I may not have, correct.

5 MR DHARMANANDA: Did you at any stage ask anyone from Crown to put together a set of relevant materials or documents for the purposes of your completion of the task?

10 MS WALDREN: No. I believe we identified relevant documents based off all of the individual tasks. We provided that to the solicitors instructing and they then made that available to Crown via their solicitors through the notice to produce format that was agreed protocol.

15 MR DHARMANANDA: What I am trying to get at, Ms Waldren, is whether you ever asked Crown to put together a list of relevant documents as it pertains to your task?

20 MS WALDREN: Yes. So as I just mentioned, we went through the task. I don't believe that the Scope or the Task document was provided to Crown via its solicitors, but in seeking to respond to each of the tasks in our Scope under Theme 1, there were key documents we would have expected to see. They weren't included in those documents we requested be sought through the notice to produce channel.

25 MR DHARMANANDA: You note in you report that Crown received expert AML reports from Promontory, Deloitte and Initialism at 3.1 of your report. We don't need to go there. Do you recall that?

MS WALDREN: I do.

30 MR DHARMANANDA: They are detailed reports that have been professionally prepared by reputable consultants; do you agree with me?

MS WALDREN: I do.

35 MR DHARMANANDA: Did you study them in detail?

MS WALDREN: I did.

40 MR DHARMANANDA: You had what you describe as 11 tasks to complete and that is at paragraph 1.2 appearing at page 0178. Do you see that?

MS WALDREN: Yes.

MR DHARMANANDA: How are these divided up between you and Ms Murray?

45 MS WALDREN: As I mentioned before, I had primary carriage of looking at all of the documents because I was to be the author of the final report. However, we both attended most of the interviews, not all. Ms Murray was unable to attend some of

those interviews. Ms Murray also reviewed some of the external guidance and typology papers, such as AUSTRAC's guidelines in relation to junkets, status and other relevant reports.

5

MR DHARMANANDA: So you really held the can for the bulk of this volume B, Ms Waldren?

MS WALDREN: Yes, that's correct.

10

MR DHARMANANDA: So the burden was heavy on you?

MS WALDREN: Well, I mean, it's a significant piece of work in a short period of time, which I think is what you are getting at, and I would agree with you on that matter. I don't see it as a burden. It was something that we were engaged to do and we had a limited time to do it.

15

MR DHARMANANDA: When did you provide your initial draft to Corrs?

20

MS WALDREN: I believe it was on the 25th, if I'm not mistaken.

MR DHARMANANDA: The 25th of October?

MS WALDREN: I'm sorry, of October.

25

MR DHARMANANDA: Did you receive feedback in relation to your draft?

MS WALDREN: No, I don't believe I did. I can't recall that I did anyway, I'm sorry.

30

MR DHARMANANDA: By my count, you had 37 total days from the date of your instruction to the date of delivery of your report, and if you take out the weekends, you had 27 business days. Does that seem about right?

35

MS WALDREN: I take you for your word in terms of the calculated days, yes. I haven't done that calculation myself but I rely on you.

MR DHARMANANDA: Thank you. If we factor in the time spent in preparing or attending interviews, that is about 20 days?

40

MS WALDREN: That might be right.

MR DHARMANANDA: This has given rise to some limitations and disclaimers, as contained in volume A. Go, please, to 0129. At 1.5.2(a) it's recorded:

45

The following limitations may have impacted the Forensic Review: *(a) The time available to undertake the scope was limited.*

MS WALDREN: I would say that was more applicable to McGrathNicol's scope of

work. Their scope was significantly greater than ours and they were doing a lot of data analysis and focus groups. So, in my opinion, that is an accurate statement. However, it would be more relevant to the volume C report from McGrathNicol.

5

MR DHARMANANDA: You don't introduce that qualification in writing here, do you, Ms Walden?

MS WALDREN: No, I have not.

10

MR DHARMANANDA: At 1.5.2(a)(ii) you see the last sentence where it's recorded:

15

*Where it has not been possible to fully investigate and/or resolve queries with Crown personnel within the reporting deadline, the effect of such a limitation is addressed in context with the Forensic Reports.*

MR DHARMANANDA: That should be "within the Forensic Reports"?

20

MS WALDREN: You're right.

MR DHARMANANDA: Yes?

MS WALDREN: Yes, you're right and that is correct.

25

MR DHARMANANDA: We have noticed some of those qualifications in McGrathNicol's report. We don't seem to find the same ones in your report. Have you made similar qualifications in your report?

30

MS WALDREN: No, not necessarily because we were able to ask and have answered the predominant question that related to our scope, which was effectively looking at the November 2020 AML/CTF program and the associated documents, So there was no such limitation required. We were told that certain documents either existed or they didn't exist.

35

MR DHARMANANDA: If we look at limitation 1.5.2(b), you see there a further limitation is a concern that the information you hold may not be in its final or most up-to-date form. Do you see that?

40

MS WALDREN: Yes.

MR DHARMANANDA: So those limitations are relevant to both you and McGrathNicol?

45

MS WALDREN: That's correct.

MR DHARMANANDA: Do you feel confident, Ms Walden, that your abilities to investigate and draw conclusions were unaffected by the time you had to complete

your scope?

5 MS WALDREN: Yes, I felt that the conclusions drawn were able to be done so in the time available.

MR DHARMANANDA: All right. Let us go to your scope, which is at 0164.

10 MS WALDREN: Yes, I have that.

MR DHARMANANDA: You will see immediately, Ms Waldren, that there is red text which says "Draft for discussion". Do you see that?

15 MS WALDREN: I do.

MR DHARMANANDA: Who prepared this document?

20 MS WALDREN: It was prepared jointly between McGrathNicol and Murray-Waldren Consulting. We input it into the Theme 1 but it was ultimately consolidated, if you like, but McGrathNicol and provided to the solicitors.

MR DHARMANANDA: Was the draft discussed?

25 MS WALDREN: I believe the draft was discussed, yes.

MR DHARMANANDA: With whom?

MS WALDREN: It was discussed with the solicitors instructing from Corrs.

30 MR DHARMANANDA: Did the discussions with Corrs lead to any amendment with respect to your scope?

35 MS WALDREN: No, I don't believe it did. I think, if I recall correctly, the scope was as prepared. It then went to the final approver, which the name of the agency and the government escapes me but it is in the letter you showed me earlier.

MR DHARMANANDA: When was that discussion?

40 MS WALDREN: Well, there were emails. I don't believe there were telephone --- or there might have been telephone discussions. There were a number of different versions of the Scope, which we and McGrathNicol were attempting to ensure that we were able to address the questions being asked by the Commission and do so in the time available to us.

45 MR DHARMANANDA: Was that discussion before or after 20 September; do you know?

MS WALDREN: I don't know off the top of my head, no, sorry.

MR DHARMANANDA: Was it before or after you were engaged?

MS WALDREN: It was before we were formally engaged.

5

MR DHARMANANDA: So before you were formally engaged, you were having discussions with Corrs about the scope of your work?

MS WALDREN: We were trying to settle the scope document, that's correct.

10

MR DHARMANANDA: The scope was never finalised?

MS WALDREN: Well, it does refer to "Draft For Discussion", but we have worked off this as the final scope document and this was what was returned to us with the version --- it says "Final". Sorry, I should clarify that. When it was returned to us, it does still stay "Draft For Discussion". It was saved as "Draft for Discussion - Final", and that's the document we have been working on. It was just an oversight that the "Draft for Discussion" wording is still included in that document, I'm afraid.

15

MR DHARMANANDA: So you have applied yourself to discharge all of the steps identified in this Draft For Discussion scope?

20

MS WALDREN: Yes, that's right.

MR DHARMANANDA: You will see within the first black box there is a definition of material deficiency. Do you see that?

25

MS WALDREN: I do.

MR DHARMANANDA: You will see it adverts to a material deficiency meaning a gap or inadequacy within the AML/CTF program which exposes the Perth Casino licensee to a risk that it will fail to identify, et cetera. Do you see the use of the language "a risk"?

30

MS WALDREN: Yes.

35

MR DHARMANANDA: Does that refer to any level of risk exposure?

MS WALDREN: No. I was looking at it from purely a money laundering and terrorism financing risk perspective. That was the scope of my work.

40

MR DHARMANANDA: But that's not what your scope says. It identifies "a risk", does it not?

MS WALDREN: That is the wording there, yes, that's right. But I had been engaged as an AML/CTF expert, so that would be the limitation of the opinion that I am expressing.

45



MR DHARMANANDA: Let's go then, please, to page 0178. This is your report, where you identify the scope and the approach and, relevantly, there is a reference in 1.1(b) to "any material deficiency". Do you see that?

5

MS WALDREN: Yes.

MR DHARMANANDA: That is defined at the bottom of the page in exactly the same terms, which refers to a risk that it will fail to identify, manage and mitigate its money laundering and terrorism financing activities. Do you see that?

10

MS WALDREN: I do.

MR DHARMANANDA: Are you telling the Commissioners that you did not apply that standard?

15

MS WALDREN: I applied it in the context that I was engaged as an AML/CTF expert and I think that's fairly clear from the report. An interpretation, I accede, that you made could be made, but the engagement as an AML/CTF forensic expert, I would hope, would qualify what level of my --- what my range of expertise was and the opinion being provided.

20

MR DHARMANANDA: What I am asking you, Ms Waldren, is to deal with the definition which appears to equate any risk with a material deficiency, any risk at all, because it uses the language of "a" risk. Do you see that?

25

MS WALDREN: I do.

MR DHARMANANDA: So there is no concept of residual risk accommodated within the definition.

30

MS WALDREN: I'm not sure I understand your question, sorry.

MR DHARMANANDA: How do you reconcile the use of that definition with what is stated at page 0135? At paragraph 3.5.1 it is stated:

35

No entity or organisation is free from risk.

Can you see that?

40

MS WALDREN: I do.

MR DHARMANANDA: On that definition, does that mean that no entity is not materially deficient?

45

MS WALDREN: No, it doesn't mean that. It means that every entity or all entities would be exposed to some level of risk. In the context of my report, we are referring

to money laundering and terrorism financing risk. What I'm saying is that there should be no expectation that any organisation is free from any level of risk or a level of risk.

5

MR DHARMANANDA: You have deployed the definition of material deficiency throughout your report, have you not?

MS WALDREN: Yes. I have sought to, yes.

10

MR DHARMANANDA: That definition carries with it a reference to any risk as being materially deficient; do you accept that?

MS WALDREN: I can see how that can be read to be the case, yes.

15

MR DHARMANANDA: How then are we to read your report, Ms Waldren, wherever that expression is used ---

MS WALDREN: In the context of ---

20

MR DHARMANANDA: --- (inaudible) a defined meaning? MS WALDREN: It's in the context of money laundering and terrorism financing risk. It clearly doesn't address all risks that an organisation might be exposed to.

25

MR DHARMANANDA: Are you then making the point that any level of money laundering risk is a material deficiency?

MS WALDREN: No.

30

MR DHARMANANDA: You are not?

MS WALDREN: I'm not making that.

35

MR DHARMANANDA: But you are using that expression in your report repeatedly.

40

MS WALDREN: I'm saying that --- the way the opinion was provided was that a material risk would, as defined, expose the casino licensee to the risk that it will fail to identify, manage and mitigate its money laundering and terrorism financing activity.

MR DHARMANANDA: That is not how the definition reads, Ms Waldren, does it, because it refers to "a risk"?

45

MS WALDREN: Well, I have applied that definition in the context of the casino being unable to identify, manage and mitigate its money laundering and terrorism financing risk. So I think the subsequent limitation that I have applied at the end of that sentence related to ML/TF risk clearly defines the terms that I have been asked

11:57AM

and given an opinion on.

MR DHARMANANDA: Who provided the definition of material deficiency?  
5

MS WALDREN: I can't recall right at this stage, I'm sorry.

MR DHARMANANDA: Is it one of your definitions that you use?

10 MS WALDREN: No, it's not a common definition that I would normally use in the context of my work.

MR DHARMANANDA: Thank you. Can we return to the Scope document. At 0164, you see the Scope has "Task" and it also refers to "Steps" and it is numbered  
15 down to 11. Do you see that?

MS WALDREN: I do.

MR DHARMANANDA: In the body of your report, you call each step a task, so  
20 you have 11 tasks. That's correct, isn't it?

MS WALDREN: That's correct.

MR DHARMANANDA: I wonder whether you would be able to help us reconcile  
25 the Scope with the body of the report. If you look within your report at page 0200, about the middle of the page there is a reference to task 11. Do you see that?

MS WALDREN: Yes, I do.

30 MR DHARMANANDA: Returning to the Scope document, page 0165, how do we get to task 11 as contained in the body of the report?

MS WALDREN: That relates to step 11, if you like, which is on the last page of the  
35 Scope document. It relates to: Review and evaluate the processes employed by Perth Casino to: *a. detect and report potential ML/TF activity and other serious crimes.*

MR DHARMANANDA: Ms Waldren, my 11 on page 0165 is blank. Does your 11 have something else in it?

40 MS WALDREN: Yes, it does.

MR DHARMANANDA: Looking on the screen at what the PCRC has been provided, it is also blank.

45 MS WALDREN: Yes, I see that now. I am reading off the document that was in the report that I had in front of me, I'm sorry. I didn't realise it was blank on the screen but I can see that now.

12:00PM

MR DHARMANANDA: So we don't know the scope to which you are referring, Ms Waldren.

5 MS WALDREN: I think there's obviously a page missing.

MR DHARMANANDA: What is this document with which we are dealing if it's not the document that you have been working from?

10 MS WALDREN: I would say it is the document that I have been working from but there is a page missing or the reference to task 11.

MR DHARMANANDA: A page missing? Do you have an additional page with you, Ms Waldren?

15

MS WALDREN: Well, my number 10 is at the end of one page and 11 is at the beginning of another.

20 MR DHARMANANDA: So this is not a final version, Ms Waldren, that we are now seeing in this report that has been filed with the PCRC?

MS WALDREN: It appears not to be.

25 MR DHARMANANDA: So we are dealing with a draft, labelled "Draft" but also a superseded draft of your Scope?

MS WALDREN: I don't believe it would superseded. From looking at it, I believe there might just be something that is missing off that particular version.

30 MR DHARMANANDA: Ms Waldren, do you have a copy of that report and does Corrs have a copy of the report that you hold in your hands?

MS WALDREN: Yes, I took this from the --- I believe I have taken it from the appendix in the consolidated volumes A, B and C.

35

MR DHARMANANDA: I call for that report, Commissioners.

COMMISSIONER OWEN: The call is noted.

40 MR DHARMANANDA: Ms Waldren, returning to page 0200, you can see that the tasks reported as task 11 seem to be really tasks 9 and 10, on my version, if you look on the screen.

MS WALDREN: I will go off your version.

45

MR DHARMANANDA: So task 11 is really task 10. When you go to page 0202, with respect to the assessment of UAR compliance with the program, you say at

11.3.2:

5 Due to timing constraint during the review, we were unable to obtain the *relevant outputs on which to conduct this assessment and as such, have not been able to provide an opinion on this matter.*

So you couldn't complete that part?

10 MS WALDREN: That's correct. That information from McGrathNicol, which we were to receive the information, hadn't been completed by the time we had finalised our report.

15 MR DHARMANANDA: If we look at tasks 8 and 9 at page 0198, do you see the first tasks, Ms Waldren?

MS WALDREN: I do.

20 MR DHARMANANDA: And you compare that with tasks 8 and 9 of the Scope?

MS WALDREN: I'll just wait for the scope document to come up, if I could?

25 MR DHARMANANDA: Tasks 8 and 9, as described on page 0198, appear to be step 7 of the Scope, although some detail is dropped. The second bullet on page 0198, if you go to that, says:

*Assess Crown's AML/CTF Risk awareness training program to determine if they are appropriately risk based given the ML/TF risks faced by Crown.*

30 Do you see that second bullet on that page?

MS WALDREN: Yes.

35 MR DHARMANANDA: If we return to the Scope, pages 0164 and 0165, can you tell me where that task is identified in the Scope?

MS WALDREN: Looking at your document, I am --- yes, I think it's clear that we are working off a different document here, I'm afraid.

40 MR DHARMANANDA: So that is not part of this Scope as contained in the report provided to Crown and to the PCRC?

45 MS WALDREN: It appears not to be, based on the document on the screen. It is slightly different to the document I have, and have had, as the final during the course of my review, which included an assessment of the AML/CTF risk awareness training.

MR DHARMANANDA: If you look then to task 10 in the body of the report at page

0199, it is recorded as:

5 Assess whether Crown's Transaction Monitoring Program includes *appropriate risk-based systems and controls to monitor customers transactions.*

Do you see that?

10 MS WALDREN: I do.

MR DHARMANANDA: That seems to be step 8 in the Scope document that we have at page 0165?

15 MS WALDREN: I will just wait for the Scope document to come back up, if I could?

MR DHARMANANDA: Certainly.

20 MS WALDREN: That looks correct, yes.

MR DHARMANANDA: Ms Waldren, you would agree with me that a comparison of the Scope and the body of the report reveals there's a bit of mess there?

25 MS WALDREN: I believe there's a more up-to-date version of the draft than the one that has been included in the final report, you're correct. I am very clear on the scope of my work but, unfortunately, it's not reflected in that final version of the document that you have received and the PCRC has in front of them.

30 MR DHARMANANDA: Was that a result of not enough time to complete your tasks, do you think?

MS WALDREN: No, it wasn't. I believe it would be an oversight.

35 MR DHARMANANDA: You provide a high-level CV at report page 0171. Are you aware that Crown's instructing solicitors asked for a more detailed CV for you?

MS WALDREN: I am aware of that, yes.

40 MR DHARMANANDA: Are you aware of why that request was rejected?

45 MS WALDREN: Well, it wasn't rejected. I have provided a more detailed CV to the instructing solicitors yesterday. It was our view, given we are not a witness in this matter, we are an expert, that I did not need to necessarily set out all of my detailed roles and responsibilities. I'm happy to take you through those.

MR DHARMANANDA: So as an expert, you feel that you don't need to reveal details of your experience and your prior engagements?

MS WALDREN: I believe they're adequately set out there.

5 MR DHARMANANDA: You founded Murray-Waldren Consulting in July 2018?

MS WALDREN: Yes, cofounded.

10 MR DHARMANANDA: You have adopted an alphabetical approach, in the sense that Ms Murray's name comes before yours although you are the most senior person?

MS WALDREN: There was no real logic to it, but thank you. Senior in years, perhaps.

15 MR DHARMANANDA: Before you started Murray-Waldren, you were at ANZ for about three years?

MS WALDREN: That's right.

20 MR DHARMANANDA: In an AML/CTF role?

MS WALDREN: An AML/CTF role, as well as head of operational risk and compliance.

25 MR DHARMANANDA: Before that you were at NAB for about nine years, again in an AML/CTF role?

MS WALDREN: Yes. Also in roles in group compliance and group assurance.

30 MR DHARMANANDA: Did you cross over with Mr Neil Jeans at that time?

MS WALDREN: I certainly did.

35 MR DHARMANANDA: He presented to you as a capable and professional person in the AML scene?

MS WALDREN: He certainly is.

40 MR DHARMANANDA: Before NAB, you had roles with ASIC and the public prosecutor that did not involve AML or CTF?

MS WALDREN: No, that's right. In fact, the Act hadn't even been passed back then. I predate it.

45 MR DHARMANANDA: I would like now to take you through certain of your findings in the body of your report. Can we begin, please, at B3 at 0164.

Sorry, I just want to understand the scope of work before we turn to the body of your

12:10PM

report. So the scope, or certainly the scope we have at 0164, identifies four matters, relevantly, to the assessment task entrusted to you within the first box. Do you see that?

5

MS WALDREN: I will just wait for it to come up, if that's all right? Would you mind repeating the question, sorry?

10 MR DHARMANANDA: I am just addressing you on the first box, if you like, which is:

Assess whether Crown Perth is subject to a compliant AML/CTF Program *appropriate for an entity* .....

15 That box has within it five steps. I want to deal with the first four.

MS WALDREN: Yes.

20 MR DHARMANANDA: Operator, it's the steps that I am after. Thank you.

The first step, Ms Waldren, is set out as requiring you to determine the basis upon which Burswood asserts that the joint AML/CTF program is risk-based, as required under the AML/CTF Act and Rules.

25 COMMISSIONER OWEN: Mr Dharmananda, you said you would go to 4, so I think we should have the next page as well, so that all five are on the screen.

MR DHARMANANDA: Thank you, Mr Commissioner.

30 MS WALDREN: I see both of those, thank you.

MR DHARMANANDA: Step 1 required a determination of the basis upon which Burswood asserts that the joint AML/CTF program is risk-based. Do you see that?

35 MS WALDREN: I do.

MR DHARMANANDA: Step 2 is to determine and assess the methodology and status of the enterprise-wide risk assessment proposed under the FCCCP, which is to be completed by December 2021. See that?

40

MS WALDREN: Yes.

45 MR DHARMANANDA: Step 3 is requiring you to identify AML/CTF risks faced by casinos generally and by Perth Casino specifically, based on risk reviews and registers, research as to AML/CTF risks in casinos and ML incidents identified in the Bergin Inquiry and the RCCOL. Do you see that?

MS WALDREN: I do.



MR DHARMANANDA: Following through that sequence, you then proceed to step 4, which is to review the adequacy of the current joint program approved by the board in November 2020 having regard to (a) the risks identified by Crown relevant to Crown Perth. That's (a). You see that?

MS WALDREN: Yes.

MR DHARMANANDA: (b) is the risk-based systems and controls introduced subsequent to the approval of the joint program. Do you see that? So that requires attention to systems and controls. And (c) is the task calling for your opinion. Do you see that, Ms Waldren?

MS WALDREN: I do.

MR DHARMANANDA: So the exercise is to look at various aspects of Crown's operations in steps 1-3 before forming a view as to the adequacy of the program in step 4.

MS WALDREN: Yes.

MR DHARMANANDA: And it is a sequential process?

MS WALDREN: Yes, that's probably correct, yes.

MR DHARMANANDA: If we turn to section B3 at page 0182, you set out your understanding of the basis on which Crown's joint AML program is said to be risk-based at 3.1. Do you see that?

MS WALDREN: Yes, I do.

MR DHARMANANDA: You call that the 2020 framework.

MS WALDREN: Yes. That's my terminology, just to be clear.

MR DHARMANANDA: That seems to answer step 1; would you agree with me?

MS WALDREN: Yes.

MR DHARMANANDA: You then proceed at 3.2 and throughout the balance of the section to express a view on compliance with the AML/CTF legislation. At 3.2 you state:

*It is our opinion that the 2020 framework does not enable either Crown Perth or the [Group collectively] to assert the Joint AML/CTF Program is sufficiently risk based as required by Section 85..... or Chapter 9 of the Rules.*

12:15PM

Do you see that?

MS WALDREN: I do.

5

MR DHARMANANDA: That seems to be skipping to step 4.

MS WALDREN: Not necessarily. It's providing a view in relation to what I have referred to collectively as the 2020 framework.

10

MR DHARMANANDA: Are we to assume you have considered your conclusions in steps 2 and 3 when you addressed step 1?

MS WALDREN: Can you bring up the Scope document again so I can just confirm that?

15

MR DHARMANANDA: Yes. Page 0164, please, operator.

MS WALDREN: Thank you. No, I'm comfortable in having formed the opinion expressed in 3.2 based on the framework itself and I don't think that I have missed anything.

20

Step 2, in particular, talks about a future state being the enterprise-wide risk assessment.

25

Step 3 looks at the risks faced by casinos generally and Perth, as you can see there, and that were included in the relevant risk registers which we were provided and the research that we had regard to, either ourselves or from other relevant experts who have given an opinion and in detail set out what typologies are relevant, ML/TF typologies are relevant in the casino sector, as well as those incidents identified by the Bergin Inquiry.

30

So I don't believe that I have skipped any steps. I feel comfortable with the opinion provided, based on an assessment of the 2020 framework.

35

MR DHARMANANDA: You will see step 1 required you to determine the basis upon which Burswood asserts particular things. Do you see that, Ms Waldren?

MS WALDREN: I do.

40

MR DHARMANANDA: In the Scope that you settled upon. Did you at any stage seek to ask Crown to make that assertion?

MS WALDREN: Well, they rely on the program as being a compliant AML/CTF program, so one would assume that is an assertion they are making.

45

MR DHARMANANDA: You used the words "one would assume", so is the answer to my question that you never actually asked Crown to make the assertion?

MS WALDREN: During interviews, in fact, we were asking personnel that we interviewed, in particular Mr Blackburn and Mr Sutherland, who is involved in the ML/TF risk assessment stream, whether they thought the program --- whether it was  
5 their view, I should say, that the program of November 2020, approved by the board, was in fact risk-based and it was their view that it was.

MR DHARMANANDA: So during the glare of an interview, you orally asked certain questions with respect to this matter, but never asked for a comprehensive  
10 assertion from Crown in respect of what it asserts constitutes the joint AML/CTF program being risk-based; is that correct?

MS WALDREN: We certainly asked --- in addition to the interview questions, we asked for all those documents that Crown Perth and Crown DBG, if you like, relied  
15 on to say that the program was risk-based. So in asking for those documents, I would assume they provided me with all of the documents on which they rely and on which I can form that opinion.

MR DHARMANANDA: Where do we find that request, Ms Waldren?  
20

MS WALDREN: It forms the basis of the notices to produce and there were a various number of them, I believe.

MR DHARMANANDA: Which ones?  
25

MS WALDREN: Which?

MR DHARMANANDA: I'm sorry. Which ones?

MS WALDREN: Which ones in particular?  
30

MR DHARMANANDA: Yes.

MS WALDREN: I'd have to have a look at all of them. I don't have them sitting in  
35 front of me, I'm afraid. But the original request would have included all of the documents that we were seeking to obtain in order to address our scope.

MR DHARMANANDA: We may be breaking for lunch in about 40 minutes. Can I  
40 ask you during the adjournment to locate the relevant notices so we can be informed about that, because it's not in your report, is it?

MS WALDREN: No, it's not referenced in my report. We relied on the solicitors  
45 instructing or assisting the Commission to send those notices to produce, so they were not my documents themselves.

MR DHARMANANDA: I understand that, Ms Waldren. I'm just trying to understand which notices to produce you say constitute completion of step 1. If I

could ask you to see if you can locate them over the adjournment when we get there, that would be helpful to us.

5 MS WALDREN: I can make those inquiries.

MR DHARMANANDA: Of whom would you make the inquiries?

MS WALDREN: With the solicitors instructing us.

10

MR DHARMANANDA: That may be a difficulty. We will get to that.

15 Can I ask you to look at paragraph 3.2 again and your conclusion there expressed. Do I take it from reading your report that that conclusion arises because, in your view, there is no documented and holistic risk assessment which you say is required by the AML/CTF Act and Rules?

MS WALDREN: That's correct, that the November 2020 AML program is based on.

20 MR DHARMANANDA: That is elaborated on in your report sent to us last night in paragraph 9?

25 MS WALDREN: It's also elaborated on further on in our report, where we make reference to a number of different risk registers and documents that were provided as a result of our inquiries or our request to produce documents, from 3.3.4 and 3.3.5 onwards --- included in those particular paragraphs, I should say.

30 MR DHARMANANDA: To get to the gist of your view, is it correct to say that the heart of your complaint is the absence of a standalone document or similar documents?

35 MS WALDREN: Firstly, it's certainly not a complaint, it's a requirement, and my opinion under the rules, to be able to demonstrate that you have assessed your ML/TF risk. If Crown had been able to produce even a consolidated review of different risk factors that were required to be considered as part of the November 2020 program, I would have been more than happy to have considered those as the ML/TF risk assessments, if they followed the annexure B methodology. But, unfortunately, they were not provided to us and so that is the reason I formed the opinion that the AML program was not sufficiently risk-based.

40

COMMISSIONER OWEN: Mr Dharmananda, was there reference in the responsive report to paragraph 9?

45 MR DHARMANANDA: Yes, Commissioner. You have seen Crown's position paper?

MS WALDREN: I have, yes.

MR DHARMANANDA: Particularly paragraphs 10 and 11, where Crown sets out its position that the AML/CTF Act and Rules are silent on how risk should be assessed and do not define what risk-based means. Do you recall that?

5

MS WALDREN: I do recall that, yes.

MR DHARMANANDA: You have responded to this further in your later report of last night?

10

MS WALDREN: I did, yes, that's right. I responded to those particular paragraphs.

MR DHARMANANDA: But you would agree that these matters reflect a legal conclusion, resting on a particular interpretation of the requirements of the AML/CTF Act and Rules?

15

MS WALDREN: No, I don't agree with that. I'm not expressing a legal opinion, I'm expressing an opinion based on my experience, both practising over a number of years in reporting entities and having been required to write a program and undertake a risk assessment. I have also based it on my understanding of the legislation, based on my experience in the industry and as a consultant, and also with my engagements with AUSTRAC and reading their guidance feedback and the various enforcement actions which relate directly to this particular point. So I do base the disagreement I have in relation to Crown's position paper at 9 and 10 on my experience.

20

25

MR DHARMANANDA: What I am asking you is whether you agree there is a question of statutory construction relevant to this particular aspect of the opinion you have expressed?

30

MS WALDREN: It's an interpretation of the Rules.

MR DHARMANANDA: And that's not a statutory construction?

35

MR DHARMANANDA: You could call it that if you like. I am very cautious of not entering into a legal discussion, as I am not practising as a lawyer. But certainly it is an interpretation of the Rules that require any reporting entity to set out how they have assessed their risk.

40

That is set out in part 9 of the Rules and it sets out quite clearly what reporting entities are required to take into consideration in assessing those risks. So it tells you what to consider, it doesn't tell you how to do it.

45

So Crown could do it however they like. They have documented that in annexure B and, unfortunately, we weren't able to see anything that demonstrated that they have considered the issues in the Rules or annexure B, to the satisfaction that led me to the opinion that the program was not sufficiently risk-based.

MR DHARMANANDA: Ms Waldren, you heard Mr Feutrill this morning abandon

reliance on various parts of your report.

5 MS WALDREN: I heard him qualify it, yes.

MR DHARMANANDA: Qualify the reliance. What did you understand Mr Feutrill attended to this morning?

10 MS WALDREN: I understood he was saying that the Commission should not consider my opinion in relation to a breach of the Act or the Rules. The word "abandoned" is yours, not mine.

15 MR DHARMANANDA: Turn, please, to paragraph 3.3.6 at page 0184. Ms Waldren, just to check, does the body of your report also have changes as are reflected in the Scope? Have you checked that?

MS WALDREN: I'm sorry, I don't understand your question.

20 MR DHARMANANDA: We have now identified during the course of this discussion that the document that presents as a Scope for you is different to the document that presents as a Scope for us. I now want to be sure, in terms of the report itself, we are dealing with the same report or whether there has been another error with respect to that report.

25 MS WALDREN: No, we are referring to the same report based on the PCRC identification number. So I am looking at 0184 and I think you have asked me to refer to 3.3.6?

30 MR DHARMANANDA: Yes. The problem for us is that the Scope also has a PCRC identification number and a page number.

MS WALDREN: I understand that.

35 MR DHARMANANDA: At 3.3.6 at page 0184, you acknowledge the various expert reports from the likes of Initialism, Deloitte and Promontory. Do you see that?

MS WALDREN: I do.

40 MR DHARMANANDA: But then you say they do not provide an adequate and holistic assessment of the risk faced by a casino. Do you see that?

MS WALDREN: Yes, I do. Or in accordance with the ML/TF risk assessment methodology at annexure B of Crown's program.

45 MR DHARMANANDA: Regardless of your view of what the Act and Rules demand, an assessment of Crown's position, as asserted for the purposes of step 1, would require you to consider those expert reports. Do you agree with me?

MS WALDREN: I do.

MR DHARMANANDA: Did you consider those reports?

5

MS WALDREN: I did.

MR DHARMANANDA: You mentioned some analysis of the reports in your reply sent last night at paragraph 15. Do you see that?

10

MS WALDREN: Yes.

MR DHARMANANDA: Where do I find your consideration of these expert reports in your first report?

15

MS WALDREN: I have just included in the paragraph you have referred me to there in relation to the issue of whether or not it constituted an ML/TF risk assessment. My view is that they do not.

MR DHARMANANDA: Is it fair to say that in your first report, you do not identify with any particularity matters of deficiency or inadequacy in those expert reports?

20

MS WALDREN: No. In fact, I don't disagree with those expert reports. But we have been asked a very different question to the scope of those particular expert reports.

25

My scope and the question was in relation to whether or not the current program, the November 2020 program, is risk-based. That is not what --- in my opinion or my understanding, based on the engagement letters and the final reports of those relevant experts, that is not what they have been asked to do. So we had a slightly different remit.

30

MR DHARMANANDA: I wonder how you reconcile that with page 0190 and your conclusion at paragraph 5.1. You will recall that task 3 or step 3 was to identify the AML/CTF risks faced by casinos and by Crown Perth?

35

MS WALDREN: I do.

MR DHARMANANDA: In response to that, you state at 5.1 the AML/CTF risks and typologies faced by casinos have been well documented in external reports, including the Initialism, Deloitte, Promontory and McGrathNicol reports. Do you see that?

40

MS WALDREN: Yes.

45

MR DHARMANANDA: So in answer to task 3, you begin by pointing to the external reviews. Do you see that?

MS WALDREN: I do, which set out in very extensive detail the typologies related to casinos for ML/TF risk. So in the interests of time brevity, we did not repeat all of those in our report.

5

MR DHARMANANDA: It's more than just risk, it's also typologies. Do you see that?

MS WALDREN: I do.

10

MR DHARMANANDA: It's both typologies and risks. So that records your view that the relevant risks and typologies are properly analysed and dealt with in those reports?

15

MS WALDREN: That's correct. I agree with that.

MR DHARMANANDA: You would agree that one way to conduct a risk assessment is to engage external experts like Promontory or Deloitte or Initialism, or Murray-Waldren?

20

MS WALDREN: I agree with that.

MR DHARMANANDA: And you offer this service to your clients?

25

MS WALDREN: Yes, I do. If I could just qualify that answer? It is absolutely correct that external consultants are engaged to consider typologies and risks, but the crucial part of that is they have to then apply it to the reporting entity to which they are providing that service; in this particular case, Crown.

30

By that I mean they then apply those typologies and risks to the nature, size and complexity of the entity that is undertaking the risk assessment, and that's where I perhaps differ, in that I cannot see that they have done that in the context I would expect, in my experience, for the purposes of the ML/TF risk assessment.

35

MR DHARMANANDA: What you have just said, Ms Waldren, where do I find that in your report?

MS WALDREN: I would just say in the paragraph that you have referred me to there, 5.1.

40

MR DHARMANANDA: 5.1 doesn't say anything like what you just said.

45

MS WALDREN: Well, I'm sorry, it does say that we rely --- I rely on the reports provided and the risks and typologies identified by others, and I have referenced the need to apply that to the nature, size and complexity of entities specifically at other parts of my report and, indeed, in the responsive paper to Crown's ---

MR DHARMANANDA: Sticking with the report itself, not the responsive report,



where do I find what you just said in your report itself?

5 MS WALDREN: It is a requirement of the Rules to apply those considerations to the reporting entity's nature, size and complexity.

MS WALDREN: Where do I find it in your original report?

10 MS WALDREN: If you will just give me a moment, I will see if it's set out in that way. Yes, if I could refer to paragraph 3.3.1 which is at 0183.

MR DHARMANANDA: Where is the reference to experts in that, Ms Waldren?

15 MS WALDREN: No, I didn't say it was a reference to experts, I was saying that the risk assessment you need to conduct to assess your ML/TF risk must have regard to the nature, size and complexity of the business, together with those other factors I spoke of earlier, being customers, designated services, products and channels.

20 What I'm saying is that I rely on the experts, in paragraph 5.1 I think we were just discussing, and the typologies and risks they identify as being relevant to casinos. What I don't see is that it has been applied in the Crown context.

25 MR DHARMANANDA: That's the part I am looking for. Where do you say the experts haven't done that in the Crown context? Where is that contained in the body of your original report?

30 MS WALDREN: It may not be set out in those specific terms but it is based on the requirements of a risk assessment and the opinion that I have formed that it does not meet those requirements.

MR DHARMANANDA: So that's really reading between the lines of your report, Ms Waldren?

35 MS WALDREN: I could have set out in detail the sections of part 9.1, but I have not.

40 MR DHARMANANDA: What I am directing your attention to is not the Rules themselves because the Rules themselves are able to be obtained from the Act. I am directing your attention to your analysis that you have just explained about what the experts did or did not do, is not contained in your original report. Do you agree with me?

MS WALDREN: I agree that it's not set out in those terms, yes.

45 MR DHARMANANDA: Ms Waldren, in the course of setting out to determine who you would interview, did you seek to meet with any representatives from Deloitte?

MS WALDREN: No, I didn't.

MR DHARMANANDA: Initialism?

MS WALDREN: No.

5

MR DHARMANANDA: Promontory?

MS WALDREN: No, I didn't.

10 MR DHARMANANDA: PwC?

MS WALDREN: No.

15 MR DHARMANANDA: You say in your responsive report, sent last night, that you have not conducted an independent review.

MS WALDREN: That's correct.

20 MR DHARMANANDA: That is at paragraph 10 of your responsive report. How long would you expect an independent review of an organisation as complex as Crown, typically, to take?

25 MS WALDREN: It's hard to say because sometimes it depends on the number of documents and the program itself, so it's very hard to put a specific timeframe on it. But for a complex entity, it would certainly be quite a length of time, I'd suggest several months.

30 MR DHARMANANDA: You are aware from the position paper from Crown at paragraph 42 that Crown has engaged Exiger to conduct an independent review of the program?

MS WALDREN: Yes, I'm aware of that. Yes.

35 MR DHARMANANDA: That is to commence at the end of 2021 ?

MS WALDREN: I believe that's the case, yes.

40 MR DHARMANANDA: If you take it from me that Exiger thinks it will take about three months with a team of about six people, does that sound about right, from your experience?

MS WALDREN: That's obviously Exiger's approach and I wouldn't disagree with that.

45 MR DHARMANANDA: Exiger are starting in December 2021 so they have a sufficient pool of data to examine the effectiveness of the program. Do you consider that to be appropriate?

MS WALDREN: I'm sorry, if you could just repeat the question?

5 MR DHARMANANDA: Exiger is starting in December 2021 so they will have a relevant pool of data to examine. I'm asking you whether you consider that to be appropriate?

10 MS WALDREN: Yes, for the purpose of conducting an independent review, which I have not done.

MR DHARMANANDA: But you would agree with me that an independent review is the way properly to assess whether there is compliance with the AML/CTF legislation?

15 MS WALDREN: No. It could be done in various different ways. An independent review takes into consideration two things, and I'm summarising this. It takes into consideration the design effectiveness of the program, so the technical assessment of the program, based on the risks the organisation faces, and the operating effectiveness of the program, that is whether it has been implemented and it is  
20 complied with. That is not the scope of the work that we have been asked to do, nor is it an opinion I have given.

MR DHARMANANDA: Could I turn now to the issue of implementation. You address that in your report beginning at page 0191 in section B6 of your report. One  
25 of the questions is directed to whether the program, if implemented, would allow Crown to satisfy its obligations. You answer that negatively at page 0192 at paragraph 6.2.1. Do you see that? I ask you to read that to yourself. But you acknowledge that Crown has systems and controls in place to meet the obligations set out in the Act and the Rules?

30 MS WALDREN: I do acknowledge that.

MR DHARMANANDA: Some of these you set out at paragraph 6.2.2?

35 MS WALDREN: Yes.

MR DHARMANANDA: So I can understand what you are saying here, your conclusion about implementation follows from your earlier conclusion about the program not being sufficiently risk-based?

40 MS WALDREN: That's correct.

MR DHARMANANDA: But you aren't saying there is a deficiency in the underlying systems and controls, as identified in 6.2.2?

45 MS WALDREN: The systems and controls in 6.2.2 are not all of the systems and controls that Crown has in place. And I am not saying they are deficient, I am saying

they are not appropriately risked base.

5 MR DHARMANANDA: In fact, you say an assessment of the underlying systems and controls is not within your scope?

MS WALDREN: That's correct.

10 MR DHARMANANDA: You aren't saying those systems and controls are not reflected in an update to the part A program?

MS WALDREN: I'm saying they are not updated in the part A program. So the part A program does not reflect the systems and controls in 6.2.2.

15 MR DHARMANANDA: So that's a point about form, is it not, Ms Waldren?

20 MS WALDREN: No, I don't necessarily agree with that. I think a program needs to be updated to reflect the systems and controls that a reporting entity has in place, based on the risks it is exposed to. It may sound like a technical argument but, in my experience, without an updated program that you can evidence how you manage your risk, there is a potential compliance issue.

25 MR DHARMANANDA: You are aware that Crown is in the process of revising its part A to be tabled next month?

MS WALDREN: I am.

30 MR DHARMANANDA: At paragraph 18 of your report sent last night, you dispute the claim that transaction monitoring is one of the most important components of the AML/CTF program?

MS WALDREN: For casinos. I do hope I have said that.

35 MR DHARMANANDA: Let's go to paragraph 18 of your report.

MS WALDREN: Yes. I say, in light of the exemptions afforded to the casino under the Act and the Rules, we would dispute the claim that the transaction monitoring program is one of the most important components.

40 MR DHARMANANDA: What is the basis for that view, Ms Waldren?

45 MS WALDREN: The basis is that not all transactions are monitored because the Act provides an exemption in relation to the KYC and identification of some customers. So, to put it simply, not all transactions are going through the Crown systems and capable of being monitored because they are non-carded transactions.

MR DHARMANANDA: If transaction monitoring is not one of the most important, what are the most important, in your view?

MS WALDREN: There's a range of things. I think obviously the identification of customers, knowing what risks they pose, knowing the products and channels and the risks they pose. I think training is a key component and a key control in the casino context, because there is a large reliance, because of the very nature of the business, on manual monitoring. So awareness of the particular risks and scenarios or typologies of a money launderer in a casino context is very important.

MR DHARMANANDA: And in your mind, that is more important than transaction monitoring?

MS WALDREN: No, no, I didn't say that. I just said that it is one of the key components and one of the controls. I am not suggesting that one is more important than the other, and I think that is the point of disagreement with the Crown position paper.

MR DHARMANANDA: So you accept that transaction monitoring is important?

MS WALDREN: I do, yes.

MR DHARMANANDA: Your quibble is whether it could be described as the most important?

MS WALDREN: Yes, that's correct.

MR DHARMANANDA: Or even one of the most important?

MS WALDREN: I think it's a very important control. I think in the context of the casino, given the exemptions afforded to it under the Act, it is not the most important control.

MR DHARMANANDA: At paragraph 22 of your further report, you say that Murray-Waldren notes this document has not been reviewed previously. Do you see that?

MS WALDREN: I do.

MR DHARMANANDA: You do not go on further to say that it was available to you?

MS WALDREN: That's correct. My apologies, if that was an oversight.

MR DHARMANANDA: It was available to you, wasn't it?

MS WALDREN: Yes, I believe it was. I was relying on an earlier --- apologies. I was relying on an earlier version.

MR DHARMANANDA: An earlier version of what?

5 MS WALDREN: Of the document I think that was referred to.

MR DHARMANANDA: Is this a reflection of the lack of time, Ms Waldren, that you were unable to look at this document that was available to you?

10 MS WALDREN: No.

MR DHARMANANDA: You see in the position paper at paragraphs 15-18, this is the Crown position paper, that Crown says it had previously undertaken the documentation of ML/TF risk assessments. Do you see that?

15 MS WALDREN: I do.

MR DHARMANANDA: In your responsive report at paragraph 12, you say you were aware of some of these documents from your interviews with Mr Blackburn and Mr Sutherland. That's in the first sentence of paragraph 12.

20 MS WALDREN: Yes.

MR DHARMANANDA: You didn't ask for those documents, did you?

25 MS WALDREN: Yes, indeed, we did. I asked for them from Ms Siegers, the chief risk officer, and I asked for any risk assessments that Mr Blackburn and/or Mr Sutherland or others relied on in relation to the 2020 program.

30 MR DHARMANANDA: Ms Waldren, what I am trying to understand is you say that in your interviews with Mr Blackburn and Mr Sutherland, the documents referred to in the paragraph were referred to and I am asking you whether, even though they were referred to, you asked for them?

35 MS WALDREN: I did ask for them.

MR DHARMANANDA: You did or you did not?

40 MS WALDREN: I asked for the documents related to previous risk assessments or risk registers, yes.

MR DHARMANANDA: You say further down the page "both these documents have been made available to us on the 11th of November".

45 MS WALDREN: In fact, it should have been the 10th. It should have been the 10th, I apologise.

MR DHARMANANDA: It should have been the 10th?

MS WALDREN: Yes.

5 MR DHARMANANDA: So you haven't had an opportunity to interrogate those documents that are referred to in the position paper?

MS WALDREN: Yes, I have. I was provided with those yesterday. It's a typographical error of the date.

10 MR DHARMANANDA: You have fully undertaken a review of the documents provided to you recently?

MS WALDREN: I received them yesterday, yes.

15 MR DHARMANANDA: I am asking whether you have had the opportunity fully to review them?

MS WALDREN: Yes, I believe I have reviewed them fully.

20 MR DHARMANANDA: Can we go, please, to the penultimate bullet point in paragraph 12, where you refer to a document that was prepared by Ms Louise Lang in June 2019.

MS WALDREN: Yes.

25 MR DHARMANANDA: You say the assessment is useful in part but has limited applicability as it relates to the designated services offered "jkiibut". That should be "but"?

30 MS WALDREN: Yes.

MR DHARMANANDA: It does not assess ML /TF risk in the context of the customers, channels or jurisdictions Crown Perth might be exposed to. Do you see that?

35

MS WALDREN: Yes, I do.

MR DHARMANANDA: Are you sure about that, Ms Waldren?

40 MS WALDREN: Yes, I am.

MR DHARMANANDA: Can we go, please, to CRL.614.001.0670. This is a memorandum sent to Mr Felstead. It is a draft version of a risk register, with the actual body of the document following the covering email. It commences at page  
45 0673. Have you seen this document before, Ms Waldren?

MS WALDREN: Yes, I have. Yes.

MR DHARMANANDA: Can we look, please, at 0675. There is a reference to "Customer Type Risk". Do you see that?

5 MS WALDREN: I do, yes.

MR DHARMANANDA: So your conclusion with respect to customer type risk is erroneous?

10 MS WALDREN: No, actually. What I am saying here is it's unclear how they have assessed the risk, based on the attachment to this memorandum. So they talk about the type of customer they say that --- I won't jump ahead, but they have looked at the types of customers that Crown has and they arrive at the conclusion, or Ms Lang has arrived at the conclusion here that the risk posed is low. What I'm saying is I have  
15 no way of knowing how that conclusion was arrived at in relation to customers and so its applicability is somewhat limited.

MR DHARMANANDA: Ms Waldren, the text of your responsive report says that the assessment does not assess ML/TF risk in the context of certain things. That's all  
20 it says.

MS WALDREN: Yes.

MR DHARMANANDA: This report does assess that type of risk. It mentions it at  
25 page 0675 insofar as customers are concerned. With respect to jurisdiction, that appears at page 0676. Operator, please bring that up.

MS WALDREN: Yes.

30 MR DHARMANANDA: When we get to page 0677, it addresses products, service risk and delivery method risk and, as I understood your evidence this morning in answer to questions from Mr Feutrill, that's channels, isn't it?

MS WALDREN: Yes.

35 MR DHARMANANDA: So it addresses channels and it addresses jurisdictions. There is a business risk register at pages 683-696. Did you give that any attention, Ms Waldren?

40 MS WALDREN: Yes, I did.

MR DHARMANANDA: There is a ratings system involved there?

MS WALDREN: That's right. Likelihood and consequence.

45 MR DHARMANANDA: ML/TF risk associated with those services that are casino specific, would you agree with me?



MS WALDREN: I would.

5 MR DHARMANANDA: At 0697 there is a Crown entities risk register. Did you give any attention to that, Ms Waldren?

MS WALDREN: I'll just wait until that --- yes, I did, yes.

10 MR DHARMANANDA: You see at page 0712, for example, there is reference to changes to the external environment. This is items 40 and 41 on page 0712; do you see that?

MS WALDREN: Yes.

15 MR DHARMANANDA: That is a matter that you criticised Crown for as not giving any attention to. That's correct, isn't it?

MS WALDREN: I'm sorry. I said in relation to the November 2020 program which is approved by the board, version 2, that there had been no enterprise-wide risk  
20 assessment in the manner that annexure B requires it to be done. My understanding of this document is that it was created in 2019 and associated with the 2019 program, which I believe the cover memo sets out that had not been implemented in light of Mr Stokes recently joining Crown. So I cannot consider this document as being part of the version 2 program because, one, it was not incorporated into or referred to in  
25 the 2020 program, and it doesn't comply with the methodology set out in annexure B which forms part of the program.

So I am aware of this document, but Mr Blackburn himself does not rely on this document to say that it applies to the version 2 program that is currently the board  
30 approved program for Crown entities.

MR DHARMANANDA: Do you see in the position paper at paragraphs 15 and following, the Crown position paper, Crown asserts that it undertook prior documented ML/TF risk assessments? Do I see that?  
35

MS WALDREN: On paragraph 15, sorry?

MR DHARMANANDA: Yes, 15 and following.

40 MS WALDREN: Yes, I do.

MR DHARMANANDA: That is Crown's assertion. Are you considering Crown's assertion or not?

45 MS WALDREN: In fact, I had seen those documents and referred to them in my original report as being provided by Ms Siegers and they were referenced, in part, at 3.3.4 on 0184.

MR DHARMANANDA: You are aware that Mr Neil Jeans of Initialism did conduct a review?

5 MS WALDREN: Multiple reviews, I believe.

MR DHARMANANDA: You have no reason to doubt the competency of Mr Jeans?

MS WALDREN: Not at all.

10

MR DHARMANANDA: You address in paragraph 14 of your reply report a conclusion Mr Jeans arrives at, where you say that, on your reading, the Initialism report does not reference an ML/TF risk assessment. Do you see that?

15 MS WALDREN: I do.

MR DHARMANANDA: You would accept that Mr Jeans understands the AML/CTF Act and Rules require a risk assessment to be undertaken?

20 MS WALDREN: I do.

MR DHARMANANDA: Can we go then to the Initialism report at CRL.728.001.0192.

25 MS WALDREN: Yes, I have that.

MR DHARMANANDA: You would see that Mr Jeans expresses the view at the second-last paragraph of the letter:

30 *We have worked with Crown and its legal representatives to develop a Part A  
AML/CTF Program and the supporting Policy and Procedures and, based on  
our work, we are of the opinion that the revised documented Part A AML/CTF  
Program as drafted complies with relevant AML/CTF Rules, and is  
35 appropriately designed to identify, manage and mitigate the money laundering  
and terrorist financing risks faced by the Reporting Entities that are part of the  
Crown DBG.*

Do you see that?

40 MS WALDREN: I do.

MR DHARMANANDA: Accepting, as you do, that Mr Jeans understands the AML/CTF Act and Rules, he is there saying that, relevantly, the steps required to be undertaken have been undertaken?

45

MS WALDREN: I see that.

MR DHARMANANDA: Thank you. Is that a convenient time?

01:00PM

COMMISSIONER OWEN: It is. What do you wish to do about the documents?

5 MR DHARMANANDA: We would like to examine them over the luncheon break, Commissioner, both the note as well as the other material I called for. I think Mr Feutrill is going to answer the call.

10 MR FEUTRILL: Yes. I think there are two calls, if I can recall. The one that dealt with the email, we can answer. But in order to answer the second call, which relates to the Scope document, someone will need to speak to Ms Waldren.

COMMISSIONER OWEN: I think there are two questions. There is the question whether or not the report that has been tendered is the final report.

15 MR FEUTRILL: Yes.

COMMISSIONER OWEN: There was a second question, I thought, about the documents that Ms Waldren had sought from Crown through this mechanism of notices to produce.

20 MR FEUTRILL: Yes. I didn't think there was a call in relation to that one.

COMMISSIONER OWEN: No, there wasn't. I think it wasn't a call but what Mr Dharmananda said to the witness was, "In the break, can you find them?" I think the witness said, "I would need to speak to the solicitors to do that."

30 MR FEUTRILL: That's right, so that was the other aspect. We may be able to identify the NTPs ourselves, but I need to speak to my instructors about that. But if not, we may need to speak to Ms Waldren about that over the break as well. I don't know if my friend is prepared to allow us to do that in order to sort that issue out.

COMMISSIONER OWEN: Mr Dharmananda?

35 MR DHARMANANDA: No, on the basis that it is confined to those topics, then that seems appropriate with respect, Commissioners.

COMMISSIONER OWEN: Thank you. See how we go.

40 Ms Waldren, we will break for lunch now and come back at 2pm our time, which is 5pm your time.

MS WALDREN: Thank you.

45 **ADJOURNED**

**[1:03P.M.]**

**RESUMED**

**[2.15 PM]**

5 COMMISSIONER OWEN: Please be seated.

MR DHARMANANDA: Commissioners, all that has been answered in part. Copies of particular documents, as I understand it, are being prepared and will be available for everyone in the room. I will proceed as far as I can, Commissioners, in the  
10 interests of time, if that is a convenient course.

Ms Waldren, you say at paragraph 26 of your report --- can you go to that, please?

15 MS WALDREN: Yes.

MR DHARMANANDA: Over the page, paragraph 26 over the page, you see that you make reference to a requirement of ILGA? Do you see that in brackets?

20 MS WALDREN: Yes, I do.

MR DHARMANANDA: What is the source of your knowledge about it being a requirement of ILGA?

25 MS WALDREN: I believe that was provided to us in a draft Kroll report. I do believe Mr Blackburn mentioned it at interview but I could stand corrected on that.

MR DHARMANANDA: So it is either something you saw in the Kroll report or something that Mr Blackburn told you; is that right?

30 MS WALDREN: From my recollection, that is correct, yes. Sorry, perhaps I should just clarify. That was on the understanding that the ILGA requirement was to have it commence prior to the end of this calendar year.

35 MR DHARMANANDA: Could I then deal with your assessment concerning the adequacy of Crown's resources. That is identified at page 0165 of the Scope with which we have been provided, as the task:

40 *Review the current (and proposed, as applicable) resources and governance/reporting structure.*

Do you see that at page 0165? Could the operator go to page 0165 of the report?

MS WALDREN: Yes, I do.

45 MR DHARMANANDA: You address that at section B.8 of your report, commencing at page 0196?

MS WALDREN: Yes.

MR DHARMANANDA: Can you explain what human resources or quantity surveying expertise you have in respect to assessing workforce demands relevant to particular tasks?

5

MS WALDREN: None, to that basis. However, I have relied in part on the documents provided to me as part of our review, which identify resourcing to be an issue, and also my industry experience in leading large teams and teams that are not that large to manage AML/CTF.

10

MR DHARMANANDA: Have you ever led a team the size of 111?

MS WALDREN: No, not directly.

15 MR DHARMANANDA: Do you accept that in order to assess the adequacy of resources, one needs to understand the scope of the task and then to have some legitimate basis for a forecast?

MS WALDREN: Yes, I do. I agree with that.

20

MR DHARMANANDA: That is especially so if there are forward-looking statements?

MS WALDREN: That's right, and to do so, I have had reference to the FCCCP and Crown's transformation program, which includes the FCCCP.

25

MR DHARMANANDA: At paragraph 8.3.10 on page 0197, you mention 110 resources, with 80 per cent filled. You are aware that the team for AML/CTF in Crown is 111 people?

30

MS WALDREN: I rely on your knowledge of that. I think it has been moving for some time but if you say it is 111, thank you. Yes.

MR DHARMANANDA: Have you come across a larger team to address AML/CTF in the work that you have done with respect to your clients in relation to someone in the casino industry?

35

MS WALDREN: Not in the casino industry, no, but in other industries, yes.

MR DHARMANANDA: What is the average size of a team in respect of the clients that you advertise on your website?

40

MS WALDREN: It differs. It depends on the industry, it depend on the sector, it depends on the size of the entity. I just clarify that not all of our clients are advertised on our website. So my comments would apply regardless.

45

MR DHARMANANDA: What is the average size of a team?

MS WALDREN: I am unable to give you an answer to that, unfortunately, because it depends on the type of reporting entity, the nature of services they provide, the sector that they operate in, whether they are a global based --- a global organisation  
5 or whether they are a small remittance business. We act on behalf of a wide range of those reporting entities and, as you identified before, I have worked in large entities which have significantly large teams to manage AML/CTF. None that I would have seen in the casino industry which is bigger than the current Crown second-line resourcing team.

10

MR DHARMANANDA: Can we go, please, to the FC&C organisational chart at CRW.510.073.1797 and go, please, to page 8 - 1762 at 1809. You record your perception of insufficiency at paragraph 8.2 of your report. Could you tell us where within that organisational chart the insufficiency exists?

15

MS WALDREN: My comment in relation to insufficiency and the opinion I have expressed doesn't relate just to the second line team. In fact, I highlight that it also applies to the first line team, of which this doesn't represent an organisational structure.

20

So I am not here to say this organisational structure demonstrates insufficiency and it is very hard to say that. But in light of the FCCCP plan, the wholesale change that Crown has underway and a number of other factors identified in the report, that gives reason for me to express the opinion of the insufficiency of the current BAU  
25 resources and likely insufficiency in relation to the implementation in the FCCCP in the current internal and external environment.

25

MR DHARMANANDA: Your comments are directed, therefore, to the first line assessment; is that right?

30

MS WALDREN: A combination. Not just to the first line, but the three lines of defence at Crown.

MR DHARMANANDA: Do you accept that your view as to the adequacy of  
35 resources is coloured by the demands on Crown that you detect from the various Royal Commissions and investigations?

MS WALDREN: In part, I accept that, yes, but not in and of itself.

MR DHARMANANDA: Do you accept that those Commissions and investigations  
40 are not likely to continue forever?

MS WALDREN: No, they are not.

MR DHARMANANDA: You are aware that McGrathNicol has expressed a view in  
45 relation to the adequacy of Crown's resources? Are you aware of that?

MS WALDREN: Yes, I am. Sorry.

5 MR DHARMANANDA: Can we go, please to the McGrathNicol report, page 0208, table 2. I invite you to read item 1. It goes over the page.

MS WALDREN: If I could have the second page, that would be appreciated. Yes, I have read that.

10 MR DHARMANANDA: Would it be fair to say they are less pessimistic than you?

MS WALDREN: I actually don't think we are in disagreement.

15 MR DHARMANANDA: McGrathNicol takes the view that Crown has had good success in attracting capable and experienced leaders, ready to take up the challenge to succeed. Do you see that?

20 MS WALDREN: I do and I agree with that. I think we have just expressed it in a different way.

MR DHARMANANDA: McGrathNicol say that 80 per cent of the positions have been filled and additional support is being provided by PwC and operational business units; do you see that?

25 MS WALDREN: I do.

MR DHARMANANDA: McGrathNicol takes the view that momentum will build as the FC&C team reaches its target operating model; do you see that?

30 MS WALDREN: I do.

MR DHARMANANDA: Do you accept all of those conclusions?

35 MS WALDREN: I do.

40 MR DHARMANANDA: In respect of funding, at item 3 on that page you will see McGrathNicol notes that Mr Blackburn has not been denied any of the resources he needs. Do you see that?

MS WALDREN: I do.

45 MR DHARMANANDA: Has he told you something similar?

MS WALDREN: Yes, Mr Blackburn did note in interview that he had been provided with all the resources he needed. He, however, caveated that by a very

pragmatic comment that in the current commercial environment, with only one casino operating out of the three properties, that money might not last. But he gave me no indication to think that he would be denied resources and I have seen nothing to suggest that he has been.

MR DHARMANANDA: Are you aware of the evidence of Mr Bruce Carter, director, that Mr Blackburn will, in effect, get what he needs?

10 MS WALDREN: No, I'm not directly aware of that.

MR DHARMANANDA: In your responsive report at paragraph 31, you refer to Mr Blackburn's evidence as some sort of corroboration of the view that you expressed. Do you see that at paragraph 31? MS WALDREN: I do.

15 MR DHARMANANDA: So you rely upon the evidence of Mr Blackburn in that regard?

MS WALDREN: Well, I think that is a sensible comment that Mr Blackburn makes and I would agree with it.

MR DHARMANANDA: If Mr Blackburn testifies next week that he does not view the resources of Crown as inadequate, you would have no reason to doubt that, would you?

25 MS WALDREN: I would expect that if he was asked in relation to the second line, that would be something he has direct knowledge of, and maybe the first and the third line as well. I think he's a very well-resourced manager of a very large financial crime and compliance team.

30 MR DHARMANANDA: Would you be prepared to accept Crown's declaration as to ensuring adequate resources are provided as contained in the position paper at paragraph 65?

35 MS WALDREN: Yes. I have no reason to challenge that.

MR DHARMANANDA: So when it comes to your responsive statements and the material on page 9, particularly paragraph 32, those are forward-looking statements are they not, Ms Waldren?

40 MS WALDREN: I would say they are a combination of current and forward-looking statements. You asked me earlier in relation to --- I apologise, it might have been Mr Feutrill. But I was asked in relation to service level agreements and alerts being behind and that was in a current, single casino operating environment. So my opinion is based on current and a future-looking view.

45 MR DHARMANANDA: To the extent they are forward-looking, that is not based



on data presently available to you?

5 MS WALDREN: It is based on Crown's own reports, in that the resources are stretched from a financial crime perspective and from a technology perspective.

MR DHARMANANDA: Ms Waldren, I am drawing your particular attention to paragraph 32 ---

10 MS WALDREN: Oh, okay.

MR DHARMANANDA: --- where you note that any enforcement action/civil litigation is highly likely to impact on internal resources. Do you see that?

15 MS WALDREN: I do.

MR DHARMANANDA: I am saying to you that that is speculative?

20 MS WALDREN: No. I have to say that I have been involved in matters that have been before courts and I know exactly how labour intensive they are.

MR DHARMANANDA: But you don't know what civil litigation enforcement action is likely to occur, do you?

25 MS WALDREN: We have been provided with correspondence from AUSTRAC that has indicated that enforcement is likely. And based on my experience in industry, as well as an expert on a large civil litigation matter in relation to AML matters, I do understand how labour intensive they are.

30 MR DHARMANANDA: Could I direct your attention to paragraph 58 of Crown's response, where it states that the majority of Crown's financial crime team are not involved in responding to AUSTRAC's investigations into Crown Melbourne and Crown Perth. Does that change your view?

35 MS WALDREN: I have no reason to dispute that. I have no basis to dispute it.

MR DHARMANANDA: Considering Crown's EWRA methodology, you are aware from the position paper that Crown has engaged PwC to assist with a new EWRA methodology?

40

MS WALDREN: I am.

MR DHARMANANDA: And to conduct an EWRA under that methodology?

45 MS WALDREN: I am.

MR DHARMANANDA: With a view to the issue of a revised AML/CTF program to be tabled in December 2021?

MS WALDREN: That's correct, that's my understanding.

5 MR DHARMANANDA: Do you agree that your criticisms of Crown's current AML/CTF program will be superseded by the new EWRA and the revised program to be tabled in December?

MS WALDREN: That's my understanding.

10 MR DHARMANANDA: So we may understand what you say about the EWRA methodology, can I ask you to go to page 0186 of your report?

MS WALDREN: Yes.

15 MR DHARMANANDA: You received the complete documentation relevant to the EWRA on 18 October?

MS WALDREN: I don't have the date in front of me but I am happy to accept that I received those two documents referred to in my statement at or around that date, yes.

20

MR DHARMANANDA: Would you go, please, to paragraph 4.1.3.

MS WALDREN: Yes.

25 MR DHARMANANDA: You see you state there that Crown's ML/TF risk methodology or model is largely consistent with regulatory expectations and industry practice. Do you see that?

MS WALDREN: I do.

30

MR DHARMANANDA: You explain in your supplementary report that you reached this conclusion on the basis that the methodology considers factors that the rules require and that AUSTRAC has referred to in their insight documents. That is at paragraph 27 of your responsive report; that's correct, isn't it?

35

MS WALDREN: Yes, that's correct. I see that.

MR DHARMANANDA: You say there are a number of things that are not documented in the current methodology that may be included in the final EWRA report. That is at paragraph 37 as well.

40

MS WALDREN: Yes.

45 MR DHARMANANDA: In a process of risk identification, do you accept the process might go as follows: a methodology for identifying risk is developed, an assessment of risk according to that methodology is undertaken, risks are identified, and to the extent that risks are identified that are not captured by the

methodology, then the identified risks are incorporated into the methodology?

5 MS WALDREN: Yes, I accept that is an approach, yes.

MR DHARMANANDA: In that process, you accept there must necessarily be a gap in time between the identification of a risk that is not captured by the methodology and the updating of the methodology to capture the newly identified risk?

10 MS WALDREN: I accept that.

MR DHARMANANDA: Given that, the circumstance that a methodology does not record a risk that may be identified by a risk assessment should not of itself render the methodology non-compliant with the rules. Do you agree with that?

15

MS WALDREN: Sorry, could you restate the question, please?

MR DHARMANANDA: In light of the matters to which you have acceded, the circumstance that a methodology does not record a risk that may be identified by a risk assessment should not of itself render the methodology non-compliant?

20

MS WALDREN: I agree with that, yes.

MR DHARMANANDA: That would produce a perverse result, if it were otherwise, because the purpose of the methodology is to enable the entity to identify risk?

25

MS WALDREN: That's correct, and that is an iterative process.

MR DHARMANANDA: Including risk that may not have been appreciated when the methodology was crafted?

30

MS WALDREN: Or known about, yes.

MR DHARMANANDA: You have not seen the final EWRA report?

35

MS WALDREN: No. At the time of our report, it was not finished.

MR DHARMANANDA: You cannot anticipate the changes that may be made to the methodology as a result of the final report?

40

MS WALDREN: No, my comments only relate to the methodology document that we were provided and I accept that changes will be made along the way.

MR DHARMANANDA: So any conclusion that the final report may not be compliant would be speculative?

45

MS WALDREN: The reference to the rules there relate to silence on --- sorry, silence in relation --- in the existing methodology in relation to a number of factors

that need to be assessed as risks change, prior to the offering of the designated service.

5 If I could give you an example, if there is a new product that is being launched, it must be risk assessed prior to its introduction. I saw nothing in the methodology that required that change risk process or referred to that changed risk process in a way that is captured in rule 9.1.5. That is what I was referring to in relation to the methodology potentially not --- the methodology not being compliant with the rules,  
10 not the outcome of the methodology itself.

MR DHARMANANDA: What I am directing your attention to is that because you haven't seen the final EWRA report, any conclusion about non-compliance is presently speculative?

15

MS WALDREN: It was based on the document that I saw. I have not seen the final report.

MR DHARMANANDA: You have seen from the position paper that Crown referred your critique to PwC and they provided a response?

20

MS WALDREN: I did, yes.

MR DHARMANANDA: That is set out in a table. Can we go, please, to  
25 CRW.701.011.0483 and begin with item 2. Item 2 takes up your comments at 4.2.4. I invite you, Ms Waldren, to go to 4.2.4 in your hard copy because it adverts to two matters in 4.2.3(i) and 4.2.3(ii). You will see that you assert in 4.2.4 delays in completing 4.2.3 (i) and (ii) will impact the EWRA being finalised. That is not capable of incorporating a residual risk rating within expected time frames or being  
30 highly qualified in terms of its conclusions. You see that?

MS WALDREN: I do.

MR DHARMANANDA: PwC responds:

35

*The insight activities (controls, collation, validation and quantitative data sourcing), have been successfully concluded for the purposes of the ML/TF EWRA.*

40 Do you see that?

MS WALDREN: I do.

MR DHARMANANDA: Do you wish to withdraw or otherwise qualify your report findings at 4.2.4?

45

MS WALDREN: My findings in that particular paragraph were made at a point in time. Obviously things move. My comment related to the position that it was when

we were preparing this report. I have no basis to challenge the PwC update and I am more than happy to take that on board.

5 MR DHARMANANDA: So you would withdraw 4.2.4?

MS WALDREN: No, I don't think I would withdraw it because the comment still stands. If those things hadn't been done, so delays in completing them, would have a result or will impact those things. At that point in time, that was my opinion.

10

PwC is saying to us that those things are done. I accept that and I say that it won't impact the EWRA in the way I had considered at the time I was writing the report, which was a point in time.

15 MR DHARMANANDA: Are we aware, Ms Waldren, of the Federal Court practice notes edict that experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert?

20 MS WALDREN: I am not intimately aware of that, but I am aware of the general reference and I am more than happy to concede. I just am trying to explain that at that point in time, my comments, as they stand, said they would have an impact if they weren't completed.

25 PwC has since said they are completed and I have no reason to doubt that. So the things I have given an opinion on, if there had been a delay, no longer stand.

MR DHARMANANDA: Then move to item 3. Item 3 is again dealing with the commentary in paragraph 4.2.4. It is the second sentence of that paragraph. It reads:

30

*The lack of a transition plan to Crown's internal resources (as opposed to PwC ..... [And then there are words missing] ultimately be responsible for oversight and management of the EWRA may impact its ongoing sustainability .....*

35 Do you see that?

MS WALDREN: What I see on the screen actually says:

40 *..... (as opposed to PwC who are currently supporting various FCCCP initiatives) ultimately be responsible for oversight and management of the EWRA may impact its ongoing sustainability.*

MR DHARMANANDA: Leaving aside what seems to be --- can you read out what your 4.2.4 says, Ms Waldren?

45

MS WALDREN: Are you asking me to read what is on the screen?

MR DHARMANANDA: No. Were you reading from the screen before or your hard

copy version?

5 MS WALDREN: I'm sorry, I was reading from the screen.

MR DHARMANANDA: You weren't reading from a different version?

10 MS WALDREN: I'm reading from --- no, no, I'm reading from what is on the screen.

MR DHARMANANDA: PwC respond at page 1486 that the transition of the ML/TF EWRA to be a new and documentation of the supporting processes of stated deliverables within the delivery plan and the ML/TF EWRA charter. Do you see that?

15 MS WALDREN: I do.

MR DHARMANANDA: They accept that transition plan deliverables will be completed in the stated time frame. Do you see that?

20 MS WALDREN: I do.

MR DHARMANANDA: It seems, therefore, that Crown has a transition plan which is currently on track?

25 MS WALDREN: It does seem that way. They didn't at the time of our report, or that's what we were informed.

30 MR DHARMANANDA: Do you wish to withdraw any part of paragraph 4.2.4 as it stands presently?

35 MS WALDREN: At the time I wrote the report, my opinion was that it may impact its ongoing sustainability. I think that is still the case. However, time has moved on and we are now advised by PwC that those transition plans are in place. I have no reason to dispute that, so I am happy to accept that position.

40 MR DHARMANANDA: Going then to item 4, item 4 takes up what you say in paragraphs 4.2.5 and 4.2.6 of your report, where, in essence, you say the methodology does not consider an assessment of terrorism financing risk which Crown may be exposed to. Do you see that?

MS WALDREN: I do.

45 MR DHARMANANDA: The PwC responds with:

*The methodology notes the assessment of both ML and TF risks. The ML/TF EWRA will consider Terrorism Financing event as stated in the Corporate Risk Profile.*

But observes in the subsequent bullet point that TF risk is inherently low when it comes to casinos by reference to paper from the UK Gambling Commission. Do you see that?

5

MS WALDREN: I do.

MR DHARMANANDA: So the EWRA will, indeed, consider terrorism financing events?

10

MS WALDREN: That's right. Yes, I see that.

MR DHARMANANDA: Do you accept all of that?

15

MS WALDREN: I accept that it will do that, going forward. It certainly wasn't referenced in the original methodology and I think it is appropriate that it will be included going forward.

MR DHARMANANDA: Do you wish to modify paragraphs 4.2.5 or 4.2.6 in any way?

20

MS WALDREN: No, I don't.

MR DHARMANANDA: In relation to your experience in designing and implementing EWRA's, can you tell me how many EWRA's you developed and conducted in your time at NAB?

25

MS WALDREN: At the time they weren't referred to as an EWRA. I think that might be terminology that Mr Blackburn uses, and others. So money laundering and terrorism financing risk assessment, I couldn't tell you how many because they are done, as you have rightly indicated, based on the methodology from PwC on an ongoing basis. They are done when there is a change to a product, when there is a change to a channel.

30

So there would have been multiple risk assessments conducted during my time at NAB. I may not, however, have been the person to conduct those because I was the global head of financial crime and I would have established the policy or the methodology in which they were done.

35

40

MR DHARMANANDA: So your evidence is "I may not have been the person who conducted them". Do you know whether you did or you didn't?

MS WALDREN: I personally wasn't responsible for conducting a product risk assessment. A risk assessment was done or would have been done, but I had other members in my team and, in fact, in all different areas of the business who were involved in assessing risk.

45

MR DHARMANANDA: So at NAB, you didn't do that type of risk assessment now called an EWRA, to adopt the terminology; is that correct?

5 MS WALDREN: I personally didn't do them on a day-to-day basis. I had team members who were involved with different divisions at NAB who would have been responsible for doing those. But ultimately an assessment of ML/TF risk would have sat as part of the NAB risk appetite and formed part of the program.

10 MR DHARMANANDA: Did you design one?

MS WALDREN: No. To be honest, I believe Mr Jeans had designed the methodology of the ML/TF risk assessment prior to me taking on that role.

15 MR DHARMANANDA: How many EWRA's have you been involved in designing or implementing?

MS WALDREN: I couldn't tell you the exact number. I was involved in multiple, not only in relation to financial crime but other risks, at ANZ and as a partner in the consulting firm. We have been involved in designing and assisting clients to maintain their ML/TF risk assessment as a foundation of your AML program. That is one of the first and foremost things we talk to a client about, not only designing that risk assessment but maintaining it on an ongoing basis where there are changes or triggers.

25 I have also been appointed as an external auditor, at AUSTRAC's direction, to assist the Australian military bank in completing their ML/TF risk assessment within the remedial direction requirements issued by AUSTRAC.

30 MR DHARMANANDA: You and Ms Murray both worked together at NAB?

MS WALDREN: Yes, that's right.

MR DHARMANANDA: She was junior to you?

35 MS WALDREN: Yes.

MR DHARMANANDA: You were the head of enterprise financial crime risk until December 2014?

40 MS WALDREN: Yes, that sounds right.

MR DHARMANANDA: It seems that Ms Murray took over from you in December 2014 when you left NAB.

45 MS WALDREN: She certainly did. It was in December and, yes, she took over that role and the role was subsequently restructured and Ms Murray undertook a portion



of the role that I held in the new restructure.

5 MR DHARMANANDA: Can you tell us of the circumstances of your departure from NAB?

10 MS WALDREN: I tendered my resignation. I offered to stay as long as NAB needed me to stay, given the time of year that it was. I was asked to leave the next day because I was going to a competitor bank which was across the road and my role in NAB was of such seniority that they thought it appropriate that I leave, effectively going on gardening leave I think it is referred to.

15 MR DHARMANANDA: We have been provided with some exchanges between you and Mr David Yates. Do you have that available to you, Ms Waldren?

MS WALDREN: I don't know what you are referring to, sorry.

MR DHARMANANDA: Email exchanges of 10 November 2021.

20 MS WALDREN: Oh, last night, yes.

MR DHARMANANDA: You have a copy of that email?

25 MS WALDREN: Not on me, no. Mr Yates undertook to provide it to you during the course of the break. I'm familiar with the email.

MR DHARMANANDA: You are familiar with the email?

30 MS WALDREN: Yes. I wrote it last night.

MR DHARMANANDA: Is everyone else familiar with the email? Do the Commissioners have a copy?

35 MR FEUTRILL: I can give them a copy.

40 MR DHARMANANDA: It appears that on 10 November you provided an updated response, version 2, which includes an updated paragraph 8. This is reading from the bottom of the page. You state that you are comfortable with expressing these views and these views are within your area of expertise. Do you recall saying that late at night on Wednesday?

MS WALDREN: Yes, that's right.

45 MR DHARMANANDA: There is then a further email where you refer to a call that has been held and you state:

*I reviewed the earlier version of the MWS's response to the position paper provided to you this evening. As mentioned in our call just now, I am*

5                    *uncomfortable moving any further in my position in relation to the opinion expressed in relation to paragraph 8. The opinion expressed is consistent with my industry experience and regulatory expectations and recent enforcement action. As such, I would be extremely uncomfortable from retracting from the position stated.*

Do you recall writing those words?

10    MS WALDREN: Was that the email that preceded the one that you just referred to or did it come afterwards?

MR DHARMANANDA: It came afterwards.

15    MS WALDREN: Yes. I stand by that.

MR DHARMANANDA: Is it the case that it was being suggested to you that the matters upon which you were opining involved questions of statutory constructions and legal opinion and it was being suggested to you that you should in some way  
20    modify them?

MS WALDREN: Yes, in relation to my response to Crown's paragraph 11, that is correct.

25    MR DHARMANANDA: But you declined to do so, despite the encouragement, because the matter was one of statutory construction?

MS WALDREN: No, I declined to do so based on my opinion, which I formed based on my industry experience and knowledge of the Act and the Rules, and also  
30    reference to enforcement action, including judgments and agreed summary facts in relation to the Westpac, CBA and Tabcorp matter.

MR DHARMANANDA: Earlier on we spoke about AUSTRAC in the context of your views on resources. Can we go, please, to paragraph 8.3.5 on page 0197. In  
35    8.3.5 you refer to "imminent AUSTRAC enforcement"; do you see that?

MS WALDREN: I do.

MR DHARMANANDA: You footnote a document at footnote 42. Can we call that  
40    up, CRW.701.009.5034 and go to page 5132. There is a reference to AUSTRAC in the second paragraph. Could we blow that up, please, operator?

MS WALDREN: Thank you.

45    MR DHARMANANDA: Do you see the words referred to in the second paragraph under the heading "Is the possibility of AUSTRAC commencing civil penalty proceedings"; do you see that?

MS WALDREN: I do.

5 MR DHARMANANDA: It doesn't refer to an imminent AUSTRAC enforcement action; do you see that?

MS WALDREN: Yes, you are absolutely correct. I should have used the words referred to in that particular memo.

10 MR DHARMANANDA: So you wish to change your report to that extent?

MS WALDREN: I am happy to change it, and should change it, to the extent of the wording that I used was not the wording used in the memo. My apologies.

15 MR DHARMANANDA: Commissioners, we have been provided with another document which is headed "Proposed scope, fee estimates and terms and conditions". I understand my learned friends have been provided with that too at the bar table. I don't know whether the Commissioners have been?

20 COMMISSIONER OWEN: Not that I am aware of.

MR DHARMANANDA: Ms Waldren, do you have with you a document bearing the date 13 September 2021, headed "Draft", which bears the title "Perth Casino Royal Commission Forensic and AML/CTF Review, Proposed Scope, Fee Estimates and Terms and Conditions"?

MS WALDREN: No, not in those terms I don't.

30 MR DHARMANANDA: This is the document that has been provided to us as representing the scope to which you attended in respect of your brief.

MS WALDREN: Yes, I emailed Mr Yates during the break. The document I was referring to earlier during my examination is headed "Draft for Discussion, PCRC Forensic and AML Draft Scope Review, Privilege and Confidential." It doesn't have a date on it, I'm afraid, and it wasn't the same reference title that you referred to.

MR DHARMANANDA: The document that has been provided to us does, indeed, have that title but before it gets into that, there is a cover page bearing the logo of ---

40 MS WALDREN: My apologies.

MR DHARMANANDA: --- both McGrathNicol and Murray Waldren Consulting.

45 MS WALDREN: Yes, I only emailed --- sorry, yes, you are right. I know the document you are referring and it is the same. I emailed the entirety of the document and I am just looking at our scope. My apology for the confusion.

MR DHARMANANDA: I understand. Do you have access to the entirety of the

document?

MS WALDREN: Not that I can access at the moment.

5

MR DHARMANANDA: All right.

MS WALDREN: I think we are referring to the same document, however.

10 MR DHARMANANDA: In view of the difficulties already experienced with respect to not dealing with the same document, I wonder whether there could be some means by which Ms Waldren can be afforded that, or it can be put on screen if it is uploaded? I wonder whether we ought to adjourn for five minutes to accommodate the delivery of a hard copy?

15

MS WALDREN: Could you just remind me what the cover title of that document was?

20 MR DHARMANANDA: The cover title is "Perth Casino Royal Commission Forensic and AML/CTF Review, Proposed Scope, Fee Estimates and Terms and Conditions". It is dated 13 September 2021.

MS WALDREN: I do have that document in full here in hard copy. I have just located that in my papers.

25

MR DHARMANANDA: Thank you. So this is still a draft, it's not a final scope.

30 MS WALDREN: Yes, we did bring that to the instructing solicitor's attention at some stage and it was one of those things, I believe, that was just an oversight. As I mentioned earlier, it had been forwarded to me as Draft For Discussion/Final, and so that is the basis that I have utilised that Scope document.

MR DHARMANANDA: It is dated 13 September, which is before you were engaged; you agree with me?

35

MS WALDREN: Yes, that's correct. We had discussions in relation to the scope prior to the final engagement letter that we referred to earlier.

MR DHARMANANDA: If we go to page 4, internal numbering of the document ---

40

MS WALDREN: Yes.

MR DHARMANANDA: --- you see this is Theme 1 Scope for Murray Waldren. This is the document on which you were responding to questions earlier in the day?

45

MS WALDREN: That's correct.

MR DHARMANANDA: You will see, Ms Waldren, on examination of this

compared to the Scope within the report which has been filed with the PCRC, there is an entirely new column; do you see that?

5 MS WALDREN: Would you mind bringing up the original electronic document that is filed?

MR DHARMANANDA: Yes. Page 0164 or page 0165, please, operator, of PCRC 0021.0001.0121.

10

MS WALDREN: Thank you. Yes.

MR DHARMANANDA: There is an entirely new column and the heading of the third column, which is not replicated in the document we have seen, identifies primary tasks, noting that the same task may address multiple steps. Within that, there is a reference to review materials in which it refers to key Crown reports. Do you see that, Ms Waldren?

15

20

MS WALDREN: I do.

MR DHARMANANDA: If you go to page 5, item 7, there is a reference to review, oversight, governance processes and management information reporting provided to senior management and Crown Board to evidence program implementation and compliance. Do you see that?

25

MS WALDREN: I see that.

MR DHARMANANDA: That is entirely absent from the document that is attached to the report filed in the PCRC; do you agree with me?

30

MS WALDREN: If you would like me to just look at the PCRC version, I will be able to confirm that, but I don't dispute what you say.

MR DHARMANANDA: Operator, please would you let Ms Waldren examine that?

35

MS WALDREN: I suspect it is version control. However, that is not a very good excuse.

MR DHARMANANDA: It's not addressed in the report either, is it, Ms Waldren, that item 7?

40

MR FEUTRILL: Can I draw your attention to page 0194?

MR DHARMANANDA: Perhaps we will ask the witness to answer the question. Item 7, as it appears in the hard copy document, concerning the reviewing of oversight and governance processes and management information reporting, is that covered, firstly, in the Scope document we have in the version of the report that has been filed? You agree it is not there?

45

MS WALDREN: I agree. I could not see it there. It has, however, been addressed in the report.

5 MR DHARMANANDA: Where has it been addressed the report?

MS WALDREN: In that particular section you have there which talks about section 7. No, I apologise. Let me look at that more closely. Yes, it is addressed in B.7. 7.1 talks about the existing oversight and governance processes as set out in the  
10 November 2020 version 2 program and the management information reporting we have had available to us and makes a comment in relation to it.

MR DHARMANANDA: You see that as satisfying that item, do you, Ms Waldren?

15 MS WALDREN: Yes, I do. Well, I see it as satisfying that item in the way that we have considered it as part of this report. If I could just clarify, it is consolidated with task 5 as well, so B.7 refers to tasks 5 and 7. So those things were addressed jointly.

MR DHARMANANDA: If we then go to page 7 in the hard copy version of the  
20 Scope document you have, you will see there are items 12 and 13?

MS WALDREN: I do.

MR DHARMANANDA: But the report, the body of your report only has 11 tasks.  
25

MS WALDREN: Those latter two were referred to in 11.3, which we note is our inability to assess the outcome of the McGrathNicol UAR review because it had not been completed at the time our report was provided. I do believe I refer to the breach and escalation procedures. I think it is 11 but I will just try to confirm that for you.  
30 Sorry, 11.2, which refers to the escalation procedures and the new regulatory event forum that has been created under the new group assurance team, which will, as I understand it, be put in place to deal with breach and escalation or now, as Crown will be referring to it, as events. That is paragraph 11.2.6.

35 MR DHARMANANDA: So even though there are 13 steps identified, the body of your report only goes to task 11; is that correct?

MS WALDREN: Well, yes, because as you quite rightly said, the third column which is probably a working document of the hard copy refers in brackets to "some  
40 tasks may address multiple steps". So, yes, we have addressed those issues as part of step 11 or as part of B.11, I should say.

MR DHARMANANDA: If we go to page 16 of the hard copy document ---

45 COMMISSIONER OWEN: Sorry, which one?

MR DHARMANANDA: The 13 September document.

MS WALDREN: Yes. This relates to the McGrathNicol --- sorry, additional potential matters, yes.

5 MR DHARMANANDA: These are potential matters and these are other tasks considered, including testing the effectiveness of AML measures. Do you see that?

MS WALDREN: I do.

10 MR DHARMANANDA: There are comments in certain of the boxes, including the last box on page 16, as raised by David Yates' email of 21 August 2021. Do you see that?

MS WALDREN: Sorry, where are you referring to?

15

MR DHARMANANDA: It's the last box on page 16. You were discussing Scope as early as 21 August 2021; is that correct?

MS WALDREN: Yes, that must be correct. I did mention I thought it was as early as August, before. These particular matters on page 16 were not confirmed as in Scope. As you will see at the top, it is pending confirmation of Scope. Given the lateness of our engagement being finalised, these were not addressed as part of, I believe --- well, I know --- our scope and I believe not addressed as part of McGrathNicol's scope.

25

MR DHARMANANDA: If we go to page 17, you see that certain documents have identified as being requested. Do you see that?

MS WALDREN: No.

30

MR DHARMANANDA: Under RF1 and RF2?

MS WALDREN: I do.

35 MR DHARMANANDA: It appears that those requests were already in train before you were engaged; is that correct?

MS WALDREN: I can't categorically say, but I do believe we, as in MW, added to an existing list of documents being requested. I don't know the timing of that because it was left to the solicitors.

40

MR DHARMANANDA: If you go back to page 17, it says on that page, with respect to interviews, that McGrathNicol was to plan the program of interviews; do you see that?

45

MS WALDREN: I do.

MR DHARMANANDA: So was it the McGrathNicol selection of witnesses relevant to be interviewed?

5 MS WALDREN: McGrathNicol certainly organised all of the witnesses on behalf of both MWC and McGrathNicol and very kindly resourced those to be taped and arranged by a calendar invite. So to that extent, yes, they certainly did plan and program the interviews.

10 But as I mentioned earlier in my evidence, we identified the relevant people we wanted to speak to. And even in the situation of Ms Siegers, who McGrathNicol did not want to speak to, they also were helpful enough to arrange and attend that interview for the purposes of recording.

15 MR DHARMANANDA: Go to page 20 where it is recorded --- who is the author of this document, Ms Waldren?

MS WALDREN: I believe McGrathNicol had carriage of this particular document and it was obviously circulated for us to input into our particular scope theme.

20

MR DHARMANANDA: So you had a hand in its drafting or conclusion?

MS WALDREN: I had a hand in drafting the scope of Theme 1, yes, and the Steps and Tasks stated in that, yes, I did.

25

MR DHARMANANDA: You had a hand in checking the contents were accurate?

MS WALDREN: As it related to theme 1, yes. I didn't have a particular view in relation to McGrathNicol's scope and I assumed that would be the focus of their attention. In relation to RF1 and the document reviews, they were something we contributed to outside of this particular document, as were the interviews that we wanted to have in place and McGrathNicol put in place.

30

MR DHARMANANDA: Could I ask you, please, to go to page 19.

35

MS WALDREN: Yes.

MR DHARMANANDA: Under the heading "Second request for information", it is recorded:

40

*This request is in addition to RFI-1 provided to solicitors assisting on 11 August 2021.*

Do you see that?

45

MS WALDREN: Yes, I do.

MR DHARMANANDA: There are items requested by Murray Waldren in that list,



is there not?

5 MS WALDREN: That's correct. This would have been the table we added to. So on that basis, RF1 must have been in train. We inputted into the second request, RFI-002, the particular documents we were asking for that were related and specific to our scope.

10 MR DHARMANANDA: I thought you told me this morning that you did not do any work prior to your engagement on 20 September 2021?

15 MS WALDREN: I didn't conduct any work other than to settle the scope. I believe I did say this morning that we were discussing with the solicitors over some time the final scope, which this document, I believe, reflects. But I certainly hadn't commenced reviewing any documents or I was not provided with access to any documents. I hadn't formed an opinion or conducted any work papers prior to being finally signed up in relation to our engagement.

20 MR DHARMANANDA: What about the assistance provided in relation to the formulation of requests for documents?

25 MS WALDREN: Well, that was to enable the documents to be requested from Crown, so we could start our work as soon as possible upon confirmation of our engagement. So I don't see this as work per se, I see this as being able to put us in a position to commence work and have those documents required available to us upon signing of the engagement letter.

30 MR DHARMANANDA: Ms Waldren, you held a pen for a part of volume A and all of volume B when it comes to drafting the reports; that's correct, isn't it?

MS WALDREN: It is correct, yes.

MR DHARMANANDA: The report was completed in a short time?

35 MS WALDREN: It was a short time, yes, I agree with that.

MR DHARMANANDA: The report contains numerous typographical errors and incomplete sentences?

40 MS WALDREN: I do concede it contains typographical errors and I am sure you would point out the incomplete sentences, so I will rely on you for that.

MR DHARMANANDA: On your thinking, the final scope is not annexed?

45 MS WALDREN: Well, that does appear to be the case. I did rely on McGrathNicol to include the scope and it's my error not to have checked that. So I am happy to concede that is --- that has been an issue and I apologise for the inconvenience to the Commission.

MR DHARMANANDA: It refers to annexure B, which you say you didn't have time to complete?

5 MS WALDREN: That's correct. Neither party, McGrathNicol or I, were able to compile those documents and that request was completed by Corrs.

10 MR DHARMANANDA: You told us this morning that there were a number of relevant considerations that you thought about but you did not include in your original report and left to be included in your supplementary report.

15 MS WALDREN: I was happy with how my original report stood, but on Crown's position paper I was asked to respond, which is what you refer to as the second report. But it is merely in response to Crown's position paper and I was comfortable to express the opinion I have expressed in the first report on 28 October.

20 MR DHARMANANDA: You told us that you are familiar with the Federal Court practice direction for experts and that you may have been provided with a copy; correct?

MS WALDREN: I didn't say I was provided with a copy, I said I may have been provided with a copy of the independent expert code that you asked me about first.

25 MR DHARMANANDA: But you neither note the Federal Court code for experts in your report, nor declare you have complied with it?

MS WALDREN: That's correct, (inaudible) I believe.

30 MR DHARMANANDA: Given all those matters, Ms Waldren, are you still confident you had adequate time to discharge your duties in respect of the scope, however defined, in relation to your role?

35 MS WALDREN: Absolutely. I think the scope is quite clear. I do concede there is version control but the scope, in terms of whether or not Crown's program is based on an appropriate risk assessment, stands that I do believe it is not and I have had ample time to form that opinion.

MR DHARMANANDA: Thank you, Commissioners.

40 COMMISSIONER OWEN: Thank you, Mr Dharmananda. Are there any other applications?

45 **QUESTIONS BY THE COMMISSION**

COMMISSIONER OWEN: Ms Waldren, I have one question I would like to ask

you and it is really in the broad. It is along these lines, and I am standing back from casinos for a moment. We have heard evidence along the lines that organised crime is agnostic to money laundering methodologies because organised crime tends to mix  
5 up the methodologies, according to what they believe the law enforcement agencies are not looking at.

MS WALDREN: That's correct.

10 COMMISSIONER OWEN: That then causes the law enforcement agencies often to themselves become agnostic to methodologies and to, as they have put it, follow the money. Is that your experience? From your experience in various industries in relation to money laundering, does that accord with your experience?

15 MS WALDREN: Yes, it does, Commissioner. It accords with my experience and, in addition and perhaps more recently, law enforcement and regulators have not only followed the money but also identified where harm is being perpetrated on the community as a result of financial crime and looked at that as well. So it is not solely based on following the money but looking more holistically at harm to the  
20 community as a result of organised crime, and that also would be agnostic of typologies or sector.

COMMISSIONER OWEN: That was the lead-in to my question which is if --- and I realise that the provider of the designated services is in quite a different situation to  
25 law enforcement agents, I understand that. But if it is difficult to be other than agnostic to methodologies, how does that fit with the obligation of a provider of designated services to be sensitive to risks which one would think are themselves sensitive to typologies or methodologies of laundering?

30 MS WALDREN: Perhaps that question goes directly to the risk-based approach because the risk-based approach allows a reporting entity to assess its own risk, specific to its size, nature, complexity and the sector it works in. So in Crown's case, they ought to be familiar and are now familiar with the types of typologies that might allow or inadvertently facilitate money laundering to take place and they should  
35 direct their resources and controls to those higher risk areas.

That would look very different from another sector such as a wealth manager or a bank, even. So it is agnostic of risk but it allows the reporting entity to assess the risk based on its own defined circumstances. I hope that has answered your question.  
40

COMMISSIONER OWEN: Yes. I sometimes have difficulty in really grasping what is the risk.

MS WALDREN: Yes. Unfortunately, the AML/CTF legislation is not helpful for,  
45 in particular --- with due respect --- lawyers who like black and white, what is the risk. Tell me what it is and I will manage it. It is grey. It is determine what your own risks are based on your customers, your products, your size, where you are located, where your customers are located. So there is just no clear definition of

what is the risk, because that will look very different from one entity to the other. So unfortunately, as frustrating as it is, it is very difficult to define that.

5 COMMISSIONER OWEN: In some respects, from one day to the next?

MS WALDREN: Entirely, that's right. But if you understand what your customers are and who you are happy to do business with, where those customers are located, the types of exposure you might have from certain products and channels, you have  
10 at least a better opportunity to mitigate those risks, which is what the responsibility under the Act requires.

That will change from day-to-day because, unfortunately, criminals target the weakest link in the chain and they are fairly savvy when it comes to knowing where  
15 those weak controls are. When they work out where they are, they go there, they target that.

A perfect example of that would be in the Commonwealth Bank AML matter where the intelligent deposit machines, which weren't just specific to CBA but to other  
20 major banks, had weaker controls in their daily limit. That soon became known to criminal organisations and they targeted the CBA.

So it is a very good example of criminals being one step ahead of reporting entities. But the rules require reporting entities to at least assess their risks and put those  
25 controls and resources to the risks that they deem to be of the highest kind.

COMMISSIONER OWEN: Thank you. Mr Feutrill?

MR FEUTRILL: May it please the Commission. I would just like to ask one or two  
30 questions by way of clarification.

#### **FURTHER EXAMINATION BY MR FEUTRILL**

35 MR FEUTRILL: Ms Waldren, you were asked --- first of all, could I call up PCRC.0021.0001.0121 at pinpoint 0190. You might recall, Ms Waldren, you were asked some questions about paragraph 5.1. I didn't get a very good note of your answer, but there was an exchange between you and my learned friend, Mr  
40 Dharmananda, about the --- the answer you gave to the question not being contained anywhere in the report. I think in response to that question you said words to the effect that it may not have been expressed exactly that way but you thought it was in there somewhere.

45 The issue concerned the extent to which there was a difference between the typologies identified in the Initialism, Deloitte, Promontory and McGrathNicol reports and what you had described as the risk-based assessment. Do you recall that part of the evidence?

08:33PM

MS WALDREN: I'm afraid I don't.

MR FEUTRILL: Then I can't take it any further.

5

MS WALDREN: My apologies.

MR FEUTRILL: I have no further questions.

10 COMMISSIONER OWEN: Thank you, Mr Feutrill. Ms Waldren, thank you very much, indeed, for your evidence. That has been of great assistance to us in this rather complex area. You have our gratitude, thank you very much.

MS WALDREN: Thank you.

15

COMMISSIONER OWEN: You are now free to go.

**THE WITNESS WITHDREW**

20

COMMISSIONER OWEN: We will adjourn until next Tuesday at 8.00 am Perth time. Thank you very much.

25

**HEARING ADJOURNED AT 3.27 PM AWST UNTIL TUESDAY, 16  
NOVEMBER AT 8 AM AWST TIME**

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