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**EXTERNAL REVIEW OF THE QUEENSLAND OPERATIONS OF THE STAR  
ENTERTAINMENT GROUP LIMITED**

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*An external review involving an inquiry into the operation of casinos under s 91 of  
the Casino Control Act 1982 (Qld) and consideration of enhanced regulation.*

30 September 2022

**The Hon R W Gotterson AO KC**  
Level 7  
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## Executive Summary

1. The two Star casinos presently carrying on business in Queensland (Star Gold Coast and Treasury Brisbane) have been operated in a way that is inconsistent with the achievement of the objectives of the *Casino Control Act 1982* (Qld). The ways in which this occurred were similar in some respects to those identified by Mr Adam Bell SC in his Inquiry in New South Wales, the report of which was delivered on 31 August 2022. He found the licensee of The Star Sydney to be unsuitable to hold that licence. The Star was unqualified in its acceptance of that finding.
2. The Star Entertainment Group Limited is the ultimate parent company of the licensee of The Star Gold Coast and Treasury Brisbane and holds half the issued shares in the licensee of The Star Brisbane (being the casino in the yet-to-open Queen's Wharf development). The Star Entertainment Group Limited is therefore capable of being regarded as being 'associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the casino licensee.'
3. For the above reasons (and others detailed below in my report) it appears to leave open a finding (by those in whom such a decision is vested) of unsuitability of the licensees of The Star's Queensland Casinos.
4. I have had regard to the findings of Mr Bell SC's Inquiry. His finding as to the unsuitability of the licensee of The Star casino in Sydney (The Star Pty Ltd) and of the ultimate parent (The Star Entertainment Group Limited), The Star's public acceptance of that finding, and the findings made in this report, leave open the finding of unsuitability of The Star casino licensees in this State also.
5. The Star's operations in New South Wales differ in some respects from those in Queensland. The differences were explored in this Inquiry.
6. There are a number of respects in which Part A of my Terms of Reference justify findings about the failings of the two operating Star casinos in Queensland.
7. I have found that The Star actively encouraged persons excluded at the direction of Police Commissioners in New South Wales and Victoria to gamble at its Queensland casinos,

as well as persons it had grounds to suspect may have been involved in criminal activity. This shows a poor corporate culture, a failure of those responsible for the AML/CTF Program to intervene, and a senior management that failed to have in place mechanisms to restrain the actions of a marketing team whose focus was on drawing in business. This all placed the Star Gold Coast and Treasury Brisbane casinos at real jeopardy of infiltration by persons about whom The Star had reason to suspect were likely to have been involved in criminality.

8. The Star was, at best, less than forthcoming in its dealing with its banker about the use of China UnionPay debit card facilities. It went to some efforts to characterise these transactions as related to hotels when their primary use was for gambling. At worst, the Star's actions were deliberately misleading. Moreover, The Star was insufficiently transparent with OLGR when seeking changes to its Internal Control Manual for the arrangements underpinning its dealing with China UnionPay cards.
9. It was a serious dereliction of The Star's AML/CTF responsibilities that the deficiencies explored in the Inquiry could occur in the first place and that they could persist over some years. The Star's AML/CTF program was seriously deficient until relatively recent times. It remains deficient at least for its lack of clarity and discordance with the AML regime's risk ratings. Risk assessment thresholds have fundamentally miscarried historically in The Star's consideration of particular patrons. There has, however, been an improvement in The Star's AML/CTF program recently, including by the engagement of Mr Howard Steiner as General Manager AML/CTF Compliance.
10. The Star's Safer Gambling framework and associated program is undergoing improvement. More expedition is required particularly with the implementation of facial recognition technology and 24 hour attendance by GSM/PLM staff members. Taking those steps will bring more into balance The Star's treatment of its commercial interests and its responsibilities arising in connection with AML and responsible gambling.
11. It was not any part of my functions under the Terms of Reference or the *Casino Control Act* 1982 (Qld) to decide whether the Star entities that operate The Star Gold Coast or Treasury Brisbane casino are suitable to hold casino licences, or whether the licensee of the yet-to-open Star Brisbane (in the Queen's Wharf development) is suitable. I have given advice, in the course of this Review, to assist the ongoing investigation being

- conducted by OLGR into those matters. Those assisting me have done likewise, under my supervision.
12. The assessment of suitability lies with the Governor in Council on the Minister's recommendation. It is appropriate that these matters be decided as the *Casino Control Act 1982 (Qld)* presently directs.
  13. The findings summarised above which arise from Part A of the Terms of Reference, a consideration of the recommendations and analyses of Inquiries in other Australian States, and consequent legislative amendments in other Australian jurisdictions together show that there are a number of respects in which the regulatory regime for casinos in Queensland could be improved and modernised.
  14. I have made recommendations about further improvements to casino procedures, regulations and legislation which I consider are warranted to enhance integrity, minimise the potential for harm, ensure probity and restore public confidence in casino operations. In doing so, I have regard to the *Casino Control and Other Legislation Amendment Bill 2022 (Qld)* which, if enacted, will go some way to achieving the aims just mentioned.
  15. These recommendations include the introduction of mandatory carded 'play' (ie requiring the use of an identity linked gambling card) in Queensland casinos; the implementation of cashless gambling (save for gambling transactions of \$1,000 or less); and the setting of gambling limits for Electronic Gambling Machines (EGMs). Such cards should be used to collect 'play' data that can be used to inform casino staffing levels and the proper supervision of casino activities. The data should also be made available to researchers in order for there to be a comprehensive databank available for any future studies into gambling related harm in Queensland. Further there should be a mandatory Code of Conduct for Safer Gambling.
  16. Some of the terminology in the *Casino Control Act 1982 (Qld)* would benefit from modernisation. Examples such as 'problem gambler' are discussed.
  17. Casino licensees should pay the cost of regulation, by way of a supervision levy of the kind that operates in New South Wales. There ought be provision in the legislation for the periodic investigations, by independent external persons as required according to prevailing circumstances. Casinos should be required to make reasonable endeavours

to ascertain the persons subject to exclusion directions of police commissioners in other Australian jurisdictions, and to take reasonable steps to effect the exclusion of such persons from the casinos they control.

18. It is also desirable that provision be made in Queensland to permit the appointment of a ‘special manager’ to mirror arrangements in New South Wales. This will expand the options available to the State and the Minister having regard to the suitability investigation which is presently underway.
19. Finally, The Star stated at the outset of this Inquiry that it would cooperate fully. It did so. This saved Inquiry staff a great deal of time and effort. It reflects favourably on The Star that it candidly disclosed matters which were not to its advantage in the course of this Inquiry and Review.

## **Recommendations**

I make 12 recommendations and discuss the basis for each in the body of the Report. Each Recommendation is set out here for ease of reference.

### **Recommendation 1 – Carded Play**

Carded play (that is, play requiring the use of an identity linked gambling card) be mandatory in Queensland casinos.

### **Recommendation 2 – Cashless Gambling**

Cashless gambling be implemented, save for gambling transactions of \$1,000 or less.

### **Recommendation 3 – Limits on Gambling**

There should be a full, mandatory and binding pre-commitment system for all patrons gambling on EGMs in casinos, to operate in the following manner:

- a. each player must set a daily, weekly or monthly time limit, and a daily, weekly or monthly loss limit;
- b. if the pre-set time limit or the pre-set loss limit is reached, the player cannot continue to gamble on an EGM and the limit(s) cannot be altered, for 36 hours;
- c. no person can gamble on an EGM for more than 12 hours in any 24-hour period;
- d. if a player has gambled for 12 hours in any 24-hour period, the player must take a break for 24 hours;
- e. a player cannot gamble continuously on an EGM for more than three hours;
- f. a player must take a break of at least 15 minutes after three hours of continuous gambling;
- g. a player cannot gamble on EGMs for more than 28 hours per week;
- h. there should be a default pre-set loss limit that the player can modify by means of a defined process which requires the player to justify the modification sought; and
- i. the default pre-set loss limit should be set by regulation, and reviewed at least annually.

### **Recommendation 4 – Limits on Gambling**

There should be a full, mandatory and binding play and break limit system for all patrons gambling in casinos. The limits in respect of EGMs should mirror those in the pre-commitment system. The play and break limit system should operate in the following manner:

1. the system set maximum play period limits;
2. the system prescribe how long a break in play should be; and
3. the system should identify the periods at which players should be interacted with, and the form of the interaction, while gambling.



### **Recommendation 5 – Collection of Carded Play Data**

Player cards collect data relating to:

- a. player buy-in (time, amount);
- b. player buy-out (time, amount);
- c. play periods (date, start time, end time);
- d. player turnover;
- e. player losses and wins;
- f. gambling product; and
- g. such further information as may be required for anti-money laundering and counter-terrorism financing strategies, and the promotion of safer gambling.

### **Recommendation 6 – Availability of Carded Play Data**

Such data should be collected for the purposes of research and to inform casino staffing levels and the proper supervision of casino activities. Such data should be made available to researchers in order for there to be comprehensive data available for any future studies into gambling related harm in Queensland.

### **Recommendation 7 – Terminology**

The language of the *Casino Control Act* and Regulations be updated when next amended to include terms that better accord with modern understandings, such as ‘safer gambling’ and ‘persons who suffer, or might suffer gambling harm and gambling related harm’ instead of ‘problem gamblers’.

### **Recommendation 8 – Code of Conduct for Safer Gambling**

The *Casino Control Act* be amended to:

1. require compliance with a Code of Conduct for Safer Gambling by casino licensees;
2. empower the regulator to issue fines for contraventions of the Code (such penalties being sufficient to deter non-compliance); and
3. require the regulator to have regard to the casino licensee’s compliance with the Code in its review of the suitability of the licensee.

### **Recommendation 9 – Supervision Levy**

It ought to be a condition of a casino licence that the licensee pay a supervision levy of the kind provided for in New South Wales.

### **Recommendation 10 – Periodic Review**

A power akin to that in s 143 of the *Casino Control Act* (NSW) be instituted to allow periodic investigations, including as to suitability. It ought to allow for the costs to be recovered from the relevant casino.

### **Recommendation 11 – Giving effect to Interstate Police Commissioner Directions**

The *Casino Control Act* ought be amended to require casino licensees and operators to make reasonable endeavours to ascertain the persons subject to exclusion directions of police commissioners in other Australian jurisdictions, and to take reasonable steps to effect the exclusion of such persons from the casinos they control. The regime should impose penalties for non-compliance.

### **Recommendation 12 – Special Manager**

*The Casino Control Act* ought be amended to insert provisions to the same effect as s 28 of the *Casino Control Act* 1992 (NSW) and to make clear that the appointment of an Administrator is not required in the case of suspension or cancellation of a licence if a special manager is appointed.

## I Introduction

1. I have been appointed by the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, the Hon. Shannon Fentiman, to conduct an External Review relevant to casinos in Queensland of The Star Entertainment Group Limited. The scope of the review is defined by Terms of Reference.
2. The circumstances in which this review arises are recounted in the ‘Context’ component of my Terms of Reference as follows:

Allegations of money laundering, criminal infiltration and other integrity issues have, over the last two and a half years, prompted several major public inquiries and regulator investigations into Australian casino operations.

Crown Resorts Limited (Crown) has been the subject of an inquiry in New South Wales (NSW) and Royal Commissions in Victoria and Western Australia. In each instance, Crown entities were found to be unsuitable to operate a casino and/or hold a casino licence. This has not resulted in immediate licence cancellation, but remedial action that must be taken prior to further assessment of ongoing suitability.

The Star Entertainment Group Limited (Star Group) is currently involved in the operation of The Star Sydney and two casinos in Queensland – The Star Gold Coast and Treasury Brisbane. The Star Group is also an associate of the licensee for The Star, Brisbane, due to open as part of the Queen’s Wharf Brisbane development in 2023. The Star, Brisbane, will also be operated by a subsidiary of Star Group, The Star Brisbane Operations Pty Limited.

The operator of The Star Sydney is currently the subject of an independent review by Mr Adam Bell SC, who has been appointed by the NSW Independent Liquor and Gaming Authority (ILGA). Terms of reference for the Bell review include considering the suitability of The Star Sydney and its close associates, including the Star Group.

Evidence presented during public hearings raises significant concerns regarding the operations of The Star Sydney and given the shared governance and operational arrangements, the conduct of Star Group entities more broadly.

The external Review will have three parts ...

3. Part A of the Terms of Reference institutes an inquiry pursuant to s 91(1) of the *Casino Control Act 1982* (Qld) into the operation of The Star Gold Coast casino and of The Treasury casino in the following terms:

The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, the Hon. Shannon Fentiman has decided to inquire into the operation of The Star Gold Coast and The Treasury casinos under s. 91 *Casino Control Act 1982*. The person conducting the inquiry under Part A shall have and

may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* consistent with s. 91(2) of the Casino Control Act.

The inquiry will broadly examine whether the casinos operate in a way that is consistent with achieving the objectives of the Act. Without limiting the scope, the inquiry is not required to inquire into particular matters that have been sufficiently and appropriately dealt with by the Bell review.

The inquiry will examine but not be limited to:

1. Commitment to anti-money laundering/ counter-terrorism financing (AML/CTF) responsibilities, including detecting and preventing money-laundering risks, implementation of know your customer systems, and enhanced and ongoing customer due diligence obligations, particularly as they relate to high risk and high value customers;
2. Management of VIP patrons, high rollers and international patrons, including the management of associated bank accounts, transfers, credits and deposits;
3. Use of China UnionPay debit or credit card facilities and other arrangements to help facilitate gambling by Chinese nationals despite Chinese currency movement restrictions;
4. Management of exclusions, in particular those patrons excluded from The Star Sydney at the direction of the NSW Police Commissioner, and whether patrons excluded by NSW Police were actively encouraged or incentivised to attend Star Group's Queensland casinos;
5. Approach to gambling harm minimisation, including fitness for purpose, implementation, and resourcing.

The inquiry may seek information relevant to Part A in ways consistent with s. 91 of the Act. This may include public hearings, submissions, and direct questioning of Star employees or other relevant persons, as well as available evidence and the findings of the Bell review and the Office of Liquor and Gaming Regulations' investigations.

4. Part B of the Terms of Reference requires me to give advice to the Attorney-General to inform what is there described as an ongoing suitability review of 'Star Group licensees' pursuant to s 30 of the *Casino Control Act 1982* (Qld) that commenced on 28 June 2022. Part C of my Terms of Reference concerns my giving consideration to whether any further improvements to casino procedures, regulations and legislation are warranted, and, if so, to making recommendations in that regard.
5. The Attorney-General wrote to me on 26 August 2022 to bring to my attention allegations made in relation to Chow Tai Fook Enterprises (CTFE) published by the Australian Broadcasting Corporation on 22 August 2022. Particular reference was made to the allegations that the founder of CTFE has links to known organised crime figures. The Attorney-General requested that I consider the allegations against CTFE as a shareholder

- and close associate of The Star Entertainment Group. I had no compulsory powers in connection with Part B of the Terms of Reference.
6. CTFE is within the scope of an investigation of the suitability of ‘Star Group licensees’, as a 25% participant in the Destination Brisbane Consortium Integrated Resorts Operations Pty Ltd, which holds the licence for the yet-to-open The Star Brisbane Casino. CTFE also holds just under 5% of the issued shares in The Star Entertainment Group Limited.
  7. Where in this Report I mean to refer to the Star Group as a whole, I use the term ‘The Star’. The Star Entertainment Group Limited is the ultimate parent company. Otherwise, I refer to the specific Star entity as appropriate.
  8. In the course of exercising my functions, I provided advice to inform the lines of investigation which ought to be pursued in order to assist the Attorney-General in forming views on matters relevant to the suitability review. Those assisting me also gave advices, under my oversight, about these matters.
  9. The Star Pty Ltd has been found by Mr Bell SC, in his report of 31 August 2022, unsuitable to hold its licence for The Star Casino in Sydney. He also found The Star Entertainment Group Limited unsuitable to be ‘concerned in or associated with the management and operation of a casino in New South Wales’.<sup>1</sup> What ought to be done in the circumstances, Mr Bell SC observed, is a matter for determination by the Regulator in that State.<sup>2</sup> That Regulator (the New South Wales Independent Casino Commission (NICC)) gave a notice to The Star affording an opportunity as to show cause why disciplinary action should not be taken against the casino operator. The Star has responded to that notice.
  10. The Star has publicly accepted the findings of Mr Bell SC made in his report, acknowledged their ‘gravity’, and the findings of unsuitability made in it.<sup>3</sup> The Star says it will, as a result, now take ‘significant and urgent remedial steps, including increased

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<sup>1</sup> Adam Bell SC, Review of The Star Pty Ltd, 31 August 2022 (**Bell Report**), Volume 1, Chapter 1 ‘Executive Summary’, page 31, [173].

<sup>2</sup> Bell Report, Volume 1, Chapter 1.2 ‘Executive Summary - Recommendations’, page 32.

<sup>3</sup> ASX Announcement ‘Response to NSW Independent Casino Commission Notice’, 27 September 2022.

risk, compliance, and security staff, approval of upgrades to surveillance technology as well as permanently exiting junkets ...’.

11. The following would appear to leave open a finding (by those in whom such a decision is vested) of unsuitability of the licensees of The Star’s Queensland Casinos:
  - a. the fact that The Star Entertainment Group Limited is the ultimate parent company of the licensee of The Star Gold Coast and Treasury Brisbane and holds half the issued shares in the licensee of The Star Brisbane (being the casino in the yet-to-open Queen’s Wharf development). The Star Entertainment Group Limited is therefore capable of being regarded as being ‘associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the licensee’;<sup>4</sup>
  - b. the findings of Mr Bell SC that The Star Entertainment Group Limited is unsuitable to be ‘concerned in or associated with the management and operation of a casino in NSW’;<sup>5</sup>
  - c. The Star’s unqualified acceptance of that finding;
  - d. the findings made in this Report; and
  - e. the fact that materially the same principles attend an assessment in New South Wales as to suitability as they do for such an assessment under the *Casino Control Act* in Queensland.
12. I consider when addressing Part C of the Terms of Reference some enhancements to the Regulatory regime which might be considered given the circumstances just identified.
13. I was not myself tasked by the Terms of Reference to make findings as to suitability, and I have not done so. My advice was therefore directed to ensure that all necessary material had been collected, issues explored, and legal and factual matters set out, so that the

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<sup>4</sup> *Casino Control Act*, s 31.

<sup>5</sup> This report and these findings are ones which s 30(2) of the *Casino Control Act* (once amended by the *Casino Control and Other legislation Amendment Bill 2022* cl 7 if passed) will expressly empower the Minister to take into account. In any event, the findings and report may be taken into account at general law as they may lawfully be relevant considerations in making the decision.

Attorney-General is well placed to form appropriate views on relevant matters and, in turn, to consider whether to take steps under s 31 of the *Casino Control Act 1982 (Qld)*, including the making of any recommendation under s 31(8)(c)(ii) thereof to the Governor in Council, in whom ultimate decision-making as to the consequences of a finding of unsuitability is vested.

14. In the conduct of my Review, I was assisted by Mr J Horton KC and Ms A Hellewell of counsel, as Counsel Assisting, and by Corrs Chambers Westgarth as Solicitors Assisting. I am most grateful for their diligence, insightfulness and comprehensiveness.
15. I met with interested persons, as did those assisting me, and I issued summonses for the production of information and documents as necessary to further my functions. **Appendix 1** to this Report sets out the names of those who assisted, the persons with whom I and Counsel Assisting met and the dates on which I and they did so, as well as the summonses I issued. Public hearings were held on 14 July 2022, and 23 – 25, 29 August 2022.
16. My Part A function was attended by all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950 (Qld)*. For that purpose, I was appointed as an officer of the Department of Justice and Attorney-General because the holding of an inquiry under s 91(1) must be by ‘the chief executive or other officer of the department’.
17. My powers under s 91 concern the ‘operation of a casino’. Section 4A of the *Casino Control Act 1982 (Qld)* provides that a reference in it to the operation of a casino is a reference to casino operations in respect of the casino. The Dictionary to that Act defines ‘casino operations’ as:
  - ... the operation and conduct, in relation to a casino, of any of the following—
  - (a) gaming;
  - (b) money counting, surveillance, accounting, storage and other activities in connection with the operation and conduct of gaming.
18. The External Review, which comprises these three parts, was established against the background of there having been, in recent times, allegations of money laundering, criminal infiltration and other integrity issues in casinos in Australia. As noted in the Terms of Reference, the announcement of this Inquiry came after inquiries in other

Australian States which found shortcomings in the way casinos have been operated. Most interstate inquiries concerned a corporate group unrelated to The Star Entertainment Group Limited: Crown Resorts Limited.

19. Those inquiries may be outlined briefly concerning, as they do, a casino operator that is not The Star. This brief treatment, however, is useful in understanding the wider context of the casino sector immediately before this Inquiry was announced and the kinds of issues that have come to prominence in the lead-up to it.

### **Bergin Report – New South Wales**

20. From 27 July 2019, various media outlets broadcast and published allegations that Crown Resorts Ltd or its agents, affiliates or subsidiaries:
  - a. engaged in money-laundering;
  - b. breached gambling laws; and
  - c. partnered with junket operators with links to drug traffickers, money-launderers, human traffickers, and organised crime groups.
21. As a result of the publication of those allegations, on 14 August 2019 and 23 June 2020 ILGA appointed the Hon Patricia Bergin SC to preside over an inquiry under s 143 of the *Casino Control Act 1992* (NSW) into the matters referred to in the Instrument of Appointment including:
  - a. whether Crown Sydney Gaming Pty Ltd remained a suitable person to hold a restricted gaming licence for the purposes of the *Casino Control Act 1992* (NSW); and
  - b. the efficacy of the primary objects of the *Casino Control Act 1992* (NSW) and ability of ILGA to respond to the growing complexity of both extant and emerging risks for gaming and casinos.
22. Crown Sydney Gaming Pty Ltd is a wholly-owned subsidiary of Crown Resorts Ltd.
23. The Report of this Inquiry was submitted on 1 February 2021. The Hon Patricia Bergin SC concluded that:



- a. Crown Sydney Gaming Pty Ltd was not a suitable person to continue to give effect to the restricted gaming licence to operate a restricted gaming facility in premises located at Barangaroo on the Sydney Harbour foreshore;
- b. Crown Resorts Limited was not a suitable person to be a close associate of the person holding that restricted gaming licence (Crown Sydney Gaming Pty Ltd);
- c. Crown Resorts Limited facilitated money laundering through the accounts of Southbank Investments Pty Ltd and Riverbank Investments Pty Ltd unchecked and unchanged in the face of warnings from its bankers; and
- d. Crown Resorts Limited entered into and/or continued commercial relationships with Junket operators who had links to Triads and other organised crime groups.

### **Finkelstein Report – Royal Commission into the Casino Operator and Licence**

24. On 22 February 2021, the Hon Ray Finkelstein AO QC was appointed Commissioner and Chairperson of the Royal Commission into the Casino Operator and Licence. This Commission was established to inquire into, and report on (among other matters):

- a. the suitability of Crown Melbourne Ltd to hold a casino licence under the *Casino Control Act 1991 (Vic)* (Crown Melbourne Ltd is a wholly-owned subsidiary of Crown Resorts Ltd.); and
- b. whether Crown Melbourne Ltd was complying with the *Casino Control Act 1991 (Vic)*, the *Casino (Management Agreement) Act 1993 (Vic)*, the *Gambling Regulation Act 2003 (Vic)* (together with any regulations or other instruments made under any of those Acts), and any other applicable laws; and
- c. whether changes to the *Casino Control Act 1991 (Vic)*, the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (Vic)*, or the Crown Melbourne Contracts were necessary to address the Commission's findings and recommendations.

25. The focus of the Commission's inquiries was to discover whether the misconduct identified in the Bergin Report was more widespread and, if it was, who was involved and what should be done.

26. Mr Finkelstein AO QC delivered his Report on 15 October 2021, and found:

- a. Crown Melbourne had contravened the *Casino Control Act 1991 (Vic)* and the *Casino (Management Agreement) Act 1993 (Vic)* in various respects;
  - b. Crown Melbourne Ltd was not a ‘suitable person’ to hold a casino licence under the *Casino Control Act 1991 (Vic)*; and
  - c. Crown Resorts Limited was not a ‘suitable associate’ of Crown Melbourne.
27. Mr Finkelstein AO QC made 33 recommendations, including six as to gambling harm and its minimisation. Those recommendations and the reasoning which underpins them were of assistance to me in considering item 5 of Part A of my Terms of Reference, namely the ‘[a]pproach to gambling harm minimisation, including fitness for purpose, implementation and resourcing’. They are addressed specifically later in this Report.

### **Owen Report – Perth Casino Royal Commission**

28. Crown Perth (Burswood Nominees Ltd) is a wholly-owned subsidiary of Crown Resorts Ltd.
29. On 5 March 2021, the Hon Neville Owen AO, the Hon Lindy Jenkins and Mr Colin Murphy PSM, were appointed as Royal Commissioners to inquire into two topics. The first was an assessment of the suitability of Crown Perth (Burswood Nominees Ltd) to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino and to continue to hold the casino gaming licence for Perth Casino. This also included an inquiry into the suitability of Crown Resorts Limited and subsidiaries Burswood Ltd and Burswood Resort (Management) Ltd to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino. The second topic was the adequacy of the framework to regulate casinos in Western Australia.
30. The Commission delivered its final Report on 4 March 2022 and found:
- a. each of Crown Perth (Burswood Nominees Ltd), Crown Resorts Ltd, Burswood Ltd and Burswood Resort (Management) Ltd was not a ‘suitable person’ to be concerned in or associated with the organisation and conduct of gaming operations of a licensed casino; and

- b. Crown Perth (Burswood Nominees Ltd) was not a ‘suitable person’ to continue to hold the gaming licence for Perth Casino.

### **Inquiry outcomes**

31. As a result of the above, Crown Casinos in Victoria, Western Australia and New South Wales are all being actively monitored as to ongoing suitability.
32. The New South Wales Government supported all 19 recommendations made by the Hon P Bergin SC as to the regulation of casinos in NSW and the suitability of Crown Sydney Gaming Pty Ltd to hold a restricted gaming facility licence.
33. The Owen Report recommended a ‘pathway to suitability’ for the Perth Casino with the Casino remediation being overseen by an independent monitor. Following the estimated period of two years of the pathway, the monitor will provide a report to the Gaming and Wagering Commission on the question of suitability.
34. In response to the recommendations made by the Finkelstein Royal Commission, Mr Stephen O’Bryan KC was appointed Special Manager for the Melbourne Casino Operator from 1 January 2022 until 30 January 2024. This function requires independently advising the Victorian Government about Crown’s reform program and their efforts to return to suitability to hold its operator’s licence. The Special Manager has extensive legislative powers to monitor, assess and report on the Melbourne casino operator’s progress on its reform program, as well as oversee, and if necessary direct, its current operations.
35. These reports and the matters with which they dealt concern different casino operators from that under scrutiny here. They do, however, give context about the kinds of problems casino operations face and the risks and compliance issues which can attend their functions in various places.

### **Bell SC Inquiry – New South Wales**

36. At the time the present Inquiry commenced, an Inquiry was being conducted by Mr Adam Bell SC under the *Casino Control Act 1992* (NSW) into The Star Pty Ltd. That entity holds the licence for The Star Casino in Sydney. Mr Bell SC’s Inquiry concerned the suitability of that entity to continue to do so. He delivered his final report dated 31 August 2022 to the Chief Commissioner of the NSW Independent Casino Commission (NICC) on 1 September 2022. It was made public on 13 September 2022. More is said

in the course of this Report about some of the findings made. Mr Bell SC found that The Star Pty Ltd, The Star Entertainment Group, The Star Entertainment Sydney Holdings Ltd and EEI Services (Hong Kong) Ltd were not suitable to be concerned in or associated with the management and operation of a casino in New South Wales at the commencement of that Inquiry, and remained so as at 31 August 2022.<sup>6</sup>

37. Unlike in this Inquiry, Mr Bell SC was asked to make findings as to suitability, albeit with the NICC to make the final decision on that issue. As noted, Part B of my Terms of Reference sought my ‘advice to inform’ an ongoing suitability investigation, with Governor in Council to make any final decision in that regard on the advice of the Attorney-General.
38. To some extent, the Bell Inquiry dealt with matters which were material for my Inquiry. The same governance arrangements applied to the New South Wales and Queensland casino operations. The extent to which the work and findings of that Inquiry were applicable to the subject of the Terms of Reference in the present Inquiry was the subject of consideration from the outset of my work, of some communications between The Star and those assisting me, and of some of the oral and written evidence. Those matters are explained further in connection with each of the topics identified for investigation and particular treatment in this Report. Nothing in this Inquiry gave reason to question any of the findings since made by Mr Bell SC.
39. In the course of the Bell Inquiry, much of the senior management of The Star departed or announced that they would resign. The Board composition has changed. The Chair of the Board, the CEO and Chief Casino Operator also resigned. In all, some 15 people resigned, notably those most senior in the Group.
40. This presented me with circumstances rather different from those which confronted Mr Bell SC and his Inquiry. Another difference between the Bell Inquiry and this one is that the Terms of Reference require me to focus on activities and circumstances happening in, or concerning, Queensland. Notwithstanding these differences, my Terms of Reference state that I am not required to inquire into particular matters that have been sufficiently and appropriately dealt with by that Inquiry.

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<sup>6</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 31, [173] to page 32, [176].

41. The next part of this Report sets out the Queensland context, and indicates how it differs from New South Wales and The Star's operations there, as well as the different regulatory and statutory arrangements.

## II The Queensland context

### Brief background

#### *Legislative Settings*

42. In March 1981, Queensland Cabinet gave in-principle approval for the establishment of two casinos in this State. The following year, in 1982, Queensland Parliament enacted the *Casino Control Act 1982 (Qld)*. Where in this Report I simply refer to the ‘Casino Control Act’, I mean the Queensland *Casino Control Act 1982*. It was based on the New Jersey regulatory model. Subordinate legislation in the form of the now-superseded *Casino Control Regulation 1984* ensued.

43. When Queensland’s *Casino Control Act* was passed, the then Deputy Premier and Treasurer noted the importance of casino operators having integrity:<sup>7</sup>

It is clear to me that unless a casino licence-holder and those associated with the operation are persons of proven integrity, the Government will be faced with immense control problems in the future. It is therefore important that the Governor in Council be fully satisfied that such persons are suitable persons in all the respects laid down in [clause 20].

44. He noted the very real risk of casinos attracting illicit and antisocial activities and behaviour:<sup>8</sup>

... A regulatory system that is initially above reproach may be corrupted over time without the application of a constantly vigilant, competent and honest control personnel and management staff. Any unsavoury seepage of this kind must be rejected if the public confidence and trust that are so essential for a successful operation are to be obtained and if the good reputation and honour of this Government are to be preserved. I do not want to labour to excess the point that the integral and essential element of the regulation and control of casino facilities by the State rests in the public confidence and trust in the credibility and integrity of casino operations and the control functions.

45. Mr Edwin Lusher QC (later the Hon Justice Lusher) had conducted an inquiry in New South Wales in 1977 into the legalisation of casinos. The principles by which casinos ought to be regulated were later the subject of two reports to the government of Victoria, prepared by the Hon Xavier Connor QC in 1983 and 1991.

46. Sir Laurence Street AC KCMG conducted a Commission of Inquiry in 1991 into the proposal of then New South Wales government to enact legislation to facilitate the

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<sup>7</sup> Queensland Parliamentary Debates (Hansard), 9 November 1982, page 2076.

<sup>8</sup> Queensland Parliamentary Debates (Hansard), 9 November 1982, page 2075.

establishment of two casinos. Sir Laurence concluded that it was necessary that the control of casinos involve the selection of a casino operator whose integrity and commitment to preserving a crime-free environment in relation to the casino was assured; that there be a comprehensive regulatory structure for the operation of the casino; and that there be diligent enforcement of that structure.

47. These reports and conclusions much influenced the structure of legislation relating to casinos in Victoria and New South Wales respectively.

### *Casinos in Queensland*

48. The initial Queensland casinos were purpose-built: Conrad Jupiters opened first in November 1985 on the Gold Coast, and later, in 2017, it was rebranded as The Star Gold Coast.
49. The *Jupiters Casino Agreement Act 1983 (Qld)* has as Schedule 1 to it, an agreement given the force of law by that Act: s 3. The Recitals to it record certain ‘objectives and considerations as being of paramount importance to the establishment and operation of casinos in the State of Queensland’, including that the relevant entity ‘shall establish an Hotel-casino Complex of the highest standard and operate that complex on an impeccable basis’. The agreement makes provision for many matters that are, for present purposes, not material and of historical significance only. Part VII is titled ‘Termination’ and contains provisions about termination or surrender of the casino licence. Clause 53 made particular provision about the appointment of an administrator by the Governor in Council in the event the casino licence were cancelled or suspended ‘for any reason whatsoever’ and the grant to that administrator of a casino licence for the purpose, it would seem, of the casino carrying on business albeit under new interim arrangements. There have been amendments over time to the agreement (including the original clause 53). They are now set out in Schedule 2 to the 1983 Act.
50. In 1986, the Sheraton Breakwater Hotel and Casino was established in Townsville.<sup>9</sup> The licence for the Reef Casino in Cairns<sup>10</sup> was granted in 1996. The casinos in Townsville and Cairns are not part of The Star Group.

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<sup>9</sup> See the *Breakwater Island Casino Agreement Act 1984 (Qld)*.

<sup>10</sup> See the *Cairns Casino Agreement Act 1993 (Qld)*.

51. 'The Ville' in Townsville (as it now called) has 374 electronic gambling machines and 27 table games. It is owned and operated by the Morris Group, an independent family-run business which is active in the tourism, hospitality, technology and aviation industries.
52. The Reef Casino in Cairns has 500 electronic gambling machines and about 39 table games. It is owned by Reef Casino Trust which is a single purpose Trust listed on the Australian Securities Exchange (ASX). The Responsible Entity and Operator of The Reef Casino Trust is Reef Corporate Services Limited. It is jointly owned by Casinos Austria International Limited and Accor Casino Investments (Australia) Pty Ltd.
53. I mention these smaller operators because Part C of the Terms of Reference require me to have regard to them.
54. The first casino in Brisbane was set up in the former Treasury building in 1995. It has operated from there since then. The *Brisbane Casino Agreement Act 1992 (Qld)* takes a generally similar form to the *Jupiters Casino Agreement Act*. It gives effect to the agreement (annexed as a Schedule to the Act) as if it were a law: s 6B. The agreement now given force is a 'replacement agreement' in substitution for one originally made on 6 May 1993. The replacement agreement and the original agreement are both Schedules to the Act (Schedule 1 and 2 respectively). The replacement agreement was entered into on 18 February 2016. Part V thereof concerns the 'casino licence and related matters'. Its provisions (clause 58(a)) recognise exclusivity for 10 years after the casino opens by precluding approval for certain games in a casino within 60 km of the site.
55. The Brisbane and Gold Coast casinos were historically the preserve of TAB Queensland. It was a Queensland Government entity that commenced operation in 1962. Later, it was listed on the ASX in November 1999. In 2011, its casino assets and operations (then involving three casinos) were demerged. Echo Entertainment Group Limited was established to acquire the corporate structure that housed those assets and operations. This entity underwent a change of name to The Star Entertainment Group Limited in 2015.
56. The Star group is also a 50% joint venturer with two Hong Kong companies in the Queen's Wharf Development in Brisbane. Destination Brisbane Consortium Integrated Resorts Operations Pty Ltd holds the licence for the yet-to-open Star Brisbane Casino at



Queen's Wharf. In this report I refer to this casino as the 'Queen's Wharf casino'. Arrangements envisage the group surrendering its licence for Treasury Brisbane as Queen's Wharf commences operation. Queen's Wharf is expected to open in the next year or so.

#### *Overview of the regulatory regime*

57. The *Casino Control Act* 1982 (Qld) contains arrangements for the grant of casino licences and the tests and processes for the ascertainment of suitability of casino licensees and those 'associated or connected or to be associated or connected' with 'the ownership, administration or management of the operations or business of the casino licensee': s 20. The Governor in Council is vested with the power to grant such licences (on the Minister's recommendation): s 18.
58. The Minister is empowered to make all necessary investigations to be satisfied about these matters before the grant (s 26) and afterwards: s 30. The entry into an agreement with the Minister is a pre-requisite for the grant of a casino licence: s 19. A casino licence may be cancelled for a range of grounds, including if a condition of the licence is contravened (s 31(1)(ba)), and if a director, partner, trustee, executive officer, secretary or other officer determined by the Minister to be an associate or connected with the ownership, administration or management of the person's operations or business, ceases to be a suitable person: s 31(1)(d).
59. The provisions of s 31 'Cancellation or suspension of casino licences and letters of censure' are rather complex. They set a high threshold for the suspension or cancellation of a casino licence. A summary of significant steps in the process follows.
60. As indicated, the grounds for cancellation or suspension of a casino licence are set out in s 31(1). Where the Minister is of the opinion that a ground for cancellation or suspension arises, and the relevant act or omission is '*of such a serious and fundamental nature that the integrity of the operation of the casino is jeopardised or the interest of the public is adversely affected*', the Minister is required to issue a notice to show cause as to why action should not be taken. Those with an interest in the casino licence may make submissions to the Minister. Upon a consideration of the same, the Minister may recommend to the Governor in Council that the licence be suspended or cancelled (but, if it is concluded that the ground is not of a serious and fundamental nature, the Minister may issue a letter of censure).

61. After consideration of a ministerial recommendation, the Governor in Council, at its absolute discretion, may take no action; may itself issue a letter of censure; may give the casino licensee, lessee and operator (or any of them) a notice directing them to rectify any matter; or, may appoint an administrator. In the latter case, the administrator assumes full control of and responsibility for the business of the casino licensee and shall conduct the casino operations or cause them to be conducted in accordance with the *Casino Control Act*, s 31(12).
62. Further, s 31(15) empowers the Governor in Council, at its absolute discretion, to respond to the ministerial recommendation by cancelling or suspending the casino licence, or directing the termination of the casino lease or casino management agreement. But it may so act only where circumstances are ‘so extraordinary that it is imperative in the public interest to do so’. These latter decisions are stated to be ‘final and conclusive’ and beyond curial challenge: s 31(23).
63. The *Casino Control Act* also regulates who may work as ‘key employees’ and casino employees by establishing a regime by which they must be licensed. The regime involves a consideration of their integrity, personal background and character and honesty: Part 4. It contemplates the suspension or cancellation of the licence of such a person, if, amongst other things, they are found not suitable to hold it; act in a way inappropriate for casino operations; or, contravene a provision of the *Casino Control Act* or of the licence: s 44.
64. The fees, taxes and levies payable for a casino licence and for the ‘casino tax’ are the subject of Part 5 of the *Casino Control Act*. The latter is currently set by the *Casino Control Regulation 1999* (Qld) s 19, as a percentage of casino gross revenue for each Queensland casino. As an example, for the Brisbane casino, the percentages are 30% for electronic gambling machines revenue, and 20% for fully-automated table gambling revenue and ‘other revenue’.
65. Casino operation is governed by Part 6 of the *Casino Control Act* which makes provision for the proper maintenance of all facilities and amenities of a casino, casino layout, hours of operation and the standard of gaming equipment among other matters. Offences are specified for the failure to adhere to some of these obligations, for which monetary penalties are imposed. The rules for the playing of games must be approved by the Minister: s 63.

66. Internal controls and like matters are dealt with by Part 7. It is a requirement (under pain of criminal punishment) that a licensed casino operator have ‘an approved control system for the casino’; not contravene that system; and not change it without the chief executive’s approval: s 73. The Star’s internal control manual (ICM) receives attention later in this report.
67. Agreements entered into by casino licensees, lessees under casino licences, and casino operators under a management agreement must be approved by the Minister beforehand: s 84. Such agreements of this kind which are entered into may be reviewed by the Minister and information can be compelled for this purpose: s 85. Junket agreements receive particular treatment in Division 2 of this Part. They must be approved under s 84. There are particular provisions in Division 2 concerning ‘special junket agreements’. They are ones where the participant is not a resident of Queensland and the amount committed for gambling at the casino is above a prescribed amount.
68. Provisions for investigation and enforcement are in Part 9 of the *Casino Control Act*. These arrangements permit the appointment of inspectors (s 85E) subject to checking their suitability. Inspectors have considerable powers such as those set out in ss 87A and 88. Further, the Minister may give directions to a casino licensee about the management, supervision or control of any aspect of the casino. Fines apply for failing to comply: s 86.
69. Section 91 (pursuant to which Part A of my Terms of Reference are being carried out) provides:

**Inquiry into the operation of casinos**

- (1) The Minister may if the Minister thinks fit nominate and appoint in writing the chief executive or other officer of the department to hold an inquiry into the operation of a casino.
- (2) In the holding of the inquiry the chief executive or appointed officer shall have and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950*, save such as are by that Act reserved to a chairperson of a commission when that chairperson is a judge of the Supreme Court.
- (3) Nothing contained in this section affects any other powers that the chief executive has under this Act or, where the appointed officer is an inspector, that the appointed officer has as an inspector under this Act.

70. As explained in Part 1 of this Report, the term ‘casino operations’ is defined by the Dictionary to the *Casino Control Act*. Thus, the Part A inquiry is limited to the matters set out in the definition, that is to say, gaming, money counting surveillance, accounting, storage, as well as other activities ‘in connection with the operation and conduct of gaming’.
71. The Regulator in Queensland is the Office of Liquor and Gaming Regulation (**OLGR**), which is within the portfolio responsibilities of the Attorney-General. The Chief executive is the Deputy Director-General of the Attorney-General’s Department. OLGR staff include inspectors appointed for the purposes of the *Casino Control Act*. Certain inspectors (some 16 or so) are based in onsite inspectorates at The Star Gold Coast and Treasury Brisbane. Inspectors (whether based on site or not) conduct a range of risk-based audit functions which focus on integrity, revenue and harm minimisation.
72. Two Casino Crime Units staffed by Queensland Police are located in the two operating Star Casinos in Queensland.
73. Other OLGR functions directed to the regulation of casinos include: a specialised audit unit comprising compliance and systems auditors; specialist investigators; licensing and probity teams with responsibility for assessing suitability of entities requiring licensing or other forms of approval; technical evaluators who assess the fairness of gaming systems and products and officers who approve internal control systems of the respective casino operators.
74. Part 10, Division 1 concerns the exclusion of people from casinos. Individuals may exclude themselves by giving a notice, asking the casino operator to prohibit them from entering or remaining there: s 91N. The operator must, in that case, give the person a self-exclusion order: s 91O. Such an order can be revoked by the person, but only within 24 hours of receiving it, or after one year: s 91P.
75. A person can also be excluded at another’s instigation. The first means for this is underpinned by the notion (recognised in s 92 of the *Casino Control Act*) that a person enters and remains in casino premises upon the ‘licence’ of the casino’s operator at common law which the casino operator may withdraw. It follows that the casino operator may withdraw that licence. However, s 92(2) provides an additional, statutory means for achieving that result. It permits a casino operator or casino manager to give a written

direction prohibiting a person from entering or remaining in a casino. Section 92(3) provides as follows:

...

A direction under subsection (2) may be given to a person only if the casino operator or manager believes on reasonable grounds—

- (a) the person has engaged in dishonest acts in relation to gaming; or
- (b) the person has acted in a way affecting, or potentially affecting—
  - (i) the proper conduct or integrity of gaming; or
  - (ii) the safety or wellbeing of the person or other persons in the casino; or
- (c) the person has engaged in unlawful conduct and, because of the conduct, the person's presence in the casino would not be in the interests of the casino operator or persons in the casino; or
- (d) the safety of a dependant, or someone in the care, of the person, is at risk because of the person's presence in the casino.

- 76. Such a withdrawal can be for one or all premises operated by that operator: s 92(4). It endures until revoked: s 96.
- 77. Those regarded specifically as 'problem gamblers' (who might also be referred to as those experiencing gambling harm), may be excluded upon the casino operator or manager believing on reasonable grounds that to be the case: s 93A. Again, an exclusion direction may be for one or more casinos operated by the same operator. It endures until the earlier of: its being set aside by the Queensland Civil and Administrative Tribunal (QCAT) or on appeal; a revocation notice takes effect; or five years have elapsed: s 97. Counselling is available as a means of postponing a decision on penalty for those experiencing gambling harm who breach an exclusion direction: s 100A.
- 78. The Commissioner of Police may also exclude a person from a casino. This is done by direction to the casino operator: s 94. The direction lasts until revoked: s 96.
- 79. There is an obligation on a casino operator, and an employee or agent of such operator to take reasonable steps to prevent a person who is subject to one of the orders or directions described above from entering or remaining in a casino if they know that a person is prohibited from entering or remaining in the casino by reason of such an order or direction: s 100B.
- 80. Casino operators are obliged to keep a register of excluded persons in an approved form: s 100C.

81. Division 3 of Part 10 of the *Casino Control Act* deals with matters relating to cheating in a casino and prescribes relevant offences. Division 4 of that Part deals with offences generally: relating to revenue; unauthorised games; cheating by a casino operator; forgery; dishonestly keeping a benefit; bribery; and, confers a power to direct that certain public servants not gamble in a casino.
82. Part 10 Division 5 of the *Casino Control Act* permits a police officer, upon authorisation, to enter areas of a casino beyond those accessed by the public in the discharge of that officer's duty. Section 123 imposes liability on the executive officers of a body corporate for offences committed by the latter in certain circumstances.
83. There is a general regulation making power in the *Casino Control Act* in s 127 on which the *Casino Control Regulation 1999* is based. For present purposes, Part 6 of the Regulation is material in that it concerns junkets. It requires, for example, junket agreements to be in writing and contain certain information: s 31. A copy is to be given to the chief executive before any participant under the agreement starts play as such: s 33.
84. The *Jupiters Casino Agreement Act 1983 (Qld)*, the *Brisbane Casino Agreement Act 1992 (Qld)* (both mentioned above) and the *Queen's Wharf Brisbane Act 2016 (Qld)* are all examples of statutory agreements, or 'special Act agreements'. They are agreements embodied in legislation and are particular to Queensland. The gaming and resources sectors are the main fields in which these have been utilised since the middle of the last century. The interaction between a provision of a statutory agreement and the *Casino Control Act*, in a given case, will call for careful consideration given the special nature of statutory agreements and the fact that all of the above were enacted after the Act.

### **The Star's operations in Queensland**

85. The Star Entertainment Group is an ASX listed company that styles itself as an integrated resort company. Aspects of its management, operations, and governance are shared on a group level, including legal, risk management, treasury and finance. Each casino has a Chief Operations Officer who oversees the casino operations and reports to the Group CEO.
86. The Star Entertainment Group currently operates three casinos: The Star Sydney, The Star Gold Coast and Treasury Brisbane. The Star is, as I have said, expected to open its

newest casino, Queen's Wharf Brisbane, in joint venture with subsidiaries of Chow Tai Fook Capital Limited and Far East Consortium International Limited within the next year or so.

### *The Star Gold Coast*

87. The Star Gold Coast is located on Broadbeach Island. The licence for it is held by The Star Entertainment QLD Custodian Pty Ltd (a subsidiary of The Star Entertainment Group).
88. In November 2014, the Queensland Government approved The Star Gold Coast Masterplan. In joint venture with subsidiaries of Chow Tai Fook Capital Limited and Far East Consortium International Limited, it facilitated the redevelopment of The Star Gold Coast including the opening of a 56 room hotel 'The Darling' in 2018; the redevelopment of a 596 room hotel 'The Star Grand'; and construction of a 53 storey mixed-use development which includes the 313 room 'Dorsett' hotel and 422 apartments at The Star Residences (all completed in December 2021).<sup>11</sup>
89. Currently under construction is a 63 storey mixed-use tower that will include a fourth hotel and further residential apartments. If The Star Gold Coast Masterplan is fully delivered, an additional three towers will be added to its precinct.<sup>12</sup> Construction has not commenced on these additional towers.
90. In 2017, The Star Entertainment Group acquired the Sheraton Grand Mirage on the Gold Coast in a joint venture that manages the Gold Coast Convention and Exhibition Centre on behalf of the Queensland Government.<sup>13</sup> It does not operate as a casino.
91. The Star Gold Coast operates 24 hours a day and has more than 1,400 electronic gambling machines across the main floor and private rooms and more than 70 gaming tables.
92. The half year results (ending December 2021) show that the gross revenue<sup>14</sup> before commissions for The Star Gold Coast's operations (which comprises The Star Gold Coast's casino operations, including hotel, theatre, restaurants, bars and other

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<sup>11</sup> The Star Entertainment Group Annual Report 2021, page 19.

<sup>12</sup> The Star Entertainment Group Annual Report 2021, page 19.

<sup>13</sup> The Star Entertainment Group Annual Report 2021, page 5.

<sup>14</sup> Total gross revenue is presented as the gross gaming win before player rebates and promotional allowances of \$4.2 million (31 December 2020: \$8.5 million).

entertainment facilities) was \$180.4 million, all of which was classed as domestic revenue.<sup>15</sup> This period saw property closures and operating restrictions by reason of COVID-19.

93. Full financial year results before COVID-19 impacts (for the year ending 30 June 2019) showed gross revenue of \$384.4 million domestically, and international revenue of \$213.8 million.<sup>16</sup>

#### *Treasury Brisbane*

94. The Star Entertainment QLD Limited holds the casino licence for Treasury Brisbane. It operates 24 hours a day, and includes a 125 room hotel and more than 1300 electronic gambling machines across the main floor and premium rooms.
95. The half year results (ending December 2021) show those operations (which comprise casino operations, a hotel, restaurants and bars) had gross revenue before commissions<sup>17</sup> of \$160.6 million.<sup>18</sup> This period saw COVID-19-related restrictions.
96. The last full financial year results before COVID-19 (for the year ending 30 June 2019) showed the gross revenue from Treasury Brisbane at \$340.3 million for domestic revenue and \$7.7 million for international revenue.<sup>19</sup>

#### *Queen's Wharf Development*

97. The Star Entertainment Group and its joint venture partners CTFE and Far East Consortium are developing the Queen's Wharf Development which is estimated to be a

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<sup>15</sup> The Star Entertainment Group Half-Year Financial Report released 17 February 2022, Appendix 4D & 2022 Half-Year Financial Report, note A1 (accessed at [starentertainmentgroup.com.au/wp-content/uploads/2022/02/17-January-2022-ASX-Announcement-Appendix-4D-2022-Half-Year-Financial-Report.pdf](http://starentertainmentgroup.com.au/wp-content/uploads/2022/02/17-January-2022-ASX-Announcement-Appendix-4D-2022-Half-Year-Financial-Report.pdf)).

<sup>16</sup> The Star Entertainment Group 2019 Full Year Results released 16 August 2019, Appendix AE & Full year Results Announcements and Accounts, note A1 (accessed at [www.starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf](http://www.starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf)).

<sup>17</sup> Total gross revenue is presented as the gross gaming win before player rebates and promotional allowances of \$4.2 million (31 December 2020: \$8.5 million).

<sup>18</sup> The Star Entertainment Group Half-Year Financial Report released 17 February 2022, Appendix 4D & 2022 Half-Year Financial Report, note A1 (accessed at [starentertainmentgroup.com.au/wp-content/uploads/2022/02/17-January-2022-ASX-Announcement-Appendix-4D-2022-Half-Year-Financial-Report.pdf](http://starentertainmentgroup.com.au/wp-content/uploads/2022/02/17-January-2022-ASX-Announcement-Appendix-4D-2022-Half-Year-Financial-Report.pdf)).

<sup>19</sup> The Star Entertainment Group 2019 Full Year Results released 16 August 2019, Appendix AE & Full year Results Announcements and Accounts, note A1 (accessed at [starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf](http://starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf)).



\$3.6 billion project. That development is located in the Brisbane CBD on the Brisbane River and covers an area of more than 26 hectares. It is expected that retailers will take space there. A new bridge, the Neville Bonner bridge, is to be built across the Brisbane River to link the development to the South Bank precinct.

98. The casino is planned to have 2,500 electronic gambling machines.
99. On 13 October 2016, the Governor in Council granted a casino licence to Destination Brisbane Consortium Integrated Resort Operations Pty Ltd (**DBC**). That licence contains conditions which have to be satisfied before the licensee will be permitted to commence casino operations.
100. The *Queen's Wharf Brisbane Act* was enacted in 2016. The *Queen's Wharf Brisbane Casino Agreement* is Schedule 1 to it. The entry into such Agreement was a pre-requisite to the grant of the casino licence: *Casino Control Act*, s 19.
101. The business was prohibited from commencing casino operations of the casino until, among other things, there was compliance in all material respects by each Responsible Entity with the relevant provisions of the Act.
102. The Agreement itself is dated 6 April 2016 and had as parties, the State, DBC, The Star Entertainment Group, Chow Tai Fook and Far East Consortium.
103. Clause 3.5 confers exclusivity by precluding the State from authorising a new casino within 60km of the Brisbane GPO for a period of 25 years.

*Bell Inquiry Evidence and Findings: factors relevant to their application here*

104. My Terms of Reference refer to 'the shared governance and operational arrangements' within The Star Group as being a reason why the evidence presented in the Bell Inquiry raised 'significant concerns' in Queensland. Although I am not required to inquire into particular matters that have been sufficiently and appropriately dealt with by the Bell Inquiry, I may seek available evidence from, and have regard to findings of, the Bell Inquiry. The Terms of Reference expressly direct me to consider 'available evidence and the findings of the Bell review'. This is in the context of evidence in that inquiry having raised, according to my Terms of Reference, 'significant concerns regarding the operations of The Star Sydney'.

105. It seemed to me that, having regard to these references to the Bell Inquiry in the Terms of Reference, the work of that Inquiry was very likely to be of considerable assistance in the discharge of my functions.
106. Accordingly, it became necessary for me to ascertain the extent to which I ought to have regard to the work of the Bell Inquiry in my Inquiry and Review. In so doing, I took the following considerations into account.
107. It is certainly correct to say that there were shared arrangements within The Star Group that meant at least part of the Bell Inquiry's work (and the findings made) have relevance to The Star's operations in Queensland. Many key functions are shared at a group level: legal; risk management; treasury and finance. Reporting from each Queensland casino was to the Group CEO, as was the case in Sydney also. The remit of the Board of The Star Entertainment Group Limited includes assuring itself of the effectiveness of the governance of the Group and the adequacy of internal controls, policies, procedures and processes.
108. The Star's operations in Sydney are not identical with those in Queensland.
109. The Star Sydney has more than 1,500 electronic gambling machines, which is about the same as Treasury Brisbane and The Star Gold Coast, which have 1,700 between them. When Queen's Wharf opens, this will increase to 3,900 electronic gambling machines over the two remaining Star Queensland casinos.
110. Before the COVID-19 outbreak, The Star Sydney had gross revenue some 67% more than the revenue from The Star Gold Coast and Treasury Brisbane combined.<sup>20</sup>
111. The Star Sydney is The Star's only casino in New South Wales, whereas here there are, depending upon how one views Queen's Wharf, three Star casinos, but each of those two which presently operate are considerably smaller than The Star Sydney. This may well change if and when the Queen's Wharf development opens as a casino.

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<sup>20</sup> The Star Entertainment Group 2019 Full Year Results released 16 August 2019, Appendix AE & Full year Results Announcements and Accounts, note A1 (accessed at [starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf](http://starentertainmentgroup.com.au/wp-content/uploads/2020/12/16-August-2019-Appendix-4E-Full-Year-Results-Announcement-Accounts.pdf)).

112. The Star Entertainment Group Ltd is the ultimate holding company for two of the three casinos in Queensland: The Star Gold Coast and Treasury Brisbane, and for 50% of the Queen's Wharf Development. The ultimate holding company is the same as for the entity that holds The Star Sydney licence (The Star Pty Ltd).
113. The Bell Inquiry considered the suitability of The Star Pty Ltd as licensee of The Star Sydney. As part of that assessment, the Bell Inquiry also considered corporate close associates of The Star: The Star Entertainment Sydney Holdings Limited (the immediate parent of The Star Pty Ltd); EEI Services (Hong Kong) Limited; and The Star Entertainment Group Ltd (the latter as the ultimate holding company of The Star entities).
114. The governance of The Star Sydney and of the Gold Coast and Treasury Brisbane casinos had considerable shared elements. At an operational level, a number of employees of The Star Entertainment Group and/or The Star Pty Ltd performed their employment functions jointly for The Star Sydney; The Star Gold Coast and Treasury Brisbane. Many key functions within The Star Group were shared between the various casinos. For example, what is called 'treasury' within The Star Group administered and oversaw the Group bank accounts. That included dealings with National Australia Bank about queries from China UnionPay. The Legal Department of The Star Group was common to all relevant Star entities, as was the Chief Risk Officer.
115. I am comfortably satisfied that that the work of the Bell Inquiry is of relevance to The Star's operations in Queensland. Much has been sufficiently and appropriately dealt with there (to use the words of Part A of the Terms of Reference) such that I did not consider that this Inquiry and Review ought traverse that same territory again, it being inarguable that the same basic issues which were found to attend The Star's operations in New South Wales would be materially different in this State over the same period.
116. I explain in connection with each of the issues considered in this Report, the extent to which, if at all, the Bell Inquiry dealt with them and how the work and findings of that Inquiry bear upon the findings I make here. It is, nevertheless, convenient at this point to note that the Bell Inquiry dealt sufficiently and appropriately in my view, with the issues associated with China UnionPay and with The Star's corporate culture at a group level, and its commitment to and compliance with anti-money laundering/counter-terrorism financing (AML/CTF) responsibilities, particularly in relation to high risk and

high value customers. It remained for me however, to give attention to The Star's responsible gambling program and in particular, the resources given to the prevention and minimisation of gambling harm. It was also necessary that I explore, in the particular Queensland context, the extent of the China UnionPay issue and the appropriateness of The Star's approach in connection with certain named persons on the grounds of suspected involvement in criminal activity. This in turn gave rise to the need to consider to some extent, The Star's AML/CTF program. The latter is the subject also of an investigation by AUSTRAC, the agency responsible at a federal level for such matters. It is appropriate that this issue be dealt with at that level, and, my findings in this regard are limited to the specific examples which were the subject of evidence before me.

### III Subject matter of the Inquiry

117. The Inquiry under s 91 concerns the operation of casinos. As noted, the term ‘casino operations’ in the *Casino Control Act* defines them as being the operation and conduct, in relation to a casino, of gaming, money counting, surveillance, accounting, storage, as well as other activities in connection with the operation and conduct of gaming. ‘Gaming’, itself, is there defined to mean the playing in a casino of any game.
118. It follows that my role in Part A of the Inquiry concerns only Star casinos which are operating, and does not extend to the proposed Queen’s Wharf casino (which is yet to commence operations). That development, and the activities which are to take place there are, however, within the functions I am to exercise in Parts B and C of my Terms of Reference.
119. This Part III of my Report deals with the operation of casinos and hence with issues which arose in connection with the operations of the only two casinos within The Star Group which currently fall within the concept of an operating casino: The Star Gold Coast and Treasury Brisbane.
120. The investigative work for this Inquiry included issuing summonses to The Star for the production of documents and the giving of information. In the course of public hearings, seven witnesses were called, four of whom were Star Group employees. I visited Treasury Casino on 27 July 2022. Counsel Assisting interviewed six witnesses on 26 July 2022 and 2, 3, 18, 19 August 2022 and spoke with many others. I also read material that was produced by The Star Group (so far as it was tendered by Counsel Assisting), information given by The Star in response to summonses for the provision of information, work done by the Compliance Unit within OLGR, and the submissions received from interested persons.
121. Before my appointment, OLGR had commenced a general investigation into The Star casinos in Queensland. In the course of it, an Interim Investigation Report was produced dated 21 April 2022. It expressed preliminary findings about some of the matters dealt with below. The Inquiry provided a copy of that report to The Star on 27 July 2022 to ascertain The Star’s position in respect of it. Solicitors for The Star, King & Wood

Mallesons, provided a detailed response to the report with commentary by letter dated 22 August 2022.

122. The material to which I have referred above afforded a useful basis from which to inquire into the issues identified as being of particular interest and better to understand them. I also had the benefit of so many of the Transcripts as had been made public in the Bell Inquiry, and (from 13 September 2022) Mr Bell SC's report, findings and recommendations.
123. My Terms of Reference make specific reference to Mr Bell SC's Inquiry and I found it useful to draw materially from it and not to duplicate its work where the relevant subject matter had, in my view, received sufficient and appropriate treatment there. I explained in Part II of this Report the bases for that view. For these reasons, the Inquiry I undertook focussed on matters in Queensland, and, in particular, how and to what extent (if at all) the matters the subject of the Bell Inquiry attended the operations of Star Group casinos in Queensland.
124. Against this background, the issues which arose for particular investigation under Part A of my Terms of Reference were as follows:
  - a. the use of China UnionPay debit or credit card facilities to help facilitate gambling by Chinese nationals despite Chinese currency movement restrictions. More specifically, the questions were whether The Star charged amounts on China UnionPay cards and passed them off as hotel and general expenses rather than being for gambling and, if it did, whether it concealed this from parties with a legitimate interest in knowing that this was occurring;
  - b. the operation of junket programs and dealings with junket operators at Star's Queensland casinos;
  - c. whether persons who were the subject of an exclusion direction by the NSW Police Commissioner ought to have been excluded from Star's Queensland casinos by having their 'licence' to enter withdrawn;

- d. whether ‘persons of interest’ were permitted (and even encouraged) to gamble at Star’s Queensland casinos after it became reasonably apparent that they were involved in, or had associations with, criminal activity;
- e. relatedly to (d) above, the adequacy of The Star’s AML/CTF program; and
- f. some other ancillary matters.

## **China UnionPay**

### *The issue and how it arises*

125. The Terms of Reference required this Inquiry to examine:

Use of China UnionPay debit or credit card facilities and other arrangements to help facilitate gambling by Chinese nationals despite Chinese currency movement restrictions

126. China UnionPay is a financial services provider which offers Chinese consumers debit, credit and pre-paid cards. National Australia Bank (**NAB**) was The Star Entertainment Group’s banker and the supplier of its merchant terminals. NAB terminals within The Star’s casinos did not accept China UnionPay cards. The NAB terminals, however, within The Star’s hotels *did* accept those cards.
127. The Star devised a process which involved patrons using the merchant terminals within its hotel properties to debit funds from their China UnionPay card and to credit their hotel account. The patron would then take a receipt for the hotel payment to the casino cage (accompanied by a VIP executive host) and exchange it for cash or chips. The effect of this was that all charges on China UnionPay cards appeared as hotel and general expenses when part (at least) was used, and intended to be used, for gambling.
128. When NAB questioned The Star about the purpose for which such funds were used, The Star gave various explanations. None of them made clear that the funds were for gambling and had been utilised in that way.
129. The Terms of Reference for Part A direct me to examine whether Star Casinos in Queensland operate in a way consistent with achieving the objectives of the *Casino Control Act*. One of the stated objects of that Act is that, on balance, the State and the community as a whole benefit from casino gambling. This balance, the Act says (in s 3(2)) is to be achieved by a system of regulation and control designed to protect players and the community through ensuring the probity of those involved in the conduct of

casino gambling and minimising the potential for harm from such gambling. In a more general sense, the Act's objectives include ensuring those involved in casino operations act honestly and with integrity.

130. In light of these considerations, an important issue which arose for me (as it did for Mr Bell SC) was whether what The Star told NAB about the charges earlier described was a full and accurate description of the use to which the money was put. The issue in this Inquiry focused upon this question, rather than, for example, whether Chinese Laws limited the movement of currency in and out of China by Chinese nationals, which Mr Finkelstein AO QC considered to be the case in his Inquiry.<sup>21</sup> It is sufficient for present purposes that (which I find to be the case) some Star employees considered NAB to have in place restrictions (real or perceived) which prohibited the usage of the funds for gambling owing to Chinese currency laws.

#### *The conduct*

131. Since enactment in 1982, s 66(1)(d) of the *Casino Control Act* has contained a prohibition against a casino operator and its agents and employees providing cash or chips to any person in respect of a credit card transaction in connection with any gaming. An amendment to that Act in October 2009 inserted a s 67(2B) which prohibits a casino operator from accepting a deposit into a player account by a credit card transaction.<sup>22</sup> These provisions do not have the effect of prohibiting the acceptance of a debit card by a casino to deposit an amount in the person's player account. The insertion of s 67(5) into the *Casino Control Act* in May 2016 made clear that debit cards could be used to deposit an amount into a 'player' (ie a gambling) account.
132. From 1 January 2017, The Star Entertainment Group commenced allowing China UnionPay debit card point of sale transactions at its Queensland properties.<sup>23</sup> The Star explained the steps involved in these terms:

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<sup>21</sup> *Report of the Royal Commission into the Casino Operator and Licence*, October 2021 (**Finkelstein Report**), Volume 2, Chapter 13, page 171, [13].

<sup>22</sup> *Gambling and Other Legislation Amendment Act 2009* (Qld), s 8(3). This amendment does not apply to a deposit made by a non-resident of Queensland visiting a casino under a junket agreement: s 67(2C).

<sup>23</sup> Ex 3, Volume 5, Tab 5.1(b) at item 1: REV.0005.0005.0004. Ex 3, Volume 5, Tab 5.1(d) at item 1: REV.0005.0005.0010.



- a. after confirming the card holder's identity, the card holder would swipe their card at a dedicated terminal at the Hotel Reception where a room charge account was opened in the customer's name;
  - b. the transaction (to debit funds from the customer's China UnionPay debit card and credit those funds to The Star's bank account) took place at the Hotel Front Office using a CUP debit card in the customer's name;
  - c. once the transaction was successfully processed at the point of sale, the customer received a confirmation receipt;
  - d. the customer was then escorted to the Casino Cage by a VIP Executive Host, where the funds were deposited to the customer's Front Money account in Synkros; and
  - e. subsequent Front Money Account transactions were conducted in accordance with the relevant ICM and Casino Cage standard operating procedures.<sup>24</sup>
133. This practice ceased on 9 March 2020.<sup>25</sup> The Star continues to accept payments from China UnionPay accounts for certain non-gambling related expenses, such as hotel accommodation and food and beverage, but not for gambling.<sup>26</sup>
134. In total, \$55,434,525 was transacted in Star Queensland properties using the process just described.<sup>27</sup> The total value and number of such transactions were:<sup>28</sup>

<b>Summary of China UnionPay transactions</b>						
<b>Year</b>	<b>Transactions Treasury Brisbane (No.)</b>	<b>Transactions Star Gold Coast (No.)</b>	<b>Total Transactions (No.)</b>	<b>Transactions at Treasury Brisbane (\$)</b>	<b>Transactions at Star Gold Coast (\$)</b>	<b>Total Value</b>
2016/2017	0	42	42	0	2,046,000	\$2,046,000
2017/2018	37	167	204	1,891,000	7,177,900	\$9,068,900
2018/2019	83	287	370	5,501,500	13,313,400	\$18,814,900
2019/2020	79	473	552	4,530,500	20,974,225	\$25,504,725
<b>Total 2016-20</b>	<b>199</b>	<b>969</b>	<b>1168</b>	<b>11,923,000</b>	<b>43,511,525</b>	<b>\$55,434,525</b>

<sup>24</sup> Ex 3, Volume 5, Tab 5.1(b) at item 2: REV.0005.0005.0004.

<sup>25</sup> Ex 3, Volume 5, Tab 5.1(b) at item 3: REV.0005.0005.0004.

<sup>26</sup> Ex 3, Volume 5, Tab 5.1(b) at item 1: REV.0005.0005.0004.

<sup>27</sup> Ex 3, Volume 5, Tab 5.1(g) at item 1: REV.0005.0005.0020.

<sup>28</sup> Ex 3, Volume 5, Tab 5.1(g) at item 1: REV.0005.0005.0020.

135. China UnionPay cards could only be used in the UnionPay network and such other networks as had signed agreements with UnionPay. The relevant agreement here incorporated the standard China UnionPay operating regulations.
136. These matters (and, in particular, whether the process explained above was a breach of the agreement with NAB or the operating regulations) were the subject of evidence and submissions in the Bell Inquiry. The Star denies the process was in breach of the operating regulations. Whether there was in fact a breach of the operating regulations is not necessary to examine. That is because there are fundamental respects in which The Star's acts or omissions with respect to China UnionPay adversely affects its repute, character, honesty or integrity. As explained below, what The Star told NAB about the funds being used from China UnionPay cards hid the truth from its own banker.

*The Star's correspondence with National Australia Bank*

137. NAB wrote a number of letters to The Star Entertainment Group affirming the restriction and then seeking information in relation to the expenditure on China UnionPay accounts at its operations (including those in Queensland). On 30 March 2017, Mr Andrew Bowen from NAB wrote to Mr Harry Theodore (former Chief Financial Officer of The Star Entertainment Group) stating:<sup>29</sup>

Further to the discussion we had last year, re merchant acquiring for China UnionPay cardholders, I have been asked to forward the following to remind The Star Entertainment Group of China UnionPay's terms and conditions.

As Star Entertainment Group's Acquiring Bank, NAB are committed to protecting our customers reputation. NAB would like to ensure that all transactions through Star Entertainment Group Merchant Facilities restrict gambling. Gambling applies a separate Merchant Category Code to what is currently applied to the Star Entertainment Groups Astral VIP merchant terminal, thereby, we must ensure that no proceeds or deposits for gambling are placed through this terminal.

Please ensure strict controls are in place to avoid any gambling credits being placed through terminals.

138. On 6 November 2019, Ms Tanya Arthur from NAB wrote to Ms Sarah Scopel (former Group Treasurer, The Star Entertainment Group), seeking 'documentation that proves

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<sup>29</sup> Ex 3, Volume 5, Tab 5.3: OLGR.0001.0003.0028.

that individual clients are spending the above amount [\$20m per annum] at their venue on entertainment and accommodation expenses'.<sup>30</sup> Ms Scopel responded.<sup>31</sup>

As previously mentioned, certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues within the resort, travel expenses (for example limousine transfers, flights) and external expenses (for example local tourism tour operator expenses, food and beverage, major events and entertainment), during their time in Australia and whilst staying at The Star Entertainment Group's resorts.

139. This response clearly seeks to emphasise the 'hotel' purpose, and ignore or obscure the gambling purpose. To have referred to 'entertainment' did not assist: it is a vague term and not one that would ordinarily be understood to include gambling. Yet the 'primary' use of the funds, Mr Hogg accepted in his oral testimony, was for gambling.<sup>32</sup>
140. On 3 March 2020, NAB requested specific information in relation to 212 China UnionPay transactions at The Star Sydney.<sup>33</sup> At no stage did The Star Entertainment Group inform NAB or China UnionPay that such funds may be used (or had been used) for gambling.
141. On 4 March 2020, Ms Scopel wrote to Ms Arthur<sup>34</sup> stating:
- Following discussions around the increased administration associated with CUP transactions, The Star wishes to cease acceptance of CUP card transactions across all NAB terminals at all properties, effective from Saturday 7 March.
142. The central facts are not disputed by The Star, and they are, in summary:<sup>35</sup>
- a. there was a concerted effort on the part of The Star to characterise China UnionPay debit transactions as hotel transactions rather than as gambling transactions;
  - b. the characterisation was done because of the arrangements, real or perceived, with NAB;

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<sup>30</sup> Ex 3, Volume 5, Tab 5.5: OLGR.0001.0003.0022 at 0023.

<sup>31</sup> Ex 3, Volume 5, Tab 5.5: OLGR.0001.0003.0022.

<sup>32</sup> Transcript P-250, line 35.

<sup>33</sup> Ex 3, Volume 5, Tab 5.7: OLGR.0001.0003.0019.

<sup>34</sup> Ex 3, Volume 5, Tab 5.9: OLGR.0001.0003.0013.

<sup>35</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [10] and Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [4].

- c. NAB requested that The Star provide information that China UnionPay debit cards were not used for the purposes of gambling; and
  - d. regardless of whether the China UnionPay Scheme Rules prohibited gaming transactions outside of mainland China, certain former employees and executives seem to have understood that the China UnionPay Scheme Rules prohibited transactions for the purpose of gaming locally.
143. As such, The Star's conduct does bear on its suitability to be a licensee, at least at the time the conduct occurred. I find accordingly.
144. Mr Hogg, Interim Chief Executive Officer of The Star Group, gave sworn testimony that in all likelihood his understanding at the time was that 'there [was] a requirement of some kind to not use China UnionPay cards directly for acquiring gaming chips'.<sup>36</sup> In oral testimony he said that he understood at the time that there was no direct acquisition of gaming chips because, in effect, the debit to the China UnionPay card and the acquisition of chips was not contemporaneous.<sup>37</sup> He said that he took this position on the basis of legal advice from a lawyer in the company.<sup>38</sup>
145. However, the principal issue here is that there was a concerted effort on the part of The Star to characterise these transactions as related to hotels when in truth the primary use of the China UnionPay funds was for gambling. This is relevant when looking to dealings with NAB because when it queried The Star's treatment of the funds, the responses by The Star, on any view, were less than complete at best, and, at worst, deliberately misleading.
146. The Star accepts here, as it did in the Bell Inquiry<sup>39</sup>, that the procedure by which China UnionPay cards were swiped at terminals at the hotel but were then used to fund gambling 'obscured the true nature of the transactions and masked the fact that funds were used for the purpose of gaming from UnionPay and Chinese financial institutions'.<sup>40</sup>

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<sup>36</sup> Ex 3, Volume 7, Tab 7 (**Hogg Statutory Declaration**), [203(b)]: STA.0000.0008.0255 at 0288.

<sup>37</sup> For example at Transcript P-257, line 23 to P-258, line 8.

<sup>38</sup> Transcript P-257, lines 1 to 6.

<sup>39</sup> Transcript Bell Inquiry P-4194, lines 42 to 46.

<sup>40</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [14] and Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [10].

147. The Star also accepted that some of its personnel understood from the beginning (at least) that China UnionPay:

... intended or wished to deny access to its card services for the purposes of gambling and that, in that context, the employment of a device that meant it was not apparent to China UnionPay that its services were being used for those purposes was at least sharp practice, even if it was not an infringement of any contract or law, and that this kind of sharp practice is unacceptable on the part of a casino licensee,

and that:

The Star's communications with the NAB in relation to the use of CUP cards were obfuscatory, misleading and unethical; that they involved the creation of misleading documents and the deployment of documents in a misleading way.

...

And based on the evidence, it's open to the review to find that multiple employees at The Star, including Mr Theodore, Ms Martin and Mr White, were on notice for a number of years that NAB may not understand the true nature of the CUP transactions, and they did not take appropriate steps to ensure that NAB and UnionPay were not misled. Rather, they caused or allowed The Star to respond to inquiries from NAB in a way that was liable to mislead both NAB and UnionPay.<sup>41</sup>

148. The Star, quite properly, does not resist such a finding.<sup>42</sup>

149. I find in terms stated in paragraphs [146] to [147] above. They properly reflect the seriousness of The Star being less than truthful with NAB, and about matters which Star staff (including senior staff) believed to arise from Chinese laws concerning currency movement restrictions and the requirements of China UnionPay and its own banker. The relevant belief of those staff was that China UnionPay funds could not be used directly to acquire gaming chips.

150. Mr Bell SC found as follows on this topic:

- a. the process by which patrons could swipe China UnionPay debit cards at the Astral Hotel in order to fund gambling at the Star Casino Sydney was an 'inherently deceptive and unethical process which disguised as hotel expenses the use of [China UnionPay] Cards for gambling';<sup>43</sup>
- b. at all times during which the China UnionPay was employed, the management of The Star Pty Ltd and The Star Entertainment Group involved in the process

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<sup>41</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [14] and Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [10]. Ex 5: Transcript Bell Inquiry P-4195, lines 1 to 33.

<sup>42</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [15] and Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [11].

<sup>43</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 3, [6] to [7].

believed that UnionPay International Co. Ltd (**UnionPay**), the proponent of the China UnionPay card scheme, prohibited the use of those cards to fund gambling;<sup>44</sup> and

- c. it was unnecessary to decide whether the China UnionPay process was in breach of the UnionPay Scheme Rules, and whether the China UnionPay process triggered any contractual liabilities arising from a breach of the agreement the Star had with its Banker. At a minimum it is plain that there was a real risk that this was the case, and that this was well-known to key executives within the Star Entertainment Group Ltd at all relevant times.<sup>45</sup> Those key executives nevertheless ‘courted that risk’.<sup>46</sup>

151. Nothing in this Inquiry gives reason to call those findings into question, so far as they might apply to The Star’s Queensland operations. There are, however, some differences in the extent of the usage of China UnionPay cards in Queensland which are necessary to make clear.

152. In Queensland the number of affected transactions was considerably less than in New South Wales, as was the total value of them and the period of time during which the process was adopted. In the course of this Inquiry, The Star readily accepted that the same considerations attended the conduct of its treatment of China UnionPay cards in this State between 1 January 2017 and 9 March 2020.

153. In other words, in this context, the relevant conduct of The Star was, in essence, the same as had occurred in New South Wales as both found, and impugned, by the Bell Inquiry, albeit that it affected fewer transactions, with a smaller overall value, given the smaller volume of China UnionPay card-funded business in this State. I find accordingly.

*Treatment in The Star’s Internal Control Manual (ICM)*

154. Section B of the ICM deals with the type of funds which may be deposited into The Star Entertainment Group’s Front Money account. At the request of The Star Entertainment Group, on 11 June 2015 OLGR approved<sup>47</sup> an amendment to Section B of the ICM which

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<sup>44</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 3, [8].

<sup>45</sup> Bell Report, Volume 1, Chapter 12 ‘The use of CUP cards at The Star’, page 218, [60].

<sup>46</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 3, [8].

<sup>47</sup> The application for the approval pre-dated the Group name change to The Star.

permitted ‘Funds transferred from China Union Pay debit cards via the Hotel system’ to be accepted into Front Money accounts. The ICM (as changed) stated:<sup>48</sup>

**Front Money account Deposits**

The types of funds that may be accepted include: ·

Cash or cash equivalents

ECHO Entertainment Group gaming chips

Patron Cheques on an established CCF

Funds transferred from China Union Pay debit cards via the Hotel system

[underlining for emphasis added]

155. The ICM was again amended on 14 December 2016 to remove reference to China UnionPay, thereby permitting funds to be accepted from all debit cards.<sup>49</sup>
156. Mr Hogg, properly, conceded that it would have been ‘preferable’<sup>50</sup> for The Star to have told the regulator more about what was happening in seeking the approval to change the ICMs as The Star must ‘always ... be transparent with the regulator’<sup>51</sup>. The amendments above to the ICMs do not alter the contextual significance of The Star’s conduct with respect to China UnionPay cards. This is because relevance for present purposes is centered upon the honesty of The Star in its dealings with NAB. The ICM amendments are particular to Queensland, and for that reason were not the subject of evidence or findings in the Bell Inquiry.
157. The ICM changes to which reference was made in evidence occurred before there is any suggestion of letters from NAB having raised with The Star the problems it later expressed in correspondence as to the funds being ones which ought not be used for gambling. Nevertheless, certain individuals within The Star had an awareness before this time that the funds ought not be used for gambling (whether because NAB considered that to be so or otherwise), and hence the efforts to which The Star went to make the transactions appear as if they related to hotel expenditure rather than gambling. Furthermore, there was an apparent systemic failure within The Star as a consequence of which that awareness was not imparted to those involved directly in seeking OLGR approval to these changes.

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<sup>48</sup> Ex 3, Volume 5, Tab 5.10: OLGR.0001.0005.0079.

<sup>49</sup> STA.6003.0001.0083.

<sup>50</sup> Transcript P-263, lines 1 to 7.

<sup>51</sup> Transcript P-263, lines 6 to 7.

158. The Star was insufficiently transparent with the Regulator. It should have given fuller information to OLGR about the arrangements underpinning those changes and the reason for them, in the interests of greater candour. I find accordingly.

## **Junkets at The Star Queensland casinos**

### *Casino Junkets*

159. Part A of my Terms of Reference require that I examine the management of VIP patrons, high rollers and international patrons. Much of this occurred, until recent times, by way of so-called 'junket' operations of The Star's casinos in Queensland.
160. As noted, the Terms of Reference for Part A direct me to examine whether The Star casinos in Queensland operate in a way consistent with achieving the object of the *Casino Control Act*. The stated object of that Act is to ensure that, on balance, the State and the community as a whole benefit from casino gambling: s 3(1). Section 3(2) of the *Casino Control Act* provides that this balance is to be achieved by allowing casino gambling subject to a system of regulation and control designed to protect players and the community through, *inter alia*, ensuring the probity of those involved in the conduct of casino gambling and minimising the potential for harm from such gambling.
161. Junket arrangements are ones known to involve enhanced probity risks, especially of money laundering, arising from the greater difficulty of identifying all participants, their sources of funds and their allocations of winnings, in circumstances where, generally speaking, greater amounts of money are involved.
162. In broad terms, a junket is an arrangement between a casino and a junket tour organiser to facilitate a period of gambling by one, or a group, of high wealth players at the casino.<sup>52</sup> In return for bringing the players to the casino, the casino pays the junket tour organiser a commission which is usually based on the collective gambling activity of players on the junket.<sup>53</sup>

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<sup>52</sup> AUSTRAC (2000), 'Junket Tour Operations in Australia: Money Laundering and Terrorism Financing Risk Assessment', page 7.

<sup>53</sup> AUSTRAC (2000), 'Junket Tour Operations in Australia: Money Laundering and Terrorism Financing Risk Assessment', page 7.



163. This description is reflected in the definition of ‘junket agreement’ in s 85A of the *Casino Control Act* as meaning:

... an agreement entered into by a casino operator, with the approval of the Minister under section 84, with another person (the promoter) under which—

- (a) the promoter arranges for a group of persons to visit the casino to participate in gaming; and
- (b) the casino operator pays the promoter a commission based on—
  - (i) the amount the persons gamble at the casino; or
  - (ii) the revenue of the casino derived from the persons.

This section also defines the junket tour organiser to be the promoter, and the players to be the participants.

164. The term ‘junket agreement’ in Queensland, unlike in New South Wales, extends to include a ‘sole’ junket, that is to say, an agreement with just one participant only, who is also the promoter.<sup>54</sup> Further, the Queensland legislation categorises certain junket agreements involving a non-resident participant or participants as ‘special’, the additional characteristics of which are described below. Gaming by such participants under such special agreements is defined in the Act to be ‘premium junket gaming’.

165. In practice, junket promoters identify participants and make arrangements for them to travel to gamble in particular casinos, often by offering free travel and accommodation. In return, casino operators pay junket promoters commissions which are usually based upon the turnover generated by the participants during any particular junket program. It is the payment of commissions aspect that requires approval of a junket agreement by the Minister under s 84(2) of the *Casino Control Act*.

166. Mr Bell SC in his report gave consideration to junket operations at The Star Sydney and made findings. The principal finding of relevance for The Star’s Queensland operations is that certain junkets at The Star’s Sydney casino are likely to have been linked to organised crime.<sup>55</sup> Mr Bell SC went on to observe that commercial pressures mean that

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<sup>54</sup> Section 85A of the *Casino Control Act* defines this type of agreement to be a ‘sole participant agreement’.

<sup>55</sup> Bell Report, Volume 2, Chapter 14.7 ‘The End of Junkets – Conclusions and Recommendations’, page 146, [27].

casino operators will continue to contemplate engaging with junkets unless there is a comprehensive prohibition on them doing so in both substance and form.<sup>56</sup>

167. There are some differences in the prevalence, terminology and nature of junket operations in Queensland in general and Star Casinos in particular which call for consideration.

#### *Junkets in Queensland*

168. 'Junkets', a term derived from the notion of a pleasure trip, are a relevantly recent phenomenon. Their origins are often traced to the Las Vegas Flamingo Casino in 1961.<sup>57</sup>

169. Junket programs have been approved to operate in Queensland since October 1993, with little change to the regulatory framework since then. The majority of international junket players gambling in Australia come from Asia (primarily China, including Hong Kong).

170. Junket promoters in Queensland are regulated under the *Casino Control Act* and the *Casino Control Regulation 1999* by:

- a. Ministerial approval in writing of the form of the junket agreement;<sup>58</sup>
- b. assessment of the suitability for involvement in future junket agreements, of junket promoters and their representatives by OLGR<sup>59</sup> through suitability checks;
- c. submission of a signed copy of each agreement to OLGR before commencement of play;<sup>60</sup>
- d. a requirement that participants in 'special' junket agreements not be residents of Queensland and must, if on an individual program, agree to commit \$10,000 as front money, or, if part of a group, agree to commit in total at least \$250,000 as front money,<sup>61</sup> and

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<sup>56</sup> Bell Report, Volume 2, Chapter 14.7 'The End of Junkets – Conclusions and Recommendations', page 146, [27].

<sup>57</sup> Makens and Bowen, 'Junket Reps and Casino Marketing', *Cornell Hotel and Restaurant Administration Quarterly*, (October 1994) at pages 63-64.

<sup>58</sup> *Casino Control Act*, s 84.

<sup>59</sup> *Casino Control Regulation*, ss 37 and 38.

<sup>60</sup> *Casino Control Regulation*, s 33.

<sup>61</sup> *Casino Control Regulation*, s 30.

- e. a requirement that copies of passports of non-Australian players be provided to OLGR within eight hours of a participant's arrival at the casino.<sup>62</sup>

171. The terminology in Queensland is somewhat different from that in New South Wales. Mr Hogg distinguished group junket play and sole-participant junket play. The latter is known in New South Wales as rebate play.<sup>63</sup>

#### *Junkets at The Star*

172. In 2018, as The Star began an upgrade and expansion of its casino and hotel facilities at the Gold Coast, junket operations became increasingly popular there. Mr Hogg explained that the upgrades to The Star Gold Coast property and its location made it a more attractive venue for junket activities than Treasury Brisbane.<sup>64</sup> By contrast, the Inquiry heard, junket play at the casino in Brisbane was 'minimal'. The gross revenue attributable to domestic and international junket programs in Sydney was some \$1,567.8M in the 2019 Financial Year. That figure can be compared with the gross revenue attributable to domestic and international junket programs in Brisbane Treasury, at some \$348M in the same financial year.

173. The location and the nature of the casino and hotel facilities at The Star Gold Coast, is thought to be more attractive to junket player participants than its counterpart in Brisbane. Mr Hogg explained that The Star Gold Coast was considered by some to be an adjunct to a junket visit to Sydney. The attraction of The Star Gold Coast is reflected in the larger gross revenue attributable to domestic and international junket programs (some \$598.2M in the 2019 Financial Year).

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<sup>62</sup> *Casino Control Regulation*, s 34.

<sup>63</sup> Hogg Statutory Declaration, [239]: STA.0000.0008.0255 at 0301.

<sup>64</sup> Transcript P-247, lines 6 to 14.

174. The gross revenue attributable to domestic and international junket programs for The Star's Queensland casinos and its Sydney casino in the 2017 to 2020 Financial Years was:<sup>65</sup>

Property	FY2017 (\$M)		FY2018 (\$M)		FY2019 (\$M)		FY2020 (\$M)	
	Dom.	VIP [Int.]	Dom.	VIP [Int.]	Dom.	VIP [Int.]	Dom.	VIP [Int.]
<b>Sydney</b>	1,137.9	547.9	1,165.3	571.4	1,203.3	364.5	907.9	261.6
<b>Gold Coast</b>	331.3	66.3	376.9	132.8	384.4	213.8	304.2	23.6
<b>Treasury Brisbane</b>	323.4	25.4	325.8	7.3	340.3	7.7	251.6	0

175. The numbers of international programs operated by The Star at its Sydney and Queensland casinos were:

Property	FY2017	FY2018	FY2019	FY2020
<b>Treasury Brisbane &amp; Gold Coast</b>	87	98	181	121 (or 186 <sup>66</sup> )
<b>Sydney</b>	457	612	444	165 (July– Oct 2019 only)

### *Regulatory responses*

176. In July 2019, the *Sixty Minutes* current affairs program 'Crown Unmasked' raised concerns about money laundering, prostitution and sex trafficking relating to junket promoters and their local representatives at the Crown Casino, Melbourne. This prompted OLGR to investigate what steps, if any, were carried out by Queensland casino operators to assess the suitability of entities or individuals before entering into a junket agreement with them. As a consequence, OLGR resolved, among other things, to withdraw approval for five junket promoters who had been identified as being of concern.
177. On 23 March 2021, Ms Victoria Thomson, the Deputy Director-General and Commissioner for Liquor and Gaming, wrote to The Star's Chief Legal & Risk Officer

<sup>65</sup> 2017 Annual Report for The Star Entertainment Group Limited, page 84; 2018 Annual Report for The Star Entertainment Group Limited, page 89; 2019 Annual Report for The Star Entertainment Group Limited, page 86; 2020 Annual Report for The Star Entertainment Group Limited, page 83. Figures are non-normalised.

<sup>66</sup> On 27 September 2022 The Star advised that the number of international programs operated by it at its Queensland casinos in FY2020 was 121. Other documentary material made available to the Inquiry suggests that the number may have been 186. The Inquiry was not able to resolve this factual discrepancy. It is unnecessary to do so because the difference does not materially affect any finding or recommendation made in this Report.

and Company Secretary, Ms Paula Martin, seeking certain information under s 88 of the *Casino Control Act*.<sup>67</sup> This was for the purpose of allowing the Commissioner to assess the controls at The Star's Queensland casinos in light of shortcomings identified by the Hon Patricia Bergin SC in connection with activities of Crown in New South Wales.

178. The correspondence to which I have just referred, itself made reference to a quote attributed by media reports to The Star's then-CEO, Mr Matt Bekier, that '... the junket business is dead'. The Star was asked if that reflected The Star's strategic direction for involvement with junket promoters and, if so, what alternate strategy, if any, was being considered by The Star to attract premium junket-style gaming in the absence of junket promoters.
179. On 23 April 2021, The Star responded to the request pursuant to s 88 of the Act stating that The Star did not propose to host groups of people under junket arrangements, or otherwise continue its traditional junket business, unless specifically endorsed by OLGR and with the benefit of a reassessment of suitability through due diligence assessments undertaken by The Star.<sup>68</sup>
180. In letters dated 13 April and 25 May 2021, OLGR's General Manager of Licensing advised The Star that OLGR considered that the previous suitability determinations as junket promoters and representatives made under s 37 of the *Casino Control Regulation* 1999 (Qld) relating to five individuals had expired.<sup>69</sup>
181. In a letter to The Star dated 15 September 2021, OLGR advised that it considered that suitability determinations in Queensland for all junket promoters and representatives had expired. That letter stated:<sup>70</sup>

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<sup>67</sup> Letter from Victoria Thomson, Deputy Director-General and Commissioner for Liquor and Gaming, to Paula Martin, Chief Legal & Risk Officer and Company Secretary of The Star, dated 23 March 2021: OLGR.0004.0001.0001.

<sup>68</sup> Appendix 1 to Letter from Paula Martin, Chief Legal & Risk Officer of The Star, to Victoria Thomson, Deputy Director-General and Commissioner for Liquor and Gaming, dated 23 April 2021: OLGR.0004.0001.0004 at 0013.

<sup>69</sup> Letter from Craig Turner, OLGR General Manager Licensing, to Andrea Long, Group Regulatory Manager of The Star, dated 13 March 2021: OLGR.0004.0001.0003; letter from Craig Turner, OLGR General Manager Licensing, to Andrea Long, Group Regulatory Manager of The Star, dated 25 May 2021: OLGR.0004.0001.0015.

<sup>70</sup> Letter from Anthony Crack, Executive Director of OLGR, to Andrea Long, Group Regulatory Manager of The Star, dated 15 September 2021: STA.6005.0018.4195.

If, in the future, The Star wishes to enter into a junket arrangement with a promoter or representative I request that The Star provide OLGR a notice in accordance with section 37(1) of the Casino Control Regulation as well as the findings of its own customer due diligence as detailed in Ms Martin's letter of 23 April 2021.

and

As I am sure you are aware, the NSW Government has now accepted all recommendations of the Bergin Inquiry including a prohibition on dealing with junket operators in the absence of an appropriate licensing regime. OLGR will continue to monitor developments in the regulatory framework in NSW and will assess whether such amendments are appropriate for the Queensland casino environment.

182. On 9 May 2022, The Star announced to the ASX a suspension of all domestic and international 'rebate play programs' (that is to say, junket agreements) at all Star casinos and reconfirmed a commitment to not dealing with junkets while it addressed issues arising from the ongoing review of The Star Sydney by Mr Bell SC.<sup>71</sup> On the same day, The Star advised OLGR that there were eight active programs, each involving a single patron, at The Star Gold Coast (but none at Treasury) and that they would be settled within 14 days.<sup>72</sup> The Star also confirmed that individual junket players with planned travel to The Star's Queensland casinos had been contacted and advised that programs would no longer be available.
183. Mr Hogg's evidence to this Inquiry was that, consistently with the above, The Star has suspended all existing junket agreements and the entry into any future junket agreements (including sole participant junket agreements).<sup>73</sup> He stated that the risks associated with sole participant junkets may be more easily managed than those associated with group junkets due to the direct relationship with the participant customer.<sup>74</sup> The Star is giving consideration to its policies regarding sole participant junket agreements. Until that is completed, such activity will remain suspended and discontinuance of any suspension will be subject to OLGR being satisfied that the internal controls have been amended to include a section dedicated to due diligence.<sup>75</sup> Mr Hogg confirmed these matters in his oral evidence.<sup>76</sup>

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<sup>71</sup> The Star Entertainment Group Limited ASX Announcement dated 9 May 2022, 'Suspension of Rebate Programs and Interim Executive Appointments'.

<sup>72</sup> Email from Hannah Morelos, Queensland Regulatory Manager for The Star, to Patrick Jenson, Scott Catherall and Mike Makepeace dated 9 May 2022: OLGR.0004.0001.0018.

<sup>73</sup> Hogg Statutory Declaration, [249] to [250]: STA.0000.0008.0255 at 0302; Transcript P-247, line 47.

<sup>74</sup> Transcript P-248, lines 3 to 13.

<sup>75</sup> Hogg Statutory Declaration, [250]: STA.0000.0008.0255 at 0302.

<sup>76</sup> Transcript P-247, line 47.

*Looking forward*

184. Before it made the announcement on 9 May 2022 referred to above, The Star had advised that it did not propose to revert to its previous model of junket play (entering agreements with approved promoters and representatives) and was proposing to concentrate on direct engagement with individual premium players through special junket agreements. Premium junket revenue derived by the casino operator under such agreements attracts a reduced rate of taxation for the operator.<sup>77</sup>
185. While the legislative regime furnishes the Chief Executive with the authority to assess the suitability of a junket *promoter* or *representative*, it does not expressly extend the authority to the premium player under such a special junket agreement. Sections 20 and 30 of the *Casino Control Act* may, however, have some general application in this context, given the requirements concerning the suitability of the persons with whom the casino licensee might be associated. Arguably, this might include such players.
186. If this business model were to be adopted as initially proposed, it may be appropriate to clarify the legislation in order to oblige the casino operator to make sufficient suitability enquiries of such players prior to entering into agreements with them for premium junket gaming. This topic is considered further in this Report in the context of enhancements to the regulatory regime.
187. It seems possible that Queensland casino operators, in seeking to attract individuals to enter junket agreements, may adopt the model common in Nevada where separate agreements are entered into by them with third parties who are compensated for introducing the players.
188. Junkets do pose particular inherent risks of involving the casino in money laundering. The actions to be taken by The Star just described are positive developments. In particular, the prospect of The Star limiting any such activities in the future to sole junket participants does show some appreciation on its part of the relative risks. It also shows the desirability of The Star having more transparency over the persons with whom it is dealing and the destination of any winnings. There will be the temptation for such

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<sup>77</sup> *Casino Control Regulation*, s 19A.

positive developments to be reversed in the future in the pursuit of commercial objectives. Mr Bell SC appears to have formed a similar view.<sup>78</sup>

### **Exclusion of persons the subject of directions from interstate Police Commissioners**

189. The Star has statutory authorisation and common law rights to exclude people from areas operating as a casino, and its property as a whole. In some cases, the Police Commissioner may direct the casino operator to exclude a certain person.
190. There are strong public policy considerations favouring an exclusions regime. One such consideration concerns avoidance of criminal infiltration of the casino and on-site criminal activity, such as participation in money-laundering. Another consideration concerns the potential harm that gambling has for certain individuals.
191. As I have set out earlier in this Report, the regulatory regime recognises the importance of ensuring the casino remains free from criminal influence and infiltration. The task of doing so requires vigilance on the part of not only the casino operator, but also the Regulator. Such a need was recognised in the Second Reading Speech for the Bill that became the *Casino Control Act*.<sup>79</sup>
192. The *Casino Control Act* 1992 (NSW) (following recent augmentations to it) directly expresses such overarching objectives. Section 4A(1) 'Primary Objects of Act' states:
- (1) Among the primary objects of this Act are--
    - (a) ensuring that the management and operation of a casino remain free from criminal influence or exploitation, and
    - (a1) ensuring that each casino operator prevents money laundering and terrorism financing activities within the operations of the casino, and
    - (b) ensuring that gaming in a casino is conducted honestly, and
    - (b1) minimising harm to individuals and families from activities associated with gambling in casinos, and
    - (c) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.
  - (2) All persons having functions under this Act are required to have due regard to the objects referred to in subsection (1) when exercising those functions.

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<sup>78</sup> Bell Report, Volume 2, Chapter 14.7 'The End of Junkets – Conclusions and recommendations', page 146, [27].

<sup>79</sup> See paragraph [43] above.



Later in this Report I recommend that a provision to this effect be included in the *Casino Control Act* for this State.

193. The Queensland *Casino Control Act* provides for a range of exclusions to cater for different circumstances, all with the broad objective of furthering the public policy considerations to which I have referred. I mention first so-called ‘problem gambling’ and self-generated exclusions.
194. Section 93A in Part 10 Division 1 Subdivision 2 of the *Casino Control Act* empowers the casino operator to exclude a person believed on reasonable grounds to be likely to be experiencing problem gambling. That provision recognises gambling harm as a basis to preclude entry. It is cast in terminology that is now somewhat outmoded. As I explain later in this Report, this is a respect in which the statutory language ought to be modernised, with the recognition that gambling itself can be harmful, and to remove the implication that the suffering of that harm is a problem of which the harmed individual ought to feel solely responsible. The proposed change acknowledges the responsibility for such harm as being a shared one: the provider of gambling cannot be left out of account.
195. As well, under Part 10 Division 1 Subdivision 1 of the *Casino Control Act*, a person can give a self-exclusion notice to the casino operator. When an individual does so, the operator must make a self-exclusion order, prohibiting the person from entering or remaining in, the casino.<sup>80</sup>
196. I now turn to exclusions instigated for conduct which might be very broadly described as being apt to disrupt probity in the operation of a casino. Section 92(2) in Part 10, Division 1, Subdivision 2 of the *Casino Control Act* empowers the casino operator or manager to give a written direction to a person prohibiting them from entering or remaining in the casino if the operator or manager ‘believes on reasonable grounds’ that any one of a range of specified grounds listed in s 92(3) exists.<sup>81</sup> Such a direction may relate to a stated casino, or to all casinos operated by the operator.

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<sup>80</sup> *Casino Control Act*, ss 91N and 91O.

<sup>81</sup> These grounds are set out in paragraph [75] above.

197. Further, s 94(1) in the same subdivision confers a discretion on the Police Commissioner to exclude a specified person from a casino. The discretion to do so is not circumscribed by express pre-conditions or limitations.

198. Apart from these statutory modes of exclusion, the casino operator retains a right to exclude at common law. This right is expressly acknowledged in s 92(1) of the *Casino Control Act*. It is based on the premise that an individual's licence to enter the casino as an invitee can be withdrawn whereupon the individual becomes a trespasser on private property (not just the casino area) of the casino operator. This regime affords a flexible means for the lawful exclusion of persons on broad discretionary grounds.<sup>82</sup>

199. One focus of this Inquiry's work was, according to the Terms of Reference:

Management of exclusions, in particular those patrons excluded from The Star Sydney at the direction of the NSW Police Commissioner, and whether patrons excluded by the NSW Police were actively encouraged or incentivised to attend Star Group's Queensland casinos.

200. The Inquiry explored these matters. In doing so, reference was made to The Star's policies and procedures about the treatment of persons excluded from The Star Sydney upon the direction of the New South Wales Police Commissioner. The management by The Star of such persons at its Queensland casinos was found to be deficient in three principal respects, namely:

- a. persons excluded by the New South Wales Police Commissioner ought to have been, but were not, excluded by The Star from its Queensland casinos as a matter of course unless there was a demonstrably good reason for not doing so;
- b. when, in 2019, The Star ultimately adopted a policy of 'whole of Group' exclusions whereby a person excluded from The Star Sydney would be excluded from its Queensland casinos, that policy was not given a retrospective operation, with the consequence that persons already excluded from the Sydney casino were not excluded from the casinos here; and
- c. The Star should have applied the new policy retrospectively forthwith upon its adoption but did not do so. It did not begin retrospective application until

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<sup>82</sup> See, for example *Hinkley v Star City Pty Ltd* (2011) 284 ALR 154 [26] (Giles JA); [35] (Young JA); [180] (Tobias JA). (Natural Justice need not be afforded).

September 2021, and it took eight months to do what should have been done years before.

201. The reasons for these findings are set out in the following paragraphs.

*Policy Documents*

202. The Star's policies and like documents comprise its:

- a. Exclusions Policy;
- b. Group Exclusions Issuer Standard; and
- c. Guidance Exclusions Policy.

203. Until early 2019, The Star's policies about exclusions made no provision for automatic exclusion interstate of police commissioner-excluded persons Clause 2.1 of the Exclusions Policy stated:

**2.1 Police exclusions**

Upon issuance of an exclusion by the Commissioner of Police in either NSW or Queensland, investigation will assess readily available public information relating to the excluded patron to determine if there are grounds to issue an exclusion order against the excluded patron in the other state.

204. Clause 3 thereof related to 'multi-jurisdictional exclusions'. It stated:

The issue and revocation of exclusion orders intended to operate in more than one jurisdiction at any point in time will be governed by the Executive General Manager Governance, Risk & Compliance and Group General Counsel.

In the event that consensus cannot be reached the Group's Chief Executive Officer will make final determination.

205. It is evident that the assessment process foreshadowed by clause 2.1 did not occur in Queensland.

206. From 2019, the Exclusions Policy has provided in lieu of clause 2.1 as follows:<sup>83</sup>

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<sup>83</sup> STA.3415.0037.6942 at 6946.

## 6.1 Police exclusions

A direction from a Commissioner to issue a police exclusion in relation to a person is usually given because of concerns held by law enforcement agencies that the person has engaged in criminal activities and/or is affiliated with an outlawed motor cycle gang.

A police exclusion (NSW s81 or 81A; QLD s94) in a State will be mirrored with a WOL or venue exclusion in the other State. Exceptions to this will be at the discretion of the Chief Risk Officer.

[A “WOL” is a withdrawal of an individual’s common law licence.]

207. The substitution of clause 2.1 by clause 6.1 was, in my view, an appropriate step for The Star to have taken. The former was demonstrably deficient. I say that for these reasons.
208. First, s 81 of the *Casino Control Act* (NSW) is a more detailed provision than s 94 of the *Casino Control Act*. However, the discretion given to the Police Commissioner in that state has a broad ambit for issuing an exclusion direction similar to that of the comparable discretion given to the Police Commissioner here.
209. There is no reason to think that the basis upon which the New South Wales Police Commissioner might consider such a direction to be justified would be viewed in a materially different way by the Queensland Police Commissioner. Moreover, it borders on the fanciful to suggest, as the former clause 2.1 implied was the case, that the ‘readily available public information’ to which it referred would be as informative as the full range of information available to the Police Commissioner who directed the exclusion in the other state. A Police Commissioner can reasonably be thought to have access to a range of information that is not publicly available (as well as that which is). This might include ‘intel’ collected as part of police investigations.
210. Secondly, the language of clause 2.1 was apt to displace the issuance of the exclusion notice by the Commissioner of Police itself as a relevant consideration in the assessment for which it called.
211. Thirdly, the purpose of that assessment was to determine whether grounds existed for the casino operator to issue a statutory exclusion order. The availability to it of a withdrawal of licence was completely overlooked.
212. Mr Hogg’s testimony was that he asked internally, and was advised by the company’s General Counsel that a WOL could not be issued on the basis of an interstate direction

of a police commissioner alone.<sup>84</sup> He said (and it was not contradicted) that he asked for, and acted on the basis of internal legal advice to this effect: that a WOL would need to be ‘properly justified’ with evidence to show the statutory basis.<sup>85</sup> That advice was wrong. A WOL is not something which the *Casino Control Act* purports to curtail. I reject The Star’s submission that there is no basis here to find that the individuals within The Star organisation who were dealing with a New South Wales Police Commissioner direction, did not understand what it reflected.<sup>86</sup> The direction spoke for itself. The fact that the most senior police officer had formed the view under statute that particular persons ought not be permitted entry to the casino there had cogency. Certainly, there was no basis (and The Star offered none) for thinking that the circumstances that led to the exclusion of such persons in another state would have any less importance in a Queensland context.

213. In any event, The Star had a great deal of information available to it about certain individuals which justified, demanded even, the exclusion of those persons. For example, the chronology to which Mr Steiner and Mr Hogg were taken in their testimony showed, and I took them to accept, that there was a comfortably sufficient basis to exclude Persons 1 and 2 (two of the five case studies used as examples and explained in more detail later in this Report), whether by way of WOL or otherwise, well before The Star ultimately did so.

214. I also reject The Star’s submission that failings of ‘others’ in this regard should be factored into a weighing exercise of some kind.<sup>87</sup> The submission postulates that the exclusion of individuals, such as Persons 1 and 2, may not have been communicated to counterpart Police Commissioners interstate or, if communicated, were not acted upon by such Police Commissioners. The postulation has no evidentiary support. In any event, the seriousness of The Star’s failings in this context is not open to moderation by any failings of others.

215. Clause 2.1 as drafted also implied that The Star’s operations in Queensland would know whenever the operator of the Sydney casino was served with an exclusion direction

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<sup>84</sup> Transcript P-267; Hogg Statutory Declaration, [32]: STA.0000.0008.0255 at 0261.

<sup>85</sup> Transcript P-267; Hogg Statutory Declaration, [32]: STA.0000.0008.0255 at 0261.

<sup>86</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [26].

<sup>87</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [29].

issued by the New South Wales Police Commissioner. Notwithstanding this, assessments required by that clause were not carried out here as exclusion directions were issued there. As noted, they were not carried out at all.

216. In summary, there was a deficient application of a deficient provision during the currency of clause 2.1. No convincing justification was offered to the Inquiry by The Star for these deficiencies. I find accordingly.
217. These deficiencies reflected a serious failure properly to understand and apply the effect of a decision by the senior law enforcement official in another state, of which it knew, and which, in the absence of some compelling information otherwise, ought to have been ‘mirrored’ (to use the word of The Star’s 2019 Policy) in Queensland by the casino operators here withdrawing that person’s licence.
218. The failure, however, did not stop with the adoption of clause 6.1 in 2019.
219. The Star evidently treated that clause as not applying to commissioner of police directions issued before the change. There was no good reason to approach it in that manner. The same considerations that attend a need to mirror such exclusion in Queensland when made in the future apply in the case of those individuals already the subject of exclusion directions at this time when the change to the policy was made. Indeed, not to mirror in Queensland exclusion directions then in force in New South Wales was to expose the Queensland casinos to the risk of criminal infiltration or influence.
220. The Star points out that, in terms of actual risk, of the 768 persons the subject of a police exclusion direction in New South Wales its records indicated that 36 of those attended one or both of the Queensland casinos in the past nine years, including 15 in the past five years.<sup>88</sup> Of these 36 persons, 8 were excluded prior to or around the date of their New South Wales exclusions.<sup>89</sup> Thus, the non-application of clause 6.1 retrospectively benefited a relatively small subset of a much larger number of persons.

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<sup>88</sup> Ex 3, Volume 6, Tab 6.1(e), page 4: REV.0007.0002.0001 at 0004.

<sup>89</sup> Ex 3, Volume 6, Tab 6.1(e), page 4: REV.0007.0002.0001 at 0004.

221. On 24 December 2021, OLGR requisitioned The Star about clause 6.1 of its Exclusion Policy, in these terms:<sup>90</sup>

- 15 TSEG's current exclusion policy was introduced in 2019, however people who were subject to a police exclusion before this time were not automatically issued an exclusion (or WoL) retrospectively in regard to TSEG's other properties. In this regard:
- a) Provide information about this decision, including who made the decision and why the decision was made.
  - b) Provide all records (correspondence, meeting minutes, Board discussions, emails, reports or similar) relating to the decision.
- 16 Section 6.1 of TSEG's exclusion policy provides a police exclusion in a State will be mirrored with a WoL or venue exclusion in the other State, however exceptions to this will be approved at the discretion of the Chief Legal and Risk Officer. In this regard:
- a) What does the Chief Legal and Risk Officer consider when approving exceptions to this section of the exclusion policy?
  - b) Provide any records (guidelines, policies, matrixes or similar) used by the Chief Legal and Risk Officer when making decisions to approve exceptions.
  - c) How many times since the introduction of the exclusion policy has this exception been approved by the Chief Legal and Risk Officer?
  - d) Provide details and information about all the occurrences where the Chief Legal and Risk Officer has approved an exception, including the identity of the excluded person, the circumstances surrounding the exception and the reason for the exception being approved.

222. The Star responded to question 15(a) as follows:<sup>91</sup>

- a) The decision to not retrospectively exclude these persons was made by the Chief Risk Officer, who at the time was Mr Paul McWilliams. It was decided that, to take a consistent position on all exclusion categories, the existing exclusions would be grandfathered (i.e. single State status maintained) because:
  - There was uncertainty about the Star's ability to properly comply with statutory requirements associated with the issuance of exclusions – for example ensuring that decisions to issue exclusions were made on reasonable grounds and with appropriate supporting information.
  - When considered in totality (not just Police Exclusions) there were a large number of individuals who were excluded over a long period of time in one State but not the other (in excess of 10,000) and was not practicable.

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<sup>90</sup> Ex 3, Volume 3, Tab 3.1(c), Items 15 and 16: REV.0005.0003.0011.

<sup>91</sup> Ex 3, Volume 3, Tab 3.1(d), Item 15: REV.0005.0003.0012.

- There was concern about the impact of making contact with excluded persons particularly in respect of problem gambling related exclusions as it may have prompted a visit to The Star properties.

223. This response is no answer to the failure I have identified. The direction by the New South Wales Police Commissioner was sufficient in itself to exclude a person. No independent assessment by The Star was required in those cases; the number of exclusions involved was nowhere near 10,000 (it was no more, on any view, than 768); and the proclivities of those considered problem gamblers were irrelevant.

224. Further, in response to question 16 of the requisition dated 24 December 2021, The Star advised.<sup>92</sup>

In response to Q.16a-d, The Star advises that from August 2019, there have been no exceptions made to the Exclusions Policy in regard to the mirroring of police exclusions across States. The Chief Legal & Risk Officer has not been asked to, and therefore has not exercised discretion in relation to approving an exception to the policy. There are no specific discretionary decision-making structures established.

225. OLGR pursued the issue by a further requisition dated 4 March 2022 as follows:<sup>93</sup>

I refer to item 15 in the Star's response to the 24 December 2021 notice, including advice that the sheer number of exclusions, legalities around issuing exclusions under the Casino Control Act and concerns related to potential gambling harm impact from contacting problem gambling related excluded persons were all contributing factors in not applying the new policy retrospectively.

In determining whether to retrospectively apply the policy to one or multiple types of exclusion, were the varying nature of risks associated with, not retrospectively applying the exclusions considered, including but not limited to the risk associated with people excluded at Star Sydney, as a result of Police Commissioner direction being freely able to attend Queensland casinos?

Was consideration given to just issuing WOLs for people who, at the time of implementing the policy, were excluded from Star Sydney as a result of a direction from the New South Wales Police Commissioner? If this was considered, advise why this practice was not adopted.

Has any further consideration subsequently been given, or currently being given, to retrospective application of the policy to exclude (via WOL or CCA) all or certain classes of excluded people from Queensland properties, where an exclusion remains in place at Star Sydney that was issued prior to the 2019 policy commencing? If so, please provide full details including any documents relating to management or board consideration of the matter.

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<sup>92</sup> Ex 3, Volume 3, Tab 3.1(d), Item 15: REV.0005.0003.0012.

<sup>93</sup> Ex 3, Volume 3, Tab 3.1(e), Item 1: REV.0005.0003.0015.



226. The Star responded on 16 March 2022, again offering some explanations, for example:<sup>94</sup>

... one of the legal issues was the inability of The Star to meet certain information requirements in Queensland, specifically in respect of recent photos and Identity Documents.

The Star considered a range of relevant matters when determining the approach, including in context the Queensland Police Commissioner’s corollary powers in respect of NSW Police Commissioner exclusion orders.

Consideration to the type of exclusion issued was given by The Star; however, the key issues identified in our previous response apply equally to WOLs as well as exclusions.

It should be noted that a significant number of NSW Police Commissioner excluded people are excluded in Queensland.

227. These explanations did not, in my view, justify its acting as it did.

228. Notwithstanding these explanations, the response also stated:<sup>95</sup>

The Star has commenced a project to issue WOLs to all NSW Police Commissioner excluded persons. This project will align the status of these people between the two jurisdictions.

229. The current status of the ‘project’ is that all persons the subject of a historical New South Wales police exclusion have now been excluded in Queensland, but that was only completed in May of this year.<sup>96</sup>

230. Yet further factors aggravated the shortcomings of The Star’s handling of persons the subject of an exclusion direction issued by the New South Wales Police Commissioner. Some such persons were given incentives by The Star to travel interstate to gamble at its casinos in Queensland. As to this, OLGR made the following enquiries to which The Star responded as follows:<sup>97</sup>

3	Did any entity of TSEG engage in any activity to encourage patrons excluded in Star Sydney, as a result of NSW Police Commissioner direction, to attend The Star’s Queensland casinos? If so, provide details	Patrons who were excluded as a result of a NSW Police Commissioner direction but remained an active patron in The Star’s Queensland Casinos would have been eligible for marketing or promotional offers consistent with their level of membership.
4	Were patrons excluded in Star Sydney, as a result of NSW Police	There is the potential that Casino Dollars accumulated at The Star

<sup>94</sup> Ex 3, Volume 3, Tab 3.1(f), Item 1: REV.0005.0003.0017.

<sup>95</sup> Ex 3, Volume 3, Tab 3.1(f), Item 1: REV.0005.0003.0017.

<sup>96</sup> Ex 3, Volume 6, Tab 6.1(e), page 4: REV.0007.0002.0001 at 0004.

<sup>97</sup> Ex 3, Volume 3, Tab 3.1(f), Items 3 to 5: REV.0005.0003.0017 at 0019 – 0021.

	<p>Commissioner direction, permitted to use casino dollars accumulated through play at Star Sydney, or otherwise granted to them to encourage custom at Star Sydney, at The Star's Queensland properties after they were excluded from Star Sydney?</p>	<p>Sydney were able to be used at The Star's Queensland properties after the time that they were excluded from The Star Sydney in the period identified below.</p> <p>Until August 2016, Casino Dollars balances were held separately across The Star's three properties. Accordingly, the issuance of an exclusion in Sydney and the associated closure of that patron's loyalty membership account at that property would result in any Casino Dollars associated with that account being forfeited.</p> <p>Following replication (the consolidation of the patron's loyalty account across the three properties) in August 2016, patrons now hold one Casino Dollars balance across all three properties. Accordingly, at this time, if a patron was excluded at one property, but not the others, any existing Casino Dollars balance would remain available to that patron.</p> <p>This however changed again from 2019 following the update of The Star Entertainment Group Exclusions Policy under which patrons who became excluded in one State, are issued with an exclusion in the other State and all benefits are forfeited.</p>
<p>5</p>	<p>After the date they were excluded from Star Sydney following a direction from the NSW Police Commissioner were any of this class of excluded person:</p> <p>a) provided any casino dollars, other than casino dollars earned at the standard rate from gaming play? If so, please provide full details including the name of player, amount and date of each grant of casino dollars and the reason for grant of casino dollars.</p> <p>b) provided any other monetary or non-monetary incentive to gamble in The Star's Queensland properties – other than casino dollars accrued at the standard</p>	<p>The Star have identified a total of 36 unique members who were issued with a NSW Police Commissioner exclusion and received casino Dollars, monetary or non-monetary incentives from The Star after their exclusion date.</p> <p>Please find the following records and explanatory documents attached:</p> <p>[reference was then made to the relevant records and explanatory documents attached to the Star response]</p> <p>...</p> <p>Please note that further to the attached records, credit cards issued to</p>

	<p>rate from casino play? If so, please provide full details including name of player, amount, nature and date of each incentive provided and the reason for the incentive being provided. Where the incentive was limited to commission related to an approved junket program, you need only provide a list of the relevant patrons and the dates they gambled in The Star's Queensland properties under the programs (subsequent to being excluded in NSW). Also advise if any of these persons operated as junket promoters or representatives.</p>	<p>Managers from The Star may have been used to purchase non-monetary incentives for patrons. The Star is unable to provide records for these charges as they are not clearly identified against the patron's name on the credit card statements.</p> <p>The Star identified one individual who was excluded as a result of a NSW Police Commissioner Direction and was an approved junket promoter in Queensland. This individual was issued with an exclusion in Queensland at the same time as NSW.</p>
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231. The Inquiry learnt that, in addition, The Star had actively encouraged two individuals to travel to Queensland and had given them substantial assistance to do so. They are identified as Persons 1 and 2, for reasons which become apparent. Those cases receive detailed consideration elsewhere in this Report. They were offered by Counsel Assisting as examples to elucidate another of the specific directions of the Terms of Reference, namely The Star's commitment to its AML responsibilities. That commitment, it will be seen, was seriously deficient. It is one thing for The Star not to have acted, before 2019, to exclude in Queensland those the subject of a police commissioner direction elsewhere, another not to do so retrospectively, and yet another to continue to offer incentives to gamble in Queensland to such persons. To have actively induced to come to Queensland individuals excluded by a Police Commissioner direction in another state shows a lively disregard for the law and for the underlying rationale for such exclusions, namely, to protect the casino from criminal infiltration and influence.

## **Adequacy of The Star's Anti-Money Laundering Program**

### *Introduction*

232. The Terms of Reference direct me to examine The Star's 'commitment to anti-money laundering / counter-terrorism financing (AML/CTF) responsibilities'. This includes:

detecting and preventing money-laundering risks, implementation of know your customer systems, and enhanced and ongoing customer due diligence obligations, particularly as they relate to high risk and high value customers.

233. As with the other Terms of Reference in Part A, a purpose of this Inquiry is to examine whether The Star's Queensland casinos operate in a way that is consistent with the means of achieving the *Casino Control Act's* stated object of ensuring, on balance, that the State and the community as a whole benefit from casino gambling. The means for which the Act provides is a system of regulation and control designed to protect players and the community with objectives that include 'ensuring the probity of those involved in the conduct of casino gambling' and 'minimising the potential for harm from casino gambling': s 3(2)(b) and (c).
234. In the language of the *Casino Control Act*, a control system is defined to be a system of internal controls for the operation of a casino. Section 73(1) of the *Casino Control Act*, in effect, requires a casino operator to have an approved control system for the casino. By s 74, a submission for approval of a proposed control system must include information about 'things to be used in connection with the operation of the casino', including accounting systems and procedures and administrative systems and procedures. Such a submission is made to the Chief Executive who must deal with it in accordance with s 75A of the *Casino Control Act*. That system is one which must be approved by the Chief Executive.<sup>98</sup>
235. The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML Act)* seeks to provide for measures to detect, deter and disrupt money laundering, the financing of terrorism and other serious financial crimes: s 3(1)(aa). Certain obligations in that Act are directed to 'reporting entities' of 'designated services'. The Star entities satisfy both requirements. Gambling services of certain kinds are 'designated' by s 6 of the AML Act.<sup>99</sup> A reporting entity is a person who provides such a designated service.<sup>100</sup>
236. Part 7 of the AML Act obliges a reporting entity to adopt and maintain an AML/CTF program relating to the provision of designated services. The Star, at a Group level, has a 'joint program' for its 'designated business group'. These concepts are ones recognised by the AML Act.<sup>101</sup> So structured, The Star's AML/CTF program was and is a Group-

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<sup>98</sup> *Casino Control Act*, s 74(1).

<sup>99</sup> AML Act, s 6(4), table 3.

<sup>100</sup> AML Act, s 5, Definition of 'reporting entity'.

<sup>101</sup> Two or more reporting entities can agree to form a group (the designated business group) to share the administration of some or all of their AML/CTF obligations. Any member of the group can fulfil some of the obligations for the other members, but each reporting entity remains ultimately responsible for meeting its own AML/CTF obligations: AML Act, s 5 definition of 'designated business group'.

wide one, with the Australian-based reporting entities being The Star Entertainment Queensland Ltd and The Star Pty Ltd. It follows that the evidence before the Bell Inquiry about the adequacy of The Star's AML/CTF program is applicable to The Star's Queensland casinos, and Mr Bell SC's findings could be considered here.

237. Mr Bell SC found as follows in that regard:

- a. During the 'earlier part' of the period between 29 November 2016 and 13 September 2021, The Star Entertainment's approach to AML/CTF was 'immature and had obvious gaps, particularly in relation to transaction monitoring and risk identification associated with junkets';<sup>102</sup>
- b. The Star Entertainment Group has taken 'many steps' to revise its AML/CTF Program, and associated AML/CTF processes since KPMG identified 'serious deficiencies' in May 2018 and that such steps 'are commendable';<sup>103</sup>
- c. there has been a significant uplift in AML/CTF processes at The Star however the absence of a culture of compliance has been 'notable';<sup>104</sup>
- d. AML/CTF processes and information management systems such as The Star's 'TrackVia' system (brought online in April 2021) are positive developments, but to be effective, they must be accompanied by the correct cultural settings to inform decision-making and reporting;<sup>105</sup> and
- e. the range of controls, procedures and policies that had been implemented by The Star to manage the risk and threat of illegal and undesirable activities are insufficient of themselves if there is a culture of not applying them and permitting high value patrons to gamble without due regard to the risks that they pose.<sup>106</sup>

238. The Star's AML/CTF Program was in substance the same as that which was the subject of the Bell Inquiry. That Program governed the relevant procedures in both New South

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<sup>102</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 20, [102].

<sup>103</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 20, [102].

<sup>104</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 22, [112].

<sup>105</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 21, [109] to page 22, [112].

<sup>106</sup> Bell Report, Volume 1, Chapter 1 'Executive Summary', page 22, [115].

Wales and Queensland. There is no material basis for distinguishing its application in Queensland from that in New South Wales nor for regarding what Mr Bell SC has found in relation to it as either inapplicable, or less applicable, to the Program's application in Queensland. Nothing in this Inquiry gives reason to call into question Mr Bell SC's findings as to its serious inadequacy and his conclusion that the serious shortcomings exposed The Star to risk of criminal influence and infiltration. The Star accepted in the course of this Inquiry that the inquiry by Mr Bell SC into the nature, function and adequacy of the program is also relevant to the Queensland operations of The Star.<sup>107</sup>

239. I set out below some aspects of the AML/CTF program of particular relevance to Queensland circumstances, and, more generally, the conclusions I formed about The Star's AML/CTF Program, and the bases for them.

*Statutory AML/CTF obligations*

240. Standard AML/CTF programs are divided into two parts: AML Act, s 85(1)(b). Part A primarily concerns identifying, managing and mitigating money laundering or terrorism financing risks which a reporting entity may reasonably face when providing designated services. Part B primarily concerns the information that needs to be collected from customers, verifying their identity, the information otherwise required to be collected, procedures about how the casino responds to discrepancies in information collected and how and when further Know Your Customer (**KYC**) information should be collected. Such information may relate to the identification of an individual and it may also require (more relevantly for present purposes) inquiries to be made about an individual's source of funds and/or wealth.

241. The Star's obligations for present purposes arise under s 36 of the AML Act. That section requires a reporting entity to monitor its customers in relation to the provision of designated services. This is with a specific view to identifying, mitigating, and managing the risk that may reasonably be faced by the entity, namely, that the provision by it of a designated service might (whether inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism.<sup>108</sup> This is to be done as part of 'ongoing

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<sup>107</sup> Ex 3, Volume 6, Tab 6.1(e), section 5.2: REV.0007.0002.0001 at 0016.

<sup>108</sup> AML Act, s 36(1).

customer due diligence’ (**OCDD**) and in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007* (No. 1) (Cth) (**AML Rules**).

242. Section 41 of the AML Act was not the focus of this Inquiry, but it gives important context. That provision imposes obligations on The Star to make suspicious matter reports (**SMRs**) to the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) if the entity suspects on reasonable grounds that information it has concerning the provision or prospective provision of the service may be relevant to the investigation or prosecution of a person for an offence covered by that provision.<sup>109</sup> Section 41 also relevantly applies where a suspicion is formed on reasonable grounds that the provision or prospective provision of a service is preparatory to the commission of an offence of money laundering.<sup>110</sup> That category of offence takes its meaning from s 400 of the *Criminal Code Act 1995* (Cth), which makes it an offence to deal with money or property that is the proceeds of crime, or intended to become an instrument of crime.
243. Section 41 also creates an obligation to make SMRs to AUSTRAC where a reporting entity suspects on reasonable grounds that a person is not who they claim to be<sup>111</sup> or the reporting entity suspects on reasonable grounds that information that the reporting entity has concerning the provision of the service (or prospective provision of the service) may be relevant to the investigation or prosecution of any one of the following: terrorism financing;<sup>112</sup> money laundering;<sup>113</sup> an offence against a Commonwealth, State or Territory law;<sup>114</sup> proceeds of crime; or tax evasion.<sup>115</sup>
244. Some particular aspects of the AML Rules require consideration when examining the adequacy of The Star’s AML/CTF Program.
245. Chapter 8 of the Rules requires a reporting entity to consider the risks posed by the customer types (including politically exposed persons, who are identified as ‘**PEPs**’ in The Star’s AML/CTF Program), the types of services offered by it, the methods by which

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<sup>109</sup> AML Act, s 41(1).

<sup>110</sup> AML Act, s 41(1)(i).

<sup>111</sup> AML Act, s 41(1)(d).

<sup>112</sup> AML Act, s 41(1)(h).

<sup>113</sup> AML Act, s 41(1)(j).

<sup>114</sup> AML Act, s 41(1)(f)(iii).

<sup>115</sup> AML Act, ss 41(1)(f)(ii) and (iv).

they are offered, and the jurisdictions within which it deals.<sup>116</sup> The Chapter imposes an obligation to put in place appropriate risk-based controls having regard to the nature, size, and complexity of the entity's business and the relevant types of risks it might reasonably face.<sup>117</sup> Part A of the AML/CTF program must be designed to enable the reporting entity to, among other things, understand the nature and purpose of the business relationship with its customer types, including the collecting of information relevant to that understanding.<sup>118</sup> The Chapter also compels AML/CTF risk awareness training,<sup>119</sup> an employee due diligence program,<sup>120</sup> the approval of the Part A program by the entity's governing board and senior management,<sup>121</sup> and a person to be designated the AML/CTF Compliance Officer.<sup>122</sup> Mr Howard Steiner has occupied that position since 3 June 2022.<sup>123</sup>

246. Chapter 9 of the Rules concerns *joint* AML/CTF programs. A joint program is referable to the circumstance where various reporting entities form a designated business group (or **DBG**). The Star's AML/CTF Program is of this kind. In short, a joint program is one whereby two or more reporting entities which form a DBG, share administration of some or all of their AML/CTF obligations. Any member of the group can fulfil some of the obligations for the other members, but each reporting entity remains ultimately responsible for meeting its own AML/CTF obligations.
247. Chapter 10 of the AML Rules applies to designated services provided by a casino, other than online gambling services. It modifies some aspects of the operations of Chapter 6 of the AML Rules with respect to verification of identity. Those modifications are intended to tailor the verification requirements so they are more specific and appropriate to practices in the gambling industry, which differ from those in the financial sector.
248. Chapter 15 was of importance to the work of this Inquiry. It requires that Part A of an AML/CTF program include appropriate risk-based systems and controls to enable the entity to determine in what circumstances further KYC Information should be collected

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<sup>116</sup> AML Rules, r 8.1.4.

<sup>117</sup> AML Rules, r 8.1.3.

<sup>118</sup> AML Rules, r 8.1.5(1).

<sup>119</sup> AML Rules, r 8.2.1.

<sup>120</sup> AML Rules, r 8.3.1.

<sup>121</sup> AML Rules, r 8.4.1.

<sup>122</sup> AML Rules, r 8.5.1.

<sup>123</sup> Steiner Statutory Declaration, [4]: STA.0000.0008.0305.



or verified as part of OCDD. Within that Chapter is a section concerning enhanced customer due diligence (**ECDD**). Such a program must be included in Part A of an AML/CTF program: r 15.8. The ECDD program must be applied when one of four factors are present (r 15.9):

- a. the entity determines that the (A)ML/(C)TF risk is high;
- b. the customer is a PEP;
- c. a suspicion has arisen for the purpose of s 41 of the AML Act (giving rise to an obligation to make an SMR to AUSTRAC); and
- d. the transaction is with a party physically present in, or is a corporation incorporated in, a prescribed foreign country.

249. An ECDD program must include appropriate risk-based systems and controls such that there are measures to be taken appropriate to the circumstances. They include, relevantly, taking reasonable measures to identify the source of the customer's wealth and funds: r 15.10(1)(c) and (2). The measures may also include undertaking a more detailed analysis and monitoring of a customer's transactions both past and future, including the purpose, reasons for and nature of specific transactions: r 15.10(5).

250. The Star's 'core anti-money laundering system' is operated through a program called TrackVia.<sup>124</sup> It replaced The Star's previous AML/CTF system, Protecht.<sup>125</sup>

*Examination of the adequacy of the AML/CTF Program in this Inquiry*

251. This Inquiry's examination of The Star's commitment to its AML/CTF responsibilities took form in a number of ways.

252. Mr Howard Steiner (presently General Manager AML/CTF Compliance for The Star Entertainment Group), was interviewed on 3 August 2022. He took up employment with The Star on 28 January 2020, as AML/KYC Project Director.<sup>126</sup> In that role, he had responsibility for transforming The Star's AML/CTF systems, with the objective of those

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<sup>124</sup> Transcript P-179, line 1.

<sup>125</sup> Transcript P-178, lines 23 to 32.

<sup>126</sup> Steiner Statutory Declaration, [5]: STA.0000.0008.0305.

systems being industry-leading ones.<sup>127</sup> He took up his current (more senior) managerial role from approximately 1 July 2022.<sup>128</sup>

253. Mr Steiner prepared a statutory declaration dated 18 August 2022 and gave oral evidence on 24 and 25 August 2022. Earlier in the Inquiry's investigation, documents had been obtained from OLGR which concerned The Star's AML/CTF Program and its implementation. This included reports obtained by The Star from KPMG in May 2018 and from BDO in May 2021 and August / September 2021. OLGR had asked The Star a number of questions by way of requisitions made under s 88 of the *Casino Control Act* before the establishment of this Inquiry. The Star responded to each of them.
254. After this Inquiry was established, OLGR issued a further requisition under s 88 of the *Casino Control Act* to The Star on 22 July 2022, asking further questions and compelling the production of further documents. The materials sought were relevant to a number of topics, including The Star's AML responsibilities.
255. On 22 July 2022 also, this Inquiry issued a summons pursuant to s 91 of the Act and ss 5(1)(b) and (d) of the *Commissions of Inquiry Act 1950* (Qld) compelling the production of the same documents and information which had been the subject of OLGR's further requisition just referred to. These processes sought the same documents and information in parallel because those materials were relevant both to the work of the Inquiry and the investigation being conducted by OLGR.
256. The questions posed by OLGR and by this Inquiry in writing and the answers given under compulsion were tendered by Counsel Assisting in the course of the public hearings.
257. A concise history of The Star's AML/CTF Program from 2017 onwards, which draws substantially upon those questions and answers and the documents produced by The Star relevant to them, is set out under the headings below.
258. I now turn to the other relevant aspects of the Inquiry's work on this topic.
259. Five named persons were identified as case studies to examine the adequacy of The Star's AML/CTF Program, both in the past and the present. Counsel Assisting offered them as

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<sup>127</sup> Steiner Statutory Declaration, [5]: STA.0000.0008.0305.

<sup>128</sup> Steiner Statutory Declaration, [4]: STA.0000.0008.0305.

a means for exploring by way of real-life examples: whether the decisions made in the past would be made in the same way today, and why; whether lessons had been learned to make sure actions taken in the past which were attended with shortcomings, would not be taken in the present day; and whether The Star behaved appropriately as a casino to minimise risk and take appropriate action.

260. Because these individuals were persons who, it was suggested, might have raised suspicion of having been involved in criminal activity, I ordered that de-identifying descriptors, Persons 1 to 5 respectively, be used and made an order preventing publication of their names. The concern of this Inquiry was to explore the adequacy of The Star's commitment to AML/CTF responsibilities, not the conduct of individuals or their possible criminal links or activities. I was concerned not to prejudice any investigation or proceeding that might be underway with respect to those persons, especially given that this Inquiry neither had, nor needed, the statutory means for exploring matters beyond the existence of reasonably based suspicions concerning these persons. For these reasons, I considered the orders made to be in the interests of justice.
261. None of this is to suggest that the information known to The Star about these individuals was objectively true. The point of the exercise was to explore what The Star subjectively knew and how it ought to have acted as a result.
262. I also compelled, by summons, The Star's Interim CEO, Mr Geoffrey Hogg, to be interviewed by Counsel Assisting, to prepare a statutory declaration and to appear at the public hearings. He was asked questions about The Star's commitment to its AML responsibilities and about the case studies.

#### *Other reviews of The Star's AML/CTF Program*

263. In 2017, The Star engaged KPMG to undertake a review of its AML/CTF Program. The reports of the review were dated 16 May 2018 and concerned Parts A and B of The Star's program.<sup>129</sup> The reports can only be read as being very critical of the program as it then stood. KPMG's final reports were preceded by draft reports, which were provided to The Star a year before. The Star therefore had considerable notice of the deficiencies which had been revealed.

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<sup>129</sup> Ex 3, Volume 7, Tab 7.104: STA.3001.0001.2750; Ex 3, Volume 7, Tab 7.105: STA.3001.0001.2802.

264. KPMG rated certain findings as involving ‘High’ significance. Among them were that customers bringing a significant amount of money into a casino would not automatically be assessed by The Star as other than a ‘low’ risk. The reports also found that the manual transaction monitoring process was inconsistently applied between the two reporting entities and that The Star Entertainment Group lacked an adequately documented AML/CTF risk assessment methodology on which its assessments had been performed.
265. The KPMG report concerning Part A pointed out that a ‘high’ risk for the purposes of The Star’s program was considered to be a ‘medium’ risk within the meaning of the AML Rules. Before a risk could be regarded as ‘high’ for the purpose of those rules and thus triggering the ECDD threshold in Rule 15.9(1) thereof, a designation of ‘critical’ would, at that time, need to be applied to it in The Star’s risk-based system. This inconsistency was one which, in the opinion of KPMG, risked leading to confusion. There was room, KPMG considered, for The Star more adequately to consider the specific risks posed by, for example, junkets and overseas customers whose source of funds or wealth was unknown or, if known, was not commensurate with their gambling activities.
266. KPMG observed that customers were not formally risk assessed based on the amount of money they brought into the casino and that this was not a documented risk factor. Customers who brought in large amounts of money, it was said, should be considered higher risk unless The Star can be reasonably satisfied they have legitimate and known sources of funds and that there was no increased risk for AML/CTF purposes.
267. KPMG considered that The Star lacked an agreed and documented risk methodology, that it might not be adequately identifying risks, and that its program might not be adequate to address its actual AML/CTF risks. The Star Group, KPMG stated in its report, may not ‘be adequately assessing customers that could be using [The Star Group] to facilitate ML/TF’.
268. The KPMG report directed to Part B of The Star’s AML/CTF Program also found serious shortcomings. It was found there was no documented ML/TF risk assessment or risk assessment methodology in relation to junkets. Assessments of junket participants was found to be limited (particularly in Queensland) and no inquiries were made of junket participants’ sources of wealth or funds. Junket participants in Queensland were found not to have been subjected to ECDD.

269. What I have said above about the KPMG reports is not exhaustive, but it serves to show that The Star's AML/CTF Program, at this time, was seriously deficient. The Star did not seek to resist such a finding.<sup>130</sup> I find accordingly.
270. The Star submitted, however, that its work following KPMG's review brought its AML/CTF Program to a satisfactory state, and in compliance with the legislative requirements. No particular point in time was identified by when this was said to have occurred. Counsel Assisting, on the other hand, submitted that serious deficiencies persisted 'until recent times'.<sup>131</sup> Mr Hogg and Mr Steiner were candid in their testimony about the shortcomings, historically speaking, in The Star's AML/CTF Program. Mr Steiner accepted, for example:
- a. there was an 'operational sclerosis' with respect to the AML/CTF Program;<sup>132</sup>
  - b. there were certain operational inefficiencies with it;<sup>133</sup> and
  - c. any non-compliances with its AML responsibilities by The Star would expose it to risks including involvement in the criminality of others and money laundering.<sup>134</sup>
271. The Star did act upon the KPMG review. The Board endorsed a plan for implementing the KPMG recommendations on 16 August 2018.<sup>135</sup> The steps that were taken were set out by The Star in a letter from its solicitors, King & Wood Mallesons, dated 22 August 2022.<sup>136</sup> When reading this, it needs to be remembered that The Star had, in draft, the KPMG reports for almost a year before the final reports were delivered on 16 May 2018.
272. BDO also reviewed The Star's AML/CTF Program and prepared reports in May 2021 and August/September 2021. Coming as it did some three years after the KPMG review, the BDO review found The Star's Program to be effective having regard to AML/CTF risk that The Star might reasonably face; that it complied with the AML Rules; that it had been effectively implemented; and that The Star had complied with it.

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<sup>130</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [37].

<sup>131</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [69].

<sup>132</sup> Transcript P-210, lines 9 to 11.

<sup>133</sup> Transcript P-218, lines 17 to 18.

<sup>134</sup> Transcript P-225, lines 22 to 33.

<sup>135</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [38].

<sup>136</sup> Ex 3, Volume 6, Tab 6.1(e): REV.0007.0002.0001 at 0009 to 0015.

273. The time lapse of more than three years between the KPMG review and the BDO review suggests that it took some time for The Star to bring its AML/CTF Program to a state where it was ready to have it reviewed by BDO. That is some indication of how seriously deficient the program had been at the time of, and before, the KPMG involvement.
274. That aside, the main impediment to accepting a proposition that the serious deficiencies The Star accepts were in its AML/CTF Program subsisted only until a short time after KPMG prepared its reports, is that the case studies show a persistence of serious problems and oversights in the application, or lack thereof, of that program.
275. It was a serious dereliction of The Star's AML responsibilities that the deficiencies explored in oral examination and contained in the chronologies for Persons 1 to 5 could occur in the first place and then persist over such long periods.

*The Star's AML/CTF Program now*

276. More recent reviews of The Star's AML/CTF Program go some way towards demonstrating improvement in its adequacy. McGrath Nicol undertook an AML/CTF Forensic Review and reported on these on 12 March 2022 and 26 April 2022. More recently, consulting firm RSM undertook an AML/CTF Maturity Evaluation and prepared a status report on 29 July 2022. It benchmarked The Star's AML/CTF Program against industry competitors.
277. The RSM report summarised its results in the following table:<sup>137</sup>



278. The table suggests an AML/CTF Program which, if satisfactory, is only marginally so. For none of the benchmarks is The Star above or in the higher percentiles of comparison.

<sup>137</sup> Ex 3, Volume 10, Tab 10.2(d): STA.6005.0031.0005 at 0018.

In many, it is at the low end, and three of the seven benchmarks, on my reading, are not met.

279. That report expresses the view that The Star's management's 'ongoing enhancements and improvement efforts are intended to target level 4 *Leading* attributes, and drive movement of the AML/CTF function up the maturity curve to a more mature future state'.<sup>138</sup> 'Instances where [The Star's] current state plotting falls outside of the Industry Benchmark range (noted as being an absolute as opposed to pro-rated/distributed range)' are said to 'represent enhancement opportunities for Management'. Neither of these statements is an unqualified endorsement. On the contrary, I read them as suggesting more remains to be done.
280. This Inquiry explored aspects of The Star's AML/CTF Program as it presently stands.
281. The evidence shows that this program remains materially deficient in its treatment of risk ratings, for the reasons that follow. I find accordingly.
282. Such a deficiency was identified by KPMG in its May 2018 report. It stated<sup>139</sup> that '[t]he inconsistent definition of ML/TF risk ratings against AML/CTF Rules may lead to confusion' and:<sup>140</sup>

Customers who are rated as Critical, High or Medium risk are flagged and entered in the Risk Register... The Register lists a number of factors that determine a customer's risk rating. We have reviewed the list and noted the following customers are rated as Medium risk, whereas we consider the more correct rating would be Critical.

283. These matters appear to be related to the fact that The Star's assessment of a risk as being 'high' is transposed into what is regarded as a 'medium' risk for the purpose of the AML Rules. Mr Steiner confirmed that position in his statutory declaration and in his oral

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<sup>138</sup> Ex 3, Volume 10, Tab 10.2(d): STA.6005.0031.0005 at 0018.

<sup>139</sup> Ex 3, Volume 7, Tab 7.104: STA.3001.0001.2750 at 2765.

<sup>140</sup> Ex 3, Volume 7, Tab 7.104: STA.3001.0001.2750 at 2767.

evidence. At paragraph 63 of his statutory declaration, he set out the current four risk rating levels in The Star's current Risk Assessment Framework.

<b>The Star QLD Casinos</b>	<b>AUSTRAC</b>
<b>Low</b>	Low
<b>Moderate</b>	Medium
<b>High</b>	Medium
<b>Very High</b>	High

284. The Star accepts that it would be 'preferable' for there to be an alignment between its risk rating and those of AUSTRAC.<sup>141</sup> It also says it is taking 'active measures to ensure that the two risk rating align'.<sup>142</sup> It submitted to this Inquiry that the effect of the 'linguistic non-alignment ought not to be overstated'.<sup>143</sup>
285. The Star's AML/CTF program remains deficient at least for its lack of clarity and discordance with the AML regime's risk ratings. The very real risk is that, while these rating labels remain inconsistent, a patron who is rated high for The Star's purposes is unhesitatingly rated as a mere medium risk for AUSTRAC purposes. This anomaly in the rating labels is one that is prone to result in the underassessment of risks (ie high is reduced to medium). It is also apt to cause confusion in the application by The Star of Rule 15.9 of the AML Rules which provides that ECDD must be applied where, relevantly, '[the entity] determines under its risk-based systems and controls that the ML/TF risk is high'. It is a matter of regret that, as will presently be seen, risk assessment thresholds have fundamentally miscarried in The Star's consideration of particular patrons.
286. Mr Steiner said that in practice, under The Star's current AML/CTF Program, ECDD would be applied in such circumstances despite what he described as the non-alignment.<sup>144</sup> One may accept that if a senior and experienced person such as Mr Steiner

<sup>141</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [50].

<sup>142</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [50].

<sup>143</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [50].

<sup>144</sup> Transcript P-186, lines 8 to 15.



is making it then, in all likelihood, the correct substantive assessment of risk would be made and due diligence undertaken. Such assessments, however, will often fall to be made by less experienced and less senior staff. Were they to read that, despite having assessed a risk as high under the Program, they should regard it as medium for AUSTRAC purposes, then there is a real likelihood that the scrutiny and action required by an ECDD will not take place. The risk rating labels ought to be aligned to avoid such an outcome. I find accordingly.

287. By way of caveat, I note that alignment in this regard will not prevent a failure to undertake an ECDD when an individual's risk is wrongly assessed under the Program as, for example, low or medium, when it should be assessed as very high (as happened in certain of the case studies).

*Attracting undesirable gamblers to Queensland*

288. Another of the main issues considered by the Inquiry was whether persons excluded from casinos in other States had been allowed or encouraged to come to Queensland to gamble in The Star casinos here. To have done so would likely have given rise to a range of problems. First and foremost, among them is a risk to compliance with AML responsibilities by The Star entities in Queensland and The Star Group as a whole. Persons excluded in other States from casinos are likely to be individuals who ought not be allowed to gamble here.

289. The evidence in this Inquiry showed that The Star had encouraged certain such patrons to come to gamble at its Queensland casinos.

290. Person 1 is the clearest example of this amongst the case studies. What is most startling about the benefits given to them is that:

- g. the benefits were given while Person 1 was excluded from The Star in Sydney by a direction given by the New South Wales Police Commissioner and about which The Star (as a Group) therefore knew; and
- h. The Star's Mr Christopher Peasley (then Executive General Manager of Domestic Sales and Marketing<sup>145</sup> and presently President of Domestic and

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<sup>145</sup> Transcript P-128, lines 1 to 2.

International Casino Sales<sup>146</sup>) attempted to explain them as being not directed to encouraging Person 1 to travel north to its Queensland casinos and as not being a ‘pursuit’ of Person 1 by The Star.<sup>147</sup>

291. Speaking more generally, Mr Peasley was examined with regard to a sample of emails in which members of the sales team were correspondents. These emails show a disregard by him and his team for the responsibilities arising from The Star’s AML and responsible service of gambling obligations. The terminology and the tone of some of those emails was, as The Star accepted, ‘unfortunate or distasteful’.<sup>148</sup> Counsel Assisting submitted it was indicative of a one-eyed focus on profits and money.<sup>149</sup>
292. I would characterise The Star’s conduct revealed by these case studies as indicative of a poor corporate culture – one in which those responsible for the AML/CTF Program failed to intervene when engaged, and in which senior management failed to have in place mechanisms to restrain the actions of a marketing team whose focus, as one might expect, was one of drawing in business. As a consequence, some of the business that was drawn in placed the casinos at real jeopardy of infiltration by persons whom The Star had reason to suspect were likely to have been involved in criminality. Broad findings in those terms are warranted by the evidence to which I now turn.
293. Person 1 was excluded from The Star in New South Wales by a Police Commissioner direction from 24 July 2007.<sup>150</sup> The effect of the exclusion was that their Star loyalty card did not work. When Person 1 came to gamble in Queensland, the card was re-activated to allow them to gamble.<sup>151</sup> Thus, each time Person 1 came to this State to gamble at a Star casino, The Star would have to take this deliberate and conscious action.
294. The benefits given to Person 1 after their NSW exclusion were very numerous. One list alone only of the ‘comps’ (complimentary rewards given to the customer) ran to 719 pages, and they did not cover the whole period for which they gambled at casinos in Queensland.<sup>152</sup> Prominent examples of The Star’s facilitation of this person gambling at

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<sup>146</sup> Transcript P-128, lines 2 to 4.

<sup>147</sup> Transcript P-161, lines 3 to 30.

<sup>148</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [60].

<sup>149</sup> Outline of Submissions of Counsel Assisting dated 27 August 2022 at [84(b)].

<sup>150</sup> Steiner Statutory Declaration, Exhibit HIS-1, Item 4: STA.0000.0008.0305 at 0334.

<sup>151</sup> See, for example, Ex 4, Tab 29: STA.6006.0002.7101; Transcript P-162 to P-163.

<sup>152</sup> Ex 3, Volume 7, Tab 7.42: STA.6005.0005.0119.

those casinos include two trips on The Star's private jet (in October 2019<sup>153</sup> and December 2020<sup>154</sup>) and the gift of a \$50,000 Rolex watch (in May 2017<sup>155</sup>).

295. These are but examples of the lengths to which The Star went to maintain a relationship with Person 1 and to encourage them to play at casinos in this state while excluded by the New South Wales Police Commissioner from The Star casino there. This person was invited by their Star 'host' at the time, Mr Michael Whitters (Sales and Marketing Executive) to a baccarat tournament called the 'March Baccarat Tournament - NSW' held in March 2018 at The Star Gold Coast.<sup>156</sup> In order for Person 1 to participate in that event, their membership card was reactivated so that they could use it at The Star's Queensland properties. Once Person 1 had finished gambling at the event, The Star changed their account status back to 'Excluded NSW'. That status was a product of the Police Commissioner having excluded Person 1 from casinos in that State.<sup>157</sup>
296. It is clear that these benefits were conferred in a concerted effort to have Person 1 come, and continue coming, to Queensland to gamble at The Star casinos here. There is no other credible explanation for that. The Star's Mr Peasley said, in the course of the public hearings, that he knew from late 2015/early 2016 that persons excluded in another state were not to be 'pursued'.<sup>158</sup> 'We can make their bookings', he said '[a]nd they are [to] be treated the same as any other customers of their play level ...'.<sup>159</sup> That is not to the point. Much more was done than making bookings: invitations were extended, gifts were given, a private jet was organised on two occasions, dietary preferences were ensured, and the loyalty card was activated and deactivated.
297. Mr Peasley's position was that benefits of the kind described above did not constitute 'pursuing' of Person 1.<sup>160</sup> I reject that contention. The Star's actions with respect to Person 1 show a dogged pursuit of them. For example, at some effort and expense, a birthday cake was arranged to present in anticipation of a Rolex watch (which was not then ready). Mr Peasley had, in December 2015, been included in an email from one of

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<sup>153</sup> Ex 3, Volume 4, Tab 4.2B, item 3(d): REV.0005.0003.0031 at 0047.

<sup>154</sup> Ex 3, Volume 4, Tab 4.2B, item 3(d): REV.0005.0003.0031 at 0047.

<sup>155</sup> Ex 3, Volume 4, Tab 4.2B, item 3(a): REV.0005.0003.0031 at 0045.

<sup>156</sup> Ex 3, Volume 4, Tab 4.2B, items 12(a)-(c): REV.0005.0003.0031 at 0067.

<sup>157</sup> Ex 3, Volume 4, Tab 4.2B, item 10(b): REV.0005.0003.0031 at 0059 to 0068.

<sup>158</sup> Transcript P-139, line 45.

<sup>159</sup> Transcript P-139, lines 45 to 47.

<sup>160</sup> Transcript P-141, lines 12 to 24.

his staff (a Mr Dang) to the effect that birthday data should be used to ‘drive & stimulate patrons booking in the coming months’.<sup>161</sup> Mr Peasley, when pressed, accepted as much.<sup>162</sup> His evidence about this being by way of ‘reward and recognition’<sup>163</sup> only is an incomplete description of the purpose of these benefits. He accepted ultimately that the benefits would not have been given if it were thought Person 1 would not return to a Star casino.<sup>164</sup> This episode shows they were as much about inducement as they were about ‘recognition’.

298. As well, the language used by the marketing team revealed in the sample of documents to which Mr Peasley was taken, shows a blinkered focus on profits and money, and, often, an indifference bordering on callousness towards a patron’s losses.<sup>165</sup> There was a demonstrated self-interest in facilitating and encouraging Person 1’s return to gamble in The Star’s Queensland casinos.
299. In the context of this issue, Mr Hogg gave evidence to the effect that individuals like Person 1 do not have a significance for the casino operator’s bottom line.<sup>166</sup> To the extent that he intended to suggest that The Star had no motivation to incentivise and pursue such individuals to come to its Queensland casinos, the suggestion should be rejected. The Star’s own conduct here: the duration over which gifts were given; the emails in Exhibit 4; the nature of the gifts; and the general attentiveness to every need of Person 1, self-evidently shows that they were important to its casino operators. They were, as Mr Peasley said, one of the top two or three in the ‘local person’ customer category.<sup>167</sup>
300. However, The Star, in its written submissions dated 29 August 2022, described what was done by the marketing team regarding Person 1 as ‘pursuit’.<sup>168</sup> That is an accurate description of what occurred.
301. The Star actively pursued Person 1 to come to Queensland, despite their exclusion from The Star Casino in New South Wales by the Police Commissioner in that State. At all

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<sup>161</sup> Ex 4, Tab 6: STA.6006.0001.0183.

<sup>162</sup> Transcript P-132, line 41.

<sup>163</sup> Transcript P-134, lines 27.

<sup>164</sup> Transcript P-141, lines 18 to 21.

<sup>165</sup> The examples are in Exhibit 4. See, for example, Ex 4, Tab 41: STA.6006.0005.3301.

<sup>166</sup> Transcript P-289, lines 39 to 42.

<sup>167</sup> Transcript P-140, lines 37 to 38.

<sup>168</sup> Outline of Submissions of The Star Entertainment Group Limited dated 29 August 2022 at [58], [59].

material times The Star in Queensland knew of that exclusion. Despite this and the fact they ought to have been excluded here by a WOL, The Star actively facilitated Person 1's travel to Queensland to gamble and encouraged them to do so. The benefits The Star conferred included discretionary ones, which constituted special treatment of Person 1 in order to encourage their gambling in this State. All this occurred notwithstanding the implication arising from the Police Commissioner exclusion that Person 1 was likely to be involved in criminal activity. I find accordingly.

302. Moreover, there was a great deal of additional relevant information known to The Star about Person 1. I refer to the following events. On 2 May 2018, Person 1 supplied cash in \$50 denominations to The Star in a blue cooler bag.<sup>169</sup> The bank notes were in poor condition and appeared to have been wet, with some stuck together. The Star generated an internal report, referred the incident to the Queensland Police and lodged a SMR in relation to it. It was unable to identify any other internally generated response to the incident on its part.<sup>170</sup>
303. On 28 December 2019, Person 1 gave The Star cheques for large amounts (one for \$700,000) and told its employees that banks were closing their accounts, and that they were looking for other banks to do business with.<sup>171</sup> This incident was elevated to The Star's AML/CTF Compliance Officer along with a suggestion that Person 1 was associated with Melbourne underworld figures. Despite an ECDD having been undertaken,<sup>172</sup> Person 1's risk assessment remained at 'medium' in January 2020 and The Star's AML team recommended that The Star continue to do business with them.<sup>173</sup>
304. On 25 March 2021, Person 1 presented \$149,000 in cash from a plastic shopping bag and transferred \$100,000 into their Front Money Account at the Gold Coast casino.<sup>174</sup> The cash was presented in a manner that the casino cashier considered 'very unusual'. For example, each note had been marked with an orange highlighter. Person 1 lost \$149,000 at the casino that same night.

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<sup>169</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 14: STA.0000.0008.0305 at 0336.

<sup>170</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 14: STA.0000.0008.0305 at 0336.

<sup>171</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 19: STA.0000.0008.0305 at 0337.

<sup>172</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 20: STA.0000.0008.0305 at 0338.

<sup>173</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 20: STA.0000.0008.0305 at 0338.

<sup>174</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 29: STA.0000.0008.0305 at 0340, 0341.

305. Each of these events, in its own right, presented an apparently incontrovertible basis for excluding Person 1 from The Star's Queensland casinos. Taken together (and recognising that each occurred after Person 1 had been excluded in New South Wales), they presented an overwhelming case for exclusion here. It is difficult to comprehend why Person 1 was not excluded when the case for doing so was manifestly justified, whether on the basis of a WOL or otherwise.
306. In the course of the 14 or so years between Person 1's exclusion in New South Wales by the Police Commissioner and 10 December 2021, the date on which The Star finally excluded them from its Queensland casinos, Person 1's risk was assessed many times. It would seem that, until sometime in 2020 (The Star cannot now say the exact time, but it seems likely to be before 7 February 2020), the risk Person 1 posed to the Gold Coast casino, where they would gamble, was assessed as no higher than medium. In 2020, it was changed to 'very high'.<sup>175</sup> But Person 1's exclusion, of course, did not occur until almost two years later. So it was that, although Person 1's risk was the subject of internal considerations and discussion, none of it brought about their actual exclusion from Queensland casinos before December 2021.<sup>176</sup>
307. Person 1 was advanced as a case study in representative sense. There is no reason to infer that a similar approach did not apply in the cases of other gambling patrons considered by The Star to be of importance to its business. Certainly, The Star did not suggest that the case of Person 1 was unique.
308. Indeed, the case of Person 2 shows similar failings. This person was excluded by the Victorian Police Commissioner from the Crown casino in Melbourne on or before 11 December 2014. On that date, The Star became aware of that exclusion.<sup>177</sup> Person 2 was excluded from The Star casino in Sydney by a direction given to that casino by the New South Wales Police Commissioner on 18 June 2015.<sup>178</sup> Despite this, Person 2 was permitted to gamble at The Star Gold Coast (for part of the time at least when it was called 'Jupiters Casino'). Complications were experienced within The Star as to the true

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<sup>175</sup> Steiner Statutory Declaration, Exhibit HIS-1, items 22 and 25: STA.0000.0008.0305 at 0339, 0340.

<sup>176</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 39: STA.0000.0008.0305 at 0343.

<sup>177</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 43: STA.0000.0008.0305 at 0345.

<sup>178</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 49: STA.0000.0008.0305 at 0347.

identity of Person 2 owing to what was described as a ‘misspel[ling]’.<sup>179</sup> Mr Steiner identified this, when asked in oral testimony, as a problem that would engage ‘KYC’ concerns.<sup>180</sup> Person 2’s circumstances came to the attention of senior Star staff. They were, in February 2018, regarded by The Star as one of the top ten table players at The Star Gold Coast.<sup>181</sup> The Star assessed Person 2 as being at ‘high’ risk in January 2019.<sup>182</sup> It is possible that attempts were made to identify any criminal associates of this person, but media articles about such associations were not accessible by The Star personnel because they were ‘locked down by subscription’.<sup>183</sup> If this stands as representative of The Star’s then AML practices in action, then, acknowledging that it occurred some nine months after the KPMG review, it reflects poorly upon them.

309. Person 2 was flagged at this time for having their risk raised to ‘critical’.<sup>184</sup> They were suspected by The Star of involvement in criminal activity, but despite this, their risk assessment remained at ‘high’ until October 2020.<sup>185</sup> At that time, media reports suggested Person 2 was involved in organised crime, and possibly international organised crime. They were noted in November 2020 as ‘actively playing’ at The Star Gold Coast,<sup>186</sup> at least from January of that year. Their playing losses between 18 June 2013 and 6 January 2021 were said to amount to \$296,858.54.<sup>187</sup> They were excluded from Star’s Queensland casinos on 6 January 2021.<sup>188</sup>

310. This case study, too, shows serious neglects of The Star’s AML responsibilities. They occurred in a way that placed in serious jeopardy the integrity, at least, of The Star’s casino operations in this State. The failings in this case persisted until January 2021.

311. Unlike in the case studies for Persons 1 and 2, Person 3 was not excluded from casinos in other States. Nevertheless, there was material available to The Star in this case to show this person’s suspected involvement in drug importation activity. They received a

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<sup>179</sup> Steiner Statutory Declaration, Exhibit HIS-1, items 45 and 54 (‘alternate spelling’): STA.0000.0008.0305 at 0345, 0346, 0350, 0351.

<sup>180</sup> Transcript P-208, lines 28 to 46. (See also Transcript P-210 lines 4 to 6; 9 to 11; 17).

<sup>181</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 55: STA.0000.0008.0305 at 0351.

<sup>182</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 58: STA.0000.0008.0305 at 0351.

<sup>183</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 57: STA.0000.0008.0305 at 0351.

<sup>184</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 57: STA.0000.0008.0305 at 0352.

<sup>185</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 64: STA.0000.0008.0305 at 0353.

<sup>186</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 66: STA.0000.0008.0305 at 0354.

<sup>187</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 69: STA.0000.0008.0305 at 0355.

<sup>188</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 70: STA.0000.0008.0305 at 0355.

an in-total cash payout of about \$1.5 million at some time shortly before 4 March 2015.<sup>189</sup> Mr Steiner said that any time a patron cashes out for large amounts of money, ‘it raises a red flag because it doesn't make sense’.<sup>190</sup> Person 3 cashed a \$100,000 winnings cheque on 30 January 2016.<sup>191</sup> They were referred to a Patron Activity Monitoring Meeting (**PAMM**) because of this but the minutes of this meeting do not mention their case.<sup>192</sup> The purpose of this type of meeting (property-specific) was to consider risks arising in connection with The Star’s AML/CTF Program.<sup>193</sup> There is also no mention in the Joint Patron Risk Review Meeting (**JRAM**)<sup>194</sup> which is run in conjunction with the PAMM meeting (but considers all properties).<sup>195</sup> JRAM considers the risk rating of individual patrons based on the AML/CTF risk as required by the AML/CTF Program. This is another failing of The Star’s AML system at the time. It is impossible now to tell whether this person’s case was dealt with at that meeting, or what if anything was decided. Mr Steiner explains that now, all such meetings must be minuted.<sup>196</sup> Person 3’s risk was increased to high from May 2016.<sup>197</sup>

312. There were suggestions on 21 May 2016 of Person 3 having an illicit substance in their room, which was seen by the Hotel Manager.<sup>198</sup> Person 3 had told the casino that they were a car salesman, but it emerged by February 2017 that they were, in fact, a baggage handler at an airport.<sup>199</sup> A great deal occurred within The Star concerning this person in the period that followed, but for all the activity, a WOL did not issue with respect to them. It was not until 11 June 2021, after they were arrested upon an allegation of participating in a syndicate smuggling drugs through Sydney airport, that a WOL was issued in respect of Person 3.<sup>200</sup>

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<sup>189</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 74: STA.0000.0008.0305 at 0356.

<sup>190</sup> Transcript P-213, lines 35 to 36.

<sup>191</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 77: STA.0000.0008.0305 at 0357.

<sup>192</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 79: STA.0000.0008.0305 at 0357.

<sup>193</sup> Ex 3, Volume 1, Tab 1.12; OLGR.0001.0003.0105 at 0105.

<sup>194</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 79: STA.0000.0008.0305 at 0357.

<sup>195</sup> Ex 3, Volume 1, Tab 1.11; OLGR.0001.0003.0081 at 0081.

<sup>196</sup> Transcript P-215, lines 16 to 17.

<sup>197</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 84: STA.0000.0008.0305 at 0358.

<sup>198</sup> Steiner Statutory Declaration, Exhibit HIS-1, Item 85: STA.0000.0008.0305 at 0358.

<sup>199</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 89: STA.0000.0008.0305 at 0359.

<sup>200</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 108: STA.0000.0008.0305 at 0364.



313. Person 4 was convicted in May 2018 for deliberate exploitation of migrant workers and fined \$43,000 by an Australian Court.<sup>201</sup> Their case was said to be considered at the October 2018 Sydney PAMM. But the records of that meeting do not mention this person.<sup>202</sup> Person 4 was issued with a WOL on 28 November 2018.<sup>203</sup>
314. The case study afforded by Person 5 was more difficult to assess owing to its complexity and idiosyncrasies.<sup>204</sup> Mr Steiner said of this case study that all of the exclusions are ‘a function of behaviour, not so much of financial crime or transactional inconsistencies, things that would alert [The Star] to AML [concerns]’.<sup>205</sup> The person excluded themselves from The Star Sydney on 21 March 2015.<sup>206</sup> They attempted to re-enter several times.<sup>207</sup> In 2016, they participated in the ‘rebate program’ (in Queensland terms, a sole junket) at The Star Gold Coast.<sup>208</sup> They were excluded at the direction of the New South Wales Police Commissioner on 15 April 2016,<sup>209</sup> and self-excluded from The Star Queensland casinos on 24 July 2016 for a period 5 years.<sup>210</sup> What appeared to be an illicit drug was found in a room booked by Person 5 on 25 July 2016 at one of The Star’s properties.<sup>211</sup> However, it is not clear that they occupied the room. A group-wide WOL was issued for this person on 22 September 2016 for 2 years.<sup>212</sup> Their risk was assessed by The Star in August 2019 and changed from ‘low’ to ‘medium’, at which time it was noted that they were a suspected money launderer, were involved in several communist party influence organisations in Melbourne, and were wanted by Interpol for serious crimes.<sup>213</sup> On 22 September 2019, an external service advised The Star that Person 5

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<sup>201</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 123: STA.0000.0008.0305 at 0369.

<sup>202</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 125: STA.0000.0008.0305 at 0370.

<sup>203</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 127: STA.0000.0008.0305 at 0370.

<sup>204</sup> The facts appear at Steiner Statutory Declaration, Exhibit HIS-1, items 131 to 151: STA.0000.0008.0305 at 0373 to 0377, and in the Supplementary Chronology provided by The Star at Ex 3, Volume 10, Tab 10.3(a): STA.0000.0008.0396.

<sup>205</sup> Transcript P-219, lines 17 to 20.

<sup>206</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 135: STA.0000.0008.0305 at 0373.

<sup>207</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 135: STA.0000.0008.0305 at 0373.

<sup>208</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 136: STA.0000.0008.0305 at 0373.

<sup>209</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 139: STA.0000.0008.0305 at 0374.

<sup>210</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 140: STA.0000.0008.0305 at 0374.

<sup>211</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 141: STA.0000.0008.0305 at 0374, 0375.

<sup>212</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 144: STA.0000.0008.0305 at 0375.

<sup>213</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 147: STA.0000.0008.0305 at 0376.

was the subject of an Interpol ‘Red’ notice and was the head of several organisations in Melbourne aligned with the People’s Republic of China.<sup>214</sup>

315. Person 5 was arrested in 2020 and deported to China.<sup>215</sup> The Star issued an indefinite exclusion order and a WOL on 23 July 2021.<sup>216</sup>
316. This case study offers yet further demonstration of the serious deficiencies in The Star’s AML/CTF Program, both in form and in practice, until relatively recent times. In Person 5’s case, the deficiencies persisted until July 2021.

*A note about the case studies*

317. Three points ought be made about the case studies.
318. First, The Star voluntarily supplemented much briefer draft chronologies provided to Mr Hogg and Mr Steiner in the course of pre-hearing interviews, of which they had been given advance notice. It did so by providing a great deal more information and annexing a much more detailed chronology to the statutory declarations of both Mr Hogg and Mr Steiner. The fact that it did so is to its credit. It saved Inquiry staff a great deal of time and effort. It reflects favourably on The Star that it thereby candidly disclosed matters which were not to its advantage.
319. Secondly, the case studies are examples only and were only ever intended to offer a facts-based means to investigate the adequacy of The Star’s AML/CTF Program over time. They show, as I have said (and as seems to be accepted) serious systemic failings over a long period of time, which placed the integrity of The Star’s Queensland casinos at real peril.
320. Thirdly, many of the people in senior management who were responsible for poor decision making regarding risk and adherence to AML responsibilities no longer work for The Star. This is, no doubt, an opportunity for a fresh start, and Mr Steiner’s role does give some reason to think matters will improve in the future. But it is one thing to improve the documented standards, policies and frameworks. It is another to see that they are implemented in practice by the development of a good culture of compliance.

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<sup>214</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 149: STA.0000.0008.0305 at 0377.

<sup>215</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 150: STA.0000.0008.0305 at 0377.

<sup>216</sup> Steiner Statutory Declaration, Exhibit HIS-1, item 151: STA.0000.0008.0305 at 0377.

Proof that such a culture has been attained derives from assessment of what is actually done, not how the various documents would require it to be done.

## IV Gambling Harm Minimisation

321. Part A of the Terms of Reference for this Inquiry direct examination of The Star's '[a]pproach to gambling harm minimisation, including fitness for purpose, implementation, and resourcing'. This issue also bears upon enhancements to the regulatory regime in order to minimise the potential for harm, a topic which falls to be addressed in the advice which I am to give under Part C. By way of introduction, I propose to set out some background which is relevant to both Parts A and C. Then I turn to consider the issue as it was explored in the Part A Inquiry. Later, in the Part C advice in this Report, I consider enhancements to the regulatory regime including those aimed at minimising the potential for harm.

### *Background*

322. As I have noted, the Queensland statutory regime has as one of the objectives for the system for regulation and control of casinos, 'minimising the potential for harm from casino gambling'.<sup>217</sup>

323. The system for which the regime provides is directed to the minimisation of harm in several ways.

324. First, it seeks to ensure that those who hold a casino licence and persons, natural or otherwise, associated or connected with the ownership, administration or management of the operations or business of licensees qualify as suitable persons. The attributes of a 'suitable person' include that they be of good repute, good character and act honestly and with integrity.<sup>218</sup> Inherent in this qualification is the laudable proposition that persons and entities who have those attributes are likely to make good judgments in balancing commercial interests and the interests of those experiencing harm by reason of gambling at the casino.

325. Secondly, there are provisions which deal with the licensing of casino key employees and casino employees. They, too, come within a regime by which the regulator might

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<sup>217</sup> *Casino Control Act*, s 3(2).

<sup>218</sup> *Casino Control Act*, ss 20(1)(a), 30.

investigate an individual’s integrity, responsibility, and general reputation and which makes it an offence to work in either capacity without a requisite licence.<sup>219</sup>

326. Thirdly, s 93A of the *Casino Control Act* 1982 (Qld) empowers the casino operator or manager to prohibit a person from entering or remaining in the casino if they believe, on reasonable grounds, that person to be a ‘problem gambler’. (More is said later about the appropriateness of characterising the gambler as having the problem.) The Act’s Dictionary defines ‘problem gambler’ as a person whose behaviour relating to gambling is characterised by difficulties in limiting the amount of money or time the person spends on gambling, and leads to adverse consequences for the person, other persons or the community.
327. Section 93A casts some responsibility on a casino operator or manager to have in place systems to identify those persons likely to be experiencing gambling harm. The current, and preferable, policy approach is to see problems associated with gambling within the context of public health. As part of that, the kinds of harm that can result from gambling are ones which the gambling provider has an obligation to minimise. It is recognised that gambling of itself may be addictive and that the overall approach ought be to require it to be offered and used more safely. For these reasons, modern terminology tends to be in terms of ‘safer gambling’ and ‘gambling harm’ rather than responsible gambling and problem gambling. To the extent the now largely superseded terminology appears in this Report, that is a function of the statutory language (which I later recommend be brought into line with modern approaches and thinking) and the way in which some of the evidence was framed.
328. Fourthly, provisions exist in the Act for persons to self-exclude: ss 91N – 91P. Those provisions allow for a person to give a casino operator a notice asking that it prohibit the person from entering or remaining in the casino. When doing so, the person must give the operator a recent photograph of themselves.<sup>220</sup> Once that happens, s 91O compels the casino operator to give the person a self-exclusion order, as well as details of at least one entity that provides counselling services for ‘problem gamblers’. Such orders start having effect when they are given to the person. They end upon revocation under s

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<sup>219</sup> *Casino Control Act*, s 43A.

<sup>220</sup> *Casino Control Act*, s 91N(2).

91P(3) or expiry after five years.<sup>221</sup> Revocation can only occur within 24 hours after the person receives the notice, or after one year from receipt has passed.<sup>222</sup>

329. The enforcement of self-exclusion orders brings with it special considerations. Persons might be less likely to exclude themselves if they feel they are likely to face harsh punishment for breaching the order in the event that they relapse. Those who suffer from compulsive gambling may well know their self-exclusion is but one step on a path to recovery and that there may well be setbacks along the way. If a person breaches a self-exclusion order, the appropriate response is not always punishment or prosecution. Although s 100 of the Act imposes the same penalty for the breach of a self-exclusion order as for the breach of other orders, it affords the option of a postponement of any decision on penalty if the person agrees to attend counselling: s 100A. In due course, when deciding any penalty, the Court must consider whether and to what extent the person has genuinely attempted to overcome harmful behaviour related to gambling and for that purpose may have regard to the report of a counsellor appointed under that section.
330. Fifthly, the Act makes it an offence for a person to possess or bring into the gaming area in a casino, gaming equipment which has not been approved by the Chief Executive: s 62(3). Such approval includes not only the machine game to be played but its artwork: s 62(4). This approval regime is not limited to the integrity and fairness of games but extends to whether and what extent the particular machine or its artwork might contribute to gambling harm.<sup>223</sup>
331. Finally, the Gambling Harm Minimisation Plan for Queensland 2021-25<sup>224</sup> produced by the Department of Justice and Attorney General is a feature of the State Government's publicised ongoing commitment to addressing and minimising gambling-related harm. This Plan contemplates that industry, community and government all have roles in ensuring gambling environments prioritise customer wellbeing and support individuals to gamble safely.<sup>225</sup> This is said to include an emphasis on industry social responsibility

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<sup>221</sup> *Casino Control Act*, 91O(2)(b).

<sup>222</sup> *Casino Control Act*, s 91P(2).

<sup>223</sup> The approval regime operates, in part, to achieve the object of the *Casino Control Act*, most relevantly s 3(2)(c).

<sup>224</sup> Ex 3, Volume 2, Tab 2.9: REV.0003.0003.0001.

<sup>225</sup> Ex 3, Volume 2, Tab 2.9: REV.0003.0003.0001 at 0002.

and the adoption of technological, collaborative and systemic approaches to the minimisation of gambling-related harm.<sup>226</sup>

332. The Plan identifies at-risk groups, which include young people, Aboriginal and Torres Strait Islander Communities, and those experiencing family or domestic violence. It advances a public health approach to address gambling-related harm by stating:

Reducing gambling harm requires a broadening of focus beyond an emphasis on the ‘problem gambler’. It requires greater attention on preventing harm before it occurs, the proactive detection of potentially harmful gambling behaviours and the early detection of gamblers at-risk.

333. In this context, I mention another Department-produced document, the Queensland Responsible Gambling Code of Practice (the latest version of which pre-dates the Plan just mentioned and to some extent seems to have been superseded by it).<sup>227</sup> This Code defines ‘*problem gambling*’ as being characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or the community.<sup>228</sup> Its aims are, among other things, to minimise harm from gambling to individuals and the broader community and to see that people adversely affected by gambling have access to timely assistance and information.<sup>229</sup> Another aim is that the industry consider and apply principles of responsible gambling to all new and emerging technologies.<sup>230</sup> Compliance with the Code is voluntary.<sup>231</sup>

334. The Code refers to six ‘*practices*’ and offers itself as a ‘*dynamic document*’, anticipating that new practices will be developed to innovative best practice. The six practices are: the provision of information; interaction with customers and community; exclusion provisions; physical environment; financial transactions; and, advertising and promotions.<sup>232</sup>

335. The Star has developed its own responsible gambling policies and practices. It also has available printed information about making informed decisions when it comes to

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<sup>226</sup> Ex 3, Volume 2, Tab 2.9: REV.0003.0003.0001 at 0002.

<sup>227</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001.

<sup>228</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001 at 0002.

<sup>229</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001 at 0003.

<sup>230</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001 at 0003.

<sup>231</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001 at 0003.

<sup>232</sup> Ex 3, Volume 2, Tab 2.2: REV.0003.0001.0001 at 0003.

gambling activity. These were the subject of evidence, both written and oral, with a particular focus on their adequacy and the resources directed to their implementation.

*The Star's safer gambling framework*

336. The Star's Responsible Gambling Strategy (**RG Strategy**) outlines The Star's commitment to safer gambling and harm minimisation.<sup>233</sup> Mr Toleafoa's evidence is that a new RG Strategy is '*under development*' and has been approved by its Board.<sup>234</sup> That Strategy seeks:

- a. to embed a safer gambling culture into The Star's business and operations;
- b. to cater for early identification and interaction with at-risk guests;
- c. to support guests to gamble safely and enable staff to assist in this; and
- d. to ensure that The Star collaborates with industry, government and service providers.<sup>235</sup>

337. The Star's Responsible Gambling Program<sup>236</sup> dated 22 November 2021 (**RG Program**) outlines the various elements of The Star's approach to safer gambling. Key objectives of it include:<sup>237</sup>

- a. providing safe and supportive environments for the delivery of gambling products and services;
- b. presenting The Star properties as adult environments;
- c. minimising gambling harm to the individual and the broader community;
- d. applying the principles of responsible gambling to all gambling related activity; and
- e. providing information about access to services for help and support to people adversely affected by gambling.

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<sup>233</sup> Toleafoa Statutory Declaration, [39]: STA.0000.0008.0378 at 0383; Ex 3, Volume 8, Tab 8.7: STA.3439.0059.6693.

<sup>234</sup> Toleafoa Statutory Declaration, [41]: STA.0000.0008.0378 at 0383; Ex 3, Volume 8, Tab 8.8: STA.6005.0001.0034.

<sup>235</sup> Toleafoa Statutory Declaration, [43]: STA.0000.0008.0378 at 0384.

<sup>236</sup> Ex 3, Volume 7, Tab 7.143: STA.6005.0001.0131.

<sup>237</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 1.2: STA.6005.0001.0131 at 0133.



338. With respect to harm minimisation and prevention, the RG Program states that harm prevention and minimisation initiatives will be implemented in the following areas:<sup>238</sup>

- a. responsible gambling policies and procedures;
- b. provision of responsible gambling information to guests, including signage and brochures providing gaming information;
- c. engagement with stakeholders;
- d. safe gambling environments;
- e. marketing practices;
- f. staff training and development;
- g. managing gambling limits;
- h. introduction of new and emerging technologies; and
- i. applying data science techniques to reduce risk.

339. The RG Program is managed by the Group Manager for Responsible Gambling.<sup>239</sup> Since April 2019, Mr Junior Toleafoa has occupied this role.<sup>240</sup> He was examined in the public hearings. The RG Program identifies those roles that report to Mr Toleafoa and their respective responsibilities.

340. One such role is called ‘Patron Liaison Manager’ (PLM).<sup>241</sup> Each Queensland casino has one of them. Their responsibilities are:<sup>242</sup>

- a. providing leadership support to the ‘Guest Support Managers’ (GSMs);
- b. promoting responsible gambling best practice to staff and guests;
- c. working with Senior Managers across the business to ensure that the responsible gambling objectives in those areas are supported and met;
- d. providing ad-hoc and structured Staff RG training;
- e. development and/or implementation of strategic initiatives;

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<sup>238</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0134.

<sup>239</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0134.

<sup>240</sup> Toleafoa Statutory Declaration, [4]: STA.0000.0008.0378 at 0378.

<sup>241</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0134.

<sup>242</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0134.

- f. case management of responsible gambling incidents;
- g. monitoring and analysis of responsible gambling related information including problem gambling indicators to assess risk to guests and identify behaviour trends that may be harmful;
- h. interacting with guests by providing advice and information, referral to help services, offering self-exclusion or exclusion directions, and assessing responsible gambling revocation requests; and
- i. engaging with help service providers, researchers, and regulators.

341. Each PLM in Queensland has three GSMs who report to them.<sup>243</sup> GSMs are ‘the frontline Responsible Gambling specialists’ who provide onsite support in:<sup>244</sup>

- a. promoting responsible gambling best practice to staff and guests;
- b. interacting with guests by providing advice and information, by referring them to help services, and by supporting them through self-exclusion processes;
- c. actively approaching and engaging guests in discussion regarding responsible gambling concerns (called welfare checks);
- d. monitoring and analysing responsible gambling related information including problem gambling indicators to assess risk to guests and identify behaviour trends that may be harmful; and
- e. actively monitoring and managing guests’ behaviour regarding continuous gambling, and continuously being present in the casino precinct.

342. The Star’s RG personnel also include a Manager of Gambling Risk Identification,<sup>245</sup> whose role is to ‘collate and analyse a broad range of information to detect, identify and/or predict high risk gambling behaviours that may be gambling harm related’.<sup>246</sup> There is one such manager who is based in Sydney and reports to the Group Manager for Responsible Gambling.<sup>247</sup>

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<sup>243</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0134.

<sup>244</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0136.

<sup>245</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0135.

<sup>246</sup> Ex 3, Volume 7, Tab 7.143, Paragraph 2.0: STA.6005.0001.0131 at 0135.

<sup>247</sup> Toleafoa Statutory Declaration, [7]: STA.0000.0008.0378 at 0379.

343. The RG Program lists the relevant policies and procedures developed by The Star with respect to safer gambling. The policies listed are The Star Entertainment Group Responsible Gambling Policy (**RG Policy**); The Star Sydney Code of Practice; and the Exclusions Policy.<sup>248</sup> The ‘standards and business process documents’ also listed in the RG Policy are: the Exclusion Issuance Standard; the Time Play Standard; the Property Exclusions SOPs; and the Unattended Children and Underage Persons Standards.<sup>249</sup>
344. The RG Policy is dated 7 January 2016.<sup>250</sup> It articulates safer gambling actions and responsibilities required by those employed of The Star.
345. The Exclusions Policy<sup>251</sup> is dated 3 December 2020. Relevantly for safer gambling, it deals with self-exclusions and venue exclusions. Self-exclusions are issued in relation to ‘a person in circumstances where the person has acknowledged in writing that he/she may be experiencing problems in relation to gambling and requested to self-exclude’.<sup>252</sup> Self-exclusions may be revoked on application by the excluded person with such an application only being able to be made one year after the date of the exclusion.<sup>253</sup> The Policy also notes that a self-exclusion order may be revoked in Queensland where ‘the person it relates to makes a request for revocation within 24 hours of its issuance’.<sup>254</sup> The Star may also issue a venue exclusion to a person if The Star has concluded that the person is at an unacceptable risk of experiencing harm from gambling.<sup>255</sup> Such an exclusion remains in force for five years or until revoked.<sup>256</sup> Revocation may only occur after: 12 months have elapsed since the issuance of the exclusion; assessment by Betcare; and the excluded person has provided a letter from a close family member supporting such revocation.<sup>257</sup>

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<sup>248</sup> Ex 3, Volume 7, Tab 7.143, paragraph 2.1: STA.6005.0001.0131 at 0136.

<sup>249</sup> Ex 3, Volume 7, Tab 7.143, paragraph 2.1: STA.6005.0001.0131 at 0136.

<sup>250</sup> Ex 3, Volume 7, Tab 7.144: STA.6000.0002.0137.

<sup>251</sup> Ex 3, Volume 8, Tab 8.13: STA.3415.0037.6922.

<sup>252</sup> Ex 3, Volume 8, Tab 8.13, paragraph 6.2: STA.3415.0037.6922 at 6926.

<sup>253</sup> Ex 3, Volume 8, Tab 8.13, paragraph 7.1: STA.3415.0037.6922 at 6927, 6928.

<sup>254</sup> Ex 3, Volume 8, Tab 8.13, paragraph 7.1: STA.3415.0037.6922 at 6928.

<sup>255</sup> Ex 3, Volume 8, Tab 8.13, paragraph 6.3: STA.3415.0037.6922 at 6926.

<sup>256</sup> Ex 3, Volume 8, Tab 8.13, paragraph 6.3: STA.3415.0037.6922 at 6926.

<sup>257</sup> Ex 3, Volume 8, Tab 8.13, paragraph 7.1 and 7.3: STA.3415.0037.6922 at 6928.

346. The Time Play Management Standard<sup>258</sup> was implemented on 22 August 2022 and is currently under review as part of the new RG Strategy.<sup>259</sup> It is designed to mitigate the risk of harm associated with guests gambling continuously without ‘sufficient breaks’.<sup>260</sup> It monitors the length of time for which ‘carded’ guests gamble. Certain aspects of the Time Play Management Standard are still in development, such as guest-facing technology that encourages patrons to take a break after three hours of continuous play.<sup>261</sup>

*Evidence from those who have experienced gambling harm*

347. The Inquiry heard evidence from three witnesses, each of whom had experienced gambling harm of a different kind. I directed that they be referred to as Witnesses A, B and C, and that information which tended to identify them not be published. This was necessary to ensure that they could freely communicate their experiences about these intensely sensitive and personal matters without the fear that to do so could have adverse repercussions for them.

348. The first was witness A. He offered insights as an indigenous man living in Queensland who had historical experience with compulsive and addictive gambling. In particular, his evidence illustrates the lengths to which a compulsive gambler might go in order to continue gambling and, in the past at least, the lack of intervention offered. None of his evidence was critical in a direct sense of The Star.

349. The effect of his evidence was that, in the case of compulsive gamblers, the need for setting parameters is of critical importance.<sup>262</sup> He spoke of those parameters as including exclusion and meaningful limits upon what will often be a determined effort to continue to gamble long after harm has materialised and persisted.<sup>263</sup> He was not opposed to gambling as such. The harm he suffered was derived more from TAB-style betting than casino gambling, although he did say that he would from time to time gamble at the casino in Brisbane.<sup>264</sup>

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<sup>258</sup> Ex 3, Volume 7, Tab 7.145: STA.6005.0018.4135.

<sup>259</sup> Transcript, P-119, line 39 to P-120, line 15.

<sup>260</sup> Toleafoa Statutory Declaration, [96] to [97]: STA.0000.0008.0378.

<sup>261</sup> Ex 3, Volume 7, Tab 7, [216]: STA.0000.0008.0255 at 0295; Transcript, P-119, line 39 to P-120, line 15.

<sup>262</sup> Transcript P-29, lines 10 to 14.

<sup>263</sup> Transcript P-29, lines 19 to 33.

<sup>264</sup> Transcript P-23, line 42; P-24, lines 17 to 30.

350. Another point of insight that his evidence offers is that someone with very limited means could gamble in a way which might not necessarily trigger any of the formal identification criteria, such as long time of play. That is because the amounts involved will often mean the player does not stay very long at the gambling venue. Nevertheless, the loss of the money gambled results in the loss of means to buy necessities for the person concerned and their family. Witness A explained how exclusion from one property had not precluded them from being permitted to enter another, even within the same corporate group.<sup>265</sup> This highlights the need for group-wide approaches to these matters.
351. Witness B gave evidence of experience during marriage to a compulsive gambler of table games. That witness described the partner’s compulsivity, the desperate lengths to which they would go to access funding notwithstanding the cost to relationships and family, and the range of ways by which they would try to cover the gambling addiction. At times, the partner’s behaviour involved family violence.
352. As Witness C explained, unhappiness in one’s personal life can make one more vulnerable to the appearance of a casino as a refuge.<sup>266</sup> Casinos are designed to attract attention and to draw people in. Those who feel isolated, who are vulnerable, or who are experiencing mistreatment, might be more likely to find a casino to be a place of distraction, or respite even.

*Principal aspects of the issue*

353. For the purpose of Part A of the Terms of Reference, the principal aspects of the subject issue are:
- a. whether and to what extent gambling ought be ‘carded’ (and therefore able to be monitored electronically);
  - b. the merits or otherwise of pre-set limits for electronic gaming machines (EGMs) and the bases for setting them;
  - c. how self-exclusion might best be effected and enforced;
  - d. the use and adoption of facial recognition technology;

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<sup>265</sup> Transcript P-29, lines 19 to 22.

<sup>266</sup> Transcript, P-42, line 44 to P-43, line 7.

- e. the use of analytics and how that might assist in giving greater knowledge about when gambling harm might be suffered; and
  - f. the resourcing allocated by The Star to its safer gambling program and staff training and commitment.
354. As mentioned above, there is a degree of overlap between Parts A and C of the Terms of Reference. There are factors concerning safer gambling that arise also in connection with both parts. They are ones in respect of which recommendations are made as to enhancements to the regulatory regime. In considering these factors for both Parts A and C, I was assisted by the findings and reasoning of Mr Finkelstein AO QC in his report of October 2021 concerning the Crown casino in Melbourne.
355. Mr Finkelstein’s report made reference to a 1999 report by the Productivity Commission ‘Australia’s Gambling Industries’.<sup>267</sup> That report identified problem gambling as incurring a significant social cost. A further report by the Productivity Commission in 2010 ‘Gambling’,<sup>268</sup> estimated that at that time, some 80,000 to 160,000 adults suffered severe problems from their gambling, and even more were at moderate risk of low levels of harm which could progress to problem gambling.<sup>269</sup> A great deal of money is lost to gambling, and some at least by those who can least afford it.
356. Mr Finkelstein considered the Gambling Code which the Crown Melbourne had instituted. He paid particular attention to the emphasis it placed on ‘observable signs’ that may be indicators of potential problem gambling. Such signs could include gambling for long periods without a proper break.<sup>270</sup> Mr Finkelstein considered the factors which bear upon an assessment of what constitutes ‘long periods’ and ‘a break’.<sup>271</sup> He found that the way in which Crown Melbourne dealt with customers with gambling problems showed serious deficiencies.<sup>272</sup> They included allowing players to gamble for too long, not interacting with a customer unless they were displaying some additional sign beyond

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<sup>267</sup> Productivity Commission 1999, *Australia’s Gambling Industries*, Report No. 10, AusInfo, Canberra.

<sup>268</sup> Productivity Commission 2010, *Gambling*, Report No. 50, Canberra.

<sup>269</sup> Productivity Commission 2010, *Gambling*, Report No. 50, Canberra, page 47, Recommendations and findings, Finding 5.1.

<sup>270</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 17, paragraphs 94 to 95.

<sup>271</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 17, paragraphs 96 to 102.

<sup>272</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 23, paragraph 130.

a long duration of play, inadequacies in alerts sent about whether or not a person had been gambling ‘often’, and ‘uncarded players’ being more difficult to assess in terms of their frequency and length of gaming.<sup>273</sup>

357. These and other related matters led Mr Finkelstein to examine ways that gambling harm might be minimised. In summary, he recommended:

- a. that all customers use a player card for all forms of gambling, without which it was all but impossible to monitor them adequately;<sup>274</sup>
- b. that such player cards should collect information relating to play periods, turnover, and gambling product, among other things;<sup>275</sup>
- c. the establishment of a mandatory binding pre-commitment system for Australian residents gambling on EGMs, by which intervention would be triggered when pre-set time limits or loss limits were reached. Mr Finkelstein saw this as an important step to control gambling on gaming machines which he considered to be a form of gambling that causes more harm than others;<sup>276</sup>
- d. that such a system have a default pre-set loss limit set by regulation and which could be calculated by reference to the median income of a wage earner less the standard cost of living. Another option given in his recommendations was that the limit could be calculated by estimating the median losses of a recreational gambler. He also recommended that the pre-set loss limit should be reviewed at least annually;<sup>277</sup>
- e. a Ministerial direction be given imposing duties on venue operators to take all reasonable steps to prevent, or minimise, harm from gambling by, for example, monitoring the welfare of players, discouraging intensive and long play, and ensuring there is a sufficient number of responsible gambling officers. It was

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<sup>273</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 22, paragraph 127.

<sup>274</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 1 (October 2021), Chapter 6 ‘Money laundering’, page 197 to 198, paragraphs 233 to 236.

<sup>275</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 56, paragraphs 308 to 309.

<sup>276</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, pages 56 to 57, paragraphs 310 to 312.

<sup>277</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, pages 56 to 57, paragraphs 310 to 312.

suggested that such a direction ought set maximum play periods and specify the method and form of interaction between operator and player in discharge of such duties;<sup>278</sup> and

- f. the establishment of a ‘Gambling Data Committee’ to have the functions of, among other things, making data available to researchers to foster research into the cause of serious problem gambling and harm.<sup>279</sup>

358. Mr Finkelstein expressed the view that for the effective operation of a full, mandatory, binding carded play system, internal control systems are needed to ensure that a customer is unable to acquire more than one card. The Bell Inquiry also considered gambling harm minimisation and responsible gambling. On this topic Mr Bell SC similarly recommended that carded play be compulsory at The Star Sydney for all gambling, in a manner which ensures that patrons are identified and their exclusion status (if any) enforced.<sup>280</sup> Mr Bell SC recommended that patrons have access to their card data.<sup>281</sup>

359. Mr Bell SC also recommend that all patron cards should collect data relating to the patron’s: buy-in time; buy-out time; play periods; and any other information reasonably required by the authority.

#### *‘Carded’ play*

360. Carded play involves a patron using or swiping a membership card prior to playing any game at a casino. Not all who gamble at The Star casinos in Queensland have a loyalty or membership card, and not all forms of casino gambling require one. This means that an individual’s pattern and quantum of gambling might never be known or knowable to The Star.

361. Mr Toleafoa gave evidence to this Inquiry about the status of carded play at The Star casinos in Queensland. He explained that carded play is where a patron has a loyalty or

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<sup>278</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, pages 58 to 60, paragraphs 313 to 317.

<sup>279</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 61, paragraph 319.

<sup>280</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 25, para 130.

<sup>281</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 34, para 14.



membership card.<sup>282</sup> Every time it is used, the activity associated with it is recorded. Not all patrons use a card. To have such a card is not mandatory, nor is the use of it.<sup>283</sup>

362. A player who does not have or use a card is ‘*uncarded*’. Monitoring such gamblers is not impossible, but it is certainly a much more difficult task and requires substantially more resources than those currently allocated at The Star’s operations in Queensland. Staff members would be required, through observation alone, to determine if a player has gambled for a significant period of time without a break. With the large numbers of patrons entering the casino premises, this task is impracticable. A failure to notice a patron in that category or a failure to continue observation of such a patron as a result of staff shift changes, for example, would likely lead to individual patrons receiving insufficient attention.
363. Mr Toleafoa agreed that it would be challenging to measure the time an uncarded player spends gambling<sup>284</sup> and the amount that they gamble.<sup>285</sup> He accepted that carded play would reduce attempts by individuals to breach exclusion notices or WOLs,<sup>286</sup> and that it would yield a more complete range of data.<sup>287</sup>
364. Carded play offers benefits for the minimisation of gambling-related harm. These include: the collection of data which can then be run through analytical programs to provide insight into players at potential risk of harm; permitting limitations on time spent gambling and amounts gambled; and allowing the real-time detection of players who could be approaching such limits.
365. Mr Hogg pointed out when being examined in the public hearings that carded play would need to be looked at more broadly than on a venue-by-venue basis. He said:<sup>288</sup>

So for a customer who comes to your property a lot more, then you're getting a good feel for it. If you are on the main gaming floor and the customer is not a frequent player at your venue, then the information you have may not give you an understanding of how they play. So certainly from a carded mandatory perspective, private gaming rooms, really sensible. On a main gaming floor, you do want people to sort of realise the benefits of it, most

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282 Transcript P-77, lines 30 to 33.

283 Transcript P-77, line 48.

284 Transcript P-107, lines 5 to 13.

285 Transcript P-107, line 16.

286 Transcript P-107, lines 38 to 42.

287 Transcript P-107, line 44 to Transcript P-108, line 4.

288 Transcript P-285, lines 8 to 25.

probably need to be seen a bit more holistically from a jurisdiction perspective. If you are going to set - the benefits of card can be understanding someone's play, but you really want to know their full play.

Putting limits on their play and around that really doesn't work if that one venue - they can then go to another venue. So we would just say that certainly carded play really should be looked at also from a jurisdiction perspective. And I would - going off track a little bit, also on exclusions, would be another example of that. Today, exclusions are very property-based. Exclusions is another example where we would like it to look at more holistically. If someone self-excludes, you would like them to be excluded from all venues around. It's very similar in carded play. Those two need to be looked more holistically.

366. During his examination in the public hearings, Mr Toleafoa said that carded play:<sup>289</sup>

... would go some way to helping and ... there are still things that occur outside of a card, behaviours that you also need to observe. So, yes, it would be not the complete answer, but it would certainly help. So there are things outside of the card that you need to watch.

367. Carded play, albeit not a complete answer to the issue, nevertheless affords one powerful means by which to advance the minimisation of harm. I find accordingly.

368. I recommend in Part C that consideration be given to making carded play mandatory.

#### *Pre-set Limits for EGMs*

369. EGMs pose a real risk of causing gambling and gambling-related harm. Individuals frequently gamble more than they initially intended. Witness C was one such person. Others who had had similar experiences also made contact with the Inquiry.

370. As the testimony of Witness A showed, even if a compulsive gambler might have decided how much time and money they wish to spend gambling, they can make impulsive choices that ignore those earlier, more detached decisions and continue to gamble. Mr Finkelstein explained in his report<sup>290</sup> that there is an argument that the addictive nature of electronic gaming machines 'erodes a person's free choice about their gambling'. He concluded that those addicted to gambling using EGMs need protection from the harms their gambling can cause, both to themselves and those around them.

371. The Star's current technology allows gamblers to set limits on the amount they wish to spend.<sup>291</sup> It is a voluntary program, but Mr Toleafoa said that the take up of the program

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<sup>289</sup> Transcript P-108 at lines 9 to 13.

<sup>290</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 'Responsible service of gambling', page 38, paragraph 192.

<sup>291</sup> Transcript P-108 at lines 26 to 34.

had been very low.<sup>292</sup> He accepted the need for a pre-commitment for time and spend.<sup>293</sup> He also accepted that a pre-commitment system, if made mandatory, would help reduce the incidence of gambling harm provided that it is not coupled with punitive consequences for its exceedance.<sup>294</sup>

372. In the advice required by Part C of the Terms of Reference set out later in this Report, I recommend, to the same effect as Mr Finkelstein, that there ought to be a pre-commitment system for Australian residents gambling on EGMs in this State. Setting such limits in this way will help reduce the incidence of gambling harm. The gambler's card should not allow gambling beyond the limits set by them.

*Self-exclusion and s 93A problem gambler exclusion*

373. Self-exclusion orders work on the premise of the individual themselves identifying the issues they are having with gambling and having insight that it is causing them, or those close to them, harm.

374. The legislative provisions permit an individual to give a casino a self-exclusion notice on which it must act by giving the individual a self-exclusion order.<sup>295</sup> Such an order prohibits the individual's re-entry. It is important that individuals be able to give a self-exclusion notice at the casino premises, and also without having to attend them if that is their preference.

375. Procedures are in place at both Treasury Brisbane and The Star Gold Coast for such a notice to be given without the individual having to enter upon any area approved for gambling. Significantly, 'non-attendance' arrangements also exist. By this means, individuals can give notice without putting themselves in a position of having to attend the casino premises where they might find it difficult not to gamble. Some counselling services such as Relationships Australia regularly assist people to give such notices, without the need to attend the casino premises. These services make an important contribution and should continue and be supported as appropriate.

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<sup>292</sup> Transcript P-108 at lines 34 to 44.

<sup>293</sup> Transcript P-108 at line 46 to P-109 at line 1.

<sup>294</sup> Transcript P-109 at lines 3 to 21.

<sup>295</sup> *Casino Control Act*, ss 91N and 91O.

376. This Inquiry heard evidence from Mr Toleafoa that while non-attendance self-exclusions are possible in the manner described above, they are not yet able to be effected online. Quite rightly, he accepted that such a means ‘would provide just another option for somebody to seek exclusion or to - a pathway for them - an easier pathway for them to access ... self-exclusions’.<sup>296</sup>
377. The Star’s Exclusions Policy<sup>297</sup> makes provision for self-exclusions: cl 6.2. The terms of cl 7.3 thereof provide that such exclusions will be revoked only where a person has been assessed by Betcare as being at low risk of ongoing gambling related problems and the person has provided a letter from a close family member supporting the revocation of the exclusion. An Exclusions Review Committee is responsible for reviewing requests for revocation of exclusion orders and, where necessary, communicating with an excluded person about matters associated with that order: cl 8.3. In Queensland, revocation cannot occur other than in accordance with the statutory requirements in s 91P of the Act. Administration of the Policy here would need to take account of these particular statutory requirements.
378. Exclusions by way of exclusion direction pursuant to s 93A of the Act are the subject of cl 6.3 of the Policy. It does not elaborate a test for when and by what circumstances, a person might be regarded as being a problem gambler. That task is remitted to The Star’s Guidelines for Identification of At-Risk or Problematic Gambling Activity (**Guidelines**), which, themselves claim, ‘to provide guidance ... about how to identify guests who may be at risk of experiencing gambling related harm or guests who are actual problem gamblers’.<sup>298</sup> The Guidelines correctly acknowledge that identifying problem gambling is not always straightforward.
379. Various risk indicators are set out in the Guidelines, categorised as ‘General’ and ‘Strong’. A cluster of five or more general indicators are said to increase the likelihood of gambling behaviour being problematic in which case a ‘welfare check’ is urged as soon as possible.<sup>299</sup> General indicators include significant changes in patterns of play, falling asleep at the gaming machine or table, visible emotion such as displaying anger,

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<sup>296</sup> Transcript P-88, lines 39-41.

<sup>297</sup> Ex 3, Volume 8, Tab 8.13: STA.3415.0037.6922.

<sup>298</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007.

<sup>299</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0008.

kicking or damaging a gaming machine, looking sad or crying, deterioration of appearance or hygiene over time, or trying to borrow or scam money or sell valuables to pay for gambling.<sup>300</sup>

380. ‘*Strong*’ indicators are said to include: requesting exclusion, a person commenting that they are problem gambler, presenting with emotional distress due to gambling, expressing suicidal ideation due to gambling, depression or anxiety, presenting in an emotional state, leaving children unattended while gambling, and attempting suicide or self-harm.<sup>301</sup> In these cases, one or two of them are said to suggest problem gambling.<sup>302</sup> If a guest exhibits any of these signs, it should be decided which manager is best to approach them.<sup>303</sup> In that case, it is suggested that the manager approach the guest ‘sensitively and discreetly’ to assist with an exclusion request, to request a break is taken, to provide the guest with ‘responsible gambling collateral and guest support context’, and that the manager liaise with asset protection and senior leaders for appropriate crisis support.<sup>304</sup>
381. The Guidelines also indicate what are to be regarded as appropriate time limits for gambling after which a break should be taken. They suggest a long time to gamble without a break is between six and twelve hours.<sup>305</sup> In his report, Mr Finkelstein regarded six hours as ‘long’ in relevant respects.<sup>306</sup>
382. The material before this Inquiry is to the effect that the fact that a person is experiencing gambling harm can be very difficult to detect. Excessive gambling, unlike excessive drinking, will often be hard to detect because the signs of it are less apparent and visible. Shame attaches to disclosure of a person as experiencing gambling harm and particularly of them being a compulsive gambler. That, in part, is related to the identification of *them* as the ‘problem’, rather than of the problem being, as I have said, a combination of human

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<sup>300</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0009.

<sup>301</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0010.

<sup>302</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0010.

<sup>303</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0010.

<sup>304</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0010.

<sup>305</sup> Ex 3, Volume 7, Tab 7.146: STA.6004.0003.0007 at 0010.

<sup>306</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 18, paragraph 100.

behaviour and the engaging nature of what is being offered. Thus, detection of those who ought to be excluded for the purpose of s 93A is a difficult exercise.

383. Both carded play and pre-set limits on EGMs go some way towards preventing or minimising gambling harm. The Star's present policies are satisfactory in so far as they make provision for such measures. The efficacy of those measures will improve once they and the standards are updated to align with the current RG Strategy. It is important that this occur because, as Mr Toleafoa accepted, and I find to be the case, the success of minimising gambling harm depends for the most part upon interacting with the gambler and exercising judgment in the individual case.

*Facial recognition technology*

384. There are some 6,800 or so persons who are excluded from The Star's casinos in Queensland.<sup>307</sup> It is self-evident that an exclusion will only be effective if the patron concerned is not allowed to continue their gaming activities and if the casino systems are geared to detect accurately attempted re-entries and to prevent them.

385. Facial recognition (the use of technology to detect and match faces to names) is a useful tool to detect the presence of excluded players.

386. The Star Sydney currently utilises such technology and has done so for some years now, with success.<sup>308</sup> The internal data from the Star Sydney showed that facial recognition technology increased the ability to detect self-excluded persons at The Star Sydney by eight to ten times.<sup>309</sup> Mr Toleafoa explained that there is a plan for its implementation in Queensland, starting first with The Star Gold Coast at more or less the time when this Inquiry is to report.<sup>310</sup> There are no plans for the Treasury Brisbane to have facial recognition technology.<sup>311</sup> This is understandable given that any investment there would be unwarranted given The Star's current plans to replace it with the Queen's Wharf casino which is due to open in the relatively near future.

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<sup>307</sup> Transcript P-104 at lines 26 to 45. This includes self-exclusions and s 93A exclusions.

<sup>308</sup> Transcript P-279, line 23.

<sup>309</sup> Transcript P-104, lines 42 to 47.

<sup>310</sup> Transcript P-105, lines 11 to 17.

<sup>311</sup> Transcript P-106, lines 26 to 34.

387. The effective use of the technology at The Star Sydney is a practical demonstration of the fact that it can and should be used in this State. That is not to suggest that the technology should be used for any purpose other than identification of excluded persons. Mr Hogg confirmed that consideration of possible use for other purposes was not behind the delay in its implementation here.<sup>312</sup> That is reassuring. It would be inappropriate to use what is, in effect, a public health tool to further The Star's commercial interests in any way.

388. The Star recognised in its written submissions delivered shortly before delivery of this Report that 'facial recognition technology is a valuable tool to detect the presence of patrons subject to withdrawals of licence (**WOLs**) and exclusions, including self-exclusions'. It went on to submit that:

An obstacle to the comprehensive implementation of facial recognition technology is that the use of historical images raises privacy issues. ... The Star Entertainment Group is of the view that it is not presently permitted to make use of images taken prior to the introduction of that signage to collect biometric information, for the purpose of using facial recognition technology, without a direction from the regulator. Such use may result in breaches of the Australian Privacy Principles ...

389. The Star seeks a direction from OLGR to use the historical images to overcome these perceived difficulties. I am not persuaded such a direction is required. The Star does not suggest such a direction was required in New South Wales before it instituted (with success) facial recognition there. The use of a person's image can be made a condition of entry to the casino (ie the person's consent can be obtained). This is in the context that the use of the personal information is for the purpose only of enforcing exclusions (not marketing or commercial activities). I am not persuaded that adequate means are not at The Star's disposal to effect facial recognition at its Queensland casino properties. The Star witnesses who were examined at the Inquiry did not raise such issues as an impediment to the implementation of facial recognition technology. Indeed, when interviewed, those witnesses suggested the rollout at Star Gold Coast was imminent.

390. Facial recognition ought be implemented without delay at The Star Gold Coast. I find accordingly.

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<sup>312</sup> Transcript P-279 line 38 to P-280 at line 31.

### *Analytics*

391. ‘Analytics’ refers to the use of technology and sophisticated algorithms to detect patterns, modes and durations of play which may be indicators of gambling harm.
392. The Time Play Management system<sup>313</sup> is an intervention tool developed by The Star Entertainment Group to mitigate the risk of harm associated with patrons gambling continuously without sufficient breaks or remaining in the casino for extended periods of time. It is a type of analytics, although not as sophisticated as it could be.
393. Mr Toleafoa accepted that analytics can assist in earlier intervention of problem gambling.<sup>314</sup> He gave evidence about the new Guest Time Play Management Standard<sup>315</sup> implemented by The Star on 22 August 2022.<sup>316</sup> Mr Toleafoa explained that The Star had been working towards an algorithm to ‘process a large part of data’ obtained from carded play.<sup>317</sup> He stated that development of the algorithm and the systematic collection of data for its use, is a priority for The Star but that that is in the ‘very early stages’.<sup>318</sup>
394. Analytics is tied closely to the management of the time a person ought be permitted to spend gambling without taking a break, and in the one session overall. It might also assist in detecting the likelihood of the incurrence of gambling harm by a person, from more sophisticated characteristics of their gambling behaviour beyond the length of time engaged in it.
395. Mr Toleafoa explained the new Time Play ‘rules’ as follows:<sup>319</sup>
- a. Rule 1 – At 3 hours of continuous play (ie without a single 15 minute break) guest-facing technology will be developed to encourage the patron to take a break;
  - b. Rule 2 – At 6 hours of continuous play (ie without at least 2 x 15 minute breaks) a team member may interact with the player and advise of the need for a break;

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<sup>313</sup> The Time Play Management System is set out in The Star’s Time Play Management Standard: Ex 3, Volume 7, Tab 7.145: STA.6005.0018.4135.

<sup>314</sup> Toleafoa Statutory Declaration, [127]: STA.0000.0008.0378 at 0393.

<sup>315</sup> Ex 3, Volume 7, Tab 7.145: STA.6005.0018.4135.

<sup>316</sup> Transcript, P-119, line 39 to P-120, line 15.

<sup>317</sup> Transcript P-71 at lines 3 to 35.

<sup>318</sup> Transcript P-71 at lines 24 to 43.

<sup>319</sup> Toleafoa Statutory Declaration, [101]: STA.0000.0008.0378 at 0390.



- c. Rule 3 – At 10 hours of cumulative rated play in any 24-hour period team members may interact with the patron with instructions to leave the premises before the 12 hour mark;
  - d. Rule 4 – At 11 hours of cumulative rated play in any 24-hour period team members may interact with the patron to achieve a cessation of play prior to the 12 hour mark; and
  - e. Rule 5 – At 12 hours of cumulative rated play in any 24-hour period Security may interact with the patron to action an RG ‘Ask To Leave’, and not return for 12 hours; and:
    - (i) time play incidents must be prioritised based on hours of play (longest play time to shortest play time);
    - (ii) alerts of 12 hours or more must be prioritized and crosschecked with TrackVia for the patron’s details, rating, and exact location;
    - (iii) alerts for 11 hours or more must be checked and crosschecked with TrackVia for the patron’s details, rating, and exact location;
    - (iv) alerts for 10 hours or more must be checked and crosschecked with TrackVia for the patron’s details, rating, and exact location; and
    - (v) alerts for 6 hours or more must be checked and crosschecked with TrackVia for the patron’s details, rating, and exact location.
396. Mr Toleafoa’s testimony was that the current Time Play Management Standard does not have intervention before 6 hours of continuous play because Rule 1 is currently at the development stage only.<sup>320</sup>
397. However, alerts for 6 hours or more must be checked and crosschecked with TrackVia for patron details, rating, and exact location.
398. Mr Finkelstein considered the harmful impacts of EGMs and marshalled the evidence before him which showed that individuals frequently gamble more than intended during sessions of play. He also explained how those individuals might initially seek to limit the time and money they might spend on gambling, but then make impulsive choices that

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<sup>320</sup> Transcript P-120, line 9 to P-121, line 30.

cut across those earlier, and perhaps more detached and rational, decisions. This behavioural phenomenon was corroborated by the evidence of Witness A in this Inquiry, who spoke of seeking to set limits. However, as can be the way of the compulsive gambler, they would inevitably find ways to breach them.

399. Mr Finkelstein recommended the following limitations:<sup>321</sup>

- a. if the pre-set time limit or the pre-set loss limit is reached, the player cannot continue to gamble on an EGM and the limit(s) cannot be altered, for 36 hours;
- b. no player can gamble on an EGM for more than 12 hours in any 24-hour period;
- c. if a player has gambled for 12 hours in any 24-hour period, the player must take a break for 24 hours;
- d. a player cannot gamble continuously on an EGM for more than three hours;
- e. a player must take a break of at least 15 minutes after three hours of continuous gambling; and
- f. a player cannot gamble on EGMs for more than 36 hours per week.

400. Mr Bell SC recommended that the Time Play Management standard be formalised as an internal control for the purposes of s 124 of the *Casino Control Act 1992* (NSW).<sup>322</sup> He also recommended that it include the following requirements:<sup>323</sup>

- a. that a patron cannot gamble continuously on an EGM for more than three hours without a 15 minute break; and
- b. within any 24 hour period, a patron cannot gamble for more than 12 hours.

401. Analytics and time limitations are to be commended if strictly followed. However, they will only be successful if carded play is mandatory, as it relies upon real-time data.<sup>324</sup>

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<sup>321</sup> *Report of the Royal Commission into the Casino Operator and Licence*, Volume 2 (October 2021), Chapter 8 ‘Responsible service of gambling’, page 57, paragraph 312.

<sup>322</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 35, para 17.

<sup>323</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 35, para 18.

<sup>324</sup> Transcript P-78, line 47.

402. The Star’s current carded play system has the ability to monitor gaming behaviour. Any system designed to assist the staff ought be implemented without delay. The technology required for such a system is already in place within the Star’s EGMs and Star Assist system.<sup>325</sup> Development of an algorithm should continue with mandatory carded play offering better data by which gambling can be monitored. I find accordingly.
403. Analytics has a wider and larger role to play. I take up this topic again in the context of Part C of the Terms of Reference.

#### *Resourcing and training*

404. Challenges arise in the administration of responsible gambling at casinos. The venues themselves are large, as are the numbers of those coming there to gamble. Adequate resourcing is fundamental to the success of any policy with respect to harm minimisation. The resources required need be commensurate with the numbers and types of patrons.
405. The key harm minimisation staff are those employed in the Gaming Department that run the Time Play Management strategy. These staff members are responsible for facilitating the ‘*time play regime*’. Mr Toleafoa gave evidence about the resourcing at The Star casinos in Queensland dedicated to responsible gambling and gambling harm minimisation. He explained that The Star casinos here have been increasing the number of staff members to assist in the monitoring of play. This includes 25 additional staff responsible for monitoring player time group wide.<sup>326</sup> Of those, 10 are located in Queensland casinos.<sup>327</sup>
406. The Star Gold Coast and Treasury Brisbane each have only four employees with the sole responsibility for responsible gambling.<sup>328</sup> While this number has increased in recent years, it remains inadequate. Even if all such staff members were on the casino floor at the one time, each of them would be responsible for the supervision of too many gaming machines. The Treasury Casino has more than 1,300 gaming machines<sup>329</sup> and The Star

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<sup>325</sup> Transcript P-78, line 4.

<sup>326</sup> Toleafoa Statutory Declaration, [122]: STA.0000.0008.0378 at 0392.

<sup>327</sup> Ex 3, Tab 2.1(g), REV.0005.0002.0002 at .0003 (4 Gaming Supervisors at Treasury Brisbane, 1 Premium Gaming Host at Gold Coast, 1 Premium Services Host at Gold Coast, 4 Casino Guest Service personnel at Gold Coast).

<sup>328</sup> Toleafoa Statutory Declaration, [11]: STA.0000.0008.0378 at 0380.

<sup>329</sup> The Star Treasury Brisbane website, ‘Electronic Gaming Machines’, accessed at: [<https://www.treasurybrisbane.com.au/casino/slots>].

Gold Coast has more than 1,400.<sup>330</sup> At times, no GSM or PLM is on duty.<sup>331</sup> Mr Bell SC recommended that at all times the operator of The Star Sydney be required to have a PLM or at least one GSM present at all times when that casino is open.<sup>332</sup>

407. All other gaming floor staff do not have the breadth of training with respect to responsible gambling that these specialist staff do. Those other staff have principal duties that will likely divide their attention. Although the increase in staff is a positive step, more needs to be done with respect to staffing, in particular with the opening of Queen’s Wharf given that it is to have up to 2,500 EGMs.<sup>333</sup>
408. The *Casino Control Act* does not currently place a positive obligation to ensure that casinos are appropriately resourced to minimise harm and monitor players. Reform of this ought to be considered. Casino operators and licensees take the financial benefits from the activities which, for some people, given rise to considerable harm. They ought to dedicate sufficient resources to minimise such harm.
409. The Star RG Program is undergoing improvement. Mr Toleafoa’s evidence on several occasions was to the effect that matters are being looked into and developed with further consideration. He considered his area to be sufficiently well-resourced. More expedition is required particularly with the implementation of facial recognition and 24 hour attendance by GSM staff members. Taking those steps will bring more into balance The Star’s treatment of its commercial interests and its responsibilities arising in connection with AML and responsible gambling.

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<sup>330</sup> The Star Gold Coast website, ‘Gaming Machines’, accessed at: [<https://www.star.com.au/goldcoast/gaming-machines/>].

<sup>331</sup> Toleafoa Statutory Declaration, [23]: STA.0000.0008.0378 at 0382; Transcript P-110 at lines 1 to 25.

<sup>332</sup> Bell Report, Volume 1, Chapter 1 ‘Executive Summary’, page 35, para 20.

<sup>333</sup> Queen’s Wharf Brisbane website, ‘Casino and Licensing’, accessed at: [<https://queenswharfbrisbane.com.au/casino-and-licensing/>].

## V Enhanced Regulation

### Introduction

#### *Terms of Reference*

410. Part C of my Terms of Reference direct me to consider whether any further improvements to casino procedures, regulations and legislation are warranted to enhance integrity, minimise the potential for harm, ensure probity and restore public confidence in casino operations.
411. I am to have regard to the findings made earlier in this report, the *Casino Control and Other Legislation Amendment Bill 2022 (Qld)*, the *Casino Control Act*, and the approved control systems for The Star Gold Coast and Treasury Brisbane casinos.
412. Public submissions were invited and received in connection with Part C of the Review. They are listed in **Appendix 1**. All were considered, and some are referred to in what follows.
413. Part C of the Terms of Reference are as follows:

#### **Enhanced Regulation**

The Casino Control and Other Legislation Amendment Bill 2022 (Bill) currently before the Queensland Parliament, seeks to strengthen casino regulation including by increasing penalties, and introducing self-reporting obligations and the ability for the Minister to direct a casino operator to engage an approved external adviser, on terms decided by the Minister, to inquire into and report on any matter relevant to the conduct of casino operations.

Having regard to the findings of the s.91 inquiry, the Bill, the Casino Control Act and the approved control systems for The Star Gold Coast and Treasury Brisbane casinos, the Review will consider whether any further improvements to casino procedures, regulations and legislation is warranted to enhance integrity, minimise the potential for harm, ensure probity and restore public confidence in casino operations. This may include, but not be limited to, recommendations about arrangements for periodic reviews of licensee suitability, in line with best practice and a nationally consistent approach.

#### *Casino Control and Other Legislation Amendment Bill 2022*

414. The *Casino Control and Other Legislation Amendment Bill 2022* was introduced into the Queensland Parliament on 26 May 2022. It was referred to the Legislative Assembly's Legal Affairs and Safety Committee for consideration. The Committee's Report No. 28 of July 2022 (**the Committee Report**) recommended passage of the Bill. At the date of my Report, the Bill awaits further consideration by the Parliament.

415. I propose to refer to the Bill in this Report as the ‘**Queensland Amendment Act**’ in the expectation that it will be duly enacted.
416. The amendments to be effected by that Act have objectives which include the strengthening of casino integrity and regulation in Queensland and the modernising of gambling legislation in order to improve regulatory agility and to address cashless gambling.<sup>334</sup>
417. The Committee Report made reference to the inquiries and investigations into casinos operated by subsidiaries of Crown Resorts Limited (**Crown**) and The Star in several jurisdictions.<sup>335</sup> Those were said to have suggested that the ‘wider casino sector should be subject to stronger regulatory scrutiny to ensure casinos operate with the highest standards of integrity’.<sup>336</sup> The Bill, the Committee considered, proposed amendments to address recommendations from those inquiries, particularly those numbered 18, 19, 20 and 27 made by Mr Finkelstein AO QC in his Inquiry. They concerned matters including powers of inspectors, the obligation of casino operators to cooperate with the regulator, new powers for the regulator, as well as increasing penalties including for disciplinary action.
418. The Queensland Amendment Act seeks to achieve its objectives in various ways. It deals with some of the concerns about which this Inquiry heard. It is convenient to explain the Queensland Amendment Act and its effect by reference to the Committee Report.
419. The Queensland Amendment Act introduces offences and increases existing penalties. This is to provide meaningful consequences for breaches of the law.<sup>337</sup> It increases the penalty for contravening an approved control system from 200 to 400 penalty units, and from 40 to 160 penalty units for interfering with the discharge of an inspector’s duties. It also enables, as a form of disciplinary action, a pecuniary penalty to be imposed on a

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<sup>334</sup> Explanatory Notes for the *Casino Control and Other Legislation Amendment Bill 2022*, page 1.

<sup>335</sup> Legal Affairs and Safety Committee, Legislative Assembly (Qld) ‘Report No. 28, 57<sup>th</sup> Parliament Legal Affairs and Safety Committee July 2022’, Report No 28, *Casino Control and Other Legislation Amendment Bill 2022 (Committee Report)*, [2.1.1].

<sup>336</sup> In doing so, the Committee adopted a statement from the Department of Justice and Attorney-General, written briefing, 8 June 2022.

<sup>337</sup> Committee Report, [2.1.2].

casino entity of up to \$5 million (by the Minister) and \$50 million (by the Governor in Council).<sup>338</sup>

420. The forms of disciplinary action previously available under s 31 of the *Casino Control Act* are expanded to include financial penalties. They are now of a quantum to ensure penalties are not seen as a manageable cost of doing business. A contravention of the *Casino Control Act* becomes a ground for taking disciplinary action (whether or not the contravention also constituted an offence under the Act or otherwise).
421. A requirement is imposed on casino licensees, lessees, operators and their associates to report contraventions of the law and breaches by them of certain prescribed agreements. The obligation to disclose breaches and contraventions is intended to encourage entities to have adequate processes in place to detect when a breach or contravention may have occurred.
422. Other provisions expand information gathering powers and introduce powers considered necessary to reflect the complexity of modern casinos.
423. The Queensland Amendment Act imposes a duty upon casino licensees, lessees, operators and associates to cooperate. They must comply with reasonable requests made by the Chief Executive, Inspectors and the Minister, and do everything necessary to ensure that the management and casino operations of the relevant casino operator are conducted honestly and fairly.
424. There is also a broad prohibition on giving false or misleading information in response to an information requirement under a new s 30C. Legal professional privilege is displaced as an excuse for not providing information when required to do so.
425. Prior to enactment of the Queensland Amendment Act, the Minister could institute a show cause process where a prescribed ground arose **provided that** the act or omission was ‘of such a serious and fundamental nature that the integrity of the operation of the

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<sup>338</sup> Short of suspending or cancelling a casino licence, or taking some action in relation to the casino lease or management agreement, there were previously limited repercussions for a casino entity found to have committed an act that is serious and fundamental in terms of the integrity of casino gaming.

casino is jeopardised or the interest of the public is adversely affected’.<sup>339</sup> This latter criterion is removed, thus permitting action to be taken at a lower threshold.

426. The Minister is given power to direct a casino entity to engage and pay for a qualified external adviser on set terms and conditions to investigate and report to the Minister. Such adviser may access information reasonably required, including confidential information or to which legal and professional privilege attaches.

427. The Queensland Amendment Act also seeks to modernise gambling legislation by facilitating the transition to safe cashless gambling.<sup>340</sup> The Committee Report noted the recommendation of Mr Finkelstein that Crown Melbourne be directed to phase out the use of cash for gaming transactions over \$1,000 as ‘cash is a medium favoured by criminals and leaves casinos particularly vulnerable to money laundering’.<sup>341</sup>

428. Enhanced regulatory agility in responding to new technologies and practices is provided for by a range of means which include empowering the Chief Executive to issue guidelines, and providing a Regulation-making power to prescribe harm minimisation measures. This power is said to ‘future proof’ Queensland’s gambling legislation by creating a more responsive regulatory environment for gambling that is better able to keep up with best practice harm minimisation strategies as technological advances and new gambling products emerge which may pose a risk of harm.<sup>342</sup> It might be used, for example, to require licensed venues to install facial recognition technology to identify persons who have excluded themselves, or those subject to an exclusion order under s 93A. This approach to harm minimisation moves away from treating the issue as a licence-specific exercise to one which can be introduced for a group of licences, or by reference to a particular form of gambling.

429. As to cashless gambling, the Queensland Amendment Act:

- a. removes legislative barriers to considering and approving cashless payment methods;

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<sup>339</sup> *Casino Control Act*, s 31(2).

<sup>340</sup> Committee Report, [2.2].

<sup>341</sup> Committee Report, [2.2].

<sup>342</sup> Explanatory Notes for the *Casino Control and Other Legislation Amendment Bill 2022*, page 42.



- b. ensures that cashless systems and technologies can be approved (with conditions) and undergo technical evaluation before their use;
- c. provides a regulation-making power for methods of payment that may be used; and
- d. gives the Chief Executive power to issue guidelines about the attitude likely to be adopted on particular matters, such as functionalities of cashless gaming systems and payment methods.

430. I now turn to key areas in which the regulation of casinos might be enhanced in this State. In doing so, I owe a considerable debt to the extensive and in-depth work of the Bell, Bergin, Finkelstein and Owen Inquiries in particular. That body of work has informed not only my consideration of these matters, but also, evidently, the Queensland Amendment Act and the work of the Legal Affairs and Safety Committee of the Queensland Parliament. This Inquiry was able to benefit from that work, and to start from a much more advanced position than would have been the case had it not been undertaken.

431. The topics dealt with below are: minimisation of gambling-related harm; form of the Regulator and scrutiny by it of casino operations; funding of casino regulation; internal controls; and some miscellaneous matters.

### **Minimisation of gambling-related harm**

432. I have already dealt with minimisation of gambling harm when considering Part A of the Terms of Reference, and in the context of the Queensland Amendment Act and the reforms it makes in this regard. I limit my remarks here to those matters which warrant enhanced regulation in light of the findings I have made and bearing in mind the measures that the Queensland Amendment Act has already introduced.

### *Responsible Gambling*

433. Responsible gambling is a set of operator policies and practices designed to prevent and reduce gambling-related harm. It incorporates interventions aimed at promoting consumer protection, awareness and education, and access to treatment.<sup>343</sup>

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<sup>343</sup> Perth Casino Royal Commission, Final Report dated 4 March 2022 (**Owen Report**), Volume 3, Chapter 12 ‘Harm Minimisation’, page 643, [26].

434. The stated object of the *Casino Control Act* is to ‘ensure that, on balance, the State and the community as a whole benefit from casino gambling’.<sup>344</sup> Casino gambling is lawful subject to a system of regulation and control designed to protect gamblers and the community through, among other things, minimising the potential for harm.<sup>345</sup>
435. Part 6 of that Act imposes a number of responsible gambling requirements and restrictions relating to casino operators, including:<sup>346</sup>
- a. a requirement that advice or information about gaming rules, wagers, and payout odds for a wager be prominently displayed; and
  - b. a prohibition on accepting credit wagers, making loans to any person, advancing any thing of value to any person, and extending credit in any form to any person.
436. The Queensland Amendment Act to some extent modernises gambling legislation, by:<sup>347</sup>
- a. facilitating the transition to safe cashless gambling; and
  - b. enhancing regulatory agility in response to new technologies and practices, including by:
    - i. ensuring the chief executive has the ability to issue guidelines (to be published on the Department’s website); and
    - ii. providing a regulation making power to prescribe harm minimisation measures that must be implemented.

### Comparison with other jurisdictions

#### Victoria

437. The *Casino Control Act* 1991 (Vic) operates along with:

- a. the *Casino (Management Agreement) Act* 1993 (Vic), by which the management agreement between the Minister and Crown Casino Ltd in relation to the Melbourne Casino is ratified and approved;
- b. the *Gambling Regulation Act* 2003 (Vic); and

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<sup>344</sup> *Casino Control Act* 1982 (Qld), s 3(1).

<sup>345</sup> *Casino Control Act* 1982 (Qld), s 3(2)(c).

<sup>346</sup> *Casino Control Act* 1982 (Qld), ss 64(1)(b), 66(1). See also ss 67-71.

<sup>347</sup> Committee Report, [2.2].

- c. the *Victorian Gambling and Casino Control Commission Act 2011* (Vic), which establishes the Victorian Gambling and Casino Control Commission (VGCCC) as the casino regulator.
438. These statutes were reformed following the Inquiry by Mr Finkelstein by the passage of various amending Acts.<sup>348</sup> They were intended, among other things, to:
  - a. implement the recommendations of that Commission;
  - b. strengthen the oversight and regulation of casino operators; and
  - c. establish the Victorian Gambling and Casino Control Commission (in place of the Victorian Commission for Gambling and Liquor Regulation).
439. The *Casino Legislation Amendment (Royal Commission Implementation and Other Matters) Bill 2022* (Vic), was given Royal Assent on 27 September 2022. It is intended to implement further recommendations of Mr Finkelstein.
440. The *Casino Control Act 1991* (Vic) ties casino licensing to responsible gambling obligations by:
  - a. requiring an application for a casino licence to be accompanied by a Responsible Gambling Code of Conduct that the applicant intends to implement if the licence be granted;<sup>349</sup>
  - b. making it a condition of any casino licence that the casino operator implement a compliant Code;<sup>350</sup>
  - c. imposing disciplinary consequences for breach of that Code;<sup>351</sup> and

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<sup>348</sup> See the *Casino and Gambling Legislation Amendment Act 2021* (Vic); the *Casino and Liquor Legislation Amendment Act 2022* (Vic); and the *Gambling and Liquor Legislation Amendment Act 2022* (Vic).

<sup>349</sup> *Casino Control Act 1991* (Vic), s 8(3)(a).

<sup>350</sup> *Casino Control Act 1991* (Vic), s 69.

<sup>351</sup> *Casino Control Act 1991* (Vic), s 20. See especially sub-s (1)(db). The possible disciplinary action that may be taken against a casino operator includes ‘the cancellation or suspension of a casino licence, the issuing of a letter of censure, the variation of the terms of a casino licence or the imposition of a fine not exceeding \$1 000 000’: *Casino Control Act 1991* (Vic) s 20(1). The provision was strengthened by the *Casino and Liquor Legislation Amendment Act 2022* (Vic) to impose disciplinary consequences after a single breach of the Code, rather than multiple breaches: Explanatory Memorandum, *Casino and Liquor Legislation Amendment Bill 2022* (Vic), page 2.

- d. requiring a casino operator to give notice to the VGCCC if the casino operator or an associate breaches, or is likely to breach, that Code.<sup>352</sup>
441. Victoria is one of the few Australian jurisdictions to mandate the implementation of a Responsible Gambling Code of Conduct as a precondition to holding a casino licence.<sup>353</sup> That Code must comply with each direction under s 10.6.6(1) of the *Gambling Regulation Act 2003* (Vic) that applies in relation to the casino operator.<sup>354</sup> A current direction prescribes certain contents for such Codes.<sup>355</sup>
442. Responsible gambling and harm minimisation are addressed mainly in the *Gambling Regulation Act 2003* (Vic). The Minister and the VGCCC hold powers and responsibilities with respect to responsible gambling including:
- a. to ban irresponsible gambling practices or products for a period not exceeding 10 years, if the Minister is satisfied that the product or practice undermines, or may undermine, a responsible gambling objective;<sup>356</sup>
  - b. to give a direction as to the bet limits to apply to gaming machines;<sup>357</sup>
  - c. to approve or refuse to approve gaming machines having regard to, amongst other things, responsible gambling;<sup>358</sup>
  - d. the regulation of such things as gaming machines, pre-commitment rules and exclusions;<sup>359</sup> and
  - e. making and amending standards and operational requirements in respect of the provision of responsible gambling services and pre-commitment services.<sup>360</sup>

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<sup>352</sup> *Casino Control Act 1991* (Vic) s 27A(1)(a)(ii), inserted pursuant to the *Casino and Gambling Legislation Amendment Act 2021* (Vic).

<sup>353</sup> *Casino Control Act 1991* (Vic) ss 8(3), 69. The term ‘Responsible Gambling Code of Conduct’ is defined in s 1.3(1) of the *Gambling Regulation Act 2003* (Vic) as ‘a Code of Conduct to foster responsible gambling’.

<sup>354</sup> *Casino Control Act 1991* (Vic), s 69(b).

<sup>355</sup> Ministerial Direction Pursuant to Section 10.6.6, Victoria Government Gazette No S 430, 17 September 2018, 3; *Gambling Regulation Act 2003* (Vic), s 10.6.5(g).

<sup>356</sup> *Gambling Regulation Act 2003* (Vic), ss 2.1.1(f), 2.5A.1–2.5A.14.

<sup>357</sup> *Gambling Regulation Act 2003* (Vic), s 3.2.3(1)(d).

<sup>358</sup> *Gambling Regulation Act 2003* (Vic), s 3.5.4(3)(a). See also ss 3.5.5(3)(a), 3.5.7B(5)(a).

<sup>359</sup> *Gambling Regulation Act 2003* (Vic), s 10.1.4.

<sup>360</sup> *Gambling Regulation Act 2003* (Vic), ss 10.1.5B, 10.1.5C.

443. The giving of Ministerial Directions is contemplated by s 10.6.6. Such directions were made on 17 September 2018 and 21 February 2020. They impose requirements:

- a. that the casino operator’s Code include a responsible gambling message that identifies its commitment to responsible gambling;
- b. that the Code specify the information about responsible gambling that the casino operator will make available to customers;
- c. that the Code state how information about any relevant rules for gambling will be made available to customers;
- d. in relation to customer loyalty schemes, to pre-commitment strategies, and to responsible gambling interactions with customers to link them with problem gambling support services;
- e. that the Code identify what the casino operator will do to discourage extended and intensive gambling, and to ensure customers are made aware of the passage of time;
- f. in relation to financial transactions (such as cashing cheques); and
- g. in relation to advertising and promotions with respect to gambling.

444. A number of Mr Finkelstein’s recommendations concerned the responsible service of gambling.<sup>361</sup> He considered that, although cashless gambling was to be encouraged as an anti-money laundering measure and as a means by which to monitor patrons’ play periods,<sup>362</sup> it also raised concerns. He mentioned ‘the frictionless nature of transactions, where there is less likelihood of time for reflection’, which potentially made it ‘difficult for people to track their spending during gambling’.<sup>363</sup>

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<sup>361</sup> Report of the Royal Commission into the Casino Operator and Licence, October 2021 (**Finkelstein Report**), Volume 1, Chapter 1 ‘Overview’, page 19, [35].

<sup>362</sup> Finkelstein Report, Volume 1, Chapter 6 ‘Money laundering’, page 197, [233].

<sup>363</sup> Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 55, [302]. These remarks were drawn from submissions made by the Victorian Responsible Gambling Foundation in relation to cashless play: See Finkelstein Report, Volume 1, Chapter 6 ‘Money laundering’, page 198, [239] to page 199, [242]. It was concluded in response to these submissions that ‘Many of the concerns identified by the VRGF will be addressed or mitigated if other recommendations in this Report are accepted’: Finkelstein Report, Volume 1, Chapter 6 ‘Money laundering’, page 199, [243].

445. Carded play was the subject of his Recommendation 2 as follows:<sup>364</sup>

It is recommended that a direction be given to Crown Melbourne pursuant to section 23(1) of the Casino Control Act to the effect that carded play be compulsory at the Melbourne Casino for all gaming.

446. Also relevant is his Recommendation 3, namely:<sup>365</sup>

It is recommended that a direction be given to Crown Melbourne pursuant to section 23(1) of the Casino Control Act to the effect that Crown Melbourne phase out the use of cash at the Melbourne Casino, save for gaming transactions of \$1,000 or less.

447. Recommendation 9 proposed a direction be given to Crown Melbourne Limited that the player card used at the casino collect, to the extent practicable, data relating to player buy-in (time, amount); player buy-out (time, amount); play periods (date, start time, end time); player turnover; player losses and wins; gambling product; and such further information as the regulator reasonably requires for anti-money laundering and Responsible Service of Gaming purposes.<sup>366</sup>

448. The data so gathered was to be used for research into gambling harms.<sup>367</sup> Recommendations 12 to 14 provided for the formation of a government-funded Gambling Data Committee, intended to create and maintain a repository of gambling data.<sup>368</sup>

449. EGMs were identified by Mr Finkelstein as warranting special consideration, being ‘a form of gambling that causes more harm than others’.<sup>369</sup> He considered the use of pre-commitment systems, by which gamblers could set limits (typically, time or money limits) before starting to gamble.<sup>370</sup>

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<sup>364</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 17.

<sup>365</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 17.

<sup>366</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 19.

<sup>367</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 19, [35], Volume 2, Chapter 8 ‘Responsible service of gambling’, page 56, [309]. See also Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 49, [270] to page 50, [272]; page 53, [289] to page 54, [296].

<sup>368</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 21.

<sup>369</sup> Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 56, [310]. See also Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 11, [66] to page 12, [73]; page 37, [187].

<sup>370</sup> ‘Pre-commitment system’ is defined in s 3.8A.1 of the *Gambling Regulation Act* 2003 (Vic) as ‘an electronic or computer or communications system (other than a pre-commitment mechanism) that, by interfacing with player account equipment and player cards, provides for players of gaming machines to track, and set a time limit or net loss limit on, their playing of gaming machines’.

450. Recommendation 10 concerned the ‘YourPlay’ system. It was made mandatory for all EGMs at gaming venues in Victoria under the *Gambling Regulation Act 2003 (Vic)*.<sup>371</sup> YourPlay allowed patrons to set voluntary money and time limits for their use of EGMs, but those limits could permissibly be exceeded without action being taken.<sup>372</sup>
451. Mr Finkelstein recommended that this system be made a full, mandatory, binding, pre-commitment system for Australian residents using EGMs at the Crown Casino in Melbourne. He set out a number of specific requirements including that:<sup>373</sup>
- a. each player set a daily, weekly or monthly time limit and loss limit so that a player who has reached that limit cannot continue to gamble on the EGM;
  - b. there be a default pre-set loss limit that the player can modify, with the default limit set by regulation;
  - c. a player cannot gamble continuously on an EGM for more than three hours, and a player who has reached that limit must take a break for at least 15 minutes;
  - d. no player can gamble on an EGM for more than 12 hours in a 24-hour period, and players who reach that limit must take a break for 24 hours;
  - e. no player can gamble on an EGM for more than 36 hours in a week; and
  - f. internal control systems ensure that a customer is unable to acquire more than one card.
452. These requirements appear to have been devised on the basis that one of the key observable signs of gambling harm is gambling for long periods without a break.<sup>374</sup>

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<sup>371</sup> Finkelstein Report, Volume 1, page xvi. YourPlay is a pre-commitment system provided, operated and maintained in Victoria by Intralot Gaming Services Pty Ltd: See Finkelstein Report, Volume 1, Chapter 2 ‘History of gambling regulation in Victoria’, page 53, [142] to page 55, [153].

<sup>372</sup> Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 37, [187] to page 40, [204].

<sup>373</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, pages 19 to 20, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 56, [310] to page 57, [312].

<sup>374</sup> Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 17, [94] to page 37, [184].

453. Recommendation 11 proposed that a Ministerial Direction be made under s 10.6.6 of the *Gambling Regulation Act 2003 (Vic)*,<sup>375</sup> to introduce the following duties into the Responsible Gambling Code of Conduct for Crown Melbourne Limited:
- a. to take all reasonable steps to prevent and minimise harm from gambling, including by monitoring the welfare of players, discouraging intensive and prolonged play and intervening when a person is displaying behaviour that is consistent with gambling harm;
  - b. to take all reasonable steps to ensure that players on the gambling floor are regularly observed to monitor behaviour that is consistent with gambling harm; and
  - c. to ensure that there is a sufficient number of responsible gambling officers (however called) at the casino.<sup>376</sup>
454. Mr Finkelstein also suggested that this direction set maximum play period limits, prescribe how long a break in play should be, and identify the period at which players should be interacted with, and the form of interaction, while gambling.<sup>377</sup>
455. Among a group of recommendations intended to impose obligations on a casino operator to cooperate with the regulator,<sup>378</sup> was that the *Casino Control Act 1991 (Vic)* be amended to ‘oblige the casino operator to notify the regulator of a material breach, or a likely material breach, of ... its Responsible Gambling Code of Conduct’.<sup>379</sup>

#### Western Australia

456. The *Casino Control Act 1984 (WA)* and the *Gaming and Wagering Commission Act 1987 (WA)* regulate casinos and gambling in Western Australia. The latter establishes the Gaming and Wagering Commission (GWC).

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<sup>375</sup> Pursuant to which the Minister is empowered to give a direction in relation to ‘the standards and requirements that a Responsible Gambling Code of Conduct implemented by a relevant person must meet’, and ‘the content that must be included in a Responsible Gambling Code of Conduct implemented by a relevant person’. A ‘relevant person’ includes a casino operator: *Gambling Regulation Act 2003 (Vic)* s 10.6.5(g).

<sup>376</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 20. See also Finkelstein Report, Volume 2, Chapter 8 ‘Responsible service of gambling’, page 58, [313] to page 60, [318].

<sup>377</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 20.

<sup>378</sup> Finkelstein Report, Volume 3, Chapter 16 ‘The powers of the regulator’, page 7, [35] to [41].

<sup>379</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 14.



457. Burswood Nominees Ltd (a subsidiary of Crown Resorts Limited identified as ‘Crown’, and holder of the licence for the Crown Perth Casino) took the voluntary step of establishing a Responsible Gaming Code of Conduct.<sup>380</sup>
458. The *Casino Legislation Amendment (Burswood Casino) Bill 2022* (WA), has been passed by both houses and is presently awaiting assent. It is intended to implement several priority legislative amendments arising from the final report of the Owen Royal Commission.<sup>381</sup>
459. The Report of the Commission contains recommendations in relation to the responsible service of gambling as part of its consideration of the extant risk of gambling-related harm.<sup>382</sup>
460. Crown Perth facilitated carded play by patrons who were part of the Crown Rewards loyalty program. Gambling data was automatically captured and retained from carded play, and used in harm minimisation operations.<sup>383</sup> It was observed that ‘[c]arded play is the only tool allowing for automatic and reliable tracking of patron time on-site’.<sup>384</sup>
461. As part of a broader ‘EGM Scheme’, it was recommended by the Hon Neville Owen AO (and Hon Lindy Jenkins and Mr Colin Murphy PSM) that carded play be mandated on EGMs as a means of capturing player data and enforcing loss and play limits.<sup>385</sup> It was also considered that it may be appropriate for the GWC<sup>386</sup> to consider mandatory carded play for table games.<sup>387</sup>

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<sup>380</sup> See <<https://www.crownperth.com.au/getsydmmedia/0186578e-3ce6-46c0-bf28-e6dc5ae4c741/Crown-Perth-Responsible-Gaming-Code-of-Conduct.pdf>>.

<sup>381</sup> Explanatory Memorandum, *Casino Legislation Amendment (Burswood Casino) Bill 2022* (WA). See also paragraphs 27 and following.

<sup>382</sup> Owen Report, Volume 1, Foreword, page 10.

<sup>383</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 668, [247] to [248]. Harm minimisation was facilitated through measures including the ‘Crown model’ predictive tool: See Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 670, [266] to [271].

<sup>384</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 668, [249].

<sup>385</sup> Owen Report, Volume 1, Recommendations, page 15, [11], Volume 3, Chapter 12 ‘Harm Minimisation’, page 706, [538]. See also Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 703, [520].

<sup>386</sup> An entity established under the *Gaming and Wagering Commission Act 1987* (WA) to ‘administer the law relating to gaming and to... keep under review the provision, use and location of gaming facilities’: Owen Report, Volume 1, Chapter 5 ‘Regulation of Perth Casino’, page 233, [7].

<sup>387</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 708, [555].

462. These recommendations were not accompanied by a further proposal for cashless play. It was noted, however, that ‘Crown has made it clear that it intends ultimately to move to cashless gaming’.<sup>388</sup>
463. The Owen Royal Commission expressly adopted the approach of Mr Finkelstein AO QC in recommending that Perth Casino be directed to collect, to the extent practicable, player data.<sup>389</sup>
464. Also adopted were Mr Finkelstein’s recommendations as to the manner in which gambling data should be made available, noting that ‘[c]onsistency in approach between Perth Casino and Melbourne Casino will no doubt be an advantage to Crown given that its harm minimisation is dealt with as a group level function’.<sup>390</sup>
465. It was recommended that an independent advisory body be responsible for establishing and maintaining a repository of data collected at Crown Casino Perth, equivalent to the Gambling Data Committee proposed for Victoria.<sup>391</sup>
466. Having acknowledged the particular harm associated with EGMs,<sup>392</sup> and the inadequacy of existing voluntary and non-binding systems,<sup>393</sup> the Owen Royal Commission recommended that the Perth Casino be required to ‘introduce a full, mandatory, binding loss pre-commitment and play period limits scheme for EGM play ... as soon as practicable’.<sup>394</sup> This scheme, it was said, should require patrons to pre-set weekly losses and time limits, with a default loss limit to be set having regard to research as to safe gambling limits.<sup>395</sup>

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<sup>388</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 704, [525].

<sup>389</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 706, [540] to [541].

<sup>390</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 706, [543].

<sup>391</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 706, [543] to page 707, [546].

<sup>392</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 647, [59] to page 649, [74].

<sup>393</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 681, [347] to page 682, [352].

<sup>394</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 704, [522].

<sup>395</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 704, [530].

467. In relation to play periods, it was noted that appropriate play periods had not been arrived at by reference to academic research or empirical study.<sup>396</sup> Accordingly, it was recommended that:

- a. GWC investigate the available research and information about the appropriate play period limits for EGM play;
- b. in the event that there is insufficient research or information, the GWC commission the necessary research as a priority;
- c. in the interim, some limits on play period should be imposed, providing, in particular, that a patron:
  - (i) be required to take a minimum 15 minute break after three hours of continuous gambling on an EGM;
  - (ii) may gamble on EGMs for no more than 12 hours in a 24 hour period; and
  - (iii) may gamble on EGMs for no more than 28 hours in a seven-day period.<sup>397</sup>

468. It was also recommended that Perth Casino be required to reduce the maximum bet amount for all EGMs on the main gaming floor to \$10.<sup>398</sup>

469. The Owen Royal Commission recommended legislative change, including the replacement of the *Casino Control Act* and *Gaming and Wagering Commission Act*.<sup>399</sup> This was on account of what were seen as deficiencies in the existing regulatory framework and its operation.<sup>400</sup>

470. This recommended change included four overarching proposals in relation to gambling harm minimisation:

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<sup>396</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 705, [531] to [532]. Crown’s approach to play periods in the Perth Casino was based on ‘common sense’, and was neither appropriately set nor properly observed and enforced: See Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 677, [317] to page 681, [346].

<sup>397</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 705, [533] to page 706, [537]. Compare Volume 3, Chapter 12 ‘Harm Minimisation’, page 669, [261] to page 670, [265].

<sup>398</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 707, [549] to page 708, [550].

<sup>399</sup> Owen Report, Volume 1, Recommendations, page 16, [14].

<sup>400</sup> Owen Report, Volume 3, Chapter 14 ‘Evaluation of Regulation of Perth Casino’, page 768, [17] to 781, [119].

- a. that any revised legislation include a number of positive obligations concerning the prevention or minimisation of gambling harm<sup>401</sup> (including a duty for the casino licensee to take reasonable steps to mitigate gambling-related harm<sup>402</sup>);
- b. that the revised legislation provide for a mandatory Responsible Service of Gaming code of conduct and impose deterrent penalties for its breach;<sup>403</sup>
- c. that a new body be created to provide independent advice, research and information as to harm minimisation;<sup>404</sup> and
- d. that consideration be given to the removal of an exception to the general prohibition on the publication of gambling advertisements in regulation 43 of the *Gaming and Wagering Commission Regulations* 1988 (WA), which permitted advertisements to be sent to persons ‘who are existing patrons of the gambling operator’.<sup>405</sup> It was considered that, in view of the links between gambling-related harm and advertising, this exception undermined the harm minimisation intent of the regulation.<sup>406</sup>

#### New South Wales

471. The *Casino Control Act* 1992 (NSW) was recently amended by the *Casino Legislation Amendment Act* 2022 (NSW) (**NSW Amendment Act**). It established the New South Wales Independent Casino Commission (**NICC**) and extinguished compensation triggers

<sup>401</sup> Owen Report, Volume 1, Recommendations, pages 16 to 17, [15](b)(iv), (ix), (n).

<sup>402</sup> Owen Report, Volume 3, Chapter 15 ‘Enhancements to the Regulatory Framework’, page 800, [109] to page 801, [110]. It was noted that the Finkelstein Report also recommended that casino operators should have ‘a duty to take all reasonable steps to prevent and minimise harm from gambling, including by monitoring the welfare of players, discouraging intensive and prolonged play and intervening when a person is displaying behaviour that is consistent with gambling harm’.

<sup>403</sup> Owen Report, Volume 1, Recommendations, page 17, [15](o)–(u), Volume 3, Chapter 15 ‘Enhancements to the Regulatory Framework’, page 803, [127]. Unlike in other Australian jurisdictions, a casino licensee in Western Australia was not previously required to develop, maintain and abide by a responsible service of gambling code of conduct. Crown Casino Perth had nevertheless developed its own code of conduct, which had not been approved by the GWC. However, the Owen Royal Commission considered the code to be deficient for a number of reasons: see Volume 3, Chapter 12 ‘Harm Minimisation’, page 652, [94] to page 653, [103], page 664, [210] to [220], page 672, [286] to 674, [298].

<sup>404</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 664, [221] to page 666, [233]; Chapter 15 ‘Enhancements to the Regulatory Framework’, page 804, [130].

<sup>405</sup> Owen Report, Volume 3, Chapter 15 ‘Enhancements to the Regulatory Framework’, page 805, [140] to [141]. See also Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 651, [83] to [86].

<sup>406</sup> Owen Report, Volume 3, Chapter 15 ‘Enhancements to the Regulatory Framework’, page 805, [142] to page 806, [143]. See also Volume 3, Chapter 12 ‘Harm Minimisation’, page 653, [104] to [107].

for casino operators in relation to regulatory action taken by Parliament, the Government and the NICC.

472. Casinos in New South Wales subscribe voluntarily to their own codes of conduct for responsible gambling practices.

473. The *Casino Control Act* (NSW) expresses as one of its primary objects ‘containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families’.<sup>407</sup> One of the objects of the NICC is in the same terms.<sup>408</sup>

474. It is a requirement of Part 5 of the *Casino Control Act* (NSW) that:

- a. problem gambling counselling services be made available to the patrons of a casino;<sup>409</sup>
- b. lending and extension of credit by a casino operator is prohibited;<sup>410</sup> and
- c. persons excluded from a casino may be required to undergo gambling counselling.<sup>411</sup>

475. Further responsible gambling measures were introduced into the *Casino Control Act* (NSW) by the NSW Amendment Act, including:

- a. restrictions on the visibility of gaming machines and gaming-related signs outside the boundary of the casino;<sup>412</sup>
- b. inserting s 71A into the *Casino Control Act* (NSW). It requires, as a condition of a casino licence, that all gaming conducted at the casino be by use of a player card;<sup>413</sup>
- c. restrictions on the use of cash,<sup>414</sup>

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<sup>407</sup> *Casino Control Act* 1992 (NSW), s 4A(1)(c).

<sup>408</sup> *Casino Control Act* 1992 (NSW), s 140(d).

<sup>409</sup> *Casino Control Act* 1992 (NSW), s 72A(1). The penalty is increased to 1,000 penalty units pursuant to Sch 1, cl 61 of the *Casino Legislation Amendment Act* 2022 (NSW).

<sup>410</sup> *Casino Control Act* 1992 (NSW), s 74.

<sup>411</sup> *Casino Control Act* 1992 (NSW), ss 79–84. See especially s 84(3).

<sup>412</sup> *Casino Legislation Amendment Act* 2022 (NSW), Sch 1, cl 60.

<sup>413</sup> *Casino Legislation Amendment Act* 2022 (NSW) Sch 1, cl 60, Sch 2, cl 14.

<sup>414</sup> *Casino Legislation Amendment Act* 2022 (NSW), Sch 1, cl 62.

- d. restrictions on the offering of promotional prizes and reward schemes by casino operators;<sup>415</sup>
- e. requiring, as a condition of a casino licence, that:
  - (i) notice of the giving of an exclusion order by one casino operator be provided as soon as practicable to the other casino operator;
  - (ii) the player card of the person the subject of the exclusion order be cancelled; and
  - (iii) a player card not be issued to the person the subject of the exclusion order unless written permission is given by the NICC or the Commissioner of Police;<sup>416</sup>
- f. requiring a casino operator to take reasonable steps to prevent a person subject to an exclusion order from entering the casino;<sup>417</sup>
- g. substantially larger penalties for contraventions;<sup>418</sup> and
- h. requiring that the system of internal controls of a casino include requirements for the casino operator to address matters relating to responsible gambling.<sup>419</sup>

476. The NICC is required to establish an advisory committee about harm minimisation measures.<sup>420</sup>

477. Part 4 of the *Casino Control Regulation* (NSW)<sup>421</sup> requires that player cards be capable of recording certain data for the purposes of carrying out investigations of the casino operations and ensuring the casino operator is complying with its obligations in relation to responsible service of gambling or monitoring and preventing criminal activity.<sup>422</sup>

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<sup>415</sup> *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cl 72.

<sup>416</sup> *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cl 74.

<sup>417</sup> *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cl 76.

<sup>418</sup> See, eg, *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cls 77–81, Sch 2, cls 5–10, 12–13, 15–20.

<sup>419</sup> *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cl 87.

<sup>420</sup> *Casino Legislation Amendment Act 2022* (NSW), Sch 1, cl 137A.

<sup>421</sup> *Casino Control Regulation 2019* (NSW), Part 4, Divisions 2-5.

<sup>422</sup> *Casino Control Regulation 2019* (NSW), reg 25A.

### *Carded Play*

478. At present, there is no requirement in Queensland that there be mandatory carded play. Carded play offers benefits in the minimisation of gambling related harm as I explained earlier in this Report. Although not a complete answer, it affords a powerful means by which to assist in the minimisation of such harm.

479. Mandatory carded play will:

- a. assist with the detection of patterns and magnitudes of gambling that can be indicative of gambling harm;
- b. allow for the collection of data necessary for Recommendations 3 and 4 below; and
- c. assist with identifying those patrons who are liable to be excluded and with preventing them from gambling.

480. The submission from Alliance for Gambling Reform received by this Inquiry suggests that the use of an identity-linked gambling card would facilitate stronger harm minimisation policy measures.<sup>423</sup> It points out, and I agree, that:

If appropriately designed, these will better support people to take control of their gambling, while also preventing money-laundering. Such a system should provide safeguards against people being able to lose large amounts of funds beyond what they can afford.

481. To be effective, gamblers must be permitted to obtain only one card.

482. I therefore recommend as follows:

**Recommendation 1**  
**Carded play (that is, play requiring the use of an identity linked gambling card) be mandatory in Queensland casinos.**

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<sup>423</sup> Alliance for Gambling Reform submission, 19 August 2022 (**AGR Submission**), page 2.

### *Cashless Gambling*

483. The *Casino Control Act* (as it is to be amended by the Queensland Amendment Act) permits a casino operator to accept cash for deposit to a person's player account.<sup>424</sup>

484. Some consider problematic cashless transactions for gambling in casinos because of the relative ease with which money can be spent. Strong reasons, however, favour it as a measure to help control and monitor spending. The submission from Alliance for Gambling Reform<sup>425</sup> explained:

A universal, identity-linked cashless gambling card can effectively support harm minimisation strategies, including precommitment and self-exclusion, and draw upon technology to support staff to intervene, while also eliminating money laundering.

485. The Alliance for Gambling reform submitted that the key harm minimisation features of a digital payment system include:<sup>426</sup>

- a. identity verification in order to allow linkage to a (self) exclusion system;
- b. prohibition on the use of credit to transfer funds directly or indirectly to the payment account;
- c. introduction of friction in the form of time delays after top-up, thus forcing breaks in use;
- d. limitation of the automatic top-up of funds;
- e. limiting the amount that can be placed on the card at any one time; and
- f. the ability to 'quarantine' funds, particularly winnings.

486. The benefits of cashless gambling, as the Alliance for Gambling Reform points out, are not limited to harm minimisation. The enhanced ability to trace and monitor patterns of gambling for this purpose also lends support for the recommendation I am about to make.

487. Mr Finkelstein recommended that Crown Melbourne be given a direction to the effect that Crown Melbourne Limited phase out the use of cash at the Crown Melbourne casino,

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<sup>424</sup> *Casino Control Act* 1982 (Qld), s 67.

<sup>425</sup> AGR Submission, page 9.

<sup>426</sup> AGR Submission, page 9.



save for gambling transactions of \$1,000 or less.<sup>427</sup> This was ‘designed to reduce the incidence of money laundering’.<sup>428</sup>

488. The \$1,000 cap seems to have been the one advocated by Crown Melbourne’s former AML consultant on the basis that ‘there are people who would want to come to the casino and use diminished levels’ of cash.<sup>429</sup> The Star in its written submissions on enhanced regulation supported such a threshold.

489. This limited cash exception affords those who would wish to use cash (and not draw on cashless facilities) a means of, in effect, self-limited gambling. It also affords those who gamble rarely and do not wish to sign up for a loyalty card or membership, a means to do so, but at a modest level. The relatively low cap amount means that the more general objects of allowing larger sums to be traced for AML purposes and monitoring of patterns of gambling for harm minimisation strategies are preserved.

**Recommendation 2**  
**Cashless gambling be implemented, save for gambling transactions of \$1,000 or less.**

*Limits on Gambling*

490. There is currently no requirement in the *Casino Control Act* for pre-commitment to limits on gambling. The evidence before the Inquiry showed that, when it comes to compulsive gamblers, the need for setting parameters is of critical importance.

491. The submission from Alliance for Gambling Reform stated that:<sup>430</sup>

There is some evidence of the effectiveness of pre-commitment systems as a harm minimisation and consumer protection mechanism where the system is well designed in that the system is universal (i.e., everyone must participate at all times to gamble), it applies across a wide geographic area (e.g., system applies across the entire state), has binding limits (i.e., limits cannot be exceeded once set), and allows instantaneous lowering (but not increasing) of limits. In contrast, there is now clear evidence that pre-commitment systems are not effective where these elements have not been included.

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<sup>427</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 17, [34] Recommendation 3.

<sup>428</sup> Finkelstein Report, Volume 1, Chapter 1 ‘Overview’, page 17, [34].

<sup>429</sup> Finkelstein Report, Volume 1, Chapter 6 ‘Money laundering’, page 199, [247] to [248].

<sup>430</sup> AGR Submission, page 8.

492. Voluntary systems have consistently demonstrated very low uptake. That accords with Mr Toleafoa’s evidence to this Inquiry referred to earlier in this Report. It is recognised by the Alliance for Gambling Reform.<sup>431</sup> To be effective, such a system would require any pre-commitment system to be mandatory. Setting such limits in this way will help reduce gambling harm. The gambler’s card should not allow gambling beyond the limits set by them.
493. Relationships Australia Queensland is the largest provider in Queensland of help to those who are vulnerable to gambling harm. It does so through the Gambling Help Service. It reported that clients of the Gambling Help Service have stated, at the time of first presentation, that EGMs are the most problematic form of gambling for them.<sup>432</sup> It was further reported that 59% of male clients of the service describe EGMs as their most problematic form of gambling. Of its female clients, 88% said that, for them, EGMs were their most problematic form of gambling.<sup>433</sup> Pre-commitments ought therefore to focus on EGMs.
494. Mr Finkelstein found that if a ‘full, mandatory, binding, pre-commitment system is implemented, that will significantly reduce the incidence of problem gambling’.<sup>434</sup>
495. The Owen Royal Commission observed:<sup>435</sup>

In relation to play periods, while there are studies which suggest that gambling often on EGMs for three hours or more continuously is an indicator of problem gambling, there is no research that indicates a maximum amount of time spent gambling in any day or week, beyond which patrons might ordinarily be expected to suffer gambling-related harm.

...

As to the weekly limits, the research which suggests gambling often on EGMs for three or more hours continuously is an indicator of problem gambling may be used to inform those limits. A weekly limit of 28 hours, that is, no more than four hours per day (based on the research referred to above with some measure of adjustment) seems justifiable as a reasonable interim measure to minimise harm.

496. The Owen Royal Commission recommended that, as an immediate priority, the GWC in Western Australia investigate the available research and information about appropriate

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<sup>431</sup> AGR Submission, page 8.

<sup>432</sup> Submission of Relationships Australia, Qld dated August 22, page 3.

<sup>433</sup> Submission of Relationships Australia, Qld dated August 22, page 3.

<sup>434</sup> Finkelstein Report, Volume 1, Chapter 8 ‘Responsible service of gambling’, page 56, [311].

<sup>435</sup> Owen Report, Volume 3, Chapter 12 ‘Harm Minimisation’, page 705, [536].

play period limits for EGM gambling to inform the content of the pre-commitment and play period limits scheme in that State.<sup>436</sup> In the event that there is insufficient research and information available about appropriate play limits, it was recommended that the GWC commission it.<sup>437</sup>

497. The absence of limits is likely to expose patrons to the risk of gambling related harm. The limits sought to be imposed, although not claimed to be scientifically-derived or based on a rigorous academic study, do set parameters which, in practice, seem reasonable.

498. I recommend as follows:

### **Recommendation 3**

**There should be a full, mandatory and binding pre-commitment system for all patrons gambling on EGMs in casinos, to operate in the following manner:**

- a. each player must set a daily, weekly or monthly time limit, and a daily, weekly or monthly loss limit;**
- b. if the pre-set time limit or the pre-set loss limit is reached, the player cannot continue to gamble on an EGM and the limit(s) cannot be altered, for 36 hours;**
- c. no person can gamble on an EGM for more than 12 hours in any 24-hour period;**
- d. if a player has gambled for 12 hours in any 24-hour period, the player must take a break for 24 hours;**
- e. a player cannot gamble continuously on an EGM for more than three hours;**
- f. a player must take a break of at least 15 minutes after three hours of continuous gambling;**
- g. a player cannot gamble on EGMs for more than 28 hours per week;**
- h. there should be a default pre-set loss limit that the player can modify by means of a defined process which requires the player to justify the modification sought; and**
- i. the default pre-set loss limit should be set by regulation, and reviewed at least annually.**

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<sup>436</sup> Owen Report, Volume 1, Recommendations, page 21, [42].

<sup>437</sup> Owen Report, Volume 1, Recommendations, page 21, [43].

#### **Recommendation 4**

**There should be a full, mandatory and binding play and break limit system for all patrons gambling in casinos. The limits in respect of EGMs should mirror those in the pre-commitment system. The play and break limit system should operate in the following manner:**

- 1. the system set maximum play period limits;**
- 2. the system prescribe how long a break in play should be; and**
- 3. the system should identify the periods at which players should be interacted with, and the form of the interaction, while gambling.**

#### *Player Card Data and its Availability*

499. Recommendations 3 and 4 can only be successful if the casinos have an appropriate system to monitor gambling behaviour and to assist the staff to recognise gambling related harm, in particular as it relies upon real-time data.

500. As I explained earlier in this Report, analytics have a role to play. Data needs to be collected to ensure that such analytics can be developed and applied.

501. The *Casino Control Act* does not presently require the collection of player card data. It is essential that sufficient data be obtained and provided to researchers to allow them to investigate the prevalence of gambling-related harm at casinos. This will in turn inform and permit the assessment of the effectiveness of steps that casinos might adopt in order to minimise gambling-related harm. An additional benefit is that such data may assist with AML/CTF responsibilities.

502. I recommend as follows:

### **Recommendation 5**

**Player cards collect data relating to:**

- a. player buy-in (time, amount);**
- b. player buy-out (time, amount);**
- c. play periods (date, start time, end time);**
- d. player turnover;**
- e. player losses and wins;**
- f. gambling product; and**
- g. such further information as may be required for anti-money laundering and counter-terrorism financing strategies, and the promotion of safer gambling.**

### **Recommendation 6**

**Such data should be collected for the purposes of research and to inform casino staffing levels and the proper supervision of casino activities. Such data should be made available to researchers in order for there to be comprehensive data available for any future studies into gambling related harm in Queensland.**

#### *Terminology*

503. The Gambling Harm Minimisation Plan for Queensland 2021-2025 explains that there is need for a change in terminology from ‘responsible gambling’ to ‘safer gambling’. The term ‘responsible gambling’ has evolved to have a meaning which focuses on the consumer and the responsible consumption of gambling. This plan guides Queensland’s shift to a safer gambling framework by:

- a. recognising that there needs to be safe levels of gambling consumption;
- b. reinforcing the safe provision and consumption of gambling; and

- c. aiming to reduce the harms associated with gambling, irrespective of where this harm occurs on the gambling behaviour spectrum.
504. Rev Tim Costello and Mr Royce Millar, in their 2000 book *Wanna Bet: Winners and Losers in Gambling Luck Myth*<sup>438</sup> point out that, when gambling harm is spoken of, there is a tendency to dismiss the issue as one of the ‘problem gambler’, and of the gambler having a personality disorder.<sup>439</sup> The authors see the problem more as one of addiction to gambling, or an unhealthy reliance upon it (with poker machines in particular). Issues of rationality and free choice are raised in this context and questions are asked about just how much choice there can actually be, given human traits and the sophisticated design and marketing of poker machines, as well as the casino offering as a whole. If gambling were a rational process, they ask, why would people engage in a process in which, on the overwhelming odds, they were far more likely to lose than to win.
505. The authors see casinos and poker machines venues (with wealth and power) as preying on people, and deceiving them with fantasy and illusion, and taking advantage of the hopelessness or addiction that certain people have. This is tied, in Rev Costello’s view, in particular to the loss of a sense of meaning in modern life at a time when there has been a lowering of the horizon for many.
506. The concerns expressed by Rev Costello and Mr Millar are ones which are no less relevant today. Of particular interest for present purposes is their perspective on gambling harm and the tendency to blame individuals who gamble too much rather than understanding that the product itself can be addictive, and designed to be so.
507. This informs a modern understanding of gambling harm. As noted, the Alliance for Gambling Reform (of which Rev Costello is Chief Advocate) made a submission to this Inquiry.
508. The *Casino Control Act* uses the term ‘problem gambler’ in ss 93A and 100A. As I explained earlier in this Report, such terminology is outmoded. The language ought to be updated to remove the implication that the problem lies with the gambler only. Both

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<sup>438</sup> Costello & Millar (Allen & Unwin: 2000).

<sup>439</sup> Costello & Millar, page 7.

these sections and the definitions provision ought to be amended so that term ‘problem gambler’ is adjusted accordingly.

509. I recommend as follows:

#### Recommendation 7

**The language of the *Casino Control Act* and Regulations be updated when next amended to include terms that better accord with modern understandings, such as ‘safer gambling’ and ‘persons who suffer, or might suffer gambling harm and gambling related harm’ instead of ‘problem gamblers’.**

#### *Mandating compliance with a Code of Conduct for Safer Gambling*

510. The regulatory framework in Queensland does not adequately address the risk of gambling related harm in that it does not make mandatory a responsible service of gambling code or penalties for breaching it. As I explained earlier in this Report, compliance with the Queensland Responsible Gambling Code of Practice is voluntary. That Code appears to have been superseded by the Gambling Harm Minimisation Plan for Queensland 2021-25.

511. The Code ought canvass the following:

- a. how to recognise ‘observable signs’ that may be indicators of potential problem gambling. The Alliance for Gambling Reform submitted that there ought to be clearer guidance regarding ‘interventions related to clear signs of gambling harm’.<sup>440</sup> The Alliance suggested that the Queensland Regulator should:<sup>441</sup>

develop improved legislation, regulations and detailed guidelines for RSG, and to draft the code of conduct by which the casino will operate with the consultation of people with lived experience of gambling harm and independently of the casino operators. The intention of such a code of conduct is that patrons exhibiting signs of harm, defined based on current research, will receive meaningful intervention from casino staff that demonstrably leads to the prevention or reduction of harm.

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<sup>440</sup> AGR Submission, page 3, recommendation B.2.

<sup>441</sup> AGR Submission, page 3, recommendation B.2.

I explained earlier in this Report the importance of recognising ‘observable signs’ that may be indicators of gambling that is causing harm. I agree with the submission;

- b. ensuring that sufficient resources are dedicated to minimise gambling harm and to monitor players. I explained earlier in this Report the need for adequate resourcing by those providing casino gambling services and the inadequacies in the current resources at The Star’s Queensland operations. According to the submission of the Alliance for Gambling Reform, there ought to be an ‘increase [in] the number of gambling-facing venue staff who are resourced, trained, supported and empowered to identify and approach patrons displaying signs of gambling harm’.<sup>442</sup> As I also explained, the resources ought to be commensurate with the numbers and types of patrons,<sup>443</sup> which will change over time; and
- c. ensuring that the Code’s requirements are developed in consultation with experts in the relevant fields and other stakeholders. The Alliance for Gambling Reform submitted that the requirements of any Code should be developed in consultation with academic experts, experts with lived experience of gambling, venue staff and other stakeholders.<sup>444</sup> Consultation with provisions in other jurisdictions, experts in the relevant fields, employees of the casinos, and relevant stakeholders will serve to formulate provisions that are well adapted to safer gambling.

512. The Code should:

- a. require casino licensees/operators to be appropriately resourced to minimise harm and to monitor players;
- b. explain the ‘observable signs’ that may indicate patrons gambling in a way or to an extent likely to cause harm having regard to current research;
- c. require casino licensees to ensure patrons receive meaningful intervention from casino staff based on such observable signs; and
- d. be regularly reviewed and updated.

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<sup>442</sup> AGR Submission, page 3, recommendation B.1.

<sup>443</sup> See above, paragraph [404].

<sup>444</sup> AGR Submission, page 3, recommendation B.3.



513. The submission of the Alliance for Gambling Reform suggested that casinos ought to be legally obliged to adhere to such a Code.<sup>445</sup> If compliance with the Code of Conduct were discretionary, its utility would be reduced. To secure compliance with the Code, the Regulator should be empowered to issue fines for contraventions with such penalties to be sufficient to deter non-compliance. The extent to which a casino complies with the Code of Practice should be a matter which the Regulator can take into account when reviewing a casino licensee's suitability.

514. I recommend as follows:

### **Recommendation 8**

**The *Casino Control Act* be amended to:**

- 1. require compliance with a Code of Conduct for Safer Gambling by casino licensees;**
- 2. empower the regulator to issue fines for contraventions of the Code (such penalties being sufficient to deter non-compliance); and**
- 3. require the regulator to have regard to the casino licensee's compliance with the Code in its review of the suitability of the licensee.**

### **Form of the Regulator and Scrutiny by it of Casino Operations**

515. The powers and resources of a regulator are critical to its effectiveness. A regulator must have the powers and resources to allow it to properly regulate, to access relevant information, and to scrutinise casino operations in order to detect non-compliances.

516. Royal Commissions in New South Wales, Victoria and Western Australia uncovered systemic misconduct, the prioritisation of profit at any cost and the obfuscation or concealment of relevant information from regulatory authorities. Those commissions reviewed what is commonly called a 'risk-based model' of regulation. That is a model in which the regulator uses limited resources to examine issues of perceived highest risk with a consequent heavy dependence upon self-monitoring by casinos. A theme common

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<sup>445</sup> AGR Submission, page 3, recommendation B.3.

to the recommendations arising from these inquiries, and reforms made as result of them, is that the risk-based approach to casino regulation does not work. To the contrary, there is an apparent need for the regulator to maintain the traditional regulatory role of broad-based active oversight and scrutiny. I did not detect any appetite for the adoption in Queensland of a risk-based model for casino regulation.

517. I consider in this section whether the form of the Regulator for casinos in this State ought be changed, how the Regulator’s activities ought to be funded, and the desirability of an additional form of independent scrutiny in the form of periodic reviews by some external person.

#### *Form of the Regulator*

518. OLGR is the Regulator in Queensland. It is part of the Department of Justice and Attorney-General.
519. Formal decision-making roles, as I have explained, vest in the Governor in Council and the Minister. It is appropriate, in my view, that decisions about casino regulation be made by the most senior of public officials and bodies, as is presently the case.
520. New South Wales and Victoria have created separate, independent, specialist casino regulators following recommendations to that effect. Those recommendations were made and legislative reform was effected as a result of problems in the oversight of the Crown Group of casinos. No Crown Casino has operated in Queensland, so the context in this State is to some extent different.

#### New South Wales

521. From mid-2018 until 5 September 2022, the Independent Liquor and Gaming Authority<sup>446</sup> (ILGA) and the Better Regulation Division of the Department of Customer Service shared the role of casino regulator.
522. Although having given some independence to it, the *Casino Control Act* (NSW) provided for express Ministerial oversight of ILGA. Sections 5, 5A and 7 permitted the Minister to give directions to ILGA on various matters, including how it was to exercise its functions (excluding the determination of licence applications or disciplinary action). ILGA was able to conduct negotiations and enter into agreements on behalf of the State

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<sup>446</sup> Established under s 6 of the *Gaming and Liquor Administration Act* 2007 (NSW).

for or in connection with the establishment and operation of a casino. It could only do so, however, with the approval or at the direction of the Minister. Any agreement could contain only those terms that had been approved by the Minister.<sup>447</sup>

523. The Report of the Hon P Bergin SC recommended the establishment of an independent dedicated, stand-alone, specialist casino regulator with the necessary framework to meet the extant and emerging risks for gaming and casinos.<sup>448</sup> The essential attributes for a casino regulator in the prevailing environment were considered to be that they be impenetrable, specialist and powerful.<sup>449</sup>

524. Commissioner Bergin considered that the shared structure of casino regulation in New South Wales ought to change so there be no confusion as to responsibilities, and no perception of a Departmental ‘hold’ on ILGA.<sup>450</sup>

525. Commissioner Bergin criticised the existing structure in these terms:<sup>451</sup>

The structure and powers of a Regulator are pivotal to its effectiveness. Clearly if a Regulator may be seen to be amenable to manipulation by government or political intrusion, its reputation will be compromised. It is imperative to ensure not only that it is independent but also that it is perceived to be independent to enable the Regulator to garner the respect necessary for its effectiveness. These are essential protections that must be in place for a Regulator that is on the one hand required to achieve the object of ensuring casino operations are free from criminal exploitation whilst on the other hand regulating entities that bring enormous revenue into government coffers each year.

526. In order for a casino regulator to be genuinely ‘impenetrable’, Commissioner Bergin considered it essential that it be able to make decisions free from political influence and always be guided by the objects of the statute. This might include politically unpopular but essential decisions to protect casinos from criminal infiltration.<sup>452</sup>

527. The *Casino Legislation Amendment Act 2022* (NSW) implemented a number of the recommendations made in the Bergin Report, including the establishment of the New

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<sup>447</sup> *Casino Control Act 1992* (NSW), s 142(2).

<sup>448</sup> Bergin Report, Volume 2, Chapter 5.2 ‘Regulatory Framework and Settings’, page 624, Recommendation 34.

<sup>449</sup> Bergin Report, Volume 2, Chapter 5.2 ‘Regulatory Framework and Settings’, page 624.

<sup>450</sup> Bergin Report, Volume 2, Chapter 5.2 ‘Regulatory Framework and Settings’, page 623.

<sup>451</sup> Bergin Report, Volume 2, Chapter 5.2 ‘Regulatory Framework and Settings’, page 622.

<sup>452</sup> Bergin Report, Volume 2, Chapter 5.2 ‘Regulatory Framework and Settings’, page 624.

South Wales Independent Casino Commission (**NICC**). It has become the new independent casino regulator.

528. The NICC is a New South Wales Government agency.<sup>453</sup> It remains subject to the control and direction of the Minister, but not in relation to:<sup>454</sup>

- a. advice, or a report or recommendation, given to the Minister; or
- b. decisions about the granting of casino licence; imposing, varying or revoking conditions of a casino licence; taking disciplinary action under the Act; or the granting, variation or revocation of another approval given under gaming or liquor legislation.

529. With the approval of, or at the direction of the Minister, NICC may enter into an agreement under s 142 of the *Casino Control Act* (NSW) in relation to the ‘establishment and operation of a casino and any development of which a casino or proposed casino forms part’. Such an agreement is invalid to the extent that it includes provisions which prevent NICC from exercising the functions to which I have referred in the immediately preceding paragraph or which otherwise restrict or impose additional obligations on NICC in exercising its functions.

530. NICC may exercise its functions in conjunction with ILGA, including by conducting joint inquiries.<sup>455</sup> It will employ its own staff<sup>456</sup> and have a full-time Chief Commissioner and Commissioners to be appointed by the Governor on recommendation by the Minister.<sup>457</sup>

### Victoria

531. From 6 February 2012 until 1 January 2022, the casino regulator in Victoria was the Commission for Gambling and Liquor Regulation (**VCGLR**).<sup>458</sup> It was responsible for administering the *Casino Control Act* (Vic).

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<sup>453</sup> *Casino Legislation Amendment Act 2022* (NSW), s 134.

<sup>454</sup> *Casino Legislation Amendment Act 2022* (NSW), s 135.

<sup>455</sup> *Casino Legislation Amendment Act 2022* (NSW), s 136(2).

<sup>456</sup> *Casino Legislation Amendment Act 2022* (NSW), s 136(3).

<sup>457</sup> *Casino Legislation Amendment Act 2022* (NSW), s 139.

<sup>458</sup> Established under s 6(1) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (Vic).

532. Before the commencement on 1 January 2022 of legislative reforms implementing recommendations made by Mr Finkelstein AO QC, VCGLR operated much like ILGA in New South Wales before the establishment of NICC.
533. Mr Finkelstein recommended that the regulator’s powers be expanded and that it be given new ones.<sup>459</sup> He made no specific recommendations with respect to the structure or independence of the regulator. By then, the Victorian Government had announced (on 3 August 2021) that a new regulator would be established, the Victorian Gambling and Casino Control Commission (VGCCC).
534. In doing so, the Victorian Government made reference to an independent review into casino regulation led by Ms Debora Cope. That review had been conducted in parallel with the Finkelstein Inquiry. The stated intent was to return to the model of a regulator which is focussed solely upon the regulation of casino and gambling operators.<sup>460</sup>
535. Mr Finkelstein noted that VCGLR’s approach to casino regulation had been a risk-based one, in contrast to the prescriptive regulatory oversight approach. He said:<sup>461</sup>

The VCGLR describes its regulatory approach as being risk based, and has indicated that an understanding of risk guides its decision-making priorities and use of resources in discharging its statutory functions in licensing, information and education, monitoring and enforcement. The VCGLR also indicates that under this risk based approach, it considers the risks associated with activities, such as particular types of gambling, as well as the risk presented by individuals and businesses in the gambling and liquor industries. By adopting a risk based approach, the VCGLR acknowledges that a tolerance of risk is necessary to properly meet its regulatory objectives.

...

The risk based approach adopted by the VCGLR today is a significant change from the prescriptive regulatory oversight approach under the Casino Control Act as first enacted.

536. The *Casino and Gambling Legislation Amendment Act 2021 (Vic)* came into force on 14 December 2021. One of its main purposes was to implement the recommendations made by Mr Finkelstein.<sup>462</sup> This Act established the VGCCC.

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<sup>459</sup> Finkelstein Report, Chapter 16 ‘The powers of the regulator’.

<sup>460</sup> See: <https://www.premier.vic.gov.au/new-regulator-strengthen-casino-oversight>.

<sup>461</sup> Finkelstein Report, Volume 1, Chapter 2 ‘History of gambling regulation in Victoria’, page 56, paragraphs 158, 160.

<sup>462</sup> *Casino and Gambling Legislation Amendment Act 2021 (Vic)*, s 1.

537. The *Casino and Liquor Legislation Amendment Act 2022* (Vic) came into force on 28 June 2022. It makes clear that the VGCCC is solely responsible for the regulation of casinos and gaming (and is no longer responsible for liquor regulation). A new s 5A states that, while a Minister can issue directions to the VGCCC, that cannot occur with respect to: the content of any advice, report or recommendation given to the Minister by the Commission; the granting, issuing, variation, suspension or cancellation of a gambling authorisation; the undertaking of an investigation under gambling legislation; or the taking of disciplinary action under gambling legislation.<sup>463</sup>
538. The VGCCC must have regard to any decision-making guidelines issued by the Minister and must comply with any directions issued by the Minister.<sup>464</sup> The Minister recommends persons for appointment as Commissioners to the VGCCC.<sup>465</sup>

### Western Australia

539. As noted, GWC is the regulator in Western Australia. It is responsible for administering the law with respect to gaming and all matters under the *Casino Control Act 1984* (WA) relating to any casino.<sup>466</sup> Its chair is *ex officio* the Director General of the Department.
540. The GWC has power to grant or issue and amend or revoke licences relating to casinos under the *Casino Control Act 1984* (WA)<sup>467</sup> and give directions to a casino licensee with respect to the system of internal controls and administrative and accounting procedures.<sup>468</sup> It is subject to Ministerial oversight and is required to give effect to the directions of the Minister.<sup>469</sup> If a direction of the Minister conflicts with the GWC's advice to the Minister (the Minister not being bound to act on that advice), then the GWC can make that advice public.<sup>470</sup> The Minister can also direct the GWC to call an inquiry.<sup>471</sup>

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<sup>463</sup> *Casino and Liquor Legislation Amendment Act 2022* (Vic), s 31.

<sup>464</sup> *Casino and Liquor Legislation Amendment Act 2022* (Vic), ss 34(3) and 34(4).

<sup>465</sup> *Casino and Liquor Legislation Amendment Act 2022* (Vic), s 36.

<sup>466</sup> *Gaming and Wagering Commission Act 1987* (WA), s 7(1)(d).

<sup>467</sup> *Gaming and Wagering Commission Act 1987* (WA), s 8(2)(d)(iii).

<sup>468</sup> *Casino Control Act 1984* (WA), s 24(1).

<sup>469</sup> *Gaming and Wagering Commission Act 1987* (WA), s 6(2).

<sup>470</sup> *Gaming and Wagering Commission Act 1987* (WA), s 6(2).

<sup>471</sup> *Casino Control Act 1984* (WA), s 21A(5).

541. The Hon Neville Owen AO (and the Hon Lindy Jenkins and Mr Colin Murphy PSM) recommended enhancing the regulatory framework for casinos in Western Australia. This included replacing the *Casino Control Act (WA)* with a revised *Gaming and Wagering Commission Act* containing all matters relating to the regulation of casinos in Western Australia.
542. The Commissioners criticised the current structure of the GWC on account of its lack of independence in these terms:<sup>472</sup>

The structural dependence of the GWC on the Department, by having a chair, deputy chair and Chief Casino Officer (CCO) who are officers of the Department, is a significant aspect of the operation of the GWC. The structural dependence, and resulting practical dependence, risks compromising the discharge by the GWC of its responsibilities, by making it less able to make independent assessments of the actions required to regulate extant and emerging strategic risks in casino gaming and to set its own strategic direction. Also, it is not consistent with the relationship between the GWC as regulator and the Department as service provider which requires the GWC to hold the Department to account in the performance of its functions on behalf of the GWC.

543. On that basis, the Commissioners recommended the regulator have, at a minimum, a full time Chief Executive Officer who is also the Chief Casino Officer, who shall attend and report to the regulator at each monthly meeting on all matters within the GWC's remit. They considered that the casino regulator ought to be the employing authority pursuant to Part 3 of the *Public Sector Management Act 1994 (WA)* for certain senior officials, and that the appointment be made only with the approval of the casino regulator.
544. No legislative reform of this kind has been effected in Western Australia as at the date of this Report.

### Overseas

545. There is no consistent approach taken in relation to the structure and independence of casino regulators. At one end of the spectrum is the United Kingdom's approach in which its Gambling Commission is independent of government and for the most part, the sole decision-maker under the relevant legislation. At the other end is the approach taken in British Columbia, which is similar to the current approach in Queensland.

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<sup>472</sup> Owen Report, Volume 3, Chapter 14 'Evaluation of Regulation of Perth Casino', page 772, [44].

546. Singapore appears to adopt a hybrid model. On 1 August 2022, a newly created body, the Gambling Regulatory Authority (GRA) was reconstituted from the previously existing Casino Regulatory Authority. The GRA is a statutory board under the Ministry of Home Affairs and is now responsible for regulating casinos in Singapore.
547. The GRA is responsible for exercising licensing and regulatory functions in accordance with the *Casino Control Act 2006* (SG) with respect to the operations of casinos and administering that Act.<sup>473</sup> The GRA is the main decision-maker, although the Minister retains some powers.<sup>474</sup>
548. The Minister may give the GRA any direction under s 5 of the *Public Sector (Governance) Act 2018* (SG). That provision is to the effect that the responsible Minister may give a public body directions as to the performance by the public body of its functions.<sup>475</sup> The Minister appoints the members of the GRA, one of which is the Chief Executive, whose appointment, removal, discipline and promotion must be in accordance with the *Public Sector (Governance) Act*.<sup>476</sup> In turn, the members of the GRA must regulate their own procedure, and may, subject to the *Public Sector (Governance) Act*, appoint and employ, on such terms and conditions as the GRA may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.<sup>477</sup>
549. Under the *Gambling Act 2005* (UK), the UK Gambling Commission comprises a chairman and other commissioners appointed by the Secretary of State.<sup>478</sup> In turn, the Commission, with the Secretary of State's consent as to the terms and conditions of employment, may appoint a chief executive and other staff.<sup>479</sup> The Commission

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<sup>473</sup> *Casino Control Act 2006* (Singapore), s 5.

<sup>474</sup> *Casino Control Act 2006* (Singapore), ss 4, 56, 58 and 65 to 68. For example, to cancel any casino licence after consultation with the GRA, to appoint a manager where a casino licence is cancelled, to direct the GRA to investigate a casino and to approve certain shareholdings or exemptions from shareholding requirements.

<sup>475</sup> *Gambling Regulatory Authority of Singapore Act 2022* (Singapore), s 7.

<sup>476</sup> *Casino Control Act 2006* (Singapore), ss 9, 10 and 31 (repealed 2022 and 2018 respectively); *Gambling Regulatory Authority of Singapore Act 2022* (Singapore), ss 9 to 11.

<sup>477</sup> *Casino Control Act 2006* (Singapore), ss 21 and 32 (repealed 2022); *Gambling Regulatory Authority of Singapore Act 2022* (Singapore), Part 4 Div 1 and Part 5.

<sup>478</sup> *Gambling Act 2005* (UK), Schedule 4, s 1.

<sup>479</sup> *Gambling Act 2005* (UK), Schedule 4, ss 5 and 6.



determines its own arrangements for the conduct of its proceedings<sup>480</sup> and is the primary decision maker under the Act.

550. The Commission is required to send the Secretary of State a report about its activities as soon as practicable at the end of each financial year.<sup>481</sup> The Secretary of State has various regulation making powers under the Act and may make payments to the Commission to enable it to meet its expenses that cannot be met out of fees paid to the Commission under the Act.<sup>482</sup>
551. In British Columbia, the primary casino regulator is the Gaming Policy and Enforcement Branch, which is an office of the government under the direction of the general manager. The purpose of the Branch is to carry out the responsibilities given to it under the *Gaming Control Act 2002 (BC)*.<sup>483</sup> The Branch is responsible for the overall integrity of gaming and horse racing.<sup>484</sup>
552. The Minister appoints an individual under the *Public Service Act* to be the general manager of the Branch,<sup>485</sup> who is the head of the Branch and responsible, under the Minister's direction, for enforcement of the Act.<sup>486</sup> Officers and other employees required to carry out the responsibilities of the Branch may be appointed under the *Public Service Act* and the general manager may determine their duties.<sup>487</sup> The Minister may issue written directives to the general manager on matters of general policy and the general manager must comply with the directives.<sup>488</sup> Each year, the general manager must submit a report of the branch on its operations for the preceding fiscal year to the Minister, who must lay the report before the Legislative Assembly as soon as practicable.<sup>489</sup>

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<sup>480</sup> *Gambling Act 2005 (UK)*, Schedule 4, s 7.

<sup>481</sup> *Gambling Act 2005 (UK)*, Schedule 4, s 16.

<sup>482</sup> *Gambling Act 2005 (UK)*, Schedule 4, s 10.

<sup>483</sup> *Gaming Control Act 2002 (British Columbia)*, s 22.

<sup>484</sup> *Gaming Control Act 2002 (British Columbia)*, s 23.

<sup>485</sup> *Gaming Control Act 2002 (British Columbia)*, s 24.

<sup>486</sup> *Gaming Control Act 2002 (British Columbia)*, s 27.

<sup>487</sup> *Gaming Control Act 2002 (British Columbia)*, s 25.

<sup>488</sup> *Gaming Control Act 2002 (British Columbia)*, s 26.

<sup>489</sup> *Gaming Control Act 2002 (British Columbia)*, s 29.

### What model is best for Queensland?

553. Whilst the regulatory models in New South Wales, Victoria, and Western Australia were critically examined in the inquiries into the Crown casinos in those States, the regulatory model in Queensland, where Crown has not had a presence, was not called into question in those inquiries. Nor is it one that has adopted the risk-based approach to regulation that has been the subject of justifiable criticism.
554. The casino landscape in Queensland differs from the other Australian jurisdictions. There are four casinos, and three groups of operators of them. They differ in location (Gold Coast, Brisbane, Cairns, and Townsville) and in the nature of the property and the kinds of customers they attract.
555. Rev Tim Costello, who, as an ordained Minister of religion, has worked with those suffering gambling harm and in policy fields for many years, and Mr Royce Millar, a journalist, have written about the place of commercial gambling in Australian culture, gambling harm and the growth of both, as well as the role of governments in these developments. Their book, *Wanna Bet: Winners and Losers in Gambling Luck Myth* published in 2000, to which I have referred, challenges what the authors say is a myth that Australians are the greatest gamblers in the world. They suggest this has more to do with corporations and their demands and the exigencies of government than with the Australian psyche.
556. The authors' primary concern is that profit not be put before people, and that governments resist dependency upon revenue derived from gambling.
557. The focus of Costello and Millar is commercial gambling. They (in 2000) noted the growth of it,<sup>490</sup> and its having 'crowded out' traditional forms of gambling and recreational pursuits that are not compatible with it.<sup>491</sup> They noted the gulf widening between social gambling and hi-tech and finely-tuned gambling products.<sup>492</sup> They surveyed (in Chapters 5 and 6 in particular) the phenomenon of casinos. They cite the work of Professor Jan McMillen<sup>493</sup> who has written a great deal in this field, in particular about the stages of casino development, and their having been introduced first in States

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<sup>490</sup> Costello & Millar, p 10.

<sup>491</sup> Costello & Millar, p 10.

<sup>492</sup> Costello & Millar, p 52.

<sup>493</sup> Costello & Millar, p 90.

which were economically weaker, and then later in those that were in a stronger economic position.

558. The theme of Government involvement in commercial gambling is explored by Rev Costello and Mr Millar through the historical events concerning poker machines. Their introduction required a reversal of Government policy and the hotel and gambling lobby are said to have been influential. Then (as now) monopoly rights are sought and granted. Governments, it is clear, draw a great deal of revenue from gambling taxes, and the grant of these monopoly rights.
559. I do not consider there to be sufficient justification to change fundamentally the structure of the Regulator in this State. With the additional powers conferred by the *Queensland Amendment Act* and the power to undertake periodic reviews utilising independent persons with the requisite expertise, as I later recommend, the existing structure will be adequate for the task, in my view.
560. There was no suggestion in this Inquiry that regulatory decisions were ones in which the Minister or Government of the day had improperly intervened. Although I accept that there is a real risk of Governments experiencing a tension between the duty to regulate casinos strictly and the revenue they derive from casinos, there is no realistic suggestion that the one has prevailed at the expense of the other here. No regulator can be entirely independent of Government. The former must be answerable for its conduct in some way, and I consider that it is appropriate in the Queensland context that the Regulator, through the Government, be answerable to the people of Queensland.

#### *Funding casino regulation*

561. The cost of casino regulation ought to be funded by casinos themselves, rather than leaving taxpayers to do so. Casinos, as the financial beneficiaries of those activities, ought to bear the expense of the attendant regulatory functions.

#### Background

562. The *Casino Control Act* makes provision for matters such as casino licence fees and casino taxes (to be paid into the consolidated fund). The *Gaming Machine Act 1991* (Qld) establishes a gambling community benefit fund.<sup>494</sup> There is no general levy upon

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<sup>494</sup> *Gaming Machine Act 1991* (Qld), s 315.

casinos for the cost of supervision of them. At present, therefore, taxpayers bear that cost unless it is a suitability investigation being undertaken.

563. Only New South Wales currently imposes a casino supervisory levy (as well as a casino duty) in respect of a casino licence. Victoria and Western Australia generate funds by other mechanisms such as casino licence fees payable at regular intervals and/or casino taxes.

564. The New South Wales model was established in 2013. It imposed a casino supervisory levy payable for each casino licence issued in that State. The Second Reading Speech to the *Casino Control Amendment (Supervisory Levy) Bill 2013* (NSW) explained this to be the rationale:<sup>495</sup>

...much of the cost of maintaining the casino oversight regulatory regime in New South Wales is borne by taxpayers...

A high level of regulatory oversight is necessary in a casino environment to ensure that the unique risks associated with such a venue are identified and managed within a strict regulatory framework.

A robust system of monitoring and supervision ensures appropriate accountability and consequently promotes public confidence for the people of New South Wales.

It is appropriate that costs associated with regulating the casino should be borne by the casino operator.

565. Before the recent amendments, s 115A of the *Casino Control Act* (NSW) provided for a casino supervisory levy to be paid to the Secretary in respect of each casino licence. It is paid into the Consolidated Fund. The casino supervisory levy for the 2019 – 2020 financial year was \$7,909,161.<sup>496</sup> For each following financial year, it is to be the amount of the levy for the preceding financial year plus 2.5% of that amount.<sup>497</sup> The casino supervisory levy is to be reviewed at least once every five years.

566. That levy is now payable to NICC, and it controls and manages the Casino Supervisory Fund. Money must be paid from the fund to enable NICC to exercise its functions, and the exemption from having to pay the levy for a restricted gaming licence no longer

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<sup>495</sup> Second Reading Speech of the *Casino Control Amendment (Supervisory Levy) Bill 2013* (NSW), The Hon. Michael Gallacher, 28 May 2013.

<sup>496</sup> *Casino Control Regulation 2019* (NSW) (historical version for 30 August 2019 to 23 January 2020), reg 51(1)(a).

<sup>497</sup> *Casino Control Regulation 2019* (NSW) (historical version for 30 August 2019 to 23 January 2020), reg 51(1)(b).

applies. The levy now sits at \$19 million for the 2022 – 23 financial year. This is to be split evenly between oversight of the two current casino operators, The Star Sydney and Crown Sydney.

567. Singapore, the United Kingdom<sup>498</sup> and British Columbia do not impose a casino supervisory levy. Instead:

- a. Singapore requires a casino licensee to pay casino tax (calculated on the basis of revenue)<sup>499</sup> and fees for the grant or renewal of a casino licence.<sup>500</sup> For a casino licence granted or renewed on or after 1 December 2018, the casino licence fee is in the range of S\$24 to S\$28.8 million per annum;<sup>501</sup>
- b. the United Kingdom imposes on casino licensees various gaming duties under the *Finance Act 2014* (UK) comprising, in summary, a tax on the net profits derived by the casino operator of the gambling facilities from gambling; and
- c. British Columbia requires payments or grants in lieu of municipal property taxes to be paid by the British Columbia Lottery Corporation<sup>502</sup> (a Crown corporation that conducts and manages commercial gambling).

### Discussion

568. There is already some provision in the *Casino Control Regulation* (Qld) for the recovery of costs associated with the supervision of a casino. Regulation 46A provides that the following persons<sup>503</sup> must pay to the Chief Executive the reasonable costs of conducting certain investigations under the Act:

- a. all persons about whom the Minister may undertake a suitability investigation under s 20(1) of the *Casino Control Act*;

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<sup>498</sup> Section 123 of the *Gambling Act 2005* (UK) provides the ability for a levy to be established, but this levy is more in the nature of a levy to reduce the harms of gambling rather than a supervisory levy.

<sup>499</sup> *Casino Control Act 2006* (Singapore), Part 9.

<sup>500</sup> *Casino Control Act 2006* (Singapore), s 49A.

<sup>501</sup> *Casino Control (Casino Licence and Fees) Regulations 2009* (Singapore), The Schedule – Fees.

<sup>502</sup> *Gaming Control Act 2002* (British Columbia), s 12.

<sup>503</sup> ‘Person’ is defined in the Schedule to the *Casino Control Act 1982* (Qld) to include ‘any body corporate, association, firm, business or partnership as well as a natural person’.

- b. a proposed lessee for a casino lease and a proposed casino operator for a casino management agreement as part of the Minister’s suitability investigation under s 26(1) of the *Casino Control Act*; and
  - c. a person about whom the Minister may undertake a continuing suitability investigation under s 30(1) of the *Casino Control Act* (other than a casino licensee, a lessee under a casino lease, or a casino operator under a casino management agreement).
569. Section 46A relates to investigations only, and not to others forms of supervision, monitoring or enforcement action taken by the regulator or the Minister. Unless the action taken by the relevant authority or person with respect to a casino licensee, lessee or operator falls within this section, there is otherwise no provision in the legislation for recovering such costs.
570. The Queensland Amendment Act also allows for the recovery of costs for disciplinary action under s 31 of the *Casino Control Act*.<sup>504</sup>
571. In New South Wales, Victoria, and Western Australia, the approach to cost recovery with respect to regulatory oversight and supervision of casinos has largely been on a case-by-case basis, with some jurisdictions not providing for cost recovery at all or so doing only very recently. Other jurisdictions have limited provision for costs recovery associated with only certain categories of regulatory action.
572. In New South Wales, recent legislative amendments expand the ability of the regulator to recoup its costs. Section 31 of the *Casino Control Act* (NSW) (which relates to ongoing reviews of a casino licence and operator suitability) provides that such a review is to be by way of an inquiry under s 143 and that the reasonable costs incurred by the NICC in relation to a review are to be paid by the relevant casino operator(s). The reforms also expand the costs able to be recovered for major change investigations under s 35A, by removing the limitation that such costs are only recoverable where the major change involves a person becoming a close associate of the casino operator and by clarifying that the costs of engaging external advisors are recoverable. A new s 42G provides that the reasonable costs incurred by NICC in conducting an investigation or

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<sup>504</sup> Queensland Amendment Act, cl 10.

inquiry to determine a person’s suitability to become or remain a close associate of a casino operator are payable to NICC.

573. Until recently, Victoria had no means for its regulator to recover its costs (aside from one provision enabling cost recovery with respect to investigations for approval of gaming equipment<sup>505</sup>). That has now changed. The *Casino and Gambling Legislation Amendment Act 2021* (Vic):

- a. empowers VGCCC to recover its reasonable costs and expenses of taking disciplinary action, including to suspend the casino licence until the payment is made: s 20A;
- b. clarifies that the power to give directions also includes the power to direct that a casino operator engage at its own cost a person approved by the VGCCC to inquire into and report to the VGCCC on any matter relevant to the performance of the VGCCC’s functions in relation to the casino operator or the conduct of casino operations: s 23(3);
- c. enables the VGCCC to recoup its reasonable costs of investigating and monitoring associates and likely associates of a casino operator: s 28B; and
- d. creates a special manager to oversee Crown Melbourne and provision for recovery of the VGCCC’s reasonable costs and expenses relating to the appointment of the special manager, the performance of the special manager’s functions and the performance of the VGCCC’s related functions, from the Melbourne Casino Operator.<sup>506</sup>

574. Singapore provides for cost recovery with respect to a few discrete categories of action under the Singapore *Casino Control Act*<sup>507</sup> and British Columbia provides only for cost recovery with respect to background investigations for registration or renewal of registration as a gaming services provider.<sup>508</sup>

575. The United Kingdom requires the holder of an operating licence to pay a penalty if the Commission thinks that a condition of the licence has been breached. A casino operating

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<sup>505</sup> *Casino Control Act 1991* (Vic), s 62(1).

<sup>506</sup> Sections 9, 10, 17 – 18, s 36N; Div 4, Part 3.

<sup>507</sup> *Casino Control Act 2006* (Singapore), ss 102(1), 144(3), 170C(4) and 185B(2).

<sup>508</sup> *Gaming Control Act 2002* (British Columbia), ss 62 – 65.

licence is a form of operating licence.<sup>509</sup> The penalty is to be paid into the Consolidated Fund ‘after deduction of a sum which represents the direct costs to the [United Kingdom Gambling] Commission of, and a reasonable share of expenditure by the [United Kingdom Gambling] Commission which is indirectly referable to’ the investigation or the imposition and enforcement of the penalty.<sup>510</sup>

576. It is appropriate that those who benefit financially from the casinos pay for the regulation of those activities. This, however, ought to be structured in a way that leaves no doubt that the casinos are not ‘clients’ of the regulator, and that they cannot control or direct that which the regulator does.

577. The Queensland Amendment Act goes some way to achieving this:

- a. section 31A empowers the chief executive to recover from a casino entity<sup>511</sup> the reasonable costs and expenses incurred by the department in assisting the Minister or Governor in Council in preparing for and taking disciplinary action against the entity and considering responses and submissions associated with disciplinary action. If a casino entity does not comply with a written notice requiring payment of these costs within the time specified, the Minister may recommend to the Governor in Council to suspend or cancel the casino licence or terminate the casino lease or casino management agreement (as the case may be); and
- b. section 91AA provides that a casino entity which is given a direction by the Minister to engage an external adviser is liable for all costs and expenses associated with such engagement and the adviser exercising the adviser’s functions.

578. I recommend as follows:

**Recommendation 9**  
**It ought to be a condition of a casino licence that the licensee pay a supervision levy of the kind provided for in New South Wales.**

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<sup>509</sup> *Gambling Act 2005 (UK)*, s 65.

<sup>510</sup> *Gambling Act 2005 (UK)*, s 121(5)(c).

<sup>511</sup> ‘Casino entity’ is defined to mean a casino licensee, the lessee under a casino lease or the casino operator under a casino management agreement.



## Periodic reviews

579. The *Casino Control Act* provides that the Minister may, if he or she thinks fit, nominate and appoint in writing the Chief Executive or other officer of the department to hold an inquiry into the operation of a casino.<sup>512</sup> The Chief Executive or appointed officer has all the powers, authorities, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950 (Qld)*.<sup>513</sup> The Inquiry under Part A of the Terms of Reference is an example of this.
580. The Queensland Amendment Act amends s 30 of the *Casino Control Act* to provide that, in undertaking a suitability investigation, the Minister may have regard to findings of an investigation undertaken by a State authority or conducted under a law of a State or the Commonwealth that relate to an entity mentioned in s 30(1) or an associate thereof. The Minister may also have regard to any report of an external adviser engaged at the direction of the Minister under the new s 91AA. That most likely reflects the position at general law in any event, but the clarity it brings is desirable.
581. The new s 91AA provides that the Minister may direct a casino entity to engage, and pay for, an external adviser on terms and conditions approved by the Minister to report on matters including the suitability of the casino entity and persons associated with the casino entity.
582. The *Casino Control Act (NSW)* empowers NICC to arrange for the holding of inquiries in public or in private presided over by a member of NICC or by some other person appointed by NICC to preside.<sup>514</sup> The person presiding at an inquiry is:
- a. not bound by the rules or practice of evidence and may inform himself or herself on any matter in such manner as the person considers appropriate;<sup>515</sup>
  - b. required to report to NICC on the results of the inquiry;<sup>516</sup> and

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<sup>512</sup> *Casino Control Act*, s 91(1).

<sup>513</sup> *Casino Control Act*, s 91(2).

<sup>514</sup> *Casino Control Act 1992 (NSW)*, s 143(1).

<sup>515</sup> *Casino Control Act 1992 (NSW)*, s 143(3).

<sup>516</sup> *Casino Control Act 1992 (NSW)*, s 143(5).

- c. subject to the control and direction of NICC with respect to the matters that are to be the subject of the inquiry, the procedures to be adopted at an inquiry and the time within which the person is to report to NICC.<sup>517</sup>

583. What Queensland lacks is the ability to conduct the kind of reviews undertaken by Mr Bell SC under s 143 of the *Casino Control Act* (NSW). There are benefits to that approach. It permits the Government to commission investigations according to the circumstances that present themselves and periodically to revisit the question of suitability. This facilitates scrutiny by a person independent of the Government and the Regulator. It offers flexibility as to the person or persons to be appointed and skills they might be required to hold depending upon what the circumstances might demand. Having periodic suitability reviews will likely encourage casino licensees and relevant associates to be vigilant in maintaining their good repute and integrity, and in continuing to be honest.

584. I recommend as follows:

**Recommendation 10**

**A power akin to that in s 143 of the *Casino Control Act* (NSW) be instituted to allow periodic investigations, including as to suitability. It ought to allow for the costs to be recovered from the relevant casino.**

## **Internal Controls**

585. My Terms of Reference require regard to be had to the ‘approved control systems’ of The Star Queensland casinos in the course of considering whether, and in what way, enhanced regulation may be warranted.

586. The *Casino Control Act* provides for a regime of internal controls, administrative and accounting procedures and audit requirements.<sup>518</sup> A casino operation must be conducted under a control system that is approved by the Chief Executive.<sup>519</sup> A casino operator will be liable for a penalty of up to 200 penalty units if it operates without an approved control

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<sup>517</sup> *Casino Control Act* 1992 (NSW), s 143(5).

<sup>518</sup> *Casino Control Act*, Part 7.

<sup>519</sup> *Casino Control Act*, ss 73-75A

system, if it contravenes the approved control system in the operation of the casino, or if it changes the approved control system other than under a direction or approval of the Chief Executive.<sup>520</sup>

587. A casino operator may apply to change its approved control system.<sup>521</sup> In considering whether to give approval, the Chief Executive is required to have regard to, among other things, whether the casino operator’s proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the operations of the casino.<sup>522</sup>

588. It may be that work can be undertaken by the Regulator here with the benefit of ICMs finalised in other jurisdictions that might offer best practice models. But that is a matter for the Regulator in the exercise of its discretion, and requires no alteration to the existing regulatory regime.

## **AML/CTF Responsibilities**

### *Enhancing cashless / carded gambling*

589. The Queensland Amendment Act effects relevant changes to the regulatory regime. A new s 67(2D)<sup>523</sup> of the *Casino Control Act* makes it clear that the casino operator may accept a deposit into a person’s player account by a credit card transaction only if the deposit is made by a non-resident of Queensland visiting a casino under a junket agreement.

590. This accords with the Finkelstein and Bergin reports relating to issues involving AML/CTF through the removal of barriers to the consideration of cashless gambling at casinos and powers of the Regulator to implement harm minimisation measures.

591. The Queensland Amendment Act effects other measures to reduce ‘red tape’ and modernise the increasingly complex legislative environment. Certain amendments facilitate the transition to safe cashless gambling by, for example:

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<sup>520</sup> *Casino Control Act*, s 73.

<sup>521</sup> *Casino Control Act*, s 75.

<sup>522</sup> *Casino Control Act*, s 75A(4).

<sup>523</sup> Queensland Amendment Act, cl 21.

- a. removing legislative barriers to considering and approving cashless payment methods (i.e. allowing alternative cashless methods such as electronic payment methods to be considered and approved);<sup>524</sup>
- b. ensuring that cashless systems and technology can be approved (with conditions if required) and made to undergo technical evaluation (if considered necessary) before their use in the gambling market;<sup>525</sup> and
- c. providing a regulation making power dealing with the methods of payment that may be used in connection with the authorised gambling activities.<sup>526</sup>

592. AML/CTF remains the preserve of AUSTRAC and the AML Act and AML Rules. I would not see as desirable the duplication of responsibilities for AML/CTF in Queensland.

593. The serious shortcomings in The Star's AML/CTF Program and its practical implementation about which I made findings earlier in this Report are ones which show a serious disregard for the compliance regime. The deficiencies, however, arose from The Star's poor culture and attitude towards compliance, and not from any serious deficiency in the regime itself.

## Exclusions

594. I have given some consideration to the system of exclusions and The Star's conduct in that regard earlier in this Report. Some of the recommendations already made will serve to improve the exclusion regime for those who ought not be at the casino (for the various reasons discussed) and the detection of those who attempt to enter notwithstanding their exclusion. The recommendations I have made as to the use of facial recognition technology is one example.

595. It remains, however, to ensure that casinos act on exclusion directions made by Police Commissioners in other Australian jurisdictions. The Star was deficient in this regard. As I have found, it ought to have excluded from its Queensland casinos persons who had

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<sup>524</sup> Queensland Amendment Act, cl 20.

<sup>525</sup> Queensland Amendment Act, cll 74, 82, 93 and 107.

<sup>526</sup> Queensland Amendment Act, cl 111.

been directed by Police Commissioners in other Australian jurisdictions not to enter a casino there. What I propose ought to encourage compliance in that regard.

596. The Star made submissions on this topic on 28 September 2022, just before this Report was due to be delivered. It proposed the Queensland Police Commissioner ought be required to make a direction mirroring any such direction made by the police in another State.

597. I am not persuaded of the utility of that course. To do so would be to compel the Queensland Police Commissioner to take action without herself turning her mind to the justification for such a course. It would require scarce policing resources to be dedicated to an issue which is one more for the State than for Police. It ought be sufficient for The Star's purpose that a particular person has been excluded by the Police Commissioner in one or more Australian jurisdictions.

598. If an interstate Police Commissioner direction be given to a casino operator that is not The Star, it is important, of course, that The Star comes to know of it so it can take action. The case studies, however, show that such interstate exclusions are likely to come to The Star's attention.

599. I do not see any real impediment (notwithstanding The Star's submission to the contrary) to the fact of a Police Commissioner direction (interstate or otherwise) being shared between the relevant Star entities. Such a direction is an act of a public official. I am not aware of any legal restriction (and The Star points to none in its submission) that would stand in the way of, for example, the licensee of The Star Sydney sharing the fact of a Police Commissioner direction with Star licensees in Queensland.

600. It may be that there is a case for facilitating the sharing of the fact of interstate Police Commissioner directions (whether interstate or in Queensland) with the casinos in Queensland that are not operated by The Star (ie those in Cairns and Townsville). There may be a case for bringing directions made under s 92 and s 94 of the *Casino Control Act* to the attention of these licensees.

601. Perhaps a register of some kind of those persons who are the subject of Police Commissioner directions in other states, or who have been excluded by other casino operators in the State could be established. Any such arrangement would need to protect

privacy and confidentiality in an appropriate way. I do not make a formal recommendation as to this, but note the desirability of measures which might assist in exclusions being more uniformly imposed, especially given the more decentralised nature of casino operations in Queensland (and the greater number of licensees than in New South Wales and Victoria).

602. I recommend as follows:

**Recommendation 11**

**The *Casino Control Act* ought be amended to require casino licensees and operators to make reasonable endeavours to ascertain the persons subject to exclusion directions of police commissioners in other Australian jurisdictions, and to take reasonable steps to effect the exclusion of such persons from the casinos they control. The regime should impose penalties for non-compliance.**

603. The Star submitted that it should have a broad power to issue exclusion directions under s 92(1) of the *Casino Control Act*, rather than relying on its common law powers to issue a WOL. A direction given under s 92 attracts the operation of ss 100, 100B(1) and 100C.

604. The common law right to issue a WOL is wide and is not, at least on the terms of the *Casino Control Act*, open to curial challenge or merits review. The Star, in the course of this Inquiry, accepted that it had misunderstood historically the bounds of its capacity to issue a WOL. It is not apparent to me why an enlarged s 92 (as proposed by The Star) is preferable to reliance upon common law rights. I am not persuaded that the power of The Star to issue a WOL is other than adequate in the circumstances.

**Orderly management of any finding of unsuitability**

605. The findings I have made in connection with Part A of the Terms of Reference, and the findings made by Mr Bell SC in his Inquiry give rise to a possibility that one or more Star entities could be found to be unsuitable to hold a casino licence.

606. I have turned my mind to whether, with that possibility in mind, the legislative regime ought to be enhanced.

607. If a casino licence is cancelled or suspended, an Administrator must be appointed by force of each of the Agreement Acts for each casino.<sup>527</sup> If an Administrator were appointed, that person or people would conduct the company's affairs, ie, 'assume full responsibility for the conduct of the casino in accordance with the Control Act as agent, and at the cost, of the Licensee'.<sup>528</sup>
608. Administrators are ordinarily associated with insolvency (ie as a precursor to executing a Deed of Company Arrangement) and the term would likely be read in that context: *Corporations Act 2001* (Cth), ss 437A and following. In summary, their duty is to investigate the company's business, property, affairs and financial circumstances in order to form an opinion about the future of the company by recognising the particular interests of the creditors. The duties of that person are directed to three possible outcomes: the execution of a deed of company arrangement, the ending of the administration, and, the winding up of the company (ie liquidation).
609. The appointment of the Administrator effectively precludes real cancellation of the licence because that person can continue to operate the Casino, the licence must be (re)-granted to that Administrator and that person conducts the casino as the former licensee's agent.<sup>529</sup>
610. The Administrator can dispose of the casino complex and arrange for the assignment of the casino licence at the highest price (but to a person approved by Governor in Council).<sup>530</sup>
611. Such arrangements will not necessarily be appropriate in a case such as the present. Were they an Administrator, that person would not report to OLGR or the Minister. They

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<sup>527</sup> *Queen's Wharf Brisbane Act*, s 10(b); Schedule 1, cl 8.5(a); *Jupiters Casino Agreement Act*, s 3(1)(a); Schedule 1, cl 53(a) (later renumbered to cl 39 by Schedule 2, item 63); *Brisbane Casino Agreement Act*, s 6B(1); Schedule 1, cl 69(a).

<sup>528</sup> Queen's Wharf Brisbane Casino Agreement, cl 8.5(d) (the formulation is as quoted in the body text); Jupiters Casino Agreement, cl 53(a)(iv) (later renumbered to cl 39(a)(iv) by Schedule 2, item 63 of the *Jupiters Casino Agreement Act*) ('manage and operate in accordance with the provisions of the Control Act the Casino as agent of the Trustee'); Brisbane Casino Agreement, cl 69(a)(iv) ('manage and operate in accordance with the provisions of the *Control Act* the Casino as the agent of the Company').

<sup>529</sup> Queen's Wharf Brisbane Casino Agreement, cl 8.5(c)-(d); Jupiters Casino Agreement, cl 53(a)(iii)-(iv) (later renumbered to cl 39(a)(iii)-(iv) by Schedule 2, item 63 of the *Jupiters Casino Agreement Act*); Brisbane Casino Agreement, cl 69(a)(iii)-(iv).

<sup>530</sup> Queen's Wharf Brisbane Casino Agreement, cl 8.5(e); Jupiters Casino Agreement, cl 53(a)(v) (later renumbered to cl 39(a)(v) by Schedule 2, item 63 of the *Jupiters Casino Agreement Act*); Brisbane Casino Agreement, cl 69(a)(v).

would decide what ought be done with the licence, but within the limited scope of their duties as Administrator and the relevant provisions of the *Corporations Act*, but not with regard to the public interest. The State would not control the duration of the Administration, and no part of the Administrator’s function would be to monitor the (former) licensee’s potential future suitability (other than to see it as a possible future assignee of the licence).

612. Those arrangements seem to have been designed to engage insolvency arrangements in corporations law. They were arrived at without being able to foresee the circumstances that have arisen. Moreover, since the *Casino Control Act* was passed and two of the three casino Agreement Acts were enacted, there has been a referral of power to the Commonwealth on such matters and new provisions exist<sup>531</sup> about the extent to which the States can continue to legislate in that regard.
613. Those arrangements, as I explained above, tend to assume that cancellation or suspension of a casino licence will result in it being assigned to another entity, and for the casino to continue its operations, first through the Administrator, and then by the new assignee of the licence.
614. That regime is one way by which the current circumstances might be managed. It does, however, narrow the options available to the State. As noted, once the Administrator is appointed, it would be for that person to make decisions about the casino business, the casino property and the licence itself. The duration of the administration would largely be beyond the State’s control and the fate of the licence would (subject to suitability assessment) be something which the Administrator would control. The Administrator would exercise that person’s discretion not by reference to the public interest, but by their duty in their official capacity.
615. Other State legislatures have considered it prudent to make provision of the appointment of a special manager.<sup>532</sup> One has been appointed in Victoria. Mr Stephen O’Bryan KC was appointed as Special Manager for the Melbourne Casino operator, pursuant to s 36B of the *Casino Control Act* 1991 (Vic) in January 2022. He is empowered to give

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<sup>531</sup> See, for eg, *Corporations Act* 2001 (Cth), s 5G.

<sup>532</sup> *Casino Control Act* 1991 (Vic), Part 3, Div 4; *Casino Control Act* 1992 (NSW), s 28.



directions to the casino operator to take any action or to refrain from taking any action.<sup>533</sup>  
Certain thresholds exist before this can be done.<sup>534</sup>

616. Legislative arrangements in Victoria and New South Wales permit the appointment of a ‘Special Manager’. Of the two systems, the one in New South Wales gives greater flexibility to the Regulator and more options for dealings with the casino licence and operations.

617. Section 28 of the *Casino Control Act* 1992 (NSW) provides:

**Appointment of a Manager is Licence Suspended, Cancelled or Surrendered**

- (1) If a casino licence is suspended, cancelled or surrendered, the NICC may, if it is satisfied that it is in the public interest to do so, by instrument in writing appoint a person to be the manager of the casino for the purposes of this section.
- (2) In appointing a person to be the manager, the NICC must have regard to the suitability of the person.
- (3) The manager is to be appointed on such terms and conditions as the NICC thinks fit.
- (4) The appointment of the manager may be terminated at any time by the NICC and is in any case terminated 90 days after appointment unless in a particular case the appointment is extended by the regulations.
- (5) The manager--
  - (a) is to be considered to be the holder of a casino licence (including for the purposes of section 6) granted on the same terms and subject to the same conditions as the suspended, cancelled or surrendered licence (as in force immediately before the suspension, cancellation or surrender) with such modifications as the NICC may direct, and
  - (b) is to assume full control of and responsibility for the business of the casino operator in respect of the casino, and
  - (c) is to conduct or cause to be conducted casino operations in accordance with this Act, and
  - (d) has, in connection with the conduct of those operations, all the functions of the operator.
- (6) The regulations may make provision for or with respect to the functions of the manager of a casino appointed under this section.
- (7) The following provisions have effect in respect of the net earnings of a casino while operations in the casino are being conducted by a manager under this section--
  - (a) no payment of net earnings is to be made to the holder of the suspended, cancelled or surrendered licence (**the former operator**) without the prior approval of the NICC,
  - (b) the former operator is entitled to a fair rate of return out of net earnings (if any) on any property of the former operator retained by the manager,
  - (c) the NICC may in its discretion direct that all or any part of net earnings (other than that to which the former operator is entitled under paragraph (b)) is to be paid into the Consolidated Fund, with any balance to be paid to the former operator.

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<sup>533</sup> *Casino Control Act* 1991 (Vic), s 36E(1).

<sup>534</sup> *Casino Control Act* 1991 (Vic), s 36E(2).

618. Such a regime offers greater flexibility than the appointment of an Administrator. It also has the benefit that if New South Wales were to appoint a Special Manager, Queensland could have available to it, the same regime. It may be that it is appropriate, to promote efficiency of oversight and to avoid unnecessary inconsistency, that the same Special Manager be appointed in both States (if it were in Queensland’s interests to do so).
619. If such a course is taken, the *Queen’s Wharf Brisbane Act*, *Jupiters Casino Agreement Act* and the *Brisbane Casino Agreement Act* would require amendment to make clear that the appointment of an Administrator under the various Agreement Acts need not occur if a Special Manager be appointed. This is in order to avoid the Agreement Act provisions being read as mandating the appointment of an Administrator where the licence is cancelled or surrendered.
620. I recommend accordingly.

**Recommendation 12**

**The *Casino Control Act* ought be amended to insert provisions to the same effect as s 28 of the *Casino Control Act 1992 (NSW)* and to make clear that the appointment of an Administrator is not required in the case of suspension or cancellation of a licence if a special manager is appointed.**

**Regulatory restrictions and compensation triggers**

621. The Queen’s Wharf Brisbane – Financial and Commitment Agreement contains a provision (clause 6.1) which has the effect of:
- a. compelling the State to compensate the Licensee; and
  - b. limiting the way in which the State can regulate that casino.
622. The relevant thresholds are the happening of a ‘Regulatory Compensation Amount’ and ‘Regulatory Trigger Event’ respectively. These are defined in Annexure 1 to the Agreement. The first precludes certain regulatory steps being taken without the written consent of the Licensee. Those steps relevantly include if the State:

- a. ‘introduces or increases any ... taxes, levies, licence fees or other similar payments payable by the Licensee with respect to the gaming activities of the Casino’; or
  - b. takes any action that (including any the amendment or introduction of legislation and regulations) that limits, or has the effect of limiting, the EGMs that can be operated to less than 2,500, table games to less than 500, or fully automated table games to less than 1,000.
623. The relevant compensation triggers include if a given formula shows a certain gaming earnings before interest, tax, depreciation and amortisation (**EBITDA**) fall of \$5million or more.
624. There are limits and qualifications to these obligations which are not necessary to explain.
625. Provisions of a not dissimilar kind as they applied between the New South Wales government and Crown were abolished by s 156 of the *Casino Control Act 1992* (NSW), which was inserted by Schedule 1, cl 99 of the *Casino Legislation Amendment Act 2022* (NSW). The triggers there were of a different kind from those in the Queen’s Wharf Brisbane – Financial and Commitment Agreement. They extended, for example, to compensation for cancellation of the casino licence (albeit not on disciplinary grounds).
626. What I have recommended above as enhancements to the regulatory regime are matters which arise from the circumstances that have presented themselves not only in the reports of the other Inquiries to which I have referred, but to circumstances particular to The Star in Queensland, and having regard to the findings I made earlier in this Report. None of them, taken alone or together are matters which, in my view, ought to engage an entitlement to compensation on the part of the licensee of Queen’s Wharf casino/The Star Brisbane, or any Star entity.
627. The proper regulation of casinos demands that the State be free to impose reasonable controls on the operations of casinos, and to adjust those controls as circumstances demand and in order to protect the public interest.
628. It is doubtful that the triggers identified above would be engaged in respect of any of the recommendations I have made. There may be a risk, for example, that the supervision

levy I have recommended be imposed might be regarded as a tax, levy, licence fee or other similar payment payable by the Licensee with respect to the gaming activities of the casino. Perhaps also it might be suggested (although it seems unlikely) that the limits on the use of EGMs I have proposed could bring about a fall in gaming EBITDA. Those limits, however, are matters which the demands of safer gambling would commend for. For the State to be fettered in imposing requirements for safer gambling, or to have to compensate the casino licensee for having done so would be highly undesirable.

629. To the extent, however, that the triggers might be thought to be engaged, I would recommend that legislation expressly negate their operation. The State legislature ought not be fettered in its capacity to impose controls upon casinos in this State, and likewise there ought be no obligation upon the State to compensate the licensee for having done so.

## Appendix I

### Assisting the Review

#### *Counsel Assisting*

Jonathan Horton KC  
Angela Hellewell

#### *Legal Assistant to Mr Gotterson AO KC*

Daniel Gordon

#### *Solicitors assisting*

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Marissa Hine  
Emily Caradus  
Megan Puckeridge

**Hearing dates and witnesses**

<b>Hearing date</b>	<b>Witness</b>
14 July 2022	Opening remarks
23 August 2022	Witness A

	Witness B
	Witness C
	Junior Toleafoa, Group Manager Responsible Gambling, The Star Entertainment Group Limited
24 August 2022	Junior Toleafoa, Group Manager Responsible Gambling, The Star Entertainment Group Limited
	Christopher Peasley, President of Domestic and International Casino Sales, The Star Entertainment Group Limited (by video link)
	Howard Steiner, General Manager, Anti-Money Laundering/Counter Terrorism Financing Compliance, The Star Entertainment Group Limited
25 August 2022	Howard Steiner, General Manager, Anti-Money Laundering/Counter Terrorism Financing Compliance, The Star Entertainment Group Limited
	Geoffrey Hogg, Interim Chief Executive Officer, The Star Entertainment Group Limited (resigned on or about 26 September 2022)
29 August 2022	Closing remarks and submissions

### Orders made

Date	Order
22 August 2022	Non-publication order pursuant to section 16 of the <i>Commissions of Inquiry Act 1950 (Qld)</i> in relation to individuals appearing in any exhibit
22 August 2022	Non-publication order pursuant to section 16 of the <i>Commissions of Inquiry Act 1950 (Qld)</i> in relation to Persons 1 to 5
22 August 2022	Confidential pseudonym order pursuant to section 16 of the <i>Commissions of Inquiry Act 1950 (Qld)</i> in relation to Persons 1 to 5
23 August 2022	Confidential pseudonym order pursuant to section 16 of the <i>Commissions of Inquiry Act 1950 (Qld)</i> in relation to Witnesses A to C

## Compulsory processes issued

Requirement	No.	Recipient	Date
To produce documents and give written information	RTPG-001	The Star	22 July 2022
To produce documents and give written information	RTPG-001 (Amended)	The Star <sup>535</sup>	28 July 2022
To attend to give information and answer questions	RTA-001	Geoff Hogg (The Star)	1 August 2022
To attend to give information and answer questions	RTA-002	Junior Toleafoa (The Star)	1 August 2022
To attend to give information and answer questions	RTA-003	Howard Steiner (The Star)	1 August 2022
To give written information	RTG-002	Geoff Hoff (The Star)	5 August 2022
To give written information	RTG-003	Junior Toleafoa (The Star)	5 August 2022
To give written information	RTG-004	Howard Steiner (The Star)	5 August 2022
To produce documents	RTP-002	Geoff Hogg (The Star)	5 August 2022
To produce documents	RTP-003	Junior Toleafoa (The Star)	5 August 2022
To produce documents	RTP-004	Howard Steiner (The Star)	5 August 2022
To produce documents	RTP-005	The Star	9 August 2022
To produce documents	RTP-006	Paul Ryan (OLGR)	13 July 2022
To produce documents	RTP-007	Paul Ryan (OLGR)	15 August 2022
To produce documents	RTP-008	Geoff Hogg (The Star)	23 August 2022
To produce documents	RTP-009	The Star Entertainment Group Limited	25 August 2022
To produce documents	RTP-010	Paul Ryan (OLGR)	5 September 2022
To produce documents	RTP-011	Paul Ryan (OLGR)	26 September 2022

<sup>535</sup> The Star Entertainment Group Limited; The Star Entertainment Qld Limited; The Star Entertainment Qld Custodian Pty Ltd (ACN 067 888 680), together **The Star**.



<b>Summons</b>	<b>No.</b>	<b>Recipient</b>	<b>Date</b>
To attend and give evidence	STA-001	Geoff Hogg (The Star)	9 August 2022
To attend and give evidence	STA-002	Junior Toleafoa (The Star)	9 August 2022
To attend and give evidence	STA-003	Howard Steiner (The Star)	9 August 2022
To attend and give evidence	STA-004	Chris Peasley (The Star)	18 August 2022

### **Witness interviews (conducted by Counsel Assisting)**

<b>Interview date</b>	<b>Witness</b>
2 August 2022	Geoff Hogg (The Star)
2 August 2022	Junior Toleafoa (The Star)
3 August 2022	Howard Steiner (The Star)

### **Written submissions received**

<b>Date</b>	<b>Submitter</b>
22 July 2022	I Timmins
10 August 2022	M Campbell
16 August 2022	H Poynten (on behalf of Relationships Australia QLD)
16 August 2022	Confidential 1
18 August 2022	Confidential 2
18 August 2022	M Grant
19 August 2022	
19 August 2022	
19 August 2022	T Callaway (on behalf of Trevor Callaway & Associates)
19 August 2022	V Platonenko
20 August 2022	C Bennett (on behalf of Alliance for Gambling Reform)
22 August 2022	Confidential 3

27 August 2022	Counsel Assisting
29 August 2022	Counsel for The Star Entertainment Group Limited
28 September 2022	The Star Entertainment Group (as to enhanced regulation)

**Persons with whom I, or those assisting me, met**

<b>Date</b>	<b>Person</b>	<b>Role</b>
Various	Victoria Thomson	Deputy Director-General, Commissioner for Fair Trading, and Commissioner for Liquor and Gaming
Various	Paul Ryan	General Manager of Compliance at the Office of Liquor and Gaming Regulation
20 July 2022 (by video)	Carol Bennett	CEO, Alliance for Gambling Reform
20 July 2022 (by video)	Reverend Timothy Costello	Chief Advocate, Alliance for Gambling Reform
20 July 2022 (by video)	Rose O’Leary	Policy and Advocacy Lead, Alliance for Gambling Reform
25 July 2022	Ian Timmins	NA
3 August 2022	Christopher Darwin	Gambling Minds Team Coordinator for Victoria State-wide Mental Health and Gambling Harm Service at Alfred Health
26 July 2022 (by video link); 18 August 2022 (in person)	Witness A	NA
19 August 2022	Witness B	NA
19 August 2022	Witness C	NA
Various	Approximately five other persons who were either interested in making submissions or who wished to meet or speak confidentially	NA