

NEW SOUTH WALES

Casino Control Act 1992 (NSW)
Royal Commissions Act 1923 (NSW)

INQUIRY UNDER SECTION 143 OF THE CASINO CONTROL ACT 1992 (NSW)

**PROCEDURAL GUIDELINES RELATING TO PUBLIC HEARINGS CONCERNING THE
REVIEW OF THE STAR PTY LTD**

GENERAL

1. These Procedural Guidelines relate to the public hearings of the Review established by the Instrument of Appointment issued by the Independent Liquor and Gaming Authority (**Authority**) dated 13 September 2021 pursuant to s.143 of the *Casino Control Act 1992* (NSW) (**Casino Control Act**) to Mr Adam Bell SC.
2. Mr Bell SC has been appointed to conduct the Review with the powers, authorities, protections and immunities conferred by Division 1 and Division 2 of Part 2 of the *Royal Commissions Act 1923* (NSW) (**Royal Commissions Act**).
3. These Procedural Guidelines may be varied or replaced from time to time. Mr Bell SC may depart from these Procedural Guidelines if he considers it appropriate to do so, subject to the Casino Control Act, Royal Commissions Act and the Terms of Reference issued by the Authority updated on 14 December 2021 (**Terms of Reference**).
4. The Terms of Reference, these Procedural Guidelines and other information relevant to the Review will be available through the Review website, the details for which will be notified separately (**Website**).

PUBLIC HEARINGS

5. On 19 October 2021, the Authority announced that certain hearings of the Review would take place in public.
6. Public hearings will usually be conducted from 10.00am to 1.00pm and from 2.00pm to 5.00pm. On occasions it may be necessary for hearings to occur outside of these times. The dates and times for the public hearings will be published on the Website.
7. Due to the COVID-19 pandemic and current public health orders, public hearings will be

conducted via a virtual hearing room (**Virtual Hearing Room**).

APPLICATIONS TO APPEAR

8. Mr Bell SC may authorise persons to appear and to be legally represented at the public hearings. In particular, a person may be granted such authority if it is shown that the person is substantially and directly interested in any subject matter of the Review, or that the person or the person's conduct in relation to any such matter has been or is to be challenged to the person's detriment.

To represent a witness while giving evidence

9. Where a legal practitioner seeks authorisation to appear at the public hearings of the Review for the limited purpose of representing an individual while that individual is giving evidence at the public hearing:
 - (a) such an application may be made by notifying the Solicitors Assisting the Review in writing prior to the hearing;
 - (b) the legal practitioner must indicate whether he or she does not (and in the case of counsel, his or her instructing solicitors do not) act for any other person in relation to the subject matter of the Review, and if either or both so act, why it is appropriate for the practitioner to be authorised to appear; and
 - (c) if leave is granted by Mr Bell SC, the legal practitioner will be authorised to appear before the Review for the limited purpose of representing the individual while the individual is giving evidence.

Other applications

10. In any other case, any person or legal practitioner wishing to be granted authorisation to appear at the public hearings of the Review or a specified part thereof should lodge with the Review a written application in the Form annexed to these Procedural Guidelines.
11. The outcome of any written application will be notified to the applicant in writing.
12. Nothing in paragraphs 8 to 11 prevents a person from seeking authorisation to appear at any time, and in particular if an initial application has been refused or something has occurred which leads the person to believe that the person's interests may be affected. Any such application should address the matters identified in the Form annexed to these Procedural Guidelines and will be dealt with by Mr Bell SC at such time as Mr Bell SC

considers appropriate having regard to all relevant considerations.

Terms of authorisation

13. Unless Mr Bell SC otherwise determines, every authorisation to appear is granted on the following conditions:
 - (a) authorisation may be withdrawn by the Mr Bell SC or made subject to altered or additional limitations or conditions at any time;
 - (b) the nature and extent of the participation of the authorised person or authorised legal practitioner (as the case may be) in the Review is subject to Mr Bell SC's control from time to time;
 - (c) the authorised person or authorised legal practitioner (as the case may be) has no automatic right to examine any witness. Amongst other things, Mr Bell SC may, depending on the circumstances at the relevant time, direct that there should be no examination of a particular witness by the authorised person or authorised legal representative (as the case may be), or that any such examination shall be limited as to topic, time or otherwise as Mr Bell SC considers appropriate.

EVIDENCE

14. Pursuant to s.143(3) of the Casino Control Act Mr Bell SC is not bound by the rules or practice of evidence and may inform himself on any matter and in such manner as he considers appropriate.
15. Sub-sections 17(1) to 17(3) of the Royal Commissions Act are applicable to persons appearing before, or producing documents to, the Review. In particular, and without limiting the terms of those sub-sections:
 - (a) A witness summonsed to appear before the Review and/or or to produce documents to the Review is not excused from answering a question or producing documents on the ground of legal professional or other privilege, or self-incrimination, or a duty of secrecy or other restriction on disclosure, or any other ground.
 - (b) There are restrictions on the use to which any answers given or documents produced to the Review may be used against the person in other proceedings.

WITNESSES

16. A witness must take an oath or make an affirmation prior to giving oral evidence at a public hearing of the Review. Witnesses choosing to take an oath are not required to hold a religious text. In circumstances where a witness would like to swear an oath upon a religious text, it will be the responsibility of the witness and/or their legal representative(s) to ensure that text is available.
17. Subject to the control of Mr Bell SC, Counsel Assisting the Review will determine which witnesses are called and the order in which those witnesses are called and examined at the public hearings. It may be necessary to call some witnesses to give evidence on more than one occasion.
18. Mr Bell SC may decide to receive the evidence of a witness orally or by written statement or both.
19. Where a claim for confidentiality is sought to be made in respect of any part of a witness statement or annexure or attachment thereto the extent of the claim should be indicated to those assisting the Review by blue shading. The basis for any confidentiality claim should be precisely stated at the time that the witness statements and their annexures or attachments are provided to those assisting the Review.
20. Persons required to give oral evidence will be provided with notice of the time Counsel Assisting the Review will call upon their Summons to attend to give evidence. Witnesses with a particular period of unavailability should give notice of that unavailability to the Review at the earliest possible opportunity.
21. Witnesses will provide oral evidence by examination by Counsel Assisting the Review.
22. It may be that witnesses will be questioned by or on behalf of any person considered by the Mr Bell SC to have sufficient interest to do so. The witness may then be examined by his or her own legal representative. Counsel Assisting the Review may then question the witness at the conclusion of this process. Duplication and repetition must be avoided.
23. Mr Bell SC may:
 - (a) limit the particular topics or issues upon which a witness may be examined;
 - (b) impose time limits upon examination of a witness.
24. If Mr Bell SC is to be invited to disbelieve a witness, the material grounds upon which it is said that the evidence should be disbelieved should be put to the witness so that the witness may have an opportunity to offer an explanation.

25. Where it is to be contended that deliberately false evidence has been given, or that there has been a mistake on the part of the witness on a significant issue, the grounds of such contention must be put to the witness.
26. Any person wishing to have evidence placed before the public hearings of the Review must notify the Review of the name of the witness and provide a statement containing the evidence the witness wishes to provide signed by the witness unless for good reason that is not possible. Counsel Assisting the Review will decide whether or not the statement of the witness will be tendered and/or whether the witness will give oral evidence at the public hearings. An application may be made directly to Mr Bell SC for the witness to provide evidence only after the above procedure has been completed.
27. A copy of any document proposed to be put to a witness during the public hearings must be provided to Counsel Assisting the Review as soon as possible after a decision is made to use the document and in all cases prior to its intended use.

DOCUMENTS

28. Subject to the control of Mr Bell SC, Counsel Assisting the Review will determine which documents are tendered in evidence at the public hearings of the Review and the time at which they will be tendered.
29. Mr Bell SC will determine which authorised persons, authorised legal representatives and other persons (if any) are to be provided with access to documents tendered for the purposes of the public hearings.
30. Any application (other than in a hearing) for access by an authorised person, an authorised legal representative or any other person, to documents that have been tendered as exhibits in the public hearings of the Review should be notified to the Review in writing.
31. Prior to the anticipated tender of some documents for the purposes of the public hearings those persons considered by Mr Bell SC to be substantially and directly interested in the subject matter to which the documents relate (or their legal representatives) may be granted confidential access to those documents.
32. Until marked as exhibits in the public hearings of the Review, the contents of any documents to which access has been granted are not to be published to any persons other than persons to whom Mr Bell SC has granted access and are to be kept confidential and not to be used for purposes other than in connection with the Review.

33. Persons who are granted access to any documents prior to their tender in evidence at the public hearings of the Review are not to provide a copy of those documents or facilitate any person gaining access to any part thereof in respect of which access has not been granted.
34. Any person wishing to have a document placed before the public hearings of the Review must notify the Review by providing a copy of the document to the Review. The production of other documents may then be required. Counsel Assisting the Review will decide whether or not to tender any document for the purposes of the public hearings. An application may be made directly to Mr Bell SC to tender a document for the purposes of the public hearings only after the above procedure has been completed

TRANSCRIPTS OF PUBLIC HEARINGS

35. Where a transcript of any part of the public hearings of the Review is made available, any person seeking to make corrections thereto should do so by way of notice in writing to the Review as soon as possible. Oral applications for urgent transcript corrections of significance may be made at public hearings of the Review.
36. The transcript of the public hearings of the Review may be published on the Website unless a direction is made prohibiting the publication of particular evidence.

NON-PUBLICATION AND PRIVATE HEARINGS

37. Pursuant to s.143B(1) of the Casino Control Act, Mr Bell SC may, by order in writing, direct that:
 - (a) any evidence given at the Review, or
 - (b) the contents of any document, or a description of anything, produced at the Review, or
 - (c) any information that might enable a person who has given or may be about to give evidence at the Review to be identified or located, or
 - (d) the fact that any person has given or may be about to give evidence at a public hearing of the Review,

is not to be published at all or is not to be published except in such manner, and to such persons, as Mr Bell SC may specify (**Non-Publication Direction**).

38. Pursuant to s.143B(2) of the Casino Control Act, a Non-Publication Direction is not to be

given unless Mr Bell SC is satisfied that the direction is necessary in the public interest or that there are other exceptional circumstances that require the direction to be given.

39. Any application for a Non-Publication Direction or for a hearing or part thereof to be held in private should be notified and made as soon as possible to the Review and, where possible, this should be in writing. The notification and application should clearly identify the material or the part of the hearing (as may be appropriate) in respect of which the application is sought and the facts, matters, circumstances and grounds on which the application is made.
40. Mr Bell SC will determine the procedure in respect of any such application, including whether to receive written or oral submissions.

PUBLIC HEARINGS IN A VIRTUAL ENVIRONMENT

41. Apart from Counsel and Solicitors Assisting the Review, access to the Virtual Hearing Room will be limited to the following persons, subject to any further directions Mr Bell SC may make
 - (a) witnesses called to give evidence before the Review; and
 - (b) any persons or legal practitioners with authorisation to appear at the relevant time.(together, **Participants**).
42. If a Participant believes that they will be unable to attend via the Virtual Hearing Room they should immediately make contact with the Solicitors Assisting the Review to discuss alternative arrangements.
43. Unless Mr Bell SC makes a direction to the contrary, public hearings will be livestreamed on the Website subject to a five minute delay. All other persons wishing to observe the public hearings may do so via the livestream on the Website.
44. In order to access the Virtual Hearing Room, Participants are required to:
 - (a) prepare a list containing the names, email addresses and mobile phone numbers of each person requiring access to the Virtual Hearing Room; and
 - (b) email the list at least 24 hours prior to the hearing they propose to attend to the Solicitors Assisting at **TheStarReview@maddocks.com.au** using 'Proposed Participants for Virtual Hearings – [Name of Party]' as the subject line of the email.
45. Participants will then be provided with log-in details enabling them to access the Virtual

Hearing Room.

46. Only one legal representative for each witness and party who has been granted leave to appear (**Nominated Legal Representative**) will be able to turn on their camera, unmute their microphone and address the Review during the public hearings subject to the following:
 - (a) the Nominated Legal Representative should mute their microphone while Counsel Assisting the Review is examining a witness unless it is necessary to make an objection;
 - (b) when considering the need to address the Review, the Nominated Legal Representative should have regard to the need for the Review to maintain orderly proceedings and the added difficulty of maintaining orderly proceedings in a virtual environment.
47. Device checks will be arranged with witnesses called to give evidence before the Review in the days before they are scheduled to give evidence, to confirm that their technology is operating effectively. Nominated Legal Representatives are permitted to attend such device checks.
48. When attending the Virtual Hearing Room:
 - (a) all Participants must ensure that they are situated in a quiet physical location where they will avoid interruption;
 - (b) save as may be necessary for the limited purposes of receiving technological support and assistance to identify and call up documents and subject to any directions Mr Bell SC may make from time to time, witnesses must ensure that there are no other persons present in that physical location while giving evidence before the Review.
49. Participants other than witnesses and their Nominated Legal Representative must mute their microphones and ensure that their camera is turned off.
50. Witnesses will be placed into a virtual breakout room until they are called to give evidence.
51. Witnesses and their Nominated Legal Representative must log in 30 minutes prior to the scheduled commencement of the witness' evidence, with their microphone on mute and their camera turned on. A final device check will be conducted at this time. Witnesses will be invited to unmute their microphone immediately prior to giving evidence, and their

Nominated Legal Representative will be requested to leave their microphone on mute

52. Other Participants (other than a witness and their Nominated Legal Representative) must log in 15 minutes prior to the scheduled commencement of the public hearing.
53. Those persons who have been given access to the Virtual Hearing Room, other than Nominated Legal Representatives and witnesses, will not be permitted to address the Review, unless exceptional circumstances apply, and will have their camera and microphone settings disabled throughout the public hearings accordingly.

HEARING BOOK

54. Relevant parts of the Review's online Hearing Book (**Hearing Book**) will be accessible to Participants. Participants will be sent an invitation to access the Hearing Book in due course.
55. Access to the Hearing Book is expressly subject to an undertaking given by the accessing party that information contained in the Hearing Book will not be published or otherwise disclosed unless and until it has been made publicly available by the Review.
56. Counsel and Solicitors Assisting the Review will determine which materials provided to the Review will be uploaded to the Hearing Book.
57. As a general guide, the Hearing Book will contain:
 - (a) witness statements and their attachments;
 - (b) other documents identified as being relevant to the evidence of witnesses;
 - (c) exhibits; and
 - (d) transcripts of public hearings.
58. Those assisting the Review will provide access to the Hearing Book as soon as feasible prior to the commencement of the relevant hearing. Those assisting the Review will have regard to any claims for confidentiality the bases for which have been precisely stated at the time of production of documents and which have been accepted by Mr Bell SC. All claims for confidentiality over a document or part thereof not already accepted by Mr Bell SC should be notified to the Review within two (2) business days of receiving access to the Hearing Book, and within one (1) business day of receiving a supplement to the Hearing Book. Where a claim for confidentiality is made the precise basis for the claim should be stated in writing and the claiming party should identify the documents or parts of documents claimed to be confidential with blue shading.
59. It is anticipated that the Hearing Book will be supplemented from time to time during the

course of the public hearings.

60. During the course of the public hearings, Counsel Assisting the Review will seek to tender documents contained in the Hearing Book as supplemented from time-to-time, but this does not limit the ability of Counsel Assisting the Review to tender other documents, including without prior notice to interested parties.

PRIOR NOTIFICATION OF ISSUES

61. Any authorised person, authorised legal representative or other person who wishes to raise any issue of law or procedure (including, by way of example only, confidentiality issues, Non-Publication Directions and administrative arrangements) should, wherever possible, give the Review written notice of that issue and any contentions to be raised in respect of that issue as soon as possible.

SUBMISSIONS

62. Mr Bell SC may make directions in relation to whether and upon which matters submissions should be made and whether submissions are to be made orally and/or in writing to the Review in relation to matters raised in the public hearings of the Review.
63. Mr Bell SC may limit the persons who may make submissions on matters raised in the public hearings of the Review and the particular topics or issues that may be addressed. Time or page limits on submissions may also be imposed.

Mr Adam Bell SC
17 February 2022

**ANNEXURE A - APPLICATION FOR AUTHORISATION TO APPEAR AT
PUBLIC HEARINGS**

Part 1 - Name and contact details of Applicant

Name:

Address:

Contact person:

Telephone:

Email:

Part 2 - Name and contact details of any representing legal practitioner

Name of counsel (if applicable):

Address:

Telephone:

Email:

Name of solicitor:

Firm name:

Contact person:

Address:

Telephone:

Email:

Part 3 - Terms of Reference

In respect of which particular Terms of Reference does the Applicant claim to have an interest?

Part 4 - Nature and extent of interest

What is the subject matter in respect of which the Applicant claims an interest; and what is the nature and extent of the interest?

Part 5 - Assistance to the Review

Please specify precisely the nature and extent of any assistance that will be provided to the Review if the application is granted?

Part 6 - Conflicts

In the case of an application for authorisation for a legal practitioner to appear, does the practitioner (and in the case of counsel, his or her instructing solicitors) act for any other person in relation to the Review and the matters the subject of the Review? If so, what information can be provided to the Review such as to enable Mr Bell SC to determine whether it is appropriate for authorisation to be granted?

NOTE: Further information may be sought from applicants for authorisation to appear prior to any decision being made as to whether such authorisation will be granted.