



NEW SOUTH WALES INDEPENDENT CASINO COMMISSION

**THE INQUIRY INTO THE STAR PTY LTD & THE STAR
ENTERTAINMENT GROUP LIMITED**

**PUBLIC HEARING
DAY 14**

MONDAY, 13 MAY 2024

INQUIRY BEFORE MR ADAM BELL SC

COUNSEL ASSISTING:

MR C. CONDE APPEARS WITH MR D. HABASHY

**MR I. AHMED SC APPEARS WITH MR B. WALKER SC, MR D. WONG
AND MR H. ATKIN FOR THE STAR PTY LTD AND THE STAR
ENTERTAINMENT GROUP LIMITED**

MR L. GYLES SC FOR WITNESS NICHOLAS WEEKS

Any person who publishes any part of this transcript in any way and to any person contrary to a direction against publication commits an offence against section 143B of the Casino Control Act 1992 (NSW)

<THE HEARING RESUMED AT 10.11 AM

MR CONDE: Mr Bell, in accordance with your procedural direction dated 2 May 2024, the closing submissions in these public hearings will commence with
5 submissions from Counsel Assisting today. I am making oral submissions and also earlier this morning, in accordance with paragraph 8 of your procedural direction, I sent the solicitors assisting the inquiry a copy of written submissions from me and Mr Habashy, with whom I appear today, and which I understand have been circulated.

10 I will speak to that document in the course of this morning. Closing submissions from persons other than Counsel Assisting will commence, as I understand it, not before this Wednesday, 15 May 2024 in accordance with paragraph 5 of your procedural direction.

15 If I can begin, then, by referring to your Terms of Reference, Mr Bell, which I have noted from paragraph 3 of the written document. Paragraph 1 of your Terms of Reference is all-important:

20 "This Inquiry has been asked to inquire into and report on the suitability of The Star Pty Ltd, referred to in the materials as The Star, and its close associate The Star Entertainment Group Limited, referred to as Star Entertainment or TSEG, to be concerned in, or associated with, the management and operation of The Star Casino in Sydney."

25 So the Terms of Reference are very clear that this is a suitability inquiry. It is not an inquiry into whether The Star should continue to have its licence suspended or whether that licence should be cancelled or any other action taken in respect of the licence. Any decision about The Star's licence is for the New South Wales
30 Independent Casino Commission or NICC.

35 In that regard, I would also note that the current business and operations of The Star Casino in Sydney involve various agreements and statutory frameworks. It is by no means clear from those materials that if there were some kind of action taken in relation to the current licence holder, that the casino would otherwise have to stop or jobs would have to be lost. But, again, none of that is for your consideration as part of this inquiry.

40 Paragraph 2 of the Terms of Reference provides that the inquiry will have regard to your earlier report dated 31 August 2022 as well as the responses of The Star and Star Entertainment to that report and the recommendations in it.

45 Paragraph 3 of the Terms of Reference is extracted in paragraph 7 of the written document. It identifies the four matters that this inquiry is to consider in its consideration of suitability. The first is culture of The Star and Star Entertainment. The second is whether The Star has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of The Star casino.

And I should say I will not be addressing that question of financial resources. There will be submissions about that in private session at a later time. Thirdly, the inquiry is to consider The Star and Star Entertainment's management and reporting lines.

5

And then under paragraph 3.4 of the Terms of Reference, the inquiry is to consider compliance by The Star with internal control manuals, or ICMs, numbered 3, 11 and 12, which relate respectively to customer probity, cage and revenue, and anti-money laundering and counter-terrorism financing. I should add that, in addition to those ICMs, we have looked at ICM13 as well.

10

Paragraph 4 of the Terms of Reference provides that the scope of the inquiry is the period from the date of your report dated 31 August 2022 to the conclusion of this inquiry. And in the written document at paragraph 9, it's noted, as I said earlier, that financial suitability is not addressed by us.

15

Also, paragraph 10 makes an important point, that my submissions are not limiting to the inquiry. They are made in respect of matters explored with some 20 witnesses, between 15 April and 1 May 2024. They do not prevent the inquiry from having regard to other documents produced before, during or indeed after these public hearings or to witnesses' evidence as recorded in the transcripts, whether that's mentioned by me or not.

20

There are limitations relating to fairness as recorded in directions that you have made, and that's why one witness had to be recalled so that things could be put to her that had not been put to her. But so far as my submissions are concerned, these don't limit your work.

25

Section B of the written document addresses a framework for assessing suitability in context and this was something I did refer to in opening. We have reproduced, in paragraphs 12 and 13, sections 12 - sorry, we have quoted from sections 12 and then 4B of the Act. There is a test in section 4B that's quoted there in paragraph 13(a) of the written document that there must be clear and convincing evidence of suitability.

30

35

The purpose of that section is noted - was recorded in the relevant explanatory note as being to put an onus on applicants to provide a clear - to provide clear and convincing evidence of suitability for assessments made under the Act. And we explain in paragraph 15 of the written document why we say that section 4B is relevant here and that that test would apply.

40

In paragraph 16 - and, again, as noted in opening - we make the point that an assessment of The Star and Star Entertainment's suitability necessarily involves taking account of context, and the context here is one of The Star and Star Entertainment being in the midst of remediation.

45

Paragraph 17 makes the point that Mr Weeks, under section 28(5)(a) of the Act, is considered to be the holder of The Star's licence in Sydney and he assumes full control and responsibility in that regard. Now, that raises a question for the inquiry as to if and to what extent should responsibility for events at the Star Sydney be sheeted home to Mr Weeks as manager.

Mr Weeks' evidence recorded in paragraph 17 explains how things have worked in practice and, in particular, there is a reference to his evidence on that given in footnote 6. The short point is that he has not sought to reinvent the wheel, as it were. He has used existing resources and management at the casino and he has issued directions and intervened in matters as he has deemed appropriate.

So the submission is made that if there is conduct of The Star or Star Entertainment that the inquiry considers to be adverse from a suitability perspective, that conduct would not be attributed to Mr Weeks unless there is evidence that he was relevantly involved in or procured that conduct in some way.

We then note Star Entertainment's remediation plan in paragraph 18 of the written document. At the top of the next page, 7 of the written document, there is a quote from the manager's view expressed in his October report that:

"The remediation plan presents a basis on which Star Entertainment can commence delivery of the remediation program, and if it is implemented, it is likely to achieve the remediation of the management and operations of Star Entertainment."

We then make the submission that the inquiry would recognise in its suitability assessment that remediation is underway. The question of suitability - of assessing suitability is not merely a question of whether right now The Star or Star Entertainment is suitable. If that question was answered in the negative, then the inquiry would continue to consider The Star and Star Entertainment's current progress towards suitability at some discernible future time.

Now, that said, and consistently with, as I recall, a question you asked me in opening, Mr Bell, the inquiry would need a basis for any such finding and, as stated in the last sentence of paragraph 19, it may not be possible for the inquiry to identify a future time by which the inquiry is satisfied on the basis of clear and convincing evidence that The Star and Star Entertainment will or are likely to become suitable.

MR BELL SC: If I was persuaded to make an assessment of progress towards suitability, I take it you would say it should not involve speculation?

MR CONDE: Correct. Correct.

MR BELL SC: And it would follow, would it not, that considerable caution would need to be applied in making an assessment of progress?

MR CONDE: Yes.

MR BELL SC: Yes, Mr Conde.

5

MR CONDE: This leads to section C, which is headed Remediation and Transformation. The inquiry was assisted, in my submission, by evidence from two very accomplished and, I would submit, compelling business culture experts, both Dr Lagan and Ms Arzadon. Their credentials are summarised in paragraphs 21 and 22 of the written document, and it is also noted in paragraph 22 that Ms Arzadon provided a report to Star Entertainment in the form of a letter with observations in it from phase 1 of a review that she has undertaken. That is referred to there as the Arzadon Report.

15 As a sort of threshold matter, Dr Lagan was asked about some concepts and, as given there in paragraph 23, she explained that "culture" in a business context means the reasons why people do what they do in organisations and she also said there is a business case for good culture. She then explained, as quoted in paragraph 24, the differences, as she sees it, between the concepts of remediation and transformation. You will see there she refers to remediation as "the bare minimum". She said:

25 "Some of it is legal compliance; some of it is just professional management. And a remediation plan takes you up to that standard."

25

Whereas she said:

30 "a transformation plan actually re-imagines how people think, feel and act in that organisation. It's about creating a vision of what is possible in a different context where you are responding to what's expected to by society and regulators."

In terms, then, of the remediation plan that I mentioned earlier, it's addressed in section C.2. It has this "Plan Architecture" with workstreams, initiatives and milestones. There are about 638 such milestones. There is some evidence from Mr Weeks summarised in paragraph 26 about how the remediation plan approaches things. It identifies in various workstreams particular target states that are to be achieved, and then there is resources, budget and then the milestones are sort of across the entire plan.

40

The remediation plan, as Mr Weeks has said and as quoted there, it's more than just a process of doing milestones or ticking off a to-do list. There is a broader object. That said, achieving the milestones is also very important.

45 Now, Ms Arzadon said in the Arzadon Report that, from her review of the culture transformation strategy plan and related materials of Star Entertainment, the scope

of the program appears very comprehensive and she said in the final sentence quoted there:

"It does not appear to be missing any material components."

5

That she would have expected to see in such a plan.

This being an assurance process involving KPMG in relation to Star Entertainment's achievement of milestones under the remediation plan, there is
10 some uncertainty about whether that formed part of the remediation plan that was submitted to the Queensland regulator in October 2023.

MR BELL SC: I think I should just pause there to tell you what my present understanding is, and someone in due course can tell me if this is wrong. But my
15 present understanding is that what was submitted to both the New South Wales and the Queensland regulators was a PDF document entitled Version 5 of the Remediation Plan. There was also an Excel spreadsheet which The Star entities were working with, but my understanding is that that was not submitted to the regulators and that the PDF document did not make any provision for external
20 assurance of each milestone. I understand that Ms Burke had a different belief, but I thought I should tell you that that's my present understanding, and I'm more than willing to be corrected.

MR CONDE: Yes. That would be my submission as well, Mr Bell. In light of
25 evidence of the reset of the remediation plan, there is - it's not clear that anything appears to now turn on that but that is my - that would be my submission as well, Mr Bell.

The written document then has a large section D headed "Developments Before
30 and During the Inquiry." That really is taking you through a lot of the facts and the sort of journey, as it were, in mainly a chronological way. The first point noted in section D is this need for an organisational development specialist and that's - at paragraph 29, Dr Lagan made the point about having flagged to the board and CEO of Star Entertainment since early 2023 the need for an organisational
35 development specialist of some kind.

This is an early manifestation of what I will call the lost 14 months, and I say that because it's been more than 20 months since your report dated 31 August 2022. There is evidence that I will come to of Star Entertainment being about six months
40 in on that transformation journey of three or up to five years, but they are not 20 months down that journey. They are six months. So 20 minus six is 14, and that's how I get to that.

And this is an early example of that lost time. Dr Lagan was unchallenged in her
45 evidence about calling for these things in early 2023. And then, as noted in paragraph 31, when Ms Arzadon came to look at the organisation in March and

April 2024, one of the things she said was - it's quoted there in the fourth-last line of the quote under paragraph 31, she said that:

5 "The culture reform program requires additional resources with expertise in organisational culture and transformation, especially needed at the leadership level."

10 So Dr Lagan said that that's the same thing that she had been calling for. Ms Arzadon said it was similar. And the references to that evidence are given in paragraphs 32 and 33 of the written document.

15 In paragraph 34, Dr Lagan thought there was an important six-month window in 2023 which was missed. She said that Mr Cooke saved the business with the capital raisings and the work on that front, but she said it came at the cost of the cultural reform program.

20 Then, really, in paragraph 35, there is some quite critical evidence, in my submission, from Dr Lagan. It's critical in two ways. First of all, she identifies in that quote the lost time and how important that first six months of 2023 was. She talks there about that that's the time for what she called the burning platform. That's when you have your internal story about where we are going, what we are doing. She said that it's possible. The banks have been in the same situation, Crown was in the same situation, they managed to rebuild, but the benchmark was never made. So that's very important evidence there.

25 But then it's also, secondly, in that last - second-last sentence quoted at the bottom of page 11 of the submissions, Dr Lagan says:

30 "The story was never there."

Then she says "so instead" - this is the second way in which this evidence is critical, in my submission:

35 "..a new value emerged, new internal story which was the regulator doesn't like us; they don't like gambling. The Special Manager is too demanding. So we became the other, and it was us and them'."

And Dr Lagan says she picked that up from about July 2023.

40 Now, the next section is the Sydney CEO. Basically, between April 2023 and January 2024 there was no Sydney CEO. Nobody seems to be saying to you, Mr Bell, that that was satisfactory.

45 In paragraph 39, if we can call up, please, MGR.0001.0001.3776. I will say that again. MGR.0001.0001.3776. Thank you. This is the document referred to in footnote 55 in paragraph 39, and Mr Cooke, on 16 August 2023, provided some explanation for the Sydney CEO not being appointed.

If we can go, please, to page .3777 and if we could enlarge, please, the bottom third of the page, you will see, Mr Bell, it is the third-last paragraph, Mr Cooke wrote that:

5

"It is an unfortunate reality that at that time The Star Sydney's financial position was deteriorating dramatically, with the business..."

And he lists out some bullet points and then says that:

10

"Against that backdrop The Star Sydney was not in a position where it could ethically or in good faith induce an identified candidate to leave their high profile and secure role..."

15 Sorry, that's actually the next two paragraphs, if we could enlarge that as well, please. Thank you.

Then, right at the bottom of this page, this final paragraph that's on the screen, it says that the financial challenges from that time had been satisfactorily resolved.

20

Now, I said earlier that financial suitability will be addressed separately, and it will. Although, this is a case of a sort of historical issue relating to financial resources seeming to arise, but it does only arise to the extent that one accepts what Mr Cooke wrote. And if you accept it, then, yes, it reflects poorly on suitability because it would be a case of financial resources preventing the group from having an important role filled, namely, the Sydney CEO.

25

Even then, he was - Mr Cooke - writing in mid-August 2023 and the new CEO wasn't appointed until January 2024, so there is still a lag. But Mr Weeks made the point at the transcript we have given there in footnote 56, in paragraph 39 of the written document, which was - and I'm quoting here from day 1, transcript page 50, from line 28. It is not in the written document but I will just read it. Mr Weeks said:

30

35 "I think with respect to listed companies and in corporate Australia, people assess whether or not to join companies at different times in different ways, and it was open to a candidate for the CEO role to recognise some risks attached to joining the company at that time and to negotiate arrangements, financial and otherwise, that may compensate him or her if that job didn't last
40 very long because of the financial predicament of the company. So I didn't think the reason Mr Cooke provided in his letter was particularly compelling."

40

That, in my submission, is a fair point from Mr Weeks. And going back to
45 paragraph 39 of the submissions, Mr Weeks' opinion is noted there, that he felt that Star Entertainment did not move with the requisite urgency on getting a Sydney CEO. And, in my submission, the inquiry would accept that evidence.

45

There was also a reference which - it is not in the written submissions but I will just mention it. Mr Foster on Day 7, transcript page 569, lines 30 to 33, said that:

5 "The absence of a Sydney CEO did not assist Mr Cooke because a Sydney
CEO could have carried much of the focus and burden of the Sydney
property."

10 That's also a fair point, in my submission, and it really goes to the problem that,
whatever the reason, the fact is the role was vacant for a long time. And no doubt
Mr Humphreys was doing the best he could, but, as we note in paragraph 40 of the
written document, he had two other roles, interim COO and General Manager
Gaming Machines and Cashier Services. And multiple director witnesses, as
15 quoted in paragraph 40 of the written document, accepted that that was not a
long-term solution.

20 Then working through 2023, we arrive at Mr Foster's idea in April 2023 of
abolishing the NICC. Now, we have noted some examples in paragraph 41 of the
written document of Star Entertainment making a number of public statements to
the ASX about working cooperatively with its regulators, including the NICC and
with its manager, Mr Weeks. But as from paragraph 42 of the written document,
as early as 22 April 2023, Mr Foster was suggesting to Mr Cooke the idea of
abolishing the NICC.

25 We do note later in the submissions, which I will come to, that when Mr Foster
came to give his evidence on day 7 of this inquiry, he used the expression "heat of
the moment" 16 times, on our count. So that was clearly a message he was seeking
to put forward - that he had sent some messages in the heat of the moment and sort
of the implication is, well, who hasn't.

30 But when you come to consider his later messages from January and February
2024, it's worth remembering that as far back as April 2023 he was sharing with
Mr Cooke an idea that just jarred irreconcilably with what the company was
saying publicly about working cooperatively with the regulator and the manager,
35 and here he is saying abolish the regulator. And as recorded in paragraphs 43 and
44 of the written document, Mr Cooke actually did not seem enamoured of this
idea, at least in April 2023, but Mr Foster was persisting with it, including the next
day. So, again, it is not really heat of the moment.

40 I should also note that in these text messages quoted in paragraphs 42 and 44 of
the written submissions, there is reference to a level playing field. Presumably,
that's with pubs and clubs. The Star is open 24 hours and pubs and clubs are not.
So even this level playing field idea is not a particularly compelling one, in my
submission.

45

We then move on to the Sydney licensee board and Risk Officer. We've quoted in paragraph 47 of the written document from the 2022 Bell Report and the need that you identified there for:

5 "Independent eyes at the level of the casino operator as well as a specialist Risk Officer focused exclusively on the risks of The Star Casino."

And the independent eyes model has just not been developed, in our submission, in a manner that would represent work over the last 20 months. Paragraph 48 records that:

"The board of The Star..."

Being the Sydney licensee entity:

15 "...has only met twice in the last year."

And multiple directors, as quoted or noted in paragraph 49, have told you that that's unsatisfactory.

20 **MR BELL SC:** It's not just the frequency of meetings which needs to be considered. It's also the fact that the Sydney board seems to have had a purely statutory role, and despite what had been written in 2022, it doesn't seem to have had any operational role at all. Would you agree with that?

25 **MR CONDE:** Yes, and that - yes, Mr Bell.

MR BELL SC: Yes, Mr Conde.

30 **MR CONDE:** And that is consistent with my submission a moment ago, that the independent eyes model just has not been developed in a manner that one would expect.

35 Paragraphs 50 through 54 note that Ms Vuong, the Sydney Risk Officer, gave evidence that she did not have a standing invitation to meetings of the Sydney Compliance Committee notwithstanding her expectation that she should do so. Now, Mr Foster gave evidence that he had fixed that by directing an amendment to the charter and, as we say in the written document, that's a good thing. Somewhat oddly, this was not something that seemed to trouble Mr Saunders, and you will see his evidence in that regard in paragraph 52. And our submission is that Mr Foster did the right thing. That's as per our submissions in paragraph 53 and 54 of the written document.

45 **MR BELL SC:** It is that action that he took in April 2024?

MR CONDE: Yes.

MR BELL SC: Yes.

MR CONDE: This then leads to what's been known as the TICO fraud event. And it's almost a cliché that casinos would or should be very good at keeping track of
5 money that is leaving the casino, but here for a period of about a month and a half was a group going up to the ticket in, cash out machine and it was, in fact, a ticket in, ticket and cash out machine and they walked away with \$3.2 million.

Now, in one sense, people might be tempted to say, "Well, this was at the expense
10 of the casino and there is not much harm, if any, to the public" but, in fact, the investigation report, quoted at paragraphs 56 and 57 of the written document, identified that the vast majority of the money lost, some \$3.16 million, was to 18 particular individuals who had undertaken what was found to be - I'm quoting here:

15 "..a deliberate and coordinated fraud involving some 1,800 transactions."

Now, section 4A(1)(a) of the *Casino Control Act* provides that among the primary
20 objects of the Act are ensuring that the operations of the casino remain free from criminal exploitation. And the sort of criminals who can put together a racket of that kind in a short space of time to conduct 1,800 transactions and extract \$3.16 million are just not the sort of people who should be anywhere near the casino, and they do present a risk to members of the public. So there is a risk beyond just
25 money being lost by The Star. And then you have the related risk of those criminals influencing things at the casino, which, again, is another matter that section 4A of the Act warns against.

The findings quoted at paragraph 57 of the written submissions were, in my
30 submission, damning. You have references to:

 "numerous failures (human, process and technological) that more than likely
prevented the fraud from being identified at an earlier opportunity....
consistent visibility of the TICO Balance Errors across both The Cage and
Revenue Audit between 7 June and 24 July 2023, and, most significantly, 11
35 to 24 July..."

Which was the peak period of fraud activity, and a finding that:

40 "The staff who had visibility from these respective Business Units failed to appropriately escalate, investigate and raise the ...errors."

Now, I won't read out either here or elsewhere the language of the ICMs but we
have quoted from ICM11 in paragraph 58 and the reasoning of the Investigations
Team in paragraph 59 about a breach of that for the reasons given there. And we
45 submit in paragraph 60 that the inquiry would accept those conclusions as correct. The same for the Standard Operating Procedures. There are references given there in paragraph 61.

We also set out ICM12 in paragraph 62, and there are some quotes there from paragraphs 5 and 25. And there is a submission in paragraphs 63 and 64 that ICM12 was breached as well. The reasoning is given there, but it's really for the same reasons as quoted from the Investigations Team earlier. It's a logical point that had there been active monitoring and review, it would have been noticed a lot earlier, and that's the basis of that submission.

Needless to say, as we have quoted from paragraphs 65 and onwards, you had witness after witness accepting that this was a serious failure, and we have got various quotes reproduced there with references.

The next topic is the Guest Support Officer issue. Now, in chapter 23 of your August 2022 report, Mr Bell, which was headed Harm Minimisation and Responsible Gambling, you noted that:

"Gambling problems are most common among people who gamble regularly and, for people who gamble at least weekly in New South Wales, 13 per cent of them are problem gamblers."

And the reference for that is volume 3, page 105, paragraph 18 of your August 2022 report. And you will likely recall, Mr Bell, the various case studies that were heard in the last inquiry and the very sad evidence from family members about damage done to their lives from the problem gambler in the family who just couldn't stop.

And that's the whole point behind having interventions of the kind mandated now in ICM13. In particular, that at three hours there needs to be a break and there needs to be an intervention with an interaction of some kind. That forces people who, on any view, have been gambling for a long period of time potentially to snap out of some sort of zone that they might be in and pause, take a break. There is research behind that and, in particular, the time of three hours.

There wasn't, obviously, enough time to play them during the hearings but the inquiry has had produced to it videos of the patrons. And needless to say, it is just long periods of footage of someone at a machine with no intervention. Again, it is sad, knowing as we do, that at that three-hour mark they need someone to come and intervene, and if they are a problem gambler the damage can be enormous for them and their families.

And not only was that not happening here, which is obviously bad enough, but there were people lying about it to create records suggesting that there had been an intervention. So that puts others at risk because it reduces the likelihood of people realising that there is an issue. It's in breach of ICM13, which we have summarised in paragraphs 68 and 69 of the written document, including making some transitional provisions that were in effect at relevant times.

We have recorded how this issue first came to light from two New South Wales Liquor & Gaming officers and the fact that, as they investigated further, they realised that this was a very large and significant problem.

5 And as we summarise in paragraph 75, there was a lot of evidence to the inquiry about Guest Support Officers saying they just didn't have the resources. That's, of course, no excuse for falsifying records but it may go some way to explain the work-arounds being deployed by them. So there are some quotes in there:

10 "Short staffed since day 1."

"Inability to physically complete the checks as required."

And:

15 "Physically impossible."

And so on. And again, as with the TICO event, we have quotes from paragraphs 76 through to 85, I believe, where just, again, witness after witness to this inquiry
20 accepted how terrible the issue is.

And we submit in paragraph 86 of the written document that it's just entirely unsatisfactory. These are the very interventions that are aimed at helping the most vulnerable people at the casino, and they weren't occurring and, worse, there were
25 faked records to suggest that they were. And as we say in paragraph 87, the direct consequence was harm to members of the public. And so again, as I think I said earlier, there is a submission that ICM13 was breached.

In terms, then, of Enhanced Customer Due Diligence, or ECDD, we have set out
30 ICM3 or extracts from ICM3 at paragraph 89. Paragraph 5 of ICM3 would be noted first. It picks up the process for which provision is then made in paragraph 6. And you can see in particular what is required in 6(a) and (b) and there are timing requirements in 6(e) and (f).

35 And then paragraph 8 of ICM3 is reproduced, and I just note that paragraph 8 contains references in the singular, not in the plural. It's language that one sees in the paragraph. You will see there - reference to a decision, a customer, a person. It's all in the singular. That tells against a bulk approach. And then the final point from that paragraph is a requirement of approval.

40 Now, Ms Townsend's letter of 30 September 2023 is referred to in paragraph 93. That's the letter where it was said that all the work had been completed on the relevant cohort. Paragraphs 94 and 95 have some evidence from Mr Weeks about why he said that the checks were not conducted in the manner that he had
45 expected it would occur. And then that's also unpacked in the quote in paragraph 96 by a reference to ICM3. And where he refers to 3.6A, that's paragraph 6A of

ICM3 and so on. But he gives particularised reasons as to why each of those was breached, in his view.

5 And as to what he has called 3.6A, the ICM required - the point there, as we understand it, is that the ICM required the process to include the things in the relevant rules that have been noted or referred to and so it's not good enough to say that those rules might have an exception of some kind, therefore the ICM does. That's, as I understand, what it says there.

10 In terms of 3.6B, if the requirement is to have a Source of Wealth check, well, just as a matter of plain English, that's going to involve a check of some kind, not a sort of risk-based global approach of putting the onus on someone else to take action and allow the casino not to do so.

15 And for 3.8, the point is made there it's one of individual consideration on a case-by-case basis, and it seems to be uncontroversial that that did not occur. There is no such approval either/or evidence of that for the purposes of 3.8. So we do submit, in paragraph 97, that ICM3 was breached.

20 Ms Townsend made a number of concessions about the process and what was not done and you will see that in paragraphs 98 through to 102 of the written document. In particular, I think there was a question that she was asked by you, Mr Bell, about in respect of the 32,000 patrons approximately how many were Source of Wealth checks not performed and she said approximately 22 or 25
25 thousand.

Ms Townsend agreed - and the reference for this is given in paragraph 103 - that she believed there had been a breach of the ICM, of ICM3, and we have submitted that, as with Mr Weeks' view to the same effect, that the inquiry would accept that or reach the same conclusion.
30

And we also submit at paragraph 105 that the inquiry would conclude that Star Entertainment mislead Liquor & Gaming with its letter dated 30 September 2023.

35 We then get to the evidence of Mr Saunders on this. Now, he denied that statements in Ms Townsend's letter had been wrong or that ICM3 had been breached. We have summarised his contentions in paragraph 107, and it really seems to have been a case of saying that the ICM required a Source of Wealth check which couldn't have been done, but the SOP was complied with; therefore,
40 the ICM was complied with, which is wrong, because there was no check. And we address that in more detail. But the short point is that if there is a check required by the ICM, it is not good enough to say, "Well, we complied with the Standard Operating Procedure."

45 **MR BELL SC:** Whether or not there has been a breach of an ICM will ultimately be a question of law, won't it, rather than what lay witnesses may or may not have believed at the time?

MR CONDE: Yes, I accept that, Mr Bell.

5 There was a question about whether this had been raised beforehand and
Mr Saunders gave evidence that we submit you would not accept, in relation to
this. He said that for sure it had been raised, but this was in correspondence dated
15 September 2023. That was to the manager, not to Liquor & Gaming. But then
there is some speculation from Mr Saunders about whether the manager might
have sent that on, and we have quoted from evidence on that.

10 There was also a question about whether Star Entertainment had taken a risk-based
approach, which he initially did not accept but then, given that that language was
used in the 15 September 2023 correspondence, he corrected his earlier evidence.
15 And there is an email that we have referred to in paragraph 110 of the written
documents from Mr Saunders to Mr Cooke dated 15 January 2024 that suggests
that he was well aware that the approach to ECDD presented difficulties so far as
the process was concerned, even if arguments could be made to defend the
outcome. He wrote:

20 "We will need to be careful about how strongly we state our position on the
process as opposed to the outcomes."

And he accepts that the process was at least a point of contention.

25 He also accepted that it would have been far preferable for Star Entertainment to
have told the regulator what it had done and that too simple an answer had been
given on 30 September, but for reasons we would say that the inquiry would not
accept, he says - he said it wasn't an unsatisfactory letter. We would submit it was.

30 In any event, you will see in paragraph 113 there is evidence from directors to the
effect that there is a general expectation anti-money laundering and
counter-terrorism financing-related checks should be rigorous and the processes
used to perform them should be transparently shared with relevant regulators. And
it is not clear that that happened here.

35 And we make the point in paragraph 114 of the written document that whether the
checks or the process was rigorous or not, whether that could be defended, they
were not transparently shared with the regulator and the risks of adopting the
approach that they did do not appear to have been assessed adequately, if at all.

40 The next section of the written document is cash transactions. We have quoted
from ICM12 in paragraph 115, and there were some records produced to the
inquiry which are summarised both in paragraph 116 and also in appendices A and
B, which appear at the back of the submissions.

45 As we say in paragraph 117, these breaches are not in dispute. They have been
occurring over a sustained period of time and so we note them accordingly.

MR BELL SC: Is there any evidence as to why these breaches were occurring?

MR CONDE: Not that I'm aware of, Mr Bell.

5

MR BELL SC: Yes.

MR CONDE: So, then we have a summary in section D.9 about the ICM breaches. Now, it will be remembered that under section 124 of the *Casino Control Act*, it is a condition of the casino licence that the operator is to conduct operations in the casino in accordance with internal controls that have been approved in writing by the NICC. So breaching - sorry, that's section 124.

10
15 So breaching an ICM is a very serious matter and we have summarised what we say are the breaches in 118 of the written document, namely, ICMs 11 and/or 12 for the TICO fraud event, ICM12 in relation to the cash transactions, ICM13 in the Guest Support Officer issue, and ICM3 in relation to ECDD.

20 And as we have submitted in paragraph 120, each of those tells against suitability and, in particular, the breaches of ICM13 in relation to the Guest Support Officers are likely to have led directly to harm to members of the public as patrons were allowed to continue gaming without intervention.

25 In the next section, effect of lack of governance at the Sydney property - as we have given the references there, each of Ms Ward, Ms Page, Mr Issenberg, Mr Hodgson and Ms Thornton accepted that failures of the Sydney property since 2023 could or could possibly have been prevented if there had been closer and more direct supervision of Star Sydney. And we submit that the inquiry would accept that evidence.

30

We then do foreshadow in paragraph 123 a link with consideration of financial suitability. And for present purposes, it can be noted that a lack of resources was one of the explanations given for the significant failure at the Sydney property regarding Guest Support Officers.

35

We then have a number of quotes from the evidence about why the governance framework at the Sydney property has not been implemented, and that's set out there through to paragraph 131 of the written document.

40 We then move towards the end of 2023 in section D.11 of the written document. Manager's reports from October and November 2023 which were provided to Star Entertainment on 29 November 2023, and we quote from those from paragraph 132 onwards.

45 Then you will recall, Mr Bell, there was evidence about the meeting on 7 December 2023 involving the board of Star Entertainment excluding Mr Cooke with the manager and the NICC. The board communicated its thoughts on the

manager's reports and undertook to do a written response. The NICC said that it had lost confidence in Mr Cooke to execute the remediation plan, as per his observed performance to date.

5 And there were then meetings that we have noted in paragraph 138, culminating in the 19 December 2023 board meeting at which you will recall the evidence of each board member being asked whether Mr Cooke should stay or go. And Ms Ward was the only director at that time to express the view that he should go. Although, there was evidence that, for the board, it was a question of when, not if.

10 Now, the board kept Mr Cooke on from that juncture. We make the submission that it was a mistake in paragraph 140. We say that it really represented a fork in the road. They had had the board meeting. They went around the room, and that was an opportunity to make a decision that was consistent with the loss of
15 confidence from the regulator and -

MR BELL SC: Do you say that it's a mistake which should have been seen at the time or one that can be seen now with the benefit of hindsight?

20 **MR CONDE:** Seen at the time in this respect, Mr Bell. First of all, Ms Ward saw it, and Mr Hodgson gave evidence that we have noted in paragraph 142 that there was still the Multiplex settlement, but that just had a few days to go, and it seems that Mr Hodgson accepted that around that time or shortly after the Multiplex settlement that would have been the time to go.

25 The various directors gave evidence about, you know, with the benefit of hindsight maybe a bit earlier would have been better but, in my submission, this particular business with the relationship that it has and needs to have with the regulator, with the crucial importance of the licence to its business, to have the regulator saying
30 on 7 October that they have lost confidence in the CEO, then that really is an opportunity to find someone else and it is an opportunity that should have been taken.

35 Maybe not on the 7th. They are entitled, of course, to go back and consider it further, but by the 19th, they are going around the room, it is clearly on the table, and we submit that Ms Ward was right. And the problem was that, by keeping Mr Cooke, as they would have known, involved him then in the response to the manager's reports which was given in late January. There is a lot of evidence about
40 that.

MR BELL SC: The job that this inquiry has is to assess suitability now and, perhaps, if your submission is accepted looking to the future. But why is it necessary for the inquiry to decide if the board made a mistake at that time?

45 **MR CONDE:** Well, in light of Mr Cooke's resignation - or, sorry, departure on 22 March, it's no longer perhaps warranting a conclusion. But it is - without needing to be decided, perhaps, but it is part of the story and how one then gets to the

responses in January of this year and, indeed, the exit statement, which I will be coming to.

MR BELL SC: Yes, thank you, Mr Conde.

5

MR CONDE: The response to the manager's reports is noted at paragraph 145 of the written document. It comprised a cover letter and then mark-ups of the manager's reports with annotations in green text, sometimes in bold and underlined.

10

Now, you will recall the evidence that Mr Cooke and Mr Foster were emailing one another about, "Let's hold on to our hats" and, "The fireworks will be bright and loud." So, clearly, they appreciated that Star Entertainment's response would be controversial.

15

The board may also be taken to have been on notice of this possibility. Ms Page wrote in an email that she did worry that they would inevitably disturb the hornet's nest regarding relationships, and that's quoted at paragraph 147. Mr Foster told the inquiry, as quoted at paragraph 148, that on reflection he thinks:

20

"They could have and should have taken a more conciliatory tone."

And Ms Ward also gave evidence to that effect as quoted in paragraph 149 and in 150. She said:

25

"The tone was inappropriate."

There was similar evidence Ms Page, Mr Hodgson and Ms Thornton.

30

And then in terms of the bold and unlined text, Mr Issenberg said:

"It sort of was antagonistic."

And Ms Thornton, as we have quoted there, said:

35

"The end tone of the report was not helpful."

And looking then at the way the NICC came back to Star Entertainment, they accepted that the regulator had been antagonised. There was also a degree of acceptance about this having been foreseeable, and we have quoted some evidence there from Ms Page under paragraph 153 about her feeling that it really needed - and this is from the top of page 41:

40

"It needed to be very balanced, very factual and generally add to the information."

45

She said that she was concerned that:

"We really needed to nail the delivery of this."

She was saying:

5

"Please make sure that before this goes, that you are happy that it's the right tone in the way that we intended and it would be delivered..."

10 She foreshadowed that it might not have been delivered by email, that one way would have been to have a sort of meeting of some kind and to make it clear that these were comprehensive responses but not intended in an antagonistic way.

15 In that quote, she referred to a really important decision, which was licensing, and that's noteworthy, we say, in paragraph 154 of the written document. Because it seems that Star Entertainment was under the impression that the NICC would be making a decision in relation to The Star Sydney's - The Star Sydney licence on the basis of the manager's reports. So then one sees, as we have quoted under 154, there is language to say that:

20 "The Star's observations and comments are provided to ensure that any decisions that may be taken are made on the basis of complete and accurate facts, taking into account all relevant matters and not taking into account any irrelevant considerations."

25 That was Ms Ward's language, as she accepted, but when she, I think, noted - when she suggested it, it didn't have bold or italics in it. She accepted that that was language comprising terms of art in public law, and put in bold and italics as it was, we submit the inquiry would conclude that it suggested the possibility of an administrative law challenge should the NICC take action on the basis of
30 Mr Weeks' reports or, alternatively, at the very least - and this submission is in 156(b) - the language left footprints in the sand that Star Entertainment could later point to in the context of such challenge.

35 Ms Ward said that the language was part of the purpose of responding to just correct the record, but she accepted that the bold and italics put it forward in an unhelpful manner. They weren't necessary and they could have been read as inappropriately emphasising certain components. And Ms Ward said:

40 "I don't think that was appropriate."

45 And other directors, as we have noted from paragraph 158 of the written document, gave similar evidence that the intent of Star Entertainment's response was benign whilst accepting that it had failed in that regard. I have already referred to evidence from Ms Page and Ms Thornton to that effect. Mr Issenberg said similar things.

But the same can't be said for Mr Foster or Mr Cooke. They were saying, "Let's hold onto our hats. The fireworks will be brought and loud." And, in addition, as we have noted in paragraph 160, Mr Foster thought that this could be a catalyst to get rid of the manager, Mr Weeks.

5

Now, he said in his evidence that, taken in proper context, that was directed at a different structure to simplify the regulatory remediation efforts. As we have submitted in paragraph 161, how that follows is unclear. But whatever its intent, the comment jars irreconcilably with public statements about working cooperatively with the manager in New South Wales and in Queensland.

10

The response from the NICC is quoted in paragraph 162 and then the response to that from directors is quoted afterward. Ms Page said her fears had come to fruition. Mr Issenberg said:

15

"We had failed in what we had hoped was a discussion. Our relationship had deteriorated further. Not our intent."

And he said:

20

"What our intent was and what we set out to achieve, we did not achieve."

Mr Hodgson's evidence you will recall was:

25

"My heart sank. Clearly, we had antagonised the regulator."

And he agreed with the comment of having failed. Mr Thornton said that she was:

30

"..concerned because the regulatory relationship with the NICC is one of paramount importance."

And she agreed with the evidence of her fellow directors.

35

This leads to section D.12 of the written document, which is the war with the NICC and class action idea. So soon after Star Entertainment's response to the manager's reports have been provided, on 23 January 2024 Mr Foster and Mr Cooke became aware of a meeting at Star Sydney involving the manager, the NICC and lawyers that was scheduled to take place on 1 February. You will see the text messages are extracted. Mr Cooke wrote:

40

"They are up to something."

Mr Foster is doing a Google search of certain invitees and they both say, as quoted in paragraph 170, that they are prepping for war, talking to KWM. And Mr Cooke, by that time, had received advice from KWM that:

45

"There may be a grouping to work out how to respond to our response to Nick W's reports."

5 Which in my submission is a pretty benign reason for a meeting and it certainly doesn't warrant Mr Cooke's response afterwards, which is to say:

"Well, we are meeting Monday to get ready for war."

10 Then, on 1 February, Mr Foster sent Mr Cooke an extract from Mr Weeks' deed of appointment which provided in clause 4.5 that:

"The indemnity that the manager enjoys does not extend to acts effectively not done in good faith."

15 So from paragraph 172 of the written document, one sees the idea of:

"..grounds, if possible, for a class action from shareholders against NW and/or NICC."

20 Mr Cooke replied that he had run that past Mallesons.

25 Now, each of - we have given the references for it. Each of Mr Foster and Mr Cooke accepted that the class action idea was bizarre but plainly, in my submission, they did not think so at the time of their messages. Mr Cooke went off to run it past external lawyers, and Mr Foster had gone to the trouble of researching and extracting the manager's indemnity clause in his deed of appointment.

30 Indeed, Mr Foster was still raising the question to Mr Cooke about whether the manager was acting in good faith about a fortnight later.

35 So I mentioned earlier the heat of the moment being referred to 16 times on Day 7 by Mr Foster, but they weren't heat of the moment. They recorded the taking of active steps, such as obtaining external legal advice, researching meeting attendees, calling up the manager's indemnity and considering them, attributing weight to this class action idea. Those are active steps that are inconsistent with a heat-of-the-moment response, and so too is an email about a fortnight later still talking about good faith.

40 It should also be remembered, as we have submitted in paragraph 176, that these came a number of months after Mr Foster's idea from April 2023 of abolishing the NICC and, indeed, they came roughly half a year after the evidence from Dr Lagan about an "us and them mentality" having set in.

45 We say that these messages revealed a suspicious, fearful, possibly defiant mindset from Star Entertainment's two most senior leaders at the time, and they - faced with a meeting between the manager and the NICC and some lawyers,

they assumed the worst and prepared for war. And we have some further message - sorry, references given in the written document.

5 I should also note that, as quoted in paragraph 178(b), Mr Cooke was asked, "Well, did you ever think just to ask the manager what was the meeting about?" and he accepted that that would have been the better approach.

10 Ms Ward, as we have quoted, from paragraph 179, said that she was surprised and disappointed by the messages. She said that messages caused her to reflect on Mr Foster's and Mr Cooke's respective judgments. They suggested the wrong leadership at Star Entertainment and would likely have damaged people's trust in what Star Entertainment said publicly. And then by the time of the other directors' evidence, indeed, in the middle of Ms Ward's evidence, Mr Foster ceased to be Chairman.

15 There are references given in the written document at paragraph 181 of things that Ms Page, Mr Issenberg, Mr Hodgson and Ms Thornton agreed to. The messages suggested the wrong leadership and were likely to have damaged people's trust. And we submit that the inquiry would accept that evidence.

20 Also, Mr Weeks gave evidence earlier about how it is just difficult to reconcile everything that the company had told him and told the market and told the regulator in relation to its motivations to reform and then to reconcile that with the messages. And he said, in fact, later it was impossible to reconcile those things.

25 Section D.13 deals with declarations from senior executives and I think now in the chronology we are into 2024. We were already but now into March of this year and the prompting of this inquiry.

30 There was a question asked of longer-serving senior executives about whether they had any knowledge of or involvement in the misconduct revealed in the last inquiry and as recorded in the Bell Report. I mean, this just seems to be a basic item of due diligence. They had received a form of that in May 2022, but it hadn't been used. And we note there, in Mr Humphreys' case, that he had not been asked previously, and then when he did, he was asked - and this is in paragraph 35 186 - when he was asked, he made a prompt declaration the next day. He made a disclosure of being aware of certain things and nothing happened.

40 It does appear that there has now been an investigation of some kind and the board has - Ms Page said that the board has taken advice. That's recorded in the reference is at footnote 314. But we say all of that should have happened a lot earlier.

45 Mr Foster accepted that the declarations - the declaration from Mr Humphreys was concerning and that it needed clarification.

Now, we don't make any submission about whether Mr Humphreys' declared knowledge means that his staying on in the roles that he has had was wrong or

inappropriate. It may be that he can explain himself and he was not asked to do so before the time of this inquiry, and when he was asked to provide a declaration, he replied promptly and, it seems, perfectly candidly.

5 But we do submit that it was a failure on the part of Star Entertainment that Mr Humphreys and other senior executives were not asked, after your report in 2022, to confirm whether they are aware of or had involvement in the misconduct recorded, especially in circumstance where, as Mr Weeks noted in his evidence,
10 Star Entertainment had a form of declaration that could have been used and there had been concerns expressed from the manager and regulators about the number of longer-term employees that had been raised.

I should say I have referred to the form of declaration that they had since May 2022. As I recall, it was prepared specifically for Mr Hogg and Ms Katsibouba,
15 who were coming into the roles of interim COO and CFO, but there is no reason why it couldn't be used more widely.

Then Mr Weeks, when asked about this, said it showed a lack of proactivity by the company. That is quoted in paragraph 189. And we submit that the inquiry would
20 accept that evidence.

The next section is D.14, the executive departures. This does involve traversing back to 2023 in some respects. I don't know, Mr Bell, if that would be a
25 convenient time for the morning break.

MR BELL SC: Yes, I will adjourn now until 11.45.

<THE HEARING ADJOURNED AT 11.28 AM

30 **<THE HEARING RESUMED AT 11.46 AM**

MR BELL SC: Yes, Mr Conde.

MR CONDE: Mr Bell, the next section of the written document is D.14,
35 Executive Departures, and the first executive mentioned here is Ms Ivanoff. She was the Chief Legal Officer at Star Entertainment from May 2023 to March 2024. She reported to Mr Cooke and was a member of the GLT.

We have quoted in paragraphs 191 and 192 from Ms Ivanoff's evidence and given
40 references to further evidence from her in relation to her reasons for her departure. In short, she found herself in a dysfunctional environment. She wanted out.

We then canvass the evidence relating to her resignation and resignation letter in paragraphs 193 through to 200 and the - this is the question you will recall about
45 whether or not she handed her resignation letter to Mr Cooke on 6 September 2023, which gave six months' notice of her departure, or not. And the upshot of that evidence, which initially was unchallenged, was that, as we have recorded in

paragraph 201, that Star Entertainment had misled both the NICC and this inquiry about Ms Ivanoff's resignation. Plainly enough, those are - misleading the NICC and this inquiry were serious suggestions.

5 Then we note two further documents that emerged around this time, which were the Gmail message from Ms Ivanoff to herself which had a copy of the September letter, and that Gmail message was dated 4 December 2023, which was the day that Mr Cooke had first challenged her in writing about it not being his recollection. And that's back at paragraph 199. And so that would be consistent
10 with her version of events, as we have said at paragraph 205. And also consistent with her recollection of events is an email that she September to the NICC dated 21 December 2023, which is given at paragraph 206 of the written document.

15 Now, there is also evidence in paragraph 207 to - she accepted that when she was - once her departure was publicised there was some attention, media reporting and so on, and she said that she would have expected that to occur by 15 November, because that was the date where, on her version of events, she had confirmed her resignation as per the written document from September.

20 There is also, at paragraph 208, the reference there to some evidence that she gave about having two copies of the letter, one of which was in an envelope which was given to Mr Cooke and the other one which she described as her file copy that she took home.

25 It was put to her that she was mistaken - sorry, it was put to her by Senior Counsel for Mr Cooke and she said, no, she didn't agree to that. When Mr Cooke came to give evidence - and that's summarised in paragraphs 211 through to 214 - he denied that he had received the letter. He denied that he received an envelope, and he denied being mistaken, and those denials - and the references for those denials -
30 are given in 211 through to 214.

Our submission is, at 215, that the inquiry would accept Ms Ivanoff's version of events. It is, to quite a large degree, corroborated by documents and, as we say, it is not suggested that Mr Cooke gave deliberately false evidence, but it is suggested
35 he was mistaken. And if that is accepted, then we set out the consequences at paragraph 217, which is that Star Entertainment had misled the NICC on 20 September last year and this inquiry on 8 March this year.

40 We also flag that it may be that notice ought to have been given to the NICC of Ms Ivanoff ceasing to be a close associate, but there is not - it's unclear, we say, because she stayed on until March. And so we don't make the submission on that.

45 Now, this is relevant later when it comes to looking at Star Entertainment's response to Ms Ivanoff's evidence to this inquiry on the question of suitability.

Then Ms Silfani is addressed in section D.14.2. She was the group Company Secretary from September to October 2023. She had made it clear that she wanted

to have reporting to the Chair of Star Entertainment directly, with an administrative reporting line to the Chief Legal Officer and her evidence, as we say in paragraph 221, is corroborated by the documentary record. We see some exchanges between Mr Carabine, the interim COO at the time, with Mr Heap, the
5 then Chair, which is consistent with that. And Mr Heap, from the emails, appeared to agree with the proposed approach.

It is also, as we say in paragraph 223, consistent with the ASX Corporate Governance Council's Recommendation 1.4, which is quoted there, and the
10 council also wrote that each director should be able to communicate directly with the Company Secretary and vice versa. Mr Heap had foreshadowed in January 2023 that Mr Cooke would be discussing this with Ms Silfani after he had finalised a structure, that Ms Silfani gave evidence that there was no such conversation, and we have quoted from her evidence in paragraph 225 of the
15 written document, and it culminates in a statement she says that Mr Cooke made to her that:

"You are part of my team. I consider you management."

20 And Mr Cooke accepted that he said words to that effect. The reference for that is given in paragraph 226 of the written submissions.

After reflecting on that exchange, Ms Silfani said that she made a decision to resign from the role of Company Secretary because she had very serious concern
25 about the independence of that role. She stayed on, but in a different role, and she later resigned from that on 11 March of this year. And she gives - she gave some evidence which we have quoted in paragraph 228 about her frustrations regarding a lack of advocacy for corporate governance, and she said that governance in the
30 business:

"..felt like it was an impost, something that was annoying but necessary, and that didn't sit well with me."

She said that Ms Ivanoff had been one of the few members of the GLT to advocate
35 for effective corporate governance practices and on her departure, there was essentially nobody else, in Ms Silfani evidence, to advocate for corporate governance.

Then we come to section D.14.3 of the written document dealing with the
40 departures of Ms Katsibouba as CFO, Mr Cooke as CEO and Managing Director and Mr Hughes as formerly Group Product and Customer Officer. That starts at paragraph 229 of the written document.

We have got references in paragraph 30 to Ms Katsibouba's departure, that she had
45 initiated discussions in about December 2023 to the effect that she wanted to leave. Mr Cooke gave unchallenged evidence to that effect, and we have quoted that there. He said:

"Definitely Christina made contact with me and expressed the desire or indicated that she was at a point where she thought she wanted to go."

5 And Ms Katsibouba and, indeed, Mr Weeks gave unchallenged evidence to that effect as well.

10 Mr Hughes also gave unchallenged evidence that from around the second week of December, he had first notified Mr Cooke that he intended to resign, that he had been asked to reflect on that over Christmas, and then when he came back from the break, he informed Mr Cooke that he hadn't changed his mind and that was from the second week of January or thereabouts.

15 In terms of Mr Cooke's departure, he told the inquiry, as we have quoted at paragraph 232, that the catalyst of that was a conversation between him and Mr Foster on or about 10 March where Mr Foster advised that the board had formed a view that his continuation with the business was no longer going to be of assistance in the company's endeavours to return to suitability.

20 Now, Ms Ward had been of the opinion that he should have departed in mid to late December. We then set out some evidence from directors about why they had now concluded that Mr Cooke should be asked to leave, and that is summarised in paragraphs 234 through to 238.

25 The document then moves to section D.14.4 in relation to other senior departures. The first was one we learnt of during the inquiry; Mr Wagemans said that he had resigned, and that's given in paragraph 240. Ms Burke, Star Entertainment's former Chief Transformation Officer, told the inquiry on 22 April that she had resigned on 19 March. So far as we can tell, that was news, because she had been called in
30 her capacity as Chief Transformation Officer, but there was no challenge to that date of her resignation.

It hadn't been announced, so far as we can tell, to the ASX, for example, as occurred with other executives. And nor is it presently clear whether notice was
35 given to the NICC by 2 April, being 14 days after. It may have done; we just don't know. But if it wasn't, then that would be a breach because she had ceased to be a close associate, as we have recorded there in paragraph 241.

40 Now, Mr Weeks - there is a reference to him giving evidence on Day 2 that Star Entertainment would need appoint a new Chief Transformation Officer, but whether he was aware of a resignation at that time is unclear because Ms Burke had been on leave since 5 or 6 March and he may well have been speculating. We just don't know.

45 Her reasons for departing are given in 243. She was just reflecting that she had considered it was time for a change.

Then the third departure noted in paragraph 244 is that on 18 April 2024, Star Entertainment issued an ASX release announcing that Ms Mellor, the CEO of the Gold Coast property, had tendered her resignation with effect from 24 May 2024.

5 This leads to Mr Cooke's exit statement, which was sent to all Star Entertainment's employees by email on 22 March 2024, shortly after the ASX announcement. We have given the reference for that in paragraph 245 of the written document and quoted the first seven paragraphs of that exit statement in paragraph 246.

10 And as we say in paragraph 247 - sorry, as we submit in paragraph 247, there were at least three false narratives. The first is that it was the NICC and, in particular, the Chief Commissioner of the NICC who had forced Mr Cooke out when, in fact, it had been The Star Entertainment Board. Secondly, there is a reference to "my decision" rather than that of the board.

15 And, thirdly, we say that the exit statement risked suggesting that contemporaneous executive departures - and in particular Ms Katsibouba but also Mr Hughes - were bad actors of some kind who Mr Cooke had kept on notwithstanding issues from the NICC's Chief Commissioner, whereas, as per the
20 evidence I have referred to earlier, those two had initiated their own departure from around December 2023.

Even if those narratives were true - which we submit they were not, but even if they were, there was no good reason to say to The Star's 8,000 or so employees at
25 the time, and we have given reference then in paragraphs 249 and 250 to some comments made by Mr Weeks about the exit statement. He felt that it did blame the Chief Commissioner of the NICC and that that's not a prudent positioning in light of the need to build confidence and trust with the regulator and when you have got a suspended licence.

30 He also - you might recall I asked him to go through the bullet points of achievements listed in the exit statement and he - Mr Weeks said that some of those were achievements, while others not, and he made the point that calling out time-play management was a particular one.

35 Ms Ward and then four other directors, as we have noted with references in paragraph 251, made five observations about the exit statement. We would submit that they were all correct. The first, that the exit statement was not helpful to Star Entertainment or indeed to Mr Cooke. The exit statement would potentially be
40 damaging to the company's relationship with the NICC. That Mr Cooke was seeking to justify or protect his reputation in a way that he would come to regret. (4) That just sharing these kind of details with the entire staff was ill-advised. And then, lastly, that the exit statement presented a risk of sending a message to some 8,000 or so staff that Mr Cooke was being pushed out by the regulator.

45 Dr Lagan agreed with each of those observations. Ms Arzadon agreed with most of them, save for some qualifications we have identified in paragraph 253. And

then there were some additional comments from the directors as summarised in paragraph 254, including that it could be seen to be antagonistic towards the NICC.

5 And as I have said, we would submit that the inquiry would accept all five of the observations as correct, as well as the additional views recorded in paragraph 254 and, in particular, that to the extent that the exit statement suggested that Mr Cooke was being pushed out by the regulator, that that was false.

10 There were then some further observations from both Ms Arzadon and Dr Lagan. Ms Arzadon, as quoted in paragraph 257, made the point that there is a widespread belief within Star that the changes had been forced on them by an outside party, and she said, from a cultural change perspective, that's not the most effective way to drive change, and she said it doesn't demonstrate ownership of why the change
15 is important for the fundamental transformation of the company and so this type of message would reinforce that view.

She also said that the statement would have set Star Entertainment back some way in terms of its cultural transformation journey, but she did think that that could be
20 overcome pretty quickly, as we have quoted in paragraph 258. She said that the exit statement would have reinforced a negative narrative that the regulator is against Star Entertainment.

Dr Lagan was asked whether it pushed out a false narrative and she said yes. And,
25 as quoted in paragraph 260, she said:

"One of the new values that the staff were being asked to step up to is to lead with integrity, and putting out a statement like this would call that into
30 question."

And Dr Lagan gave similar evidence to Ms Arzadon in relation to whether it set back Star Entertainment in terms of the cultural transformation journey that we have quoted there in paragraph 261 as well as 262.

35 There was an issue that emerged about whether the board had authorised the exit statement. The board had met on 21 March, the day before Mr Cooke's departure, and we have given the reference to that in paragraph 263 of the written document. And the minutes record that the board were encouraging - sorry, asking the then-Chairman:
40

"..to encourage the CEO not to release the statement and the Chairman advised that the CEO did intend to.

Ms Ward said that the actual words used in the meeting may have been stronger
45 and that there were words said to the effect of:

"David..."

That is Mr Foster:

"..you have got to tell him not to issue it".

5

There was also further evidence about advice being given to Mr Cooke not to issue it, and Ms Ward recalled in particular that Ms Page and Mr Hodgson had expressed those views.

10 The next day, as you will recall from the evidence, there was a separation deed that was executed both by Star Entertainment and Mr Cook. For Star Entertainment, it was signed by Mr Foster and Ms Ward and, it contained a copy of the exit statement in Schedule 4, and then we have reproduced clause 2.3 in
15 paragraph 265 which conferred a contractual right on Mr Cooke to issue that statement both within Star Entertainment but also to third parties, namely, joint venture participants, business partners and key suppliers.

It is unclear whether that had been approved by the board. At its meeting on 22 March, the board resolved to approve termination of the employment of Mr Cooke
20 on the terms of the separation deed:

"As detailed in this paper."

But then the relevant board paper did not refer to the exit statement. It was more it
25 referred to the financial terms of Mr Cooke's departure, and the reference for that document is given in - I think it is footnote 435.

Even Mr Foster, when he was shown clause 2.3, he said:

30 "I don't recall that at the time."

But he accepted it.

35 Ms Ward gave the evidence - that's at paragraph 268 - about the board reluctantly agreeing to the separation deed. She said it was a mistake to have done so. Sorry, that's by reference to the exit statement. I don't think there is anyone seeking to revisit the other terms of the separation deed.

40 And Ms Ward accepted that there is no inequality of bargaining power as between Star Entertainment and Mr Cooke, and that Star Entertainment could have insisted on things as well, but there was evidence that she gave about the precise context in which she came to sign the separation deed. We have summarised that in paragraphs 269 and 270 of the written document.

45 And then the high point of that seems to be the way we have summarised it in paragraph 271, that she signed a document that she had received at about 6.30 pm on 22 March in circumstances where she knew that Mr Cooke and his lawyers

were insistent on sending out that exist statement. There had been negotiations led by Mr Foster since - well, for about a fortnight or a better part thereof, and her focus at that time was ensuring the separation deed was executed and Mr Cooke left the business as soon as possible.

5

Now, the other directors, as we have summarised at paragraph 272, gave evidence that was highly critical of Mr Foster's role in negotiating the deed, and one sees that from Ms Page at 273. And she did clarify she did not entertain concerns about Ms Ward acting without the board's authority, as noted and of paragraph 273. So she was referring, as she clarified, to Mr Foster, when she said:

10

"Those negotiating this deed did not have authorisation."

Mr Issenberg said:

15

"We certainly didn't authorise it."

Mr Hodgson gave similar evidence, as we have summarised in paragraph 275. And so did Ms Thornton, as we have given the reference there in paragraph 276. Dr Lagan's evidence about this was that she said:

20

"I'm sure that could have happened, but the board wasn't aware of it."

She said:

25

"It was a strange thing to give anyone permission."

And she said:

30

"It pointed to the concentration of power within those two actors, the CEO and the Chair."

This is an important question whether the board intended to authorise the exit statement as part of the separation deed because of the damaging nature of that exit statement. If it had been intentionally authorised by the board, it would tell, in my submission, against suitability.

35

But from the above evidence the better view, in my submission, is that clause 2.3 was not intended to be authorised by The Star Entertainment Board, or at least not by the majority of them, and it is unnecessary for the inquiry to decide whether Mr Foster had acted without authority in his negotiations.

40

MR BELL SC: Mr Conde, it might be a nice question of corporate law whether the company authorised the exit statement by virtue of the separation deed, but is that the question for this inquiry or is it more a question in terms of considering suitability to assess the conduct and intention of the persons on the board at that time?

45

MR CONDE: Yes. Yes.

MR BELL SC: The latter?

5

MR CONDE: The latter, yes. And hence the submission at paragraph 279 of the written document.

MR BELL SC: Yes.

10

MR CONDE: Yes. In section D.16, we refer to Star Entertainment's responses to evidence. So this is sort of as evidence was coming out of the inquiry, how Star Entertainment acted. The first was in relation to Mr Rizzo. There was some evidence from Ms Katsibouba about booking the TICO losses in November rather than July, and she said that if that had been done, it would not have presented a true and fair view of the company's financial position. But she said that, ultimately, the losses were booked correctly.

15

Mr Rizzo was not called as a witness, but he did provide a detailed statement denying any impropriety and providing his own account of events, which was tendered. It is unnecessary, in my submission, for the inquiry to make a finding about what happened and, in particular, as to whether Ms Katsibouba's account or Mr Rizzo's or someone else or some other account should be preferred, because there is evidence, as we have noted in paragraph 283 of the written document, that The Star Entertainment took this to hand very promptly.

20

25

And there is a letter from - there was a letter from Mr Foster to the NICC dated 18 April 2024 which gave notice of an allegation. And that's the document in paragraph - sorry, in footnote 466. That letter a provided detail - details of steps taken. It is plain enough from that letter that the allegations were being taken seriously and, at the same time, rightly, that Mr Rizzo was afforded an opportunity to explain himself. So all of that, as we have submitted in paragraph 284, reflects positively on Star Entertainment.

30

I have also already referred to the evidence of Ms Ivanoff and her departure. We give the documentary reference at paragraph 286 of the written document to Star Entertainment acting promptly - I'm sorry, I should have mentioned, Mr Bell that - I have mentioned earlier that if Ms Ivanoff was right, then the consequences that was both the NICC and this inquiry has been misled.

40

Now, on 18 April 204, as we say at paragraph 286, Star Entertainment sent an apology and a correction to the NICC, as well as to this inquiry in relation to its answer to the request for information form. And that letter to the NICC record that had Mr Cooke had provided Star Entertainment's relevant response, that Star Entertainment accepts Ms Ivanoff's account, and that Star Entertainment wish to apologise for Mr Cooke's conduct, which was unacceptable. They then also reveal the Gmail document that I have mentioned earlier.

45

On any view, as we say at the end of paragraph 286, that the letter to the NICC corrected previous missed or non-disclosures in relation to Ms Ivanoff and, in particular, at that point, Ms Ivanoff had not been challenged, so Star was right to proceed on that basis.

So before 22 April 2024 when Ms Ivanoff was recalled, we say that Star Entertainment was correct to proceed on the assumption that Ms Ivanoff's evidence was correct and that it had also identified and produced a further document. So that's in paragraph 288. And we say that that reflects positively on Star Entertainment because it took action, once aware, to correct its previous statements to both the NICC and to this inquiry.

Then there are some questions which arise, as we have recorded in paragraph 290 of the written submissions, in light of Ms Ivanoff's re-examination and Mr Cooke's subsequent evidence that whether the inquiry would conclude Star Entertainment, in fact, erred in taking the steps that it did, whether Star Entertainment acted too hastily in accepting Ms Ivanoff's account and whether it ought to have taken some other step or steps such as withdrawing its corrections to the NICC and to this inquiry on the basis that, in fact, Mr Cooke should be believed and in light of the earlier submission that we would say Ms Ivanoff's account should be preferred. The short answer to those questions we give is no.

MR BELL SC: So does that mean, Mr Conde, that in light of the prompt action that Star Entertainment took on 18 April, the only continuing relevance of the resignation letter issue, if I can call it that, is the matters that you refer to at paragraph 290?

MR CONDE: Yes. Yes.

MR BELL SC: Yes, thank you.

MR CONDE: Then, as we record in section D.17 of the written document, there was a change of Chairman. Mr Foster was the Chairman at the time that this inquiry commenced. He became the Executive Chair on the departure of Mr Cooke on 22 March 2024. He gave evidence on Day 7, which was 23 April. Ms Ward commenced giving evidence on Day 8, which was 24 April, and at that time, Mr Foster was still the Executive Chairman. The inquiry adjourned for the Anzac Day holiday and resumed for Day 9 of the public hearings on Monday, 29 April, and, by that time, The Star Entertainment board had met without Mr Foster, resolved to change the Chairman and elected Ms Ward.

There is evidence summarised in paragraphs 293 and 294 about the board having taken that action, and the relevance of that, I will come to later.

So then that moves out of the fact-specific or fact-heavy section of the submissions, D, which was Developments Before and During the Inquiry and then,

moving to section E, Taking Stock of the Current Position, and there are three headings to this. One is Management, the second is Culture, and the third is the Status of Remediation.

5 In terms of management, as we summarise in paragraph 295, Star Entertainment needs a new permanent CEO and Managing Director to replace Mr Cooke, Chief Financial Officer to replace Ms Katsibouba, Chief Legal Officer to replace Ms Ivanoff, Chief Customer and Product Officer to replace Mr Hughes, Chief Transformation Officer to replace Ms Burke and CEO of the Gold Coast property to replace Ms Mellor. Star Sydney will also need a new Patron Liaison Officer to replace Mr Wagemans, which is a - we say a topically important role, given the Guest Support Officer issue. There was formerly a role of Chief of Staff, but it is noted in paragraph 297, as Mr Hodgson said:

15 "I'm never quite sure what a Chief of Staff does."

And it is not clear that that role will be replaced.

20 We submit in paragraph 299 that the inquiry would conclude that these matters present a very large and important challenge to Star Entertainment. The Group acts through its executives and, at present, the GLT is leaderless and depleted.

25 Ms Page said it is not yet formed and, indeed, she said the events of recent days, at the time of her giving evidence, will be somewhat more problematic.

Ms Arzadon, as we note in paragraph 300, has been involved and she, indeed, has that organisational development expertise that Dr Lagan had been calling for since early 2023. Dr Lagan there said that Ms Arzadon:

30 "...has a lengthy experience of organisational transformations."

But as we have said in paragraph 300, the precise nature and extent of Ms Arzadon's involvement seems yet to be settled.

35 Dr Lagan did say that, as we quote in paragraph 301, that this presents an opportunity for Star Entertainment. There is an opportunity, she said, to bring in the right experience, and that if they could get the right person as the CEO of the group, that would bring about change in about six months.

40 Now, the importance of that opportunity, as we've summarised in paragraph 303, is underscored by a large amount of evidence given to this inquiry about the poor condition of the GLT beforehand. We have got evidence summarised in paragraph 303 of the written submissions from Mr Weeks, Ms Katsibouba, Ms Ivanoff, Ms Silfani, Dr Lagan, Ms Townsend, Mr Saunders and Ms Ward. And you will recall from Ms Ward, there was an email where she expressed this view, but she accepted that during the first half of 2023, she felt that what was then ExCo, what later became the GLT, was fairly dysfunctional and siloed.

5 The current vacancies in the GLT, we say in paragraph 304, do present an opportunity, but, as we say in paragraph 305, the question is whether the opportunity is taken. And in a suitability review, we submit actual conduct and factual developments will tend to be more important than opportunities and words, and the inquiry is also, in that regard, entitled to look at the history of taking opportunities or not taking them, as the case may be. And that does raise, what I called earlier, the 14 lost months as relevant.

10 As things presently stand, there is no new permanent CEO either. So as we say in paragraph 306, the six-month period to which Dr Lagan referred in bringing about change on commencement of finding the new CEO, that hasn't started.

15 The next section, E.2, addresses the current position in relation to culture. Now, I have referred earlier to culture and Dr Lagan's evidence about that, but we have expanded with quotes from the evidence in this section, including, in paragraph 309, the reference to tone at the top and then also at paragraph 310, some exchanges in the evidence with Dr Lagan about how they seek to measure or assess culture.

20 My submission is that there really is a data-driven approach. It's more sort of scientific than people might think. They go and conduct surveys, bring in responses, analyse how - to use Dr Lagan's words, how things are landing, and then compare those conclusions drawn from the field, as it were, with where the company is saying it wants to be in its stated values. And to the extent that there is
25 a disconnect, well, then that's something requiring action.

In terms of culture in 2023, we address that in section E.2.2 of the written document. As Dr Lagan said - and this is quoted in paragraph 312 - she presented
30 a note to the board on 31 March 2023 and she wrote that:

35 "People can only move to a future they can imagine, and the future story is missing. The result is that current leaders are not taking their people on a change journey of how Star will succeed in the future. Low morale in Sydney, Queensland staff not as downshifted."

40 That then led to the - sorry, that then was followed by the June 2023 Ethics Centre report and that revealed, among other things, five shadow values: profit matters most; just get it done; play politics to stay alive and thrive; stay in your swim lane; and do more with less. And Dr Lagan gave evidence that she was unsurprised by that.

45 Now, pausing there, as we say in paragraphs 315 and 316 of the written document, each of the ECDD and Guest Support Officer issues revealed conduct that was consistent with "just get it done" and "do more with less". In terms of the TICO fraud event, Dr Lagan said it demonstrated a workaround culture, and, again, "just get it done."

Mr Weeks said of the TICO fraud event what we have quoted from in paragraph 317. He referred there to:

5 ".cultural problem relating to a level of rigour through which controls are followed, level of care in which work is conducted and the desire from people in the business to drill down on things in circumstance where they don't appear that they are correct."

10 And again, as I have mentioned earlier and is quoted in a lot more detail in paragraph 318 of the written document, Dr Lagan gave evidence that there was really a lost opportunity from January to June 2023 as the time to call out the sort of burning platform and, you know, where we are going to go and that sort of thing, and that corresponded - that failure to do that in that six months
15 corresponded, in July 2023, with the emergence of the "us against them" mentality. And I think I referred to that earlier as quite critical and important evidence. And Ms Arzadon, I think, gave evidence agreeing with that. I will come to that in a moment.

20 But the "us and them" mentality, as we have submitted in paragraph 319, was really embedded at the top of Star Entertainment in its Chair, Mr Foster, and its CEO and Managing Director, Mr Cooke.

25 So moving, then, to culture now in 2024, each of Mr Weeks and Dr Lagan went through those shadow values, and the present status of that is summarised in paragraphs 321 through to 326. There were still - it was really - play politics to stay alive to thrive had changed or gone. Stay in your swim lane seems to have reduced. But otherwise there was evidence to the effect that that those shadow values still continued in some form or another.

30 And indeed, as I had mentioned earlier, at paragraph 327 of the written document we have a reference there from Ms Arzadon talking about the "us against them value" and she said that she agreed with Dr Lagan. She said she had seen evidence of that mindset as well. There is a quote from Ms Arzadon in paragraph 327 where
35 she said:

40 "I wouldn't say that it's amongst everybody. There are some members of the team who don't have that kind of relationship but they do believe that overall - they don't have that relationship individually, but they do agree that, in general, that is the nature of the relationship, and that tone was probably set by the senior people like Mr Cooke."

45 And Dr Lagan has some evidence that we have quoted from there in paragraph 328 about the relevance of this "us against them"- type value with fears within the organisation about profitability, and she offered a solution there, that it would be possible to say that there are regulated environment - she gives examples of

Austria, Canada and Singapore - where you still have profitable organisations, but they are operated in a regulated environment.

5 By the time of Mr Cooke's departure on 22 March 2024 - and indeed, in the negotiation of the terms of that departure - Dr Lagan was referring to a concentration of power in Mr Cooke and Mr Foster. The reference for that is given in paragraph 329 and, again, there is the quote that she thought the exit statement could well have been agreed, in effect, between Mr Cooke and Mr Foster without the board having authorised it.

10 We also give, in paragraph 330, a reference back to the ASX Corporate Governance Council Recommendation that I quoted earlier about the company secretary, as compared with Mr Cooke evidence where he had said to Ms Silfani:

15 "You are part of my team. I consider you management."

And, again, that is consistent with Dr Lagan's evidence about concentration of power. And so Dr Lagan said that, with Mr Foster and Mr Cooke having departed from their respective roles as chair and CEO, she saw much improved opportunity for Star Entertainment, as did Ms Arzadon. And that's in paragraphs 331 and 332 and, indeed, 333.

20 Turning, then, to the status of remediation, that's in section E.3, on 6 February 2024, Mr Weeks wrote to Mr Cooke with a direction in relation to milestones, and the reference for that is given in footnote 542. You may recall, Mr Bell, there was a direction and then on the back of the letter, there was a table with a number of dates which culminated with a date of 1 March 2025.

25 The inquiry would not conclude, in our submission, that the milestones are likely to have been achieved by that date. There is a large amount of evidence against that which we give references to in paragraphs 335 through to 336 of the written document. And then there is evidence, you may recall, of there being a planned reset of the remediation plan which, as I will be submitting shortly, is, in fact, a good development.

30 In some ways it reflects a more mature approach to milestones and that sort of thing. But in terms of the current due date that was then the subject of Mr Weeks' direction, it's another reason why one would not attach much weight, if any, to that direction.

35 **MR BELL SC:** Yes, Mr Conde. My impression is that the evidence about a reset of the remediation plan is somewhat amorphous. I don't have any clarity as to precisely what is being done about that.

40 **MR CONDE:** Yes. In my submission, that would be a fair characterisation of the evidence of the reset. There is some evidence about prioritising certain milestones over others, rather than just sort of working through, but that's obviously at a

higher level of generality. I'm not aware of any document, for example, that would record this reset or that would record any principles for the reset or, indeed, the reset itself. There has been foreshadowed work on it, but as you say, Mr Bell, it's somewhat amorphous.

5

In fact, paragraph 338 of the witness submissions contains that evidence to which I have just referred, for example, Ms Arzadon said that GLT coaching sessions ought to occur sooner, and that there's recommendation from Ms Arzadon to that end. But in terms of an end date, as I have submitted a moment ago, the inquiry would not be satisfied that 1 March 2025 is going to be achieved or has any likelihood of being achieved.

10
15
Again, it's quite general evidence but Ms Arzadon gave evidence about a cultural transformation program taking three to five years, and she accepted, as we have noted in paragraph 341, that Star Entertainment is still very much at the beginning of that journey. Again, that goes back to what I submitted earlier was the lost 14 months and Ms Arzadon quotes from people in the Arzadon Report as reproduced under paragraph 342 where she said:

20 "We are very much at the start."

Sorry, she quoted comments such as:

25 "We are very much at the start. We have a long way to go. It took a long time just to deliver the purpose, values and principles, and one year in, decisions that should have been made just weren't."

30
Then I think the evidence - just looking for the - yes, at paragraph 346 is the evidence from Ms Arzadon to the effect that Star Entertainment is about six months down the journey that she thinks would take three to five years and Dr Lagan agreed with that assessment. That's in paragraph 346.

35
There was an acceptance by Ms Arzadon about many lost opportunities and missteps in relation to cultural renewal. Dr Lagan gave similar evidence, and you will see that quoted both in paragraph 347, and then also Dr Lagan offered a comparison with Crown Resorts in the quote that is set out in paragraph 349.

40
Ms Arzadon made five recommendations in her report that are set out in paragraph 350. And Dr Lagan agreed with those, which is recorded in paragraph 351, and she said that she had added another one of resetting the board's orientation, as set out in that quote.

45
I come, then, to suitability, which is section F of the written document. And, as recorded there, we make five submissions about the conclusions that the inquiry would reach. The first is that Star Entertainment is not presently suitable. That was accepted by Mr Foster, Ms Ward, Ms Page, Mr Issenberg, Mr Hodgson and Ms Thornton, and the same would be said for The Star.

As we have submitted there, it could hardly be otherwise. I'm not sure that anyone will be suggesting that they are presently suitable, but no witness has said as much.

5

The second submission, then, is from paragraph 356, which is that there have been a number of recent changes, some of which occurred during and indeed as a result of this inquiry, which have both reoriented Star Entertainment and removed barriers to the possibility of achieving suitability in the future. This has included the removal of Mr Cooke and Mr Foster, the involvement of Ms Arzadon is a positive, and generally what I had submitted earlier is a more mature and indeed realistic approach to remediation and transformation, hence the foreshadowed reset and the milestones under it.

10
15 And you will recall Dr Lagan said that this inquiry, as quoted from the top of page 92:

".. has reset the story because many people have reached out to me ..."

20 That's Dr Lagan:

".. from the organisation and they now recognise that the Special Manager was providing feedback continually, that it wasn't being shared with the people. So I think the story is now being reassessed about its validity."

25

And also, Dr Lagan said:

"This inquiry has provided an opportunity for the 8,500 staff to reassess the story that has been prevalent for the last six months that the regulator doesn't like them. So they can see that was an internal narrative that was not reflective of the relationship that the regulator wanted to promote with The Star Group."

30

35 So, in terms of removal of barriers to suitability, as we have submitted in paragraph 358, both Mr Cooke and Mr Foster represented such barriers in light of what we have called their hostility to the NICC. And Ms Arzadon reached that conclusion quite quickly, you will recall, from the time of her engagement, that Mr Cooke needed to go. And as we have said there, Dr Lagan said the departures of Mr Cooke and Mr Foster provided that opportunity.

40

45 Now, the third submission we make on suitability is that insofar as the evidence goes, there no longer appear to be mindsets at the top of Star Entertainment which would preclude or undermine suitability going forward. In particular, none of the directors sought to deny that The Star and Star Entertainment operate in a regulatory landscape that is stricter than it was in the past, in particular, in areas like VIP gaming, I asked them about, as well as responsible service of gaming. No director sought to suggest that they would be returning to the same business model

of old and, in fact, Ms Page was quite blunt in dismissing that idea, which she referred to a false business base and criminal proceeds.

5 The evidence did not reveal that any of the directors, other than Mr Foster, participated in communications of the kind that had passed between him and Mr Cooke. And, indeed, each of them spoke against those communications and, indeed, further, those communications appear to have featured in the removal of Mr Foster as Chair.

10 Then as we note at the end of paragraph 359, although Ms Ward was a signatory to the separation deed which conferred the contractual right on Mr Cooke, she did so in the circumstance we've referred to which are mitigating, but also, the other directors did not intend to authorise it, on their view, and - on their evidence and the inquiry would accept that, in my submission.

15 **MR BELL SC:** Mr Conde, opportunities and aspirations are one thing. As I recall, opportunities and aspirations were presented to me in abundance in 2022. In terms of assessing suitability, a clear assessment of the facts and an analysis of past conduct would be of much greater weight, would they not, than an assessment of
20 opportunities and aspirations?

MR CONDE: Yes, I accept that, Mr Bell and, indeed, that's relevant, perhaps, to the fifth submission I will be making. But, in my submission, those are correct
25 qualifications to the third submission.

The fourth submission, though, before getting to that fifth one, is that it is ultimately a matter for the NICC, but the inquiry would accept the evidence of various directors that there should continue to be a form of external management or supervision, and we have given the evidentiary references there.
30

But the fifth submission is that there is no basis in the evidence and, in particular, no basis to the standard of clear and convincing evidence, as required by section 4B of the Act, to discern a future time by which the inquiry can be satisfied that The Star and Star Entertainment will or are likely to become suitable.
35

So although, as has been submitted, there has been a reorientation of the group and barriers to suitability have been removed, and although there are now also the opportunities of the kind described by Dr Lagan and Ms Arzadon, there is no adequate evidentiary basis, in my submission, for identifying with specificity a
40 discernible future time by which the inquiry could conclude that The Star and Star Entertainment will or are likely to become suitable.

Unless there is anything further in respect of which I could assist, Mr Bell, there are some administrative matters I need to attend to, but those are my closing
45 submissions in the public hearings.

MR BELL SC: Yes, thank you Mr Conde. The inquiry will now move into private mode to consider matters of financial viability. I will adjourn for five minutes to enable that to occur.

5 **MR CONDE:** I'm sorry, Mr Bell, just before we do the adjournment, I do need to tender Part G of the Hearing Book, if I could do that.

MR BELL SC: That will become Exhibit G.

10 **MR CONDE:** Thank you.

MR BELL SC: Yes, I will now adjourn for five minutes.

<THE HEARING IN PUBLIC SESSION ADJOURNED AT 12.51 PM