

DETERMINATION OF APPLICATION FOR A RESTRICTED GAMING LICENCE – CROWN SYDNEY GAMING PTY LTD

The Independent Liquor and Gaming Authority of New South Wales (**Authority**) has granted a Restricted Gaming Licence to operate the Barangaroo Restricted Gaming Facility from 15 November 2019, to Crown Sydney Gaming Pty Ltd (**Crown Sydney**), a wholly owned subsidiary of Crown Resorts Limited (**Crown Resorts**).

Unsolicited Proposals process

On 6 September 2012, Crown Resorts submitted an Unsolicited Proposal to build and operate an integrated hotel resort complex at Barangaroo.

On 4 July 2013, the State announced its decision to allow the Crown Unsolicited Proposal to advance to the final stage of the Unsolicited Proposals process, under which a binding agreement was entered into by the State, Crown Resorts and certain wholly owned subsidiaries of Crown Resorts under the Crown Unsolicited Proposal.

The Decision making by the State under the Unsolicited Proposal process was separate from and independent of the Authority.

Commencement of gaming operations at the proposed Restricted Gaming Facility remains subject to various agreements being reached between the Barangaroo Delivery Authority, Lend Lease and Crown Resorts; obtaining relevant planning approvals and the completion of the construction of the integrated hotel and Restricted Gaming Facility proposed in the Crown Unsolicited Proposal. The development and construction of the hotel and Restricted Gaming Facility are under the oversight and control of the Barangaroo Delivery Authority.

Amendments to the Casino Control Act

Following the State's selection of the Crown Unsolicited Proposal, the *Casino Control Act 1992* (**Act**) was amended to provide for an application process under which a Restricted Gaming Licence may be issued and granted by the Authority as an independent statutory authority. The amendments to the Act commenced operation on 27 November 2013.

Crown Sydney licence application

Following the amendments to the Act, a Ministerial Direction was issued under the Act by the Minister for Hospitality, Gaming and Racing, and Minister for the Arts on 12 December 2013, naming Crown Sydney as an 'approved applicant' to apply for the Restricted Gaming Licence under section 13 of the Act. The Ministerial Direction is found on the Authority's website.

This Ministerial Direction also contained the terms and conditions of the Restricted Gaming Licence.

On 16 December 2013, Crown Sydney applied to the Authority seeking approval to be granted a Restricted Gaming Licence as an approved applicant under the Act.

Key suitability considerations under the Act

Section 13A of the Act provides that “*the Authority must not grant an application for a Restricted Gaming Licence unless it is satisfied that the approved applicant, and each close associate of the approved applicant, is a suitable person to be concerned in or associated with the management and operation of the Barangaroo Restricted Gaming Facility*”.

Under the Act, a person is considered to be a close associate of Crown Sydney if the person holds a relevant financial interest, or is able to exercise a relevant power, in relation to Crown Sydney and (as a result of that financial interest or power) the Authority is of the opinion that the relevant person is, or will be, able to exercise a significant influence over or with respect to the management or operation of the Restricted Gaming Facility. Alternatively, a person may also be a close associate of Crown Sydney by virtue of that person holding a “relevant position” in the business of Crown Sydney.

Relevantly, the close associates of Crown Sydney include:

- (a) Crown Resorts (Crown Sydney’s ASX listed ultimate holding company);
- (b) Consolidated Press Holdings Limited and related entities (**CPH**) (the majority shareholder of Crown Resorts); and
- (c) certain directors and officers in key executive positions of Crown Sydney, Crown Resorts, CPH and related companies and individuals including Mr James Packer.

In determining Crown Sydney’s application, the Authority had regard to the matters set out under section 13A(2) of the Act. These matters relate directly to the suitability of Crown Sydney and its close associates under section 13A(1) of the Act and include whether:

- (a) each of Crown Sydney and its close associates is of good repute, having regard to character, honesty and integrity, and
- (b) each of Crown Sydney and its close associates is of sound and stable financial background, and
- (c) Crown Sydney has or has arranged a satisfactory ownership, trust or corporate structure, and
- (d) Crown Sydney has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the Restricted Gaming Facility, and
- (e) Crown Sydney has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino or similar gaming facility, and
- (f) Crown Sydney has sufficient business ability to maintain a successful gaming facility, and
- (g) any of Crown Sydney or its close associates has any business association with any person, body or association who, in the opinion of the Authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources, and
- (h) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of Crown Sydney or a close associate is a suitable person to act in that capacity.

In considering the matters referred to above, pursuant to section 13A(3)(a) of the Act, the Authority has taken into account information provided to the Authority during the course of previous investigations, which includes the findings made in respect of the investigations and inquiries undertaken during Crown Resorts' previous application seeking Authority approval to acquire up to 23% of Echo, and to consequently become close associates of The Star, completed on 10 May 2013.

Investigations and considerations

The Authority's investigations and considerations were conducted for the purpose of ensuring that: the ownership, finances, management and operations of the Restricted Gaming Facility are satisfactory and financially viable; the Restricted Gaming Facility remains free from criminal influence, exploitation and undesirable or unsatisfactory financial sources; and the potential of the Restricted Gaming Facility to cause harm to the public interest is contained and appropriately regulated. Accordingly, the Authority's investigations extended beyond Crown Sydney and its close associates to relevant entities and individuals considered by the Authority to be business associates of Crown Sydney and its close associates, including in relation to overseas jurisdictions.

In granting the Restricted Gaming Licence, the Authority has considered a wide range of material sourced from, inter alia: public submissions made in respect of the Crown Sydney application; the Authority's current and prior probity investigations of entities and individuals (including its enquiries of overseas and local law enforcement agencies and gaming regulators); legal advice; financial advice, and appropriate process advice.

Probity matters

The Authority has considered the Crown Sydney application on the basis that, if approved, the Authority would issue a Restricted Gaming Licence to Crown Sydney and relevant individuals and entities connected to or associated with Crown Sydney, including its ultimate holding company Crown Resorts, CPH and Mr James Packer. It included a review of their business and legal affairs, including any litigation in Australia or overseas and any criminal or related incidents, to determine whether they were of good repute having regard to character, honesty and integrity.

In recognising Crown is an international company, the Authority also reviewed Crown's operations overseas and will continue to monitor any business associations arising in new gaming jurisdictions.

Treasurer's Duty Agreement

Separately, as part of the issue of a Restricted Gaming Licence, the Treasurer and Crown Sydney have entered into a duty agreement (**Duty Agreement**) providing for the amount, manner and timing of casino duty payments in accordance with Part 8 of the Act. The Treasurer and the Minister have consulted in respect of these duty arrangements as required under section 116(2) of the Act.

In accordance with section 118 of the Act, the Treasurer will lay before each House of Parliament, a copy of the Duty Agreement within 14 sitting days of the commencement of the next relevant Parliamentary House sitting (scheduled on 5 August 2014 for the Legislative Assembly and 12 August 2014 for the Legislative Council).

Section 142 Agreements

Section 142 of the Act provides that, with the approval of, or at the direction of, the Minister, the Authority may conduct negotiations and enter into agreements on behalf of the State for or in connection with the establishment and operation of a Restricted Gaming Facility and any development of which the proposed Restricted Gaming Facility forms part.

With the approval of, and at the direction of, the Minister, as recommended by the Authority, the Authority negotiated and entered into various section 142 agreements in relation to the Crown Sydney Application (**Section 142 Agreements**).

The Section 142 Agreements address matters agreed by the State and Crown Resorts in the Unsolicited Proposals process and other matters required by the Authority. These agreements include:

- (a) various security and guarantee arrangements to secure to the Authority and the State the payment of casino duty under the Duty Agreement and guaranteed Duty revenue agreed by the State and Crown under the Unsolicited Proposals process; and
- (b) a Section 142 VIP Gaming Management Agreement agreed by the Authority, Crown Sydney and relevant close associates (including Crown Resorts), containing relevant controls over gaming, ownership, operation and management of the Restricted Gaming Facility, supplementing the Authority's regulatory controls under the Act and the Restricted Gaming Licence.

Pursuant to section 18 of the Act, in making a determination to grant the Restricted Gaming Licence, the Authority may impose conditions as the Authority thinks fit. As agreed with Crown Resorts and Crown Sydney, certain terms of the Section 142 Agreements are conditions of the Restricted Gaming Licence, resulting in breaches of those terms giving the Authority the right to take disciplinary proceedings under section 23 of the Act, or alternately, take action under the contractual security regime referred to above.

The Authority has satisfied itself that the terms of the Section 142 Agreements are consistent with the Act.

To coincide with the tabling of the Duty Agreement in Parliament, the Authority will publish on its website the Section 142 Agreements relevant to the operation or management of the Restricted Gaming Facility, subject to redactions made for information relating to commercial-in-confidence financial matters and third party confidential information

Independence

The Authority has exercised its statutory role in determining to grant the Restricted Gaming Licence separate from and independently of:

- (a) the State, in its role under the Unsolicited Proposal process and role as a party to certain Section 142 Agreements and other agreements with Crown Resorts and Crown Sydney consequent upon that process;
- (b) the Minister, in exercising his powers under the Act to issue directions, and his approval of negotiation and entering into of the Section 142 Agreements by the Authority for and on behalf of the State; and
- (c) the Treasurer, in his role in relation to the negotiation and entering into the Duty Agreement.

The terms and conditions of all agreements between Crown Sydney, Crown Resorts, the State and others are consistent with the matters agreed during the various stages of the Unsolicited Proposals process.

Independent process audit

The granting of the Restricted Gaming Licence and the negotiation of, and entry into, the Section 142 Agreements by the Authority have occurred with the oversight of the Authority's appointed independent process auditor, IAB Services, led by senior consultant Jason Masters. Under Mr Masters' guidance and advice the Authority has discharged its statutory obligations, and no conflicts of interest have arisen as regards the Authority's consideration of the Crown Sydney application and the confidentiality of relevant third parties has been protected.

8 July 2014