INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW

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

THE HONOURABLE PA BERGIN SC
COMMISSIONER

PUBLIC HEARING
SYDNEY

TUESDAY, 21 JANUARY 2020
AT 10AM

DAY 1

MR A. BELL SC appears with MS N. SHARP SC and MR S. ASPINALL as counsel assisting the Inquiry
MR N. YOUNG QC appears with MS R. ORR SC, MR P. HERZFELD and MS C. HAMILTON-JEWELL of counsel for Crown Resorts Limited and Crown Sydney Gaming Pty Ltd
MS R. HIGGINS SC appears with MR T. O'BRIEN of counsel for CPH Crown Holdings Pty Ltd
MR S. FINCH SC appears with MR J. STOLJAR SC and MS Z. HILLMAN of counsel for Melco Resorts & Entertainment Limited

COMMISSIONER: Yes, I will take the appearances please.

MR A. BELL SC: Adam Bell SC with MS NAOMI SHARP SC and MR SCOTT ASPINALL and I appear as counsel assisting the inquiry.

COMMISSIONER: Thank you, Mr Bell.

MR N. YOUNG QC: My name is Neil Young, I appear as counsel for Crown Resorts Limited and Crown Sydney Gaming Proprietary Limited along with the following counsel: Ms Rowena Orr SC, Mr Perry Herzfeld and Ms Catherine Hamilton-Jewell.

COMMISSIONER: Thank you, Mr Young.

MS R. HIGGINS SC: May it please, Commissioner, my name is Ruth Higgins of senior counsel and I appear with my learned friend Mr O'Brien for CPH Crown Holdings Proprietary Limited.

COMMISSIONER: Thank you, Ms Higgins.

MR S. FINCH SC: If it please you, Commissioner, I appear for Melco Resorts and Entertainment Limited with my learned friend MR STOLJAR of senior counsel and MS HILLMAN.

COMMISSIONER: Thank you, Mr Finch. Yes, Mr Bell.

MR BELL: When introducing the Casino Control Bill into the New South Wales Parliament in 1992 the responsible Minister described the bill as creating perhaps the most stringent legislative apparatus for casino control in the world, one which would ensure that casinos in this State could be protected from influence and exploitation, kept free from money laundering and maintained as places for honest gaming. That policy finds legislative expression in section 4A of the Casino Control Act 1992, New South Wales, which provides that the primary objects of the Act include ensuring that the management and operation of a casino remain free from criminal influence or exploitation, ensuring that gaming in a casino is conducted honestly and containing and controlling the potential of the casino to cause harm to the public interest and to individuals and families.

Subsection (2) of section 4A requires every person having a function under the Casino Control Act to have due regard to those objects. That includes the Independent Liquor & Gaming Authority, to which I will refer as "the Authority" and you as the Commissioner conducting this Inquiry under section 143 of the Act.

There were two series of events which led to the initiation of this Inquiry. The first series of events commenced on 30 May 2019 when Melco Resorts & Entertainment Limited entered into a Share Sale Agreement with CPH Crown Holdings Pty Limited to purchase 19.9 per cent of the issued capital of Crown Resorts Limited. I will refer to those three entities as Melco Resorts, CPH Crown and Crown Resorts, respectively.

Through some intermediary group companies, Crown Resorts owns all of the shares in Crown Sydney Gaming Proprietary Limited which in July 2014 was granted a licence by the Authority to operate the Barangaroo restricted gaming facility in Sydney. I will refer to Crown Sydney Gaming Proprietary Limited as "the Licensee". Neither of the parties to the Share Sale Agreement nor Crown Resorts gave any advance notification to the Authority of the proposal to enter into the Share Sale Agreement before it was signed.

The second series of events leading to this Inquiry involved the publication in various media outlets from late July 2019 of allegations concerning the conduct of Crown Resorts and its alleged associates. This included allegations that Crown Resorts casinos were used to launder money, anti-money laundering controls were not rigorously enforced, gambling laws were breached and Crown Resorts or its subsidiaries were associated with junket operators that had links to drug traffickers, money launderers, human traffickers and organised crime groups. These two series of events frame the Terms of Reference to this Inquiry. Part A of the Terms of Reference deals with the entry by Melco Resorts into the Share Sale Agreement and certain statements made by Melco Resorts after that date concerning its intentions with respect to Crown Resorts. These events are defined in Part A of the Terms of Reference as "the Melco changes".

Commissioner, Part A of the Terms of Reference requests you to inquire into and report on the identity of any person who has or will become a close associate of the Licensee as a result of the Melco changes. You are then requested to inquire into and report on the suitability of any such persons. In particular you are requested to inquire into and report on whether any such persons are of good repute having regard to character, honesty and integrity, have any business association with any person, body or association who is not of good repute, having regard to character, honesty, integrity or has undesirable or unsatisfactory financial sources, and are otherwise not suitable to be associated with the Licensee. You are also requested to inquire into and report on any matter reasonably incidental to those matters.

Part B of the Terms of Reference refers to the media allegations made on and from 27 July 2019. In response to those allegations you are requested to carry out a further suitability review. You are requested to inquire into and report on whether the Licensee is a suitable person to continue to give effect to the restricted gaming licence, and whether Crown Resorts is a suitable person to be a close associate of the Licensee. If you determine that either the Licensee or Crown Resorts is no longer a

suitable person, you are then asked to inquire into and report on what, if any, changes would be required to render those persons suitable.

Part B of the Terms of Reference also deals with the Share Sale Agreement between Melco Resorts and CPH Crown. In broad terms, you are requested to inquire into and report on whether the Share Sale Agreement and the transfers of shares contemplated by it constitute a breach of the restricted gaming licence or any other regulatory agreement. Part B of the Terms of Reference also requests you to inquire into and report on any matter reasonably incidental to the specific matters identified in Part B.

Part C of the Terms of Reference requests you to examine the regulatory framework and settings in which the Authority is required to regulate casinos in this State in the year 2020 and beyond. Specifically, you are requested to inquire into and report on the efficacy of the primary objects under the Casino Control Act in an environment of growing complexity of both extant and emerging risks for gaming and casinos. You are requested to undertake a forward-looking assessment of the Authority's ability to respond to that environment and to identify recommendations in order to enhance the Authority's future capability. In so inquiring and reporting you are requested to take into account both domestic and international best practice with respect to gaming operation and regulatory frameworks. One way of describing the Inquiry required by Part C of the Terms of Reference is whether the responsible Minister's comments at the time of introducing the bill in 1992 remain true of the legislation in 2020. Ms Sharp SC will make opening submissions on the issues for this Inquiry which arise from the media allegations made from July 2019, and also in relation to some matters relevant to considering Part C of the Terms of Reference. The focus of my opening submissions is on the issues for this Inquiry arising from the Share Sale Agreement.

Commissioner, in relation to the powers of this Inquiry, we submit that you have been appointed to conduct the Inquiry with the powers, authorities, protections and immunities conferred by division 1 and division 2 of part 2 of the Royal Commissions Act 1923 of New South Wales. Although an issue has been raised by Melco Resorts about this, we are proceeding on the basis that subsections 17(1) to 17(3) of the Royal Commissions Act are applicable to persons appearing before or producing documents to the Inquiry.

That means that a witness summonsed to appear before the Inquiry or to produce documents to the Inquiry is not excused from answering a question or producing documents on the ground of legal professional or other privilege or self-incrimination or a duty of secrecy or other restriction or disclosure or any other ground. There are restrictions on the use to which any answers given or documents produced in the Inquiry may be used against a person in other proceedings. By virtue of subsection 143(3) of the Casino Control Act you are not bound by the rules or practice of evidence and you may inform yourself on any matter and in such manner as you consider appropriate.

Pursuant to subsection 143B(1) of the Casino Control Act, you may make a non-publication direction to ensure the non-publication of any evidence given at the Inquiry, the contents of any document produced, any information that might enable a person who has given or is about to give evidence to be identified or located, or the

fact that any person has given or may be about to give evidence at the Inquiry. You are empowered to make a direction if you are satisfied that it is necessary in the public interest or that there are other exceptional circumstances that require the direction to be given. You are also able to conduct hearings in private if you are satisfied that it is convenient to do so. Procedural guidelines relating to the conduct of the Inquiry have been published on the Inquiry's website.

Commissioner, the principal legislation which deals with the regulation of casinos in New South Wales is the Casino Control Act. Part 2 of the Act deals with the licensing of casinos, and part 3 deals with the supervision and control of casino operators. The Casino Control Act divides responsibility for casinos in this State between the responsible minister, who is the Minister for Customer Service, and the Authority. The Authority is constituted under the Gaming and Liquor Administration Act 2007. The Authority is empowered under section 13 of the Gaming and Liquor Administration Act to delegate functions other than its power of delegation and a small number of other functions. At present, the Authority has delegated a number of its functions to officers of the Department of Customer Service.

In 1992, the Casino Control Act provided that there could only be in force at any time in New South Wales one casino licence to operate one casino. Following amendments in 2013, section 6 of the Act now provides there can be one casino licence to operate one casino and one restricted gaming licence to operate the Barangaroo restricted gaming facility. The Barangaroo restricted gaming facility is defined as a casino for the purposes of the Casino Control Act. It is described as a restricted gaming facility and its licence is described as a restricted gaming licence because of restrictions on gaming at the facility which are imposed by the Casino Control Act and by the terms of the licence.

The restrictions imposed by sections 22A and 22B of the Casino Control Act include that the installation or use of poker machines is not lawful in the facility unless expressly authorised by an Act of Parliament. There are minimum bet limits for games which are approved to be played at the facility, and only persons who are members or guests of the facility are authorised by the licence to participate in any gaming.

On 8 July 2014, the Authority granted the restricted gaming licence to the Licensee to operate the Barangaroo restricted gaming facility. The licence permits gaming to be conducted in the restricted gaming facility from 15 November 2019. The facility is currently under construction and is scheduled to commence operations in 2021. The licence, consistent with sections 22A and 22B of the Casino Control Act, also includes specific terms that gaming at the facility will not include the playing of poker machines and sets minimum bet limits. It also provides that the Licensee must ensure that the restricted gaming facility is only open to VIP members or their guests or guests of the Licensee. It requires the Licensee to have a VIP membership policy, a VIP guest policy and a membership review policy.

The terms of the licence also incorporate some specific operational matters. The licence provides that the total floor space occupied by table games within the facility must not be more than the lesser of 20,000 square metres and 20 per cent of the total gross floor area of the hotel resort building. Gaming in the restricted gaming facility

is permitted 24 hours a day, seven days a week, every day of the year. Smoking is permitted in the facility other than in restaurants, subject to commitments by the licensee in relation to air quality.

Also on 8 July 2014, a suite of agreements was signed. One of those agreements was the VIP gaming management agreement, the parties to which are the Authority and each of Crown Resorts, the Licensee, Crown Sydney property Proprietary Limited and Crown Sydney Holdings Proprietary Limited. I will refer to that as the VIP agreement.

COMMISSIONER: Thank you.

MR BELL: Another agreement signed on that date was the CPH Crown deed, parties to which are the Authority and Consolidated Press Holdings Limited.

Please call up on the screen document INQ.110.001.0003. This is a chart of the relevant section of the Crown Resorts group. Could you please zoom in on the bottom box. The Licensee, Crown Sydney Gaming Proprietary Limited, was registered in Victoria on 17 October 2013. According to records lodged with ASIC, as at the date of the Share Sale Agreement and currently, the directors of the Licensee are Mr Ken Barton, Ms Mary Manos and Mr John Alexander.

Could you please zoom in on the top box. Crown Resorts Limited, formerly known as Crown Limited, was registered in Victoria on 31 May 2007 for the purpose of acquiring shares in Publishing and Broadcasting Limited, which I will refer to as PBL. Crown Resorts participated in a demerger of PBL to separate the gaming and media aspects of the business. Following the demerger, Crown Resorts became the owner of all PBL's gaming assets, while PBL was renamed Consolidated Media Holdings Limited and retained the media assets. Crown Resorts is listed on the Australian Stock Exchange and currently owns and operates casinos in Australia in Melbourne and Perth.

According to records lodged with ASIC, as at the date of the Share Sale Agreement, Crown Resorts had 11 directors comprising its executive chairman, Mr John Alexander; the Honourable Helen Coonan; Mr Andrew Demetriou; Mr Geoffrey Dixon; Ms Jane Halton; Professor John Horvath; Mr Guy Jalland; Mr Michael Johnston; Ms Antonia Korsanos; Mr Harold Mitchell; Mr John Poynton. The 2019 annual report of Crown Resorts describes four of the directors as non-independent due to their connections with the Consolidated Press Holdings group. Those four directors are Mr Alexander, Mr Johnston, Mr Jalland and Mr Poynton.

Can you please call up on the screen document INQ.110.001.0006. This is a diagram identifying the parties to the Share Sale Agreement made on 30 May 2019 and varied on 28 August 2019. The seller, CPH Crown, is registered in Victoria. Records lodged with ASIC indicate that as at the date of the Share Sale Agreement, the sole director of CPH Crown was Mr Michael Johnston. Mr Johnston was also a director of Crown Resorts as at the date of the Share Sale Agreement. The buyer under the Share Sale Agreement is Melco Resorts. Melco Resorts is incorporated in the Cayman Islands and is listed on the NASDAQ. Although the company has had various changes of name over the years, I will continue to refer to it as Melco Resorts.

Please call up on the screen document INQ.110.001.0001. This is a chart of the CPH group as at 30 May 2019 prior to the transfer of shares under the Share Sale Agreement. The information in this chart has been prepared from publicly available information. Please zoom into the top box. The ultimate holding company of the seller, CPH Crown, is Consolidated Press International Holdings Limited incorporated in The Bahamas. It is a company associated with members of the Packer family.

Can you please call up on the screen document INQ.110.001.0005. This is a chart of relevant sections of the Melco group as at 30 May 2019, also prepared from publicly available information. Please zoom into the bottom half of the chart. As can be seen from the chart, approximately 55 per cent of the shares in Melco Resorts are owned by Melco Leisure and Entertainment Group Limited, incorporated in the British Virgin Islands. That company in turn is a wholly owned subsidiary of Melco International Development Limited. I will refer to that company as Melco International. Melco International is a listed company in Hong Kong.

As at the date of the Share Sale Agreement, Melco Resorts and its subsidiaries operated casinos in Macau and the Philippines. Since that date, on 24 June 2019, Melco International sold to Melco Resorts its 75 per cent interest in a joint venture holding company which holds, through a subsidiary, a gaming licence to develop and operate a casino in Cyprus. That casino will be known as the City of Dreams Mediterranean, with up to four satellite casino premises. Melco Resorts has stated its third-quarter results for 2019 that it is currently operating a temporary casino in Cyprus which will cease to operate on the opening of City of Dreams Mediterranean in 2021.

In Macau, gaming is administered through government-sanctioned concessions. In 2002, the Macau Government granted concessions to three concessionaires, each of which was permitted to grant one sub-concession. Only entities which have been granted a concession or sub-concession are permitted to own and operate casinos in Macau. The existing concessions and sub-concessions expire in 2022.

A subsidiary of Melco Resorts is one of the six entities which holds a concession or sub-concession to operate casinos in Macau. Melco Resorts operates the City of Dreams, Altira and Studio City casinos in Macau. Its business also includes the Mocha Clubs in Macau which comprise the largest non-casino-based operations of electronic gaming machines in Macau. In the Philippines, Melco Resorts operates the City of Dreams Manila casino.

Melco Resorts was incorporated in 2004 in accordance with a heads of agreement entered into between Melco International and PBL to establish a joint venture to pursue and develop gaming and other businesses in the Asia Pacific and greater China region. Melco Resorts was initially called Melco PBL Holdings Limited.

In March 2005, Melco International and PBL entered into the first of a number of shareholder agreements in relation to Melco Resorts. In accordance with that agreement, PBL and Melco International were each entitled to appoint the same number of directors to Melco Resorts. Mr Lawrence Ho was one of the four directors appointed by Melco International. Mr James Packer, Mr John Alexander

were two of the four directors appointed at that time by PBL. Mr Lawrence Ho and Mr James Packer were co-chairmen of Melco Resorts for 11 years, from March 2005 until December 2016. Mr John Alexander was a director of Melco Resorts for more than four years, from March 2005 until October 2009.

By April 2016, both Crown Resorts and Melco International, via various intermediary companies, each owned approximately 34.3 per cent of the shares in Melco Resorts. In the period between May 2016 and May 2017, Crown Resorts, through a series of transactions, divested itself of all of its shares in Melco Resorts. This meant that by 2017, Melco Resorts was a subsidiary of Melco International. Mr Lawrence Ho is currently the chairman and chief executive officer of Melco Resorts. He is also the chairman and chief executive officer of Melco International. Can you please zoom in on the top half of the chart. And could you scroll down a little bit, please. Thank you.

According to the 2019 interim report for Melco International, Mr Lawrence Ho has an interest in approximately 55.5 per cent of the issued shares in Melco International. Mr Ho's interest in Melco International was said to be derived through various interposed entities, including Great Respect Limited, Better Joy Overseas Ltd, Lasting Legend Ltd, Mighty Dragon Developments Limited, The LG3 Capital Trust, LH Family Investment Inc and Maple Peak Investments Inc.

The largest single shareholder in Melco International is Great Respect Limited, which holds approximately 20.37 per cent of the total issued shares. According to the 2019 interim report of Melco International, Mr Lawrence Ho has a beneficial interest in Great Respect's shares in Melco International as a result of him being one of the beneficiaries of a discretionary family trust which controls Great Respect Limited. The 2019 interim report states that the beneficiaries include Mr Lawrence Ho and his immediate family members. I will return to that chart a little later.

Please call up on the screen again document INQ.110.001.0006. We expect the evidence to establish that the circumstances which led to the signing of the Share Sale Agreement included some discussions between Mr Lawrence Ho on behalf of Melco Resorts and Mr James Packer on behalf of the CPH group. The negotiations which resulted in the agreement appear to have been led by Mr Evan Winkler on behalf of Melco Resorts and Mr Guy Jalland on behalf of the CPH group. Mr Winkler is a non-executive director of Melco Resorts and the president and managing director of Melco International. Mr Guy Jalland is described on the Crown Resorts website as the chief executive officer of Consolidated Press Holdings Pty Limited.

The Share Sale Agreement dated 30 May 2019 provided for CPH Crown to sell 19.9 per cent of the issued shares in Crown Resorts to Melco Resorts in two equal tranches for a total price of $1,759,550,000 Australian. Clause 4.1 provided that completion of the sale of the first tranche was to take place five business days after the date of the agreement, that is, by 6 June 2019. Clause 4.2 provided that completion of the sale of the second tranche was to take place on a date no later than 30 September 2019. The agreement permitted Melco Resorts to nominate a related body corporate as its nominee to purchase either tranche of shares.

The Share Sale Agreement did not contain any conditions precedent. It did not state that the transaction required approval from the Authority or from any other

government or statutory body. Because the acquisition was for just less than 20 per cent of the shares in Crown Resorts, the agreement did not make provision for approval to be sought from the Federal Treasurer. The Foreign Acquisitions and Takeovers Act 1975 provides that an acquisition by a foreign person of 20 per cent or more of the shares in an Australian entity is a notifiable action requiring notice to and approval by the Federal Treasurer before taking the action.

On June 6, 2019, completion of a sale of the first tranche of sale shares in Crown Resorts occurred. On that date, 67,675,000 shares in Crown Resorts were transferred to MCO KittyHawk Investments Limited, incorporated in the Cayman Islands as a nominee for Melco Resorts.

On 28 August 2019, after the public announcement of this and other inquiries, CPH Crown and Melco Resorts entered into a deed to amend the Share Sale Agreement. The effect of the variation deed was that completion of the sale of the second tranche of shares under the Share Sale Agreement is subject to two conditions.

The first condition is to the effect that there is no finding or recommendation by the Authority or by you, as Commissioner, which would or which could reasonably be expected to restrict completion of the sale of the second tranche of shares occurring and the Authority not otherwise objecting to completion. The second condition is to the effect that Melco Resorts receives written notice from each of the Authority, the Victorian Commission for Gambling and Liquor Regulation and the Western Australian Gaming and Wagering Commission that Melco Resorts is a suitable person to be associated with the management of a casino, each such notification either being unconditional or on conditions acceptable to Melco Resorts acting reasonably. The variation deed provides that either party can terminate the Share Sale Agreement at any time before completion of the sale of the second tranche of shares if either condition is not satisfied or waived by a sunset date. That sunset date is defined to mean either 31 May 2020 or otherwise 30 November 2020 if either party gives a notice in writing to the other party prior to 31 May 2020 electing to extend the sunset date. Thank you. I've finished dealing with that document.

COMMISSIONER: Thank you.

MR BELL: In addition to the Share Sale Agreement, subparagraphs (c), (d) and (e) of paragraph 6 of the Terms of Reference also refer to certain announcements made by Melco Resorts concerning its intentions in relation to Crown Resorts. Those sub-paragraphs are a reference to two documents. The first document was a press release issued by Melco Resorts on 30 May 2019. It is stated in that press release that while Melco Resorts was not of the view that the Share Sale Agreement required regulatory approval, Melco Resorts would promptly submit applications to the gaming regulatory authorities in each of Victoria, Western Australia and New South Wales and any other relevant jurisdictions, for Mr Lawrence Ho and selected Melco executives.

The press release stated that following approval from those authorities Melco Resorts intended to pursue representation on the board of Crown Resorts commensurate with its ownership position. Melco Resorts also stated that subject to obtaining requisite regulatory approvals, it welcomed the opportunity to increase its ownership in Crown Resorts. Mr Lawrence Ho was quoted as saying in the press release that he viewed

the purchase by Melco Resorts as a strategic stake in Crown Resorts. He also affirmed his belief that Crown Resorts and Melco Resorts, as he put it:

> *..shared a similar core DNA with respect to how we view our businesses.*

Mr Ho noted that he personally knew the management of Crown Resorts and looked forward to working with them to further enhance both Crown Resorts' performance and developments in Australia and the appeal of its property to international patrons.

The second document contemplated by the Terms of Reference is a letter written by the solicitors for Melco Resorts to the Authority dated 6 June 2019. A schedule to that letter gave notice that Melco Resorts intended to seek approval from the Authority for a number of its officers to become close associates of the Licensee so that Melco Resorts would have the flexibility to appoint those officers as directors of Crown Resorts and of the Licensee if required.

The identified officers were Mr Lawrence Ho, Mr Geoffrey Davis, Ms Stephanie Cheung, Ms Akiko Takahashi, Mr Evan Winkler and Mr Clarence Chung. The schedule to the letter also stated that Melco Resorts sought approval to become a close associate of the Licensee to allow it flexibility to increase its ownership in Crown Resorts over time. The letter contended that the acquisition by Melco Resorts of shares in Crown Resorts under the Share Sale Agreement had not made Melco Resorts or any other person a close associate of the Licensee. The Share Sale Agreement and the subsequent statements made by Melco Resorts, to which I have referred, are defined in the Terms of Reference as the Melco changes.

It is relevant to note that on 5 September 2019 after this Inquiry was announced the solicitors for Melco Resorts wrote to the solicitors for the Inquiry stating that they were instructed that Melco Resorts would now only seek to put forward Mr Geoffrey Davis and Mr Evan Winkler as proposed directors of Crown Resorts. It was stated that no application for approval as close associates would be made for the other individuals referred to in the letter of 6 June 2019 since no board representation was now sought for those officers.

Commissioner, Part A of the Terms of Reference requires that attention be given to whether any person has become a close associate of the Licensee as a result of the Melco changes.

The expression "close associate" is a defined term under the Casino Control Act and related legislation. In 1982, at a time when public and government scrutiny was increasing across Australia in relation to whether casinos should be permitted to exist and if so on what terms, the Honourable Xavier Connor AO QC wrote a prescient report to the Victorian Government with a proposed framework for casino regulation in Victoria. Mr Connor urged a thorough investigation of the associations of an applicant for a casino licence. He wrote that:

> *To facilitate a thorough investigation casino regulations must be designed to overcome the problem that in this day and age corporate structures can be very complex and can be used to conceal controlling interests in quite ingenious ways. If an applicant company is in a group of associated companies it is*

necessary to investigate them all in order to determine where the real control resides.

We submit that this comment is just as apt today, if not more so, as it was in 1982. Indeed, Mr Connor's recommendations formed the basis for the original Victorian casino legislation in 1991 which in turn was adopted almost verbatim by the New South Wales government in the Casino Control Act a year later. The link between Mr Connor's original concern to identify the repository of real control in regulating the conduct of casinos under a State-granted licence and the current regulatory regime under the Casino Control Act is clear. In construing the definition of "close associate" in New South Wales legislation we therefore submit that a wide beneficial interpretation accords with the objects of the casino Control Act.

That construction enables the Authority to take into account the broadest range of circumstances and influences as possible in order to be satisfied that a Licensee's operation of a casino and the influences which may be exerted by the Licensee's close associates does not pose an undue risk of harm to the public and that gaming takes place free from criminal influence or exploitation. Please call up on the screen document number INQ.110.001.0004.

COMMISSIONER: We have a little problem. Why don't you proceed, Mr Bell, and we'll call the document up as soon as it's available.

MR BELL: There are three alternative ways or tests by which a person can be a close associate of a casino licensee under the New South Wales legislation. The first is the relevant position test. A person is a close associate of a licensee if the person now holds or will in the future hold any relevant position in the casino business of a licensee. A relevant position is defined to mean the position of director, manager or secretary or any other position however designated if it is an executive position. To give an example of the operation of the relevant position test in the circumstances of the current licensee of the Barangaroo restricted gaming facility, a director of a licensee is a close associate of the Licensee because the director holds a relevant position.

COMMISSIONER: Yes.

MR BELL: Each current director of the Licensee has been approved by the Authority as a close associate of the Licensee. The second and third defined tests by which a person can be considered to be a close associate of a licensee are more complex. Each involves two separate steps. The second test requires as its first step that the person now holds or will in the future hold a relevant financial interest in the casino business of the Licensee. If an interest of that kind exists, the second test then requires as its second step that by virtue of the interest the person is able or will in the future be able, in the opinion of the Authority, to exercise a significant influence over or with respect to the management or operation of the Licensee's business.

In relation to the first step, the term "relevant financial interest" is defined in the Casino Control Act to mean either any share in the capital of the Licensee's business, any entitlement to receive any income derived from the Licensee's business or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or any

entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the Licensee's business is or is to be carried on.

COMMISSIONER: And they are alternatives?

MR BELL: Yes. The same definition of a relevant financial interest which appears in the Casino Control Act has for some time been used in various other legislative contexts in New South Wales. One of those other contexts was the former Liquor Act originally introduced in 1982. In 1996 the definition of "relevant financial interest" was first expanded in amendments to the former Liquor Act to include the alternative of an entitlement to receive any other financial benefit or financial advantage from carrying on the business. We submit that this part of the definition has wide operation. That is emphasised in the second reading speech of the responsible Minister in relation to the Liquor Act amendments.

The Minister indicated the amendments were designed to ensure that persons could not escape the scrutiny of regulators simply by structuring their affairs in a formal way to satisfy a technical legislative definition. The Liquor Act amendments to the relevant financial interest definition were later carried over into the former Casino, Liquor and Gaming Control Authority Act, now the Gaming and Liquor Administration Act in 2008.

The second step in considering whether a person is a close associate as a result of having a relevant financial interest is whether, in the opinion of the Authority, the person having an identified relevant financial interest is or will be able to exercise a significant influence over or with respect to the management or operation of the business of the Licensee. The term "significant influence" is not separately defined.

Commissioner, one aspect of this second step is that you are requested to inquire into and report to the Authority on the identity of any person who has or will become a close associate of the Licensee, notwithstanding that one of the tests of that association depends on an opinion of the Authority which has not yet been formed. We submit that a sensible way of dealing with this is for the question for this Inquiry to be interpreted to be whether the Authority could reasonably form the required opinion as to the existence of any significant influence.

To give an example of the operation of the relevant financial interest test, Crown Resorts, the ultimate holding company of the Licensee has a relevant financial interest in the business of the Licensee. That is either because it is entitled to receive income derived from the business of the Licensee in the form of dividends or otherwise because it is entitled to receive a financial benefit or financial advantage from the carrying on of the business derived from the augmentation of the value of its assets, including the capital value of its shares in the Licensee, as a result of the Licensee holding a casino licence and carrying on a casino business. Furthermore, because Crown Resorts is the ultimate holding company of the Licensee, the Authority could reasonably form the opinion that Crown Resorts by virtue of its interest is able to exercise a significant influence over or with respect to the management or operation of the Licensee. It follows that Crown Resorts is a close associate of the Licensee by virtue of the relevant financial interest test. The Authority has approved Crown Resorts as a close associate of the Licensee.

The third test by which a person can be a close associate of a casino licensee, requires as its first step that the person is or will in the future be entitled to exercise any relevant power in the business of the Licensee. If a power of that kind exists, the third test then requires as its second step that by virtue of that power the person is or will be able, in the opinion of the Authority, to exercise a significant influence over or with respect to the management or operation of the casino licensee's business.

In terms of the first step, "relevant power" is defined to mean any power whether it is exercised by voting or otherwise, or whether exercised alone or in association with others, to either participate in any directorial, managerial or executive decision or elect or appoint any person to any relevant position. Again, that term is separately defined to mean the position of director, manager or secretary or any other position however designated if it is an executive position. The second step in the relevant power test is the same as the second step in the relevant financial interest test. As noted, we submit that this requires an assessment of whether the Authority could reasonably form the opinion that any relevant power which exists gives rise to a significant influence concerning the management or operation of the Licensee's casino business.

To give an example of the operation of the relevant power test, each director of Crown Resorts is entitled to exercise a relevant power in the business of the Licensee. That is because as a director of the Licensee's ultimate holding company each director has a power exercisable in association with each other director on behalf of Crown Resorts as the 100 per cent shareholder, to appoint the directors of each intermediate subsidiary and ultimately the directors of the Licensee. Furthermore, as Crown Resorts is the ultimate holding company of the Licensee, the Authority could reasonably form the opinion that each director of Crown Resorts is able to exercise a significant influence over or with respect to the management or operation of the business of the Licensee.

It follows that each director of Crown Resorts is a close associate of the Licensee by virtue of the relevant power test and the Authority has approved each current director of Crown Resorts as a close associate.

One issue for consideration in relation to Part C of the Terms of Reference is whether the current complex legislative framework to identify close associates of a casino licensee for the purpose of conducting a suitability review is the most optimal for the Authority to be able to determine, to use Xavier Connor's words, "where real control resides" in the operation of a casino.

In addition to the persons and entities I have mentioned, other close associates of a Licensee have been approved by the Authority. Some of them are referred to in the VIP agreement and in the CPH Group deed. They include a number of companies in the Crown Resorts Group, a number of companies in the CPH Group and James and Gretel Packer. Thank you, I have finished dealing with that document. I turn now to deal with the potential new close associates of the Licensee as a result of the Melco changes. Because at least in relation to the second and third tests for identifying close associates of a licensee, there is a judgment to be made about the extent of a person's influence over or with respect to the management or operation of a casino, it is not possible, accordingly, at this stage to unequivocally identify the

persons who have or will become close associates of the Licensee as a result of the Melco changes.

What is possible at this stage however is to identify some potential close associates of the Licensee as a result of those changes. It is of some significance, we submit, that under the legislation a person may presently be a close associate of a casino Licensee even if that person will only in the future hold a relevant position, hold a relevant financial interest or become entitled to exercise a relevant power in the business of the Licensee.

We submit that the potential new close associates of the Licensee as a result of the Melco changes would include, though not necessarily be limited to, the following persons and entities. First, in light of the letters from the solicitors for Melco Resorts dated 6 June and 5 September 2019 Mr Evan Winkler and Mr Geoffrey Davis. I have already referred to Mr Winkler. Mr Davis is executive vice-president and chief financial officer for Melco Resorts, and also chief financial officer of Melco International. Mr Winkler and Mr Davis are now the only two persons still being put forward by Melco Resorts as proposed directors of Melco Resorts if the Share Sale Agreement as varied proceeds to completion.

COMMISSIONER: The Crown – proposed directors of Crown?

MR BELL: Of Crown Resorts.

COMMISSIONER: Yes.

MR BELL: So at least if the nomination is or has been accepted by the Crown Resorts board, Mr Winkler and Mr Davis will be close associates of the Licensee under the relevant power test.

Secondly, Melco Resorts itself is a potential close associate of the Licensee via at least the relevant financial interest test and possibly also the relevant power test as a result of potential participation in directorial, managerial or executive decisions of the Licensee in association with the directors of Crown Resorts. We submit that in the same way that Crown Resorts as a corporate entity obtains a financial benefit or financial advantage in the carrying on of the casino business of the Licensee via dividend payments or at least via an increase in the capital value of its shares, so too do the shareholders of Crown Resorts, again when dividends are passed onto those shareholders by Crown Resorts or at least via an increase in the capital value of their shares in Crown Resorts.

However, that only addresses the first step of the relevant financial interest test. In relation to the second step of that test, the question of fact which we submit needs to be investigated by this Inquiry, is whether the size of the shareholding in Crown Resorts to be held by Melco Resorts, when the Share Sale Agreement is completed, or potentially even already following the transfer of the first tranche of shares on 6 June 2019, will give it the ability to exercise a significant influence over or with respect to the management or operation of the casino business of the Licensee. One aspect of Melco Resorts' influence over the Licensee's casino business arising from its interest or power will include any relationships between persons connected with

Crown Resorts and persons connected with Melco Resorts that developed during the 13-year joint venture between Crown Resorts and Melco International.

Thirdly, Melco International is a potential new close associate of the Licensee also under the relevant financial interest test and possibly also the relevant power test. Given its role as the holding company of Melco Resorts and the personal connections between its officers and the current directors of Crown Resorts and the Licensee, all of the considerations which make Melco Resorts a potential new close associate of the Licensee from the Melco changes, we submit apply equally to Melco International. Fourthly, Mr Lawrence Ho is a potential new close associate of the Licensee under the relevant financial interest test and/or the relevant power test having regard to his interest in 55 per cent of the issued shares of Melco International and his roles as chairman and chief executive officer of both Melco Resorts and Melco International.

The extent to which these entities and persons have the ability to exercise a significant influence over or with respect to the management or operation of the Licensee's casino business is an issue to be investigated by this Inquiry. In assessing the suitability of potential new close associates of the Licensee as a result of the Melco changes, the Terms of Reference reflect the requirements of section 13A of the Casino Control Act. That section requires consideration of whether a close associate is of good repute, having regard to character, honesty and integrity. It requires consideration of whether a close associate is of sound and stable financial background.

It requires consideration of whether a close associate has any business association with any person, body or association who is not of good repute, having regard to character, honesty and integrity or who has undesirable or unsatisfactory financial sources.

A number of matters arise in assessing the suitability of the potential new close associates of the Licensee as a result of the Melco changes. Without intending to be exhaustive, one of those matters is the extent to which Mr Stanley Ho, Mr Lawrence Ho's father, or persons or entities associated with him have corporate or business connections with the Melco entities, by which I mean Melco Resorts, Melco International and Mr Lawrence Ho.

From 1962 until 2001 the company known as STDM was the only entity permitted to operate casinos in Macau. It is a company associated with Mr Stanley Ho. According to publicly available records, Mr Stanley Ho remains a director of STDM despite now being 98 years old. STDM own 54.1 per cent of the shares in SJM Holdings Limited, a listed company in Hong Kong. Its wholly owned subsidiary, known as SJM, is one of the six entities which have been permitted since 2002 to operate casinos in Macau. According to publicly available records, Mr Stanley Ho is also still a director of SJM.

Another one of the six concessionaires in Macau is MGM Grand Paradise SA which was originally formed as a joint venture between MGM Mirage and Ms Pansy Ho, Mr Stanley Ho's daughter and Mr Lawrence Ho's sister.

In 1987 the New South Wales Government eliminated a tender by a consortium associated with Mr Stanley Ho known as the HKMS Consortium from consideration to operate a casino at Darling Harbour. This was on bases which included that the New South Wales Police Board had determined that the HKMS Consortium had associations with Chinese organised crime enterprises known as triads, and because it was involved in what was described at the time as unsavoury practices in Macau. The New South Wales Police Board considered that the HKMS Consortium was dangerous.

In May 2009 the Division of Gaming Enforcement of the Casino Control Commission of New Jersey published a report on its investigation of a joint venture between MGM Mirage and Ms Pansy Ho in Macau. MGM Mirage was subject to the jurisdiction of the New Jersey Casino Control Commission because of its interest in a casino operated in Atlantic City. The purpose of the Casino Control Commission's Inquiry was to determine whether MGMs association with Ms Pansy Ho and her associates negatively affected MGM's good character, honesty and integrity.

According to the final report of the New Jersey inquiry, beginning in the early 1990s and continuing until the transfer of sovereignty to China in 1999, Macau experienced a wave of violence as triads struggled for control of private high stakes VIP rooms in casinos operated by STDM. The inquiry found that the VIP room structure introduced in 1986 facilitated the involvement of organised crime in STDM casinos. Specifically, on receipt of an upfront fee for the right to operate in one of the gaming rooms STDM relinquished control of the VIP rooms to third party operators associated with triads. The third party operators then entered into business arrangements with junket operators and marketed and promoted the VIP rooms to attract customers. The New Jersey inquiry referred to an academic commentator who stated that:

> *With the establishment of the VIP rooms STDM created a lawless space that allowed organised crime to gain a foothold in the Macau gaming industry.*

The New Jersey inquiry stated that the character and reputation of Stanley Ho precluded any finding other than that he was unsuitable under that state's casino legislation, due to his continued business ties to persons associated with organised crime. Mr Stanley Ho has consistently denied the allegations that he is connected with organised crime or triads and he has never been convicted of a criminal offence.

Mr Lawrence Ho has always stressed the independence of Melco Resorts from Mr Stanley Ho. He has also pointed out that Melco Resorts operates casinos in Macau in competition with casinos associated with Mr Stanley Ho. Furthermore, we expect the evidence to establish that previous suitability investigations by the Authority in relation to Crown Resorts in 2013 and 2014 considered the suitability of Melco Resorts and Mr Lawrence Ho as business associates of Crown Resorts. We expect the evidence to establish that those previous investigations found no evidence that either Melco Resorts or Mr Lawrence Ho was not of good repute, having regard to character, honesty and integrity, or that either of them had any undesirable or unsatisfactory financial sources. Ms Sharp SC will say more about those suitability investigations.

COMMISSIONER: Thank you.

MR BELL: Please call up on the screen again document number INQ.110.001.0005. Can you please zoom in on the top half of the document. One of the connections between Stanley Ho entities and Melco entities to be investigated by this Inquiry is via Great Respect Limited, the largest shareholder in Melco International. The 2018 annual report of SJM Holdings Limited states that one of the beneficiaries of the trust which controls Great Respect Limited is Mr Stanley Ho.

Another connection between Stanley Ho entities and Melco entities which will be investigated is via Lanceford Company Limited. Please call up on the screen document number INQ.110.001.0002. This is a diagram showing the corporate structure of certain entities associated with Mr Stanley Ho as at 30 May 2019. The diagram sets out our understanding based solely on publicly available information being annual reports of listed entities and company searches of unlisted entities. Can you please zoom in on the bottom four boxes in the diagram. According to publicly available information, as at 30 May 2019 Lanceford Company Limited owned 31.66 per cent of the shares in STDM. As I have mentioned, STDM via SJM Holdings is the holding company of SJM, one of the six gaming concessionaires in Macau. STDM and SJM are associated with Mr Stanley Ho and he remains a director of each entity according to the most recent annual reports. Can you now please zoom into the top half of the diagram. As at 30 May 2019 Ranillo Investments Limited, incorporated in the British Virgin Islands, owned 49.5 per cent of the shares in Lanceford. As at that date Mr Lawrence Ho and four of his sisters, including Ms Pansy Ho, each owned directly or indirectly a portion of the shares in Ranillo Investments. According to a document lodged by Lanceford Company Limited with the regulator in Hong Kong, Mr Lawrence Ho resigned as a director of Lanceford on 28 June 2019. We anticipate that Mr Lawrence Ho will give evidence to this Inquiry that in June 2019 he also sold his shares in Ranillo Investments to his sisters. Thank you. I've finished with that document.

The second issue in assessing the suitability of the potential new close associates by reason of the Melco changes is the associations between Melco entities and junket operators. Ms Sharp SC will have more to say about junkets but a junket is defined in section 76 of the Casino Control Act to mean:

> *...either an arrangement involving a person or group of people who is introduced to a casino operator by a promotor who receives a commission based on the turnover of play in the casino attributable to the person or persons introduced by the promotor or otherwise calculated by reference to such play, or an arrangement for the promotion of gaming in a casino by groups of people usually involving arrangements for the provision of transportation, accommodation, food, drink and entertainment for the participants in the arrangements, some or all of which are paid for by the casino operator or are otherwise provided on a complimentary basis.*

A third issue in assessing the suitability of the potential new close associates will be an investigation of the associations between Melco entities and their business partners in casino operations in the Philippines and now in Cyprus. A fourth issue will be a consideration of the financial soundness and stability of any in potential new close associates.

The other aspect of the Share Sale Agreement which is relevant for this Inquiry is whether the Share Sale Agreement and the transfers of shares contemplated by it give rise to a breach of the restricted gaming licence or any other regulatory agreement. Regulatory agreements include the suite of agreements signed on 8 July 2014 such as the VIP agreement. The VIP agreement is at least one of the relevant regulatory agreements which requires consideration by the Inquiry in this aspect of its work.

A potential breach of the restricted gaming licence arising from the Share Sale Agreement which needs to be considered by the Inquiry, arises from section 35 of the Casino Control Act. Subsection 35(1) provides that:

> *A major change in the state of affairs in relation to a casino operator includes any change which results in a person becoming a close associate of the casino operator.*

I have already identified some potential new close associates of the Licensee as a result of the Melco changes. Subsection 35(2) provides that it is a condition of a casino licence that the casino operator must ensure that a major change in the state of affairs existing in relation to the operator which is within the operator's power to prevent does not occur except with the prior approval in writing of the Authority. Subsection 35(2) also provides that it is:

> *...a condition of a casino licence that the casino operator must notify the Authority in writing of the likelihood of any major change in the state of affairs existing in relation to the operator which is not within its power to prevent as soon as practicable after the operator becomes aware of the likelihood of a change.*

These statutory conditions are therefore automatically incorporated as conditions of the restricted gaming licence. One matter relevant to these licence conditions in relation to the Share Sale Agreement is when the Licensee first became aware of the likelihood of the Share Sale Agreement. The second matter relevant to these licence conditions is if the licensee first became aware of the likelihood of the Share Sale Agreement before it was signed, whether it was within the Licensee's power to prevent the agreement being signed. The position of Crown Resorts in relation to these matters as communicated to us is that the directors of the Licensee were not informed of the Share Sale Agreement until after it had been executed and that in any event it was not within the Licensee's power to prevent the execution of the agreement.

Another potential issue in relation to the restricted gaming licence arising from the Share Sale Agreement flows from terms of the VIP agreement. In clause 14(a) of the VIP agreement, the Licensee agrees to ensure that at all times during the term of the licence it remains a suitable person to give effect to the restricted gaming licence and the casino controller. Clause 16 of the VIP agreement provides that the Licensee's obligations under clause 14A are obligation licence conditions and that if a breach is not remedied as provided by that clause, the breach will be deemed to be a contravention of the restricted gaming licence.

The term "suitable person" as used in clause 14(a) is not defined in the VIP agreement. We submit that when read with the Casino Control Act the expression "suitability" in that clause is a matter to be assessed with reference to the considerations in section 13A of the Casino Control Act. It therefore includes consideration of whether the Licensee has any business association with any person, body or association who is not of good repute having regard to character, honesty, and integrity or has undesirable or unsatisfactory financial sources. We submit, therefore, that a matter for consideration is whether the Licensee now has or will have business associations with any of the Melco entities which make it no longer a suitable person to give effect to the licence or the Casino Control Act. This arises for consideration, irrespective of whether any of the Melco entities is now a close associate of the Licensee.

There is a further question of a potential breach by Crown Resorts of the VIP agreement itself as a result of the Share Sale Agreement and the transfers of shares pursuant to it. By clause 5.3 of and schedule 1 to the VIP agreement, Crown Resorts provided a number of undertakings to the Authority. Among other things, by clause 2.4 of schedule 1 Crown Resorts undertook, to the extent to which it was within its power to do so, to ensure that it prevented Mr Stanley Ho or any entity or individual appearing on a defined list of associates of Mr Stanley Ho from acquiring any direct, indirect or beneficial interest in Crown Resorts or a subsidiary. It is worth emphasis that this obligation under the VIP agreement is on Crown Resorts itself, rather than the Licensee.

The list of 59 entities and individuals deemed to be associates of Mr Stanley Ho for the purposes of the VIP agreement is set out in schedule 2 to the agreement. One of those entities is Great Respect Limited. A question of construction arises as to whether Great Respect Limited acquired an indirect interest in Crown Resorts or the Licensee as a result of the Share Sale Agreement. The expression "indirect interest" is not defined in the VIP agreement. In construing that expression, it is relevant that the VIP agreement is made pursuant to section 142 of the Casino Control Act and is part of the collective broader framework of the Act and the casino regulatory regime intended to be carried into effect by the Act. Section 142 provides that:

> *Regulatory agreements entered into under that section may only contain terms that are not inconsistent with the Act.*

We submit that a wide reading of the expression "indirect interest", as used in schedule 1 of the VIP agreement, would be consistent with the clear objects of the Casino Control Act to ensure that casinos are conducted honestly and remain free from criminal influence and exploitation, and to provide for a thorough investigatory and suitability review process to facilitate those aims. Such a reading would include an interest held by a chain of intermediary shareholders.

As a result of the execution of the Share Sale Agreement, Melco Resorts acquired a direct interest in 19.9 per cent of the shares in Crown Resorts and an indirect interest in shares of the Licensee. We submit that Great Respect Limited at that time also acquired an indirect interest in shares in Crown Resorts and the licensee because it has a direct interest, a little over 20 per cent of the shares in Melco International, which is the holding company of Melco Resorts. That approach to the construction

for the expression "indirect interest" is not accepted, as we understand it, by Melco Resorts, Crown Resorts or CPH Crown.

Crown Resorts did not take any steps to prevent the execution of the Share Sale Agreement in the manner in which it occurred. If Great Respect Limited did obtain an indirect interest in Crown Resorts or the Licensee as a result of the Share Sale Agreement, a matter for this Inquiry to consider is whether it was within the power of Crown Resorts to prevent the execution of the Share Sale Agreement.

Crown Resorts' position on that issue is that Crown Resorts was not informed of the Share Sale Agreement until after it had been executed and that, in any event, it was not within the power of Crown Resorts to prevent the execution of that agreement.

A further question in relation to any breach of the relevant provisions of the VIP agreement is that Crown Resorts has stated in correspondence that following its divestment of its ownership in Melco Resorts it reached an in-principle agreement with officers working with the government department then responsible for the administrative division known as Liquor and Gaming New South Wales, that certain aspects of schedule 1 to the VIP agreement would be deleted, including clause 2.4.

Crown Resorts says that on the basis of that in-principle agreement, Crown Resorts and officers of Liquor and Gaming New South Wales agreed to suspend reporting obligations in clauses 2.5 and 2.6 of schedule 1 of the VIP agreement. Those arrangements with government officials and their impact, if any, on the obligations of Crown Resorts under clause 2.4 of schedule 1 of the VIP agreement will need to be considered by this Inquiry.

In summary, the three broad areas of investigation of this Inquiry arising out of the Share Sale Agreement are, first, identification of any new close associates of the Licensee as a result of the Melco changes; secondly, assessing the suitability of those new close associates, and; thirdly, determining whether the Share Sale Agreement or the transfers of shares pursuant to it gave rise to a breach of the restricted gaming licence or any other regulatory agreements. I will say something later about the hearing schedule, witnesses and public submissions.

COMMISSIONER: Thank you, Mr Bell. Ms Sharp.

MS SHARP: Commissioner. Commissioner, Parts B and C of the Terms of Reference have been referred to by Mr Bell. Part B involves consideration of the suitability of the holder of the restricted gaming licence and its close associates in light of the allegations made in the media to which I will refer in more detail later. Part C involves inquiry into and assessment of the regulatory settings to best enable the Authority to perform its functions in light of modern casino operations.

I will discuss these issues in more detail now, turning firstly to address you on issues of suitability. In New South Wales, there have been two previous assessments of the suitability of Crown Resorts and its close associates as well as its business associates, the first of which was conducted during 2012 to 2013, and the second of which was conducted in 2014. I will now describe each of them briefly.

The first of these assessments arose from an ASX announcement by Crown Resorts, which was then known as Crown Limited, on 24 February 2012 that it held a 10 per cent interest in Echo Entertainment Group. Echo Entertainment Group was and remains the operator of The Star casino in Sydney, as well as other casinos in Queensland. The same day as the announcement, Crown Limited lodged an application with both the Authority and the Queensland Government seeking consent to increase its shareholding in Echo Entertainment Group beyond 10 per cent. Crown Limited's application on behalf of itself and its two wholly owned subsidiaries, which I will refer to jointly as the Crown Limited Applicants, sought three things. First, written approval that the Crown Limited Applicants were suitable persons to be concerned in or associates in the operation of The Star; secondly, written consent to acquire voting power in excess of 10 per cent in Echo Entertainment Group and which, due to subsequent amendment to the application, was set at a 23 per cent cap, and; thirdly, written consent to be entitled to hold a deemed relevant interest in more than four per cent of the shares of Star City Holdings Limited, a wholly owned subsidiary of Echo Entertainment Group and the immediate holding company of The Star.

On 21 March 2012, the Authority determined that it would consider Crown Limited's application on the basis that it had received an application for approval of a proposed major change under section 53 of the Casino Control Act. Given the significance of this arrangement to the future management and control of The Star casino, the Authority had to be satisfied that Crown Limited, as it then was, and its associated companies and relevant office holders were suitable to become involved in the management and operation of The Star. This included CPH and its associated companies which, at that time, held a 48 per cent interest in Crown Limited and which I will refer to as the "CPH Close Associates".

The Authority's investigations extended beyond Crown Limited and the CPH Close Associates to relevant entities and individuals considered by the Authority to be business associates of Crown Limited and the CPH Close Associates. Commissioner, it is expected that the evidence will show that this included Mr Lawrence Ho as well as Melco Crown Entertainment Limited, as it was then called. At that time, Crown Limited held a 33.6 per cent interest in Melco Crown and Melco Crown operated the integrated casino resorts in Macau, which my learned friend Mr Bell has already referred to.

The Authority undertook its investigation in liaison with officers from the Queensland Office of Liquor and Gaming Regulation, which had received a similar application from Crown Limited.

COMMISSIONER: That's because The Star operates in Queensland?

MS SHARP: That is so, Commissioner. It is anticipated that the evidence will establish that as part of the Authority's suitability assessment, the Authority received reports from a probity investigation team, a suitability analysis prepared by external legal advisers, financial due diligence conducted by PricewaterhouseCoopers, and also engaged IAB Services to conduct an independent process audit.

It is further anticipated that the evidence will show that the investigations conducted to assist the Authority included interviews with a number of individuals, including

Mr James Packer and Mr Lawrence Ho, as well as senior officers of Crown Limited, CPH and Melco Crown Entertainment Limited, as it was then known. Subsequently, on 10 May 2013, the Authority approved the Crown Limited Applicants as suitable persons to be concerned or associated with the operation or management of The Star in Sydney. In its decision, the Authority stated that it had considered that its approval would result in the relevant individuals and entities connected to or associated with the Crown Limited Applicants becoming close associates of The Star, including Mr James Packer and CPH.

In the public notification of the Authority's reasons for decision dated 10 May 2013, no specific reference or comment was made regarding Mr Lawrence Ho or Melco Crown Entertainment Limited. However, it is expected that the evidence will establish that their positions were considered in the underlying confidential probity investigation. Commissioner, shortly after the Authority made its 10 May 2013 approval decision, Crown Limited divested itself of its entire shareholding in Echo Entertainment Group. However, the probity investigation report and the Authority's decision had a continuing relevance as they fed into a second suitability assessment which I will now discuss in more detail.

COMMISSIONER: So they were looking into Mr Ho and Melco by reason of the fact that they were business associates of a close associate?

MS SHARP: Yes, that's correct, Commissioner.

COMMISSIONER: I see. Yes.

MS SHARP: Commissioner, the Authority's second suitability assessment which took place in 2014 arose as a result of the application for approval to uphold the restricted gaming licence pursuant to section 13A of the Casino Control Act. Notably, subsection (3) of section 13A of that Act stipulated that the Authority was required to take into account any information relevant to the application that was provided to or received by the Authority in the course of any investigation or inquiry in relation to the suitability of the approved applicant or close associate of the approved applicant and any findings made in relation to any such investigation or inquiry.

The Authority took that to mean, for the purposes of the 2014 assessment, that it could take into account the results of its first suitability assessment conducted during 2012 and 2013. It is expected that the evidence will show that for the purposes of the 2014 assessment, the Authority appointed investigators to conduct a probity investigation into the proposed licensee, being Crown Sydney Gaming Proprietary Limited, as well as Crown Resorts and the two intervening holding companies, being Crown Entertainment Group Holdings and Crown Sydney Holdings Proprietary Limited. These four entities were treated as the four applicant entities.

Additionally investigated were identified close associates of those applicants, other approved persons and a number of identified business associates of either those four applicants or the close associates of those four applicants. The evidence is expected to show that the close business associates included Mr Lawrence Ho, Melco Crown Entertainment Limited and its subsidiaries. Mr Micheil Brodie, the then chief executive officer of the Authority, stated in the Authority's 2014/15 Annual Report:

Because we had our significant prior probity investigation of Crown to rely on, the conduct of the investigations was completed in short time frames without compromising the quality of the advice given to the Authority.

Commissioner, the reference to the "significant prior probity investigation" was, of course, a reference to the 2012/2013 investigation. On 8 July 2014, the Authority published its decision to grant approval to the Licensee to operate the proposed restricted gaming facility at Barangaroo from 15 November 2019. The Authority was satisfied that the four applicants, their associated companies and relevant office holders met the probity and suitability criteria as stipulated in section 13A(2) of the Casino Control Act.

Commissioner, it is also relevant to note that subsidiaries of Crown Resorts have been granted licences to operate casinos in Melbourne and Perth respectively and have been subjected to periodic probity reviews in those jurisdictions. In Victoria, a casino licence was conditionally approved by the Victorian Commission for Gambling and Liquor Regulation, which I will call the Victorian Regulator, on 21 September 1993 by way of a consolidated casino agreement entered into under section 142 of the Victorian Casino Control Act of 1991.

The licence was granted on 19 November 1993 to Crown Melbourne Limited. A temporary casino opened in 1994, followed by a permanent casino from 1997. The Crown casino bid had been sponsored by a consortium which included CPH. In June 1999, Crown Melbourne was taken over by PBL and was recapitalised. In 2007, Crown Resorts, which at that time was named Crown Limited, acquired PBL's interest in Crown Melbourne. The casino licence granted in Melbourne was for a term of 40 years, the first 12 of which were exclusive. However, by agreement in October 2014, the term was extended by 17 years to the present 2050 expiry date.

The Victorian Casino Control Act provides for the periodic review of the suitability of the casino operator to continue holding the casino licence. The relevant criteria are very similar to those in New South Wales. There have been six reviews to date conducted in 1997, 2000, 2003, 2008, 2013 and 2018 respectively, as well as a social and economic impact report in October 2009. On each occasion, the Victorian Regulator has affirmed Crown Resorts' suitability to continue to hold a casino licence.

During the fourth review in 2008, PBL embarked upon a joint venture with Melco International Development Limited to form what was then called Melco PBL Entertainment (Macau) Limited and which, as you know, Commissioner, is now known as Melco Resorts. As such, during the fourth review, a suitability assessment was conducted by the Victorian Regulator on each of the relevant entities and involved individuals with a particular focus on the position of Mr Stanley Ho. The Victorian Regulator found, and I quote, that:

Rigorous investigation satisfactorily determined that Mr Ho does not have any ongoing influence on Melco or the new chair of Melco Lawrence Ho.

On 29 August 2008, the Victorian Regulator determined that at that time there was no reason to object to the joint venture. Commissioner, the most recent review of the

Victorian Regulator was the Sixth Review, which was conducted or completed in June of 2018. In that review, the Victorian Regulator described Crown Melbourne and its parent company, Crown Resorts, as financially sound and its operations as "robust". The Victorian Regulator affirmed that the casino operator was suitable to continue to hold the casino licence.

It should be noted that prior to the completion of the Sixth Review, Crown Resorts sold its interest in Melco Crown, as Mr Bell has outlined, and, therefore, at the time that the Sixth Review was finalised, there was no business association between either Crown Melbourne or Crown Resorts and Melco International or its chair, Mr Lawrence Ho. As such, they were not subjected to any sort of suitability assessment by the Victorian Regulator.

COMMISSIONER: Thank you.

MS SHARP: While the bulk of the recommendations in the Sixth Review were directed to responsible gambling practices, some recommendations were directed to corporate governance and the enhancement of internal controls relating to the prevention of money laundering. Certain noncompliances with junket internal controls were also noted, and it was recommended that Crown Resorts and Crown Melbourne undertake a "robust review" of its internal control statements to ensure anti-money laundering risks were addressed, with appropriate input from external sources, including AUSTRAC. I will have more to say about money laundering and junkets a little later in this opening.

It should also be noted at this point that the arrest of the 19 Crown personnel in mainland China in October 2016 was a matter that was expressly excluded from the purview of the Victorian Regulator's Sixth Review. That is because a separate investigation of that matter by the Victorian Regulator was commenced. It remains ongoing as at this moment, Commissioner.

COMMISSIONER: I see.

MS SHARP: Crown Resorts also operates a casino in Perth through a subsidiary. The casino, located on Burswood Island, has operated since 1985. By way of background, in September 2004, PBL acquired the Burswood Entertainment Complex which included the casino. In December 2007, Crown Resorts acquired the gaming assets of PBL and the casino was renamed Crown Perth in 2011.

The terms of the Perth casino licence are contained in the Casino (Burswood Island) Agreement Act 1985 in Western Australia. The licence is held by the Crown Resorts subsidiary, Burswood Nominees Limited which trades as Crown Perth. The Crown Perth casino presently has approval to operate 2500 gaming machines and 350 gaming tables. In contrast to the New South Wales and the Victorian legislation, the Casino Control Act 1984 in Western Australia does not contain a requirement to conduct periodic suitability reviews of the casino licence or its operator. Rather, the Gaming and Wagering Commission of Western Australia, which I will call the Western Australian regulator, conducts an annual compliance program to check legislative compliance and ensure that adequate controls are in place to maintain compliance with legislative requirements and to monitor the ongoing effectiveness of these controls.

Commissioner, I turn now to 2019 media allegations about Crown Resorts. Part B of the Terms of Reference requires consideration of certain allegations made in the media on and from 27 July 2019 and, in that context, to inquire into and report upon whether the Licensee is a suitable person to continue to give effect to the restricted gaming licence and whether Crown Resorts is a suitable person to be a close associate of the Licensee. Commissioner, it will be necessary in this Inquiry to test the veracity of the media allegations. The relevant media reports began on 27 July 2019, when The Sydney Morning Herald and The Age published a series of articles. The allegations were expanded upon on 28 July 2019, when the television news program 60 Minutes aired a one-hour program entitled "Crown Unmasked". The program claimed to have received "tens of thousands of documents" from inside Crown's corporate headquarters, which it claimed was "one of the largest corporate leaks ever".

It was explained that The Age, the Sydney Morning Herald and 60 Minutes had conducted a year-long investigation spanning Australia, Hong Kong, mainland China and Macau, and had drawn on dozens of sources including Crown insiders, government officials and court and business records. Further allegations were published in the media in the coming days. Can I please call up a document number INQ.110.001.0012. Commissioner, the key media allegations can be summarised as follows.

Firstly, and as you will see on the screen, the allegation is that Crown Resorts knowingly broke the law in China by requiring and incentivising its staff to operate in mainland China to lure Chinese high rollers to gamble at Crown Australia's casinos and by requiring its staff to disguise and conceal their activities. It was alleged that this conduct resulted in the arrests of 19 Crown employees, many of whom later served terms of imprisonment in China.

If I can move to the second page of the document, the second media allegation is that Crown Resorts partnered with tour operators, sometimes called junkets, that were backed by organised crime syndicates, including an allegedly triad-controlled drug trafficking and money laundering group known as The Company.

Could I call that document back up to the screen and to the third page. The document ID is INQ.110.001.0012. And if we can turn to the third page of that document, the third media allegation is that Crown Resorts helped bring criminals through Australia's borders in ways that raised serious national security concerns.

If I can turn to the fourth page of that document, the fourth allegation is that money was laundered in Crown Resorts' Australian casinos, including by The Company, and that Crown Resorts failed to rigorously enforce anti-money laundering controls.

If I can turn to page 5, the fifth allegation to be drawn from the media was that two private companies set up by Crown Resorts, being Southbank Investments Proprietary Limited and Riverbank Investments Proprietary Limited had been used to launder the proceeds of crime.

And if I can turn to the sixth page of that document, the sixth allegation is that Crown staff lobbied Federal Government officials, including Australian consulate

officials in China, to expedite visas for members of junkets and shopped around for the consulate officials perceived to have the most ineffective vetting processes for visa applicants.

Could you please close that document. The concept of "junkets" will be explained by me in more detail later in this opening. For now, Commissioner, it suffices to note that junkets are a well-recognised part of the landscape in casinos, both here and abroad. Junkets are entities that work to identify high-roller gamblers, often known as "VIPs", that is, very important persons; or "VVIPs", that is, very, very important persons; or, as they are known in the United States, as rolling chip players. Junkets make arrangements for such people to travel to gamble in particular casinos, often by offering entitlements such as free travel and free accommodation.

VIPs are gambling patrons who place very large bets at casinos, sometimes into the millions of dollar per bet. As will be seen, in Australia and in some overseas jurisdictions, junkets also play an important role in providing credit to such patrons and in enforcing gambling debts. Can I call up document number INQ.110.001.0018? It was specifically alleged in the media, Commissioner, that Crown Resorts had entered into arrangements with the following junkets listed on the screen that were said to have links to organised crime.

If we can return to pinpoint 0018, thank you. Firstly, The Company; secondly Roy Moo, who was alleged to be associated with The Company; thirdly, Hot Pot, which was said to be affiliated with The Company; fourthly, Suncity, which was also said to be affiliated with The Company and whose head, Mr Alvin Chau, was alleged to be a member of the 14K triad gang. It was further alleged that Suncity has been banned by the Hong Kong Jockey Club in late 2017 and that Mr Alvin Chau had been banned from entering Australia. It was asserted that Suncity hosted its own high-roller gaming room inside Crown Casino Melbourne. Other identified junkets were the Neptune Group, which was said to have a financial connection with Mr Cheung Chi-Ta, an alleged leader of the Wo Hop To triad gang. If I could return to that document at pinpoint reference 0018, please, and have that back up on the screen. A further junket - - -

COMMISSIONER: You just proceed, Ms Sharp. It will come up.

MS SHARP: Yes. A further junket that was specifically identified in the media publications was the Chinatown junket operated by Mr Tom Zhou, who has also been referred to as "Mr Chinatown" and who is alleged to be an international fugitive. Another junket was the Kim Teng Jong junket, the representative of which is Mr Simon Pan. Mr Simon Pan was alleged to be a Melbourne brothel owner and, in that context, was suspected of involvement in human trafficking. Lastly, a junket called the Song junket was named as being run by Mr Song Zezhai, who was allegedly named in a Chinese court in 2003 as running a large illegal gambling syndicate in eastern China that engaged in extortion, and who was also allegedly named in the 2016 proceeds of crime case in the Victorian Supreme Court.

COMMISSIONER: I assume that these are allegations that arise both from the printed media and from the television program?

MS SHARP: That is so, Commissioner.

COMMISSIONER: Thank you.

MS SHARP: It should also be noted, Commissioner, that it has also been reported that The Star has had arrangements with some of the junkets I've just mentioned, including Suncity and Mr Tom Zhou.

COMMISSIONER: Thank you.

MS SHARP: The media allegations have sparked a number of inquiries. On 30 July 2019, the Commonwealth Attorney-General, the honourable Mr Christian Porter, MP, referred allegations about Crown Resorts' dealings with Commonwealth officials in relation to visas to the Australian Commission for Law Enforcement Integrity, and which I will all ACLEI. ACLEI has jurisdiction to consider the conduct of federal law enforcement officials. That inquiry, referred to as "Operation Angove", is ongoing. Public hearings had been scheduled to commence on 29 October last year but have been delayed until further notice, reportedly due to the unavailability of a key witness and additional witnesses coming forward with new information.

Further, on 1 August 2019, Victoria's Gaming Minister ordered the Victorian Regulator – you can take that document off the screen now – ordered the Victorian Regulator to conduct an investigation into the recent media allegations against Crown Resorts and Crown Melbourne, including the claims as to links with organised crime and allegations that its high rollers got waived through immigration without proper checks. It is understood, as at today's date, that its investigation is ongoing.

Commissioner, against this backdrop, Australia's peak criminal intelligence agency, the Australian Criminal Intelligence Commission, has also been investigating organised crime in casinos. That inquiry is known as the "Targeting Criminal Wealth Special Investigation", and is reportedly probing the operation of junkets. The head of the Australian Criminal Intelligence Commission, Mr Michael Phelan, has been reported as saying investigators across State and Federal Police and intelligence agencies had uncovered insights into vulnerabilities within casinos located in Australia.

On 30 July 2019, the board of directors of Crown Resorts placed an advertisement by way of open letter in a number of newspapers across Australia. Could you please call up document INQ.100.010.0895, and could I ask you to turn to the second page of that document. If the bottom right-hand – if the bottom segment of the right-hand column could be enlarged, we will see that this open letter was signed by John Alexander, Guy Jalland, Michael Johnston, the honourable Helen Coonan, Andrew Demetriou, Geoff Dixon, Jane Halton, Professor John Horvath, Antonia Korsanos, Harold Mitchell and John Poynton.

If we can go to the left-hand column at the top, please. As will be seen in the second paragraph of this document, the directors claimed that the media reporting was based on unsubstantiated allegations, exaggerations, unsupported connections and outright falsehoods, and that aspects of the journalism were poor or misleading. The Sydney Morning Herald and The Age declined to run the advertisement and instead

responded to Crown Resorts' claims in those newspapers. If we can go now again in the first column under the heading Junket Operators and enlarge the text under that, the Crown directors claimed in this open letter that:

> *Much was sought to be made in the program –*

That is, the 60 minutes program:

> *…of the conduct of Crown's junket operators. In fact, the junkets are not Crown's. They are independent operators who arrange for their customers to visit many casinos globally. Crown deals with junkets and their customers in essentially the same way as other international casinos.*

Could we now focus on the first column immediately above the heading Junket Operators, where there will be a subparagraph (e), and if subparagraph (e) could be enlarged. In the open letter, with respect to their allegations relating to Crown's arrangements with junkets, the Crown directors noted that:

> *The parent of Suncity was a large company listed on the Hong Kong Stock Exchange which operates globally, and that Crown no longer dealt with any other junket operators or players mentioned in the program, apart from one local player and none of the international players mentioned have gambled at Crown venues for the last three years.*

Could we now focus again in the first column under the heading Junket Operators, the third paragraph under that heading. The Crown directors went on to explain in the open letter that the casino regulators in Australia and overseas review junket operators and their dealings with licensed casinos and asserted that:

> *Crown itself has a robust process for vetting junket operators, including a combination of probity, integrity and police checks, and Crown undertakes regular reviews of these operators in light of new or additional information.*

Commissioner, such processes will be examined during this Inquiry. By mid-August 2019, it was reported that the Suncity junket had mutually agreed to close its high-roller room inside The Star Sydney. By contrast, Crown Resorts' executive chairman, Mr John Alexander, was reported as saying that Suncity had "reduced this exposure" to Crown Melbourne. Mr Alexander was reported to have stated that the allegations against Suncity remain just that, and reiterated that it is licensed in Macau and that junket operators operating within the law are a legitimate part of the international VIP operation. Returning to the open letter, if we can go to the first column and highlight and enlarge the last paragraph.

COMMISSIONER: No.

MS SHARP: No, the heading under – if you could enlarge the last paragraph under the heading Anti-Money Laundering, please.

COMMISSIONER: Thank you.

MS SHARP: Insofar as the money laundering allegations were concerned, the Crown directors claimed in the open letter that:

> *Crown has a comprehensive anti-money laundering and counterterrorism financing program which is subject to ongoing regulatory supervision by AUSTRAC. Crown takes its regulatory obligations very seriously and works closely with all of its regulatory agencies, including state and federal law enforcement bodies.*

In an article – we can close that document. Actually, leave it open. Thank you. In an article published in the Australian Financial Review on 21 August 2019, the Crown Resorts executive chairman, Mr Alexander, was reported to have said that an anti-money laundering expert, Mr Neil Jeans, had, as recently as that day, told the board of Crown Resorts that Crown was completely compliant and a gold-star customer. Mr Alexander was also reported as having said that Crown Resorts was a very good compliant company. It has also been reported that the Star Entertainment Group claims to have a comprehensive anti-money laundering program which includes compliance officers who conduct tracking, external auditing and that the chief executive officer, Mr Bekier, said he feels:

> *Pretty comfortable that we are doing a good job.*

By contrast, Melco Resorts has stated in its last three annual reports:

> *We cannot assure you that anti-money laundering policies that we have implemented and compliance with applicable anti-money laundering laws will be effective to prevent our casino operations from being exploited for money laundering purposes.*

Commissioner, frameworks relating to the prevention of money laundering in casinos will also be considered during this Inquiry. If I can return to the Crown Resorts' open letter that is up on the screen, can we now focus on the second column under the heading Detentions in China and have that enlarged, please. What we see in this part of the letter, Commissioner, is a claim of the Crown directors that:

> *The foundation of the criticism of Crown in the program that Crown knew that the conduct of its staff constituted an offence in China, and that it deliberately flouted the law.*
>
> *This is wrong. Crown was not charged with or convicted of any offence in China.*
>
> *The relevant prohibition under Chinese law is contained in Article 303 which concerns arranging gambling parties. At all times, Crown understood that its staff were operating in a manner which did not breach that provision.*
>
> *Also, at all relevant times, Crown obtained legal and government relations advice from reputable, independent specialists. The fact that staff were nevertheless detained and convicted is not an indication that the advice was wrong or disregarded, but an illustration of the challenges involved in anticipating how foreign laws can be interpreted and enforced.*

Commissioner, the circumstances surrounding these arrests and the subsequent convictions and detention of some of those arrested will be explored during this Inquiry.

COMMISSIONER: Ms Sharp, is that a suitable time for a five-minute-or-so adjournment?

MS SHARP: Yes, it is. Thank you, Commissioner.

COMMISSIONER: Yes, I will adjourn for a short while. Thank you.

ADJOURNED **[11.57 am]**

RESUMED **[12.04 pm]**

COMMISSIONER: Yes. Thank you. Yes, Ms Sharp.

MS SHARP: Commissioner, in order for this Inquiry to explore the media allegations into money laundering, it is necessary to understand what money laundering is, the risks of money laundering in casinos and the Australian framework for the prevention of money laundering. These matters are relevant to the Inquiry's task under Part C of the Terms of Reference which, amongst other things, requires consideration of the extant and emerging risks for gaming and casinos and to make recommendations to enhance the Authority's future capability in the changing operating environment. I will now address you, Commissioner, on what money laundering is, why casinos are vulnerable to money laundering, and the anti-money laundering regulatory framework in Australia.

Can I please call up document INQ.110.001.0019. The Australian Criminal Intelligence Commission explains the concept of money laundering in the following terms on its website:

> *Organised crime groups rely on money laundering as a way of legitimising or hiding proceeds or instruments of crime. Money laundering blends criminal and legitimate activities and stretches across areas as diverse as mainstream banking, gambling, shares and stocks, artwork, jewellery and real estate. Money laundering is the common element in almost all serious and organised crime. It enables criminals to hide and accumulate wealth, avoid prosecution, evade taxes and fund further criminal activity.*

Legalised casinos have been identified as places where money laundering can occur. Can I please call up document INQ.110.001.0020. AUSTRAC explained in its public report entitled Money Laundering in Australia 2011:

> *Gambling at Australian gaming venues - casinos, pubs, clubs, racing and sports betting facilities - is a traditional channel for the placement, moving,*

dispersing or disguising funds and layering, reinvesting funds phases of the money laundering cycle.

During 2008 and 2009 Australians and international visitors spent $19 billion on Australian gambling products. Money launderers exploit this high cash turnover and the large volume of transactions to camouflage illegitimate transactions among legitimate gambling activity.

In addition to gambling, many casinos and gaming facilities offer services similar to financial institutions. This includes accounts, foreign exchange, money changing, electronic funds transfers, cheque issuing and safety deposit boxes. These additional services are also vulnerable to abuse for money laundering purposes.

Thank you. Please close the document. There are various mechanisms by which money may be laundered in casinos. For example, cash derived from a criminal enterprise can be used in a casino to purchase chips. Chips may then be redeemed in cash, cheque or money transfer and following that redemption appear to come from a legitimate source, being the casino. Another example is where a criminal organisation deposits funds into a casino operator's bank account for use by a casino patron. The patron may then purchase chips and later redeem them, again creating the appearance that the funds have come from a legitimate source.

Casino VIP rooms and high roller stakes gambling are vulnerable to abuse because it's common for the players to gamble with large amounts of cash, the source and ultimate ownership of which may not be readily discernible, enabling criminal enterprise to disguise proceeds of crime as through a high stakes gambler. Commissioner, Australia is a founding member of the Financial Action Task Force which is an intergovernmental body established in 1989 by Ministers of various countries, including Australia, for the purpose of developing and promoting policies to combat money laundering. In 1990, the Task Force published 40 recommendations drawn up as an initiative to combat the misuse of financial systems by persons laundering drug money.

In 1996, those recommendations were revised to reflect for the first time the evolving money laundering trends and techniques and to broaden their scope well beyond drug money laundering. In October 2001, in the wake of the 9/11 attacks, the task force expanded its mandate to deal with the issue of funding of terrorist acts and terrorist organisations and took the important step of creating the eight, later expanded to nine, special recommendations on terrorist financing. The task force recommendations were revised a second time in 2003 and have now been endorsed by over 180 countries. The task force recommendations are recognised internationally as the standard for anti-money laundering and countering the financing of terrorism.

A system has been established by these recommendations in which, firstly, money laundering is made a criminal offence. Secondly, mechanisms have been established to trace cash and other forms of value. Thirdly, a legal framework is in place to enable the freezing of assets and the confiscation of the proceeds of crime. And fourthly, Australia engages in reciprocal assistance with other countries in respect of anti-money laundering and countering the financing of terrorism. Money laundering

is a crime under section 193B of the Crimes Act 1900 in New South Wales, and also under division 400 of the Criminal Code 1995 which is a Commonwealth piece of legislation. In essence, those sections provide that any person who deals with the proceeds of crime knowing that they are the proceeds of crime or reckless as to whether they are, is guilty of an offence.

At the federal level there are various statutes aimed at combatting money laundering, the original Act being the Cash Transactions Reports Act of 1988, which was later renamed the Financial Transaction Reports Act in 1992. That Act does remain in force but has largely been superseded by the Anti-Money Laundering and Counterterrorism Financing Act of 2006 which, again, is a Commonwealth statute as well as the Anti-Money Laundering and Counterterrorism Financing Rules Instrument 2007 (No. 1) which was made under that Act. A key feature in this legislation is the notion of a "reporting entity" which is required to report information.

The information must be reported to AUSTRAC, which was established in 1989 and which has had various name changes in the intervening period. Under the legislative framework, casino operators are reporting entities and are required to provide the following reports to AUSTRAC: firstly, threshold transactions which are $10,000 or more of physical currency. Secondly, they're required to report international funds transfer instructions. These are instructions to transfer money or property to either Australia from another country or another country from Australia. Thirdly, there are suspicious matter reports where the casino operator suspects, on reasonable grounds, that the person is not who they claim to be, or if there is a suspicion of money laundering through the proceeds of crime.

And fourthly, there are anti-money laundering and counter-terrorism financing compliance reports which are typically reported to AUSTRAC on an annual basis, although AUSTRAC can and has waived this requirement on occasion.

AUSTRAC describes its role as not only collecting information but also working with partners to protect Australia and its citizens from serious crime and terrorism. AUSTRAC's website records that it uses financial intelligence and regulation to prevent criminal abuse of the financial sector in Australia, to help government and law enforcement partners detect, deter and disrupt money laundering, terrorism financing and other serious crime, and to build and maintain trust and integrity in Australia's financial system.

In addition to the reporting obligations of casino operators as reporting entities, they must also develop and maintain what is called an anti-money laundering and counterterrorism financing compliance program.

COMMISSIONER: That's under the legislation, is it?

MS SHARP: Yes. According to AUSTRAC this risk-based approach recognises that industry sectors are best placed to identify and manage money laundering risks they face. Further, the Anti-Money Laundering Act requires casino operators to undertake ongoing customer due diligence.

Commissioner, the exploitation of casinos in New South Wales to money laundering has long been recognised. In his 1991 inquiry, Sir Laurence Street QC recognised the risks of money laundering in legalised casinos, but was satisfied that the stringent cash reporting under the then Cash Transactions Reporting Act supported by AUSTRAC would control it.

However, by 2000 an inquiry established by the Authority reported that it was satisfied that money laundering could and had occurred at The Star casino. The report also concluded that the activity had been permitted to continue long after the casino operator and others were aware of its presence. Of a list of 1000 gamblers with the largest turnovers at the time, subsequent investigations indicated that over 40 per cent of local players on the list were known to one or more of the enforcement agencies. The report considered that this raised serious concerns about the potential for the casino to be influenced by such people.

Concerns regarding money laundering are not unique to this jurisdiction. An independent review of money laundering in the Lower Mainland casinos conducted by the Attorney-General of British Colombia in Canada and published in March 2018 concluded that for years large-scale transnational money laundering had been occurring in the casinos in Vancouver and the surrounding region of Canada. Indeed, this has recently led to a Royal Commission in that jurisdiction to examine money laundering.

COMMISSIONER: What, in British Colombia?

MS SHARP: Yes, your Honour. The UK Gaming Commission this month released new guidance for casinos on the standards it expects UK casinos to follow to prevent money laundering and the financing of terrorism. Included in that guidance are standards regarding senior management responsibility, the extent of customer due diligence required, suspicious matter reporting and record-keeping. As has already been noted, one of the primary objects of the Casino Control Act is to ensure that the management and operation of the casinos remain free from criminal influence or exploitation. One matter under Part C of the Terms of Reference to be considered by this Inquiry is how the Authority can best fulfil that obligation to prevent money laundering in casinos.

This Inquiry's public hearings in relation to money laundering will specifically consider the following matters: firstly, the Australian anti-money laundering regulatory framework and its application to casinos. Secondly, the vulnerability of casinos to money laundering, including the risks associated with the use of junkets or gaming promoters. Thirdly, the compliance of casino operators with their obligations under the State and federal legislation and the internal controls of those operators which the Authority has approved. And fourthly, the role of law enforcement and intelligence gathering in combatting money laundering in the casino context.

Commissioner, I will now turn to explain what junkets are in some more detail, identifying some of their vulnerabilities to organised crime and also outline how they are presently regulated in New South Wales. Junkets basically exist to recruit casino patrons who are willing to place very large bets. Junkets facilitate gambling by such patrons in various ways and provide a range of services to them. The definition of

"junkets" which one finds in the Casino Control Act has already been referred to by my learned friend Mr Bell. However, in practice, the way that junkets operate in Australia extends beyond this statutory definition.

For example, while it's not mentioned in the statutory definition, the usual arrangement in Australia is that the junket promotor assumes a contractual liability to the casino for the junket participants' debts.

Junkets have always been controversial. In earlier times, when investigating the legalisation of casinos in New South Wales, a 1977 report strongly recommended that junkets be banned in the event that a casino was legalised in New South Wales. In a 1983 report to the Victorian Government which examined the legalisation of casinos in Victoria, the honourable Xavier Connor AO, QC, expressed the opinion that junkets should be subject to specific approval by an independent licensing body.

And in Sir Laurence Street QC's 1991 inquiry in New South Wales, it was concluded that the risks posed by junkets could be controlled by regulation. Concerns were noted that the introduction of casinos would bring crime, but Sir Laurence concluded that such concerns could be put to one side, provided that following three requirements could be satisfied. And they are, first, the selection of a casino operator whose integrity and commitment to preserving a crime-free environment in and in relation to the casino was assured; secondly, the formulation of a comprehensive regulatory structure for the operation of the casino, and; thirdly, the diligent enforcement of that regulatory structure.

In 2006, Macau surpassed Las Vegas as the world's largest gaming market, built heavily on the back of VIP gambling. Junkets have a different history in Macau as compared with Las Vegas.

Due to, first, the desire of Australian casino operators to attract Asian and in particular mainland Chinese VIP gamblers; secondly, the proximity of Macau to mainland China, and; thirdly, the historical roots of junkets in Macau, it is necessary to understand the casino industry in Macau to appreciate its impact on the Australian casino landscape. Moreover, Melco Resorts has been operating in the Macau casino industry for many years, as was Crown Resorts during the joint venture period.

Control of Macau was transferred from the Portuguese Republic to China in 1999. Gaming is the most important sector in Macau's economy. Gaming revenue in Macau has been driven primarily by visitors from mainland China and in particular by high rollers from mainland China. Historically, around 70 per cent of Macau's total gaming revenue is derived from high rollers, although this number has decreased since 2014.

Commissioner, gambling is illegal in mainland China. Casinos operating in Macau have, therefore, been heavily dependent upon junkets to recruit patrons and are the primary source of casino operators' income in Macau. It is often said that the origins of junkets can be traced back to Macau in the 1930s with the recruitment activity of the *Jin-Ke*, which literally means "introducing customer" in Mandarin. The Jin-Ke worked to lure Hong Kong gamblers to Macau to play Fan Tan, which was a Chinese game with some similarities to roulette. This Jin-Ke system survived in the early

days of the exclusive concession granted to Mr Stanley Ho's company, STDM, in the 1960s.

In the 1970s, *Da Ma Zai*, meaning chip rollers, were engaged by STDM to sell non-negotiable chips to casino patrons. This system was the beginning of what we now know of, as the modern junket system in Macau. As has already been noted by Mr Bell during this opening, in order to handle the significant growth in casino gambling, STDM engaged third parties to not just recruit patrons to gamble but also invited large-scale junkets to operate private VIP gambling rooms in its casinos. These junkets were in a position to extend credit to the casino patrons, something which STDM was prohibited by law from doing. By the 1990s, triads were directly participating in the operation of these outsourced VIP rooms which eventually led the Macau Government to enact reform in 2002 which, amongst other things, imposed requirements upon junket operators and increased the oversight of the junket system.

The specific features of the modern Macau junket regulatory regime will be addressed during subsequent public hearings of this Inquiry. These days in Macau, junkets are generally known as VIP gaming promotors. Junkets may be corporations or individuals. Junket operators and junket participants can be highly secretive. In recent times, Macau has taken further steps to improve the regulation of junkets. In recent times, Macau has taken further steps to improve the regulation of junkets. This Inquiry is anticipated to hear evidence of the efficacy of these steps.

Commissioner, junkets have been important in the Macau casino industry for three principal reasons. First, junket operators identify the high-roller patrons and entice them to gamble at particular casinos; secondly, junket operators provide credit to high rollers and assist them moving money with which to gamble, and; thirdly, the junket operators enforce the debts to the high rollers.

It is the second and third of these functions that expose the vulnerabilities of junkets to organised crime, both in Macau and also in Australia as well as in certain other jurisdictions. Insofar as the high rollers come from mainland China, it is no small feat to move money out of mainland China since the government has strict limits on the amount of money that individuals can carry out or otherwise transfer from mainland China. Further, it is illegal to collect gambling debts in mainland China. This means that resort can be had to extra judicial means to encourage debtors to repay moneys due, including threats of violence. Indeed, Commissioner, in the 2008 study by Macao Polytechnic of 99 high rollers from mainland China who were identified in the Chinese newspapers as excessive gamblers, seven died from murder or suicide and a further 15 were sentenced to death, usually for embezzlement.

Aside from the benefit of attracting junket participants to casinos, the other main benefit of junket operators to casino operators is that the junket operators assume the risk of bad debts. The casino operator's financial relationship is with the junket operator, rather than with the junket participant. In return, casino operators receive less revenue, but they also take on less risk.

The evidence will establish that since around 2014, there has been a downturn in Macau's VIP market. This has coincided with China's crackdown on corruption which was initiated by President Xi Jinping in late 2012. More and more, high

rollers from mainland China are looking beyond Macau for the casino experiences. This has implications for casinos in Australia as well as casinos in the Asia Pacific region more broadly which will be considered by this Inquiry.

In contrast to Macau, Nevada's first unofficial junket took place in 1961, where a stockholder of a Nevada casino flew his friends for a weekend away of gambling and entertainment. The resulting income derived from these visitors paved the way for the modern junket system in Nevada. Junkets in Nevada are known as Independent Agents. Independent Agents are required to be licensed by the Nevada casino regulator and undergo suitability reviews in a similar manner to a casino operator or their personnel. In Nevada, it is not permissible for a VIP room to be subcontracted to an Independent Agent or any other type of third party to operate. The evidence during this Inquiry will include analysis of junket arrangements in Macau, in Nevada, as well as in other parts of the world.

Commissioner, it's certainly not suggested that every junket is necessarily involved in organised crime or illegal activity. However, over a very lengthy period, caution has been expressed in the context of junkets about the need to be vigilant to guard against the links with crime. For example, in 2013, the United States-China Economic and Security Review Commission reported to the US Congress that Macau junket operations have a history of affiliation with Asian organised crime. In New South Wales, the Authority's 2011 periodic review report of The Star recorded concerns held by overseas and local law enforcement agencies about the involvement of some junket operators working from Macau in organised crime and advised that the casino operator needed to be vigilant to ensure that those with whom it dealt in this regard had the requisite integrity.

The report recommended that the Authority provide the names of and transactions conducted by individual junket participants to AUSTRAC and endorsed increased information sharing between state and Commonwealth agencies. In the 2012 to 2013 probity investigation in relation to Crown Resorts, of which I've already spoken, a recommendation was included that Crown be required to notify the Authority on a six-monthly basis of all organisations or promoters of a junket that Melco Crown or any subsidiary has entered into an agreement with.

Junkets have also been identified as vulnerable to money laundering. As explained by the Financial Action Task Force, a vulnerability of junket programs is that they involve the movement of large amounts of money across borders and through multiple casinos by third parties. Junket participants generally rely on the junket operators to move their funds to and from the casino. This creates layers of obscurity around the source and ownership of the money and the identity of the players. Previous reports obtained by this Inquiry, many of which are publicly available on this Inquiry's website, have referred to the issue of money laundering in casinos with recommendations including the provision of details relating to junket participants to AUSTRAC and the endorsement of increased information sharing between state and government agencies.

COMMISSIONER: Is that just between the agencies, as opposed to the casino operator, I presume?

MS SHARP: The casino operators as well.

COMMISSIONER: I see.

MS SHARP: Commissioner, junkets are regulated in different ways in different parts of the world. Since 2002 in Macau, the regulator, which is known as the Macau Gaming Control Board, has licensed junket promoters and their employees. One issue to be considered during this Inquiry is how effective that licensing system is in preventing links to organised crime. Some have asserted that the vagueness of the junket regulations in Macau means that they are not being effectively enforced. It may be noted, Commissioner, that Singapore also licences junkets which it refers to as international market agents. To date, the Singapore regulator has not been prepared to licence a single junket from Macau.

Depending on the nature of the proposed activities of Independent Agents in Nevada, they are required to either obtain a licence which involves the suitability assessment process, or register with the Nevada Gaming Control Board which publishes a list of active registered Independent Agents on its website. Independent Agents are required to submit both monthly and annual reports to the Nevada regulator.

Commissioner, in the past, both the New South Wales and the Victorian casino regulators licensed junkets, but neither do so now. The Queensland casino regulator still licences junkets, although VIP gaming is not as significant a market segment as it is in the southern states. The Western Australian regulator does not licence junkets.

The regulation of junkets in New South Wales has changed significantly over time. There is very little in the way of regulation of junkets in the Casino Control Act itself. Could I please call up document INQ.110.001.0021. Section 76(1) of the Casino Control Act provides that:

> *The regulations may make provision with respect to regulating or prohibiting:*
>
> *(a) the promotion and conduct of junkets involving a casino;*
>
> *(b) the offering to persons of inducements to take part in gambling at a casino, or;*
>
> *(c) the offering to persons of inducements to apply for a review of exclusion orders.*

Could we please go to the next page of the document on the screen. Section 76(2) of the Casino Control Act offers more specific examples of the way in which the regulations can potentially control junkets, stating that the regulations may:

> *(a) impose restrictions on who may organise or promote a junket or offer inducement, and;*
>
> *(b), require the organiser or promoter of a junket or a casino operator to give the Authority advance notice of the junket and to furnish to the Authority detailed information concerning the conduct of and the arrangements for the conduct of any junket, and;*

(c) require any contract or other agreement that relates to the conduct of the junket or the offer of any inducement to be in a form and contain provision approved of by the Authority, and;

(d) require the organiser or promotor of a junket or a casino operator to give specified information concerning the conduct of the junket to participants in the junket.

You can close that document now. Thank you. In the past, Commissioner, the New South Wales regulations did impose these kinds of controls on junkets. However, presently, the regulations have very little to say about junkets, and responsibility for their regulation has largely been devolved to the casino operator.

The first set of regulations under the Casino Control Act were made in 1995. The 1995 regulations were quite prescriptive in relation to junkets, and the Authority had a large role to play in their regulation. Thus, clause 15 of the 1995 regulation required the Authority to approve all junket promoters and representatives.

Clause 17 obliged the casino operator to provide the Authority and the then existing Director of Casino Surveillance with written notice of proposed junkets where the Authority requested that be done in writing. Clause 17 also obliged the casino operator to provide the Authority and Director with a list of junket participants as soon as practicable after receiving that information. Clause 19 of the 1995 regulation required the casino operator to provide the Authority and the Director of Casino Surveillance with a written report on each junket within 48 hours after the completion of the junket. Further, it obliged the casino operator to provide the Authority with a written report on all junkets conducted in the prior month. None of these requirements appear in the current regulations. This is a consequence of amendments made on 21 December 2018.

COMMISSIONER: '18, did you say?

MS SHARP: 2018, yes. Thus, amongst other things, the Authority is no longer responsible for authorising junkets. Now, the NSW casino operator, The Star, bears responsibility for the regulation of junkets principally under its Internal Control Procedures and the Standard Operating Procedures which sit underneath them. The Authority approves the Internal Control Procedures under section 124 of the Casino Control Act and did so most recently in December 2018. It is anticipated that the evidence will establish that the two key reviews that led to the changes to junket regulation in New South Wales – sorry, that there were two key reviews that led to these changes. The first review dated February 2015 was called Report on the Review of Junket Processes in New South Wales.

The second review, dated February 2016, was called the Casino Modernisation Review. Both were authored by Mr Peter Cohen, the principal of the consulting firm called The Agenda Group who had previously been the Commissioner and Chief Executive Officer of the Victorian Regulator. In broad terms, the philosophy of these reviews was to move risk from the regulator to the casino operator and to move from a surveillance-based approach to a risk-based approach. What exactly a "risk-based" approach comprises is a matter that will be explored during this Inquiry.

This Inquiry will hear evidence which will include the following matters in relation to junkets. First, the regional context will be considered, including the junket model in Macau and other Asia-Pacific countries where casinos have been legalised. Secondly, the role that junkets play in Australian casinos and the various types of arrangements that exist between casino operators and junket operators and between junket operators and junket participants will be explored. Thirdly, the role that junkets play in credit provision and debt collection will be explored. Also to be considered in the evidence are the vulnerability of junkets to criminal infiltration. The evidence will also consider the changing approach to the regulation of junkets in New South Wales, and the roles played by the regulator and the casino operator respectively, including the nature of the due diligence performed on junket operators, junket representatives and junket participants.

There will also be evidence, Commissioner, of the approaches of other jurisdictions to the regulation of junkets. The specific media allegations about Crown Resorts and its partnering with particular junkets will also be explored.

COMMISSIONER: I suppose all the that goes to the question of suitability of those the subject of the Terms of Reference?

MS SHARP: That is so, within Part B of the Terms of Reference.

COMMISSIONER: Both in the context of the legislation as it was and the legislation as it now is - - -

MS SHARP: Yes.

COMMISSIONER: - - - having changed only very recently.

MS SHARP: Yes, that is so, in December 2018.

COMMISSIONER: Yes.

MS SHARP: Commissioner, a key plank of the 2019 media allegations related to the arrest of 19 employees of a Crown Resorts subsidiary in mainland China in October 2016. It has been alleged in the media that Crown Resorts offered large financial and other incentives to its China-based staff to recruit Chinese high roller gamblers to Crown Resorts casinos in Melbourne, Perth and Macau. One question to be considered by this Inquiry is whether this was done in knowing violation of Chinese law. It has also been alleged that Crown Resorts instructed its staff to claim to Chinese authorities that they were not working in China, but were working in other locations, and advised their staff to obtain foreign work visas to corroborate this.

Such matters have a clear bearing on the question, in paragraph 10(b) of the Terms of Reference of whether Crown Resorts is a suitable person to be a close associate of the Licensee. The circumstances surrounding the October 2016 China arrests will therefore be investigated by this Inquiry. As has already been mentioned, gambling is illegal in mainland China. It is also unlawful to promote gambling in China. Can I

call up document INQ.110.001.0023. Commissioner, at all relevant times, Article 303 of the Criminal Law of the People's Republic of China has provided:

> *A person who, with a view of profit, assembles a crowd to engage in gambling, establishes a place for gambling or makes gambling his business, shall be sentenced to a fixed term imprisonment of maximum three years, criminal detention or public surveillance and concurrently to a fine.*

If I can go to the next page of that document, please. Since 13 May 2015, the expression "assembling a crowd to gamble" within Article 303 to which I've just referred has been defined. It's been defined in Article 1 of the "Interpretation of the Supreme People's Court and Supreme People's Procuratorate about Some Issues Concerning the application of Law in Gambling in Criminal Cases", and it's that Article 1 that is currently being shown on the screen. That Article provides:

> *1. Organising three or more persons to gamble and reaping profits by taking a percentage in amounts that equal 5000 yuan or more in aggregate.*
>
> *2. Organising three or more persons to gamble where the amount gambled is 50,000 yuan or more in aggregate.*
>
> *3. Organising three or more persons to gamble where the number of people participating in the gambling is 20 persons or more in aggregate.*
>
> *4. Organising 10 or more persons who are citizens of the People's Republic of China to go abroad to gamble, from which kickbacks or referral fees are collected.*

Could we turn to page 3 of the document on the screen. Commissioner, it's also relevant to note Article 25, which is now on the screen, of the Criminal Law of the People's Republic of China. You will see that it provides:

> *A joint crime refers to a situation where two or more persons intentionally commit a crime jointly. Where two or more persons negligently commit a crime jointly it will not be punished as a joint crime. Those who should bear criminal liability shall be separately punished in accordance with the crime they have committed.*

I can dispense with that document now, thank you. Commissioner, it is anticipated that the evidence will establish that on around 13 and 14 October 2016 a series of coordinated raids were conducted across four Chinese cities including Beijing, Shanghai and Guangzhou. Nineteen employees of a Crown Resorts subsidiary were arrested and detained. Three of those employees, who were each administrative officers, were later bailed on 11 November 2016. All but one of the employees who remained in custody pleaded guilty to offences against Articles 303 and 25, which I've just shown you, Commissioner, on the screen. Subsequently, on about 26 June 2017, 16 of those employees were convicted by the Baoshan District Court in Shanghai in China of these offences.

The convicted employees were fined a total of RMB8.62 million which is approximately AU$1.6 million. Crown Resorts paid these fines on behalf of the

employees. 11 of the 16 staff were sentenced to a period of imprisonment of nine months and, taking into account the time already spent in detention, were released on 12 July 2017. A further five of the Crown employees, including the Crown Resorts' Group Executive General Manager VIP International, Mr Jason O'Connor, were sentenced to 10 months imprisonment. Taking into account the total time spent in detention, they were released on 12 August 2017. The remaining three Crown staff who were bailed on 11 November 2016 were not fined or sentenced to a period of imprisonment. All employees, save for Mr O'Connor, were made redundant by Crown Resorts.

Following the arrest and detention of the Crown Resorts employees, Crown Resorts withdrew from and ceased all operations of its VIP international team on the ground in mainland China. Arising out of the China arrests, on 4 December 2017, a securities class action was commenced in the Federal Court of Australia by Zantran Proprietary Limited against Crown Resorts, alleging that Crown Resorts had breached the continuous disclosure regime under the Stock Exchange listing rules and section 674 of the Corporations Act 2001 and engaged in misleading or deceptive conduct. I will refer to this as the "Zantran Litigation".

That litigation is ongoing and I understand it has been listed for final hearing in November 2020.

It is expected that the evidence in relation to the China arrests will establish the following matters. As already noted, in 2012 there was a far-reaching anti-corruption campaign commenced in China. This had been well-publicised at all relevant times.

On about 6 February 2015 the Chinese Ministry of Public Security held a press conference and announced a crackdown on overseas casinos which had established representative offices in China to recruit Chinese citizens to travel overseas to gamble. Crown Resorts has admitted, in the Zantran Litigation, that it was aware of this announcement by 7 February 2015.

Can I please call up document CRL.545.001.0025. Commissioner, I see the time. I propose to conclude my remarks in relation to the China arrests but if it suits, I will continue my submissions after the luncheon adjournment.

COMMISSIONER: Whatever suits you, Ms Sharp.

MS SHARP: Thank you. So if I can go to this document.

MR YOUNG: Can I raise a matter?

COMMISSIONER: Yes, of course.

MR YOUNG: I've only had a brief moment to glance at it but the version of the document on the screen contains privileged material.

COMMISSIONER: Yes. Just refer to the document without referring to it for the moment.

MS SHARP: Can I just take instructions on that matter?

COMMISSIONER: Yes, of course.

MS SHARP: Your Honour, there's an issue about privilege. I understand that an unredacted copy has been produced to this - - -

COMMISSIONER: Of course.

MS SHARP: - - - commission where no privilege claim was made.

COMMISSIONER: Yes.

MS SHARP: I propose to read from the section where privilege was claimed. I first saw that in the published judgment, interlocutory judgment in the Zantran proceedings so I will read from it as reported in the Zantran - - -

COMMISSIONER: In Murphy J's judgment?

MS SHARP: Yes, that is so, Commissioner.

COMMISSIONER: I see. So, Mr Young – just pardon me, Ms Sharp – Mr Young, it does appear that the document has been made public by Murphy J of the Federal Court.

MR YOUNG: It may be. As I said, I only had a moment to glance at what appeared.

COMMISSIONER: Yes. In any event - - -

MR YOUNG: I have no objection to Murphy J's judgment being read from.

COMMISSIONER: All right, then. I think that's what's going to happen, Mr Young

MR YOUNG: Thank you.

COMMISSIONER: Yes. Yes, Ms Sharp.

MS SHARP: Yes, I'll approach this slightly differently. I won't show the document, your Honour, but I will say these things about it. On 9 February 2015, Mr Michael Chen, the then Crown Resorts' Director of International Marketing, sent an email to VIP international officers which included the mainland China employees. He stated in that email – and I'm taking this from the reported judgment of Justice Murphy.

COMMISSIONER: Thank you.

MS SHARP: He stated in that email that a number of articles over the weekend had referred to a Chinese Government crackdown on Chinese gambling abroad. Mr Chen then stated – and I quote, again this is reported in Mr Murphy's judgment.

COMMISSIONER: Justice Murphy

MS SHARP: Sorry, Justice Murphy's judgment:

> *I wanted to remind everyone to take normal precautions. It is important to be reminded that we have been given advice from outside counsel, the activities that we currently undertake, that is the promotion of overseas gambling and tourism are indeed legal in China. What is clearly illegal under China law, according to our outside counsel, is the organising of gambling groups of 10 or more people and receipt of commissions for that work. Since everyone here is an employee of Crown and not receiving commissions we are not in violation of any known laws.*

Commissioner, in relation to its activities in mainland China, Crown Resorts sought the assistance of the Mintz Group in 2015 and obtained a report dated 25 March 2015. That report's stated purpose was to summarise, and I will quote:

> *...the results of our inquiries into the ongoing corruption investigations in Macau pursuant to your request and at your direction to assist you in assessing the risk to your company personnel in mainland China.*

Under the heading "Risk Assessment", the Mintz report advised the following:

> *There is clearly enhanced attention under way from relevant PRC authorities concerning foreign casino marketing activities in mainland China. The motivation for this effort is likely manifold and includes, certainly, aspects of the current anti-corruption campaign. On around 17 June 2015, 15 employees of South Korean casino operators Paradise and Grand Korea Leisure were arrested and detained in mainland China for the offence of promoting gambling to Chinese citizens.*

These arrests were widely reported and, again in the Zantran Litigation, Crown Resorts has admitted that it was aware of these arrests by around 20 June 2015. In the Zantran Litigation, Crown Resorts has denied that its operations in China were in breach of the Chinese law and has also denied that its operations possessed characteristics which were a target of the Chinese government crackdown announced in February 2015, to which I've just referred. The activities of the arrested employees and the directions they received from Crown Resorts will be a subject of this Inquiry. As has already been noted, the Victorian Regulator is also currently investigating the China arrests.

Moreover, it is understood that Crown Resorts have conducted its own internal review into the circumstances giving rise to the arrests and subsequent convictions. Commissioner, that may be a convenient time as I will move on to a new topic.

COMMISSIONER: Could I just ask you if I may for how much longer you may make some opening submissions because it may be more convenient to the parties and for everyone here for you to continue.

MS SHARP: Your Honour, I will qualify that I am giving you a barrister's estimate of my time. I would say 15 minutes.

COMMISSIONER: Yes. Is anyone inconvenienced if I continue?

MR BELL: No, Commissioner.

COMMISSIONER: Yes, please continue, Ms Sharp.

MS SHARP: Thank you.

COMMISSIONER: Are you inconvenienced, Ms Sharp, if you continue?

MS SHARP: No. If I have a glass of water, I will be fine.

COMMISSIONER: Yes, thank you very much.

MS SHARP: Thank you, Commissioner.

COMMISSIONER: Yes. All right.

MS SHARP: Commissioner, one of the key planks of the casino regulatory system as set up in 1992 was that there would be a powerful, independent and specialist regulator at its centre, known as the Casino Control Authority. Can I please have document INQ.110.001.0026 called up on the screen. Commissioner, as I've already mentioned, it was the 1991 Report of Sir Laurence Street QC which led to the introduction of a legalised casino in New South Wales. In his 1991 Report, Sir Laurence emphasised the importance of the casino regulator in the following terms, and those terms are projected on the screen:

> *I am of the view that there is a predominating public interest in underwriting the Authority's function of regulating the casino industry. The Authority's objects are to ensure the casino industry remains free from criminal activity and dishonest gaming. These objects set it apart from the usual public Authority. Its field of activities is particularly at risk of criminal penetration and it requires every legislative assistance to enable it to function effectively in the protection of the public interest. Without being strictly a law enforcement agency, its functions are the administration of a comprehensive regulatory scheme for the prevention of criminal activity and detecting and punishing misconduct. It is empowered to impose pecuniary sanctions of a magnitude almost unparalleled for a non-judicial Authority.*
>
> *In the discharge of its functions, it will fill a crime prevention and, in a complementary sense, a criminal investigatory role. It must be assisted to receive free, rather than guarded, access to criminal information from agencies here and elsewhere. Its responsibilities are not comparable with those of other public authorities. It should not be subjected to the same requirements in the matter of access to its records.*

However, Commissioner, in the intervening 30 years, there has been significant changes to the power and the independence of the New South Wales casino regulator. First, on 1 July 2008, the Casino Control Authority was abolished. Its functions were transferred into a new body which, from 1 July 2008 to 28 February

2012, was called the Casino, Liquor & Gaming Control Authority and which, from 1 March 2012, has been known as the Independent Liquor & Gaming Authority. Consistent with this new name, the Authority's regulatory responsibilities extend beyond casinos to liquor licensing and the regulation of hotels, clubs and poker machines across New South Wales.

Secondly, initially the Authority had its own staff and had direct control over them. This changed in 2006 when amendments prevented the Authority from employing its own staff and its staff were thereafter employed by others within government, albeit that they reported at that time to the Chief Executive of the Authority. But this changed again in October 2015. At that time, the agency within the New South Wales Government which employed the Authority's staff was abolished, and its staff became employees of the public service, employed in the former Department of Justice.

Pursuant to section 47A of the Constitution Act 1902 in New South Wales, the Authority is precluded from employing its own staff. Staff may be assigned from a Department to the Authority to enable it to perform its functions. However, these staff remain employed by a Department of the public service. Accordingly, from 30 October 2015, the Authority has had no staff of its own and has relied upon the provision of staff employed in a department.

From 3 February 2016, the Authority has delegated most of its powers and functions to officers of an administrative division known as Liquor & Gaming New South Wales, comprised of public service employees employed within a department. This department has changed. First, the Department of Justice; then, the Department of Industry; and currently, the Department of Customer Service. The staff of Liquor and Gaming New South Wales are not employed by, or subject to the direction of the Authority itself but, rather, to the Secretary of the Department. Thirdly, prior to 2015, subsection 6(3) of the *Gaming and Liquor Administration Act 2007* provided that the Authority was not subject to the direction or control of the Minister subject to certain exceptions.

Following amendments in 2015, this position was effectively reversed such that at present, the Authority is subject to the control and direction of the Minister, subject to certain exceptions.

Amendments made to the *Casino Control Act* in 2013 introduced powers of the Authority to regulate the restricted gaming licence which are narrower than the powers the Authority has over the existing casino licensee. A new section 5A gave the Minister the power to give directions to the Authority in relation to the granting of the restricted gaming licence, including the power to give directions in relation to the terms and conditions of that licence and the boundaries of the restricted gaming facility.

The Minister gave two directions, two written directions, to the Authority. The first set out the precise terms of the licence conditions for the restricted gaming licence. The second directed that in the exercise of its disciplinary powers under section 23 of the Casino Control Act, the Authority must not exercise its power such that it would have the effect of amending any terms of the licence. But for this direction, section 5(2) of the Casino Control Act would have prevented the Minister giving directions

or guidelines on the exercise of any disciplinary action against a casino operator or licence.

Another amendment to the power of the Authority is under section 22. Subsection (2)(a), limits the power of the Authority to amend the conditions of the restricted gaming licence without the consent of the Licensee, thereby restricting the power of the Authority to unilaterally amend those conditions to suit the changing conditions.

As to Part C of the Terms of Reference of this Inquiry, it is expected that there will be evidence going to: the history of the relevant legislation; the changes to the Authority's role, function, powers and its independence; the casino regulatory framework in other jurisdictions, both nationally and internationally; the identification of best practice nationally and internationally in terms of casino regulation, and; a consideration of the objectives of the Casino Control Act in light of modern practices and technological changes.

In relation to Part C of the Terms of Reference, the role of this Inquiry is to assist the Authority to identify a legislative structure that will enable the achievement of sensible, effective, rigorous and independent regulation of the casino environment in New South Wales. Those are considerations of public importance because the revenue which flows to the State of New South Wales from gambling is not insignificant. For the financial year 2008 to 2019, the tax revenue from gambling in hotels, clubs and the casino in NSW was approximately $2.04 billion. If it pleases the Commissioner, those are my submissions, and I will hand over to Mr Bell.

COMMISSIONER: Thank you, Ms Sharp. Yes, Mr Bell.

MR BELL: Commissioner, it's presently proposed that there be five sets of hearings. The first set of hearings will principally deal with the vulnerabilities of casinos to money laundering and with anti-money laundering strategies. We will also explain what junkets are, the roles they perform with respect to casinos and identify their vulnerabilities to organised crime. The first set of hearings will also provide an overview of current regulatory settings.

The second set of hearings will principally relate to whether the Share Sale Agreement or the transfer of shares pursuant to it gave rise to a breach of the restricted gaming licence or any other regulatory agreements.

The third set of hearings will principally relate to the media allegations which were made concerns the conduct of Crown Resorts and the continuing suitability of the Licensee and Crown Resorts as a close associate of the Licensee having regard to those allegations.

The fourth set of hearings will principally relate to the Melco changes and the suitability of any potential new close associates of the Licensee arising from those changes.

And the fifth set of hearings will consider best practices and the legislative and regulatory review which arise for consideration by Part C of the Terms of Reference.

The first set of public hearings is presently scheduled to commence on 24 February 2020 for one to two weeks. It's presently anticipated the second set of public hearings will commence on a date in March 2020 to be announced. Further public hearings of the Inquiry will be announced in due course.

In relation to witnesses, although a daily list of witnesses to be called in the public hearings will be published on the Inquiry website, we're able to indicate that at this stage we anticipate that the witnesses to be called in the first set of hearings will include relevant representatives from Crown Resorts, Melco Resorts, The Star and regulators, as well as various specialist practitioners and scholars in the areas under review.

At this stage, we anticipate that the witnesses to be called in the second or fourth sets of hearings in relation to the Inquiry's work arising out of the Share Sale Agreement will include at least Mr Michael Johnston, Mr Guy Jalland, Mr John Alexander, Mr James Packer, Ms Mary Manos, Mr Lawrence Ho, Mr Evan Winkler and Mr Geoffrey Davis.

Commissioner, you've also invited public submissions in relation to the matters referred to in the Terms of Reference. That invitation was published in newspapers on 5 December 2019. A copy of the invitation and process for making submissions may be found at the Inquiry website. Interested members of the public and organisations are invited to make written submissions to the Inquiry on any aspect of the Terms of Reference, but in particular in respect to Part C of the Terms of Reference. The Inquiry has received some submissions. Members of the public and organisations who may wish to make submissions are encouraged to follow the process found at the website or to provide relevant information by use of the contact feature on the website.

COMMISSIONER: Thank you, Mr Bell. Mr Young, did you want to say anything at this stage?

MR YOUNG: No Commissioner.

COMMISSIONER: All right.

MR YOUNG: Thank you.

COMMISSIONER: Ms Higgins, would you like to say anything at this stage?

MS HIGGINS: No Commissioner.

COMMISSIONER: Thank you. Mr Finch, would you like to say anything at this stage?

MR FINCH: No, thank you, Commissioner.

COMMISSIONER: All right. Thank you, Mr Bell, thank you, Ms Sharp, for those opening submissions.

As we have heard, the Terms of Reference require investigation into various aspects of the conduct of numerous entities and individuals in various jurisdictions, both nationally and internationally. This Inquiry is being conducted in the setting that has been described by Mr Bell with the powers that have been indicated by Mr Bell. It will at times require consideration of sensitive and confidential commercial information. This will in turn require a sensible forensic approach utilising both public and private investigative methods, balancing the need to protect the legitimate commercial interests of those entities that are the subject of the investigation with the requirement of assessing suitability as it is so broadly defined under the relevant legislation.

As may appear obvious, the process of the Inquiry thus far has required much work, not only from those assisting the Inquiry but from those who have been authorised to appear for those the subject of the investigation. The work has included gathering in information, both co-operatively and coercively, with approximately 45 summonses issued with the vast majority of them answered with approximately 58,000 documents already in the database of the Inquiry.

Ongoing and productive communications with State, national and international casino regulators and law enforcement agencies is occurring concurrently with the establishment of a database of information and intelligence for review of international best practice for the regulation of casinos. I should record that the cooperation of those agencies is appreciated.

I should also record that apart from appreciating the work of the staff assisting me, I should refer in particular to the legal representatives of each of the entities the subject of the investigation and their assistance with the Inquiry staff over the last few months in rather pressing circumstances. It is appreciated. It has been, and will continue to be, essential for the efficiency of the work of the Inquiry.

I should also make mention of the previous work of other commissioners and investigators who have provided reports to the Authority and its predecessor. Many of those reports are available on the Inquiry website. The assistance to this Inquiry from the wealth of information contained in those reports is acknowledged.

Without commenting at all on the veracity of the media allegations to which Ms Sharp has referred in detail which are the subject of the Terms of Reference, it is appropriate to observe that the risk of the infiltration of organised crime into casinos is a matter not only of legitimate public concern and interest, but also of significant complexity, requiring close cooperation between information-gathering entities and regulatory and enforcement agencies and the casino operators. It no doubt requires, amongst other things, the use of sophisticated and cutting-edge technology and practices to keep abreast of, and hopefully ahead of, what is happening in this area.

From a public interest perspective, it is important that if it be the case that the present structure and/or practices in place for the regulatory bodies of casinos within our jurisdiction and the capacity for sensible liaison and communication with and between the regulatory body, the law enforcement agencies and the casino operators do not facilitate or enable effective control of the risks that are presented by the operation of casinos in our society, then you will expect, and the public will expect,

that a robust and equally sophisticated and cutting-edge approach will need to be adopted to ensure that there is capacity to effectively control those risks.

Notwithstanding the breadth of the tasks set by the Terms of Reference for this Inquiry, it is essential that an efficient approach be adopted to it, the time frame for which will depend upon a number of matters. In this regard, I have confidence that, where there is no issue that problems have existed, the entities under investigation will accept that this is the case, rather than requiring the expenditure of public funds on the investigation and proof of what they see as ultimately an irresistible conclusion. This will, of course, require the continued co-operation between the entities the subject of the Terms of Reference and those staff assisting the Inquiry.

I do look forward to that continued cooperation, and I will adjourn the public aspects of this Inquiry to 24 February 2020. I will now adjourn.

MATTER ADJOURNED at 1.20 pm UNTIL MONDAY, 24 FEBRUARY 2020