REPORT

Review of The Star Pty Ltd

Inquiry under sections 143 and 143A of the *Casino Control Act* 1992 (NSW)

31 August 2022

VOLUME 3

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Chapter 20
Overall Assessment of Star Entertainment's AML/CTF Program and associated processes

Chapter 20. Overall Assessment of Star Entertainment's AML/CTF Program and associated processes

Chapter 20.1 Introduction

1. This Chapter involves an overall assessment of Star Entertainment's AML/CTF Program and associated processes during the Relevant Period. The ultimate purpose of these processes is to ensure that money laundering and terrorism financing risks are accurately identified and managed and that Star Entertainment's casinos, as reporting entities, correctly report to AUSTRAC.

2. The Star does not have its own AML/CTF Program. Star Entertainment has established a Designated Business Group (**DBG**) and maintains a AML/CTF Program that covers the two casino operators, The Star and The Star Entertainment Queensland Ltd, both of which are reporting entities under the *AML/CTF Act.* For this reason it is necessary for the Review to consider the AML/CTF Program.

3. EEIS is also a member of the DBG but is not covered by the AML/CTF Program as it offered different designated services and had its own AML/CTF program.

4. The AML/CTF Program has been revised on a number of occasions over the Relevant Period.[1] It comprises two parts:

   (a) Part A, which serves to identify, manage and mitigate money laundering and terrorism financing risks a reporting entity may reasonably face in relation to the provision of the designated service; and

   (b) Part B, which serves to set out Star Entertainment's applicable customer identification procedures.

5. In accordance with Chapter 9.6 of the *AML/CTF Rules,* the AML/CTF Program has been independently reviewed on two separate occasions during the Relevant Period:

   (a) in May 2018, KPMG reported on the period December 2016 to November 2017, issuing a report reviewing Part A of the AML/CTF Program (**KPMG Part A Report**) and a report reviewing Part B of the AML/CTF Program (**KPMG Part B Report**);[2] and

(b) in May 2021, BDO issued an interim report, which reviewed Part A of the AML/CTF Program (**BDO Phase 1 Report**).[3] BDO then issued a further report on a draft basis in November 2021, finalising it in around February 2022 (**BDO Phase 2 Report**), which reviewed the effectiveness and compliance with *AML/CTF Rules* of TrackVia.[4] The delay in commencing the BDO review was attributed to COVID.[5]

6. To assist the Review to assess the AML/CTF Program, Ms Robyn McKern, a forensic accountant and partner at McGrathNicol Advisory, was retained by the Solicitors Assisting the Review. She produced two reports, dated 12 March 2022 (**First McKern Report**) and 26 April 2022 (**Second McKern Report**), respectively.[6] Ms McKern also gave oral evidence. Counsel for The Star Entities asked Ms McKern only a limited number of questions and where Ms McKern's opinions were not challenged they have been accepted by the Review.

Chapter 20.2 KPMG Reports

7. AUSTRAC's 2017 Compliance Assessment identified shortcomings in The Star's AML/CTF Program, and AUSTRAC's 2018 Compliance Assessment identified non-compliances by The Star with its statutory obligations relating to transaction monitoring ECDD.[7] Against this background, the KPMG Part A Report and the KPMG Part B Report identified several serious deficiencies with the AML/CTF Program and made a number of recommendations for improvement.[8] The reaction of Star Entertainment senior management to these findings is dealt with in Chapter 18.

8. Of particular concern were two "high risks" identified by KPMG:

(a) there was no adequately documented ML/TF risk assessment methodology for undertaking risk assessments, and Star Entertainment applied a default customer ML/TF risk rating of "low" that was not adequately explained or documented. Further, the risk assessment did not consider terrorism financing at all;[9] and

(b) the manual transaction monitoring process was inconsistently applied between the two reporting entities and the effectiveness of the automated transaction monitoring system, known as Transwatch, was limited. Further, a significant degree of manual transaction monitoring was being undertaken including cash transactions, cheques issued, account openings, international transactions and transactions brought to the AML Team's attention by Cage or gaming staff.[10]

9. Additionally, KPMG found in the KPMG Part A Report that:

   (a) Part A of the AML/CTF Program was insufficiently detailed and that there were insufficient AML/CTF resources;[11]

   (b) there were shortcomings in the ML/TF staff training programs and a number of staff had not completed training within the required timeframes;[12]

   (c) there was an absence of guidance leading to inconsistencies between the Sydney and Queensland casinos in terms of lodging SMRs and IFTIs;[13] and

   (d) there was no procedural document setting out how and what ECDD must be conducted and recorded with the consequence that ECDD was conducted and recorded inconsistently across the casinos.[14]

10. The KPMG Part B Report considered Part B of the AML/CTF Program, which is concerned with customer identification procedures. KPMG found that Part B of the AML/CTF Program had generally been effectively designed to meet the requirements of the *AML/CTF Rules*.[15] The most serious finding was that there was no formal risk assessment of junkets and that only limited due diligence was done on junket operators.[16] It was also found that no quality assurance was conduct on SMRs.[17] Other findings included that that the Cheque Cashing Facility Standard Operating Procedure did not fully comply with the *AML/CTF Rules*; and that there was no formalised process for managing regulatory change.[18]

Chapter 20.3 Uplift of AML/CTF Program and associated processes

11. KPMG's recommendations were the subject of a detailed tracked action plan, which has been implemented by Star Entertainment.[19] The steps taken to implement KPMG's recommendations were set out in the witness statements of Mr O'Neill,[20] Mr Bekier,[21] Ms Martin,[22] and Mr Power.[23] In particular, the AML/CTF Program and many supporting documents were re-written with effect from 1 November 2019.[24]

12. Ms McKern found that the uplift program has been extensive and appropriately directed towards identified deficiencies, and has enhanced the overall effectiveness of The Star's AML/CTF function.[25] The uplift program has included:[26]

   (a) re-writing the AML/CTF Program to provide more detail and linkages to the relevant SOP and risk assessment frameworks;

   (b) the introduction of a risk management framework and risk assessment which assists in assessing patron risk;

(c) enhanced risk awareness training to staff;

(d) the increased automation of transaction monitoring through the introduction of the TrackVia platform in April 2021; and

(e) the introduction of an ECDD standard.

13. Mr Howard Steiner, Star Entertainment's AML/KYC Project Director, provided a statement to the Review.[27] Mr Steiner has been at Star Entertainment since January 2020 and has responsibility for transforming Star Entertainment's AML/CTF and KYC programs.[28] Mr Steiner has over 20 years of AML/CTF experience and has previously held senior AML positions at Las Vegas Sands and Citigroup.[29]

14. According to Mr Steiner, the AML/CTF compliance framework at Star Entertainment presently comprises:[30]

(a) the AML/CTF Program dated 1 June 2020 (version 10);[31]

(b) the AML Transaction Monitoring Process dated 15 July 2021 (version 1.04);[32]

(c) the Transaction Monitoring and AUSTRAC Reporting Standard dated 13 May 2021 (version 3) (note that the previous version dated 1 November 2019 was reviewed by BDO);[33]

(d) the KYC Standard dated 1 June 2020 (version 2.0);[34]

(e) the ECDD Standard dated 1 March 2020 (version 1.2);[35] and

(f) the AML & CTF Standard Operating Procedure dated 1 July 2021 (version 2021).[36]

15. To this list may be added the AML/CTF Financing Risk Management and Assessment Framework dated 1 November 2019 (version 1).[37]

16. Ms McKern provided a useful diagram depicting the hierarchy of documents which give effect to the AML/CTF Program and detailed the history of the development of those documents:[38]

	Overview	Events in Relevant Period
AML/CTF Risk Management and Assessment Framework (**RMA Framework**)	The RMA Framework articlates the risks facing SEG and the way in which such risks are to be assessed and managed.	Introduced in October 2018 and updated November 2019 to align with the revised AML/CTF Program
AML/CTF Program (the **Program**)	Part A - How The Star identifies, mitigates and manages ML/TF risk Part B - How The Star meets its Know Your Customer obligations	Versions 5 to 10 issued within the Relevant Period with Version 9 dated 1 November 2019 being effectively a new, replacement Program
AML/CTF Standards (Standards)	Enhanced Customer Due Diligence (**ECDD**) Know Your Customer (**KYC**) Transaction Monitoring (**TM**) & AUSTRAC reporting	Introduced from 1 November 2019 to support the revised AML/CTF Program
Internal Control Manuals (**ICM**) ILGA Approved	Suite of internal controls approved by ILGA which map the internal controls to be implemented by Star to the risks associated with each area. The areas include: cage operations, cheques cashing and deposits, surveliinace, security, rebate play.	16 ICMs, 6 of which are unchanged in the Relevant period; the latest iterations remaining 10 were approved between 30 November 2016 and February 2018.
Standard Operating Procdures (**SOPs**)	The SOPs set out in detail the tasks to be undertaken in each area of the casino so as to implement the requiorements of the AML/CTF Program and the ICMs.	Ongoing development and revision, including issue of versions 9 to 25 of the Cage SOPs

17. There have been other AML/CTF initiatives during the Relevant Period. First, there has been an increase in AML/CTF resourcing. In August 2019, there were around six staff in the AML Team. This has now increased to around 20 people with AML specific roles. Secondly, the organisational arrangements for the AML Team have also changed, by moving the team from compliance, legal and regulatory affairs into the Financial Crime and Investigations Team.[39] Thirdly, TrackVia has been implemented and will be discussed in further detail later in this Chapter.

Chapter 20.4 Independent review by BDO

18. The most recent independent review of the AML/CTF Program was conducted by BDO, and covered the period December 2017 to December 2020. The BDO Phase 1 Report considered the version of the AML/CTF Program approved by the Board on 1 June 2020, being version 9.[40] BDO found that the AML/CTF Program was effective having regard to the ML/TF risk that Star Entertainment may reasonably face; that the AML/CTF Program complied with the *AML/CTF Rules* and had been effectively implemented; and that Star Entertainment had complied with its AML/CTF Program.[41]

19. The BDO Phase 1 Report also identified the following risks:

    (a) Adequacy of AML/CTF resourcing in respect of which BDO commented, "[t]he present resourcing arrangements for the AML function within Star Entertainment could result in a risk to ongoing compliance if AML capability is not augmented".[42]

BDO noted in this regard it was anticipated that the introduction of TrackVia reporting would give rise to substantial increases in cases for review by the AML Team.[43]

(b) Reliance on a small number of long serving and highly experienced AML Administrators which, whilst a valuable resource, is attended by sustainability risk arising from key person and succession risk.[44]

(c) There was considerable inconsistency between how the AML/CTF Program was implemented between the casinos subject to the Program.[45]

20. BDO made eight recommendations for enhancement, some of which are already being pursued by Star Entertainment:[46]

(a) simplify the documentation suite by embedding the AML/CTF Management and Assessment Framework into the AML/CTF Program;

(b) undertake a program to ensure adequate cross-referencing between the Standards, the SOPs and the AML/CTF Program;

(c) clearly define the AML Team roles and responsibilities including that of the Compliance Officer, the AML Administrator and the AML Program Manager;

(d) roles and responsibilities should be more clearly defined within Part A of the AML/CTF Program;

(e) risk register controls should be reviewed and augmented with specific cross-referencing to controls within a Standard or SOP;

(f) a review should be undertaken to ensure outstanding awareness training is undertaken by all staff who are registered as not having completed the training;

(g) appointment of a secondary AML/CTF Compliance Officer; and

(h) industry certification via the Association of Certified Anti-Money Laundering Specialists should be undertaken by all Group AML specialist staff.

21. The BDO Phase 1 Report also noted that cash and telegraphic transfers from third parties ceased in around November 2020 to deter smurfing and structuring money laundering techniques.[47]

22. Star Entertainment's transaction monitoring and OCDD were the subject of the BDO Phase 2 Report,[48] with the caveat that the 2021 COVID-19 lockdown period limited the

ability of BDO to analyse TrackVia data.[49] There were two broad aspects to the Phase 2 review, the first being to review the systems, procedures and controls to assist in meeting reporting obligations, and the second being a review of the TrackVia automated transaction monitoring rules.[50] Overall, the BDO Phase 2 Report was positive.

23. In relation to Star Entertainment's Transaction Monitoring Program, BDO concluded that Star Entertainment was meeting its transaction monitoring obligations under section 36 of the *AML/CTF Act* and the requirements of Chapter 15 of the *AML/CTF Rules*.[51]

24. BDO noted that during the review period Star Entertainment maintained a combination of manual transaction monitoring (around 80%) and automated transaction monitoring via TransWatch (around 20%). The heavy reliance on manual monitoring was because of failures in the effectiveness of TransWatch and the commencement of the design and build of TrackVia. The manual monitoring system was heavily reliant on two AML Administrators using *ad hoc* generated reports to identify triggers in customer activity.[52] BDO said that whilst there had been an uplift by the AML/CTF Team in response to KPMG's recommendations, there was still a heavy reliance on the AML Administrators.[53] BDO said that the implementation of TrackVia will result in increased alerts needing to be reviewed that resourcing concerns would need to be monitored.[54]

25. Certain shortcomings in transaction monitoring for high risk patron activity were identified, including that there was no specific activity monitoring of these individuals.[55] BDO made five recommendations for enhancement, a number of which Star Entertainment had accepted and commenced to implement by the time of the BDO Phase 2 Report:[56]

    (a) recommission TransWatch to restore records to comply with record-keeping obligations;

    (b) perform a review (stress test) of "high" or "very high" risk patrons with a view to identifying suspicious activity reported and making an assessment for watch list inclusion or Patron Activity Monitoring Meetings (**PAMM**) referral. This should include stress testing of all front money activity and all telegraphic transfers;

    (c) update the ECDD and Transaction Monitoring and AUSTRAC Reporting Standard and ECDD procedures to reflect the current system implementation;

    (d) review all AML related procedures and documents to ensure they are updated to incorporate the implementation of TrackVia, and implement direct inputs into

TrackVia to remove the need for emails, other paper forms and verbal interactions in relation to potential suspicious matters; and

(e) include a rolling agenda item in the AML governance meetings to keep track of and push progress on the AML sections within SOPs to ensure they remain up to date during TrackVia implementation.

26. BDO also reviewed the TrackVia transaction monitoring rules and found that the parameters and alerts for all TrackVia rules to date were fit for their purpose,[57] and that the current implementation of the live/active rules was effective and risk-based.[58] BDO considered that TrackVia includes appropriate systems and controls to undertake monitoring to facilitate the identification of suspicious matters,[59] and that the monitoring rules it reviewed seek to identify complex, unusually large transactions and patterns of transactions that have no apparent economic or visible lawful purpose.[60]

27. BDO did not review the EEIS AML/CTF program.[61]

Chapter 20.5 AUSTRAC Enforcement Investigation

28. In September 2019, AUSTRAC commenced a compliance assessment of The Star, focussing on The Star's management of high- risk patrons and PEPs.[62] On 4 June 2021, AUSTRAC notified The Star that its compliance assessment had identified potential serious non-compliances and that AUSTRAC had initiated a formal enforcement investigation.[63] For that reason, AUSTRAC did not issue a compliance assessment report. It is not the function of this Review to consider AUSTRAC's investigations which remain ongoing as at the date of this report.

Chapter 20.6 Latest version of the AML/CTF Program

29. Since the BDO reports, version 10 of the AML/CTF Program has been issued. Ms McKern found that Part A of that version is well-documented and addresses the matters required under the *AML/CTF Act* and *AML/CTF Rules* and is risk-based.[64] However, Ms McKern said that she was unable to identify how Star Entertainment gained overall assurance that Part A was being implemented and complied with by the first line of defence, that is, the business units which owned the risks and had operational accountability for managing them.[65]

Chapter 20.7 Patron Bank Accounts

30. During the Relevant Period, there were 39 bank accounts into which domestic and offshore patrons or those acting in their interest could deposit monies, either for credit to front money accounts or safekeeping accounts or to repay CCFs (**patron bank accounts**).[66] Some of the patron bank accounts were maintained onshore and some were maintained offshore. The patron bank accounts held by EEIS have been discussed in Chapter 16.

31. Ms McKern identified that there are multiple money laundering and terrorism financing risks associated with accepting monies into patron bank accounts. It is a key entry point of funds into a casino and the risk is compounded because of the capacity for funds to be moved remotely.[67] For example, where money is deposited without visiting the casino, it is possible that cash transactions exceeding $10,000 will not be detected and reported by the casino if the bank into which funds are deposited does not reveal the form of money deposited. There is also a risk of structuring, where cash amounts less than the $10,000 reportable threshold are deposited at multiple bank branches for the credit of the same patron account.[68] Another risk comes where international funds transfers are made via international remittance providers since funds are not coming directly from the patron, which obfuscates the identity of the initial depositor.[69]

32. One of the key controls for risks associated with patron bank accounts are the procedures outlined in the Cage Operations SOP. This SOP was significantly enhanced outside the Relevant Period on 5 November 2021, with the introduction of version 25.[70] Ms McKern found that 9 of the 10 controls cited by Star Entertainment as being in place to identify, manage and mitigate ML/TF risks were not in place in version 24.[71]

33. Where funds are transferred by or on behalf of a patron either into or out of Australia, The Star is typically required to lodge an IFTI with AUSTRAC. The cash services supervisor or above is responsible for completing an IFTI when these transactions occur. The transactions are detected by Cage staff analysing bank account statements. These are then submitted to the AML administrators who are responsible for lodging the reports with AUSTRAC.[72]

34. Ms McKern conducted certain data analysis of transactions recorded in 34 of the patron deposit accounts (including EEIS accounts) in the period from 1 January 2018 to 5 November 2021 (ie only for some of the Relevant Period). For this task she was provided with records including front money documentation and 387 bank statements from the

following banks: ANZ, BOC, UOB and NAB. This documentation will be referred to as the **Transaction Data Sample**.

35. In relation to third party deposits in the Transaction Data Sample, Ms McKern found:[73]

(a) $70,129,436 in deposits appeared to be third-party deposits (ie where the depositing party was different to the patron to whom the money was credited);

(b) a significant majority of these deposits were made to The Star NAB account ($31 million) and the EEIS NAB account ($34 million); and

(c) an analysis of $47.4 million in apparent third-party deposits to the front money accounts of patrons who received five or more apparent third-party deposits indicated that such deposits were made by:

(i) corporate entities (10%);
(ii) third-party individuals (2%);
(iii) money remitters (61%); and
(iv) for the remaining 27% Ms McKern was unable to identify the appropriate category of depositor.

36. Third party deposits increase money laundering risks since they involve a party who is neither the source nor the beneficiary of the funds and can therefore aid in obfuscation of the original source of these funds.[74] As Ms McKern observed, KYC procedures are conducted upon the patron so the KYC framework may be undermined with respect to third party deposits.[75]

37. The Cage Operations SOP dated 5 November 2021 introduced new controls on third party deposits. Procedures were adopted to ensure that third party deposits are identified and to prevent third parties from making deposits to The Star's bank accounts for credit to a patron front money account unless subject to a third-party authority.[76] A third party authority is an authorisation from the patron permitting a third party to make a deposit on their behalf.

38. Ms McKern further found that in the Transaction Data Sample, a total of $151 million was identified as being deposited in bank accounts of The Star or related companies from 13 overseas remittance service providers that had either been nominated by the Solicitors Assisting the Review or identified by Ms McKern. The majority of such deposits were into either the EEIS NAB account ($104 million) and The Star's NAB account ($41 million).

The money remitter Silver Express was responsible for the largest number and value of deposits ($52 million).[77]

39. Ms McKern explained that the value of transactions identified as being from remittance service providers far exceeded the value of apparent third party deposits because many of the deposits from remittance providers contained no identification as to the patron to whose front money account the deposit was to be credited. Such deposits therefore could not be included in Ms McKern's third party deposit analysis.[78]

40. Ms McKern's opinion was that accepting deposits from remittance service providers is inherently high risk from an AML/CTF perspective. It is high risk because there is a disconnection between the monies deposited by the payer and the monies received by the beneficiary. This disconnection creates opportunities for money-launderers to place, layer and/or integrate illicit funds through a casino, including via:[79]

    (a) cuckoo transactions - where a person's payment of legitimate funds (to a remitter offshore requesting the value be remitted to the casino) is replaced with illegitimate funds which are deposited to the casino (by the remitter's onshore associate) without the person being aware of the swap.

    (b) cuckoo smurfing money-laundering typologies - where multiple people (knowingly or unknowingly) are involved in collecting and depositing illicit funds, often cash below reportable limits, in order for them to be swapped in to replace a legitimate transfer in a cuckoo transaction.

41. The Star was reliant upon the remittance service provider to undertake appropriate KYC and source of funds processes, and because different jurisdictions have different AML/CTF requirements, even licensed offshore remittance providers may not meet the KYC and integrity requirements of a casino's AML/CTF Program or other regulatory requirements.[80]

42. For completeness it is noted that recent legislative amendments will have the effect that it will be easier for The Star to monitor patron transactions in bank accounts since it will be limited to having only one such bank account. The new sub-section 126(1)(a) of the *Casino Control Act*, which will take effect on 5 September 2022, makes it a condition of the casino operator's licence that it maintains a single bank account, approved by the newly established NSW Independent Casino Commission, at an authorised deposit-taking institution in NSW, for all banking transactions by patrons.

Chapter 20.8 Transaction Monitoring

43. Pursuant to section 36 of the *AML/CTF Act*, reporting entities are obliged to monitor patrons using designated services to identify, mitigate and manage ML/TF risks. Chapter 15 of the *AML/CTF Rules* requires a transaction monitoring program to be included within the AML/CTF Program.

44. Ms McKern identified that transaction monitoring during the Relevant Period involved three different phases:[81]

    (a) from November 2016 to October 2019, transaction monitoring was largely manual with limited automation via TransWatch and was governed directly by the then AML/CTF Program;

    (b) from November 2019 to March 2021, the revised AML/CTF Program applied together with a Transaction Monitoring and AUSTRAC Reporting Standard; and

    (c) from April 2021, when TrackVia was brought online and which substantially increased the level of automated transaction monitoring.

45. As already noted, KPMG concluded in 2018 that the automated transaction monitoring was limited and may not have been effective in any case. Additionally, manual transaction monitoring was conducted inconsistently across the Star Entertainment casinos. With the introduction of TrackVia there has been a significant increase in the amount of automated transaction monitoring.

46. Ms McKern found that several controls over transactions in patron bank accounts were not included in the Cage Operations SOP until version 25 which took effect on 5 November 2021.

47. Mr Aloi said that prior to the 5 November 2021 version of the Cage Operations SOP, the Cage Team monitored the bank accounts for "anything that didn't look right" even though there was nothing in the then applicable version of the SOP requiring this.[82]

48. The AML Administrators did not have access to any patron bank accounts during the Relevant Period (save for the NAB EEIS accounts discussed below).[83] Ms Arnott gave evidence that the Cage Team had received training to flag transactions of concern and raise them with the AML Administrators.[84] She agreed that the AML Administrators were entirely reliant on the Cage Team raising concerns about the accounts with them.[85]

49. In Chapter 16 it was concluded that there was only unsophisticated monitoring of the EEIS bank accounts by the Cage. As noted in Chapter 16, Ms Arnott, who was the AML/CTF Compliance Officer for both The Star and EEIS at the time, did not become aware that patrons were making deposits into EEIS's NAB account until September 2019 following inquiries from NAB.[86] It was only at this time that she became aware that money was being deposited into this account for the purpose of providing front money as opposed to CCF repayments.[87] Ms Arnott asserted that from 2018 to mid-2019, there was "some" transaction monitoring of the EEIS NAB bank accounts for AML purposes, since she believed that Cage staff may have identified some transactions that were suspicious and reported them.[88] The perfunctory monitoring was despite the fact that under the EEIS AML/CTF Program, the EEIS AML/CTF Compliance Officer (a position Ms Arnott jointly held with Mr Whytcross) was to oversee the effectiveness of the transaction monitoring program.[89] Ms Arnott was prepared to concede there were shortcomings in EEIS transaction monitoring.[90]

50. It was not until 26 September 2019 that Ms Arnott requested that the AML Administrators be granted access to the EEIS bank accounts so that they could be monitored for AML/CTF purposes.[91]

51. Also in September 2019, Ms Arnott directed that four IFTI reports be submitted to AUSTRAC in respect of deposits for front money accounts. It was only after that time that Ms Arnott and Mr White sought external legal advice regarding whether IFTIs needed to be lodged in either Hong Kong or Australia for front money account deposits.[92] It follows that transactions had occurred in the EEIS NAB account since 2018 in the absence of The Star Entities confirming whether or not IFTIs were required to be lodged. Notably, when Ms Arnott completed an AML/CTF onboarding questionnaire for NAB on 5 June 2019 she asserted that EEIS did lodge IFTIs (and asserted that EEIS has a transaction monitoring program).[93]

52. Further, it was only shortly before Ms Arnott made her February 2022 statement that she became aware that any deposits at all had been made into EEIS's account with the BOC HK.[94]

Chapter 20.9 TrackVia and its implementation

Functions of TrackVia

53. In April 2021, TrackVia was brought online. It is Star Entertainment's case management system and central repository for all AML and patron-related information.[95] TrackVia stores data extracted from other information systems including meeting minutes, watchlists, logs of incidents, transaction monitoring statistics, customer due diligence review, ECDDs, risk assessments, risk rates and suspicious matter reports.[96] TrackVia aims to give relevant personnel a complete view of the risk profile of a patron in a central place and can be given to stakeholders, such as AUSTRAC.[97] Mr Houlihan told the Review that persons with access to TrackVia include the entire Financial Crime Team and the Chief Legal and Risk Officer.[98]

54. TrackVia is also one component of automated transaction monitoring in that certain transaction monitoring rules are coded into it. The rules generate alerts which are then monitored by analysts who make findings regarding reported suspicions. These alerts sometimes trigger the lodgement of SMRs by the AML Administrators to AUSTRAC.[99] These rules cover a variety of suspicious behaviour across a number of suspicious activities including but not limited to large transactions, ticket ownership, chip usage, electronic gaming machines and potential structuring activities.[100]

55. Mr Houlihan told the Review that while due diligence information in the Protecht database had been transferred across to the TrackVia database and could be interrogated, it was not possible to generate reports from TrackVia of that data.[101]

56. At present, transactions in bank accounts are not automatically monitored in TrackVia. As Ms McKern noted, the solicitors for The Star Entities informed the Review of the certain money laundering vulnerabilities in relation to bank accounts.[102] These relate to confidential aspects of The Star and Star Entertainment's AML/CTF processes and are identified as part of a separate confidential report to the Authority.

Ms McKern's assessment of TrackVia

57. Ms McKern considered that the implementation of TrackVia was a significant leap forward towards industry best practice in AML/CTF systems but said it was still at an early stage of implementation.[103] She found a number of attractive features in TrackVia:[104]

(a) it brings together a breadth of relevant data in the one place to aid timely and effective investigation and reporting;

(b) whilst there are complex data sets and systems which sit behind it, the platform itself presents as intuitive and is well supported by documents and guides to enhance effective use; and

(c) the workflow, quality control/review functionality and audit logs provide a sound record of action taken or not taken in regard to alerts.

58. Ms McKern identified that a risk of TrackVia was that data input was incomplete or lacked integrity.[105] She directly experienced examples where the information entered into TrackVia was not adequate to ensure that a subsequent reviewer would understand the information or its importance.[106]

59. The Review has seen two examples where entries in TrackVia lacked integrity, relating to two junket funders, Mr Alvin Chau and Mr Sixin Qin respectively.

60. Mr Chau's relationship with The Star, and the entries recorded in relation to him in TrackVia were considered in Chapter 13. Similarly, due diligence records in TrackVia for Mr Qin, who held the CCF for the Minmin Shen junket, also failed to record important adverse information set out in a third party due diligence report commissioned by Star Entertainment. The Minmin Shen junket was one of the largest junkets at The Star by way of turnover.[107] The adverse information was reported in a third party due diligence provider report dated January 2020 in the possession of Star Entertainment, which relevantly stated:[108]

> 1) Source(s) of wealth? How does he fund his gambling activities?[109]
>
> 1. According to confidential Sources, the main sources of wealth of QIN are (a) Illegal money lending (by casino chip stacking and loan- sharking) & acting as a junket, (b) Operating illegal on-line gambling gaming and illegal on-line bookmaking especially on soccer and horses and (c) Maintaining a rolling account with the "Sun City Group" (amount about HK$20 Million with interest at 3.12 % per month) to fund his gambling activities.
>
> …
>
> 2) Your interim report suggested the subject is an 'online- gaming banker?' Is there any additional information relating to this gaming activity i.e. is it legal? Any related open source material?[110]
>
> 2. According to confidential Sources, QIN is the main "banker" and operates on-line gambling and also on-line bookmaking activities by renting illegal on-line gambling websites, such as (3388.Sun, Galaxy, etc.) from casinos . All of QIN's on-line

> gambling activities are illegal. No information would be available from open sources.
>
> …
>
> 8) Any adverse information – personal or business related?[111]
>
> 8. QIN was a swindler in Shanghai and he is very cautious by nature and he is very apprehensive that his previous "Shanghai" identity would be exposed to allow his Shanghai creditors to locate him; therefore, he does not trust anyone, even his driver although "hand-picked". Currently there is no obvious adverse information against QIN.
>
> 9) Further to your interim report which indicated the subject is not known to be a triad member, is QIN suspected of having any criminal associations?
>
> 9. QIN maintains very low key and on the face is a "bona fide" businessman but in fact he is the "gold master" behind illegal on-line gambling and bookmaking syndicates. QIN is not known to be a member of any triad society or to be involved in any triad activity but cannot avoid being acquainted with triad members through his illegal gambling activities.

61. An ECDD review dated 1 February 2022 was recorded in TrackVia with a recommendation to "maintain customer relationship". The review had been escalated to Mr Buchanan as the Due Diligence Program Manager. Mr Buchanan's 1 February 2022 entry minimised the significance of this information and failed to disclose its content:[112]

> This DD Review was compiled as a result of our conversation last week which referenced both this Patron and some adverse information (uncorroborated) which was previously provided by a third-party provider. Of note, external reports, from two separate providers did not detail the adverse information.
>
> (emphasis added)

62. In turn, his recommendation was escalated to the AML/CTF Compliance Officer at the time, Ms Arnott, who agreed to maintain the relationship.[113] A fair and balanced entry in TrackVia would have disclosed the key import of the adverse information.

63. It also emerged during evidence that third party due diligence reports were not stored on TrackVia, but rather, were stored by Mr White, Mr Houlihan and Mr Buchanan.[114] This is an obvious gap in due diligence holdings. It was suggested that such reports were not held on TrackVia due to confidentiality concerns.[115] This is an unsatisfactory explanation. No doubt it is possible to create password access to different parts of TrackVia holdings at different levels. The present situation means that a number of people will be unaware that third party due diligence is even held about particular individuals. It is also important that people know the existence of due diligence reports, without necessarily knowing their content.

64. A further risk of which Ms McKern warned was that TrackVia becomes an end in itself, rather than a tool to be used to make timely and appropriate operational and strategic decisions, including in relation to the exclusion of customers.[116]

Chapter 20.10 Know Your Customer

65. At a high level, the AML/CTF Program and risk-based systems associated with KYC at Star Entertainment are:[117]

(a) standard customer identification and verification;

(b) discrepancy with identification documents;

(c) very high-risk customer verification;

(d) politically exposed person identification and verification;

(e) beneficial owner identification and verification; and

(f) re-verification of customer identity.

66. The Star has a list of transactions, found at Appendix A of the KYC Standard, that require the collection and verification of information in relation to a patron. These transactions are identified in the Confidential Report.

67. Before conducting any of the abovementioned actions (or when a patron joins The Star's loyalty program) each patron is required to provide their full name, date of birth and residential address to The Star which is then verified by a licensed employee of The Star, using original and current documentation.[118] The methods of verification for each form of action are listed in Appendix A of the KYC Standard and include the sighting of various identification documents of that patron.

68. Additionally, in relation to source of wealth and source of funds, the KYC Standard requires Star Entertainment personnel to collect information about a patron's occupation and, if required by the AML/CTF Compliance Officer, to directly enquire as to source of funds in certain circumstances. These circumstances are identified in the Confidential Report.[119]

69. Ms McKern found that Star Entertainment had reasonable processes to undertake, collect and record basic KYC, ECDD and OCDD intelligence and that these processes improved through the Relevant Period. She also considered that Star Entertainment shared that information through processes and forums, including PAMMs and JRAMs.[120]

70. Ms McKern's key reservations about KYC processes were as follows:

(a) First, Star Entertainment lacked curiosity and rigor in identifying and assessing patrons' source of wealth and source of funds. In particular, Star Entertainment did not identify these matters as important factors in assessing patron risk. Mr Aloi, the Cage Manager until May 2021, told Ms McKern that "the source of funds has come in late for me and that's probably come in over the last, or since last year or so, if that".[121] During the public hearing, Mr Aloi said that the Cage did not perform any source of wealth checks where a patron sought to open a front money account.[122]

(b) Secondly, Ms McKern said that where source of wealth information was collected, the focus was more on credit risk, and AML/CTF analysis of that information was cursory.[123]

(c) Thirdly, the use to which collected KYC data was put was unclear. Star Entertainment's tolerance for patron risk was unclear and the decision-making process lacked transparency, including because PAMM and JRAM minutes did not reveal the nature or extent of deliberations. This included a lack of clarity as to the triggers which would result in action and the risk mitigating circumstances which would be taken into account (if any). It was not clear what the triggers were for determining to exclude a patron. Neither Mr Houlihan nor Ms Arnott (both of whom had acted in the AML/CTF Compliance Officer role) could articulate at what point the activity of a patron was such that Star Entertainment would cease doing business with them, save where the patron had been convicted of a crime.[124]

(d) Fourthly, and related to the third point, Star Entertainment had shown a preparedness to do business with certain individuals notwithstanding information available to it that in doing so it may be failing to mitigate the money laundering risk and/or failing to keep the casino free from criminal influence.[125]

71. The above reservations lead to the conclusion that while Star Entertainment had moved towards instituting appropriate processes, there remained a lack of judgment in decision-making. This goes to the absence of a culture of compliance, which is discussed in further detail later in this Chapter. This conclusion is underscored by certain KYC case studies Ms McKern conducted which led her to conclude that Star Entertainment conducted the required ECDD and OCDD, discussed patrons of interest at PAMMs and JRAMs, but

invoked exclusions only where there was or was anticipated to be media interest or where law enforcement action had been taken.[126]

Chapter 20.11 ECDD and OCDD

72. ECDD is required to take place in circumstances where KYC procedures have identified a heightened ML/TF risk. Over the entirety of the Relevant Period it has been the role of the AML/CTF Compliance Officer to make a decision about the outcome of an ECDD or OCDD review, including whether to cease dealing with the patron.[127]

73. In June 2019, Mr Buchanan was tasked with reviewing the existing ECDD/OCDD processes and developed a revised framework that was implemented in April 2021. He set out the details of the new framework in a confidential component of his first witness statement.[128] A more comprehensive raft of due diligence steps were taken from that time.

74. OCDD includes ensuring that information maintained about a patron is up to date. The processes for conducting OCDD are described in further detail in the Confidential Report.

Chapter 20.12 Staff Training

75. Ms McKern surveyed employees regarding AML/CTF training and awareness.[129] The survey showed that employees had received AML/CTF training recently, with 82% of respondents indicating that they had received AML/CTF training in 2021 or 2022. When asked about the quality of training received, 36% responded that it was "excellent" and 42% that it was "good". When asked whether Star Entertainment keeps them up to date with information regarding money laundering indicators and policies and practices, 41% strongly agreed and 43% agreed. When asked if they felt well-equipped with the knowledge to effectively identify potential indicators of money laundering or related suspicious behaviour, 36% strongly agreed and 51% agreed. Some employees indicated that they would benefit from more face-to-face training that included money laundering scenarios, to understand potential money laundering situations better.

Chapter 20.13 Culture of compliance

76. Commissioner Bergin SC identified the need for a culture of compliance and proactivity in relation to ML/TF risks in a casino context. She explained (footnotes omitted):[130]

> If casinos are to avoid succumbing to "revenue pressures", a culture of compliance is required to be embedded at the Board of directors and executive management

> level, with them "all being on board to understand that anti-money laundering is a large risk".
>
> A positive culture of compliance and proactivity is "absolutely fundamental" in respect of both ensuring an effective money laundering regime and in managing the tension between revenue pressure and the requirement for compliance with regulatory regimes.

77. As discussed in Chapter 13, a powerful example of the absence of a culture of compliance was The Star's failure to terminate arrangements in Salon 95 in a timely fashion in view of the numerous ML/TF risks, which were not being effectively controlled. Mr Houlihan told the Review that following the investigations in around mid-2018 and with "appropriate and correct measures put in place", he was satisfied that the risks in Salon 95 could be managed.[131] This was despite his recognition that Suncity staff were not complying with the controls.[132]

78. Likewise, Ms Arnott knew Suncity was not complying with controls in 2019 in Salon 95 and had no confidence that it would.[133] However, no decision was made to terminate the relationship with Suncity notwithstanding that it was within her control as the AML/CTF Compliance Officer from August 2019 to decide to cease dealing with Suncity and Mr Chau.[134] Despite the fact that Ms Arnott was the AML/CTF Compliance Officer from this time, she took no steps to alert either the Board or its committees to the serious money laundering concerns held in relation to Salon 95 and Suncity by this time.

79. As discussed in Chapter 13, this lack of judgment was also apparent when Mr Houlihan denied that the HKJC Report about Mr Chau and Suncity was of "extreme concern".[135] Indeed, Mr Houlihan denied that the HKJC Report was even relevant to his considerations, dismissing it as mere allegations and suspicions.[136] He repeatedly minimised the significance of the findings in that report during his evidence.[137]

80. The lack of a compliance culture was also evident in the report prepared by Ms Arnott to the Board's Risk and Compliance Committee dated 24 September 2019,[138] which was reviewed by Ms Martin prior to finalisation.[139] While reference was made to the July 2019 media allegations, not a word was said about the various transactions of concern in Salon 95 despite Ms Arnott's view that they were indicative of money laundering. Furthermore, nothing was said about Mr White's August 2019 memorandum, a draft of which had been shown to Ms Arnott, about money laundering risks associated with the overseas payment channels.[140] Nor was the HKJC Report referred to in that document.[141]

81. Proceeding with the Modified Kuan Koi Arrangement, as discussed in Chapter 16, with the attendant ML/TF risks, also stands as a stark example of the absence of a culture of compliance.

82. Throughout the Relevant Period the culture of compliance with AML/CTF obligations at Star Entertainment was clearly lacking. The absence of a culture of compliance was linked to and manifested by very poor judgment on the part of a number of senior managers.

Chapter 20.15 Conclusions

83. During the earlier part of the Relevant Period, Star Entertainment's approach to AML/CTF was immature and had obvious gaps, in particular relating to transaction monitoring and risk identification associated with junkets. Star Entertainment has taken many steps to revise the AML/CTF Program and associated AML/CTF processes since KPMG identified serious deficiencies in May 2018 and these steps are commendable.

84. However, while there has been a significant uplift in processes the absence of a culture of compliance has been a notable matter during this Review. Well-documented AML/CTF processes and information management systems such as TrackVia are positive developments, but to be effective, they must be accompanied by the correct cultural settings to inform decision-making and reporting.

Endnotes

1 **Exhibit C-330** (INQ.018.001.0001 at .0037-.0038).

2 **Exhibit B-794** (STA.3001.0001.2750); **Exhibit B-791** (STA.3001.0001.2802).

3 **Exhibit B-2841** (STA.3002.0001.1248).

4 **Exhibit H-464** (STA.3009.0010.0399).

5 **Exhibit B2841** (STA.3002.0001.1248 at .1254).

6 **Exhibit C-330** (INQ.018.001.0001); **Exhibit H-634** (INQ.018.002.0001).

7 **Exhibit A-905,** para [31] (INQ.002.004.0201 at .0205).

8 Star Entities' Written Submissions dated 21 June 2022, para [E7].

9 **Exhibit B-794** (STA.3001.0001.2750 at .2757).

10 Ibid at .2759.

11 Ibid at .2757.

12 Ibid at .2758.

13 Ibid at .2759.

14 Ibid.

15 **Exhibit B-791** (STA.3001.0001.2802 at .2807).

16 Ibid at .2807 - .2809.

17 Ibid at .2809.

18 Ibid.

19 **Exhibit A-1055,** para [27] (INQ.002.004.0031 at .0034); **Exhibit A-72**, para [13] (INQ.002.004.0066 at .0067).

20 **Exhibit A-1055,** para [24]-[30] (INQ.002.004.0031 at .0034 to .0040).

21 **Exhibit A-72,** para [13]-[16] (INQ.002.004.0066 at .0067 to .0068).

22 **Exhibit A-905,** para [55]-[74], [108]-115] (INQ.002.004.0201 at .0210 to .0213, .0220 to .0222).

23 **Exhibit A-1186,** para [52] (INQ.002.004.0090 at 0097).

24 **Exhibit C-330** (INQ.018.001.0001 at .0038).

25 Ibid at .0015.

26 Ibid at .0023 to .0024.

27 **Exhibit A-1313** (INQ.002.004.0026).

28 Ibid, para [5]-[10].

29 Ibid, para [9], [11].

30 Ibid, para [18], at .0027.

31 **Exhibit B-2435** (STA.3001.0001.1319).

32 **Exhibit B-2983** (STA.3001.0001.1373).

33 **Exhibit B-2860** (STA.3001.0001.1418).

34 **Exhibit B-2436** (STA.3001.0001.1355).

35 **Exhibit B-2226** (STA.3001.0001.1338).

36 **Exhibit B-2926** (STA.3002.0001.1370).

37 **Exhibit G-715** (STA.3001.0001.1308).

38 **Exhibit C-330** (INQ.018.001.0001 at .0036).

39 **Exhibit A-905,** para [60]-[61] (INQ.002.004.0201 at 0211).

40 **Exhibit B-2841** (STA.3002.0001.1248 at .1254).

41 Ibid.

42 Ibid at .1260.

43 Ibid.

44 Ibid at .1259.

45 Ibid.

46 Ibid at .1255; **Exhibit C-330** (INQ.018.001.0001 at .0046 to .0047).

47 **Exhibit B-2841** (STA.3002.0001.1248 at .1279).

48 Ibid at .0408.

49 **Exhibit H-464** (STA.3009.0010.0399 at .0403).

50 Ibid at .0404 - .0405.

51 Ibid at .0404.

52 Ibid at .0404, .0407.

53 Ibid at .0404.

54 Ibid.

55 Ibid at .0415 - .0416.

56 Ibid at .0405 - .0406, .0410.

57 Ibid at .0405.

58 Ibid.

59 Ibid.

60 Ibid.

61 Arnott: Day 13 T1514.45-47.

62 **Exhibit B-1675** (STA.3402.0002.2700).

63 **Exhibit B-2438** (STA.3001.0001.1430).

64 **Exhibit C-330** (INQ.018.001.0001 at .0045).

65 Ibid.

66 Ibid at .0051.

67 Ibid.

68 Ibid at .0052.

69 Ibid at .0054.

70 **Exhibit G-880** (STA.3012.0010.0390).

71 **Exhibit C-330** (INQ.018.001.0001 at .0052 to .0053).

72 Ibid at .0055; **Exhibit B-2841** (STA.3002.0001.1248 at .1275).

73 **Exhibit H-634** (INQ.018.002.0001 at .0008).

74 Ibid.

75 Ibid at .0013.

76 Ibid at .0008, .0016.

77 Ibid at .0019.

78 Ibid.

79 Ibid at .0009, .0017.

80 Ibid at .0017.

81 **Exhibit C-330** (INQ.018.001.0001 at.0105 to .0106).

82 Aloi: Day 8 T899.4-22.

83 Arnott: Day 14 T1540.45 to 1541.46.

84 Arnott: Day 14 T1546.32-47.

85 Arnott: Day 14 T1549.20-37.

86 **Exhibit A-1**, para [64] (INQ.002.004.0241 at .0256); Arnott: Day 13 T1521.26-30.

87 **Exhibit A-1,** para [65] (INQ.002.004.0241 at .0256).

88 Arnott: Day 13, T1514.13-16.

89 Arnott: Day 14 T1562.9-33.

90 Arnott: Day 13 T1527.16-25.

91 **Exhibit A-1,** para [73] (INQ.002.004.0421 at .0257); **Exhibit B-1720** (STA.3422.0060.8379); Arnott: Day 13 T1525.11-24.

92 **Exhibit A-1,** para [69] (INQ.002.004.0241 at .0257).

93 **Exhibit B-1400** (STA.3002.0005.0158 at .0161 and .0162).

94 **Exhibit A-1,** para [75] (INQ.002.004.0241 at .0257).

95 **Exhibit A-1313,** para [23] (INQ.002.004.0026 at .0028).

96 Ibid [29]; see also Houlihan: Day 10 T1123.41-48.

97 **Exhibit A-1313,** para [25] (INQ.002.004.0026 at .0028).

98 Houlihan: Day 10 T1124.1-54.

99 **Exhibit A-1313,** para [26]-[28] (INQ.002.004.0026 at .0028).

100 **Exhibit C-330** (INQ.018.001.0001 at .0110).

101 Houlihan: Day 10 T1124.7-38.

102 **Exhibit C-330** (INQ.018.001.0001 at .0053 to .0054).

103 Ibid at .0015 and .0115.

104 Ibid at .0115.

105 Ibid at .0015.

106 Ibid at .0115.

107 **Exhibit A-378**, para [48] (INQ.002.004.0109 at .0118).

108 **Confidential Exhibit G-747** (STA.3023.0005.0045).

109 Ibid at .0051.

110 Ibid at .0052.

111 Ibid at .0053.

112 **Exhibit H-554** (STA.3023.0003.0155 at .0160).

113 Ibid.

114 Houlihan: Day 11, T1182.3-6 and T1183.19-31 and Arnott: Day 13, T1396.1-14.

115 Houlihan: Day 11, T1182.44-46.

116 **Exhibit C-330** (INQ.018.001.0001 at .0015 and .0115).

117 Ibid at .0088.

118 **Exhibit D-2436** (STA.3001.0001.1355 at .1358).

119 Ibid at .1358 - .1359; **Exhibit C-330** (INQ.018.001.0001 at .0089).

120 **Exhibit C-330** (INQ.018.001.0001 at .0026).

121 Ibid.

122 Aloi: Day 7 T786.43-47.

123 **Exhibit C-330** (INQ.018.001.0001 at .0026).

124 Ibid at .0017 - .0018, .0026, .0092 - .0093.

125 Ibid at .0027.

126 Ibid.

127 **Exhibit A-83,** para 23(b) (INQ.002.004.0001 at .0005); Buchanan: Day 4, T436.22 - T437.4.

128 **A-83,** para [17]-[24] (INQ.002.004.0001 0001 at .0003-.0005).

129 **Exhibit C-330** (INQ.018.001.0001 at .0042 - .0043).

130 **Exhibit B-2791** (INQ.017.001.0061 at .0133 - .0134).

131 Houlihan: Day 10, T1140.31-41.

132 Houlihan: Day 10, T1153.27 to 1154.17.

133 Arnott: Day 13, T1456.34-47.

134 Arnott: Day 13, T1478.1-6.

135 Houlihan: Day 10, T1162.8-15.

136 Houlihan: Day 10, T1165.4-5.

137 Houlihan: Day 10, T1168.20-23, T1169.1-19, T1169.30-31.

138 **Exhibit B-1714** (STA.5003.0004.1529).

139 Arnott: Day 14 T1598.46 to 1599.9.

140 **Exhibit B-1569** (STA.3415.0001.9441); **Exhibit B-1570** (STA.3415.0001.9442); Arnott: Day 14 T1592.22-35.

141 Arnott: Day 14, T1602.33 - T1603.16.

Chapter 21
Prevention of Criminal Infiltration

Chapter 21. Prevention of Criminal Infiltration

Chapter 21.1 Introduction

1. The topic of prevention of criminal infiltration arises for the Review's consideration under paragraphs 3 and 4 of its Terms of Reference. The surveillance processes at The Star, the adequacy of its KYC systems including facial recognition technology, and the execution and management of exclusion orders arise for consideration under paragraphs 8.7, 8.8 and 8.10 respectively.

Chapter 21.2 The Star's systems to prevent criminal infiltration

2. In order to be effective, The Star's systems to prevent criminal infiltration must remain confidential. Accordingly, this topic is part of a separate confidential report to the Authority.

Chapter 21.3 Execution and management of exclusion orders

3. The Authority or The Star may by written order prohibit a person from entering or remaining in The Star Casino (**exclusion order**).[1] They must do so on receipt of either a person's voluntary application to the Authority or The Star for an exclusion order[2] or a direction from the Commissioner of Police that an exclusion order be issued in respect of a particular person.[3] Where The Star has been directed to issue an exclusion order by the Commissioner of Police, The Star must give notice of the resulting exclusion order as soon as practicable afterward to the Commissioner of Police.[4]

4. An order arising from a voluntary application for exclusion (known as "self-exclusion") can only be revoked on the application of that person and not before six months after the order was first given.[5]

5. The Star must keep a list of all excluded persons and provide that list to the Authority on request.[6]

6. If a person the subject of an exclusion order enters the casino, The Star must remove them. The Star is entitled to use such force as is reasonable in the circumstances to prevent a person the subject of an exclusion order from entering the casino or to remove such a person from the casino once identified.[7]

7. At common law The Star may also withdraw a person's licence to enter and remain in The Star Casino (**Withdrawal of Licence**).

8. During the Relevant Period, Star Entertainment has had in place at all times an Exclusions Policy.[8] This policy has been amended over the Relevant Period on a number of occasions. However, at all times during the Relevant Period, an authorised person was able to determine to exclude a person consistently with the authorisation given to them by the Exclusion Policy.[9] The Exclusions Policy provided general guidance on the types of considerations that should be taken into account when considering issuing an exclusion order. The Exclusions Policy or the associated guidance material also included a table for authorised persons which set out types of incidents or behaviours and then provided a corresponding minimum period of exclusion.

9. The Star has informed the Review that in practical terms, exclusion orders that relate to concerns that a person has engaged in illegal or undesirable behaviour are made on a review of the relevant incident.[10] These incident reviews are conducted as part of a daily security operations meeting.[11] The authorised person deciding to make an exclusion order is most often the Duty Manager rostered on any given day.[12]

10. Police exclusion orders are processed by the Investigations Team using the Casino Internal Database according to the Actioning a Police Issues Exclusion Order Direction SOP.[13] The SOP is intended to ensure that these orders are implemented in a timely manner and that police are notified when the exclusion order has been issued.[14]

11. During the Relevant Period, the Exclusions Policy provided an appeal process for people who had been issued with exclusion orders by Star Entertainment (excluding Police exclusion orders).[15]

12. During the Relevant Period, the Exclusions Policy provided that communications with excluded persons was to be managed through the Patron Liaison Manager and prohibited any marketing or soliciting activity by employees to excluded persons.[16]

13. The Star has identified facial recognition technology as how it now manages active exclusions.[17]

14. A Police exclusion order must not be revoked except with the Commissioner's approval.[18]

15. During the Relevant Period, revocations of non-voluntary exclusion orders (other than Police exclusion orders) were considered by an Exclusions Review Committee established by Star Entertainment.[19] The Exclusions Policy sets outs its membership and responsibilities.[20]

16. The Star has informed the Review that decisions of the Exclusions Review Committee are usually by consensus.[21] If there is no consensus, a majority vote will decide the matter.[22] However, it appears that prior to February 2019, the Exclusions Policy provided that if there was no consensus reached, the Chair would escalate the request to the Executive General Manager - Governance, Risk & Compliance for a final determination.[23]

17. The Exclusions Policy sets out the factors that must be considered by the Exclusions Review Committee when making decisions to revoke an exclusion order.[24] The Exclusions Policy also provided the form of the application for revocation.[25]

18. From 7 January 2016 until 6 December 2018:[26]

    (a) clause 2.1 of the Exclusions Policy provided that upon issuance of a Police exclusion order in either NSW or Queensland, the Investigations Team were to assess readily available public information relating to the excluded patron to determine if there were grounds to issue an exclusion order for the patron in the other state; and

    (b) clause 3 provided that the issue and revocation of exclusion orders intended to operate in more than one jurisdiction at any point in time was to be governed by the Executive General Manager Governance, Risk and Compliance and the Group General Counsel. If consensus could not be reached, Star Entertainment's Chief Executive Officer would make the final determination.

19. In or around December 2018, Star Entertainment conducted a review of its Exclusions Policy. Mr Houlihan stated that following that review, Star Entertainment implemented changes to achieve greater consistency across its properties and the jurisdictions in which it operated, to achieve greater clarity about the duration of exclusions and processes for revoking an exclusion.[27] The review was also aimed at ensuring that Star Entertainment complied with its regulatory framework.

20. On 6 December 2018, a revised Exclusions Policy was issued.[28] The Exclusions Policy was then reissued on 1 January 2019, 7 February 2019 and 3 December 2020.[29] The Review

does not have copies of the Exclusions Policy as at 6 December 2018 or 1 January 2019. However, the Review has been provided with copies of the Exclusions Policy which were effective from 7 February 2019[30] and 3 December 2020.[31]

21. From 7 February 2019, the Exclusions Policy has provided that a Police exclusion issued in one State would be mirrored with a Withdrawal of Licence or an exclusion order issued by the casino in the other state. Exceptions to this rule were at the discretion of the Chief Risk Officer.[32] This requirement did not have retrospective application.[33] That is, in February 2019, Star Entertainment did not consider at that time who had previously been excluded by the Commissioner of Police in either Queensland or NSW and then issue mirroring Withdrawal of Licences in the other state.

22. In his written statement, Mr Houlihan stated that he believed that this approach was made because of practical difficulties.[34] Mr Houlihan said that Star Entertainment would need to upload and process the details of each person who was previously the subject of an exclusion, including a Police Exclusion into the CID.[35] Mr Houlihan estimated that on average, it would take approximately 20 minutes to perform the relevant administration processes to enable an existing exclusion applicable in one State to apply in another State.[36] Mr Houlihan informed the Review that based on a search he had run as at 30 January 2022 approximately 11,741 people had been excluded from Star Entertainment's properties.[37] However, Mr Houlihan noted that not all of these were Police exclusions and included self-exclusion orders and exclusions issued for responsible gambling reasons and misconduct.[38]

23. The Review requested that Mr Houlihan in his written statement provide a list of people who, during the Relevant Period, were excluded from The Star but had been permitted to play at Star Entertainment casinos in Queensland and vice versa. Mr Houlihan produced a list of people who, during the Relevant Period, were the subject of a Police exclusion order issued by the NSW Commissioner of Police but were permitted to play at Star Entertainment casinos in Queensland.[39]

24. Mr Houlihan and his team then analysed this list and identified that during the Relevant Period, The Star had 766 people who were subject to Police exclusion orders in NSW.[40] Of those, 658 people were not the subject of a Withdrawal of Licence or exclusion order from the Queensland casinos.[41] Of those 658 people, 23 people had active game activity recorded in Queensland.[42]

25. Mr Houlihan and his team created and analysed a list for those people who, during the Relevant Period, were the subject of a Police exclusion order issued by the Queensland Commissioner of Police but were permitted to play at The Star Casino.[43] During the Relevant Period, three Police exclusion orders were issued in Queensland, each on 22 October 2018.[44] Of these three Police exclusion orders, two related to individuals who did not have memberships at Star Entertainment casinos at the time of issuance of the order and the third related to a person who had previously been issued with a Withdrawal of Licence by Star Entertainment.[45] Further, these three patrons were issued with a Police exclusion order by the NSW Commissioner of Police on 3 October 2019.[46] Mr Houlihan confirmed that Star Entertainment's records suggested that these excluded patrons had no rated play in NSW between 22 October 2018 and 3 October 2019.[47]

26. During the public hearings, Mr Houlihan said that he was not involved in the decision not to apply this policy retrospectively. The following exchange occurred:[48]

> Q: Right. And to then go back to the specific case of Mr Khoury, what, if anything, do you recall of the decision not to conduct what you have described as a retrospective look-back?
>
> A: It wasn't just Mr Khoury himself. It was anybody who was excluded prior to the issuing of this updated policy. So it wasn't just Mr Khoury. It was anybody who was excluded prior to the issuance of this policy.
>
> Q: I see. But what, if anything, do you recall of the rationale for that decision?
>
> A: I wasn't involved in that process.

27. Mr Houlihan also accepted in his oral evidence that the policy adopted was not a good approach.[49] The Star Entities accepted that this was poor practice.[50]

28. In February 2019, when Star Entertainment introduced the requirement that a Police Exclusion issued in one State would be mirrored with a Withdrawal of Licence or an exclusion order issued by the casino in the other State, Star Entertainment should have applied this requirement retrospectively across all its properties.

29. Based on an analysis of the data contained in the list generated by The Star,[51] as at February 2019 (i.e. when the requirement was introduced in Exclusions Policy), 657 people had been issued with Police exclusion orders in NSW. Similarly, the evidence before the Review is that as at February 2019, three people had been issued with Police exclusion orders in Queensland.[52] It may be accepted that issuing mirroring exclusion orders to 660 people in February 2019 would have involved a fair amount of work for Star Entertainment.

Nonetheless, given the potential risk that was posed in terms of criminal infiltration of Star Entertainment's casinos by potentially allowing persons who had been excluded by the Commissioner of Police in one State to enter and gamble at casinos in other states, in February 2019, Star Entertainment should have issued mirroring exclusion orders to the 660 people who had already been issued with a Police exclusion order in one State about which it was aware.

Chapter 21.4 Facial recognition technology

30. Facial recognition technology is used by The Star to identify persons falling into the following categories:[53]

    (a) excluded persons under the *Casino Control Act*;

    (b) persons the subject of a Withdrawal of Licence;

    (c) persons who have been excluded from venues other than The Star Casino;

    (d) individuals of concern from a responsible gambling perspective; and

    (e) persons of interest (i.e. persons who are otherwise undesirable including persons identified or suspected of having cheated or scammed another person).

31. The use of facial recognition technology in the responsible gambling context or in relation to those patrons who have self-excluded from The Star Casino is dealt with in Chapter 23.

32. The Horton Report considered The Star's facial recognition technology as at November 2016.[54] In March 2016, The Star had undertaken testing of pilot facial recognition technology.[55] The Horton Report concluded that facial recognition technology showed promise as a tool to be utilised by The Star's surveillance operations to alert it to attempted or actual entry to The Star Casino of a person who ought not be there.[56] However, the Horton Report commented that facial recognition technology would not relieve operators and security officers of the need to ascertain and confirm the identify of such a person.[57] The Horton Report concluded that as at November 2016 the technology was not yet at a stage where its installation at The Star Casino could be recommended.[58]

33. The Star introduced facial recognition technology at The Star Casino in May 2019.[59]

34. An evaluation of the uses of facial recognition technology at The Star Casino to detect and prevent criminal infiltration is the subject of a separate confidential report to the Authority.

Chapter 21.5 Case study: John Khoury

35. Although The Star had no dealings with Mr Khoury during the Relevant Period, he is relevant for the Review's purposes because of Star Entertainment's dealings with him during the Relevant Period and Star Entertainment is a close associate, and indeed the controller, of The Star.

36. No finding of misconduct or impropriety of any kind is made by the Review against Mr Khoury, or indeed any of the other subjects of case studies in this Chapter. The relevance of the case studies is the light that they shed on the effectiveness of The Star's systems and processes and ultimately on the suitability of The Star to operate a casino in NSW and the suitability of Star Entertainment as its close associate.

37. Prior to the public hearings of the Review, each of the subjects of case studies in this Chapter (with the exception of Mr Michael Gu and Mr Harry Huang who had absconded) was sent a notification from the Solicitors Assisting the Review that they had been identified as a person with sufficient interest in the public hearings, including because there would be material raised in the public hearings which may result in adverse criticism of them.

38. In the case of Mr Khoury, his legal representatives were granted leave to appear following an application for leave to appear made on 6 June 2022. However, on 8 June 2022 Mr Khoury's solicitors informed the Solicitors Assisting the Review that they would not be making any submissions on behalf of Mr Khoury.

39. Mr Khoury was a patron of The Star Casino from 21 August 1997 to 2007.[60] He did not play on any junkets at The Star Casino.[61] He was excluded from The Star Casino in Sydney on 24 July 2007,[62] following a direction from the NSW Police Commissioner.[63]

40. Despite Mr Khoury's exclusion from the NSW casino in 2007, he was a patron of Star Entertainment's Gold Coast casino from 1996 to 2021. Mr Khoury was not excluded from all Star Entertainment properties until 10 December 2021.[64] That exclusion followed the media allegations in October 2021 which were noted in Chapter 7 and which alleged that Mr Khoury had been permitted to gamble and was "wooed" by The Star Gold Coast with luxury gifts, flights and accommodation, despite being banned from gambling at The Star Casino by the NSW Police Commissioner on the basis of alleged organised crime associations.[65] The media alleged that State and Federal Police investigation "Northern" had uncovered that Mr Khoury had moved $39 million into The Star's Gold Coast account

between 2010 and 2017[66] and that when asked why Mr Khoury was allowed to continue gambling at The Star Gold Coast, a former insider was reported to have said that "Senior management pushed back when we pointed this out because he was such a big gambler".[67]

41. Mr Houlihan told the Review that an exclusion order was not issued in Queensland at the time when Mr Khoury was excluded from The Star Casino in Sydney in 2007 because "there was no ability to share that information across state borders at that time."[68]

42. Star Entertainment's Exclusions Policy effective as of 7 January 2016 provided that Star Entertainment's Investigations Team must assess readily available public information relating to an excluded patron to determine whether they should be excluded in another jurisdiction.[69] However, the policy was not applied retrospectively. Accordingly, Star Entertainment did not consider whether Mr Khoury should have been excluded from its Queensland properties at the time of that policy in January 2016.

43. Mr Khoury was considered at a JRAM on 22 July 2016. The minutes for that meeting referred to certain adverse information concerning Mr Khoury and noted that he was excluded from The Star Casino at the direction of the Police Commissioner.[70]

44. Mr Khoury was not excluded from Star Entertainment's Queensland properties at this time. Star Entertainment should have considered excluding Mr Khoury in Queensland when the January 2016 policy change occurred and when the JRAM noted his status on 22 July 2016. This is accepted by The Star Entities.[71]

45. As discussed in Chapter 21.3, in February 2019, the Exclusions Policy was amended and provided that a Police exclusion issued in one State would be mirrored with a Withdrawal of Licence or an exclusion order issued by the casino in the other state. However it did not have retrospective application.[72]

46. Star Entertainment should have reconsidered whether or not to exclude Mr Khoury in February 2019 when the policy was amended. This is accepted by The Star Entities.[73]

47. The Star was on notice that Mr Khoury was a patron who should have been investigated before the October 2021 media allegations. The minutes of a JRAM on 18 February 2021 record further adverse information concerning Mr Khoury.[74]

48. On 22 July 2021, The Star Casino conducted ECDD on Mr Khoury. The assessment noted that, whilst he was understood to be a business partner and close associate of a Melbourne

underworld figure, there was no adverse media which linked Mr Khoury personally to criminal activity.[75] That same day, Mr Buchanan recommended that Mr Khoury be added to the Queensland PAMM in order to monitor his activity for when he attended The Star Gold Coast.[76] Mr Houlihan responded on 11 August 2021 stating: "I am satisfied to maintain a relationship with this patron at this time, awaiting the outcomes from either Watch list and or PAMM's."[77]

49. On 20 September 2021, an ECDD assessment was carried out on Mr Khoury. It recorded that Mr Khoury had been involved in criminal proceedings in both Queensland and Victoria.[78]

50. On 23 September 2021, Mr Buchanan recommended that a Withdrawal of Licence be issued for Mr Khoury in Queensland because he was concerned that:[79]

> [T]he patron may be engaging in money laundering. This suspicion is heightened given his confirmed links to senior organised crime entities and the fact he was excluded from The Star Casino at the direction of the NSWPol Police Commissioner … also excluded from the Crown Casino, Melbourne ... VicPol advised the Patron may be involved in boiler room scams …

51. As has been noted, Mr Khoury was eventually excluded from all Star Entertainment properties from 10 December 2021.[80]

52. The failure of Star Entertainment to:

(a) consider whether it should maintain a relationship with Mr Khoury following his exclusion at the request of the NSW Police Force in 2007;

(b) act promptly on the information available to it both at the time of the NSW exclusion or following further due diligence on him in July 2021; and

(c) exclude Mr Khoury from all its properties before more than 14 years had elapsed from the time of his NSW exclusion,

represented significant failings of Star Entertainment's processes and was also inconsistent with its obligations to ensure that the casino operators only dealt with persons of good repute.

53. The Star Entities submitted that it should not be found that Mr Khoury ought to have been excluded from the Queensland properties in 2007,[81] when he was excluded from NSW, because there was no evidence to the effect that Star Entertainment's Queensland operators could have had access to and relied on information which underpinned the NSW exclusion.

Although The Star Entities are correct about that lack of evidence, there is no reason why the Queensland operators could not have had regard to the fact of Mr Khoury's exclusion in NSW in 2007 in and of itself as a basis for excluding him from the Queensland properties.

54. Star Entertainment ought to have implemented a group-wide exclusion of Mr Khoury in 2007. Failing that, it ought to have excluded Mr Khoury in 2016, 2019 or July 2021. This was accepted by The Star Entities and they accepted that the failure to exclude him at those times was "a serious error of judgment".[82]

Chapter 21.6 Case study: Xiangmo Huang (also known as Changran Huang)

55. Mr Xiangmo Huang (also known as Changran Huang) was a high roller at The Star from June 2010 until his exclusion on 13 September 2019.[83] Mr Huang held multiple patron numbers and played under the names of both Xiangmo Huang and Changran Huang.[84] His total buy-in at The Star was $1.781 billion.[85] In the particular years of 2014, 2015 and 2016, his buy-in was more than $400 million in each of those years.[86]

56. Mr Huang was known to be the funder of the Song junket.[87] From June 2010 to May 2013, he was the sole participant in a number of junkets at The Star.[88] In the period from January 2013 to November 2016, Mr Huang participated in and funded a number of junkets.[89]

57. On 25 February 2016, The Sydney Morning Herald reported that Mr Huang was involved in a far-reaching corruption scandal involving senior government officials in China and had left China for Australia after being "tipped off that a close political person would be investigated for graft as part of Chinese President Xi Jinping's anti-corruption drive."[90] The article did not suggest that Mr Huang had been involved in the alleged bribe.[91] However, the article did contain information regarding Mr Huang's engagement with Australian politicians.[92]

58. The Star first became aware of this information when Mr David Procter, The Star's Assistant Manager, VIP Credit and Collections, conducted a World Check on Mr Huang on 12 April 2016.[93] In response, The Star added information to Mr Huang's debtor file but took no further action.[94]

59. From 12 April 2016, Mr Huang should have been identified as a PEP by The Star. This information held by the VIP Credit and Collections Team should have been provided to The Star's AML and Risk functions. This is accepted by The Star Entities and the failure was described as "an error".[95]

60. Mr Huang was identified as one of Star Entertainment's top three debtors in a March 2017 board paper which was taken as read at the Board's 19 April 2017 meeting.[96]

61. On 28 April 2017, The Star received a notice from L&GNSW pursuant to section 21 of the *GALA Act* requiring the production of certain documents by 11 May 2017.[97] It appears that on or around 12 May 2017, The Star received a notice from L&GNSW pursuant to section 21 of the *GALA Act*.[98]

62. On 19 May 2017, The Star provided information to L&GNSW in relation to a dishonoured cheque provided to it by Mr Huang.[99] The Star's file for Mr Huang contained copies of two different passports for Mr Huang from the same country with different names, passport numbers and birthdays.[100] However, the information provided by Mr Procter to L&GNSW contained only one copy of a passport for Mr Huang.[101] The second passport should have been provided to L&GNSW. No explanation has been provided by The Star as to why this passport was not provided to L&GNSW.

63. The second passport also raised a question about the propriety of Mr Huang being allowed to gamble at Star Entertainment's casinos. This was accepted by both Mr Houlihan and The Star Entities.[102]

64. On 15 June 2017, Investigations Officers at The Star Gold Coast identified an article published on 6 June 2017 by *News.com.au* reporting that ASIO had briefed "officials from the three major political parties in 2015 on concerns about accepting donations from Chinese businessmen Xiangmo Huang and Chau Chak Wing".[103]

65. That same day, Star Entertainment's Chief Risk Officer Mr Paul McWilliams advised that he agreed to treat Mr Huang as a PEP.[104] Ms Skye Arnott, Group Risk Compliance and Assurance Manager, confirmed that it was a "good idea" but that additional discussion and further World Checks were required.[105] Mr Wayne Willett, an AML/CTF Administrator at The Star, confirmed Mr Huang's risk rating at that time was "Medium" and that this rating was due to the fact that Mr Huang had two different passports with different names and dates of birth.[106]

66. Mr Huang was considered at PAMMs between June and July 2017.[107] However, no actions are recorded in relation to Mr Huang in the minutes of those particular meetings.[108]

67. On 26 July 2017, Mr Huang was identified as a PEP and his risk rating was raised to "Critical".[109] As noted above, Mr Huang should have been identified as a PEP from 12 April 2016.

68. Mr Huang was considered at a JRAM on 19 July 2017 and the noted action was that he be removed from discussion at the next meeting but that his risk rating was to remain at "Critical".[110]

69. Source of wealth checks were not conducted on Mr Huang in 2017 despite his "Critical" risk rating and high turnover.[111] Mr Houlihan agreed that The Star could have refused to allow Mr Huang entry to The Star Casino in 2017 unless and until he explained in detail his source of wealth.[112] Several non-executive directors of the Board of Star Entertainment agreed that Mr Huang's play should have been suspended until source of wealth checks had been carried out for him.[113]

70. In December 2017, there were further media allegations regarding Mr Huang and his connections with a former Federal Senator.[114] On 9 December 2017, Star Entertainment recommenced internal discussions about whether Mr Huang should be excluded.[115] That day, Mr Brodie sent an email to Mr White, Mr McWilliams, Ms Martin and Mr Mugnaini confirming there was not sufficient evidence to justify exclusion of Mr Huang because "[h]e has not been convicted of a crime that might be relevant", "[h]e is not charged with a crime that is relevant" and "his gambling activity was consistent with a high-value customer in that he lost at about the theoretical rate over time".[116]

71. Despite the fact that Mr Huang had not been charged or convicted of a crime, Star Entertainment failed to consider at this time whether Mr Huang was of good repute and whether in the circumstances it was appropriate to exclude Mr Huang, or at least refuse entry pending satisfaction of Mr Huang's source of wealth. The Star Entities accepted this.[117]

72. In early March 2018, an internal meeting was held within Star Entertainment to discuss a number of concerns in relation to Mr Huang, including that Mr Huang had access to two current passports from the same country with two different names and two dates of birth, the high level of media coverage, his politically exposed status, the potential that he was engaged in illegal activity or money laundering, and his status as a NSW resident and eligibility to play on rebate programs.[118] Star Entertainment determined to continue to deal with Mr Huang.[119] The notes recorded that it had been concluded at the meeting that Mr

Huang's "Critical" AML rating was appropriate, that he would "continue to be monitored appropriately", that his source of wealth was "transparent" and that there were no concerns regarding his ability to fund his gambling activity.[120]

73. The statement that Mr Huang's wealth was transparent was incorrect. Mr Houlihan told the Review that, to his knowledge, no investigations had been conducted in relation to Mr Huang's source of wealth.[121] Mr Bradley accepted that it was "extraordinary" that the Investigations Team did not investigate Mr Huang's source of wealth,[122] and Mr Heap said it was "hard to believe".[123] Dr Pitkin agreed that Mr Huang's source of wealth should have been investigated and that "he should have been a patron with a high risk rating and there should have been a requirement to do enhanced customer due diligence on him, which would have required source of wealth and source of funds checks".[124] It was accepted by The Star Entities that further investigations ought to have been conducted.[125]

74. On 6 February 2019, it was reported by *Nine News* that Mr Huang's Australian citizenship application had been turned down and his permanent residency had been cancelled.[126] Star Entertainment did not exclude him or issue a Withdrawal of Licence. The Junket PAMM minutes of 14 February 2019 record the following in respect of Mr Huang:[127]

> Xiangmo HUANG – Currently holds 2 accounts in 2 names (one HK and one Chinese passport). The accounts were maintained as his visa to enter Australia was in one passport and the CFF was approved in the other.
>
> Saro to advise which account to keep.
>
> HUANG's visa to enter Australia has been revoked and is unlikely to be re-issued. Maintaining one account will allow HUANG to continue funding other players should he wish. Visa cancellation linked to political concerns rather than any involvement in criminal activity.

75. However, there is no need for criminality to be alleged or proved before Star Entertainment should cease to deal with someone, or at least suspend its dealings pending proof of source of wealth. That was accepted by Mr Houlihan in his evidence to the Review (who was not present at the 14 February 2019 meeting).[128]

76. Further, the decision to allow Mr Huang to continue to maintain an account so as to "allow [him] to continue funding other players should he wish"[129] was completely inappropriate. That was accepted by The Star Entities and Mr Houlihan.[130]

77. In August 2019, Mr Houlihan became aware of allegations that Mr Huang delivered $100,000 in cash to a political party, and that a former Senator told a corruption inquiry

that Mr Huang may have been an agent of influence for a foreign government.[131] Nonetheless Star Entertainment took no further action with regard to Mr Huang until 13 September 2019, when the ATO issued a garnishee notice for him to The Star.[132] Only at that point was Mr Huang issued with a group-wide Withdrawal of Licence for all Star Entertainment properties.[133]

78. In October 2021, *The Sydney Morning Herald* published an article alleging that The Star dealt with junkets suspected of links to organised crime and with certain VIP patrons who were also allegedly linked to organised crime, were PEPs or were suspected foreign interference agents.[134] The allegations included that, in 2019:

(d) Federal and State authorities tracked at least six high rollers or junket tour operators with links to the Chinese government's overseas influence operations, who had used The Star to move tens of millions through its casinos and people into or around Australia; and

(e) these discoveries were hinted at in a December 2020 AUSTRAC report, which stated AUSTRAC had "identified a small number of links between junket tour operations and possible foreign interference activities" and the use of casino accounts for political donations. Those identified included Mr Huang, an accused foreign agent who was stripped of his Australian residency in 2019.

79. Both Mr Bradley and Dr Pitkin told the Review that they were aware of allegations against Mr Huang made in August 2019.[135] However, Dr Pitkin could not recall at what point she became aware that Mr Huang was excluded on 13 September 2019.[136] Mr Heap and Mr Bradley's evidence was that the Board was not made aware that, from 2010 to 2018, Mr Huang's total buy-in exceeded $1.781 billion,[137] or that in each of the years 2014, 2015 and 2016, his buy-in exceeded $400 million each year.[138] Mr Houlihan, Mr Bradley, Dr Pitkin and Ms Lahey accepted that this was an "extraordinary amount of money for an individual to be bringing in".[139] Dr Pitkin was also not aware that from 2014 to 2016 Mr Huang's buy-in was more than $400 million, however, she understood from some Board reports that he was a significant player at The Star Casino.[140]

80. None of Mr Heap, Mr Bradley or Dr Pitkin was aware that Star Entertainment held copies of Mr Huang's passports, which contained two different passport numbers for passports from the same country, with two different names and two different birthdays.[141] Dr Pitkin and Mr Bradley both agreed that this warranted investigation.[142]

81. The Board should have been given a detailed briefing on the decisions made by Star Entertainment's management to continue to deal with Mr Huang in light of his high level of buy-in, the multiple passports held for him, and the level of adverse media coverage that Mr Huang had received over a number of years.

82. In this regard there were serious shortcomings in the due diligence conducted by Star Entertainment in respect of Mr Huang. The fact that Mr Huang held multiple passports in different names ought to have prompted an investigation by the Investigations Team, including as to his source of wealth, by at least May 2017. This was accepted by The Star Entities.[143]

83. The Star Entities also accepted that pending the completion of that investigation, Mr Huang's access to the Sovereign Room ought to have been suspended.[144]

84. The Star Entities accepted that there was a failure to investigate Mr Huang's source of wealth and whether he was a patron who should be permitted to continue gambling or funding junkets at the properties. The Star Entities have attributed this failure to an error on the part of the AML Team.[145] There does appear to have been a failure on the part of the AML Team but it should also have occurred to members of the VIP Team (i.e. those on the business side with a patron-facing role) that a patron bringing in hundreds of millions of dollars to the casino ought to have been flagged for source of wealth. As has been noted, multiple witnesses accepted that Mr Huang's buy-in amounts were "extraordinary". By at least May 2017, the most cursory of inquiries into what was known of Mr Huang would have revealed the two facts of multiple passports and a buy-in by that time of more than a billion dollars.

85. The Star Entities have submitted that they had misunderstood their "good repute" obligation.[146] The Star Entities accepted that they had applied the wrong standard to Mr Huang during the majority of the Relevant Period.[147]

Chapter 21.7 Case study: Michael Gu and Mark Walker's role

Potential conflict of interest

86. Mr Michael Gu (also known as Menghong Gu) was the Chief Executive Officer and a director of iProsperity Group Pty Ltd (**iProsperity**), one of the companies within the iProsperity Group.[148] iProsperity was part of a consortium in the business of investing,

including in the purchase of hotels, and asset management.[149] Mr Harry Huang was the Chief Financial Officer and director of iProsperity.[150]

87. Prior to 2018, Mr Gu and Mr Harry Huang were regular patrons of Crown Melbourne.[151]

88. Mr Gu was a patron of The Star Casino between November 2007 and July 2020, although Mr Gu had no recorded play at The Star between June 2011 and December 2017.[152] Mr Gu did not play on any junkets at The Star Casino but did participate in two junkets at Star Entertainment Group casinos in Queensland in 2018 and 2019.[153] From 2018, Mr Gu held a CCF at The Star with an initial limit of $500,000 which was increased on a number of occasions up to around $3.1 million.[154] Mr Gu's total buy-in at The Star between 2017 and 2020 was $84,772,410.[155] On 28 July 2020, Star Entertainment issued to Mr Gu a group-wide Withdrawal of Licence for an indefinite period.[156]

89. Star Entertainment also issued a group-wide Withdrawal of Licence to Mr Harry Huang on 28 April 2021, for an indefinite period.[157]

90. Mr Mark Walker was an employee of The Star from February 2013 to September 2014, as Director of VIP Services.[158] From June 2014 to October 2017, Mr Walker was employed by Crown Resorts as the Vice President of Domestic Sales for Table Games.[159] In May 2018, Mr Walker returned to employment with the Star Entertainment Group as a Premium Guest Manager then in January 2019, Vice President of Premium Guests in NSW.[160] In October 2019, Mr Walker commenced his existing role as Senior Vice President of Premium Service Operations, in which he has managed the Service Operations Team for premium guests.[161]

91. Mr Walker held a special employee licence from May 2018 at The Star, a condition of which was that he not seek or accept any gratuity, consideration or other benefit from a patron.[162]

92. Mr Walker was aware of the Star Entertainment Code of Conduct and agreed he was bound by it.[163] This included provisions requiring him to "seek management approval before engaging in activities that may be perceived as creating a conflict of interest", and to "disclose all conflicts of interest".[164]

93. As set out in Chapter 7, in October 2021 media reports alleged that Mr Walker maintained a secret and longstanding relationship with Mr Gu who was an "accused corporate criminal".[165] It was alleged that Mr Walker had left the employment of Crown Resorts in

the midst of probity investigations and that while employed at The Star, he was offered a job by Mr Gu.[166] Mr Walker was alleged to have overseen gambling by Mr Gu and Mr Harry Huang, who were alleged to have embezzled millions of dollars from the failed iProsperity Group, some of which was funnelled into The Star.[167]

94. Mr Walker gave evidence about his departure from Crown Resorts in October 2017, which occurred in the context of an investigation into alleged fraudulent conduct regarding a patron who won a $20,000 cash prize using a false name.[168] Mr Walker said that although he denied any allegation of fraud against him, he had made a mistake in the course of those events and that he had learned from this mistake.[169] Mr Walker told the Review that he resigned from Crown Resorts as a result.[170] There is no reason to doubt this evidence.

95. In or around May 2018, while Mr Gu was still a regular patron of Crown Resorts in Melbourne,[171] Mr Walker sought to bring Mr Gu back to The Star, including by requesting and obtaining Diamond Club memberships for both Mr Gu and Mr Harry Huang.[172] Those efforts were successful, and in or around July 2018 Mr Gu and Mr Harry Huang recommenced gambling at The Star Casino.[173]

96. Mr Walker told the Review that he allocated a premium guest executive, Mr Andrew Chen, to be the relationship manager for Mr Gu and Mr Harry Huang at The Star. However, Mr Walker said that he also kept a fairly close eye on what occurred with Mr Gu at The Star.[174]

97. In August 2018, Mr Gu spoke to Mr Walker about a potential job offer for Mr Walker to be the head of a Canberra casino that Mr Gu was interested in purchasing.[175] Mr Walker disclosed the potential job offer to Mr Jason Yeates and Mr Gregory Hawkins at The Star.[176] He told the Review that at that point, he was alive to the potential for a conflict of interest.[177]

98. Subsequent to that disclosure, however, in the period August 2018 to December 2018, Mr Walker liaised with Mr Gu on a number of matters relating to the potential job and Mr Gu's business (including the potential Canberra casino purchase).[178] Those communications were undertaken privately, from Mr Walker's personal email account. The communications included reference to a discussion Mr Walker had with a third party on Mr Gu's behalf, in relation to a development in Cairns.[179] Mr Walker could not recall whether he disclosed these communications to his superiors at The Star.[180]

99. On 13 January 2019, an incident occurred between Mr Gu and a staff member at the Gold Coast casino.[181] Contemporaneous emails from other staff members, which were sent to

Mr Walker, record that Mr Gu had requested that a staff member settle his play and deposit chips which she said she could not do in the way requested, because it was against casino policy.[182] At that point, Mr Gu swore at and threatened the staff member.[183]

100. According to Mr Walker, on Mr Gu's alleged version of events, the staff member had been rude to him.[184] Mr Walker accepted that the incident raised serious concerns in relation to Mr Gu's conduct[185] and that Mr Gu had requested a staff member do something which raised concerns about a breach of casino policy.[186] Mr Walker was then involved in discussions on how Star Entertainment should respond to the incident. On 14 January 2019, Mr Walker sent an email to Mr Damian Quayle about the incident, and how it should be resolved with Mr Gu.[187] Mr Walker did not, however, seek to impose any limitations on Mr Gu's patronage at The Star as a result of the incident.[188] Mr Walker did not request that Mr Gu apologise to the staff member. Mr Walker stated that he spoke to Mr Gu about the incident, told him that this sort of behaviour towards team members would not be tolerated and that Mr Gu should not do it again.[189] Mr Walker himself apologised to the staff member.[190]

101. On the same day as receiving notification of the Gold Coast incident, Mr Walker sought approval for a Blackjack limit to $10,000 (the maximum limit) for Mr Gu as a privilege.[191]

102. One week after the Gold Coast incident, Mr Walker received a formal job offer, in writing, from Mr Gu. The offer included a significant base salary with uncapped business expenses, 5% restricted shares in the employing entity, a large signup bonus and a large redundancy fee should the role not eventuate if a casino licence were not granted to the entity.[192]

103. Mr Walker gave evidence that he responded to Mr Gu that the job offer looked good and he was happy to proceed to the next step.[193] He accepted the offer.[194] However, Mr Walker denied that he had an actual conflict of interest and maintained in his evidence that his "loyalties were with The Star until Mr Gu came up with a contract".[195]

104. One day after receiving the job offer, and one week after the Gold Coast incident, in response to some service issues, Mr Walker advised Mr Yeates and Mr Quayle that Mr Gu should be offered a FBV of $100,000 to show Mr Gu that The Star valued his business.[196] Mr Gu had been requesting a reduction in his $2.5 million CCF.[197]

105. On 22 July 2019, Mr Walker sent to Mr Gu the bank account details and the name of an entity that would take hold of the shares offered to him as a component of the job offer.[198]

106. Mr Walker should have disclosed the details of the January 2019 job offer by Mr Gu to The Star. It was accepted by Mr Walker and The Star Entities that that would have been the most prudent course to take.[199] It is not necessary to determine whether Mr Walker held an actual conflict of interest between his role at The Star and his relationship with Mr Gu at that time. At the time that he received the January 2019 job offer Mr Walker had a potential conflict of interest and the Star Entertainment Code of Conduct required him to disclose the offer to The Star, which he did not do. Mr Walker was aware of the Star Entertainment Code of Conduct at this time.

107. Mr Walker did not disclose any of the private communications he had with Mr Gu from his personal email accounts in his witness statement.[200] Mr Walker adequately explained this omission by reference to his personal circumstances at the time of preparing the statement.[201]

Gu junket and former employee Mr Tao Chen

108. Mr Tao Chen was a former employee of The Star.[202] In or around July 2018, Mr Chen was permitted by The Star to re-enter the casino to gamble with Mr Gu.[203] In background checks at the time, however, it was observed that Mr Chen had left The Star on "a bad note" and was flagged as a collusion risk, to be placed under surveillance.[204]

109. In or around March 2019, Mr Walker suggested to Mr Gu that Mr Chen be the named junket representative or junket operator for a junket that Mr Gu was proposing.[205] Mr Walker sent the junket application for Mr Gu, in which Mr Chen was the proposed Junket Representative, to Mr Chum Mo who was Vice President of VIP International Operations at The Star, at the time.[206] Mr Walker gave evidence that he recommended Mr Chen be junket representative because he did not see any heightened risk, despite having been warned of the collusion risk.[207]

110. In an email dated 28 April 2019 to Mr Hawkins, Mr Yeates and Mr Hugh Fraser at The Star, Mr Walker stated:[208]

> International have advised they need approval from senior management re an ex-staff member, Tao Lu acting as a junket representative for the international junket Michael Gu will fund.

111. Mr Fraser granted approval which Mr Walker forwarded to Mr Mo.[209]

112. Mr Walker could not explain to the Review why he thought it was appropriate for Mr Chen to be approved as a junket representative given those circumstances.[210] Mr Walker accepted that he did not tell Mr Mo that surveillance had been set up on Mr Chen, that he had been considered a collusion risk or that he had left The Star on bad terms.[211] Mr Walker and The Star Entities accepted that he should have told Mr Mo all those matters.[212] This information should have been provided to Mr Mo to enable him to make a fully informed decision about whether or not to approve Mr Chen as a junket representative.

Alleged misuse of iProsperity funds

113. The media reports of October 2021 suggested that Mr Gu and Mr Harry Huang used iProsperity funds to gamble at The Star.[213] A Cor Cordis Circular to Creditors dated 18 November 2018 identified that a large volume of payments were made by iProsperity to casinos in Australia.[214]

114. There is insufficient evidence before the Review to support a finding that anyone from The Star or Star Entertainment was aware of these matters at the time. Mr Walker gave evidence that he did not personally know that Mr Gu or Mr Harry Huang would use investor funds to pay for gambling at The Star.[215] The Review has no reason to doubt that evidence.

Conclusion

115. Mr Walker disclosed the potential conflict of interest arising from his initial discussions with Mr Gu in August 2018, but failed to disclose the significantly more serious conflict arising from the January 2019 job offer, or the communications he had with Mr Gu leading up to it. That additional dimension of the conflict of interest should have been disclosed to Mr Walker's senior managers, so that it could be placed on the Conflicts of Interest Register,[216] and measures taken to manage or resolve the conflict. There was no evidence before the Review to indicate whether Mr Walker's initial disclosure of a potential conflict was placed on the Conflicts of Interest Register.

116. That Mr Gu and Mr Harry Huang may have been involved in very serious misconduct regarding their stewardship of iProsperity funds, is not the fault of Mr Walker. However, these events demonstrate the real dangers of senior managers developing undisclosed private relationships with patrons, whose bona fides, whose sources of funds, and whose intentions regarding those relationships are not well known.

117. Mr Walker holds a special employee licence. The risks arising from conflicts of interest are most acute in relation to special employees (as defined in section 43 of *the Casino Control Act)*, who have managerial or patron facing roles.

118. Had Mr Walker disclosed his ongoing private communications with Mr Gu, and, in particular, the January 2019 job offer, The Star could have made an informed decision regarding whether Mr Walker could appropriately advise the business regarding Mr Gu's poor behaviour. Further, The Star could have made an informed decision about whether he could appropriately assess and advise on compliance risks regarding Mr Gu and his associates (including, for example, Mr Chen), and whether Mr Walker could objectively make recommendations as to benefits The Star could have offered Mr Gu as a patron.

119. The Star appears to have the appropriate procedures in place to manage conflicts of interest, including by reason of the standards set out in the Star Entertainment Code of Conduct, the existence of the Conflict of Interest Register and the ability for employees to raise the potential for conflicts with their managers, with the Star Entertainment Ethics Panel, or via the confidential whistle-blower service.[217] Mr Walker's evidence to the Review however, revealed that he did not have a good understanding of the obligations imposed on him regarding potential conflicts of interest, how those conflicts arise, or why they are best managed by the business (and cannot be managed by the employee alone). A recommendation is made in relation to this matter at the end of this Chapter.

Chapter 21.8 Case study: Mende Trajkoski

120. Mr Mende Trajkoski is currently the subject of criminal proceedings in NSW. Accordingly this case study is the subject of a separate confidential report to the Authority.

Chapter 21.9 Case study: James Mussillon

121. Mr James Mussollin is currently the subject of criminal proceedings in the Australian Capital Territory. Accordingly this case study is the subject of a separate confidential report to the Authority.

Chapter 21.10 Case study: Simon Pan

122. Mr Zhao Yuan Pan (known as Mr Simon Pan) was a patron of The Star Casino from 2004 until he was issued with a group-wide Withdrawal of Licence on 22 August 2019 following adverse media reports.[218] During that period, Mr Pan was also a junket operator of a

domestic junket in his own name and a junket representative for junket operator Pan Yulan between 2009 and 2019.[219]

123. An internal Star Entertainment document records Mr Pan's "lifetime turnover" at Star Entertainment properties as approximately $49.5 million for The Star Casino in Sydney, $2.3 million for The Star Gold Coast and $402,000 for The Star Brisbane.[220] Whether those amounts are his personal turnover or that of his junkets is unclear, but either way Mr Pan brought a large amount of business to Star Entertainment properties.

124. On 28 July 2019, *The Sunday Age* reported that:[221]

> Crown has partnered with brothel owner Simon Pan to bring high-roller customers to gamble at the casino since 2011, according to Victorian County Court documents obtained by The Age, The Sydney Morning Herald and 60 Minutes.
>
> Mr Pan owns South Melbourne brothel 39 Tope which is a few minutes' drive from the casino precinct and specialises in Asian sex workers and escorts, according to its website.
>
> 39 Tope has been repeatedly raided by police and subject to sex trafficking investigations between 2008 and at least 2015, while the operations of the brothel have led to major prosecutions of mid-tier workers over breaches of Victorian prostitution laws.
>
> Documents filed in the Victorian County Court in 2015 separately detail Mr Pan's work as "Junket Representative at Crown Casino" who "arranges people to gamble at a casino and [who] the casino pays … a commission".

125. The Crown media allegations were addressed in a paper from Mr Hawkins and Ms Martin for the Board of Star Entertainment dated 15 August 2019.[222] The board paper contained, as Attachment 1, a detailed table with three columns: "Crown Allegation", "Key Risk/Vulnerability" and "The Star's Existing Process"; and, as Attachment 2, a "Summary of customers listed in media reports".[223] In the latter attachment there was an entry for Mr Pan which noted:[224]

(a) that Mr Pan acted "as a domestic junket operator in his own right and as a rep on PAN Yulan (sister) international junkets";

(b) that Mr Pan had an AML rating of "Critical", which had been upgraded from medium as a result of the media coverage; and

(c) that an additional World Check search had been "conducted recently with no positive matches" and "[n]o links to organised crime found".

126. One week later, on 22 August 2019, Star Entertainment issued Mr Pan with a Withdrawal of Licence for all properties.[225]

127. In October 2021, it was reported in *The Sydney Morning Herald* that The Star had dealt with junkets with suspected links to organised crime and certain VIP patrons who were also allegedly linked to organised crime, were PEPs or were suspected foreign interference agents.[226] This included allegations that Mr Pan had links to organised crime and was connected with junkets that had played at The Star Casino; that The Star failed to undertake "basic online due diligence" on him; that Mr Pan was identified in a 2017 AUSTRAC report as a "junket representative" at The Star and The Star was warned of his suspicious casino activities; and that Mr Pan had ties to high roller tour operatives with Chinese organised crime links.[227]

128. Mr Pan was identified in a television program broadcast by *60 Minutes* on 8 October 2021, which included the following:[228]

> You'd think the brothel's owner, a man called Simon Pan, would be the sort of undesirable a casino would want to stay well away from, but not Star. Police believe Pan and Star had a business relationship which involved him sending it high rollers.
>
> According to financial intelligence agency AUSTRAC, Simon Pan was a junket tour representative at The Star and it was so concerned about his dubious activities at the casino, it briefed other law enforcement agencies about it. But Pan's business with The Star shouldn't come as a shock. We've reported two years ago he had an almost identical relationship with Crown.
>
> Simon Pan, alleged human trafficker, brothel owner, he was also a junket tour representative at Star. What questions in your mind does that raise?

129. As noted above, by the time of the October 2021 media allegations, Star Entertainment had ceased dealing with Mr Pan from August 2019.

130. Prior to the July 2019 media allegations, which led to the Withdrawal of Licence for Mr Pan from August 2019, Star Entertainment had cause to conduct ECDD on Mr Pan and consider whether it should have an ongoing relationship with him.

131. Between 2006 and 2018, The Star received numerous requests for information in relation to Mr Pan from law enforcement agencies.[229] Further, The Star identified Mr Pan's activity as concerning from at least August 2015, and on three further occasions between August 2015 and March 2018.[230]

132. Despite these matters, throughout this period, Mr Pan's risk rating remained at "Medium".[231] The Star failed to conduct either ECDD or OCDD in relation to Mr Pan until the July 2019 media allegations were made.[232]

133. On 29 July 2019, the day after *The Sunday Age* article[233] was published, The Star raised Mr Pan's AML risk rating to "Critical".[234] On 7 August 2019, The Star settled Mr Pan's account and withdrew his $1.5 million CCF and ceased all junket operations under his own name and those of his known associates.[235]

134. The Star Entities submitted[236] that the only adverse information regarding Mr Pan that was available from open sources prior to July 2019 was an article published on 11 October 2011 which did not name Mr Pan but included the following allegations: [237]

> In November 2008, federal police removed two Korean women from Oriental Dolls following allegations of sexual slavery, allegations that were denied by the licensee when he was contacted by The Age. After the police raids, the brothel stayed open. The police case did not proceed, but the women were accepted into the federal government's support program for victims of trafficking.

135. There is no evidence to establish whether anyone at Star Entertainment was aware of the 11 October 2011 article, or if so, was able to identify Mr Pan as the person referred to in it.

136. The Star should have conducted ECDD in relation to Mr Pan earlier than July 2019. The Star Entities have accepted that ECDD should have been carried out on Mr Pan from at least 2017.[238] However, The Star should have conducted ECDD on Mr Pan from at least August 2015.

137. On 8 August 2019, L&GNSW requested information from The Star in relation to its junket arrangements and specified related patrons.[239] Relevantly, L&GNSW asked what (if any) steps The Star had taken to mitigate ongoing risks relating to Mr Pan. The Star's response included:[240]

> Steps taken to mitigate risks relating to Mr Pan are consistent with The Star's ongoing AML and Compliance Program. In accordance with The Star's AML Program, Mr Pan is the subject of ongoing due diligence.
>
> Prior to recent media, The Star's ongoing due diligence program had not identified adverse information to suggest that Mr Pan posed a high risk for money laundering or other criminal activity.

138. This response to the L&GNSW was incomplete. The Star Entities accepted that the response ought to have acknowledged that Mr Pan's activity had been identified as concerning and that Mr Pan had been of interest to law enforcement agencies.[241]

Chapter 21.11 Case study: Tom Zhou

139. Mr Jiuming Zhou (also known as Mr Tom Zhou) had dealings with The Star in a number of capacities. He was a patron of The Star and a junket participant.[242] Between 2009 and 2013, Mr Zhou participated in personal rebate programs at The Star and was a participant on personal rebate programs.[243]

140. On 15 April 2016, Mr Zhou was issued with an exclusion order effective on and from that day.[244] In September 2016, a group-wide Withdrawal of Licence was issued to Mr Zhou for a period of two years for undesirable behaviour.[245] On 23 July 2021, Mr Zhou was issued with an exclusion order pursuant to section 79 of the *Casino Control Act* and an unlimited group-wide Withdrawal of Licence.[246]

141. Mr Zhou was also connected with the "Chinatown" junket.[247] He was not an approved junket operator with the Chinatown group[248] but the Bergin Report found that he was a "financier" of a number of Chinatown-branded junkets.[249] The Star Entities accepted that that there was an association between Mr Zhou and the Chinatown junket.[250]

142. The Star ceased dealing with the Chinatown junket in December 2016 following concerns being raised in relation to its conduct, and the assault of a staff member by Mr Zhou.[251]

143. On 28 July 2019, an article published in *The Age* alleged that Mr Zhou had committed fraud in China and had been involved in "mafia-type extortion and standover tactics".[252] Further, on 29 July 2019 an article was published in *The Sydney Morning Herald* which alleged that, among other things, Mr Zhou had been the target of a police search carried out by federal agents on the Gold Coast in 2016 and that Mr Zhou was an "alleged criminal fugitive", an "alleged crime boss", a "Community Party influence operative" and the subject of an Interpol red notice.[253]

144. As noted above, by this time The Star had ceased dealing with Mr Zhou.

145. In October 2021, an article in *The Sydney Morning Herald* alleged that The Star had failed to undertake "basic online due diligence" in relation to Mr Zhou, and that Mr Zhou had come to the attention of AUSTRAC and the AFP for his dealings with The Star and as an "organised crime boss" who was allegedly linked to the Chinese government's overseas influence group, the United Front Work Department, including as a political donor. It was alleged that the AFP uncovered receipts detailing Mr Zhou's $15 million in transactions at The Star on his chartered private jet at the Gold Coast.[254]

146. The McKern Report notes that the 28 July 2019 article in *The Age* was the first open source information that had been identified by The Star which contained adverse information relating to Mr Zhou[255] and The Star had ceased dealing with Mr Zhou prior to this in 2016. The Star's decision to cease dealing with Mr Zhou in 2016 was appropriate.

147. Following the media reports in July 2019, L&GNSW sent a letter to The Star dated 8 August 2019[256] requesting that The Star advise "whether any of the entities or individuals at Annexure 1 are or have been authorised Junket Operators, Promoters or Representatives with The Star". Mr Zhou was included in that list.

148. On 10 September 2019, The Star provided its response which relevantly stated:[257]

> Mr Zhou is not a Junket Promoter or a Junket Representative. Mr Zhou has been excluded from The Star Casino since December 2015. Prior to being excluded, Mr Zhou was a Junket Participant. He also participated on personal rebate programs at The Star Casino between 2009 and 2013.

149. The Star's letter was approved by senior management before it was sent under Mr Power's signature. The letter did not disclose that Mr Zhou had an association or commercial relationship with the Chinatown junket. Mr Power gave evidence to the Review that no one made him aware of the connection between Mr Zhou and the Chinatown junket at the time he was preparing the response to the regulator.[258] Mr Power did not accept that the fact that Mr Zhou had some connection or association with the Chinatown junket would have been directly responsive to the question they were answering in the letter.[259] However, Mr Power did ultimately agree that the regulator should have been told that there was a commercial relationship between Mr Zhou and the Chinatown junket.[260]

150. The Star Entities submitted that the response to the regulator was technically accurate and the undefined association between Mr Zhou and the Chinatown junket was not a matter of such relevance to L&GNSW's enquiries as to warrant a finding of lack of transparency on the part of The Star for its omission.[261] The fact that Mr Zhou was connected with the Chinatown junket was likely relevant to L&GNSW's enquiries and would have provided a more accurate picture of Mr Zhou's associations.

Chapter 21.12 Case study: Zu Neng (Scott) Shi

151. Mr Zu Neng Shi (also known as Mr Scott Shi) was a patron at The Star from April 1997.[262] In May 2018, Mr Shi was fined $43,000 for the deliberate exploitation of migrant workers.[263] Star Entertainment issued Mr Shi with a group-wide Withdrawal of Licence on 28 November 2018.[264]

152. Mr Shi's turnover between 2005 and 2018 was $446,127,747.[265] There is no evidence that Mr Shi participated in any junkets.[266]

153. In October 2021, Mr Shi was named in media articles as a "high roller" in respect of whom The Star was said to have ignored significant red flags, including that he was the subject of various government investigations, had withdrawn nearly $2 million at The Star's ATMs over five years and was the owner of 101 companies.[267]

154. The Star received several enquiries from law enforcement agencies in relation to Mr Shi, in August 2014, February 2016 and December 2016.

155. The Star did not conduct any ECDD in relation to Mr Shi between 2014 and 2016. It should have done so. This was accepted by The Star Entities who attributed this failing to an "error of judgment".[268]

156. In and from 2014, The Star ought to have considered whether Mr Shi was a person of good repute and whether to exclude him on that basis. This is accepted by The Star Entities.[269]

157. The Star's records do not indicate that any further checks were undertaken to verify Mr Shi's source of wealth beyond recording his occupation as a "businessman".[270] The Star Entities accepted that The Star's records did not record any such information.[271] Mr Shi's source of wealth should have been independently verified.

158. In 2017, Mr Shi's turnover at The Star Sydney was $75 million.[272] This included three transactions which The Star identified as concerning.

159. Pursuant to The Star's AML/CTF SOP in force at the time, The Star was required to conduct a Thomson Reuters World Check One Report in relation to Mr Shi.[273] It is not clear from the evidence before the Review whether these checks were completed or not.[274] Ms Arnott's evidence was that if no relevant information was identified in relation to a patron when a World Check was conducted, no World Check report would be downloaded and no information would appear in the Protecht system regarding that World Check.[275]

160. As noted above, on 11 May 2018, it was reported that Mr Shi had been found guilty of exploiting migrant workers.[276] On 17 May 2018, The Star conducted a World Check on Mr Shi, which identified he had been fined $43,000 for "deliberate exploitation of migrant workers".[277] Despite this, Mr Shi was not considered by The Star at a PAMM until 8 November 2018.[278] At that meeting, his risk rating was recorded as "Medium".[279]

161. On 15 November 2018, Mr Shi was considered at a JRAM. The minutes of that meeting record that Mr Shi would be issued with a Withdrawal of Licence and his risk rating raised to "Critical".[280] On 28 November 2018, The Star issued the Withdrawal of Licence.[281]

Chapter 21.13 Conclusions and recommendations

162. The evidence and case studies referred to in this Chapter suggest a broad conclusion.

163. The Star has a number of policies, procedures and systems for the purposes of preventing criminal infiltration at The Star Casino.

164. However, policies, procedures and systems are of little to no use if there is a culture (for whatever reason) of not applying them and instead permitting high value patrons to gamble without due regard to the risks that they pose. In particular, Star Entertainment's AML administrators and/or Investigations Team cannot be expected to identify each and every incident of concerning or suspicious activity without being actively assisted by those in the patron-facing business operations of Star Entertainment's casinos.

165. In the case of Mr Xiangmo Huang, that patron had three successive years where his buy-in was more than $400 million each year. His overall buy-in was more than $1.7 billion. Yet, as Mr Houlihan confirmed, nobody in the business saw fit to suggest to him or to his knowledge anyone else in the Investigations Team that they interrogate Mr Huang's source of wealth. It does not appear to have occurred to anyone in the business that Mr Huang should have been denied entry to the casino pending satisfaction of his source of wealth. There was an enormous commercial incentive for them to adopt that course.

166. Similarly, the case of Mr Khoury demonstrates an historic weakness within Star Entertainment's policies whereby despite being excluded in one State Mr Khoury could gamble at properties in another. Nobody sought to implement the common-sense proposition that as a patron excluded in NSW he should also be excluded in Queensland. As has been noted, The Star Entities submitted[282] that it should not be found that Mr Khoury ought to have been excluded from the Queensland properties in 2007 because there was no evidence to the effect that Star Entertainment's Queensland operators could have had access to and relied on information which might have underpinned the NSW exclusion. Implicit in that submission is that the Queensland operators would have needed to start afresh in considering Mr Khoury's position. It is by no means clear why that is so. They could have implemented a mirroring exclusion without enquiring any further. In any event,

as The Star Entities accepted,[283] there was a serious error of judgment on the part of Star Entertainment by not excluding Mr Khoury in 2016, 2019 or July 2021.

167. Indeed more generally, when Star Entertainment amended its Exclusion Policy in 2016 to implement an approach of mirroring exclusions as between States, there is no satisfactory explanation for why Star Entertainment did not apply that new policy retrospectively. There was no "look back". Had there been one, Mr Khoury would have been excluded from that time.

168. The Star Entities have attributed a number of the failings identified in the case studies to "errors of judgment" made by its employees.[284] The Star Entities have accepted that these errors were serious and should not have occurred.[285] However, these errors do not appear to have been isolated incidents. The common theme in the case studies is that these were all high value patrons providing significant revenue to The Star.

169. **Recommendation**: It is recommended that the Authority take steps to require the operator of The Star Casino to ensure and certify to the Authority that its special employees receive training regarding conflicts of interest, which identifies how conflicts of interest (actual or potential) may arise and which explains the risks associated with a failure to disclose or manage conflicts appropriately.

Endnotes

1 Casino Control Act, s 79(1).

2 Ibid s 79(3).

3 Ibid s 81.

4 Ibid s 79(4A).

5 Ibid s 82(3A).

6 Ibid s 83.

7 Ibid s 85.

8 **Exhibit B-3163** (STA.3415.0037.6962); **Exhibit B-3161** (STA.3415.0037.6942); **Exhibit B-2739** (STA.3002.0002.2655).

9 **Exhibit B-3163**, cl 2.3 (STA.3415.0037.6962 at .6966); **Exhibit B-3161,** cl 4.3-4.4 (STA.3415.0037.6942 at .0644-.0645); **Exhibit B-2739**, cl 4.3-4.4 (STA.3002.0002.2655 at .2657-.2658).

10 **Exhibit B-3331** (CORRO.001.001.0190 at .0284).

11 Ibid.

12 Ibid at .0285.

13 Ibid.

14 Ibid.

15 **Exhibit B-3163**, cl 5.3 (STA.3415.0037.6962 at .6967); **Exhibit B-3161,** cl 6.7 (STA.3415.0037.6942 at .6947); **Exhibit B-2739**, cl 6.7 (STA.3002.0002.2655 at .2660).

16 **Exhibit B-3331** (CORRO.001.001.0190 at .0286).

17 Ibid.

18 Casino Control Act, s 82(3).

19 **Exhibit B-3331** (CORRO.001.001.0190 at .0287); **Exhibit B-3163**, para 5.3 (STA.3415.0037.6962 at .6967).

20 **Exhibit B-3163** (STA.3415.0037.6962 at .6967); **Exhibit B-3161** (STA.3415.0037.6942 at .6949-.6950).

21 **Exhibit B-3331** (CORRO.001.001.0190 at .0287).

22 Ibid.

23 Ibid; **Exhibit B-3163**, para 5.3 (STA.3415.0037.6962 at .6967).

24 **Exhibit B-3161**, cl 7.4 (STA.3415.0037.6942 at .6948); **Exhibit B-3163**, para 5.3 (STA.3415.0037.6962 at .6967).

25 **Exhibit B-3161,** cl 7.4 (STA.3415.0037.6942 at .6948); **Exhibit B-3163**, para 5.3 (STA.3415.0037.6962 at .6967).

26 **Exhibit B-3163** (STA.3415.0037.6962 at .6966).

27 **Exhibit A-627**, para [153]-[154] (INQ.002.004.0174 at .0191).

28 Ibid para [155].

29 Ibid.

30 **Exhibit B-3161** (STA.3415.0037.6942).

31 **Exhibit B-2739** (STA.3002.0002.2655).

32 **Exhibit B-3161**, cl 6.1 (STA.3415.0037.6942 at .6946); **Exhibit B-2739**, cl 6.1 (STA.3002.0002.2655 at .2659).

33 Exhibit B-3244 (CORRO.001.001.0019 at .0030); **Exhibit A-627,** para [159] (INQ.002.004.0174 at .0192); Houlihan: Day 11, T1295.15-21.

34 **Exhibit A-627**, para [160] (INQ.002.004.0174 at .0192).

35 Ibid.

36 Ibid para [161].

37 Ibid para [162].

38 Ibid.

39 Ibid para [172] at .0193.

40 Ibid [173(a)].

41 Ibid para [173(b)].

42 Ibid para [173(c)].

43 Ibid para [175]; Exhibit B-3621 (STA.3009.0008.4427).

44 **Exhibit A-627**, para [176(a)] (INQ.002.004.0174 at .0193).

45 Ibid para [176(b)] at .0194.

46 Ibid para [176(c)].

47 Ibid para [176(d)].

48 Houlihan: Day 11, T1295.15-26.

49 Houlihan: Day 11, T1295.28-38.

50 Star Entities' Written Submissions dated 21 June 2022, para [L.21].

51 **Exhibit B-3582** (STA.3009.0008.4464).

52 **Exhibit A-627**, para [176], (INQ.002.004.0174 at .0193-.0194).

53 **Exhibit B-3331** (CORRO.001.001.0190 at .0278).

54 **Exhibit B-146,** para [296]-[307] (INQ.016.001.0050 at .0144-.0146).

55 Ibid para [300] at .0145.

56 Ibid para [302].

57 Ibid.

58 Ibid para [304] at .0145 - .0146.

59 **Exhibit B-3331** (CORRO.001.001.0190 at .0278).

60 **Exhibit A-627**, para [27] (INQ.002.004.0174 at .0177).

61 Ibid para [29].

62 Ibid para [30]; Houlihan: Day 11, T1292.22-25.

63 **Exhibit A-627**, para [30] (INQ.002.004.0174 at .0177).

64 Houlihan: Day 11, T1292.23-32.

65 **Exhibit B-3156** (INQ.014.001.0005 at .0009).

66 **Exhibit B-3223** (STA.3401.0002.6304 at .6311).

67 **Exhibit B-3156** (INQ.014.001.0005 at .0009).

68 Houlihan: Day 11,T1292.39-40.

69 **Exhibit B-3163** (STA.3415.0037.6962 at .6966).

70 **Confidential Exhibit B-134** (STA.0022.0001.0139 at .0140).

71 Star Entities' Written Submissions dated 21 June 2022, para [L.22(a)].

72 **Exhibit A-627**, para [159] (INQ.002.004.0174 at .0192); Houlihan: Day 11, T1295.15-21.

73 Star Entities' Written Submissions dated 21 June 2022, para [L.22(b)].

74 **Exhibit B-2806** (STA.3008.0002.0267 at .0276).

75 **Exhibit B-3532** (STA.3009.0008.2574 at .2586).

76 Houlihan: Day 11, T1297.1-14; **Exhibit B-3532** (STA.3009.0008.2574 at .2589).

77 Ibid.

78 Ibid at .2585.

79 Ibid at .2587.

80 Houlihan: Day 11,T1292.29-32.

81 Star Entities' Written Submissions dated 21 June 2022, para [L.24].

82 Star Entities' Written Submissions dated 21 June 2022, para [L.23].

83 **Exhibit B-3477** (STA.3009.0008.0639).

84 Star Entities' Written Submissions dated 21 June 2022, para [L.25]; **Exhibit A-627**, para [57] (INQ.002.004.0174 at .0180).

85 **Exhibit B-3575**, STA.3009.0008.4204. See also Houlihan: Day 11, T1277.14-29.

86 **Exhibit B-3575**, STA.3009.0008.4204. See also Houlihan: Day 11, T1278.6-17.

87 Hawkins: Day 24, T2707.9-22.

88 **Exhibit A-627**, para [63]-[64] (INQ.002.004.0174 at .0181-.0182).

89 Ibid para [62], at .0180-.0181.

90 **Exhibit M-9** (INQ.014.001.0409 at .0411).

91 Ibid.

92 Ibid.

93 **Exhibit B-357**, (STA.3401.0003.3143 at .3147-.3148).

94 Star Entities' Written Submissions dated 21 June 2022, para [L.29]; **Exhibit B-357** (STA.3401.0003.3143).

95 Star Entities' Written Submissions dated 21 June 2022, para [L.29].

96 **Exhibit B-243** (STA.5002.0003.3172 at .3185 - .3186); **Exhibit C-23** (STA.5002.0003.3881 at .3884).

97 **Exhibit B-354** (STA.3401.0003.3073 at .3077).

98 **Exhibit B-362** (STA.3401.0003.3499).

99 Ibid.

100 **Exhibit B-360** (STA.3401.0003.3393 at .3393 and .3395).

101 **Exhibit B-361** (STA.3401.0003.3477 at .3477); **Exhibit B-362** (STA.3401.0003.3499); **Exhibit B-363** (STA.3401.0003.3500 at .3545-.3546).

102 Star Entities' Written Submissions dated 21 June 2022, para [L.30]; Houlihan: Day 11, T1286.42-43.

103 **Exhibit B-371** (STA.3413.0001.4368 at .4369); Claire Bickers, "George Brandis signals new foreign interference laws as ASIO warns of Chinese donations" *News Corp Australia Network*, 6 June 2017: https://www.news.com.au/national/politics/george-brandis-signals-new-foreign-interference-laws-as-asio-warns-of-chinese-donations/news-story/09ac00bf4f9f0017747fe1ad07175ef1.

104 **Exhibit B-370** (STA.3008.0006.3717 at .3718).

105 Ibid at .3717-.3718.

106 Ibid at .3717.

107 **Exhibit B-372** (STA.0022.0001.0585 at .0587); **Exhibit B-385** (STA.0022.0001.0576 at .0578).

108 Ibid.

109 **Exhibit B-2285** (STA.3412.0005.4450 at .4551).

110 **Exhibit B-389** (STA.0022.0001.0078).

111 Houlihan: Day 11, T1279.45-1280.1.

112 Houlihan: Day 11, 1287.21-25.

113 Heap: Day 30, 3386.16-20; Lahey: Day 33, 3665.21-32; Pitkin: Day 33, 3588.36-42.

114 **Exhibit B-502** (STA.3415.0005.4257 at .4258).

115 Ibid at .4257.

116 Ibid.

117 Star Entities' Written Submissions dated 21 June 2022, para [L.34].

118 **Exhibit B-684** (STA.3008.0006.3720 at .3720).

119 Ibid.

120 Ibid.

121 Houlihan: Day 11, T1289.28-31.

122 Bradley: Day 32, T3524.39.

123 Heap: Day 30, T3384.42.

124 Pitkin: Day 33, T3588.18-21.

125 Star Entities' Written Submissions dated 21 June 2022, para [L.36].

126 APP, "Chinese billionaire and political donor Huang Xiangmo denied Australian passport", *Nine News*, 6 February 2019; < https://www.9news.com.au/national/australia-news-chinese-billionaire-huang-xiangmo-political-donor-denied-australian-passport/9650c3b1-8ee5-422b-838e-798960b3adec > .

127 **Exhibit B-1316** (STA.3402.0001.6789 at .6790).

128 Houlihan: Day 11, T1288.26-30.

129 **Exhibit B-1316** (STA.3402.0001.6789 at .6790).

130 Houlihan: Day 11, T1291.33-37; Star Entities' Written Submissions dated 21 June 2022, para [L.39].

131 Houlihan: Day 11, T1291.46-1292.1-4; **Exhibit B-1641** (STA.3415.0001.1871 at .1871).

132 **Confidential Exhibit B-1687** (STA.3418.0016.1648 at .1650).

133 **Exhibit B-1691** (STA.3412.0058.1450 at .1450); **Exhibit B-1692** (STA.3412.0058.1452); **Exhibit B-1693** (STA.3412.0058.1454).

134 **Exhibit B-3156** (INQ.014.001.0005).

135 Pitkin: Day 33, T3587.12-19; Bradley: Day 32, T3523.29-37.

136 Pitkin: Day 33, T3587.24-25.

137 Heap: Day 30, T3526.17-23; Bradley: Day 32, T3523.47-3534.1.

138 Heap: Day 30, T3384.19-22; Bradley: Day 32, T3524.8-11.

139 Bradley: Day 32, T3524.1-6; Houlihan, Day 11, T1277.38-46; Bradley, Day 32, T3524.4-6; Pitkin, Day 33, T3587.39-42; and Lahey, Day 33, T3664.36-39.

140 Pitkin: Day 33, T3587.31-37.

141 Heap: Day 30, T3384.24-29; Bradley, Day 32, T3524.13-21; Pitkin, Day 33: T3588.1-7.

142 Bradley: Day 32, T3526.33-38; Pitkin: Day 33, T3588.11.

143 Star Entities' Written Submissions dated 21 June 2022, para [L.49].

144 Ibid para [L.49].

145 Ibid para [L.51].

146 Ibid para [L.52].

147 Ibid para [L.53].

148 Walker: Day 22, T2451.44-2452.6; **Exhibit B-962** (STA.3420.0008.1689).

149 **Exhibit B-926** (STA.3411.0011.9031 at .9032).

150 Walker: Day 22, T2451.44-T2452.6.

151 Walker: Day 22, T2452.8-11; **Exhibit B-926** (STA.3411.0011.9031 at .9031).

152 **Exhibit A-627**, para [45] (INQ.002.004.0174 at .0179); **Exhibit B-3490** (STA.3009.0008.0489 at .0503).

153 **Exhibit A-627**, para [48] (INQ.002.004.0174 at .0179); **Exhibit B-3338** (STA.3412.0012.6202).

154 **Exhibit A-1509**, para [64] (INQ.002.004.0057 at .0062).

155 **Exhibit A-627**, para [49] (INQ.002.004.0174 at .0179); **Exhibit B-3572** (STA.3009.0008.2731).

156 **Exhibit A-627**, para [47] (INQ.002.004.0174 at .0179); **Exhibit B-2500** (STA.3008.0002.3109).

157 **Exhibit A-627**, para [54] (INQ.002.004.0174 at .0179); **Exhibit B-3484** (STA.3009.0008.0244).

158 Walker: Day 21, T2423.31-40.

159 Walker: Day 21, T2424.2-13.

160 Walker: Day 21, T2424.20- T2425.4.

161 Walker: Day 21, T2425.18-29.

162 Walker: Day 21, T2431.13-26.

163 Walker: Day 21, T2429.10-18.

164 Walker: Day 21, T2430.37-2431.11; **Exhibit D-7** (STA.3008.0023.8145 at .8150).

165 **Exhibit B-3178** (INQ.014.001.0023); **Exhibit B-3180** (INQ.014.001.0028).

166 Ibid.

167 Ibid.

168 **Exhibit A-1509**, para [16]-[26] (INQ.002.004.0057 at .0058-.0059).

169 Walker: Day 22, T2516.5-10.

170 **Exhibit A-1509,** para [22]-[23] (INQ.002.004.0057 at .0058).

171 Walker: Day 22, T2452.8-11.

172 Walker: Day 22, T2452.8-2454.11, T2455.8-11; **Exhibit B-926** (STA.3411.0011.9031 at .9031 - .9032); **Exhibit B-944** (STA.3420.0004.2074 at .2074).

173 **Exhibit B-944** (STA.3420.0004.2074).

174 Walker: Day 22, T2452.34-48.

175 **Exhibit G-482** (IPR.001.072.5814); **Exhibit A-1509**, para [40]-[41] (INQ.002.004.0057 at .0060).

176 Walker: Day 22, T2460.17-44; **Exhibit A-1509**, para [42] (INQ.002.004.0057 at .0060).

177 Walker: Day 22, T2461.1-9.

178 See for example, **Exhibit G-482** (IPR.001.072.5814); **Exhibit G-488** (IPR.001.068.1693); **Exhibit G-489** (IPR.001.068.7280); **Exhibit G-490** (IPR.001.068.0976); **Exhibit G-660** (IPR.001.068.6379).

179 Walker: Day 22, T2463.22-2464.37.

180 Walker: Day 22, T2465.44-2466.3.

181 Walker: Day 22, T2468.8-11; T2469.19-47.

182 **Exhibit B-1234** (STA.3420.0001.5141 at .5141); **Exhibit B-1235** (STA.3420.0001.5144).

183 Walker: Day 22, T2471.4-24.

184 Walker: Day 22, T2468.13-17.

185 Walker: Day 22, T2471.26-29.

186 Walker: Day 22, T2472.35-39.

187 **Exhibit B-1239** (STA.3420.0002.1628 at .1628).

188 Walker: Day 22, T2474.1-4.

189 Walker: Day 22, T2471.34-40.

190 Walker: Day 22, T2471.42-48.

191 Walker: Day 22, T2474.15-2475.3; **Exhibit B-1236** (STA.3420.0004.2083 at .2083).

192 **Exhibit B-1308** (IPR.001.068.5689); Walker Day 22, T2478.30-33.

193 Walker: Day 22, T2479.10-14.

194 Walker: Day 22, T 2493.32-38.

195 Walker: Day 22, T2467.40-48.

196 **Exhibit B-1254** (STA.3420.0004.2023 at .2023 - .2024); Walker: Day 22, T2480.19-27; T2481.22-25.

197 **Exhibit B-1254** (STA.3420.0004.2023 at .2024)

198 **G-691** (IPR.001.068.2963); Walker: Day 22, T2493.4-21.

199 Walker: Day 22, T2482.22-27, T2515.34-43; Star Entities' Written Submissions dated 21 June 2022, para [L.157].

200 **Exhibit A-1509**, question 3(b), para [31]-[58] (INQ.002.004.0057 at .0059-.0061); Walker: Day 22, T2507.41-2508.18.

201 Walker: Day 22, T2508.18-25.

202 Walker: Day 22, T2495.41-45.

203 **Exhibit B-1019**, (STA.3420.0008.5122 at .5122).

204 Ibid.

205 **Exhibit B-1308** (IPR.001.068.5689)

206 **Exhibit B-1356** (STA.3410.0021.7696 at .7698).

207 Walker: Day 22, T2502.1-9.

208 **Exhibit B-1357** (STA.3420.0007.1059 at .1060); Walker: Day 22, T2500.46-2501.46.

209 Walker: Day 22, T2502.22-25.

210 Walker: Day 22, T2503.41-44.

211 Walker: Day 22, T2502.43-2503.12; T2503.20-23.

212 Walker: Day 22, 2503,25-231, Star Entities' Written Submissions dated 21 June 2022, para [L.166].

213 **Exhibit B-3178** (INQ.014.001.0023); **Exhibit B-3180** (INQ.014.001.0028).

214 **Exhibit J-66** (IPR.001.999.0489).

215 Walker: Day 22, T2484.41-47.

216 **Exhibit B-810** (STA.3004.0001.0742 at .0744).

217 Ibid.

218 **Exhibit C-330**, para [10.6.1], [10.6.3] (INQ.018.001.0001 at .0101-.0102); **Exhibit G-876** (STA.3412.0013.2293 at .2293 and .2295).

219 **Exhibit C-330**, para [10.6.1] (INQ.018.001.0001 at .0101); **Exhibit B-1477** (STA.3415.0001.0140 at 0141-.0142).

220 **Exhibit B-1476** (STA.3415.0001.0139); **Exhibit B-1477** (STA.3415.0001.0140 at .0141-0.142).

221 **Exhibit I-174** (INQ.014.001.0284 at .0284).

222 **Exhibit B-1538** (STA.5002.0005.2241 at .2241).

223 Ibid at .2245 - .2249.

224 Ibid at .2247.

225 **Exhibit B-1575** (STA.3411.0009.5887 at .5888); **Exhibit B-1571** (STA.3411.0009.5994 at .5994).

226 **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B-3169** (INQ.014.001.0012).

227 **Exhibit B-3156** (INQ.014.001.0005 at .0009); **Exhibit B-3169** (INQ.014.001.0012).

228 **Exhibit B-3166** (STA.3412.0013.1938 at .1942).

229 **Confidential Exhibit B-3023** (ILGA.001.003.0420 at .0428).

230 **Confidential Exhibit B- 2446** (STA.3412.0057.4279); **Confidential Exhibit B-1477** (STA.3415.0001.0140 at 0141-.0142).

231 **Exhibit B-1538** (STA.5002.0005.2241 at .2247).

232 **Exhibit B-1477** (STA.3415.0001.0140 at .0141 - .0142).

233 **Exhibit B-1468** (INQ.016.001.0571).

234 **Exhibit B-1477** (STA.3415.0001.0140 at 0141).

235 **Exhibit B-1499** (STA.3411.0003.1976).

236 Star Entities' Written Submissions dated 21 June 2022, para [L.93].

237 **Exhibit I-1** (INQ.014.001.0279 at .0282).

238 Star Entities' Written Submissions dated 21 June 2022, para [L.104].

239 **Exhibit B-1500** (STA.3008.0006.4080).

240 **Exhibit B-1587** (STA.3402.0003.5140 at .5142).

241 Star Entities' Written Submissions dated 21 June 2022, para [L.99].

242 **Exhibit B-1669** (STA.3002.0009.0298 at .0302).

243 Ibid.

244 **Exhibit G-877** (STA.3412.0013.2297 at .2299).

245 **Exhibit B-1477** (STA.3415.0001.0140 at .0143).

246 **Exhibit C-330**, para [10.8.2] (INQ.018.001.0001 at 0104).

247 Power: Day 17, T1926.42-1927.1; Hawkins: Day 24, T2708.10-14; Bekier: Day 27, T3034.1-6.

248 **Exhibit B-1479** (STA.3417.0005.8905 at .8910).

249 **Exhibit B-2791**, para [75], [77] (INQ.017.001.0061 at .0382 - .0383).

250 Star Entities' Written Submissions dated 21 June 2022, para [L.112].

251 **Exhibit B-1477** (STA.3415.0001.0140 at 0143).

252 **Exhibit C-330**, Appendix D (INQ.018.001.0001 at .0160).

253 **Exhibit B-1482** (INQ.014.001.0091 at .0092).

254 **Exhibit B-3156** (INQ.014.001.0005 at .0009); **Exhibit B-3169** (INQ.014.001.0012 at .0015).

255 **Exhibit C-330**, Appendix D (INQ.018.001.0001 at .0160).

256 **Exhibit B-1500** (STA.3008.0006.4080 at .4080).

257 **Exhibit B-1669** (STA.3002.0009.0298 at .0302).

258 Power: Day 17, T1929.17-20.

259 Power: Day 17, T1923.40-1924-25.

260 Power: Day 17, T1929.15-30.

261 Star Entities' Written Submissions dated 21 June 2022, para [L.120]-[121].

262 **Exhibit A-627**, para [70] (INQ.002.004.0174 at .0183).

263 **Exhibit B-1721** (STA.3008.0002.3030 at .3031).

264 **Exhibit A-627**, para [74] (INQ.002.004.0174 at .0183).

265 **Exhibit B-3576** (STA.3009.0008.4318).

266 **Exhibit A-627**, para [73] (INQ.002.004.0174 at .0183).

267 **Exhibit B-3156** (INQ.014.001.0005 at .0011).

268 Star Entities' Written Submissions dated 21 June 2022, para [L.134].

269 Ibid.

270 **Confidential Exhibit B-2097** (STA.3412.0058.7508 at .7712).

271 Star Entities' Written Submissions dated 21 June 2022, para [L.129].

272 **Exhibit B-3576** (STA.3009.0008.4318).

273 **Exhibit B-81** (STA.3008.0021.0520 at .0528).

274 Star Entities' Written Submissions dated 21 June 2022, para [L.131].

275 Star Entities' Written Submissions dated 21 June 2022, para [L.131]; **Exhibit A-1**, para [19]-[20] (INQ.002.004.0241 at .0244).

276 **Exhibit B-779** (STA.3008.0002.3022).

277 **Exhibit B-1721** (STA.3008.0002.3030 at .3031).

278 **Exhibit B-1155** (STA.0022.0001.0628 at .0631 - .0632).

279 **Exhibit B-1161** (STA.3008.0002.3021).

280 **Exhibit B-1166** (STA.0022.0001.0064 at .0065).

281 **Exhibit A-627**, para [74] (INQ.002.004.0174 at 0183).

282 Star Entities' Written Submissions dated 21 June 2022, para [L.24].

283 Ibid para [L.23].

284 Ibid para [L.23], [L.75], [L.87], [L.134].

285 Ibid para [L.178].

Chapter 22
Gambling Duty Payable by The Star to the NSW Government

Chapter 22 Gambling Duty Payable by The Star to the NSW Government

Chapter 22.1 Introduction

1. The obligation of The Star to meet its duty payments to the NSW Government arises under section 120 of the *Casino Control Act* and is a condition of The Star's casino licence under clause 14(a).

2. The issue of whether The Star has complied with its obligations to pay duty arose during the Review's investigations. The issue gave rise to two sub-questions. The first was whether The Star had underpaid duty in relation to patrons who had engaged in rebate play between July and September 2020. That question, considered in Appendix I, arose because of the impact of border closures and travel restrictions related to the COVID-19 pandemic.

3. The second question arose from a serious allegation published in the media on 9 February 2022, that Star Entertainment had engaged in a deliberate strategy to convert patrons from local status to rebate status to reduce the amount of duty it paid to the NSW Government. That question, considered in Chapter 22.5, was whether that allegation was substantiated on the materials examined before the Review. Relatedly, The Star instructed Gadens, an external law firm, to investigate the allegation. Gadens concluded its report on 15 June 2022, finding that, as is explained in Chapter 22.6, while the media allegation could not be substantiated, there were widespread issues with The Star's processes and records in support of patron residency eligibility for rebate play.

Chapter 22.2 The 2008 Duty Agreement

4. On 26 June 2008, the NSW Government and Star City, as The Star was formerly known, entered the Deed of Amendment and Restatement (Casino Duty and Responsible Gambling Levy Agreement) (**2008 Duty Agreement**).[1] The deed was originally dated 14 December 1994, and amended and restated on 26 June 2008.

5. There were two types of duty under the 2008 Agreement: "Weekly Duty" and "Rebate Duty". Clause 6 under the 2008 Duty Agreement related to "Weekly Duty".[2] While the definitions and calculations in clause 6 were complicated, in broad terms the casino operator had to first determine the weekly gross revenue. This, in essence, meant the total of all sums received from the conduct of gaming, less the total of all sums paid out as

winnings and less rebate revenue. The casino operator had to then determine "Gross Revenue" by multiplying the weekly gross revenue figure by 52 to determine the revenue for a 52 week period. That then allowed the casino operator to determine which revenue band applied in order to determine the rate of duty applicable.

6. The tax rate for financial year 2013 and onwards was between 16.41% for revenue between $0 and $600 million and 38.91% for revenue between $720 million and $999,999,999.[3]

7. Clause 9 of the 2008 Duty Agreement governed the payment of "Rebate Duty".[4] Schedule 5 contained a regime whereby the casino operator must pay $6 million annually.[5] An adjustment regime then applied whereby the casino operator was to determine actual periodic duty amounts and then perform an assessment of whether that figure was "positive, negative or zero" as compared to the $6 million already paid.[6] That could result in the operator having to pay further rebate duty, or the Treasurer paying an amount back to the casino operator.

8. Under the 2008 Duty Agreement, rebate duty, in essence, was the total of all sums received from the conduct of gaming by "Rebate Players", less the total of all sums paid out to "Rebate Players".[7] The "Rebate Player Duty Rate" was 10%.[8]

9. Schedule 5 contained this definition:[9]

> **"Rebate Player"** means a person not normally a resident of NSW who is invited by the Licensee to participate in the conduct of rebate gaming at the Casino, either individually or as a participant in a junket as a guest, in accordance with a system of internal controls and administrative and accounting procedures applicable to that person and as approved by the Authority pursuant to section 124 of the Act.

10. The definition of "Rebate Player" was critical from the perspective of patron eligibility for rebate play. A question which assumed importance in the Review was the appropriate test to be applied to determine whether "a person [is] not normally a resident of NSW".

11. There was also a responsible gambling levy under the 2008 Duty Agreement. Clause 8 of the 2008 Duty Agreement provided for the payment of that levy, which under clause 8.2 was fixed at 2% of "Gross Revenue".[10] The responsible gambling levy did not apply to rebate revenue.

12. The 2008 Duty Agreement expired on 30 June 2020.[11] From 1 July 2020, the new duty agreement commenced.

13. Star Entertainment produced to the Review a document entitled "NSW Casino Duty & International Duty Standard Operating Procedures" (**Duty SOP**).[12] That document had "2018" on the front cover. The Duty SOP was based upon the calculation of duty under the 2008 Duty Agreement. The Star, in its response to an information request issued by the Review on 7 April 2022, stated that the Duty SOP had not yet been updated following the execution of the current agreement on 29 May 2020 (**Current Duty Agreement**).[13] However, The Star stated that "the calculations performed in accordance with the [Current Duty Agreement] which applied on and from 1 July 2020 and the format of the changes to the Duty returns were shared with L&GNSW and incorporated into the monthly duty returns".[14]

14. It is concerning that the casino operator has not yet updated the Duty SOP despite the Current Duty Agreement having commenced on 1 July 2020. The calculation of duty under both agreements differs in many material respects and the Duty SOP should have been promptly updated to reflect those material changes. To the extent The Star has not done so already, The Star should update the Duty SOP for consistency with and otherwise to reflect the Current Duty Agreement as a matter of urgency.

Chapter 22.3 The Current Duty Agreement

15. On 29 May 2020, the NSW Government and The Star executed the Current Duty Agreement.[15]

16. An initial 1-year "Transitional Period" applied under the Current Duty Agreement.[16] Three rates applied during that period, namely, a "Transitional Non-rebate Duty", rebate duty and the responsible gambling levy.[17] Under clause 5.3 of the Current Duty Agreement, the "Transitional Non-rebate Duty" was payable monthly as calculated in accordance with Schedule 1 of the Current Duty Agreement (see also Schedule 2).[18] For revenue under $780,000,000, a rate of 16.41% applied.[19] It is understood that upon the addition of GST and the responsible gambling levy, the overall rate was 27.5%.[20] Star Entertainment described the transitional arrangement in its ASX release dated 1 June 2020 as follows:[21]

> The current gaming tax arrangements have been extended and will apply to The Star Sydney in FY2021. For domestic gaming revenues (excluding domestic rebate) up to $780 million, a 27.5% tax rate (including GST and Responsible Gaming Levy (RGL)) will apply. For revenues above $780 million increasing rates of marginal tax will apply. The attachment sets out further details of domestic gaming tax rates applicable at different revenue levels for FY2021.

17. The attachment included in the above ASX release appears to be based upon the "Dutiable value revenue table" as set out in Schedule 2 in the Current Duty Agreement.[22]

18. There are otherwise three rates of duty that apply under the Current Duty Agreement, namely, Non-rebate Duty, Poker Machine Duty, and Rebate Gaming Duty calculated as follows:

    (a) Non-rebate Duty Rate: 17.91% of Non-rebate Gaming Revenue (clause 6.1);[23]

    (b) Poker Machine Duty Rate: tiered starting at 20.91% (between 5 July 2021 and 1 July 2024), and increasing to 21.19% (between 1 July 2024 and 1 July 2027) and then 22.91% (between 1 July 2027 and the end of the Duty Period), with all such rates being a percentage of Poker Machine Revenue (clause 7.1);[24] and

    (c) Rebate Duty Rate: 10% of Rebate Gaming Revenue (clause 9.1).[25]

19. The Current Duty Agreement also imposes a Responsible Gambling Levy of 2% which applies to "the sum of the Adjusted Non-rebate Gaming Revenue and the Adjusted Poker Machine Revenue for the month in question" (clauses 8.1, 8.2(b)).[26] The Responsible Gambling Levy does not apply to Rebate Gaming Revenue (which was also the case during the Transitional Period).

20. Like the 2008 Duty Agreement, there is no positive definition for "Non-rebate Play" under the Current Duty Agreement. "Non-rebate Play" is defined under clause 1 of the Current Duty Agreement as "Gaming by Non-rebate Players",[27] and a "Non-rebate Player" is defined as a person who participates in "gaming at the Casino and is not a Rebate Player".[28]

21. The following definition applies in the Current Duty Agreement:[29]

> **Rebate Player** means a person not normally a resident of NSW who:
>
> a) participates in Gaming either individually or as a participant in a junket, in accordance with the relevant provisions of a system of internal controls and administrative and accounting procedures (as approved in writing by the Authority from time to time in accordance with section 124 of the Act) applicable to that person; and
>
> b) lodges the requisite front money;

22. As was the case with the 2008 Duty Agreement, there is no definition of when a player is ordinarily resident in NSW. If there is a misclassification of a patron's eligibility to be a "Rebate Player", various consequences may arise including:

(a) Misclassification based on residency and therefore eligibility has the effect of reducing *the Non-Rebate Duty* payable by The Star. This is because by classifying a player as a "Rebate Player", the revenue generated from that player's gambling is taxed at the Rebate Gaming Duty Rate of 10% *instead* of being taxed at the Non-rebate Duty Rate of 17.91%. The vice of any misclassification based on residency *is an underpayment of Non-rebate Duty*.

(b) Misclassification based on residency would also lead to a reduction, and therefore underpayment, of the Responsible Gambling Levy. This is because the levy does not apply to Rebate Gaming Revenue.

23. Clause 2.3(e) of the Current Duty Agreement under the "Interpretation" clause states: [30]

> The calculation of any rate under this Agreement shall be based on a calendar year and all references to months are references to calendar months.

24. Thus a starting point for the assessment of the non-residency requirement may be that the applicable period is a period considered with respect to the position of the patron in a particular calendar year. However, no further definitional assistance is provided in the Current Duty Agreement.

25. Mr Hawkins explained in his evidence that the majority of rebate play was calculated either through the tracking of non-negotiable chips issued to rebate players or through an "allocation of a card" which was used for the tracking of international rebate play.[31] Cards were generally used where the rebate patron was engaging in non-table play such as a gaming machine.[32] These were the primary ways of tracking the revenue of any given rebate player. Mr Hawkins also confirmed that all rebate players were required to lodge front money, including premium mass market players.[33]

Chapter 22.4 Underpayment of Duty by The Star between July and September 2020

26. The first issue is whether there was an underpayment of duty by The Star to the NSW Government between July and September 2020. That issue is dealt with in Appendix I.

27. As concluded in Appendix I, there was a likely underpayment of duty in relation to two patrons, described as Patron 1 and Patron 2, in this period when they were incorrectly treated as eligible for rebate play. It is also found in Appendix I that The Star breached ICM 8(1) and section 124 of the *Casino Control Act* in failing to complete residency

assessments in accordance with SOPs for Patron 1 and Patron 2. Accordingly, as a result of section 124(1) of the *Casino Control Act*, The Star also breached its licence.

28. It would however, be unsafe to conclude that there has only been an underpayment of duty by The Star because of those two patrons.

29. Having concluded that the evidence presented to this Review indicates that it is likely that there has been underpayment of duty by The Star, in the circumstances the appropriate course would be for the Authority to commission a full audit of all rebate play since between 28 November 2016 and the date on which rebate play was suspended by Star Entertainment, namely, 9 May 2022, to determine if there has been an underpayment of duty and, if so, the amount of any underpayment.

30. The Star Entities accepted that "any mistakes in the classification of players should be remedied and any shortfall repaid".[34] The Star Entities accepted that "a complete audit should take place" and that Star Entertainment had engaged KPMG to conduct a "forensic review of The Star's records in relation to those patrons who changed their residency status from ordinarily resident in NSW to being ordinarily resident interstate or overseas in the period 28 November 2016 to 31 May 2022".[35] The Star Entities also produced to the Review the engagement letter with KPMG dated 2 June 2022 and the acceptance of KPMG's terms by Mr James Gough on behalf of Star Entertainment on 6 June 2022.[36]

31. The Star Entities explained that KPMG was "to quantify any potential shortfall in duty payable".[37] The Star Entities also submitted that (footnotes omitted):[38]

> The Star accepts the recommendation by Counsel Assisting that the audit ought be a "full audit… so that it can be understood one way or other whether the international rebate players have been appropriately categorised as such for the purposes of paying duty to the New South Wales Government". In this respect, The Star is willing to involve the regulator, to share any audit findings and to invite the Authority to meet directly with KPMG.

32. While the decision to retain KPMG is positive step for Star Entertainment to be taking, it is considered that the Authority needs to instruct and retain its own independent expert to perform the audit and for that expert to report directly to the Authority. This does not mean that Star Entertainment cannot continue with its instructions to KPMG, nor does it mean that the Authority should not be presented with any findings from KPMG.

33. A recommendation to this effect is made at the end of this Chapter.

34. In a further development, on 19 August 2022 Mr Heap, in his capacity as the Interim Chairman of Star Entertainment, wrote to the NSW Treasurer, the Hon. M. Kean MP, disclosing that while KPMG's review was not yet completed, the work performed to date had suggested that there was "currently $39.4m of rebate revenue by customers who were incorrectly classified as non-NSW residents, and whom should have been ineligible for rebate play".[39] Mr Heap then explained that "[t]his implies there may be an underpayment of $8.7m". Mr Heap also indicated that KPMG's review was expected to be completed by the middle of September 2022 and that upon its completion The Star would "engage with NSW Treasury in relation to the payment of amounts owing".

35. This development illustrates the necessity of the Authority pursuing its own independent audit by retaining an external expert to ensure that the full amount of any outstanding duty is identified and paid to the NSW Government.

Chapter 22.5 Media Allegation Against Star Entertainment of False Residency Conversions

36. The allegations made in the media regarding the falsification of residency status of rebate patrons raise a different issue from the matters considered in Appendix I.[40] This sub-chapter is concerned with exploring whether any such practice existed at The Star and Star Entertainment.

22.5.1 *The Sydney Morning Herald* and *The Age* article of 9 February 2022

37. On 9 February 2022, *The Sydney Morning Herald* and *The Age* published an article titled "The Star encouraged high rollers to pretend to live outside NSW" (**SMH Article**).[41] The SMH Article alleged:[42]

> Australian casino giant Star Entertainment encouraged local high rollers to falsely claim they lived outside NSW as part of a scheme that minimised the amount of gaming tax the casino paid the state government.
>
> Two insiders who worked at The Star Sydney casino have confirmed their direct involvement in a practice that encouraged big local punters to obtain documentation to make it appear they resided overseas or interstate, even though they lived in NSW.
>
> The players were told if they could meet the checklist of requirements to apply for non-NSW resident gaming status, such as a current interstate driver's licence or recent passport visa stamps, they could gain access to lucrative rebate programs. The program involved The Star paying high rollers a small cut of their gambling turnover.
>
> The effect of the practice was that The Star Sydney may have paid millions of dollars less in gaming revenue to the NSW government.

> …
>
> Two sources said that one high roller who was approached to change his residential status was a lucrative "whale" gambler being pursued by the Australian Tax Office over separate allegations he owes the federal government tens of millions of dollars.
>
> One of the sources, a casino staff member who encouraged gamblers to alter their address, said some employees could maximise their bonuses by encouraging high rollers to change their residential status and therefore gamble more. The question of who in The Star knew about the practice is likely to be examined by the Bell inquiry.

38. The main allegation raised in the article was that there was a practice whereby "Star Entertainment" was encouraging local patrons to falsely claim that they lived outside NSW and this practice was "part of a scheme" that reduced the gaming tax payable to the NSW Government (**Media Allegation of False Residency Conversions**).

39. The article goes on to state that The Star responded to the allegations. The article stated:[43]

> In response to a series of detailed questions sent to The Star on Monday about the scheme to change gamblers' residential status, the company released a two-sentence statement.
>
> "The Star runs a rebate program where the eligibility of domestic and international players is determined by criteria known to the regulator," the statement said. "The Star operates in a highly regulated environment."

22.5.2 Star Entertainment board meeting of 10 February 2022

40. On 10 February 2022, a board meeting of Star Entertainment took place to consider the allegations raised in *The Sydney Morning Herald* article of 9 February 2022.[44]

41. The minutes disclose that Mr Bekier "provided a summary of key points in the SMH Article".[45] The minutes disclose that all directors were provided with a copy of the article and a covering memorandum from the Managing Director and CEO "which noted that management has commenced an investigation into the alleged practice referred to in the SMH article".[46] The minutes disclose that Ms Martin informed the meeting that an external law firm, Gadens, would conduct the investigation. The minutes then disclose that Mr Hawkins spoke at the meeting. The minutes record:[47]

> Greg Hawkins, Chief Casino Officer NSW noted that the Company's standard operating procedures have control processes regarding rebate program eligibility checks, patron residency status checks, and Know-Your-Customer identification requirements to validate the eligibility of rebate program participants.
>
> In response to a question from the Board, Mr Hawkins provided assurance that the alleged practice of employees falsifying the residential status of patrons is unauthorised and that, at the present time, he has no knowledge of such a practice as that alleged occurring.

42. On 9 May 2022, Star Entertainment's Board of directors made an ASX announcement relevantly stating that the Board had resolved to immediately suspend all rebate programs across all casinos until further notice.[48]

22.5.3 Mr Hawkins' evidence regarding whether there was any incentive for The Star to convert patrons to rebate programs

43. During his examination, Mr Hawkins was asked whether there was any deliberate strategy of The Star to convert patrons from local to interstate or international rebate programs. Mr Hawkins gave evidence to the effect that there was no incentive for The Star to engage in such a practice. This was because although the duty payable for a non-rebate player is higher than the duty for a rebate player, Mr Hawkins said that the rebates paid to rebate players exceeded the reduction in duty payable.[49]

44. The Star subsequently produced an email dated 7 April 2022 which had been reviewed by Mr Hawkins prior to giving evidence. The document compared the expected revenue (which The Star refers to as "theoretical revenue") from a player first treated as a local player and secondly treated as an international rebate player. The document on its face supported a conclusion that the player was more profitable to The Star as a local player.[50] However, Mr Hawkins agreed that the comparison assumed that the player would not increase gambling turnover if converted to a rebate player.[51] It would be unsafe to dismiss the Media Allegation of False Residency Conversions simply on the alleged basis that there was no financial incentive to engage in such a practice.

22.5.4 Consideration of the Media Allegation of False Residency Conversions

45. Mr Hawkins included in his supplementary witness statement dated 4 March 2022 a number of email chains that showed that there was an issue with patron residency conversions taking place at The Star.[52] The Review also uncovered other similar email chains showing the business considering issues regarding local players seeking, or being poached, to convert to rebate programs.

May 2018 email chains

46. On 14 May 2019, Ms Rachel Budway emailed the "VIP International Operations Directors" and "VIP International Supervisors" regarding a patron who was playing in a junket "requesting to be upgraded to Diamond",[53] being a status of membership for certain local

patrons. The email chain shows discussion of the patron's residency and eligibility. On 15 May 2018, Ms Budway sent an email to Mr Ravinder Sathasivam and Mr Walker stating:[54]

> After talking to Sam yesterday, she advised me that [Patron] was approached by a Local Junket Rep. Evidently, he was offered a deal too good to pass up.
>
> The issue, is that, Sam was not aware of Loyalty Benefits and (I assume) the guest did not know he would forfeit the benefits by joining a program.
>
> We don't really have a process around "converting" guests form Loyalty to IRB or Domestic and IPM.
>
> We need to look at putting a process in place that:
>
> - Ensures the guest is aware of options
> - Meets the requirements
> - CRE/Int Host/Sales Rep need to communicate with each other before changing a playerclub

47. This email of Ms Budway shows consideration of the need to ensure that any conversions from local to rebate are performed in accordance with proper process. However, in an additional email exchange, on 18 May 2018 Mr Kevin Yu, Premium Guest Executive at The Star emailed Mr Walker stating that the patron "decided to become IRB player" which meant "we do not get his figure at all".[55] The same day, Mr Walker then emailed Mr Jason Yeates stating "[a]nother one lost to a junket. How do we stop this as this seems to be a reasonable contributor to our drop in numbers against budget".[56] This further exchange of emails suggests a tension between the local and rebate sales teams regarding patron numbers and a possible link to performance incentives.

48. In another email chain of 15 May 2018, Mr Yeates raised a concern with Mr Chris Peasley and Ms Ginny Zhao regarding a patron who appeared to be a "Premium mass player" (i.e. a rebate player), but during a conversation with officers of The Star the patron informed them that "he was now living a few minutes away from the casino".[57] The email chain shows the officers considering the patron's eligibility for rebate play, which led to the patron's residency checklist to be reviewed. On 17 May 2018, in the same email chain, Ms Heidi Huang of The Star emailed Mr Saro Mugnaini (copied to Mr Walker and Mr Yeates) relevantly stating:[58]

> This was communicated with Int'l Marketing account manager Michael Wong and Marcus that this patron is to be categorised as "LOCAL" due to length of stay exceeding 180 days. They are aware and agreed.

49. In a further email, Ms Huang also added that the patron did not hold "PR nor Australian passport" and was on a "Business visa UD/601".[59] This chain, while not tested in the evidence, shows that the officers of The Star appeared to have acted appropriately in seeking to transfer a rebate player to a local player due to the patron's residency information.

50. In an email dated 24 May 2018, Mr Damian Quayle stated to Mr Yeates and Mr Walker:[60]

> International players outside of residency checklist
>
> I spoke to Saro around this issue, he has indicated that Local should be picking these customers up if they have exceeded the days played to qualify as international.
>
> Can you agree on the process and the customer transition process with Saro/ his team
>
> Please advise when this has been actioned and completed

51. The email suggests the local team was pressing for patrons who were not eligible for rebate play to be transitioned back to local status. This seems to have been due to the local team's performance incentives.

52. These emails from May 2018 show a tension that existed between the local and rebate sales teams. The local team was concerned that patrons were being poached or otherwise playing on rebate programs who were not eligible for such play. While the culture in the rebate sales teams (and also junket representatives) poaching local patrons was not appropriate, this was not evidence of the casino operator encouraging patrons to falsify residency documents for the operator's tax purposes.

August 2018 email chains

53. In an email from Mr Quayle to Mr Hawkins dated 24 August 2018, Mr Quayle stated:[61]

> As an FYI
>
> There is a small on property sales team that are tasked to identify possible international eligible MGF and premium customers and move them into junkets / rebate play
>
> This is causing considerable friction and frustration with the local sales team as platinum and diamond customers are being targeted.
>
> I would see any cash player moving to a junket program to be EBITDA negative.
>
> Saro and Jason are attempting to manage the situation however this sales team reports through to Marcus which is causing some challenges.
>
> Something for discussion at next 1:1

54. On 27 August 2018, Mr Hawkins appears to have then forwarded Mr Quayle's email to Mr Mugnaini asking for his "thoughts".[62] The same day, Mr Mugnaini responded to Mr Hawkins:[63]

> In my view the residency status should determine the segment. All international program players are processed through VEVO (the official border control tool) to ascertain they are non Australian residents.
>
> We now have a process and better comms between the areas when a customer is moved.
>
> In terms of ebitda consideration needs further discussion and evaluation in light of best player development outcomes etc.

55. Further, on 28 August 2018, Mr Mugnaini wrote to Mr Hawkins stating:[64]

> In addition, Jason Yates and I are working closely on managing this.
>
> The new SOP we have no (sic) in place, I believe has addressed the tensions considerably.

56. Mr Hawkins was taken to the August 2018 email chain in his examination. His evidence was:[65]

> Q: … So is it right that there was some tension within the organisation at that time about, swapping players over?
>
> A: Yes. I think that - that team had approached a number of our local platinum and diamond and other members, which is entirely inappropriate. That shouldn't have occurred. And, you know, that was my firm view at the time.
>
> Q: And is it the case that the VIP international sales team was applying pressure to swap patrons over to the international rebate business?
>
> A: I think they had approached some local customers, again, only on the basis that they were potentially eligible. But, again, you know, if I recall, the discussions I had were, you know, we need to make sure we're approaching this in an appropriate way and understanding profitability, and that would be not to sort of disrupt our local players and move them on to rebate programs. So my general view is that this team - it was fine for them to try and identify - call it non-loyalised cash players who could be put on a rebate program, because that presented an opportunity for us to develop a broader relationship with them. But they certainly shouldn't have been interacting with established local players on a - on our loyalty program.
>
> Q: What about the domestic rebate team? Were members of that team trying to poach local players and convert them to domestic rebate players?
>
> A: No, I don't recall that occurring.

57. The August 2018 email chain suggests that the residency conversions, if occurring, were a product of VIP International sales employees seeking to poach patrons from the local

business. This was not evidence of senior management authorising or encouraging any such practice.

September 2018 email chain

58. An email chain from September 2018 suggests that there was an intention of the business to identify patrons that could be placed on rebate programs. On 10 September 2018, Ms Eve Xia, Senior Vice President of International Marketing at Star Entertainment, sent an email to Mr Marcus Lim which suggested that The Star or Star Entertainment should be doing more to convert certain patrons to rebate programs.[66]

59. The email suggests that there were international players who were eligible for rebate programs but were not on such programs. The email outlines the benefits of international and domestic rebate programs for customers, and notes how junket representatives had been approaching customers to join junket programs. The email concludes by stating:[67]

> As we know, Crown will have their Sydney venue opened around year 2021 with having only international players. All those IRB players who is currently doing cash play or not be able to join IRB program due to insufficient approval from relevant departments will definitely be offered and attracted by Crown. We will be suffering from huge loss of valuable players and strategical initiative by the time.
>
> We still have three years time, we still can do more.

60. Mr Lim then forwarded the email to Mr Whytcross, Mr Hawkins and Mr Mugnaini stating:[68]

> Let[']s discuss this issue below in our next catch up.
>
> Name it Allocation of key players

61. During his examination, Mr Hawkins was taken to the September 2018 email chain and the meeting that took place.[69] His evidence was:[70]

> Q: Now, what was discussed about this?
>
> A: If I recall, this business development team was tasked with trying to identify any cash players on the main gaming floor who may have been eligible for a rebate program. As I said before, you know, that had to be done very carefully because that could work to the company's, you know, negative position. But I recall at the time there was some correspondence from other management indicating that some of this team had approached some of our other local customers who were already in our loyalty program, which was, you know, generally not expected and beyond the sort of realms of what they were expected to do. So I think this was a discussion around this particular business development team and how they were approaching the identification of potential eligible international customers.

62. The September 2018 chain and Mr Hawkins' evidence shows that there was a business development strategy to identify patrons who may be placed on domestic or international rebate programs. This does raise the question of whether proper care was taken to ensure that only the appropriate patrons were identified. However, while this does attribute knowledge to senior management and suggests some endorsement of the approach, there is no suggestion of a practice to encourage patrons to falsify residency documentation.

November 2018 email chains

63. In an email chain from November 2018, further issues emerged. On 26 November 2018, Ms Kelly Luk, an Executive Host at The Star, sent an email to Ming Xu, a "Business Development Manager – NZ" at Star Entertainment, stating:[71]

> Our IRB JUNKET- NI, Hong JKT staff request add [Patron]#40543232 into their jkt.
>
> [Patron] is holding NEWZELAND Passport and he provided CHINA ID, Utility bills and Airfare which is able to pass IRB Residency checklist to become a IRB patron.
>
> Currently his card type is DOMDMD and look after by you as shown in KCMS.
>
> Therefore, it is possible for you to contact [Patron] to confirm if he willing to change to IRB guest and advise us.

64. On 27 November 2018, Ming Xu wrote an email to Mr Haig Artin, stating:[72]

> I think the below issue is very serious and need to be addressed to international team.
>
> [Patron] told me that this evening he was approached by international Junket Operator with bunches of non-neg chips in Sovereign room to ask him to join Junket program, while he was waiting for his $35k NZD arrival. In the meantime International Junket made up the story and asked our team to change [Patron] to International Gold without his permission. As I got the message I have then directed international admin not to change to international gold after confirmation with [Patron].
>
> It seems this on-and-on out-of-control behaviour from international Junket has largely damaged The Star reputations as patrons has doubted why we let those guys marking around Sovereign room for hunting VIP guests, which we Domestic team work very hard to bring them over Star property from different regions.
>
> Hope this is to be heard.

65. The same day, Mr Monaghan forwarded the email from Ming Xu to Mr Peasley and stated he would alert "Saro".[73] Mr Peasley then forwarded the email to Mr Hawkins and stated in his email:[74]

> Just as a FYI this is the second incident in a week where by junkets are approaching customers at or near the cage.
>
> We have alerted Saro both times, being the person based here so he can go address it immediately.
>
> I need to confirm if it's the same junket, the other incident was a IPM player who picked up 700k from us and was then approached when he was settling to join the junket with better incentives which meant we lost the chance to get the winnings back on our books.

66. This chain discloses a similar issue to the August 2018 email chains in that it indicates a junket representative attempting to poach a local player.

67. In a further email chain between 15 and 23 November 2018, there was a concerning exchange regarding the status of one particular patron. The email suggests that attempts had previously been made to have the patron gamble at The Star. On 22 November 2018, Mr Lim sent an email to Mr Hawkins and Mr Whytcross stating (emphasis added):[75]

> [Patron] is deemed as a resident of New South Wales hence he is not allowed to play on an international program and he is not acceptable to the terms of a local program. He has on several occasions went to play with a friend in Sydney but has been stopped by gaming staff as they suspected he was proxy betting. We have [since] pushed him successfully to play in Gold Coast and coincidentally he has invested in a huge residential development named the jewel in Gold Coast, a development he took over from Wanda China. **If we somehow allowed him to play in Sydney, I foresee we would be getting action from him every alternate day of the week. This is something michael and I have explored before but we have put a stop to this as we have been getting regular business from him in gc and there are too much "red tapes" to initiate him playing in Sydney.**
>
> …

68. On 23 November 2018, Mr Hawkins responded to Mr Quayle stating:[76]

> Is it validated that gaming staff stopped him because of suspected proxy betting?

69. The same day (at 10:26am), Mr Quayle responded to Mr Hawkins stating:[77]

> Im guessing [Patron initals] is [Patron name]
>
> If that is the case, Yes he has been identified on a number of occasions of Proxy betting as he is a local resident playing trying to be on a rebate program (sensitive regulatory issue)
>
> it has been pretty clear cut and he has been warned a number of times.

70. In a very similar email from Mr Quayle to Mr Hawkins (at 10:38am), the same text was sent with the additional line at the end:[78]

> We can look at enrolling him on the baccarat arrangement as a local however as he himself a junket operator in SYD I'm not sure how effective this will be.

71. It appears that consideration was given to ways in which the patron could be attracted to play at The Star in Sydney in a rebate program. There was further material before the Review of that taking place in September, October and November 2017, including correspondence and suggestions that are on their face most troubling.[79] In one email heading, which appeared to be a meeting invite (identifying one required attendee), the question is posed "[Patron]– Can we buy him a house?"[80] In another email dated 1 March 2018, a concern was raised regarding the patron's "identification documents" and a meeting appears to have taken place.[81] Further, an email from 9 January 2019 relevantly stated that "[patron] has made it very clear he will not play unless he is paid commission equal to IRB Programs" and that the patron had "stood firm and will only play in Qld or other jurisdictions where he qualifies for Rebate Programs".[82] That was in response to a query of whether there was "a plan to get [patron] at Star Sydney as a local".[83]

72. It is not clear whether the patron did engage in rebate play at The Star in Sydney during the Relevant Period; he may have originally been an international rebate player, who was converted to local and never subsequently converted back.[84] It appears he did engage in such play at the Star Entertainment casino on the Gold Coast.

December 2018 email chain

73. On 1 December 2018, a concern was raised in an email chain regarding a patron who had "joined Suncity int junket".[85] On 1 December 2018, Mr Andy Dang, Vice President Sales and Marketing at Star Entertainment, sent an email to Mr Monaghan stating:[86]

> Just following up, as now we will be getting more and more International Junket operators pursuing our Domestic patrons, did you get a chance to discuss either CP, Saro & Marcus how the guideline and parameter enforced.
>
> The current climate have changed since October Gold Weeks and all Junkets operators becoming more aggressive toward our players and offering Domestic with more funds.
>
> Below player from NZL is another Ming Xu customer [Patron name and number] currently joined with Suncity Int junket.
>
> Can revenue be pull from Suncity International Junket is the question?
>
> See details below;

74. On 2 December 2018, Mr Monaghan sent an email to Mr Mugnaini stating:[87]

> It would appear that this is now happening more frequently.
>
> My biggest issue is the junket will give the player too much credit and we then lose them forever

75. The email chain depicts the concern of a conversion of a local patron to a rebate program without the knowledge or approval of "management". This is further evidence of the inappropriate sales culture, but not of falsification of residency status.

January 2019 email chain

76. A similar issue to the August 2018 email chain was disclosed in a January 2019 email chain. On 16 January 2019, Ning (Richie) Guo, a Premium Guest Executive at The Star, sent Mr Walker an email stating: [88]

> I would like to bring attention to an incident that occurred last Friday, the 11th of December.
>
> My Diamond guest [Patron name and number] was approached by a member of international (Alex Boonruagtarvon). [Patron] claims that Alex tried to sell her on the advantages of an international junket versus her current program. Ms. He claims that she told him she wasn't interested as she already has a local host but Alex didn't pay attention.
>
> He then tried to instigate a dinner with [Patron], but [Patron] declined. He then proceeded to ask her for her number, and for her wechat – to which [Patron] again declined. She said she felt uncomfortable with giving strangers her personal details as she only prefers deals with me.
>
> At this point, Alex gave her his business card, and she took the card as she just wanted to end the conversation.
>
> Please note that timing of this incident left a lot to be desired, as [Patron] had dropped $120k a few days beforehand on Sunday, the 6th of January and it took a lot of effort for me to finally come back again on the 11th.
>
> At this point, I'm hoping it's just a miscommunication, and the international host Alex was not aware that she was a local diamond member. I would appreciate if you can get some clarity on this situation.

77. The same day, Mr Walker forwarded this email to Mr Lim asking him to "address" (presumably he meant, "address the problem").[89] Mr Lim then sent an email to Mr Walker, Mr Peasley, and Mr Hawkins, and also copied in Mr Yeates.[90] Mr Lim's email stated:

> Mark,
>
> What is this?
>
> Alex does not represent my team and not in my structure.

> Greg,
>
> Let's have a discussion amongst Chris, Jason and myself soon.
>
> Seems to be quite a number of cross over while we are all trying to bring in revenue to the group.

78. Mr Hawkins was also examined upon this email chain and the meeting referred to in it. His evidence was:[91]

> A: Yes, I recall having a meeting with these managers.
>
> Q: And what happened at that meeting?
>
> A: It was always very clear from my perspective that if we had any - any - any member of a business development team - and that was, as I said - I think it was only two or three people who were trying to approach our local premium customers and convert them to a rebate program - was not acceptable at all. So that was the general gist of it, that this particular team needed specific clarity, and if they were sort of stepping into other areas of established relations with various customer segments, that was not appropriate, and for these team members or these managers who oversaw those particular segments to ensure that they were discussing it and monitoring it.

79. That evidence, and the January 2019 email chain, is consistent with the issue being caused by sales representatives attempting to poach players, rather than a strategy by senior management to convert patrons to rebate programs to reduce The Star's duty burden.

February 2019 email chain

80. In a further email chain between 18 and 25 February 2019, there was an enquiry regarding whether a patron was eligible to play on rebate program at the Gold Coast casino.[92] The email depicts relevant employees of The Star in Sydney and The Star on the Gold Coast discussing the patron's eligibility and documentation. On 24 February 2018, Mr Lim responded stating:[93]

> What's the rationale for all these documents. It's clear he does not reside in Australia or gc and has probably never been on property. Who is your director that you need to seek permission to engage business.
>
> If I was the patron whom is trying to make a trip to us, I would be very frustrated by requiring more and more documents just to be able to play. Can I have the processes of all these clearly mapped out and given to me? I will evaluate on improvement soon.

81. Mr Lim's email was inappropriate to the extent he appears to be criticising his colleagues for the care they were applying to the patron's eligibility.

March 2019 email chain

82. Mr Hawkins was taken to an email from March 2019 regarding an issue concerning a patron's eligibility to be placed on a rebate program. On 8 March 2019, Mr Paul Tierney, Guest Support Manager Table Games at The Star, sent an email to Mr Ronald Wagemans stating:[94]

> Just a FYI with regard to Patron [number], [Patron].
>
> It appears that this Guest has recently had her status changed from INSWDMD to IRB. (March 4, 2019)
>
> I am still treating the Guest as a local for the purposes of time-play and will ensure she ceases all gaming activity prior to 24 hours of play.
>
> There are two issues I feel need raising on this;
>
> 1. Why are we allowing an exception to this local Patron to be on an International Junket Program? (At a guess I expect more than half of our regular SR patrons have dual passports)
>
> 2. This card-type will possibly not have ratings captured for the purposes of RG if deemed International.

83. The same day, Mr Wagemans forwarded the email to Mr Micheil Brodie stating:[95]

> This is happening more and more that local guests are allowed to join an International Junket Program. This also means that the casino gets a bigger tax break. Is this something we should be discouraging? Your thoughts

84. Mr Brodie then forwarded the email to Mr Mugnaini requesting to "catch up to discuss".[96] Mr Mugaini then sent an email to Mr Sunny Lim Khay Seng stating "Gh can you find out residency status etc", who responded indicating that the "Patron is usually a local player, her card type was initially Interstate", she was in a junket program, and that a residency checklist was completed.[97]

85. Mr Hawkins was not a party to the March 2019 email chain and said that he was not aware of it.[98] The March 2019 email chain, while concerning in the sense there was a further instance of a local patron conversion, is not evidence of a deliberate strategy to falsify residency documents.

22.5.5 Further relevant evidence from witnesses

Mr Walker

86. Mr Walker also gave evidence on this issue. He said that he was aware of instances where rebate teams had poached local players.[99] Mr Walker explained the impetus for such activity as follows:[100]

> I think it was just competing sales teams. So my team was the local team, and you had the interstate team and the - and the international team. So sometimes lines got crossed where someone could be perceived by the other sales team as - as being international or interstate rather than local. So my - my job is to defend my local database, I guess.

87. He gave evidence that the reason for the "competition" was due to the poaching being linked to "targets" which were in turn linked to "bonuses".[101]

88. Mr Walker said that he did not observe local patrons being designated as inter-state or international patrons when he held concerns as to that designation.[102]

89. Mr Walker's evidence on this generally corroborated the evidence of Mr Hawkins.

Mr Peasley

90. The Review addressed questions to Mr Peasley regarding weaknesses regarding The Star's record keeping in the context of the rebate business.[103] This was in the context of The Star's information response of 8 November 2021 identifying such issues to the Review.

91. Mr Peasley's evidence was that the members of the interstate and international sales team who reported to him did not deal with customers or potential customers located in NSW, and rather these individuals dealt with customer and potentially customers located outside the State.[104] Mr Peasley also explained that his team were part of performing the initial check as to a customer's residency, but did not perform the residency checklist once the customer arrived at a property of Star Entertainment.[105]

92. Mr Peasley stated he had no knowledge of The Star paying any incorrect duty amount and as such he had no opinion about any weaknesses in record keeping.[106] He gave evidence that he was not aware of any specific people who changed their membership at The Star during the Relevant Period from local to interstate or overseas.[107]

22.5.6 Concluding findings regarding the Media Allegation of False Residency Conversions

93. The material before the Review establishes that there was a practice of sales representatives and, it seems, junket representatives seeking to convert local patrons to interstate or international rebate programs.

94. The evidence indicates that this was not a few isolated occurrences but a recurring problem, spanning a timeframe from at least May 2018 to December 2019. Mr Wagemans' email of March 2019 referred to this "happening more and more".[108]

95. The 10 September 2018 email from Ms Xia to Mr Lim does raise questions as the email does show senior management's knowledge of a strategy to seek to on-board patrons to rebate programs.[109] However, Mr Hawkins's evidence was that this was to be done "very carefully",[110] and there was no contemporaneous material put to Mr Hawkins that disclosed any suggestion of an active strategy to encourage patrons to falsify their residency.

96. Mr Lim's email of 23 November 2018, and the email chain leading up to that email, was concerning. So was the material produced to the Review from September to November 2017 regarding ways to bring the patron to The Star in Sydney as a rebate player. However, this material was not tested before any witnesses, and so no adverse findings are made in respect of it.

97. The overwhelming weight of the evidence showed that any practice of converting local patrons to rebate programs was not an initiative propounded by senior management and was rather a product of an inappropriate sales culture. This could have had the consequence of a reduction in duty payment, albeit an indirect one.

98. On the present evidence, the Media Allegation of False Residency Conversions has not been established.

Chapter 22.6 The Gadens Report

22.6.1 The scope of the Gadens Report

99. On 15 June 2022, Gadens concluded its report titled '"Investigation into reported allegations – The Sydney Morning Herald 'Star encouraged high rollers to lie', 9 February 2022" (**Gadens Report**).[111]

100. The scope of investigation of the Gadens Report is stated as:[112]

> In February 2022, The Star engaged Gadens to conduct an investigation into the allegations contained in an article published by The Sydney Morning Herald on 9 February 2022. A copy of that article is located in Annexure A of this report.
>
> Our investigation does not seek to draw any conclusion as to whether any player has been incorrectly categorised as non-resident of New South Wales in connection with rebate gaming at The Star Sydney, or if The Star has paid the correct amount of gaming duty. Such issues are the subject of a further investigation.

101. The allegations Gadens was tasked with investigating were summarised as:[113]

> The article contains a number of allegations but primarily asserts that The Star engaged in a scheme of encouraging New South Wales resident "high rollers" to falsely claim they lived outside of New South Wales. If true, The Star would have underpaid gaming duty owed to the State of New South Wales and breached various obligations both at law and under contract with the State.

102. The period of investigation underpinning the Gadens Report was from 28 November 2016 to the date of the report.[114]

103. The material considered in the Gadens Report included the following categories of information and documents as summarised in Schedule 1 of the report:[115]

(a) formal interviews with the following individuals: Mr Walker, SVP Premium Service Operations; Ms Rachel Budway, Vice President Premium Services Operations; Mr Liu, Vice President Premium Services Operation; Mr Peasley, President Domestic & International Casino Marketing; Mr Monaghan, General Manager Premium Guest; Mr Alex Gorman, General Manager Casino Marketing; Mr Hawkins, Chief Casino Officer NSW; Mr Desmond Ho, Senior Vice President North Asia; Mr Quayle, Chief Operating Officer The Star Sydney; Mr Chum Mo, Vice President Premium Services Operations; Mr Frank Zou, Business Development Manager North Asia; Mr Whytcross, GM Commercial Finance International Marketing; and Mr Artin, Vice President Interstate Sales & Marketing;

(b) the material produced by The Star under notices from the Authority between 5 March 2020 and 15 July 2020;

(c) the materials produced by The Star to this Review under summonses which was relevant to the allegations Gadens was investigating as identified by KWM;

(d) relevant ICMs and SOPs;

(e) rebate player "raw data" from the period from 1 January 2016 to 24 March 2022 regarding patrons who changed their residential address from NSW to outside NSW (disclosing 27,664 data points for review across 6,508 members); and

(f) a targeted sample of 60 patrons.

22.6.2 The conclusions in the Gadens Report

Summary of findings

104. The Gadens Report provides a summary of the main conclusions in the following table:[116]

Allegation	**Findings**
The Star engaged in a practice that encouraged patrons to obtain documentation to make it appear they resided overseas or interstate, even though they lived in New South Wales, as part of a scheme that minimised the amount of gaming tax the casino paid the state government.	We have not identified any material which substantiates the allegation. However, our investigation has identified a sustained failure of The Star's operations team to properly and diligently administer approved systems and processes relevant to determining a patron's residency which would have enabled New South Wales residents to participate in rebate gaming activities. 60 patrons of interest were shortlisted as a targeted sample for the purpose of reviewing all available residency checklists and supporting documentation for each program that a member played. We found that of the 60 patrons: • 6 patrons were junket operators/promoters who did not participate in a rebate program. • Residency checklists for all but 4 patrons contained either an administrative error or an omission of required information. • 12 patrons were likely in New South Wales in excess of 183 days during program play. • 16 patrons did not satisfy a 100 point check.

	• 18 patrons had New South Wales information recorded on Synkros when joining a rebate program. • 18 patrons had insufficient information to determine their residency.
Players were told if they could meet the checklist of requirements to apply for non-New South Wales resident gaming status, such as a current interstate driver's licence or recent passport visa stamps, they could gain access to lucrative rebate programs.	This allegation is factually correct. Patrons that were able to meet the requirements of The Star's residency checklist were eligible to join a rebate program at The Star Sydney.
One high roller who was approached to change his residential status was a lucrative "whale" gambler being pursued by the Australian Tax Office over separate allegations he owes the federal government tens of millions of dollars.	… [The patron's] play was closely monitored and analysed. His eligibility for rebate play has also been considered and would have been discussed with [him]. Notwithstanding, [the patron] never participated in a rebate program at The Star Sydney given his status as a resident of New South Wales.
Employees could maximise their bonuses by encouraging high rollers to change their residential status and therefore gamble more.	Until recently, attractive bonuses could be earnt by the international and domestic rebate sales team if revenue targets set for rebate gaming business were achieved, as opposed to any measurement of The Star's profitability. Conversions helped achieve these revenue targets. The operations team are not incentivised based on the performance of the rebate gaming business.

105. The conclusions in the Gadens Report appear broadly consistent with the conclusions reached by the Review in this chapter.

Main allegation in the SMH Article

106. Both this Review and the Gadens Report concluded that Media Allegation of False Residency Conversions could not be established or substantiated.[117]

107. However, the Gadens Report identified some concerning matters which suggested that inappropriate conduct inconsistent with a culture of compliance was taking place in connection with on-boarding patrons to rebate programs (emphasis added), including:

> - One interviewee reported overhearing a conversation between a junket promoter and a sales representative of The Star, where the promoter queried **why documentation could not be created** for the purposes of satisfying the residency checklist. The incident was not reported to management.[118]
>
> …
>
> - When asked if the eligibility of any other rebate player was of concern, Patron X [name withheld by the Review] was mentioned on more than one occasion. Our understanding is that Patron X has property and business ties that are primarily located in New South Wales and Queensland. **Patron X has historically been categorised as a Queensland resident for the purposes of rebate gaming at The Star Sydney, and a New South Wales resident for the purposes of rebate gaming at Treasury Brisbane and The Star Gold Coast.** It does not follow that Patron X can be a non-resident of both States despite being able to produce documentation which might support a determination of non- residency under a residency checklist.[119]
>
> …
>
> - Patron Y [name withheld] was converted from an international rebate player to a local player in 2017. Patron Y then began to preference Crown Melbourne, where he qualified for domestic rebate programs. In response, a detailed analysis of possible alternate commercial offerings was conducted by senior executives of The Star, principally Mr. Michael Whytcross, in order to identify a means to best compete with Crown for Patron Y's custom. The higher tax rate payable by The Star Sydney on Patron Y's play made this challenging. **In a note from Mr. Michael Whytcross to himself on 17 November 2017, Mr Whytcross queried if The Star could buy Patron Y a house. We did not come across any further material to suggest that this was more than an isolated consideration of Mr Whytcross, but does suggest that Mr. Whytcross was considering ways in which The Star's residency checklist could technically be satisfied.**[120]
>
> - It was observed that many Sovereign Room patrons maintained more than one passport. Mr. Ron Wageman (Patron Liaison Manager) in an email to Mr. Micheil Brodie (General Manager of Compliance) raised concerns with the escalating number of Sovereign Room patrons joining international junket programs. **Mr. Wageman noted in his email to Mr. Brodie that this "means that the casino gets a bigger tax break. Is this something we should be discouraging?".** We find Mr Wageman's question peculiar, but make mention because it touches on the subject of the primary allegation. If a patron qualifies for a rebate program, it follows that The Star is subject to a lower rate of gaming duty associated with that program.[121]

Practice of sales teams poaching local patrons

108. Gadens also concluded:[122]

> Until recently, attractive bonuses could be earnt by the international and domestic rebate sales team if revenue targets set for rebate gaming business were achieved, as opposed to any measurement of The Star's profitability. Conversions helped achieve these revenue targets.
>
> The operations team are not incentivised based on the performance of the rebate gaming business.

109. Gadens expanded on that finding in the analysis of the interviews undertaken with personnel at The Star. Gadens made the following key observations:[123]

- Patron gaming activity was closely monitored. Patrons of interest would be approached and targeted by both the domestic and international sales teams and junket promoters for possible conversion onto a rebate program. This created tension between the local sales and domestic/international sales teams.
- If a patron was considered eligible for a rebate program, the sales teams would advise the patron of the type of supporting documentation the patron would need to produce to the operations team at The Star Sydney in order to demonstrate their residency and join a rebate program.
- The domestic and international sales teams were incentivised to grow the rebate gaming business, and were encouraged to do so, but there was no reported communication or direction that it was for the purpose of minimising the amount of gaming duty payable by The Star.

110. These conclusions expressed by Gadens are consistent with the Review's conclusion that the instances of international and domestic sales teams poaching local players to convert them to rebate programs was driven by commissions.[124]

111. The Gadens Report does not use the descriptor of a "practice" to encapsulate the evidence of poaching of local patrons. However, a fair reading of the Gadens Report's coverage of this issue does not leave the reader with the impression that this was an isolated occurrence. For example, the Gadens Report also made the following observations with respect to junket operators and promoters:

- Junket promoters were the main protagonist with The Star's sales teams when it came to converting locally hosted players onto a junket program. A significant number of conversions occurred as a result of junket operator programs, with patrons being lured by junket promoters with the offer of credit and rebates more favourable than those offered by The Star[125]

…

> - International and local sales teams were disapproving of the aggressive pursuit by junket promoters to convert existing patrons of The Star onto a junket rebate program. It was impacting the sales teams' performance against budget. The Star's operations team would, in response to a complaint raised by the sales team, confirm if the converted patron satisfied the residency checklist.[126]

112. The Gadens Report also makes the following relevant observations with respect to the "requisitioned material":[127]

> - The international rebate sales team expressed frustration with the residency checklist process, principally around the extent of documentation an international patron needed to produce. Ways in which to streamline this checklist process, and improve patron experience, were explored.
>
> - There was evidence of the international rebate sales team pressing for international patrons to be able to commence rebate play prior to supplying all supporting documentation as to their residency. This was to secure the patron and improve the patron's experience. The operations team confirmed that this was allowed to occur for known patrons.

Weak rebate patron documentation and poor administration

113. The Gadens Report also appears to arrive at similar conclusions to the Review in relation to residency checks. That is, Gadens found that:[128]

> [O]ur investigation has identified a sustained failure of The Star's operations team to properly and diligently administer approved systems and processes relevant to determining a patron's residency which would have enabled New South Wales residents to participate in rebate gaming activities

114. The Gadens Report also made observations critical of The Star's systems, processes and documentation in support of patron rebate play eligibility. Relevant observations arising from the interviews included that most interviewees "expressed a degree of unease about the exploitable nature of the [residency] checklist";[129] and there was inadequate and at times "absent" training on The Star's ICMs and SOPs relevant to rebate play.[130] The report did, however, identify that there was a perception among interviewees that systems and processes had undergone "noticeable improvement since early 2020".[131]

115. Gadens's review of the "requisitioned" materials and primary documentation gave rise to arguably the most concerning findings or observations in the report, including:

(a) As stated in the summary of findings, of the 60 patrons which Gadens looked at closely "Residency checklists for **all but 4 patrons** contained either an administrative error or an omission of required information" (emphasis added).[132]

(b) Material provided to the Authority under notices as part of the 2020 audit disclosed inaccurate and incomplete residency checklists as well as issues with "supportive residency documentation".[133]

(c) There were clear and material problems with the application of the 183 day test.[134] The 183 day test was applied and little weight was given to other factors to determine residency. A patron would be taken off a rebate program if it was determined that the patron had exceeded 183 days. However, "in or around September 2020, 12 international rebate player had remained in Australia in excess of 183 days which The Star was aware of and allowed to continue on a program for reasons that COVID travel restrictions prevented the patron from leaving".

(d) Patrons holding a bridging visa or other classes of visa were not adequately scrutinised.[135]

22.6.3 The conclusions in the Gadens Report regarding Patron 1

116. Gadens made the following findings with respect to the person identified as Patron 1 in Appendix I:[136]

> **Residency**
>
> Patron 1 [name withheld by the Review] was in Australia for more than 183 days at the time his residency was assessed in August 2020. He further declared that he would reside in NSW for a further 200 days. There was also insufficient evidence enclosed with his residency check to confirm his overseas residential status.
>
> **Document production**
>
> According to records provided by The Star, Patron 1 participated in 300 rebate programs between February 2016 and August 2020. However, only one residency checklist was produced.
>
> We further note that the patron conducted 9 program plays in 8 days. This is not an approved program practice.
>
> **Administrative errors**
>
> See the section 42.4

117. Gadens identified the following administrative errors for Patron 1:[137]

> - Part A is not completed by casino host or dated.
> - Part B on whether a copy of e-ticket/airline ticket showing clear entry and exit from Australia was obtained was answered incorrectly. Should be 'no'.

- Part C question on whether there was Synkros information that may have precluded the patron from participating in the program was answered incorrectly. The answer should have been 'yes'.
- Part C question on Australia address noted in Synkros was answered incorrectly. This should have been 'yes'.
- Licence numbers for the casino hosts completing and authorising the residency checklist was not recorded.
- 50 points was allocated to the patron's 100-point checklist for insufficient travel documentation.

118. These conclusions in relation to Patron 1's residency status are consistent with the findings of the Review and also indicate that the likely underpayment of duty in connection with Patron 1 may have continued over a period of years, exceeding the amount shown on the spreadsheets provided by Mr Whytcross to Mr Hawkins in 2020.

22.6.4 Breach by The Star of its warranty regarding accuracy of business records

119. The Star Entities conceded that "the failings identified in the Gadens report are more widespread" such that a finding could be made that The Star had breached its warranty given to the Authority under paragraph 4 of Schedule 4 of the Amended Casino Operations Agreement.[138] That concession was properly made and is accepted.

120. The conclusions in the Gadens Report provide further support for the necessity of a full-scale independent audit of rebate patron eligibility in the nature recommended below.

Chapter 22.7 Recommendations

121. **Recommendation**: It is recommended that the Authority take steps for an independent expert to be retained to:

(a) assess the eligibility of all patrons who engaged in rebate play at The Star from 28 November 2016 until the suspension of rebate programs on 9 May 2022 against "ICM 8: Rebate Play" and the Rebate Play SOP as applicable at the time; and

(b) quantify the amount of any adjustment The Star must pay to the NSW Government in duty that the expert considers owing.

122. This recommendation does not mean that Star Entertainment should not continue with its instructions to KPMG, nor does it mean that the Authority should not be presented with any final findings from KPMG.

123. **Recommendation**: It is recommended that any duty agreement with the operator of The Star Casino contain a clear and objective test to determine when a player is to be considered "not normally resident in New South Wales". The relevant internal controls for the operator of The Star Casino should incorporate the new test. The Current Duty Agreement will need to be varied to include the new test.

124. **Recommendation**: The Authority take steps to require the operator of The Star Casino to update the Duty SOP for consistency with and otherwise to reflect the Current Duty Agreement.

125. **Recommendation**: It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breach of its warranty given to the Authority under paragraph 4 of Schedule 4 of the Amended Casino Operations Agreement concerning the failure of The Star to keep accurate records of patron residency information.

126. **Recommendation**: It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breach of ICM 8(1) and section 124(4) of the *Casino Control Act* in relation to the failure to complete residency assessments in accordance with standard operating procedures for the patrons described as Patron1 and Patron 2.

Endnotes

1 **Exhibit B-5** (ILGA.001.007.2547).

2 Ibid at .2560 - .2563.

3 Ibid at .2569.

4 Ibid at .2564.

5 Ibid at .2573 - .2574.

6 Ibid at .2574 - .2577.

7 Ibid at .2572 - .2573.

8 Ibid at .2573.

9 Ibid.

10 Ibid at .2564.

11 NSW Government Treasury Media Release, "NSW Government Finalises Duty Rate Agreement", dated 1 June 2020 <https://www.treasury.nsw.gov.au/sites/default/files/2020-06/NSW%20TREASURY%20-%20NSW%20GOVERNMENT%20FINALISES%20DUTY%20RATE%20AGREEMENT.pdf>.

12 **Exhibit B-512** (STA.3002.0001.0305).

13 **Exhibit H-445** (CORRO.001.001.0656).

14 Ibid at .0656.

15 **Exhibit B-2432** (ILGA.001.013.0001).

16 Ibid at .0011; **Exhibit B-2416** (STA.5002.0006.2715); INQ.003.005.0131; NSW Government Treasury Media Release, "NSW Government Finalises Duty Rate Agreement", dated 1 June 2020.

17 **Exhibit B-2432** (ILGA.001.013.0001, at .0010 - .0011).

18 Ibid at .0014.

19 Ibid at .0031.

20 Hawkins: Day 23, T2633.47-2634.19.

21 INQ.003.005.0131.

22 **Exhibit B-2432** (ILGA.001.013.0001 at .0031).

23 Ibid at .0014 - .0015.

24 Ibid.

25 Ibid at .0017 - .0018.

26 Ibid at .0017.

27 Ibid at .0010.

28 Ibid.

29 Ibid.

30 Ibid at .0012.

31 Hawkins: Day 22, T2551.1-14.

32 Hawkins: Day 22, T2553.4-11.

33 Hawkins: Day 23, T2565.11-44.

34 Star Entities' Written Submissions dated 21 June 2022, para [H.3].

35 Ibid.

36 **Exhibit R-6** (STA.5002.0010.0448).

37 Star Entities' Written Submissions dated 21 June 2022, para [H.3].

38 Ibid para [H.61].

39 STA.6005.0032.0001; STA.6005.0032.0002.

40 Hawkins: Day 23, T2630.10-15.

41 **Exhibit B-3648** (INQ.014.001.0050 at .0050 - .0051).

42 Ibid.

43 Ibid at .0051 - .0052.

44 **Exhibit H-545** (STA.3029.0002.0029).

45 Ibid at .0029.

46 Ibid.

47 Ibid at .0030.

48 **Exhibit J-157** (INQ.003.007.0001).

49 Hawkins: Day 23, T2633.26-T2634.38.

50 **Exhibit I-393** (STA.9999.9999.0006).

51 Hawkins: Day 25, T2812.36-2814.16.

52 **Exhibit A-597,** para [7]-[17] (INQ.002.004.0264 at .0264 - .0265).

53 **Exhibit H-84** (STA.3420.0035.5701 at .5703 - .5704).

54 Ibid at .5704.

55 **Exhibit H-87** (STA.3420.0036.5442 at .5442).

56 Ibid.

57 **Exhibit H-85** (STA.3419.0003.8332 at .8334).

58 Ibid at .8332.

59 Ibid.

60 **Exhibit H-98** (STA.3420.0024.8816 at .8817).

61 **Exhibit B-1079** (STA.3411.0098.8824 at .8825).

62 Ibid at .8824.

63 **Exhibit B-1079** (STA.3411.0098.8824 at .8824).

64 Ibid.

65 Hawkins: Day 23, T2637.45-2638.22.

66 **Exhibit H-126** (STA.3410.0022.9001 at .9001 - .9002).

67 Ibid at .9002.

68 Ibid at .9001.

69 Ibid.

70 Hawkins: Day 23, T2635.40-2636.40.

71 **Exhibit B-1183** (STA.3411.0101.5437 at .5438 - .5439).

72 Ibid at .5437 - .5438.

73 Ibid at .5437.

74 Ibid.

75 **Exhibit B-1173** (STA.3411.0011.1491 at .1491 - .1492).

76 Ibid at .1491.

77 **Exhibit B-1174** (STA.3411.0020.8184 at .8184).

78 **Exhibit S-442** (STA.3052.0001.0016 at .0026).

79 Ibid at .0016-.0017, 0020-0021, .0026-.0031, .0032-.0033, .0034-.0036, .0043-.0044, .0045-.0048, .0049, .0051, .0052-.0053, .0055-.0056, .0060-.0061, .0066-.0070.

80 Ibid at .0051.

81 Ibid at .0054.

82 Ibid at .0057.

83 Ibid at .0054.

84 Ibid at .0067.

85 **Exhibit H-159** (STA.3419.0025.4444).

86 Ibid at .4446-.4447.

87 Ibid at .4446.

88 **Exhibit B-120** (STA.3410.0022.4842 at .4842 - .4843).

89 Ibid at .4842.

90 Ibid.

91 Hawkins: Day 23, T2639.3-16.

92 **Exhibit H-175** (STA.3410.0035.0624).

93 Ibid at .0627-.0628.

94 **Exhibit H-178** (STA.3419.0019.4831 at .4832 - .4833).

95 Ibid at .4832.

96 Ibid.

97 Ibid at .4831.

98 Hawkins: Day 23, T2640.11-2641.5.

99 Walker: Day 22, T2440.39.

100 Walker: Day 22, T2440.44-48.

101 Walker: Day 22, T2441.1-19.

102 Walker: Day 22, T2441.39-43.

103 **A-1185** (INQ.002.004.0015 at .0018).

104 Ibid para [15].

105 Ibid para [19] at .0019.

106 Ibid para [22]-[23].

107 Ibid para [24] at .0020.

108 **Exhibit H-178** (STA.3419.0019.4831 at .4832).

109 **Exhibit H-126** (STA.3410.0022.9001).

110 Hawkins: Day 23, T2635.42-48.

111 **Exhibit S-492** (STA.5002.0010.0670).

112 Ibid at .0675.

113 Ibid.

114 Ibid.

115 Ibid at .0693-.0699).

116 Ibid at .0675-.0676.

117 Ibid at .0675.

118 Ibid at .0683.

119 Ibid.

120 Ibid at .0685.

121 Ibid at .0686.

122 Ibid at .0676.

123 Ibid at .0682.

124 Counsel Assisting Oral Submissions: Day 39, T4129.21-24.

125 **Exhibit S-492** (STA.5002.0010.0670 at .0685).

126 Ibid at .0686.

127 Ibid.

128 Ibid at .0675-.0676.

129 Ibid at .0684.

130 Ibid.

131 Ibid.

132 Ibid at .0676.

133 Ibid at .0685.

134 Ibid at .0685-.0686.

135 Ibid at .0686.

136 Ibid at .0885.

137 Ibid at .0888.

138 Star Entities Written Submissions dated 29 July 2022, para [Q.30].

Chapter 23
Harm Minimisation and Responsible Gambling

Chapter 23. Harm Minimisation and Responsible Gambling

Chapter 23.1 Introduction

1. The topics of harm minimisation and responsible gambling arise for the Review's consideration under paragraphs 3.3, 7, 8.8 and 8.10 of its Terms of Reference, as well as (less directly) paragraphs 1, 2, 4 and 8.1-8.7.

2. Between November 2021 and February 2022, the Review received submissions and conducted private interviews on these topics. The Review received submissions from and/or conducted private interviews with:

   (c) individuals with lived experience of gambling harm;

   (d) the Australian Gambling Research Centre (**AGRC**) at the Australian Institute of Family Studies;

   (e) the Alliance for Gambling Reform (**Alliance**); and

   (f) the trustees of the Responsible Gambling Fund (**RGF**), which is supported by the NSW Office of Responsible Gambling.

3. In January and February 2022, the Solicitors Assisting the Review provided copies of the above submissions and transcripts of interviews to The Star. Before doing so, and in accordance with directions that had been made by the Review, the Solicitors Assisting the Review anonymised the submissions and transcripts for the individuals with lived experience of gambling harm.

4. On 11 January 2022, the Review issued summonses to Mr Ron Wagemans (Patron Liaison Manager, The Star) and to Mr Micheil Brodie (then the General Manager, Social Responsibility, Star Entertainment) requiring them to attend for private hearings on 27 and 28 January 2022 respectively. By letter dated 14 January 2022, the Solicitors Assisting the Review gave notice to The Star of three principal issues arising from the Review's interviews and submissions received, namely:

   (a) first, incidents of continuous gambling for long periods of time, including the adequacy of The Star's policies and resources to address such gambling;

(b) second, service of alcohol, including allegedly for free as an inducement to gamble; and

(c) third, ensuring exclusions are given effect.

5. These matters were explored with Mr Wagemans and Mr Brodie in the private hearings. As has been noted in Chapter 9, Mr Brodie resigned from his position on 20 May 2022.

6. On 23 February 2022, the Review received written submissions from Counsel Assisting on the topics of harm minimisation and responsible gambling.

7. On 24 March 2022, the Review received written submissions from The Star in response.

8. Two important reports should also be noted. The first is the RCCOL Report dated 15 October 2021; and the second is the PCRC Report dated 4 March 2022. The PCRC Report was issued after the Review's private interviews and hearings on these topics.

Chapter 23.2 The importance of minimising harm and ensuring responsible service of gambling

9. Gambling is a major public policy issue in Australia, affecting the health and wellbeing of individuals and families in a range of ways,[1] with gambling-related harm recognised as a serious social problem.[2] In its submissions to the Review, The Star stated that it "fully supports the adoption and implementation of robust responsible gambling practices in its casino operations, and is cognisant of its importance."[3]

10. Estimates suggest that Australians lost approximately $25 billion on legal forms of gambling in 2018–19, the largest per capita losses in the world.[4]

11. "Problem gambling" has been defined in Australian research as characterised by the gambler having difficulties in limiting time and/or money which leads to adverse consequences for the gambler, others or the community.[5]

12. More than a decade ago the Productivity Commission estimated that in Australia, in 2008-2009, the costs associated with problem gambling were between $4.7 and $8.4 billion.[6]

13. The language used to describe gambling-related difficulties has evolved over time. Terms such as "responsible gambling" and "problem gambler" are said to put the primary responsibility for reducing and preventing harm from gambling on the individual, rather than on the regulation and provision of gambling products.[7]

14. Negative consequences of gambling, commonly referred to as gambling harms, include adverse financial impacts, psychological issues and relationship impacts, and serious legal or health issues.[8] The Victorian Responsible Gambling Foundation Submission to RCCOL, adopted by the AGRC in its submission to this Review, referred to the recognised categories of harm from gambling as:

    (a) financial harm, for example reduction or loss of discretionary spending, loss of sources of additional funds (i.e. no further credit available, bankruptcy, reliance on welfare);

    (b) relationship damage, conflict, or breakdown, for example, tension with partner, spouse or family, social isolation, incidence or escalation of family violence;

    (c) psychological and emotional harm, for example, experience of distorted thoughts or erroneous beliefs, loss of self-worth and pride, ongoing guilt and shame;

    (d) decline in overall health, for example, manifestations of distress (increased blood pressure, loss of sleep), experience of violence due to gambling, attempted self-harm, suicidal ideation, or suicide;

    (e) cultural harm, for example reduced participation in community and family activities, shame in relation to cultural expectations and roles, reduced performance at work or study, increased absenteeism due to gambling, loss of employment due to theft or fraud;

    (f) involvement in unlawful activity, for example, neglect of children due to preoccupation with gambling, engaging in theft.[9]

15. Both the AGRC and RGF noted in their submissions that the impact of gambling problems is not limited to gamblers themselves, but also affects their families, peers and the wider community, with research from 2017 suggesting that on average each person who gambles at high-risk levels can affect up to six other people around them,[10] and each person who gambles at moderate to low-risk levels can affect up to three other people around them.[11] The research shows that people who live in the closest proximity and are financially and emotionally dependent on a "problem gambler" (predominantly spouses, partners and children) are most likely to be affected by their behaviour.[12]

16. The financial impact of harm from gambling, rather than the more limited concept of "problem gambling", has been estimated at around $7 billion in Victoria alone.[13]

17. For NSW, survey data commissioned by the RGF in 2019 suggested that 53% of adults in NSW gamble and of those people:

    (a) 1.9% are problem gamblers as defined by the Problem Gambling Severity Index (**PGSI**), a screening instrument used to measure the risk of developing problem gambling – an increase from 1.2% in 2011; and

    (b) 5.2% are moderate-risk gamblers – an increase from 4.5% in 2011.[14]

18. Gambling problems are most common among people who gamble regularly and, for people who gamble at least weekly in NSW, 13% are problem gamblers.[15] Men, young people and people who speak a language other than English at home are more likely to experience gambling harm than others.[16]

19. Approximately 11 million people visit The Star's main gaming floor in a non-COVID year.[17] While many of those visitors are from interstate or overseas, adopting the NSW data would suggest that there may be approximately 570,000 moderate-risk gamblers visiting The Star main gaming floor per year. On the assumption that each of those people could also negatively affect up to three other people around them (i.e. as moderate-risk gamblers rather than the six people affected by high-risk gamblers), this would suggest that up to approximately 1,700,000 people could be affected in a non-COVID year.

20. The data indicates that it is a minority of people who suffer gambling harm. Nonetheless, there may be a much larger number of people who are affected more widely by gambling and whom The Star's responsible gambling practices will affect.

Chapter 23.2 The RCCOL Report

21. The RCCOL Report observed that the evidence and submissions received indicated that problem gamblers were drawn to the Crown Melbourne casino for many reasons, including because it is open 24 hours a day and has more EGMs than any other venue.[18]

22. In relation to EGMs, the RCCOL Report noted that a large proportion of problem gamblers are attracted to EGMs and that most money gambled by problem gamblers is spent on EGMs. The report referred to research which identified a range of factors associated with gambling harm and EGMs, including:

    (a) the rapid speed of play relative to other forms of gambling;

    (b) the lack of natural breaks from gambling; and

(c) the highly variable and unpredictable outcomes, together with product characteristics such as "near misses" and "losses disguised as wins".[19]

23. The RCCOL Report also referred to evidence that EGMs can induce a dissociative "flow state", where a gambler's awareness of self, the passage of time and surroundings is diminished.[20]

24. The RCCOL Report pointed out that the EGMs at Crown Melbourne had less stringent restrictions than those imposed on EGMs at clubs and hotels in Victoria. Of the 2,628 EGMs permitted to be operated at Crown Melbourne, 1,000 were permitted to operate in "unrestricted" mode when certain requirements are satisfied including that a player has a pre-set time and loss limit in place. As an example of the difference in restrictions, in Victorian clubs and hotels there is a maximum load-up limit of $1,000 whereas at Crown Melbourne there is a maximum load-up limit of $9,949 in restricted mode and no maximum load-up limit in unrestricted mode.

25. In NSW, there is one important area where the casinos have less stringent restrictions than those imposed on EGMs in clubs and hotels. Gaming machine operation hours at The Star are 24 hours per day, seven days per week, whereas hotels and clubs are required to close between the hours of 4am and 10am. The Star operates approximately 1500 EGMs.[21] Hotels in NSW are limited to 30 per hotel,[22] whereas there is no such restriction for clubs.

26. The RCCOL Report paid particular attention to the Gambling Code adopted by Crown Melbourne and the Play Periods Policy of Crown Melbourne established under its Gambling Code.[23] It is significant that since 2007 Victoria has imposed by legislation a requirement on casino licensees to implement a Responsible Gambling Code of Conduct that complies with relevant regulations and Ministerial directions.[24]

27. Crown Melbourne adopted a Play Periods Policy in February 2018 and there were seven versions of that policy between February 2018 and December 2020.[25] Later versions of the policy only expressly applied to Crown loyalty program members. Version 1.7, adopted in December 2020, included the following provisions:

(a) members who continuously gambled "without appropriate breaks" for significant periods of less than 18 hours would be reminded to take regular breaks;

(b) members who continuously gambled for 18 hours "without appropriate breaks" would be asked to leave and would be directed by a responsible gaming adviser or gaming manager to take a 24-hour break; and

(c) gaming staff or a responsible gaming adviser would interact with or observe, as appropriate, the member at 12, 15 and 17 hours of gambling to encourage members to take a break from play.

28. The RCCOL Report found that Crown Melbourne had consistently failed to comply with both its Gambling Code and Play Periods Policy.[26] Players had been allowed to gamble continuously for 12 hours or more without any observation or interaction.[27] Some customers had been allowed to gamble continuously for well over 24 hours.[28] The alerts sent to responsible gaming advisers were for Crown loyalty program members only.[29] Those officers had to rely on observation alone to determine whether an un-carded customer had often gambled for long periods of time without a break, which the RCCOL Report described as "an almost impossible task".[30]

29. The RCCOL Report noted that the challenges of administering responsible gaming at the Crown Melbourne casino were "immense" at such an "enormous" venue.[31] It noted that until 2018, Crown Melbourne only employed seven responsible gaming advisers. In 2018 the number was increased to 12 following concerns raised by the VCGLR.[32] The RCCOL Report noted that Crown Melbourne expected the task of the responsible gaming advisers to be supported by all staff working on the gaming floor and found that expectation was "not the reality" as the roles of operational staff did not permit them to provide meaningful support to the responsible gaming advisers.[33] The report referred to research which found that staff are not keen to intervene with customers displaying problem gambling behaviours.[34]

30. The RCCOL also considered research concerning a pre-commitment system for EGMs. This involves a gambler setting limits on the gambling, such as a loss limit and a time limit before they commence gambling.[35] The report noted that this is one of the most contentious issues in discussions about EGM reform.[36] It involves conflicting value judgments about paternalism and individual choice on the one hand and the need for protection from the addictive nature of EGMs on the other hand.[37]

31. The RCCOL Report noted that the Victorian Parliament introduced a pre-commitment system for EGMs in 2014 by amendment to the *Gambling Regulation Act 2003* (Vic), which was a partial, voluntary, non-binding system.[38] The RCCOL Report noted that the

pre-commitment scheme, accessible on all EGMs in Victoria, is called "YourPlay" and referred to evidence that the scheme had not been successful with an "extremely low" uptake of voluntary pre-commitment.[39] The RCCOL Report noted that at Crown Melbourne, when a person reached a limit under the YourPlay system and elected to continue playing, they were permitted to do so and there was no regulatory obligation on staff to take any action.[40]

32. The RCCOL Report referred to a number of recent enhancements notified in May 2021 by Crown Resorts.[41] These included an intention to move to cashless gaming, subject to the direction of the Victorian Government.[42] The RCCOL noted that whilst the move to cashless gaming was to be encouraged, both as an AML measure and because play periods could be more effectively monitored through carded play, concerns included the frictionless nature of transactions, where there is less likelihood of time for reflection and it being potentially difficult for people to track their spending during gambling.[43]

33. The RCCOL Report identified four areas where steps could be taken to reduce gambling harms: carded play;[44] pre-commitment and time limits;[45] the content of the Gambling Code;[46] and access to data.[47]

34. The RCCOL had identified carded play as a step which should be taken because of its AML/CTF benefits.[48] Carded play involved a patron using or swiping a Crown membership card prior to playing any game at Crown Melbourne. The AML/CTF benefits included providing the opportunity to monitor and audit the complete behaviour and activity of patrons; enabling better identification of unusual activity; and providing more transparency.[49]

35. The RCCOL Report also concluded that carded play would be a positive responsible service of gambling enhancement because it was otherwise nearly impossible to monitor uncarded players.[50]

36. The RCCOL made the following recommendation in relation to carded play:[51]

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

37. The RCCOL made the following further recommendations in relation to the responsible service of gambling:

> Player Card Data[52]
>
> It is recommended that a direction be given to Crown Melbourne pursuant to section 23(1) of the Casino Control Act that the player card collect, to the extent practicable, data relating to:
>
> - player buy-in (time, amount)
> - player buy-out (time, amount)
> - play periods (date, start time, end time)
> - player turnover
> - player losses and wins
> - gambling product
> - such further information as the regulator reasonably requires for anti-money laundering and Responsible Service of Gaming purposes.
>
> Pre-Commitment and Time Limits[53]
>
> It is recommended that as soon as possible, the YourPlay system be a full, mandatory, binding, pre-commitment system for Australian residents gambling on EGMs at the Melbourne Casino.
>
> The pre-commitment system should operate in the following manner:
>
> - Each player must set a daily, weekly or monthly time limit and a daily, weekly or monthly loss limit.
> - If the pre-set time limit or the pre-set loss limit is reached, the player cannot continue to gamble on an EGM and the limit(s) cannot be altered, for 36 hours.
> - No player can gamble on an EGM for more than 12 hours in any 24-hour period
> - If a player has gambled for 12 hours in any 24-hour period, the player must take a break for 24 hours.
> - A player cannot gamble continuously on an EGM for more than three hours.
> - The player must take a break of at least 15 minutes after three hours of continuous gambling.
> - A player can gamble on EGMs for more than 36 hours per week.
> - There should be a default pre-set loss limit that the player can modify.
> - The default pre-set loss limit should be set by regulation. It could be calculated by reference to the median income of a wage earner less the

standard cost of living. Or it could be calculated by estimating the median losses of a recreational gambler. The pre-set loss limit should be reviewed at least annually.

For the effective operation of a full, mandatory, binding YourPlay system, internal control systems are needed to ensure that a customer is unable to acquire more than one card. The systems need to be approved under section 122 of the Casino Control Act.

Gambling Code[54]

It is recommended that a new Ministerial Direction be made under section 10.6.6 of the Gambling Regulation Act, in respect of a casino operator, which includes the following requirements:

- a duty to take all reasonable steps to prevent and minimise harm from gambling, including by monitoring the welfare of players, discouraging intensive and prolonged play and intervening when a person is displaying behaviour that is consistent with gambling harm

- a duty to take all reasonable steps to ensure that players on the gambling floor are regularly observed to monitor behaviour that is consistent with gambling harm

- a duty to ensure that there is a sufficient number of responsible gambling officers (however called) at the casino.

It is recommended that the Ministerial Direction:

- set maximum play period limits

- prescribe how long a break in play should be

- identify the period in which gamblers should be interacted with, and the form of interaction, while gambling.

Different rules will be needed for different gambling products. For EGMs, the periods of play should mirror those recommended for YourPlay. For other gambling products, the limits should not be less onerous than those approved by Crown Resorts in May 2021 for domestic customers.

Data Collection[55]

It is recommended that to facilitate data collection for research purposes there should be established a Gambling Data Committee made up of three persons, one appointed by the regulator, one appointed by Crown Melbourne and one appointed by the Victorian Responsible Gambling Foundation.

The committee should have the following functions:

- to identify the data to be included in a repository

- to ensure the data is up-to-date and comprehensive

The committee should be required to carry out the following tasks:

- oversee the design and structure of the repository and its user interface

- identify the data that is to be publicly available and data that will have restricted access
- ensure processes and procedures are put in place for the efficient maintenance and updating of the repository
- establish protocols to anonymized data to respect the privacy of gamblers
- establish a register of recognised researchers
- establish a simple process by which a request for data is to be made.

Crown Melbourne Data[56]

It is recommended that the committee have power to direct Crown Melbourne and the monitoring licensee for the YourPlay system to provide data that is reasonably required and in a particular format

Costs of Data Collection[57]

It is recommended that the cost of establishment and operation of the committee is paid for by the government, with staff and Secretariat support provided by the Victorian Responsible Gambling Foundation.

Chapter 23.4 The PCRC Report

38. The PCRC Report noted[58] that, amongst academics and gambling industry participants, there are at least four models that have been developed to underpin frameworks to minimise gambling-related harm, noting that there is potential overlap between each of them. These are the:

(a) Informed Choice Model – this model is built on principles of personal responsibility but places an obligation on the gambling industry, in collaboration with the government and the community, to ensure that individuals receive sufficient information to enable them to gamble responsibly. The PCRC stated that harm prevention measures associated with the informed choice model are used in most jurisdictions around the world;[59]

(b) Harm Minimisation Model – this model removes the emphasis on individuals gambling responsibly and aims to prevent harm at a population level. It recognises that governments and gambling operators have a responsibility to implement public health harm minimisation measures to limit excessive gambling behaviour across the population;

(c) Consumer Protection Model – this model assumes that consumers can benefit from regulatory and industry restrictions to prevent them making irresponsible gambling decisions and offers stronger protective measures to consumers compared to the

informed choice and harm minimisation models. Consumer protection measures generally require a way of tracking an individual's gambling activity, such as through "carded play" monitoring tools;[60] and

(d) Hybrid Models – this model combines features of the informed choice, harm minimisation and consumer protection models.

39. The PCRC Report concluded that a framework solely or primarily reliant on the informed choice model may not offer the most effective means to minimise gambling-related harm and should be supplemented by the insights of the harm minimisation and consumer protection models.[61]

40. The PCRC Report noted that there was an overwhelming consensus that EGMs were associated with the highest levels of problem gambling.[62] The PCRC Report stated that EGMs possess all the highest risk characteristics including rapid event frequencies, continuous play, micro features to maintain player interest, high accessibility and a self-contained electronic environment that acts to mesmerise players into losing track of time and money invested.[63]

41. In contrast to NSW and Victoria, EGMs are not available at hotels and clubs in Western Australia.[64] They are only available at the Perth Casino, which has a monopoly on EGMs in Western Australia.[65] The expert evidence available to the PCRC suggested that limiting the availability of EGMs was significant in contributing to lower overall rates of gambling-related harm in Western Australia.[66]

42. Legislation in Western Australia does not require the Perth Casino to develop and maintain a responsible gaming code of conduct.[67] Perth Casino had developed its own voluntary responsible gaming code of conduct. The PCRC Report concluded that a responsible gaming code of conduct to apply to the Perth Casino's operations should be legislatively mandated.[68] The PCRC Report identified a number of benefits of a mandatory code of conduct, namely that it provided objective, specific and measurable targets for both the casino operator and the regulator; it increased the likelihood of diligent implementation; and it provided operators with a clear incentive to comply because it was enforceable against an operator by a regulator seeking penalties for non-compliance.[69]

43. The PCRC Report stated that carded play is the only tool allowing for automatic and reliable tracking of patron time on-site. The PCRC noted that whilst the VCGLR recommended that Melbourne Casino develop a tool to assess uncarded play and

indications of gambling related harm, there was no available system to satisfy that recommendation.[70]

44. The PCRC Report reviewed free events, functions and promotions for premium players offered by the Perth Casino. This included alcoholic drinks, confectionery and hampers offered to different tiers of members. The PCRC Report concluded, among other things, that the Perth Casino invites premium patrons to free events or functions, and provides them with gifts and gift cards, for the dominant purpose of inducing them to increase their gambling turnover (and, consequentially, losses).[71] The PCRC Report noted that research showed an association between problem gambling and loyalty program membership.[72]

45. The PCRC acknowledged the need for caution in advocating for changes in responsible gaming measures where the likely effectiveness was not clear.[73] However, it concluded that there were some recommendations which were appropriate to make immediately, rather than to leave them for the consideration by the Gaming and Wagering Commission of Western Australia (**GWC**). These recommendations related to the introduction of a mandatory pre-commitment system; use of mandatory carded play in order to capture player data and access to that data; confirmation of the financial capacity of gold or higher tier members (who could apply to become Pearl Room members at Perth Casino); and a reduction in maximum EGM bet sizes.[74]

46. The PCRC Report recommended that the GWC require the licensee to introduce a full, mandatory, binding loss pre-commitment and play period limit scheme for EGM play at Perth Casino as soon as practicable.[75] The PCRC Report recommended that the GWC stipulate the following interim play period limits for EGMs, to be considered in the light of further research:

(a) a patron is required to take a minimum 15-minute break after three hours of continuous gambling on an EGM;

(b) a patron may gamble on EGMs for no more than 12 hours in a 24 hour period; and

(c) a patron may gamble on EGMs for no more than 28 hours in a seven day period.[76]

Chapter 23.5 The Star's obligations

Preliminary

47. Each of the *Casino Control Act* and *Casino Control Regulation* impose obligations on The Star in relation to harm minimisation and responsible gambling. The Star submitted that the regulatory framework in NSW is designed around the "informed choice" model,[77] namely the model focussed on "ensuring that consumers have enough information to allow them to make choices about their gambling, while prohibiting certain industry practices that might place a person at risk of, or exacerbate, gambling harm".[78]

48. Section 4A(1) of the *Casino Control Act* provides that among the Act's primary objects are "containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families".

Signs and advertising

49. The Star must display a clearly visible and approved form of notice on each EGM containing a warning about gambling and advice for getting help.[79] The Star must display a prominently positioned and approved form of notice with information about the availability of gambling counselling services.[80] The Star must display a notice containing information about gambling help on, or in the immediate vicinity of, each automatic teller machine or cash-back terminal installed in the casino environs.[81]

50. The Star must not publish any advertisement relating to EGMs.[82] Any signs drawing attention to the availability of EGMs must only be displayed within the casino.[83]

51. The Star must not publish advertisements which suggest that winning will be a definite outcome of participating in gambling activities or that participation in gambling activities is likely to improve a person's financial prospects.[84] Any advertisements which draw attention to the availability of gambling activities at The Star must be accompanied by a statement about problem gambling help options.[85]

Counselling services

52. The Star must ensure that problem gambling counselling services are available to patrons at the casino.[86] The Star must display a prominent notice to patrons of the availability of this service and provide contact details.[87]

Inducements

53. Section 76(1)(b) of the *Casino Control Act* provides that the *Casino Control Regulation* may make provision for or with respect to regulating or prohibiting "the offering to persons of inducements to take part in gambling at a casino".

54. Regulation 15 provides:

> 15 Gambling inducements
>
> A casino operator must not –
>
> (a) offer or supply, or cause or permit the offer or supply of, free or discounted liquor as an inducement to participate, or to participate frequently, in a gambling activity in the casino, or
>
> (b) offer, or cause or permit the offer of, free credits to players or as an inducement to persons to become players of gaming machines in the casino, or
>
> (c) offer or provide, or cause or permit the offer or provision of, a prize or free give-away that is indecent or offensive in nature as an inducement to play gaming machines in the casino.

55. Regulation 15 is in substantially the same form as the former clause 20 of the *Casino Control Regulation 2009* (NSW).

Opening hours

56. The Star Casino is open 24 hours per day, seven days per week. Under former section 71 of the *Casino Control Act*, the Authority had a discretion to direct The Star to be closed at certain times. The Amended Casino Licence refers to that former section in clause 12(g)-(h), which provides: [88]

> (g) The Casino is to be open to the public for gaming in accordance with the Casino Control Act on such days and at such times as are for the time being directed by the Authority by order in writing served on the Licensee [i.e. The Star] pursuant to section 71(1);
>
> (h) The Casino is to be closed to the public on the days and at the times specified in section 71(2);

57. By contrast, the Restricted Gaming Licence granted to Crown Sydney dated 8 July 2014 provides in clause 8(c): "Gaming in the restricted gaming facility may be conducted 24 hours a day, 7 days a week, every day of the year".[89]

58. In an apparent effort to have "competitive neutrality"[90] as between The Star and Crown Sydney, the NSW Parliament repealed former section 71 of the *Casino Control Act* in 2018.[91] This is considered later in the Chapter.

Training

59. The Star is required to have training programs for managerial-level and other special employees and to issue them with certificates of competency for their functions.[92]

Alcohol

60. The Star must not permit intoxication or any indecent, violent or quarrelsome conduct at the casino.[93] The Star must not sell or supply liquor to an intoxicated person.[94]

61. If an intoxicated person is at the casino, The Star is taken to have permitted that intoxication unless it can prove that it took positive steps, e.g. asking the intoxicated person to leave and refusing service after becoming aware of the person's intoxication.[95]

62. There are a number of particular alcoholic products which The Star must not sell, which contain ethanol and/or alcoholic vapour or powder.[96]

63. It is an offence to sell or supply liquor to a minor.[97]

64. As has been noted, there is a prohibition in the *Casino Control Regulation* on providing free alcohol as an inducement to gamble.

Credit

65. The Star must not accept wagers other than by means of money or chips (or approved chip vouchers) and must not lend money or extend any other form of credit, with some exceptions for cheques and deposit accounts, allowing certain debit card transactions and for foreign residents participating in premium play or an approved junket.[98] There must not be any automatic teller machines within the boundaries of the casino.[99]

66. If total prize money payable to a person exceeds $2,000, The Star must notify that person that the prize money may be paid (in full or in part) by means of crossed cheque and, if the person requests it, The Star must pay the amount requested by cheque payable to that person.[100] Once issued, a prize cheque cannot be accepted in the casino.[101]

Exclusions

67. Exclusions and exclusion orders are addressed in Chapter 21.

Chapter 23.6 The Star's policies and procedures

68. The Star is required to conduct its operations in the casino in accordance with a system of internal controls and administrative and accounting procedures for the casino that have been approved in writing by the Authority.[102] Any such approval may be amended from time to time as the Authority thinks fit, on the Authority's own initiative or on the application of The Star.[103]

69. The Star must not contravene a requirement of an internal control or administrative or accounting procedure that is approved by the Authority.[104]

70. The Star has 15 substantive ICMs (the sixteenth is a glossary), which are approved internal controls for the purposes of section 124 of the *Casino Control Act*. There is no standalone ICM for the topics of harm minimisation and responsible gambling, but those topics are addressed in at least the following ICMs.

71. ICM 1: Security Operations[105] provides that:

    (a) all persons seeking entry to the casino will be assessed to validate their suitability for entry and security staff will take all reasonable measures to detect and prevent entry to any person that is not lawfully permitted to enter the casino, "including any minor, person that is deemed to be intoxicated or subject to an exclusion order";[106] and

    (b) security staff will patrol the casino and check for minors, excluded persons, intoxication or unacceptable behaviour.[107]

72. ICM 2: Surveillance[108] provides that surveillance staff will take reasonable steps to detect suspected minors, intoxicated patrons and persons subject to an exclusion order within the casino boundary, and will report all detected persons to security.[109]

73. ICM 5: Table Games[110] provides that:

    (a) all gaming tables will have an alarm system to enable gaming staff to alert surveillance to situations including suspected excluded persons, suspected minors, intoxication or threatening, aggressive or distressed behaviour;[111]

(b) table games must only be conducted by licensed staff who are certified as competent in The Star's policies, including but not limited to The Star's responsible gambling and responsible service of alcohol policies;[112]

(c) gaming staff will immediately inform surveillance and/or security should they form a view that a person who has participated in gambling may be subject to an exclusion order or may be a minor;[113] and

(d) if a patron discloses or gaming staff suspect that a patron is experiencing "problem gambling issues" or "displaying problem gambling behaviours in accordance with the Casino Operator's Responsible Gambling training", then the gaming staff must notify their manager.[114]

74. ICM 6: Electronic Table Game Operations,[115] ICM 7: Gaming Machine Operations[116] and ICM 11: Cage Operations[117] contain the same provisions as ICM 5 as summarised in the preceding paragraph, but in relation respectively to electronic table games, EGMs and cage operations.[118]

75. ICM 14: Exclusions[119] provides for the procedures in relation to the making of exclusion orders.

76. The Star has a number of SOPs which sit under the ICMs. The Star can amend SOPs from time to time. The current system of SOPs is discussed in Chapter 25. The Star also has other policies and procedural documents which are neither ICMs nor SOPs, but which are nonetheless important. This is best illustrated by The Star's policy for time played and undated "Responsible Gambling Code" for The Star Sydney,[120] which are addressed below.

77. There are also other documents which should be noted: an undated "Responsible Gambling Program" for Star Entertainment;[121] a Star Entertainment "Responsible Gambling Policy" dated 7 January 2016;[122] and a Star Entertainment "Responsible Service of Alcohol Manual" dated September 2019.[123]

78. For time played, The Star has an SOP styled "Responsible Gaming (RG) – Guests Playing in Excess of 24 Hours (NSW)".[124] This document is marked in its top-right header as "Effective 6 July 2018" and in its bottom-left footer as "Date Effective: 4th April 2019". Regardless of its true effective date, Step 1 of that document provides (original emphasis):[125]

> **Definition**: 'Significant Break' – is considered a total amount of six hours of non-play time accumulated over a 24-hour period.

> STEPS
>
> 1. An appointed Table Games Assistant Gaming Manager (TGAGM) from the Responsible Gaming (RG) team will generate the RG report on Oracle Viewer – JAW to identify any guests exceeding a 24-hour time frame without a significant break.
>
> **NB**: A 'Significant Break' is determined by the definition above. A guest that has accumulated a total of 6 hours of non-play time over a 24 hour period cannot be considered an RG risk solely based on their time played. In assessing a guest, other RG factors should be considered[.]

79. It does not appear that The Star had any written policy to the effect of this SOP before 6 July 2018 or 4 April 2019 (whichever is the correct effective date), although in his evidence Mr Wagemans said he thought it was at least The Star's historic *practice* (even if not its express written policy) to treat 24 hours as a marker for intervention.[126]

80. The Review commenced on 13 September 2021. On 16 September 2021, The Star introduced a new "Guest Time Play Management Standard".[127] The TPM standard is not styled as a SOP but purports to replace the 24 hour SOP summarised above. It introduces a new standard as follows:[128]

> 4.1 TPM uses two fixed time points referred to as Measure 1 and Measure 2. The definitions of the measures are as follows:
>
> - Measure 1 – In the last 6 hours 30 minutes if a guest is/was playing for more than 6 hours without a cumulative break of 30 minutes or more than [scil. then] an alert is sent. If the guest is/was playing on multiple devices at the same time, then the overlapping play time is subtracted from the total
>
> - Measure 2 – In the last 24 hours window the measure should identify the earliest transaction start time and the latest transaction end time for every patron. If the gap between the earliest and the latest transaction is more than 12 hours and unless the patron has taken a 6-hour continuous break an alert will be sent
>
> …
>
> 5.4 Guests who activate Measure 1 must be encouraged to take a break of at least 30 min. Advise them to take regular 15-minute breaks (that is 15 min every 2 hours) to ensure they have ample rest.
>
> 5.5 Guests who activate Measure 2 must be asked to prepare to leave the property in the next few minutes. Allow them time to finish their game. Advise guests they will be required to take a break of 8 hours off property.
>
> 5.6 Guests staying in house will be required to take a break of 8 hours outside of all gambling areas.

81. The Star also has a further document styled "Responsible Gaming (RG) – Guests Playing in Excess of 12 Hours (NSW)" effective from 19 November 2021,[129] which is in the form

of an SOP and is consistent with Measure 2 of the TPM standard summarised above. It makes no mention, however, of TPM Measure 1.

82. While not required in NSW, The Star has adopted a "Responsible Gambling Code",[130] which has not been approved by the Authority. The introduction to the Responsible Gambling Code states that "The Star is committed to providing gaming services for guests in a responsible manner" and that the Code is an important reflection of that commitment.[131] Later the Code says this:[132]

> The decision to gamble lies with the individual and represents a choice. However, to make that choice responsibly our guests need the opportunity to be informed about our gambling products.

83. This reflects the "informed choice" model.

84. Research commissioned by the RGF in 2020, and accepted by The Star,[133] found that the informed choice model "has little positive impact on harm prevention or reduction", and instead "more proactive approaches to harm minimisation are required".[134] Similarly, the PCRC concluded that a framework solely or primarily reliant on the informed choice model may not offer the most effective means to minimise gambling-related harm and should be supplemented by the insights of the harm minimisation and consumer protection models.[135]

85. The Star submitted that "there is a clear move in various jurisdictions toward more proactive intervention models of harm minimisation", and that it supports this change in approach, noting that any changes to its responsible gambling program should be "appropriately targeted, meaningful and measurable."[136] Despite those submissions, the language of The Star's submissions appeared to revert to the informed choice model by focusing on the behaviour of the people who gamble rather than obligations of the provider. The Star submitted, for example, that "it is neither appropriate nor proportionate to impose some of the proposed recommendations [from Counsel Assisting] on th[e] vast cohort who enjoy gambling as a form of entertainment".[137] That appears to be a submission which focuses on the *recipients* of the service rather than The Star itself as the provider. Similarly, The Star made these submissions (emphasis added):[138]

> [I]nterventions must be appropriately tailored to respond directly to the potential impacts across a continuum of harm and provide meaningful support to *those people*.
>
> …
>
> [W]hile the move to a more proactive intervention model is a positive initiative, it must be adopted universally and be appropriately targeted toward *those at risk*. …

> The Star suggests that the Office of Responsible Gambling be invited to work with The Star's Responsible Gambling Program team to develop a proactive intervention model that is nuanced and targeted to most meaningfully impact on problem gamblers and those at high or moderate risk of developing problem gambling habits. … That program would then be monitored as part of The Star's compliance obligations. Intervening in this way would provide a solution that is proactive, but properly targeted and meaningful for *those impacted by problem gambling*.

86. These submissions focus on the behaviour of the people who gamble. The fact is that "those at risk" and "those impacted by problem gambling" could be a wide variety of people, each of whom may experience different harms or severity of harm. It would be more in keeping with the move toward more proactive intervention models to require The Star to act in a way which minimises harm and ensures responsible gambling *itself*, irrespective of the particular patrons with whom it is dealing from time to time.

Chapter 23.7 Evidence received by the Review

87. The RGF's survey data noted in paragraph 17 above suggests that for a large majority of people in NSW, gambling is not something which presents a material risk to their health or wellbeing. However for a not insubstantial minority of people, as well as for from three to six other people around them, gambling can be devastating.

88. Following are three examples from the lived experience evidence which the Review received. Names of the witnesses have been anonymised to protect their privacy.

89. First, Anne has a son, Matt, who is in his thirties and has a gambling addiction. He has been a regular patron at The Star since approximately 2006 (at which time he was 15 years old, gaining entry underage) and despite being excluded in 2016.[139] Matt has multiple sclerosis and cognitive impairment with problem solving.[140] Anne told the Review:[141]

> I have worked my entire adult life. I am a hardworking single widowed mother of 3 kids. [In] 2008 my husband died of a heart attack and I was left to bring the kids up alone. I live with and look after my elderly mother. I am a successful businesswoman and hold an important position in an Australian company.
>
> …
>
> [Matt] has attempted suicide a number of times because of his poker machine addiction. In the past 15 years he has lost tens of thousands of dollars. He has sold his jewellery, cars, TV, large sums of money I gave him and inheritance from his father and grandmother. Our family has been damaged and our relationships have broken down due to his addiction. He is now in a treatment program.

90. Second, Beatriz was living with her husband and daughter in Adelaide when her husband took up a job opportunity in Sydney and (unbeknown to Beatriz) started gambling their savings at The Star. Beatriz told the Review:[142]

> Whenever [my husband] returned to Adelaide to see me and my daughter, he was a changed person. He was angry, frustrated, irritable and becoming violent, and I was walking on egg shells all the time.
>
> About 8 months after moving to Sydney he confided in me that he'd lost all his earnings, as well as our savings. We were both on six figure salaries and had come to Australia with overseas savings. Our arrangement was that I take care of my and my daughter's expenses in Adelaide with my salary and he take care of his Sydney expenses. He had access to my account to pay my bills online as I was working 24/7 and taking care of my daughter as well. Hence I was devastated to learn that we were in the negative financially, though we both earned nearly $250K together and my needs and expenses were very minimal.

91. Third, Charles's former wife started gambling at The Star after they had their first child. Charles told the Review:[143]

> Not long after our first born child was a few months old my wife started to go to the Casino for a night out. She would stay out for more than 24 hours. I would stay at home and look after our son. I would be at home so worried about my wife being a woman alone in the city. When she went to the Casino she would not call me and would not answer her phone.
>
> Because of the stress of her being out all the time we started to argue. Whenever we would argue she would leave the house and go to the Casino. I believe that 80% of the reason why our marriage was destroyed [was] by the Star Casino and gambling. She spent so much money and time at the casino that she was given membership to The Sovereign Room. She lost over $1 Million at the Casino. She has never acknowledged that she has a gambling addiction.
>
> …
>
> I am now separated from my wife. I have all my life been a non-smoker, a non-drinker and on a clean and healthy diet. I did meditation every day. Over the past 5 years I started to smoke and drink and take lots of drugs. My life fell apart. In the end I became completely exhausted with my life and my wife's gambling addiction. I can no longer live in the house with my 2 children due to my wife's addiction. I have lost my ability to be the father I want to be.

92. The Review received similar evidence from other witnesses. It is accepted, as The Star submitted, that recommendations should not be made if they are only "premised on the evidence of a small number of individuals".[144] That is not the case here, however. The lived experience evidence which the Review received was consistent with the broader themes and evidence from the AGRC, Alliance and RGF, as well as the evidence noted in the RCCOL and PCRC Reports.

Chapter 23.8 Consideration of the evidence and issues arising

Continuous gambling – length of play and intervention

93. EGMs are recognised as the "highest risk form of gambling" and casino table games are also "more strongly associated with gambling problems than other forms of gambling".[145] A 2019 survey, which examined the relative contributions of different gambling activities on the degree of harm experienced, found that EGMs had almost double the impact per person than the next largest category (online poker games),[146] 36% of EGM gamblers indicate some degree of gambling problems, with 5.4% of EGM players considered problem gamblers.[147] Results of the same survey were that 7% of people in NSW who play table games in casinos were problem gamblers, and a further 14% were at-risk.[148]

94. Both the AGRC and RGF referred to research that gambling on an EGM for three hours or more without a break is a strong indicator of problem gambling.[149] Dr Jenkinson of the AGRC also gave evidence that limits of gambling for three hours without a break, 12 hours in any 24-hour period and 36 hours in any given week represents "the best evidence we have at this stage" of appropriate limits.[150]

95. The Star adopted, during the course of this Review, a TPM standard which seeks to identify patrons for intervention if they have gambled for six hours continuously or for 12 hours within a given 24 hour period without a six hour continuous break.

96. By contrast, before 16 September 2021 – and thus for all of the Relevant Period considered by the Review – The Star only required intervention for patrons who had gambled for 24 hours without a break. Its SOP (as has been noted) provided that time spent gambling was not itself an indicator of risk, stating that "[a] guest that has accumulated a total of 6 hours of non-play time over a 24 hour period cannot be considered an RG risk solely based on their time played".[151] The effect of this was that if a patron had gambled for 18 hours (more than six times the three hours representing a strong indication of problem gambling on an EGM according to the AGRC and RGF), that fact in and of itself "cannot be considered" to deem the patron a responsible gambling risk.

97. The Review received evidence from a number of witnesses who said that they, or their loved ones, had gambled and were allowed to gamble at The Star for very long periods of time. In particular, the Review heard that multiple patrons, including a grandmother in her eighties, had gambled for more than 24 hours at The Star.[152] In these examples, the

evidence was that The Star had not intervened following periods of play that exceeded its own SOP or (before that) practice deposed to by Mr Wagemans.

98. The Star's new TPM standard is an improvement from its former approach, which only called for intervention at 24 hours. The evidence heard by the Review of instances of continuous gambling for long periods of time, including more than 12 or even 24 hours without meaningful breaks, represented inappropriate and unacceptable amounts of time for anyone to have been gambling at The Star, whether on an EGM or at a table.

99. Given that The Star's former SOP and approach was only to require intervention at 24 hours, it seems likely that there have been many other patrons over the years who have gambled for 12 hours or longer without a meaningful break, in addition to the patrons and family members from whom the Review received submissions and evidence.

100. The Star agreed in its submissions to a recommendation that its TPM standard should include a requirement for EGMs that a patron cannot gamble continuously on an EGM for more than three hours without a 15 minute break; and that in any 24 hour period, a patron cannot gamble for more than 12 hours (cumulative).[153]

101. Intervention can only occur when this time limit is met if the time spent by a person gambling is measured. The Star's evidence is that this can only effectively be measured when patrons gamble using The Star's loyalty program card.[154] The RCCOL Report observed that, absent carded play, it was nearly impossible to monitor uncarded players.[155] Similarly the PCRC stated that carded play is the only tool allowing for automatic and reliable tracking of patron time on-site.[156] This invites consideration of carded play.

Carded play

102. As was said in the RCCOL Report: "Carded play (as distinct from uncarded play) involves a patron using or swiping their … card prior to playing any game at the casino."[157] Carded play at The Star Casino would require all patrons to be issued with an individual card, with gambling only possible after the patron uses or swipes their card, thereby permitting their time spent gambling to be measured.

103. Carded play differs from cashless gaming in that the latter concept involves gambling without cash, whereas carded play might or might not do so. Whether cash is loaded onto a card for use at the casino, or whether the card sits alongside existing play with chips and

cash, are separate issues. What carded play requires, as a minimum, is that each patron be *identified*, via their card, at all times while gambling.

104. Once identified, the operator of The Star Casino would be assisted with identifying patrons who have been present at the casino for long periods of time, as well as identifying excluded patrons who should be denied entry. Anne gave the following evidence:[158]

> Q: How do you think it might assist if any patron who wanted to enter The Star for gambling was required to sign on with an ID card or something of that nature so it wasn't just a matter of relying on visual recognition or facial recognition technology. Do you think that might assist?
>
> A: Yes. Yes. And I can give you an example. The clubs now, the clubs that my son – when it comes to the clubs he has difficulty getting in. He's said to me – he tried to get into a particular club. He said, "As soon as I scanned my ID card, Mum, the whole screen lit up like a Christmas tree and they said, 'Look, sorry, mate, you can't come in, you're excluded'." That – that does work, yes.

105. Counsel Assisting submitted that the Review should recommend to the Authority that carded play be compulsory at The Star Casino.[159]

106. The Star did not agree to that proposed recommendation.[160] The Star submitted that carded play would be "disproportionately impactful on the right to privacy and free access to the casino (in line with its licence), for the vast majority of patrons who enjoy a casual gambling experience", as well as "disproportionately impactful in terms of cost and implementation difficulty for The Star".[161] The Star submitted that requiring carded play "effectively applies the same limited visitation permissions to The Star that have been imposed on the Crown facility at Barangaroo", and that carded play would be "a blunt instrument with respect to a single venue, likely to drive gamblers who wish to remain anonymous away from the casino property and into less stringently supervised gaming environments, such as pubs and clubs".[162]

107. In fairness, those submissions from The Star were made only shortly after the public hearings of the Review had commenced, and before a number of issues had emerged from those public hearings. It may be that The Star would have rephrased its submissions in relation to carded play having regard to the evidence of serious lapses relating, among other things, to the identification of patrons, such as in Salon 95. In particular, in light of the evidence of The Star having permitted the operations that it did in Salon 95 (as discussed in Chapter 13), it cannot be accepted as a general proposition that all pubs and clubs are "less stringently supervised gaming environments" than The Star.

108. In that regard, although carded play has been identified in this Review within the context of harm minimisation and responsible gambling, it is likely that there would be other potential benefits to it. In Victoria, the RCCOL Report addressed carded play within the context of money laundering, not harm minimisation.[163] The Review notes that a trial of carded play is currently underway in NSW directed at both harm minimisation and money laundering.[164]

109. The RGF submitted that the introduction of carded play has significant potential to support the effective implementation of a number of harm minimisation measures.[165] In addition to supporting monitoring of length of play, carded play provides an opportunity to collect a range of data to be used for gambling harm research.

110. The Star accepted[166] that, in relation to the patron cards already taken up voluntarily by patrons, all patron cards should collect data relating to:

(a) patron's buy-in time;

(b) patron's buy-out time;

(c) play periods; and

(d) any other information reasonably required by The Authority.

111. The AGRC submitted that "[d]e-identified data on gambling participation, pre-commitment, and self-exclusion should be made available to relevant government departments and researchers to gain insights into the risks that arise in the casino context and better inform preventative measures, the casino's Responsible Gambling Code, and regulation of the casino".[167] Depending on the scope of data collected, in the AGRC's submission it could be useful for research into "the links between the use of gambling products at the casino and gambling harm, the effectiveness of time and money limits and self-exclusion in preventing and minimising harm, and the adequacy and effectiveness of staff training, observation, and intervention".[168]

112. The RCCOL Report made a series of recommendations in relation to data sharing, in particular for the sharing of data with Commonwealth and State law enforcement.[169]

113. It is noted that a new section 71A will be inserted into the *Casino Control Act* by the *Amendment Act* which will make it a licence condition that all gaming be conducted at the casino by way of a player card issued to each patron. However this provision will not come into effect on 5 September 2022. It will not come into effect until a date which is the earlier

of a day appointed by proclamation and the day that is 2 years after the date of assent of the *Amendment Act*.[170] In these circumstances, and as this was a disputed issue before the Review, it is considered appropriate to make a recommendation on this issue.

Cashless gambling

114. Cashless gambling involves gambling without cash. No organisation or individual has urged the Review to recommend the implementation of cashless gambling at this time. However, The Star has indicated that it is currently developing its "digital wallet offering" which would allow patrons to transfer funds into their player accounts without the need for cash.[171]

115. While the Review did not consider The Star's digital wallet offering, the RGF submitted that there are potential risks and benefits. The RGF submitted that there were "significant risks and harm minimisation opportunities associated with cashless play that would need to be considered in the design and implementation of a cashless system".[172] Regarding risks, the RGF pointed to research that cashless payment methods in gambling "can lead to over-spending, as they require less thinking about the cost and affordability of a transaction" and "digital forms of payment appear to lead to increased gambling and losses, particularly for problem gamblers, as people feel that they are not spending 'real' money".[173] Regarding opportunities, the RGF submitted that "the provision of cashless gaming at The Star to identified players, where each individual can only have one account, also has the potential to significantly improve the effectiveness of existing harm minimisation measures and would enable the implementation of other harm minimisation strategies".[174] As an example the RGF submitted that "cashless play has the potential to underpin effective self-exclusion, limit setting, player information, personalised messaging, breaks in play and customer due diligence and support on sign-up".[175] The RGF submitted that cashless gambling "would also improve the ability of staff to proactively intervene" having regard to relevant time- and behavioural-based indicators.[176]

116. The opportunities which the RGF identified appear to be the same opportunities which arise from carded play. If and when the operator of The Star Casino develops a digital wallet offering, this will need to be considered by the Authority having regard to the risks just noted and harm minimisation and responsible gambling more generally.

Mandatory pre-commitment

117. The Star has a voluntary pre-commitment program known as "Star Assist". It is limited to EGMs and provides an opportunity for patrons to set limits in advance of gambling. Mr Wagemans told the Review that the program has not proven particularly popular to date and that it could, in his view at least, be extended to table play as well as for EGMs.[177]

118. The AGRC submitted that pre-commitment systems which incorporate limit-setting features "have been shown to be effective in reducing gambling-related harm" and "[t]he most effective systems require all people who gamble to set a binding limit on the amount of money (and, less commonly, time) that they are prepared to deposit and/or lose, and for these limits to be enforced".[178] The AGRC also submitted that a universal pre-commitment system "would normalise the concept of setting limits and ensure that customers have access to accurate records of their spending".[179]

119. The RGF submitted that pre-commitment and limit-setting schemes "have been long recognised as harm minimisation tools to minimise the risk of gambling harm".[180] Noting a recent review of such schemes, the RGF submitted that "voluntary limit-setting schemes, particularly those in land-based environments, have limited empirical support, and that emerging evidence suggests that mandatory limit-setting appears more promising, and that such regimes appear to have a meaningful influence on behaviour".[181]

120. The RGF submitted that "evidence-based features for effective limit setting systems" include the following:[182]

(a) patrons should be able to lower limits immediately;

(b) players may request increases in, or removal of, their limits;

(c) play should be stopped when the limit is reached;

(d) after the period ends and/or a request for increase or removal is made, there is a cooling-off period of 24 hours, after which the play must reconfirm their request; and

(e) limits should be periodically reviewed, with payments history and analysis of current deposits and spending projected on an annual basis.

121. The RGF submitted that it is important that any default pre-set loss limit "be set at a meaningful level".[183] On this question, the RCCOL Report recommended that there be a default pre-set loss limit in Victoria calculated as follows:[184]

> The default pre-set loss limit should be set by regulation. It could be calculated by reference to the median income of a wage earner less the standard cost of living. Or it could be calculated by estimating the median losses of a recreational gambler. The pre-set limit should be reviewed at least annually.

122. Counsel Assisting submitted[185] that a mandatory pre-commitment program is called for, in light of the evidence-based submissions from each of the AGRC and RGF; but that it does not appear possible for the Review, on the materials presently before it, to be prescriptive about the default pre-set loss limit or means of calculating it, and what might sensibly constitute a "meaningful level", to use the RGF's language.

123. The Star did not agree that mandatory pre-commitments in relation to time and money for all gambling on the property is an appropriate, proportionate or effective response to better manage problem gambling or high to moderate risk gambling behaviour.[186] The Star submitted that "to impose a condition of this kind only on The Star is likely to cause patrons to go to gaming venues other than The Star where such restrictions are not in place".[187]

124. There is force in the view that, to be effective, mandatory pre-commitment would need to be a process that engages all gambling venues across NSW. So much was recognised by the AGRC's submission in relation to the benefits of a "universal" pre-commitment system.[188]

125. Implementation of a State-wide universal pre-commitment system is outside the scope of this Review, which is focused on one venue only, The Star Casino. As such, the Review will not make a recommendation on this topic, although the potential harm minimisation benefits are noted for the Authority's consideration.

Service of alcohol

126. Regulation 15 of the *Casino Control Regulation* is set out in full at paragraph 11554. It relevantly provides that "a casino operator must not offer or supply, or cause or permit the offer or supply of, free or discounted liquor as an inducement to participate, or to participate frequently, in a gambling activity in the casino."

127. The Star's witnesses acknowledged that alcohol has been, and is, available free in the Sovereign Room and other VIP areas, whereas it must be purchased on the main gaming

floor.[189] Access to the Sovereign Room and other VIP areas is conditional on either attaining Gold or above membership in The Star's loyalty program, The Star Club; or attending as a guest of a Gold or above member; or attending by invitation of The Star management.[190]

128. The Star Club was established in November 2016,[191] in the same month as the Horton Report. It was not considered in the Horton Report. The Star Club has five membership tiers, from the lowest to the highest tiers being:[192]

(a) Bronze;

(b) Silver;

(c) Gold;

(d) Platinum; and

(e) Diamond.

129. Other than for the Diamond membership tier, which is by invitation only,[193] members of The Star Club qualify for the membership tiers based on the number of "tier points" that they acquire.[194] Tier points are awarded to members based on eligible spend at The Star properties while using their membership card, including spend on EGMs, electronic table games or table games.[195] As members of The Star Club attain a particular membership tier, a range of benefits available to that particular tier become available to them.[196]

130. According to the Alliance, loyalty card members tend to spend more time and money gambling, gamble more frequently, and are more likely to report gambling problems than non-program members.[197] This is consistent with the research noted by the PCRC showing an association between problem gambling and loyalty program membership, to which reference has been made at paragraph 44.

131. The question whether the provision of alcohol for free to its VIPs breaches Regulation 15(a) turns on whether the alcohol is supplied or offered "as an inducement to participate, or to participate frequently, in a gambling activity in the casino". The Star's witnesses gave evidence that, as they saw it, the provision of free alcohol was not an inducement,[198] and the *Casino Control Regulation* was not breached, because access to the Sovereign Room and other VIP areas is not limited "solely to people who've met a criteria in the loyalty system".[199]

132. The Star submits that The Star Club "is a loyalty and reward program intended to reward patrons for their patronage" which "has been fully described to the regulator".[200] The Star notes that "at no time has the regulator indicated that they are of the view that The Star is in breach of this aspect of the Regulation".[201] The Star submits that "what has arisen is a difference in interpretation between counsel".[202]

133. The task of statutory construction begins and ends with a consideration of the statutory text.[203] Neither the *Casino Control Act* nor the *Casino Control Regulation* contains a definition of "inducement" or "offer an inducement". It is not one of the "commonly used words and expressions" defined in section 21 of the *Interpretation Act 1987* (NSW). Thus the words must be given their natural and ordinary meaning in the context in which they appear.[204] L&GNSW has issued the following guidance in that regard:[205]

> Broadly speaking, L&GNSW considers that an inducement includes any offer that may be capable of persuading or encouraging a person to participate, or to participate frequently, in any gambling activity, including to open a betting account.

134. That guidance appears to be consistent with the following dictionary definitions:

(a) the *Macquarie Dictionary* defines an inducement as "something that induces or persuades; an incentive";[206]

(b) the *Oxford English Dictionary* defines inducement as "[t]hat which induces; something attractive by which a person is led on or persuaded to action";[207] and

(c) the *Encyclopaedic Australian Legal Dictionary* defines inducement as "[t]hat which motivates or persuades a person" to act in a certain way.[208]

135. The NSW Court of Criminal Appeal considered the meaning of "inducement" in *Ladbrokes Digital Australia Pty Ltd v Liquor & Gaming NSW*.[209] Ladbrokes had advertised features which provided more favourable gambling odds. The question was whether this was advertising "that offers any inducement to participate, or to participate frequently, in any gambling activity". An issue arose, which does not arise for present purposes, whether the inducement must be over and above, and separate from, the product advertised. However, in determining that issue, it was necessary for the NSW Court of Criminal Appeal to discuss the nature of an "inducement". Simpson AJA (Wilson and Lonergan JJ agreeing) stated:[210]

> Ordinarily, or at least frequently, the inducement is the nature and quality of the product itself (or, to adopt the respondent's language, "the nature and characteristics" of the product). But it is not uncommon for an additional inducement to be offered: tickets to a sporting or cultural event, a bonus coffee cup,

> the opportunity to be placed in a draw for glittering prizes, or the once ubiquitous set of steak knives. …
>
> Offering a set of steak knives by way of incentive to participate may well have been prohibited.

136. In that case, what was offered was *not* over and above, or separate from, the product being offered and advertised, and there was held to be no inducement for the purposes of the relevant legislation.[211]

137. It may be accepted, as The Star submits, that The Star Club is a loyalty and rewards program intended to reward patrons for their patronage. At the same time, however, there can be little doubt that The Star Club's loyalty benefits collectively (including access to the Sovereign Room and its amenities such as free alcohol) also *encourage* loyalty club members to participate in gambling activity, or perhaps more particularly to participate in gambling activity at The Star Casino. Patrons have an incentive to gamble more to receive rewards. The Star Club's benefits constitute an overall package which both rewards patrons and also seeks to persuade or lead them to gamble more.

138. It is true, as The Star's witnesses pointed out, that access to the VIP areas of the casino is not limited solely to members with the requisite "tier points". It is also available to the guests of those members and other persons attending by invitation of management. However that does not address the issue of whether the provision of free alcohol in those areas is an inducement to gamble in the casino. Indeed the fact that there is limited wider access only serves to emphasise that access to the VIP areas is an exclusive reward to patrons to which to aspire. Part of the reward at present is the provision of free alcohol.

139. Whether these matters have or have not been canvassed with L&GNSW is not determinative of the legal question whether The Star has complied with Regulation 15(a). This is more than a mere difference of interpretation. The Regulation prohibits the provision of free alcohol as an inducement to gamble and The Star has acknowledged that it has provided and continues to provide free alcohol to certain higher tiers of its VIP patrons. Alcohol can impair judgment.[212] It is not difficult to conceive of the protective purposes which inform Regulation 15(a).

140. It is determined that by providing free alcoholic drinks in its VIP areas, The Star has provided such drinks as an inducement to patrons to participate, or to participate frequently, in gambling activity in The Star Casino in breach of Regulation 15(a).

Ensuring exclusions are given effect

141. The AGRC submitted that the benefits of self-exclusion programs "include decreases in gambling expenditure and improved financial circumstances, decreases in gambling frequency and time spent gambling, reduction in problem gambling severity and negative consequences of gambling, reduction in related psychological difficulties including depression and anxiety, and consumers feeling more in control of their circumstances".[213] Those benefits from *self*-exclusion would also arise from any other exclusions, including exclusions initiated by the casino.

142. The RGF describes "discussing or initiating a self-exclusion or venue-initiated exclusion" as a form of useful, proactive intervention which may be necessary in particular circumstances.[214]

143. If an exclusion order is to work as an effective harm minimisation tool, then it needs to be given effect after it is made.

144. The Star told the Review that:[215]

> In the six months prior to the introduction of facial recognition technology (in April 2019), The Star detected an average of 14 excluded individuals on-site per month. In the six months after the introduction of this technology, the average number of detections rose significantly to 167 per month.
>
> …
>
> Since the introduction of facial recognition technology in May 2019, The Star estimates a 700% increase in the rate of detection of excluded persons and prevention of those persons from entering the gaming floor and a 2,200% increase in the rate of detecting and preventing persons of interest from entering the gaming areas.

145. The implementation of facial recognition technology has made The Star substantially more effective at preventing exclusion breaches. However, evidence heard by the Review suggests that in the period from May 2019 until at least January 2020, The Star's facial recognition technology and other processes failed on at least one occasion, as did The Star's processes prior to the introduction of facial recognition technology.

146. Anne told the Review that her son gained entry to The Star after his exclusion, including after the implementation of The Star's facial recognition technology:[216]

> My son [Matt] was excluded from Star in July 2016. He was allowed to enter Star and gamble on at least 2 occasions, February 2018 and January 2020. In November

> 2020 Liquor and Gaming threatened my son with legal action. They had allowed him to gamble even though he was excluded.

147. The Star submitted that its "existing facial recognition technology was fully implemented in December 2020 and, given the impacts of COVID-19 in the intervening period, it is appropriate to give time for that technology to deliver sustained performance and to be properly evaluated before conclusions are reached about the need to adopt new approaches are justified".[217] That submission may be accepted.

148. However, as has been noted in paragraph 104 above regarding carded play, Anne gave evidence of how requiring an identification card *did* work to keep her son out of a club.[218] In any event there is no reason to doubt that developments in facial recognition technology could complement carded play.

Staff availability and training

149. The Star currently has approximately 1,500 EGMs, 140 gaming tables and a 34 table poker room spread across multiple levels of its building in Pyrmont, in particular with a main gaming floor on level 1 and VIP areas on level 3.[219] As has been noted, The Star is open 24 hours per day, 7 days per week. It follows that The Star's ability to ensure harm minimisation and responsible gambling will depend in large part on the availability and training of its staff. Further, Mr Wagemans accepted[220] that it is important for staff to feel confident in relation to responsible gambling because part of any intervention they may need to request or initiate will necessarily involve challenging someone. That person who is being challenged may well be a person who brings valuable business to the casino and thus be used to being treated with deference and unaccustomed to being challenged.

150. Mr Wagemans told the Review that The Star has five dedicated responsible gambling staff comprising Mr Wagemans as the Patron Liaison Manager plus four Guest Support Managers who report to him, and otherwise that team relies on the rest of The Star's employees (including pit managers and members of the Surveillance and Security Teams), along with technologies such as facial recognition software, to monitor The Star's patrons.[221] There is nobody from Mr Wagemans' team available on Monday or Tuesday evenings.[222] Both Mr Brodie and Mr Wagemans accepted[223] that it would be preferable for The Star to have a dedicated member of the Responsible Gambling Team on duty 24 hours per day, seven days a week, when the casino is open.

151. To supplement his team, Mr Wagemans gave evidence of the "Guest Support Advocates" training program which is given to managers and staff at The Star who engage with patrons and have responsible gambling roles.[224] The training involves a four hour workshop with BetCare. Mr Wagemans said that approximately 418 staff at The Star had received that training.[225]

152. The RGF submitted that staff training "is an important element of any harm minimisation approach" and noted that "[i]n 2021, representatives of The Star informed the Office of Responsible Gambling of their intention to review and expand the training provided to their employees in relation to gambling harm minimisation".[226] The RGF submitted:[227]

> The RGF is currently funding improvements to the mandatory Responsible Conduct of Gambling (RCG) training that is required to attain an RCG competency card for employees of pubs and clubs, as well as developing advanced training that provides gaming staff with increased capability to recognise and respond when a patron is at risk of or experiencing gambling harm. This advanced training has a strong practical component, to ensure that staff have the confidence and ability to intervene effectively. Both the advanced and mandatory training will be trialled in early 2022 prior to implementation.
>
> Similar advanced training, with a strong focus on intervention skills, will be key to ensuring that staff in designated roles, such as the Guest Support Managers and Patron Liaison Managers, are effective. Such training should incorporate opportunities for participants to practise intervention skills through role-play or simulation, and assessment should assess practical skills as well as knowledge.
>
> It is also important that appropriate training be given to staff in non-designated roles to support a broader culture of proactive intervention, and to ensure that all gaming and customer service staff can identify when a person is at risk of or experiencing gambling harm alone, and must be supported by non-specialist roles, particularly those directly interacting with patrons in the gaming area.

153. The RGF offered in its submissions to provide advice on the workforce capability framework and associated training developed by The Star and to share materials and resources developed for the broader responsible gambling training framework in NSW for The Star's use and adaptation as appropriate.[228]

Responsible Gambling Code

154. As has been noted, The Star has a voluntary Responsible Gambling Code. The RGF submitted that The Star's Responsible Gambling Code reflects an "informed choice" model which "has little positive impact on harm prevention or reduction".[229] The RGF submitted that "more proactive approaches to harm minimisation are required".[230]

155. The Star submitted that its current practices extend beyond "informed choice" and address gambling-related harms more broadly, while acknowledging that there are likely improvements that can be made,[231] and that its model of management is in the process of transitioning to a more proactive intervention model as a voluntary matter, under the guidance of an external accreditation and audit specialist process, "RG Check".[232]

156. Whether obligations are styled as part of a particular "code" or in some other way, the more important point is to consider what, as a matter of substance, The Star is required to do. As has already been noted, The Star is required under the *Casino Control Act* to comply with internal controls but that is not the case for its SOPs or other policy documents.

157. The RCCOL Report recommended that Crown be required to adopt a "Gambling Code" imposing:[233]

> – a duty to take all reasonable steps to prevent and minimise harm from gambling, including by monitoring the welfare of players, discouraging intensive and prolonged play and intervening when a person is displaying behaviour that is consistent with gambling harm
>
> – a duty to take all reasonable steps to ensure that players on the gambling floor are regularly observed to monitor behaviour that is consistent with gambling harm
>
> – a duty to ensure that there is a sufficient number of responsible gambling officers (however called) at the casino.

158. Counsel Assisting submitted in this Review that an overarching, binding internal control imposing duties along the lines which commended themselves to RCCOL would be equally appropriate for The Star Casino, albeit without the limitation in the second bullet point of "on the gambling floor".[234]

159. The Star submitted that this approach is inconsistent with current NSW Government policy which should be implemented by legislative amendments.[235] The Star also submitted that the phrasing, which commended itself to the RCCOL, is "unworkable" because "for instance, what is 'player welfare' to be measured and monitored against?"[236] The Star also took issue with "adjectives such as "reasonable" steps and "sufficient" numbers of responsible gambling officers", which The Star submitted may be "subject to interpretation".[237]

160. The concerns raised by The Star about the language of the code recommended by RCCOL are not of sufficient weight as to undermine the benefits of a mandatory gambling code. The language which commended itself to the RCCOL, containing concepts such as the

welfare of players, reasonable steps and sufficient numbers of officers, should all be able to be understood and implemented. They call for common sense and judgment.

161. There is however force in the proposition that in order to be effective, a Responsible Gambling Code needs to be applied across all gambling venues in NSW, rather than merely being imposed on The Star. It raises similar issues to those concerning mandatory pre-commitment. Imposition of a State -wide Responsible Gambling Code is outside the scope of this Review. As such, the Review will not make a recommendation on this topic, although the potential harm minimisation benefits are noted for the Authority's consideration.

162. The Star also expressed concern that the imposition of duties of the kind proposed would risk exposing The Star to civil liability for breach of duty.[238] That is a reasonable concern. A Responsible Gambling Code imposing mandatory duties such as those which commended themselves to the RCCOL should not expose gambling venues to a private cause of action for breach of a statutory duty.

Opening hours / uniformity with clubs

163. Each of the AGRC and RGF have noted opening hours as a concern in relation to problem gambling.

164. The AGRC submits that the availability of EGMs at The Star Casino 24 hours per day "may further exacerbate gambling harm".[239] The AGRC notes that "other licensed clubs and hotels in NSW with EGMs must not operate the machines between 4am and 10am",[240] and submits that consideration should be given to "a daily period of casino closure to enforce a break".[241]

165. The RGF does not advocate for a period of casino closure but, like the AGRC, notes the dangers associated with The Star Casino being open for 24 hours each day. The RGF notes research "that extended opening hours are attractive to people with gambling problems and are a risk factor"[242] and that "the atmosphere in gaming areas is more intense at late-night, and that [gamblers] are more likely to chase losses and take greater risks as the night wears on".[243]

166. Instead of a closure period, the RGF submits that there should be "additional harm minimisation measures … to reflect the higher and different risk profile of gaming customers at that time of day".[244] These additional measures might comprise increased

monitoring and intervention, and "the proactive provision of information and support by staff, through available in-venue channels and displays, and targeted messaging".[245]

167. The former section 71 of the *Casino Control Act* has been noted, pursuant to which the Authority had a discretion to direct The Star Casino to be closed at certain times. The Amended Casino Licence refers to that former section in clause 12(g)-(h), which is set out in paragraph 56 above.

168. As has been noted, in an apparent effort to ensure "competitive neutrality"[246] as between The Star and Crown Sydney the NSW Parliament repealed former section 71 of the *Casino Control Act* in 2018.[247] The repeal of this provision was in response to a recommendation of the Casino Modernisation Review 2016 that "The Star should always be able to offer on the same days and hours available to Crown Sydney that part of its offering which matches that provided by Crown Sydney."[248] The repeal of section 71 had a wider and perhaps unintended impact than merely ensuring competitive neutrality, by removing the power of the Authority to set opening hours in respect of gambling products that are not also offered by Crown Sydney. Crown Sydney has a Restricted Gaming Licence which does not permit EGMs. Clause 4(b) of Crown Sydney's licence provides that "Gaming in the Restricted Gaming Facility will not include the playing of poker machines".[249] The Star Casino is the only venue in NSW which can operate EGMs 24 hours per day, seven days per week. However, there was no amendment to clause 12(g) or (h) of the Amended Casino Licence following the repeal of former section 71 of the *Casino Control Act*.

169. Of itself the facts of The Star Casino being the only venue in NSW to operate EGMs 24 hours per day and, unlike the Barangaroo restricted gaming facility, to have no minimum bet limits on table games[250] is inconsistent with a theme of The Star's submissions to the Review on the topics of harm minimisation and responsible gambling, that there should be consistent application of harm minimisation responses to both The Star Casino and other gambling venues. The Star enjoys rights and privileges here which other venues do not.

170. Mr Wagemans confirmed in his private hearing that it would be possible for parts of The Star Casino (e.g. the main gaming floor and non-VIP areas) to be closed for certain times.[251] A period of closure, even if only for the use of EGMs, could be a powerful measure to ensure intervention and limit very long periods of gambling on EGMs. On the other hand it would necessarily impose a commercial cost on The Star and the question arises as to whether the potential benefits of a period of enforced closure would outweigh those costs.

As has been noted, the AGRC advocates for a period of casino closure but the RGF does not, and submits instead that there should be increased surveillance.

171. Data generated at The Star Casino from carded play could be expected to assist the Authority to determine whether a specific closure period should be considered. Such data would be expected to show, for example, the number of patrons gambling at particular times and inform a consideration of whether closure would or would not be likely to prove beneficial. In the meantime, the Authority's power to direct closure of those parts of The Star Casino which are not equivalent to Crown Sydney (i.e. the main gaming floor and non-VIP areas) should be made clear.

Chapter 23.9 Neutrality with other gambling venues

172. It is considered appropriate to make a number of recommendations relating to the operator of The Star Casino to ensure harm minimisation and responsible gambling. That will not be assisted, and may well be undermined, if all that a recommendation achieves is a displacement of patrons from The Star Casino to Crown Sydney or another gambling venue such as a club or hotel. There are related considerations of commercial fairness.

173. It is therefore important, in assessing any recommendations, that the Authority should consider and to the extent possible ensure neutrality as between The Star Casino and other gambling venues.

Chapter 23.10 Recommendations

174. In the light of the evidence and submissions received, and the various matters addressed in this Chapter, the Review makes the following recommendations in relation to harm minimisation and responsible gambling.

175. **Recommendation**: It is recommended that carded play be compulsory at The Star Casino for all gambling, in a manner which ensures that patrons are identified and their exclusion status (if any) enforced.

176. **Recommendation**: It is recommended that all patron cards should collect data relating to the patron's:

(a) buy-in time;

(b) buy-out time;

(c) play periods; and

(d) any other information reasonably required by The Authority.

177. **Recommendation**: It is recommended that patrons should have access to their card data.

178. **Recommendation**: It is recommended that the Authority:

(a) seek a detailed submission from the operator of The Star Casino within three months after the date of the Authority's request addressing the question of what data from carded play could feasibly be generated and anonymised for sharing with law enforcement and academic researchers; and

(b) consider that submission once received and take such consequential steps as it sees fit.

179. **Recommendation**: It is recommended that the Authority require the operator of The Star Casino to have a Time Play Management standard formalised as an internal control for the purposes of section 124 of the *Casino Control Act*.

180. **Recommendation**: It is recommended that the operator of The Star Casino's Time Play Management standard:

(a) include a requirement for EGMs that a patron cannot gamble continuously on an EGM for more than three hours without a 15 minute break; and

(b) clarify that in any 24 hour period, a patron cannot gamble for more than 12 hours.

181. **Recommendation**: It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's contravention of Regulation 15(a) of the *Casino Control Regulation.*

182. **Recommendation**: It is recommended that the operator of The Star Casino be required to have the Patron Liaison Manager or at least one Guest Support Manager present at The Star Casino at all times when The Star Casino is open.

183. **Recommendation**: It is recommended that the Authority amend the operator of The Star Casino's licence pursuant to section 22 of the *Casino Control Act*:

(a) so that clause 12(g) provides: "Those parts of the Casino comprising the main gaming floor and non-VIP areas must only be open to the public for gaming in

accordance with the Act on such days and at such times as are for the time being directed by the Authority in writing served on the Licensee;" and

(b) to delete clause 12(h).

184. **Recommendation**: It is recommended that the operator of The Star Casino be required to:

(a) seek and obtain advice from the Responsible Gambling Fund on its workforce capability framework and associated training, including receiving from the Responsible Gambling Fund materials and resources developed for the broader responsible conduct of gambling training framework in NSW; and

(b) within six months after obtaining the above advice, provide a report to the Authority on the advice received from the Responsible Gambling Fund and what steps, if any, the operator of The Star Casino has taken and proposes to take as a result.

185. **Recommendation**: It is recommended that the Authority ensure that to the extent its consideration and, if thought fit, implementation of the recommendations in Chapter 23 involves the imposition of an obligation on the operator of The Star Casino which is not also imposed on Crown Sydney or other licensed gambling venues, the Authority consider imposing the same obligation on those other venues to the extent possible.

Endnotes

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35 Ibid paras [187]-[204].
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49 Ibid vol 1, Chapter 6, p 197, paras [233]-[234].
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53 Ibid para [312].
54 Ibid para [317].
55 Ibid para [319].
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Chapter 24
Controlled Contracts, Gambling Chips and Free Bet Vouchers

Chapter 24. Controlled Contracts, Gambling Chips and Free Bet Vouchers

Chapter 24.1 Introduction

1. The topics of The Star's accountability for and management of controlled contracts, gambling chips and FBVs arise for the Review's consideration under paragraphs 8.9 and 8.11 of the Terms of Reference, as well as (less directly) paragraphs 1, 2 and 8.1–8.4.

2. On 29-30 November 2021 and 24 January 2022, the Review conducted private hearings on these topics. The Review heard evidence from the following persons:

   (a) Mr David Aloi (Regulatory Manager, NSW, Star Entertainment);

   (b) Mr David Smart (Cashier Services Manager, The Star);

   (c) Mr Dean Maka (Asset Protection Risk and Compliance Manager, The Star);

   (d) Mr Salesh Prakash (Group Senior Revenue Auditor, Star Entertainment);

   (e) Ms Rachel Budway (Vice President, Premium Services Operations, The Star);

   (f) Mr Kevin Houlihan (General Manager, Financial Crime and Investigations, Star Entertainment); and

   (g) Ms Karina Veling (Lawyer on secondment to Star Entertainment from October 2018 to October 2019).

3. On 4 March 2022, the Review received written submissions from Counsel Assisting on these topics.

4. On 1 April 2022, the Review received written submissions from The Star in response. Those submissions did not dispute and in some cases expressly accepted a number of the submissions from Counsel Assisting. In particular, there did not appear to have been any dispute about the applicable obligations, policies or procedures for The Star at relevant times. Instead, any points of disagreement were relatively minor in these areas and related instead to the characterisation and consequences of conduct rather than any dispute about whether it occurred.

Chapter 24.2 The Star's obligations, policies and procedures

General

5. The Star must conduct its casino operations in accordance with a system of internal controls and administrative and accounting procedures that have been approved in writing by the Authority.[1] Any such approval from the Authority may be amended from time to time as the Authority thinks fit, on the Authority's own initiative or on the application of The Star.[2] The Star must not contravene a requirement of an internal control or administrative or accounting procedure that has been approved by the Authority.[3] Section 124 of the *Casino Control Act* is discussed in Chapter 5.2.

6. The Star has 15 substantive ICMs (the sixteenth being a glossary), which are approved internal controls for the purposes of section 124. The Star also has a number of SOPs, which are referred to in the ICMs, sit under them and can be varied by The Star as it sees fit from time to time. Changes in SOPs have to be notified by The Star to the Authority within seven days.[4] The regime of ICMs and SOPs for The Star is discussed in Chapter 25.

Controlled contracts

7. Section 36 of the *Casino Control Act* defines a controlled contract as follows:

> "controlled contract" means –
>
> (a) a contract that relates to the supply or servicing of gaming equipment that has been approved by the Authority under section 68(1), not being a contract or a contract of a class that is prescribed by the regulations as exempt from this definition, or
>
> (b) a contract, or class of contracts, that, in the opinion of the Authority, is materially significant to the integrity of the operation of a casino and that the Authority declares, by notice in writing to the casino operator, to be a controlled contract.

8. The Star must not enter into or become a party to a controlled contract, or the variation of a controlled contract, without the Authority's approval.[5]

Gambling chips

9. A "chip" is a token used instead of money for the purposes of gambling at the casino.[6] All bets in the casino must be placed with chips unless particular game rules require or provide otherwise.[7]

10. Any person employed in the movement, exchange or counting of chips at the casino is deemed to be a "special employee" under the *Casino Control Act* who must hold a licence and a certificate of competency for the functions that the special employee exercises.[8] A special employee must only exercise the functions for which he or she is licensed[9] and must wear identification while exercising his or her functions.[10] The regime for special employees is discussed in Chapter 5.2.

11. Because they are used for gaming, chips also constitute "gaming equipment" for the purposes of the *Casino Control Act*.[11] As such, any contract that relates to the supply or servicing of chips is a "controlled contract" under the *Casino Control Act*, unless an exemption applies.[12]

12. One important exemption for the purposes of the Review is that a contract for services provided by the holder of a current master licence under the *Security Industry Act 1997* (NSW) is not a controlled contract (**Security Master Licence Exemption**). The Security Master Licence Exemption came into effect on 31 August 2018.[13]

13. The Authority may direct The Star to destroy unsatisfactory gaming equipment (including chips).[14] The Star must comply with such a direction forthwith.[15]

14. The following ICMs and SOPs of The Star were in force at times relevant to the topic of gambling chips for the purposes of the Review.

15. The Star's ICM 4: Gaming Equipment dated 21 December 2018[16] provided that:

    (a) if The Star or the Authority determined that gaming equipment (including chips) was unsuitable for use, then the equipment would be denatured, destroyed or disposed of in accordance with processes approved by the Authority and specified in The Star's SOPs;[17] and

    (b) cards, dice, tiles, chips and plaques may be destroyed without prior approval from the Authority if the Security Master Licence Exemption applies.[18]

16. ICM 11: Cage Operations dated 21 December 2018[19] provided that The Star's SOPs would provide procedures for "the delivery or destruction of gaming chips" and The Star "must take reasonable steps so that the relevant SOPs … are abided by".[20]

17. The Star's Cage Operations SOP dated 30 July 2020[21] provided for the "Release of chips for destruction" with particular "Steps" and "Standards".[22] Those Steps and Standards

referred to The Star's contractor, Prosegur Australia Pty Ltd (**Prosegur**), and included the following:

> STEPS
>
> In order to release chips for destruction, the following is to be performed:
>
> 1. Establish date for destruction and ensure total figures are realised.
>
> 2. Seek the authority's approval for the date and destruction via email to Reg. Affairs Department.
>
> 3. Contact Chip Destruction Services to book a date for destruction. Get a quote for total amount of bag weight.
>
> …
>
> 8. A cumulative total of chips to be released for destruction are to be recorded on the Chip Vault Inventory and signed by the individuals carrying out the destruction and date on which the destruction took place.
>
> 9. Unless otherwise authorised by the L&GNSW Inspectorate the destruction of gaming chips is to be carried out in the presence of at least four people:
>
> a) one of whom is to be from the Internal Audit Department
>
> b) one of whom is to be a representative from the Security Department
>
> c) one of whom is to be a representative of the Casino Cage, and
>
> d) one of whom is to be an L&GNSW Inspector.
>
> 10. Prepare detail Inventory of (type) chips to be destroyed on working paper including date, box number, denomination, units, amount, Harcor bag number, Security seal numbers 1 and 2 and finally signed by two cage representatives – Cage Supervisor or above. Please note that this process needs to be done under camera with 'eyes' on it.
>
> …
>
> 16. When Prosegur arrives the boxes are loaded into the truck and the total number of boxes must agree with the armoured truck collection docket, signed by a Cage representative and an armoured guard representative for correctness.
>
> 17. At the destruction site, each bag is taken from its box and cross-referenced to the destruction inventory/s. When agreed upon the bag and its contents are destroyed in the compact shredder.
>
> 18. At the end of the destruction process, the destruction company will provide a destruction certificate.
>
> 19. Upon return to The Star, all forms are to be signed by all relevant parties and CMS must be updated to reflect the new chip inventory total. Signatures are required from Security on the Chip Destruction Slip (for values only).

> 20. Paperwork is distributed to L&GNSW, Internal Audit and Cage.
>
> …
>
> STANDARDS
>
> 1. For accountability, prior written notification is to be given to an Inspector and Surveillance and such destruction may only be performed in the presence of representatives from Security and the Casino Cage.
>
> 2. Internal Audit and an Inspector is to be advised and given the opportunity to attend. If an Inspector is not able to attend, Internal Audit must attend (or in their absence, the Senior Compliance Officer).

FBVs

18. FBVs are vouchers of varying denominations between $5 and $5,000,[23] allowing patrons at The Star Casino to place bets on table games to the value of the voucher.

19. The value of an FBV is noted on the front, along with "FREEBET" marked prominently and The Star's logo and a hologram. On the back are a barcode, fields for entering the details of the voucher's recipient, issuer and issue date, as well as The Star's address and some terms and conditions.

20. FBVs cannot be redeemed for cash.[24] They are played as an equivalent to chips or cash for the amount noted on them.[25] Any winnings from play with an FBV are paid to the patron in the same way as if the patron had played with cash or chips. FBVs must not be used for EGMs.[26]

21. Under The Star's standard terms and conditions,[27] FBVs are non-transferrable and The Star does not agree to replace FBVs that are destroyed, lost or stolen. A patron wishing to use an FBV must be 18 years or older and not be excluded from the casino.

22. The following ICMs and SOPs of The Star were in force at times relevant to the topic of FBVs for the purposes of the Review.

23. The Star's ICM 13: Accounting, Audit and Revenue Reporting dated 21 December 2018[28] identified, as a "materially significant" risk to The Star's operations at the casino, "Staff theft/fraud either individually, syndicated and/or in collusion with other staff".[29] To address that and other risks, ICM 13 required, among other things:

(a) that a "dual authorisation system" be implemented and specified in SOPs to control access to, and payments from, The Star's banking databases, facilities and accounts controlled by secure user passwords;[30]

(b) that there be an SOP or SOPs providing for the ordering, storage, access, control, issuance, redemption, reconciliation, reporting and destruction of FBVs;[31] and

(c) that there be an audit "at least once a week" with respect to daily transactions against the source paperwork or relevant documentation to address materially significant risks.[32]

24. The Star's "Table Games" SOP dated 23 September 2019[33] provided for FBVs and required, among other things:

(a) that FBVs be ordered by The Star's marketing department to the "Sovereign Cage";[34]

(b) that FBVs be stored in the chip vault located in the main gaming floor "Fill Bank";[35]

(c) that FBVs be tracked – the SOP required that voucher or batch numbers be emailed to The Star's Revenue Audit Team daily;[36]

(d) that there also be monthly reporting as follows:[37]

> 4. **Monthly Reporting** – Revenue Audit will compare sequence numbers received in table drop to FBV issue register.
>
> a) Revenue Audit will identify and report repeat serial numbers.
>
> b) Revenue Audit will maintain register of authorised managers.
>
> c) All host desks are to provide breakdown of FBVs they have at their locations at the commencement of each month for monthly reconciliation and audit purposes.

(e) that The Star's Revenue Audit Team alert authorised managers if FBVs are not being issued correctly, with an audit "to be completed as part of the Cage DM Audits", which was to be done "[n]o later than the first week of the next month."[38]

Chapter 24.3 Variation of the Prosegur contract in 2019

25. On 4 July 2019, The Star entered into a "Variation Agreement" with Prosegur (**Variation Agreement**)[39] to widen the scope of an earlier "Services Agreement" between them dated 16 August 2016.[40]

26. Under the original Services Agreement, The Star engaged Prosegur for the "[d]elivery of playing cards to The Star Sydney as agreed and the collection and destruction of playing cards from The Star Sydney as agreed".[41] The Services Agreement was described in its recitals as "a 'standing arrangement' between [The Star] and [Prosegur] for the supply of services" and "[w]hen [The Star] requires services it will issue a purchase order and [Prosegur] will deliver services in accordance with this Agreement and as described in the purchase order".[42] The Star and Prosegur recorded their agreement in the Services Agreement that it was a "controlled contract" within the meaning of section 36 of the *Casino Control Act*.[43]

27. Under the Variation Agreement, The Star engaged Prosegur not just to destroy playing cards, but also to destroy chips, dice and tiles.[44]

28. The Star did not seek the Authority's prior approval to enter into the Variation Agreement despite the two facts that:

    (a) first, as has been noted, The Star and Prosegur had earlier agreed in their 2016 Services Agreement that their contract was a "controlled contract" for the purposes of section 36 of the *Casino Control Act*; and

    (b) secondly, section 37(1) of the Act provides that The Star must not agree to vary a controlled contract without the Authority's approval.

29. Questions arise as to whether The Star breached section 37(1) of the Act by entering into the Variation Agreement without approval, and whether The Star otherwise acted appropriately.

30. The Star and Prosegur were correct, initially, to have agreed in 2016 that their Services Agreement was a controlled contract for the purposes of section 36 of the *Casino Control Act*. That is because:

    (a) the services to be supplied by Prosegur comprised delivering, collecting and destroying playing cards;[45]

    (b) playing cards constitute "gaming equipment" under section 3 of the *Casino Control Act* as they are a thing used, or capable of being used, for or in connection with gaming; and

(c) a contract for the delivery and destruction of playing cards is a contract "that relates to the supply or servicing" of them for the purposes of section 36 of the *Casino Control Act*.

31. Although it might (at least in theory) be argued that *destruction* of a particular piece of gaming equipment is not the "supply or servicing" of it, the better view is that a contract for the destruction of gaming equipment is a contract which relates to the "servicing" of it for the purposes of section 36 of the *Casino Control Act*. A "service" can be the supply of activities as required or demanded and, or alternatively, the action of helping or doing work for someone.[46] This was not disputed by The Star in its written submissions.[47]

32. However, after The Star and Prosegur had agreed the Services Agreement in 2016, and before the time of the Variation Agreement in 2019, the Security Master Licence Exemption came into effect on 31 August 2018.[48] Prosegur had at that time, and continued afterward to have, a licence which engaged the Security Master Licence Exemption.

33. The Variation Agreement expressly provided[49] that from the time of its execution in 2019, the Variation Agreement and the parties' earlier Services Agreement were "to be read as a single integrated document incorporating the amendments effected by this Variation Agreement". Thus from that time a new amended Services Agreement came into force.

34. It appears that executives within Star Entertainment agreed that the Variation Agreement was not a controlled contract on the basis that the Security Master Licence Exemption applied at the time when the Variation Agreement was executed and Prosegur had the requisite licence to engage that exemption.

35. Ms Veling gave evidence on this issue. She worked as a lawyer at Star Entertainment at the time that the Variation Agreement was executed[50] and was responsible for approving its execution.[51] Ms Veling told the Review that:

(a) she recalled turning her mind to the specific question whether the Variation Agreement was a controlled contract under the Act;[52]

(b) she recalled a wider team, including compliance team members at The Star, turned their minds to that specific question as well;[53]

(c) she felt the question whether the Variation Agreement was a controlled contract was considered within The Star in good faith;[54] and

(d) although she could not be certain, it "does ring a bell" that she considered the further specific question whether Prosegur held a current master licence under the *Security Industry Act 1997* (NSW).[55]

36. It appears from documents produced by Star Entertainment that Ms Veling and others within Star Entertainment were initially of the view that the Variation Agreement was a controlled contract which required the Authority's approval. In particular:

(a) Ms Veling wrote in an email to a procurement manager at The Star, Ms Angela Lavers, on 14 November 2018 that "[t]his variation qualifies as a controlled contract, so once we have a 'final' draft (and Prosegur agree), you'll need to send this … to get the Authority's approval before we can finalise and sign";[56]

(b) on the same day, 14 November 2018, Mr Graeme Stevens (Regulatory Affairs Manager at Star Entertainment) wrote to Ms Lavers:

> As Prosegur have a Master Security Licence then [if you] entered into a new contract this would not need to be a controlled contract.
>
> However as it is already a controlled contract the nature of the changes (new product being added in) are not exempt from the exemption under the Control Regulations and we would need to submit for a variation.

(c) Ms Veling was not copied to the email from Mr Stevens above and wrote to Ms Lavers separately on 15 November 2018 (copying Mr Stevens):[57]

> Happy for Graeme to jump in, but as previously advised, this variation does qualify as a controlled contract, simply because it is a variation to a previously approved controlled contract (CC502). Therefore it will require L&G approval.

37. On 5 March 2019, Ms Lavers reported to a paralegal in Star Entertainment's legal department that "[i]n speaking with Graeme Stevens he reckons that we don't need to go through all the probity checks with Prosegur as they have a Master Security licence and that should suffice?".[58] The paralegal, Ms Rihanna Malki, replied on 6 March 2019 to Ms Lavers: "Sounds fine with me".[59]

38. The Variation Agreement was executed by Prosegur on 20 May 2019.[60] However, clause 2 made clear that it would not take effect until also executed by The Star.

39. Ms Malki was sent a copy of the Variation Agreement signed by Prosegur on 23 May 2019. She wrote:[61]

> Not sure if Graeme was engage[d] prior but I may need to submit this to L&G as a controlled contract. I have already touched base with them and will let you know

> the outcome once I get a response. I will not circulate until I have an answer from the regulator.

40. Ms Malki's reference to her having already "touched base" with L&GNSW appears to have been a reference to an email from her to the regulator (copied to Mr Stevens) dated 22 May 2019 in relation to a different contract, "Iron Mountain".[62] Nonetheless that email would have been relevant to The Star's consideration of the Variation Agreement because Ms Malki had asked L&GNSW: "As per our conversation, could you please advise on whether I would need to do a submission for a variation to a contract if the supplier has a Master Security Licence with L&G."[63]

41. On 27 May 2019, a Team Leader at L&GNSW responded to Ms Malki and, after noting the requirements of the Security Master Licence Exemption, said: "the contract must relate to the supply or servicing of gaming equipment, holding a current master licence in itself is not sufficient and takes the type of contract into consideration."[64]

42. As noted above, The Star proceeded to execute the Variation Agreement on 4 July 2019 without obtaining the prior approval of the Authority.

43. The Star was not obliged to have obtained the Authority's approval for the Variation Agreement. It was not a controlled contract, on the basis of the Security Master Licence Exemption. Further, paragraph 16 of ICM 4: Gaming Equipment was engaged, so chips could be destroyed without seeking the Authority's prior approval, again on the basis of the Security Master Licence Exemption.

Chapter 24.4 The destruction of gaming chips and cards by Prosegur

44. On 28 September 2020, Prosegur destroyed about $3.7 billion worth of gambling chips.[65] This was done without the Authority's approval, without notification to L&GNSW (before or after the chips were destroyed) and without someone from L&GNSW present at the time that the chips were destroyed.[66]

45. The Star has acknowledged that throughout the period from 21 November 2019 to 13 May 2021, it arranged for Prosegur to destroy chips.[67] This was done at all times throughout this period without the Authority's approval, without notification to L&GNSW (before or after), and without having someone from L&GNSW present.

46. The question arises as to whether The Star breached any of its obligations in relation to the destruction of chips and otherwise acted appropriately.

47. The Star's Cage Operations SOP in force at the time required, among other things:

(a) the Authority's prior approval be obtained for the date and destruction via email to the regulatory affairs department;[68]

(b) unless otherwise authorised by L&GNSW, chips only be destroyed in the presence of four people, being one from each of internal audit, security, the cage and L&GNSW;[69] and

(c) that all paperwork be distributed to L&GNSW and the Internal Audit and Cage Teams afterward.[70]

48. The first requirement noted above (i.e. the Authority's approval) would appear not to have been required by The Star's ICM 4 by virtue of paragraph 16 and the Security Master Licence Exemption. Nonetheless it was a step in The Star's SOP at the time so on one view ICM 4 might still have required compliance with it, on account of paragraph 15 and the fact that the SOP had not been updated. In any event the second and third requirements above remained in place. Those steps did not depend on the Authority's prior approval and they served important protective purposes.

49. The evidence given to the Review was that executives within Star Entertainment were either unaware of the SOP's requirements or had been reassured by the Compliance Team that no approval was required from the Authority and the SOP was out of date, which seems to have led to the SOP being disregarded.[71] The following answers from Mr Aloi are representative of the evidence on this issue:[72]

> Q: [W]hy wasn't a Liquor & Gaming NSW inspector present when these chips were destroyed in that period?
>
> A: I can't answer. I'm not sure why they weren't advised or present.
>
> Q: Do you agree that that should have been done, correct?
>
> A: According to the SOP at the time, yes.
>
> Q: You can't offer any explanation about why it wasn't followed. Is that right?
>
> A: No.
>
> Q: … [I]s it also the case that there was no paperwork distributed to Liquor & Gaming NSW to notify it afterwards that the destruction had occurred in the period in which you were cashier services manager?
>
> A: I'm not aware of any paperwork being sent in this instance to Liquor & Gaming.

Q: Are you able to offer any explanation for why that aspect of the standard operating procedure was not followed?

A: I know at the time there was – as I said previously, we were drafting up SOP changes and this one wasn't updated at the time to reflect the current practice.

Q: But you've agreed, haven't you, that this was the standard operating procedure in force in the period that you were cashier services manager from September 20 onwards until you relinquished that role, correct?

A: Yes.

Q: Are you telling me that these things weren't done because there was a plan to change the standard operating procedure?

A: There was a plan to change it, yes.

50. Similarly, Mr Smart, The Star's Cashier Services Manager, who is responsible for approximately 116 people,[73] gave the following evidence to the Review:[74]

A: … Just to point out, we did have various meetings with reg affairs in relation to the process of destroying the chips and I do remember in our conversations that because it was part of a scheduled destruction that we did not have to notify the regulator.

Q: You were told that, were you?

A: Yes.

…

Q: You were the person who was responsible for this standard operating procedure. You approved it and you expected your staff to comply with it. Why were these steps not complied with?

A: We had a draft SOP that I failed to update – update to become effective if you like.

…

Q: You're telling me, are you, that the reason you didn't comply with the procedures is that you had in mind drafting some changes which you hadn't yet submitted or had approved by the regulatory affairs team? Is that a fair way of putting it?

A: Yes, and obviously my verbal communications with Graeme[75] in relation to the fact back in 2019.

Q: Do you regard it as satisfactory that the standard operating procedures that were in force at the time for The Star in relation to chip destruction were not followed?

A: Look, I don't think it's ideal. I believed that we were following a process that was safe and secure but in relation to following the published SOPs, no, I failed there.

Q: There's obviously, and you would know this far better than me, there would be a lot of risk associated with any breakdown in process for the destruction of gaming chips, would you agree?

A: Yes. Yes.

Q: The procedures were set out in this SOP, correct?

A: Yes.

Q: Do you agree that it's unsatisfactory that those procedures were not followed?

A: I can see, yes, I can see that.

51. Mr Maka suggested that L&GNSW might not have been notified of the chip destruction because none of their inspectors were physically present at The Star Casino, but he accepted that that explanation was unsatisfactory and The Star could have notified L&GNSW by telephone if necessary.[76]

52. Once the Security Master Licence Exemption commenced, it may well have been the case that parts of the Cage Operations SOP could have been updated, in particular Step 2, that the Authority's prior approval be obtained for the date and destruction via email to the regulatory affairs department. But it does not follow that all other steps and standards fell away and could be disregarded. Especially is that so when The Star and Prosegur had agreed in Annexure 1 to the Variation Agreement that there should be additions for a new SOP which included the following, which was in the same or very similar language as the former SOP:[77]

1. Establish date for destruction and ensure total figures are realised.

2. Seek the Authority's approval for the date and destruction via email.

…

6. Send the official letter to the Chief Executive L&GNSW.

…

10. Unless otherwise authorised by the L&GNSW Inspectorate the destruction of gaming chips is to be carried out in the presence of at least four people:

a) one of whom is to be from the Internal Audit Department;

b) one of whom is to be a representative from the Security Department;

c) one of whom is to be a representative of the Casino Cage; and

d) one of whom is to an L&GNSW Inspector.

…

20. At the end of the destruction process Prosegur will provide a destruction certificate.

21. Upon return to The Star, all forms are to be signed by all relevant parties and CMS must be updated to reflect the new chip inventory total. Signatures are required from Security on the Chip Destruction Slip (for values only).

22. Paperwork is distributed to L&GNSW, Internal Audit and Cage.

53. The Star did not notify the Authority or L&GNSW regarding the destruction of the chips. The destruction did not occur with the four people noted above present.

54. The Star submitted that it did not breach paragraph 15 of ICM 4, which required destruction in accordance with the relevant SOP, because "[p]aragraph 16 of ICM 4 operated as an exception to paragraph 15 and paragraph 16 *was* complied with".[78] However, that submission would treat paragraph 16 of ICM 4 as having rewritten the applicable SOP, which it did not do, or purport to do. Even if it had, paragraph 16 would only address Step 2 from the SOP quoted above, not for example steps 10 or 22.

55. The Star also submitted that this was "an administrative failing".[79] But the fact is the SOP was not complied with, which in turn means that paragraph 15 of ICM 4 was not complied with either.

56. It is found that The Star breached paragraph 15 of ICM 4, which required destruction in accordance with the relevant SOP. As a result, The Star also breached section 124(4) of the *Casino Control Act,* as well as its licence by virtue of section 124(1).

57. Further, Prosegur destroyed at least $3.7 billion worth of chips for The Star.[80] That is not the sort of activity which should be taking place in the absence of clear guidance. What seems to have occurred is that executives within Star Entertainment either did not know about the SOP or, if they did, they deferred to the Compliance Team's direction to disregard the SOP and adopt a different course. As Mr Smart accepted in his evidence quoted above, that was unsatisfactory.

58. The Star submitted that operational staff should not be criticised here because "operational staff *must* be able to rely upon the 'say-so' of legal and compliance staff provided that their advice is properly informed and not obviously wrong".[81] However, it is difficult to see how or why operational staff could or should judge whether particular advice from their legal and compliance colleagues is "properly informed" or "not obviously wrong". The present

case is a good example: the SOP said that the Authority's approval was required, yet legal and compliance said that it was not.

59. A much simpler and better approach is for operational staff to be aware of, and follow, the SOP which is in force at the time. That is what ICM 4 already requires in paragraph 15.

60. A final issue to emerge from the hearings on the topic of gambling chips was the apparent absence of training on controlled contracts, ICMs or SOPs within The Star. Mr Smart gave this evidence:[82]

> Q: You've been at The Star since 1997?
>
> A: Yes.
>
> Q: And you've received no training whatsoever in relation to controlled contracts, what they are and what their consequences are. Is that correct?
>
> A: Correct.
>
> Q: So far as you're aware, there is no program of training that The Star has to teach employees about controlled contracts or their importance or their consequences?
>
> A: Not that I'm aware of. However, we do have a – we do have an employee that is responsible for contract management.
>
> …
>
> Q: Is there to your knowledge any training program at The Star to teach staff about the provisions of internal control manuals and what their importance is?
>
> A: There's nothing formal. These are communicated by email from reg affairs department I believe and they're available on the intranet for people to search.
>
> …
>
> Q: So if you want to search for it you can find it on the intranet and from time to time regulatory affairs sends you them?
>
> A: When they're updated, yes.
>
> Q: But is there any training program in which someone at The Star sits down with you and your colleagues or your subordinates and goes through these and explains what they say and what their importance is?
>
> A: No, there is not.

61. Controlled contracts and the requirements of The Star's ICMs and SOPs warrant training insofar as they apply to special employees' work. Otherwise, there is a risk of those staff being left to guess at important obligations or, at best, rely on word of mouth.

Chapter 24.5 The FBV fraud

62. On 2 November 2020, The Star notified L&GNSW that a Gaming Marketing Executive at The Star had been placed on leave after admitting to theft and fraud of FBVs, and that NSW Police had been notified.[83] The executive's employment was later terminated and he was charged by NSW Police and convicted in the District Court of NSW of various offences.

63. The executive had admitted that:[84]

    (a) he stole legitimate FBVs that were left over from a promotion, worth approximately $141,000;

    (b) he ordered and stole legitimate FBVs for a fake baccarat tournament, worth approximately $650,000;

    (c) he ordered and stole counterfeit FBVs for two fake promotional campaigns, worth approximately $4.2 million; and

    (d) he sold legitimate and counterfeit FBVs to a person known to him at a nearby massage parlour in Pyrmont.

64. The Star's internal estimate of its total potential liability as a result of the Gaming Market Executive's conduct was about $5.15 million (including the cost of paying out on winning first bets).[85] The Star's internal estimate of its *actual* loss as a result of the executive's conduct was $684,385, comprising the value of redeemed FBVs ($568,250) plus the cost to The Star of paying out on winning first bets from those redeemed FBVs ($119,135).[86]

65. Although The Star identified the Gaming Market Executive, investigated and confirmed his conduct, terminated his employment and notified NSW Police, the question arises as to how one employee could have conducted such a significant fraud and whether The Star's processes and protections were adequate in the circumstances.

66. The Review received various documents relating to the Gaming Market Executive's fraud including a transcript of an interview between officers of The Star and the executive dated 5 November 2020[87] and an Investigations Report prepared by The Star for what was called "Operation Chilopoda" dated 18 December 2020.[88]

67. Annexure C to the Investigations Report comprised an earlier document dated 16 October 2019 in which the Gaming Market Executive requested The Star's Cage Team (copying The Star's Revenue Audit Team) to arrange for $60,000 cash and $35,000 in FBVs to be

made available for his fictitious baccarat tournament.[89] The request was sent by the Gaming Market Executive and was purportedly signed and authorised by a Senior Marketing Manager for Gaming at The Star. On that basis, the request on its face satisfied The Star's requirement for dual authorisation, per paragraph 7 of ICM 13. However, when asked about the signature, the Gaming Market Executive admitted in his interview that he had forged it. He said: "I used photoshop to get her signature".[90]

68. The Gaming Market Executive committed offences under sections 156 and 192E(1) of the *Crimes Act 1900* (NSW), which provide:

> 156 Larceny by clerks or servants
>
> Whosoever, being a clerk, or servant, steals any property belonging to, or in the possession, or power of, his or her master, or employer, or any property into or for which it has been converted, or exchanged, shall be liable to imprisonment for ten years.
>
> …
>
> 192E Fraud
>
> (1) A person who, by any deception, dishonestly –
>
> (a) obtains property belonging to another, or
>
> (b) obtains any financial advantage or causes any financial disadvantage,
>
> is guilty of the offence of fraud.
>
> Maximum penalty – Imprisonment for 10 years.

69. The executive's conduct appears to have involved deliberate circumvention of protections at The Star, in particular the dual authorisation safeguard by forging the Senior Marketing Manager's signature. There is no suggestion that the Manager or anyone else at The Star was complicit in this. Mr Kevin Houlihan described the Gaming Market Executive's conduct as that of "a rogue employee".[91]

70. The following images show a counterfeit FBV which the Gaming Market Executive procured, compared with a genuine FBV:[92]

71. Having regard to the sophisticated presentation of the counterfeit FBVs, The Star's frontline staff cannot fairly be criticised for not noticing the Gaming Market Executive's fraud on immediate presentation of any single counterfeit FBV. Instead, staff were later alerted after a patron gambled with a noteworthy amount of them.[93]

72. Mr Houlihan told the Review that the Gaming Market Executive's conduct came to light after "[t]he investigations team were first notified as a result of a customer who had appeared doing a large number of free bet vouchers".[94] Mr Houlihan's team conducted an investigation which resulted in various findings, the Gaming Market Executive's confession, a report to NSW Police and a direction within The Star "not to accept any paper vouchers" until revised procedures could be implemented.[95] There is no suggestion that The Star failed to deal with these matters promptly or appropriately once it became aware of them.

73. The question remains, however, as to whether there was an audit failure: can it fairly be said that The Star should have become aware of these matters more quickly than it did?

74. As has been noted, ICM 13 required that there be an audit "at least once a week" with respect to daily transactions against the source paperwork or relevant documentation to address materially significant risks.[96] The "Table Games" SOP required that FBVs be tracked with voucher or batch numbers emailed to The Star's Revenue Audit team daily;[97] and the "Table Games" SOP required that there also be monthly reporting.[98]

75. Mr Prakash, Group Senior Revenue Auditor at The Star, told the Review that he was unaware that there were SOPs for table games which dealt with FBVs during the period up to October 2020.[99] He does not appear to have been aware of the requirement for an email to be sent to revenue audit each day with voucher numbers, although he did say that he received such emails.[100] He explained that vouchers for "multi play" were logged electronically whereas "single play" FBVs were not logged electronically, "so you cannot use that to audit the vouchers which are being redeemed".[101] Mr Prakash said that the only way to audit FBVs was to go through the daily emails and compare them with a manual log.[102] Mr Prakash acknowledged that that did not occur up to October 2020.[103]

76. Mr Prakash confirmed to the Review that auditing was not taking place in the manner provided for in The Star's ICM and SOP. He gave this evidence:[104]

> Q: All right. So what you're telling me is that for free bet vouchers, there was a manual log kept by the cage team that was sometimes inaccurate and because of that and because it was such a laborious process, the revenue audit team in which you were involved didn't do any reconciliation of the free bet vouchers in the period up to October 2020 to compare the serial numbers?
>
> A: That is correct.
>
> Q: Okay … So that then brings me to the next point at page .0459, it talks about monthly reporting. It says, "Revenue audit will compare sequence numbers received in table drop to FBV issue register." Now are you also telling me that that wasn't occurring in relation to the single issue free bet vouchers?
>
> A: No, that was not happening.
>
> Q: And are you also telling me you didn't know that you were supposed to do this because you weren't aware of the terms of this SOP?
>
> A: That's correct.
>
> Q: Was there not some other revenue audit SOP that set out what you were supposed to be doing in terms of reconciliations?
>
> A: That is the issue, that is the gap that we had because revenue audit SOP it needs to have a reference, if a department has revenue audit or other

> department, it needs to have a reference to that department SOP which did not have in revenue audit SOP.
>
> Q: But you were aware of the internal control manual which talked about a weekly reconciliation of free bet vouchers to ensure against the materially significant risks, correct?
>
> A: That's correct.
>
> Q: But what you're telling me is that that reconciliation wasn't occurring in relation to free bet vouchers to reconcile what was being issued against what was being redeemed, is that correct?
>
> A: That's correct.

77. Mr Prakash also said that if the auditing provided for in The Star's ICM and SOP had taken place, then:

(a) the legitimate FBVs which the Gaming Market Executive stole would not have been picked up because they had already been issued with a serial number;[105] but

(b) all the counterfeit FBVs which the Gaming Market Executive caused to be printed and stole (worth approximately $4.2 million) would have been picked up within at least one month.[106]

78. Mr Houlihan gave similar evidence. He agreed that he was "concerned" to learn that during the period that the Gaming Market Executive was having FBVs printed for a fake tournament and non-existent promotions, the Revenue Audit Team was not carrying out requisite reporting and reconciliation steps to identify counterfeit vouchers.[107] He gave this evidence about the opportunity for detection:[108]

> Q: Do you agree that if these procedures [in the SOP] had been followed and there'd been a comparison by revenue audit of the free bet vouchers issued against the free bet vouchers redeemed it's likely that these counterfeit vouchers would have been discovered after approximately one month?
>
> A: There's certainly the opportunity yes.

79. As has been noted, The Star's Revenue Audit Team was required under the Table Games SOP to maintain a register of authorised managers. Mr Prakash told the Review that "[t]here is no such register".[109] As such, the Revenue Audit Team was not alerting authorised managers of any incorrectly issued FBVs,[110] despite the SOP requirement for that to occur.

80. By contrast, Mr Prakash told the Review that there was an automated system using a SharePoint log for multi play vouchers which did perform reconciliations as required.[111]

Mr Prakash said that the SharePoint log would pick up any "duplicate voucher" straight away.[112] This suggests that such a system, had it been available for all FBVs, could have been used to detect the counterfeiting activities much sooner.

81. The Star has now adopted some new procedures as part of its Premium Services Operations SOP dated 11 January 2021.[113] Mr Prakash described this SOP as "the new process for issuing the vouchers".[114] He said that now, when someone requests an FBV, "there is a copy that comes to revenue audit advising them that an individual is requesting a voucher" and the request is put into the SYNKROS system.[115] Mr Prakash said that "the manual printing of vouchers has ceased, there is no vouchers manually printed, this is an automated system … we're not getting printers to print vouchers".[116] Mr Prakash is unaware of any flaws or inadequacies in The Star's new system.[117] Ms Budway gave similar evidence.[118]

82. As has been noted, The Star's ICM 13 required a dual authorisation system.[119] That system was in place but was circumvented by the Gaming Marketing Executive's forgery of the Senior Marketing Manager's signature. There is no evidence of anyone else's participation or complicity in that conduct and thus the ICM was complied with in that regard.

83. However, The Star's ICM 13 also required that there be an audit "at least once a week" with respect to daily transactions against the source paperwork or relevant documentation to address materially significant risks,[120] and identified as a "materially significant" risk to The Star's operations at the casino "Staff theft/fraud either individually, syndicated and/or in collusion with other staff".[121] Mr Prakash's evidence which has been quoted above was that for FBVs there was a manual log to October 2020 whereby no reconciliations were done by way of auditing to compare serial numbers. Nor was there any comparison of sequence numbers received in the table drops with the FBV register for single issue FBVs. In short, the reconciliation required by the ICM was not occurring.

84. It follows from Mr Prakash's unequivocal evidence that The Star breached paragraph 9 of ICM 13, which required weekly audits of daily transactions against source paperwork for the materially significant risk of staff theft or fraud. As a result, The Star also breached section 124(4) of the *Casino Control Act,* as well as its licence by virtue of section 124(1).

Chapter 24.6 Recommendations

85. **Recommendation**: It is recommended that the Authority amend the ICMs applicable to the operator of The Star Casino to require, at minimum:

(a) that L&GNSW be given reasonable notice in advance of each step in the process for the destruction of gaming equipment, accepting that reasonable notice may vary depending on the particular equipment;

(b) that L&GNSW be invited to attend at the destruction of gaming equipment; and

(c) that the operator's special employees receive training about any controlled contracts relevant to their functions and the ICMs and SOPs relevant to their functions, both at the commencement of their employment and every two years following.

86. **Recommendation**: It is recommended that the Authority seek a detailed written submission from the operator of The Star Casino, within three months after the date of the Authority's request, which addresses:

(a) a new ICM for the implementation, monitoring and evaluation of staff training on SOPs, including a requirement to report to the Authority on a regular basis as to the status of training and compliance; and

(b) the specific ICM(s) and/or SOP(s) which the operator has in place in relation to Free Bet Vouchers to ensure the prevention of conduct similar to that of the Gaming Market Executive referred to in Chapter 24 and the early detection of such conduct,

and take such action in response to that submission as the Authority sees fit.

87. **Recommendation**: It is recommended that the Authority note and take such action as it sees fit in relation the Review's finding of The Star's breach of ICM 15(4) and section 124(4) of the *Casino Control Act* in relation to the destruction of gambling chips on 28 September 2020.

88. **Recommendation**: It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star 's breach of ICM 13(9) and section 124(4) of the *Casino Control Act* in relation to the failure to conduct weekly audits of daily transactions against source paperwork in connection with Free Bet Vouchers.

Endnotes

1 Casino Control Act 1992 (NSW) s 124(1).

2 Ibid s 124(2).

3 Ibid s 124(4).

4 See, for example, **Exhibit G-493** (STA.3001.0001.1229 at .1233).

5 Casino Control Act 1992 (NSW) s 37(1).

6 Ibid s 3(1) (definition of 'chip').

7 Ibid s 70(1)(d).

8 Ibid ss 43(1), 44(1).

9 Ibid ss 44(2), (3).

10 Ibid s 45.

11 Ibid s 3(1) (definition of 'gaming equipment').

12 Ibid s 36.

13 *Casino Control Amendment Regulation 2018* (NSW) sch 1 cl 2 which inserted *inter alia* reg 13(e) to the former *Casino Control Regulation 2009* (NSW). That sub-regulation is now reg 12(e) of the *Casino Control Regulation 2019* (NSW).

14 Casino Control Act 1992 (NSW) s 69(1).

15 Ibid s 69(2).

16 STA.3001.0001.1245.

17 STA.3001.0001.1245 at .1248 at para [15].

18 STA.3001.0001.1245 at .1248-.1249 at para [16].

19 STA.3001.0001.1277.

20 STA.3001.0001.1277 at .1280 at [14(b)] and [15].

21 **Exhibit G-784** (STA.1001.0010.0684).

22 Ibid at .0739-.0741.

23 ILGA.008.001.1416.

24 Casino Control Act 1992 (NSW) s 70(2)(c1).

25 Ibid ss 70(1A), 74(1)(a).

26 Casino Control Regulation 2019 (NSW) r 15(b).

27 See ILGA.008.001.0027.

28 **Exhibit H-165** (STA.3001.0001.1288).

29 Ibid at .1289.

30 **Exhibit H-165,** para [7] (STA.3001.0001.1288 at .1290).

31 Ibid, para [8].

32 Ibid, para [9] at .1291.

33 ILGA.008.001.0103.

34 ILGA.008.001.0103 at .0459-.0460.

35 Ibid at .0459.

36 Ibid.

37 Ibid.

38 Ibid at .0461.

39 ILGA.004.001.0130.

40 ILGA.009.001.0979.

41 Ibid at .0979.

42 Ibid at .0980-.0981.

43 Ibid at .1017.

44 ILGA.004.001.0130.

45 ILGA.009.001.0979 at .0979.

46 See *Macquarie Dictionary* (online at 12 August 2022) 'service' (def 2) and *Oxford English Dictionary* (online at 12 August 2022) 'service' (def 1).

47 Star Entities Written Submissions dated 1 April 2022.

48 *Casino Control Amendment Regulation 2018* (NSW) sch 1 cl 2 which inserted *inter alia* reg 13(e) to the former *Casino Control Regulation 2009* (NSW). That sub-regulation is now reg 12(e) of the Regulation.

49 ILGA.004.001.0130 at .0132, cl 4.

50 Private interview with Karina Veling dated 24 January 2022, T2.

51 Ibid T5.

52 Ibid T7-9.

53 Ibid T7-8.

54 Ibid.

55 Ibid T8-9.

56 STA.3441.0001.0246 at .0247.

57 STA.3441.0001.0246.

58 STA.3440.0001.0150.

59 STA.3440.0001.0373.

60 ILGA.004.001.0130 at .0133.

61 STA.3440.0001.0394.

62 STA.3418.0054.4379 at .4379-4380.

63 Ibid.

64 Ibid.

65 ILGA.004.001.0079 at .0079-0084.

66 **Exhibit B-3331** (CORRO.001.001.0190 at .0320).

67 Ibid.

68 **Exhibit G-784** (STA.1001.0010.0684 at .0739).

69 **Exhibit G784** (STA.1001.0010.0684 at .0740).

70 Ibid at .0741.

71 Private interview with David Aloi dated 29 November 2021, T10-11, T14-15; Private interview with David Smart dated 29 November 2021, T13, T18, T22; Private interview with Dean Maka dated 29 November 2021, T12-15.

72 Private interview with David Aloi dated 29 November 2021, T15-16.

73 Private interview with David Smart dated 29 November 2021, T2.

74 Ibid, T13, T18, T22.

75 Graeme Stevens, Group Compliance Manager at Star Entertainment.

76 Private interview with Dean Maka dated 29 November 2021, T14.

77 ILGA.004.001.0130 at .0134, annex 1 at [10].

78 Star Entities' Written Submissions dated 1 April 2022 at [13].

79 Ibid at [15].

80 ILGA.004.001.0079 at .0079-0084.

81 Star Entities' Written Submissions dated 1 April 2022 at [16].

82 Private interview with David Smart dated 29 November 2021, T6, T11. See similarly Private interview with Rachel Budway dated 30 November 2021, T12 and Private interview with Kevin Houlihan dated 30 November 2021, T11.

83 ILGA.008.001.0028 at 00.28-.0029.

84 ILGA.008.001.0044 at .0045-.0058; ILGA.001.009.0282 at .0326.

85 ILGA.008.001.0044 at .0057.

86 Ibid at .0056-0057.

87 ILGA.001.009.0282 at .0326-.0336.

88 ILGA.008.001.0044.

89 Ibid at .0065.

90 ILGA.001.009.0282 at .0329.

91 Private interview with Kevin Houlihan dated 30 November 2021, T7.

92 ILGA.008.001.0044 at .0062-0063, annex A.

93 Ibid at 0045.

94 Private interview with Kevin Houlihan dated 30 November 2021, T4.

95 Private interview with Rachel Budway dated 30 November 2021, T3, T18-19.

96 **Exhibit H165,** para [9] (STA.3001.0001.1288).

97 ILGA.008.001.0103 at .0459.

98 Ibid.

99 Private interview with Salesh Prakash dated 30 November 2021, T7.

100 Ibid T9.

101 Ibid T11.

102 Ibid T11-12.

103 Ibid T12, T18.

104 Ibid T12-13.

105 Ibid T15.

106 Ibid.

107 Ibid T9.

108 Ibid.

109 Ibid T16.

110 Ibid.

111 Ibid T18.

112 Ibid.

113 STA.1001.0002.0041.

114 Private interview with Salesh Prakash dated 30 November 2021, T19.

115 Ibid T20-21.

116 Ibid T21.

117 Ibid T26.

118 Ibid T15.

119 **Exhibit H165,** para [7] (STA.3001.0001.1288 at .1290).

120 Ibid para [9] at .1291.

121 Ibid [B] at .1289.

Chapter 25
The Use of Standard Operating Procedures at The Star

Chapter 25. The Use of Standard Operating Procedures at The Star

Chapter 25.1 The current system of ICMs and SOPs

1. Paragraph 8.2 of the Review's Terms of Reference calls for the Review to consider The Star's internal reporting mechanisms and follow-up procedures to adequately manage potential breaches of ICMs and SOPs.

2. Since it was first enacted in 1992, section 124 of the *Casino Control Act* has contemplated that the casino operator would only conduct operations in accordance with internal controls and administrative and accounting procedures which have been approved by the Authority. Section 124 of the original *Casino Control Act* provided:

> 124 Approved system of controls and procedures to be implemented
>
> (1) A casino operator is not to conduct operations in the casino unless the Authority has approved in writing of a system of internal controls and administrative and accounting procedures for the casino.
>
> (2) Any such approval may be amended from time to time, as the Authority thinks fit.
>
> (3) An approval or amendment of an approval under this section takes effect when notice of it is given in writing to the casino operator concerned or on a later date specified in the notice.
>
> (4) It is a condition of a casino licence that the casino operator must ensure that the system approved for the time being under this section for the casino is implemented.

3. Today, section 124 continues in materially the same form, save for expressly allowing the casino operator to apply for amendments, as well as an acknowledgement that there may be different internal controls, or different administrative or accounting procedures, for different parts of the casino. Section 124 of the *Casino Control Act* now provides:

> 124 Approved system of controls and procedures to be implemented
>
> (1) It is a condition of a casino licence that the casino operator is to conduct operations in the casino in accordance with a system of internal controls and administrative and accounting procedures for the casino that have been approved of in writing by the Authority.
>
> (2) Any such approval may be amended from time to time, as the Authority thinks fit, on the Authority's own initiative or on the application of the casino operator concerned.

> (3) An approval or amendment of an approval under this section takes effect when notice of it is given in writing to the casino operator concerned or on a later date specified in the notice.
>
> (4) A casino operator must not contravene a requirement of an internal control or administrative or accounting procedure that is approved for the time being under this section for the casino.
>
> Maximum penalty—200 penalty units.
>
> (5) A system approved for a casino under this section may contain different internal controls, or different administrative or accounting procedures, for different parts of the casino.

4. Parliament contemplated that the internal controls referred to in section 124 of the *Casino Control Act* would be "detailed". That was the word used by the relevant Minister in the Second Reading Speech for the then *Casino Control Bill 1992* (NSW) on 5 March 1992. It was used in a wider context of contemplating information-sharing and general cooperation with law enforcement. The Minister said:[1]

> Each operator will be required to obtain the authority's approval for detailed internal controls and procedures covering all aspects of casino operations. There will be specific requirements relating to banking, accounts and books and audit.

5. Similarly, on 7 March 2001, the then Minister said in the Second Reading Speech for the *Casino Control Amendment Bill 2001* (NSW) that it was "customary" for controls approved by the Authority under section 124 to "detail precisely the manner in which gaming is to be conducted".[2] The Minister linked that practice with the need for the Authority to be able to discharge its functions in relation to matters such as membership privileges and access rights.

6. On 6 March 2018, the responsible Minister at the time spoke of the casino operator's internal controls in the Second Reading Speech for the *Casino Control Amendment Bill 2018* (NSW). The Minister gave examples of the flexibility of internal controls, which contemplated that there would be a reasonable amount of detail in them. The Minister said:[3]

> The Casino Control Amendment Bill 2018 also provides for greater flexibility in how requirements are met by providing for greater use of internal controls rather than prescribing everything in legislation. Internal controls are documented controls and administrative and accounting procedures, prepared by the licensee and approved by the Independent Liquor and Gaming Authority. They can be quickly updated to reflect changes in community standards, industry circumstances, compliance and enforcement practices, or the level of risk presented by a given practice.

Chapter 25.2 Shortcomings in the current system identified in this Review

7. Chapters 23 and 24 have referred to The Star's current system of ICMs and SOPs in the specific contexts of harm minimisation, responsible gambling, controlled contracts, gambling chips and FBVs. Those specific contexts revealed a more general issue with the use of ICMs and SOPs at The Star, namely that The Star's ICMs, which are approved by the Authority and must be complied with in accordance with section 124 of the *Casino Control Act*, are often in very general terms whereas The Star's SOPs contain the more fulsome and granular details of The Star's operations. However, that is problematic because unlike ICMs, The Star is free to amend its SOPs from time to time as it sees fit without the approval of the Authority, and there is no direct statutory consequence to The Star breaching an SOP unless that breach can be linked back to the breach of an ICM.

8. In this regard the evidence before the Review has indicated that The Star's internal reporting mechanisms and follow-up procedures to adequately manage potential breaches of its ICMs and SOPs are stronger for the former than the latter. That might be expected in light of the differences just noted but it is undesirable in circumstances where, first, ICM's come with the benefits associated with the Authority's supervision and SOPs do not, and, secondly, Parliament appears to have been under the impression over a number of years that The Star's ICMs contained sufficient detail to (in the Minister's words) "detail precisely the manner in which gaming is to be conducted".[4]

9. Thus there is no immediate statutory consequence under section 124 of the *Casino Control Act* for the fact that, as seen in Chapter 12, Mr Phillip Lee was allowed to use his CUP card to apply funds to his front money account in contravention of The Star's relevant SOP that he be a hotel resident, which he was not, and that he be an international player, which he was not either. Had those requirements formed part of an ICM there would have been a breach under section 124(1) and (4), and thus a stronger incentive for The Star to have complied with the requirements from the outset.

10. A good example of the relative unimportance of SOPs as compared with ICMs was seen in Chapter 24 involving the destruction of $3.7 billion worth of gambling chips in circumstances where Star Entertainment executives simply disregarded the SOP, on the basis that they understood it was out of date. Had it not been for the ICM's requirement that the SOP be complied with, there would have been no statutory consequence to that conduct.

11. Similarly, on the topic of FBVs, even if it be accepted that The Star's new "Premium Services Operations" SOP dated 11 January 2021[5] will provide a complete solution to the problem seen in Chapter 24 of millions of dollars' worth of counterfeit FBVs going undetected because the audits required by the relevant ICM and SOP were not taking place, that new SOP is only going to be useful for so long as it is both known and complied with by executives within The Star Casino. As an SOP it does not otherwise have the force or standing of an ICM. It can be amended without the Authority's approval. If for some reason that were to occur, or executives were to disregard it, the earlier weaknesses in relation to FBVs the SOP has addressed will revert to being unaddressed.

Chapter 25.3 Recommendation

12. **Recommendation**: It is recommended that within one year from the date of this Report the Authority work with the operator of The Star Casino to review all of the ICMs in place for The Star Casino and ensure that the ICMs have a greater level of prescription than the present ICMs in relation to the essential operations of The Star Casino and on the basis that all important control mechanisms for the operations of The Star Casino should be provided for in the ICMs themselves, and not SOPs.

Endnotes

1 New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 March 1992, 522 (Kevin Rozzoli).

2 New South Wales, *Parliamentary Debates*, Legislative Assembly, 7 March 2001, 12326 (John Murray).

3 New South Wales, *Parliamentary Debates*, Legislative Assembly, 6 March 2018, 58 (Shelley Hancock).

4 New South Wales, *Parliamentary Debates*, Legislative Assembly, 7 March 2001, 12326 (John Murray).

5 STA.1001.0002.0041.

Chapter 26
Assessment of the Governance and Culture of Star Entertainment since 2016

Chapter 26. Assessment of the Governance and Culture of Star Entertainment since 2016

Chapter 26.1 Introduction

1. This Chapter identifies and considers a number of extremely serious governance, risk management and cultural failures of The Star and Star Entertainment which occurred over, and indeed before the commencement of, the Relevant Period.

2. It is the responsibility of this Review to identify any failures in governance, risk management and culture which occurred and to assess what impact they have on the suitability of The Star and its close associates to continue to be concerned in or associated with the management and operation of a casino in NSW. It is not necessarily possible for the Review to determine why failures occurred, or at least why all the failures occurred. The causes were multi-factorial. Star Entertainment has not yet determined why all the failures occurred, though individual directors offered a number of hypotheses when requested to do so in the public hearings. Mr Richard Sheppard, when asked about problems with the cultural settings, said, with a good deal of justification, "…they're all obvious questions. The answers are more difficult than the questions."[1]

3. In the Financial Services Royal Commission, Commissioner Hayne spoke of governance in the following terms:[2]

> governance refers to all of the structures and processes by which an entity is run. It embraces not only by whom, and how, decisions are made, but also the values or norms to which the processes of governance are intended to give effect. Notions of accountability lie at the heart of governance. Who is to be held accountable for what is done or not done? How are those who are accountable held to account?

4. To similar effect, it is explained in the *ASX Corporate Governance Principles and Recommendations* that the phrase "corporate governance" describes:[3]

> the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies, and those in control, are held to account.

5. As to culture, Commissioner Hayne said (footnotes omitted):[4]

> the culture of an entity can be described as 'the shared values and norms that shape behaviours and mindsets' within the entity. It is 'what people do when no-one is watching'. Culture can drive or discourage misconduct.

6. Governance, culture and risk management may be seen as the levers that affect the manner in which a corporation works to achieve its objectives. While these levers can be considered as separate topics, they are interdependent. Each lever influences and has consequences for the other levers. Their connection was graphically illustrated in the evidence presented to this Review. What could be seen through one lens as a governance issue could be seen with equal clarity through another lens as a risk management issue or through a third lens as a cultural issue.

7. The Star, the casino licensee in NSW, is a wholly owned subsidiary of a group of companies of which Star Entertainment is the ultimate holding company. Throughout the Relevant Period, the directors and secretary of The Star have been senior executives of Star Entertainment. The Star has been wholly dependent on Star Entertainment for its resourcing and governance. In these circumstances any consideration of the governance, risk management and culture of The Star must focus largely on Star Entertainment.

Chapter 26.2 Effectiveness of management structure and reporting lines

Management structure and reporting lines of The Star

8. As set out in Chapter 8.4, at the commencement of this Review, the Chief Casino Officer (NSW) was Mr Greg Hawkins, who had held this role since a restructure in October 2020. However, as well as being responsible for the overall operational performance for The Star, Mr Hawkins at this time also had group-wide responsibilities. He was also responsible for Star Entertainment's IRB, domestic rebate business, local premium business and its Online Social Gaming Unit.[5]

9. Mr Hawkins had previously been Managing Director of The Star from September 2014 to January 2019. From January 2019 until October 2020, Mr Hawkins had been Chief Casino Officer of Star Entertainment, with group wide responsibilities.[6]

10. Despite being Managing Director of The Star until January 2019, in that period Mr Hawkins also had group responsibilities. After Mr John Chong's employment was terminated in March 2018, Mr Hawkins assumed responsibility for the sales team of the International Marketing business of Star Entertainment in April 2018.[7]

11. Those reporting to Mr Hawkins at the commencement of the Review included Mr Chris Peasley, the President Domestic and International Casino Marketing, and Mr Damian Quayle, the Chief Operating Officer of The Star.[8] Like Mr Hawkins, both Mr Peasley and Mr Quayle had responsibilities for "NSW Operations". Also like Mr Hawkins, they both also had group responsibilities for what was described as "Group Gaming Sales", extending beyond the operations of The Star. From at least 2016, Mr Peasley had been responsible for domestic and premium mass marketing for Star Entertainment and had reported to Mr Hawkins.[9] As Chief Operating Officer of The Star, at the commencement of the Review Mr Quayle had a number of direct reports who were solely involved in working in the operations of The Star.[10]

12. Mr Hawkins resigned his position after he gave evidence in public hearings of the Review. Neither Mr Peasley nor Mr Quayle was summonsed to give evidence at the public hearings of the Review, although Mr Peasley provided a statement to the Review.

13. Mr Hawkins regularly attended meetings of the Board of Star Entertainment at all times from the commencement of the Relevant Period.[11]

14. There were serious failures in reporting to more senior management and in particular to the Board of Star Entertainment whilst Mr Hawkins was providing management leadership of The Star. One example is the failure of The Star to inform the Board of the risks associated with the CUP cards as they operated at The Star Casino.[12] Perhaps the most egregious was the failure to provide any clear and direct information to the Board of Star Entertainment about the serious misconduct by Suncity in Salon 95 in 2018, including that it was engaging in casino operations in the salon.

15. Mr Hawkins must accept significant responsibility for these failures in reporting. However, the fault was not his alone. What is clear from the evidence which emerged in the public hearings is that the many reporting failures which occurred over the Relevant Period cannot be reduced simply to the failures of individuals. They were failures involving a number of people over a significant period of time. They are failures which can equally be seen as governance, risk management and cultural failures.

16. It is impossible to determine definitively why these failures in reporting occurred from the leadership of The Star. There are a number of possible explanations, including that Mr Hawkins and other senior managers of The Star were distracted by responsibilities which went beyond the operations of The Star and allowed those wider objectives, such as the

objectives of the International VIP Team to take undue priority over the compliance objectives of a casino operator in NSW.

17. Mr White gave evidence, in the context of the decision to continue to allow Suncity to operate a service desk in Salon 95, that he felt from time to time that there was a culture where business goals took priority over compliance goals.[13] Mr Hawkins in his oral evidence accepted that the response of The Star to the issues that arose in relation to the operation of a service desk within Salon 95 was weak.[14] However, when asked whether this weak response indicated that business goals were given priority by the organisation over compliance goals, Mr Hawkins stated:[15]

> With the information I've subsequently been provided about the matters in the room, I accept the response was not appropriate. And I think the potential divisions of accountability within the organisation didn't assist with ultimately the position that we should have taken.

18. A number of the non-executive directors accepted that business objectives had apparently been prioritised over compliance objectives in relation to Salon 95. Mr Bradley believed that management gave "greater priority to business requirements relative to meeting our regulatory obligations" and that this was "unacceptable".[16] Mr Sheppard was of the view that a "possible explanation" for why the Board was not made aware of the unacceptable level of risk associated with the Salon 95 arrangement was because "they valued the commercial relationship with Suncity".[17] Mr Heap also accepted that one possibility for inadequate communication by management to the Board in relation to Suncity and Salon 95 was because business objectives were taking priority over compliance objectives.[18]

19. In the context of the use of CUP cards, The Star Entities accepted that it was open to the Review to find that the failure to properly assess or escalate risks to the Board suggested a "compromised approach to risk and a desire to satisfy the perceived business needs of the business".[19] The Star Entities also accepted that it was open to the Review to find that the decision to accept certain risks associated with the use of CUP cards, and not to adequately communicate these risks to the Board, was influenced by "commercial objectives".[20] It was accepted by The Star Entities that the restrictions imposed on the excessive use of the facility by Mr Phillip Dong Fang Lee were influenced by commercial objectives, and those same commercial objectives influenced the decision-making of senior management in respect of the use of CUP.[21]

20. This Chapter discusses later the need for dedicated risk management and compliance supervision of the operator of The Star Casino, without the distractions of any wider group

business objectives and responsibilities. Whilst no recommendation is made in this regard, consideration should be given as to whether it would be advantageous for the senior management of the casino operator to not have the distractions of wider group responsibilities.

Management structure and reporting lines of Star Entertainment

21. There are three aspects of the management structure and reporting lines of Star Entertainment which warrant attention in light of the evidence presented to the Review. The first concerns the Investigations Team.

22. As discussed in Chapter 21, the Investigations Team at Star Entertainment serves the critical function of preventing and detecting criminal or undesirable conduct at the casinos or in connection with their operations.

23. The Review identified in Chapter 15 the slow investigation by the Investigations Team of the false and misleading communications by The Star to BOC Macau in the period 2013 to 2017 which were first discovered by senior management in October 2021. The investigation remains unresolved and is continuing.

24. The Review identified in Chapter 17 inadequate and slow investigation by the Investigations Team of very serious allegations against Mr Marcus Lim, who was the President of International VIP Sales for Star Entertainment from April 2018 to July 2020. Mr Lim was made redundant in July 2020 more than a year after the Investigations Team began an investigation of serious allegations against him in May 2019. Despite this, the investigation of Mr Lim had not been concluded before he was made redundant.

25. As identified in Chapter 13, the Investigations Team took insufficient action in response to the HKJC Report on Suncity. This was apparently due to an approach which involved permitting business associations with Star Entertainment unless it was almost certain to be established that those businesses had criminal associations.[22]

26. In terms of reporting lines, problems with investigations were compounded by siloing of information within the Investigations Team. For example, Ms Arnott agreed in evidence that it would be good practice for the Investigations Team to share information with the Compliance Team.[23] Ms Arnott told the Review that in relation to Salon 95 she had requested information from Mr Houlihan which he had not provided to her.

27. Mr Brodie said that he was aware of the investigation into Salon 95 but the Investigations Team did not keep him particularly apprised of the ongoing detail and they tended to conclude or substantially conclude a matter before raising it with him.[24] He observed that the investigators kept material "very close to their - to themselves" and "it wasn't [their] usual practice to make these sorts of documents available to people".[25] Mr Brodie said he was not aware of the magnitude of the problems in Salon 95 in June 2019. He told the Review that had he known, it may have triggered a deeper investigation into Suncity from an ECDD perspective.[26]

28. Mr Kevin Houlihan was the Group Investigations Manager for Star Entertainment from January 2016 to November 2021 and thereafter the General Manager for Financial Crime and Investigations. Mr Houlihan resigned after giving evidence in the public hearings of the Review. Some of the non-executive directors of Star Entertainment expressed the view in their evidence that there had been insufficient level of capability in the Investigations Team. Dr Pitkin described it as one area of the organisation where people defaulted to processes and rules without bringing judgment and higher order thinking to bear on the issues.[27]

29. It is difficult to determine whether the identified failings in investigations were simply individual failings with the leadership of the Investigations Team or whether they reflected deeper cultural problems. Without attributing or intending to attribute any improper motives to Mr Houlihan, the false and misleading documents provided by Star Entertainment to BOC Macau and the conduct of Mr Lim were both issues which had the potential to reflect poorly on the systems, processes and management of Star Entertainment. The slow and inadequate investigation of these issues had the effect of delaying or preventing the exposure of these potential issues. There were many other instances which emerged in the evidence where there was a failure to bring bad news to the attention of the Board of Star Entertainment. And in at least one instance, a negative reaction when bad news as brought to the attention of the Board. In this regard, the immediate reaction to the KPMG reports by Mr Bekier, the Managing Director and Chief Executive Officer of Star Entertainment, in a tense Audit Committee meeting was to express his displeasure to the bearers of bad news.

30. A second aspect of the management structure and reporting lines of Star Entertainment which requires comment is the role of Ms Paula Martin as Chief Legal and Risk Officer. Ms Martin had held the role of Chief Legal and Risk Officer from August 2019 following

the resignation of Mr Paul McWilliams as Chief Risk Officer. Ms Martin has a legal background and had previously been the Group General Counsel and Company Secretary since August 2012. After Mr McWilliams' resignation, it was decided to combine the legal and risk functions of the group under the leadership of Ms Martin. Ms Martin reported directly to Mr Bekier and attended all meetings of the Board of Star Entertainment in her capacity as Company Secretary. In her capacity as the head of the risk function Ms Martin also attended all meetings of the Risk and Compliance Committee of the Board from August 2019.[28]

31. In her role as Chief Legal and Risk Officer, Ms Martin was responsible for a range of functions including legal, regulatory, financial crime and investigations, risk insurance, compliance, internal audit and social responsibility.[29]

32. There were critical failings in the legal and risk functions at Star Entertainment during the period of Ms Martin's stewardship, for which Ms Martin must bear significant responsibility. One example was Ms Martin's unsatisfactory understanding of the law relating to legal professional privilege, which led to her claiming privilege over the KPMG reports and withholding them from AUSTRAC. This is discussed in Chapters 18 and 19.

33. There were profound failures in risk management at Star Entertainment during the Relevant Period, including the period in which Ms Martin was head of the risk function from August 2019. These are described in more detail in the next section of this Chapter and largely arose from decisions by management to court risks and fail to inform the Board of Star Entertainment of those risks so as to permit the Board to determine if those risks were within its risk appetite.

34. It is difficult to understand why Ms Martin, as head of the risk function from August 2019, failed to report to the Board of Star Entertainment concerning relevant risks. It is also difficult to draw conclusions about her reasoning because, when giving evidence in the public hearings, Ms Martin often said that she could not recall events and rarely answered a question directly.

35. An example of this was Ms Martin's evidence concerning the events in August 2019 when the Board of Star Entertainment had sought a report from management about a number of matters raised in recent media allegations. Those allegations included Suncity's links to organised crime identified in the HKJC Report and Star Entertainment's dealings with Suncity and Mr Alvin Chau. Ms Martin and Mr Hawkins coordinated a report for the Board

which failed to mention concerning cash dealings which had occurred in Salon 95 in 2018 and 2019. Their report also failed to mention that Star Entertainment held a copy of the HKJC Report, failed to refer to its contents, failed to mention that Mr Houlihan and Mr Buchanan had met with the Hong Kong Jockey Club in July 2019 and failed to mention that they had also met with the AFP, who had informed them that Suncity was of current interest to the police.

36. Ms Martin gave the following evidence:[30]

> Q: Don't you agree that it would have been very useful for the board to know that The Star was in possession of the Hong Kong Jockey Club report because then the board could equip itself to understand the veracity of the media allegation about the Hong Kong Jockey Club banning Suncity?
>
> A: Not - not necessarily.
>
> Q: Ms Martin, did you, in fact, inform the board in 2019 that officers of Star Entertainment held a copy of the Hong Kong Jockey Club report?
>
> A: I don't recall, Mr Bell, whether I was that specific as compared with discussing what we, The Star, knew and held on Suncity and our due diligence and the breadth of that information held by members of the team. I just don't recall specifically referencing the report being held by The Star.

37. Ms Martin later said:[31]

> Q: Well, I'm simply asking you: don't you think that information would have been of use to the board?
>
> A: Could you please repeat which information, the three points?
>
> Q: The information that you (1) had a copy of the Hong Kong Jockey Club report; (2) that Kevin Houlihan and Mr Buchanan had visited the Hong Kong Jockey Club in July of 2019 and discussed that report; and (3) in July 2019, Mr Houlihan and Mr Buchanan had met with the AFP, who advised that Suncity was of current interest to them.
>
> A: Ms Sharp, I think I answered before on the Hong Kong Jockey Club report, whether held or not, I consider less relevant than the information in it. The information relating to Suncity and The Star that's gleaned from a range of sources, I - I do consider relevant to the board. And my recollection is that there were discussions around the media allegations that appeared specifically referencing the Hong Kong Jockey Club report content and what The Star knew about that.
>
> Q: But did you draw any of the pieces of information I've just referred you to the attention of the board?
>
> A: I believe I recall discussing The Star's interaction with law enforcement in relation to Suncity, Ms Sharp. And I had at other stages discussed Mr Buchanan's role and connection, but I don't have a specific recollection of referencing the report itself.

> Q: Because what I'm suggesting to you is that you did not at any point make known to the board (1) Star had a copy of the Hong Kong Jockey Club report; (2) Mr Houlihan and Mr Buchanan had visited the Hong Kong Jockey Club in July of 2019 and discussed the Hong Kong Jockey Club report; and (3) that they had met with the AFP in July 2019 and been told by the AFP that Suncity was of current interest to them.
>
> A: I - I don't believe that's entirely correct in relation to all the information. But I also don't have a specific recollection on the report, Ms Sharp.
>
> Q: Well, if you don't have any specific recollection, how can you tell us that any of what I've just put to you is incorrect?
>
> A: Ms Sharp, because there were some more focused conversations on The Star's position in connection with Suncity.
>
> Q: Well, what were they, in detail, please?
>
> A: I - I don't recall the detail, Ms Sharp. I recall that there were discussions across meetings at this time around The Star and who it did or didn't do business with who were named in the media. And then I recall that there was discussion around the points in this paper that more specifically went to the processes and controls.
>
> Q: And you can't give us any further information to suggest that you did raise with the board any of the three matters that I have just put to you?
>
> A: I don't believe I can be, on what I've just said.

38. Whilst to some extent the failure of the reporting line from Ms Martin to the Board of Star Entertainment may be attributable to Ms Martin's idiosyncratic approach to her obligations, it is also attributable to flaws in the management structure and reporting lines and reflects both a failure of the risk management framework and endemic cultural problems.

39. In terms of the management structure and reporting lines, by the time that the directors of Star Entertainment gave evidence to the Review in the public hearings there was a recognition that it had been a mistake in 2019 to combine the legal and risk functions. Mr Sheppard said:[32]

> In my view - I think the board probably made a few mistakes with appointments, in retrospect. I think it was possibly - probably - a mistake to combine the chief risk officer and the chief legal officer roles into one role.

40. Mr O'Neill said:[33]

> When Paul McWilliams departed the company as chief risk officer, Paula Martin, who had done an outstanding job as general counsel and company secretary, was in line for a promotion to the chief risk officer's position. And the decision was taken to combine the two functions, such that her job was chief legal and risk officer. With the benefit of hindsight, it was not the right combination. Legal should have been kept quite separate from risk and compliance. And we have since - we have since rectified that.

41. By the time he gave evidence to the Review in the public hearings Mr O'Neill had recognised that the skills of a legal officer and the skills of a risk officer were quite different. The extent of Ms Martin's responsibilities, as head of both legal and risk at Star Entertainment from August 2019, is reflected in the fact that, as discussed in Chapter 8, she had nine direct reports at the commencement of the Review, including the Group General Counsel, Group Investigations Manager, General Manager Social Responsibility, Project Director Anti-Money Laundering and Financial Crime and Due Diligence Program Manager. These were individually very significant, indeed crucial, responsibilities.

42. In addition, Ms Martin also had company secretarial responsibilities. In a large corporation the company secretary has a critical role. The company secretary has been described as the steward of the corporation, acting as a compass, the ultimate curator of information and opinion and a cultural broker.[34] The company secretary has also been described as the chief governance specialist within an organisation, increasingly relied upon by the board to provide advice and implement good governance practices.[35] In an organisation of the size and complexity of Star Entertainment, there would have been justification in having a separate person focused on company secretarial responsibilities. This would also have introduced a separate guardian of the corporation's governance and culture.

43. In the context of a group responsible for the management of three casinos in two States, it is difficult to see how any one person could adequately discharge the broad and onerous responsibilities which were imposed on Ms Martin.

44. Whilst in some organisations it may be appropriate to combine the legal and risk functions, in the environment of a casino with attendant high risks of money-laundering and criminal infiltration, a lesson from the evidence presented to the Review is that it is necessary for the senior management team to have a risk management leader focussed exclusively on that task. Mr O'Neill spoke of the need for a "risk champion".[36]

45. The third aspect of the management structure and reporting lines of Star Entertainment which warrants attention in light of the evidence presented to the Review is the most profound of the problems and a recurring theme: the failure to report necessary information to the Board of Star Entertainment and its committees. In many cases, such as in relation to the use of CUP or the Modified Kuan Koi Arrangement, there was no reporting to the Board at all; in other cases, such as in relation to Salon 95, the reporting was not clear or direct and was completely inadequate.

46. At a basic level these were reporting failures by the senior management team at Star Entertainment. Mr Bekier as Managing Director and Chief Executive Officer must bear significant overall responsibility for these failures. He was the link between management and the Board. However, the Board must also bear responsibility, because it was required to have systems and processes in place to ensure that it received the information it needed. A number of the directors acknowledged this responsibility.[37]

47. The members of the Board of Star Entertainment recognised in their evidence to the Review that the failure to report important information to the Board was far more profound than just being a problem with reporting lines. The directors recognised that this was both a failure of risk management and reflected a systemic cultural problem at Star Entertainment.[38] The issue is addressed in this Chapter in both of those contexts.

Chapter 26.3 Effectiveness of Star Entertainment's risk management framework

Documentation

48. Star Entertainment's risk management policy and framework was surveyed in Chapter 8.

49. Star Entertainment's Risk Appetite Statement is a key element of its risk management framework. It is a definitive statement by the Board of what is expected from management. It needs to deal with the real risks of operating casinos, which are addressed in Chapter 10 of this report. The Risk Appetite Statement needs to acknowledge and specifically address the risks associated with money-laundering, terrorism financing and criminal infiltration.[39] During the Relevant Period, the Risk Appetite Statements of Star Entertainment did not acknowledge and specifically address these risks.

Processes

50. A significant problem with Star Entertainment's risk management processes was first alluded to, somewhat obliquely, in Ms Martin's first statement to the Review dated 8 February 2022. In that statement Ms Martin endeavoured to explain why certain risks associated with the CUP Process were not escalated. She stated:[40]

> This non-compliance with procedures was reported and included in a 6-monthly compliance assurance process conducted by the Chief Risk Officer for reporting to the Board, as were risks associated with CUP more broadly. However, due to the nature of The Star Entertainment Group's systems, prior to 2021, this information as to risk was not built into risk registers which were readily visible outside the Risk team, to enable a more holistic and dynamic assessment of risk across the business

> by drawing together different strands of information known to different business units and collectively "reporting up".

51. The problem was more directly explained by The Star Entities in a response to the Solicitors Assisting the Review on 11 May 2022,[41] in which it was stated:

> The Star's instructions are that the risk register is a live database which is maintained in ProTecht. Prior to November 2019, the risk register was maintained in an Excel spreadsheet. The Risk Register sets out the risk identified, controls in place, actions taken, and improvements made. The Star's instructions are that the Board of The Star Entertainment Group Ltd was not provided with a copy of the Risk Register during the period from November 2016 to March 2020.

52. To put it plainly, the Risk Registers compiled by Star Entertainment to identify risks identified by the business were not provided to the Risk and Compliance Committee of the Board of Star Entertainment prior to March 2020. It is difficult to see how the Board of Star Entertainment could have fulfilled its obligations to identify and manage risk without being provided with these Risk Registers. Mr Sheppard was a member of the Risk and Compliance Committee of the Board at the commencement of this Review. He said that he did not know what form the Risk Registers took and that the Risk and Compliance Committee did not see them. The Risk and Compliance Committee only received a written assurance from the Chief Risk Officer:[42]

> Q: And a formal risk register is used as part of that review process?
>
> A: Yes, it is.
>
> Q: And what form do those risk registers take?
>
> A: You mean in the form of the questionnaires which go to the operating management?
>
> Q: Well, at the step - so let me break this down, Mr Sheppard. So as part of this assurance process, it's correct, isn't it, that questionnaires go to the different business groups and then the chief risk officer will interrogate the relevant parts of the business to compile a risk register for the relevant part of the business?
>
> A: Yes, I believe that's part of the process.
>
> Q: So I'm asking about the form of the risk register. Is that an Excel document or a Word document? Is it a living document, or how –
>
> A: I - I don't - I don't know the technical form of the document.
>
> Q: Is it a document that finds its way to either the audit committee or the risk committee or both?
>
> A: No, I don't believe so. That - that - that process sits in the background. What finds its way to the risk committee and the audit committee is a written

> assurance from the chief risk officer based on the work that you just alluded to.

53. This evidence means that the Board of Star Entertainment was not receiving the risk registers with reports from the first line of defence business units about the risks which were actually being identified. Instead, all that the Board was receiving was the Chief Risk Officer's interpretation of those risks. In practice, in relation to CUP what this meant was that the Board knew nothing of the extreme risks posed. The evidence disclosed that the risk function provided no information whatsoever to the Risk and Compliance Committee of the Board about the risks which had been identified in relation to the CUP Process.

54. The Board of Star Entertainment should have had a process in place to ensure that it received or had access to the risk registers, with the information about risks which it needed in the high risk environment in which the organisation operated.

Practices

55. Overlaying the process problems were cavalier practices in relation to risks taken by the senior management of Star Entertainment. Risk management policies and processes in the high-risk environment of a casino will not manage risks without a cultural commitment to risk management and compliance.

56. Two themes emerged very clearly in relation to the failures in the risk management practices at Star Entertainment. First, key risks were not escalated to the Board. Secondly, members of senior management were prepared to court the risk despite the consequences if the risk eventuated.

Failure to escalate risks

57. There were numerous instances where significant identified risks were not escalated the Board which should have been. These included:

(a) the risks in relation to the CUP Process which are discussed in Chapter 12;

(b) the risks in relation to Suncity and Salon 95 which are discussed in Chapter 13; and

(c) the risks involved in the use of third party remitters in overseas payment channels, which are discussed in Chapter 16.

58. The directors of Star Entertainment recognised that the failure to escalate risks to the Board and the Risk and Compliance Committee was a failure of the risk management process.[43]

They recognised the governance dimensions of the problem and spoke of their sense of betrayal and misplaced trust.

59. A good example is the cage operations of Suncity in Salon 95, which are addressed in Chapter 13. On 26 July 2018, the Board met and received two managing director and CEO reports for May and June 2018.[44] In the May 2018 report, at page 22, the report stated that "[i]n May, concerns emerged around certain activities undertaken at the junket service desk in Salon 95".[45]

60. It is appropriate to emphasise here that Mr Bekier was not asked to explain why the CEO report took the form that it did. As indicated in Chapter 13, the report has been viewed as a collective report by management to the Board.

61. Dr Pitkin told the Review that in her opinion, what the Board was told about Salon 95 was "totally inadequate"[46] and she felt that the issue had been "withheld" and "hidden" from the Board.[47] Dr Pitkin said that she felt "misled".[48] Mr Heap, Mr Bradley and Ms Lahey gave similar evidence.[49] Mr Bradley said that if the report was intended to convey to the Board that matters were under control, then "it was meant to mislead the Board in terms of what had occurred and that the matter had been resolved by training [in relation to Salon 95], which was extremely understating what … had occurred and what action should have been taken".[50] Ms Lahey said:[51]

> It's page 22 of a – probably a 30-page report, and it's one dot point on page 22. I think this should have been the first item on the board agenda if … we had been told the full facts.

62. Dr Pitkin said that she found it "more than disappointing" and "distressing" to think that in the July 2018 board meeting, she and her colleagues were in a room with members of senior management and yet that information did not come out in the meeting.[52] Dr Pitkin referred to the governance implications:[53]

> The board must put in place robust – a robust governance framework. There needs, though, to be a relationship of trust between management and the board. And the board relies upon management to be open and complete in the information that it provides to the board. Otherwise, the board cannot assess what's happening in the business, cannot monitor appropriately, cannot make the right decisions. For the most senior leadership to hide issues from a board, it undermines the very foundation of the governance framework.

63. When asked if she thought the Board had been too trusting of management, Dr Pitkin said:[54]

> The events speak for themselves. Clearly, the trust that the board placed in the CEO and the executive leadership team has been – has been breached. With the benefit of

> hindsight, you could say you shouldn't have trusted them. I didn't have any indications that we – we couldn't trust them, particularly when executives like Mr Hawkins appeared to be happy to give attestations that there were no material compliance issues, literally one month after this board meeting.

The Board's role

64. It is fair to say that in many cases the Board of Star Entertainment was kept in the dark. However, in relation to the overseas payment channels instituted to replace cash payments by patrons in North Asia with BOC Macau, as described in Chapter 16, the Board of Star Entertainment, was informed of, and approved, the initial arrangement with Kuan Koi and the proposed role of EEIS as a lender.

65. These were risky payment channels. The first involved a business arrangement with a junket operator to receive cash from patrons in Macau and then to deposit funds with The Star in Sydney which were apparently his own, for transfer to the front money accounts of other patrons. The second involved patrons making payments to an EEIS bank account, the name of which had no apparent connection to The Star Casino.

66. These payment channels obviously involved significant risks of money-laundering. A number of non-executive directors gave evidence about these risks. Mr Heap acknowledged that in respect of EEIS, interposing an intermediatory between the casino licence holder and the relevant patron or junket raised an additional complication from an AML/CTF perspective.[55] In the context of the Kuan Koi arrangement, Mr Heap said that this raised "a heightened threshold for matters such as AML/CTF obligations".[56]

67. Having approved these arrangements, unbeknownst to the Board and senior management, these payment channels changed into far higher risk channels, involving remitters making huge payments into the EEIS account which had nothing to do with EEIS' role as a lender. The Board, like the AML and Legal Teams, had no idea at all of what was occurring with these payment channels after the middle of 2018. Mr O'Neill gave evidence that relying on a third-party money service business in an overseas jurisdiction to conduct due diligence in respect of the EEIS payment channel created a "genuinely higher level of risk".[57]

68. Having approved these arrangements in their initial form, the Board of Star Entertainment must bear some responsibility, as well as management, for these payment channels becoming uncontrolled.

Courting the risk

69. The picture which emerged from the evidence in this Review was of management choosing to run risks rather than to avoid or contain them. Too often the question which was asked was "how can we do this?" rather than "should we be doing this?"

70. Examples of management choosing to court risks included:

(a) as conceded by The Star Entities, courting the risk that The Star was breaching its Merchant Agreement with NAB in relation to the use of CUP cards;[58]

(b) as conceded by The Star Entities, courting the risk that UnionPay intended or wished to deny access to its CUP card services for the purposes of gambling;[59]

(c) deciding to implement the temporary CCF arrangement in relation to the use of CUP cards in 2014 without obtaining external legal advice and without seeking the approval of the Authority;

(d) proceeding with the Modified Kuan Koi Arrangement without any risk assessment, legal due diligence or Board approval; and

(e) permitting arrangements in Salon 95 to continue after cash for chip exchanges and other concerning cash transactions had been observed to occur in the Salon.

Lack of insight by Star Entertainment

71. The Star Entities' acknowledgements as to problems with risk management have come late. In its closing submissions, The Star Entities accepted that the legal, risk and compliance functions failed in relation to Suncity.[60] The Star Entities accepted that there had also been a number of failures in relation to the risk management process in respect of the use of CUP cards.[61] The Star Entities also accepted that it was open to the Review to find that there were several shortcomings and matters of concern relating to The Star's conduct in relation to the AML/CTF risks associated with the overseas payment channels involving Kuan Koi and EEIS.[62] The Star Entities submitted that it was also open to the Review to find that insufficient attention was given to the AML and suitability risks that were presented by a number of patrons of interest identified in the October 2021 media allegations.[63]

72. Those acknowledgements were not seen in Mr Bekier's 4 February 2022 statement to this Review. In that statement, he explained that the 2019 restructure of the Risk Team following Mr McWilliams' departure achieved "significant improvements". He said that

the merger of the risk and legal functions "was borne out of recognition of the importance of the risk function and a desire to redeploy our best talent to this crucial area".[64]

73. In Mr O'Neill's statement to the Review dated 4 February 2022 he said:[65]

> In my view Paula Martin's appointment as Chief Legal and Compliance Officer has resulted in a marked improvement in the rigour of and quality of The Star Entertainment Group's management of risk, legal and compliance issues, but particularly risk.

74. Ms Martin was prepared to make some highly guarded acknowledgments of risk management failures in her first statement to the Review. She identified shortcomings with:

(a) transaction monitoring for AML/CTF, enhanced customer due diligence and other problems identified by KPMG in 2018, stating in each case these deficiencies had been rectified;[66]

(b) junkets, stating that "the Bergin Report confirmed the view that the risk management settings previously applied by The Star Entertainment Group may not meet expectations going forward in relation to adequately addressing the risks associated with junkets in the context of a recommendation that consideration be given to prohibiting dealings with junket operators altogether";[67]and

(c) The CUP Process, although she said that was "with the benefit of hindsight." The shortcomings were identified by Ms Martin as concentrating on "technical and legal compliance" rather than considering broader questions of commercial and reputational risk; permitting the use of the CUP Process to increase significantly without conducting a further risk assessment since 2013; non-compliance with procedures, including billing CUP charges to "dummy rooms"; and shortcomings with AML/CTF processes.[68]

75. The dangerous combination of deficient risk management processes, a cavalier approach to risk by the business units of Star Entertainment, the lack of a specialist risk champion and the high risk environment of casinos in which Star Entertainment was operating assists to explain how the problems identified in the public hearings of this Review occurred.

The need for a risk averse culture

76. The directors recognised that Star Entertainment's approach to risk during the Relevant Period represented a cultural problem. Mr Heap said:[69]

> there is – there really is quite a strong compliance culture. But a much less sophisticated understanding of risk. And, you know – and the problem with the strong compliance culture in that context is that you can end up with a – sort of a "tick the box" mindset, which is not helpful.

77. Mr Sheppard reflected that:[70]

> There has been a cultural issue affecting a significant part of the senior management team which has caused them to make decisions to either try to address these things by themselves without escalating them or to avoid escalating bad news to the board. So I think, based on that, that is a systemic cultural issue.

78. The operation of casinos involves high risks to the public interest, including the risks of money laundering and criminal infiltration. These risks must be managed and contained if casinos are to be permitted to operate. To manage and contain these risks, the culture of a casino operator must be risk averse.

Chapter 26.4 Assessment of the culture of Star Entertainment

Setting the culture

79. With the exception of Mr Bekier, the Board members of Star Entertainment said that it was the Board which set the culture. Mr O'Neill, Mr Sheppard, Mr Bradley, Dr Pitkin and Mr Heap agreed that it was necessary for culture to be set from the top by the directors.[71]

80. This reflects the Board Terms of Reference dated 28 July 2021, which state that the Board is responsible for "identifying the desired culture, setting the tone in relation to the Company's organisational culture and values and determining if those principles are reflected in the Company's strategic plans and business plans."[72]

81. The non-executive directors accepted that the Board should instil, and seek to enforce, a culture of the company acting lawfully, ethically and responsibly.[73]

82. In March 2020, Mr Heap contributed to a publication from the Australian Institute of Company Directors entitled "Australian Governance Summit 2020 Reader".[74] In this publication Mr Heap wrote:[75]

> Culture is a curious thing, difficult to define but unequivocally impactful in defining an individual or an organisation. While a conversation about culture could traverse

> many issues, directors ought to be particularly interested in fostering a culture that supports ethical behaviour within an organisation. The board of a company clearly has the responsibility to set the culture of a company. They are the guardians of ethical behaviour. If this is not the responsibility of the board, then whose responsibility is it?

83. In his evidence, Mr Heap stated that he still agreed with those statements.[76]

84. Culture is complex and senior management of a large organisation also plainly have an important role in shaping culture. However, Mr Bekier went further than this. Mr Bekier stated the following in response to a question about whether the Board sets the culture:[77]

> I'm in a minority view here, but I think it's management that sets the culture. The board checks management's implementation of that. But the board is only there 10 days a year. I'm not sure they can actually influence the culture. It's management's decisions and actions that - that shape the culture. The board needs to keep an eye on senior management.

85. Regrettably, Mr Bekier's observation reflected the problematic reality at Star Entertainment. The company's governance documents refer to the Board setting the culture. Those documents set the appropriate tone and the directors believed that they were setting the culture. In fact, however, at least in relation to the matters investigated in this Review, the Board had little or no understanding of what people do at Star Entertainment "when no-one is watching".

The VIP International business

86. At an early point in his oral evidence, Mr Bekier attributed the problems at Star Entertainment to a sub-culture comprising the VIP business:[78]

> Well, it's the way and the norms people follow in that isolated - in that relatively small part of the company that deals with the VIP business…
>
> It's essentially dealing with VIP customers like, you know, the way they've been dealt with for the last - or 10 years ago in other parts of the world. And I believe that Star has made a lot of progress in evolving into a very modern company with - with good values at large. But somehow this part of the business didn't move with it and accepted a very different standard of behaviour from guests, from our own staff, to occur in that area…
>
> - I think what has served us well everywhere else is to bring outsiders into the organisation that looked at the things we were doing with fresh eyes. And that has served us really well. We have not done that in that part of the business. We've relied on people with a lot of experience to do what they do. And because it seemed like a bit of a dark art, we didn't challenge them. I didn't challenge them.

87. Mr O'Neill at one point in his evidence attributed the problems to "a particular subculture of, you know, IRB, VIP business and the corporate functions that supported it".[79]

88. The events described in Chapters 15, 16 and 17 support the view that there was a particularly problematic sub-culture in the VIP International business, characterised by business goals having priority over compliance objectives.

89. In relation to Salon 95, Mr White gave evidence to the Review that there was pressure from the business to continue the Suncity service desk in 2018. He said that the pressure was not from just one individual. He said that he had reflected on this matter and that he considered that at least from time to time it could be seen that there was a culture where business goals took priority over compliance goals.[80]

90. Dr Pitkin gave evidence that the "competitive threat" of Crown in Sydney meant that those employees in the VIP business in client-facing roles were "ignoring the rules". Dr Pitkin said that their voices were "the loudest" and the second line of defence comprising the compliance and legal teams "were either silenced…or they were complicit".[81]

91. When questioned further about whether the cultural issues were really limited to a sub-culture within Star Entertainment, Mr Bekier said:[82]

> … when I tried to describe the subculture relating to the international VIP business, I had in mind the 9,000 staff in a lot of functions that, based on what I'm seeing, are doing a great job and a very compliant job. It is only - I think, in my mind, the - the cultural issues have only ever crystallised every time we seem to touch the, you know, traditional VIP domestic and international VIP business. And - and it involves, as you pointed out, people who are not in that function but touch that function in support. So that's what I was trying to describe because I'm seeing all these other people.

92. However, Mr Bekier did ultimately accept that the cultural problems "touched many of the senior executives" at Star Entertainment.[83]

93. In the context of considering the dimensions of the problems revealed by Star Entertainment's communications with NAB in 2019 in relation to the use of CUP cards, Mr O'Neill agreed that there was a serious cultural problem in the organisation:[84]

> Fundamentally, yes, Mr Bell. And - and we had a start of a conversation about, you know, culture, yesterday, and I'm happy to continue it whenever you think fit. And it - it has some of the - some of the hallmarks and similarities of the issues that occurred in the CBA APRA review. It's - certainly from the board's perspective - and again, I refer to the PwC risk and compliance culture review which said on the one hand our compliance capability in the - the sort of middle market made gaming (indistinct) quite good. You know, we're pretty good at ticking boxes; less good at identifying risk. But they also made reference to a culture of no bad news. Or another way of putting it is a culture of only good news. And that - that disturbs me and disturbed me ever since that report came out.

> And, you know, that's caused me to reflect: did the board give messages to, you know, to the - to the management team and beyond that, "Don't give us any bad news. Only give us good news"? That's certainly not - that's not what I think, you know, but sometimes you can be too close to it. But, you know, I try to run a culture with a collegiate, collaborative emphasis. And that - again, with reflection, that - that relies on inherent trust, that collegiate, collaborative way of working as a team. It requires a high level of trust between all the decision makers. And, you know, I've worked with these people for a long while, and - and you do build up a lot of trust. But with that, there's the possibility and the risk that the collaborativeness and the collegiality can stifle or restrict the flow of information, and it can restrict constructive criticism.
>
> And the success of any organisation, in a sustainable sense, requires the leadership to accept constructive criticism no matter what. And I think culturally, in this particular space we're talking about, that's a no bad - it's, you know, a sad example of, "No bad news and - and don't challenge me." And - and there are consequences - apart from consequences for the company, there are consequences for people. Yes. And there are some - I won't name them, but there are some relatively junior people who have been poorly hurt, badly hurt.

94. Whilst the cultural malaise exposed in the evidence to the Review was most clearly seen in the VIP International business, where the risks were most acute, it was demonstrated to be a systemic problem permeating many other aspects of the organisation of Star Entertainment, and fundamentally undermining its risk management processes. The cultural dysfunction had significant adverse consequences for Star Entertainment's capacity to withstand the risks of criminal infiltration and money laundering. It also affected Star Entertainment's external relationships, including its relationships with banks with which it dealt and with the Authority.

False, misleading and unethical communications with banks

95. A significantly dysfunctional aspect of the culture of Star Entertainment was reflected in the organisation's approach to its bankers.

96. The deliberately false documentation provided by The Star to BOC Macau from 2013 to 2017 were considered in Chapter 15. The Star was prepared to provide false documentation to its bank in order to assist its patrons in North Asia to disguise their cash payments to The Star. The information revealed by Star Entertainment's incomplete investigation of this issue to date suggests that this conduct was limited to the International VIP Team.

97. The same cannot be said about Star Entertainment's misleading, untruthful and unethical communications to NAB, and indirectly to UnionPay and the PBOC, in 2019 in relation to the use of CUP cards at Star Entertainment's casinos, which were considered in Chapter 12. This misconduct involved very senior members of the management team at Star

Entertainment including in relation to one of the emails, its Chief Legal and Risk Officer and Chief Financial Officer.

98. There were some attempts by management involved in this misconduct to justify or explain it by suggesting that officers of NAB, and perhaps even UnionPay, were aware that CUP cards were being used at Star Entertainment's casinos to fund gambling.[85] Even if that had been true, if senior management had been operating with an uncompromised ethical compass, they would have recognised that whatever the assumed knowledge of the recipient, Star Entertainment should have been providing truthful and accurate information in correspondence to its banks. The directors of Star Entertainment accepted the force of this proposition.[86] Dr Pitkin labelled Star Entertainment's communications with NAB in 2019 as "dishonest".[87] That description is justified, certainly in an adjectival sense. Mr Sheppard said that he felt the responses were "deliberately deceptive communications".[88] Mr Bradley agreed that certain responses were "totally misleading", "inappropriate" and "unethical".[89] Similarly, Ms Lahey agreed that certain responses were "utterly misleading" and "unethical"[90] and in respect of one response in particular, that it was "obviously a manufactured response".[91]

99. The false communications with NAB cannot be dismissed as mere failings by individuals. The communications involved senior members of a number of teams at Star Entertainment including Treasury, Finance, Legal and Risk. They reflected a systemic, cultural problem at Star Entertainment, as the directors accepted in their evidence.[92]

100. Another cultural dimension of the false communications with the NAB is that more junior officers of Star Entertainment who were involved in the process realised that the communications were wrong and unethical but felt unable to challenge more senior management.

101. Ms Dudek was the most troubling example. In 2019, Ms Dudek was a senior Treasury manager who reported to Ms Scopel. Some of the relevant emails to NAB were signed under her name. Although more junior than others who bear responsibility for the communications, Ms Dudek accepted that she held a senior management position.[93] She agreed that responses which she sent were misleading and that she knew that at the time.[94] She accepted that they were unethical.[95] Yet she said that she felt unable to challenge the responses to NAB which were being sent because she knew that senior management were involved and she did not feel that she could challenge a process that had been in place for a very long time at The Star.[96]

102. There were formal processes in place at Star Entertainment for Ms Dudek to challenge more senior management and report this misconduct. Among other things, as discussed in Chapter 8, Star Entertainment had a whistle-blower policy in place since at least March 2018, which provided guidance to employees on reporting misconduct. Reports could be made in a number of different ways including to a whistle-blower service known as "e-TIPS" and to members of the Ethics Panel including the Chief Legal and Risk Officer and the Group General Counsel. It is perhaps unsurprising that Ms Dudek did not follow the whistle-blower policy in circumstances where the communications to NAB were approved by a senior lawyer and one of the communications had been sanctioned by the Chief Legal and Risk Officer.

103. The directors recognised the significance of this testimony and its cultural dimension.[97] Mr Heap said he was "particularly troubled" by Ms Dudek's evidence, which undermined the ability to institute a "do the right thing" model within the organisation.[98] Mr Bradley described it as "a grave concern".[99] Mr O'Neill said that this "weighed on me heavily".[100]

The use of CUP cards at The Star: an "inherently deceptive" process

104. The use of CUP cards at The Star, which is discussed in Chapter 12, involved disguising, as hotel expenses, the use of the cards by patrons to obtain funds for gambling. As Mr Sheppard accepted, it was an "inherently deceptive" process.[101]

105. The use of CUP cards at The Star is a case study of unethical conduct and cultural failure. The evidence demonstrates an organisation prepared to run the risk of breaching UnionPay Scheme Rules and NSW casino legislation. An organisation which did not pause to consider its role in facilitating the circumvention of Chinese capital flight and foreign currency controls. An organisation prepared to ignore its own operating procedures to facilitate the use of CUP cards by Mr Phillip Lee. An organisation prepared to create "dummy rooms" to disguise the fact that patrons were not in fact staying at the hotel. An organisation prepared to send false and misleading communications to its banks. And an organisation which failed to act frankly or transparently with the Authority in relation to the use of CUP cards for many years.

106. It is also astonishing, despite it being a familiar refrain in this Review, that the directors of Star Entertainment were kept in the dark and had practically no understanding at all about the use of CUP cards at Star Entertainment's casinos, despite it being a channel providing over $900 million in funding for gambling. Some directors of Star Entertainment were

aware of the fact that CUP cards were a source of funds for patrons but had no inkling of the extent of their use or of any problem with the use of the cards until receiving a report in September 2021, in light of the evidence revealed in the RCCOL Report.[102]

107. The use of CUP cards at The Star should never have been permitted to occur at all, as Mr Heap stated.[103]

Misleading the regulator

108. Misleading the Authority in relation to the use of CUP cards was by no means the only example of misleading the Authority revealed by the evidence. The evidence presented to this Review shows a casino operator which treated the Authority with disdain, as an impediment to be worked around.

109. Apart from the use of CUP cards, the circumstances relating to Suncity and Salon 95 discussed in Chapter 13 present a good example of The Star's attitude to the Authority during the Relevant Period. The Regulatory Affairs Manager for Star Entertainment knowingly misled the Authority in 2017 in relation to the proposal at that time for there to be a cage or buy-in desk in Salon 95.[104] The Star did not disclose cash for chip exchanges and other concerning cash transactions which occurred in Salon 95 in May and June 2018, despite the concerns expressed by its General Counsel at that time that this amounted to unlicensed casino operations.[105] In answer to correspondence from L&GNSW in August 2019 following media allegations in relation to Suncity, The Star provided a technically correct response which deliberately avoided addressing the substance of the concerns raised by L&GNSW.[106] In answer to a question from this Review which required The Star to disclose any matters which had occurred during the Relevant Period which might affect its suitability, the issues relating to the service desk in Salon 95 were not disclosed.[107]

Positive aspects of culture

110. It would be unfair to leave the impression that the evidence disclosed to the Review concerning The Star and its culture was wholly negative. Some of the directors pointed out that Star Entertainment is an organisation of over 8,000 employees, most of whom are diligent, honest and "doing the right thing".[108] The Review has cast a spotlight only on certain aspects of the organisation and can only make findings on those areas which were investigated.

111. Part of Ms McKern's expert review was to conduct a survey of employees of The Star holding a casino special employee licence. The survey focused on AML issues. The survey was on an anonymous and voluntary basis and was sent to employees under a message from Mr Bekier which encouraged employee participation. The responses to the survey were generally positive. Ms McKern reported that the majority of respondents indicated that The Star takes the risks of money-laundering seriously and that this has always been the case. The majority rated the quality of The Star's AML/CTF training as good or excellent and said that they felt well-equipped with the knowledge to effectively identify potential indicators of money-laundering related suspicious behaviour. There were mixed responses when employees were asked if they believed that money laundering by individuals or organised crime was likely to be occurring currently at The Star. However respondents indicated that the emphasis that The Star placed on staff training and awareness of anti-money laundering and compliance with key policies had increased from 2016 until now.[109]

112. Star Entertainment commissioned a Risk and Compliance Culture Review by PwC, which reported in January 2022.[110] The PwC report found eight areas of risk and compliance cultural strengths and for key themes for "opportunity". The eight areas of risk and compliance cultural strengths were[111]:

(a) a heightened focus on risk and compliance across Star Entertainment particularly over the previous 18 to 24 months;

(b) a shared consensus that a strong tone from the top was being set on the importance of compliance;

(c) employees frequently spoke about people having good intentions to "do the right thing" with a strong "follow the rule" mentality;

(d) there was a widespread perception, regardless of employee level, division or property, that compliance obligations and suspicious matters are taken seriously and investigated appropriately across Star Entertainment;

(e) employees generally had a good awareness of compliance obligations relevant to Star Entertainment;

(f) it was widely acknowledged that Star Entertainment had technical expertise to support risk and compliance; and

(g) employees were generally proud to work at Star Entertainment, which was reinforced by the proportion of long tenure employees; and employees spoke of close bonds within teams.

113. The four key themes for "opportunity" identified by PwC were:[112]

(a) while there was good intent behind the "do the right thing" campaign, there was a lack of clarity on what "the right thing is" and what Star Entertainment stands for, leading to individual interpretation;

(b) there was a heavy reliance on "follow the rule", a reluctance to change and varying leadership styles were having an impact on employees' comfort to speak up and challenge the status quo;

(c) there was a low level of front-line risk maturity, limited scenario role-based training and deferral of decisions upwards, which was having an impact on ownership and agility; and

(d) these three themes were contributing to inconsistent risk and compliance behaviours and outcomes across properties, guests, managers and teams.

114. The PwC report is generally consistent with the findings of Ms McKern's survey and supports Mr Heap's observation that there is a strong compliance culture at Star Entertainment but a much less sophisticated understanding of risk.[113]

A final word on culture

115. Ms Lahey is the Chair of the People, Culture and Social Responsibility of Star Entertainment. She gave the following evidence:[114]

> Q …Do you agree that there have been significant cultural failures at Star Entertainment which have been disclosed by the evidence to this review of which you're aware?
>
> A: Yes
>
> Q: And those cultural failures are failures for which the board must accept significant responsibility; do you agree?
>
> A: I do.
>
> Q: And do you agree that the evidence discloses respects in which material information which the board of Star Entertainment needed to know being withheld from it?
>
> A: Yes

Q: And would it be fair to say, in your view, that the evidence to this review of which you're aware shows a systemic failure of management to tell the board the unvarnished truth?

A: I think there has been some failure on - on a number of issues - not on all issues, but on the key issues that have come before this inquiry. We haven't had the full picture presented to the board. A piece of the picture and, you know, a clear lack of transparency from the senior management team to the board.

Q: The board needs management to tell it the truth, doesn't it?

A: It absolutely does.

Q: And among other things, one reason for that is that if management is withholding the truth from the board, the board can't ever know whether the risks, in fact, being undertaken by the organisation are within its risk appetite; do you agree?

A: Yes, I do.

Q: And so do you agree that the systemic failure of management to tell the board the truth which has been revealed by the evidence in this review is itself a cultural issue?

A: Yes, it's a cultural issue.

Q: And as the chair of the people, culture and social responsibility committee, do you have any insights as to how these failures of culture have occurred?

A: I think there are a number of reasons that we could identify. I'm not sure which of these apply to our organisation. I'd have to give more thought to it. But certainly that relationship with the regulator was particularly poor. And there was a feeling that as long as we follow the letter of the law, the spirit of the law was something on - to one side. So we were very concerned about legal issues, but only the letter of them. I also think there was perhaps a degree of complacency. A lot of our senior managers had worked together as a team for 15, 16, 17 years. Perhaps there was groupthink, and that is quite common when teams of people work together and they all sort of nod at the same point. There's nobody in that group challenging the views that this is not appropriate, it's illegal, the board should know. There's nobody questioning that. I think for some of the other more junior team members - I've thought about this when I've been reading their memos. Perhaps it was the Peter principle. Perhaps we've been - some people have been promoted beyond their level of competency. It could be all of those factors or it could be one or two of those factors or a range of them.

But, clearly, that - that lack of understanding of the risks of the business and the lack of understanding of where on that risk line we stood between risk aversion and taking risks - as a highly regulated industry, we were at this end. We - we were - we should have been risk-averse for most things and, if in doubt, check with the regulator. And I think that wasn't our first thought. And if you go back to that issue about the letter of the law versus the spirit of the law, you know, that - it comes up under the Casino Control Act that we should be dealing with people of good repute. Well, our team seemed to take a very narrow definition of "good repute". Unless you've been charged with a criminal offence, we assume you're of good repute.

> So those assumptions about good repute, the fact that, you know, the default risk level that we gave to our patrons was always low unless blind Freddy could prove otherwise, it seemed to me that that part of the culture that we've seen in parts of the business - not in all parts of the business, because in other parts of the business, we've got staff that are really engaged and very positive and doing their job properly. I would hate them to be tarred with this brush. There's 8000 of them, and the majority of them are working very hard and doing the right thing. But there's a - there's a group there that haven't been, and we need to make changes to make sure that this doesn't happen again.

Chapter 26.5 The responsibility of the Board for the cultural failings

116. The directors accepted that there had been cultural failings at Star Entertainment.[115] A number of directors also agreed that the Board must accept responsibility for these failings, or was accountable for them.[116]

117. The non-executive members of the Board of Star Entertainment were all well qualified, well intentioned and highly experienced directors. The paradox is that people of this calibre presided over a dysfunctional culture identified by this Review.

118. The culture which the Board of Star Entertainment thought it had set bore little or no relationship to the real culture which was seen in the evidence presented in this Review, the way things operated at Star Entertainment when no one was watching.

119. Prior to the public hearings of this Review, the non-executive directors of Star Entertainment, including its Chair, Mr O'Neill, had little insight into the real state of the culture of Star Entertainment. At the time at which they gave evidence to the Review, they were still coming to terms with what the evidence had revealed.

120. This lack of insight is graphically demonstrated by the events related to the ASX releases issued by the Board of Star Entertainment on 11 and 12 October 2021.

Star Entertainment's ASX Releases of 11 and 12 October 2021

121. As noted in Chapter 7.2, in early October 2021 a series of allegations about Star Entertainment were raised in the media on *60 Minutes*[117] and in the *Sydney Morning Herald* and *The Age*.[118] Those allegations included:

(a) that Star Entertainment had received two "highly critical" reports from KPMG in 2018 about its AML/CTF Program and suggested that Star Entertainment had been "[i]gnoring the warnings";[119]

(b) that "between 2014 and 2018, Star Entertainment had allowed Chinese high-rollers to use special debt and credit cards to withdraw hundreds of millions of dollars in funds from Star's hotel properties in a manner which disguised gambling activity as hotel expenses";[120]

(c) that a particular patron, Mr Xiangmo Huang, was a "high roller" at Star Entertainment properties and was "Australia's most infamous alleged foreign-interference agent and political donor … whose relationship with former Labor Senator Sam Dastyari led to the end of the Australian's political career";[121]

(d) that Star Entertainment had been "busy cutting deals with another entity accused of links to organised crime: a high-roller tour junket company called Suncity" which was reported to have "links to Asian organised-crime gangs and suspected money laundering" and whose "chief executive, Alvin Chau, had been banned on character grounds from entering Australia by the federal government";[122] and

(e) that Mr Phillip Dong Fang Lee had used CUP cards at Star Entertainment properties to move "millions of dollars from China to Australia".[123]

122. Star Entertainment's Board had received notice of these issues by 8 October 2021, as the Board met to discuss a series of questions put to Star Entertainment by one of the principal journalists working on the media allegations, Mr Nick McKenzie.[124]

123. The Board authorised two ASX releases: on 11 October 2021,[125] and 12 October 2021 respectively.[126]

124. In the first of those releases, Star Entertainment told the ASX that "The Star is concerned by a number of assertions within the media reports that it considers misleading",[127] without elaboration.

125. In the second release on 12 October 2021, Star Entertainment provided some elaboration on its earlier release and focused on the media allegations relating to the 2018 KPMG reports. Star Entertainment told the ASX on 12 October 2021:[128]

> Recent media reports have asserted that reports prepared by KPMG in 2018 were kept secret and not adequately acted on. These assertions are incorrect.
>
> The relevant reports relate to the regular independent review of The Star's AML/CTF Program conducted in accordance with the AML/CTF Act and Rules. The reports, findings and outcomes from the review were considered by The Star (including the Board) and acted on. The actions included The Star adopting an updated AML/CTF Program as a priority in October 2018, and undertaking a

> program of work to enhance its AML compliance framework, under the Board's oversight.
>
> Details of the review and resulting reports were shared with the AML/CTF regulator, AUSTRAC and referred to in a statement by The Star to the Bergin Inquiry. This information was also provided to the independent reviewer conducting the subsequent review to inform the assessments undertaken in that next review in 2020-2021.

126. No mention was made of the allegations about CUP cards; of Mr Lee's withdrawal of millions of dollars; of disguising gambling activity as hotel expenses; of dealings with Suncity and its suspected links to organised crime; or of dealings with PEPs such as Mr Huang. As can be seen from Chapters 12, 13, and 21, those allegations were true or substantially so. Further, as addressed in Chapter 18, the KPMG reports *were* highly critical of Star Entertainment's AML/CTF Program. Star Entertainment's statement to the ASX that KPMG's reports were "shared" with AUSTRAC painted a far more benign picture than the reality of Star Entertainment having refused to provide the KPMG reports to AUSTRAC for some 16 months while making an unfounded claim of legal professional privilege. On the other hand, it would be wrong to suggest that Star Entertainment was "ignoring the warnings" from KPMG, at least from 6 August 2018[129] (see Chapter 18.6).

127. Another feature of the Board's responses in October 2021 was that, whilst it had received a sanitised report about CUP as part of Project Zurich in September 2021, many of the serious media allegations related to matters which the Board had not investigated at all and about which it was unaware.

128. Each of Mr Sheppard, Mr Heap, Mr Bradley, Dr Pitkin, Ms Leahy and Mr O'Neill was asked by Counsel Assisting whether they accepted that by focusing on the KPMG reports and matters Star Entertainment considered not to be misleading, and by omitting matters which Star Entertainment knew to be correct, what was said to the ASX was itself misleading.[130] Mr Sheppard accepted that it was "careless" to have approved the 12 October 2021 ASX release in its terms without verifying that the statements about sharing the KPMG reports with regulators were correct,[131] and the other directors gave evidence either expressly or to the effect that they would not have approved the 12 October 2021 ASX release in the terms that were approved, had they known that Star Entertainment had refused to provide KPMG's reports to AUSTRAC for some 16 months with an unfounded claim of legal professional privilege.[132]

129. Star Entertainment's Board allowed a general statement that it considered "a number" of the media allegations to be misleading, and specific statements about the KPMG reports,

to stand in the market and wider community as Star Entertainment's only public response at that time to the media allegations. Those media allegations have now been shown to have been substantially true. The confidence with which the Board responded to the media allegations through its ASX releases in October 2021 contrasts markedly – and negatively – with the Board's lack of awareness of the underlying merit of the allegations and delayed response to requiring investigation of many of them.

130. These matters also of course reflect on the senior management at Star Entertainment who *allowed* the Board to proceed in this way. Mr Sheppard told the Review that he thought this was a combination of "management trying to hide things from the Board" and "management trying to deal with the issues itself and making an inappropriate call that that was the appropriate way to deal with the issues without escalating to the Board".[133] He said these amounted to "shortcomings in the culture of the organisation."[134]

131. The Board of Star Entertainment may well have had a subjective belief in the truth of what was said in its ASX releases of 11 and 12 October 2021, in particular that "The Star is concerned by a number of assertions within the media reports that it considers misleading",[135] but as has been seen the media allegations were substantially correct in many respects. The Board had no knowledge at all about some of the allegations at the time of its announcements. The ASX releases did run the risk of being misleading by focusing on the KPMG reports and allowing a general statement to stand that it considered "a number of assertions" to be misleading without those matters having been fully investigated and tested.

132. Star Entertainment's ASX releases of 11 and 12 October 2021 tell unfavourably against the culture of Star Entertainment. They do so, first and foremost, at the management level, because they show that senior management had not provided important information to the Board in relation to matters that were the subject of public disclosures. The ASX releases also emphasise that at the time of those releases the Board had an unfounded confidence in its position and no real insight into the conduct of the organisation which it led.

The composition of the Board

133. Mr O'Neill identified the qualities that a director should bring to a publicly listed company:[136]

> Honesty; integrity; good character; good judgment; intelligence; depending on the company - the make-up of the company, a particular skill set; discipline; a strong level of curiosity; and a deep - deep obligation to comply with the obligations.

134. Mr Sheppard said that important qualities for a director were:[137]

> Relevant experience, integrity, a set of skills that can add value to the board as a whole a questioning mindset and an ability to make decisions about complex matters.

135. The non-executive directors of Star Entertainment unquestionably had most of these qualities. With the benefit of hindsight, some of the directors expressed regret that they had not asked more questions.[138]

136. Apart from the qualities referred to by Mr O'Neill and Mr Sheppard, another essential requirement of non-executive directors is independence. Just as the senior management team had been in place for long time, so too had the Board. Apart from Mr Heap, who joined the Board in May 2018, all the other non-executive directors had been members of the Board since at least 2014. Mr Bradley, Mr Sheppard and Ms Lahey joined the Board in 2013 and Dr Pitkin joined the Board in 2014.[139] Mr O'Neill had been Chair of Star Entertainment in all its various guises since March 2011.[140] The Board renewal process currently underway is to be welcomed.

Oversight at the level of the casino operator

137. The non-executive directors agreed that active stewardship required the Board to challenge management and hold it to account.[141]

138. In many respects the Board was hampered by senior management which prevented it from receiving information it needed to carry out its functions. However, the Board bears some responsibility for this cultural problem. The Board of Star Entertainment had an obligation to ensure that the organisation had systems and processes in place to get it the information it needed to perform its oversight and monitoring functions, as a number of the directors agreed.[142]

139. Mr Sheppard made the following observation:[143]

> In … all of the organisations that I've been involved with, except this one, there was – the whole system worked on a – it was reinforced by a trust between the board and management. And in this case, that – that trust was misplaced.

140. Unlike the other businesses with which Mr Sheppard had significant experience as a director, Star Entertainment operates casinos. Casinos run high risks of money-laundering and criminal infiltration, arguably higher than any other legally permitted businesses in NSW. Legal casinos are prime targets for organised crime, as the Hon. Xavier Connor QC observed in 1983.[144] That observation is as pertinent today as it was in 1983.

141. Mr O'Neill made the following comment:[145]

> … Maybe as a board, we should have just walked out of the boardroom and gone down to Salon 95 and had a look. Instead of being told or not told about, you know, Salon 95, we could have just simply gone and looked at it.

142. The Board of Star Entertainment was governing a business which operated three casinos in two States, involving a myriad of issues beyond those directly relevant to The Star Casino in Sydney. A lesson from the evidence presented to this Review is that whilst the ultimate owner of The Star Casino may be a holding company conducting businesses in a number of jurisdictions, the casino operator in NSW must have close and direct supervision and governance.

143. The existing approach of Star Entertainment of having members of its senior management team with group responsibilities as the directors of the company operating The Star Casino plainly did not work. There is a need for independent eyes at the level of the casino operator focused exclusively on ensuring that the casino operator complies with its obligations under legislative requirements and its licence.

144. This issue was raised with some of the directors of Star Entertainment in evidence. One option would be to ensure that a majority of the directors of the company operating the casino be independent. Mr Heap made the valid point that a problem of a group of companies having an independent subsidiary board for the company operating the casino is that it creates complexity in terms of responsibility for strategy and governance between the board of the subsidiary and the board of the holding company.[146]

145. Another option which avoids the complexity identified by Mr Heap is for the company operating the casino operator to have a compliance committee separate from its board with a majority of independent members. This committee would have the role of monitoring

the operator's compliance with relevant legislation and licence conditions. An analogue is the role of the compliance committee of the responsible entity of a managed investment scheme under Part 5C.5 of the *Corporations Act 2001*(Cth).

146. Mr Heap, who has operational familiarity with the role of compliance committees in managed investment schemes, said that this was an arrangement which he had seen work effectively in that context. He said that it provided independent people focused on specific compliance issues without having the responsibilities of directorship of a subsidiary board.[147]

147. Mr O'Neill also thought that it was "a good suggestion" and that it "would work" to have "an independent compliance committee of people who really know their stuff in the space."[148]

148. In the context of discussing the events in Salon 95, Dr Pitkin said:[149]

> … the obligations of a casino operator are so significant that there needs to be an additional, external and independent assurance mechanism which is effectively going to be checking the work of management in these core areas. Before these matters came before you, Mr Bell, I would not have thought that was necessary, given the many, many elements in the governance framework to receive information, the assurance procedures. But my view on that now has changed.

149. Dr Pitkin said that for the casino operator to have a compliance committee with independent members focused exclusively on ensuring that the operator was complying with its obligations was very similar to her own idea of having an additional external assurance mechanism.[150]

150. The *Amendment Act* was passed on 11 August 2022, and will amend the *Casino Control Act* (in respect of most of its provisions) with effect from 5 September 2022.[151] This legislation has now implemented Commissioner Bergin SC's recommendation by amending the *Casino Control Act* to make provision for each casino operator to be required to engage an independent and appropriately qualified compliance auditor to report annually on the casino operator's compliance with its obligations under all regulatory statutes, both Commonwealth and State, in particular the *Casino Control Act*, the *Casino Control Regulation* and the terms of its licence.

151. If the operator of The Star Casino had a compliance committee, then this would complement the work of the compliance auditor and provide additional assurance that the casino operator was complying with all relevant legislative and licence requirements.

Chapter 26.6 Remediation currently underway at Star Entertainment

152. In response to a question regarding the fact that a large number of the senior management team had resigned since the commencement of the Review's public hearings, Mr O'Neill reflected:[152]

> … it is a somewhat of an understatement to say that this is a cathartic moment for the company and for the licensee. And the - the evidence that has been given, and the board and my own consideration of the evidence, is such that that cathartic moment requires as much cleansing as possible, and that's what we've attempted to do.

153. The Star Entities acknowledged in their written submissions that a period of deep reflection on the failings exposed by the Review was necessary. They stated that whilst that process is not yet complete and is ongoing, substantive and meaningful steps have already been taken to identify and address the specific failings identified by the Review.

154. The Star Entities pointed out that prior to the commencement of this Review, Star Entertainment had taken a number of measures which removed the source of several problems which have been identified in the evidence:

(a) The Star has ceased the use of EEIS loans and overseas payment channels;[153]

(b) on 25 January 2018, the bank accounts with BOC Macau were closed;[154]

(c) from mid-2018, The Star implemented the findings of the KPMG Reports;[155]

(d) in March 2020, The Star ceased the use of CUP cards for gaming purposes;[156] and

(e) in September 2020, The Star ceased dealing with Suncity and other junkets.[157]

155. Prior to the commencement of this Review, Star Entertainment had also:

(a) in April 2021, commenced "Project Zurich" to respond to the findings of the Bergin Inquiry and the RCCOL;[158] and

(b) in August 2021, commissioned the PwC risk and compliance culture review.

156. The Star Entities stated that they have taken the following remediation steps since the commencement of The Review:

(a) In November 2021, The Star commenced a Renewal Program, which is being overseen by the Renewal Steering Committee.[159] The Board has also formed a Transformation Office to monitor and support the Renewal Program.[160]

(b) On 9 May 2022, The Star announced that it had suspended all rebate play.[161]

(c) Star Entertainment excluded from its casinos patrons of interest identified by the Review.[162] The Star also intends to upgrade its systems to ensure that all persons who have been issued with an exclusion in one State (other than a self-exclusion) are excluded across all casinos.[163]

(d) The Star engaged the law firm Gadens to investigate the alleged practice by employees of encouraging local patrons falsely to claim that they live outside NSW in order to minimise the amount of duty to be paid.[164]

(e) Star Entertainment engaged KPMG to undertake an assessment of patrons who have changed their residency status, in order to consider whether the appropriate duty has been paid.[165]

(f) The Star is developing and implementing further measures to address problem gambling.[166]

(g) The former combined role of Chief Legal and Risk Officer is to be separated into two separate positions, being Chief Risk Officer and Chief Legal Officer respectively.[167]

(h) There is an ongoing Board renewal process taking place. To date the following non-executive directors have resigned:

(i) Executive chairman Mr O'Neill on 20 May 2022; and[168]

(ii) Dr Pitkin on 30 June 2022.[169]

(i) Furthermore Ms Lahey, Mr Bradley and Mr Sheppard have indicated their intention to resign from the Board of Star Entertainment.[170]

(j) Spencer Stuart was retained from late March 2022 to assist Star Entertainment identify appropriate non-executive directors, a managing director and chief executive officer.[171]

(k) On 29 June 2022, Star Entertainment announced the appointment of Mr Robert Cooke as Managing Director and Chief Executive Officer of Star Entertainment.[172]

(l) On 11 July 2022, Star Entertainment announced the appointment of Mr Michael Issenberg as an Independent Non-Executive Director of Star Entertainment (subject to casino regulatory approvals being obtained).[173]

(m) On 20 July 2022, Star Entertainment announced the appointment of Mr Scott Wharton as Chief Executive Officer of The Star Sydney and Group Head of Transformation, pending all necessary regulatory approvals.[174]

(n) On 10 August 2022, Star Entertainment announced that The Star has voluntarily engaged Allen & Overy Consulting as an Independent Monitor to oversee The Star's renewal program and to facilitate transparent reporting on progress to the Board and regulatory bodies.[175]

157. In addition, The Star Entities indicated that a number of senior employees who were involved in conduct the subject of the Review are no longer employed by The Star Entities.[176]

158. The Star Entities in their written submissions also drew attention to improvements to the AML/CTF program which have been considered in Chapter 20 of this Report.

159. The Star Entities state that the Renewal Program commenced by Star Entertainment in November 2021 was designed to improve operations and put in place robust mechanisms to maintain a suitable operating environment.[177]

160. On 1 December 2021, the Board approved updated terms of reference for Star Entertainment's Risk, Compliance and Regulatory Performance Committee (**RCRP Committee**), which was formerly the Risk and Compliance Committee. The RCRP Committee now has additional responsibility for:[178]

> (e) monitoring risk and regulatory compliance culture and "behavioural risk", including adherence to relevant systems, processes and controls, in cooperation with the Remuneration, People and Social Responsibility Committee;
>
> …
>
> (u) providing strategic direction on the company's Regulatory Performance Program (the Program) including its scope, objectives, milestones and resourcing;
>
> (v) reviewing and overseeing the Program, and reporting to the Board on the progress of the Program in terms of time, budget and quality;
>
> (w) reviewing reports from external consultants and advisers supporting the Program;
>
> (x) overseeing the company's engagement strategy with relevant external stakeholders such as regulators and government bodies in relation to the progress of the Program; and
>
> (y) referring any matters to other committees or to the Board, as relevant.

161. The Star Entities submitted that in early 2022, the Regulatory Performance Program referred to in the above terms of reference was extended to include a broader set of renewal projects and was renamed the Renewal Program, overseen by the Renewal Steering Committee (**RSC**). The RSC reports to the RCRP Committee and the Board.[179] Mr Heap is chair of the RSC which also comprises a number of senior executives.[180]

162. A number of aspects of the work of the RSC are confidential. The work of the RSC has, not surprisingly, included consideration of culture, staff capability, criminal influence and exploitation and harm minimisation.[181]

163. The Star Entities state that The Star has engaged Spedding Torres and Associates to provide advice on a refresh of its regulatory strategy, functions and frameworks to move the business to a more proactive and preventative approach to regulatory compliance. The Star Entities state that as part of the re-design of regulatory and compliance functions, the driving principle of The Star's new regulatory operating model is to obey the law and to deal openly and co-operatively with regulators.[182]

164. The Star Entities state that improvements to the regulatory compliance functions will be supported by the development of a capability framework which will inform the development of future position descriptions and underpin recruitment processes across its compliance functions. They state that the framework is intended to provide assurance that The Star employs people with the right type and level of capabilities required for each role.[183]

165. The Star Entities stated in their written submissions to the Review dated 21 June 2022 that The Star was at that time considering further measures to mitigate the risks revealed by the Review. The written submissions stated that it was proposed to implement one or more of the following:[184]

(a) an Office of the Board, within the group's internal organisational structure, which would support the Board and the Board of the casino licensee in NSW, and which would be responsible for assurance functions and regulatory engagement so as to ensure the Board has direct access to and oversight of these activities;

(b) a Monitor Arrangement. Such an arrangement was subsequently announced by Star Entertainment on 10 August 2022;

(c) appointing one or more non-executive directors of Star Entertainment as directors of the licensee;

(d) a Compliance Committee, essentially along the lines of the committee which has now been recommended in this Chapter;

(e) an integrity auditor. This was essentially the compliance auditor which was recommended by Commissioner Bergin and which has now implemented by the *Amendment Act*;

(f) reporting by the AML/CTF Compliance Officer having a direct reporting line to the Board; and

(g) introducing accountability obligations for certain employees with significant influence over the conduct and behaviour of The Star.

166. All of the steps in the remediation process implemented and proposed by The Star Entities are to be welcomed. It is appropriate that measures such as these be taken to endeavour to remediate The Star and Star Entertainment in light of the failings exposed in this Review.

Chapter 26.7 Recommendations

167. **Recommendation**: It is recommended that the Authority take steps to ensure that the senior management of the operator of The Star Casino includes a risk officer (whatever the title which is used), whose role and responsibility is focused exclusively on risk management for The Star Casino.

168. **Recommendation**: It is recommended that the Authority take steps to ensure that the operator of The Star Casino has a Compliance Committee having a majority of independent members, with responsibility for:

(a) monitoring and assessing the casino operator's compliance with its obligations under all regulatory statutes, both Commonwealth and State, in particular the *Casino Control Act*, the *Casino Control Regulation* and the terms of its licence;

(b) reporting to the casino operator any breach of any relevant regulatory requirement or the terms of the casino operator's licence of which the Committee becomes aware or which it suspects;

(c) reporting to the Authority if the Committee is of the view that the casino operator has not taken, or does not propose to take, appropriate action to deal with the matter reported by the Committee; and

(d) such other functions as the Authority considers appropriate.

Endnotes

1 Sheppard: Day 29, T3304.31-.43.

2 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Final Report, 1 February 2019), vol 1, 394.

3 Corporate Governance Principles and Recommendations, 4th Edition, February 2019, at page 1 <https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-fourth-edn.pdf>. This same definition is adopted in the ASIC Corporate Governance Taskforce Report at p.9, Exhibit B-1723, (INQ.017.001.0001 at .0010).

4 Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, p. 375, <https://www.royalcommission.gov.au/system/files/2020-09/fsrc-volume-1-final-report.pdf >.

5 **Exhibit A-378,** para [3] (INQ.002.004.0109).

6 Ibid, para [8], [13].

7 Hawkins: Day 22, T2518.43-47; **Exhibit G-963,** para [10] (INQ.002.004.0282 at .0283).

8 STA.3001.0001.0103; **Exhibit A-378,** para [15] (STA.3071.0001.0064).

9 **Exhibit A-378**, para [40] (INQ.002.004.0109 at .0115).

10 STA.3071.0001.0001.

11 **Exhibit G-57** (STA.5002.0002.0168); **Exhibit H-24** (STA.5002.0003.3900); **Exhibit C-22** (STA.5002.0003.2606); **Exhibit G-63** (STA.5002.0003.2520); **Exhibit B-653** (STA.5002.0004.1012); **Exhibit B-1011** (STA.5002.0004.1047); **Exhibit B-175** (STA.5002.0004.1028); **Exhibit D-21** (STA.5002.0004.1056); **Exhibit B-1554** (STA.5002.0004.1062); **Exhibit H-162** (STA.5002.0004.1068); **Exhibit B-1283** (STA.5002.0005.1230); **Exhibit B-1338** (STA.5001.0005.1520); **Exhibit B-1381** (STA.5002.0005.1448); **Exhibit B-1542** (STA.5002.0005.1428); **Exhibit B-1718** (STA.5002.0005.1472); **Exhibit G-714** (STA.5002.0005.1456); **Exhibit G-802** (STA.5002.0006.2394); **Exhibit H-392** (STA.5002.0006.2409); **Exhibit H-45** (STA.5002.0003.3073).

12 Written Submissions of the Star Entities dated 21 June 2022, para [D.137].

13 White: Day 16, T1804.14-30.

14 Hawkins: Day 24, T2750.11-13.

15 Hawkins: Day 24, T2750.33-36.

16 Bradley: Day 32, T3507.35-42.

17 Sheppard: Day 29, T3319.46-T3320.4.

18 Heap: Day 30, T3368.9-26.

19 Star Entities Written Submissions dated 21 June 2022, para [D.2(h)].

20 Ibid para [D.137] – [D.138].

21 Ibid para [D138].

22 Houlihan: Day 10, T1162.17-33; T1165.38-45.

23 Arnott: Day 13, T1431.4-8.

24 Brodie: Day 21, T2389.34-41.

25 Brodie: Day 21, T2397.17-20.

26 Brodie: Day 21, T2406.32-46.

27 Pitkin: Day 33, T3639.30-46; see also O'Neill: Day 35, T3797.22-.30.

28 **Exhibit B-1716** (STA.5003.0004.0784); **Exhibit B-1973** (STA.5003.0004.0790); **Exhibit B-2291** (STA.3402.0008.0831); **Exhibit H-331** (STA.5003.0005.0943); **Exhibit H-397** (STA.5003.0005.0938); **Exhibit B-2737** (STA.5003.0005.0951); **Exhibit B-2820** (STA.5003.0006.0293); **Exhibit H-450** (STA.5003.0006.0297); **Exhibit H-460** (STA.5003.0006.0288); **Exhibit H-527** (STA.3029.0002.0066).

29 **Exhibit A-905,** para [4] (INQ.002.004.0201).

30 Martin: Day 20, T2277.7-.22.

31 Martin: Day 20, T2285.42-T2286.48.

32 Sheppard: Day 29, T3304.34-.36.

33 O'Neill: Day 35, T3797.48-T3798.6.

34 Jennifer Robertson "The Role of the Company Secretary: Influence, Impact and Integrity", AICD May 2018, https://www.aicd.com.au/content/dam/aicd/pdf/tools-resources/bookstore/previews/Role-of-Company-Secretary-preview.pdf

35 AICD Director Tools "Role of the Company Secretary" <https://www.aicd.com.au/content/dam/aicd/pdf/tools-resources/director-tools/organisation/role-of-the-company-secretary.pdf>

36 O'Neill: Day 34, T3785.21-26.

37 O'Neill: Day 34, T3778.24-29; Sheppard: Day 34, T3742.11-15; Lahey: Day 33, T3645.28-32; Pitkin: Day 32, T3559.19-23; Bradley: Day 32, T3543.36-42, T3544.22-27; Heap: Day 31, T3449.38-48.

38 Sheppard: Day 29, T3290.41-48; Lahey: Day 33, T3694.4-8; Heap: Day 30, T3368.41-46; Bradley: Day 32, T3544.22-27.

39 O'Neill: Day 35, T3807.36-40 and T3808.1-16.

40 **Exhibit A-905,** para [49] (INQ.002.004.0201 at .0209).

41 **Exhibit J-161** (CORRO.001.001.0881).

42 Sheppard: Day 29, T3221.24-T3222.4.

43 Bekier: Day 27, T3061.29-30, T3063.29-39; Lahey; Day 33, T3653.26-32; Heap: Day 31, T3449.32-48; O'Neill: Day 34, T3784.42-46.

44 **Exhibit B-1011** (STA.5002.0004.1047 at .1049).

45 **Exhibit B-753** (STA.5002.0004.1675 at .1696.).

46 Pitkin: Day 32, T3568.15-19.

47 Pitkin: Day 32, T3568.27-30.

48 Pitkin: Day 32, T3569.10-13.

49 Heap: Day 30, T3366.31-44; Bradley: Day 32, T3505.31-T3506.14; Lahey, Day 33, T3655.25-36.

50 Bradley: Day 32, T3506.6-8.

51 Lahey: Day 33, T3655.34-36.

52 Pitkin: Day 32, T3569.43-T3570.1.

53 Pitkin: Day 32, T3570.7-13.

54 Pitkin: Day 32, T3570.38-44.

55 Heap: Day 31, T3436.9-13.

56 Heap: Day 31, T3439.24-27.

57 O'Neill: Day 36, T3918.43-T3919.3

58 Star Entities Written Submissions dated 21 June 2022, para [D.117].

59 Ibid para [D.122].

60 Ibid para [C.2(r)]. See also at [C.2(d), (e), (k) and (p)]; Star Entities Oral Submissions: Day 41, T4164.32-37.

61 Ibid para [D.2(e), (f), (h) and (k)].

62 Ibid para [J.6] and [J.11].

63 Ibid para [L.2].

64 **Exhibit A-72,** para [61] (INQ.002.004.0066 at .0075).

65 **Exhibit A-1055,** para [68] (INQ.002.004.0031 at .0052-.0053).

66 **Exhibit A-905,** para [30]-[35] (INQ.002.004.0201 at .0205-.0206).

67 Ibid para [39] at .0207.

68 Ibid para [42]-[50] at .0208-.0209.

69 Heap: Day 30, T3389.25-28.

70 Sheppard: Day 29, T3290.45-48.

71 Sheppard: Day 29, T3216.7-10; Heap: Day 30, T3342.19 - 3343.9; Pitkin: Day 32, T3549.47-3550.4; O'Neill: Day 34, T3778.6-12; Bekier: Day 26, T2999.19-22; Bradley: Day 31, T3461.1-5.

72 **Exhibit J-70** (INQ.012.005.0020 at .0023).

73 Sheppard: Day 29, T3216.1-5; Lahey: Day 33, T3646.7-11; Heap: Day 30, 3342.13-17; Pitkin: Day 32, T3554.4-8.

74 **Exhibit J-59** (INQ.025.001.0001).

75 Ibid at .0009).

76 Heap: Day 31, T3449.3-5.

77 Bekier: Day 27, T3090.27-31.

78 Bekier: Day 26, T2998.37 - 2999.10.

79 O'Neill: Day 34, T3783.25-30.

80 White: Day 16, T1804.14-.30.

81 Pitkin: Day 33, T3639.20-28.

82 Bekier: Day 28, T3174.14-21.

83 Bekier: Day 28, T3174.23-28.

84 O'Neill: Day 35, T3888.26 to 3889.8.

85 Theodore: Day 25, T2884.19-24; Theodore: Day 26, T2913.9-25, T2916-38-T2917.8; **Exhibit A-1339**, para [76] (INQ.002.004.0145 at .0161).

86 Pitkin: Day 33, T3600.35-.47; Heap: Day 30, T3404.14-22; Bradley: Day 31, T3471.3-9; Lahey: Day 33, T3674.12-17; O'Neill: Day 35, T3889.24-26.

87 Pitkin: Day 33, T3597.24-29.

88 Sheppard: Day 29, T3304.21-22.

89 Bradley: Day 31, T3472.6-11.

90 Lahey: Day 33, T3673.1-12.

91 Lahey: Day 33, T3674.31.

92 Lahey: Day 33, T3675.19-30; Sheppard: Day 29, T3303.4-20.

93 Dudek: Day 1, T24.20-23.

94 Dudek: Day 1, T53.46 – T54.25.

95 Dudek: Day 1, T77.17-20.

96 Dudek: Day 1, T77.22–37.

97 Lahey: Day 33: T3675.32-.38; Sheppard: Day 29, T3303.28 – 3304.8.

98 Heap: Day 30, T3340.1–12.

99 Bradley: Day 31, T3472.20–27.

100 O'Neill: Day 35, T3888.12-21.

101 Sheppard: Day 29, T3278.38-42.

102 Sheppard: Day 29, T3274.29-45; T3277.35-39; Lahey: Day 33, T3669.26-38; O'Neil: Day 34, T3793.1-20; O'Neil: Day 34, T3794.1-4; O'Neil: Day 35, T3882.3-7.

103 Heap: Day 30, T3397.11-19.

104 See Chapter 13 at 39.

105 See Chapter 13 at 142 to 144.

106 See Chapter 13 at 304-305.

107 See Chapter 13 at 357.

108 Heap: Day 30, T3389.31-32; Lahey: Day 33, T3694.46-T3985.1; Sheppard: Day 34, T3744.7-11.

109 **Exhibit C-330** para [2.12] (INQ.018.001.0001 at .0028-.0030).

110 **Exhibit B-3451** (STA.3018.0002.0024).

111 Ibid s 3.1 at .0037.

112 Ibid s 1.4 at .0032.

113 Heap: Day 30, T3389.25-28.

114 Lahey: Day 33, T3693.15-T3695.3.

115 Heap: Day 31, T3449.22-25; Lahey: Day 33, T3693.15-19; Sheppard: Day 29, T3290.44-48.

116 Heap: Day 31, T3449.27-30; Bradley: Day 32, T3508.1-5; Lahey: Day 33, T3693.21-24; Pitkin: Day 32, T3549.16-21; Sheppard: Day 29, T3291.1-9.

117 **Exhibit B-3166** (STA.3412.0013.1938).

118 **Exhibit B-3156** (INQ.014.001.0005).

119 Ibid at .0006.

120 Ibid.

121 Ibid at .0010.

122 Ibid at .0008.

123 Ibid at .0011.

124 **Exhibit H-469** (STA.3029.0002.0063).

125 **Exhibit H-473** (INQ.003.006.0539).

126 **Exhibit B-3176** (STA.3411.0001.7109).

127 **Exhibit H-473** (INQ.003.006.0539).

128 **Exhibit B-3176** (STA.3411.0001.7109).

129 **Exhibit B-1027** (KPMG.001.001.1779).

130 Sheppard: Day 29, T3254.38-41, T3255.20-29; Heap: Day 30, T3422.10-15; Bradley: Day 32, T3533.42-48, T3535.26-34; Pitkin: Day 33, T3633.24-34; Lahey: Day 33, T3690.47-3691.6; O'Neill: Day 35, T3843.41-47.

131 Sheppard: Day 29, T3264.23-T3265.34.

132 Heap: Day 31, T3447.37-T3448.3; Bradley: Day 32, T3541.1-12; Pitkin: Day 33, T3636.20-24; Lahey: Day 33, T3692.6-17; O'Neill: Day 35, T3842.8-12.

133 Sheppard: Day 34, T3741.42-46.

134 Sheppard: Day 34, T3742.6-7.

135 **Exhibit H-473** (INQ.003.006.0539).

136 O'Neill: Day 35, T3865.21-24.

137 Sheppard: Day 29, T3228.29-31.

138 Heap: Day 30, T3367.37-43 and T3386.46 to T3386.2; Bradley: Day 32, T3507.18-25, T3520.20-28 and T3544.39 to T3545.1; Lahey: Day 33, T3656.3-7; Sheppard: Day 34, T3766.6-10.

139 **Exhibit I-395** (INQ.002.002.0198 at .0200-.0201).

140 Ibid at .0200.

141 Heap: Day 30, T3340.41-45; Bradley: Day 31, T3460.1-6; Sheppard: Day 29, T3214.12-16; O'Neill: Day 34, T3778.14-17; Lahey: Day 33, T3645.23-.26; Pitkin: Day 32, T3550.45-3551.

142 Bradley: Day 32, T3543.36-.42; Sheppard: Day 34, T3742.32-42; Pitkin: Day 32, T3549.47-T3550.4.

143 Sheppard: Day 34, T3743.17-20.

144 Xavier Connor, "Report of Board of Inquiry into Casinos in the State of Victoria (April 1983) at [14.1].

145 O'Neill: Day 36, T3929.3-.6.

146 Heap: Day 31, T3450.25-T3451.40.

147 Heap: Day 31, T3452.7-37.

148 O'Neill: Day 36, T3930.12–32.

149 Pitkin: Day 32, T3570.48-T3571.8.

150 Pitkin: Day 32, T3571.41-T3572.2.

151 *Amendment Act*.

152 O'Neill: Day 34, T3773.22-26.

153 Star Entities Written Submissions dated 21 June 2022, para [N.7(e)] and [N.13].

154 Ibid para [J.1] and [J.42].

155 Ibid para [N.9].

156 Ibid para [N.7(a)]; **Exhibit B-3103** (STA.3002.0009.0292 at .0296).

157 Ibid para [C.1] and [N.7(b)].

158 Ibid para [N.14]; **Exhibit B-3376** (STA.3412.0008.7297); **Exhibit B-2982** (STA.3402.0007.2650); **Exhibit B-3103** (STA.3002.0009.0292).

159 Star Entities Written Submissions dated 21 June 2022, para [N.11] and [N.21]-[N41].

160 Ibid para [N.20]; **Exhibit R-11** (STA.3433.0030.7566); Heap: Day 30, T3358.7-9.

161 Star Entities Written Submissions dated 21 June 2022, para [N.7(c)] and [N.12]; **Exhibit J-157** (INQ.003.007.0001); Pitkin: Day 33, T3613.41-T3614.6.

162 Star Entities Written Submissions dated 21 June 2022, para [N.7(f)] and [L.180].

163 Ibid para [N.7(f)].

164 Star Entities Written Submissions dated 21 June 2022, para [N.12] and [H.56]; **Exhibit S-492** (STA.5002.0010.0670).

165 **Exhibit R-16 (**STA.5002.0010.0448).

166 Star Entities Written Submissions dated 21 June 2022, para [N.15].

167 **Exhibit J-137** (STA.5002.0009.0009 at 0011).

168 **Exhibit K-7** (STA.5002.0009.1461).

169 ASX Announcement dated 30 June 2022, https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/06/30-June-2022-ASX-Announcement-Resignation-of-Dr-Sally-Pitkin-Appendix-3Z.pdf

170 Bradley: Day 32, T 3545.17-23, Lahey: Day 33, T3695.17-21, Sheppard: Day 34 T3769.9-24.

171 Star Entities Written Submissions dated 21 June 2022, para [N.17].

172 ASX Announcement dated 29 June 2022, https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/06/29-June-2022-ASX-Announcement-Managing-Director-CEO-Appointment.pdf

173 ASX Announcement dated 11 July 2022, https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/07/11-July-2022-ASX-Announcement-Appointment-of-Michael-Issenberg-as-NED.pdf

174 ASX Announcement dated 20 July 2022, https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/07/20-July-2022-ASX-Announcement-Senior-Executive-Appointment.pdf

175 ASX Announcement dated 10 August 2022, https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/08/10-August-2022-ASX-Announcement-Renewal-Program-Engagement-of-Independent-Monitor-ILGA-Expert-Adviser.pdf

176 Star Entities Written Submissions dated 21 June 2022, para [N.8].

177 Star Entities Written Submissions dated 21 June 2022, para [N.21].

178 Risk, Compliance and Regulatory Performance Committee, Terms of Reference, 1 December 2021, < https://www.starentertainmentgroup.com.au/wp-content/uploads/2021/12/Risk-Compliance-Regulatory-Performance-Terms-of-Reference.pdf >

179 Star Entities Written Submissions dated 21 June 2022, para [N.22].

180 Ibid para [N.23].

181 Ibid para [N.24]-[N.41].

182 Ibid para [N.30]-[N.31].

183 Ibid para [N.31].

184 Ibid para [N.42].

Chapter 27
Suitability

Chapter 27. Suitability

Chapter 27.1 Suitability of The Star

1. The Star Entities stated in their closing submissions:

> The Star accepts that the evidence before the Review permits findings of significant deficiencies and failings. The Star accepts that evidence means it is open for this Review to conclude that, as at the commencement of this Review on 13 September 2021, The Star was not a suitable person to hold the casino licence.[1]

2. This weighty concession by The Star Entities was appropriate and indicates insight that the conduct exposed in this Review was wholly inconsistent with what is required from the holder of a licence to operate a casino in NSW under the *Casino Control Act.* It is unnecessary to recount in detail the reasons why this concession by The Star Entities was appropriate.

3. The test of suitability was analysed in Chapter 6. The governance and cultural failings of The Star and the company which controlled it, Star Entertainment, were assessed in Chapter 26.

4. In the period to 13 September 2021, the conduct of The Star included:

   (a) operating an inherently deceptive process with CUP cards, in which patrons were permitted to use the cards to obtain $900 million for gambling, which was disguised as hotel expenses;

   (b) providing false and misleading information to banks in relation to the use of the CUP cards;

   (c) creating the circumstances in which an entity with likely links to organised crime was conducting cage operations within The Star Casino;

   (d) conducting business with high value patrons who were not of good repute;

   (e) providing false documentation to the BOC Macau over a period of years to disguise payments from patrons;

   (f) following the closure of the BOC Macau account, permitting other overseas payment channels with high risks of money laundering to flourish, with little or no oversight;

(g) breaching its ICMs (which were breaches of its casino licence) or its SOPs on numerous occasions; and

(h) misleading and concealing material information from the Authority on a number of occasions.

5. This conduct was the product of ineffective risk management and governance. It was also the product of a culture which was dysfunctional in relation to the matters investigated in this Review, a culture which condoned unethical conduct, prioritised business goals over compliance objectives, courted risk and discouraged bad news. This was a culture of which the Board of Star Entertainment was largely unaware, because a component of the malaise was that senior management concealed material information from the Board.

6. The Star was not a suitable person to be concerned in or associated with the management and operation of a casino in NSW at the time of commencement of this Review on 13 September 2021.

7. The Star Entities submitted that since 13 September 2021, The Star has become and is now presently suitable to hold its licence to operate a casino. As discussed in Chapter 9, there is utility in assessing the suitability of The Star and its close associates by having regard to conduct and events which have occurred since the commencement of the Review. The Star Entities provided eight reasons why they said that The Star has become and is now presently suitable to hold its licence to operate a casino in NSW.

8. First, The Star Entities said that The Star has demonstrated an understanding of, and insight concerning, the seriousness of the inappropriate conduct identified in the course of this Review. They point to concessions of inappropriate conduct made in closing submissions. They state that each member of the Board of Star Entertainment showed a thorough understanding, and acceptance, of the deficiencies that have been identified.

9. Whilst the concessions made in closing submissions do demonstrate insight of inappropriate conduct by that time, it would have been startling if The Star Entities had not made those concessions in light of the evidence revealed in the Review. No concessions were made until that time. The tone of the witness statements provided to the Review in February 2022 was to downplay any problems.

10. In their evidence in the public hearings, the members of the Board of Star Entertainment did accept that deficiencies had been identified. Again, it would have been startling had

they not. However, whilst it is the case that some members of the Board provided individual hypotheses for the misconduct in response to questions asked of them, it is not the case that members of the Board either individually or collectively understood the reasons for the deficiencies.

11. Board members were clearly shocked by the evidence presented in the public hearings. The emotional response of some of the directors to what they had only recently learned was palpable. A number of the directors made it clear that the reasons why problems had occurred were elusive.

12. The reasons for the systemic failings which occurred are complex and multi-factorial. These are not matters for speculation or hypothesis. What is required is a detailed root cause analysis. That is yet to occur.

13. Secondly, The Star Entities say that no finding was sought by Counsel Assisting that any of the directors of Star Entertainment was not suitable to be a close associate of the licensee. They point out that the character and integrity of the corporate entity will be informed by the character and integrity of those who control its affairs.

14. The suitability of the close associates of The Star is considered below. It is only necessary to consider the suitability of persons and entities who remain close associates. No finding was sought by Counsel Assisting that any of the directors of Star Entertainment who remained as directors at the time of closing submissions was not suitable to be a close associate of The Star.

15. As discussed in Chapter 26, the non-executive members of the Board of Star Entertainment were all well qualified, well intentioned and highly experienced directors. The paradox is that people of this calibre presided over a dysfunctional culture of which they were effectively unaware.

16. In Chapter 6 what has been described as the traditional and broader approaches to assessing corporate suitability were discussed. The traditional approach emphasises that a corporation only acts through the individuals within it, so the assessment of corporate suitability involves an assessment of the suitability of those directors, officers and employees. The broader approach acknowledges that many organisational decisions are more than the combination of individual choices and actions but reflect the systems, structure and culture of a corporation. It acknowledges that an assessment of culture,

governance and systems is critical to suitability and may transcend an assessment of the individuals within the corporation. These two approaches are complementary. Both assessments are necessary.

17. An assessment of the suitability of the directors of Star Entertainment, whilst relevant, does not determine the suitability of the corporation, because it does not address culture, governance and systems. The problems identified at The Star relate to culture, governance and systems. In any event, with the exception of Mr Heap, all of the directors of Star Entertainment as at the commencement of this Review have resigned or have indicated they will resign very soon.

18. The third point made by The Star Entities is that the Board of Star Entertainment took prompt action to ensure that those involved in the misconduct are no longer employed in the business. They say that the key persons who were the focus of, or failed to stop, misconduct are no longer with Star Entertainment or The Star. They point out that resignations of senior management do more than address an immediate problem. They also demonstrate a commitment to ensuring a proper culture by sending a powerful message to all employees as to what the Board will, and will not, countenance.

19. The Board is to be commended for taking prompt action when it became aware of evidence that emerged during the public hearings of this Review. The executives who resigned since the commencement of the public hearings of the Review all gave evidence in those hearings. In many cases it was that evidence which identified shortcomings in the conduct or approach of the executive. There were, however, other executives, some of them senior, who might have been called to give relevant evidence but were not. The time for the Review was finite. There needs to be further investigation and reflection by Star Entertainment before there can be an assurance that all the executives who bear some responsibility for relevant failings have been identified.

20. Moreover whilst it is true that the resignations do send a powerful message to those employees who remain, the removal of individuals is not, of itself, enough to resolve the broader problems of systemic cultural failure which have been identified.

21. The fourth contention made by The Star Entities is that the failures, and the underlying conduct, identified by the Review no longer pose a risk. In particular, The Star Entities point to the following matters, in addition to the resignations of members of senior management:

(a) The Star ceased the use of CUP cards for gaming purposes in March 2020;

(b) the last loan made by EEIS was in March 2020 and no deposits into an EEIS account were made after April 2020;

(c) The Star ceased dealing with junkets (including Suncity) in September 2020; and

(d) The Star has excluded the patrons of interest identified by the Review.

22. The Star Entities accept that past conduct is relevant to present suitability, even if that past conduct is not currently continuing. They say that the weight to be given to past conduct should, however, vary according to the circumstances and nature of the conduct.

23. The identified actions taken by The Star were all responses to external events rather than being steps taken by The Star in recognition that the relevant conduct was wrong. The Star ceased the use of CUP cards because UnionPay had issued a warning letter to NAB. The false information which The Star had provided to NAB had not been accepted by UnionPay or the PBOC. The problems of overseas patrons using remitters to deposit money into an EEIS account had been identified by NAB in and after August 2019. Loans from EEIS were no longer necessary in circumstances where section 74 of the *Casino Control Act* was being amended from 1 July 2020 to permit The Star to extend credit to persons not ordinarily resident in Australia who participated in premium player arrangements or junkets. Suspending dealings with junkets in September 2020 was a response to the revelations of the Bergin Inquiry. Patrons of interest were excluded because of media allegations in 2019, investigation by the Bergin Inquiry, further allegations in October 2021 and subsequent investigation by this Review.

24. The objective circumstances and nature of the problematic conduct which ceased at the times indicated were serious and point to cultural problems. The problematic conduct was not merely historical. It continued right up to, and indeed after, the commencement of this Review. In terms of predicting the future, these cultural problems may manifest themselves in other circumstances.

25. Fifthly, The Star Entities say that insofar as there are outstanding matters to be investigated and resolved, steps have been taken to ensure that any shortcomings do not persist while those investigations occur. In particular, The Star accepts that an audit should take place to determine if there has been a shortfall in a casino duty payable and has engaged KPMG to conduct an audit. In the interim, all rebate play has been suspended.

26. This Review has recommended that the Authority engage its own expert to conduct an audit of casino duty payable by The Star. Nevertheless, it is accepted that the interim steps taken by The Star will ensure that there is no underpayment of duty until the audit has been concluded. This consideration has little bearing on the determination of present suitability.

27. The sixth point made by The Star Entities is that there have been considerable improvements in the AML/CTF program and that there is already a strong foundation for a proper and sound approach to risk and compliance in relation to AML /CTF in the organisation.

28. There have been considerable improvements in the AML/CTF program since the time of the KPMG reports in May 2018. This issue is analysed in Chapter 20. Ms McKern concluded that the AML/CTF uplift program has been extensive and is ongoing.[2]

29. Ms McKern also concluded that that The Star's design and implementation of the TrackVia system and associated technologies was a substantial leap forward towards industry best practice in AML /CTF systems. She noted however that TrackVia was at an early stage of implementation and that there were risks to its ultimate effectiveness which would require management. Ms McKern perceived that a key risk was that the data input to TrackVia could be incomplete or lack integrity.[3] This problem of data being inputted to TrackVia which was incomplete or lacking integrity was identified in evidence to the Review and is discussed in Chapter 20.

30. Having properly documented processes and technology for The Star's AML/CTF program is necessary to address the high risks of money laundering in the casino. However, what is also required to address those risks is that the people using those processes and technology are making correct decisions. This requires a culture of compliance. Serious deficiencies in that culture were demonstrated in the evidence to this Review.

31. The seventh contention by The Star Entities is that whilst it is true that there has been a dramatic change in the Board's understanding of the extent of the issues since the commencement of the Review, those matters were revealed in a context where the Board was already pro-actively setting about improving its processes. This involved a number of the steps referred to in Chapter 26 including Project Zurich, commissioning the PwC risk and compliance culture review and the Renewal Program which commenced in November 2021.

32. Steps by the Board to improve its processes are commendable and no doubt should always be under consideration. Commissioning the PwC risk and compliance culture review and implementing the Renewal Program are undoubtedly positive steps. The Renewal Program is, however, at a very early stage of implementation.

33. The extent of insight resulting from Project Zurich is questionable. The reports which found their way to the Board were sanitised accounts of events which had occurred. The report on CUP stated that the practices of The Star "arguably represented questionable commercial conduct".[4] There can be no sensible argument about the nature of The Star's conduct. It was misleading, deceptive and unethical.

34. Despite having received a number of Project Zurich reports by October 2021, the Board of Star Entertainment issued ASX releases at that time in response to the media allegations which confidently asserted that a number of those allegations were misleading. The Board's lack of insight at the time of those ASX releases is to be contrasted with the sense of betrayal and loss of trust in senior management which they described in the public hearings.

35. The Authority and the NSW public are entitled to share that sense of betrayal and loss of trust in relation to an entity upon which has been conferred the very considerable privilege of a casino licence.

36. Finally, The Star Entities said that there had been no submission made by Counsel Assisting that Star Entertainment or The Star were incapable of reform or that the prospect of reforms was insufficiently certain. It was submitted that the Review should find that the identified reforms will in fact be implemented. The Star Entities stated that necessary steps to determine suitability are: (i) the Board's ability to accept the existence of failures; (ii) to analyse the reasons for those failure; (iii) to remove the cause of the failures and (iv) to commit to a reformation that will remove the likelihood of repetition of such failures. The Star Entities submitted that this has been demonstrated.

37. It needs to be emphasised that although the Updated Terms of Reference require a determination of the suitability of The Star to continue hold a casino licence in NSW, they do not authorise any assessment of the changes which would be necessary to render The Star or its close associates suitable, should they be found to be unsuitable. This may be contrasted with the terms of reference of the Bergin Inquiry, which specifically required consideration of what, if any, changes would be required to render Crown Sydney and

Crown Resorts suitable they were found to be unsuitable. This also contrasts the Updated Terms of Reference with the terms of reference for the RCCOL and PCRC.

38. Consideration of the remediation undertaken to date by The Star only arises for consideration in this Review because of the submission by The Star that the steps which it has taken since 13 September 2021 are sufficient to support a conclusion that it has converted itself to suitability since that time.

39. The Board of Star Entertainment has accepted the existence of failures and has given every indication that it is committed to a reformation of the organisation. However it has not yet determined the reasons for the systemic governance and cultural failures which occurred, or eliminated them. In any event, much more than this would be required. What would be required would be the restoration of public trust and confidence in the credibility and integrity of The Star by the public demonstration of tangible achievements.

40. The PCRC concluded in March 2022 that Crown Resorts and the Burswood Entities were not at that time suitable persons to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino. The reasons for that conclusion are discussed in Chapter 3.

41. As noted in Chapter 3, the PCRC reached the following conclusions in relation to the reputation, character, honesty and integrity of Crown Resorts and the Burswood Entities:[5]

> [95] Public trust and confidence in the credibility and integrity of licensed casino operations is, in part, created and maintained by the reputation and character of companies involved in the gaming operations of a licensed casino. Restoration or rehabilitation of damaged corporate reputation and character requires more than a change of principal officers, although that may be taken into account. It also requires steps to be taken to address any deficiencies in systems, strategy, structure and culture that have caused or contributed to misconduct or failures of the organisation to meet normative standards **and for those steps to be acknowledged by the public.**
>
> …
>
> [98] **Restoration of reputation does not happen overnight and requires demonstration of tangible achievements.** The PCRC is satisfied that, for Crown, the process has commenced but it would be premature to conclude that CRL and the Burswood entities have sufficiently rehabilitated their reputation and character…
>
> (emphasis added)

42. The reformation of The Star is at an early stage and the problems are deep and systemic. There has been no satisfactory demonstration of tangible achievements which would be capable of restoring public trust and confidence in the character and integrity of The Star

to operate a casino in NSW. Whether The Star is capable of satisfactory reformation is not a matter to be determined in this Review. That will be a matter for determination by the Authority. What can be said is that satisfactory reformation has not yet occurred.

43. The Star remains presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW.

44. Because it has been found that The Star remains presently unsuitable to operate a casino in NSW, the recommendations which have been made in the course of this report are framed in terms of recommendations to the Authority in relation to the operator of The Star Casino. It has been assumed that in the future there will be a suitable casino operator.

Chapter 27.2 Star Entertainment and Star Holdings

45. Star Holdings is the holding company of The Star and Star Entertainment is its ultimate holding company. Both of these companies are close associates of The Star.

46. The Star Entities conceded in closing submissions that is open for this Review to conclude that neither Star Holdings nor Star Entertainment was suitable to be a close associate of The Star as at the commencement of this Review.

47. The Star is both wholly owned and managed by Star Entertainment. The Star is wholly dependent on Star Entertainment for governance and resourcing. The directors of The Star are executives of Star Entertainment. They have met as a Board only to pass statutory accounts and for other formal purposes. All key decisions affecting The Star were made by the Board and senior management of Star Entertainment.

48. As discussed in Chapter 6, the corporate relationship is such that to ascertain the suitability of The Star it has been necessary to focus on Star Entertainment and the corporate governance of the group. A corollary is that the suitability of Star Entertainment as a close associate is a function of the suitability of The Star.

49. Star Holdings is also wholly owned and managed by Star Entertainment. Its directors and officers are also executives of Star Entertainment. Its suitability is also a function of the suitability of The Star and Star Entertainment.

50. Star Entertainment was not suitable to be concerned in or associated with the management and operation of a casino in NSW as at the commencement of this Review on 13 September

2021. It remains unsuitable to be concerned in or associated with the management and operation of a casino in NSW.

51. Star Holdings was not suitable to be concerned in or associated with the management and operation of a casino in NSW as at the commencement of this Review on 13 September 2021. It remains unsuitable to be concerned in or associated with the management and operation of a casino in NSW.

Chapter 27.3 EEIS

52. The Star Entities have stated that steps have been taken to wind up EEIS, that EEIS bank accounts have been closed and that lawyers have been instructed to take steps to liquidate the company.

53. Nevertheless, as discussed in Chapter 5, it remains a close associate of The Star. As discussed in Chapter 16, it is a wholly owned subsidiary of Star Entertainment and its directors have been executives of Star Entertainment.

54. EEIS was not suitable to be concerned in or associated with the management and operation of a casino in NSW as at the commencement of this Review on 13 September 2021. It remains unsuitable to be concerned in or associated with the management and operation of a casino in NSW.

Chapter 27.4 The directors of Star Entertainment

55. The directors of Star Entertainment are all close associates of The Star.

56. As discussed in Chapter 9, no useful purpose would be served by assessing the suitability of individual close associates who have resigned since the commencement of the Review and who have no present connection to The Star. Those individuals could not, even hypothetically, pose any ongoing threat to the achievement of the primary objects of the *Casino Control Act*.

57. The remaining directors of Star Entertainment who are close associates of The Star are Ms Lahey, Mr Sheppard, Mr Bradley and Mr Heap. They each gave evidence in the public hearings of the Review. No submission was made by Counsel Assisting that any of the directors was unsuitable to be a close associate of a casino operator in NSW. Their good repute having regard to character, honesty and integrity is not in question.

58. Each of the following persons is a suitable person to be concerned in or associated with the management and operation of a casino in NSW:

(a) Kathleen Lahey;

(b) Wallace Richard Sheppard;

(c) Gerard Patrick Bradley; and

(d) Benjamin Andrew Heap.

Chapter 27.5 The executives of Star Entertainment

59. The following executives of Star Entertainment who were close associates of The Star have resigned since the commencement of the Review: Mr Bekier; Mr Theodore; Ms Martin and Mr Hawkins. Although Mr Theodore is still a director of The Star, The Star Entities informed the Review in correspondence on 15 August 2022 that this is only because The Star's Constitution requires a minimum of two directors and the proposed appointment of a replacement director is pending approval from the Authority. On 19 August 2022, The Star undertook to take all necessary steps to affect the replacement of Mr Theodore as a director of The Star as soon as reasonably practicable following approval of the replacement directors by the Authority.

60. In these circumstances it is unnecessary for the Review to determine the suitability of Mr Bekier, Mr Theodore, Ms Martin and Mr Hawkins as close associates.

61. The remaining individual close associates of The Star are the following executives of Star Entertainment: Ms Jennie Yuen, Ms Kim Lee, Mr Geoff Hogg, Ms Christina Katsibouba, Mr George Hughes, Mr Peter Jenkins and Mr Damian Quayle. None of these executives were called to give evidence in the public or private hearings of the Review. Whilst no credible adverse information has been received in relation to any of these executives, the Review is not in a position to affirmatively determine their suitability. Accordingly, no finding is made about the suitability of these executives.

Endnotes

1 Star Entities Written Submissions dated 21 June 2022, para [A.4].

2 **Exhibit C-330,** para [2.3.1] (INQ.018.001.0001 at .0015).

3 Ibid.

4 **Exhibit B-3103** (STA.3002.0009.0292).

5 **Exhibit M-43** ch 17 para [95] and [98] (INQ.028.001.2015 at .2853-.2854).

APPENDICES

Appendix A
Instrument of Appointment

Independent Liquor & Gaming Authority
NSW GOVERNMENT
A statutory board established under the Gaming and Liquor Administration Act 2007

Instrument of Appointment

To: Adam Bell SC

The Independent Liquor & Gaming Authority (**Authority**), constituted under section 6(1) of the *Gaming and Liquor Administration Act 2007* (NSW), appoints you under sections 143(1) and 143A of the *Casino Control Act 1992* (NSW) (**Act**) to preside over an inquiry for the purpose of the exercise of the Authority's functions including under sections 30 and 141 of the Act.

You have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923* (NSW) as provided by section 143A of the Act.

You have the powers and authorities conferred on a commissioner by Division 2 of Part 2 of the *Royal Commissions Act 1923* (NSW) (except for sections 17(4) and (5)) as provided by section 143A of the Act. The Terms of Reference pursuant to which the inquiry is to be undertaken are annexed hereto. You may be required to inquire into any other matter which the Authority requests in writing from time to time during the term of the inquiry.

A report on the results of the inquiry is to be made to the Authority by 31 March 2022.

Dated: 13 September 2021

Philip Crawford
Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | GPO Box 7060, Sydney NSW 2001
ilga.secretariat@liquorandgaming.nsw.gov.au | liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority

Appendix B
Updated Terms of Reference

NSW GOVERNMENT | Independent Liquor & Gaming Authority

A statutory board established under the Gaming and Liquor Administration Act 2007

Terms of Reference – Review of The Star Pty Ltd

1 The suitability of The Star Pty Limited (as Casino operator) (**The Star**), and each close associate of it, as nominated by the Authority from time to time, as being concerned in, or associated with, the management and operation of The Star casino.

2 The expertise of The Star, having regard to the operations that attach to the holder of a casino licence under the *Casino Control Act 1992* (NSW) (the **Act**) and the Casino Control Regulation 2019 (the **Regulation**), including the extent to which The Star has complied with:

- 2.1 its obligations under the Act;
- 2.2 its obligations under the Regulation;
- 2.3 its obligations under the licence;
- 2.4 legal agreements between the Authority and The Star.

3 The maintenance and administration of systems by The Star to:

- 3.1 ensure that the management and operation of the casino remains free from criminal influence or exploitation;
- 3.2 ensure that gaming in the casino is conducted honestly;
- 3.3 contain and control the potential of the casino to cause harm to the public interest and to individuals and families.

4 The presence and detection of illegal and undesirable activities and people in the casino.

5 The investigation will:

- 5.1 have regard to the recommendations made by the review by Dr Horton QC carried out in 2016, pursuant to section 31 of the Act;
- 5.2 have regard to, and not revisit, matters which have already been sufficiently examined and dealt with, and in respect of which there have been no apparent material changes, by the reports of the inquiries under the Act into The Star in 1997, 2000, 2002, 2003, 2006, 2011, 2016 and in particular the inquiry by Patricia Bergin SC in 2021 into Crown Sydney Gaming Pty Ltd and its close associates; and
- 5.3 have regard to the evidence given by The Star on 4 August 2020 before the Bergin Inquiry which stated that The Star was continuing to operate junket programs, noting that:

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A statutory board established under the Gaming and Liquor Administration Act 2007

(a) on 6 May 2021, the Authority received information from The Star indicating that there were dealings with junket operators until October 2020 (at least), and

(b) The Star's dealings with Suncity and other junket operators in the circumstances identified above raise concerns for the Authority as to The Star's ongoing willingness and capability to comply with its obligations under the Act.

6 The management and operation of The Star's bank accounts, including:

6.1 the acceptance of deposits from overseas patrons, VIP patrons, high rollers, or any other customers of The Star;

6.2 the method of withdrawing credits from The Star's bank accounts;

6.3 the maintenance of records and transaction receipts for international and domestic patrons of The Star, such as ledgers and accounting procedures; and

6.4 the methods and systems by which The Star conducts and monitors transactions through bank accounts associated with it and any related entities and how it prevents money laundering activities taking place within or in connection with those accounts.

7 The implementation, and administration of, gaming harm minimisation programs within The Star.

8 The following matters which the Authority considers relevant:

8.1 The Star's management structure and reporting lines, noting appropriate compliance with internal management controls (ICMs) and legislative requirements;

8.2 The Star's internal reporting mechanisms and follow up procedures to adequately manage potential breaches of Standard Operating Procedures (SOPs) and ICMs;

8.3 the role and standard of culture within The Star, including core values and an ongoing organisation-wide assessment of accountability, education, and compliance;

8.4 the effectiveness of The Star's risk management framework and appropriate distribution of staff responsibilities;

8.5 the prevalence of moneylending and loan sharking at The Star and any links to VIP patrons, problem gambling and international junkets;

8.6 the appropriate management of VIP patrons, high rollers and international patrons at The Star;

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | GPO Box 7060, Sydney NSW 2001
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8.7 the effectiveness of current surveillance processes and facilities at The Star;

8.8 the adequacy of "know your customer" systems, practices and procedures, applicable to all patrons of The Star, including the use of facial recognition technology;

8.9 the accountability for, and management of, gambling chips and free bet vouchers at The Star;

8.10 the execution and management of exclusion orders from The Star;

8.11 the management of controlled contracts at The Star;

8.12 the adequacy of The Star's methods and systems in detecting and preventing money laundering activities from taking place within the casino, its operations, or in connection with any entity associated with The Star, including the AML training of its staff and the recording and reporting of any incidents of money laundering.

9 Scope of the review:

Items 1 to 8 – the period following the release of the report of the review of The Star in 2016 by Dr Horton QC under sections 31 and 143 of the Act up to the commencement of the review of The Star in 2021 under sections 30 and 143 of the Act.

Note: This Terms of Reference document was updated on 14 December 2021.

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | GPO Box 7060, Sydney NSW 2001
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Appendix C
Legislative History of Sections 74 and 75 of the *Casino Control Act* 1992 (NSW)

1. Section 74 of the *Casino Control Act* as originally enacted provided as follows:

> Credit prohibited
>
> (1) A casino operator must not, and an agent of the operator or a casino employee must not, in connection with any gaming in the casino:
>
> (a) accept a wager made otherwise than by means of money or chips;
>
> (b) lend money, chips or any other valuable thing; or
>
> (c) provide money or chips as part of a transaction involving a credit card or a debit card; or
>
> (d) extend any other form of credit; or
>
> (e) except with the approval of the Authority, wholly or partly release or discharge a debt.
>
> (2) It is a condition of a casino licence that the casino operator must not contravene subsection (1) and must not cause, permit, suffer or allow an agent of the operator or a casino employee to contravene that subsection.
>
> (3) It is a condition of a casino licence that an automatic teller machine or any like device is not to be installed within the boundaries of the of the casino.
>
> (4) This section does not limit the operation of section 75 (Cheques and deposit accounts).

2. Section 75 as originally enacted provided as follows:

> (1) In this section:
>
> "cheque" means a cheque (other than a traveller's cheque) that:
>
> (a) is drawn on a bank for a specific amount payable on demand; and
>
> (b) is dated but not post-dated.
>
> (2) A casino operator may establish for a person to deposit account to which is to be credited the amount of any deposit to the account comprising:
>
> (a) money; or
>
> (b) a cheque payable to the operator; or
>
> (c) a traveller 's cheque.
>
> (3) A casino operator may issue to a person who establishes a deposit account and debit to the account chip purchase vouchers, money or a cheque made payable to the person, not exceeding in total value the amount standing to the credit of the account at the time of issue of the vouchers, money or cheque.
>
> (4) A casino operator may, in exchange for a cheque payable to the operator or a traveller's cheque, issue to a person chip purchase vouchers of a value equivalent to the amount of the cheque or traveller's cheque.

(5) A cheque accepted by a casino operator may, by agreement with the operator, be redeemed in exchange for the equivalent in value to the amount of the cheque of any one or more of the following:

(a) money;

(b) a cheque payable to the operator;

(c) chip purchase vouchers;

(d) chips.

(6) It is a condition of a casino licence that the casino operator:

(a) must not accept a cheque from a person if a cheque previously accepted by the operator from the person has not been met on presentation (unless the amount of the cheque not met was subsequently paid to the operator); and

(b) must bank a cheque accepted by the operator under this section within 1 working day after it is accepted; and

(c) must not agree to the redemption of a cheque accepted by the operator for the purpose of avoiding compliance with paragraph (b).

(7) Section 16 (Action not to lie for contracts by way of gaming) of the Gaming and Betting Act 1912 does not apply to prevent an action being brought to recover money on a cheque or other instrument given in payment for chip purchase vouchers, or a credit to a deposit account, under this section.

3. Between 15 May 1992 and 1 June 2009, a number of changes were made to section 75 of the *Casino Control Act* which are detailed below. No changes were made to section 74 during this period.

5 June 1996 - Amendments to section 75

4. On 5 June 1996, the *Casino Control Amendment (Cheques) Act 1996* (NSW), made a number of amendments to section 75 of the *Casino Control Act*:

(a) The definition of "cheque" in section 75(1) was omitted and replaced with the below:[1]

cheque

has the same meaning as in the Cheques and Payment Orders Act 1986 of the Commonwealth, but does not include a traveller's cheque or a cheque that is undated or post-dated.

(b) Section 75(5A) was inserted:[2]

For the purposes only of subsection (5), electronic funds transfer of an amount to an account operated by the casino operator is taken to be payment of that amount in money to the operator.

(c) Section 75(6)(b) was deleted and replaced with "must bank a cheque accepted by the operator under this section within the period of time required by subsection (6A)."[3]

(d) Section 75(6A) was inserted: [4]

> (6A) A cheque must be banked:
>
> (a) within 20 working days after it is accepted, if the cheque is drawn on an account maintained at a branch of the drawee bank that is located outside Australia or an external Territory, or
>
> (b) within 10 working days after it is accepted, if the cheque is for $5,000 or more and is drawn on an account maintained at a branch of the drawee bank that is located in Australia or an external Territory, or
>
> (c) within 1 working day after it is accepted, in any other case.

(e) Part 3 was inserted into Schedule 4 Savings and transitional provisions as follows:[5]

> 3 Banking and redemption of certain cheques received by casino operator
>
> (1) An amendment made by the Casino Control Amendment (Cheques) Act 1996 does not apply to a cheque accepted by the casino operator before the commencement of the amendment, except as provided by subclause (2).
>
> (2) Section 75 (5A) extends to apply in respect of a cheque accepted by the casino operator before the commencement of that subsection, but only so as to authorise the redemption of a cheque by means of an electronic funds transfer made after that commencement.

5. The Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development gave the Second Reading Speech in the Legislative Assembly on 15 May 1996 and explained the purpose of the above amendments:

> The general objective of this bill is to permit a slight alteration to the existing legislative requirement for the presentation of personal cheques from patrons of the Sydney casino. The bill seeks to achieve this objective by ensuring that cheques paid into a patron's deposit account with the Sydney casino operator are banked within 20 working days if the cheques are drawn on an account located outside Australia, banked within 10 working days if each cheque is for $5,000 or more and is drawn on an account located in Australia, and banked within one working day in all other cases. Section 74 of the Casino Control Act prohibits the extension of credit to a patron of the Sydney casino. Given that problem gamblers may seek to borrow money for gambling, a restriction on credit has always been considered important.
>
> It is customary for casino operators to accept cheques from patrons. The Act reflects this practice in allowing the Sydney casino operator to establish for a patron a deposit account to which may be credited cash, a personal cheque or a traveller's cheque. Chip purchase vouchers may then be debited against the patron's deposit account. Some of the advantages of a credit restriction are lost if cheques are allowed to be cashed. If there is no money to cover the cheque, in practical terms credit will have been given. However, the Act addresses this

potential problem in three ways. First, the casino operator is required to bank a cheque accepted from a patron within one business day after it is accepted. Second, the operator is specifically prohibited from accepting post-dated cheques or cheques from persons whose previous cheques were not met on presentation to a bank within one working day. Third, the operator may not agree to the redemption of a cheque accepted from a patron for the purpose of avoiding the obligation to bank the cheque within one business day.

As a restriction on general domestic patrons chasing wins, which is common in some areas of gaming, the one-day cheque presentation requirement is an effective means of preventing patrons who can least afford to gamble from gaining de facto credit. However, as a means of permitting the Sydney casino operator to attract high stakes domestic and international patrons, the current restriction means that the Sydney casino is uncompetitive in these limited but potentially lucrative markets. The Government has determined that there are no commercial or public interest reasons for a one-day cheque presentation requirement applying to premium domestic and international patrons of the Sydney casino.

In seeking to introduce this change, it should be appreciated that the bill will not interfere with the current arrangements whereby all the risks of a dishonoured cheque would rest with the casino operator. In other words, the State cannot be the loser. The Government will not be affected by any bad debts because the gaming operations funded by those debts are still included in the calculation of the casino duty and, most importantly, the community benefit levy payable to the Government. The bill preserves the status quo for cheques of less than $5,000 in the case of patrons without Australian cheque accounts. This may have the effect, on the one hand, of patrons writing cheques for $5,000 or more, simply to take advantage of available cheque presentation time frames.

On the other hand, it is argued that writing a cheque for $5,000 or more will make many patrons think carefully about their capacity to afford a cheque of that value, which is just as it should be. It must also be borne in mind that the Sydney casino operator is unlikely to accept a cheque from a person without first establishing whether that person has sufficient available assets to meet the amount of the cheque. As patrons will be required to establish a rating with the casino operator prior to gambling, the potential for a general patron to cash a cheque for chasing wins is greatly diminished. In the Government's view, this is an important public interest safeguard. The new provisions will not apply to cheques accepted by the casino before the commencement of the proposed amendments, except that electronic funds transfer redemption will be allowed for cheques that have already been accepted.

A further amendment that the bill makes will allow electronic funds transfer as an additional manner in which cheques can be redeemed by a patron. Currently this can be done by cash or cheque, including a traveller's cheque, or a combination of these. While the proposed amendments essentially preserve the status quo for the receipt of cheques by the casino operator, they also bring the commercial operation of the Sydney casino more into line with practices in other casinos around Australia. However, I stress that the proposed increases in the cheque cashing time frame are still well below the limits set by other casinos in other Australian jurisdictions and overseas. The bill provides benefits for important domestic and international casino visitors while at the same time including appropriate safeguards to discourage those who cannot afford large wagers. I commend the bill to the House.[6]

9 November 1998 – Amendment to section 75(7)

6. On 9 November 1998, the *Unlawful Gambling Act 1998* (NSW) commenced and made an amendment to section 75(7) of the *Casino Control Act*. The words "Section 16 (Action not to lie for contracts by way of gaming) of the Gaming and Betting Act 1912" were removed and replaced with "Section 56 of the *Unlawful Gambling Act* 1998".[7]

7. The new provision read as follows:

> (7) Section 56 of the *Unlawful Gambling Act 1998* does not apply to prevent an action being brought to recover money on a cheque or other instrument given in payment for chip purchase vouchers, or a credit to a deposit account, under this section.

26 June 2009 - Amendment to section 75(6A)(a)

8. On 26 June 2009, the time prescribed in section 75(6A)(a) for a casino operator to bank a cheque that was drawn on an account maintained at a branch of the drawee bank that is located outside Australia or an external Territory was increased was increased to 30 working day (from 20 working days).[8]

9. This change was made to bring NSW into line with the Queensland legislation.[9]

27 November 2013 – First amendment to section 74 – Insertion of section 74(5) – Crown able to extend credit to overseas patrons for certain purposes

10. The *Casino Control Amendment (Barangaroo Restricted Gaming Facility) Bill 2013* proposed a number of changes to the *Casino Control Act* to authorise the conduct of gaming in a restricted gaming facility to be situated at Barangaroo South.

11. On 27 November 2013, section 74(5) was inserted into the *Casino Control Act.*[10] It provided as follows:

> (5) Despite any other provision of this section, the holder of a restricted gaming licence may, in the case of a person who is not ordinarily resident in Australia, extend any form of credit to the person to enable the person to participate in:
>
> (a) a premium player arrangement, or
>
> (b) a junket within the meaning of section 76 that is approved by the Authority.

12. As is clear from the text of the provision, section 74(5) was inserted to enable the operator of the restricted gaming facility (i.e. Crown) to extend credit to overseas patrons for certain

purposes. Neither of the second reading speeches given in the Legislative Assembly or the Legislative Council refer to section 74(5) or the ability of Crown to extend credit to premium players and junket players.

13. The insertion of section 74(5) created a disparity between The Star and Crown. Crown, once its restricted gaming facility was open, would be entitled to extend credit to premium players and junket players but The Star would not be entitled to do the same in its existing Sydney casino.

31 August 2018 – Amendments to section 74 and 75 of the *Casino Control Act*

14. On 31 August 2018, section 74(1) of the *Casino Control Act* was amended by the *Casino Control Amendment Act 2018* (NSW) to repeal sub-section (8).[11] That is, the prohibition on a casino operator from wholly or partly releasing or discharging a debt without the approval of the Authority was repealed.

15. This was one of a number of changes that would ultimately be made to section 74 following the *Casino Modernisation Review*. The second reading speech given by the Minister for Lands and Forestry and Minister for Racing on 6 March 2018 in relation to the *Casino Control Amendment Bill 2018* stated:[12]

> The Casino Control Amendment Bill 2018 amends the Casino Control Act 1992 to better align regulatory risk and regulatory practice in the casino environment. These amendments flow from a 2015 independent review undertaken by the agenda group to assess the regulatory regime for casinos. A key consideration of the review was to ensure that, with the pending entry of Crown Sydney into the New South Wales market, there was a consistent regulatory regime in place. This review itself included consultation with key stakeholders from industry, community groups, law enforcement, and other government agencies. The Government's draft response to the review was released in August last year and opened for public comment.
>
> The Casino Control Amendment Bill 2018 now implements the agreed changes. It will remove redundant and overly prescriptive legislative and administrative requirements and introduce an intelligence-led regulatory approach based on outcome-focused internal controls. The bill will provide competitive neutrality between the two casino operators, The Star and Crown Sydney, and the bill will improve harm minimisation measures. It is irrefutable that there is much about a casino's operations that require strong regulatory oversight. There are risks of money laundering and other forms of criminality, or of unfair games being conducted. However, it is also true that not everything that happens at a casino is high risk and warrants the highest level of control, legislative obligations and regulatory reach. With this in mind, the Casino Control Amendment Bill 2018 will remove redundant or excessive provisions and allow the Government to adopt a risk-based approach to regulating casinos.

16. Section 74(1)(e) was not directly referred to in the second reading speech. However, it appears that the previous requirement to obtain the Authority's approval to release or discharge a debt was likely considered a "redundant or excessive provision" and by removing it, the NSW Government was "adopting a risk-based approach to regulating casinos".

17. On 31 August 2018, a number of changes were also made to section 75:

(a) A definition of "related casino operator" was inserted into section 75(1):[13]

> **related casino operator** means a casino operator in another State or Territory that is related (within the meaning of the Corporations Act 2001 of the Commonwealth) to a casino operator under this Act.

(b) Section 75(2) was amended. The words "A casino operator may establish for a person a deposit account" were deleted and replaced with "A person may establish with a casino operator a deposit account"[14]. Following this amendment, section 75(2) reads as follows:

> A person may establish with a casino operator a deposit account to which is to be credited the amount of any deposit to the account comprising:
>
> (a) money, or
>
> (b) a cheque payable to the operator, or
>
> (c) a traveller's cheque.

(c) Section 75(3) was replaced with the following:[15]

> A casino operator may debit to a deposit account established with the casino operator or with a related casino operator an amount to the value of chip purchase vouchers issued to, money paid to or a cheque made payable to the account holder by the casino operator, but not so as to cause the account to be overdrawn at any time.

(d) Section 75(6)(a) was repealed.[16] That is, it was no longer a condition of a casino licence that the casino operator must not accept a cheque from a person if a cheque previously accepted by the operator from the person has not been met on presentation (unless the amount of the cheque not met was subsequently paid to the operator).

18. The second reading speech stated the following:[17]

> Changes to section 75 will allow funds deposited by a player with an operator's sister properties in Australia to be available for play at The Star or Crown Sydney, removing the current need for the player to withdraw and re-deposit them.

19. No further changes have been made to section 75 of the *Casino Control Act*. However, there have been further amendments to section 74 of the *Casino Control Act* and these are outlined below.

21 December 2018 – Further amendments to section 74(1)

20. On 21 December 2018, further changes to section 74(1) came in to effect as a result of the *Casino Control Amendment Act 2018* (NSW).[18]

21. From 21 December 2018, section 74(1) provided as follows:

> (1) A casino operator must not, and an agent of the operator or a casino employee must not, in connection with any gaming in the casino:
>
> (a) accept a wager made otherwise than by means of money or chips (or by means of a complimentary chip purchase voucher as permitted by section 70), or
>
> (b) lend money, chips or any other valuable thing, or
>
> (c) provide money or chips as part of a transaction involving a credit card or a debit card (other than a debit card transaction with a person who is a participant in a premium player arrangement or junket), or
>
> (d) extend any other form of credit.
>
> (e) (Repealed)
>
> [NB. Additions to the provision are indicated by underlining]

22. The second reading speech makes it clear that amendments to section 70 of the *Casino Control Act* were made to allow both The Star and Crown to "provide complimentary chip vouchers to patrons in private gaming areas and premium and junket players".[19] The amendment to section 74(1)(a) was a consequential amendment.

23. The second reading speech does not specifically address the amendment to section 71(1)(c) which provided premium players and junket participants to use debit card transactions to obtain money or chips from a casino operator. However, in the second reading speech, the Minister for Lands and Forestry and Minister for Racing noted that "The premium player and junket markets are important to both The Star and Crown Sydney".[20]

1 July 2020 - Amendments to section 74(5) – Both The Star and Crown can extend credit to certain overseas patrons

24. On 1 July 2020, a change to section 74(5) came in to effect as a result of the *Casino Control Amendment Act 2018* (NSW).

25. From 1 July 2020, section 74(5) provided as follows: [21]

> Despite any other provision of this section, a casino operator (or an agent of the operator or a casino employee) may, in the case of a person who is not ordinarily resident in Australia, extend any form of credit to the person to enable the person to participate in—
>
> (a) a premium player arrangement, or
>
> (b) a junket that is approved by the Authority.

26. The words "the holder of a restricted gaming licence" were removed from the chapeau of section 74(5) and replaced with "a casino operator (or an agent of the operator or a casino employee)".

27. This amendment resolved the disparity between The Star and Crown in relation to the provision of credit to overseas premium players and junket participants.

28. The Minister for Lands and Forestry and Minister for Racing in the second reading speech stated: [22]

> The Casino Control Act already allows Crown Sydney, once operational, to provide credit to non-Australian residents participating in premium player or junket arrangements. Section 74 (5) of the Casino Control Amendment Bill provides a level playing field by enabling The Star to extend direct credit, noting that only premium and junket players who are not ordinarily Australian residents will be eligible.

29. No further changes to section 74 of the *Casino Control Act* have come into effect since 1 July 2020.

Endnotes

1 *Casino Control Amendment (Cheques) Act 1996*, Schedule 1, [1].

2 Ibid, Schedule 1 [2].

3 Ibid, Schedule 1 [3].

4 Ibid, Schedule 1 [4].

5 Ibid, Schedule 1 [5].

6 New South Wales, Parliamentary Debates, Legislative Assembly, 15 May 1996, [5.34] (Richard Face, Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development).

7 *Unlawful Gambling Act 1998* (NSW), Schedule 2.3 [2].

8 *Casino Control Amendment Act 2009* (NSW), Schedule 1 [12].

9 New South Wales, Parliamentary Debates, Legislative Assembly, 17 June 2009 (Kevin Greene, Minister for Gaming and Racing and Minister for Sport and Recreation).

10 *Casino Control Amendment (Barangaroo Restricted Gaming Facility) Act 2013* (NSW), Schedule 1 [29].

11 *Casino Control Amendment Act 2018* (NSW), Schedule 1 [27].

12 New South Wales, Parliamentary Debates, Legislative Assembly, Page 58 (Paul Toole, Minister for Lands and Forestry and Minister for Racing).

13 *Casino Control Amendment Act 2018* (NSW), Schedule 1 [30].

14 Ibid, Schedule 1 [31].

15 Ibid, Schedule 1 [32].

16 Ibid, Schedule 1 [33].

17 New South Wales, Parliamentary Debates, Legislative Assembly, Page 59 (Paul Toole, Minister for Lands and Forestry and Minister for Racing).

18 *Casino Control Amendment Act 2018* (NSW), Schedule 1 [24] – [25]

19 New South Wales, Parliamentary Debates, Legislative Assembly, Page 60 (Paul Toole, Minister for Lands and Forestry and Minister for Racing)

20 Ibid, page 59.

21 *Casino Control Amendment Act 2018* (NSW), Schedule 1 [28].

22 New South Wales, Parliamentary Debates, Legislative Assembly, Page 59 (Paul Toole, Minister for Lands and Forestry and Minister for Racing).

Appendix D
Summary of Media Allegations

Introduction

1. In October 2021, The Star was the subject of numerous allegations in the media starting, on 8 October 2021, with the television program *60 Minutes* broadcasting an episode[1] which aired a variety of serious allegations about The Star and its close associate, Star Entertainment. In many respects the broadcast mirrored allegations made in 2019 about Crown Resorts, which were examined in the 2020 Bergin Inquiry. The allegations in the *60 Minutes* broadcast raised concerns about The Star's susceptibility to money laundering, criminal influence or exploitation and the potential of The Star to cause harm to the public interest and to individuals and families.

2. Subsequently, a number of articles were published in *The Sydney Morning Herald* and *The Age* newspapers, including:

   (a) 10 October 2021: Nick McKenzie and Joel Tozer, "The fallen Star: Sydney's cleanskin casino caught up in 'dirty' company", *The Sydney Morning Herald*;[2]

   (b) 10 October 2021: Nick McKenzie and Joel Tozer, "'No knowledge': Gambling watchdog unaware of criminal infiltration of Star casino", *The Sydney Morning Herald*;[3]

   (c) 11 October 2021: Nick McKenzie and Joel Tozer, "'Dirty' dealings of cleanskin casino", *The Sydney Morning Herald;*[4]

   (d) 11 October 2021: Nick McKenzie and Joel Tozer, "Watchdog blindsided on criminal infiltration", *The Sydney Morning Herald;*[5]

   (e) 11 October 2021: Nick McKenzie and Joel Tozer, "Watchdog unaware of reports on crime infiltration at Star", *The Age*;[6]

   (f) 12 October 2021: Nick McKenzie and Joel Tozer, "Star's high-roller manager was close to accused corporate crook, now fugitive", *The Sydney Morning Herald*;[7]

(g) 12 October 2021: Nick McKenzie and Joel Tozer, "Manager close to accused crook", *The Age;* [8]

(h) 12 October 2021: Nick McKenzie and Joel Tozer, "Star's high-roller manager had 'secret' link to fugitive gambler", *Sydney Morning Herald;*[9]

(i) 12 October 2021: Nick McKenzie and Joel Tozer, "Star boss was close to accused corporate crook", *The Age;*[10]

(j) 13 October 2021: Nick McKenzie, Paul Sakkal and Fergus Hunter: "Casino files show Star did not address risk properly", *The Sydney Morning Herald;*[11] and

(k) 13 October 2021: Nick McKenzie, Paul Sakkal and Fergus Hunter: "Watchdog acts on Star, state faces Crown heat", *The Age.*[12]

3. The media allegations may be summarised broadly as follows:

4. First, that The Star failed to adequately act on reports prepared by KPMG in 2018 (KPMG Reports), which were critical of The Star's anti-money-laundering and risk assessment practices.

5. Second, that between 2014 and 2018, Star Entertainment, with the knowledge of senior management, allowed Chinese high-rollers to use special debit and credit cards, known as China Union Pay cards, to withdraw hundreds of millions of dollars in funds from The Star hotel properties, in a manner which disguised gambling activity as hotel expenses.

6. Third, that The Star or its close associates did not undertake adequate due diligence or allowed certain high roller patrons to continue to gamble despite suspicions about their habits and source of income; alleged links to organised crime; that they were accused of criminal offences or who were politically exposed persons.

7. Fourth, that two Chinese billionaires currently being pursued by the ATO for alleged tax rorting, Mr Phillip Dong Fang Lee and Mr Zu Neng "Scott" Shi, both had accounts at The Star, which have been frozen following suspicious money movements.

8. Fifth, that The Star dealt with Suncity and its CEO Mr Alvin Chau, despite its competitor Crown Resorts being heavily criticised in the media in 2019 for doing so on account of Suncity's alleged links with triads and suspected money laundering

9. Sixth, that Mr John Khoury was permitted to keep gambling and was wooed by The Star Gold Coast with luxury gifts, flights and accommodation, despite being banned from gambling at The Star by the NSW Police Commissioner in around 2012 based on organised crime associations.

10. Seventh, that The Star partnered with tour operators (sometimes referred to as "junkets") that were suspected of being backed by organised crime syndicates.

11. Eighth, that The Star's vice-president of premium service operations, Mr Mark Walker, maintained a secret and longstanding relationship with accused corporate criminal, Mr Michael Gu.

12. Tenth, that there was a practice by Star Entertainment where high value players were encouraged to claim they resided outside of NSW, in order to minimise the tax payable by The Star to the NSW state government.

13. The specific allegations made or referred to in the media in relation to each of these broad allegations is set out below.

KPMG Reports

> The Star failed to address the inadequacies of its anti-money-laundering program which were identified in the KPMG Reports presented to the board's audit committee.[13]

14. The KPMG findings were presented to CEO Mr Matt Bekier in a board audit committee meeting on 24 May 2018. KPMG identified, among other issues, that The Star was "profoundly failing to combat the risk of money laundering, terrorism financing and corruption with its Sydney and Queensland Casinos".[14] The media reported the following findings of the KPMG Reports:[15]

    (a) The Star did not have an AML system "implemented or operated consistently to manage and mitigate its ML/TF risks";

    (b) The Star's AML system "does not consider terrorism financing as required by the AML-CTF Act", a failure which was worse in "specific parts of the business, in particular where the ML/TF risk may be higher";

    (c) The Star's assessment of some gamblers "appear to understate the level of money-laundering risk";

(d) The Star had "no documented money-laundering risk assessment, or risk-assessment methodology" for junkets;

(e) "Due diligence on junket participants is limited";

(f) The Star's monitoring of suspect gambling "may not be adequately detecting customers who may be using SGR to facilitate ML/TF";

(g) "There is inadequate resourcing in place to operate the AML/CTF Program"; and

(h) The Star inconsistently applied AML controls between Sydney and Queensland.

15. The media also reported that:

(a) The Star failed to act on the "highly critical" KPMG Reports, by continuing to deal with suspected criminals, foreign agents and fraudsters as recently as 2021;[16]

(b) The Star failed to report the findings of the KPMG Reports and other issues concerning money laundering risks to the NSW gaming regulator;[17]

(c) AUSTRAC obtained the KPMG Reports as part of its separate inquiry, which is "as a result of a proactive compliance campaign that began in September 2019";[18]

(d) AUSTRAC compelled The Star to hand over confidential documents that "reveal how the listed gaming giant failed to confront money laundering and terrorist financing risks in its Sydney and Queensland casinos;"[19]

(e) in relation to one of the issues raised in the KPMG Reports, that The Star acted inconsistently between its Sydney and Queensland venues.

Use of CUP Cards

16. It was reported the Star allowed Chinese gamblers to use CUP cards to withdraw hundreds of millions of dollars from The Star's hotel properties, in a manner that disguised gambling activity as hotel expenses.[20] The cards are allegedly used to evade China's strict national laws against taking money out of the country for gambling.[21]

17. Gaming analyst, Mr Ben Lee, told journalists that The Star's use of these cards until 2018 was unethical and contrary to anti-money-laundering practices, that it was "brazen", and

that the concealment of the use of these cards indicates that senior management at The Star would have been aware that it was illegal.[22]

18. The media asserted that this was the same as Crown's conduct in Melbourne, which saw Senior Counsel submitting to the 2021 Finkelstein Inquiry that it meant Crown should lose its licence.

Suncity and Alvin Chau

19. The media reported that The Star was in business with junkets that had links to organised crime, in particular, Suncity and its chief executive Mr Chau.[23]

20. In 2020, managers at The Star were "cutting deals" with the Macau high-roller tour junket company, Suncity, despite Crown Resorts being criticised in 2019 for its dealings with Mr Chau and Suncity, which is known for its links to Asian organised crime gangs and money laundering.[24]

21. Both Crown and The Star "preferred to know little about" Mr Chau's activities which included his use of violence and stand-over tactics to collect debts incurred in Australian casinos.[25] The media referred to a 2019 statement by Mr Bekier that The Star would continue to work with Suncity, saying: "Why not? Suncity is the largest junket operator in the world…and we work in a very prescribed and lawful way with junkets that are credible and have been approved, in some states, by the regulators."[26]

22. Mr Chau was banned from Australia on character grounds in August 2019 and was arrested in Macau on 28 November 2021 on charges of criminal association, illegal gambling, money laundering and running an illegal online gambling operation in the Philippines.[27]

23. The media also referenced the ongoing court proceedings against The Star brought by a Star high-roller Mr Guoyi Su, who alleges that in January 2020, The Star encouraged him to deposit millions into an account operated by Mr Chau and Suncity for gambling purposes, but that he was never paid his winnings.[28] The Star has admitted to having dealings with a Suncity representative in those proceedings.

Mark Walker and Michael Gu

24. The media reported that The Star's vice-president of premium service operations, Mr Walker maintained a secret longstanding relationship with Mr Gu, accused corporate misfeasor.[29]

25. It was alleged that Mr Walker, had been hired by The Star in May 2018 after leaving Crown suddenly in the midst of probity-related accusations. It was alleged that whilst at The Star, he oversaw some of the gambling at Crown by Mr Gu and his business partner Mr Harry Huang, who were alleged of embezzling millions of dollars from the failed iProsperity Group, which was funnelled into The Star. It was also alleged that Mr Walker had secret discussions with Mr Gu in early 2019 in which Mr Walker was asked to head an arm of a new gaming business which Mr Gu intended to launch.

26. Mr Gu and Mr Harry Huang, used iProsperity company accounts to gamble at Crown. The media called this "a clear indicator of fraud and money laundering, a fact Crown acknowledged in July warranted investigation when it called an inquiry into Mr Gu's activities at the Melbourne casino".[30] Mr Gu and Mr Harry Huang are reported to have gone on to gamble millions at The Star between 2018 and 2020, encouraged by Mr Walker.[31]

27. The media reports include allegations that:

    (a) Mr Walker was hired by The Star in May 2018 after resigning "suddenly from Crown before he could explain to the firm his knowledge of several probity related issues involving other staff".[32] Mr Walker has denied this and cited "personal reasons" for leaving Crown.[33]

    (b) Mr Walker brought Mr Gu to The Star and advised him on his gambling business dealings. Mr Gu also allegedly offered Mr Walker a job in the new gaming business Mr Gu intended to launch.[34] The media does not suggest that Mr Walker or others at The Star new that Mr Gu was a suspected corporate criminal.[35]

    (c) Mr Gu has left Australia "after allegedly dudding investors in his company iProsperity", which "collapsed in July 2020 owing $325 million to creditors".[36]

Specific patrons

28. It was reported that The Star "ignored a number of red flags" about its high-roller gamblers, while "wooing them with luxury goods, free hotel rooms and other incentives."[37]

Mende Trajkoski

29. In relation to Mende Trajkoski, it was reported that:

    (a) he turned over approximately $175 million at The Star Sydney between 2007 and 2021 playing gaming machines or "pokies", and that AUSTRAC is scrutinising the case of Mr Trajkoski as part of its investigation that commenced in late 2019;[38]

    (b) he withdrew approximately $18 million in cash between 2015 and 2021;

    (c) The Star:[39]

        (i) despite suspicions about his gambling habits and source of income, decided to keep taking Mr Trajkoski's money "until this all blows up";

        (ii) failed to look into whether Mr Trajkoski was in fact a car salesman as he told The Star. Mr Trajkoski was mostly unemployed but otherwise "employed as a part-time courier delivery driver" and that his lifestyle was not consistent with his employment status;

        (iii) failed to "act on red flags" in relation to Mr Trajkoski. The media quotes former Australian Federal Police financial crime investigator, Mr Cameron Watts, that whoever was responsible for looking at Mr Trajkoski over a period of time was "either incredibly bad at [their] job or there is some other reason that this hasn't been picked up";

        (iv) "wooed Trajkoski with lavish gifts for him, his friends and relatives, including penthouse accommodation, luxury watches and handbags" and invited him to become a Diamond Club member; and

        (v) permitted Mr Trajkoski to gamble on the pokies for up to 9 hours at a time.

30. The media reported that Mr Trajkoski was arrested in June 2021 in connection with importing 3 tonnes of cocaine to Australia.[40]

George Nikolic

31. The Star is said to have permitted one of Mr Trajkoski's close associates Mr George Nikolic, a convicted drug trafficker, access to the high roller area, when a "basic internet search of this associate would have exposed him as a convicted drug trafficker recently released from jail."[41]

James Mussillon

32. That The Star "ignored red flags" over several years in relation to Canberra Restauranteur, Mr James Mussillon. Mr Mussillon was charged in August 2021 for money-laundering activity dating back to 2016.[42]

33. The Star identified Mr Mussillon as "suspicious", however continued to provide him with "incentives to continue gambling and recruit others from his network."[43] It was alleged that he was The Star's biggest ACT patron until banned by the NSW Police Commissioner from entering the casino.

John Khoury

34. It was reported that Mr John Khoury who was banned from gambling at The Star Sydney by the NSW police commissioner in around 2012, was allowed to continue gambling at The Star Gold Coast casino.[44]

35. It was alleged that The Star Gold Coast continued to welcome Mr Khoury, who was provided with expensive gifts including flights, accommodation and gambling credits in return for the millions he was bringing in. State and Federal Police investigation 'Northern' uncovered that Mr Khoury moved $39 million into The Star's Gold Coast account between 2010 and 2017. When asked why Mr Khoury was allowed to continue gambling at The Star Gold Coast, a former insider said that "Senior management pushed back when we pointed this out, because he was such a big gambler".[45]

Xiangmo Huang, Simon Pan, Tom Zhou and Ming Chi

36. The media reported that, in 2019, "ASIO met with state policing officials to help gather intelligence on the possible use of The Star by suspected foreign interference agents"[46] and that:[47]

    (a) Federal and state authorities tracked at least 6 high rollers or junket tour operators with links to the Chinese government's overseas influence operations, who had

used The Star to move tens of millions through its casinos and people into or around Australia; and

(b) these discoveries were hinted at in a December 2020 AUSTRAC report, which stated that AUSTRAC had "identified a small number of links between junket tour operations and possible foreign interference activities" and the use of casino accounts for political donations. Those identified included Mr Tom Zhou, Mr Ming Chai, cousin of president Xi Jingping and Mr Xiangmo Huang, accused foreign agent who was stripped of his Australian residency in 2019.

37. In relation to Mr Simon Pan and Mr Zhou, it was reported that:

(a) The Star failed to undertake "basic online due diligence" in relation to Mr Pan and Mr Zhou.

(b) Mr Pan was identified in a 2017 AUSTRAC report as a "junket tour representative" at The Star, and warned of his suspicious casino activities. Mr Pan is also alleged to have ties to high roller tour operatives with Chinese organised crime links and sex trafficking.[48]

(c) Mr Zhou has come to the attention of AUSTRAC and the AFP for his dealings with The Star and as an "organised crime boss" who is allegedly linked to the Chinese government's overseas influence group, the United Front Work Department including as a political donor. The AFP uncovered receipts detailing Mr Zhou's $15 million in transactions at The Star, on his chartered private jet at the Gold Coast.

38. In relation to Mr Huang, it was reported that:

(a) The December 2020 report released by AUSTRAC identified Mr Huang's links to The Star, "Australia's most infamous alleged foreign-interference agent and political donor". Mr Huang, "along with at least two other members of his Australian-based Chinese Communist Party lobbying organisation" was a high-roller at The Star for several years.[49]

(b) Mr Huang employed a Star VIP operations executive as a manager at his Sydney property development company, Yuhu in March 2015, and that AUSTRAC has

identified suspicious transactions involving close associates of Mr Huang up to 2018, before Mr Huang's was banned from Australia by ASIO.[50]

Phillip Dong Fang Lee

39. It was reported that around 2014 and 2015, Mr Lee used The Star's "China Union Pay card system" to move millions of dollars from China to Australia.[51]

Zu Neng Scott Shi

40. It was reported that the ATO have brought Federal Court proceedings against Mr Shi, "alleged corporate fraudster", for withdrawing almost $2 million from ATMs at The Star Sydney over 5 years.[52]

Endnotes

1 **Exhibit B-3152** (INQ.014.001.0069), Transcript of *60 Minutes* broadcast.

2 **Exhibit B-3156** (INQ.014.001.0005).

3 **Exhibit B-3155** (INQ.014.001.0001).

4 **Exhibit B-3169** (INQ.014.001.0012).

5 **Exhibit B-3170** (INQ.014.001.0017).

6 **Exhibit B-3171** (INQ.014.001.0020).

7 **Exhibit J-78** (INQ.014.001.0031).

8 **Exhibit B-3178** (INQ.014.001.0023).

9 **Exhibit B-3180** (INQ.014.001.0028).

10 **Exhibit B-3179** (INQ.014.001.0026).

11 **Exhibit B-3191** (INQ.014.001.0036).

12 **Exhibit B-3193** (INQ.014.001.0040).

13 **Exhibit B-3156** (INQ.014.001.0005).

14 **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B 3169** (INQ.014.001.0012); **Exhibit B-3170** (INQ.014.001.0017).

15 **Exhibit B-3156** (INQ.014.001.0005).

16 Ibid.

17 **Exhibit B-3169** (INQ.014.001.0012);

18 **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B-3169** (INQ.014.001.0012); **Exhibit B-3170** (INQ.014.001.0017); **Exhibit B-3193** (INQ.014.001.0040).

19 **Exhibit B-3192** (INQ.014.001.0038); **Exhibit B-3193** (INQ.014.001.0040).

20 **Exhibit B-3156** (INQ.014.001.0005).

21 **Exhibit B 3169** (INQ.014.001.0012).

22 **Exhibit B-3156** (INQ.014.001.0005).

23 Ibid.

24 **Exhibit B 3169** (INQ.014.001.0012); **Exhibit B-3441** (INQ.014.001.0045).

25 Ibid.

26 **Exhibit B-3156** (INQ.014.001.0005).

27 Ibid.

28 Ibid.

29 **Exhibit B-3180** (INQ.014.001.0028); **Exhibit B-3180** (INQ.014.001.0028).

30 **Exhibit B-3178** (INQ.014.001.0023).

31 **Exhibit B-3180** (INQ.014.001.0028).

32 Ibid.

33 Ibid.

34 Ibid.

35 Ibid.

[36] Ibid.

[37] **Exhibit B-3156** (INQ.014.001.0005).

[38] **Exhibit B-3191** (INQ.014.001.0036).

[39] **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B-3191** (INQ.014.001.0036); **Exhibit B-3193** (INQ.014.001.0040).

[40] **Exhibit B-3156** (INQ.014.001.0005).

[41] Ibid.

[42] **Exhibit B-3169** (INQ.014.001.0012).

[43] **Exhibit B-3156** (INQ.014.001.0005).

[44] Ibid.

[45] Ibid.

[46] Ibid.

[47] Ibid.

[48] **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B 3169** (INQ.014.001.0012).

[49] **Exhibit B-3156** (INQ.014.001.0005).

[50] Ibid.

[51] Ibid.

[52] Ibid.

Appendix E
List of Submissions received prior to hearings

Name	Date received
Ali*	12 December 2021
Anne*	10 December 2021
Beatriz*	8 December 2021
Charles*	8 December 2021
Diya*	22 November 2021
Ed*	7 December 2021
Fatima*	8 December 2021
Hanna*	9 December 2021
Alliance for Gambling Reform	10 December 2021
AGRC at the Australian Institute of Family Studies	24 January 2022
NSW Office of Responsible Gambling	1 February 2022

** The authors of these submissions have been given pseudonyms as their submissions dealt with their experiences or family members' experiences with gambling and the impact that this has had on their lives.*

Appendix F
Procedural Guidelines

NEW SOUTH WALES

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

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

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

GENERAL

1. These Procedural Guidelines relate to the public hearings of the Review established by the Instrument of Appointment issued by the Independent Liquor and Gaming Authority (**Authority**) dated 13 September 2021 pursuant to s.143 of the *Casino Control Act 1992* (NSW) (***Casino Control Act***) to Mr Adam Bell SC.

2. Mr Bell SC has been appointed to conduct the Review with the powers, authorities, protections and immunities conferred by Division 1 and Division 2 of Part 2 of the *Royal Commissions Act* 1923 (NSW) (***Royal Commissions Act***).

3. These Procedural Guidelines may be varied or replaced from time to time. Mr Bell SC may depart from these Procedural Guidelines if he considers it appropriate to do so, subject to the Casino Control Act, Royal Commissions Act and the Terms of Reference issued by the Authority updated on 14 December 2021 (**Terms of Reference**).

4. The Terms of Reference, these Procedural Guidelines and other information relevant to the Review will be available through the Review website, the details for which will be notified separately (**Website**).

PUBLIC HEARINGS

5. On 19 October 2021, the Authority announced that certain hearings of the Review would take place in public.

6. Public hearings will usually be conducted from 10.00am to 1.00pm and from 2.00pm to 5.00pm. On occasions it may be necessary for hearings to occur outside of these times. The dates and times for the public hearings will be published on the Website.

7. Due to the COVID-19 pandemic and current public health orders, public hearings will be

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

APPLICATIONS TO APPEAR

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

To represent a witness while giving evidence

9. Where a legal practitioner seeks authorisation to appear at the public hearings of the Review for the limited purpose of representing an individual while that individual is giving evidence at the public hearing:

   (a) such an application may be made by notifying the Solicitors Assisting the Review in writing prior to the hearing;

   (b) the legal practitioner must indicate whether he or she does not (and in the case of counsel, his or her instructing solicitors do not) act for any other person in relation to the subject matter of the Review, and if either or both so act, why it is appropriate for the practitioner to be authorised to appear; and

   (c) if leave is granted by Mr Bell SC, the legal practitioner will be authorised to appear before the Review for the limited purpose of representing the individual while the individual is giving evidence.

Other applications

10. In any other case, any person or legal practitioner wishing to be granted authorisation to appear at the public hearings of the Review or a specified part thereof should lodge with the Review a written application in the Form annexed to these Procedural Guidelines.

11. The outcome of any written application will be notified to the applicant in writing.

12. Nothing in paragraphs 8 to 11 prevents a person from seeking authorisation to appear at any time, and in particular if an initial application has been refused or something has occurred which leads the person to believe that the person's interests may be affected. Any such application should address the matters identified in the Form annexed to these Procedural Guidelines and will be dealt with by Mr Bell SC at such time as Mr Bell SC

considers appropriate having regard to all relevant considerations.

Terms of authorisation

13. Unless Mr Bell SC otherwise determines, every authorisation to appear is granted on the following conditions:

(a) authorisation may be withdrawn by the Mr Bell SC or made subject to altered or additional limitations or conditions at any time;

(b) the nature and extent of the participation of the authorised person or authorised legal practitioner (as the case may be) in the Review is subject to Mr Bell SC's control from time to time;

(c) the authorised person or authorised legal practitioner (as the case may be)has no automatic right to examine any witness. Amongst other things, Mr Bell SC may, depending on the circumstances at the relevant time, direct that there should be no examination of a particular witness by the authorised person or authorised legal representative (as the case may be), or that any such examination shall be limited as to topic, time or otherwise as Mr Bell SC considers appropriate.

EVIDENCE

14. Pursuant to s.143(3) of the Casino Control Act Mr Bell SC is not bound by the rules or practice of evidence and may inform himself on any matter and in such manner as he considers appropriate.

15. Sub-sections 17(1) to 17(3) of the Royal Commissions Act are applicable to persons appearing before, or producing documents to, the Review. In particular, and without limiting the terms of those sub-sections:

(a) A witness summonsed to appear before the Review and/or or to produce documents to the Review is not excused from answering a question or producing documents on the ground of legal professional or other privilege, or self-incrimination, or a duty of secrecy or other restriction on disclosure, or any other ground.

(b) There are restrictions on the use to which any answers given or documents produced to the Review may be used against the person in other proceedings.

WITNESSES

16. A witness must take an oath or make an affirmation prior to giving oral evidence at a public hearing of the Review. Witnesses choosing to take an oath are not required to hold a religious text. In circumstances where a witness would like to swear an oath upon a religious text, it will be the responsibility of the witness and/or their legal representative(s) to ensure that text is available.

17. Subject to the control of Mr Bell SC, Counsel Assisting the Review will determine which witnesses are called and the order in which those witnesses are called and examined at the public hearings. It may be necessary to call some witnesses to give evidence on more than one occasion.

18. Mr Bell SC may decide to receive the evidence of a witness orally or by written statement or both.

19. Where a claim for confidentiality is sought to be made in respect of any part of a witness statement or annexure or attachment thereto the extent of the claim should be indicated to those assisting the Review by blue shading. The basis for any confidentiality claim should be precisely stated at the time that the witness statements and their annexures or attachments are provided to those assisting the Review.

20. Persons required to give oral evidence will be provided with notice of the time Counsel Assisting the Review will call upon their Summons to attend to give evidence. Witnesses with a particular period of unavailability should give notice of that unavailability to the Review at the earliest possible opportunity.

21. Witnesses will provide oral evidence by examination by Counsel Assisting the Review.

22. It may be that witnesses will be questioned by or on behalf of any person considered by the Mr Bell SC to have sufficient interest to do so. The witness may then be examined by his or her own legal representative. Counsel Assisting the Review may then question the witness at the conclusion of this process. Duplication and repetition must be avoided.

23. Mr Bell SC may:

    (a) limit the particular topics or issues upon which a witness may be examined;

    (b) impose time limits upon examination of a witness.

24. If Mr Bell SC is to be invited to disbelieve a witness, the material grounds upon which it is said that the evidence should be disbelieved should be put to the witness so that the witness may have an opportunity to offer an explanation.

25. Where it is to be contended that deliberately false evidence has been given, or that there has been a mistake on the part of the witness on a significant issue, the grounds of such contention must be put to the witness.

26. Any person wishing to have evidence placed before the public hearings of the Review must notify the Review of the name of the witness and provide a statement containing the evidence the witness wishes to provide signed by the witness unless for good reason that is not possible. Counsel Assisting the Review will decide whether or not the statement of the witness will be tendered and/or whether the witness will give oral evidence at the public hearings. An application may be made directly to Mr Bell SC for the witness to provide evidence only after the above procedure has been completed.

27. A copy of any document proposed to be put to a witness during the public hearings must be provided to Counsel Assisting the Review as soon as possible after a decision is made to use the document and in all cases prior to its intended use.

DOCUMENTS

28. Subject to the control of Mr Bell SC, Counsel Assisting the Review will determine which documents are tendered in evidence at the public hearings of the Review and the time at which they will be tendered.

29. Mr Bell SC will determine which authorised persons, authorised legal representatives and other persons (if any) are to be provided with access to documents tendered for the purposes of the public hearings.

30. Any application (other than in a hearing) for access by an authorised person, an authorised legal representative or any other person, to documents that have been tendered as exhibits in the public hearings of the Review should be notified to the Review in writing.

31. Prior to the anticipated tender of some documents for the purposes of the public hearings those persons considered by Mr Bell SC to be substantially and directly interested in the subject matter to which the documents relate (or their legal representatives) may be granted confidential access to those documents.

32. Until marked as exhibits in the public hearings of the Review, the contents of any documents to which access has been granted are not to be published to any persons other than persons to whom Mr Bell SC has granted access and are to be kept confidential and not to be used for purposes other than in connection with the Review.

33. Persons who are granted access to any documents prior to their tender in evidence at the public hearings of the Review are not to provide a copy of those documents or facilitate any person gaining access to any part thereof in respect of which access has not been granted.

34. Any person wishing to have a document placed before the public hearings of the Review must notify the Review by providing a copy of the document to the Review. The production of other documents may then be required. Counsel Assisting the Review will decide whether or not to tender any document for the purposes of the public hearings. An application may be made directly to Mr Bell SC to tender a document for the purposes of the public hearings only after the above procedure has been completed

TRANSCRIPTS OF PUBLIC HEARINGS

35. Where a transcript of any part of the public hearings of the Review is made available, any person seeking to make corrections thereto should do so by way of notice in writing to the Review as soon as possible. Oral applications for urgent transcript corrections of significance may be made at public hearings of the Review.

36. The transcript of the public hearings of the Review may be published on the Website unless a direction is made prohibiting the publication of particular evidence.

NON-PUBLICATION AND PRIVATE HEARINGS

37. Pursuant to s.143B(1) of the Casino Control Act, Mr Bell SC may, by order in writing, direct that:

(a) any evidence given at the Review, or

(b) the contents of any document, or a description of anything, produced at the Review, or

(c) any information that might enable a person who has given or may be about to give evidence at the Review to be identified or located, or

(d) the fact that any person has given or may be about to give evidence at a public hearing of the Review,

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

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

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

39. Any application for a Non-Publication Direction or for a hearing or part thereof to be held in private should be notified and made as soon as possible to the Review and, where possible, this should be in writing. The notification and application should clearly identify the material or the part of the hearing (as may be appropriate) in respect of which the application is sought and the facts, matters, circumstances and grounds on which the application is made.

40. Mr Bell SC will determine the procedure in respect of any such application, including whether to receive written or oral submissions.

PUBLIC HEARINGS IN A VIRTUAL ENVIRONMENT

41. Apart from Counsel and Solicitors Assisting the Review, access to the Virtual Hearing Room will be limited to the following persons, subject to any further directions Mr Bell SC may make

(a) witnesses called to give evidence before the Review; and

(b) any persons or legal practitioners with authorisation to appear at the relevant time.

(together, **Participants**).

42. If a Participant believes that they will be unable to attend via the Virtual Hearing Room they should immediately make contact with the Solicitors Assisting the Review to discuss alternative arrangements.

43. Unless Mr Bell SC makes a direction to the contrary, public hearings will be livestreamed on the Website subject to a five minute delay. All other persons wishing to observe the public hearings may do so via the livestream on the Website.

44. In order to access the Virtual Hearing Room, Participants are required to:

(a) prepare a list containing the names, email addresses and mobile phone numbers of each person requiring access to the Virtual Hearing Room; and

(b) email the list at least 24 hours prior to the hearing they propose to attend to the Solicitors Assisting at **TheStarReview@maddocks.com.au** using 'Proposed Participants for Virtual Hearings – [Name of Party]' as the subject line of the email.

45. Participants will then be provided with log-in details enabling them to access the Virtual

Hearing Room.

46. Only one legal representative for each witness and party who has been granted leave to appear (**Nominated Legal Representative**) will be able to turn on their camera, unmute their microphone and address the Review during the public hearings subject to the following:

(a) the Nominated Legal Representative should mute their microphone while Counsel Assisting the Review is examining a witness unless it is necessary to make an objection;

(b) when considering the need to address the Review, the Nominated Legal Representative should have regard to the need for the Review to maintain orderly proceedings and the added difficulty of maintaining orderly proceedings in a virtual environment.

47. Device checks will be arranged with witnesses called to give evidence before the Review in the days before they are scheduled to give evidence, to confirm that their technology is operating effectively. Nominated Legal Representatives are permitted to attend such device checks.

48. When attending the Virtual Hearing Room:

(a) all Participants must ensure that they are situated in a quiet physical location where they will avoid interruption;

(b) save as may be necessary for the limited purposes of receiving technological support and assistance to identify and call up documents and subject to any directions Mr Bell SC may make from time to time, witnesses must ensure that there are no other persons present in that physical location while giving evidence before the Review.

49. Participants other than witnesses and their Nominated Legal Representative must mute their microphones and ensure that their camera is turned off.

50. Witnesses will be placed into a virtual breakout room until they are called to give evidence.

51. Witnesses and their Nominated Legal Representative must log in 30 minutes prior to the scheduled commencement of the witness' evidence, with their microphone on mute and their camera turned on. A final device check will be conducted at this time. Witnesses will be invited to unmute their microphone immediately prior to giving evidence, and their

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

52. Other Participants (other than a witness and their Nominated Legal Representative) must log in 15 minutes prior to the scheduled commencement of the public hearing.

53. Those persons who have been given access to the Virtual Hearing Room, other than Nominated Legal Representatives and witnesses, will not be permitted to address the Review, unless exceptional circumstances apply, and will have their camera and microphone settings disabled throughout the public hearings accordingly.

HEARING BOOK

54. Relevant parts of the Review's online Hearing Book (**Hearing Book**) will be accessible to Participants. Participants will be sent an invitation to access the Hearing Book in due course.

55. Access to the Hearing Book is expressly subject to an undertaking given by the accessing party that information contained in the Hearing Book will not be published or otherwise disclosed unless and until it has been made publicly available by the Review.

56. Counsel and Solicitors Assisting the Review will determine which materials provided to the Review will be uploaded to the Hearing Book.

57. As a general guide, the Hearing Book will contain:
    (a) witness statements and their attachments;
    (b) other documents identified as being relevant to the evidence of witnesses;
    (c) exhibits; and
    (d) transcripts of public hearings.

58. Those assisting the Review will provide access to the Hearing Book as soon as feasible prior to the commencement of the relevant hearing. Those assisting the Review will have regard to any claims for confidentiality the bases for which have been precisely stated at the time of production of documents and which have been accepted by Mr Bell SC. All claims for confidentiality over a document or part thereof not already accepted by Mr Bell SC should be notified to the Review within two (2) business days of receiving access to the Hearing Book, and within one (1) business day of receiving a supplement to the Hearing Book. Where a claim for confidentiality is made the precise basis for the claim should be stated in writing and the claiming party should identify the documents or parts of documents claimed to be confidential with blue shading.

59. It is anticipated that the Hearing Book will be supplemented from time to time during the

course of the public hearings.

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

PRIOR NOTIFICATION OF ISSUES

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

SUBMISSIONS

62. Mr Bell SC may make directions in relation to whether and upon which matters submissions should be made and whether submissions are to be made orally and/or in writing to the Review in relation to matters raised in the public hearings of the Review.

63. Mr Bell SC may limit the persons who may make submissions on matters raised in the public hearings of the Review and the particular topics or issues that may be addressed. Time or page limits on submissions may also be imposed.

Mr Adam Bell SC
17 February 2022

ANNEXURE A - APPLICATION FOR AUTHORISATION TO APPEAR AT PUBLIC HEARINGS

Part 1 - Name and contact details of Applicant

Name:

Address:

Contact person:

Telephone:

Email:

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

Name of counsel (if applicable):

Address:

Telephone:

Email:

Name of solicitor:

Firm name:

Contact person:

Address:

Telephone:

Email:

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Part 3 - Terms of Reference

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

Part 4 - Nature and extent of interest

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

Part 5 - Assistance to the Review

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

Part 6 - Conflicts

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

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

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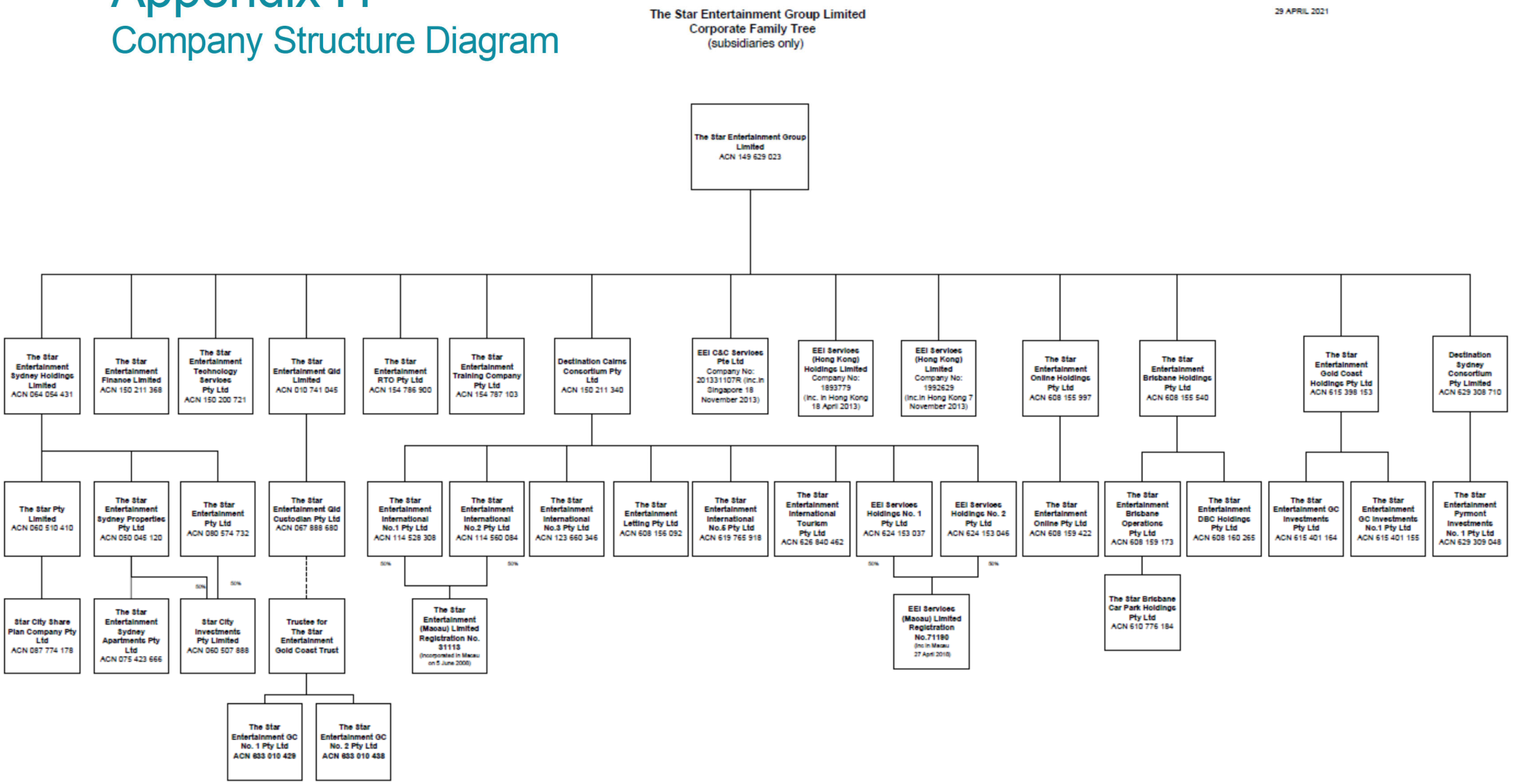
Appendix G

List of witnesses and dates on which they appeared

Witness	Role	Date(s) on which appeared
Paulina Dudek	Assistant Group Treasurer, Star Entertainment	17 March 2022
Sarah Scopel	Former Group Treasurer, Star Entertainment	17 and 18 March 2022
Tanya Arthur	Head of Diversified Industries and Technology, Corporate and Institutional Banking, National Australia Bank	18 and 21 March 2022
Philip Dong Fang Lee	Former Patron of The Star	21 and 24 March 2022
Paul McWilliams	Former Chief Risk Officer, Star Entertainment	21 and 22 March 2022
Tarnya O'Neil	Former Head of Internal Audit, Star Entertainment	22 March 2022
Alexander Graham	Partner, KPMG	22 March 2022
Jeff O'Sullivan	Partner, KPMG	22 March 2022
Angus Buchanan	Group Manager Due Diligence and Intelligence, Star Entertainment	22 and 23 March 2022
Graeme Stevens	Former Group Compliance Manager, Star Entertainment	24 and 25 March 2022
David Aloi	Former Regulatory Manager NSW, Star Entertainment	25 and 28 March 2022
Michael Whytcross	General Manager Finance and Commercial, Star Entertainment	29 and 30 March 2022
Kevin Houlihan	General Manager Financial Crime and Investigations, Star Entertainment	30 - 31 March 2022 and 1 April 2022
Skye Arnott	Former Chief Financial Crime Officer, Star Entertainment	1, 4 and 5 April 2022
Oliver White	Former General Counsel Corporate, Star Entertainment	6 and 7 April 2022

Witness	Role	Date(s) on which appeared
Andrew Power	Former Group General Counsel, Star Entertainment	8 and 11 April 2022
Paula Martin	Former Chief Legal and Risk Officer, Star Entertainment; Former Company Secretary of The Star and Star Entertainment	11, 12, 13 and 14 April 2022
Micheil Brodie	Former General Manager Social Responsibility, Star Entertainment	14 April 2022
Mark Walker	Senior Vice President Premium Services Operations, Star Entertainment	14 and 26 April 2022
Greg Hawkins	Former Chief Casino Officer (NSW), Star Entertainment	26, 27 and 28 April 2022
Harry Theodore	Former Chief Financial Officer, Star Entertainment	29 April 2022 and 2 May 2022
Matt Bekier	Former Managing Director and CEO, Star Entertainment	2, 3 and 4 May 2022
Robyn McKern	Partner, McGrathNicol Advisory	4 May 2022
Richard Sheppard	Non-Executive Director, Star Entertainment	9 and 23 May 2022
Ben Heap	Non-Executive Director, Star Entertainment	10 and 11 May 2022
Gerard Bradley	Non-Executive Director, Star Entertainment	11 and 12 May 2022
Sally Pitkin	Former Non-Executive Director, Star Entertainment	12 May 2022
Katie Lahey	Non-Executive Director, Star Entertainment	13 May 2022
Andrew Bowen	Former Director, Institutional Banking Industrials Sector, National Australia Bank	23 May 2022
John O'Neill	Former Executive Chairman, Star Entertainment	23, 24 and 25 May 2022

Appendix H
Company Structure Diagram



Appendix I
Underpayment of Duty by The Star between July and September 2020

Internal Control Manual 8: Rebate Play

1. Effective from 21 December 2018, "ICM 8: Rebate Play" (**ICM 8**) regulated rebate play at The Star. The "Operational Objectives" make it clear that only eligible persons may participate in rebate play at The Star. ICM 8 considered it a "Materially Significant [Risk]" that "ineligible persons participate in a Rebate Program" and "Duty for Rebate Play is not calculated accurately". ICM 8 then provides a series of internal controls. Relevantly, the ICM stated in internal control 1:

> Eligibility and suitability
>
> 1. A residency assessment will be undertaken in accordance with SOPs to determine the suitability of all participants prior to their participation in Rebate Play (control of risks A-B).

2. ICM 8 does not provide any detail as to how that assessment is to be performed, nor does ICM 8 provide any specific guidance as to the test to be applied in order to determine a patron's residency. It is, however, clear from the text of ICM 8(1) that it requires that the residency assessment of each patron is to be undertaken in accordance with the SOP. The test is governed by the relevant SOP.

3. Under section 124(1) of the *Casino Control Act*, it is a condition of The Star's licence that it comply with internal controls, such as ICM 8, which had been approved by the Authority. Failure to do so would cause The Star to be in breach of a condition of its licence and also section 124(4) of the *Casino Control Act*.

4. It is material that ICM 8 considers it a risk that an ineligible person may participate in a rebate program. This is important because it affects the way the SOP should be interpreted, in the sense that the SOP is there to ensure no ineligible person is allowed to play in a rebate program; and not the other way around (i.e. not to ensure the inclusion of any eligible patrons).

Rebate Play Standard Operating Procedures

5. The Rebate Play SOP underwent a number of amendments,[1] including version 1 (effective 21 December 2018),[2] version 2 (effective 30 April 2019),[3] version 3 (effective 20 June 2019),[4] version 4 (effective 18 July 2019),[5] version 5 (effective 25 July 2019),[6] version 6 (effective 8 September 2020),7 and version 7 (effective 2 November 2021) which is current.[8]

6. For present purposes, the applicable version of the Rebate Play SOP was version 5 or version 6. The Star's Rebate Play SOP (version 5) was effective as at 25 July 2019.[9] Task 5 in version 5 addressed the steps and standards applicable to assessing a patron's residency for the purposes of eligibility for an international rebate program.[10] The "objective" under Task 5 is expressed as: "To ensure that only non-Australian residents are to participate in Rebate Play".[11] Task 5 mandated the applicable "Standard" as:[12]

> The International checklist is used to determine if a patron is a resident, as only non-Australian residents are permitted to buy in onto an International Rebate Program.
>
> For a patron to be considered as a non-resident of Australia, they generally must be in Australia for less than 183 days out of a rolling 12-month period. (Set by the ATO)

7. The "183 day test" is relied upon in the underlined passage as the benchmark for assessing patron eligibility. That test is qualified by the word "generally". Despite the way in which the standard expressed the general test, the standard also makes clear that the residency checklist "is used to determine if a patron is a resident". The checklist is drafted in a way that applies the "183 day test" absolutely without any general qualification. This is also consistent with ICM 8 and the risk of an ineligible person participating in a program.

8. The international residency checklist is located immediately after Task 5.13. The checklist is to be completed by the "Host" who is an employee in "VIP International Services" and may be a relatively junior employee of The Star.[14] While there are "Steps" set out in Task 5 which explain how a person's residency is to be assessed, the checklist is drafted in such a way that it may be completed without necessarily referencing the steps in Task 5.

9. The checklist has four "Parts", namely, "Part A", "Part B", "Part C" and "Part D". Under "Part A", three questions were asked:[15]

> Does the person hold an Australian passport? If yes, obtain a copy.
>
> Does the person hold a non-Australian passport? If yes, obtain a copy.

> (If NO, continue to Part B)
>
> For non-Australian passport holders, does the person have a tourist visa of subclass 600, 601, 602, 651 or 771
>
> (Attach VEVO Report)
>
> If the answer to the above is YES, the remainder of the checklist is not required to be completed.

10. After each question, there is a table with a "Yes" or "No" option. This format applied to all "Parts" of the checklists. The examples of completed checklists in the evidence before the Review showed that the normal practice was for these boxes to be circled. Notably, the bracketed guidance shows when it is necessary for the host completing the checklist to proceed to the next "Part". The reference to a "VEVO Report" is a search that can be performed through a federal Government website via the "Visa Entitlement Verification Online" (**VEVO**) system.[16]

11. "Part B" included the following questions (emphasis in original):[17]

> Has the person spent more than 183 days in Australia in the past 12 months?
>
> If the answer to the above is **YES**, the participant is not eligible to play on a premium group program.
>
> Does the person hold an Australian Medicare Card? (Take a copy if card is provided)
>
> Does the person have an Australian Business visa or a Working Holiday Visa — subclass 417, 462?
>
> Does the person have any Educational Interests in Australia? If yes, provide details of who and where?
>
> Obtain a copy of a document which clearly shows entry and exit from Australia, such as:
>
> - A copy of The Star limousine booking – Arrival and Departure Transfers, and OR
> - A copy of E-ticket/Airline ticket (must be valid and clearly show entry and exit from Australia)

12. The first question in "Part B" is crucial. The "183 day test" is expressed in definite language: "If the answer to the above is **YES**, the participant is not eligible to play on a premium group program". Accordingly, when read alongside the wording of the "Standard" (which gives the checklist primacy), if a patron had spent more than 183 days in the previous 12 months, that patron could not participate in an international rebate program.

13. Further, there was a "Part C" in the checklist which included the following questions:[18]

> Are there personal details/remarks in Synkros that may preclude the person from participating in rebate/commission program?
>
> Australian Address/telephone number noted in Synkros, if yes why?
>
> Australian Driver's License noted in Synkros, if yes why?
>
> Other —please provide detailed comment

14. There was also a "Part D" which asked whether the patron was staying "in-house" and, if not, the patron's address and contact details needed to be provided.[19]

15. On the final page of the checklist, there was a guide as to the documentation needed to be obtained from the patron and the points that needed to be satisfied. For non-Australian passport holders, "100 points" of documentation was required (emphasis in the original):[20]

> (a) VEVO Report" (50 points);
>
> (b) "International Government issued Identity Photo Card" (25 points);
>
> (c) "Travel Documents – the Star Limousine Booking - Arrival and Departure Transfers showing international flight, **OR** Travel Documents – A Copy of E-Ticket/Airline Ticket (must be valid and clearly show entry and exit from Australia)" (50 points);
>
> (d) "Utility Bill reflecting International Address (not more than 6 months old)" (25 points).

16. "There was a separate residency checklist for domestic rebate patrons contained in the Rebate Play SOP (version 5), which was broadly similar to the residency checklist for international patrons.[21]

17. The Star's Rebate Play SOP (version 6)[22] came into effect on 8 September 2020. Task 5 of version 6 also addressed residency assessment for patron eligibility for international rebate programs. The content of Task 5 of version 6[23] is the same as the content in Task 5 of version 5.[24] Further, the form of the residency checklist for international rebate programs is the same as between version 5[25] and version 6.[26]

18. The Star's Rebate Play SOP (version 7)[27] is current and was effective as at 2 November 2021. Version 7 includes additional definitions that were not present in the Rebate Play SOP (version 6).[28] Because it is a current SOP, it has been treated as a confidential document of The Star.[29] In any event, as version 7 post-dates the relevant issues considered in this Appendix, it is unnecessary to consider its provisions.

19. Since August 2020, Mr Mark Walker's team, Premium Services Operations, was responsible for performing residency checklists on patrons seeking to participate in rebate programs.[30] As Mr Walker explained in his witness statement, a Premium Services

Executive Host was responsible for completing the checklist for a patron and once completed, the host would submit the checklist to a Premium Services Operations Manager for approval.[31] Prior to August 2020, the "International Team" was responsible for the completion of residency checklists.[32]

Two rebate audit "streams" in 2020 – Summary

20. There were two audit "streams" that took place at The Star in 2020 under Mr Hawkins's broad control.[33] L&GNSW had written to The Star in January 2020 giving notice of its intention to audit rebate play at The Star. Through a series of requests and notices to produce issued by L&GNSW to The Star in the subsequent period, a list of 14 patrons emerged which The Star then internally reviewed to assess the documents in support of the eligibility of those patrons for rebate play. The Star's internal audit with respect to those 14 patrons was referred to in the evidence as the first audit "stream" at The Star. The first stream concluded on or around 19 August 2020 when Mr Whytcross sent his conclusions to Mr Hawkins.[34]

21. Shortly after the conclusion of that first audit, a "second stream" of audit relating to a broader group of patrons took place in connection with issues that emerged regarding "international" patrons remaining for more than 183 days in Australia due to travel restrictions related to the pandemic. The second audit commenced on or around 4 September 2020, when Mr Power sent a lengthy email to Mr Hawkins setting out advice that guided the second audit.

22. This audit was of 25 patrons whom The Star had identified as requiring closer consideration. The relevant context was that due to public health orders arising from the COVID-19 pandemic, The Star Casino was closed from 23 March 2020 to 1 June 2020.[35] Rebate play was re-activated at The Star Casino on 1 July 2020.[36] The 25 patrons were identified because they had engaged in rebate play after the 1 July 2020 re-activation. That group was reduced to 12 patrons. These 12 patrons had engaged in rebate play after they had remained in Australia for 183 consecutive days. There was a question whether these 12 patrons were eligible to engage in rebate play given the non-compliance with the "183 day test".

23. Mr Power prepared a file note dated 3 November 2021 setting out the broad timeline of events (emphasis added):[37]

> 12 August 2020 – rebate audit by L&GNSW. 14 named persons who were of interest to L&GNSW. Checklists were not able to be provided for all guests and this was explained to the regulator.
>
> 19 August 2020 – call to KWM in relation to whether The Star would have an obligation to report an underpayment of gaming duty
>
> 20 August 2020 – advice from KWM in relation to consequences of underpayment of gaming duty
>
> 24 August 2020 – advice requested from KWM in relation to meaning of "not normally a resident of NSW"
>
> 1 September 2020 – Greg is encouraged to find out when the Gaming Duty is payable so that **an adjustment can be made** if it is determined that individuals are no longer eligible for rebate programs
>
> 2 September 2020 – draft advice received from KWM on rebate eligibility
>
> 4 September 2020 – advice given to Greg in relation to rebate eligibility
>
> 8 October 2020 – Greg confirms satisfied with eligibility of a number of rebate players

24. Mr Power could not recall why he made this file note.[38] An identical or similar file note also appeared in an email from Mr Power to Ms Nikki Pace.[39] Mr Hawkins agreed with the chronology as set out in Mr Power's file note.[40] In the emphasised passage, there was a consideration, at least as at 11 September 2020, that "an adjustment" may need to be paid by The Star if it was found that ineligible players participated in rebate programs.

The first audit "stream" (14 patrons) – 12 to 19 August 2020

The origins of the first audit

25. On 17 January 2020, L&GNSW wrote to The Star disclosing its intention to audit The Star's rebate play operations.[41] The letter stated:

> Liquor & Gaming NSW (L&GNSW) is reviewing The Star's Rebate Play Operations, specifically junket and premium play arrangements. As you are aware, there are materially significant risks associated with junket operations and the Star's new internal controls include measures that it must follow in line with community expectations and the primary objects of the *Casino Control Act 1992*.
>
> I am writing to notify you that L&GNSW will be conducting an audit on elements of The Star's Rebate Play operations. The audit will carefully consider controls and procedures in place to manage risks related to junket operations. This audit will include an examination of the suitability and probity checks undertaken by The Star before a junket operates at the Sydney casino. The audit will also examine The Star's compliance with regulatory requirements including the approved Internal Controls and the relevant Standard Operating Procedures and the effectiveness of these controls. Lastly, the audit will examine the adequacy and the effectiveness of the controls and procedures.

26. L&GNSW requested further information from The Star throughout 2020, including documentation concerning residency and identification assessments performed by The Star of various individuals.[42]

27. The audit conducted by L&GNSW throughout 2020 was a broader audit into The Star's rebate business, and not confined to the question of rebate patron eligibility. On 8 July 2020, Ms Andrea Long, Group Regulatory Manager, sent an email to Mr Graeme Stevens, by then the Group Compliance Manager,[43] stating:[44]

> As you are aware we have had some difficulty in tracking down residency checklists for the current rebate audit in NSW.
>
> On our call yesterday, we were discussing this and thought it might be worthwhile to do a review of recent programs to see if the residency checklists were readily available. This could help in our response to L&G if we could advise that the issues we have had in locating the necessary checklists were historic and that this was now in good shape.
>
> While this would be a Compliance matter, Janelle has had a quick check in IRBMS for recent programs but the residency checklists aren't included in the attached documents in NSW.
>
> Is this something your team would be able to look at once the COVID compliance matters have quietened down?

28. The same day, Mr Stevens responded to Ms Long stating:[45]

> I also note that 2 of the 3 buy in attestations by the players were not completed with an address.
>
> Accordingly Compliance will conduct a review of the processes in both states to identify inconsistencies in processes between properties and process improvements.
>
> It is apparent that residency checklists need to be included as part of the paperwork.
>
> I would expect that we might commence this in August.

29. Following an email chain which showed correspondence from Mr Chum Mo and Mr Wallace Liu,[46] on 21 July 2020 Ms Susan Inglis, Senior Regulatory Affairs Advisor at The Star, sent an email to Mr Stevens and Mr Power (copied to Ms Long) stating:[47]

> As discussed in previous Regulatory/Compliance Meetings, attached is a summary of the status on the residency checklists for the individuals named in the L&G Rebate Audit 2020.
>
> We only managed to locate 5 out of 14 residency checklists. Further to that, there was an issue with all the residency checklists located. I have commented on the attached summary of the issue.
>
> Please let me know if you require any further information from me.

30. Ms Inglis attached to her email to Mr Stevens and Mr Power a table with the title "Rebate Audit 2020 – Residency Checklist Status Update". The table attached to Mr Inglis's email of 21 July 2020 appears to be substantively the same or a very similar table (containing the same 14 patrons) to the table contained in Mr Power's email to Mr Hawkins of 12 August 2020.[48]

31. On 7 August 2020, Mr Stevens sent an email to Mr David Smart and Mr David Aloi stating:[49]

> Recently in audits conducted by L&G it was apparent that the residency checklist required to be completed for all rebate players has not been completed, or if completed not retained. Particularly for interstate players. This is not a failing on the part of the cage.
>
> [Paragraph redacted due to confidentiality]
>
> Can we please amend the cage processes to replicate that of Queensland for these programs?

32. The same day, Mr Smart responded to Mr Stevens and Mr Aloi stating: [50]

> Will do Graeme.
>
> Spoke to Chum re this. His team can email and then we can upload to program in IRBMS with settlement pack.

33. On 10 August 2020, Mr Stevens sent an email to Mr Power, Ms Long and Ms Inglis stating:[51]

> The Star Cage and Rebate teams will now change their process in relation to the completion and retention of Residency Check lists.
>
> …
>
> Susan/Andrea we will let you know when the SOP has been updated.

34. It appears from the above correspondence that by reason of L&GNSW's audit of The Star's rebate business in 2020, officers of The Star and Star Entertainment may have uncovered a potential broader problem with the documentation in support of patron eligibility for rebate programs. This realisation, in turn, may have caused an internal review by The Star and Star Entertainment into the question.

Mr Hawkins and Mr Whytcross's investigation

35. On 12 August 2020, Mr Power sent an email to Mr Hawkins requesting his "assistance in formulating the response to the regulator" in relation to the 14 patrons of interest.[52] In that email, Mr Power set out in a table the information The Star held in relation to each of the

14 patrons. Mr Hawkins agreed in his evidence that Mr Power's table identified shortcomings regarding the information and documentation The Star held with respect to some of those patrons.[53] Indeed, there was a column in the table with the heading "Residency Checklist" and for nine of the 14 patrons "No" was marked for that column.[54]

36. Mr Power indicated that he did not believe he prepared the table included in his email, and said that he expected that "it may have been someone in the regulatory affairs team".[55] The answers to the "Residency Checklist" column for each patron were identical between the table in Mr Power's email of 12 August 2020 and the table that had been attached to Ms Inglis's email of 21 July 2020.

37. Later, on 12 August 2020, Mr Hawkins forwarded Mr Power's email to Mr Whytcross.[56] Mr Hawkins did not state anything further to Mr Whytcross in his forwarding email.

38. Mr Whytcross gave evidence that "Mr Hawkins forwarded me an email and then asked for me to work with those mentioned to perform a detailed assessment".[57] Mr Hawkins asked Mr Whytcross "to liaise back with members of the VIP services team to understand what information we had available for those individuals and help collate that information".[58]

39. Mr Whytcross did not collate that information himself.[59] Rather, Mr Mo and Mr Liu collated the relevant information as they had access as members of the VIP Services team.[60]

40. Mr Whytcross identified in his review where documentation was missing and where controls had not been followed.[61] He did not apply any consideration to the "183 day test" as that was for what he called "the second piece of work".[62] His evidence was that a number of folders were left for Mr Hawkins's review.[63] This is not consistent with Mr Hawkins' evidence. Mr Hawkins said that he did not personally review any of the documentation connected with the review of the 14 patrons and that he had delegated the request from Mr Power to Mr Whytcross.[64]

41. In any event, on 19 August 2020 Mr Whytcross sent an email to Mr Hawkins setting out his conclusions regarding the relevant 14 patrons.[65] The email stated:

> In response to the below list, would make the following comments based on discussions I have had this week with relevant service team members.
>
> - **Identification** – For all 14 players, we have obtained ID evidence (a number of these were shown as 'No' or 'N/A' below).
> - **Domestic Patrons** – For the three domestic players highlighted ([…]), the SOPs at the time stated that 'meeting the requirement of the Interstate (Non NSW) / a drivers licence or valid ID with proof of address' is

> required. Recognising that, a residency checklist was not required to be completed.
>
> - **Only Part A of Residency Checklist Required** – Based on the outcome of the VEVO, only Part A of the residency checklist may be required (i.e. when the patron is not a permanent resident or Australian citizen). This is the reason why only the one page of the checklist has been scanned for […].
> - Checklist Completed / Signed by same team member – The residency checklist for […] was completed by team member Merlyn Merlyn. As a service manager, she was employed in the role of director on shift (i.e. higher duties) and as such was the most senior team member on shift and authorised to approve / sign off.
>
> Residency checklist not required - As Huang Xiangmo (Huang Chang Ran) was holding a business visa (which we have on file), a residency checklist was not required under the SOPs at the time.
>
> I would recommend improvements be made in the following:
>
> - **Part A of Checklist Missing** – Based on the outcome of the VEVO, part A of the residency checklist should have been completed however this did not occur and appears to be a breakdown in controls. This applies to […].
> - **Control Breakdown(s)** – The lack of sign off on the residency checklist for […] and lack of checklist for […] in 2015 appears to be a further breakdown in controls. I also have supporting files regarding all of these and can provide documents as needed.
>
> I also have supporting files regarding all of these and can provide documents as needed.

42. It is clear that Mr Whytcross had identified significant shortcomings in the records kept by The Star to demonstrate that rebate players were not residents of NSW.

43. Mr Hawkins accepted that Mr Whytcross's conclusion was that seven of the 14 patrons could be substantiated through the correct documentation, and the other seven could not be substantiated due to missing documentation.[66] Mr Hawkins then gave the following evidence:[67]

> Q: All right. So you're being clearly advised that The Star had not followed its own processes in seven of the 14 cases the regulator asked you to consider; do you agree or disagree?
>
> A: Yes. In the formal completion of that process, yes, I accept that.

44. Mr Hawkins indicated that he did not know if The Star notified the Authority that seven of the patrons identified by L&GNSW did not have the necessary supporting documentation.[68]

45. Counsel Assisting made a call for any response by The Star to L&GNSW providing notification of The Star's investigations regarding the 14 patrons. That call was answered by the solicitors acting for The Star who produced correspondence between Star Entertainment and L&GNSW.[69] That correspondence did appear to show a reference in a

letter from Star Entertainment to L&GNSW dated 23 November 2020 to some of the patrons contained in the table in Mr Power's email to Mr Hawkins.[70] That information was provided in response to a question asking "[c]an The Star explain why the checklist was not provided for the other case studies".[71]

46. On 20 August 2020, Mr Power received advice from KWM regarding whether The Star had any obligation to notify the Authority to report an underpayment of duty if the conclusion was reached upon an internal investigation that The Star did not have proof that rebate patrons were non-residents of NSW.[72]

47. Mr Power gave the following evidence when asked what he understood the advice to mean:[73]

> Q: And what did you understand this advice to mean?
>
> A: … I think at the time when I spoke to KWM, my initial concern was that during - the borders were shut, and people had been here for longer than they were otherwise entitled to be considered not normally a resident of New South Wales, that we may have underpaid duty. And the advice certainly highlighted a bunch of obligations that arise. And the part you have specifically referred me to is just what would actually trigger a notification to the regulator.
>
> Q: And did you understand the advice to be that if your records were unclear, that did not trigger a duty to notify the regulator?
>
> A: No, I think the gist of the advice was that it's actually a factual matter whether someone is or isn't eligible to be on a rebate program. And if it becomes known to us that they are not and, in fact, that had been treated under a rebate program, that we would have an obligation to notify, but that we wouldn't otherwise.

48. Mr Power said that he understood that the business then looked back to see if the documentation was sufficient to support the residency checklists for patrons.[74]

The King & Wood Mallesons advice to The Star regarding the non-residency requirement – 2 September 2020

49. In or around 2 September 2020, KWM issued a "draft" advice addressed to Mr Power and Mr White regarding the uncertainty pertaining to the non-residency requirement in the Duty Agreement (**KWM Advice**).[75]

50. It is unnecessary to analyse in detail the KWM Advice, as it was focused on recommending changes to how The Star should determine residence prospectively. Those recommendations found their way into the current version of the Rebate Play SOP (version 7).

51. The KWM Advice did, however, state:[76]

> Because the 183 day test is not determinative of residency (even for income tax purposes), we think that the current approach of the Rebate Play SOP (which deems such persons to be ineligible for Rebate Play) is too conservative. A patron who has been present in Australia for more than 183 days in the prior 12 months may still be someone who is not normally resident in NSW.

52. This passage shows how KWM interpreted "the current approach of the Rebate Play SOP", which the firm stated was simply an assessment of whether the person had been Australia for more than six months within the preceding 12 month period.

Mr Power's email advice to Mr Hawkins – 4 September 2020

53. On 4 September 2020, Mr Power wrote a lengthy email to Mr Hawkins (copied to Mr White) in which he set out advice regarding the residency assessments Mr Power required Mr Hawkins to undertake.[77] Mr Power also forwarded a copy of his advice to Ms Martin and Mr Theodore. Mr Power stated in the email:[78]

> FYI – advice given to Greg regarding rebate eligibility set out below. Quite a lot of work still required in this area, but a call out of risks given the July rebate calculation is ou[r] priority.

54. The advice of Mr Power to Mr Hawkins stated:[79]

> Please see our advice below in relation to characterisation of residency for rebate play in NSW and rebate duty calculations under the Duty Agreement, below –
>
> What needs to be done –
>
> 1. Before submitting the Duty calculation to the NSW regulator for July, there is a need to do an urgent stocktake of who has been playing on rebate programs during the month of July and work out whether we have substantiation of the fact that they are not normally resident of NSW, including collating any information that the IRB team may hold about these individuals that would assist to classify that a particular person is not normally a resident of NSW.
> 2. Given serious consequences arise if a person is mischaracterised for the purposes of rebate duty calculation, care should be taken in undertaking this assessment.
> 3. If you have not already done so, anyone who has been in NSW for more than 183 days in the past 12 months should be transitioned into the non-rebate duty calculation, in order to comply with the Rebate SOP. The SOP does not provide for disregarding the period that the casino was closed (moving forward, we may look to update the SOP in this regard).
> 4. In terms of ensuring that our rebate duty calculation is accurate, substantiation will be required for any person included in the rebate duty calculation for July. As a starting point, we should only include any person in the rebate duty calculation
>
> a. If we have a correctly completed the residency checklist; and

b. Secondly, given these persons are likely to have been in NSW for more than 3 months already, it would also be worth understanding as an initial filter —

i. whether the player is staying in house?

ii. Also, if we look back to 2019, do we normally arrange flights in and out for these players and have we done so pre-Covid?

If they are not staying on property and we haven't historically arranged international flights, we may need to identify any other information that we have that supports that they are not normally residents of NSW.

5. Importantly, substantiation is only required to show they are not normally residents of NSW. Domestic rebate play also attracts a 10% tax rate, so an interstate driver's licence would be relevant to evidence residence not normally in NSW, (this may have been identified when the residency checklist was completed).

Notification obligations –

6. Care needs to be taken in substantiating the residency status of these individuals and our records / correspondence in this regard. There is a requirement to notify the casino regulator in circumstances where it is known that duty has been underpaid. Accordingly, if there is any doubt, the safer approach would be to move any players that we do not presently have substantiation into the non-rebate revenue / duty calculation.

Opportunities for improvement –

7. Moving forward, it is recommended that enhanced due diligence is undertaken in order to obtain sufficient justification / substantiation before a player commences on a rebate program and after a period of 3 months, is then assessed on a routine basis (monthly). To support this approach, The Star's record keeping, controls and general discipline in this area will need to be improved. We will prepare some documentation to assist the team with this process shortly.

Rebate options moving forward –

8. As a final observation, if there is a significant financial impact from transitioning these players off the rebate duty, consideration could be given to inviting these players to gamble on a rebate program in Queensland (subject of course to eligibility for rebate play in Queensland).

55. When asked about paragraph 3 of this email, Mr Power's evidence was:[80]

Q: So at this point, you were still using the 183 test as a bright line test, were you?

A: Well, I believe that that was required under the SOP or at least the checklist. So as far as the SOP was concerned, that was the relevant - that was a relevant test, yes.

56. Mr Power's email also appeared to include the KWM Advice, or at least parts of it, in the same email extracted beneath Mr Power's email signature. It is clear that in the same extract, Mr Power included additional matters which were not in the KWM Advice. For example, the extract also included reference to The Star's obligation under clause 18.4 of the Amended Casino Operations Agreement to notify the Authority of any breach of

warranties and covenants provided by The Star to the Authority.[81] Mr Power appeared to be concerned with The Star's warranty under paragraph 4 in Schedule 4 of the Amended Casino Operations Agreement:[82]

> 4. Records
>
> All records of the businesses of the Licensee and the Casino Manager have been fully, properly and accurately kept and completed in accordance with all legal requirements and proper business practices and will continue to be so kept and completed and there are, and will in the future, be no material inaccuracies or discrepancies of any kind contained or reflected in any of them.

57. Mr Hawkins was examined on the contents of Mr Power's advice. Mr Hawkins's attention was drawn to the extract that followed Mr Power's signature (which appeared to contain parts of the KWM Advice). Mr Hawkins was asked about paragraph 9(a) of the extract which stated:[83]

> As The Star's rebate SOP does not currently allow The Star to disregard the period during which the casino was closed due to COVID, if players have been in NSW for more than 183 days, to apply the rebate duty to their play would likely be in breach of The Star's rebate SOP and would trigger the obligation to report an SOP breach…

58. Mr Hawkins accepted that when undertaking his review of the patrons' residency he "could not disregard the casino days closure".[84]

59. Mr Hawkins was then examined about paragraph 10 of the extract in Mr Power's email which stated (emphasis in original):

> Future opportunities for improvement
>
> 10. A patron who has been present in Australia for more than 183 days in the prior 12 months may still be someone who is not normally resident in NSW. However, moving forward, in order to assess the residency of a foreign individual who has been physically present in Australia for more than a set period of time (say 3 months) The Star will need more information from a patron than is currently collected under its Rebate Play SOP.

60. Mr Hawkins accepted that paragraph 10 and also paragraph 11 of the extract component of Mr Power's email were in fact "suggestions as to how The Star's processes might be improved moving forward in terms of the determination of residency status".[85]

61. The Star Entities submitted that Mr Power's advice to Mr Hawkins as to how Mr Hawkins should conduct his assessment was "based on" the KWM Advice.[86] That might be accepted in a general sense. However, the KWM Advice made recommendations that, if accepted by The Star, required The Star to implement them into a future Rebate Play SOP. Further,

Mr Hawkins's evidence was that he relied upon Rebate Play SOP (version 6), which did not incorporate the KWM Advice. Rather, version 7 incorporated advice from KWM.

The second audit "stream" (25 patrons) – 4 September 2020 to 8 October 2020

Mr Whytcross's evidence regarding the three spreadsheets

62. Mr Whytcross said that following Mr Power's email of 4 September 2020, Mr Hawkins instructed him to liaise with the VIP services team to ensure that any rebate patron who stayed in Australian beyond 183 days was "transitioned off a program immediately".[87]

63. Mr Hawkins asked Mr Whytcross to first to identify if there were any patrons who were on a rebate program who had been in Australia beyond 183 days.[88]

64. The process followed by Mr Whytcross was to compile a spreadsheet, to which he and members of the VIP services team all contributed.[89] The spreadsheet was dated 10 September 2020 and contained the names of 25 patrons who were on rebate programs from July 2020 until 10 September 2020.[90]

65. The 25 patron spreadsheet shows in separate columns their "Australia Entry Date", "183 Day Mark", "Last Play Date" and, where relevant, The Star's "Rated Win post-183 day". This latter figure is the amount of revenue The Star earned on the patron's rebate play after the "183 Day Mark"; that is, after the date on which that patron may not have been eligible to participate in rebate play and therefore The Star's revenue for that patron should have been taxed at the higher non-rebate duty rate (27.5%) and not the lower rebate duty rate (10%). The duty payable depending on the classification and corresponding rate was reflected in two columns; one applying 27.5% and another applying 10%.[91]

66. The 27.5% amount appears to derive from the non-rebate duty rate plus GST and the responsible gambling levy.[92] This is consistent with Star Entertainment's ASX release of 1 June 2020 which stated that for domestic gaming revenue under $780 million "a 27.5% tax rate (including GST and the Responsible Gambling Levy (RGL)) will apply".[93] This applied during the first-year transitional period provided for under the Current Duty Agreement.

67. The spreadsheet then showed, in a separate column, the "Difference" between those rates for that "Rated Win post-183 day" revenue, amounting to just over $2.5 million.[94]

68. There were also columns in the spreadsheet which showed the number of days the casino was closed and a figure was provided for "Adjusted Days".[95] Mr Whytcross explained the reason for that added information:[96]

> A: There's - there were two scenarios that were completed at the direction of Mr Hawkins. My understanding and - and recollection with that is The Star had received advice from the Queensland regulator that it was able to deduct the days that the casino was closed. And accordingly, Mr Hawkins asked for both pieces of analysis to be completed.

69. There was no evidence before the Review indicating that the regulator in NSW had permitted casino closure days to be deducted from the "183 day test" as it applied to each patron. Mr Hawkins confirmed that he did not receive any advice from the NSW regulator confirming any allowance made by the Queensland regulator[97] was to be allowed in NSW as well.[98]

70. The 25 patrons were not all playing at The Star in Sydney. This is evident from the column for "Casino Days Closed" and the recording of "69" days for most patrons listed, but for four patrons "101" days were recorded. Mr Whytcross explained that it was his understanding that "the Sydney casino was closed for 69 days, and the Gold Coast casino was closed for 101 days".[99] Those four patrons did not appear to have gambled after the "183 Day Mark" and did not record any "Rated Win post-183 day mark". The "Difference" figures therefore only appear to have applied to patrons who played at The Star Sydney (as is also identified under the "Property" column in the spreadsheet).

71. The first 14 patrons in the spreadsheet had remained in Australia for over 200 days. Mr Whytcross explained that Mr Hawkins had instructed "for any customer who was over 200 days to be highlighted and further analysis done".[100] Of those 14 patrons, two had no rated win and so no further investigation was necessary.[101]

72. Mr Whytcross prepared a further spreadsheet containing only the remaining 12 patrons.[102] Mr Whytcross then asked the VIP services team what information was available in The Star's systems for those 12 patrons.[103] He explained that there were "folders collated for each of those with the information that we had available, and that was summarised and provided back to Mr Hawkins".[104]

73. Mr Whytcross indicated that an additional spreadsheet was prepared which "highlighted the information that the – The Star had available for those 12, in a - in a matrix form".[105] The summary spreadsheet was also produced by Star Entertainment to the Review.[106]

74. Mr Whytcross gave evidence that as the "first line of review" he did reach some conclusions:[107]

> A: My conclusion was that the - there - there was a number of patrons who were not normally residents of - apologies. My - my conclusion that there were a number of patrons who, based on the days, I considered residents of New South Wales.
>
> Q: And how many of those patrons were there?
>
> A: My assessment was that all of them beyond 183 days.
>
> Q: How many was that?
>
> A: The 12 listed there.
>
> Q: All of them?
>
> A: Yes.
>
> Q: So I wish to be very clear in understanding your answer. Did you consider that the paperwork you reviewed indicated that each of these patrons had been resident in New South Wales for over 183 days?
>
> A: Yes. The paperwork that I reviewed suggested that they had been in Australia for longer than 183 days.

75. Mr Whytcross indicated that he had communicated to Mr Hawkins over a number of conversations that he "had concerns with the individuals and the fact that they had been in Australia for longer than 183 days".[108]

76. Mr Whytcross accepted that he understood that the view he had reached had "important implications for the amount of duty that The Star was paying to the NSW Government in respect of these patrons".[109] Mr Whytcross confirmed that while "a number of conversations with the wider finance team around a potential adjustment" took place, "following Mr Hawkins's assessment that the individuals were to be considered as non-NSW residents, then my understanding is that no adjustment was made".[110]

Mr Hawkins's evidence

77. Mr Hawkins was examined on the list of 25 patrons Mr Whytcross provided to him in the spreadsheet.[111] Mr Hawkins accepted that the approach applied by Mr Whytcross in the spreadsheet to deduct the days in which the casinos were closed was contrary to Mr Power's advice in his email of 4 September 2020.[112]

78. There was some uncertainty as to whether Mr Hawkins was required to apply Rebate Play SOP version 5 (effective 25 July 2019) or version 6 (effective 8 September 2020) in assessing the residency of the 25 patrons on the spreadsheet, but there was no material

difference between version 5 and version 6 regarding the applicable test;[113] the material change arose under version 7.[114]

79. Mr Hawkins confirmed that Mr Whytcross had showed him the 12 patron spreadsheet which identified the rebate players who had engaged in rebate play after having been in Australia for more than 183 days. Mr Hawkins said he had asked Mr Whytcross "for the relevant information that was contained in the company's files" regarding the 12 patrons and that Mr Mo and Mr Liu may have assisted in bringing "the files and information together".[115] Those documents were provided to Mr Hawkins in "folders".[116] Mr Hawkins was also provided with the spreadsheet summary of the documentation and said that he checked the documents to ensure the accuracy of the summary.[117] This evidence from Mr Hawkins was consistent with the way in which Mr Whytcross explained the origins of the three spreadsheets.

80. Mr Hawkins was then examined on Rebate Play SOP (version 6), which he stated was the SOP he relied upon when assessing the 12 patrons.[118] Mr Hawkins accepted that it was a mandatory requirement that a checklist be completed for each of the 12 patrons.[119]

81. Mr Hawkins was examined on the requirements under the checklist in the Rebate Play SOP (version 6) regarding the necessary supporting documentation, that is, where the patron had *not* been in Australia for more than 183 days. The questioning related to two specific patrons from the list of 12 names,[120] referred to below as Patron 1 and Patron 2.

82. The checklist for Patron 1 showed that "Part A" was not satisfied because Patron 1 did not have a relevant visa.[121] Therefore, "Part B" of the checklist needed to be completed.[122] However, the question "Has the person spent more than 183 days in Australia in the past 12 months?" for Patron 1 was circled "Yes". That meant that Patron 1 was not eligible for rebate play.

83. Mr Hawkins resisted that proposition on the basis that he was relying on the "183 day test" as being a *general* rule.[123] However, the checklist did not make any reference to this being a general rule. The checklist was clear: "If the answer to the above question is **YES**, the participant is not eligible to play on a premium group program" (emphasis in original).[124] It is also the case that the Standard in Task 5 of the Rebate Play SOP (version 6) gave the checklist primacy.

84. Mr Hawkins also sought to explain the situation by reference to "the surrounding COVID closures".[125] However, Mr Hawkins accepted that, given the position taken by the regulator in NSW, casino closure days could not be deducted from the patron's time in Australia and he said that "the calculation of the rebate figures didn't consider that amount".[126] Mr Hawkins confirmed he did not take into account casino closure days "for the calculation purpose".[127]

85. Mr Hawkins was then taken to the section of Patron 1's checklist which stated, also under "Part B", "[o]btain a copy of a document which clearly shows entry and exit from Australia".[128] There were two options for such documents: a copy of "The Star limousine booking – Arrival and Departure Transfers" or a copy of "E-ticket/airline ticket (must be valid and clearly show entry and exit from Australia)". Patron 1's checklist circled "Yes" for that requirement. However, Mr Hawkins was then taken to a copy of the airline ticket produced to the Review in support of Patron 1's residency status.[129] That document only included an *entry* ticket to Australia on 21 December 2019.[130]

86. Having ignored the 183 day requirement, Mr Hawkins had allocated 50 of the necessary 100 points in determining that Patron 1 was a non-resident to the airline ticket held for Patron 1. Mr Hawkins ultimately accepted that he had allocated 50 points for a document only establishing Patron 1's entry to Australia and not the patron's subsequent exit.[131]

87. There were further shortcomings with Patron 1's supporting documentation. "Part C" of Patron 1's checklist also asked "Are there personal details/remarks in Synkros that may preclude the person from participating in rebate/commission program?".[132] Mr Hawkins gave evidence that he did not review the information in Synkros for Patron 1 and just relied upon the checklist.[133] "No" was circled on the checklist in answer to that question. Mr Hawkins did not independently verify whether "No" had been correctly circled.[134] The documents produced to the Review from Synkros showed that Patron 1's recorded residential address was an address in Sydney.[135] That evidence then showed that a further question under "Part C" in Patron 1's checklist had been answered incorrectly as "No", namely, the question that asked "Australian Address/telephone number noted in Synkros, if yes why?".[136]

88. Mr Hawkins accepted that there appeared to be an error in respect to the second question under "Part C" Patron 1's checklist.[137] However, he was not sure if the answer to the first question was an error because he was uncertain as to the totality of the information on Synkros for Patron 1.[138] Indeed, Mr Hawkins confirmed that the only document he recalled

looking at from the Synkros database was the document at Exhibit F-134[139], which he was shown during his examination.[140]

89. Mr Hawkins was also shown a further document from Synkros for Patron 1 and he gave evidence that did not recall seeing that further document.[141] That document contained material relevant to the assessment of Patron 1's eligibility, including an overseas address in the period between 22 August 2019 and 22 September 2020. That document appeared to be an outlier in the information relating to Patron 1.

90. Mr Hawkins was asked whether he made "some mistakes" in relation to Patron 1. His evidence was:[142]

> Q: Do you accept now that you made some mistakes?
>
> A: I - I accept that - that the exit information for this particular guest was not recorded there, and that was a requirement of the SOP. I accept that I was relying on the information in front of me, and it's not - as I said, it's not an area that I would necessarily get too deeply involved in. But I felt I tried to assess it thoroughly at the time, not to just dismiss it.
>
> Q: But you do accept now that you made some mistakes?
>
> A: I - I think there - yes, there's some - there's some allocation of that point there specifically that requires an exit. So, on the basis that the guest was stuck in Australia, I accept that that was an error.
>
> Q: And another error was, in fact, not following the checklist, because the checklist said that if the patron had been in Australia for more than 183 days in a 12-month rolling period, the patron was not eligible for the international rebate?
>
> A: I accept that the checklist says that. At the time, I also referred to the SOP, which outlined the word "generally", and I used that to form my position as well.

91. The suggestion that the use of the word "generally" in Task 5 conferred a discretion on the employee completing the checklist to ignore the primacy of the checklist in determining eligibility for rebate play under versions 5 and 6 of the Rebate Play SOP and take into account other matter is considered further below. However, even ignoring the 183 day rule, the supporting documents for Patron 1 did not support a conclusion that Patron 1 was a non-resident eligible for rebate play.

92. Patron 2 was recorded in the summary spreadsheet as a permanent resident visa holder. In the 25 patron spreadsheet Patron 2 was recorded as being in Australia for 314 days, and 245 days if the adjustment for pandemic closure days was permitted.[143]

93. Part A in the checklist for Patron 2 indicated that Patron 2 did not have the necessary tourist visa, so Part B needed to be completed.

94. Based on the information in the 25 patron spreadsheet, Part B of the checklist for Patron 2 should have been circled "Yes" to indicate that Patron 2 had been in Australia for more than 183 days. Instead the first question in Part B was circled "No",[144] which was incorrect as Mr Hawkins accepted.[145] Mr Hawkins agreed that had that question been answered correctly for Patron 2, that would have precluded the patron from participating in the rebate program.[146] All questions in Part B had been answered "NO", including the final question in Part B regarding any copy of "The Star limousine booking – Arrival and Departure Transfers" or the "E-ticket/airline ticket (must be valid and clearly show entry and exit from Australia)", and there was a handwritten notation "No flight available due to COVID 19".[147]

95. However, for the points tally on the final page of the checklist for Patron 2 Mr Hawkins had allocated 50 points for a VEVO report, 25 points for an international government identity card, and 25 points for a foreign utility bill.

96. The VEVO report showed the visa sub-class was "BB / 155" and the visa type was "Permanent resident or citizen".[148] Mr Hawkins accepted that it would be absurd to interpret the Rebate SOP as permitting 50 points to be allocated to a 100 point test of non-residency because a VEVO report was held indicating that the patron was a permanent resident or citizen.[149]

97. There were obvious problems in substantiating Patron 2 as a non-resident eligible for rebate play. It is likely that Patron 2 was not eligible.

98. The examples of Patron 1 and Patron 2 revealed significant errors and shortcomings in the documentation in support of the residency status of those patrons. Even allowing for Mr Hawkins's interpretation that the 183 day test was not mandatory, the documentation supported a conclusion that these two patrons were not eligible for rebate play.

99. On 8 October 2020, Mr Hawkins responded to Mr Power's email of 4 September 2020 as follows:[150]

> The current COVID situation, including periods of closure of the property as well as the ongoing closure of international and some domestic borders unfortunately exposed some administrative confusion regarding the status of a number of rebate classified players. As per your guidance on point 3, when this was identified we immediately transitioned any rebate player who had been in NSW for greater than 183 days onto a non-rebate play profile. In addition to this, I have reviewed the records of the identified customers in some detail and am reasonably satisfied that each of them is a non NSW resident. My review included an assessment of the following where provided - VEVO classification, official foreign identification

> (passport and ID), supporting travel and related documents, and individually signed declarations from their residency checklist and/or their program player agreement. In addition I have spoken with the hosting personnel for relevant customer insight and to the VIP Management team to ensure there is no outstanding information that I needed to consider in reaching my position. I take on board your comments under point 7 as to how we can monitor timeframes more accurately and ensure our documentation is maintained at an expected level. We have already made changes in this space to improve and will pick this up with you and or team to further guide.

100. This email confirmed that the 14 patrons were transitioned from rebate programs onto a "non-rebate play profile". Yet, the conclusion Mr Hawkins reached was that he was "reasonably satisfied that each of them is a non NSW resident". That erroneous conclusion, at least insofar as it related to Patrons 1 and 2, appears to have been the basis on which Mr Hawkins did not further liaise with the finance team regarding any adjustment that needed to be made to the duty The Star had paid to the NSW Government.

101. On 17 October 2020, Mr Power responded to Mr Hawkins's email stating:[151]

> Thank you for your email below in relation to the rebate duty calculations. Now that you have made the assessment of The Star's rebate players and confirmed their residential status based on the available information, I will leave it to you to liaise with the Finance team to ensure that the monthly Rebate Duty Reports and weekly Non-Rebate Duty Reports provided to L&G are in order and any necessary adjustments have been (or will be) made.
>
> In terms of addressing the Premium Service team's administrative process and strengthening our controls in relation to the residency assessment of eligible rebate players, I confirm that Oliver and I will pick this up with Michael Whytcross and look to update the SOP and brief you and the team in relation to the process to be adopted in due course.

102. Mr Power stated that he believed he did not give any further advice about the matter.[152] His evidence regarding his response to Mr Hawkins was that he understood at the time that ordinarily tax needed "to be dealt with the month following the prior month", and so he felt there was some urgency to the issue. He later learned, however, that the NSW Government had, according to his evidence, "agreed that we could delay the payment of tax".[153] Mr Power said he did not "recall playing any further role in that".[154]

103. Mr Hawkins was asked whether he proceeded to liaise with the finance team and cause any adjustments to be made, and his answer was: "Ultimately, no."[155]

104. The Star Entities conceded that it was "regrettable" that Mr Hawkins did not liaise with the finance team and the Star Entities accepted that Mr Hawkins should have done so despite his explanation that he had undertaken a thorough process and assessed each patron as being eligible.[156] The Star Entities submitted that this "was an error of judgment", noting

that Mr Hawkins accepted in his evidence that consideration was needed as to whether "there should be some adjustment to the duty paid".[157]

105. Mr Hawkins's failure to liaise with the finance team was consistent with the conclusion he had reached that the patrons were eligible. However, his evidence revealed that there were apparent weaknesses and errors in the supporting documentation, at least for two of the patrons. It was Mr Hawkins's failure to identify those errors that created the problem, and had he identified those gaps and errors in the supporting documentation then, as he conceded, consideration would then have needed to be given as to whether any adjustment was required, in which case the finance team would have to be contacted to commence that process. It is concluded that on the available evidence the errors Mr Hawkins made in the above process were inadvertent.

Consideration of whether The Star should pay additional duty to the NSW Government

The competing submissions

106. Counsel Assisting submitted that the Review should find that The Star is liable to pay an adjustment to the NSW Government for unpaid duty.[158] It was submitted that there was a quantifiable underpayment of duty at least in respect of the patrons whom Mr Hawkins assessed. Counsel Assisting submitted that this figure could be determined with precision. For example, both the 25 patron and 12 patron spreadsheets disclosed a total "Difference" amount of $2,553,488 and a combined "Difference" amount of $2,325,077 for Patrons 1 and 2. This was, however, potentially a small subset of the total duty that may be owing by The Star to the NSW Government.

107. The Star Entities advanced four submissions by which they urged against the Review finding that there had been an underpayment of duty.

108. The first submission was that the focus on the "183 day test" was a distraction because the there was no guidance under the Current Duty Agreement as to the way in which the non-residency requirement was to be determined.[159] The Rebate Play SOP versions 5 and 6 indicated as a general rule that the "183 day test" was to be applied, and, as the submission went, if the borders were closed then a patron may still be a non-resident if they were trying to leave the country but could not do so.[160] The uncertainty as to the applicable test meant that it would be "unsafe" for the Review to make findings and, further, the submission was made that "Non-compliance with an SOP does not equate to underpayment of duty".[161]

109. That first submission is not accepted. While it is the case that there is no express guidance under the Current Duty Agreement as to the way in which the non-residency requirement was to be determined, The Star had put in place an SOP specifically to determine patron eligibility for rebate play. ICM 8(1), which had been approved by the Authority, makes clear that residency "will be undertaken in accordance with SOPs".[162] Under section 124(1) of the *Casino Control Act*, it was a condition of The Star's licence that it comply with ICMs approved by the Authority when assessing patron residency. It follows that the determination of a patron's residency was governed by the applicable Rebate Play SOP.

110. The notion that the "183 day test" was only a general test is not supported by the wording of the Rebate Play SOP (version 5 or 6). While the word "generally" did qualify the standard in Task 5, the residency checklist had no such qualification. The standard in Task 5 of the Rebate Play SOP (versions 5 and 6) made clear that patron eligibility was to be determined in accordance with the residency checklist. Indeed, the standard gave the checklist primacy. That approach was also consistent with "Risk A" in ICM 8, which sought to prevent the risk of ineligible patrons participating in rebate play.[163]

111. Further, any submission that the use of the word "generally" in Task 5 of versions 5 and 6 of the Rebate Play SOP conferred a discretion on the employee completing the form to ignore the procedures in the checklist is not accepted. The use of the word "generally" in Task 5 is explicable, given the primacy of the residency checklist, by considering the procedures required to be followed in the checklist. If, having regard to Part A of the checklist, a patron who is a non-Australian passport holder holds a tourist visa of the relevant sub-class identified in Part A, then they are considered to be a non-resident and are eligible for rebate play by virtue of holding that visa. In these circumstances, it is not necessary to continue to Part B and consider the length of time the patron has been in Australia. If the patron does not hold such a visa, then it is necessary to move to Part B and determine the length of time the patron has been in Australia. If the patron has been in Australia for more than 183 days in the previous 12 months then the person is not eligible for rebate play, as the checklist makes plain. The word "generally" in Task 5 comprehends that under the checklist it may not be necessary to apply the 183 day test to determine eligibility for rebate play.

112. This construction of versions 5 and 6 of the Rebate Play SOP and the residency checklist avoids any tension between the terms of Task 5 and the residency checklist; nor does it necessitate the surprising conclusion that the employee completing the checklist (who may

be relatively junior) had a discretion to ignore the terms of the checklist in deciding whether the patron is eligible for rebate play.

113. To the extent that The Star Entities were suggesting in their submissions that the closure period could be taken into account when assessing patron residency, such a submission is not accepted. The evidence was that Mr Hawkins did not take into account the closure period. Further, there was no evidence that the NSW regulator approved such an approach (notwithstanding developments in Queensland). Additionally, the Review does not accept that "generally" confers any discretion, as explained above.

114. The second submission of The Star Entities was that it should not be found that The Star excluded the days when the casino was shut in calculating the 183 day period.[164] That submission is accepted. Mr Hawkins's evidence was that he did not take into account the closure dates. The acceptance of that submission does not bear upon the question whether there has been an underpayment of duty.

115. The third submission of The Star Entities was that while Mr Hawkins accepted he made a mistake when assessing the sufficiency of Patron 1 and Patron 2's residency documentation, any such mistake was inadvertent.[165] Again, that submission is accepted but does not bear upon whether there was in fact an underpayment of duty.

116. The fourth submission of The Star Entities was that the Review should not extrapolate from findings regarding Patron 1 and Patron 2 to the remainder of the patrons the subject of Mr Hawkins's review given Mr Hawkins was not asked any questions about the other patrons.[166] The Review also accepts that submission. It would only be safe to make findings concerning Patron 1 and Patron 2 (though, for reasons explained below, the Review is not prepared to make such findings regarding any adjustment being presently owing).

117. The Star Entities also made an additional submission that there was no breach of section 124 of the *Casino Control Act* as Mr Hawkins's errors in following the checklist in Rebate Play SOP (version 6) did not breach ICM 8.[167] That is because, according to The Star Entities' submission, the only obligation was to "implement" an SOP.[168]

118. The Review does not accept that submission. As is explained above, ICM 8 required an assessment as to eligibility in accordance with the SOP. The evidence is sufficiently clear that Mr Hawkins, and indeed the employees who performed the initial assessment and completed the documentation for Patrons 1 and 2, did not comply with ICM 8. Those

employees who assessed Patron 1 and 2's residency eligibility did not correctly follow version 5 or version 6 as they did not correctly apply the checklist. Mr Hawkins made the same errors. Accordingly, the Review finds that in relation to Patron 1 and Patron 2, The Star breached ICM 8(1) as a residency assessment was not completed in accordance with either version 5 or 6 of the Rebate Play SOP, and it therefore follows that The Star was in breach of section 124(4) of the *Casino Control Act*. This was also a breach of a condition of The Star's casino licence.

Findings of the Review regarding any adjustment owing

119. It is clear that based upon the documentation and evidence presented to Mr Hawkins, Patron 1 and Patron 2 were not eligible to engage in rebate play having regard to the requirements under the Rebate Play SOP (whether applying version 5 or version 6). That is so not just because at the time they were assessed they had been in Australia for more than 183 days in the previous twelve months, but even assuming that test was only a discretionary one the documentation supported a conclusion that these two patrons were not eligible for rebate play.

120. This makes it likely, based on the evidence presented to this Review, that The Star has underpaid the duty owed to the NSW Government under the Current Duty Agreement in respect of turnover resulting from the play of Patron 1 and Patron 2 in the period when they were incorrectly treated as eligible for rebate play.

121. However, it is not clear that a quantitative assessment of the likely underpayment of duty could be reliably determined on the basis of the spreadsheets provided by Mr Whytcross to Mr Hawkins. Another reason why it would be undesirable to attempt to determine the amount of any likely underpayment of duty in the present context is that only evidence concerning two patrons has been considered. It would be unsafe to conclude that there has only been an underpayment of duty by The Star because of those two patrons.

Endnotes

1 **Exhibit A-378**, para 54 **(**INQ.002.004.0109 at .0120 - .0121).

2 **Exhibit B-1224**, (STA.3008.0021.0930).

3 **Exhibit B-1358**, (STA.3008.0021.1018).

4 **Exhibit B-1436**, (STA.3008.0021.1114).

5 **Exhibit B-1448**, (STA.3008.0021.1219).

6 **Exhibit B-2120**, (STA.3427.0017.2322).

7 **Exhibit B-2537**, (STA.3002.0001.0614).

8 **Exhibit B-3267**, (STA.3002.0017.0001).

9 **Exhibit B-2120**, (STA.3427.0017.2322).

10 Ibid at .2337.

11 Ibid.

12 Ibid.

13 Ibid at .2343.

14 Ibid at .2337.

15 Ibid at .2343.

16 See Ibid at .2337.

17 Ibid at .2343.

18 Ibid at .2344.

19 Ibid.

20 Ibid at .2345.

21 Ibid at .2400-.2401.

22 **Exhibit B-2537**, (STA.3002.0001.0614).

23 Ibid .0629-.0634.

24 **Exhibit B-2120**, (STA.3427.0017.2322, at .2337-.2342).

25 Ibid at .2343-.2345.

26 Ibid at .0635-.0637.

27 **Exhibit B-3267**, (STA.3002.0017.0001).

28 Ibid at .0004-.0005.

29 Hawkins: Day 23, T2631.20-22.

30 **Exhibit A-1509**, para 8 (INQ.002.004.0057 at .0057).

31 Ibid.

32 Walker: Day 21, T2433.4-15.

33 Hawkins: Day 23, T2576.28-44.

34 **Exhibit G-789** (STA.3417.0039.6346, at .6346).

35 **Exhibit A597**, para 21 (INQ.002.004.0264).

36 Ibid.

[37] **Exhibit B-3268**, (STA.3412.0084.5907).

[38] Power: Day 18, T2035.21.

[39] **Exhibit B-3285**, (STA.3412.0087.7434).

[40] Hawkins: Day 22, T2559.1420.

[41] **Exhibit H-283**, (ILGA.016.001.0002).

[42] Star Entertainment's Written Submissions dated 21 June 2022, para [H.30].

[43] **Exhibit A-1322,** para 3(e) (INQ.002.004.0021 at .0021).

[44] **Exhibit H-0345**, (STA.3418.0039.6808, at .6808).

[45] Ibid.

[46] See, for example, **Exhibit H-365**, (STA.3412.0135.0079, at .0079-.0080).

[47] **Exhibit H-365**, (STA.3412.0135.0079, at 0079); **Exhibit H-366**, (STA.3412.0135.0087).

[48] See **Exhibit B-3300**, (STA.3412.0087.7486).

[49] **Exhibit H-383**, (STA.3412.0135.5821, at .5822).

[50] Ibid at .5821-.5822.

[51] Ibid at .5821.

[52] **Exhibit B-3300**, (STA.3412.0087.7486 at .7486).

[53] Hawkins: Day 22, T2561.14-17.

[54] **Exhibit B-3300**, (STA.3412.0087.7486).

[55] Power: Day 18, T2036.40-42.

[56] **Exhibit G-789**, (STA.3417.0039.6346, at .6346).

[57] Whytcross: Day 10, T1102.33-34.

[58] Whytcross: Day 10, T1103.30-32.

[59] Whytcross: Day 10, T1104.1-4.

[60] Whytcross: Day 10, T1104.9-15; **Exhibit H-365**, (STA.3412.0135.0079, at .0079-.0080).

[61] Whytcross: Day 10, T1104.17-47.

[62] Whytcross: Day 10, T1104.21-23.

[63] Whytcross: Day 10, T1104.30.

[64] Hawkins: Day 23, T2578.23-33.

[65] **Exhibit G-789**, (STA.3417.0039.6346, at .6346).

[66] Hawkins: Day 23, T2579.45-2582.25.

[67] Hawkins: Day 23, T2582.26-30.

[68] Hawkins: Day 23, T2582.32-2583.4.

[69] See email of King & Wood Mallesons to the Review dated 3 May 2022 at 4:13pm; See email of King & Wood Mallesons to the Review dated 4 May 2022 at 6:20pm.

[70] **Exhibit J-68**, (STA.3425.0010.8894).

[71] Ibid at .8899.

[72] **Exhibit B-3301**, (STA.3412.0087.7489).

[73] Power: Day 18, T2039.16-32.

[74] Power: Day 18, T2039.34-44.

[75] **Exhibit B-3287**, (STA.3412.0087.7438).

[76] Ibid at .7440.

[77] **Exhibit B-2571**, (STA.3412.0067.1375).

[78] STA.3412.0118.9397 at .9397.

[79] **Exhibit B-2571**, (STA.3412.0067.1375 at .1375 - .1376).

[80] Power: Day 18, T2045.1-7.

[81] ILGA.001.007.2907, at .2955.

[82] Ibid at .2977.

[83] Hawkins: Day 23, T2573.1-13.

[84] Hawkins: Day 23, T2574.4-7.

[85] Hawkins: Day 23, T2575.18-22.

[86] Star Entities' Written Submissions dated 21 June 2022, para [H.34].

[87] Whytcross: Day 10, T1106.15-18.

[88] Whytcross: Day 10, T1106.39-41.

[89] Whytcross: Day 10, T1107.43-47.

[90] Whytcross: Day 10, T1108.1-11.

[91] Hawkins: Day 23, T2587.24-30.

[92] Hawkins: Day 23, T2633.47-2634.19.

[93] INQ.003.005.0131.

[94] Hawkins: Day 23, T2589.27-35.

[95] **Exhibit B-2577** (STA.4001.0001.0003).

[96] Whytcross: Day 10, T1111.19-23.

[97] See, for example, **Exhibit G781** (STA.3412.0144.6856).

[98] Hawkins: Day 23, T2586.14-34.

[99] Whytcross: Day 10, T1110.38-1111.7.

[100] Whytcross: Day 10, T1112.8-9.

[101] Whytcross: Day 10, T1112.25-1113.25.

[102] **Exhibit B-2576** (STA.4001.0001.0002).

[103] Whytcross: Day 10, T1114.34-35.

[104] Whytcross: Day 10, T1114.28-30.

[105] Whytcross: Day 10, T1114.34-35.

[106] **Exhibit B-2576** (STA.4001.0001.0002).

[107] Whytcross: Day 10, T1117.44-1118.18.

[108] Whytcross: Day 10, T1118.20-35.

[109] Whytcross: Day 10, T1119.19-21.

[110] Whytcross: Day 10, T1119.31-34.

[111] **Exhibits B-2577**, (STA.4001.0001.0003).

[112] Hawkins: Day 23, T2585.14-29.

[113] Hawkins: Day 23, T2593.13-16.

[114] Hawkins: Day 23, T2593.18-21.

[115] Hawkins: Day 23, T2595.7-26.

116 Hawkins: Day 23, T2595.16-28.

117 Hawkins: Day 23, T2596.5-18; See **Exhibit G-965** (STA.4001.0001.0001).

118 **Exhibit B- 2573 (**STA.3002.0001.0614).

119 Hawkins: Day 23, T2598.15-18.

120 **Exhibit G-965** (STA.4001.0001.0001).

121 **Exhibit F-130**, (STA.4001.0003.0002).

122 Hawkins: Day 23, T2602.28-45.

123 Hawkins: Day 23, T2603.14.

124 **Exhibit F-130**, (STA.4001.0003.0002)

125 Hawkins: Day 23, T2603.14.

126 Hawkins: Day 23, T2603.22-29.

127 Hawkins: Day 23, T2603.37-41.

128 Hawkins: Day 23, T2604.5-38.

129 **Exhibit F-133** (STA.4001.0003.0007).

130 Ibid.

131 Hawkins: Day 23, T2607.25-44.

132 **Exhibit F-130** (STA.4001.0003.0002).

133 Hawkins: Day 23, T2608.46-2609.5.

134 Hawkins: Day 23, T2609.11-15.

135 **Exhibit F-134** (STA.4001.0003.0020).

136 **Exhibit F-130** (STA.4001.0003.0002).

137 Hawkins: Day 23, T2610.1-21.

138 Hawkins: Day 23, T2610.30-38.

139 **Exhibit F-134** (STA.4001.0003.0020).

140 Hawkins: Day 23, T2612.32-36.

141 **Exhibit G-950** (STA.3031.0002.0257); Hawkins: Day 23, T2612.1.

142 Hawkins: Day 23, T2614.26-47.

143 Hawkins: Day 23, T2615.25-44.

144 **Exhibit F-119, (**STA.4001.0002.0007).

145 Hawkins: Day 23, T2616.11-18.

146 Hawkins: Day 23, T2616.20-24.

147 **Exhibit F-119**, (STA.4001.0002.0007).

148 **Exhibit F-122 (**STA.4001.0002.0017).

149 Hawkins: Day 23, T2621.35-40, T2622.12-23.

150 **Exhibit B-3277** (STA.3412.0084.5940 at . 5940)

151 Ibid.

152 Power: Day 18, T2046.38-40.

153 Power: Day 18, T2046.45-2047.4.

154 Power: Day 18, T2047.4.

155 Hawkins: Day 23, T2625.29-32.

156 Star Entities' Written Submissions dated 21 June 2022, para [H.60].

157 Ibid.

158 Counsel Assisting Oral Submissions: Day 39, T4132.23-4133.24.

159 Star Entities' Written Submissions dated 21 June 2022, para [H.37].

160 Ibid, paras [H.38]-[H.40].

161 Ibid, para [H.39].

162 **Exhibit B-1220** (STA.1510.0004.0237, at .0239).

163 Ibid at .0238, .0240.

164 Star Entities' Written Submissions dated 21 June 2022 para [H.41].

165 Ibid, paras [H.42]-[H.43].

166 Ibid, paras [H.44]-[H.45].

167 Ibid, para [H.46].

168 Ibid, para [H.47].

Appendix J.
List of Key People

Individual	Role	Date Role Held
Thomas ABOLINS	Senior Vice, President Domestic Sales and Marketing, Star Entertainment	At least 2017 to date
David ALOI	NSW Regulatory Manager, Star Entertainment	May 2021 to May 2022
	Treasury Manager (Secondee), Star Entertainment	July 2019 to September 2020
	Cashier Services Manager, The Star	March 2012 to July 2019; September 2020 to May 2021
Skye ARNOTT	Chief Financial Crime Officer, Star Entertainment	1 November 2021 to 23 May 2022
	Group Manager AML/CTF and Financial Crime, Star Entertainment and AML/CTF Compliance Officer, Star Entertainment	January 2019 to 31 October 2021 **Parental leave from 16 May 2020 to 31 May 2021*
	Compliance Manager, Star Entertainment	2016 to 2019
	Investigations Analyst, Star Entertainment	2012 to 2015
Tanya ARTHUR	Head of Diversified Industries and Technologies Client Coverage, NAB	1 October 2016 to date
Chad BARTON	Chief Financial Officer, Star Entertainment	May 2014 to November 2019
Matt BEKIER	Managing Director and CEO, Star Entertainment	April 2014 to March 2022
	Director, Star Entertainment	2 March 2011 to March 2022
	Director, The Star	18 August 2006 to 8 July 2022
	Director, EEIS	14 November 2013 to 8 June 2022

Individual	Role	Date Role Held
	Chief Financial Officer, Star Entertainment	2011 to April 2014
Richard BOOTH	Project Manager, EEIS Project	During at least 2018
Andrew BOWEN	Director, Institutional Banking, Industrial Sector, NAB	2012 to 2019
	Associate Director, Institutional Banking, NAB	June 2008 to October 2011
Gerard BRADLEY AO	Non-Executive Director, Star Entertainment	30 May 2013 to date
David BREARLY	Manager, Casino Review, the Authority	January 2005 to May 2016
David BRENAC	Group Executive Asset Management and Development, Star Entertainment	2017 to date
Micheil BRODIE	General Manager, Social Responsibility, Star Entertainment	October 2019 to June 2022
	General Manager Compliance and Responsible Gambling, The Star	2017 to 2019
	Chief Executive, the Authority	2013 to 2016
Angus BUCHANAN	Group Manager, Due Diligence and Intelligence, Star Entertainment	1 November 2021 to date
	Due Diligence Program Manager, Star Entertainment	May 2019 to 1 November 2021
	Executive Manager, Due Diligence and Research and then Executive Manager, Anti-Bribery & Integrity Assurance	August 2015 to August 2018
Rachel BUDWAY	Vice President, Premium Services Operations, Star Entertainment	September 2020 to date
	Premium Services Operations Manager, Star Entertainment	November 2012 to September 2020
Alvin CHAU	Chairman, Suncity Group Holdings	Until November 2021
Sandra CHEONG	Executive Manager of Premium Services, Market Development, Suncity	September 2018 to date

Individual	Role	Date Role Held
	Executive Manager of VIP Project Development, Market Development, Suncity	April 2018 to August 2018
	Assistant Manager of VIP Project Development, Suncity	April 2016 to March 2018
	Supervisory of VIP Project Development, Suncity	April 2015 to March 2016
	Executive of Overseas Business Development, Suncity	March 2014 to March 2015
Michelle CHIU	International Compliance Officer (Hong Kong), Star Entertainment	At least 2018 to date
John CHONG	President of International Marketing, Star Entertainment	September 2015 to September 2018
Jacker CHOU	Vice President, VIP Credit and Collections, Star Entertainment	2014 to 2020
Tk CHUAH	Representative of Suncity	During the Relevant Period
Leroy DANIEL	Director of Surveillance, The Star	2019 to date
Hugh DAVIS	Group Head Premium Assets (Procurement)	March 2021 to date
	Senior Vice President – Premium Assets (Hong Kong)	July 2018 to March 2021
	Commercial Manager VIP International – Aviation	June 2011 to June 2018
Phillip DONG FANG LEE	Patron of The Star	Until July 2021
Paulina ("Paulinka") DUDEK	Assistant Treasurer, Star Entertainment	August 2020 to date
	Senior Treasury Manager, Star Entertainment	March 2019 to August 2020
Hugh FRASER	General Manager, Gaming Operations, Star Entertainment	September 2013 to date
Alexander GORMAN	General Manager, Casino Marketing, Star Entertainment	c. 2018 to date

Individual	Role	Date Role Held
James GOUGH	General Manager, Internal Audit & Assurance, Star Entertainment	2019 to date
Alexander GRAHAM	Partner, KPMG	July 2021 to date
	Director, KPMG	July 2012 to June 2021
Gregory HAWKINS	Chief Casino Officer, Star Entertainment	January 2019 to May 2022
	Managing Director of The Star	September 2014 to January 2019
Benjamin HEAP	Chairman, Star Entertainment	1 June 2022 to date
	Non-Executive Director, Star Entertainment	23 May 2018 to 1 June 2022
Desmond HO	Senior Vice President of International Marketing, Star Entertainment	October 2018 to date
	Vice President of International Marketing – VIP Slots, Star Entertainment	February 2018 to October 2018
	Director of International Marketing – VIP Slots, Star Entertainment	October 2015 to January 2018
Geoff HOGG	Interim Chief Executive Officer, Star Entertainment	1 June 2022 to date
	Chief Casino Officer, Queensland, Star Entertainment	1 July 2020 to 1 June 2022
Adrian HORNSBY	General Manager, Credit and Collections, Star Entertainment	Unknown to June 2020
Kevin HOULIHAN	General Manager, Financial Crimes and Investigations, Star Entertainment	November 2021 to June 2022
	AML/CTF Compliance Officer, Star Entertainment	May 2020 to November 2021
	Group Investigations Manager, Star Entertainment	2016 to November 2021
Brett HOULDIN	Chief Financial Officer, Star Entertainment	April 2012 to November 2014

Individual	Role	Date Role Held
Danny HUANG	General Manager, Strategy and Group Treasurer, Star Entertainment	September 2020 to date
	General Manager, Strategy and Investor Relationships, Star Entertainment	February 2016 to September 2020
Heidi HUANG	Senior Vice President, VIP International Operations, Star Entertainment	November 2016 to January 2021
George HUGHES	Chief Marketing Officer, Star Entertainment	November 2017 to date
Peter HUMPRHEYS	General Manager, Gaming Machines and Cashier Services, Star Entertainment	July 2019 to date
	General Manager, Electronic Gaming Operations, The Star	January 2019 to June 2019
	Director of Gaming Machine Operations, The Star	September 2016 to January 2019
Kit Lon ("Alan") Iek	Representative of Suncity	During the Relevant Period
Peter JENKINS	Group Executive External Affairs, Star Entertainment	November 2020 to date
	General Manager, Media and Communications, Star Entertainment	January 2015 to November 2020
Christina KATSIBOUBA	Interim Chief Financial Officer, Star Entertainment	May 2022 to date
	Group Executive Gaming, Star Entertainment	September 2020 to April 2022
	Deputy Chief Financial Officer, Star Entertainment	August 2019 to September 2020
	Group Financial Controller, Star Entertainment	November 2015 to July 2019
Simon KIM	Senior Vice President, International Marketing, Star Entertainment	15 March 2017 to March 2020
Kathleen ("Katie") LAHEY AM	Non-Executive Director, Star Entertainment	1 March 2013 to date
Ming ("Michael") LAI	Group Manager – Chinese Tourism, Star Entertainment	October 2018 to date

Individual	Role	Date Role Held
	Business Development Manager, Asian Segment Queensland, Star Entertainment	December 2014 to October 2018
Juanita LARKIN	Cashier Services Manager, The Star Gold Coast	September 2017 to date
Kim LEE	Chief Transformation Officer, Star Entertainment	January 2022 to date
	Chief People and Performance Officer, Star Entertainment	January 2015 to date
Marcus LIM	President of International VIP Sales, Star Entertainment	April 2018 to July 2020
	Senior Vice President, International Marketing, Star Entertainment	March 2016 to April 2018
Wallace LIU	Vice President, Premium Services Operations, Star Entertainment	August 2020 to March 2022
	Vice-President, VIP International Operations, Star Entertainment	July 2018 to August 2020
	Assistant Vice-President, VIP International Operations, Star Entertainment	November 2016 to July 2018
David MACKAY	General Manager, Asset Protection and Operational Resilience, The Star	Unknown
Paula MARTIN	Chief Legal and Risk Officer, Star Entertainment	August 2019 to May 2022
	Group General Counsel and Company Secretary, Star Entertainment	August 2012 to August 2019
	Company Secretary, The Star	June 2011 to May 2022
Andrew McGREGOR	Investigations Manager, Financial Crime and Investigations, Star Entertainment	July 2018 to date
	Senior Investigator, Star Entertainment	January 2009 to July 2018
Robyn McKern	Partner, McGrathNicol	July 2004 to date
Paul McWILLIAMS	Chief Risk Officer, Star Entertainment	February 2016 to July 2019

Individual	Role	Date Role Held
Silvia MUI	Senior Vice President of International Marketing, Star Entertainment	January 2019 to June 2021
Saro MUGNAINI	General Manager VIP International, Star Entertainment, Star Entertainment	c. 2013 to July 2019
Tarnya O'NEIL	General Manager, Internal Audit and Assurance, Star Entertainment	September 2016 to October 2018
John O'NEILL AO	Executive Chairman, Star Entertainment with interim responsibility as the Chief Executive Officer	1 April 2022 to 31 May 2022
	Non-Executive Director, Star Entertainment	28 March 2011 to 1 April 2022
	Chairman, Star Entertainment	8 June 2012 to 1 April 2022
Jeff O'SULLIVAN	Partner, KPMG	November 2012 to date
Christopher PEASLEY	President Domestic and International Casino Marketing, Star Entertainment	August 2020 to date
	Executive General Manager, Domestic Marketing, Star Entertainment	November 2012 to August 2020
Danijela PERKOVIC	Treasury Manager, Star Entertainment	At least December 2016 to 2019
Sally PITKIN AO	Non-Executive Director, Star Entertainment	19 December 2014 to 30 June 2022
Andrew POWER	Group General Counsel, Star Entertainment	4 November 2019 to May 2022
	General Counsel, The Star	2010 to November 2019
Salesh PRAKASH	Group Senior Revenue Audit, The Star	January 2021 to date
	Supervisor, Revenue Audit	c. 2010 to c. 2020
David PROCTER	Manager, VIP Credit and Collections, Star Entertainment	September 1995 to date
Damien QUAYLE	Chief Operating Officer - Sydney, Star Entertainment	July 2019 to date

Individual	Role	Date Role Held
	Chief Operating Officer – Gold Coast, Star Entertainment	January 2019 to July 2019
	Chief Operating Officer – Gaming, Star Entertainment	July 2016 to January 2019
Sarah SCOPEL	Group Treasurer, Star Entertainment	October 2018 to September 2020
Richard SHEPPARD	Non-Executive Director, Star Entertainment	1 March 2013 to date
Gabriela SOARES	Assistant Vice President VIP Credit & Collections, Star Entertainment	June 2015 to January 2022
Stephen SPENCE	Executive General Manager, VIP Gaming, Star Entertainment	At least 2013 to c. 2016
Howard STEINER	Project Director, Anti-Money Laundering & Know Your Customer, Star Entertainment	January 2020 to date
Graeme STEVENS	Group Compliance Manager, Star Entertainment	September 2019 to May 2022
	NSW Regulatory Affairs Manager, Star Entertainment	December 2006 to September 2019
Harry THEODORE	Chief Financial Officer, Star Entertainment	September 2019 to May 2022
	Director, EEIS	28 December 2019 to 8 June 2022
	Chief Commercial Officer, Star Entertainment	October 2018 to August 2019
	Head of Strategy and Investor Relations, Star Entertainment	June 2011 to 2018
Zlatko TODORCEVSKI	Non-Executive Director, Star Entertainment	23 May 2018 to 31 August 2020
Mark WALKER	Senior Vice-President of Sovereign Operations, The Star	October 2019 to date
	Premium Guest Manager, The Star	May 2018 to October 2019
Oliver WHITE	General Corporate Counsel, Star Entertainment	September 2011 to April 2022

Individual	Role	Date Role Held
Michael WHYTCROSS	General Manager, Commercial Finance International Marketing, Star Entertainment	At least 2016 to March 2022