



REPORT

Review of The Star Pty Ltd

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

31 August 2022

VOLUME 1



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the *Casino Control Act 1992* (NSW)

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Published 31 August 2022

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The Review of The Star Pty Ltd acknowledges the traditional owners of land throughout the State of New South Wales and recognises their continuing connection to land, sea, culture and community. The Review pays its respects to elders past, present and emerging.



31 August 2022

Mr Philip Crawford
Chairperson
Independent Liquor and Gaming Authority
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Dear Mr Crawford

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

I refer to the Instrument of Appointment dated 13 September 2021 to preside over an Inquiry under sections 143 and 143A of the *Casino Control Act 1992 (NSW)* into the matters referred to in the Terms of Reference annexed to the Instrument of Appointment and updated on 14 December 2021.

I hereby submit to you the Report and Recommendations of the Inquiry.

I would like to express my sincere thanks to the Counsel and Solicitors Assisting for their outstanding dedication and professionalism.

Yours sincerely

[SIGNED]

Adam Bell SC

Counsel and Solicitors Assisting the Review

Counsel Assisting

Naomi Sharp SC
Caspar Conde
Penelope Abdiel
Nicholas Condylis

Solicitors Assisting (Maddocks Lawyers)

Michelle Dixon
Norman Lucas
Erin Hourigan
Sasha Di Sipio
Bianca Kelly
Jessica Rapana
Sophie Baring
Claudia Radzikowska-Tanas
Brianna Nichols
Hugo Vlachos

Contents

Volume 1

Chapter 1 Executive Summary	1
Chapter 1.1 Key Findings	2
Chapter 1.2 Recommendations	32
Chapter 2 Previous Reviews of The Star	39
Chapter 2.1 A brief history of The Star up to 2016	40
Chapter 2.2 Previous reviews of The Star prior to 2016.....	43
Chapter 2.3 Review of The Star by Dr J. M. Horton QC in 2016	44
Chapter 2.4 Recommendations by Dr J. M. Horton QC.....	46
Chapter 3 Developments in the Casino Landscape in Australia since the 2016 Review	50
Chapter 3.1 Implementation of recommendations by Dr. J. M. Horton QC.....	51
Chapter 3.2 Report by the Hon P A Bergin SC	55
Chapter 3.3 Royal Commission into the Casino Operator and Licence in Victoria (RCCOL) .	61
Chapter 3.4 Perth Casino Royal Commission (PCRC).....	63
Chapter 3.5 The current landscape for casinos in New South Wales	65
Chapter 3.6 A brief overview of the Casino Legislation Amendment Act 2022.....	67
Chapter 4 The Nature of this Review.....	76
Chapter 4.1 Instrument of Appointment	77
Chapter 4.2 Updated Terms of Reference	79
Chapter 4.3 Principles governing fact-finding.....	80
Chapter 5 The Regulatory Environment.....	83
Chapter 5.1 The Star’s Casino Licence	84
Chapter 5.2 Relevant provisions of the <i>Casino Control Act</i>	90
Chapter 5.3 Regulatory Agreements relevant to The Star	100
Chapter 5.4 Close Associates of The Star.....	105
Chapter 6 The Test of Suitability	112
Chapter 6.1 The meaning of “suitability” and the approaches taken in other casino licence reviews and inquiries	113
Chapter 6.2 The meaning of “good repute, having regard to character, honesty and integrity”	119
Chapter 6.3 Assessing corporate suitability.....	122

Chapter 6.4 Suitability in the corporate group context.....	125
Chapter 7 Procedural History of this Review	128
Chapter 7.1 Initial Approach	129
Chapter 7.2 Media Allegations in October 2021	130
Chapter 7.3 Announcement of Public Hearings	130
Chapter 7.4 Engagement of McGrathNicol Advisory	131
Chapter 7.5 Investigative Steps	131
Chapter 7.6 Procedural Steps: Harm Minimisation and Responsible Gambling.....	132
Chapter 7.7 Procedural Steps: Controlled Contracts, Gambling Chips and Free Bet Vouchers	134
Chapter 7.8 Further Media Allegations in February 2022.....	135
Chapter 7.9 Tour of The Star in March 2022	135
Chapter 7.10 Public Hearings	135
Chapter 8 Governance and Management Structure of The Star and Star Entertainment 139	
Chapter 8.1 Relevant corporate structure of Star Entertainment	140
Chapter 8.2 Constitution of The Star	140
Chapter 8.3 Directors and officers of The Star at the commencement of the Review.....	142
Chapter 8.4 Management of The Star	143
Chapter 8.5 Constitution of Star Entertainment.....	143
Chapter 8.6 Substantial shareholders of Star Entertainment	144
Chapter 8.7 Relevant governance documents	146
Chapter 8.8 The Board of Star Entertainment at the commencement of the Review	149
Chapter 8.9 Management structure and reporting lines up to the commencement of the Review	151
Chapter 8.10 Risk management framework	155
Chapter 9 Departures from Star Entertainment during the Public Hearings and their Impact	168
Chapter 9.1 A flurry of resignations	169
Chapter 9.2 Impact of the resignations on the assessment of the suitability of The Star and Star Entertainment.....	170
Chapter 9.3 Impact of the resignations on the fact-finding process by the Review	173
Chapter 10 Risks of Money Laundering and Criminal Infiltration in Casinos	175
Chapter 10.1 Introduction	176
Chapter 10.2 The susceptibility of casinos to money laundering	177
Chapter 10.3 The susceptibility of casinos to criminal infiltration.....	178
Chapter 10.4 Junkets.....	179
Chapter 10.5 Australia’s AML/CTF framework	181
Chapter 11 Developments in the VIP Casino Market in North Asia and their Significance	192

Chapter 11.1 The rise of the VIP casino market in Macau.....	193
Chapter 11.2 The rise in VIP revenues at Star Entertainment and the increasing importance of junkets.....	194
Chapter 11.3 Chinese capital flight restrictions.....	195
Chapter 11.4 The corruption crackdown in China.....	196
Chapter 11.5 Board briefings on Junkets and tightening regulation in Macau.....	197
Chapter 12 The use of CUP cards at The Star	205
Chapter 12.1 Introduction.....	206
Chapter 12.2 Genesis of the CUP Process.....	207
Chapter 12.3 The Star’s initial dealings with NAB.....	208
Chapter 12.4 The issue of NAB’s knowledge.....	210
Chapter 12.5 UnionPay Scheme Rules.....	211
Chapter 12.6 Merchant Agreement with NAB.....	216
Chapter 12.7 The Star obtains legal advice in 2013.....	218
Chapter 12.8 Dealings with the Authority and commencement of the CUP Process.....	220
Chapter 12.9 The CUP Process and the manner of its documentation.....	222
Chapter 12.10 Uncleared funds and the search for work arounds.....	227
Chapter 12.11 Case Study: Use of CUP Cards by Mr Phillip Lee.....	231
Chapter 12.12 The legality of the Temporary CCF and the attendant risks.....	243
Chapter 12.13 Money Laundering Risks.....	247
Chapter 12.14 Other risks of the CUP Process.....	249
Chapter 12.15 Dealings with NAB.....	256
Chapter 12.16 The Cessation of the CUP Process in 2020.....	272
Chapter 12.17 Misleading the Regulator in 2021 about the CUP Process.....	274
Chapter 12.18 The Project Zurich Report on CUP.....	276
Chapter 12.19 Conclusions.....	279

Volume 2

Chapter 13	The Star’s Dealings with Suncity since 2016
Chapter 14	The end of Junkets
Chapter 15	Misrepresentations to the Bank of China Macau
Chapter 16	The Closure of Star Entertainment’s Bank Accounts in Macau and the Response
Chapter 17	The Conduct of Star Entertainment’s International VIP Team since 2016
Chapter 18	The KMPG Reports
Chapter 19	Star Entertainment’s Practices in Claiming Legal Professional Privilege

Volume 3

Chapter 20	Overall Assessment of Star Entertainment’s AML/CTF Program and associated processes
Chapter 21	Prevention of Criminal Infiltration
Chapter 22	Gambling Duty Payable by The Star to the NSW Government
Chapter 23	Harm Minimisation and Responsible Gambling
Chapter 24	Controlled Contracts, Gambling Chips and Free Bet Vouchers
Chapter 25	The Use of Standard Operating Procedures at The Star
Chapter 26	Assessment of the Governance and Culture of Star Entertainment since 2016
Chapter 27	Suitability

Appendices

Glossary

Term	Definition
1 October 2020 memorandum	means a document entitled “Updated Assessment – Alvin CHAU Cheok Wa (Suncity Group Ltd)” dated 1 October 2020 prepared by Mr Angus Buchanan addressed to Mr Andrew Power (copied to Mr Oliver White and Mr Kevin Houlihan).
10 September 2021 Response	means the letter sent from The Star to L&GNSW dated 10 September 2021.
10 September letter	means a letter from The Star to L&GNSW dated 10 September 2019.
16 December Response	means the email sent by The Star to NAB on 16 December 2019 regarding CUP queries.
18 June Request	means the request from UnionPay that was forwarded by NAB to The Star on 18 June 2019 regarding certain CUP transactions.
19 June Response	means the email sent by The Star to NAB in response to the 18 June Request.
2008 Duty Agreement	means the Deed of Amendment and Restatement (Casino Duty and Responsible Gambling Levy Agreement) entered into between the NSW Government and The Star on 26 June 2008.
2017 Rebate Agreement	means a “Win/Loss Rebate & Exclusive Access Agreement” entered into between The Star and Mr Kit Lon Iek dated 30 June 2017.
2018 Rebate Agreement	means the “Win/loss Rebate & Exclusive Access Agreement” between The Star, The Star Entertainment Qld Limited and Mr Iek dated 21 June 2018.
24 November 2020 memorandum	means a document entitled “DRAFT – Revised AC SC Assessment” dated 24 November 2020 that was sent by email from Mr Angus Buchanan to Mr Andrew Power and Mr Kevin Houlihan on 25 November 2020.
27 August Request	means the request from UnionPay that was forwarded by NAB to The Star on 27 August 2019 regarding certain CUP transactions.
27 August Response	means the email sent by The Star to NAB in response to the 27 August Request.

30 August Response	means the email sent by The Star to NAB in response to a further query from NAB on 30 August 2021.
30 March 2017 Email	means the email sent from NAB to Mr Harry Theodore forwarding a reminder from UnionPay regarding the terms and conditions of the CUP facility.
4 November 2019 Response	means the email sent from The Star to NAB on 4 November 2019 in relation to queries regarding CUP.
6 November Request	means the email sent from NAB to The Star on 6 November 2019 regarding CUP queries.
7 January 2021 memorandum	means a memorandum prepared by Mr Angus Buchanan and sent to Mr Andrew Power and Mr Houlihan by email on 8 January 2021.
7 November Response	means the response sent by The Star to NAB on 7 November 2019 regarding CUP queries.
9 December Response	means the response sent by The Star to NAB on 9 December 2019 regarding CUP queries.
ACIC	means the Australian Criminal Intelligence Commission.
AFP	means the Australian Federal Police.
AGRC	means the Australian Gambling Research Centre at the Australian Institute of Family Studies.
AGRC Submission	means the AGRC submission to the Review dated 23 January 2022.
Alliance	means the Alliance for Gambling Reform.
Amendment Act	means the <i>Casino Legislation Amendment Act 2022</i> (NSW).
Amended Bergin Terms of Reference	means the amendment of the Original Bergin Terms of Reference by the Authority on 23 June 2020.
Amended Casino Exclusivity Agreement	means the Casino Regulatory and Compliance Deed entered on 5 June 2009 between the Authority and The Star.
Amended Casino Licence	means the licence as set out in the “Notification of Amendment of Casino Licence under Section 22 of <i>Casino Control Act</i> ” dated 5 June 2009.
Amended Casino Operations Agreement	means the Casino Operations Agreement originally entered into on 14 December 1994 and as amended on 5 June 2009 by the Deed of Amendment and Restatement between the Authority, The Star and a number of other parties.

Amended Compliance Deed	means the Compliance Deed originally entered into on 22 April 1994 and as amended by the Deed of Amendment and Restatement on 5 June 2009 between the Authority, The Star and other parties.
Amended Continuity and Co-operation Agreement	means the Continuity and Co-operation Agreement (Second Deed of Amendment) dated 5 June 2009 between the Authority, The Star and a number of other parties, as amended by (i) the Continuity and Co-operation Agreement (Third Deed of Amendment) dated 20 May 2011 between the same parties; and further (ii) the Continuity and Co-operation Agreement (Fourth Deed of Amendment) dated 20 May 2011 between the same parties and also Echo Entertainment Finance Limited (ACN 150 211 368).
AML/CTF Act	means the <i>Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth).
AML/CTF Program	means the joint AML/CTF Program that covers The Star and The Star Entertainment Queensland Ltd.
AML/CTF Regulations	means the <i>Anti-Money Laundering and Counter-Terrorism Financing (Prescribed Foreign Countries) Regulations 2018</i> (Cth).
AML/CTF Rules	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)</i> (Cth).
AML DD Review Report	means the document entitled “AML DD Review Report” prepared by Star Entertainment in respect of Mr Chau.
ANZ	means the Australia and New Zealand Banking Group Limited.
April 2013 KWM Advice	means the legal advice provided by KWM to The Star dated 30 April 2013 regarding the use of CUP cards at The Star.
ASIC	means Australian Securities and Investments Commission.
ASX	means ASX Ltd or the market operated by it.
ATM	means Automated Teller Machine.
AUSTRAC	means the Australian Transaction Reports and Analysis Centre.
Authority	means the NSW Independent Liquor & Gaming Authority (formerly the Casino Control Authority).
BDO Phase 1 Report	means the report issued by BDO in May 2021 in respect of Part A of the AML/CTF Program.

BDO Phase 2 Report	means the report issued by BDO in or around November 2022 in respect of the effectiveness and compliance AML/CTF Rules of TrackVia.
Bergin Report	means the report dated 1 February 2021 of the NSW Casino Inquiry conducted by the Honourable P. A. Bergin SC into Crown Sydney and Crown Resorts under section 143 of the <i>Casino Control Act 1992</i> (NSW).
Bergin Inquiry	means the NSW Casino Inquiry conducted by the Honourable P. A. Bergin SC into Crown Sydney Gaming and Crown Resorts under section 143 of the <i>Casino Control Act 1992</i> (NSW).
BOC	means the Bank of China.
BOC HK	means the Hong Kong branch of the Bank of China.
BOC Macau	means the Macau branch of the Bank of China.
Burswood Entities	means Burswood Limited ACN 075 071 537, Burswood Nominees Ltd ACN 078 250 307 and Burswood Resort (Management) Limited ACN 009 396 945.
Burswood Nominees	means Burswood Nominees Ltd ACN 078 250 307.
Cage SOPs	means the versions of the Cage Operations SOPs sent to the Authority by Mr Graeme Stevens on 11 December 2013 and 19 February 2014.
<i>Casino Control Act</i>	means the <i>Casino Control Act 1992</i> (NSW).
<i>Casino Control Act (Vic)</i>	means the <i>Casino Control Act 1991</i> (Vic).
<i>Casino Control Regulation</i>	means the <i>Casino Control Regulation 2019</i> (NSW).
Casino Regulatory and Compliance Deed	means the Casino Regulatory and Compliance Deed entered on 5 June 2009 between the Authority and The Star.
Casino Taxes Agreement	means the Casino Taxes Agreement as amended on 20 May 2011 through a Deed of Amendment and Restatement between the Authority and The Star.
CBD	means central business district.
CCF	means cheque cashing facility.
<i>Cheques Act</i>	means the <i>Cheques Act 1986</i> (Cth).
CPH	means Consolidated Press Holdings Pty Ltd.
CPH Crown Holdings	means CPH Crown Holdings Pty Limited.

CRIU	means the Casino and Racing Investigations Unit of the NSW Police Force (now known as the Gaming Unit).
Crown Melbourne	means Crown Melbourne Limited.
Crown Resorts	means Crown Resorts Limited.
Crown Sydney	means Crown Sydney Gaming Pty Ltd.
Chow Tai Fook	means Chow Tai Fook Enterprises Limited.
CUP	means China Union Pay.
CUP Process	means the process adopted by The Star and Star Entertainment whereby a patron could swipe their CUP card at the Astral Hotel's VIP lounge terminal and the amount of funds debited would then be made available to the patron for gambling via a ledger entry to the patron's front money account.
Current Duty Agreement	means the Duty and Responsible Gambling Agreement entered into between The Star and the NSW Government dated 29 May 2020.
DBG	means designated business group.
Duty SOP	means the document titled "NSW Casino Duty & International Duty Standard Operating Procedures" dated 2018.
Echo Entertainment	means Echo Entertainment Group Ltd, being the former name of Star Entertainment.
ECDD	means enhanced customer due diligence.
EEIS	means EEI Services (Hong Kong) Limited.
EEIS AML/CTF Program	means the AML/CTF Program released by EEIS in May 2018.
EFT	means electronic funds transfer.
EGMs	means electronic gaming machines, commonly referred to as "pokies".
exclusion order	means a written order prohibiting a person from entering or remaining in the casino.
Exclusions Policy	means the Star Entertainment policies in place from time to time during the Relevant Period dealing with exclusion orders and Withdrawals of Licences.
Exclusions Review Committee	means the committee established by Star Entertainment pursuant to the Exclusions Policy.

Far East Consortium	means Far East Consortium International Limited.
False SOF Documentation	means the False SOF Letters together with a template “Letter to CCF Holder” and “Letter of demand” that were produced by staff in Star Entertainment’s Macau office.
False SOF Letters	means source of funds letters that were provided by staff in Star Entertainment’s Macau office to BOC Macau between 2013 and 2017.
FATF	means the Financial Action Task Force.
FBVs	means free bet vouchers.
First McKern Report	means the report prepared by Robyn McKern, McGrathNicol Advisory to the Review dated 12 March 2022.
FTR Act	means the <i>Financial Transaction Reports Act 1988</i> (Cth).
Furness Report	means the report issued by Gail Furness SC to the Authority on 2 December 2011 pursuant to s 31 of the <i>Casino Control Act</i> .
Gadens Report	means the report prepared by Gadens titled ‘Investigation into reported allegations – The Sydney Morning Herald “ <i>Star encouraged high rollers to lie</i> ”’ dated 9 February 2022.
GALA Act	means <i>Gaming and Liquor Administration Act 2007</i> (NSW).
GWC	means the Gaming and Wagering Commission of Western Australia.
HKJC Report	means the report prepared by the Hong Kong Jockey Club in April 2018.
Hong Kong Briefing Note	means the document prepared by Mr Angus Buchanan entitled “Brief Synopsis of Hong Kong and Macau Based Meetings”.
Horton Report	means the report issued by Dr Jonathan Horton QC to the Authority on 28 November 2016 pursuant to s 31 of the <i>Casino Control Act</i> .
Horton Review	means the review undertaken by Dr Jonathan Horton QC in 2016 pursuant to s 31 of the <i>Casino Control Act</i> .
HWLE	means HWL Ebsworth.
ICC	means the Independent Casino Commission as set out in the Bergin Report.

ICM	means an internal control manual of The Star for the purposes of s 124 of the <i>Casino Control Act</i> .
ICM 3	means Internal Control Manual 3 – Cheque Cashing and Deposit Facilities.
ICM 5	means ICM 5 Casino Cage Operations effective 13 November 2017.
ICM 8	means ICM 8 Rebate Play effective 21 December 2018.
ICM 11	means ICM 11 Casino Cage Operations effective 21 December 2018.
Iek junket	means a junket group of which Mr Kit Lon Iek was the junket promoter.
IFTIs	means international funds transfer instructions.
Initial Kuan Koi Arrangement	means the arrangement between The Star and Mr Kuan Koi was described in a Star Entertainment paper dated 19 January 2018.
Instrument of Appointment	means the appointment by the Authority on 13 September 2021 of Adam Bell SC to preside over an inquiry for the purpose of the exercise of the Authority’s functions including under sections 30 and 141 of the <i>Casino Control Act</i> .
International VIP Team	means together the VIP International Operations, International VIP Sales and Commercial Finance International Marketing teams within Star Entertainment.
iProsperity	means iProsperity Group Pty Ltd.
iProsperity Group	means iProsperity Underwriting Pty Ltd (Receivers and Managers Appointed) (Administrators Appointed) (ACN 619 068 969), iProsperity Australia Pty Ltd (Administrators Appointed) (ACN 162 090 146), iProsperity Group Holdings Limited (Administrators Appointed) (ACN 629 625 270), i-Prosperity Group Pty. Ltd. (Administrators Appointed) (ACN 607 564 527), iProsperity Holding Group Pty Ltd (Administrators Appointed) (ACN 613 639 188), G&H Partners Co Pty Ltd (Receivers and Managers Appointed) (Administrators Appointed) (ACN 164 926 443), Cornerstone Capital Investment Group Pty Ltd (Administrators Appointed) (ACN 612 659 079), iPG Fund Services Pty Ltd (Administrators Appointed) (ACN 622 910 187), i-Prosperity Capital Management Pty Ltd (Administrators Appointed) (ACN 635 134 977), i-Prosperity Capital Pty Ltd (Administrators Appointed) (ACN 605 317 360), iProsperity Cornerstone Management Pty Ltd (Administrators Appointed)

	(ACN 620 127 291) and IPG Asset Services Pty Ltd (Administrators Appointed) (ACN 626 208 508).
IRB	means the International Rebate Business within Star Entertainment.
JRAM	means Joint Risk Assessment Meeting.
KPMG Part A Report	means the report prepared by KPMG in May 2018 in respect of Part A of the AML/CTF Program.
KPMG Part B Report	means the report prepared by KPMG in May 2018 in respect of Part B of the AML/CTF Program.
KWM	means King & Wood Mallesons.
KWM Advice	means the draft advice provided by KWM and addressed to Mr Andrew Power and Mr Oliver White on or around 2 September 2020 regarding the uncertainty pertaining to the non-residency requirement in the 2008 Duty Agreement.
KYC	means Know Your Customer.
L&GNSW	means Liquor & Gaming NSW.
MCC	means Merchant Category Code.
MCG	means the Massachusetts Gaming Commission.
McClellan 1997 Report	means the report issued by Peter McClellan QC to the Authority in December 1997 pursuant to s 31 of the <i>Casino Control Act</i> .
McClellan 2000 Report	means the report issued by Peter McClellan QC to the Authority on 15 December 2000 pursuant to s 31 of the <i>Casino Control Act</i> .
Melbourne Casino	means the casino operated in Melbourne by Crown Melbourne, including the areas in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on.
Melco Resorts	means Melco Resorts & Entertainment Limited.
Melco Transaction	means the sale of shares in Crown Resorts by CPH Crown Holdings to Melco under a share sale agreement dated 30 May 2019.
Merchant Agreement	means the Merchant Agreement entered into between NAB and the Star Counterparties in or around 2012 which contained

	terms and conditions associated with the use of the NAB terminals.
Minister	means, from time to time, the responsible NSW Government Minister under the <i>Casino Control Act</i> .
ML/TF	means money laundering/terrorism financing.
MMS	means a Macau Marketing Subsidiary.
Modified Kuan Koi Arrangement	means the arrangement that was in place with Mr Kuan Koi between April 2018 to September 2019 which was utilised to transmit funds from overseas patrons to The Star.
NAB	means the National Australia Bank Limited.
NICC	means the New South Wales Independent Casino Commission.
NSW	means the State of New South Wales in Australia.
OCDD	means ongoing customer due diligence.
Original Bergin Terms of Reference	means the terms of reference published by the Authority on 14 August 2020.
PAMM	means Patron Activity Monitoring Meeting.
patron bank accounts	means 39 bank accounts of The Star or Star Entertainment 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 cheque cashing facilities.
PBOC	means the People's Bank of China.
PEPs	means politically exposed persons.
PCRC	means the Perth Casino Royal Commission conducted by the Honourable Neville Owen AO, the Honourable Lindy Jenkins and Mr Colin Murphy PSM.
PCRC Report	means the final report of the PCRC dated 4 March 2022.
Perth Casino	means the casino in respect of which a casino gaming licence has been granted under s 21 of the <i>Casino Control Act 1984</i> (WA).
POS	means Point of Sale.

Procedural Guidelines	means the document entitled “ <i>Procedural Guidelines relating to Public Hearings Concerning the Review of The Star Pty Ltd</i> ” issued by Mr Bell SC on 17 February 2022.
Project Congo memorandum	means a document entitled “Project Congo – High Risk Customer Review (Phase 1)” that was sent by Mr Kevin Houlihan to Mr Andrew Power by email on 17 August 2021.
Prosegur	means Prosegur Australia Pty Limited.
Queen’s Wharf Development	means the joint venture between Star Entertainment and Destination Brisbane consortium partners, namely, Hong Kong based Chow Tai Fook and Far East Consortium for the redevelopment of the Queen’s Wharf precinct in Brisbane announced in 2015 and due to complete in 2022.
RCCOL	means the Royal Commission into the Casino Operator and Licence conducted by the Honourable Ray Finkelstein AO QC as Commissioner and Chairperson.
RCCOL Report	means the report of the RCCOL dated October 2021.
RCG	means responsible conduct of gambling.
RCRP Committee	means the Star Entertainment’s Risk, Compliance and Regulatory Performance Committee.
Relevant Period	means the period between 29 November 2016 and 13 September 2021.
Responsible Gambling Code	means The Star Responsible Gambling Code, undated.
RGF	means the trustees of the Responsible Gambling Fund, which is supported by the NSW Office of Responsible Gambling.
Riverbank	means Riverbank Investments Pty Limited.
Rivers Satellite Cage	means a satellite cage which was in operation within the Rivers area of The Star Casino.
Royal Commissions Act	means <i>Royal Commissions Act 1923</i> (NSW).
RSC	means Star Entertainment’s Renewal Steering Committee.
Second McKern Report	means the report prepared by Robyn McKern, McGrathNicol Advisory to the Review dated 26 April 2022.
Security Master Licence Exemption	means the exemption set out in regulation 12(e) of the <i>Casino Control Regulation</i> that provides that a contract for services

	provided by the holder of a current master licence under the <i>Security Industry Act 1997</i> (NSW) is not a controlled contract.
Service Desk SOP	means the document titled “Salon 95 Service Desk Processes”.
SHC	means Sydney Harbour Casino Pty Ltd, being the former name of The Star.
Silver Express	means Silver Express Investment Limited.
SMRs	means suspicious matter reports.
SOP	means a standard operating procedure of The Star.
Southbank	means Southbank Investments Pty Limited.
Star Counterparties	means Star Entertainment, Star Entertainment Finance Limited, Jupiters Limited and Star City Holdings Limited who entered into the Merchant Agreement in or around 2012.
Star Entertainment	means The Star Entertainment Group Ltd (ACN 149 629 023) (formerly Echo Entertainment Group Ltd).
Star Holdings	means The Star Entertainment Sydney Holdings Limited.
State Star Financial Deed	means the State Star Financial Deed dated 29 May 2020 between the State of New South Wales, the Authority and The Star.
Summary of Events	means the document entitled “Summary of Events – IRB” that was attached to an email from Ms Kim Lee to Ms Paula Martin on 11 March 2018.
Suncity	means Suncity Group Holdings Ltd.
Tabcorp	means Tabcorp Holdings Pty Limited.
Temporary CCF	means Temporary Cheque Cashing Facility.
The Star	means The Star Pty Ltd (ACN 060 510 410) (formerly Sydney Skyline Casino Pty Ltd, Sydney Harbour Casino Pty Ltd and Star City Pty Ltd).
The Star Casino	means the casino operated by The Star in Pyrmont.
The Star Entities	means The Star and Star Entertainment.
TPM	means Time Play Management.
Transaction Data Sample	means the records reviewed by Ms Robyn McKern including front money documentation and 387 bank statements from the following banks: ANZ, BOC, UOB and NAB.

<i>Unlawful Gambling Act</i>	means the <i>Unlawful Gambling Act 1998</i> (NSW).
UnionPay	means UnionPay International Co. Ltd.
UnionPay Scheme Rules	means Volume II of Union Pay’s Operating Regulations of October 2012.
UOB	means United Overseas Bank.
Updated Terms of Reference	means the terms of reference included by the Authority under the Instrument of Appointment as amended on 14 December 2021.
Variation Agreement	means the Variation Agreement between Prosegur and The Star dated 4 July 2019 to widen the scope of an earlier “Services Agreement” between them dated 16 August 2016.
VCGLR	means the Victorian Commission for Gambling and Liquor Regulation established by the <i>Victorian Commission for Gambling and Liquor Regulation Act 2011</i> (Vic).
VEVO	means Visa Entitlement Verification Online system.
VRGF Submission	The Victorian Responsible Gambling Foundation’s submission to RCCOL dated 31 May 2021.
Walker and Furness 2003 Report	means the report issued by Bret Walker SC and Gail Furness to the Authority on 12 December 2003 pursuant to s 31 of the <i>Casino Control Act</i> .
Walker and Furness 2006 Report	means the report issued by Bret Walker SC and Gail Furness to the Authority on 7 December 2006 pursuant to s 31 of the <i>Casino Control Act</i> .
Warning Letter	means the letter sent by UnionPay to NAB dated 28 February 2020.
Withdrawal of Licence	means where at common law, The Star has withdrawn a person’s licence to enter and remain in The Star Casino.

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Chapter 1

Executive Summary

Chapter 1. Executive Summary

Chapter 1.1 Key Findings

Introduction (see Chapters 5 and 8)

1. The Star is the corporation that holds the casino licence in NSW issued pursuant to the *Casino Control Act 1992* (NSW) (**Casino Control Act**) and is the operator of The Star Casino. The ultimate holding company of The Star is Star Entertainment.
2. During the whole of the period which is the primary focus of this Review, from 29 November 2016 to 13 September 2021 (**Relevant Period**), the directors and company secretary of The Star were senior executives of Star Entertainment. As at 13 September 2021, the directors of The Star were Mr Matt Bekier (then the Managing Director and Chief Executive Officer of Star Entertainment) and Mr Harry Theodore (then the Chief Financial Officer of Star Entertainment). The company secretary of The Star at that time was Ms Paula Martin (then the Chief Legal and Risk Officer and company secretary of Star Entertainment).
3. The executives of Star Entertainment who sat on the Board of The Star only met as a board to pass statutory accounts and for formal purposes. All key decisions affecting The Star were made by the Board and senior management of Star Entertainment.
4. Since it was first enacted in 1992, section 124 of the *Casino Control Act* has contemplated that a casino operator may only conduct operations in accordance with internal controls, known as Internal Control Manuals (**ICMs**), approved by the Independent Liquor & Gaming Authority (**Authority**). Sitting beneath the ICMs are Standard Operating Procedures (**SOPs**), which do not need to be approved by the Authority.
5. Prior to 20 December 2018, section 124 in effect provided that a breach of an ICM was a breach of a casino licence. From that date, section 124 was amended to provide that a breach of an ICM is also an offence under the *Casino Control Act* as well as being a breach of a casino licence.

The use of China Union Pay cards at The Star (see Chapter 12)

6. From July 2013 to March 2020, patrons could swipe China Union Pay (CUP) debit cards at the Astral Hotel (later renamed The Star Grand Hotel) in order to fund gambling at The Star Casino (CUP Process). In this period, CUP cards were utilised by 1,307 patrons across 8,912 transactions. The value of the transactions via the CUP Process at The Star totalled \$908 million. Management of The Star and Star Entertainment (The Star Entities) were aware that the CUP Process was a means of circumventing Chinese capital flight laws.
7. From the outset, the CUP Process was an inherently deceptive and unethical process which disguised as hotel expenses the use of CUP Cards for gambling.
8. At all times during which the CUP Process was employed, the management of The Star Entities involved in the process believed that UnionPay International Co. Ltd (UnionPay), the proponent of the CUP card scheme, prohibited the use of CUP cards to fund gambling. It is unnecessary to decide whether that is the correct construction of UnionPay's rules, and whether this triggered any contractual liabilities under the Merchant Agreement that Star Entertainment had with National Australia Bank Limited (NAB), the supplier of the merchant terminals. At a minimum, there was a real risk that this was the case, and this risk was well-known to key executives within The Star Entities at all relevant times. They nevertheless courted the risk.
9. It was originally proposed that CUP transactions take place at the hotel rather than at the casino to sidestep regulatory restrictions. In April 2013, Star Entertainment received external legal advice that to avoid certain regulatory restrictions an amendment should be made to an ICM. The Star sought such approval from the Authority in May 2013 but did not disclose to the Authority that CUP cards would be swiped at the hotel or its belief that UnionPay's rules prohibited the use of CUP cards to fund gambling. The Star's communications to the Authority omitted relevant information and lacked transparency. They were completely inappropriate.
10. The Star's 2013 money laundering risk assessment in respect of the CUP Process was unsatisfactory. The Star failed to conduct any further risk assessment after 2013. No source of wealth checks were conducted. An obvious money laundering risk associated with the CUP Process was its lack of transparency. The fact that CUP transactions were conducted through the hotel obscured the fact that they were in reality transactions with a casino for the purpose of gambling.

11. The CUP transactions were documented on hotel letterhead bearing the patron's room number and arrival and departure dates and in some instances were issued in respect of "dummy" rooms when the patron had not stayed at the hotel. The documentation was an artifice and obscured the true nature of the transactions.
12. It took between 24 to 48 hours for funds debited on CUP cards to clear in The Star's bank account. Management became concerned that providing patrons chips before funds had cleared would put The Star in breach of a statutory prohibition on the provision of credit. Management searched for "workarounds" and settled upon creating a "temporary" cheque cashing facility (**Temporary CCF**) that would be granted to cover the period of time between the CUP card being swiped and the funds clearing in The Star's bank account.
13. The Temporary CCF involved The Star issuing the patron a counter-cheque in the name of the overseas bank that issued the CUP card. Despite being advised that there was a risk that the regulator would regard the Temporary CCF as a contravention of the *Casino Control Act*, the CEO of Star Entertainment and its CFO at the time, Mr Matt Bekier, approved the proposal in February 2014. The Temporary CCF was used at all times thereafter in connection with the CUP Process. The Star did not seek the Authority's prior approval for the Temporary CCF, and failed to be frank and transparent with its regulator.
14. The Star Entities knew that overseas banks would not honour the counter-cheques generated for the Temporary CCF if they were presented for payment. These counter-cheques were valid "cheques" for the purposes of the *Casino Control Act*. It is not appropriate to determine in the context of this suitability review whether the counter-cheques issued in respect of the Temporary CCFs were shams. It is sufficient to find that The Star courted the risk that the Authority would take the view that The Star was providing credit to patrons in the period before the funds had cleared into The Star's bank account.
15. The largest user of the CUP Process was Mr Phillip Lee who withdrew over \$100 million on his CUP card at The Star. In a three-day period in early April 2015, Mr Lee swiped over \$22 million on CUP cards. The Star placed no meaningful restrictions on his use of CUP cards. In 2015, Mr Lee was not even eligible under The Star's own SOPs to use CUP cards since he was not an international rebate player. Mr Lee's case study shows revenue was prioritised and compliance and risk management concerns were ignored.

16. By no later than October 2015, The Star Entities were on notice of the risk that Star Entertainment was in breach of its Merchant Agreement with NAB by reason of the CUP Process.
17. Also from around this time, various lawyers and members of senior management of Star Entertainment were on notice that NAB may not have understood that CUP cards were being used for gambling. From 2017, NAB queried a number of CUP transactions at the instigation of UnionPay. Star Entertainment did not take appropriate steps to ensure that NAB and UnionPay were told the truth, but instead, responded to inquiries in a way which was liable to mislead both NAB and UnionPay.
18. In the period June to December 2019, NAB conveyed a number of UnionPay's queries regarding CUP transactions to Star Entertainment. Star Entertainment's responses to NAB were false, misleading and unethical.
19. By 6 November 2019, various members of senior management were aware that in addition to NAB, both UnionPay and the People's Bank of China (**PBOC**) were reviewing the information being provided by Star Entertainment. On 7 November 2019 Star Entertainment provided a response to NAB which was brazenly and deliberately misleading. A number of members of senior management contributed to the wording of the email, including the Chief Legal and Risk Officer and the Chief Financial Officer of Star Entertainment.
20. More junior members of management who contributed to these false, misleading and unethical communications to NAB recognised them as such but felt unable to challenge more senior management.
21. There was a further escalation on 3 March 2020 when NAB forwarded a warning letter from UnionPay to Star Entertainment. The warning letter recorded that UnionPay had been told that the transactions were for accommodation purposes and did not include any component for the purpose of gambling. This warning letter was not made known to the Board of Star Entertainment.
22. The Warning Letter prompted Star Entertainment to take steps to bring the CUP Process to an end. Even the way in which it was brought to an end lacked candour, as staff were given a false reason for its termination.

23. On 10 September 2021, The Star responded to a statutory notice from Liquor & Gaming NSW (L&GNSW) about the CUP transactions. That response, as well as a response to this Review dated 8 November 2021, was misleading in suggesting that in 2013, The Star had informed the Authority of how the proposed CUP Process would work. That was not in fact the case since the Authority was not informed that the cards would be swiped at the hotel or of the belief that the transactions were prohibited by UnionPay.
24. At no time while the CUP Process was in operation was the Board of Star Entertainment alerted to any of the risks identified by senior management. In the aftermath of the Bergin Inquiry and the Victorian Royal Commission into the Casino Operator and Licence, the Board was briefed with a paper prepared by external lawyers entitled “Project Zurich – Review Paper 3: China Union Pay”, which provided a sanitised account of the CUP Process. At the Board’s request, a management response to the CUP issue was issued by Mr Bekier, the CEO and Managing Director, on 1 October 2021.
25. Despite inadequate disclosures in the Project Zurich paper and the management response, the Board was on notice by this time that management believed the CUP Process breached UnionPay’s rules; that NAB and/or UnionPay may have been misled by management; that the risk profile of the CUP Process had increased over time; and that for many years the Board had not been informed of risks associated with the CUP Process. Despite this, nothing further was done at the time by the Board to follow up these matters. It was left to the public hearings of this Review to uncover the deeply troubling culture permeating the ranks of senior management at Star Entertainment, demonstrated by the many facets of the deception involved in the use of the CUP Process.

The Star’s dealings with Suncity since 2016 (see Chapter 13)

26. By September 2017, Suncity was The Star’s largest junket customer. The Star made a private and exclusive gaming room known as “Salon 95” available to a junket affiliated with Suncity, known as the Iek junket.
27. The Star and the Iek junket entered into a rebate agreement on 30 June 2017 which referred to a “cage” in Salon 95. On 12 October 2017 The Star made a submission to L&GNSW which proposed creating “a more customer friendly environment by installing a service desk in the salon and service window in the wall of [Suncity’s] office”. At that time, the Regulatory Affairs Manager who made that submission on behalf of The Star, Mr Graeme

- Stevens, knew that a buy-in desk was contemplated for Salon 95. He admitted that he knowingly misled L&GNSW.
28. The “service desk” in Salon 95 was a small office. CCTV footage showed three or four Suncity staff sitting or standing along the desk and liaising with customers through the window. On 13 March 2018 Mr Oliver White, Star Entertainment’s General Counsel, Corporate advised colleagues that Suncity “do not operate a cage and have no authority to operate a cage” in Salon 95. He wrote that “[a] cage may only be operated by the casino operator ... any transactions involving cash must only take place at The Star Sydney’s cage”.
 29. Salon 95 commenced operations by mid-April 2018. A risk assessment was not conducted on Salon 95 before that time. On 18 April 2018, footage of cash dealings at the service desk of Salon 95 was captured on CCTV. Those transactions were contrary to Mr White’s advice and involved very large amounts of cash.
 30. On 27 April 2018, Star Entertainment conducted a risk assessment for the service desk in Salon 95 and identified, as the first risk, “the accidental provision of a designated service by Sun City without appropriate AUSTRAC registration or structures in place”. The risk assessment proposed a number of controls.
 31. On 7 May 2018, Star Entertainment employees became aware of cash paid to a patron by Suncity in Salon 95, where the patron had no history of junket play or known links with Suncity (i.e. the patron appears to have been a non-junket participant).
 32. On 8 May 2018, CCTV footage from Salon 95 showed a transaction involving the exchange of chips or gaming plaques for cash at the service desk. This was a breach of Star Entertainment’s controls and may well have depicted Suncity staff performing a designated service within the meaning of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (*AML/CTF Act*). Internal Star Entertainment emails on that day recorded multiple such incidents, one of which was described as “Looks like \$100K plaque has been exchanged for \$100K cash”.
 33. The Managing Director of The Star at that time, Mr Greg Hawkins, issued a warning letter to the Iek junket on 10 May 2018. The letter noted that the service desk in Salon 95 “must not operate a cash float” and there must not be exchanges of cash for chips or chips for cash at the service desk.

34. Management at Star Entertainment identified further problematic behaviour by Suncity. On 14 May 2018, following a \$45,000 cash transaction in Salon 95 an employee wrote that he would “call it out early” that “Suncity is operating a business model under our noses which is problematic ... with respect to AML/CTF laws”. By this time there were clear and obvious money laundering risks in the way Suncity staff were using the service desk.
35. On 15 May 2018 The Star’s General Counsel, Mr Andrew Power, sent an email to Mr Hawkins. Mr Hawkins forwarded the email to Mr Bekier the next day, which noted Mr Power’s opinion that the Iek junket had “exposed The Star to an unacceptable level of risk” and constituted “a breach of the agreement, of applicable laws or otherwise amounts to casino operations”, in particular given the “[c]ash for chip (and vice versa) transactions taking place at the service desk” and the “[w]ithdrawal of cash (terms unknown by non-junket participants at the service desk and other locations”. Mr Power also raised concerns regarding anti-money laundering reporting, source of funds checks and record-keeping.
36. By 15 May 2018 it should have been obvious to The Star that allowing transactions at the service desk was a serious mistake and courted significant risks, including money laundering. However, instead of shutting down Salon 95, The Star elected to develop a set of SOPs for the service desk dated 23 May 2018.
37. There continued to be concerns about cash transactions in Salon 95 at the end of May 2018. Mr Hawkins signed a second warning letter to the Iek junket dated 5 June 2018. The letter stated that it was written “as a result of further noncompliance in Salon 95”. The letter showed that the operating procedures provided by The Star on 23 May 2018 had been ineffective. The letter was inadequate, inappropriate and not commensurate with the level of risk that was presented to The Star Casino at the time. Mr Hawkins and others at Star Entertainment should have entertained real doubt that Suncity could or would ensure that its staff complied with The Star’s requirements.
38. By early June 2018, The Star should have decided to close Salon 95 and notify the Authority of what had occurred. Instead, a decision was made to permit Salon 95 and the service desk to continue. This was a collective decision by the senior management of The Star, which reflected a culture in which business goals were given undue priority over regulatory and money laundering and terrorism financing (ML/TF) risks.
39. In early June 2018, Suncity representatives were supplying large volumes of cash to junket representatives unconnected to Suncity. On 15 June 2018, CCTV footage appeared to show

Suncity staff taking a large amount of cash from a casino cage, entering Salon 95, meeting someone off camera on the Salon 95 balcony and engaging in covert behaviour on the balcony in a blind spot of the CCTV cameras.

40. Despite being aware of the serious problems with Salon 95, The Star renewed its rebate agreement with Suncity on 21 June 2018. The agreement continued to refer to a “cage” in Salon 95.
41. These matters were not reported to the Board of Star Entertainment. A board report which was read at the Board’s 26 July 2018 meeting referred to them in vague terms. It said that “concerns emerged around certain activities” but provided no detail. The entry was found on page 22 of the board paper. The board report was deficient and misleading. There should have been full and proper disclosure. Multiple directors gave evidence that had this occurred, they would have taken steps to ensure Salon 95 was closed. The directors were not given that opportunity.
42. In May 2019 Suncity continued to engage in problematic behaviour. At that time a new employee joined Star Entertainment, Mr Angus Buchanan, who had knowledge of Suncity having worked on an investigation into them for the Hong Kong Jockey Club. Mr Buchanan was one of the authors of a report arising from that investigation and had a copy of the report (**HKJC Report**). On 12 June 2019 he shared it with Ms Martin, Mr White and Mr Kevin Houlihan, the Group Investigations Manager for Star Entertainment. The report raised extremely serious concerns about the probity of Suncity and its founder Mr Alvin Chau. It suggested ongoing connections with triads and the facilitation of organised crime by Suncity. Members of the Legal, Investigations and Compliance Teams who read the report fundamentally failed to appreciate the seriousness of the issues and conclusions in that report. They did not see fit to escalate these matters to Mr Bekier or the Board and were wrong not to have done so in the circumstances, in particular given the significance of Star Entertainment’s relationship with Suncity.
43. In July 2019 Mr Buchanan and Mr Houlihan travelled to Hong Kong and met with various people including representatives from the Hong Kong Jockey Club on 16 July 2019 and representatives from the Australian Federal Police on 18 July 2019. The information obtained by Mr Buchanan and Mr Houlihan on their trip, and which was later communicated to Ms Martin, referred to criminal connections of Suncity and the continued interest of Australian law enforcement in its activities. This information, in conjunction with the HKJC Report, should have emphasised that Suncity was an unsuitable business

associate for The Star Entities and should have been communicated to Star Entertainment's senior leadership.

44. In July 2019 there were media allegations relating to Suncity and Crown Resorts. In a board paper prepared by senior management in response to those allegations, Star Entertainment's senior management made no disclosure of the various issues and problematic behaviour relating to Salon 95 or what was known about Suncity generally, including concerns from the HKJC Report.
45. On 29 July 2019 L&GNSW wrote to The Star requesting that it undertake a risk assessment of its practices and procedures which mitigated against the types of issues raised in relation to Crown Resorts. On 31 July 2019 The Star assured L&GNSW that "we remain comfortable that The Star's processes are robust". No mention was made of incidents involving Suncity and Salon 95. In subsequent correspondence with the regulator dated 10 September 2019, The Star adopted a highly technical approach to make no mention of events of concern in or connected to Salon 95 and Suncity. The response was narrow, technical and inappropriate. It was also misleading because a reasonable person in the position of the regulator would be misled into thinking it need not be concerned with The Star's association with Mr Chau and Suncity.
46. By this time in the second half of 2019, and despite all that was known by The Star Entities about Suncity and Mr Chau, no further risk assessment of Suncity and Mr Chau was conducted. In the circumstances this was inexcusable and wholly inconsistent with the casino operator's obligations to manage the risks of criminal infiltration and money laundering.
47. Instead of performing a risk assessment, in early September 2019 The Star moved Suncity to a new private gaming salon called Salon 82. In Salon 82, Suncity did not have a service desk or fixed signage but it was able to display the Suncity logo from TV monitors.
48. In late 2020 Mr Buchanan prepared a due diligence analysis on Suncity. He prepared a draft memorandum on 1 October 2020 and, after receiving feedback from Mr Power and Mr Houlihan, proceeded to update his analysis. He produced a further draft on 24 November 2020 and then a final version dated 7 January 2021, in each case updated for the feedback he had received. Between the 1 October 2020 memorandum and the 7 January 2021 memorandum, important and substantiated concerns about the deficient processes of assessing the risk which the Suncity relationship involved were removed from the

document. This was detrimental to The Star Entities. Mr Buchanan's important and substantiated concerns ought to have made their way to more senior management and the Board.

49. It was not until Mr Chau's arrest in December 2021 that Star Entertainment ceased its relationship with him. The relationship with Suncity and Mr Chau should have been terminated in June 2018 when cage operations and bags of cash were observed in Salon 95.
50. Much of The Star Entities' analysis regarding the relationship with Suncity proceeded on the basis of there being binary options of continuing or not continuing the relationship at given points in time. It was always available to take an intermediate option of suspending business while relevant enquiries (such as a full and proper risk assessment) were being undertaken.
51. From late April to late May 2018, non-compliant cage operations took place at the service desk in Salon 95 contrary to ICM 5(24), which amounted to a breach by The Star of a condition of its casino licence.

Misrepresentations to the Bank of China, Macau (see Chapter 15)

52. In the period November 2013 to January 2018, The Star held a number of bank accounts with the Bank of China, Macau branch (**BOC Macau**). BOC Macau was prepared to accept large cash deposits in Hong Kong dollars. Between January and November 2017 alone, the BOC Macau had accepted HKD\$1.2 billion (over \$200m AUD) in cash into The Star's accounts.
53. From 2013 to 2017, staff in Star Entertainment's Macau office adopted a process of providing false documentation to BOC Macau to disguise deposits by patrons as deposits of The Star. The process involved a Star Entertainment staff member attending the BOC Macau when a patron deposit was being made and providing to bank representatives various letters on letterhead of The Star and other subsidiaries of Star Entertainment, which deliberately conveyed the false impression that the deposit was made by The Star rather than a patron. This was done so that BOC Macau would treat the transaction as "a The Star to The Star" transfer of funds.
54. The false letters gave rise to a high risk of money laundering as they obscured the source of funds. This practice revealed a complete disregard of ML/TF obligations by senior

- employees. Moreover, the staff members concerned failed to request any further information from patrons to ascertain the source of their funds.
55. No precise finding can be made about how many times the false documentation was provided to BOC Macau. This is partly because Star Entertainment failed to institute and enforce proper document retention systems that might have ensured that the relevant documentation was kept. However, the practice was systemic.
56. Members of senior management of Star Entertainment only discovered this issue in October 2021. The current Chair of Star Entertainment only found out about it in the course of being asked questions by Counsel Assisting in the public hearings of the Review. The fact that this misconduct occurred in the first place, and that it first came to light almost four years after the BOC Macau bank accounts had been closed, indicates serious mismanagement of the International Rebate Business (**IRB**) during the Relevant Period.
57. It may be accepted that Star Entertainment’s investigation into this matter faced challenges, including the departure of staff members, the lack of documentation, and that the relevant bank accounts are now closed. However, Star Entertainment’s investigation of this matter was not given prominence internally and has not proceeded with the urgency which the seriousness of the misconduct demands. The fact that the investigation has still not reached any kind of finality is unsatisfactory.

The Closure of Star Entertainment’s bank accounts in Macau and the response: Kuan Koi, remitters and EEIS (see Chapter 16)

58. EEI Services (Hong Kong) Limited (**EEIS**) is a wholly owned subsidiary of Star Entertainment and was incorporated in Hong Kong in 2013. It was approved by the Authority as “close associate” of The Star in 2014, but was not “activated” at that time.
59. In the context of the Chinese corruption crackdown and tightening anti-money laundering standards, banks in Macau became increasingly reluctant to deal with foreign casinos. In late 2017, Star Entertainment was advised that its BOC Macau accounts would be closed. This caused considerable concern at Star Entertainment because without being able to receive cash deposits it made it more difficult for patrons to repay cheque cashing facility (**CCF**) debts and make front money payments prior to play. This was estimated to have a \$21.5 million annual EBITDA impact unless rectified.

60. Star Entertainment settled upon an arrangement with junket operator Mr Kuan Koi in January 2018 in which he would collect payments from patrons in Macau, make periodic transfers into his casino front money account, and then those funds would be applied to settle CCF debts of the patrons at the casino (**Initial Kuan Koi Arrangement**). In around February 2018, the arrangement was extended to include payments by patrons for front money deposits prior to play.
61. Mr Koi made it known to Star Entertainment employees that he wished to obscure the nature of the transactions, including by using cheques from his “associates” to deposit funds with The Star to avoid detection by banks or regulators in Macau. This was a red flag that should have put Star Entertainment on notice of the compliance risks associated with the Initial Kuan Koi Arrangement
62. The external legal advice in relation to the Initial Kuan Koi Arrangement was limited and emphasised the importance of careful ML/TF risk assessment. However, the ML/TF risk assessment undertaken by Star Entertainment incorrectly characterised the risk as “low”. Further, the risk assessment relied on the fact that the patrons transferring money through this system mostly held CCFs. Once the arrangements were extended to include front money deposits the risk calculus changed because Star Entertainment did not conduct the same level of due diligence on patrons who did not hold CCFs. The increase in risk was not appropriately factored into the ML/TF risk assessment.
63. Additionally, the risk controls that were imposed were flawed, both in concept and execution. International Depositor Identity Forms were supposed to be provided in respect of each patron utilising the Kuan Koi payment channel but the forms themselves required the bare minimum of detail about the customer. They said nothing about the source of the customer’s wealth, or the source of funds that were being deposited, notwithstanding that Mr Koi was predominantly accepting cash. In any event, it is not clear that forms were in fact received for all deposits utilising the Kuan Koi payment channel.
64. The Board of Star Entertainment approved the Initial Kuan Koi Arrangement in February 2018. To the Board’s knowledge, this was a business arrangement with a junket operator to receive money from patrons in Macau. Then, with no visibility of the intervening steps, the junket operator was to deposit funds into his front money account with The Star. These funds were then applied to CCF debts of the patrons in Macau or transferred to their front money accounts.

65. The Board was told the ML/TF risks were low and that it was an interim arrangement pending an initiative involving EEIS becoming operational. The Board was also told external legal advice had been obtained and did not know that the matters on which legal advice had been sought were limited. Notwithstanding these matters, an arrangement of this nature with a junket operator is somewhat startling. The arrangement obviously obscured the true source of the funds being deposited to the casino.
66. Having approved the Initial Kuan Koi Arrangement, it required ongoing monitoring of its implementation and operation, including communication between management and the Board. This did not occur.
67. In the meantime, EEIS was activated. EEIS was the long-term solution to deal with the closure of the BOC Macau accounts. EEIS was an attractive solution, in part because it was not a casino operator, and therefore could accept payments from patrons who were not willing to have a casino appear on their bank statements. Additionally, it was attractive because it was anticipated that EEIS could offer direct credit to patrons in a way that casino operators (and their employees and agents) were prohibited from doing under the *Casino Control Act*.
68. A principal purpose of “activating” EEIS, known at least by Star Entertainment management, was to enable customers, particularly customers in North Asia, to make payments to Star Entertainment’s casinos for gambling which could be disguised as payments to an entity which was apparently unrelated to the casinos.
69. In April 2018, EEIS opened five bank accounts with NAB.
70. In May 2018, the Board of Star Entertainment approved the commencement of EEIS operating as a lender in Hong Kong. No external legal advice was sought to ensure that the process then envisaged complied with the *Casino Control Act*. The EEIS loan structure was attendant with risk. Interposing EEIS as an intermediary between the casino operator and the patron obscured from view the fact that patrons were in effect remitting funds to Star Entertainment’s casinos.
71. Unbeknownst to the Board and with very little or no oversight by senior management in the Legal, Risk or Compliance Teams at Star Entertainment, an even riskier arrangement involving Mr Koi evolved, which continued until late September 2019. In March 2018, BOC Macau had blocked transactions in Mr Koi’s accounts. The arrangement with Mr Koi

changed. Third party remitters were used and Star Entertainment reimbursed services fees paid by patrons through separate payments to Mr Koi (**Modified Kuan Koi Arrangement**). The third party remitters made payments into EEIS' NAB accounts as well as to other bank accounts of The Star. In this way, the Kuan Koi and EEIS payment channels merged.

72. The opacity of these arrangements – and the ML/TF risks they presented – cannot be overstated. Star Entertainment had no insight into the remitters' source of funds and relied on them to undertake Know Your Customer (**KYC**) checks on the payers. International Funds Transfer Instructions (**IFTIs**) were not lodged for either CCF or front money payments under the Modified Kuan Koi Arrangement.
73. There was no legal due diligence of the Modified Kuan Koi Arrangement, nor any risk assessment by the AML Team. The fact that the Board of Star Entertainment, including the Managing Director, was unaware of this change in the arrangements, and that it continued until at least December 2019 reflects a business organisation with inadequate management controls and reporting lines. It took Star Entertainment's banker, NAB, to identify to Star Entertainment that high risk payments involving huge sums of money were being made by remitters for front money deposits.
74. In the period January 2018 to August 2019, at least AUD \$150 million moved through the Initial Kuan Koi Arrangement and Modified Kuan Koi Arrangement payment channels. Most of the monies flowing through third party remitters were deposited into the EEIS NAB accounts.
75. EEIS had its own AML/CTF Program. Despite both holding the position of Joint AML/CTF Compliance Officers for EEIS, Mr Michael Whytcross and Ms Skye Arnott did not undertake or cause to be undertaken transaction monitoring. Mr Whytcross had little understanding of the responsibilities of his role. Both Mr Whytcross and Ms Arnott gave evidence about shortcomings in compliance oversight and transaction monitoring of the EEIS NAB accounts.
76. In 2019, NAB found that there were material discrepancies between what EEIS and Star Entertainment had told NAB about how the EEIS accounts would be used and what the bank account statements appeared to demonstrate. NAB queried a number of EEIS bank account statement entries. These queries prompted management at Star Entertainment to investigate EEIS transactions. They had not been properly supervised to that point. There

was no transaction monitoring of the EEIS bank accounts by the AML Team, or anyone trained or with experience in AML. To the extent that there was monitoring occurring, it was unsophisticated monitoring conducted by the Cage. It was unsatisfactory to have no clear allocation and delineation of responsibility for AML/CTF-specific transaction monitoring.

77. EEIS ultimately made six loans to patrons or junket operators for a total amount of \$213 million. While the loans were technically only made to five or six customers, an internal spreadsheet records that those loans were issued to junket operators, or junket funders, who then on-lent the monies to a number of individual patrons of The Star.
78. EEIS did not operate as an agent of the casino operator (The Star) in issuing loans to patrons for gambling. For this reason, it was not in breach of the prohibitions on lending or provision of credit contained in section 74(1)(b) of the *Casino Control Act*. Irrespective of whether EEIS was The Star's agent for the purposes of section 74(1), however, this is another context in which The Star Entities courted the risk of breaching the *Casino Control Act* by the actions which were taken in 2018 and 2019. The Star Entities failed to take external legal advice to determine that the arrangements with EEIS as lender did not breach the provisions of the *Casino Control Act*.

The conduct of Star Entertainment's International VIP Team since 2016 (see Chapter 17)

79. Until early 2020, Star Entertainment's IRB was a significant component of Star Entertainment's revenue. It presented the greatest risks to The Star Entities in terms of money laundering and terrorism financing. It was therefore an area of the business which required the most diligent management and close supervision.
80. There were clear failings in the management and oversight of the International VIP Team. These were not merely individual failings. These were systemic governance, risk management and cultural failings of The Star Entities.
81. From the beginning of the Relevant Period until March 2018, the International VIP Team reported to Mr John Chong, President International Marketing. Within Star Entertainment there were serious concerns and criticisms of Mr Chong and his behaviour and leadership. These were not made known to the Board (save for Chair Mr O'Neill), despite Mr Chong's seniority in the organisation. Mr Chong's employment was terminated in 2018 but the Board was told he was made redundant. The Board should have been fully briefed on the

fact of Mr Chong's termination, the reasons for it and the excessive turnover of staff in the International VIP Team.

82. Mr Marcus Lim was the President of International VIP Sales from April 2018 until he was made redundant in July 2020. In 2019, Mr Houlihan commenced an investigation into very serious allegations against Mr Lim. The investigation proceeded far too slowly both in light of Mr Lim's seniority and the gravity of the allegations made against him. There is no satisfactory reason why the investigation should not have been concluded prior to Mr Lim's redundancy more than a year later. The Board should have been told of the investigation, but was not.
83. Mr Hwa Ryong (Simon) Kim was the Senior Vice President of International Marketing at Star Entertainment from November 2017 until his disappearance in March 2020. He was the principal relationship manager for the Suncity junket. After he disappeared, a number of extremely serious allegations were made in relation to him. Despite Ms Martin, Mr Hawkins and Mr Bekier all being aware of Mr Kim's disappearance and the allegations, these matters were not made known to the Board. They should have been.
84. Both Mr Lim and Mr Kim held a Special Employee Licence issued by the Authority. The Authority should have been notified of the allegations against them, and in the case of Mr Kim, who was terminated, it was a breach of The Star's casino licence conditions to fail to do so within the stipulated time period.
85. The Star Entertainment office in Macau was closed on 29 June 2021, whilst its offices in Hong Kong and Singapore were closed in January 2022.

The KPMG Reports (see Chapter 18)

86. Star Entertainment has two reporting entities within its designated business group for the purposes of the AML-CTF legislation, and had a joint AML/CTF Program (**AML/CTF Program**) which covered each of them. There is an obligation under the *AML/CTF Act* to have Part A of the joint AML/CTF Program independently audited.
87. KPMG was engaged on 27 November 2017 to conduct an audit of Star Entertainment's AML/CTF Program and to consider a number of specific issues. On 3 May 2017, KPMG provided drafts of its reports to senior Star Entertainment executives to confirm for factual accuracy. On 14 May 2018, KPMG met with those executives to validate its findings for

factual accuracy and otherwise agree the reports. KPMG's reports were finalised and issued on 16 May 2018.

88. KPMG's final reports made a series of findings about serious shortcomings in Star Entertainment's AML/CTF Program. These included that people could walk into Star Entertainment's casinos with hundreds of thousands of dollars in cash but not be assessed as higher risk for that reason alone; that the AML/CTF Program (contrary to its name) did not consider counter-terrorism financing at all; and that there was no documented money laundering or terrorism financing risk assessment or risk assessment methodology in relation to junkets. The reports also noted that there were inadequate AML/CTF resources.
89. Star Entertainment's treatment of the KPMG Reports involved differing responses. The senior executives who had worked with KPMG, and the Board (excluding Mr Bekier) and in particular those directors who were members of the Audit Committee, all appear to have received the KPMG Reports in a manner which cannot fairly be criticised. They appear to have accepted that KPMG's findings and recommendations needed to be considered and addressed. However, Mr Bekier's reaction was to express strong disagreement with KPMG's reports, including the accuracy of their analysis.
90. Rather than proceeding to consider and implement KPMG's recommendations, there followed a period between 16 May 2018 and 6 August 2018 of multiple meetings between KPMG and senior Star Entertainment executives, whereby concerns about KPMG's analysis were raised. In due course Star Entertainment's senior management raised 22 specific queries with KPMG in relation to the KPMG reports. These included two key areas of concern: first that Star Entertainment's customers for AML/CTF purposes were junket operators, not junket participants; and secondly that if a person walks into a casino with a very large amount of cash, that in and of itself does not raise any special concern regarding money laundering.
91. By letter dated 6 August 2018, KPMG confirmed that it did not accept any of Star Entertainment's contentions and confirmed its earlier findings from its 16 May 2018 reports. At least from the time of KPMG's letter dated 6 August 2018, Star Entertainment set about implementing all of KPMG's recommendations.
92. The conduct of Mr Bekier reflected poorly on Star Entertainment's culture and processes. His reaction seems to have been to seek to argue with KPMG rather than engage constructively with KPMG's finalised reports.

93. During the period 14 September 2018 to 20 January 2020, Star Entertainment (through The Star) resisted producing a copy of the KPMG reports to AUSTRAC on the basis of alleged legal professional privilege. However, there was no such privilege. Despite having lawfully requested a copy of KPMG’s review, AUSTRAC was not given it until 16 months later.
94. There was no basis for The Star to claim privilege in respect of the KPMG reports. AUSTRAC should have been provided with the KPMG reports immediately. Instead, the reports were wrongly withheld from AUSTRAC whilst Star Entertainment took steps to repair the problems identified by KPMG without any proper regulatory scrutiny of the remediation.
95. In the interests of transparency, Star Entertainment also should have disclosed the KPMG reports to the Authority.

Star Entertainment’s practices in claiming legal professional privilege (see Chapter 19)

96. The Star’s erroneous claims of legal professional privilege in relation to the KPMG Reports were consistent with a wider misunderstanding of the circumstances in which privilege should be claimed by lawyers at Star Entertainment.
97. During the Relevant Period, the three most senior lawyers within the Star Entertainment Group were:
 - (a) Ms Martin (Company Secretary and Group General Counsel to August 2019 and then Chief Legal and Risk Officer from August 2019 to the time of her resignation on 6 May 2022);
 - (b) Mr Power (General Counsel to November 2019 and Group General Counsel from November 2019 to the time of his resignation on 13 May 2022); and
 - (c) Mr White (General Counsel, Corporate).
98. Ms Martin had an unsatisfactory understanding of legal professional privilege. Despite Star Entertainment’s experience with the KPMG reports of 2018 and its interactions with AUSTRAC over some 16 months culminating in Star Entertainment abandoning its claim of legal professional privilege, the very next review of Star Entertainment’s AML/CTF Program, by BDO, was said to have been “conducted subject to legal professional

privilege”. Ms Martin’s understanding of legal professional privilege had not improved from the AUSTRAC experience and remained unsatisfactory.

99. Mr Power admitted to having a practice of marking documents “privileged” without turning his mind to whether there was a proper basis to do so. This created a risk that a person reviewing a document marked as privileged might assume it is privileged and refrain from producing that document in response to a request from a regulator, even though no thought had been applied to the question whether there was a proper basis to claim privilege.
100. Mr White’s evidence was that he marked communications with third-party providers as privileged as a matter of course.
101. There was an unsatisfactory understanding of the circumstances in which legal professional privilege should be claimed among Star Entertainment’s most senior in-house lawyers over the Relevant Period. Inappropriate claims for privilege increase the likelihood that documents will not be produced to regulators and others, when they should instead be disclosed.

Overall assessment of Star Entertainment’s AML/CTF Program (see Chapter 20)

102. During the earlier part of the Relevant Period, Star Entertainment’s approach to AML/CTF was immature and had obvious gaps, particularly in relation to transaction monitoring and risk identification associated with junkets. Star Entertainment has taken many steps to revise its AML/CTF Program, and associated AML/CTF processes since KPMG identified serious deficiencies in May 2018. These steps are commendable.
103. The most recent independent review of the AML/CTF Program was conducted by BDO, and covered the period December 2017 to December 2020. BDO found that the AML/CTF Program was effective having regard to the money laundering and terrorism financing risk that Star Entertainment may reasonably face; that the AML/CTF Program complied with the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)* (Cth) (**AML/CTF Rules**) and had been effectively implemented; and that Star Entertainment had complied with its AML/CTF Program. However, BDO did identify certain risks and made some recommendations for enhancement.
104. BDO also reviewed the Star Entertainment’s transaction monitoring and Ongoing Customer Due Diligence (**OCDD**), finding that Star Entertainment was meeting its

transaction monitoring obligations. However, certain recommendations were made for further improvements.

105. Since the BDO review, Star Entertainment has implemented a further version of the AML/CTF Program. Ms Robyn McKern, a forensic accountant and money laundering specialist with McGrathNicol who was retained by the Review, found that this new version was well-documented, addressed the required matters under the *AML/CTF Rules* and is risk-based.
106. One of the key controls for risks associated with patron bank accounts are the procedures outlined in the Cage Operations SOPs. This document was significantly enhanced outside the Relevant Period on 5 November 2021, with the introduction of version 25. Ms McKern found that 9 of the 10 controls cited by Star Entertainment as being in place to identify, manage and mitigate money laundering and terrorism financial risks were not in place in version 24.
107. Data analysis conducted by Ms McKern in the period 1 January 2018 to 5 November 2021 revealed that a very significant number of deposits made into patron bank accounts were from third parties, including from remittance service providers. This can obscure the original source of the funds and is high risk from an AML/CTF perspective. Star Entertainment has now ceased accepting third party deposits in the absence of pre-authorisation.
108. The AML Administrators did not have access to any patron bank accounts during the Relevant Period (save for the NAB EEIS accounts from September 2019), which was a shortcoming in transaction monitoring for AML/CTF purposes.
109. TrackVia was brought online in April 2021. It is Star Entertainment's case management system and central repository for all AML and patron-related information. It is also one component of automated transaction monitoring. Ms McKern found that while still at an early stage of implementation, TrackVia was a significant leap forward towards industry best practice in AML/CTF systems and was an improvement from Star Entertainment's previous heavy reliance on manual transaction monitoring.
110. Ms McKern identified that a risk of TrackVia was that data input was incomplete or lacks integrity. The Review saw two examples where data entered lacked integrity relating to

two junket funders, Mr Alvin Chau and Mr Sixin Qin. Third party due diligence reports are not stored on TrackVia, but should be.

111. Ms McKern found that Star Entertainment had reasonable processes to undertake, collect and record basic KYC, Enhanced Customer Due Diligence (ECDD) and OCDD intelligence and that these processes improved through the Relevant Period. However, Ms McKern identified certain reservations including that Star Entertainment lacked curiosity and rigour in identifying and assessing patrons' source of wealth and source of funds, and 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.
112. While there has been a significant uplift in AML/CTF processes the absence of a culture of compliance has been notable. 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.

Prevention of criminal infiltration (see Chapter 21)

113. The Star Entities identified to the Review a range of controls, procedures and policies that had been implemented by The Star to manage the risk and threat of illegal and undesirable activities at The Star Casino. These are dealt with in a confidential report to the Authority.
114. The Review received evidence in relation to a number of case studies by which to test The Star's policies, procedures and systems. The case studies identified various failings which did not appear to have been isolated incidents.
115. Policies, procedures and systems are insufficient of themselves 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. This needs to be a priority for all employees, not just Star Entertainment's AML administrators and Investigations Team. Those in the patron-facing business operations need to be alive to these issues as well.

Gambling Duty payable to the NSW Government (see Chapter 22)

116. The Star must make duty payments to the NSW Government pursuant to section 120 of the *Casino Control Act* and as a condition of its licence.

117. Following border closures and travel restrictions related to the COVID-19 pandemic, a question arose as to whether The Star had underpaid duty in relation to patrons who had engaged in rebate play between July and September 2020.
118. From the evidence available to the Review, there were patrons who were not eligible to engage in rebate play but had been classified as eligible, making it likely that The Star has underpaid the duty owed to the NSW Government under its current Duty Agreement in respect of turnover resulting from the play of those patrons in the period when they were incorrectly treated as eligible for rebate play.
119. However, it was not possible for the Review to accurately determine the amount of the likely underpayment of duty. It would be appropriate for the Authority to commission a full audit of all rebate play from 28 November 2016 to 9 May 2022 (the latter being the date rebate play was suspended), to determine if there has been an underpayment of duty and, if so, the amount of that underpayment. Any mistakes in the classification of players should be remedied and any shortfall of duty should be paid.
120. The failure by The Star to follow the applicable Rebate Play SOP and comply with ICM 8, when assessing the residency of two patrons, was a breach of section 124(4) of the *Casino Control Act* and a breach of its licence.
121. On 9 February 2022 it was alleged in the media 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.
122. There was a practice of sales and junket representatives seeking to convert local patrons to interstate or international rebate programs. This was not a few isolated occurrences but a recurring problem from at least May 2018 to December 2019. However the practice 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. On the evidence available to the Review, the 9 February 2022 media allegation was not established.
123. Star Entertainment instructed Gadens, an external law firm, to investigate the 9 February 2022 allegation. Gadens concluded its report on 15 June 2022, finding that 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.

124. The failure by The Star to keep accurate records in support of patron rebate eligibility constituted a breach by The Star of its warranty under the Amended Casino Operations Agreement.

Harm minimisation and responsible gambling (see Chapter 23)

125. Gambling is a major public policy issue in Australia, affecting the health and wellbeing of individuals and families in a range of ways, with gambling-related harm recognised as a serious social problem. Gambling harms include adverse financial impacts, psychological issues and relationship impacts, and serious legal or health issues. The impact of gambling problems is not limited to gamblers themselves, but also affects their families, peers and the wider community.
126. Data 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.
127. Each of the *Casino Control Act* and *Casino Control Regulation 2019* (NSW) (***Casino Control Regulation***) impose obligations on The Star in relation to harm minimisation and responsible gambling. 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”. In this regard The Star has obligations in relation to signs and advertising, making counselling services available, not offering inducements, not permitting intoxication, not extending credit and enforcing exclusions of excluded patrons. The Star has a number of policies and procedures to seek to implement and give effect to its obligations.
128. The Review received evidence of patrons gambling at The Star for very long periods of time, including for more than 24 hours. The Star had not intervened. During the course of the Review, The Star adopted a new 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. 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. Further, if a patron had a six hour break, under The Star’s former SOP the patron could not be considered a risk solely based on their time played. The effect of this was that if a patron

- had gambled for 18 hours, that fact in and of itself could not be considered to deem the patron a responsible gambling risk.
129. Intervention can only occur, however, where patrons' gambling is measured. The Star's evidence is that this can only effectively be done when patrons gamble using The Star's current loyalty program card.
130. The Review was satisfied that there should be a recommendation 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. The Review was also satisfied that there should be recommendations in relation to carded play data.
131. Although carded play was identified in this Review within the context of harm minimisation and responsible gambling, it is likely that there will be other potential benefits, including assisting to combat money laundering.
132. The Review's further recommendations to minimise gambling harm are set out in Chapter 1.2. Chapter 1.2 Recommendations
133. Pursuant to Regulation 15 of the *Casino Control Regulation*, The Star must not offer or supply, or cause or permit the offer of supply of, free or discounted liquor as an inducement to participate, or to participate frequently, in a gambling activity in the casino. The Star's witnesses acknowledged that alcohol has been, and is, available for free in the Sovereign Room and other VIP areas, whereas it must be purchased on the main gaming floor. It has been concluded that The Star provided free alcoholic drinks in its VIP areas as an inducement to patrons to participate, or to participate frequently, in gambling activity in The Star Casino in breach of Regulation 15.

Controlled contracts, gambling chips and free bet vouchers (see Chapter 24)

134. On 4 July 2019 The Star entered into a "Variation Agreement" to widen the scope of an earlier "Services Agreement" with a contractor and engage it, not just to destroy playing cards but also to destroy chips, dice and tiles. The Star did not seek the Authority's approval to enter into the Variation Agreement.
135. The Star was not obliged to have obtained the Authority's approval for the Variation Agreement because it was not a controlled contract.

136. On 28 September 2020, The Star's contractor destroyed about \$3.7 billion worth of gambling chips. This was done without the Authority's approval, without notification (before or after the chips were destroyed) to L&GNSW and without someone from L&GNSW present at the time that the chips were destroyed. The Star has acknowledged that throughout the period from 21 November 2019 to 13 May 2021 it arranged for its contractor to destroy chips without the Authority's approval, without notification (before or after) to L&GNSW and without having someone from L&GNSW present.
137. In the manner in which this large amount of gambling chips was destroyed, 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. Further, the destruction of at least \$3.7 billion worth of chips is not the sort of activity which should be taking place in the absence of clear guidance. Executives at Star Entertainment either did not know about the applicable SOP or, if they did, they deferred to the Compliance Team's direction to disregard the SOP and adopt a different course. That was unsatisfactory.
138. Controlled contracts and the requirements of The Star's ICMs and SOPs warrant training.
139. 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 Free Bet Vouchers (FBVs), and that NSW Police had been notified. The executive's employment was later terminated.
140. The Star's internal estimate of its total potential liability as a result of the Gaming Marketing Executive's conduct was about \$5.15 million. The Star's internal estimate of its actual loss was \$685,385.
141. Having regard to the sophisticated nature of the fraud, The Star's frontline staff should not be criticised in relation to this issue, nor the members of the Investigations Team who acted promptly once notified. However, there was an audit failure. ICM 13 required that there be regular audits, as did the Table Games SOP. Auditing was not taking place in the manner provided for in The Star's ICM and SOP. If it had, at least a certain number of the FBVs (worth approximately \$4.2 million) would have been picked up within at least one month.
142. 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.

The use of Standard Operating Procedures at The Star (see Chapter 25)

143. A general issue emerged 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. This 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 statutory consequence to The Star breaching an SOP unless it is incorporated by reference into an ICM.
144. The operator of The Star Casino's ICMs need to contain a greater level of prescription than the present ICMs in relation to the essential operations of The Star Casino, having regard to matters presently provided for in The Star's SOPs. All of the important control mechanisms for the operations of The Star Casino should be in ICMs.

Assessment of the governance and culture of Star Entertainment since 2016 (see Chapter 26)

145. 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. 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.
146. A number of extremely serious governance, risk management and cultural failures of The Star Entities occurred over, and indeed before the commencement of, the Relevant Period.
147. Whilst Mr Hawkins was providing management leadership of The Star, there were serious failures in reporting to more senior management and, in particular, to the Board of Star Entertainment including in relation to CUP and the serious misconduct by Suncity in Salon 95. While Mr Hawkins must accept significant responsibility for these failures in reporting, a number of other individuals also failed to report. The failure to report was a manifestation of a culture where business goals took priority over compliance goals.

148. 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. It is difficult to determine whether identified failings in investigations were simply individual failings with the leadership of the Investigations Team or whether they reflected deeper systemic cultural problems. There was also siloing of information within the Investigations Team. The investigations of the false letters to the BOC Macau and the conduct of the President of International VIP Sales, were slow and inadequate. There was also a general reluctance to escalate bad news.
149. It was a mistake to combine the legal and risk roles in the position of Chief Legal and Risk Officer from August 2019. Ms Martin was given too many responsibilities and the skills required of a legal officer and of a risk officer are quite different. 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.
150. In addition, Ms Martin had company secretarial responsibilities. In a large corporation, the company secretary has a critical role. The company secretary is the chief governance specialist within an organisation. 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.
151. The most profound of the problems with reporting lines and a recurring theme was the failure to report necessary information to the Board and its committees.
152. There 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. However, the Board must also bear some responsibility, because it was required to have systems and processes in place to ensure that it received the information it needed. This was also a failure of risk management and reflected a system cultural problem.
153. In terms of risk documentation, 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. During the Relevant Period, the Risk Appetite Statement did not acknowledge and specifically address risks associated with money-laundering, terrorism financing and criminal infiltration. It should do so.

154. In terms of risk processes, the Risk Registers compiled by Star Entertainment to identify risks identified by the business were not provided to the Board’s Risk and Compliance Committee prior to March 2020. It is difficult to see how the Board could have fulfilled its obligations to identify and manage risk without being provided with these Risk Registers. It did not have direct access to reports from the first line of defence business units about the risks which were actually being identified.
155. In terms of risk practices, two themes emerged very clearly. 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.
156. There were numerous instances where significant identified risks were not escalated to the Board of Star Entertainment but should have been. This was a failure of the risk management process. In many cases, the Board was kept in the dark.
157. However, in relation to the overseas payment channels to replace payments by patrons in North Asia with BOC Macau, the Board was informed of, and approved, the initial arrangement with junket operator Mr Kuan Koi and the proposed role of EEIS as a lender. The Board bears some responsibility for these payment channels subsequently becoming uncontrolled.
158. Management repeatedly chose to run risks rather than avoid or contain them. Too often the question which was asked was “how can we do this?” rather than “should we be doing this?”
159. 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.
160. To manage and contain risks of money laundering and criminal infiltration, the culture of a casino operator must be risk averse.
161. The Board should be responsible for setting culture. However, 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 culture, which was particularly problematic in the International VIP business, where the risks were most acute, was one where business goals took priority over compliance goals. Moreover, the cultural malaise

was a systemic problem permeating many other aspects of the organisation of Star Entertainment, and fundamentally undermining its risk management processes.

162. A dysfunctional aspect of the culture of Star Entertainment was reflected in the organisation's approach to its bankers. Deliberately false documents were provided to BOC Macau in the period 2013 to 2017. In relation to the CUP Process, misleading, untruthful and unethical communications were made to NAB, and indirectly to UnionPay International and PBOC in 2019. The 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.
163. 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.
164. The Star treated the Authority with disdain, as an impediment to be worked around. The Star misled the Authority about the CUP Process and about Salon 95.
165. 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". The Review has cast a spotlight only on certain aspects of the organisation and can only make findings on those areas which were investigated.
166. 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 in the respects identified by this Review.
167. 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.
168. The Board's lack of insight is demonstrated by the events related to the ASX releases issued by the Board on 11 and 12 October 2021 respectively. In fact, the media allegations to which those releases responded were 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. These matters also reflect on the senior management at Star Entertainment who allowed the Board to proceed in this way.

169. An essential requirement of non-executive directors is independence. Just as the senior management team at Star Entertainment had been in place for a long time, so too had the Board. The Board renewal process currently underway is to be welcomed.
170. 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.
171. 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 has not worked. 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. There is also a need for a specialist risk officer focussed exclusively on the risks of The Star Casino.
172. 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 Entities in light of the failings exposed in this Review.

Suitability of The Star and its close associates (see Chapter 27)

173. The Star 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. The Star remains presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW.
174. 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. Star Entertainment remains presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW.

175. 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. Star Holdings remains presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW.
176. 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 presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW.
177. A number of close associates of The Star resigned during the course of the Review. It is only necessary to consider the suitability of persons and entities who remain close associates.
178. 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 1.2 Recommendations

It has been found that The Star is presently unsuitable to be concerned in or associated with the management and operation of a casino in NSW. The Updated Terms of Reference do not authorise any assessment of what, if any, changes would be required to render The Star suitable if it was found to be unsuitable. That is a matter for determination by the Authority. Some of these recommendations relate to past breaches of ICMs, the *Casino Control Act*, the *Casino Control Regulation* or regulatory agreements by The Star. However, with the exception of recommendations in relation to past breaches by The Star, and the issue of gambling duty payable by The Star, these recommendations 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.

It is recommended that:

1. The Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breaches of ICM5(24) in connection with the cage operations in Salon 95 in 2018 (see Chapter 13).
2. The Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breaches of its warranties under paragraph 3 of Schedule 3 of the Casino Operations Agreement and paragraphs 1(b) and 7(c) of the Amended Compliance Deed in connection with Mr Stevens' misleading submission to L&GNSW in 2017 concerning the proposed services to be provided at the Service Desk in Salon 95 (see Chapter 13).
3. The Authority take steps to require the operator of The Star Casino to notify the Authority within 14 days of the casino operator becoming aware of any allegation concerning the holder of a special employee licence employed or working in the casino which, if established, would be grounds for disciplinary action against the special employee (see Chapter 17).
4. The Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breach of section 62(1)(c) of the *Casino Control Act* in failing to notify the Authority within 14 days of Mr Simon Kim ceasing to have functions in or in relation to The Star Casino (see Chapter 17).
5. The Authority take steps to require the operator of The Star Casino to provide the report of any independent review of the operator's AML/CTF Program to the Authority within 14 days of the issue of the report (see Chapter 18).
6. The Authority take steps to require the operator of The Star Casino to ensure and certify to the Authority that its in-house lawyers have received independent and specific training on legal professional privilege and when it can and cannot be claimed, on an annual basis. (see Chapter 19).
7. 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 (see Chapter 21).

8. 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 (see Chapter 22).
9. 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 (see Chapter 22).
10. 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 (see Chapter 22).
11. 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 (see Chapter 22).
12. 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 Patron 1 and Patron 2 (see Chapter 22).
13. 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 (see Chapter 23).
14. 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 (see Chapter 23).

15. That patrons should have access to their card data (see Chapter 23).
16. 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 (see Chapter 23).
17. 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* (see Chapter 23).
18. That the operator of The Star Casino's Time Play Management standard:
 - (a) include a requirement for Electronic Gaming Machines (EGMs) that a patron cannot gamble continuously on an EGM for more than three hours without a 15 minute break;
 - (b) clarify that in any 24 hour period, a patron cannot gamble for more than 12 hours (see Chapter 23).
19. 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* (see Chapter 23).
20. 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 (see Chapter 23).
21. 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) (see Chapter 23).
22. 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 (see Chapter 23).
23. 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 licenced gambling venues, the Authority consider imposing the same obligation on those other venues to the extent possible (see Chapter 23).
24. 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 (see Chapter 24).
25. 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 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 (see Chapter 24).
- 26. 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 (see Chapter 24).
- 27. 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 (see Chapter 24).
- 28. 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 (see Chapter 25).
- 29. 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 (see Chapter 26).
- 30. 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 (see Chapter 26).



Chapter 2
Previous Reviews of The Star

Chapter 2. Previous Reviews of The Star

Chapter 2.1 A brief history of The Star up to 2016

1. The *Casino Control Act* commenced on 15 May 1992.
2. On 13 May 1993, the Minister issued a series of directions to the Authority pursuant to sections 7 to 10 of the *Casino Control Act*, requiring the Authority to invite expressions of interest for the establishment and operation of a casino and applications for a casino licence.¹
3. The Minister directed that a permissible location for a casino would be the former Pyrmont Power Station site in Pyrmont, Sydney. The casino was to be of a sufficient size to permit 200 gaming tables (subject to review from time to time), Keno, a TAB facility and slot machines. The casino was to “provide a relatively sophisticated atmosphere without exuding an elitist ambience and should be clearly differentiated from gaming areas available in registered clubs and hotels”.² The casino was to “be developed as a component of an integrated international resort style complex” which would include “an international hotel of approximately 600 rooms, suites or a combination of equivalent accommodation facilities” and car parking facilities “able to accommodate 2,000 to 3,000 cars”.³
4. The Minister’s directions of 13 May 1993 were accompanied by a statement of the Government’s preferences of the same date.⁴ Those preferences included that while the new casino was being built, there should be a temporary casino built and operated near the Sydney CBD at a site to be determined by the Authority. The temporary casino would close immediately before the new permanent casino commenced its operations.
5. The Government’s preference was for the Authority to enter into an exclusivity agreement with the selected casino operator for the conduct of casino gaming in all of NSW for 12 years.⁵
6. The Star was incorporated on 15 June 1993. At that time it, was named Sydney Skyline Casino Pty Ltd.
7. On 26 November 1993, the company changed its name to Sydney Harbour Casino Pty Ltd. It had two shareholders: *first*, Showboat Australia Pty Ltd, a wholly owned subsidiary of

- Showboat Inc. from the United States; and *secondly*, Leighton Properties Pty Ltd, a wholly owned subsidiary of the ASX-listed Leighton Holdings Ltd.⁶
8. On 6 May 1994, the Authority announced that The Star had been chosen as the preferred applicant to receive a casino licence.⁷
 9. In August 1994, the Authority arranged for an inquiry to be undertaken in relation to The Star's shareholders. In particular, the Leighton Group had been alleged to have issued false invoices and charged undisclosed tender fees in the NSW building industry.⁸ Mr M. H. Tobias QC presided over a public inquiry under section 143 of the *Casino Control Act* and presented a report in December 1994 which culminated in findings that the Leighton entities were not of good repute.⁹ In response, the Leighton Group placed its shareholding and management interests into a trust pursuant to which the trustee was to dispose of those interests within five years, refrain from exercising any voting rights or influencing the appointment of directors, and accumulate all income derived from the Leighton Group shares to be part of the asset ultimately sold.¹⁰ As a result of those commercial arrangements, the Authority found that the Leighton Group had ceased to be a close associate of The Star.¹¹
 10. On 14 December 1994, the Authority granted The Star a casino licence for a period of 99 years unless cancelled or surrendered, with a right of exclusivity in NSW for 12 years from the time of completion of construction of the temporary casino.¹² The Star was by this time a wholly owned subsidiary of Sydney Harbour Casino Holdings Ltd, which was listed on the ASX.
 11. From 13 September 1995 to 26 November 1997, The Star operated a temporary casino on wharves 12 and 13 in Pyrmont Bay¹³ while building a new permanent casino at the site of the former Pyrmont Power Station. The temporary casino contained 150 gaming tables and 500 gaming machines.¹⁴
 12. On 3 November 1997, the company changed its name to Star City Pty Ltd.
 13. On 26 November 1997, The Star opened the new permanent casino at the former Pyrmont Power Station site, known at that time as the "Star City" casino.¹⁵ It commenced with 200 gaming tables and 1,500 gaming machines.¹⁶ The cost of construction was about \$765 million.¹⁷

14. In 1999, the ASX-listed Tabcorp Holdings Ltd acquired Sydney Harbour Casino Holdings Ltd.¹⁸
15. The Star's initial right of exclusivity expired in September 2007. On 30 October 2007, the Government announced an extension to The Star's exclusivity period for 12 years from 14 November 2007 to 13 November 2019 for a fee of \$100 million.¹⁹
16. In 2011, Tabcorp Holdings Ltd undertook a demerger of its casino businesses, including the Star City casino. Echo Entertainment Group Ltd (now Star Entertainment) was incorporated on 2 March 2011. It is the ultimate holding company of The Star and is ASX-listed.
17. On 15 September 2011, Star City Pty Ltd changed its name to The Star Pty Ltd and the "Star City" casino was renamed "The Star".²⁰
18. In 2011, "The Darling Sydney" hotel and spa opened at The Star as part of an \$870 million redevelopment.²¹ In 2013, Echo Entertainment undertook a \$100 million upgrade of "The Star Event Centre".²²
19. Between late 2015 and early 2016, Echo Entertainment announced increased investments for each of its three casinos, namely, The Star Casino, Treasury Casino and Hotel in Brisbane, and Jupiters Hotel and Casino on the Gold Coast.
20. In 2015, Echo Entertainment announced that over the next five years it would invest \$500 million for "significant capital expenditure" at The Star to "further enhance the offering of the property".²³
21. On 4 November 2015, Echo Entertainment's shareholders voted to approve a name change to The Star Entertainment Group Ltd. The name change came into effect later that month. In a media release, Star Entertainment said that the name change would allow for a "seamless transition to a consolidated brand platform" with the intention of "The Star identity being adopted consistently" across all casino properties.²⁴ The company's rebranding was also part of a strategic objective to become "Australia's leading integrated resort company".²⁵
22. In 2016, Star Entertainment foreshadowed a total of \$1 billion of works at The Star, comprising "the \$500 million capital investment to further enhance the offering at The Star, as well as seeking approvals for a proposed \$500 million hotel and residential tower in

partnership with our Destination Brisbane Consortium partners, Chow Tai Fook Enterprises Limited and Far East Consortium International Limited”.²⁶ Star Entertainment planned to work with The Ritz-Carlton in branding the hotel component of the proposed tower.²⁷

23. From its establishment to 2016, The Star has been the subject of regular reviews under sections 31 and 143 of the *Casino Control Act*.

Chapter 2.2 Previous reviews of The Star prior to 2016

24. Section 31(1) of the *Casino Control Act* requires the Authority to conduct regular reviews of each casino licence by investigating and forming an opinion as to whether or not the casino operator is a suitable person to continue to give effect to the casino licence and the *Casino Control Act*, and whether or not it is in the public interest that the casino licence should continue in force.
25. Initially, section 31(1) reviews were required every three years. From 2009, the reviews were required within three years after the initial grant of a casino licence and then every five years thereafter.²⁸
26. From 2018, the section 31 reviews were required at intervals not exceeding five years,²⁹ subject to some transitional provisions in Part 11 of Schedule 4 to the *Casino Control Act*. Those provisions provide that the first review of a restricted gaming licence (being the type of licence granted to Crown Sydney Gaming Pty Ltd in July 2014) is to be conducted within three years after gaming commences under that licence and reviews of other licences such as the one held by The Star should take place at the same time, even if this occurs more than five years after the last review for that licence.³⁰
27. The Authority has a power pursuant to section 143(1) of the *Casino Control Act* to arrange for inquiries. Section 143(1) of the *Casino Control Act* provides:
- 143 Authority may hold inquiries**
- (1) For the purpose of the exercise of its functions under this Act, the Authority may arrange for the holding of inquiries in public or in private presided over by a member of the Authority or by some other person appointed by the Authority to preside.
28. Before 2016, the Authority arranged for the following inquiries or reviews in relation to The Star:

- (e) Mr M. H. Tobias QC's report dated December 1994 in relation to the probity of The Star's initial shareholders and their associates from the Showboat Group of Companies and Leighton Holdings Ltd;
- (f) Mr P. D. McClellan QC's report dated December 1997 for the Authority's review under section 31 of the *Casino Control Act*;
- (g) Mr P. D. McClellan QC's report dated December 2000 for the Authority's review under section 31 of the *Casino Control Act*;
- (h) Mr B. W. Walker SC and Ms G. B. Furness's report dated 15 May 2002 in relation to The Star's interim progress in addressing recommendations and matters arising from the Authority's December 2000 review under section 31 of the *Casino Control Act*;
- (i) Mr B. W. Walker SC and Ms G. B. Furness's reported dated 12 December 2003 for the Authority's review under section 31 of the *Casino Control Act*;
- (j) Mr B. W. Walker SC and Ms G. B. Furness's report dated 7 December 2006 for the Authority's review under section 31 of the *Casino Control Act*;
- (k) Ms G. B. Furness SC report dated 2 December 2011 for the Authority's review under section 31 of the *Casino Control Act*; and
- (l) Ms G. B. Furness SC's report dated May 2012 in relation to the cessation of employment of the former Managing Director of The Star, Mr S. Vaikunta.

Chapter 2.3 Review of The Star by Dr J. M. Horton QC in 2016

- 29. In 2016, the Authority arranged for the most recent review of The Star, conducted by Dr J. M. Horton QC, who provided a report dated 28 November 2016 for the Authority's review under section 31 of the *Casino Control Act* (**Horton Report**).
- 30. The Horton Review found that The Star had acted appropriately in response to the recommendations made by the previous section 31 inquiry conducted in 2011 by Ms Furness SC³¹ and that The Star had cooperated fully with his review.³²
- 31. One of the principal issues which arose at the time of Dr Horton's review was in relation to the reporting of violent incidents at The Star. In the executive summary of his report, Dr Horton wrote:³³

Suggestions were made that The Star has under-reported violent incidents to Police and internally, and that figures made public as to the occurrence of violence there

present a picture more favourable than is actually the case. I investigated these claims, including by convening an oral hearing and compelling the attendance of persons to give evidence. Improvements are needed to overcome shortcomings in The Star's internal reporting of violent incidents, and steps ought be taken to ensure the Police are aware of all violent incidents, whether or not constituting a definition of assault that has been devised for a particular purpose (and which I consider in detail in Part IX). The shortcomings that call for correction are, however, not ones that appear materially to have affected the publicly-reported figures of violent incidents at or near The Star.

32. Dr Horton also addressed the issue of junkets noting they were “a relatively recent phenomenon” which began in 1961:³⁴

In 1961 a stockholder in the Flamingo Casino Hotel flew a planeload of wealthy friends from Miami to Los Vegas for the ego-fulfilling purpose of showing them his hotel. The hotel's management observed the event with glee, as the casino consequently sold an unusually large amount of chips. The Flamingo soon began experimenting with expenses-paid, four-day trips for premium players on chartered planes. Thus was born the junket.

...

As the junket idea grew, a new travel intermediary between the casino's marketing department and the premium player emerged, namely, the “junket rep”. The primary function of a junket rep is to bring known gamblers, including premium players, to a casino.

33. Dr Horton addressed the procedures at The Star for junkets in Chapter X.C of his report, appearing from page 77. He noted that he had attended a simulated junket at The Star to help him understand The Star's procedures and checks for junkets.³⁵ Dr Horton's understanding of those procedures and checks for junkets appears to have been that they extended to junket *participants*, not just promoters or representatives. He wrote:³⁶

238. The junket transfers funds to The Star. On rare occasions, cash is used. If a junket group were to present a large amount of cash, or there were otherwise any suspicions about the money brought into the Casino, then quite apart from The Star's statutory reporting obligations discussed below, The Star will immediately notify the Australian Federal Police. The Star also reports events to law enforcement in accordance with recommendation 10 of the previous s 31 Inquiry, referred to in paragraph 76 above.

239. The Star reports to AUSTRAC in accordance with its statutory obligations relating to anti-money laundering and counter-terrorism financing. In particular, The Star provides:

- a. threshold transaction reports for any cash transactions of \$10,000 or more by any junket promoter, representative or participant;
- b. suspicious matter reports for any suspicious matter identified by The Star's staff, who have received training for this purpose; and

- c. international funds transfer instructions for any international funds transfers, other than those made through an established bank transfer, for which there is no reporting obligation.
34. At that time, Dr Horton's review was not presented with any material concerns about the adequacy of The Star's procedures or reporting practices.³⁷ Nonetheless he identified the risks presented by junkets as follows:³⁸
 254. Junkets present a risk to the integrity of the Casino, by virtue of the very large amounts of money involved, the potential illicit sources of those funds, and issues relating to junket promoters and the nature of their business. They also represent an important, and growing, part of the Casino's business, and are one means by which international visitors, and business, is attracted.
 255. The Star is aware of the risk of junkets and has taken steps to protect the integrity of its operations. The pre-arrival checks, the ICPs, the liaison that takes place between The Star and law enforcement bodies, the repeated contact that the Casino has with junket promoters, the sources of intelligence at the Casino's disposal, and the Casino's own self-interest in ensuring proper controls over those who engage in rebate-play, are all protections against the misuse of junket arrangements. They seem adequate to manage the risk, but can never offer of course a watertight assurance against misuse and even criminality.
 256. I deal later in this report with the specific comments that I received from law enforcement bodies and the like. I simply note at this stage that no person communicated material concerns with me about the adequacy of The Star's procedures or reporting practices in this respect.
 - ...
 260. In conclusion, I note that in all the interviews with law enforcement and like bodies, there was no assertion made that the junket component of The Star's business is being conducted less than honestly.
35. Dr Horton concluded that The Star was a suitable person to continue to give effect to its licence and the *Casino Control Act*, and that "[i]t appears to me, so far as I am equipped to determine it, that it is in the public interest that the Casino licence continue in force".³⁹ He also made a series of recommendations.

Chapter 2.4 Recommendations by Dr J. M. Horton QC

36. The Horton Report made 11 recommendations to maintain and improve the regulatory oversight of The Star Casino:⁴⁰

Recommendation 1: Liquor & Gaming NSW ought ensure regular and effective liaison with law enforcement by maintaining strong links between its staff and those bodies so that information sharing does not suffer as a result of the recent changes to regulatory arrangements. The Executive Intelligence Meeting referred to in the Confidential Appendix ought take place at least quarterly.

Recommendation 2: The function of the two officers presently allocated to the investigation of persons identified for possible exclusion from the Casino by the exercise of the Police Commissioner's powers under s 81 of the Casino Control Act ought be preserved, funded and administered so as to permit those officers to give their full attention to that task, including the clearing of backlogs and the expeditious processing of any new proposals for exclusion. That will necessitate that referrals for such exclusions be made less unevenly and more regularly and by setting a requirement that the backlog be cleared within 12 months from now.

Recommendation 3: The Star and Liquor & Gaming NSW ought give focus to nonpunitive ways substantially to reduce the occasions upon which persons who have excluded themselves from the Casino gain re-entry to it.

Recommendation 4: The Star ought continue to investigate, test and develop the reliability and utility of facial recognition technology. ILGA ought be consulted before any installation (other than for any trial) of it.

Recommendation 5: Footage presently available via the ILGA office (now the office of Liquor & Gaming NSW) at the Casino ought be available off-site, subject to the provision of means of ensuring its security.

Recommendation 6: The Star ought use descriptors that more clearly state the character of incidents and their nature. Any revision of descriptors ought meet the reasonable requirements of regulators, and the Police. This is one way by which all incidents involving violence would come to the attention of Police, whether or not in the Crime Review meeting, and furnish Police with all relevant data from which they might assess which incidents ought be recorded on COPS.

Recommendation 7: In particular, the Casino's Asset Protection Monthly Reports ought refer expressly to incidents involving violence (whether or not constituting assault however defined) and give a clear description of the relevant conduct which is neither euphemistic nor overly general.

Recommendation 8: The Star consult with Police to secure agreement as to the threshold for the making of reports to Police or calls for attendance, and those criteria be clearly stated and recorded.

Recommendation 9: The regulator may wish to require The Star to submit a programme for approval by it of the changes it proposes to make to its system of recording and reporting violent incidents, in its Asset Protection Monthly Reports, its Regulator's Summaries and in its dealings with Police.

Recommendation 10: The Star has many overlapping obligations to record and report incidents. The utility and accuracy of each may be improved if the obligations were to be centralised and harmonised, and adopting descriptors which are directed to, and clearly inform, the functions that each regulator, as the recipient of such reports, is vested to discharge.

Recommendation 11: The regulatory agreements between The Star and ILGA ought be revised and renegotiated as necessary, and as opportunities arise to do so, to achieve, where possible, modernisation, simplification and the elimination of duplication.

37. The status of implementation of each of these recommendations is addressed in Chapter 3 of this Report.

Endnotes

- 1 **Exhibit M-2** (INQ.028.001.0001 at .0164 - .0167).
- 2 *Ibid* at .0164.
- 3 *Ibid* at .0165.
- 4 *Ibid* at . 0168 - .0169.
- 5 *Ibid*.
- 6 M. H. Tobias QC, *The Star Casino: Licence Review* (Report, December 1994) at 9, [8.2].
- 7 **Exhibit B-2791** (INQ.017.001.0061 at .0155).
- 8 **Exhibit B-146** (INQ.016.001.0050 at .0086).
- 9 M. H. Tobias QC Report, *The Star Casino: Licence Review* (December 1994) at 12-13, [5.2.1]-[5.2.3]. See also *Darling Casino Ltd v NSW Casino Control Authority* (1997) 191 CLR 602 at 614-615.
- 10 *Darling Casino Ltd v NSW Casino Control Authority* (1997) 191 CLR 602 at 615. See also M. H. Tobias QC Report, *The Star Casino: Licence Review* (Report, December 1994) at 36, [86].
- 11 *Darling Casino Ltd v NSW Casino Control Authority* (1997) 191 CLR 602 at 615; see also **Exhibit B-146** (INQ.016.001.0050 at .0155).
- 12 **Exhibit B-146** (INQ.016.001.0050 at .0155); ILGA.001.010.0567 at .0694.
- 13 **Exhibit M-2** (INQ.028.001.0001 at .0009 and .0140).
- 14 **Exhibit B-146** (INQ.016.001.0050 at .0156).
- 15 **Exhibit M-2** (INQ.028.001.0001 at .0039)
- 16 **Exhibit B-146** (INQ.016.001.0050 at .0156).
- 17 **Exhibit M-5** (ILGA.001.007.0001 at .0041).
- 18 **Exhibit B-146** (INQ.016.001.0050 at .0158).
- 19 ILGA.001.010.0567 at .0694.
- 20 **Exhibit B-146** (INQ.016.001.0050 at .0160).
- 21 **Exhibit H-465** (INQ.001.001.0692 at .0694).
- 22 *Ibid*.
- 23 **Exhibit M-8** (INQ.001.001.0001 at .0024).
- 24 Echo Entertainment Media Release titled 'Shareholders approve parent company name change to The Star Entertainment Group' (Media Release, 4 November 2015) <<https://www.starentertainmentgroup.com.au/shareholders-approve-parent-company-name-change-to-the-star-entertainment-group>>.
- 25 **Exhibit M-10** (INQ.001.001.0117 at .0126).
- 26 *Ibid* at .0132.
- 27 *Ibid*.
- 28 *Casino Control Amendment Act 2009* (NSW) No. 48, item 4, sch 1.
- 29 *Casino Control Amendment Act 2018* (NSW) No. 8, item 4, sch 1.
- 30 *Casino Control Act*, item 38, sch 4.
- 31 **Exhibit B-146** (INQ.016.001.0050 at .0054).

32 Ibid.

33 Ibid.

34 Ibid at .0124.

35 Ibid at .0127.

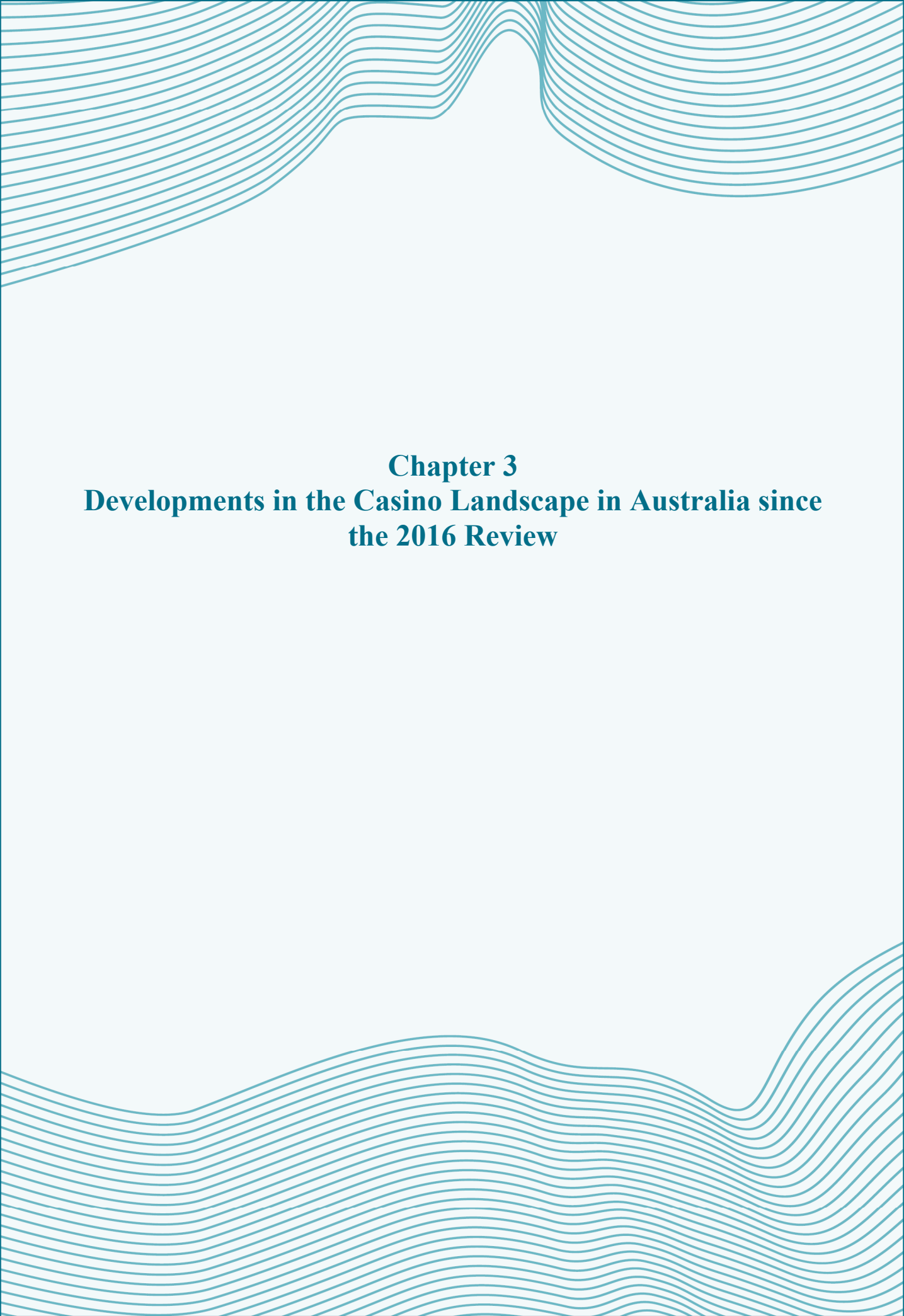
36 Ibid at .0129.

37 Ibid.

38 Ibid at .0132 - .0133.

39 Ibid at .0181.

40 Ibid at .0055 - 0057, .0179 - .0181.



Chapter 3
**Developments in the Casino Landscape in Australia since
the 2016 Review**

Chapter 3. Developments in the Casino Landscape in Australia since the 2016 Review

Chapter 3.1 Implementation of recommendations by Dr. J. M. Horton QC

1. The Review received correspondence from The Star dated 25 October 2021, and from the Authority dated 7 February 2022 and 17 June 2022, as to the status of the implementation of each of Dr Horton’s recommendations.

Response to Recommendation 1

2. Dr Horton QC recommended that L&GNSW should ensure that there is regular and effective liaison with law enforcement. This recommendation appears to have been implemented, albeit with interruptions as a result of the COVID-19 pandemic.
3. There have been monthly operational meetings involving representatives of The Star, the Authority, L&GNSW and the Casino and Racing Investigations Unit (CRIU). The meetings are chaired by The Star’s Investigations Manager for NSW.
4. The Authority told the Review that the quarterly “Executive Intelligence Meetings” which Dr Horton QC noted in his first recommendation “continue to be held each quarter”, with members of the meeting including the NSW Police Force’s Organised Crime Squad, Local Area Command, AUSTRAC and The Star.¹ It appears from The Star’s correspondence that there was an interruption to these meetings in or around April 2020 owing to the pandemic.
5. L&GNSW also has quarterly meetings with the CRIU to discuss any systematic concerns in relation to the Casino.

Response to Recommendation 2

6. Dr Horton QC recommended that the function of the two NSW Police officers allocated to the investigation of persons identified for possible exclusion from the Casino by the exercise of the Police Commissioner’s powers under section 81 of the *Casino Control Act* be preserved, funded and administered to permit those officers to give their full attention to the task. Dr Horton QC’s recommendation also contemplated that a requirement be set

that a backlog of exclusions be cleared within 12 months from the time of the Horton Report.

7. This recommendation has been completed. First, funding for the two NSW Police positions was renewed in 2018 and is sourced 50/50 from the respective budgets of the Authority and L&GNSW. Secondly, the Review received confirmation from NSW Police, via the Authority,² that the backlog of section 81 exclusions was cleared within 12 months of the Horton Report.
8. The question of exclusions, including recommendations to ensure that exclusions are given effect, is addressed in Chapter 23, “Harm Minimisation and Responsible Gambling”.

Response to Recommendation 3

9. Dr Horton QC recommended that The Star and L&GNSW consider non-punitive ways to reduce substantially the occasions on which excluded persons might enter the Casino.
10. The principal means by which this has been attempted is via the introduction of facial recognition technology. This technology has been implemented across The Star Casino. The rationale is that facial recognition technology will assist in identifying excluded patrons before they enter the casino (thus allowing them to be refused access) or, alternatively, as soon as possible after entering the casino if an excluded patron has managed to gain entry.
11. However, facial recognition technology is not perfect. There have been instances (as noted in Chapter 23) where excluded patrons have gained entry to the casino and have managed to gamble, including at some length.
12. In this regard, although Dr Horton QC’s third recommendation might be said to have been implemented, the work in this area remains incomplete. The Review heard from loved ones of problem gamblers who felt they had done everything they could to help prevent family members from gaining entry to the casino, yet without success. This included submitting photos with different appearances to be loaded into the casino’s facial recognition software.
13. It appears that it is now technologically possible, and that it is otherwise desirable, for the operator of The Star Casino to have further improved identification systems to exclude patrons. These matters are considered in Chapter 23.

Response to Recommendation 4

14. Dr Horton QC's fourth recommendation related to facial recognition technology.
15. As noted above in relation to Recommendation 3, this recommendation has been implemented and work continues in this area.

Response to Recommendation 5

16. Dr Horton QC recommended that security footage from The Star Casino be available to L&GNSW off-site, subject to ensuring its security.
17. This recommendation has not been implemented. The Review was told that L&GNSW is in the process of constructing a monitor room at its Parramatta offices but this has not been completed. The Star and L&GNSW have however discussed controls regarding access and use of the system once underway.
18. For reasons that will become clear from Chapter 13, and in particular incidents concerning Salon 95, it is regrettable that this recommendation was not implemented in the last five years. That is not to say that, had the recommendation been implemented, those incidents would definitely have been detected. But it would at least have increased the possibility of detection and perhaps also imposed an added discipline on employees of The Star as a result of that possibility. The Review considers that it would be desirable for this recommendation to be implemented by the operator of The Star Casino as soon as possible.

Response to Recommendation 6

19. Dr Horton QC's sixth recommendation related to descriptions used for violent incidents at or near the Casino. This issue was the subject of a private hearing before Dr Horton QC and was addressed in Chapter IX of the Horton Report.
20. This recommendation has been implemented. The Star and L&GNSW have agreed the descriptors to be used for categorising incidents of violence at or near the Casino.

Response to Recommendation 7

21. Dr Horton QC made a specific recommendation, further to Recommendation 6, in relation to the contents of the Casino's Asset Protection Monthly Reports.
22. This specific recommendation has been implemented.

Response to Recommendation 8

23. Dr Horton QC made another specific recommendation, further to Recommendation 6, that The Star consult with NSW Police in relation to the threshold for the making of violent incident reports.
24. The Star wrote to the Commander of City Central Local Area Command in May 2017 proposing changes to The Star's security SOP and the Commander confirmed his agreement to those changes in June 2017. Accordingly, this specific recommendation has also been implemented.

Response to Recommendation 9

25. Dr Horton QC made another specific recommendation, further to Recommendation 6, in relation to a program for the approval of changes proposed by The Star to its systems for recording and reporting violent incidents.
26. This recommendation has been implemented. In particular, commencing in December 2021, The Star and L&GNSW have held monthly operational compliance meetings with agenda items which include any violent incidents that occurred in the casino in the previous month. L&GNSW also holds monthly Operational Intelligence Meetings with staff from The Star's Investigations Team. L&GNSW is able to request information about incidents reported on the Daily Summary Report at these meetings.

Response to Recommendation 10

27. Dr Horton QC's tenth recommendation was for the centralisation and harmonisation of The Star's obligations to record and report incidents.
28. In light of the responses already noted in relation to Recommendations 6-9 above, this recommendation has been implemented.

Response to Recommendation 11

29. Dr Horton QC recommended the revision and renegotiation of the regulatory agreements between The Star and the Authority. It is not clear that this has happened to any real extent.

30. The Authority told the Review that it has “commenced a process of reviewing, modernising and simplifying the commercial agreements between [the Authority] and The Star”, and “[t]his work is ongoing”.³
31. The Star told the Review that it had raised the need for the regulatory agreements to be renegotiated in discussions with the Authority since 2016, including in a briefing to the Authority’s Board in June 2019, and that the Authority has expressed “in-principle” support for the agreements to be revised. The Star says that on 9 April 2021, the Authority wrote to The Star to say that pursuant to recommendations from the Bergin Inquiry, the Authority intended to conduct a review of regulatory agreements under section 142 of the *Casino Control Act* and some particular agreements have been identified in that regard.⁴ The Star says that on 9 September 2021, the Authority advised that this matter was being considered by the Authority. The Star says it is waiting to receive “details of [the Authority]’s position and next steps”.⁵ The Authority has advised that this review of the regulatory agreements is on hold pending the findings of the Review.⁶
32. Relevant regulatory agreements between the Authority and The Star are referred to in Chapter 5.

Chapter 3.2 Report by the Hon P A Bergin SC

Background

33. The Bergin Inquiry commenced on 14 August 2019. It arose out of two events: the sale of shares in Crown Resorts by CPH Crown Holdings to Melco Resorts under the Melco Transaction; and the publication of various media stories in July and August 2019 alleging illegal and/or improper conduct by Crown Resorts.⁷
34. CPH Crown Holdings, a wholly owned subsidiary of CPH, held 46.1% of the ordinary shares in Crown Resorts, and pursuant to the Melco Transaction agreed to sell 19.99% of those shares to Melco Resorts in two tranches.⁸ The first tranche of 9.99% was sold to Melco Resorts in June 2019 while the sale of the second tranche of 9.99% was deferred.
35. A subsidiary of Crown Resorts, Crown Sydney Gaming, had held a restricted gaming licence in NSW since 8 July 2014. One aspect of the Original Bergin Terms of Reference focused on identifying whether any persons became “close associates” of Crown Sydney Gaming as a result of the Melco Transaction and, if so, assessing their suitability.

36. On 6 February 2020, CPH Crown Holdings and Melco Resorts entered into a deed the effect of which was to relieve Melco Resorts of its obligations to purchase the second tranche of shares under the Melco Transaction. On 29 April 2020, Melco Resorts disposed of the first tranche of shares in Crown Resorts to an entity associated with The Blackstone Group Inc.⁹ Following this transaction, the Original Bergin Terms of Reference were amended to reflect that an investigation of new close associates as a result of the Melco Transaction was not required.
37. Under the Amended Bergin Terms of Reference published on 23 June 2020, the Bergin Inquiry was to focus upon, in Part A, the suitability of Crown Resorts and associated entities and individuals as close associates of Crown Sydney Gaming, insofar as the media allegations published in July and August 2019 raised allegations that Crown Resorts or its agents, affiliates or subsidiaries:¹⁰ engaged in money laundering; breached gambling laws; and partnered with junket operators with links to drug traffickers, money launderers, human traffickers, and organised crime groups.
38. Part B of the Amended Bergin Terms of Reference focused on a review of the adequacy of the regulatory framework and settings for the operation of casinos in NSW.¹¹
39. During its public hearings, the Bergin Inquiry called representatives of Star Entertainment to give evidence, with Ms Skye Arnott giving evidence on 3 and 6 August 2020 and Mr Greg Hawkins on 4 August 2020.
40. On 1 February 2021, the Hon P A Bergin SC issued her report into Crown Sydney Gaming and Crown Resorts to the NSW Government (**Bergin Report**). The key Part A findings of the Bergin Inquiry were:¹²
 - (a) Crown Sydney Gaming was not suitable to give effect to the restricted gaming licence;
 - (b) Crown Resorts was not a suitable person to be a close associate of Crown Sydney Gaming; and
 - (c) Crown Sydney Gaming and Crown Resorts, provided certain changes were implemented to the Authority's satisfaction, may become suitable at a future time.
41. The Bergin Report also found that the Melco Transaction did not breach the restricted gaming licence or any regulatory agreements.¹³

42. On 16 February 2021, the Bergin Report was tabled in NSW Parliament.
43. The Bergin Report's analysis of the test for suitability is discussed in Chapter 6.

Facilitation of money laundering: relevant finding

44. The Bergin Report found that the processes adopted by Crown Resorts with respect to the accounts held by its subsidiaries, Southbank and Riverbank, “enabled or facilitated money laundering” through those accounts.¹⁴

Junkets and organised crime: relevant findings

45. The Bergin Report found that the media allegation that Crown Resorts partnered with junkets that had links with organised crime was established.¹⁵ The report found that it was clear that there was public information that supported the allegation that some of the junkets had links with organised crime groups. The Bergin Report made a number of findings with respect to relevant junkets, operators and representatives, including the following findings:
 - (a) *Suncity*: The report found that the evidence established that “it is probable that Alvin Chau had a former association with the 14K Triad group and continued his associations with the members of Triad groups”, and that “[t]here were clearly links between Mr Chau, the Suncity Junket and organised crime groups”.¹⁶ The report stated that Suncity was “controlled” by Mr Chau, who first became a junket operator at Crown Melbourne in September 2009 and Crown Perth in June 2010.¹⁷
 - (b) *Chinatown Junket*: The report found that Mr Tom Zhou was not a junket operator, but that he stood behind the Chinatown junket as the “financier”. The connections between Mr Zhou and the organised crime groups and his subsequent arrest were all relevant matters to the alleged connection between the Chinatown junket operators and the organised crime groups. The report found that there were “such connections” between the Chinatown junket and organised crime groups.¹⁸
46. The report found that Crown Resorts did have structures in place to deal with and assess junket operators, and the errors and mistakes in those systems when assessing junkets did not mean that the decision maker was wilfully blind or recklessly indifferent.¹⁹ It was found that it was not the case that Crown Resorts had no processes in place for the review of junket operators, and if that were so then the media allegations “may have had some foundation”.²⁰

47. The Bergin Report found that the only example that required closer analysis was Suncity and Mr Chau.²¹ The report found that there were obvious red flags of “very large volumes of cash not under Crown’s supervision in [the Suncity Room] concurrently with publications that the Junket operator had links to organised crime groups”, and that “concurrency” should have “alerted” Crown Resorts to the “obvious and urgent need to terminate its relationship with Suncity”. However, the report assessed the response of Crown Resorts officer Mr Joshua Preston not as wilfully blind or recklessly indifferent but rather moving “at such a glacial pace” when the activities in the Suncity Room required urgency.²²
48. While The Star’s operations were not within the Bergin Inquiry’s terms of reference, the Bergin Report made reference to Salon 95 and the Iek junket at The Star in Sydney. The report stated that Mr Chau was the “financier” of the “Iek Junket”, which was “closely linked with the Suncity Junket”.²³ The report also made reference to the “Suncity Room” at The Star in which the “Iek (Suncity) Junket operated a ‘service desk’”.²⁴ The report stated that “[w]hile cash could be accepted at that desk it would be brought through to the cage for the buy-in to take place”.²⁵ The report stated the “Iek Junket ceased using the Suncity Room in around August 2019” when the junket was moved to another gaming room not carrying Suncity branding.²⁶

Recommendations

49. In relation to money laundering, the Bergin Report recommended:
- (a) Recommendation 1: The objects of the *Casino Control Act* be amended to include an additional object of ensuring that all licensed casinos prevent any money laundering activities within their casino operations.²⁷
 - (b) Recommendation 8: The *Casino Control Act* be amended to include a requirement for concurrent reporting of suspicious transactions to a new Independent Casino Commission (ICC) and AUSTRAC.²⁸
 - (c) Recommendation 9: The *Casino Control Act* be amended to require casino operators to monitor patron accounts and perform heightened customer due diligence.²⁹
 - (d) Recommendation 10: The *Casino Control Act* be amended to impose a requirement that all cash transactions over a certain amount be supported by a source of funds declaration.³⁰

50. In discussing AML regulatory reforms, the Bergin Report also recommended that the *Casino Control Act* be amended to make provision for each casino operator to engage an independent auditor approved by the ICC to report annually to the ICC upon the operator's compliance with all State and Commonwealth statutes (Recommendation 6),³¹ while also setting certain notification obligations of the auditor regarding relevant contraventions (Recommendation 7).³²

51. The Bergin Report recommended that junkets be banned in NSW. The report stated:³³

The problems with Junket operators' connections to organised crime groups have been discussed earlier in the Report. Over the years, neither the Regulators nor the casino operators have been comfortable in making decisions about approving and/or dealing with Junket operators the subject of the Media Allegations. The manner in which the organised crime groups operate ensures that any connection with Junket operators that might be able to be seen is gossamer thin.

The extant and developing threats of the infiltration of organised crime into casinos is such that the Authority and the Government would be justified in prohibiting the operation of Junkets in New South Wales casinos. This is really the only way that the Authority, the Government, the casino operators and the community can be sure that such infiltration does not occur through these mechanisms.

It is recommended that the *Casino Control Act* be amended to prohibit casino operators in New South Wales from dealing with Junket operators. [Recommendation 11]

(emphasis in original)

52. The other recommendations made in the Bergin Report were as follows:³⁴

...

[Recommendation 2:] The ICC be established by separate legislation as an independent, dedicated, stand-alone, specialist casino regulator with the necessary framework to meet the extant and emerging risks for gaming and casinos.

[Recommendation 3:] The ICC have the powers of a standing Royal Commission comprised of Members who are suitably qualified to meet the complexities of casino regulation in the modern environment.

[Recommendation 4:] The *Casino Control Act* be amended to make clear that any decision about a casino licence and any disciplinary action that may be taken against a licensee is solely that of the ICC, and that any term of a regulatory agreement that has been entered into by the Government or the Authority is of no effect to the extent that it purports to fetter any power of the ICC arising under the *Casino Control Act*.

[Recommendation 5:] The *Casino Control Act* be amended to ensure that the casino supervisory levy is paid to the ICC or recognised in the budget of the ICC.

...

[Recommendation 12:] The *Casino Control Act* be amended to impose on any applicant for a casino licence an express requirement to prove that it is a suitable person by providing to the ICC “clear and convincing evidence” of that suitability. This should apply to all suitability assessments under the *Casino Control Act*, including in the context of retaining a casino licence or in any five yearly review or for approval as a close associate.

[Recommendation 13:] The definition of “close associate” under the *Casino Control Act* be repealed and replaced to mean:

- (a) any company within the corporate group of which the licensee or proposed licensee (Licensee) is a member;
- (b) any person that holds an interest of 10 per cent or more in the Licensee or in any holding company of the Licensee (“holding company” as defined in the *Corporations Act 2001* (Cth) so as to capture all intermediate holding companies);
- (c) any director or officer (within the meaning of those terms as defined in the *Corporations Act*) of the Licensee, of any holding company, or of any person that holds an interest of 10 per cent or more in the Licensee or any holding company; and
- (d) any individual or company certified by the Authority as being a “close associate”.

[Recommendation 14:] The *Casino Control Act* be amended to include a provision that the cost of the investigation and determination of the suitability of any close associate of any applicant for a casino licence or any existing casino licensee be paid to the ICC in advance of the investigation and determination in the amount assessed by the ICC. Such amendment should include a provision for repayment of any over-estimate or payment of any shortfall against the estimate made by the ICC before the publication of the ICC’s determination.

[Recommendation 15:] Item 4 of Schedule 1 of the *Casino Control Act* be amended to ensure that any transaction involving the sale or purchase of an interest in an existing licensee or any holding company of a licensee which results in a person holding an interest of 10 per cent or more in a licensee or holding company of the licensee is treated as a “major change” event.

[Recommendation 16:] The *Casino Control Act* be amended to provide that a person may not acquire, hold or transfer an interest of 10 per cent or more in a Licensee of a casino in New South Wales or any holding company of a Licensee without the prior approval of the ICC.

[Recommendation 17:] An amendment be made to section 34 of the *Casino Control Act* to permit the regulator to apply to the Court for an injunction to restrain “any person” in respect of a breach of the above recommended provision or to obtain appropriate orders in connection with an interest acquired, held or transferred in breach of the provision.

[Recommendation 18:] The “gaming and liquor legislation”, as defined in section 4 of the *Gaming and Liquor Administration Act 2007* (NSW) be reviewed for the purpose of considering amendments to ensure clarity and certainty in relation to the powers to be given to the new independent specialist casino regulator and consequential enactment of amendments to relevant legislation.

[Recommendation 19:] In any legislative review and/or consideration of legislative powers for the ICC, it would be appropriate to consider an express provision to include ASIC as one of the relevant agencies to which the ICC may refer information. It would also be appropriate to consider the inclusion of any other relevant agency not already expressly included in the legislation.

Chapter 3.3 Royal Commission into the Casino Operator and Licence in Victoria (RCCOL)

53. In the wake of the Bergin Report, the Victorian Government established a Royal Commission regarding the suitability of Crown Melbourne to hold its casino licence in Victoria. The Hon R. Finkelstein AO QC was appointed Commissioner.
54. The RCCOL Report was delivered on 15 October 2021. The RCCOL found that Crown Melbourne was not a suitable person to continue to hold a casino licence in Victoria. The report recommended that the *Casino Control Act (Vic)* be amended to create the position of a special manager with power to exercise control over the affairs of a casino operator found to be unsuitable. The report recommended that a special manager be appointed to Crown Melbourne for two years, after which the Victorian regulator should determine if it is clearly satisfied that Crown Melbourne has become a suitable person to hold its casino licence and that it is in the public interest for it to do so.
55. The analysis by RCCOL in relation to the test of suitability is discussed in Chapter 6.
56. There were two topics dealt with in the RCCOL Report which are of particular relevance to this Review: Responsible service of gambling (Chapter 8 of the RCCOL Report) and The CUP issue (Chapter 13 of the RCCOL Report). These two topics were outside the Terms of Reference of the Bergin Inquiry. In contrast, responsible service of gambling was directly raised by the Updated Terms of Reference for the Review. The use of CUP cards at The Star assumed significance in the public hearings of the Review.
57. The RCCOL Report on responsible service of gambling is addressed in Chapter 24.

China Union Pay

58. The RCCOL Report summarised the relevant provisions under the *Casino Control Act (Vic)* as follows:³⁵

[4] Relevantly, subject to certain exceptions, by section 68(2) a casino operator is prohibited from providing money or chips as part of a transaction involving a credit card or debit card.

[5] One exception is section 68(8), which provides that a casino operator may provide credit to a non-Australian resident participating in a premium player arrangement or a junket.

59. Section 68 of the *Casino Control Act* (Vic) also deals with cheque cashing facilities in section 68(1), (3), (5), (6) and (7).
60. Sections 74 and 75 of the *Casino Control Act* are similar, but not identical, to section 68 of the *Casino Control Act* (Vic). Sections 74 and 75 of the NSW legislation were also amended during the Relevant Period. This is considered in more detail in Chapter 5, Chapter 12 and Appendix C of this Report.
61. The RCCOL Report described the CUP process at Crown Melbourne as follows:³⁶
- [14] International VIP patrons, mostly from China, were permitted to transfer funds to the Crown Towers Hotel through their CUP credit card or debit card. National Australia Bank was the merchant facility provider. The hotel issued a room charge billed to the patron, falsely asserting that the hotel had provided services to the person. The patron would pay the bill and be given a voucher acknowledging receipt of funds. Then the patron, accompanied by a Crown VIP host, took the voucher to the Cage and exchanged it for cash or chips.
62. This is similar to the process adopted at The Star which is described more fully in Chapter 12. One difference is that The Star only permitted patrons to use CUP debit cards. Credit cards were not permitted to be used at The Star.
63. The CUP process at Crown Melbourne apparently commenced in 2012 and came to an end in October 2016 following the arrests of Crown staff in China.³⁷
64. The RCCOL Report described the purpose of the CUP process in the following terms:³⁸
- [13] It is important to understand the reason for the CUP process. China had imposed restrictions on Chinese nationals transferring money out of the country. Between the years 2012 and 2016, Chinese nationals could not transfer more than USD 50,000 per year to another jurisdiction. The Chinese currency restrictions were well known to Crown Melbourne executives. The CUP process was devised to enable the illegal transfer of funds from China.
65. The RCCOL Report noted that Crown Melbourne conceded that the CUP process contravened section 68 of the *Casino Control Act* (Vic). The RCCOL found that the CUP process contravened the Victorian legislation because it fell within the prohibition in section 68(2)(c) and the exception in section 68(8) did not apply because the CUP process did not involve Crown Melbourne itself providing credit.³⁹

Chapter 3.4 Perth Casino Royal Commission (PCRC)

66. The PCRC followed the publication of the Bergin Report and the RCCOL Report, which had found the subsidiaries of Crown Resorts holding casino licenses in NSW and Victoria respectively to be not suitable. The PCRC assessed the suitability of Burswood Nominees the licensee of the Crown Casino Perth, to continue to hold the casino gaming licence in Western Australia. The PCRC also assessed the suitability of Crown Resorts, as well as Burswood Nominees, and other associated companies, described as the “Burswood Entities”, to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino. The PCRC was required to identify what, if any, changes would be required to render Crown Resorts and the Burswood Entities suitable if they were found to be not suitable. It was also required to assess the adequacy of the framework to regulate casinos in Western Australia.
67. The PCRC Report was delivered on 4 March 2022. It found that Burswood Nominees was not presently suitable to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino and to continue to hold its casino licence for the Crown Casino Perth.⁴⁰ The PCRC also found that Crown Resorts and the Burswood Entities were not presently suitable persons to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino.⁴¹
68. The PCRC’s analysis of the test for suitability is discussed in Chapter 6.
69. The PCRC concluded that Crown Resorts and the Burswood Entities were not presently suitable for a number of reasons, including that they did not then have an appropriate harm minimisation program;⁴² they did not then have sufficiently effective systems and processes in place to reasonably guard against the risk of money-laundering;⁴³ they did not then have a satisfactory organisational culture;⁴⁴ and that it would be premature to conclude that they had sufficiently rehabilitated their reputation and character.⁴⁵
70. The PCRC also concluded that:⁴⁶

[71] ... CRL and the Burswood entities have not, in the past, been open, competent and accountable in their communications with the regulator. While there are positive signs that they intend to improve their communications in the future, there is insufficient evidence to enable the PCRC to conclude that, in this sense, CRL and the Burswood entities have one of the attributes of a suitable person to be engaged in, concerned in or associated with gaming operations of a licensed casino.

71. In relation to organisational culture, the PCRC noted that Crown Resorts had been engaged in remediation activities since the latter part of 2020.⁴⁷ This was a period of approximately eighteen months after the time when public hearings of the Bergin Inquiry first exposed serious misconduct by Crown Resorts and its subsidiaries. The PCRC stated in respect of culture that:⁴⁸

[84] While the PCRC acknowledges that there has been some improvement in Crown's organisational culture to date, implementation of the culture change programme is not of sufficient maturity to demonstrate necessary insight into, and improvements to, organisational culture.

[85] The PCRC concludes that CRL and the Burswood entities do not presently have a satisfactory organisational culture, that being a factor relevant to an assessment of overall governance processes and arrangements, and in that sense do not have one of the attribute of a suitable person to be engaged in, concerned in or associated with gaming operations of a licensed casino.

72. The PCRC reached the following conclusions in relation to the reputation, character, honesty and integrity of Crown Resorts and the Burswood Entities:⁴⁹

[94] The PCRC accepts that the substantial change in the leadership of CRL and the Burswood entities has gone a long way towards improving the reputation and character of the relevant companies. However, a corporation has a reputation and character that is separate from a particular individual or group of individuals... organisational decisions and conduct are more than a combination of individual choices and actions. The systems, strategy, structure and culture of the corporation can either cause or inhibit corporate misconduct and contribute towards good or bad corporate reputation and character.

[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...

73. The PCRC made a number of recommendations for changes required to render Crown Perth and its associated companies suitable.⁵⁰ These recommendations included external monitoring of the remediation activities which were then underway.

74. In addition to considering the issues raised by the Bergin Report, like the Victorian Royal Commission, the PCRC also considered the issue of the harm caused by casino gambling. Like the RCCOL, the PCRC devoted considerable attention to this topic. Chapter 12 of the PCRC report is on the topic of Harm Minimisation and Chapter 13 relates to the role of EGMs. The focus of Chapter 13 was to consider the authorisation of EGMs used at Perth Casino in light of a prohibition on “poker machines” in the *Casino Control Act 1984 (WA)*.
75. The PCRC issued its report on 4 March 2022. This was after the period in which this Review had conducted its private interviews and hearings in relation to harm minimisation and responsible gambling and after Counsel Assisting had provided closing submissions. Nevertheless, the conclusions reached by the PCRC on these topics are of assistance.
76. The PCRC’s work on harm minimisation and responsible gambling is addressed in Chapter 23.

Chapter 3.5 The current landscape for casinos in New South Wales

77. The Royal Commissions, inquiries and reviews of casinos in Australia in the last three years have seen a dramatic change in the landscape for casinos, not just in NSW but throughout Australia. The Bergin Inquiry in NSW led to Royal Commissions in Victoria and Western Australia examining Crown Resorts and its subsidiaries operating casinos in those States.
78. Since the commencement of this Review, an external review was announced by the Queensland Government on 14 June 2022 into the casinos operated by subsidiaries of Star Entertainment in Queensland. On 1 July 2022, the Liquor and Gambling Commissioner of South Australia announced that an independent review of casino operations in South Australia was being commissioned. The Liquor and Gambling Commissioner of South Australia referred to the inquiries into Crown Resorts and Star Entertainment and stated that:⁵¹

A number of the matters raised to date extend beyond any one organisation and point instead to broader systemic issues within the casino industry.

79. A history of the regulation of casinos in NSW is set out in Chapter 1.3 of the Bergin Report. The Bergin Report describes the process of collaboration between the governments of NSW and Victoria which led to the passage of the *Casino Control Act 1991 (Vic)* and the *Casino Control Act* in NSW. The principles underpinning the legislation in both states were largely based upon the principles recommended by the Hon Xavier Connor QC in his reports in 1983 and 1991.⁵²

80. The Bergin Report noted that Mr Connor QC formed the view that should casinos be legalised they would need to be subject to a very high level of ongoing control. Mr Connor QC had stated in 1983:⁵³

To those unfamiliar with casinos, the degree of control which has been found necessary may seem at first to be somewhat far-fetched. Once the dangerous and volatile nature of casino gambling is understood however, the absolute necessity for competent ongoing strict, even draconian, control becomes clear.

81. The Bergin Report also referred to Mr Connor QC's observations about the ongoing process of casino regulation.⁵⁴ Mr Connor QC also noted that experience had demonstrated that overseas casino operators had shown themselves to be adept at appearing to happily accept the conditions laid down for the conduct of casinos but then subsequently exerting considerable pressures on governments to relax restrictions. He observed that the process of regulating casinos was a "constant wearing down process, like water pressing against a dyke, ready to flood through any opening that occurs".
82. The *Casino Control Act* also followed an inquiry conducted by Sir Laurence Street AC KCMG commencing in 1991, which made recommendations for the regulation of casinos in NSW. The Bergin Report noted that following a series of legislative and regulatory amendments and changes in administrative arrangements in the years since the commencement of the *Casino Control Act*, the regulatory framework in NSW at the time of the Bergin Report bore "little resemblance to that recommended by Sir Laurence Street".⁵⁵
83. A key development in NSW was the February 2016 report by Mr Peter Cohen entitled *Casino Modernisation Review*. The Bergin Report noted that the acceptance by the NSW Government of many of the recommendations in the *Casino Modernisation Review* "signalled a change in the regulatory philosophy underpinning the *Casino Control Act*, with a shift away from a prescriptive to a risk-based approach to regulation".⁵⁶
84. The Bergin Report noted that the risk-based approach to regulation of casinos which gained favour in NSW in and after 2016 placed considerable regulatory trust in the casino licensee:⁵⁷

It is based on a rather naive belief that it would be inconceivable for the casino licensee to act improperly in the face of ongoing risks because it may damage its corporate reputation or its capacity to continue holding its licence. Is on the basis of this belief that it was said the regulator is justified in shifting a large part of the regulatory responsibility to the casino operator.

85. The Bergin Report concluded that the risk-based approach to casino regulation “requires adjustment”.⁵⁸ As noted in Chapter 3, the Bergin Report made 19 recommendations, which included the establishment of the ICC as an independent, dedicated, stand-alone specialist casino regulator having the powers of a standing Royal Commission.
86. On 22 June 2022 the NSW Minister for Customer Service issued a media release stating that the NSW Government would introduce a suite of measures to support all 19 recommendations of the Bergin Report.⁵⁹
87. The new landscape for casino regulation in NSW is a return to the more prescriptive approach originally intended when the *Casino Control Act* commenced. The Hon Xavier Connor QC’s prescient warnings and recommendations in 1983 have stood the test of time and must not be forgotten.

Chapter 3.6 A brief overview of the Casino Legislation Amendment Act 2022

88. The *Casino Legislation Amendment Act 2022* (NSW) was passed by Parliament on 11 August 2022 and was assented to on 19 August 2022 (*Amendment Act*).⁶⁰ Save for two exceptions,⁶¹ the *Amendment Act* commences on 5 September 2022.⁶²
89. Many of the reforms in the *Amendment Act* give effect to the recommendations in the Bergin Report. The second reading speeches also show that while close attention was paid to the findings in the Bergin Report, the *Amendment Act* also draws on developments from other recent casino inquiries, including the RCCOL. This sub-chapter briefly outlines some of the important reforms under the *Amendment Act*.

Primary objects

90. The primary objects of the *Casino Control Act* will be amended to include: “ensuring that each casino operator prevents money laundering and terrorism financing activities within the operations of the casino”.⁶³ This implements recommendation 1 of the Bergin Report. A further new primary object will also be added, which states: “minimising harm to individuals and families from activities associated with gambling in casinos”.⁶⁴

Independent casino regulator

91. The *Amendment Act* establishes the “New South Wales Independent Casino Commission” (NICC) as an independent casino regulator.⁶⁵ Procedures are put in place to see that the NICC is comprised of commissioners with the appropriate level of experience in areas such

as financial crime regulation and corporate governance.⁶⁶ The NICC will have its own annual report and a clear level of accountability.⁶⁷ These reforms implement recommendation 2 of the Bergin Report.

92. Certain core functions of the NICC will not be subject to the Minister's control.⁶⁸ Such functions include the granting of a casino licence or taking disciplinary action under the Act.⁶⁹ Further, no agreement with the licensee will be valid to the extent it purports to fetter the NICC's ability to exercise its core functions under the *Casino Control Act*.⁷⁰ Nor will any compensation be payable where regulatory action is taken which affects the casino licence.⁷¹ These reforms implement recommendation 4 of the Bergin Report.
93. The casino supervisory levy will be paid directly to an account controlled and managed by the NICC and money from the fund must be paid to enable the NICC to exercise its functions.⁷² This implements recommendation 5 of the Bergin Report.

Compliance auditor

94. There will be a new requirement of a casino operator to engage an independent and appropriately qualified compliance auditor under a controlled contract on terms approved by the NICC.⁷³ The compliance auditor is to report annually to the NICC on the casino operator's compliance with its regulatory obligations and notify the casino operator and the NICC of any activity in the casino that may jeopardise the achievement of the objects of the *Casino Control Act* and of any breach or likely breach of the casino legislation or the casino operator's other obligations.⁷⁴ These amendments implement recommendations 6 and 7 of the Bergin Report.

Concurrent reporting to AUSTRAC and the NICC

95. The *Casino Control Act* will be amended to require the casino operator at the time of submitting any suspicious matter report to AUSTRAC to also provide a copy of the report to the NICC.⁷⁵ This implements recommendation 8 of the Bergin Report.

Internal control manuals

96. Section 124 will be amended to provide that internal controls of the casino must include requirements for the casino operator to address matters related to responsible gambling and risks associated with money laundering and terrorism financing including monitoring patrons' accounts for criminal activity, performing due diligence on patrons, and obtaining

declarations from patrons about the source of the patrons' funds if the amount used by the patrons for gaming at the casino is more than a certain amount.⁷⁶ This implements recommendations 9 and 10 of the Bergin Report.

Prohibition on junkets and inducements

97. A ban will be enacted upon junkets operating in any casinos in NSW.⁷⁷ This will be achieved through the imposition of a condition on a casino operator's licence that the operator must not promote or conduct junkets or pay a commission, or another financial or non-financial benefit to a person not playing at the casino by reference to another person's turnover of play or another gambling metric. This implements recommendation 11 of the Bergin Report.

"Clear and convincing" evidence of suitability

98. When the NICC assesses suitability, whether in the context of granting a new licence, an existing casino operator, a close associate or a special employee, the onus will be on the relevant person to put forward "clear and convincing" evidence of the person's suitability.⁷⁸ This implements recommendation 12 of the Bergin Report. In such assessments, the relevant person will also need to make full and frank disclosure of any information relevant to the assessment.

Close associate regime

99. A new definition of "close associate" will be inserted into the *Casino Control Act*.⁷⁹ The new definition will include related bodies corporate, people holding 10% or more of the shares in a casino operator or a related body corporate of the casino operator, and directors and officers of those entities.⁸⁰ There are also subsequent changes to the "major change" regime.⁸¹ A new approval process for close associates is also to be inserted.⁸² There is also provision for the NICC requiring upfront payment for the costs of investigating.⁸³ These reforms broadly implement the recommendations between 13 and 17 of the Bergin Report.

Reference of information to ASIC

100. The Australian Securities and Investments Commission (ASIC) will be included as a body to which the NICC may refer information for law enforcement purposes.⁸⁴ This implements recommendation 19 of the Bergin Report.

Casino operators must cooperate with the NICC

101. A casino operator will have a new general obligation to cooperate with the NICC.⁸⁵ This includes making full and frank disclosure of all information as requested by the NICC, and also notifying the NICC of any breach or likely breach of any legislation that regulates casino operations, licence conditions or regulatory agreement.⁸⁶

Harsher penalties and broader remedies

102. Substantially harsher penalties will be introduced for both casino operators and close associates. The maximum pecuniary penalty that can be imposed on a casino operator will be raised from \$1 million to \$100 million.⁸⁷ The NICC may also take disciplinary action against close associates as if the person was a casino operator with a maximum pecuniary penalty of \$1 million for an individual and \$100 million for corporations,⁸⁸ and can revoke a close associate approval in certain circumstances.⁸⁹
103. The NICC will be able to impose enforceable undertakings as a form of disciplinary action and new regime has been included for the actions that can be taken by the NICC in the circumstances where there is a failure to comply with an enforceable undertaking.⁹⁰

Credit provisions

104. The reference to debit cards in section 74(1)(c) will be removed.⁹¹ A new section 74(1)(c1) will be inserted which will provide as follows:⁹²

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 ...

(c1) provide money or chips as part of a transaction involving a debit card unless the transaction complies with the requirements prescribed by the regulations,

105. The current section 74(5) will also be removed and replaced with:⁹³

Despite subsection (1), a casino operator, or an agent of the operator or a casino employee, may, for a person who is not ordinarily resident in Australia, extend a form of credit to the person to enable the person to participate in a premium player arrangement.

Restrictions on use of cash

106. The *Casino Control Act* will also be amended to restrict cash dealings. A casino operator will be prohibited from accepting more than \$1,000 cash from a customer in a day for wagering purposes.⁹⁴

Issuing of chips

107. Section 70 of the *Casino Control Act* will be amended to impose an obligation upon the casino operator not to allow the issue of chips for gaming in the casino other than between a “casino employee and a patron” and “at a gaming table or in a casino cage”.⁹⁵

Bank account for patron accounts

108. Section 126 of the *Casino Control Act* will be amended to require a casino operator to maintain a single bank account for patron transactions rather than allowing multiple different bank accounts.⁹⁶

Responsible gambling

109. A new section 71A will be inserted into the *Casino Control 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.⁹⁷
110. In addition, a casino operator must ensure that gaming machines and gaming-related signs are not visible outside the boundary of the casino.⁹⁸ A new section 76A of the *Casino Control Act* prohibits indecent or offensive promotional prizes and also requires casino operators to inform the participants in their reward schemes of the availability of gambling counselling services.⁹⁹ Casino operators will also be required to take reasonable steps to prevent an excluded person from entering the casino.¹⁰⁰

Monitoring and surveillance

111. Minimum requirements will also be imposed in relation to CCTV footage. Any footage recorded by means of CCTV in conducting monitoring and surveillance of operations in the casino must be kept for the period provided in the casino’s internal controls, or otherwise for at least three months after the day the footage is recorded.¹⁰¹
112. There is a new requirement for a casino operator to give the NICC full, real-time and independent access to their systems that monitor the conduct of gaming.¹⁰² A similar requirement is already in place for gaming machines in hotels and clubs.

Controlled contracts

113. The controlled contract provisions have been amended to shift the focus from a contract review to a probity review. The assessment period has been extended and a casino operator is required to notify the NICC if it becomes aware of any change that could affect the suitability of a party to a controlled contract.¹⁰³

Implementation of the Review's recommendations

114. A new section 170A will be inserted into the *Casino Control Act* requiring the Minister to prepare a report within 9 months of this Review delivering its report to show what has been done to implement any recommendations and what steps the Minister and the NICC need to take regarding any recommendations yet to be implemented.¹⁰⁴ The Minister's report is to be tabled in both houses of Parliament within 12 months of the delivering of the Review's report.

Endnotes

- ¹ ILGA document styled “The Star Casino: 2016 Licence Review – Implementation of Recommendations Status Report” dated 7 February 2022 at 1.
- ² Email from Ms Angela Huang, Principal Solicitor and Secretariat of ILGA, to the Review, 17 June 2022.
- ³ ILGA document styled “The Star Casino: 2016 Licence Review – Implementation of Recommendations Status Report” dated 7 February 2022 at 5.
- ⁴ **Exhibit H-510** (CORRO.001.001.0097 at .0101 - .0103).
- ⁵ Ibid at .0102 - .0103.
- ⁶ Email from Angela Huang, Principal Solicitor and Secretariat of ILGA, to the Review, 11 July 2022.
- ⁷ **Exhibit B-2791** (INQ.017.001.0061 at .0074).
- ⁸ Ibid at .0075.
- ⁹ Ibid at .0080.
- ¹⁰ Ibid at .0077.
- ¹¹ Ibid.
- ¹² Ibid at .0066.
- ¹³ Ibid at .0066 - .0067.
- ¹⁴ Ibid at .0066 - .0304.
- ¹⁵ Ibid at .0386.
- ¹⁶ Ibid.
- ¹⁷ Ibid at .0379.
- ¹⁸ Ibid at .0386.
- ¹⁹ Ibid at .0391.
- ²⁰ Ibid.
- ²¹ Ibid at .0392.
- ²² Ibid.
- ²³ Ibid at .0100.
- ²⁴ Ibid.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Ibid at .0699.
- ²⁸ Ibid at .0707.
- ²⁹ Ibid at .0708.
- ³⁰ Ibid.
- ³¹ Ibid at .0707.
- ³² Ibid.
- ³³ Ibid at .0709.
- ³⁴ Ibid at .0068 - .0069.

- 35 **Exhibit M-36** (INQ.028.001.1361 at .1795).
- 36 Ibid at .1796.
- 37 Ibid at .1796 - .1797, .1801.
- 38 Ibid at .1796.
- 39 Ibid at .1802.
- 40 **Exhibit M-43** (INQ.028.001.2015 at .2028).
- 41 Ibid at .2847.
- 42 Ibid.
- 43 Ibid at .2849.
- 44 Ibid at .2852.
- 45 Ibid at .2854.
- 46 Ibid at .2851.
- 47 Ibid at .2855.
- 48 Ibid at .2852.
- 49 Ibid at .2853.
- 50 Ibid at .2855 - .2862.
- 51 ‘Independent review into SkyCity’, *Liquor, Gambling & Lotteries* (Media Release 1 July 2022) <<https://www.cbs.sa.gov.au/news/independent-review-skycity>>.
- 52 **Exhibit B-2791** (INQ.017.001.0061 at .0102).
- 53 Ibid at .0102.
- 54 Ibid at .0102 - .0103.
- 55 Ibid at .0109 to .0111.
- 56 Ibid at .0112.
- 57 Ibid at .0684.
- 58 Ibid at .0685.
- 59 “A new era of Casino regulation”, New South Wales Minister for Customer Service (Media Release, 22 June 2022) <<https://nswliberal.org.au/Shared-Content/News/2022/A-new-era-of-Casino-regulation>>.
- 60 “Casino Legislation Amendment Act 2022”, NSW Parliament website, (Web Page, 19 August 2022) <<https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3996>>.
- 61 *Amendment Act*, cl 2; *Casino Control Act*, ss 71A, 73A.
- 62 *Amendment Act*, cl 2.
- 63 *Amendment Act*, sch 1, [4]; *Casino Control Act*, ss 4A(1)(a1).
- 64 *Amendment Act*, sch 1, [5]; *Casino Control Act*, ss 4(1)(b1).
- 65 *Amendment Act*, sch 1, [93]; *Casino Control Act*, Part 9A.
- 66 *Amendment Act*, sch 1, [93]; *Casino Control Act*, ss 139-139A.
- 67 *Amendment Act*, sch 1, [93]; *Casino Control Act*, s 139E.
- 68 *Amendment Act*, sch 1, [93]; *Casino Control Act*, s 135.
- 69 *Amendment Act*, sch 1, [93]; *Casino Control Act*, ss 135(b)(i), (iii).

- 70 *Amendment Act*, sch 1, [95]; *Casino Control Act*, s 142(2A).
- 71 *Amendment Act*, sch 1, [99]; *Casino Control Act*, s 156.
- 72 *Amendment Act*, sch 1, [84]; *Casino Control Act*, s 115AB.
- 73 *Amendment Act*, sch 1, [92]; *Casino Control Act*, s 131A.
- 74 *Amendment Act*, sch 1, [92]; *Casino Control Act*, s 131A(3).
- 75 *Amendment Act*, sch 1, [91]; *Casino Control Act*, s 130A.
- 76 *Amendment Act*, sch 1, [87]; *Casino Control Act*, s 124(1A).
- 77 *Amendment Act*, sch 1, [72]; *Casino Control Act*, ss 76B.
- 78 *Amendment Act*, sch 1, [6]; *Casino Control Act*, s 4B.
- 79 *Amendment Act*, sch 1, [3]; *Casino Control Act*, s 3A.
- 80 *Amendment Act*, sch 1, [1] and [3]; *Casino Control Act*, ss 3(1), 3A.
- 81 See for example *Amendment Act*, sch 1, [29]-[32]; *Casino Control Act*, ss 34-35.
- 82 *Amendment Act*, sch 1, [42]; *Casino Control Act*, ss 42A-42L.
- 83 *Amendment Act*, sch 1, [42]; *Casino Control Act*, s 42G.
- 84 *Amendment Act*, sch 1, [97]; *Casino Control Act*, s 149(7)(d2).
- 85 *Amendment Act*, sch 1, [20]; *Casino Control Act*, s 22C.
- 86 *Amendment Act*, sch 1, [20]; *Casino Control Act*, s 22C(2).
- 87 *Amendment Act*, sch 1, [22]; *Casino Control Act*, s 23(1)(b).
- 88 *Amendment Act*, sch 1, [42]; *Casino Control Act*, s 42H.
- 89 *Amendment Act*, sch 1, [42]; *Casino Control Act*, s 42L.
- 90 *Amendment Act*, sch 1, [25]; *Casino Control Act*, s 26A..
- 91 *Amendment Act*, sch 1, [63]; *Casino Control Act*, s 74(1)(c).
- 92 *Amendment Act*, sch 1, [64]; *Casino Control Act*, s 74(1)(c1).
- 93 *Amendment Act*, sch 1, [65]; *Casino Control Act*, s 74(5).
- 94 *Amendment Act*, sch 1, [62]; *Casino Control Act*, s 73A.
- 95 *Amendment Act*, sch 1, [57]; *Casino Control Act*, ss 70(1AA)-(1AD).
- 96 *Amendment Act*, sch 1, [90]; *Casino Control Act*, s 126(1)(a1).
- 97 *Amendment Act*, sch 1, [60]; *Casino Control Act*, s 71A.
- 98 *Amendment Act*, sch 1, [60]; *Casino Control Act*, s 71.
- 99 *Amendment Act*, sch 1, [72]; *Casino Control Act*, s 76A.
- 100 *Amendment Act*, sch 1, [76]; *Casino Control Act*, s 84A.
- 101 *Amendment Act*, sch 1, [55]; *Casino Control Act*, s 65(c).
- 102 *Amendment Act*, sch 1, [89]; *Casino Control Act*, s 125.
- 103 *Amendment Act*, sch 1, [38]-[39]; *Casino Control Act*, ss 37(3)-(5), 37A-37B.
- 104 *Amendment Act*, sch 1, [106]; *Casino Control Act*, s 170A.

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Chapter 4
The Nature of this Review

Chapter 4. The Nature of this Review

Chapter 4.1 Instrument of Appointment

1. The Authority established this Review by Instrument of Appointment dated 13 September 2021. A copy of the Instrument of Appointment is Appendix A of this Report.
2. The Instrument of Appointment was an appointment under sections 143(1) and 143A of the *Casino Control Act* to conduct an inquiry for the purpose of the exercise of the Authority's functions under sections 30 and 141 of the *Casino Control Act*.
3. Previous reviews of The Star were conducted pursuant to section 31 of the *Casino Control Act*, as described in Chapter 2 of this report. Section 31 provides for regular periodic reviews of the suitability of a casino operator and whether it is in the public interest for the casino licence to continue in force. In contrast, the establishment of the Review was for the purpose of exercising the Authority's functions under sections 30 and 141.
4. Section 30(1) of the *Casino Control Act* provides for the investigation of a casino from time to time and at any time that the Authority thinks it desirable or when directed to do so by the Minister. In this case, the first limb of section 30(1) was applicable.
5. Section 141(1) confers on the Authority such functions as are necessary or convenient to enable it to achieve its objects under the *Casino Control Act*. Section 141(2)(c) further provides that the Authority has a specific function, among other things, to keep under constant review all matters connected with casinos and the activities of casino operators.
6. The function identified in section 141(2)(c) is slightly different from a consideration of suitability that arises under:
 - (a) sections 11 and 12 of the *Casino Control Act*, which requires the Authority, in deciding whether to grant a casino licence to an applicant, to consider the suitability and other factors with respect to the applicant and its close associates;
 - (b) section 31 of the *Casino Control Act*, which requires the Authority, in considering whether the casino operator is suitable to continue to give effect to the casino licence, to perform such an investigation "at intervals not exceeding 5 years"; and
 - (c) section 35(3) of the *Casino Control Act*, which requires the Authority, in considering whether to approve a "major change" in the state of affairs of a casino

operator which involves a person becoming a close associate of a casino operator, to only provide such approval if it is satisfied that the person is a “suitable person” to be associated with the management of a casino.

7. Despite the differences between these provisions and sections 30 and 141 of the *Casino Control Act*, the wording of the Updated Terms of Reference confirms that a core focus of the Review is to consider the suitability of The Star and its close associates. As The Star already has a casino licence in NSW, the question in this Review is one of *continuing* suitability (i.e., akin to a review under s 31 of the *Casino Control Act*).
8. Section 143 of the *Casino Control Act* provides for the Authority or a person appointed by the Authority to hold inquiries which may be in public or in private. In the circumstances which are explained in Chapter 7, the work of the Review included public hearings on some issues and private hearings and interviews on other issues.
9. The Instrument of Appointment conferred the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923 (NSW)* (***Royal Commissions Act***) as provided by section 143A of the *Casino Control Act*. The Instrument of Appointment also conferred the powers and authorities conferred on a commissioner by Division 2 of Part 2 of the *Royal Commissions Act* (except for section 17(4) and (5)) as provided by section 143A of the *Royal Commissions Act*.
10. The conferral of powers and authorities under Division 2 of Part 2 of the *Royal Commissions Act* in the circumstances of this appointment meant that section 17(1) of the *Royal Commissions Act* applied to witnesses summoned to attend before or produce documents to the Review. The effect of the application of that sub-section was that witnesses who were compelled to give evidence and companies and persons who were compelled to produce documents were not able to resist answering questions or producing documents on the ground of legal professional privilege or other claims of privilege including the privilege against self-incrimination.¹
11. The Instrument of Appointment originally required that a report be made to the Authority by 31 March 2022. The reporting date was ultimately extended to 31 August 2022 in the circumstances described in Chapter 5 of this report.

Chapter 4.2 Updated Terms of Reference

12. The Instrument of Appointment annexed the Terms of Reference pursuant to which the Review was to be undertaken. The Terms of Reference were updated on 14 December 2021. A copy of the Updated Terms of Reference is Appendix B of this Report.
13. The Updated Terms of Reference are very broad and required a wide-ranging review of The Star and its operations.
14. Apart from the ultimate question of the suitability of The Star and its close associates to be concerned in, or associated with the management and operation of The Star Casino, the breadth of the Updated Terms of Reference may be seen in that it involved a review of, among other things, The Star's:
 - (a) compliance with the *Casino Control Act*, the *Casino Control Regulation*, its casino licence and its legal agreements with the Authority (paragraph 2);
 - (b) harm minimisation and responsible gambling programs (paragraphs 3.3, 7 and 8.10);
 - (c) systems and processes to prevent criminal influence or exploitation or other undesirable activities (paragraphs 3.1, 4, 8.5, 8.7 and 8.10);
 - (d) methods and systems to detect and prevent money laundering activities (paragraphs 6.4, 8.8 and 8.12);
 - (e) management and operation of its bank accounts (paragraph 6);
 - (f) management of junkets and VIP patrons (paragraphs 5.3 and 8.6);
 - (g) management structure and reporting lines (paragraphs 8.1 and 8.2);
 - (h) culture, including an assessment of accountability, education and compliance (paragraph 8.3);
 - (i) risk management framework (paragraph 8.4); and
 - (j) management of controlled contracts, gambling chips and free bet vouchers (paragraph 8.9).
15. Although a determination of the suitability of The Star to continue to hold a casino licence in NSW was required, the Updated Terms of Reference did not require any assessment of the changes which would be necessary to render The Star or any of its close associates suitable, should they be found to be unsuitable. This may be contrasted with the terms of

reference for the Bergin Inquiry, which specifically required consideration of what, if any, changes would be required to render Crown Sydney and Crown Resorts suitable if they were found to be unsuitable.

16. The Updated Terms of Reference focused attention on the period since the release of the Horton Report on 28 November 2016 until the commencement of this Review on 13 September 2021. This was because paragraph 9 of the Updated Terms of Reference provided that the scope of the review was this period. Due to the events which occurred during the course of the Review, the question arose whether the Review should take into account, as requested by The Star, events which occurred after 13 September 2021 in assessing its suitability. For the reasons set out in Chapter 9, those subsequent events were taken into account in assessing suitability.

Chapter 4.3 Principles governing fact-finding

17. The Review process is inquisitorial. It is very different from the processes of a court conducting a trial. There are no pleadings, there is no case to be put and questions of burden of proof do not arise. Nevertheless it is necessary to make findings of fact. The more serious the finding or the consequences of the finding, the more cogent and persuasive must be the evidence to support it. The following principle applies by analogy to the Review:²

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal.

18. Findings by the Review may have an impact on personal reputations. Personal reputation is an interest which should not be damaged by an official finding after a statutory inquiry unless the person whose reputation is likely to be affected has had a full and fair opportunity to show why the finding should not be made.³
19. Although section 143(3) of the *Casino Control Act* provides that the rules and practice of evidence do not bind the Review, relevant protections were introduced by paragraphs 24 and 25 of the Procedural Guidelines. Paragraph 24 of the Procedural Guidelines stated:

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.

20. Paragraph 25 of the Procedural Guidelines stated:

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.

21. The Review is required to consider whether The Star has complied with its obligations under the *Casino Control Act*, the *Casino Control Regulation*, its casino licence and legal agreements between the Authority and The Star. These matters are directly raised by paragraph 2 of the Updated Terms of Reference. With the exception of those matters, the Review has not made findings about whether there have been breaches of any other legislation, including criminal offences or contraventions of civil penalty provisions. It is neither necessary nor appropriate to make findings of that nature in the context of this suitability review.

Endnotes

- ¹ *Attorney General for New South Wales v Melco Resorts & Entertainment Ltd* (2020) 102 NSWLR 47 (special leave to appeal to the High Court refused: [2020] HCASL 129); **Exhibit B-2791** (INQ.017.001.0061 at .0079).
- ² *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J at 361-362; *Bronze Wing International Pty Ltd v SafeWork NSW* [2017] NSWCA 41 at [127], [37]. See also Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Vol 2: Case Studies, pages 1 to 3.
- ³ *Annetts v McCann* (1990) 170 CLR 596 at 608-609.

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Chapter 5

The Regulatory Environment

Chapter 5. The Regulatory Environment

Chapter 5.1 The Star's Casino Licence

1. The casino licence has been held by The Star and its corporate forebears since 14 December 1994. The licence was granted for a period of 99 years unless cancelled or surrendered.¹
2. On 5 June 2009, The Star's casino licence was amended by way of a "Notification of Amendment of Casino Licence under Section 22 of *Casino Control Act*" (**Amended Casino Licence**).²

Conditions of the Amended Casino Licence

3. The Amended Casino Licence grants the right to conduct and play table games and use gaming machines at the casino site subject to provisions of the *Casino Control Act* and the conditions set out in the casino licence.
4. The conditions of the casino licence are found both in the licence itself and in the *Casino Control Act*.
5. Section 22(1) of the *Casino Control Act* provides that the conditions of a casino licence may relate to any matter for which provision is made by the *Casino Control Act* but must not be inconsistent with a provision of the Act. Section 22(2) of the *Casino Control Act* provides that the conditions can be "amended by being substituted, varied, revoked or added to".
6. Section 22(6) states that section 22 does not apply to licence conditions imposed by the *Casino Control Act*. That is, licence conditions imposed by the *Casino Control Act* cannot be amended, varied or revoked by the Authority.
7. For the most part, the Amended Casino Licence contains obligations that the licensee comply with specified provisions contained within the *Casino Control Act*. In almost all instances, the specified legislative obligations are described as licence conditions provided by the *Casino Control Act*. That is, the obligations in the Amended Casino Licence largely mirror the licence conditions imposed by the *Casino Control Act*.

8. It is not necessary to identify all the obligations imposed by the Amended Casino Licence. The licence obligations which assumed importance during the course of the Review are set out below.

Boundaries of the casino premises

9. Section 19(1) of *Casino Control Act* provides that the boundaries of a casino are to be defined initially by being specified in the casino licence. Schedule 1 of the Amended Casino Licence sets out the boundaries of the casino by reference to a blue line marked on a number of floor plans which are available for inspection by The Star at the address of the Authority during business hours.
10. Section 19(2) of *Casino Control Act* provides that the boundaries of a casino can be redefined by the Authority either on its own initiative or on the application of the casino operator.

Casino operations

11. Clause 8 of the Amended Casino Licence requires The Star to comply with all directions relating to the conduct, supervision or control of operations in the casino given by the Authority pursuant to section 29(1) of the *Casino Control Act*.
12. Clause 12(a) of the Amended Casino Licence provides that gaming is not to be conducted in the casino unless the facilities provided in relation to the conduct and monitoring of operations in the casino are in accordance with plans, diagrams and specifications that are approved by the Authority pursuant to section 65 of the *Casino Control Act*.
13. Clause 12(b) of the Amended Casino Licences requires The Star not to permit a game to be conducted or played in the casino unless it has been approved by the Authority and the game is conducted or played in accordance with the rules of the game approved by the Authority pursuant to section 66 of the *Casino Control Act*.
14. Clause 12(d) of the Amended Casino Licence provides that The Star must comply with all directions given by the Authority under section 69(1) of the *Casino Control Act* relating to the rectification or destruction of unsatisfactory gaming equipment. This coincides with section 69(2) of the *Casino Control Act* which provides that it is a licence condition that The Star comply with any direction given under section 69(1).

15. Pursuant to clause 12(e) of the Amended Casino Licence, The Star must comply with section 70 of the *Casino Control Act* in relation to the conduct of gaming. Section 70 of the *Casino Control Act* contains a number of licence conditions and other obligations regarding the conduct of gaming including requirements regarding when and how gaming equipment can be used, how playing cards are to be dealt, how chips and chip purchase vouchers are to be issued, exchanged and redeemed, how wagers are to be placed and paid and a prohibition on inducing persons outside the casino to enter or take part in gaming.
16. Pursuant to clause 12(f) of the Amended Casino Licence, The Star must comply with section 70A of the *Casino Control Act* which provides that it is a condition of a casino licence that the casino operator must not publish, or cause or permit to be published, advertisements relating to gaming machines.
17. Clause 12(i) of the Amended Casino Licence requires The Star to comply with section 72(1) of the *Casino Control Act* which provides that it is a condition of a casino licence that the casino operator provide assistance to patrons. This assistance includes making game rules and summaries of any such rules available for inspection and prominently displaying advice or information regarding game rules, wagering and odds.
18. In accordance with clause 12(k) of the Amended Casino Licence, The Star must comply with section 73 of the *Casino Control Act* which provides that it is a condition of a casino licence that the casino operator must ensure that all casino installations, devices, equipment and procedures for security and safety purposes are used, operated and applied at all relevant times for the preservation and maintenance of those purposes.

Excluded persons

19. Pursuant to clause 12(p) of the Amended Casino Licence, The Star must comply with all directions given by the Commissioner of Police pursuant to section 81(1) of the *Casino Control Act* excluding a person from the casino.
20. Clause 12(q) of the Amended Casino Licence provides that The Star must comply with its obligations under sections 83(1) and (2) of the *Casino Control Act*. Section 83(1) provides that it is a condition of a casino licence that the casino operator must prepare within a prescribed time period lists of those persons whom The Star is aware are subject to an exclusion order. Section 83(2) imposes a licence condition that the casino operator provide the lists of excluded persons to the Authority or an inspector on request.

Financial arrangements

21. Clause 12(l) of the Amended Casino Licence provides that The Star “must not contravene section 74(1) and must not cause, permit, suffer or allow an agent of [The Star] or a casino employee to contravene such section”. Section 74(1) of the Casino Control Act prohibits the provision of credit in connection with any gaming in the casino subject to some express exclusions (i.e., the operation of section 75 of the Casino Control Act dealing with cheques and deposit accounts and credit provided to persons not ordinarily resident in Australia who participate in a premium player arrangement or a junket that is approved by the Authority).³ Section 74 is addressed in Chapter 5.
22. Clause 12(m) of the Amended Casino Licence provides that The Star must ensure that section 74(3) of the *Casino Control Act* is not contravened. Section 74(3) prohibits the installation of an Automatic Teller Machine (ATM) or similar device within the boundaries of the casino.
23. Pursuant to clause 12(n) of the Amended Casino Licence, The Star must comply with section 75(6) of the *Casino Control Act* which provides that it must bank a cheque within the time period prescribed within the *Casino Control Act*, and it must not agree to the redemption of a cheque for the purpose of avoiding compliance with the prescribed time period.

Responsible Gambling

24. Clause 12(j) requires The Star to comply with section 72A(1) of the *Casino Control Act* pursuant to which The Star must enter into arrangements for problem gambling counselling services to be made available to patrons of the casino.

Casino duty and responsible gambling levy

25. Clause 14(a) of the Amended Casino Licence provides that The Star must pay the amount of any duty, levy or interest payable pursuant to section 120 of the *Casino Control Act*. Section 120 of the *Casino Control Act* provides that The Star is liable for payment of any duty, levy or interest payable under Part 8 of the *Casino Control Act* in respect of its licence.

Casino internal controls

26. Clause 15(a) of the Amended Casino Licence requires The Star to comply with section 124(4) of the *Casino Control Act* which requires that The Star must not contravene a

requirement of an internal control or administrative or accounting procedure that has been approved by the Authority.

Change in circumstances

27. Clause 9 of the Amended Casino Licence requires The Star to comply with section 35(2) of the *Casino Control Act*. This section of the *Casino Control Act* states that it is a condition of a casino licence that the casino operator must:
- (a) ensure that a major change in the state of affairs existing in relation to the operator which is within the operator's power to prevent does not occur except with the prior approval in writing of the Authority;
 - (b) where paragraph (a) does not apply, notify the Authority in writing of the likelihood of any major change in the state of affairs existing in relation to the operator as soon as practicable after the operator becomes aware of the likelihood of the change;
 - (c) where paragraphs (a) and (b) do not apply, notify the Authority in writing of any major change in the state of affairs existing in relation to the operator within 3 days after becoming aware that the change has occurred; and
 - (d) notify the Authority in writing of any minor change in the state of affairs existing in relation to the operator within 14 days after becoming aware that the change has occurred.
28. Section 35(1) of the *Casino Control Act* defines a major change in the state of affairs in relation to a casino operator to include any change which results in a person becoming a close associate of the casino operator. Other major changes are identified in Schedule 1 to the *Casino Control Regulation* and include a person ceasing to be a close associate of the casino operator.
29. The close associates of The Star as at the commencement of this Review are identified in Chapter 5.4.
30. Minor changes in the state of affairs in relation to a casino operator are identified in Schedule 2 to the *Casino Control Regulation*.

Controlled contracts

31. Pursuant to clause 10(a) of the Amended Casino Licence, The Star must comply with section 37 of the *Casino Control Act*. That section includes an obligation that a casino

operator must not enter into or become a party to a controlled contract, or the variation of a controlled contract, relating to the casino until the operator has given the Authority written notice of the details of the proposed contract or variation of contract and the prescribed investigation time allowed by the Authority has elapsed.

32. A controlled contract is defined in section 36 of the *Casino Control Act*. It means a contract that relates to the supply or servicing of gaming equipment that has been approved by the Authority and is not subject to an exemption or 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 to be a controlled contract.⁴
33. Controlled contracts of The Star are considered in Chapter 24.

Association or employment

34. Pursuant to clause 11(a) of the Amended Casino Licence, The Star must comply with its obligations pursuant to section 61(1) of the *Casino Control Act*. This provides that it is a condition of a casino licence that if the operator has been given notice by the Authority that the licence of an associate or employee of the operators has been suspended, cancelled or has otherwise ceased to be in force, the operator must within 24 hours take the prescribed actions to terminate the association or employment of that person.
35. Pursuant to clause 11(b) of the Amended Casino Licence, The Star must comply with its obligations under section 62(1) of the *Casino Control Act* which provides that it is a condition of a casino licence that the operator must notify the Authority of certain matters relating to licenced casino employees and must comply with all notices issued by the Authority under section 62 of the *Casino Control Act*.
36. Pursuant to clause 11(c) of the Amended Casino Licence, The Star must comply with its obligation under section 64(1) of the *Casino Control Act* to issue certificates of competency for the functions of special employees.

Incorporation of section 142 agreements

37. Section 142 of the *Casino Control Act* deals with agreements entered into by the Authority on behalf of the State in connection with the establishment or operation of a casino and any development of which a casino or proposed casino forms part. These regulatory agreements are the subject of Chapter 5.3.

38. Section 142(3) of the *Casino Control Act* provides that these regulatory agreements may provide that all or specified obligations imposed by the agreement are considered to be conditions of the relevant casino licence and such a provision has effect accordingly.
39. Clause 17 of the Amended Casino Licence states that certain clauses of relevant section 142 agreements are considered to be licence conditions. This includes clause 19.4 of the Amended Casino Operations Agreement, which is discussed in Chapter 5.3.

Consequences of a breach of a licence condition

40. The Amended Casino Licence does not contain provisions regarding the consequences of a breach of licence condition. However, this is dealt with in the *Casino Control Act*.
41. A number of consequences may follow from the breach of a licence condition:
- (a) If the Authority determines that there are “grounds for disciplinary action”, the Authority may take disciplinary action pursuant to section 23 of the *Casino Control Act*. One of the “grounds for disciplinary action” identified in the *Casino Control Act* is “that the casino operator, a person in charge of the casino, an agent of the casino operator or a casino employee has contravened a provision of [the *Casino Control Act*] or a condition of the licence”.⁵ The prescribed disciplinary actions include:
 - (i) the cancellation or suspension of a casino licence;
 - (ii) the imposition on the licensee of a pecuniary penalty of up to \$1,000,000;
 - (iii) the amendment of the terms or conditions of the licence (other than under section 22 of the *Casino Control Act*);
 - (iv) the issue of a letter of censure to the licensee.⁶
 - (b) As an alternative to taking disciplinary action, the Authority may direct the operator in writing to take specified action within a specified time to rectify the matter which constitutes the grounds for disciplinary action concerned.⁷ If the casino operator fails to take the specified action within the specified time, the Authority can proceed with disciplinary action.⁸

Chapter 5.2 Relevant provisions of the *Casino Control Act*

42. A number of provisions in the *Casino Control Act* have been identified in Chapter 5.1 to the extent that they are directly relevant to the Amended Casino Licence. Chapter 5.2 deals

with other provisions of the *Casino Control Act* which have been relevant to this Review. Notably, amendments to the *Casino Control Act* will come into effect on 5 September 2022 under the *Amendment Act*. Those amendments are addressed in Chapter 3.6.

Lawful gaming

43. Section 4(1) of the *Casino Control Act* provides that the conduct and playing of a game and the use of gaming equipment is lawful when the game is conducted and the gaming equipment is provided in a casino by or on behalf of a licensed casino operator.
44. “Gaming equipment” is defined in section 3 of the *Casino Control Act* to mean “any device or thing (including chips) used, or capable of being used, for or in connection with gaming”.
45. Until 30 June 2020, section 4(2) of the *Casino Control Act* provided that unless the regulations provide otherwise, the *Unlawful Gambling Act 1998* (NSW) and *Lotteries and Arts Union Act 1901* (NSW) did not apply to the conduct of a game or use of gaming equipment to the extent that it is conducted by, or on behalf of, a casino operator in accordance with the *Casino Control Act*. From 1 July 2020, section 4(2) was amended to remove the reference to “*Lotteries and Arts Union Act 1901* (NSW)” and replace it with “*Community Gaming Act 2018* (NSW)”.⁹

Primary objects of the *Casino Control Act*

46. The primary objects of the *Casino Control Act* are as follows:¹⁰
 - (a) ensuring that the management and operation of a casino remain free from criminal influence or exploitation;
 - (b) ensuring that gaming in a casino is conducted honestly; and
 - (c) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.
47. Those who exercise functions under the *Casino Control Act* are required to have due regard to these objects when exercising their functions.¹¹
48. Section 140 of the *Casino Control Act* provides that the objects of the Authority are to maintain and administer systems for the licensing, supervision and control of a casino for the purpose of implementing the above objects. Similarly, pursuant to paragraph 3 of the

Updated Terms of Reference, the Review is required to inquire into “the maintenance and administration of systems by The Star” to implement these objects.¹²

Functions of the Authority

49. The Authority has such functions as are necessary or convenient to enable it to achieve its objects under the *Casino Control Act* (as set out above).¹³ Relevantly, the Authority has the following specific functions under section 141:¹⁴
- (a) to keep under constant review all matters connected with casinos and the activities of casino operators, persons associated with casino operators, and persons who are in a position to exercise direct or indirect control over the casino operators or persons associated with casino operators; and
 - (b) to advise the Minister on matters relating to the administration of the *Casino Control Act*.
50. When exercising its functions, the Authority is not required to observe the rules of natural justice (except to the extent that it is specifically required to do so by the *Casino Control Act*).¹⁵

Restrictions on number of casino licences to be issued

51. The *Casino Control Act* only allows for one casino licence to be in force at any particular time and this licence can only apply to one casino.¹⁶
52. On 27 November 2013, the *Casino Control Act* was amended to insert section 6(2) which provided that a restricted gaming licence may be granted under the *Casino Control Act* to operate the Barangaroo restricted gaming facility.¹⁷ On 22 June 2022, the Authority announced that it had granted Crown Sydney conditional approval to commence casino operations at the Barangaroo restricted gaming facility.¹⁸
53. The Star for a number of years, and throughout the Relevant Period, has otherwise had the privilege of being the holder of the only casino licence issued in NSW.

Suitability

54. Section 12 of the *Casino Control Act* sets out the considerations to be taken into account when considering the suitability of a holder of a casino licence and its close associates. This section is considered in Chapter 6.

Licensing of casino employees

55. Part 4 of the *Casino Control Act* deals with the licensing of certain casino employees. The *Casino Control Act* requires that certain employees, known as special employees, must be licensed and must hold a certificate of competency for the functions that they exercise.¹⁹ The licence authorises the holder to exercise in, or in relation to, a casino the functions for which the licensee holds a certificate of competency, subject to those functions being exercised in accordance with the *Casino Control Act* and the conditions of the casino licence.²⁰ A person must not exercise the functions of a special employee except in accordance with the authority conferred upon them by the licence.²¹
56. Further, a casino operator must not:
- (a) employ or use the services of a person to exercise any function of a special employee in or in relation to the casino;
 - (b) allocate or permit or suffer to be allocated to a person the exercise of any function of a special employee in or in relation to the casino,
- unless the person is authorised by a licence to exercise the function concerned.²²
57. A special employee means a person who:²³
- (a) is employed or working in a casino in a managerial capacity or who is authorised to make decisions, involving the exercise of his or her discretion, that regulate operations in a casino; or
 - (b) is employed or working in a casino in any capacity relating to any of the following activities:
 - (i) the conduct of gaming;
 - (ii) the movement of money or chips about the casino;
 - (iii) the exchange of money or chips to patrons in the casino;
 - (iv) the counting of money or chips in the casino;
 - (v) the operation, maintenance, construction or repair of gaming equipment approved by the Authority under section 68 of the *Casino Control Act*;
 - (vi) the supervision of any of the above activities;
 - (vii) casino security;

- (viii) any other activity relating to operations in the casino that is prescribed for the purposes of the definition.

58. The following persons are relevantly exempted from the definition of special employee:²⁴

a person employed or working in a casino in any of the following capacities is exempt from being a special employee—

- (a) as a promoter of a junket,
- (b) as a representative of such a promoter,
- (c) as a person providing a cash collection, delivery and handling service to the casino under a contract or as an employee of such a person.

59. Sections 45 to 64A of the *Casino Control Act* contain other provisions relating to the licensing of special employees.

Credit, cheques and deposit accounts

60. Sections 74 and 75 of the *Casino Control Act* were of significant relevance to the work undertaken by the Review.

61. As discussed in Chapter 3, the *Casino Control Act* and its Victorian counterpart drew heavily on the recommendations of the Hon Xavier Connor QC. He warned against casino operators providing credit to their patrons, stating:

Credit has almost routinely been the principal source of trouble with casinos. Casino management is generally anxious to be in a position to extend credit at its discretion to favoured gamblers. It increases casino turnover as well as encouraging gamblers to gamble beyond their means. The granting of credit leads to all kinds of problems particularly relating to skimming and collecting the unpaid debts of gamblers who live out of State. The way to eliminate problems relating to credit is simply to prohibit it.

62. This recommendation was given statutory effect in section 74 of the *Casino Control Act*.

63. Section 74 currently provides 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)
- (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 casino.
 - (4) This section does not limit the operation of section 75 (Cheques and deposit accounts).
 - (5) 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.
64. Section 75 of the *Casino Control Act* deals with the acceptance of cheques by a casino operator and the requirements for deposit accounts.
65. Section 75 currently provides as follows:
- (1) In this section—

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.

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.
 - (2) 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.
 - (3) 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.

- (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.
- (5A) 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.
- (6) It is a condition of a casino licence that the casino operator—
 - (a) (Repealed)
 - (b) must bank a cheque accepted by the operator under this section within the period of time required by subsection (6A),
 - (c) must not agree to the redemption of a cheque accepted by the operator for the purpose of avoiding compliance with paragraph (b).
- (6A) A cheque must be banked—
 - (a) within 30 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.
- (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.

66. Sections 74 and 75 of the *Casino Control Act* have been extensively amended since they were first introduced and some of those amendments were important in relation to issues

considered by the Review. The legislative history of these sections is set out in Appendix C of this Report.

Junkets and inducements

67. Section 76 of the *Casino Control Act* provides that the regulations may make provision for regulating or prohibiting the promotion and conduct of junkets involving a casino or the offering of inducements to take part in gambling at a casino or to apply for the review of exclusion orders. Relevantly, regulations 14 and 15 of the *Casino Control Regulation* have been enacted.
68. In respect of junkets, regulation 14 provides that a casino operator must not act as a representative of a promoter of a junket involving the casino.²⁵ However, the casino operator may organise, promote and conduct such a junket on the operator's own behalf.²⁶ Further, the junket may be organised, promoted and conducted by the casino operator personally or by a casino employee at the direction of, and on behalf of, the operator.²⁷
69. As noted in Chapter 3.6, the *Amendment Act* includes provisions to ban junkets in NSW.
70. In respect of inducements, regulation 15 provides that a casino operator must not:²⁸
- (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;
 - (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.

Withdrawals of licence and exclusions

71. A person (who is not a police officer or casino inspector) is entitled to enter and remain in a casino only by licence of the casino operator.²⁹ That is, a casino operator is entitled to withdraw a person's licence to enter and remain in a casino. Where this occurs, it is commonly referred to as a "withdrawal of licence" and it is distinct from exclusion orders which are made pursuant to the *Casino Control Act*.

72. Both the Authority and a casino operator are entitled to issue an exclusion order to a person prohibiting them from entering or remaining in a casino.³⁰
73. Until 30 August 2018, pursuant to section 79(3) of the *Casino Control Act*, a person was also entitled to make an application to the Authority or a casino operator seeking that they be voluntarily excluded. If such an application was made, the Authority or the casino operator had a discretion as to whether or not it issued an exclusion order. Since 31 August 2018, if a person makes an application to be voluntarily excluded, the Authority or the casino operator must issue an exclusion order.³¹
74. The Commissioner of Police is also able to direct that a person be given an exclusion order and the casino operator must comply with any such direction.³² The Commissioner of Police is also required to notify the appropriate authority in each State or Territory of the making of any such exclusion order and the revocation of any such order and provide relevant identifying information.³³ Further, the Commissioner of Police is to make a direction that a person be given an exclusion order, if the Commissioner becomes aware that the person is subject to an exclusion order, or similar, issued under a corresponding law in another State or Territory.³⁴

Casino duty and levies

75. Part 8 of the *Casino Control Act* sets out the duty and levies that are to be paid by a casino operator. A casino operator is liable for payment of any duty, levy or interest payable under Part 8 and it is a condition of their licence that they pay these amounts.³⁵
76. There are three duties or levies required to be paid by a casino operator:
- (a) the casino duty;³⁶
 - (b) the responsible gambling levy;³⁷ and
 - (c) the casino supervisory levy.³⁸
77. The amount of the duty and the responsible gambling levy is to be agreed between the Treasurer and the casino operator, or in the absence of an agreement, as determined by the Treasurer.³⁹ The agreement or determination by the Treasurer will set out when the casino duty and responsible gambling levy is due and payable and the manner of the payment.⁴⁰ These agreements are discussed in Chapter 22.

78. The amount of the casino supervisory levy is fixed by the *Casino Control Regulation* and is payable in accordance with the requirements of the *Casino Control Regulation*.⁴¹ The casino supervisory levy for the 2019-2020 financial year was \$7,909,161 and for each following year, the levy increases by 2.5%.⁴²
79. Interest is payable by way of a penalty on any amount of the duty or levy that is not paid by the due date.⁴³
80. It is an offence to wilfully evade the payment of any duty or levy payable under Part 8 or to furnish a return, or make a statement or report, to the Authority or an inspector in respect of any duty or levy payable under Part 8 knowing that the return, statement or report is false or misleading in a material particular.⁴⁴

Casino internal controls

81. Until 20 December 2018, pursuant to section 124 of the *Casino Control Act*:
- (a) a casino operator was to conduct its operations in the casino in accordance with a system of internal controls and administrative and accounting procedures for the casino that had been approved by the Authority;⁴⁵ and
 - (b) it was a condition of a casino licence that the casino operator ensure that the system approved under section 124 of the Act was implemented.⁴⁶
82. From 21 December 2018, section 124(1) of the *Casino Control Act* stated as follows:⁴⁷
- 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.
83. Also from 21 December 2018, it became an offence to contravene a requirement of an internal control or administrative or accounting procedure that is approved by the Authority.⁴⁸
84. The current system which involves Internal Control Manuals for The Star which are approved by the Authority under section 124 of the *Casino Control Act* and more detailed Standard Operating Procedures issued by The Star which are not required to be approved by the Authority is discussed in Chapter 25.

Chapter 5.3 Regulatory Agreements relevant to The Star

85. Under section 142(1) of the *Casino Control Act*, the Authority is conferred the power, upon the approval or direction of the Minister, to negotiate or enter “into agreements on behalf of the State for or in connection with the establishment and operation of a casino and any development of which a casino or proposed casino forms part”. Since April 1994, the casino operator, and certain related entities, have entered into various agreements with the Authority covering a variety of aspects of the operator’s casino business.
86. The following regulatory agreements and documents relating to The Star are published on L&GNSW’s website:
- (a) the Casino licence granted 14 December 1994 to The Star (then called Sydney Harbour Casino Pty Limited) as amended on 5 June 2009 by “Notification of Amendment of Casino Licence under section 22 of the Casino Control Act”,⁴⁹
 - (b) the Casino Exclusivity Agreement originally entered into on 14 December 1994 and as amended on 5 June 2009 through deed of amendment between the Authority and The Star (then called Star City Pty Limited) (**Amended Casino Exclusivity Agreement**),⁵⁰
 - (c) the Casino Regulatory and Compliance Deed entered on 5 June 2009 between the Authority and The Star (**Casino Regulatory and Compliance Deed**),⁵¹
 - (d) the Casino Operations Agreement originally entered into on 14 December 1994 and as amended on 5 June 2009 by the Deed of Amendment and Restatement between the Authority, The Star and a number of other parties (**Amended Casino Operations Agreement**),⁵²
 - (e) the Continuity and Co-operation Agreement (Second Deed of Amendment) dated 5 June 2009 between the Authority, The Star and a number of other parties, as amended by (i) the Continuity and Co-operation Agreement (Third Deed of Amendment) dated 20 May 2011 between the same parties,⁵³ and further (ii) the Continuity and Co-operation Agreement (Fourth Deed of Amendment) dated 20 May 2011 between the same parties and also Echo Entertainment Finance Limited (ACN 150 211 368) (The Star Entertainment Finance Limited as of 28 June 2016)⁵⁴ (**Amended Continuity and Co-operation Agreement**);

- (f) the Casino Taxes Agreement as amended on 20 May 2011 through a Deed of Amendment and Restatement between the Authority and The Star (**Casino Taxes Agreement**);⁵⁵
 - (g) the CCA Charge dated 21 April 1994 between the Authority, The Star and other parties;⁵⁶
 - (h) the Echo Deed (New South Wales) dated 20 May 2011 between the Authority and Star Entertainment (then called Echo Entertainment Group);⁵⁷
 - (i) the Compliance Deed originally entered into on 22 April 1994 and as amended by the Deed of Amendment and Restatement on 5 June 2009 between the Authority, The Star and other parties (**Amended Compliance Deed**);⁵⁸
 - (j) the Liquor Licence Agreement originally entered on 6 September 1995 and as amended on 5 June 2009 by the Authority, The Star and another party;⁵⁹ and
 - (k) State Star Financial Deed dated 29 May 2020 between the State of New South Wales, the Authority and The Star (**State Star Financial Deed**).⁶⁰
87. In addition to the agreements listed on L&GNSW’s website, The Star also identified to the Review in a letter dated 15 October 2021 further agreements including the “CCA Cross Guarantee” dated 22 April 1994, various leases such as the “Permanent Site Freehold Lease” dated 26 November 1997 and the “Switching Station Construction Lease” dated 5 December 1997 and varied on 27 November 2009, and the “Umbrella Deed” dated 5 June 2009.⁶¹
88. This Chapter considers a number of these agreements which were relevant to the Review’s investigations and focus of inquiry. The 2008 and current duty agreements, are considered in Chapter 22 of this Report.

Amended Compliance Deed

89. The Amended Compliance Deed includes a number of representations and warranties made by The Star to the Authority, which are continuing and are deemed to be repeated at all times during the currency of the deed.⁶²
90. Clause 1.2 of the Amended Compliance Deed provides that a reference to a party to the Deed includes that party’s “permitted substitutes”.⁶³ In the case of the Authority, this would include at least L&GNSW in circumstances where the Authority has relevantly delegated to L&GNSW certain powers and functions under the *Casino Control Act* and the *Casino*

Control Regulation. The current “Instrument of Delegation” is dated 11 April 2022.⁶⁴ Relevant current examples of powers or functions under the *Casino Control Act* delegated to L&GNSW include approving and investigating controlled contracts (sections 37(2), (3)), investigating and inquiring into an application for a special employee licence (section 50(1)), the exercise of various functions under Part 5 regarding “casino operations”, approving and amending internal controls (section 124(1) and (2)), and arranging the holding of inquiries for the purpose of the Authority exercising its functions under the *Casino Control Act* except for inquiries under section 31 (section 143(1)).

91. Schedule 1 of the Amended Compliance Deed contains a number of obligations and warranties given severally by the “Application Parties” to the Authority. The Amended Compliance Deed defines the “Application Parties” to include The Star. Under Schedule 1, there are two relevant obligations and warranties given by The Star to the Authority in relation to information provided to the Authority. Paragraph 1(c) of Schedule 1 states that:⁶⁵

(Information): all information given at any time and every statement made at any time, by the Application Party to the Authority or its members, employees, delegates, agents, consultants or advisers in or in connection with this Deed or any other Transaction Document (including the Application) is and will be true in all material respects and is and will not by omission or otherwise be misleading in any material respect;

92. Paragraph 7(b) of Schedule 1 of the Compliance Deed contains an obligation and warranty by each Application Party that:⁶⁶

(Information): all information given and every statement made by it, its directors, officers, employees, shareholders, agents, consultants or advisers to the Authority or its members, employees, delegates, agents, consultants or advisers in connection with the Transaction, the Application and Transaction Documents is and will be true in all material respects and is not and will not, by omission or otherwise, be misleading in any material respect.

93. The Amended Compliance Deed defines “Transaction Documents” to include the Casino Operations Agreement and the Continuity and Co-operation Agreement.⁶⁷

94. Schedule 1 of the Amended Compliance Deed also includes in paragraph 5 the following obligation and warranty by each Application Party, including The Star:⁶⁸

Compliance with Legal Requirements

It will at all times comply with the requirements of all applicable laws (including without limitation the Act), rules, regulations, orders and decrees of any administrative, governmental or quasi-governmental authority.

95. It is an “Event of Default” under the Amended Compliance Deed if any representation, warranty or statement made or repeated by an Application Party “proves to be untrue, incorrect or misleading in any respect”.

Amended Casino Operations Agreement

96. The Amended Casino Operations Agreement includes an additional layer of regulation through various obligations agreed to by parties including The Star.⁶⁹
97. The Amended Casino Operations Agreement has the same definition of “Authority” and the same interpretation provisions as the Amended Compliance Deed.⁷⁰
98. Under Schedule 3 of the Amended Casino Operations Agreement each Contracting Party, including The Star, covenants and warrants:⁷¹

3 Information

(All information true): All information given at any time and every statement made at any time by the Contracting Party to the Authority or its employees, agents or consultants in connection with this Agreement and any Transaction Document is and will be true in any material respect and is and will not by omission or otherwise be misleading in any material respect.

...

6 No Event of Default

(a) **(No Event of Default):** No event has occurred which does, or which with the giving of notice, lapse of time, satisfaction of a condition or determination could, constitute an Event of Default.

(b) **(Notification):** The Contracting Party will immediately notify the Authority in writing upon becoming aware of any event which does, or which with the giving of notice, lapse of time, satisfaction of a condition or determination could, constitute an Event of Default.

...

9 Compliance with Legal Requirements

The Contracting Party will at all times comply with the requirements of all applicable laws (including without limitation the Act), rules, regulations, orders and decrees of any administrative, governmental or quasi-governmental authority.

99. Relevantly, “Transaction Documents” has the same definition under the Amended Casino Operations Agreement⁷² as it does under the Amended Compliance Deed, that is, such documents include the Amended Casino Operations Agreement and the Amended Continuity and Co-operation Agreement.⁷³

100. Under Schedule 4 of the Amended Casino Operations Agreement, The Star (as Licensee) covenants and warrants:⁷⁴

2. Information

(Information required by Authority): The Licensee and the Casino Manager will give to the Authority all such information as is necessary to ensure that the Authority is able to make an informed assessment of their assets and liabilities, profits and losses and prospects and otherwise all such information in connection with this Deed, the Licence and the Casino Complex as the Authority reasonably requires from time to time.

...

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.

...

7. Taxes

(b) **(Pay All Taxes):** The Licensee and the Casino Manager will duly and punctually pay all Taxes now or in the future charged, chargeable or payable by them.

101. Clause 13.1 of the Amended Casino Operations Agreement requires The Star to:⁷⁵

...at all times keep the Authority fully informed of all material aspects of the operation of the Casino Complex and shall immediately report any occurrence which would materially adversely effect the Casino Complex.

Amended Continuity and Co-operation Agreement

102. The Amended Continuity and Co-operation Agreement sets out the steps that the Authority is to undertake if the situation arises where the casino licence is cancelled or suspended or The Star is no longer suitable to retain the casino licence.⁷⁶ In the latter situation, under clause 7.1(a) the Authority may (but is not under any obligation to do so) issue a “Notice of Concern” which shall include a “Rectification Matter” and identify what the Authority considers to be the “Rectification Step”.⁷⁷ That process then gives rise to a series of steps and events depending on the content of the notice and the licensee’s compliance with the notice. Under clause 7.1(d), if in the Authority’s opinion the notice has not been complied with fully or punctually, the Authority may issue a notice under section 23(2) of the *Casino Control Act*.⁷⁸

103. Clause 7.1(g) of the Continuity and Co-operation Agreement provides that “[t]he Licensee agrees to ensure that at all times during the Licence Period it remains a suitable person to give effect to the Licence and the Act”.⁷⁹

State Star Financial Deed

104. The State Star Financial Deed⁸⁰ was executed on the same date (i.e. 29 May 2020) as the current Duty and Responsible Gambling Levy Agreement. Both those documents were entered at a time when Crown Sydney was due to commence operating the restricted gaming facility at Barangaroo in late 2020.
105. It was in that context that the State Star Financial Deed replaced the Casino Regulatory and Compliance Deed and the Amended Casino Exclusivity Agreement (terminating both agreements under clause 6.3)⁸¹ and implemented a regime whereby The Star was granted what the deed describes as “regulatory certainty”.⁸² The method by which the State Star Financial Deed seeks to achieve that outcome is to create a list of “Trigger Events”, which if “triggered” enliven rights of compensation in The Star’s favour.
106. Under clause 4.3 of the State Star Financial Deed, if The Star becomes aware that a “Trigger Event” has occurred The Star must promptly provide written notice to the State (copied to the Authority) and within 2 years of becoming aware of the Trigger Event The Star may provide a “Compensation Notice” to the State which must set out certain matters and which then gives rise to a series of steps the State may then take in response.⁸³

Chapter 5.4 Close Associates of The Star

107. Paragraph 1 of the Amended Terms of Reference states that the Review is to inquire specifically into (emphasis added):

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.

108. The term “close associate” is defined in section 3(1) of the *Casino Control Act* with reference to the meaning set out in the Gaming and Liquor Administration Act 2007 (NSW) (*GALA Act*).
109. Under section 5(1) of the *GALA Act*, a person is a close associate of an applicant for, or a holder of, a casino licence if the person:

- (a) holds or will hold any financial interest, or is entitled to exercise any relevant power, in the business of the licensee, and by virtue of that interest or power will be able to, in the opinion of the Authority, exercise significant influence in the management or operation of that business; or
- (b) holds or will hold any relevant position in the business of the licensee.
110. Under section 5(2) of the *GALA Act*, certain tests apply with respect to a “relevant financial interest”, “relevant position” and “relevant power” to ascertain whether a person is a “close associate” of the licensee.
111. Issues arose in the Bergin Inquiry regarding the application of the “close associate” tests under section 5(2) of the *GALA Act* in identifying new close associates of the licensee as a result of the acquisition by Melco Resorts of shares in Crown Resorts.⁸⁴ This led the Bergin Report to conclude that the present “close associate” definition was “overly technical and not fit for purpose”,⁸⁵ and to recommend an overhaul and simplification of the definition.⁸⁶ Relevant changes introduced by the *Amendment Act* are referred to in Chapter 3.6.
112. The issues that arose in the Bergin Inquiry regarding the identification of “close associates” do not arise in the present Review. On 20 September 2021, the Authority provided to the Review the following list of individuals identified as “close associates” of The Star as the casino licensee:⁸⁷

	Name	Role/Position
Current Directors The Star Pty Limited (Sydney) (ACN: 060 510 410)	Matthias Michael BEKIER	Director
	Harry James THEODORE	Director
	Paula Maree MARTIN	Company Secretary
Current Directors The Star Entertainment Group Limited (ACN: 149 629 023)	John Anthony O'NEILL	Director (Chairman)
	Matthias Michael BEKIER	Director
	Kathleen LAHEY	Director
	Wallace Richard SHEPPARD	Director
	Gerard Patrick BRADLEY	Director
	Sally Anne Majella PITKIN	Director
	Benjamin Andrew HEAP	Director
	Paula Maree MARTIN	Company Secretary
Jennie YUEN	Company Secretary	
Current Executive Team	Matthias Michael BEKIER	Chief Executive Officer & Managing Director
	Harry James THEODORE	Chief Financial Officer
	Paula Maree MARTIN	Chief Legal & Risk Officer (& Company Secretary)

	Kim LEE	Chief People & Performance Officer
	Geoff HOGG	Chief Casino Officer (QLD)
	Christina KATSIBOUBA	Chief Gaming Officer
	George HUGHES	Chief Marketing Officer
	Peter JENKINS	Group Executive External Affairs
	Greg HAWKINS	Chief Casino Officer (NSW)
	Damian QUAYLE	Chief Operating Officer (Sydney)

113. On 14 October 2021, the Solicitors Assisting the Review wrote to the solicitors acting for The Star seeking, among other things, information identifying each close associate within the meaning of the *Casino Control Act* and the Gaming and Liquor Administration Act 2007 (NSW).⁸⁸
114. On 15 October 2021, the solicitors acting for The Star disclosed in a letter to the Review each close associate of The Star and named the same individuals as those named in the table above. The solicitors acting for The Star also further disclosed the following corporate entities as close associates:⁸⁹
- (a) Star Entertainment; and
 - (b) Star Holdings.
115. The solicitors acting for The Star also indicated in the same letter that EEIS, which had previously been notified to the Authority as a “close associate”, “no longer” met that definition.
116. On 21 October 2021, the Solicitors Assisting the Review wrote to the Authority seeking confirmation of whether Star Entertainment and Star Holdings were also nominated by the Authority as close associates for the purposes of paragraph 1 of the Terms of Reference.⁹⁰ The letter also sought the Authority’s position in relation to EEIS.
117. On 22 November 2021, the Authority sent an email to the Solicitors Assisting the Review confirming the Authority’s view that:
- (a) Star Entertainment and Star Holdings were close associates of The Star; and

- (b) EEIS remained a close associate of The Star as the Authority had not received any notification from The Star, in accordance with clause 2, schedule 1 of the *Casino Control Regulation*, that EEIS was no longer a closer associate of The Star.⁹¹

118. Accordingly, the Review has treated the following individuals and entities as the close associates of The Star as at the commencement of this Review:

- (a) the individuals identified by the Authority in the table at paragraph 112;
- (b) Star Entertainment;
- (c) Star Holdings; and
- (d) EEIS.

Endnotes

- ¹ **Exhibit B-2791** (INQ.017.001.0061 at .0155).
- ² **Exhibit M-5** (ILGA.001.007.0001).
- ³ *Casino Control Act*, ss 74(4), (5).
- ⁴ *Ibid* s 36.
- ⁵ *Ibid* s 21(1).
- ⁶ *Ibid* s 23(1).
- ⁷ *Ibid* s 24(1).
- ⁸ *Ibid* s 24(2).
- ⁹ *Community Gaming Act 2018* (NSW), sch 2.1.
- ¹⁰ *Casino Control Act*, s 4A.
- ¹¹ *Ibid* s 4A(2).
- ¹² **Exhibit L-9** (INQ.027.001.0001 at .0001).
- ¹³ *Casino Control Act*, s 141(1).
- ¹⁴ *Ibid* ss 141(2)(c), (e).
- ¹⁵ *Ibid* s 141(4).
- ¹⁶ *Ibid* s 6(1).
- ¹⁷ *Casino Control Amendment (Barangaroo Restricted Gaming Facility) Act 2013* (NSW), ss 10, 11.
- ¹⁸ “Crown Casino given conditional approval to operate gaming” issued by the Authority (Web Page, 22 June 2022) <<https://www.liquorandgaming.nsw.gov.au/news-and-media/crown-casino-given-conditional-approval-to-operate-gaming>>.
- ¹⁹ *Casino Control Act*, s 44(1).
- ²⁰ *Ibid*.
- ²¹ *Ibid* s 44(2).
- ²² *Ibid* s 44(3).
- ²³ *Ibid* s 43(1).
- ²⁴ *Casino Control Regulation*, r 6(3).
- ²⁵ *Ibid* r 14(1).
- ²⁶ *Ibid* r 14(2).
- ²⁷ *Ibid* r 14(3).
- ²⁸ *Ibid* r 15.
- ²⁹ *Casino Control Act*, s 77(1).
- ³⁰ *Ibid* s 79(1).
- ³¹ *Casino Control Amendment Act 2018* (NSW), s 37, sch 1.
- ³² *Casino Control Act*, s 81(1).
- ³³ *Ibid* s 81(8).
- ³⁴ *Ibid* s 81A(1).

- 35 Ibid s 120.
- 36 Ibid s 114(1).
- 37 Ibid s 115(1).
- 38 Ibid s 115A(1).
- 39 Ibid ss 114(2), 115(2).
- 40 Ibid ss 114(3), 115(3).
- 41 Ibid ss 115A(2), 115A(3).
- 42 *Casino Control Regulation*, r 51(1).
- 43 *Casino Control Act*, s 119(1).
- 44 Ibid s 123.
- 45 Ibid s 124(1).
- 46 Ibid s 124(4).
- 47 *Casino Control Amendment Act 2018* (NSW), s 51, sch 1.
- 48 *Casino Control Act*, s 124(4).
- 49 **Exhibit M-5** (ILGA.001.007.0001); ILGA.001.002.0001.
- 50 ILGA.001.007.2493; **Exhibit M-5** (ILGA.001.007.0001).
- 51 Ibid.
- 52 Ibid.
- 53 ILGA.001.007.3089.
- 54 INQ.002.002.0705.
- 55 **Exhibit B-6** (ILGA.001.007.3119).
- 56 ILGA.001.007.3145; ILGA.001.014.0259.
- 57 ILGA.001.007.0450.
- 58 ILGA.001.007.0500; ILGA.001.015.0152.
- 59 ILGA.001.007.2826.
- 60 ILGA.001.013.0087.
- 61 **Exhibit B-3215** (CORRO.001.001.0001 at .0009).
- 62 ILGA.001.007.0500 at .0529.
- 63 Ibid at .0526.
- 64 ‘Regulatory Delegations Manual’ of the Independent Liquor & Gaming Authority (Manual, 11 April 2022) <https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0005/1068467/ILGA-Delegations-Manual-11-April-2022.pdf>.
- 65 ILGA.001.007.0500 at .0547.
- 66 Ibid at .0550.
- 67 Ibid at .0523, 0526.
- 68 Ibid at .0549.
- 69 ILGA.001.007.2907.
- 70 Ibid at .2922, .2932.

- 71 Ibid at .2976 - .2978.
- 72 Ibid at .2931.
- 73 ILGA.001.007.0500 at .0523.
- 74 ILGA.001.007.2907 at .2976 - .2978.
- 75 Ibid at .2948.
- 76 ILGA.001.007.3017.
- 77 Ibid at .3038 - .3039.
- 78 Ibid at .3039
- 79 Ibid.
- 80 ILGA.001.013.0087.
- 81 Ibid at .0105.
- 82 Ibid at .0090 - .0091.
- 83 Ibid at .0097 - .0098.
- 84 **Exhibit B-2791** (INQ.017.001.0061 at .0710).
- 85 Ibid.
- 86 Ibid at .0712.
- 87 **Exhibit M-35** (ILGA.001.012.0001).
- 88 **Exhibit H-501** (CORRO.001.002.0006).
- 89 **Exhibit B-3215** (CORRO.001.001.0001).
- 90 Letter from Review to Authority dated 21 October 2021.
- 91 Email from the Authority to the Solicitors Assisting the Review dated 22 November 2021.

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Chapter 6

The Test of Suitability

Chapter 6. The Test of Suitability

Chapter 6.1 The meaning of “suitability” and the approaches taken in other casino licence reviews and inquiries

1. There is no general definition of “suitable person” or “suitability” in the *Casino Control Act*. Nevertheless, in considering an application by a person to first commence to hold a casino licence, subsection 12(2) of the *Casino Control Act* sets out eight express matters the Authority is required to take into account in forming a view as to whether the applicant for the licence, and each of its close associates, is a suitable person.
2. The factors the Authority is to consider under subsection 12(2) of the *Casino Control Act* are whether:
 - (a) each of those persons is of good repute, having regard to character, honesty and integrity, and
 - (b) each of those persons is of sound and stable financial background, and
 - (c) in the case of an applicant that is not a natural person, it has or has arranged a satisfactory ownership, trust or corporate structure, and
 - (d) the applicant has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the proposed casino, and
 - (e) the applicant has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino, and
 - (f) the applicant has sufficient business ability to establish and maintain a successful casino, and
 - (g) any of those persons has any business association with any person, body or association who, in the opinion of the Authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources, and
 - (h) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of the applicant or a close associate of the applicant is a suitable person to act in that capacity.
3. Reference to the section 12 suitability criteria under the *Casino Control Act* was made in the following periodic reviews under s 31 (since 1997): the McClellan 1997 Report;¹ the McClellan 2000 Report;² the Walker and Furness 2003 Report;³ the Walker and Furness 2006 Report;⁴ the Furness Report in 2011;⁵ and the Horton Report in 2016.⁶

4. The McClellan 1997 Report expressly endorsed the view that the matters required by subsection 12(2) of the *Casino Control Act* to be taken into account in assessing suitability at the time an application is originally made for a casino licence are also relevant in conducting a review of the ongoing suitability of a licensee and its close associates. At page 7 of that report, reference is made to the Crown Solicitor’s view that the suitability matters set out in subsection 12(2) of the *Casino Control Act* are just as relevant to the Authority’s review of whether a licensee and its close associates *continue* to be suitable persons *after* the licence has been granted as they are when the Authority is considering whether to grant the licence in the first place.

5. In the words of the Crown Solicitor, the suitability matters “in broad terms relate to the corporate structure, probity and financial strength of a casino licence applicant”, and:⁷

[C]ommonsense would suggest that just as these attributes should be present at the time when an application for a licence is granted, they should also be present when the licence is reviewed.

6. The Crown Solicitor also considered that those matters, while relevant, are not exhaustive or exclusive.⁸

7. The more recent Bergin Report, the RCCOL Report and PCRC Report also provide helpful commentary regarding the proper approach to the concept of “suitability”.

8. The Bergin Report, when considering the meaning of “suitability”, approached the concept by placing emphasis on whether the relevant individual or entity was of “good repute, having regard to character, honesty and integrity”. As the Bergin Report stated:⁹

[8] At the time of the grant of the Licence for the operation of the Barangaroo Casino to the Licensee and the approval of Crown as a close associate of the Licensee, the Authority was satisfied that each of the Licensee and Crown was a “suitable person”. It can be assumed that they each satisfied the criteria identified as the indicia of suitability in the Casino Control Act.

[9] The ultimate questions in the Suitability Review under the Amended Terms of Reference are whether, as a consequence of the findings in response to the Media Allegations, each of the Licensee and Crown is a “suitable person”. That is, whether the findings in respect of the Media Allegations have an impact on the good repute of the Licensee and/or Crown “having regard to character, honesty and integrity” such that they either remain suitable or are no longer suitable to be the Licensee and/or a close associate respectively.

9. The RCCOL Report stated that while no definition of a “suitable person” was provided in the *Casino Control Act 1991* (Vic) that legislation did include statutory criteria that “described the attributes of a ‘suitable person’”. Those attributes included that:¹⁰

- the person is of good repute, having regard to character, honesty and integrity
 - the applicant has sufficient business ability to establish and maintain a successful casino
 - the person has adequate financial resources to operate a casino
 - the person's associates are of good repute
 - each person connected with the casino business is also suitable.
10. Like the Bergin Report, the RCCOL Report placed emphasis on the propriety and integrity of the applicant while also recognising the importance of the applicant's financial standing, stating:¹¹

[8] The suitability requirement came from the concern that criminal elements may infiltrate a casino. It is clear, though, that 'suitability' involves much broader considerations. This is plain from the requirement in the Casino Control Act that, in considering suitability, other factors must be taken into account. The most important of those factors are the casino operator's character, honesty and integrity, and its financial standing. Another important factor is the suitability of the directors and officers involved in the administration of the casino's operations.

11. The RCCOL Report also highlighted the necessity of focusing on whether there is any evidence of misconduct and if such evidence exists "asking what conclusion may be drawn". A list of examples of misconduct in the report included:¹²
- (a) misleading a licensing authority;
 - (b) failing to cooperate with a regulator during an investigation;
 - (c) previous criminal conduct, especially conduct that arose while carrying out functions permitted by the licence; and
 - (d) failing to comply with relevant statutory requirements that regulate the licensed activities.
12. The RCCOL Report also drew a distinction between a new applicant for a casino licence and considering whether an existing casino operator continues to be suitable to hold its licence, stating:¹³

[13] This approach is satisfactory when considering a new applicant for a casino licence. The information that is available will be about the past life or past corporate conduct of the applicant. That information will enable an assessment to be made of what may happen in the future.

[14] A different approach is preferable when considering whether an existing casino licensee continues to be suitable to hold its licence. This approach will look more broadly at the licensee's conduct as a casino operator.

[15] Elsewhere in this Report there is a statement of what are the appropriate norms of conduct to which a casino operator should conform. They are worth repeating. A casino operator must:

- obey the law
- act honestly
- deter illegal and immoral behaviour that might take place in a casino
- not exploit people who come to the casino to gamble
- take active measures to minimise the harm caused by gambling
- cooperate fully and candidly with the regulator and with government.

13. More recently, the PCRC Report provided some important insights into the concept of suitability. The PCRC Report also identified the “attributes of a suitable person”. The report stated:¹⁴

[49] Drawing on the above the PCRC concludes that a ‘suitable person’ to be engaged in, concerned in or associated with gaming operations of a licensed casino is a person who:

- a. is of good character and reputation, is honest, has integrity, is competent, has appropriate governance processes and arrangements and is of sound financial standing, so as to have the capacity or ability to ensure compliance with all obligations of the casino gaming licensee;
- b. does what is reasonable to guard against the risk of gaming operations causing harm to patrons or the public, so as to create and maintain public confidence and trust in the credibility and integrity of licensed casino operations;
- c. does what is reasonable to guard against the risk of criminal infiltration of gaming operations of a licensed casino and to guard against criminal activity otherwise occurring at the casino so as to create and maintain public confidence and trust in the credibility and integrity of licensed casino operations;
- d. does what is reasonable to guard against risks to the integrity of gaming conducted pursuant to the licence, so as to create and maintain public confidence and trust in the credibility and integrity of licensed casino operations; and
- e. is honest, open, competent and accountable in its dealings with the regulator.

14. The final sub-paragraph (e) is important: as had the RCCOL Report, the PCRC Report identified the way the licensee communicated or dealt with the regulator as an important consideration or attribute. The specific adjectives used in the PCRC Report are critical: in its dealings with the regulator, the licensee must be “honest”, “open”, “competent” and “accountable”. Those descriptors are relevant in assessing The Star’s dealings with the regulator, that is, the Authority and L&GNSW.

The question of “present suitability”

15. The PCRC Report also provided helpful insight into the concept of “present suitability”. The concept and test of present suitability is particularly important in this Review given the concession by The Star Entities in closing submissions that it was open to the Review to find that they were not suitable as at the commencement of the Review,¹⁵ and the submission that those entities subsequently became, and are now presently, suitable to retain the licence or remain as close associates.¹⁶ Whether these are matters which should be taken into account in light of the Updated Terms of Reference is discussed in Chapter 9. It is concluded there that they should be taken into account.
16. In the context of the submission by The Star Entities of present suitability, the PCRC Report stated:¹⁷
- [53] Past conduct can be relevant to an assessment of present suitability. It may expose deficiencies in systems and processes which, if not addressed, point to present, continuing unsuitability. Past conduct may also reflect on questions of character or reputation.
- [54] An assessment of present suitability also calls for a consideration of likely future conduct. A person will only be presently suitable if they have the capacity and will to continue to discharge the responsibilities of their licence going forward.
- [55] Remedial work is relevant to the issue of present suitability and is important in at least three respects. First, it goes to the question whether identified impediments to suitability have been or are being rectified. Secondly, it may go to competence, in the sense of demonstrating an appreciation of what has miscarried in the past and the ability to identify all or most of issues that need to be addressed. Thirdly, it may say something about the resolve and capacity of those who govern and manage the organisation to bring about the changes that are needed in a timely and effective way.
- [56] The extent to which the evidence demonstrates conformance or non-conformance with the attributes of a suitable person over time is a relevant consideration for assessing the likelihood that a person will meet the expected standard of conduct in the future. However, isolated examples of misconduct may also provide evidence from which an assessment of likely future conduct may be made.
17. The principles stated in the PCRC Report thus require evidence of:
- (a) rectification of the impediments to suitability;
 - (b) demonstration of a sense of appreciation of what had miscarried in the past and the operator’s ability to identify all or most of the issues to be addressed; and
 - (c) the resolve and capacity of those who govern and manage the organisation to bring about the changes that are needed in a timely and effective way.

18. The Star Entities' admission, in effect, of unsuitability as at the commencement of the Review means that evidence of remediation is a relevant factor in the "present suitability" calculus. In other contexts, such as where a legal or medical practitioner has engaged in past misconduct, clear proof of reformation is normally required. The following statement of Walsh JA in *Ex parte Tziniolos; Re Medical Practitioners Act* was made in the context of individual misconduct:¹⁸

Reformations of character and of behaviour can doubtless occur but their occurrence is not the usual but the exceptional thing. One cannot assume that a change has occurred merely because some years have gone by and it is not proved that anything of a discreditable kind has occurred.

If a man has exhibited serious deficiencies in his standards of conduct and his attitudes, it must require clear proof to show that some years later he has established himself as a different man.

The position is somewhat similar to that which exists when application is made by a barrister or a solicitor who has been found guilty of serious misconduct exhibiting a lack of proper standards, seeking reinstatement on the ground that, after a lapse of time, he has become a fit and proper person to be a member of a profession which requires qualities and standards in which he has known to have been deficient.

In such cases, it has been frequently said that a heavy onus lies on the applicant ...

19. That passage has been approved by the NSW Court of Appeal on a number of occasions.¹⁹ Of course, the present Review is different from a disciplinary hearing regarding a legal or medical practitioner and in the present context is focused on corporations. However, when giving meaning to the concept of "suitability" in paragraph 1 of the Updated Terms of Reference, and its application to the present situation where there has been an admission of unsuitability by the licensee as of 13 September 2021, principles from other contexts have some relevance. They indicate that any submission as to present suitability, which necessarily seeks to surmount admitted past misconduct, needs to be carefully considered against all relevant evidence and material before the Review.
20. The above principles act as a guide only. When considering past, present and continuing suitability, the core question remains whether the operator is suitable to retain the licence. As the approaches taken to the concept of "suitability" in the other casino licence reviews and inquiries demonstrate, central to that inquiry is the concept of "good repute" and concomitant notions of "character, honesty and integrity".

Chapter 6.2 The meaning of “good repute, having regard to character, honesty and integrity”

21. Referring to the “good repute, having regard to character, honesty and integrity” criterion of whether a licensee and its close associates are suitable persons, the Horton Report stated that this criterion “imports many of the same kinds of inquiries (in similar or other legislative contexts) as those requiring that persons be fit and proper to hold certain licences, or that they be of good fame and character”.²⁰
22. The Horton Report went on to refer to the High Court’s decision in *Australian Broadcasting Tribunal v Bond (Bond)*,²¹ in which Toohey and Gaudron JJ held that:
 - (a) the expression “fit and proper person” takes its meaning from the activities in which the person is or will be engaged and the ends to be served by those activities;
 - (b) the concept of “fit and proper person” cannot be entirely divorced from the *conduct* of the person engaging in those activities; and
 - (c) character (because it provides an indication of likely future conduct) or reputation (because it provides an indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake activities.²²
23. Also in *Bond*, Mason CJ held that concepts of reputation, fitness and propriety ought not be narrowly construed or confined and may extend to any aspect of fitness or propriety that is relevant to the public interest.²³
24. The Horton Report also referred to the decisions of the NSW Court of Appeal in:
 - (a) *Prothonotary of the NSW Supreme Court v Da Rocha*, in which the Court held that character refers to a person’s nature, and good character involves the acceptance of high standards of conduct and acting in accordance with those standards under pressure;²⁴ and
 - (b) *Prothonotary of the NSW Supreme Court v Montenegro*, in which the Court held that the qualities of honesty, integrity and a preparedness to comply with the law are essential requirements of someone being a fit and proper person.²⁵
25. Further, in *Sobey v Commercial and Private Agents Board*, Walters J held that the assessment of whether a licence holder is a fit and proper person requires consideration of whether the person is “possessed of a requisite knowledge of the duties and responsibilities

evolving upon him as the holder of a particular licence”, as well as whether the person is “possessed of sufficient moral integrity and rectitude of character as to permit him to be safely accredited to the public ... as a person to be entrusted with the sort of work which the licence entails”.²⁶

26. The Bergin Report stated the following with respect to the notions of “character, honesty and integrity”:

[11] Previous reports to the Authority have explored the expression “good repute having regard to character, honesty and integrity”. Comparisons have been made with tests of fitness and propriety to hold certain licences, and requirements to be of “good fame and character”.

[12] Reference has also been made to judicial observations in relation to the concepts of “character” as it “provides an indication of likely future conduct” and of “reputation” as it “provides an indication of public perception as to the likely future conduct” of a person. It has also been observed that findings as to character and reputation “may be sufficient” to ground a conclusion that a person is not “fit and proper to undertake activities”. The analysis of the concept of character can become somewhat circular with reference to a person’s “nature and good character”. However, it is clear that a person of good character would possess “high standards of conduct” and act in accordance with those standards under pressure.

[13] Some observations by Regulators in other jurisdictions when considering a casino operator’s “integrity, honesty, good character and reputation” are of assistance.

[14] In 1981 the New Jersey Casino Control Commission made the following observation in relation to the assessment of “character” in the context of individuals:

We find this a most difficult task for several reasons. First, ‘character’ is an elusive concept which defies precise definition. Next, we can know the character of another only indirectly, but most clearly through his words and deeds. Finally, the character of a person is neither uniform nor immutable.

Nevertheless, we conceive character to be the sum total of an individual’s attributes, the thread of intention, good or bad, that weaves its way through the experience of a lifetime. We must judge a person’s character by evaluating his words and deeds as they appear from the testimony and from all of the evidence in the record before us. We must focus particularly on those attributes of trustworthiness, honesty, integrity and candour which are relevant to our inquiry.

27. The RCCOL Report also stated the following in relation to the question of “character”:²⁷

[9] Critical to any inquiry into an applicant’s suitability for a casino licence is whether they are of ‘good character’. Character is an elusive concept. It can be seen indirectly through a person’s acts and deeds, and is understood as being indicative of future conduct.

28. The foregoing observations and commentary regarding the concepts of “character, honesty and integrity” emphasise that attempting to develop precise definitions may not be

appropriate, or even possible. There is also real potential for a level of circularity to emerge regarding each concept.

29. As is often the case, the only feasible way to approach such notions is through illustrative examples and through the application of ethical and moral standards that may be expected of a casino licensee. One important criterion against which to assess a casino operator's "character, honesty and integrity" will be to pay close attention to the way in which the operator communicates and deals with the regulator. "Honesty" and "openness" are standards to which all communications and representations by the casino operator with the regulator are to be held.
30. Instances where the casino operator is anything but frank and candid with the regulator need to be closely and carefully assessed against the non-exhaustive considerations of:
 - (a) the context and circumstances of any misrepresentation to the regulator;
 - (b) the nature of the facts and matters which have been misrepresented;
 - (c) any relevant aggravating factors such as the level of deliberateness or awareness of any misrepresentation;
 - (d) any relevant mitigating factors such as, for example, whether any steps were taken by the casino operator to correct an incorrect representation or misleading impression (conversely, a failure to correct may be seen as an aggravating factor); and
 - (e) whether the misrepresentation was an isolated incident or is part of a broader pattern or trend in the operator's dealings with the regulator.
31. The casino operator's representations to the regulator are critical due to the regulator's reliance on the operator for information and disclosures so that the regulator can discharge its regulatory function in accordance with the *Casino Control Act*.
32. There will of course be other indicia of, and ways of testing, the level of "character, honesty and integrity" of the operator and its close associates. This will include their communications and representations to third parties with which they deal in conducting their business activities. This conduct also sheds an important light on their character, as revealed by their actions.

Chapter 6.3 Assessing corporate suitability

33. The suitability of The Star is being considered as a *corporate* entity. This necessitates the imposition of concepts more readily applied to individuals – such as “character, honesty and integrity” – to a corporate body. This complicates the suitability calculus.
34. This issue has previously been considered in the Bergin, RCCOL, and PCRC Reports. In the Bergin Report, the approach adopted was to appreciate that a corporation cannot act except through the individuals it employs and so the assessment of a corporation’s suitability is necessarily intertwined with the assessment of the suitability of the directors, officers and employees within the corporation.
35. In that regard, the Bergin Report cited relevant US authorities. In *In the Matter of Wynn MA, LLC (Wynn)*, the Massachusetts Gaming Commission (MCG) made the point that, when assessing the suitability of a *corporate* casino operator, it must be remembered that “the corporate entity itself is made up of individuals and has no independent character or morality standing alone”.²⁸ The MCG referred in that regard to the remarks in the case of *Merrimack College v KPMG LLP* that:²⁹

Where the plaintiff is an organisation that can only act through its employees, its moral responsibility is measured by the conduct of those who lead the organisation. Thus, where the plaintiff is a corporation ... we look to the conduct of senior management – that is, the officers primarily responsible for managing the corporation, the directors, and the controlling shareholders, if any.

36. After citing the above passages, the Bergin Report proceeded to state:³⁰

[16] It is accepted that a company’s suitability may ebb and flow with changes to the composition of the company’s Board and Management, and others who influence its affairs, over time. If a company’s character and integrity has been compromised by the actions of its existing controllers, then it may be possible for a company to “remove a stain from the corporate image by removing the persons responsible for the misdeeds.” However, this would only be possible if the company could “isolate the wrong done and the wrongdoers from the remaining corporate personnel”. It would be necessary to ensure that “the corporation has purged itself of the offending individuals and they are no longer in a position to dominate, manage or meaningfully influence the business operations of the corporation.
37. The quoted passages in the above extract were of the statements of the Superior Court of New Jersey, Appellate Division in *Trap Rock Industries, Inc v Sagner*.³¹ Those statements support the notion of fixing a corporation by changing key personnel such as senior management and the board.

38. In their written closing submissions, The Star Entities placed emphasis on the “ebb and flow” principle as articulated in the Bergin Report, that is, the notion, that by removing the individuals responsible for any wrongdoing a corporation’s suitability may be restored.³² While the Bergin Report did recognise the “ebb and flow” principle, the report also recognised the relevance of corporate governance and risk management structures, and advocated that a “holistic view” be taken so that matters other than “good repute” also be considered when assessing suitability.³³

39. The RCCOL Report labelled as the “traditional approach” the notion that a corporation is a sum of its directors, officers and employees, and instead chose to give some weight to a submission that contended that a corporation’s suitability can be shown through “its systems, policies and patterns of behaviour” (rather than just from its Board and Executive Team) and emphasis should be placed on the “corporate culture of a firm”.³⁴ The RCCOL Report appeared to accept that submission, stating:

[21] In other words, the traditional approach to assessing suitability is too narrow. It does not acknowledge that many organisational decisions are more than the combination of individual choices and actions. It is the systems, strategy, structure and culture of the corporation that can either cause or inhibit corporate misconduct.

40. More recently, the PCRC Report identified the synergy between the “traditional” approach recognised in the Bergin Report and the “broader” approach espoused in the RCCOL Report, stating (emphasis added):³⁵

[63] Where past conduct is indicative of a failure to maintain the standards to be expected of the holder of a casino licence, whether by failings of individuals or systems, the issue of suitability may be distilled down to the question of whether, having regard to the seriousness of the failing and any steps the licensee has taken to rehabilitate itself, the PCRC is satisfied it is unlikely that there will be any lapse in the future of the standards which are required of the licensee. The answer to that question depends upon an inquiry of the following nature:

- a. identify past failings or deficiencies in systems, practices and behaviours that might render the entity unsuitable;
- b. identify individuals (if any) who may materially have caused, taken part in or contributed to those past failings and deficiencies;
- c. decide whether, and to what extent, the past failings or deficiencies have been addressed or are still occurring and whether individuals (if any) who contributed to them are still part of the organisation; and
- d. inquire into present suitability by investigating the subject matters relevant to suitability at the present moment on the basis of the people who are in the corporation and the remediation of behaviours now and going forward into the future.

[64] It follows **that the traditional and broader approach are not mutually exclusive** and can each be accommodated depending upon the nature of the evidence and the conduct in question.

41. These observations from the Bergin, RCCOL and PCRC Reports are pertinent and helpful. The traditional and broader approaches to assessing corporate suitability are not mutually exclusive. They are complementary.
42. A corporation acts through individuals, and so the assessment of the suitability of those individuals on the board and the executive team is important to the assessment of the corporation's suitability as a whole. Critically, such an assessment is necessary so far as the board and executive team would normally be considered as *close associates* of the corporation, both of the licensee and the parent company (as is commonly the case and, indeed, is the case with The Star). In other words, the directors and senior executives must be suitable *in order* for the corporation to obtain or keep the licence.
43. It is not necessarily only the conduct of the directors and senior executives which is relevant to an assessment of the suitability of a corporation to hold a casino licence. Every decision an employee makes while working at a casino which involves the exercise of judgment needs to be consistent with the legal and ethical standards by which the suitability of the licensee will be assessed.
44. At the corporate level, culture, governance and systems are also undoubtedly critical to the suitability of the corporation and these broader considerations may transcend an assessment of the individuals working for and managing the corporation. Proper weight must be given to evidence that discloses issues with the corporation's systems, policies, patterns of behaviours and broader firm culture. Indeed, that observation accords with the view of ASIC that a corporation's underlying *culture* is the key driver of its conduct. This was emphasised in a speech delivered by (the now former) ASIC Commissioner John Price on 9 December 2019. Mr Price said:³⁶

ASIC views corporate culture as the underlying mindset of the organisation ... the set of shared assumptions and behaviours that represent the collective values, beliefs and principles of the organisation. In short, culture is "the way we do things around here".

And we can see the influence of culture in the entities we regulate. A company's culture often shapes its approach to corporate governance, its response to its regulatory obligations, and drives conduct within the firm. And that can be either good or bad conduct.

45. Culture and governance issues expressly arise for consideration in this Review as paragraph 8.3 of the Updated Terms of Reference provides that consideration is to be given to The Star’s corporate culture “including core values and an ongoing organisation-wide assessment of accountability, education, and compliance”. The Star Entities accepted in their written closing submissions the prominence of corporate culture in assessing corporate suitability.³⁷

Chapter 6.4 Suitability in the corporate group context

46. The Star is part of a group of companies and is a wholly owned subsidiary of Star Entertainment. The Bergin, RCCOL, and PCRC Reports demonstrated the interconnectedness between a licensee and its parent company. Those reports also highlighted how complex corporate structures may complicate the process of determining the suitability of a licensee if it is dependent on the parent entity for resourcing, compliance and, critically, decision-making.
47. The Bergin, RCCOL and PCRC Reports showed numerous examples of the impact of decisions made by senior executives of Crown Resorts, as the parent company, affecting decisions, standards and outcomes relating to the relevant Crown licensees. This was also shown to often be the case during the Review regarding The Star and its relationship with Star Entertainment. The reality is that to truly ascertain the suitability of The Star itself, the parent company also needs to be properly investigated.
48. The anterior point is that corporate governance of *the group* also needs to be closely considered. It is normal and understandable for a large corporate group to seek to find corporate efficiencies by consolidating management teams and structures. However, in the casino regulatory environment, where a high standard of compliance and integrity is expected from the licensee, those group structures need to be closely considered, as failures or shortcomings in such structures may affect the suitability of the licensee.

Endnotes

- 1 ILGA.001.010.0001.
- 2 *Ibid.*
- 3 ILGA.001.010.0346 at .0357 - .0358.
- 4 ILGA.001.010.0455 at .0583 - .0584.
- 5 ILGA.001.010.0567 at .0585 - .0586.
- 6 ILGA.001.010.0698 at .0707 - .0708.
- 7 ILGA.001.010.0001 at .0018.
- 8 *Ibid.*
- 9 **Exhibit B-2791** (INQ.017.001.0061 at .0413).
- 10 **Exhibit M-36** (INQ.028.001.1361 at .1891).
- 11 *Ibid.*
- 12 *Ibid* at .1892.
- 13 *Ibid.*
- 14 **Exhibit M-43** (INQ.028.001.2015 at .2065).
- 15 Star Entities' Written Submissions dated 21 June 2022 para [A.4], [A.6], [A.7]; see Star Entities' Oral Submissions: Day 41, T4156.10-32.
- 16 Star Entities' Written Submissions dated 21 June 2022 para [A.5], [A.10]. See Star Entities' Oral Submissions: Day 41, T4156.42-T4157.4.
- 17 **Exhibit M-43** (INQ.028.001.2015 at .2065 - .2066).
- 18 *Ex parte Tziniolos; Re Medical Practitioners Act* (1966) 67 SR (NSW) 448 at 4461.
- 19 *Health Care Complaints v Litchfield* (1997) 41 NSWLR 630 at 637; *Hilton v Legal Profession Admission Board* [2017] NSWCA 232; *Prothonotary of the Supreme Court of New South Wales v Montenegro* [2015] NSWCA 409 at [78].
- 20 **Exhibit B-146** (INQ.016.001.0050 at .0067).
- 21 *Bond* (1990) 170 CLR 321.
- 22 *Ibid* at 380.
- 23 *Ibid* at 348.
- 24 *Prothonotary of the NSW Supreme Court v Da Rocha* [2013] NSWCA 151 at [17], [21].
- 25 *Prothonotary of the NSW Supreme Court v Montenegro* [2015] NSWCA 409.
- 26 *Sobey v Commercial and Private Agents Board* (1979) 22 SASR 70 at 76.
- 27 **Exhibit M-36** (INQ.028.001.1361 at .1892).
- 28 Decision of Massachusetts Gaming Commission *In the Matter of Wynn MA, LLC* dated 30 April 2019.
- 29 *Merrimack College v KPMG LLP 480 Mass 614* (2018) at 628; **Exhibit B-2791** (INQ.017.001.0061 at .0414).
- 30 **Exhibit B-2791** (INQ.017.001.0061 at .0415).
- 31 *Trap Rock Industries, Inc v Sagner 133 NJ Super 99* (1975) at 108.
- 32 Star Entities' Written Submissions dated 21 June 2022 para [A.15] – [A.16], [B.27].

³³ **Exhibit B-2791** (INQ.017.001.0061 at .0415).

³⁴ **Exhibit M-36** (INQ.028.001.1361 at .1893).

³⁵ **Exhibit M-43** (INQ.028.001.2015 at .2067).

³⁶ John Price, ‘Business Ethics: New Challenges, Better Theories, Practical Solutions’ (Speech, Keynote Address at the Australasian Business Ethics Network Conference, 9 December 2019).

³⁷ Star Entities’ Written Submissions dated 21 June 2022 para [B.32] – [B.33].



Chapter 7
Procedural History of this Review

Chapter 7. Procedural History of this Review

Chapter 7.1 Initial Approach

1. This Review was originally intended to involve private inquiries of The Star, following a similar approach to that taken in the Horton Review in 2016.
2. The initial steps taken by the Review in the immediate period after 13 September 2021 included:
 - (a) issuing a policy for the record of interviews and private hearings by the Review dated 20 September 2021;
 - (b) interviewing relevant staff of L&GNSW;
 - (c) reviewing material provided by L&GNSW and the Authority;
 - (d) conducting preliminary interviews with Ms Paula Martin, then the Chief Legal and Risk Officer for Star Entertainment and the company secretary of The Star, and with Mr Harry Theodore, then the Chief Financial Officer of Star Entertainment and a director of The Star;
 - (e) communicating with officers of relevant law enforcement agencies and regulators;
 - (f) issuing a policy for the management of documents produced to the Review dated 30 September 2021;
 - (g) publishing invitations for submissions from interested members of the public and organisations in a newspaper circulating in NSW and on the website of the Authority;
 - (h) issuing to Star Entertainment a comprehensive Request for Information by letter dated 1 October 2021;¹ and
 - (i) issuing to Star Entertainment an initial Summons to Produce documents on 6 October 2021.²
3. Paragraph 9 of the Request For Information dated 1 October 2021 became significant during the course of the public hearings of the Review. It stated:

Please state all facts, matters or circumstances which The Star considers may affect the suitability of The Star or any Close Associate in the period from 28 November 2016 to date (Relevant Period) which have not previously been disclosed in writing to the Authority.

Chapter 7.2 Media Allegations in October 2021

4. On Sunday 10 October 2021, the television program *60 Minutes* broadcast an episode which made a number of very serious allegations about conduct of The Star Entities.³ In some respects the matters which were raised mirrored allegations made in 2019 against Crown Resorts, which were subsequently examined in the Bergin Inquiry, the RCCOL and the PCRC.
5. In the period from 10 to 13 October 2021, a number of newspaper articles were published in *The Sydney Morning Herald* and *The Age* newspapers which further developed the allegations against The Star Entities.⁴
6. The media allegations made against The Star Entities in October 2021 are summarised in Appendix D of this Report. In broad terms, the allegations raised concerns about the susceptibility of The Star Entities to money laundering and to criminal influence or exploitation.
7. The media allegations were relevant to a number of paragraphs of the Terms of Reference and, ultimately, to the issue of The Star's suitability and that of Star Entertainment as a close associate.
8. Star Entertainment made a robust public response to the media allegations by issuing a release to the ASX on Monday 11 October 2021 which was authorised by the Board.⁵ The 11 October 2021 ASX Release included the following statement:

The Star is concerned by a number of assertions within the media reports that it considers misleading. There are constraints on publicly discussing specific individuals. We will take the appropriate steps to address all allegations with relevant state and federal regulators and authorities, including Mr Adam Bell SC who is undertaking a regular review of The Star Sydney in accordance with the Casino Control Act 1992 (NSW).

9. Star Entertainment issued a further ASX Release on Tuesday 12 October 2018 focusing on allegations relating to the reports by KPMG of its review of The Star's AML/CTF Program in 2018. The KPMG reports are the subject of Chapter 18 of this report. Star Entertainment's ASX releases of 11 and 12 October 2021 are considered in Chapter 26.

Chapter 7.3 Announcement of Public Hearings

10. On 19 October 2021, the Authority announced that public hearings would be conducted in early 2022 as part of the process of the Review. The Authority's announcement indicated

that the public hearings would be “on matters including but not limited to The Star’s maintenance and administration of systems to counter money laundering and infiltration by organised crime”.

11. In conjunction with the announcement by the Authority on 19 October 2021, the time for reporting by the Review to the Authority was extended to 30 June 2022.
12. From the time of the Authority’s announcement on 19 October 2021, while preparations commenced for the public hearings, work continued in private on other aspects of the Terms of Reference. These aspects were the topics of Harm Minimisation and Responsible Gambling (dealt with in Chapter 23 of this report) and Controlled Contracts, Gambling Chips and Free Bet Vouchers (dealt with in Chapter 24 of this report).

Chapter 7.4 Engagement of McGrathNicol Advisory

13. In preparation for the public hearings, on 16 November 2021 the Solicitors Assisting the Review engaged Ms Robyn McKern of McGrathNicol Advisory to consider and provide an expert report to the Review on a number of areas of interest broadly concerning AML/CTF issues relevant to The Star.
14. On 21 December 2021, a demonstration of TrackVia was provided by Star Entertainment to McGrathNicol Advisory and to the Review.
15. The work of Ms McKern and McGrathNicol Advisory was of considerable assistance to the Review and involved the provision of an expert report on 12 March 2022 and a supplementary report on 26 April 2022. Ms McKern also gave oral evidence in the public hearings on 8 May 2022.
16. The McGrathNicol Advisory reports and Ms McKern’s evidence are considered in Chapter 20 of this report and are also referred to where relevant in other chapters.

Chapter 7.5 Investigative Steps

17. Between 1 October 2021 and 24 April 2022, the Review issued 11 Requests For Information to Star Entertainment. These were progressively answered between 15 October 2021 and 5 May 2022.
18. Between 6 October 2021 and 22 August 2022, the Review issued 97 Summonses to Produce Documents to various entities and individuals, including The Star and Star Entertainment.

They included 22 Summonses to produce witness statements which were issued at the request of the witness so that the witness statement would obtain the protections available under the *Royal Commissions Act*.

19. On 25 November 2021, the Review requested witness statements from 15 directors and officers of The Star and Star Entertainment. The Review was informed that one of the individuals requested to provide a statement was no longer an employee of The Star or Star Entertainment.
20. Accordingly, between 4 February 2022 and 8 February 2022, the Review received 14 witness statements from directors and officers of The Star and Star Entertainment. A number of these individuals later provided supplementary witness statements at their own request. In addition, a witness statement was received on 17 May 2022 from Mr Andrew Bowen, formerly an officer of the NAB, at his request.
21. Between 21 September 2021 and 4 March 2022, the Review conducted 21 private interviews and 20 private hearings.
22. The Review received 11 submissions from interested individuals and entities, the details of which are set out at Appendix E of this Report. A number of these submissions related to the issues of harm minimisation and responsible gambling, which are referred to further in Chapter 23.
23. Apart from the Authority and L&GNSW, the Review received cooperation, information and assistance from the following law enforcement agencies and regulatory bodies:
 - (a) Organised Crime Squad, NSW Police Force;
 - (b) NSW Crime Commission;
 - (c) Australian Federal Police;
 - (d) AUSTRAC; and
 - (e) Queensland Office of Liquor and Gaming Regulation.

Chapter 7.6 Procedural Steps: Harm Minimisation and Responsible Gambling

24. Between November 2021 and February 2022, the Review received submissions on responsible gambling and harm minimisation in relation to The Star from:
 - (a) nine individuals with lived experience of gambling harm;

- (b) the Australian Gambling Research Centre;
 - (c) the Alliance for Gambling Reform; and
 - (d) the trustees of the Responsible Gambling Fund, which is supported by the NSW Office of Responsible Gambling.
25. Many of the individuals who wished to provide information to the Review on this topic were concerned about the potential for them or their loved ones to be identified as a gambling addict or someone who had experienced gambling related harm. Some were also concerned that their identities or those of their loved ones not be disclosed to The Star. It was clear that these individuals would not come forward unless steps were taken to ensure non-publication of any information which might identify or tend to identify them.
26. In these circumstances, non-publication directions were made in respect of information that would identify or tend to identify those individuals with lived experience of gambling harm who had provided submissions. The individuals were given pseudonyms by the Review. In addition, all of these individuals were invited to attend a private interview with the Review if they wished to and have a support person accompany them during the interview. Directions were also made for the transcripts of these interviews to be anonymised.
27. Six of the individuals with lived experience of gambling harm accepted invitations to provide evidence to the Review in private interviews.
28. In view of the sensitivities, The Star was not invited to have representatives attend the private interviews or examine the witnesses. Anonymised versions of all submissions and transcripts of interviews were provided to The Star together with the submissions from the Australian Gambling Research Centre, the Alliance for Gambling Reform and the trustees of the Responsible Gambling Fund.
29. These were considered to be necessary steps to ensure that the individuals with lived experience of gambling harm would come forward to the Review and tell their stories in what they perceived was a safe environment. It was recognised this had procedural disadvantages for The Star because it was unable to identify the persons providing information and evidence, to consider and provide to the Review its own records in relation to those individuals, or to examine them. The Review took those procedural disadvantages into account in assessing the information with which it was provided.

30. On 27 and 28 January 2022, in answer to summonses served upon them, Mr Ron Wagemans (Patron Liaison Manager, The Star) and Mr Micheil Brodie (General Manager, Social Responsibility, Star Entertainment) attended private hearings of the Review to give evidence on responsible gambling and harm minimisation and to respond to the submissions and transcripts which had been provided to The Star.
31. On 23 February 2022, Counsel Assisting provided written submissions on responsible gambling and harm minimisation. On 24 March 2022, The Star provided written submissions in response which were supplemented by a letter dated 1 July 2022 from the solicitors acting for The Star Entities.

Chapter 7.7 Procedural Steps: Controlled Contracts, Gambling Chips and Free Bet Vouchers

32. The topics of controlled contracts, gambling chips and free bet vouchers were dealt with privately. The factual focus of investigations on these topics was primarily concerned with:
- (a) the variation of a contract with Prosegur Australia Pty Ltd (**Prosegur**) in 2019, by which The Star engaged Prosegur to destroy gambling chips, dice and tiles, which variation occurred without the Authority's knowledge or approval;
 - (b) the destruction of about \$3.7 billion of gambling chips by Prosegur on behalf of The Star without the Authority's knowledge in 2020; and
 - (c) a free bet voucher fraud carried out by an employee of The Star in 2019 - 2020.
33. On 29 and 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, The Star);
 - (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, The Star);
 - (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).

34. On 4 March 2022, Counsel Assisting provided written submissions on controlled contracts, gambling chips and free bet vouchers. On 1 April 2022, The Star provided written submissions in response.

Chapter 7.8 Further Media Allegations in February 2022

35. On 9 February 2022, further serious allegations were made against The Star and Star Entertainment in *The Sydney Morning Herald* and *The Age* newspapers. In essence, it was alleged that employees of Star Entertainment had encouraged local VIP patrons to falsely claim that they lived outside NSW as part of a scheme to place them into rebate programmes which minimised the amount of gaming duty that The Star paid to the NSW government.
36. These further allegations were relevant to the suitability of The Star Entities and required detailed forensic investigation. Although steps were taken to investigate these further allegations, as they were made at a time very close to the commencement of the public hearings, it was not possible to fully or satisfactorily investigate them prior to these hearings.

Chapter 7.9 Tour of The Star in March 2022

37. On 9 March 2022, the Review visited The Star Casino in Pyrmont and toured the premises over several hours with employees of Star Entertainment. This included a tour of the main gaming floor, the private gaming areas, Salons 95 and 82, the surveillance and security office, the Cage and the VIP Arrival Lounge where CUP cards had been swiped.
38. The tour was helpful to understand the physical context of the casino and its facilities. The assistance and co-operation of Star Entertainment in arranging and conducting the tour is to be acknowledged.

Chapter 7.10 Public Hearings

39. On 17 February 2022, Procedural Guidelines were issued for the public hearings of the Review (**Procedural Guidelines**). A copy of the Procedural Guidelines is at Appendix F.
40. Public hearings of the Review commenced on 17 March 2022 and took place in a virtual hearing room. The public evidence was heard over 36 days from 17 March 2022 until 25 May 2022. This included evidence heard in private mode in respect of confidential matters. A list of the witnesses and the dates on which they appeared at the public hearings is at Appendix G.

41. Oral closing submissions were made by Counsel Assisting, counsel for The Star and Star Entertainment, Ms Scopel, Mr White, Mr Power, Ms Martin and the non-executive directors of Star Entertainment over 10 days from 31 May 2022 to 27 June 2022.
42. Written closing submissions were received from Counsel Assisting and on behalf of the following persons or entities with leave to appear:
 - (a) The Star and Star Entertainment;
 - (b) the non-executive directors of Star Entertainment;
 - (c) Ms Skye Arnott, the former Chief Financial Crime Officer, Star Entertainment;
 - (d) Ms Tanya Arthur, the Head of Diversified Industries and Technologies Client Coverage, NAB;
 - (e) Mr Mathias Bekier, the former Managing Director and Chief Executive Officer, Star Entertainment;
 - (f) Mr Andrew Bowen, former Director of Institutional Banking, Industrial Sector, NAB;
 - (g) Mr Angus Buchanan, Group Manager Due Diligence and Intelligence, Star Entertainment;
 - (h) Mr Gregory Hawkins, former Chief Casino Officer;
 - (i) Mr Kevin Houlihan, former Group Investigations Manager, Star Entertainment;
 - (j) Mr Phillip Lee, former patron of The Star;
 - (k) Ms Paula Martin, former Chief Legal and Risk Officer, Star Entertainment;
 - (l) Mr Paul McWilliams, former Chief Risk Officer, Star Entertainment;
 - (m) Mr John O'Neill, former Executive Chair of Star Entertainment;
 - (n) Mr Andrew Power, Group General Counsel, Star Entertainment;
 - (o) Ms Sarah Scopel, former Group Treasurer, Star Entertainment;
 - (p) Mr Harry Theodore, former Chief Financial Officer, Star Entertainment; and
 - (q) Mr Oliver White, General Counsel Corporate, Star Entertainment.
43. The reason why so many individuals considered it necessary to provide separate written submissions in relation to the public hearings is considered in Chapter 9.

44. On 8 April 2022, ILGA announced that the Review of The Star would be extended, after The Review requested additional time to undertake further lines of inquiry, including issuing summonses for further witnesses to appear. The time for provision of the report of the Review was extended from 30 June 2022 to 31 August 2022.⁶

Endnotes

- ¹ **Exhibit H-467** (CORRO.001.002.0001).
- ² **Exhibit L-2** (INQ.026.001.0025).
- ³ **Exhibit B-3152** (INQ.014.001.0069).
- ⁴ **Exhibit B-3156** (INQ.014.001.0005); **Exhibit B-3155** (INQ.014.001.0001); **Exhibit B-3169** (INQ.014.001.0012); **Exhibit B-3170** (INQ.014.001.0017); **Exhibit B-3171** (INQ.014.001.0020); **Exhibit J-78** (INQ.014.001.0031); **Exhibit B-3178** (INQ.014.001.0023); **Exhibit B-3180** (INQ.014.001.0028); **Exhibit B-3179** (INQ.014.001.0026); **Exhibit B-3191** (INQ.014.001.0036); **Exhibit B-3193** (INQ.014.001.0040).
- ⁵ **Exhibit H-437** (INQ.003.006.0639).
- ⁶ Media Release of the Authority dated 8 April 2022.



Chapter 8
Governance and Management Structure of The Star and
Star Entertainment

Chapter 8. Governance and Management Structure of The Star and Star Entertainment

Chapter 8.1 Relevant corporate structure of Star Entertainment

1. Star Entertainment is the ultimate holding company of the companies in The Star Entertainment Group.
2. At Appendix H is a diagram setting out the corporate structure of Star Entertainment and its subsidiaries as of 29 April 2021 produced to this Review by The Star.¹ This diagram also accurately reflects the corporate structure of the Star Entertainment Group as of 8 February 2022.² The Review is not aware of any amendment to the corporate structure of the Group since that time.
3. The Star, which is the corporate entity that holds the casino licence issued pursuant to the *Casino Control Act*, is a wholly-owned subsidiary of Star Holdings. Star Holdings is in turn a wholly-owned subsidiary of Star Entertainment. Accordingly, Star Entertainment is the ultimate holding company of The Star.³
4. EEIS, which is a close associate of The Star and which is dealt with in more detail in Chapter 16, is a wholly-owned subsidiary of Star Entertainment.⁴

Chapter 8.2 Constitution of The Star

5. The Star's Constitution comprises a memorandum and articles of association dated 15 June 1993, as amended by special resolutions recorded in minutes dated 20 April 1994 and 6 May 1994.⁵ These documents pre-date the *Corporations Act* and have not been updated or consolidated into a single document. In that regard, references to The Star's "Constitution" should be understood, more precisely, as references to The Star's constating documents just identified.
6. The Star's special resolution dated 20 April 1994 inserted a series of "Overriding provisions" into The Star's Constitution,⁶ which were stated to override any inconsistent provision. Those overriding provisions included the following:

- (a) The Star must obtain the Authority’s prior written approval before doing certain things, including appointing a director, issuing shares, changing its financial year, changing its name, appointing an auditor, carrying on any new business, disposing of shares, or altering or reducing its share capital;⁷
- (b) The Star will procure the removal from office of any director or alternate director if directed by the Authority to do so;⁸
- (c) The Star will enforce the disposition of shares of any person determined by the Authority to be a close associate in accordance with procedures in the constitution;⁹
- (d) The Star will deliver to the Authority all reports, accounts, notices and circulars issued to the ASX, any other stock exchange or ASIC;¹⁰
- (e) The Star will provide the Authority with monthly reports of all shares issued, and all share transfers registered, during the previous month;¹¹
- (f) The Star at the request of the Authority may give written notice to a shareholder to produce a statutory declaration identifying beneficial ownership in shares in The Star and it is acknowledged that all such statutory declarations will be given to the Authority;¹²
- (g) The Star must refuse to register any transfer of shares which “is or might be in breach of the [Casino Control] Act or terms of the Casino Licence or any associated agreement between [The Star] and the State or the Authority”;¹³ and
- (h) the following express duties on The Star’s directors:¹⁴

146. DUTIES OF DIRECTORS

Subject to all other duties and legal obligations imposed on the Directors in the exercise of their powers, the Directors must use their best endeavours and take all reasonable steps while the Company holds the Casino Licence:

- (a) to ensure the continuance of the Casino Licence;
 - (b) not cause or permit any material contravention of a condition attaching to the Casino Licence;
 - (c) to undertake all necessary action to ensure compliance with the conditions attaching to the Casino Licence;
 - (d) to ensure compliance with the terms of any deal, agreement or arrangement entered into with the Authority with regard to the Company’s activities as holder of the Casino Licence.
7. The Star’s Constitution also provides that the Authority may give notice that a shareholder who is a close associate and is not a suitable person to be concerned in or associated with

the operation or management of a casino must dispose of all of their shares, in which case the shareholder must dispose of all its shares within 120 days or, failing which, The Star may do so on behalf of the shareholder at not less than fair market value.¹⁵

Chapter 8.3 Directors and officers of The Star at the commencement of the Review

8. At the commencement of the Review:¹⁶
 - (a) the directors of The Star were Mr Harry Theodore (then the Chief Financial Officer of Star Entertainment) and Mr Matt Bekier (then the Managing Director and Chief Executive Officer of Star Entertainment); and
 - (b) the company secretary of The Star was Ms Paula Martin (then the Chief Legal and Risk Officer of Star Entertainment).
9. Star Entertainment's approach to appointing directors and officers to The Star, the casino operator, has been to appoint senior executives from Star Entertainment to these roles. Mr Bekier and Mr Theodore held roles as executives within Star Entertainment and were not independent directors.
10. The executives of Star Entertainment who sat on the board of The Star only met as a board 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.
11. As discussed in Chapter 9, Mr Bekier, Mr Theodore and Ms Martin have resigned from their positions within Star Entertainment. On 20 May 2022, Ms Martin ceased to be the company secretary of The Star.¹⁷ On 8 July 2022, Mr Bekier ceased to be a director of The Star and Ms Christina Katsibouba, Interim Chief Financial Officer, was appointed in his place as a director of The Star.¹⁸
12. Although Mr Theodore is still a director of The Star, The Star and Star Entertainment (**The Star Entities**) informed the Review on 15 August 2022 that this is 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 effect the replacement of Mr Theodore as a director as soon as reasonably practicable following approval of a replacement director by The Authority.

Chapter 8.4 Management of The Star

13. At the commencement of the Review, The Star employed a total of 3,399 employees.¹⁹ In addition, a number of members of senior management with responsibilities for The Star Casino were employees of Star Entertainment.
14. At the commencement of the Review, the Chief Casino Officer (NSW) was Mr Greg Hawkins, who had held this role since a restructure in October 2020. Mr Hawkins was employed by Star Entertainment and also had group wide responsibilities. He was also responsible for Star Entertainment’s international rebate business, domestic rebate business, local premium business and its Online Social Gaming Unit.²⁰
15. 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. Like Mr Hawkins, both Mr Peasley and Mr Quayle had responsibilities for “NSW Operations”. Also like Mr Hawkins, they both had group responsibilities for “Group Gaming Sales”.²¹

Chapter 8.5 Constitution of Star Entertainment

16. The current version of Star Entertainment’s Constitution is styled “Constitution of The Star Entertainment Group Limited ACN 149 629 023 (incorporating amendments approved by shareholders at the Annual General Meeting on 22 October 2020)”, a copy of which was attached to an ASX announcement by Star Entertainment dated 22 October 2020.²²
17. Star Entertainment’s Constitution provides that the replaceable rules contained in the Corporations Act do not apply.²³ It otherwise provides for the issue and certification of securities; payments by the company; calls on shares; transfers of securities; general meetings; the appointment, removal and remuneration of directors; alternate directors; the powers of the Board and executives; proceedings of the Board; dividends, interest and reserves; capitalisation of profits; winding up; dividend reinvestment plans; and employee share plans.²⁴
18. Clause 54 of Star Entertainment’s Constitution provides that the business of Star Entertainment is managed by the Board, which can then delegate powers as it sees fit to the Managing Director and withdraw, suspend or vary those powers. Clause 54 provides:²⁵

54. Powers of the Board and Managing Director

- (a) The business of the company is managed by the Board, which may exercise all powers of the company that are not, by the law or this Constitution, required to be exercised by the company in general meeting.
 - (b) The Board may, on the terms and conditions and with any restrictions as it determines, delegate to a Managing Director any of the powers exercisable by it and may at any time withdraw, suspend or vary any of those powers conferred on the Managing Director.
- 19. Clause 54 of Star Entertainment's Constitution is equivalent to the replaceable rules that would otherwise apply in sections 198A and 198C of the *Corporations Act*.
- 20. It should also be read with section 198D(1) of the *Corporations Act*, which is not a replaceable rule and which provides that unless a company's constitution otherwise provides, the directors of a company may delegate any of their powers to a committee of directors, an individual director, an employee of the company or any other person.
- 21. Depending on the seriousness of a given issue or situation at Star Entertainment, the Board's role could involve withdrawing or limiting a delegation and taking control of a particular matter itself.²⁶
- 22. Clause 83 of Star Entertainment's Constitution contains restrictions which apply while companies of which Star Entertainment is the ultimate holding company hold casino licences in NSW and/or Queensland.²⁷ During those times, a person's interest in Star Entertainment must not exceed 10% without the written consent of the Authority for the NSW licence and/or the relevant Queensland Minister for the Queensland licence.²⁸

Chapter 8.6 Substantial shareholders of Star Entertainment

- 23. By letter dated 1 October 2021, the Solicitors Assisting the Review asked Star Entertainment to identify all persons having a substantial holding in Star Entertainment within the meaning of the *Corporations Act* and the percentage of each such holding.
- 24. In response, Star Entertainment provided the following table:²⁹

No	Name	Date of interest	Number of ordinary shares	% of issued capital	Source document produced
1	Firmament Investment Pte. Ltd and its associated entities	2 July 2020	47,377,137	4.9973%	2021 Annual Report for The Star Entertainment Group Limited at page 137
2	Far East Consortium International Limited, its controlled entities and its associated entities	2 July 2020	47,377,137	4.9973%	2021 Annual Report for The Star Entertainment Group Limited at page 137
3	Bennelong Funds Management Group Pty Ltd	16 June 2021	54,641,173	5.7395%	2021 Annual Report for The Star Entertainment Group Limited at page 137
4	IOOF Holdings Limited	26 August 2021	47,620,392	5.002%	Notice of initial substantial holder to The Star re IOOF dated 30 August 2021; and The Star's ASX Announcement dated 3 August 2021

25. The first entity listed above, Firmament Investment Pte Ltd, is a nominee and subsidiary (via various intermediate holding companies) of Chow Tai Fook Enterprises Ltd (**Chow Tai Fook**).³⁰ The second entity listed above, Far East Consortium International Ltd (**Far East Consortium**), together with Chow Tai Fook and Star Entertainment, are joint venture partners for a \$3.6 billion Queen's Wharf Brisbane integrated resort development and the Dorsett Hotel and Residences project in the Gold Coast.³¹
26. Chow Tai Fook and Far East Consortium were each described in a Star Entertainment board paper dated 2 December 2020 titled "2020 Board Strategy Day: Domestic Growth, IRB Refocus".³² First, Chow Tai Fook is a Hong Kong-based private company which is 100% owned by the Cheng Yu Tung family. It has business interests in the property development, hotel, casino, transport and jewellery industries. The Cheng Yu Tung family also hold interests in the HKSE-listed Chow Tai Fook Jewellery (89%), which is an investment holding company, and the HKSE-listed New World Developments (44%), a property development and investment company. Secondly, Far East Consortium is a Hong Kong-

based company listed on the HKSE. It has business in the property development, hotel and casino industries.

27. On 28 March 2018, each of Star Entertainment, Chow Tai Fook and Far East Consortium executed a “Subscription Agreement” pursuant to which each of Chow Tai Fook and Far East Consortium agreed that they would pay \$245,163,750 on 16 April 2018 to subscribe for 45,825,000 shares each in Star Entertainment at a price of \$5.35 per share, in the context of a wider “Strategic Alliance” between the three companies.³³ Completion took place on 16 April 2018 and a “Notice of initial substantial holder” in Form 603 was filed with the ASX which identified Chow Tai Fook and Far East Consortium as associates of one another.
28. The Authority confirmed on 17 December 2021 that consideration of Chow Tai Fook and Far East Consortium would be excluded from the Review.³⁴ It would otherwise have arisen for consideration in assessing the suitability of Star Entertainment as a close associate because Chow Tai Fook and Far East Consortium are business associates of Star Entertainment. At that time the Review was informed that Star Entertainment’s joint ventures with those entities would continue to be assessed by L&GNSW and the Authority.
29. The third and fourth entities listed above, Bennelong Funds Management Group Pty Ltd and IOOF Holdings Ltd, are both investment companies. Their interests in Star Entertainment were particularised in notices given to the ASX dated, respectively, 18 June 2021 and 30 August 2021.

Chapter 8.7 Relevant governance documents

30. Apart from Star Entertainment’s Constitution, other important governance documents include the Star Entertainment:
 - (a) Code of Conduct dated 1 March 2018 and, later, 29 June 2021 incorporating amendments from the Board meeting of that date;³⁵
 - (b) Board Terms of Reference dated 28 July 2021;³⁶
 - (c) 2021 Corporate Governance Statement³⁷ (which makes extensive reference to the Code of Conduct)³⁸ dated 24 September 2021; and
 - (d) Whistle-blower Policy dated 1 March 2018.³⁹

31. The Code of Conduct is stated to apply “to everyone who performs work for and on behalf of [Star Entertainment] inclusive of all Directors, employees, contractors and labour hire firms (our employees)”.⁴⁰

32. The Code of Conduct identifies six “guiding principles” as follows:⁴¹

The Code guiding principles describe the core elements of the behavioural standard [Star Entertainment] has set for itself and the behaviours expected of its employees. The Code guiding principles are as follows:

1. We Respect the Community
2. We Are Diverse
3. We Comply with the Law
4. We are Ethical
5. We are Professional
6. We Work Safely

33. The Code of Conduct gives further detail as to Star Entertainment’s expectations of its employees in respect of each of these guiding principles.⁴² These include expectations of “conducting our business in a manner compliant with all applicable laws” and “provid[ing] complete, honest and accurate information to any regulator who lawfully requests information”.⁴³

34. From 29 June 2021, the Code of Conduct was amended to include a new Appendix A styled “The Star Values”.⁴⁴ These were defined as follows:⁴⁵

The Star Values are:

- Ownership
- True Teamwork
- Welcoming
- Do the Right Thing

35. These values were then explained by reference to guiding principles identified in the Code of Conduct. By way of example, for the guiding principle of “We respect the community”, namely that “We are a good corporate citizen and conduct our business in a manner that respects the community, protects the environment and seeks to prevent anti-social behaviour and illegal or undesirable activity (IUA) on, or in the vicinity of, the properties we operate”, this was said to fall under two of The Star Values: Do the Right Thing and

Welcoming.⁴⁶ Similarly, the guiding principles of “We comply with the law” and “We are ethical” were said to fall under The Star Values of Ownership, Do the Right Thing and True Teamwork. The Star Values appear to be an attempt to provide, if not a taxonomy of more disparate guiding principles, at least a means of grouping principles together into simple and clear messages.

36. Star Entertainment’s Board Terms of Reference document provides for the role and responsibilities of the Board; the role of the company secretary; the composition and structure of the Board; meetings of the Board; and obtaining independent external advice.⁴⁷
37. The Board is said to have “overall responsibility” for “the corporate governance of the Company”, “demonstrating leadership” and “defining the Company’s purpose and setting its strategic objectives”.⁴⁸ The Board Terms of Reference reserve to the Board the task of:⁴⁹

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.

38. Star Entertainment’s Whistle-blower Policy provides guidance to employees on reporting “reportable conduct”, defined to be conduct that employees may reasonably suspect is corrupt, fraudulent or dishonest; illegal; in breach of Star Entertainment’s policies; indicative of gross mismanagement; indicative of serious misconduct; the cause of financial or reputational loss to Star Entertainment; unsafe in the workplace; or a danger to the public.⁵⁰ Reports may be made to any of the following: the employee’s manager(s); any Ethics Panel member (including the Chief Legal and Risk Officer and the Group General Counsel); a secure whistle-blower service known as “e-TIPS”; Star Entertainment’s Internal Audit Team or external auditor; ASIC or the ATO; or a legal representative if engaged to advise on a disclosure.⁵¹ The policy then provides for investigations of reportable conduct and for the protection of whistle-blowers.⁵²
39. The “e-TIPS” service is run by Etika Pty Ltd, and was formerly operated by Deloitte. It was described as follows in Star Entertainment’s Procurement Policy dated 30 June 2017:⁵³

The Star Total Integrity Protection Service, known as E-TIPS, is an independent, anonymous and confidential crime and misconduct reporting service delivered by international consulting and forensic investigations specialist, Deloitte. E-TIPS is one of The Star’s key processes to prevent, detect, and respond to crime and misconduct. E-TIPS is available to report conduct suspected of being:

- Corrupt;

- Dishonest;
- Fraudulent;
- Illegal;
- In breach of The Star’s policies, procedures or Code of Conduct;
- Indicative of gross mismanagement;
- The cause of financial or reputational loss to The Star; or
- Unsafe

E-TIPS is available to contractors, suppliers and tenderers for Procurement related activity. All suppliers, contractors and tenderers should be advised of E-TIPS and provided with contact details. For example, communication to suppliers should include a sentence to the following effect:

“If you suspect crime or misconduct at The Star, don’t ignore it; report it to The Star Integrity Protection Service.

Chapter 8.8 The Board of Star Entertainment at the commencement of the Review

40. At the commencement of this Review, the members of the Board of Star Entertainment were Mr O’Neill AO as Chair, Mr Bekier as Managing Director and Chief Executive Officer, Mr Bradley AO, Mr Heap, Ms Lahey AM, Dr Pitkin AO and Mr Sheppard.⁵⁴ As noted in Chapter 5, all of the directors of Star Entertainment were amongst the individuals identified as close associates of The Star at the commencement of this Review.

41. At the commencement of the Review, the Board had established the following committees:⁵⁵

Committee	Members
<p><i>Audit Committee</i></p> <p>The role of the Committee is to consider and make recommendations to the Board on its corporate governance and oversight responsibilities relating to financial accounting practices, financial risk management and system of internal control, external reporting, and the internal and external audit functions.⁵⁶</p>	<p>Mr Sheppard (Chair)</p> <p>Mr Bradley</p> <p>Dr Pitkin</p> <p>Mr Heap</p> <p>Mr O’Neill (Ex-officio Member)</p>
<p><i>Risk and Compliance Committee</i></p> <p>The role of the Committee is to assist the Board, and exercise due care, diligence and skill in fulfilling the Company’s responsibilities to its</p>	<p>Mr Heap (Chair)</p> <p>Mr Bradley</p>

Committee	Members
<p>shareholders, in relation to the following areas: risk and compliance policies and frameworks; systems, processes and controls; risk management; compliance management; and regulatory performance⁵⁷</p>	<p>Ms Lahey Mr Sheppard Mr O’Neill (Ex-officio Member)</p>
<p><i>Remuneration Committee</i></p> <p>The role of the Committee is to review and make recommendations to the Board in relation to: employee remuneration and incentive policies and practices; the framework for remunerating Non-Executive Directors; remuneration packages for Key Management Personnel and other direct reports to the Chief Executive Officer and any other executive or senior manager whose remuneration package is proposed to be outside the company’s Board-approved remuneration framework and policies; the appointment of remuneration consultants and any proposed changes to remuneration and incentive policies and practices recommended by those consultants; arrangements in place relating to superannuation benefits for the company’s employees; and minimum shareholding policies for Non-Executive Directors, Key Management Personnel and direct reports to the Chief Executive Officer.⁵⁸</p>	<p>Dr Pitkin (Chair) Mr Bradley Ms Lahey Mr O’Neill (Ex-officio Member)</p>
<p><i>People, Culture and Social Responsibility Committee</i></p> <p>To consider and make recommendations to the Board, on matters relating to human resources and corporate social responsibility, the contribution and alignment of those matters to the company’s vision and strategic plan and to assist the Board with its oversight of the company’s strategy, policies, practices and controls relating to matters including: organisational culture and values; employment policies; work health and safety arrangements; employee engagement and training; industrial relations; environmental issues and sustainable business practices; charitable, political and community support and partnerships; matters of corporate social responsibility (including responsible gambling and responsible service of alcohol); and matters of significance to the company’s reputation as a responsible corporate citizen. ⁵⁹</p>	<p>Ms Lahey (Chair) Dr Pitkin Mr Heap Mr O’Neill (Ex-officio Member)</p>

Chapter 8.9 Management structure and reporting lines up to the commencement of the Review

42. Star Entertainment has over 8,000 employees.⁶⁰ The 2021 Star Entertainment Annual Report identified eight executives as comprising the Executive Team of Star Entertainment (as well as Mr Bekier).⁶¹ These were:
- (a) Mr Theodore, Chief Financial Officer;
 - (b) Ms Martin, Chief Legal & Risk Officer and Company Secretary;
 - (c) Ms Kim Lee, Chief People and Performance Officer;
 - (d) Mr Hawkins, Chief Casino Officer (NSW);
 - (e) Mr Hogg, Chief Casino Officer (QLD);
 - (f) Mr George Hughes, Chief Marketing Officer;
 - (g) Mr Peter Jenkins, Group Executive External Affairs; and
 - (h) Ms Katsibouba, Group Executive Gaming.
43. As noted in Chapter 5, these eight people were amongst the individuals identified as close associates of The Star at the commencement of this Review. A chart provided to the Review by Star Entertainment showing the Executive Leadership Team of Star Entertainment as at 25 October 2021 also identified Mr David Brenac, Group Executive Asset Management and Development, as an additional member of the Star Entertainment Executive Leadership Team. Members of the Executive Team reported directly to Mr Bekier.⁶²
44. Australian Accounting Standard AASB 124 defines “key management personnel” as “those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity”.⁶³ The Star Entertainment 2021 Annual Report identified the key management personnel, apart from the non-executive directors of Star Entertainment, as Mr Bekier, Mr Theodore, Mr Hawkins and Mr Hogg.⁶⁴
45. Mr Theodore was appointed as Chief Financial Officer of Star Entertainment in August 2019, replacing Mr Barton. Mr Theodore’s key responsibilities as Chief Financial Officer of Star Entertainment included:⁶⁵
- (a) Statutory accounting and tax matters;

- (b) Treasury;
 - (c) Corporate strategy and business development;
 - (d) Financial planning and analysis;
 - (e) Credit and Collections;
 - (f) Procurement; and
 - (g) Investor Relations.
46. One of Mr Theodore's direct reports as at 8 February 2022 was Mr Michael Whytcross, General Manager of Commercial Finance, who was responsible for Procurement and Credit and Collections. Another direct report to Mr Theodore at that time was Mr Danny Huang, General Manager of Strategy and Treasurer.⁶⁶ As at 17 March 2022, Ms Paulinka Dudek was the Assistant Group Treasurer for Star Entertainment, reporting to Mr Huang.⁶⁷ Part of the responsibility of the Treasury Team is the administration of the Star Entertainment group bank accounts, including opening and closing of accounts, as well as overseeing relationships with lenders.⁶⁸ From October 2018 to September 2020, the Group Treasurer was Ms Sarah Scopel.⁶⁹ She reported to Mr Chad Barton and then to Mr Theodore.⁷⁰
47. As noted in Chapter 8.4 Chapter 8.3 Directors and officers of The Star at the commencement of the Review above, Mr Hawkins was appointed as Chief Casino Officer (NSW) in October 2020. He had previously been Managing Director of The Star from September 2014 to January 2019 and Chief Casino Officer of the Star Entertainment group from January 2019 to October 2020.⁷¹
48. Until 31 July 2019, Mr Paul McWilliams was the Chief Risk Officer of Star Entertainment.⁷² He reported directly to Mr Bekier.⁷³ This role had responsibility for issues including compliance, AML/CTF, risk and insurance, internal audit and responsible gambling.⁷⁴ From 1 January 2017, Mr McWilliams had the added responsibility of overseeing Star Entertainment's AML/CTF Program and from 1 July 2017, he also became responsible for Star Entertainment's workplace health and safety function.⁷⁵ Mr McWilliams attended both the Board's Risk and Compliance Committee and its Audit Committee.⁷⁶
49. Following Mr McWilliams' retirement, in August 2019, Ms Martin, who until then had been the Group General Counsel and Company Secretary for Star Entertainment, was appointed as the Group's Chief Legal and Risk Officer. The result was that, since that time,

- Ms Martin headed not only the group's legal and compliance function but also its risk function.⁷⁷
50. Ms Martin had responsibility for a large range of functions including legal, regulatory, financial crime and investigations, risk, insurance, compliance, internal audit and social responsibility (which included responsible gambling).⁷⁸ Ms Martin reported directly to Mr Bekier.⁷⁹
51. A chart provided to the Review by Star Entertainment showing the leadership of the Group Legal & Risk function as at 25 October 2021 identified nine direct reports to Ms Martin as the Chief Legal & Risk Officer.⁸⁰ These included:
- (a) Mr Andrew Power, Group General Counsel;
 - (b) Mr Kevin Houlihan, Group Investigations Manager;
 - (c) Mr Micheil Brodie, General Manager Social Responsibility;
 - (d) Mr Howard Steiner, Project Director Anti Money Laundering & Financial Crime; and
 - (e) Mr Archibald Angus Buchanan, Due Diligence Program Manager.
52. Mr Power was General Counsel for The Star from 2010 to November 2019 and was Group General Counsel for Star Entertainment from 4 November 2019. As part of his role as Group General Counsel for Star Entertainment, Mr Power oversaw the Legal, Regulatory, Licensing and Compliance functions for the group. Until December 2021, Star Entertainment's AML/CTF Compliance Officer, Ms Skye Arnott, reported to Mr Power. Ms Arnott went on parental leave from 16 May 2020 until December 2021.⁸¹ In this period Mr Power shared responsibilities as the acting AML/CTF Compliance Officer for Star Entertainment with Mr Houlihan.⁸²
53. Mr Houlihan was Group Investigations Manager for Star Entertainment from January 2016 to November 2021 and on 1 November 2021 was appointed as General Manager for Financial Crime and Investigations for the Star Entertainment Group.⁸³ As General Manager for Financial Crime and Investigations, Mr Houlihan was responsible for:⁸⁴
- (a) the Star Entertainment Group's AML/CTF Program;
 - (b) liaising with law enforcement agencies;

- (c) identifying and addressing any potential or alleged illegal or other undesirable activities occurring at the group's premises; and
 - (d) conducting and overseeing investigations into any alleged criminal or serious misconduct carried out by an employee of the group.
- 54. Prior to Mr Brodie's appointment as General Manager of Social Responsibility in October 2019, Mr Brodie had been the General Manager of Compliance and Responsible Gambling since November 2017.⁸⁵ The team led by Mr Brodie, as General Manager of Social Responsibility, was responsible for governance and privacy matters, responsible gambling and sustainability. This included responsibility for developing the Group's responsible gambling strategy and supporting policies and programs.⁸⁶
- 55. The role of Project Director, Anti-Money Laundering and Financial Crime was established in October 2019. Mr Steiner commenced in this role in January 2020 and as at 8 February 2022 had a dual reporting line to Ms Martin as the Chief Legal & Risk Officer and to Mr Houlihan as the General Manager, Financial Crime & Investigations.⁸⁷ Mr Steiner has been involved in the development of TrackVia, a cloud-based application platform designed to serve as the case management system and central repository for all AML/CTF and patron-related information for Star Entertainment. TrackVia commenced operation on 20 April 2021.⁸⁸
- 56. Mr Buchanan was the Due Diligence Program Manager for the Star Entertainment Group from May 2019 until 1 November 2021, reporting to Ms Martin. On 1 November 2021, Mr Buchanan was appointed as Group Manager Due Diligence and Intelligence, reporting to Mr Houlihan.⁸⁹ As Group Manager Due Diligence and Intelligence, Mr Buchanan manages the Due Diligence Team and works with TrackVia in support of the Star Entertainment AML/CTF Program.⁹⁰
- 57. By correspondence dated 17 August 2022 (responding to a Request for Information from the Review), The Star informed the Review that since September 2021, the following changes have occurred at a Group level:⁹¹
 - a. the roles of Chief Legal Officer and Chief Risk Officer are no longer combined and are separate roles;
 - b. a number of further roles now report to the Chief Executive Officer/Managing Director and include:
 - i. CEO of The Star Sydney and Group Head of Transformation;

- ii. Chief of Staff; and
 - iii. Chief Operating Officer – The Star Gold Coast.
 - c. a Transformation Office has been established resulting in the following roles being created:
 - i. General Manager Transformation Office;
 - ii. Business Analyst;
 - iii. Project Manager;
 - iv. Change Manager; and
 - v. Project Coordinator.
 - d. Risk and Assurance no longer part of the same reporting line as the Legal team. This team now reports to the Chief Risk Officer;
 - e. second line Compliance Assurance roles have been added;
 - f. there has been a further uplift in resources in the AML and Due Diligence teams; and
 - g. further roles have been added to the Responsible Gambling team.
- 58. At least as of 25 July 2022, the General Manager of the Transformation Office reports to the CEO of The Star Casino and Group Head of Transformation, who, in turn, reports to the CEO / Managing Director of Star Entertainment.⁹²
- 59. By at least 1 August 2022, the Star Entertainment Executive Leadership Team comprised the Group CEO/Managing Director with 12 direct reports, including the Group CFO, Chief Risk Officer, Chief Legal Officer, the CEO of The Star Casino and Group Head of Transformation and the Chief Operating Officer for The Star Gold Coast.⁹³

Chapter 8.10 Risk management framework

Role of the Board

- 60. At all times during the Relevant Period, the Board has been responsible for approving Star Entertainment’s risk and compliance management policies and frameworks.⁹⁴ It has also been responsible for overseeing and monitoring the effectiveness of the risk management framework and supporting processes.⁹⁵
- 61. The Board sets the risk appetite statement.⁹⁶ The March 2017 Risk Appetite Statement identified the key risk categories as:⁹⁷

- Financial;
 - People;
 - Strategic;
 - Compliance;
 - Operational; and
 - Reputational.
62. In relation to compliance, it was stated that Star Entertainment had “low” appetite for material breaches of regulatory obligations and that relationships with key regulators are “managed proactively”. It was also stated that Star Entertainment had a “moderate” to “low” appetite for reputational risk.⁹⁸
63. The March 2017 Risk Appetite Statement said that Star Entertainment had no appetite for certain matters, including:⁹⁹
- Any illegal activity undertaken in the course of performing SGR’s business operations. ...
 - ...
 - Knowingly, deliberately or recklessly breaching any of SGR’s regulatory compliance obligations.
 - ...
 - Risks which, after all risk treatments have been applied, are rated as “Extreme”. Risks which fall into this category must be immediately reported to the Chair of the Board’s Risk and Compliance Committee.
64. It was also stated that at each meeting of the Board’s Risk and Compliance Committee, the Chief Risk Officer would report on whether Star Entertainment was operating within its risk appetite, and if it was not, the actions proposed to be taken to bring the risk profile back within Star Entertainment’s risk appetite.¹⁰⁰
65. The Board approved a new Risk Appetite Statement in August 2020.¹⁰¹
66. The August 2020 Risk Appetite Statement differed from the 2017 version in a number of ways.
67. First, Star Entertainment set out its risk appetite by reference to various objectives rather than to key risk categories. The objectives were “Financial”, “Health and Safety”, “Guest Experience”, “Employer of choice”, “Regulation and compliance”, “Reputation” and

“Asset attractiveness”. Relevantly, in relation to “Regulation and compliance” Star Entertainment set out its “Qualitative Risk Appetite” as follows:¹⁰²

We have a low appetite for material breaches of our regulatory obligations. We will maintain compliance policies and procedures to prevent material breaches and to allow timely identification and rectification of any breaches that do occur.

The Star is committed to conducting business operations free from illegal and unethical activity. This includes any acts of dishonesty, bribery, corruption or fraud, and any activities designed to deliberately take advantage of vulnerable guests. The Star seeks to maintain a culture in which employees (including contractors) do not knowingly, deliberately or recklessly breach The Star’s material regulatory compliance obligations.

68. In relation to “Reputation”, Star Entertainment’s risk appetite is “low to moderate” and it is noted that “we will engage with all our stakeholders proactively and fairly, including with those opposed to aspects of our business”.¹⁰³
69. Secondly, the August 2020 Risk Appetite Statement did not contain a list of “unacceptable risks”.¹⁰⁴ However, as set out above it did contain a statement that The Star was “committed to conducting business operations free from illegal and unethical activity”.
70. Ms Paula Martin, then the Chief Legal and Risk Officer, prepared a board paper dated 19 August 2020 regarding the proposed changes to the Risk Appetite Statement (as well as the Risk Management Policy and the Risk Management Framework). In this paper, Ms Martin stated:¹⁰⁵

The Chief Legal & Risk Officer and General Manager Risk & Insurance conducted a review of these risk management governance documents with Dr Dale Cooper, Director, Broadleaf in February / March 2020, and together developed updated versions. The revised documents were presented to the BRCC in May 2020, at which all directors were in attendance. The BRCC provided feedback on the documents and resolved for the Chair of the Committee to work with management to finalise drafts of the documents to be presented to the Board for consideration. This work with the Chair of the BRCC was completed in June/July 2020.

...

The main areas of change to the documents are as follows:

Risk Appetite Statement – simplified and enables a move away from the use of group metrics (to more detailed risk heat mapping) as measures in future years. Given the circumstances of FY20 and FY21 with the impacts of COVID-19, the group metrics have been retained for FY21.

RISK APPETITE STATEMENT AND REPORTING

The simplified Risk Appetite Statement specifies the level of risk that The Star is prepared to accept to achieve its objectives, including those areas in which The Star has an appetite at effectively ‘zero tolerance’ levels.

The risk metrics for FY21 have been developed to accommodate the current operating conditions for the organisation. Some of these will need to be confirmed at the end of Q1FY21 in line with the finalisation of performance KPIs. Reporting against the metrics will be provided to the BRCC each quarter with the first report proposed for the September meeting. This report will use the data from July and August 2020 to assess The Star's group position in relation to the Company's risk appetite, including performance in the new operating environment following re-opening of all of the properties with COVID-19 related restrictions.

71. As noted above, the board paper states that “the simplified Risk Appetite Statement specifies the level of risk that The Star is prepared to accept to achieve its objectives, including those areas in which The Star has an appetite at effectively ‘zero tolerance’ levels”. However, as noted above while there is a statement that The Star is committed to conducting business operations free from illegal and unethical activity, these activities are not identified as areas of “zero tolerance” or “unacceptable risk” as they were in the earlier Risk Appetite Statement.

Various revisions to risk framework and policy

72. There have been various iterations of Star Entertainment's risk management framework applied and risk management policy during the Relevant Period.
73. In December 2017, the Board of Star Entertainment approved a new Risk Management Policy and Risk Management Framework. Mr McWilliams drafted this framework.¹⁰⁶ The December 2017 Risk Management Framework aimed to provide a standardised risk management approach across Star Entertainment, which in turn would enable reporting of Star Entertainment's overall risk profile and whether it was operating within its approved risk appetite.¹⁰⁷
74. The December 2017 Risk Management Policy and Risk Management Framework applied during many of the events investigated by the Review.
75. Mr O'Neill told the Review the risk documents were periodically reviewed to ensure they remained fit for purpose.¹⁰⁸ In August 2020, the Board approved a revised Risk Management Framework and Risk Management Policy.¹⁰⁹ Mr Sheppard and Mr O'Neill both said the main purpose of revising the framework and policy was to make the suite of documents simpler and easier to understand.¹¹⁰

3 lines of defence

76. Under the December 2017 Risk Management Policy, Star Entertainment committed to a “3 lines of defence” model for risk management whereby:¹¹¹

- (a) the first line of defence – risk ownership and management – was assigned to each divisional unit which was responsible for identifying, evaluating and managing risks within that unit;
- (b) the second line of defence – risk management oversight – was assigned to Group Risk to establish and maintain the risk management policies, frameworks and guidance material to support effective risk identification; evaluate, manage and report on risk to the Board’s Risk and Compliance Committee and the Management Risk Compliance Committee;
- (c) the third line of defence – independent assurance – was assigned to Internal Audit to report to the Board Audit Committee regarding the effectiveness of internal controls.

77. The December 2017 Risk Management Policy assigned responsibilities for risk which included the following:¹¹²

Board

- Review and approve [Star Entertainment’s] strategy to achieve effective risk management.
- Review and approve [Star Entertainment’s] risk appetite.
- Approve the acceptance of risks in excess of management’s delegated authority.
- Review and approve the Policy and the Framework.

[Board Risk and Compliance Committee]

- Recommend to the Board any changes to [Star Entertainment’s] risk appetite, the Policy and/or the Framework.
- Monitor [Star Entertainment’s] risk profile, including any relevant changes in the economic, business or regulatory and policy environment, and whether SGR is operating within its approved risk appetite.
- Monitor the effectiveness of [Star Entertainment’s] risk management processes.
- Approve [Star Entertainment’s] insurance program, including the terms of annual renewals.

- Recommend to the Board whether to accept risks in excess of management's delegated level of approval authority.

Executive Team

- Monitor key risks within their individual areas of responsibility.
- Identify and report to the CEO and the Chair of the [Board Risk and Compliance Committee] the facts and circumstances of any major risk events within their individual areas of responsibility.
- Execute [Star Entertainment's] strategy within the Board approved risk appetite.
- Demonstrate leadership to foster a risk aware culture across SGR.

Management Risk and Compliance Committee

- Oversee the embedding of risk management plans across SGR.
- Monitor [Star Entertainment's] key risks and the implementation of appropriate risk treatment actions.

Group Risk

- Develop the Policy and the Framework for approval by the Board.
- Direct the review and development of other key policies to support effective risk management across [Star Entertainment's] including policies relating to business continuity, emergency response and disaster recovery.
- Monitor compliance with the Policy, the Framework and the Risk Appetite Statement.
- Report to the [Board Risk and Compliance Committee] and [Management Risk and Compliance Committee] on the status of [Star Entertainment's] key risks.
- Monitor emerging risk issues, including through the use of risk-based scenario testing.
- Develop, monitor and maintain an effective program of insurance appropriate for SGR's insurable risk profile.
- Support the business through provision of advice and training.

Internal Audit

- Review the adequacy and effectiveness of management of internal controls.
- Provide assurance that actions to improve the effectiveness of risk treatment have been implemented.

Divisional Business Units

- Identify, evaluate and manage risks that originate within the business unit.

- Establish and maintain appropriate risk management controls and resources and demonstrate assurance that those controls are in place and are effective.

78. As identified above, in August 2020, the Board approved a new Risk Appetite Statement. At this time, the Board also approved a new Risk Management Framework and a Risk Management Policy.¹¹³ In the board paper prepared by Ms Martin, she identified that the key changes to these documents were as follows:¹¹⁴

- Risk Management Policy – simplified to 2 pages of content, which is suitable for external publication. Removed content that was duplicated in the Risk Management Framework.
- Risk Management Framework – largely unchanged, but for framing with greater alignment to the Company’s objectives and the assessment metrics (detailed in Appendices).

79. As identified above, the August 2020 Risk Management Policy was significantly shorter than the 2017 version. Relevantly, it did not refer to a “3 lines of defence” model but identified the accountabilities and responsibilities as follows:¹¹⁵

- **The Board (including through the BRCC):** is accountable for overseeing and monitoring the effectiveness of the Framework and supporting processes, and for approving and reviewing the risk appetite, this Policy and the Framework.
- **Accountability for managing risk lies with line management** (business units): each executive leadership team member is accountable for managing the risks created by their activities, and for complying with risk appetite and the requirements of this Policy and the Framework. Each executive leadership team member is also accountable for identifying and reporting to the CEO and the Executive responsible for risk, the facts and circumstances of any major risk events within their individual areas of responsibility. They will also demonstrate leadership to foster a risk aware culture across The Star.
- **The Executive responsible for risk:** is accountable for administering and maintaining this Policy and the Framework. The Executive responsible for risk (along with the CEO) are responsible for reporting the facts and circumstances of any major risk events reported to them onto the Chair of the BRCC.
- **Everyone who works for The Star (employees and contractors):** are accountable for identifying, assessing and managing risks within their area of responsibility when making decisions and taking action.

Risk identification and escalation

80. Under each iteration of the Risk Management Framework, each business unit within Star Entertainment was supposed to provide information about its material risks and related risk treatment plans so that Group Risk could prepare reports to the Board’s Risk and Compliance Committee and the Management Risk and Compliance Committee.¹¹⁶ In turn, the Internal Audit unit was responsible for reviewing the adequacy and effectiveness of

internal controls, including risk controls; providing assurance to the Board's Risk and Compliance Committee that risk treatment plans had been implemented and that the risk policy and framework were being complied with.¹¹⁷

81. According to section 3.7 of the December 2017 Risk Management Framework:¹¹⁸

All aspects of the risk management process should be continuously monitored and regularly reviewed to provide confidence that:

- Changes in the external and internal environments are appropriately reflected in the identification, analysis, evaluation and treatment of SGR's risks
- Emerging risks are identified, analysed, evaluated and treated on a timely basis
- Risk controls continue to be effective
- Risk treatments have been implemented in accordance with risk treatment plans
- The form and content of risk reporting is effective in supporting decision making and in allowing the BRCC, the MRCC and the Executive Team to monitor the effectiveness of SGR's risk management processes.

82. Risks were supposed to be recorded in the risk register, which prior to November 2019 was maintained in an Excel spreadsheet, and from that time onwards was maintained on the Protecht system. In Protecht, the risks could be reviewed on the basis of their ratings, controls and actions.¹¹⁹ A summary of Star Entertainment's risk profile and the identification of any material or changing risks was to occur at each Board Risk and Compliance Committee meeting.¹²⁰

83. Mr Sheppard gave evidence that the Group Legal and Compliance Team, led by the Chief Risk Officer, provided written assurance to the Board Risk and Compliance Committee each time it met that Star Entertainment was acting within its risk appetite.¹²¹ As part of this process a risk register was used which took the form of questionnaires issued to managers in each business unit.¹²² The underlying risk registers were not provided to the Board.¹²³

84. Further, Mr McWilliams, as Chief Risk Officer, and later, Ms Martin, as Chief Legal and Risk Officer, would sign off on a Compliance Assurance Process paper, which would be tabled at the Audit Committee meeting. This provided certification of the effectiveness of Star Entertainment's risk management and internal control processes in identifying and disclosing any material issues having a bearing on the financial statements and to support

the Chief Risk Officer's statement to the Board to the effect that Star Entertainment had complied in all respects with its statutory compliance obligations.¹²⁴

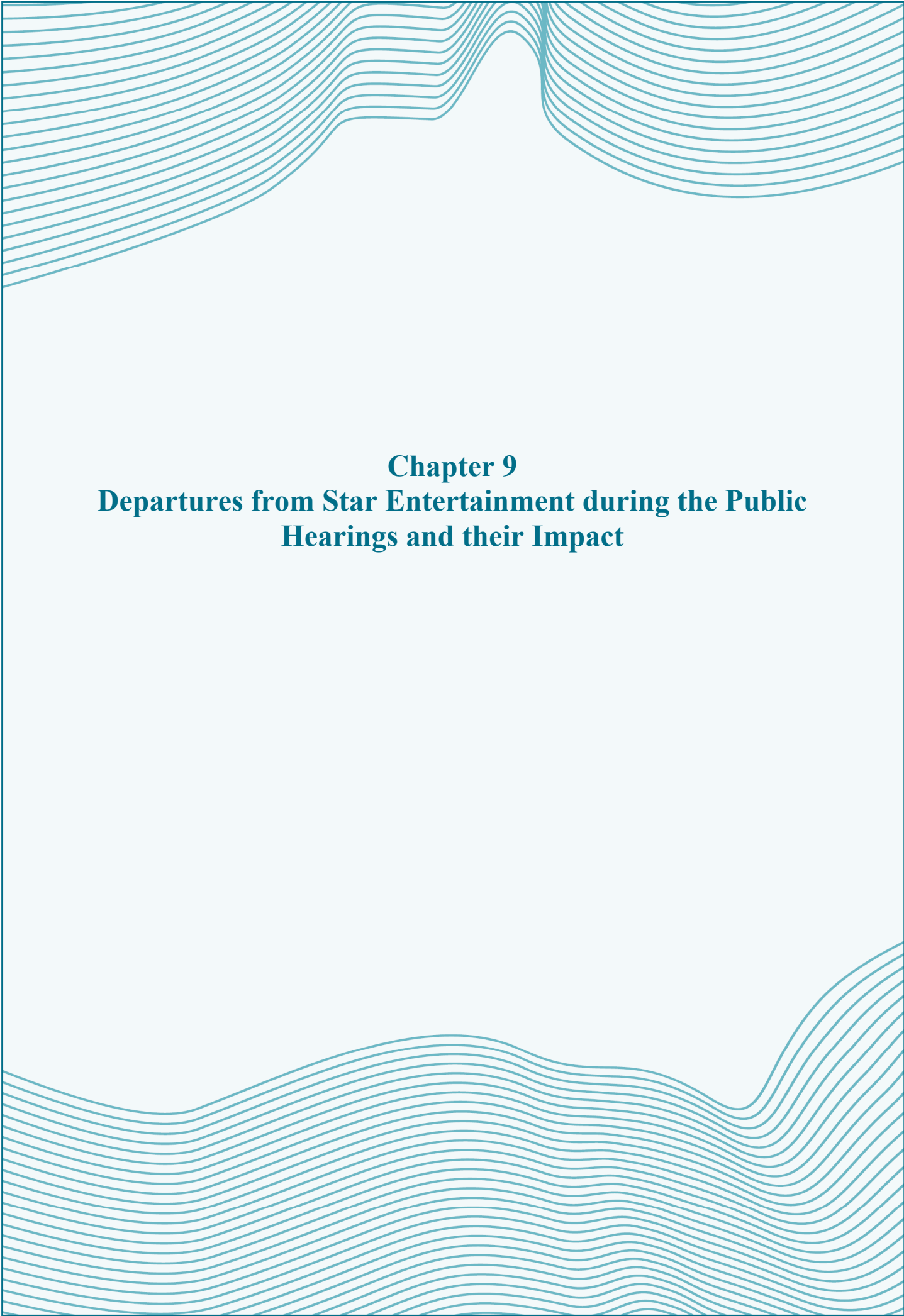
Endnotes

- 1 **Exhibit B-2839** (STA.3001.0001.0001).
- 2 **Exhibit A-378**, para 36 (INQ.002.004.0109 at .0114).
- 3 **Exhibit B-2839** (STA.3001.0001.0001).
- 4 Ibid.
- 5 STA.3070.0001.0005 at .0005, .0015, .0017.
- 6 Ibid at .0007 - .0014.
- 7 Ibid at .0008.
- 8 Ibid.
- 9 Ibid at .0009.
- 10 Ibid.
- 11 Ibid at .0009.
- 12 Ibid.
- 13 Ibid.
- 14 Ibid at .0010.
- 15 Ibid at .0011.
- 16 **Exhibit M-58** (INQ.002.002.0600).
- 17 ASIC Current and Historical Extract for The Star Pty Ltd ACN 060 510 410, 7 July 2022.
- 18 INQ.002.002.0806.
- 19 CORRO.001.001.0984.
- 20 **Exhibit A-378**, para 3, (INQ.002.004.0109 at .0109).
- 21 STA.3001.0001.0103.
- 22 **Exhibit H-413** (INQ.003.005.0573 at .0573 -.0574).
- 23 Ibid at .0582.
- 24 Ibid at .0575 - .0578.
- 25 Ibid at .0608.
- 26 Bradley: Day 31, T3460.42; Pitkin: Day 32, T3553.38.
- 27 **Exhibit H-413** (INQ.003.005.0573 at .0632).
- 28 Ibid.
- 29 **Exhibit B-3215** (CORRO.001.001.0001 at .0002).
- 30 INQ.003.003.0176 at .0176, .0181.
- 31 **Exhibit H-465** (INQ.001.001.0692 at .0700, .0701, .0711).
- 32 **Exhibit H-429** (STA.3411.0009.3483 at .3635 - .3636).
- 33 INQ.003.003.0231 at .0251 and .0258.
- 34 **Exhibit M-41** (INQ.028.001.2013).

- 35 **Exhibit D-7** (STA.3008.0023.8145); **Exhibit M-31** (STA.3004.0001.0648), incorporating amendments from the Board meeting of that date: see **Exhibit H-456** (STA.5002.0007.2452); **Exhibit B-2919** (STA.5002.0007.2773).
- 36 **Exhibit J-70** (INQ.012.005.0020).
- 37 **Exhibit J-75** (INQ.012.005.0001).
- 38 Ibid at .0007, .0010 - .0012.
- 39 **Exhibit S-108** (STA.3004.0001.0750).
- 40 **Exhibit D-7** (STA.3008.0023.8145 at .8148); **Exhibit M-31** (STA.3004.0001.0648 at .0651).
- 41 Ibid.
- 42 **Exhibit D-7** (STA.3008.0023.8145 at .8148-.8151); **Exhibit M-31** (STA.3004.0001.0648 at .0651-.0655).
- 43 **Exhibit D-7** (STA.3008.0023.8145 at .8150); **Exhibit M-31** (STA.3004.0001.0648 at .0653).
- 44 **Exhibit M-31**, (STA.3004.0001.0648 at .0657).
- 45 Ibid.
- 46 Ibid.
- 47 **Exhibit J-70** (INQ.012.005.0020 at .0021).
- 48 Ibid at .0022 - .0023.
- 49 Ibid at .0023.
- 50 **Exhibit S-108** (STA.3004.0001.0750 at .0752).
- 51 Ibid at .0753.
- 52 Ibid at .0753 - .0754.
- 53 STA.3002.0001.3202 at .3210.
- 54 **Exhibit H-465** (INQ.001.001.0692 at .0697).
- 55 **Exhibit J-75** (INQ.012.005.0001 at .0002).
- 56 The Star Entertainment Group Limited Audit, Committee Terms of Reference, 1, [2.2] (Web Page, 2 June 2022) <<https://www.starentertainmentgroup.com.au/wp-content/uploads/2022/06/2-June-2022-The-Star-Audit-Committee-Terms-of-Reference.pdf>>.
- 57 **Exhibit R-1** (STA.0028.0001.0901 at .0914).
- 58 The Star Entertainment Group Limited, Remuneration Committee Terms of Reference, (Web Page, August 2018) 1, [2], <<https://www.starentertainmentgroup.com.au/wp-content/uploads/2021/01/Remuneration-Committee-Terms-of-Reference.pdf>>.
- 59 **Exhibit R-1** (STA.0028.0001.0901 at .0933).
- 60 **Exhibit H-465** (INQ.001.001.0692 at .0696).
- 61 Ibid at .0698.
- 62 STA.3001.0001.0083.
- 63 AASB Standard 124, para 9.
- 64 **Exhibit H-465** (INQ.001.001.0692 at .0720).
- 65 **Exhibit A-1339**, para 3 (INQ.002.004.0145 at .0145).
- 66 Ibid at .0146.
- 67 **Exhibit A-159**, para 1 and 8 (INQ.002.004.0078 at .0078 and .0079); Dudek: Day 1, T23.12; T24.13.

- 68 Ibid at .0078.
- 69 Scopel: Day 1, T95.47; T97.1-4.
- 70 Scopel: Day 1, T97.28-36.
- 71 **Exhibit A-378**, para 2 and 8 (INQ.002.004.0109 at .0109).
- 72 McWilliams: Day 3, T300.4.
- 73 McWilliams: Day 3, T300.42.
- 74 **Exhibit A-905**, para 16 (INQ.002.004.0201 at .0203).
- 75 McWilliams: Day 3, T301.17-20.
- 76 McWilliams: Day 3, T303.16-21.
- 77 **Exhibit A-1055**, para 67 (INQ.002.004.0031 at .0052); **Exhibit A-905**, para 3 (INQ.002.004.0201 at .0201).
- 78 **Exhibit A-905**, para 4 (INQ.002.004.0201 at .0201).
- 79 Ibid.
- 80 STA.3001.0001.0100.
- 81 **Exhibit A-1**, para 5 and 7 (INQ.002.004.0241 at .0241).
- 82 **Exhibit A-1186**, para 4 (INQ.002.004.0090 at .0090).
- 83 **Exhibit A-627**, para 7 (INQ.002.004.0174 at .0174).
- 84 Ibid.
- 85 Brodie: Day 21, T2364.39–T2365.5.
- 86 **Exhibit A-905**, para 25 (INQ.002.004.0201 at .0204).
- 87 Ibid, para 22 at .0203.
- 88 **Exhibit A-1313**, para 15 and 23 (INQ.002.004.0026 at .0027 and .0028).
- 89 **Exhibit A-83**, para 3 and 6 (INQ.002.004.0001 at .0001).
- 90 Ibid.
- 91 CORRO.001.001.0984.
- 92 STA.3071.0001.0033.
- 93 STA.3071.0001.0034.
- 94 **Exhibit B-3331** (CORRO.001.001.0190 at .0214).
- 95 Ibid.
- 96 Ibid.
- 97 **Exhibit D-20** (STA.3402.0002.8138 at .8139 - .8140).
- 98 Ibid at .8141.
- 99 Ibid at .8140.
- 100 Ibid at .8142.
- 101 **Exhibit B-2545** (STA.5002.0006.0929 at .0949); **Exhibit H-392** (STA.5002.0006.2409 at .2415).
- 102 **Exhibit B-2545** (STA.5002.0006.0929 at .0951)
- 103 Ibid.

- 104 Ibid.
- 105 Ibid at .0929.
- 106 McWilliams: Day 3, T305.3.
- 107 **Exhibit D-12** (STA.3402.0002.8123 at .8124).
- 108 Mr O’Neill: Day 35, T3801.1-10.
- 109 **Exhibit B-2514** (STA.3004.0001.2362); **Exhibit B-2515** (STA.3004.0001.2379).
- 110 Sheppard: Day 29, T3226.43-44; Mr O’Neill: Day 35, T3801.19-24.
- 111 **Exhibit D-11** (STA.3402.0002.8118 at .8120).
- 112 Ibid at .8120 - .8121.
- 113 **Exhibit H-392** (STA.5002.0006.2409 at .2415).
- 114 **Exhibit B-2545** (STA.5002.0006.0929 at .0929)
- 115 **Exhibit B-2515** (STA.3004.0001.2379 at .2381).
- 116 **Exhibit D-12** (STA.3402.0002.8123 at .8128).
- 117 Ibid at .8128 to .8129.
- 118 Ibid.
- 119 **Exhibit B-3331** (CORRO.001.001.0190 at .0217).
- 120 Ibid.
- 121 Sheppard: Day 29, T3220.46 - T3221.20.
- 122 Sheppard: Day 29, T3221.24-39.
- 123 **Exhibit J-161** (CORRO.001.001.0881).
- 124 For example, **Exhibit B-1056** (STA.5001.0003.3063).



Chapter 9
Departures from Star Entertainment during the Public Hearings and their Impact

Chapter 9. Departures from Star Entertainment during the Public Hearings and their Impact

Chapter 9.1 A flurry of resignations

1. During and indeed after, the public hearings of the Review, there were a significant number of resignations of Board members and senior management of Star Entertainment. The following resignations occurred on the dates specified:
 - (a) Mr Matt Bekier, the Managing Director and Chief Executive Officer of Star Entertainment and a director of The Star, on 24 March 2022;
 - (b) Mr Harry Theodore, the Chief Financial Officer of Star Entertainment and a director of The Star, on 6 May 2022;
 - (c) Ms Paula Martin, the Chief Legal and Risk Officer and company secretary of Star Entertainment and company secretary of The Star, on 6 May 2022;
 - (d) Mr Greg Hawkins, the Chief Casino Officer (NSW) of Star Entertainment, on 6 May 2022;
 - (e) Mr Andrew Power, the Group General Counsel of Star Entertainment, on 13 May 2022;
 - (f) Mr Graeme Stevens, the Group Compliance Manager of Star Entertainment, on 13 May 2022;
 - (g) Mr John O'Neill, the Chair of Star Entertainment, who had on 1 April 2022 assumed the role of Executive Chair following the resignation of Mr Bekier, on 20 May 2022;
 - (h) Mr Micheil Brodie, the General Manager, Social Responsibility of Star Entertainment, on 20 May 2022;
 - (i) Mr David Aloï, the NSW Regulatory Manager of Star Entertainment, on 20 May 2022;
 - (j) Ms Skye Arnott, the Chief Financial Crime Officer of Star Entertainment, on 23 May 2022;

- (k) Mr Kevin Houlihan, the Group Investigations Manager of Star Entertainment on or around 15 June 2022; and
 - (l) Dr Sally Pitkin, a non-executive director of Star Entertainment on 30 June 2022.
2. The reporting lines have also changed since the commencement of the Review. As noted in Chapter 8, since the conclusion of the public hearings of this Review, the legal and risk functions have been separated and a separate chief risk officer and chief legal officer, are being appointed.¹
 3. During the course of the non-executive directors giving their evidence in the public hearings, all remaining members of the Board of Star Entertainment, with the exception of Mr Ben Heap, stated that they intended to resign in the near future. These Board members were Mr Bradley, Ms Lahey and Mr Sheppard.²
 4. In addition, the following members of the Management Team of Star Entertainment who gave evidence during the public hearings had resigned prior to the commencement of the public hearings:
 - (a) Mr Michael Whytcross, formerly the General Manager, Commercial Finance International Marketing at Star Entertainment who resigned in December 2021;
 - (b) Mr Oliver White, formerly the General Corporate Counsel at Star Entertainment who resigned in January 2022; and
 - (c) Ms Sarah Scopel, formerly the Group Treasurer at Star Entertainment, who resigned in or around September 2020.

Chapter 9.2 Impact of the resignations on the assessment of the suitability of The Star and Star Entertainment

5. Plainly, one impact of all these resignations and announced resignations is that the management structure and reporting lines of The Star and Star Entertainment at the commencement of the Review described in Chapter 8 do not reflect the position as at the date of this report. For example, all of the directors and officers of The Star as at the commencement of the public hearings of the Review have resigned or announced their resignation.
6. As discussed in Chapter 27, The Star Entities conceded that it was open to the Review to find that The Star was not a suitable person to hold a casino licence as at the commencement

of this Review and that Star Entertainment and Star Holdings were not suitable to be close associates of the casino licence holder at that time.³ However, they submitted that the Review should conclude that The Star is presently suitable to hold a casino licence and that Star Entertainment and Star Holdings are presently suitable to be close associates.⁴ The Star Entities submitted that one reason, amongst others, why it should be concluded that they are presently suitable is that, whilst the evidence would support findings that the behaviour and culture within the ranks of senior management of Star Entertainment historically fell well short of what was to be expected, the Board of Star Entertainment had taken prompt action to ensure that those involved in the conduct were no longer involved in the business. The Star Entities submitted that the key persons who were the focus of, or failed to stop, the misconduct had all now resigned.⁵ One component in the claim by The Star Entities that they are currently suitable was based on attributing the substantial blame for the serious misconduct exposed by the Review on those members of management who had recently resigned.

7. The concession by The Star Entities that it was open to conclude that they were not suitable as at the commencement of this Review, together with the submission that subsequent events meant that it should be concluded that they are presently suitable, led to a question whether the Review should take into account conduct and events occurring since the commencement of the Review in order to assess the suitability of The Star and its close associates. This was because Paragraph 9 of the Updated Terms of Reference identifies the Relevant Period, and thus the focus of the Review as being the period following the release of the report by Dr Horton in 2016 until the commencement of the Review on 13 September 2021.
8. Although the Updated Terms of Reference focuses on the period ending when the Review commenced, this does not preclude consideration of events occurring prior to or after that period where that is necessary in order to form appropriate conclusions on the matters raised by paragraphs 1 to 8 of the Updated Terms of Reference, and, in particular, on the question of suitability. For example, the Review took the approach of examining the circumstances in relation to the use of CUP cards at The Star throughout the whole of the period of their use from 2013 to 2020 in order to reach conclusions about the matters raised by paragraph 6 of the Updated Terms of Reference and the ultimate issue of suitability raised by paragraph 1 of the Updated Terms of Reference. This was necessary in circumstances where the use of CUP cards at The Star had not been considered in the Horton Review in 2016. It was also important to understand the genesis of, and rationale for, the use of the

CUP cards in 2013 and the explanations given by The Star to the Authority in relation to the CUP cards in the period up to 2016 in order to understand the events which occurred in relation to the use of CUP cards in the period from 2016 to 2020. The Star and Star Entertainment accepted that it was appropriate for the Review to examine circumstances in relation to the use of CUP cards at The Star throughout the whole of the period from 2013 to 2020.⁶

9. Furthermore, although paragraph 9 of the Updated Terms of Reference focused attention on the period ending at the commencement of the Review in 2021, Counsel Assisting submitted that it was not necessary to consider the suitability of individual close associates at that time who had since resigned.⁷ Counsel for The Star and Star Entertainment and a number of other parties with leave to appear who had been individual close associates during the Relevant Period but had subsequently resigned joined in that submission and emphasised the utility of focussing on the current position of the companies.⁸
10. The purpose of the Review and this report is for the exercise of the Authority's functions including under sections 30 and 141 of the *Casino Control Act*. The Review is required in exercising its functions under the *Casino Control Act*, to have regard to the primary objects of the *Casino Control Act* set out in section 4A. These are ensuring that the management and operation of the casino remain free from criminal influence or exploitation; ensuring that gaming in the casino is conducted honestly; and containing and controlling the potential of the casino to cause harm to the public interest and to individuals and families. It is accepted that no useful purpose would be served by assessing the suitability of individual close associates who have resigned since the commencement of the Review in 2021 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*.
11. The same process of reasoning leads to the conclusion that there is considerable utility in assessing the suitability of The Star and its remaining close associates by having regard to conduct and events which have occurred since the commencement of the Review. It would do a disservice to The Star to ignore those events, in light of its submission that it should be found to be presently suitable. It would also do a disservice to the Authority to ignore those events. Taking those events since the commencement of the Review period into account assists the achievement of the purposes of the Review and the objects of the *Casino*

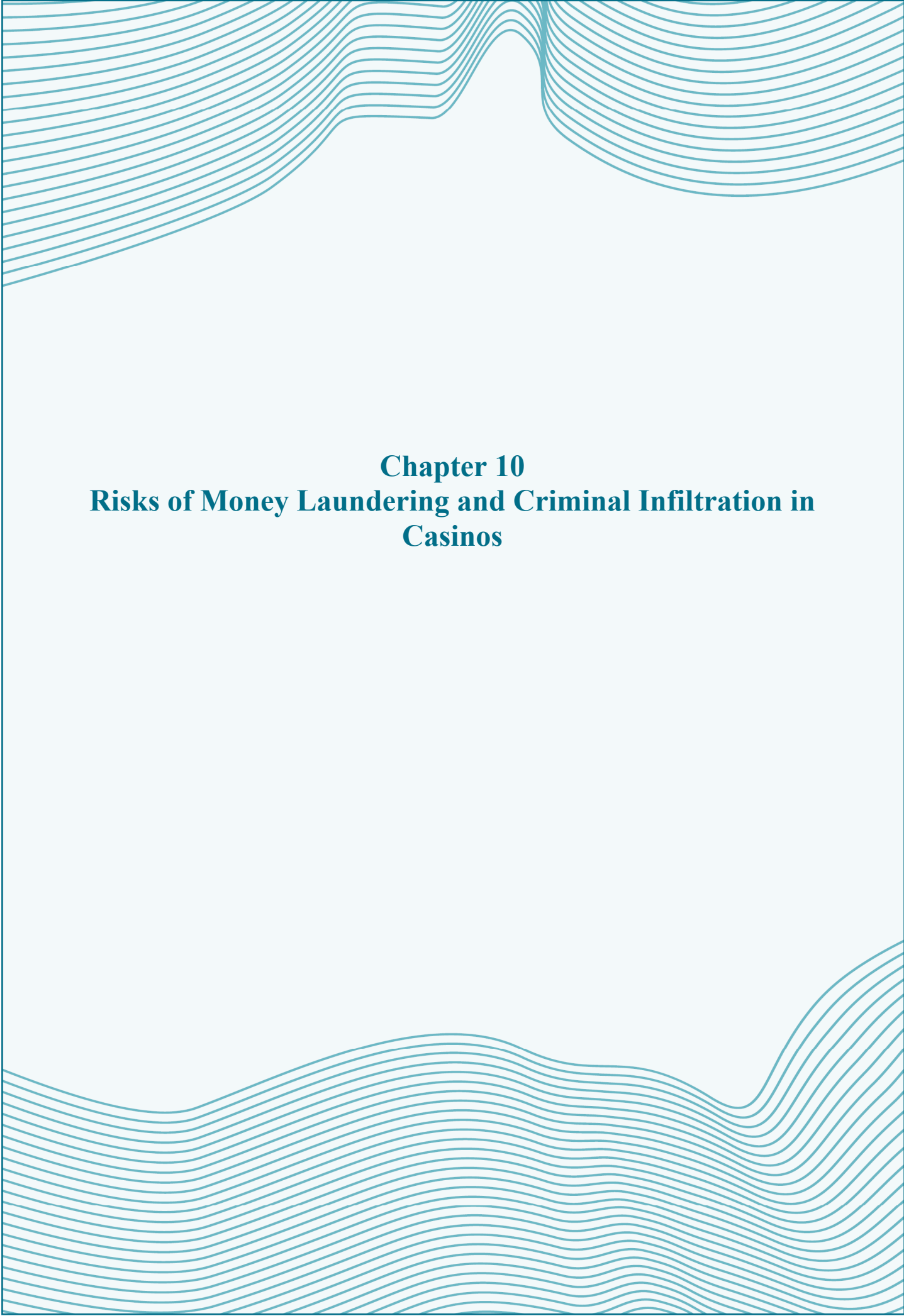
Control Act and is not precluded by the way in which the Updated Terms of Reference are framed.

Chapter 9.3 Impact of the resignations on the fact-finding process by the Review

12. The resignation of so many members of the Board and senior management of Star Entertainment during the course of the Review also meant that a number of witnesses who had been represented by counsel for The Star Entities during the course of the public hearings understandably chose to obtain their own independent representation for the purposes of making submissions to the Review.
13. The Star Entities largely blamed the individuals in management who had resigned for the serious misconduct which had occurred. They pointed to the prompt action by the Board of Star Entertainment in securing those resignations as a basis to conclude that The Star Entities are presently suitable. As such, a clear and obvious divergence emerged between the interests of The Star Entities on the one hand and the interests of the individuals who had resigned on the other. Those individuals had a clear and obvious interest in exculpating themselves in relation to the misconduct and on blaming what had occurred on what was described by counsel for Mr White as the “delinquent culture” of the organisation.⁹
14. Counsel for Mr Bekier and Ms Martin submitted that in light of the strategy of The Star Entities to lay the blame at the feet of senior management who had resigned, admissions or concessions made by The Star in relation to senior management should be viewed with caution.¹⁰ In particular, counsel for Ms Martin submitted that admissions or concessions made by The Star Entities in relation to senior management should only be treated as findings against The Star Entities but not as findings against any of the relevant individuals.¹¹ This submission was accepted by Counsel Assisting in reply.¹²
15. This is the approach which the Review has taken. The Review has treated the admissions or concessions made by The Star Entities in relation to members of senior management, particularly those who have resigned since the commencement of the Review, only as admissions or concessions against The Star Entities. They have not been treated as admissions or concessions against the relevant individuals. Any findings against those individuals which are made by the Review are based only on an assessment of the evidence presented, and not on admissions or concessions made by The Star Entities.

Endnotes

- ¹ Star Entities' Oral Submissions: Day 41, T4160.1-2.
- ² Bradley: Day 32, T3545.17-23; Pitkin: Day 33, T3638.21-28; Lahey: Day 33, T3695.17-20; Sheppard: Day 34, T3769.9-24.
- ³ Star Entities' Oral Submissions: Day 41, T4156.13-15, 25-27, 29-32.
- ⁴ Star Entities' Oral Submissions: Day 41, T4156.15-16, T4156.44-T4157.2.
- ⁵ Star Entities' Oral Submissions: Day 41, T4157.23-40; Star Entities' Oral Submissions: Day 43, T4359.39-42.
- ⁶ Star Entities' Oral Submissions: Day 41, T4196.37-42; Star Entities' Written Submissions dated 21 June 2022, para [D.4].
- ⁷ Counsel Assisting's Oral Submissions: Day 37, T3941.42-45.
- ⁸ Star Entities' Written Submissions dated 21 June 2022, para [B.15]; Paula Martin's Oral Submissions: Day 44, T4444.17-25; Paula Martin's Written submissions dated 21 June 2022, para [5]; Greg Hawkins' Written Submissions dated 21 June 2022, para [5]; Harry Theodore's Written Submissions dated 21 June 2022, para [10] and [19]-[20].
- ⁹ Oliver White's Oral Submissions: Day 44, T4400.23-35; Oliver White's Written Submissions dated 21 June 2022, para [5]-[7]; See Skye Arnett's Written Submissions dated 21 June 2022, para [34].
- ¹⁰ Matt Bekier's Written Submissions dated 21 June 2022, para [30]; Paula Martin's Oral Submissions: Day 44, T4451.32-35.
- ¹¹ Paula Martin's Oral Submissions: Day 44, T4456.41-T4457.8.
- ¹² Paula Martin's Oral Submissions: Day 46, T4485.16-26.

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Chapter 10
Risks of Money Laundering and Criminal Infiltration in
Casinos

Chapter 10. Risks of Money Laundering and Criminal Infiltration in Casinos

Chapter 10.1 Introduction

1. Money laundering is a process of obscuring or legitimising proceeds or instruments of crime using exchanging or layering to attempt to hide its true origin.¹ It blends criminal and legitimate activities and is the common element in serious and organised crime.²
2. It has been estimated that the amount of money laundered globally through various institutions, including casinos, each year is 2 to 5 per cent of global GDP, that is, between \$1.19 trillion and \$2.96 trillion in current Australian dollars.³
3. Money laundering facilitates drug trafficking, human trafficking, child exploitation, corruption, arms dealing and other crimes which cause real world harm. As John McDowell from the US Department of State observed:⁴

Money laundering is the criminal's way of trying to ensure that, in the end, crime pays. It is necessitated by the requirement that criminals — be they drug traffickers, organized criminals, terrorists, arms traffickers, blackmailers, or credit card swindlers — disguise the origin of their criminal money so they can avoid detection and the risk of prosecution when they use it.

Money laundering is critical to the effective operation of virtually every form of transnational and organized crime. Anti-money-laundering efforts, which are designed to prevent or limit the ability of criminals to use their ill-gotten gains, are both a critical and effective component of anti-crime programs.

4. Terrorism financing includes the financing of terrorist acts, terrorists and terrorist organisations.⁵ The financing of terrorism may include the provision of any kind of asset in any form, including bank credits, pre-paid cards, bank cheques, money orders, shares, and digital payments.⁶ Funding can come from legitimate sources, as well as from illegal activities. Terrorism financing risks in casinos are not as common as money laundering. But as cash intensive businesses and highly populated venues, the potential exposure remains.⁷
5. Despite the existence of a legal framework to prevent money laundering and terrorism financing, Australia remains an attractive destination for transnational serious organised crime due, in part, to the local demand for illicit drugs.⁸

Chapter 10.2 The susceptibility of casinos to money laundering

6. Casinos are particularly vulnerable to money laundering because they are cash intensive. For example, they deal with cash deposits, conversion of gambling chips, and cash withdrawals. This fluid movement of money whether in cash or money transfer provides an opportunity for organised crime networks to launder the proceeds of crime.⁹

7. The Bergin Report noted:¹⁰

An obvious reason why casinos can be vulnerable to money laundering is because of the large volumes of cash with which they deal. However, cash is not the only way that money moves into and out of casinos in Australia. In many respects, casinos are not unlike banks. They engage in a myriad of financial transactions. They maintain customer accounts, exchange foreign currency, facilitate electronic funds transfers and act as money transmitters, maintain safety deposit boxes, act as cheque cashers and write cheques.

However unlike the customers of a bank, casino patrons have no reason to disclose to a casino their business or professional activities. There is often little observable basis for distinguishing between those patrons laundering funds in the casino and all other casino patrons.

8. Furthermore, the Bergin Report observed that there are various mechanisms by which money may be laundered in casinos:¹¹

For example, cash derived from a criminal enterprise can be used in the casino to purchase chips. Chips may then be redeemed in cash, cheque or money transfer and following that redemption, present as having been derived from a legitimate source. Another mechanism is where a criminal organisation deposits funds into a casino operator's bank account for use by a casino patron. The patron may then purchase chips and later redeem them, again creating the appearance that the funds have been derived from a legitimate source. Electronic funds transfers facilitating the flow of money both in and out of a casino can also be used to launder money.

9. Front money accounts can be used to launder money at casinos. These operate in a similar manner to a bank account. Cash can be deposited into a front money account using a patron's gaming identification number as a reference. Once cleared, funds are credited to the patron's account and available for use. These funds may be accessed by the patron at any branch of the casino, including interstate and international sites. Money may be moved by organised crime networks in Australia and internationally through a series of transactions and membership accounts to complete the layering process of money laundering, bypassing local money laundering controls. Cash deposits can be structured under the \$10,000 AUSTRAC threshold, making them difficult to detect.¹²

Chapter 10.3 The susceptibility of casinos to criminal infiltration

10. Casinos are attractive venues for criminals and are targeted by them for criminal influence and criminal exploitation.¹³ This is recognised in the *Casino Control Act* and informs the primary objects under section 4A which include “ensuring that the management and operation of a casino remain free from criminal influence or exploitation”.
11. The Financial Action Task Force (**FATF**), a global money laundering and terrorist financing watchdog, has observed that “[c]asinos are attractive venues for criminals” and that:¹⁴

Casinos are consistently targeted by criminals for criminal influence and criminal exploitation. Organised crime groups seek to control or own casinos or aspects of casino operations. Criminals attempt to infiltrate or influence casinos to facilitate theft, fraud, money laundering and other crimes.
12. In addition to money laundering, the FATF noted that criminal influence and exploitation of casinos is also connected to criminal recreation and in some cases enhancing criminal endeavours outside the casino.¹⁵ Casinos can be places where criminals and crime figures tend to socialise, as well as attracting ancillary criminal activities.¹⁶ Criminals may use opportunities within a casino to supply prohibited drugs¹⁷ and loan sharks may provide gamblers with cash, often at exorbitant interest rates, with the threat of violence if the loan is not repaid.¹⁸
13. As the Hon Xavier Connor QC observed in 1983 in considering the legalisation of casinos in Victoria, “[o]rganised crime figures have historically been associated with casinos. It is recognised that gambling is a favourite target for their activities and casino gambling in particular because of the vast number of unrecorded cash transactions”.¹⁹
14. In 1990, Mr Connor QC noted that criminal activity in casinos can take various forms:²⁰
 - (a) cheating at games either by patrons against the casino or by patrons against each other;
 - (b) collusion between casino operators and staff and management;
 - (c) public order offences, for example, theft, assault;
 - (d) laundering money of either Australian or international currency;
 - (e) skimming, being misappropriation of proceeds of the casino in such a way that they are not counted or recorded in the books of the casino;

- (f) use of questionable funds to set up or conduct the casino which originate from the proceeds of organised crime or other questionable sources;
 - (g) association of undesirable persons with the running of casinos;
 - (h) coercion of casino authorities by outsiders;
 - (i) activities associated with junkets; and
 - (j) non-compliance with the terms and conditions of the licence.
15. The November 1991 report prepared by Sir Laurence Street QC acknowledged that the “[p]revention of the disposal of proceeds of criminal activity or money from the underground cash economy being used to gamble in casinos will remain a challenge” and that it is unrealistic to expect that such activity can be “eliminated entirely”.²¹ Sir Laurence Street said that the collateral activities of criminals who resort to casinos will therefore “present a risk of compromising the integrity of the gambling operations in the casino”.²²
16. More recently, the RCCOL observed that casino operators are not unlike banks in that they offer patrons, and potential criminals, a wide range of financial services. For example, they maintain customer accounts, exchange foreign currency, facilitate electronic funds transfers, act as money transmitters, cheque cashiers and issue and facilitate cheques to patrons.²³ As cash is an anonymous store of value in casinos and has the capacity to leave no audit trail, “it is a medium favoured by criminals”.²⁴

Chapter 10.4 Junkets

17. The Bergin Report explained junkets in the following terms:²⁵

Junkets are a well-recognised part of international casino landscape. Junkets identify VIP patrons and make arrangements for them to travel to gamble in particular casinos, often by offering enticements such as free travel and accommodation. In return, casino operators pay junket operators commissions which in some jurisdictions such as Macau and Australia are based upon the junket participants turnover during any particular junket program. In some jurisdictions, including Macau and Australia, junkets may also advance credit to junket participants and enforced debts incurred by those participants.

In Australia, the casino operator enters into contractual arrangements with the junket operators, sometimes referred to as “junket promoters”, rather than with the individual junket participants. The contractual relationship is between the casino operator and the junket operator. If the casino operator extends credit to the junket operator, it looks to the junket operator to pay the debt. It is a matter for the junket operator how the debt is received from the junket participant.

18. In the context of considering the potential link between junkets and money laundering, the FATF explained:²⁶

A vulnerability of junket programmes is that they involve the movement of large amounts of money across borders and through multiple casinos by third parties. Junket participants generally rely on the junket operators to move their funds to and from the casino. This creates layers of obscurity around the source and ownership of the money and the identities of the players.

19. The potential link between junkets and organised crime was noted in the Horton Report:²⁷

Junkets present a risk to the integrity of the casino, by virtue of the very large amounts of money involved, the potential illicit sources of those funds, and issues relating to junket promoters and the nature of their business.

20. Junkets have long been recognised as vulnerable to money laundering because of the inherent lack of transparency of junket operations. This includes the anonymity of participants and obscurity of beneficial ownership, and the source and distribution of junket funds.²⁸ Junkets can involve movement of money across international borders in a way that circumvents transaction reporting requirements. The junket operator accumulates the funds of the junket participants, provides access to the funds for each participant, and withdraws the remaining funds in one transaction at the completion of the junket.²⁹

21. The risks to casinos associated with junkets were considered extensively in the Bergin Report, which noted:³⁰

During the 1990s there were triad turf wars in Macau fuelled by the desire to secure control over VIP gaming rooms. However, with the handover of Macau to China in 1999 a more stable environment emerged. Junkets were “gentrified” in the sense of becoming more business-like, visible and acceptable, but criminality in respect of debt collection and money laundering remained.

It is certainly not suggested that every Junket is necessarily involved in organised crime or illegal activity. However, over a very lengthy period caution has been expressed about the need to be vigilant to guard against links between Junkets and organised crime. In 2013 the United States China Economic and Security Review Commission reported to the US Congress that “Macau junket operations have a history of affiliation with Asian organized crime”. It also reported that Mr Burnett (the head of the Nevada Casino Regulator) had said: “It is common knowledge that the operation of VIP rooms in Macau casinos had long been dominated by Asian organised crime”.

22. As the Bergin Report further observed, junkets attract individuals or groups seeking to circumvent legal restrictions on the movement of currency outside of Mainland China, also known as “capital flight laws”:³¹

It is the credit-providing and debt-enforcing functions of Junkets that make them vulnerable to infiltration by organised crime. There are strict limits on the amount of money that individuals can carry or otherwise transfer out of Mainland China. Junkets have been implicated in money laundering by relying on underground banks smuggling cash out of China.

23. Through junkets, patrons on international junket tours may be able to circumvent Chinese laws restricting the amount of Chinese currency individuals can convert for remittance out of the country by using a money transfer company in Australia that maintains a bank account in China.³²
24. The RCCOL observed that junkets are vulnerable to infiltration by crime figures by reason of their credit-providing and debt-enforcing functions:³³

The involvement of organised crime groups in the junket industry has been widely reported for many years. By reason of their credit-providing and debt-enforcing functions, junkets are particularly vulnerable to infiltration by those involved in organised crime. Criminal behaviour associated with junkets includes unlawful debt collection practices and money laundering.

It is illegal to enforce gambling debts in China. This has led to the use of extra-judicial means of debt collection, such as threats of violence, to encourage debtors to repay money.

25. As casinos are not privy to agreements made between the junket, junket participants or any third parties such as junket funders, it is an ideal environment for transnational organised crime groups to operate and makes it difficult for law enforcement to detect and investigate criminal activity.³⁴ The lack of transparency of current casino junket operations, including regular anonymity of participants and obscurity of beneficial ownership and source and distribution of junket funds, provides opportunities for criminal activity and exploitation.³⁵

Chapter 10.5 Australia's AML/CTF framework

26. The history of anti-money laundering and counter terrorism financing regulation in Australia is set out in detail in the Bergin Report.³⁶ As was observed in the Bergin Report, Australia's first attempt to regulate money laundering and terrorism financing commenced with the introduction of the *Cash Transactions Report Act 1988 (Cth)*.³⁷ This statute was later amended and renamed the *Financial Transaction Reports Act 1988 (Cth) (FTR Act)*.
27. In 1989, the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) was established for the purpose of receiving and analysing reports provided under the *FTR Act*, as well as disseminating intelligence to other authorised agencies.
28. Following mixed reviews on the efficacy of Australia's ML/CT legislation, the *AML/CTF Act* commenced on 12 December 2006.³⁸ It largely replaced the *FTR Act*.
29. The *AML/CTF Rules* commenced in 2007 to provide the detail for the broader obligations set out in the *AML/CTF Act*.³⁹ The *AML/CTF Rules* are made by the CEO of AUSTRAC.⁴⁰

30. The *AML/CTF Act*, *AML/CTF Regulations*,⁴¹ together with the *FTR Act*, form the AML/CTF framework in Australia.⁴²
31. Australia’s AML/CTF framework was described in detail in the Bergin Report.⁴³ The key features of that framework relevant to this Review are noted below and draw upon Commissioner Bergin SC’s analysis.

Reporting entities and designated services

32. Under the *AML/CTF Act*, The Star is a “reporting entity” as it provides designated services to customers.⁴⁴
33. The definition of “designated services” in section 6 of the *AML/CTF Act* proceeds through two stages.⁴⁵ At the first stage, a service provided must fall within one of four tables contained in section 6 of the *AML/CTF Act*, and what the tables say about the customer to whom the service is provided. These categories include financial services, bullion, gambling and digital currency exchange sectors.⁴⁶
34. Table 1 and Table 3 to section 6 are presently relevant. Table 1 relates to “financial services” and itemises 54 designated services and specifies who the customer is in relation to the provision of each of these services. Table 3 relates to “gambling services” and itemises 14 designated services and specifies who the customer is in relation to the provision of each of these services.
35. The Star provides the following Table 3 designated services:⁴⁷
- (a) Item 6 – Accepting the entry of a person into a game;
 - (b) Items 7 and 8 – Exchanging money for gaming chips or tokens/gaming chips or tokens for money, where the service is provided in the course of carrying on a business;
 - (c) Item 9 – Paying out winnings, or awarding a prize, in respect of a game;
 - (d) Item 11 – In the capacity of account provider, opening an account;
 - (e) Item 12 – In respect to Item 11, allowing a person to become a signatory to the account;
 - (f) Item 13 – In the capacity of account provider for an account, allowing a transaction to be conducted in relation to the account; and

- (g) Item 14 – Exchanging one currency (whether Australian or not) for another (whether Australian or not).
36. The Star also provides the following Table 1 designated services:⁴⁸
- (a) Item 32 – In the capacity of a non-financier carrying on a business of giving effect to remittance arrangements, making money or property available, or arranging for it to be made available, to an ultimate transferee entity as a result of a transfer under a designated remittance arrangement; and
 - (b) Item 47 – Providing a safe deposit box, or similar facility.
37. At the second stage of the definition of “designated services”, it is necessary to determine whether the “geographical link” test is satisfied which raises a question about whether the service is provided at or through a “permanent establishment”.⁴⁹ The Star satisfies the geographical link test. It is not necessary to explore the definition in further detail.
38. The *AML/CTF Act* promotes a risk-based framework where reporting entities are required to accurately identify and then appropriately manage money laundering and counter-terrorism financing risk. To do this, the *AML/CTF Act* imposes upon reporting entities various reporting obligations as well as a number of customer identification and due diligence requirements. To this end, reporting entities are required to develop and comply with “AML/CTF programs” that are designed to identify, mitigate and manage money laundering and terrorist financing risks.⁵⁰

Reporting obligations

39. A reporting entity is obliged to report various matters to AUSTRAC. These reporting obligations are set out in Part 3 of the *AML/CTF Act* and include obligations to report:
- (a) suspicious matters, where the reporting entity suspects on reasonable grounds that the person is not who they claim to be or if there is a suspicion of money laundering (amongst other things);⁵¹
 - (b) threshold transactions, being \$10,000 or more of physical currency;⁵²
 - (c) IFTIs, which are instructions to transfer money or property to either Australia from another country or another country from Australia;⁵³ and

- (d) anti-money laundering and counter-terrorism financing compliance reports, which are typically reported to AUSTRAC on an annual basis, although AUSTRAC can, and has, waived this requirement on occasion.⁵⁴
40. Section 42(4) of the *AML/CTF Act* makes it an offence to fail to submit a suspicious matter report to the AUSTRAC CEO where the obligation arises.⁵⁵
41. Section 123 of the *AML/CTF Act* provides that if a suspicious matter reporting obligation arises or has arisen and the reporting entity has reported to the CEO of AUSTRAC under section 41(2), the reporting entity must not disclose that information to others. This is commonly referred to as the “tipping off” offence.

AML/CTF Program

42. Where a reporting entity proposes to offer designated services, section 81 of the *AML/CTF Act* requires that entity to establish an AML/CTF Program to show how it proposes to address money laundering and terrorism financing risks. The AML/CTF Program must be relevant to the size and nature of each business, the designated services it offers to its customers and its money laundering and terrorism financing risk profile.
43. There are two types of AML/CTF Programs. First, there are “standard” compliance programs, which apply to a particular reporting entity.⁵⁶ Secondly, there are “joint” compliance programs, which apply to each reporting entity that from time to time belongs to a particular “designated business group”.⁵⁷ The requirements of both types of program are broadly similar.
44. AML/CTF Programs are comprised of a Part A and a Part B.⁵⁸ The primary purpose of Part A is to identify, mitigate and manage the risk that a reporting entity may “reasonably face” in providing designated services at or through a permanent establishment in Australia (inadvertently or otherwise) concerning money laundering and terrorism financing.⁵⁹ Part A outlines the reporting entity’s identification of its money laundering and terrorism financing risks, and directs how its resources are to be applied to manage and mitigate those risks.⁶⁰
45. Under the *AML/CTF Rules*, Part A of an AML/CTF Program must be the subject of regular independent review.⁶¹ The purpose of the review is to assess the effectiveness of the Part A program having regard to the money laundering and terrorism financing risk of the reporting entity. The review is also to assess whether the Part A program complies with

the *AML/CTF Rules*; has been effectively implemented; and is being complied with by the reporting entity. The *AML/CTF Rules* require that the results of the review, including the report, must be provided to senior management and, where applicable, the governing board.⁶²

46. Part B of the *AML/CTF Program* has the purpose of setting out customer identification procedures. It sets out how reporting entities will identify and verify their customers and beneficial owners, including politically exposed persons (**PEPs**). Part B must include the processes and procedures for KYC.
47. The *AML/CTF Rules* impose KYC information obligations in relation to identifying a customer's name, occupation, business activities, income, assets, source of funds and the nature of the customer's business with the reporting entity with respect to specific transactions or the expected nature, behaviour or level of transaction.⁶³ Sections 27 to 39 of the *AML/CTF Act* determine the requirements for the verification of customers of reporting entities, and include discrepancy reporting obligations to determine whether the customer is the person that he or she claims to be.⁶⁴

Customer identification and due diligence

48. Part 2 of the *AML/CTF Act* requires a reporting entity to carry out a procedure to identify a new customer before providing a designated service.
49. However, the *AML/CTF Rules* modify the customer identification requirements for casinos. The *AML/CTF Rules* provide that customers of casino services will not need to be identified unless they:⁶⁵
 - (a) purchase or redeem gaming chips of an amount of \$10,000 or more;
 - (b) make a bet of \$10,000 or more or receive winnings of \$10,000 or more;
 - (c) are paid out winnings of \$10,000 or more in respect of a game played on a gaming machine;
 - (d) open an account with the casino;
 - (e) exchange currency at the casino; or
 - (f) receive from casinos a designated service that is covered in Table 1 of section 6.
50. The *AML/CTF Rules* also provide that customers may also need to be identified in other circumstances, such as where a suspicious matter arises,⁶⁶ or where it becomes necessary

for other customer due diligence purposes.⁶⁷ The customer identification procedures and ongoing customer due diligence requirements must be set out by a reporting entity in Part B of its AML/CTF Program.⁶⁸

Enhanced customer due diligence

51. A reporting entity must include an ECDD program in Part A of its AML/CTF Program.⁶⁹
52. Chapter 15 of the *AML/CTF Rules* provides that a reporting entity must apply its ECDD program when:
 - (a) it determines under its risk-based systems and controls that the money laundering or criminal financing risk is high;⁷⁰
 - (b) a designated service is being provided to a customer who is or who has a beneficial owner who is a foreign PEP;⁷¹
 - (c) a suspicion has arisen for the purposes of section 41 of the *AML/CTF Act*;⁷² or
 - (d) the reporting entity is entering or proposing to enter into a transaction and a party to the transaction is physically present in, or is a corporation incorporated in, a prescribed foreign country.⁷³
53. The ECDD program must include appropriate risk-based controls so that where one or more enhanced customer due diligence triggering circumstances arises,⁷⁴ a reporting entity adopts certain measures, including clarifying or updating KYC information;⁷⁵ the source of the customer's wealth;⁷⁶ the customer's ongoing business with the reporting entity;⁷⁷ or seeking senior management approval for continuing a business relationship with a customer.⁷⁸

Transaction Monitoring System

54. A reporting entity must include a transaction monitoring program in Part A of its AML/CTF Program.⁷⁹ The transaction monitoring program must include appropriate risk-based systems and controls to monitor the transactions of customers, with the purpose of identifying any transaction that appears to be suspicious.⁸⁰ The *AML/CTF Rules* provide that the transaction monitoring program should have regard to “complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose”.⁸¹

Ongoing customer due diligence

55. Division 6 of Part 2 of the *AML/CTF Act* deals with ongoing customer due diligence. Subsection 36(1) provides that a reporting entity must monitor its customers in relation to the provision of its designated services, and specifically, to identify, mitigate and manage the risk of money laundering. Section 36(1)(b) of the *AML/CTF Act* requires that the monitoring be in accordance with the *AML/CTF Rules*. In turn, the *AML/CTF Rules* require that a reporting entity include in Part A of its AML/CTF Program appropriate risk-based systems and controls. This is to enable a reporting entity to determine in what circumstances further KYC information or beneficial owner information should be collected or verified to enable the review and update of KYC information and beneficial owner information for ongoing customer due diligence purposes.⁸²

AML/CTF Compliance Officer

56. Part A of an AML/CTF Program must provide for the reporting entity to designate a person at management level as the “AML/CTF Compliance Officer”.⁸³ It is generally expected that the AML/CTF Compliance Officer will:

- (a) regularly report to the Board and senior management about how the business is meeting its obligations under the *AML/CTF Act* and alerting them if it is not;
- (b) help create, implement and maintain internal policies, procedures and systems for AML/CTF compliance; and
- (c) take day-to-day responsibility for the AML/CTF Program.

57. Whilst the AML/CTF Compliance Officer may have other duties within the reporting entity,⁸⁴ it is generally expected that they will have a measure of independence from the business.

Culture of compliance

58. As noted in the Bergin Report, a positive culture of compliance and proactivity is “absolutely fundamental” in respect of both ensuring an effective AML/CTF regime and in managing the tension between revenue pressure and the requirement for compliance with regulatory regimes.⁸⁵

59. Persons with large amounts of disposable cash are attractive customers in casinos, which makes it imperative that the casinos have not only integrity, but a commitment to preventing crime, including money laundering. As noted in the Bergin Report, FATF had observed:⁸⁶

Importantly commercial reward systems often provide bonuses or remuneration for “middle management” based on revenue-based performance criteria. These may not take into account the protection of the primary asset (the casino licence) and unless an appropriate management culture is in place within the operator these may work against maintaining a crime-free environment.

60. As discussed in later Chapters of this report, evidence emerged during this Review that certain practices at The Star exposed it to real and substantial risks of money laundering. When Dr Pitkin was asked for her reflections on what had gone wrong, she identified that certain members of senior management had an indifference to legal and ethical standards. She continued:⁸⁷

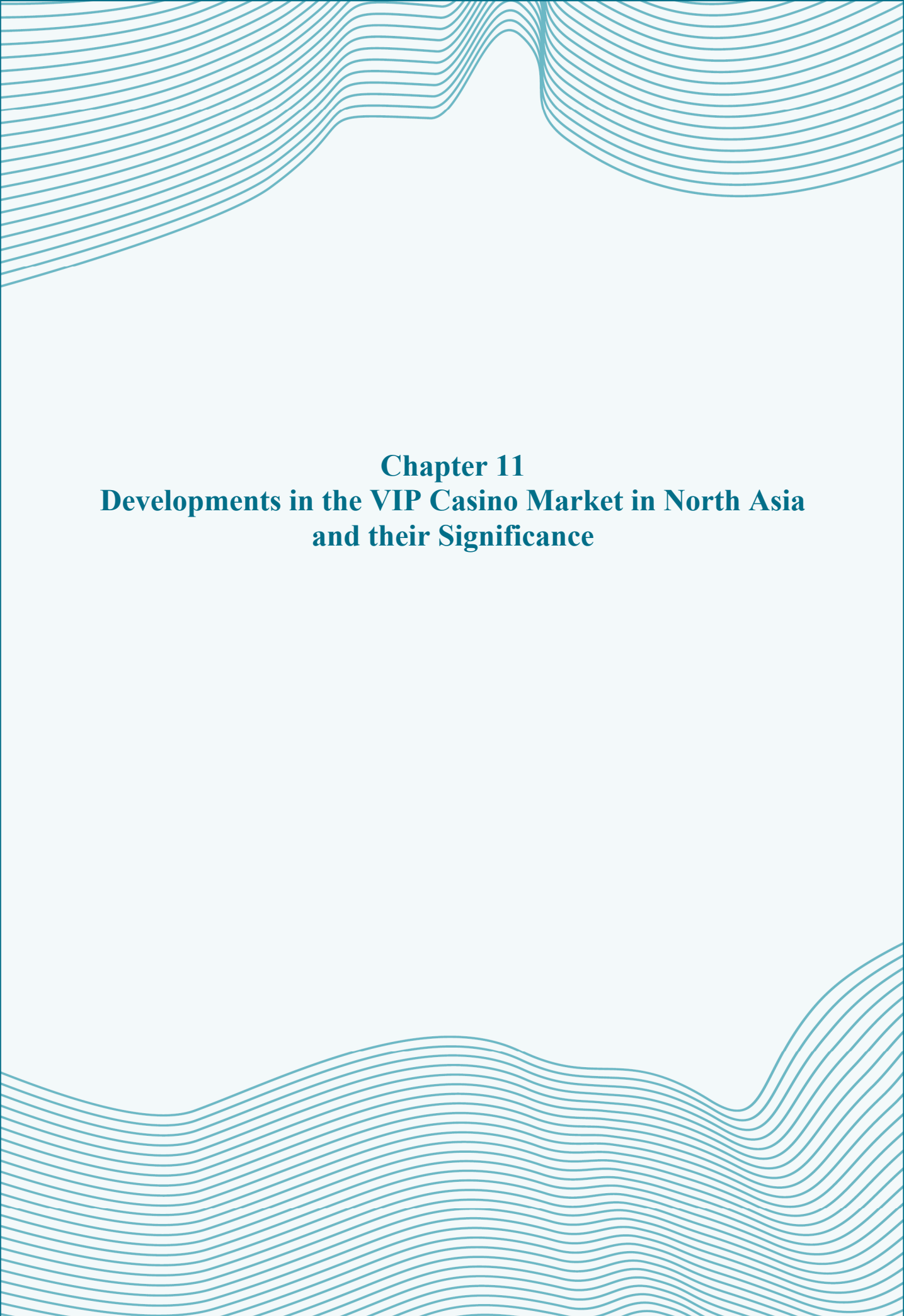
I think that that indifference has come about because of a failure to understand the harm that comes from money laundering. And I think the organisation, culturally, must understand the harm that comes from money laundering. And I've thought about how the organisation might do that. And I think that everyone in the organisation, from the board all the way through, needs to hear the stories of the harm that comes from money laundering. Those stories will be very difficult to hear, very uncomfortable, but they need to hear those stories. And we know that storytelling is a very powerful way of bringing about that cultural change.

Endnotes

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- 18 *Ibid*.
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- 20 INQ.070.011.0001 at .0056 -.0057.
- 21 **Exhibit B-2** (INQ.016.001.0192 at 0305).
- 22 *Ibid*.
- 23 **Exhibit M-36**, para 9 (INQ.028.001.1361 at .1544).
- 24 **Exhibit M-36**, para 11 (INQ.028.001.1361 at .1544).

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- 26 Ibid at .0136.
- 27 **Exhibit B-146** (INQ.016.001.0050 at .0132).
- 28 INQ.013.001.0001 at .0005.
- 29 Ibid at .0006.
- 30 **Exhibit B-2791** (INQ.017.001.0061 at .0135).
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- 32 INQ.013.001.0001 at .0006.
- 33 **Exhibit M-36**, para 117-118 (INQ.028.001.1361 at .1473).
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- 36 **Exhibit B-2791** (INQ.017.001.0061 at .0117 - .0121).
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- 65 Explanatory statement on Gambling Sector – Chapter 10, Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1).
- 66 *AML/CTF Rules* pt 10.1.7.
- 67 *Ibid* pt 10.2.5.
- 68 **Exhibit B-2791** (INQ.017.001.0061 at .0124).
- 69 *AML/CTF Rules*, pt 15.8.
- 70 *Ibid* pt 15.9(1).
- 71 *Ibid* pt 15.9(2).
- 72 *Ibid* pt 15.9(3).
- 73 *Ibid* pt 15.9(4).
- 74 *Ibid* pt 15.10.
- 75 *Ibid* pt 15.10(1)(a).
- 76 *Ibid* pt 15.10(1)(c)(i).
- 77 *Ibid* pt 15.10(1)(d).
- 78 *Ibid* pt 15.10(6)(a).
- 79 *Ibid* pt 15.4.
- 80 *AML/CTF Act* s 41; *AML/CTF Rules* pt 15.6.
- 81 *Ibid* pt 15.7.
- 82 *Ibid* pt 15.2.
- 83 *Ibid* r 8.5.1.
- 84 *Ibid* pt 8.5.1.
- 85 **Exhibit B-2791** (INQ.017.001.0061 at .0133).
- 86 **Exhibit B-2791** (INQ.017.001.0061 at .0133).
- 87 Pitkin: Day 33, T3638.44 - T3639.9.



Chapter 11
Developments in the VIP Casino Market in North Asia
and their Significance

Chapter 11. Developments in the VIP Casino Market in North Asia and their Significance

1. This Chapter considers developments in the global VIP casino market, particularly focusing on developments in North Asia and the implications of those developments for Star Entertainment. As Star Entertainment competed for a share of the global VIP casino market it became more dependent on relationships with junkets, many of which were based in Macau. The Board was alerted to the effects that the Chinese corruption crackdown was having on this market, as well as to the money laundering risks to which Chinese restrictions on capital flight gave rise. The Board increasingly became aware of patron reluctance to have their bank accounts associated with casinos.

Chapter 11.1 The rise of the VIP casino market in Macau

2. Macau has long been a global centre for gaming and a magnet for VIP patrons. VIP patrons are those who make very large bets, and are thereby distinguished from mass market patrons. Many VIP patrons come from mainland China. Casinos make special offers and facilities available to VIP patrons, such as exclusive gaming salons, free accommodation and other luxury services.
3. In tandem with policy developments in mainland China, including increased outbound tourism, in the period 2009 to 2011, there was a boom in the VIP casino market in Macau.¹ This boom was facilitated by a break-up of the casino monopoly in Macau once it returned to the control of mainland Chinese government, and the entry of large integrated resort style casinos in the 2000s.
4. Junkets have long been an important part of the casino industry in Macau, and often controlled and operated the VIP gaming salons in various casinos.
5. Commissioner Bergin explained in the Bergin Report (footnotes omitted):²

There is a strong relationship between VIP patrons from Mainland China and Junkets. In Australia, as in Macau, casino operators are heavily dependent on Junkets for the continued success of the VIP market segment of their revenues. This is for a number of reasons. First, there are legal restrictions on the promotion of gambling in Mainland China. One of the important functions fulfilled by Junkets is therefore to attract VIP players in Mainland China to overseas casino destinations. Secondly, in places like Australia and Macau, Junkets also play an important role in providing credit to Junket participants and making funds and chips available to them. Macau

Junkets have been described as operating like “mini-banks”. Thirdly, in Australia and also in Macau, Junkets are responsible to the casinos for the debts of their participants and they therefore assume the risk of non-payment and the role of enforcing debts. While the commissions made by Junkets cut into the profits of casino operators, the quid pro quo is that the casino operators assume less risk.

6. In Macau, VIP gaming revenue peaked in 2013.³ The effects of this boom were felt in Australia, as Crown Resorts and Star Entertainment aggressively competed to increase their share of the global VIP casino market.

Chapter 11.2 The rise in VIP revenues at Star Entertainment and the increasing importance of junkets

7. The rise of the global VIP casino market followed by the Chinese Government corruption crackdown had important implications for VIP gaming in Australia. Star Entertainment and Crown Resorts worked hard to attract VIP patrons and forged relationships with a number of key junkets, many of which were based in Macau.
8. Junkets had an inconsistent start at The Star. They first emerged in December 1998 when Star City (as it then was) commenced internal commission-based play operations. This followed from the approval by the NSW Government in October 1998 of a separate flat 10% tax rate for gaming revenue derived from Star City’s proposed net international junket/premium player commission programs.⁴
9. Following adverse criticism of junkets by Mr McClellan QC in the periodic suitability review in 2000, Star City suspended its junket operations. They did not resume until 1 January 2006.⁵
10. When Junket arrangements commenced again at The Star, the number of operators with whom The Star dealt increased steadily. The Horton Report was the first periodic report to give any real attention to Junkets.
11. Dr Horton QC observed that over the previous five years (from November 2016), The Star’s share of the Australian junket market, based on turnover, had grown from 28% to 43%.⁶ He said:⁷

Junkets present a risk to the integrity of the Casino, by virtue of the very large amounts of money involved, the potential illicit sources of those funds, and issues relating to junket promoters and the nature of their business. They also represent an important, and growing, part of the Casino’s business, and are one means by which international visitors, and business, is attracted.

12. The number of junkets with which The Star dealt continued to grow steadily from this time until COVID 19 put a stop to international travel in early 2020. However, even before COVID 19, Star Entertainment was looking to de-leverage from junkets and focus more attention on developing the premium mass segment of the VIP market. One reason for this was the challenges presented by China’s macro-economic conditions and policies.⁸
13. By and large, junkets drove revenue in the international VIP segment of The Star’s business. As demonstrated by the table below, which is based on figures in the financial statements in Star Entertainment’s annual reports, The Star’s VIP revenue grew steadily from 2013 to 2018 and then declined from 2019, in line with a softening of VIP revenue in Macau.⁹

	VIP Revenue \$m	Domestic Revenue \$m	Total Revenue \$m	VIP as % of total gaming revenue
2013	362.0	841.1	1,203.1	30.0%
2014	388.6	888.7	1,277.3	30.4%
2015	517.9	1,023.2	1,541.1	33.6%
2016	555.1	1,101.7	1,656.8	33.5%
2017	547.9	1,137.9	1,685.8	32.5%
2018	571.4	1,165.3	1,736.7	32.9%
2019	364.5	1,203.3	1,567.8	23.3%
2020	261.6	907.9	1,169.5	22.4%
2012	8.5	819.7	828.2	1.0%

Chapter 11.3 Chinese capital flight restrictions

14. Both before and during the Relevant Period there have been tight restrictions on capital flow from mainland China. These restrictions were well-known within Star Entertainment management. They were one of the reasons why the CUP card process was introduced.¹⁰ On 16 January 2017, Mr Oliver White emailed a number of his colleagues including Mr Chad Barton, Mr Harry Theodore and Ms Paula Martin attaching two newspaper articles referring to a further tightening of currency controls in China.¹¹
15. In China, individuals are restricted to exchanging the equivalent of US\$50,000 in foreign currency each year.¹² By 2016, the Chinese government started tightening currency controls further.¹³ In September 2016, it introduced restrictions on cash withdrawals from foreign ATMS, limiting individuals to withdrawing 100,000 yuan (around AU\$22,000) in foreign currency at ATMS using CUP cards.¹⁴

16. Further, since July 2017, financial institutions, including banks, have been required to report certain high-value transactions including cash transactions (including foreign exchange trading) exceeding RMB50,000 or US\$10,000 per day and large-scale remittances (the daily benchmark is set at RMB 200,000 or US\$10,000 for overseas transfers from personal accounts and RMB 500,000 or US\$100,000 for domestic transfers from personal accounts). The measures have been introduced to combat money laundering and terrorism financing.¹⁵
17. The restrictions on capital flow made it difficult for VIP patrons from China to move their money out of China. As has been widely reported, underground channels in Macau and Hong Kong are available to get money out of the country.¹⁶ Underground banking involves the transfer of the value of currency without necessarily physically relocating it.¹⁷ As identified in an Australian Institute of Criminology paper in 2005, it is “the potential for money laundering activities which has heightened the importance of underground banking”. The paper noted:¹⁸

The Financial Action Task Force on Money Laundering (FATF) has long maintained that underground banking systems are important conduits for laundering proceeds of crime.

Chapter 11.4 The corruption crackdown in China

18. The Macau VIP casino landscape started to change from late 2012 as the mainland Chinese Government’s crackdown on corruption spearheaded by President Xi Jinping targeted illicit gaming in mainland China. The Macau government also began more tightly regulating gaming, and junket activity in particular. This motivated VIP patrons to travel to new markets, including Australia as well as the Philippines, Vietnam, Laos and South Korea.
19. As Commissioner Bergin explained (footnotes omitted):¹⁹

The gaming sector became a key focus of the Chinese corruption crackdown. In December 2014 President Xi Jinping visited Macau to highlight the far reach of his anti-corruption campaign and urged its government to diversify its economy to reduce dependence on casino revenue. Thereafter, the Macau government implemented a number of measures to improve regulation in the gaming industry including the introduction of a new anti-money laundering law and a tightening of Junket regulation. Macau tightened anti-money laundering regulation in 2016 and 2017 by requiring casino operators and gaming promoters (Junkets) to identify, report and prevent money laundering in their casinos.

...

When Macau's gaming revenue peaked in 2013 Junket operators accounted for around 70 per cent of that revenue. In other words, VIP patrons (mainly from

Mainland China) betting through Junkets were worth \$USD 31.5 billion to casinos in Macau.

However, the Chinese government's crackdown on corruption did not put an end to the habits of VIP patrons from Mainland China. Rather, it pushed those patrons elsewhere. VIP patrons from Mainland China looked for casino experiences in locations beyond Macau.

20. In other words, the corruption crackdown was an opportunity for Star Entertainment to increase its share of the global VIP casino market. At the same time, however, the currency restrictions and corruption crackdown introduced more integrity risks into this business segment.
21. The Chinese Government termed its 2015 crackdown on currency flight in the gaming sector "Operation Chain Break". Its aim was to cut the illicit flow of funds to offshore casinos.²⁰
22. Mr Bekier told the Review that he was aware of "Operation Chain Break" in 2015.²¹ He said he was aware that "it was getting more difficult for Chinese guests to take money out of China" and that "a number of banks were pulling out of servicing casinos, and that certainly made it more difficult".²² Mr Bekier also accepted that the tightening controls had a direct implication for The Star as it became more difficult for certain patrons to move their money to The Star.²³
23. The risks of the IRB were well-illustrated by the arrest of 19 Crown Resorts employees in mainland China in October 2016. The Star Entertainment Board received a number of briefings on the arrests, and Star Entertainment adjusted its marketing processes as a result.²⁴ The Board determined not to resume direct marketing activities in mainland China.²⁵ No doubt it was the China arrests that at least in part prompted the series of IRB briefings the Board received in 2017.

Chapter 11.5 Board briefings on Junkets and tightening regulation in Macau

24. During the Relevant Period, the Board was regularly briefed on the IRB, the significance of junkets to Star Entertainment's overall revenues and to developments in the VIP casino market in North Asia more generally. Mr O'Neill agreed in evidence that it was important for Star Entertainment to understand movements and developments in the Macau VIP casino market.²⁶

25. A board paper entitled “International VIP Business Review – Strategy Discussion” prepared by Mr Bekier and Mr Chong was tabled at the 25 May 2017 Board meeting.²⁷

Under the hearing “Recent Developments” the paper noted:²⁸

- ‘Operation Chain Break’, a campaign to stop the flow of money and connections between high-stakes gamblers on the mainland and casinos (including Macau) was launched in mid 2015
- Two South Korean gaming companies subsequently had 13 of their nationals detained but these employees have since been released
- In October 2016, 18 Crown employees were detained on suspicion of ‘gambling-related crimes’ following overnight raids across China. 15 of these remain detained without charge
- In March 2017 China's Public Security Minister (Guo Shengkun) vowed to investigate and ‘severely punish’ people or companies involved in organising Chinese tourists to visit overseas casinos
- Guo Shengkun also stated that the Public Security Ministry remained committed to Operation Chain Break
- Macau recovery underway
- 13% year on year growth (Q1-17), 16% growth in April 2017
- Expectation for the rest of the year positive (15% - 20% growth for CY2017, moderating in the longer term)
- New junkets emerging, former junkets re-emerging (e.g. David)
- Some high profile players re-emerging
- Upside tempered by continued concerns about junket liquidity

26. It was identified that “[d]ue to recent changes in Macau’s Anti Money Laundering (AML) legislation and increased regulations, banks are increasing their compliance activity”.²⁹

27. It was explained that junkets constituted around 75.7% of Star Entertainment’s IRB, and that junkets were dominated by 10 “majors”.³⁰ According to this paper an option under review was building partnerships with major junkets, including establishing a fixed room.³¹

28. A board paper from Mr Bekier and Mr Chong entitled “IRB Strategy Update” was tabled at the 27 September 2017 Board meeting. The Board was told that over the next five years, management planned to:³²

- Refocus the activities of the North Asia team on selling to and through junkets only. This will require a greater presence of team members in Hong Kong and Macau;

- Establish and re-activate a range of entities that facilitate and support the increased focus on junket interactions and the travel needs of our target customers

29. The paper noted:³³

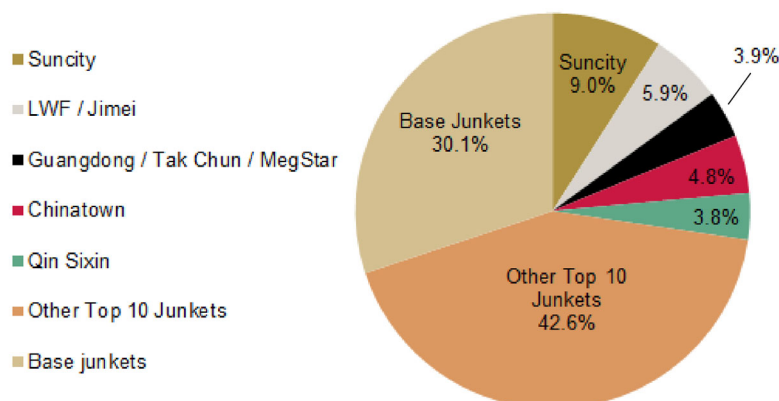
Over the last four years, IRB has delivered EBITDA of \$234.1 million in aggregate (\$244.9 million normalised). Over the period, this represents 12% of group earnings.

30. The paper then identified that the North Asia segment represented 74.65 of IRB revenues.³⁴ It was then explained:³⁵

turnover from Suncity increased from \$918 million in FY16 to \$2.1 billion in FY17 (136%uplift) with the group becoming The Star’s largest customer (9% of North Asia junket volumes).

In FY18, Management are focused on strengthening relationships with all major junkets (Guangdong, Tak Chun, MegStar) who accounted for 3.9% of FY17 volumes.

31. The following pie chart was then included:



32. Later, the paper stated:³⁶

Large junkets – build key account relationships with the major brands

- SunCity, Tak Chun, Guangdong & Meg Star
- B2B sales approach, selling to the trades
- Imbedded with the junkets: helping the junkets to sell
- Develop and promote bespoke promotions and events (tennis, golf, baccarat tournaments)

33. In other words, it was clear that Star Entertainment was partnering with identified junkets and that they were responsible for driving significant revenue.

34. The paper then discussed the state of the market noting that after a Macau-led slump from 2014 to 2016, the global IRB market was recovering, and that most players continued to be sourced from China. VIP was seeing a stronger recovery than expected in Macau.³⁷ It was noted that:³⁸

The Chinese Government launched ‘Operation Chain Break’ in late 2015 which sought to stop the flow of funds into foreign casinos.

35. Under the heading “Current Issues”, the paper said:³⁹

- Chinese government focus on cracking down on gaming appears to be moderating in respect to Macau casinos, but not foreign operators
- Upcoming re-licensing of Macau casinos to create more uncertainty in respect of Chinese Government attitudes
- Global focus on AML continues to intensify, with direct and indirect implications (indirect including banks tightening their internal controls and customer risk assessments).

36. Mr O’Neill said in evidence that he understood the reference to banks tightening their internal controls to be a reference to the fact that it was becoming harder for patrons to get their money out of China.⁴⁰ Mr Sheppard agreed, and added that this created a money laundering risk because patrons might try to circumvent Chinese currency controls.⁴¹ Mr O’Neill also understood at that time that patrons were reluctant to have their paperwork indicate that money was moving into casinos.⁴²

37. The paper also identified “key issues and strategic responses” and relevantly flagged “Macau Bank Accounts - Risk that bank accounts in Macau (which are used to remit funds) may be closed or subject to enhanced due diligence”.⁴³ Mr O’Neill agreed he understood from this that it was becoming more difficult to move money out of Macau.⁴⁴

38. The Board’s attention was also drawn to risks associated with the IRB. A separate document entitled “IRB Strategy – Key Considerations Board Meeting of 26 September 2017” stated “the business carries inherent reputational risks – with potential impact on domestic licences”, and the identified implication for Star Entertainment was “[t]here is potential value in intermediation”.⁴⁵

39. The IRB continued to receive attention at the 6 December 2017 Board meeting. A paper prepared by Mr Bekier, Mr Barton and Mr Chong entitled “Cheque Cashing Facility Process” was tabled.⁴⁶ This paper outlined the different types of rebate programs on offer,

including junket commissions paid, and also provided a detailed explanation about how CCFs worked. It was stated:⁴⁷

Junkets are a safer approach to granting CCF as an operator generally needs to keep their reputation in the market to maintain a strong credit standing.

The revenue in this category is highly concentrated among a small number of large, well-understood Macau-based junkets, some of whom are publicly listed companies or parts thereof.

For these repeat junkets, a detailed risk assessment is undertaken before a relationship agreement is signed. These agreements are reviewed annually.

In addition to continuous monitoring of news flow on these operators, tracking of commission volumes and due repayments, the Collections team undertakes monthly exposure reviews on these junkets to get a sense of their aggregate exposures at other casinos.

40. The top 20 junkets for the 2017 financial year were then identified.⁴⁸ An entire section of the paper was devoted to Sixin Qin who at that time held a \$50 m CCF for the Shen Minmin junket. It was stated:⁴⁹

- QIN Sixin has historically been one of Crown Resorts major customers however much of this business has shifted to The Star over the past 6 months under the Shen Minmin junket (FY17 cash turnover of AUD\$880 million has increased to AUD\$2 billion in the FY18 YTD with no repayment issues).
- QIN Sixin also holds an equity interest in David Group (nil outstanding with The Star), a junket operation that has recently relaunched fixed rooms in both Galaxy and Wynn in Macau.
- Under the existing agreement at The Star, QIN Sixin is approved to a net exposure of AUD\$28.3 million however many high net worth customers are returning to game under QIN or David Group globally.

41. Management briefed the Board on the nature of the IRB, the key junkets, the revenues they brought to the Star Entertainment casinos and the volatilities associated with the global VIP casino market.

42. The Board was also briefed from time to time on the risks emerging within the global VIP casino market. Of course, the Board would already have been quite well aware of that in view of the arrests of 19 Crown employees in mainland China in October 2016. Mr O'Neill gave evidence that:⁵⁰

within board meetings and conversations, that - there was a genuine awareness that this was a very risky business for all the reasons you've just outlined and that all care and attention on the risk and compliance front, and particularly around AML, should be part of day-to-day business practices.

43. Mr O'Neill agreed that in view of these risks, the directors had to be particularly vigilant to ensure that risks of money laundering and criminal infiltration were guarded against in relation to the IRB.⁵¹

Endnotes

- 1 **Exhibit B-2803** (STA.3412.0004.5443 at .5474).
- 2 Ibid at .5473.
- 3 Ibid at .5475.
- 4 Ibid at .5539.
- 5 Ibid at .5540 to .5541.
- 6 **Exhibit B-146** (INQ.016.001.0050 at .0131).
- 7 Ibid at .0132.
- 8 **Exhibit B-2824** (STA.3424.0003.7483 at 7484).
- 9 **Exhibit M-52** (INQ.029.001.0001).
- 10 **Exhibit B-124** (STA.3009.0009.0058); Power: Day 18, T2014.13-22, Hawkins: Day 24, T2683.29-40.
- 11 **Exhibit B-167** (STA.3401.0003.6859).
- 12 Arnott: Day 13, T1489.14-18.
- 13 **Exhibit D-2** (INQ.014.001.0179).
- 14 **Exhibit B-168** (INQ.014.001.0127); **Exhibit D-2** (INQ.014.001.0179).
- 15 INQ.014.001.0435.
- 16 **Exhibit D-2** (INQ.014.001.0179).
- 17 **Exhibit B-4** (INQ.016.001.1237 at .1237).
- 18 Ibid at .1238.
- 19 **Exhibit B-2803** (STA.3412.0004.5443 at .5474 to .5475).
- 20 “How Crown’s plans floundered as Beijing tackled its capital outflow problems”, AFR, 16 December 2016.
- 21 Bekier: Day 27, T3035.20.
- 22 Bekier: Day 27, T3037.42 – 3038.2.
- 23 Bekier: Day 27, T3039.6-10.
- 24 **Exhibit B-250** (STA.5002.0003.1520 at .1520).
- 25 McWilliams: Day 3, T322.20 - 325.1.
- 26 O’Neill: Day 35, T3867.6-10.
- 27 **Exhibit B-367** (STA.5002.0003.3846).
- 28 Ibid at .3850.
- 29 Ibid at .3858.
- 30 Ibid at .3854.
- 31 Ibid at .3857.
- 32 Ibid at .1478.
- 33 **Exhibit B-435**, (STA.5002.0003.1476 at .1480).
- 34 Ibid at .1485.
- 35 Ibid at .1491.

- ³⁶ Ibid at .1511.
- ³⁷ Ibid at .1494 - .1496.
- ³⁸ Ibid at .1497.
- ³⁹ Ibid at .1502.
- ⁴⁰ O’Neill: Day 35, T3868.30-38.
- ⁴¹ Sheppard: Day 29, T3271.14-47.
- ⁴² O’Neill: Day 35, T3868.12-22.
- ⁴³ **Exhibit B-435** (STA.5002.0003.1476 at .1512).
- ⁴⁴ O’Neill: Day 35 T3870.7-22.
- ⁴⁵ **Exhibit B-436** (STA.5002.0003.1469 at .1469).
- ⁴⁶ **Exhibit B-442** (STA.0025.0001.0922 at .0926).
- ⁴⁷ Ibid at .0941.
- ⁴⁸ Ibid at .0942.
- ⁴⁹ Ibid at .0950.
- ⁵⁰ O’Neill: Day 35 T3873.36-40.
- ⁵¹ O’Neill: Day 35 T3874.3-6.



Chapter 12
The use of CUP cards at The Star

Chapter 12. The use of CUP cards at The Star

Chapter 12.1 Introduction

1. This Chapter describes the circumstances in which The Star and Star Entertainment permitted CUP debit cards to be used to fund gaming at The Star Casino.
2. CUP is a credit and debit card scheme operated by UnionPay International Co. Ltd (**UnionPay**). CUP cards function much the same way as Visa and Mastercard. According to a 12 March 2014 *Reuters* article:¹

UnionPay was established in 2002 by the [Peoples Bank of China] and the State Council or Cabinet. Its founding shareholders were 85 Chinese banks, led by the five biggest state-owned banks. ...

UnionPay dominates the card market in China thanks to a central bank decree that requires all card issuers, including foreign ones, to process their yuan-based transactions through UnionPay's electronic payment network.

3. Star Entertainment documents describe that, at least as of 2013, UnionPay was the only domestic bank card organisation in the People's Republic of China and operated under the approval of the PBOC.² UnionPay was the primary network of a number of domestic Chinese banks, including, for example, the China Construction Bank.³
4. From July 2013, The Star accepted payments at the Astral Hotel from patrons using CUP debit cards through a NAB supplied EFTPOS terminal.⁴ CUP credit cards were not accepted. From 1 January 2017, CUP debit cards were also accepted at the hotel associated with Jupiters Casino.⁵
5. From the outset, many staff of The Star and Star Entertainment involved in introducing the CUP payment channel were aware that the CUP card was a “convenient, low-cost way for PRC residents to get money out of China”.⁶ They were conscious of the risk that use of the cards was a means of circumventing Chinese capital flight laws.⁷
6. As is detailed below, these staff held a further concern from the outset, that utilising CUP cards for gambling was prohibited by UnionPay's rules. Accordingly, The Star and Star Entertainment adopted a process whereby a patron could swipe their CUP card at the Astral Hotel's VIP lounge terminal and the amount of funds debited would then be made available to the patron for gambling via a ledger entry to the patron's front money account (**CUP**

Process).⁸ The patron was then issued with chips or chip purchase vouchers to the value of the amount transferred. A similar, although not identical, process was adopted by Crown Resorts at Crown Melbourne from 2012 to 2016, and was the subject of the RCCOL Report, although the volume of payments was substantially lower.⁹

7. By the use of what The Star termed a “Temporary Cheque Cashing Facility” (**Temporary CCF**), funds were made available to the patron for gambling at The Star immediately upon swiping the CUP card, notwithstanding that the funds from UnionPay would not ordinarily clear in The Star’s accounts for another 24 to 48 hours.¹⁰
8. The CUP Process operated at The Star from June 2013 to March 2020 and was utilised by 1,307 patrons across 8,912 transactions.¹¹ The value of the transactions totalled \$908 million.¹²

Chapter 12.2 Genesis of the CUP Process

9. In or around 2011 or 2012, The Star accepted an offer from NAB to install Point of Sale (**POS**) terminals that would accept Visa and Mastercard credit and debit cards, as well as CUP cards.¹³ One such terminal was located in the VIP Arrival Lounge in the lobby of the Astral Hotel, which was later renamed The Star Grand Hotel.¹⁴
10. The idea of permitting patrons to use CUP cards to purchase gaming chips at The Star emerged early in 2013. On 8 February 2013, Mr Brett Houldin, then the General Manager of Group Finance, emailed colleagues including Mr Andrew Power, Mr Graeme Stevens and Mr David Aloï stating that The Star had received patron requests to use CUP cards as a way to obtain funds for gaming.¹⁵ By this time the proposal already involved swiping the CUP cards at the hotel rather than at the casino itself.
11. Mr Aloï explained in evidence that the “hotel channel” was proposed because the *Casino Control Act* did not permit debit cards to be utilised in connection with gaming at the Cage or inside the boundaries of the gaming facility.¹⁶ Mr Aloï accepted in evidence that this would be a “way of stepping around certain regulatory restrictions.”¹⁷ In this regard, section 74(3) of the *Casino Control Act* imposed a licence condition that an automatic teller machine or like device not be installed within the boundaries of the casino.
12. In an email dated 18 February 2013, Mr Houldin informed his colleagues that “the Union Pay debit card is a convenient low cost way for PRC residents get money out of China”.¹⁸ In the email, Mr Houldin assigned various follow up tasks to his colleagues, including

asking Mr Aloï to ascertain whether a bank account was required that was “not linked to the Casino”.

13. On 20 February 2013, Mr Stevens emailed Mr Power stating that the concept might breach section 74 of the *Casino Control Act* and specifically referred to section 74(1)(c).¹⁹ This subsection provided that a casino operator could not provide money or chips as part of a transaction involving a credit or debit card. (It was not until 21 December 2018 that the scope of this prohibition was reduced so as to permit junket or premium player patrons to purchase chips using debit cards).
14. On 25 February 2013, Mr Aloï sought an AML/CTF assessment, describing the process as one where the CUP cards were to be “charged at hotel reception and then internally transferred to [the front money] account of patron for IRB activity”.²⁰ The proposed location of the service was identified as “hotel reception or VIP check-in lounge”. Mr Stevens noted on the form that the legality of the process needed to be verified and that legal advice was being sought.
15. The evident financial advantage to The Star from the CUP transactions was to increase its level of transaction volume, that is turnover, which in turn contributed to revenue.²¹ Indeed, as on 11 September 2018, Mr Hornsby noted in an email to Mr Theodore and other colleagues:²²

We are still received [sic] very strong patronage in the CUP service with large amounts of patrons utilising this (222 last month). The volume amounts are consistent [sic] totalling in the AUD10-20m per month range, mainly given our daily swipe at 100k x 5 (500k).

Chapter 12.3 The Star’s initial dealings with NAB

Discussions with Mr Haberley

16. In 2013, Mr Aloï had discussions about using CUP cards at The Star with Mr Andrew Haberley, an assistant account manager at NAB who had a role in managing the Star Entertainment relationship.²³ Mr Aloï told the Review that, after his initial discussions with Mr Haberley, Mr Haberley reverted to him with more information about CUP, after which the two had a telephone call.²⁴ Mr Aloï said the telephone call:²⁵

was about what the intention of the business was with CUP, and he was going to follow up further with both NAB and CUP directly. At that time, in February, he forwarded the - more detail about China UnionPay and I gave him some scenarios of what our intention was, and the intention was to transact at the hotel and then move money across to the front money/playing accounts of the guest.

17. Mr Aloï accepted that his initial discussion with Mr Haberley did not address the question of whether UnionPay prohibited CUP cards from being used to purchase gaming chips.²⁶ Mr Aloï said that based on his own reading of UnionPay’s rules at the time, he believed that the “CUP card could not be used to purchase gaming chips”.²⁷
18. On 13 March 2013, Mr Haberley commenced an email exchange with Mr Aloï.²⁸ Mr Aloï stated that this email followed from a request from The Star’s Legal Team to obtain from NAB a copy of its Merchant Agreement.²⁹ This was provided to Mr Stevens who forwarded it to the Legal Team.³⁰ Mr Haberley stated in his 13 March 2013 email:³¹

Further to our phone conversation I have spoken with our merchant team and also China Union Pay.

CUP (and the issuers) only go by the Merchant Category Code and in this case if the MCC is membership account or something similar it will be approved (if all other checks pass). Once in the internal Star account how this is used can’t be controlled by UnionPay or the issuers. So I expect that the transactions will be approved by the issuer and also not blocked by UnionPay.

David - Can you advise the process in which "The Star" is going to follow? I note you mentioned that they will make the purchase at the hotel, but what purchase?

19. Mr Aloï responded:³²

Thanks for that.

The purchase would be the hotel package: ie. room cost 1K and they swipe 50K. We then transfer 49K to their account. That would be the scenario.

Could that be done you think?

20. Mr Haberley responded on 19 March 2013:³³

In regards to the below I have done some digging around attained [sic] the following -

There is no Transaction Limit assigned by UnionPay but NAB have a Terminal Limit of \$999,999.99. In regards to your request below around withdrawing the funds from the customers cards as they transact at the Hotel, UnionPay advised me this is fine as long as the MCC (merchant category code) is not restricted or subject to transaction limits which in this case it should not be based on the below document (pg 114).

You will need to keep in mind that the transaction will not be completed and posted for 24 hours. Once the funds hit the account after 24 hours, you can disperse them accordingly to the casino's operating/playing accounts.

21. Mr Haberley’s reference to page 114 of a document was a reference to Volume II Business Rules of the UnionPay International Operating Regulations of October 2012 (**UnionPay Scheme Rules**) attached to the email. While Mr Haberley referred to page 114 of Volume

II of the UnionPay Scheme Rules, it appears that he intended to refer to page 115, since that page referred to Merchant Category Code (MCC) 7011, which was for a merchant conducting the principal business activity of “Lodging – hotels, motels and resorts”. The significance of MCCs is explained below.

22. Mr Aloï said that in April 2013 he was assigned to locate a terminal that would accept CUP cards with an MCC which was not prohibited by the UnionPay Scheme Rules.³⁴ That same month, The Star re-approached Mr Haberley to confirm what MCCs had been assigned to the various terminals at The Star.³⁵ It was then confirmed that the terminal at the Astral VIP Lounge had an MCC of 7011.³⁶
23. It was submitted by The Star Entities that the above exchanges with Mr Haberley at the NAB demonstrate that at least initially there was some understanding within NAB about the nature of the transactions that The Star proposed to undertake using CUP cards.³⁷
24. Mr Aloï plainly had discussions with Mr Haberley in February 2013 about the use of the CUP cards in conjunction with gambling. This is evidenced at least by Mr Haberley’s reference to dispersing to the “casino’s operating/playing accounts” in his 19 March 2013 email set out above. It can be inferred, therefore, that in 2013 Mr Haberley had some knowledge of The Star’s proposed use of the CUP cards, including the proposed interposition of the hotel in the transaction. Beyond that broad inference, no finding is or should be made about Mr Haberley’s knowledge. Mr Haberley was not called to give evidence to the Review.

Chapter 12.4 The issue of NAB’s knowledge

25. Moreover, it is not appropriate for the Review to make any findings about the knowledge of NAB as a corporation in relation to the use of CUP cards at The Star at any time in the period of their use between 2013 and 2020. First, it is not appropriate because this is a review of the suitability of The Star to continue to hold a casino licence. It is not a review of NAB. It would not be fair or reasonable in the current context to make findings about the knowledge of NAB. Any contested issue concerning the knowledge of NAB should be determined in curial proceedings.
26. Secondly, the question of NAB’s knowledge is irrelevant or at best barely relevant to an assessment of The Star’s suitability. Even the question of The Star’s perception from time to time of NAB’s knowledge has only at best marginal relevance to the issue of suitability and could not justify or excuse false and misleading communications to NAB at any time.

27. Thirdly, to the extent that it might be relevant, it is not feasible for the Review to make findings on the range of facts internal to NAB which should be required to make a decision on the knowledge of NAB on this issue at any time in the period between 2013 and 2020.
28. Because of particular allegations made by executives of Star Entertainment concerning communications with Mr Bowen and Ms Arthur, who were officers of NAB at certain times between 2013 and 2020, it has been necessary to investigate and make findings about their individual knowledge of the CUP Process. However, those findings are not findings about the knowledge of NAB as a corporation at any relevant time.

Chapter 12.5 UnionPay Scheme Rules

The Star Entities' change of position

29. It is convenient now to consider the UnionPay Scheme Rules. The document produced to the Review is marked as "Volume II" and is described as "Business Rules". It indicates that seven volumes comprise the UnionPay Scheme Rules. None of the other six volumes were produced.
30. By at least March 2013, various employees of Star Entertainment possessed a copy of Volume II of the UnionPay Scheme Rules.³⁸
31. In a letter to the Solicitors Assisting the Review dated 8 November 2021, The Star Entities' solicitors said the "use of CUP cards in conjunction with gambling ... was not allowed under the scheme rules to which NAB subscribed".³⁹ This was consistent with a 12 September 2021 board paper prepared by law firm HWL Ebsworth (HWLE) which concluded that the CUP Process breached the UnionPay Scheme Rules.⁴⁰
32. However, The Star Entities changed their position by the time of the public hearings and submitted in closing address that the UnionPay Scheme Rules did not prohibit the use of CUP cards to purchase gaming chips outside of mainland China.⁴¹

Terminology and operative provisions

33. The UnionPay Scheme Rules contained the rules governing participation in the UnionPay network.⁴² Terms used were defined in Appendix D of Volume II of the UnionPay Scheme Rules.⁴³ A "**Member**" was defined as a bank or financial institution which was approved by the Board of Directors of UnionPay to engage in one of more of UnionPay Card Programs. An "**Acquirer**" was a bank or other institution which engaged in the business

of acquiring CUP cards. For example, NAB was an “Acquirer”. An “**Issuer**” was a UnionPay Member which engaged in the business of issuing CUP cards. For example, the China Construction Bank in mainland China issued CUP cards. The word “merchant” was not defined, but from context meant the business supplied with terminals by an Acquirer.

34. Chapter 1 of Volume II of the UnionPay Scheme Rules applied to all UnionPay Members participating in issuing CUP cards, and specified the rules for issuing.⁴⁴ In other words, it applied to the Issuers.
35. Chapter 2 of Volume II of the UnionPay Scheme Rules set out the terms and conditions under which Acquirers (such as NAB) agreed to accept CUP cards at their terminals.⁴⁵ The terminals included Automated Teller Machines (**ATM**) and POS terminals. Chapter 2 governed how Acquirers were to deal with the merchants to which they supplied terminals capable of accepting CUP cards.
36. Under Chapter 2, Acquirers were to ensure that ATMs, POS terminals and other terminals met certain requirements, and that they themselves complied with the UnionPay Scheme Rules.⁴⁶
37. Chapter 3 of Volume II of the UnionPay Scheme Rules dealt with merchant management by Acquirers. There is nothing in the UnionPay Scheme Rules which directly bound merchants to those rules. The merchants were not parties to the contract. Rather, Chapter 3 made provision for the Acquirers to impose certain requirements on merchants and for the risk control of merchants.
38. By clause 3.2 of Volume II of the UnionPay Scheme Rules, Acquirers were responsible for merchant management.⁴⁷ Acquirers were obliged to:
 - a. enter into a Merchant Agreement with each merchant they recruited (clauses 3.3.1 and 3.3.4);⁴⁸
 - b. supervise and monitor the merchant’s use of its UnionPay facilities (clause 3.2);⁴⁹
 - c. ensure that the merchant complied with the requirements of the UnionPay Scheme Rules (clauses 3.3.3, 3.5.1 and 3.5.2);⁵⁰ and
 - d. monitor and “pay close attention” to large, suspicious and/or split transactions and assist UnionPay in risk controlling and monitoring (clause 3.5.2).⁵¹

Competing approaches to construction

39. Clause 3.3.2 of Volume II of the UnionPay Scheme Rules provided that an Acquirer was prohibited from entering a contract with a Merchant “that is prohibited by local laws and regulations or relative rules of UnionPay Regulations”.⁵² There is a question about the correct construction of this clause.
40. There were two limbs to this prohibition. First, an Acquirer could not contract with a merchant that was prohibited by local laws and regulations. Secondly, an Acquirer could not contract with a Merchant that was prohibited by the “relative rules of UnionPay Regulations”. The difficulty is that there is no definition, at least in Volume II, of the expression, “relative rules of UnionPay Regulations”.
41. The expression “relative rules” does not appear anywhere else in Volume II of the UnionPay Scheme rules. Common-sense suggests that this expression simply means the rules set out in the UnionPay Scheme Rules. On that basis, it is easy to reconcile clause 3.3.2 with the prohibition that appears in the second note at the end of the table in Appendix C of Volume II. That note provided:⁵³
- a merchant with a prohibited MCC should not be recruited by an Acquirer for the acceptance of UnionPay Cards.
42. Appendix C was entitled “Merchant Category List” and was a four column table in which the first column specified a MCC, the second column defined the principal business of a merchant with that MCC, the third column specified if the MCC was prohibited, and the fourth column indicated if there was a transaction limit.⁵⁴
43. Relevantly, the table in Appendix C specified that MCC 7995, which was the code for “Betting, including lottery tickets, casino gaming chips, off-track betting and wagers at race tracks”, was “Fully Prohibited”.⁵⁵
44. However, there are uncertainties with this interpretation. In addition to that already mentioned, there is no clause in Volume II of the UnionPay Scheme Rules which “picks up” and applies Appendix C. There is no clear statement in Volume II of the UnionPay Scheme Rules as to the precise function of Appendix C.
45. The Star Entities downplayed the prohibition in the second note following the table in Appendix C and submitted that it does not apply to merchants who are not based in

mainland China. This argument takes clause 3.3.5.2 of Volume II of the UnionPay Scheme Rules as its starting point. Clause 3.3.5.2 states (with its original formatting):

3.3.5.2 Format of Merchant ID

A Merchant ID is of 15 characters and has the following format: For Merchants inside Mainland China:

- Institution Code (3 characters) + Country/Region Code (4 characters) + MCC (4 digits) + Sequence Number (4 characters)

For directly-connected Merchants outside Mainland China

- Institution Code (3 characters) + Country/Region Code (4 characters) + Sequence Number (8 characters)
- The Institution Code is fixed at 3 characters assigned by UnionPay to institutions that become UnionPay Participants or begin UnionPay acquiring business.
- For Merchants inside Mainland China, the Country/Region Code is defined by the Acquirer. For Merchants outside Mainland China, the Country/Region Code is based on ISO 3166 Codes (Countries).
- The MCC in Merchant ID for Merchants inside Mainland China is based on

Specification on Merchant Category Code for UnionPay Merchant (March 2009), which shall be consistent with the principal business of the Merchant.

46. The Star Entities submitted that the effect of clause 3.3.5.2 is that only merchants inside mainland China were to be assigned a Merchant ID which included an MCC consistent with the merchant's principal business. The Star Entities submitted that merchants outside mainland China were not required to be allocated an MCC (and therefore have no MCC assigned as part of their Merchant ID).⁵⁶ The crux of The Star Entities' argument was that MCCs were only relevant where the merchant was based in Mainland China.⁵⁷ The prohibition in the second note to the table in Appendix C applied to merchants with a prohibited category code. However, so the argument went, a merchant outside China could not be assigned an MCC so could never have a prohibited category code.⁵⁸
47. One problem with The Star Entities' argument was that they were unable to explain the meaning of "directly-connected" in relation to merchants outside China.⁵⁹ A second problem is that certain other parts of Volume II of the UnionPay Scheme Rules proceed on the assumption that all merchants – whether they are in or outside mainland China – have MCCs (see clauses 5.2.4.1 and 5.2.4.4). Thirdly, it is difficult to understand why UnionPay would not wish to keep track of merchants outside of mainland China via MCCs.

48. Another question is whether clause 1.2.1 of Volume II of the UnionPay Scheme Rules has the effect of prohibiting CUP cards from being used to fund gambling. That rule states:

The following contents must be included in an Issuer's Cardholder Agreement:

- A UnionPay Card must not be used for any purpose prohibited by local laws applicable in the cardholder's jurisdiction.
49. There is evidence, based on legal advice obtained by The Star from HWL Ebsworth, that Chinese law imposes "administrative" sanctions (including mandatory detention and fines) for any person engaging in gambling involving a "relatively significant gambling stake".⁶⁰ Arguably, therefore, assuming that a cardholder's "jurisdiction" (a nebulous term in itself) was mainland China, the cardholder is prohibited by the issuer from engaging in gambling (at least of some type) with the use of the CUP card. However, there is insufficient evidence to reach a concluded view on this matter.
50. In any event, there is a more significant difficulty associated with attempting to make any finding about whether the UnionPay Scheme Rules prohibited CUP cards from being used for the purchase of gaming chips in light of the final position adopted by The Star Entities. Only Volume II of seven volumes of the UnionPay Scheme Rules was produced. Without being able to review the other six volumes, it is not appropriate to express concluded views about the correct construction of the UnionPay Scheme Rules. Nor is it necessary to make such findings. This is because numerous staff members of The Star Entities believed at all relevant times that the UnionPay Scheme Rules prohibited CUP cards from being used in conjunction with gambling and took the actions that they did despite holding this belief.

Belief of staff that UnionPay prohibited the use of CUP card to purchasing gaming chips

51. A number of witnesses gave evidence that they believed that UnionPay prohibited the use of CUP cards to purchase gaming chips:
- (a) Mr Stevens said that he knew in June 2013 that UnionPay prohibited the use of CUP cards to purchase gaming chips and in 2014, that there were restrictions on the use of CUP cards to purchase gaming chips;⁶¹
 - (b) Mr Aloï said that he was aware in 2013 that CUP cards could not be used to purchase gambling chips, as it was prohibited by the UnionPay Scheme Rules;⁶²
 - (c) Mr Power said that he was aware from around 2013 that the CUP Process was "achieving a purpose" that was prohibited by UnionPay;⁶³

- (d) Mr Bekier said he was aware that the UnionPay Scheme Rules prevented the CUP cards from being used to buy gaming chips from about 2015 or 2016, and that because of that the practice of using them at The Star had probably been “wrong from the beginning”;⁶⁴
 - (e) Mr Hawkins said he was aware that the CUP Process contravened the UnionPay Scheme Rules in or around 2020;⁶⁵
 - (f) Mr White said he was aware that the UnionPay Scheme Rules prohibited the use of the CUP cards to purchase gambling chips (but did not recall when he became aware of that prohibition)⁶⁶ and was mindful of the warranties and clawback provisions contained in The Star’s merchant agreement with NAB,⁶⁷ but thought at the time that the UnionPay Scheme Rules did not generally apply to The Star;⁶⁸
 - (g) Mr Theodore said that in adopting the CUP Process, The Star had taken a “pretty aggressive interpretation of the scheme rules”.⁶⁹ He understood that there was a risk that the transactions breached the UnionPay Scheme Rules.⁷⁰
 - (h) Ms Arnott gave evidence that she held concerns in 2013 that CUP cards were not supposed to be used for gaming purposes.⁷¹ She stated that she raised those concerns with Mr Power, who provided her a copy of the Merchant Agreement with NAB and stated he would be happy to discuss any concerns that she had.⁷² Ms Arnott stated that she was told by someone that the Star Entertainment Legal Team had reviewed and approved the agreement and Ms Arnott, relying on what the Legal Team had stated, did not pursue her concerns further.⁷³
52. The Star Entities accepted in closing submissions that it was open to find that The Star personnel understood from the outset that UnionPay intended to deny access to its card services for the purposes of gambling.⁷⁴
53. It is also relevant that NAB asserted in various pieces of correspondence with Star Entertainment over the years that UnionPay prohibited the use of CUP cards for gambling.⁷⁵ UnionPay also expressed this view on a number of occasions in documentation that was forwarded by NAB to Star Entertainment.⁷⁶

Chapter 12.6 Merchant Agreement with NAB

54. As noted above, on 16 June 2011, NAB issued a letter of offer to Echo Entertainment Group Limited (which was later renamed Star Entertainment) for the provision of a number of facilities to that entity and several of its subsidiaries, including Star City Holdings Limited

(the former name of the holding company of The Star), including transfer and credit banking facilities.⁷⁷ On 30 June 2011, Star Entertainment accepted a further offer from NAB to install EFTPOS terminals that would accept CUP cards across its casinos.⁷⁸

55. In accordance with the UnionPay Scheme Rules, in or around 2012, Star Entertainment, Star Entertainment Finance Limited, Jupiters Limited and Star City Holdings Limited (**Star Counterparties**) entered into a Merchant Agreement (undated) with NAB, which contained terms and conditions associated with the use of the NAB terminals (**Merchant Agreement**).⁷⁹
56. Pursuant to the Merchant Agreement, NAB required the Star Counterparties to:⁸⁰
- represent and warrant that in having and receiving the merchant services [the Star Counterparties] have not been and will not be in breach of any relevant law or any obligation owed to any person.
57. The expression “relevant law” was defined in clause 1.1 to include “any card scheme rules applicable to the confidential information, the provision of the merchant services and any other obligations to be performed under this agreement”. The expression “card scheme rules” was defined as “the rules and regulations which regulate the participants in card schemes”.⁸¹ Accordingly, the UnionPay Regulations are card scheme rules.
58. The Merchant Agreement further provided that:
- (a) the Star Counterparties indemnified NAB for all losses and liabilities associated with The Star’s breach of the Merchant Agreement, and any “wilful default, negligence, fraud, act or omission by you or any of your agents or representatives relating to this agreement”,⁸²
 - (b) the Star Counterparties were obliged to pay NAB “all fines, penalties or similar costs (however described) imposed on us under card scheme rules because of your conduct in relation to the merchant services”,⁸³ and
 - (c) NAB could terminate the agreement if in NAB’s reasonable opinion, the Star Counterparties had engaged in dishonest activity in connection with the merchant services.⁸⁴
59. The Merchant Agreement required the merchant to provide a transaction receipt which provided a “brief description of the goods or services” provided.⁸⁵ It also required that a CUP card be processed at a terminal “in the presence of the UnionPay cardholder.”⁸⁶

60. It is unnecessary to decide whether the CUP Process was in fact in breach of the UnionPay Scheme Rules, and whether this triggered any contractual liabilities arising from a breach of the NAB Merchant Agreement. At a minimum it is plain that there was a real risk that this was the case, and that this was well-known to key executives within The Star and Star Entertainment at all relevant times. The Star Entities conceded in closing submissions that it was open to find that The Star was aware of the risk of breach and courted that risk.⁸⁷

Chapter 12.7 The Star obtains legal advice in 2013

61. As already noted, in early 2013 Mr Stevens raised a concern about whether using CUP cards to purchase chips would breach section 74(1)(c) of the *Casino Control Act*. The Star sought legal advice about this from law firm, King & Wood Mallesons (**KWM**).
62. On 30 April 2013, KWM provided written advice to Mr Stevens and Ms Fiona Walmsley regarding the use of the CUP cards at The Star (**April 2013 KWM Advice**).⁸⁸ Mr Power played an integral role in obtaining the legal advice, along with Ms Walmsley.⁸⁹ The cover email of the April 2013 KWM Advice stated that it had been:⁹⁰

written in a format that should be capable of being disclosed to the Authority if you choose to waive privilege in it. For that reason this memo does not touch on whether or not NAB will be entitled to transfer the funds under the Union Pay rules. Obviously the last thing you would want is to proceed with the proposal and obtain the Authority's approval to amend the ICM, only to discover that when the transfers start to go through, Union Pay reverses them all because they are for gambling. We understand you are progressing this issue with NAB.

63. It is not necessary or appropriate to make any finding regarding KWM's propriety in approaching the matter that way. It can be said that this approach would appear to reflect The Star's desire to avoid disclosure to the Authority of its concerns that the UnionPay Scheme Rules prohibited CUP cards from being used for gambling.
64. The April 2013 KWM Advice noted that while section 74(1)(c) of the *Casino Control Act* did prohibit the purchase of chips via a debit or credit card, section 74(4) effectively made that prohibition subject to section 75. It is by no means clear that this is correct. Section 74(4) provides: "This section does not limit the operation of section 75 (Cheques and deposit accounts)". It would have been necessary to consider the precise effect of these words in their proper statutory context before reaching the conclusion reached by KWM. In any event, that was the basis upon which the April 2013 KWM Advice proceeded.
65. The April 2013 KWM Advice then considered section 75(2), which provided:

A casino operator may establish for a person 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.

66. On this basis, KWM advised that it “may” be possible for the casino to accept deposits of money into a section 75 deposit account by way of electronic funds transfer (EFT) through a transaction involving a CUP card, thereby overcoming the prohibition in section 74(1)(c).

67. The difficulty that KWM identified was that:

whether the term "money" should be interpreted broadly to refer to cash as well as money received by the casino by way of electronic funds transfer or other means (such as direct deposit, telegraphic transfers or Hexagon transfers), or whether "money" should be interpreted narrowly to refer simply to "cash" received by the casino.

68. Rather than consider this matter as a question of statutory interpretation, KWM considered how the Authority had typically treated the word “money”. KWM pointed to the fact that under The Star’s internal control 15 of ICM 3, as it then was, which had been approved by the Authority, The Star was permitted to confirm the clearance of funds received via hexagon, telegraphic transfer or direct deposit. KWM concluded that this suggested that “money” meant more than simply cash. KWM advised that for this proposal to be implemented, The Star would need the Authority’s approval to amend ICM 3 to specifically refer to “electronic funds transfer”.

69. As already noted, it is not at all clear that when section 74(4) is properly construed it permits section 75 to operate as a complete exception to the prohibitions in section 74. Further, an internal control could not circumvent the terms of the legislation. While the correctness of the advice may be doubted, it is not necessary to resolve this matter. The KWM Advice was not glaringly or plainly wrong, and it was advice from a reputable external law firm. As such, The Star was entitled to rely upon it.⁹¹ Counsel Assisting did not submit otherwise.

70. As detailed below, The Star accepted KWM’s advice by seeking an amendment to ICM 3.⁹² According to Mr Theodore, Mr Frederic Luvisutto, the then Managing Director of The Star, approved the use of the CUP Process at or around this time, being in May 2013.⁹³

Chapter 12.8 Dealings with the Authority and commencement of the CUP Process

71. On 2 May 2013, Mr Power forwarded to Mr Houldin the April 2013 KWM Advice and sought instructions to make a submission to the Authority to amend ICM 3. He observed:⁹⁴

any transaction through the Hotel using a UnionPay card may take time to complete and to confirm cleared funds have been received (we understand that this is 24 hours using NAB EFTPOS terminals). Importantly, The Star must confirm cleared funds have been received before the patron's deposit account can be credited with the funds for gambling purposes.

72. The reason why The Star needed to confirm that the deposited funds had cleared into its account was to ensure that it was not providing credit to the patron when it provided the patron with chips. To provide credit would breach section 74 of the *Casino Control Act*.

73. Later, on 2 May 2013, Mr Aloï prepared an amendment to ICM 3, and forwarded it to colleagues including Mr Stevens, who said he would start the amendment process.⁹⁵

74. On 6 May 2013, Mr Stevens sent an email to officers of the Authority attaching a submission regarding proposed amendments to ICM 3. He stated that he would “like to discuss it in tomorrow’s meeting.”⁹⁶ His email stated, “It is a fairly straightforward ICM update”.⁹⁷ ICM 3 was sought to be amended by inserting into internal control 15 of the document, as it then was, the following words in bold text:⁹⁸

The Star must confirm the clearance of funds received via hexagon, telegraphic transfer, direct deposit or **electronic funds transfer (EFT)** to The Star account, prior to making the funds available to the patron. (A, C, F, H)

75. The written submission made no reference to the use of a CUP card, the fact that the CUP card would be swiped at the hotel VIP lounge or the risk that use of the CUP cards to purchase gaming chips would breach the UnionPay Scheme Rules.⁹⁹

76. Mr Stevens gave evidence that he attended a meeting with representatives of the Authority in May 2013, in which the Authority was “advised ... about the proposed introduction of the CUP process and how it would work.”¹⁰⁰ The other representative from The Star at the meeting was Mr Aloï.¹⁰¹

77. Mr Stevens said that at the meeting they:¹⁰²

discussed the process on what sort of cards that - what debit cards may be, China UnionPay being the card that was specifically referenced as part of that conversation. And then I believe there was some consideration by Liquor and Gaming - sorry, ILGA, as - as they were at the time, with - around what that wording may look like

before we finalised the internal - internal control change that came in place - into effect later that year.

78. Mr Stevens initially said he did not tell the regulator that the UnionPay Scheme Rules prohibited the use of CUP cards to fund gambling as he did not know this at the time.¹⁰³ However, when questioned in further detail it emerged that he did in fact believe this at the time of meeting the regulator.¹⁰⁴ He accepted that the open and honest approach to take with the regulator at the May 2013 meeting would have been to disclose his belief that UnionPay prohibited CUP cards being used to purchase gaming chips.¹⁰⁵ He claimed that he had not made a deliberate decision to omit this information, but that it was a “very grave error”.¹⁰⁶
79. Further, by the time of the May 2013 meeting, Mr Stevens knew that CUP cards would be swiped at the hotel.¹⁰⁷ However, there is no evidence that he disclosed that to the Authority either.
80. Mr Aloï told the Review he did not recall whether the Authority was informed that the CUP cards would be swiped at the hotel.¹⁰⁸ Mr Aloï also gave evidence that he did not at any time after May 2013 inform the Authority of his belief that the CUP Process was in breach of the UnionPay Scheme Rules.¹⁰⁹
81. Mr Aloï asserted that there were subsequent emails to the Authority about the CUP cards.¹¹⁰ However, none of the emails prior to June 2013 that have been produced to the Review indicate that the Authority was informed about the prospect that use of the CUP cards to purchase gaming chips was a breach of the UnionPay Scheme Rules or that the cards would be swiped at the hotel.¹¹¹ Mr Aloï accepted that it was “unlikely” that the regulator would have approved the use of the CUP cards had The Star disclosed its understanding that their use would be in breach of the UnionPay Scheme Rules.¹¹²
82. On 5 June 2013, the Authority approved the amendment to ICM 3 to make specific provision for patron funds to be transferred via EFT.¹¹³ Mr Stevens accepted that the only amendment made to the ICM was to introduce the words “electronic funds transfer”.¹¹⁴
83. The Star Entities accepted in closing submissions that The Star’s communications with the Authority about the amendment of ICM 3 omitted relevant information and lacked transparency and were reflective of a broader reluctance to communicate relevant information to the Authority where it might compromise The Star’s perceived financial

interests.¹¹⁵ They were right to make this concession. This lack of transparency on the part of the casino operator towards its regulator was completely inappropriate.

84. On 11 December 2013 and 19 February 2014, Mr Stevens sent the current versions of the Cage Operations Standard Operating Procedures (**Cage SOPs**) to the Authority.¹¹⁶ The cover emails did not refer to the use of CUP cards. While these versions of the Cage SOPs did refer to CUP cards, they did not set out that the cards would be swiped at the hotel and contained no indication that the process may have been in contravention of the UnionPay Scheme Rules.
85. In September 2014, The Star sent a further version of the Cage SOP, which for the first time indicated that CUP cards would be swiped at the hotel.¹¹⁷ This is discussed in further detail below.

Chapter 12.9 The CUP Process and the manner of its documentation

Commencement of the CUP Process at The Star

86. On 5 June 2013, Mr Aloï emailed his colleagues announcing that:¹¹⁸

Please be advised that The Star is now accepting the use of China Union Pay Debit card at The VIP Arrival/Check-in lounge. The transaction is conducted through the NAB hand-held eftpos terminal as a purchase transaction.

87. Mr Aloï attached to his email a set of slides depicting the “CUP flow chart process” and a “China Union Pay Debit Card SOP” setting out how the process would work.¹¹⁹ At that time, the funds were only to be released “if funds are cleared. Uncleared funds cannot be released”. Further, the CUP Process was restricted to international rebate players.¹²⁰
88. In a 24 July 2013 email to The Star Cage, The Star employee Mr Kevin Li announced that he had completed a CUP transaction for a patron.¹²¹
89. This evidence, and Mr Aloï’s email, conflicts with The Star’s statement to the Review that the CUP Process commenced operating in December 2013.¹²² It also conflicts with CUP usage data emailed from Mr Aloï to Mr Hawkins in 2021 which indicated that CUP transactions commenced in December 2013.¹²³ Based on the contemporaneous emails, it is concluded that the CUP Process in fact commenced at The Star by no later than July 2013.

The “two stage” process

90. In an 8 November 2021 letter to this Review, the lawyers for The Star Entities described the CUP Process in the following terms:¹²⁴

Transactions occurred at a point of sale terminal in the VIP Arrival Lounge [in the hotel]. The process involved:

1. the funds from swiping the CUP card were transferred by NAB, within 24 hours of swipe, into The Star’s hotel revenue account;
2. the patron draws down an equivalent amount of funds to their Front Money Account via a CCF; and
3. when funds arrive as cleared funds in The Star’s hotel revenue account, the CCF is redeemed, suspended and the limit zeroed.

91. Some witnesses described this as a “two stage process” in their evidence.¹²⁵ For example, Ms Martin said that the first stage was the swipe of the CUP card at the hotel and the second stage was making the funds available to the patron for gaming via their front money account.¹²⁶

92. Once the card was swiped at the VIP Lounge in the hotel, the transaction would be processed by The Star’s Opera account as a notional charge to one of The Star’s hotels rooms on the patron’s behalf.¹²⁷ Opera was the system used by The Star’s hotels to record hotel-related transactions.¹²⁸ Once the transaction at the hotel was completed, a document described by Mr Power as a “receipt” would be issued.¹²⁹ The word “receipt” did not appear on the document, nor did the word “invoice”. The document was labelled “Information Copy Only”.¹³⁰

93. The receipt was on a hotel letterhead (rather than the casino’s letterhead) and specified the patron’s name, a room number and arrival and departure dates.¹³¹ The receipt recorded a “debit” and “credit” to the patron in the amount of the CUP swipe, with the description “Transfer to customer’s account” (though this description changed over time). The receipt indicated that no GST was applied to the transaction.¹³² It is not clear from the evidence whether these “receipts” were provided to the patrons concerned.

94. The bank account into which funds debited via the CUP swipes were transferred was The Star’s “corporate cheque” account which had a stated purpose of “HOTEL”.¹³³ In documents prepared for the Review, The Star Entities described this bank account as The Star’s “Hotel account...[and] CUP transactions for Sydney”.¹³⁴

95. The patron’s front money account would then be credited with the amount of the funds transferred (although there was no actual movement of cash out of the account into which funds were received from UnionPay),¹³⁵ and the patron would be issued chips or chip purchase vouchers.¹³⁶

Invoices for “dummy rooms”

96. At some time in the period up to 2017, there was also a practice of using what Star Entertainment employees called “dummy rooms” when processing the CUP swipes in the Opera system.
97. On 20 April 2016, Mr Power emailed Mr Quayle and Mr Hawkins, stating that while he believed the legal risk of CUP was “low to moderate”, from a “PR perspective” he recommended that The Star:¹³⁷

cease creating “dummy” rooms for customers who are not staying in the hotel. For the purposes of creating the receipt in the VIP check in area, if the customer is not staying in the hotel, we should simply write “N/A” (or “0000” if a number must be included). If it hasn't already happened, staff should be advised to stop doing this.

98. In evidence, Mr Power accepted that the documentation evidencing this process was therefore “fake” and stated:¹³⁸

I believe what I understood at the time was a room number was being assigned to these transactions when, in fact, that room wasn't a room that was being used by that customer.

99. On 3 May 2017, Mr White in an email to Mr Power, raised the concern that:¹³⁹

the hotel team are entering all CUP swipes against a centralised dummy account including when the patron is staying at one of our hotels.

100. At that time, instructions were issued to staff to cease the practice.¹⁴⁰

101. On 28 July 2017, Mr Power sent an email to Ms Martin with the subject heading “RE: Privileged and Confidential: Snr Management Compliance Assurance”.¹⁴¹ The email set out a number of compliance risks for the business, including in respect of CUP:

the risks associated with CUP are well known and a risk assessment and legal advice has been given in this regard. However, earlier in the year an instruction had been given to hotel staff to start issuing “dummy” rooms to International Guests (for example, by issuing them with an uninhabitable room or a dirty room, a room that had not been cleaned, in the knowledge that the guest would not be occupying the room). This instruction was corrected, but it highlights a risk that the use of CUP for international guests may well have exceeded the intended scope of this service,

which may call into question the arrangement we have in place with The Star's bank (NAB).

102. Mr Power gave evidence that he was calling out a compliance risk in relation to practices within the business that were going outside the SOP and guidelines that had been set up for the CUP Process, including the use of “dummy rooms.”¹⁴² He accepted that false documents were being created as part of the scheme, and that there was a real question as to whether NAB knew the true purpose of the transactions.¹⁴³ He did not accept that the only reasonable and ethical advice he could have offered the business at this time would be to cease the use of the CUP Process.¹⁴⁴
103. Ms Martin did not recall Mr Power's advice but did accept that the risks outlined in it had been highlighted across members of senior management, including her.¹⁴⁵
104. Mr Theodore accepted that he was made aware of the general concern at this time, and that it was being communicated to ensure there was compliance with the processes in place.¹⁴⁶
105. On 13 November 2017, Ms Martin directed that the practice of assigning dummy rooms cease immediately when a further instance was brought to her attention. She asked Mr Power and Mr White who was involved and what disciplinary action against them was proposed.¹⁴⁷ Ms Martin accepted in oral evidence that it was a concern to her that dummy rooms had been issued to international guests.¹⁴⁸
106. The Star Entities submitted that this was an appropriate response.¹⁴⁹ In fact, the response entirely missed the point. The creation and use of “dummy rooms” was merely another aspect of an artifice in place from the outset; the pretence that CUP transactions were for the purchase of goods or services at the hotel.
107. Witnesses made varying concessions in their evidence to the Review regarding the documentation of the CUP transactions:
 - (a) Mr Bekier accepted that the use of the CUP Process was “sharp practice” and it “was very clear to everybody that the money will be used for gaming”.¹⁵⁰
 - (b) Mr Theodore accepted that the “Information Copy” documents evidencing the CUP transactions were sham documentation and were incorrect.¹⁵¹ While he did not accept that the two-step process was adopted to obscure the nature of the transaction,¹⁵² he did accept that use of the CUP Process was a “sharp” practice.¹⁵³

- (c) Mr Aloï said that the CUP Process was an artifice and that it concerned him. He said he raised concerns with his manager Mr Houldin and possibly also with Mr Kelley at the time. The response from Mr Houldin was “get it done”.¹⁵⁴
 - (d) Mr Power accepted that the documentation issued showing that a room number had been assigned to a patron taking advantage of the CUP Process was fake.¹⁵⁵ He also gave evidence that the CUP Process concealed the fact that funds used from the transactions were used for gambling, and that it was being concealed from UnionPay.¹⁵⁶
108. In contrast, while Ms Martin accepted that Star Entertainment’s arrangements with NAB did not permit CUP cards to be used “directly” for funding gambling,¹⁵⁷ she maintained that her understanding was “that the merchant facility could be set up by NAB to make a purchase of goods and services and that the funds could be made available separately for gaming”.¹⁵⁸
109. The Star Entities accepted in closing submissions that the process whereby CUP cards were swiped at terminals at the hotel, but then used to fund gaming, obscured the true nature of the transactions.¹⁵⁹ They accept that the process hid the fact that funds were used for the purpose of gaming from UnionPay and other Chinese financial institutions, and that it was “sharp practice”.¹⁶⁰
110. However, The Star Entities did not agree that the documents evidencing the CUP transactions were sham documents.¹⁶¹ This is because the receipts (ie “Information Copy” documents) “do not themselves purport to record charges or payments made for accommodation” and are not labelled invoices.¹⁶² The Star Entities further contended that that documentation was not a sham because it did not purport to create legal rights.¹⁶³
111. It is not necessary to determine whether the legal language of “sham” should be applied. It is sufficient to find that the “Information Copy” documents obscured the true substance of the transactions. Further, and as discussed later in this Chapter, these documents were passed off as invoices by Star Entertainment in correspondence with NAB in order to convey the misleading impression that the CUP transactions were not for the purpose of funding gambling.¹⁶⁴
112. As is discussed in further detail later in this Chapter, “Information Copy” documents were generated for the largest user of the CUP Process, Mr Phillip Dong Fang Lee, despite the

fact that he was a local player and never stayed at the hotel. They specified a room number, and an arrival and departure date. That information was obviously false.

113. Moreover, the “Information Copy” documents relating to “dummy” rooms were a deceptive camouflage. As much is implied by use of the word “dummy”. Clearly, they were designed to disguise the substance of the CUP transactions.
114. The Star Entities correctly accepted in their closing submissions that:¹⁶⁵

The Star personnel understood from the beginning at least that [UnionPay] intended or wished to deny access to its card services for the purposes of gaming, and that, in that context, the employment of a device that meant it was not apparent to [UnionPay] that its services were being used for those purposes was at least sharp practice, even if it was not an infringement of any contract or any law. This kind of sharp practice is unacceptable on the part of a casino licensee;

115. In oral submissions The Star Entities clarified that in using the description “sharp practice”, they intended to convey that the CUP Process was unethical.¹⁶⁶

Chapter 12.10 Uncleared funds and the search for work arounds

Uncleared funds and the risk of providing credit

116. By mid-2013, a concern had emerged within The Star regarding the delay between the time when a CUP card was swiped and cleared funds arrived in The Star’s bank account. The delay was somewhere between 24 and 48 hours.¹⁶⁷ This meant that patrons could not immediately have chips made available to them once they had swiped their CUP card at the hotel or VIP Lounge without The Star providing credit to them for gambling.¹⁶⁸
117. The concern was that patrons would be put off by the delay in swiping their CUP cards before they could commence gaming.¹⁶⁹ As Mr Hornsby said in an email to his colleagues: “I am not sure who is the best person to pursue China Union Pay on the Echo business side however as we sit, no one will use the CUP option while we can’t issue the funds right away.”¹⁷⁰
118. A question was raised internally as to whether the requirement to wait until the funds had cleared was a matter of internal policy, or whether it was a regulatory restriction.¹⁷¹ Mr Stevens responded that it was a “regulatory” matter, and stated:¹⁷²

if we release funds before they can be seen in our account, ILGA regard this as the provision of credit...Mohan put the kibosh on a similar request relating to the transfer of player funds we hold in SEQ to Star two weeks ago.

119. Mr Aloï had the same concern.¹⁷³ Mr White explained to his colleagues in an email dated 27 July 2013 that:¹⁷⁴

We are prohibited under the Casino Control Act (CCA) in NSW to advance chips or cash for debit card transactions (as well as credit card transactions). We therefore can only effect a CUP transaction using a casino entity through an electronic funds transfer (or TT)....

Further in NSW, our regulator interprets the CCA such that cleared funds are required by electronic funds transfer before chips may be issued, otherwise it is providing credit which is prohibited under the CCA. This view has been encountered on a number of fronts, is very difficult to argue against and is unlikely to change.

120. Individuals at The Star commenced looking for a “workaround” to the problem presented by the absence of cleared funds.¹⁷⁵

The first work around – Reliance on merchant terminal receipts

121. The first workaround involved seeking an approval from the Authority to amend an internal control to permit the release of funds immediately after a CUP card had been swiped on the basis that a merchant copy of the receipt had been issued.¹⁷⁶ On 22 November 2013, Mr Stevens sought approval to amend internal controls 15 and 16 of ICM 3 (as they then were) by adding the following words in bold text:¹⁷⁷

15. With the exception of Debit Card funds transfers The Star must confirm the clearance of funds received via hexagon, telegraphic transfer, direct deposit or electronic funds transfer (EFT) to The Star account, prior to making the funds available to the patron. (A, C, F, H).

16. Debit Funds Transfers must be deposited into a Front Money account and have an approval status on the Merchant Copy of the transfer prior to making the funds available to the patron. (A, C, F, H).

122. Mr Stevens followed up with the Authority by email dated 29 April 2014.¹⁷⁸ He set out certain propositions from the April 2013 KWM Advice without disclosing the source of those proposition and stated:

It follows that interpretation of the meaning of a “deposit... comprising money” for the purposes of section 75(2)(a) must include funds deposited by way of a China Union Pay debit card (being an electronic funds transfer referred to in No. 15 of the ICM).

123. Mr Stevens told the Review that the first workaround was not accepted by the Authority.¹⁷⁹ In contrast, Mr Brodie said that he thought that the Authority had approved the amendment.¹⁸⁰ However, Mr Brodie said that if the Authority had approved the

amendment, the approval would have been in writing.¹⁸¹ No such approval was produced to the Review.

124. However, the correct position, as disclosed in a 12 June 2014 email from the Authority to the Crown Solicitors Office, is that The Star withdrew its request for this amendment.¹⁸² It is most likely that this occurred because by this time The Star had implemented the second work around described below.

The second work around – temporary cheque cashing facilities

125. The second workaround was proposed by Mr Hornsby and Mr White.¹⁸³ It involved the establishment of a Temporary CCF that would be granted to cover the period of time between the CUP card being swiped and the funds clearing in The Star’s bank account.¹⁸⁴
126. The proposal for the Temporary CCF was set out in a memorandum prepared by Mr White dated 3 February 2014, which was provided to Mr John Redmond, who at that time was the CEO and Managing Director of Echo Entertainment, as well as to Mr Bekier and Mr Hornsby. Ms Martin was given a copy.¹⁸⁵
127. Mr White’s memorandum noted that a traditional CCF required the patron to provide a personal cheque addressed to the casino operator (The Star).¹⁸⁶ For patrons holding accounts with Australian banks, The Star would create a counter-cheque which would be substituted for the personal cheque, since the counter-cheque would be honoured by domestic banking institutions.¹⁸⁷
128. The memorandum noted that counter-cheques (or “house markers”) “are generally only recognised and banked by Australian banks.”¹⁸⁸ That is, counter-cheques would not be honoured by overseas banks. Mr Aloï confirmed this fact in his evidence to the Review. The fact that overseas banks would not honour counter-cheques was also noted in various versions of the Cheque Cashing and Deposit Facilities SOP.¹⁸⁹ For that reason, The Star ordinarily accepted a signed, undated personal cheque on an overseas bank account prior to draw-down on a CCF.¹⁹⁰
129. Mr White’s memorandum proposed that The Star:¹⁹¹

allow a CCF to be drawn by a patron with overseas bank accounts, but without a supporting blank cheque, on the basis that the "Approved" confirmation on the use of the CUP is confirmation that funds will arrive to clear the cheque and accordingly there is no provision of credit prohibited under the Casino Control Act.

130. In place of a personal cheque made out to The Star, it was proposed that a counter-cheque be issued by The Star and signed by the patron.
131. Mr White’s memorandum suggested that the counter-cheque could be treated as the relevant “cheque” for the purposes of the *Casino Control Act* as long as it contained the bank details of the relevant overseas bank.¹⁹²
132. Mr White identified three specific risks associated with the proposed Temporary CCF in his memorandum:¹⁹³
- (a) first, that the Authority would form the view that the process to be adopted would constitute the provision of credit in breach of section 74(1) of the Act.¹⁹⁴ The memorandum noted that this was the stated position of the Authority and The Star had not sought to challenge the position but could argue that it was incorrect;
 - (b) secondly, a risk that UnionPay would not make payment on a transaction which had been approved on the card terminal; and
 - (c) thirdly, the Authority might detect the use of the Temporary CCF during a routine audit of house markers/cheques held by the Cage.
133. In a file note prepared by Mr White in September 2014, he recorded that the Temporary CCF workaround had been verbally approved by both Mr Redmond and Mr Bekier in February 2014.¹⁹⁵ This file note is accepted as correct.
134. Mr Bekier gave evidence that he was aware of the Temporary CCF proposal in or around February 2014, but was not aware that the Authority had declined a request to amend the ICM to allow for the issuance of chips before funds had cleared.¹⁹⁶
135. No attempt was made to seek external legal advice regarding the correctness of Mr White’s advice.¹⁹⁷
136. In evidence Mr Bekier confirmed he understood there was a risk that the regulator would view the temporary CCF process as non-compliant with the *Casino Control Act*.¹⁹⁸ In closing submissions, The Star Entities correctly accepted that in adopting the Temporary CCF workaround, The Star was willing to court the risk of contravening the *Casino Control Act*.¹⁹⁹ Obviously, it was not appropriate for a licensed casino operator to take such a risk.
137. The Temporary CCF “workaround” was utilised from February 2014 through to the cessation of use of the CUP facility in March 2020.

138. The Star did not seek the prior approval of the Authority to implement the Temporary CCF.²⁰⁰ The Star Entities accepted in closing submissions that the appropriate and transparent course was to lay out the Temporary CCF proposal to the Authority prior to its implementation, and that the failure to do so reflected a failure to be frank and transparent with the regulator.²⁰¹ This concession was appropriate. The proposal should have been clearly put before the Authority for its consideration and decision.
139. However, The Star Entities submitted that the Temporary CCF process was disclosed to the Authority when a version of the Cage Operations SOP was emailed to the Authority on 4 September 2014.²⁰² This version was the first time the Temporary CCF was documented in that SOP.
140. The SOP ran to 109 pages. It was emailed to the Authority many months after the Temporary CCF process had been implemented. Emailing the SOP at that time without any explanation in the covering email and leaving it to the Authority to discover the Temporary CCF process for itself fell well short of the disclosure that was required.

Chapter 12.11 Case Study: Use of CUP Cards by Mr Phillip Lee

141. Mr Phillip Dong Fang Lee was a long-standing patron of The Star. His total wagering turnover exceeded \$2.25 billion and he lost \$57.4 million gambling at The Star.²⁰³
142. Mr Lee was the largest user of the CUP Process at The Star in terms of total value transacted. His usage accounted for over 37% of the transaction value in each monthly period in which he used the facility.²⁰⁴ Mr Lee engaged in 144 CUP transactions between 17 November 2014 to 21 January 2017. Of these, 142 transactions took place between 17 November 2014 and 29 February 2016.²⁰⁵
143. Mr Lee's case demonstrates that the CUP Process was abused from the earliest times at The Star to the knowledge of various senior employees. As was accepted by The Star Entities in closing submissions, in 2015 Mr Lee was permitted to use the CUP Process far in excess of his gaming activity.²⁰⁶ Mr Lee withdrew vast sums on money on his CUP cards which the evidence shows were not used for gaming purposes.
144. Mr Lee gave oral evidence to the Review. He gave evidence through an interpreter who was eminently well-qualified to assist.²⁰⁷ Mr Lee's evidence was generally consistent with the documentary evidence regarding his CUP usage at The Star. Mr Lee was not examined by counsel for The Star Entities and his evidence is accepted.

145. Mr Lee has been an Australian citizen for over 20 years, and a resident of NSW for over 20 years.²⁰⁸ Mr Lee has gambled at The Star in Sydney for 15 years,²⁰⁹ at least since around 2007.²¹⁰ He held a Diamond Membership at The Star from around 2005 onwards.²¹¹ Mr Lee mostly played baccarat in VIP rooms at The Star and had a number of relationship managers during the period he gambled at The Star including Mr Chen Rong.²¹²
146. Mr Lee held CUP cards with at least five banks in mainland China in respect of which he held CUP cards. The banks included China Construction Bank; the Industrial and Commercial Bank of China, the Agricultural Bank of China; China Communications Bank; and also China Merchant Bank.²¹³

Mr Lee's use of CUP cards at The Star

147. Mr Lee gave evidence that use of a CUP card to fund gambling was suggested to him by an employee of The Star, Mr Rong after he had lost money at the casino and felt anxious.²¹⁴ Mr Lee described feeling happy when he found out he could use the CUP card because:²¹⁵

I do not have money in Australia. In China, I could borrow money in RMB. And so if I won, certainly that's good opportunity. However, if I lost, I could repay. Because in China, I have friends who I know them well and I could borrow in RMB. And in Australia, it's very hard to get and borrow money.

...

The reason I was happy was that, one thing, I could win money and - win money from the casino because I'm enjoying gambling. And also if I lost at the time, I - I can repay the debt. And that was why I was happy. Because for those many years, I have lost so much money and I wanted to have the opportunity to win back. And to be able to use China Union card gave me the opportunity to have access to RMB, and I can have opportunity to - to win back.

148. Mr Lee was ordinarily resident in NSW.²¹⁶ For that reason he was not entitled to play on a domestic or international rebate program. This had the consequence that he was not initially eligible under The Star's Cage Operations SOP to use the CUP Process.²¹⁷ That position only changed in December 2015, when the requirement that access to the CUP Process be limited to IRB patrons was removed from the Cage Operations SOP.²¹⁸ Despite Mr Lee's ineligibility, The Star permitted Mr Lee, in breach of its own SOPs, to withdraw vast sums of money on his CUP cards in 2015.
149. Mr Lee described the process of utilising the card as follows:²¹⁹

Generally speaking, the process starts like this. There is a room on the first floor, and it's a small room, and there is a POS card machine. And I would sit on a couch, and Chen Rong brought over the machine and swiped the card and then asked me to

sign. So once that's been signed, I was taken back to level 3, a special room. And 10 minutes later, I was given chips to gamble. Sometimes I was -- they take the card away and came back for me to sign. Once I signed that, I would have chips to gamble.

When I swiped my card for the first time, I provided my driver licence and they would photocopy my driver licence. That was only for the first time. After that, I do not need to provide my driver licence again. And every time when I swipe my card - in fact, after I swipe my card, normally I do it in the ground floor or at my table once the card is swiped, and it was okay to gamble.

150. Mr Lee said that on many occasions his CUP card was taken from him by representatives of The Star while he was at the gaming table and swiped in a different room.²²⁰ This was contrary to clause 3.5(b) of the NAB Merchant Agreement which required that the CUP card be swiped in the presence of the cardholder and signed for.²²¹ The Star Entities accept that The Star failed to respond appropriately to the risk of a breach of its agreement with NAB in this regard.²²²
151. Mr Lee also gave evidence that there were no limits on the amounts he could withdraw when he first started using the card, but limits were imposed later in 2017 or 2018 to around \$2 or \$3 million per day.²²³

Mr Lee's CUP transactions in 2015

152. Mr Lee used CUP cards at The Star extensively in 2015. The evidence indicates that staff at The Star were concerned about Mr Lee's CUP card usage in 2015. On 4 January 2015, Mr Sonny Pisani, a Cash Services Manager, reported in an email that a non-winnings cheque had been issued to Mr Lee for \$2.1 million, and Mr Lee had CUP card credits in the amount of \$9.78 million, (with a temporary CCF debit in the same amount)²²⁴ all of which had been swiped in the preceding 3 to 4 days.²²⁵ Mr David Proctor responded, copying Cage staff, that:²²⁶

With a significant amount of CUP transactions occurring we need to ensure play levels are in line with swipes.

Did he indicate why a \$2.1m cheque was required.

153. Mr Pisani stated that Mr Lee did not indicate what he required the cheque for.²²⁷ Mr Hornsby responded to this email chain:²²⁸

CUP is not to be used as his personal money changer

Please ensure this is clearly explained to him prior to LEE swiping.

154. In a three day period in early April 2015, Mr Lee swiped over \$22 million on his CUP card at The Star.²²⁹
155. On 4 April 2015, Mr Lee swiped his CUP card 14 times over the space of a few minutes in a total amount of \$11.8 million.²³⁰ Mr Lee's Temporary CCF was increased to \$12.3M to reflect the swipe. The CCF increase was approved by Mr Bekier.²³¹ Mr Bekier confirmed in evidence that he was aware that Mr Lee had increased his credit with The Star by over \$11 million that day and that he approved it on the basis that there was no credit risk.²³²
156. Two days later, on 6 April 2015, Mr Coombs emailed Mr Hornsby setting out the amounts of play engaged in by Mr Lee at that time. He warned, "[a]t no point are we seeing the \$12 Mil. Mr Lee ratings show no reason why he required the full CUP amount. \$2 Mil would have sufficed". Mr Coombs wrote:²³³
- Mr LEE is now requesting to do [more] CUPs worth \$11,000,000 Please advise?"
157. Mr Hornsby approved the additional swipes in the amount of \$11 million.²³⁴ The second \$11 million was withdrawn using Mr Lee's CUP card over 13 separate swipes on 6 April 2015.²³⁵
158. That same day, Mr Lee's Temporary CCF limit was increased to \$23,300,000.²³⁶ Both Mr Bekier and Ms Martin approved this increase.²³⁷
159. Mr Bekier gave evidence that he allowed these swipes because there was no credit risk.²³⁸ He accepted that it was an extraordinary amount of money to withdraw on a debit card in that period of time, but stated that he was content as long as the money was used for gaming, and it did not break any laws.²³⁹ He acknowledged that he made no inquiries to satisfy himself that Mr Lee was using the funds for gaming, and stated that he relied on the AML and other functions in the business for that, and to understand the source of Mr Lee's funds.²⁴⁰
160. Remarkably, Ms Martin said in oral evidence that she did not need to have even a vague understanding of who the patron was when she approved the \$11 million increase.²⁴¹ This was despite the fact that she did not regularly make approvals for \$11 million increases in CCFs.²⁴² Ms Martin's evidence was that she would have had to review some underlying materials for the approval, in accordance with policy, but could not recall what those materials were.²⁴³

161. Mr Aloj told the Review that he recalled the 6 April 2015 email exchange between Mr Coombs and Mr Hornsby, and accepted that he held concerns at this time about Mr Lee's activity, but did not recall whether he escalated them at this time.²⁴⁴
162. During his evidence, Mr Lee was shown a copy of a counter-cheque he had signed dated 6 April 2015 made out to The Star Pty Limited for \$11 million (53,689,900 Chinese yuan) drawn on the CUP card issuing bank, Chinese Construction Bank.²⁴⁵ This is the document:



163. Mr Lee said that he held an account with the China Construction Bank that had a CUP card attached to it, but never held a cheque account with that bank, had never applied for one, and had never had promissory notes written from China Construction Bank.²⁴⁶
164. The “counter cheque” was generated by The Star. The supposed cheque account held by Mr Lee with China Construction Bank was a fiction. The “cheque number “generated by The Star was a fiction. If, for whatever reason, the CUP card transaction underlying the counter cheque was rejected by China Construction Bank or if there was a charge back, The Star could not rely on the counter cheque for payment, as it knew at the time.²⁴⁷
165. Mr Lee was not aware that each of his CUP transactions resulted in the increase of a CCF limit for him, which was as a result of the creation of the Temporary CCF.²⁴⁸
166. A hotel “for information” invoice dated 6 April 2015 was issued which asserted that Mr Lee had stayed in room 9098, arriving on 3 April 2015 and departing on 6 April 2015. This was also a fiction created by The Star. Mr Lee confirmed that he had not stayed in a hotel room at the Astral from 3 to 30 April 2015,²⁴⁹ and in fact had never stayed at the hotel when he utilised his CUP card to purchase gambling chips.²⁵⁰

Staff concerns about Mr Lee's CUP usage in 2015

167. On 11 April 2015, concerns about Mr Lee's play were drawn to Mr Aloï's attention. In an email Mr Jared Tasker, a Cash Services Supervisor in the Cage, stated:²⁵¹

Hi Dave, just wanted to bring to your attention a few things about Lee. In my mind, he appears to be taking advantages of the winnings cheque system of taking his daily winnings in winnings cheques, although, in fact, he has not supplied any fresh funds.

See below, he's taken \$5,150,000 worth of 'winnings' cheques over the last week, after originally buying in on the 3rd. In the same period, ratings show he's only winning \$3,481,650.

Furthermore, we have the issue of him holding on to chips. Today we've had to get more Cash plaques out of the vault as he's holding on to most of the stock that we have. See attached Chip Liability done this morning, in plaques alone there is \$27,150,000 outstanding – LEE has bought in for a total of \$25,780,000 using FOD, CUP and his CCF.

There is now nothing left in his FOD and today his friend Mr LI, Wei Hua drew down \$2m CUP of which most of the funds were transferred as Cash Chips to LEE.

Basically looking for some advice on how to handle this moving forward – you get the feeling that now there's nothing left in his FOD, he'll come in tomorrow wishing to do another big CUP transaction and again take his daily winnings as a WCHQ.

168. "FOD" means Funds On Deposit and the reference in Mr Tasker's email to an FOD was a reference to Mr Lee's front money account. Mr Aloï understood that Mr Tasker was raising a concern with him regarding Mr Lee taking advantage of the winnings cheque system.²⁵²

169. Mr Aloï responded.²⁵³

This doesn't add up; winnings cheqs against ratings over a 24 he period. Looks like we have issued a new winnings cheq with his previous cheq not taken into consideration ? If we don't allow for cheqs already taken, we're breaching the process of issuing winning cheqs and ILGA will come looking for answers.

170. Mr Aloï gave evidence that the breach of process he was referring to related to a policy at The Star in which consideration was given, prior to the issuance of a winnings cheque, of the patron's gaming activity in the prior 24-hour period.²⁵⁴ The policy was to ensure that winnings cheques actually reflected winnings and were not just issued for funds deposited by the patron at any time.²⁵⁵

171. Mr Aloï said in evidence that the issues raised by Mr Tasker caused him to wonder whether Mr Lee was engaging in some kind of money laundering activity.²⁵⁶

172. On 13 April 2015, The Star issued a two-week ban on the use of the CUP facility by three players, including Mr Lee.²⁵⁷ An email chain of that same date raised further concerns that

Mr Lee was seeking to utilise the CUP Process via another patron.²⁵⁸ Mr Aloï forwarded the email chain to Mr Hornsby raising concerns that Mr Lee was using a proxy for the use of the CUP cards, and was seeking to use the CUP facility for purposes that did not include gaming.²⁵⁹ Notwithstanding those concerns, Mr Hornsby approved a CUP swipe by the other patron for \$5M, but stated:²⁶⁰

NO MORE. We will need to closely monitor what he does with Phillip Lee and if XIE plays at a sufficient level.

If Phillip Lee ends up with the chips with little play from XIE, Phillip LEE won't be permitted to swipe any CUP in May either.

173. Mr Aloï gave evidence that he raised all of these concerns with Ms Christine Bletsas (the CFO of The Star), at around the time of the significant swipes by Mr Lee.²⁶¹ Mr Aloï did not recall specifically what took place at the meeting, but gave evidence that Ms Bletsas stated she would address the matter with Mr Quayle.²⁶²
174. On 8 May 2015, Ms Arnott sent an email to Mr Houlihan and Mr Power attaching a briefing note about Mr Lee and his associates.²⁶³ The briefing note observed that Mr Lee had been the subject of monitoring since he had withdrawn \$22,800,000 in CUP transactions in early April 2015, and was presently believed to hold approximately \$20 million worth of \$500,000 plaques.²⁶⁴ The email further noted that Mr Lee had provided another patron two \$500,000 plaques; the patron had then cashed in or gambled the plaques and had had funds transferred into an account in her name.²⁶⁵
175. Ms Arnott stated in the briefing note that there was “no reason to suspect that she does not have rightful ownership of the money given to her by LEE” but she provided no reason for that opinion. The briefing note concluded that the “Investigations Team do not have any current concerns about LEE's activities although would suggest that future large CUP transactions continue to be closely monitored”.²⁶⁶
176. Ms Arnott gave evidence that it was unusual for a patron to be holding such a large number of plaques, which was why it was drawn to her attention, and why she created the report.²⁶⁷ Mr Houlihan gave evidence that it was of concern that a patron might be passing on plaques to other persons, and “moving towards extremely concerning” that one person would be holding that much value in plaques.²⁶⁸
177. On 26 May 2015, Mr Aloï received an email from Mr Stewart Byles, a subordinate of his in the Cage.²⁶⁹ In that email, Mr Byles raised concerns that:²⁷⁰

- (a) Mr Lee had been gambling in the pit, during which time he gave \$90,000 in chips to a friend to cash out;
 - (b) when that request was declined, Mr Lee sought to cash out \$25,000;
 - (c) while a person from the Cage was speaking with Mr Hornsby, Mr Damian Quayle demanded that Mr Byles release the \$25,000 to Mr Lee;
 - (d) when met with resistance, Mr Quayle stated, “He's a \$20 million player and I don't want to jeopardise The Star's relationship with him, so I'm authorising you to pay him out” and “[t]his is ridiculous. It's only \$25,000 against half a mill. Pay him out”; and
 - (e) Mr Quayle was abusing his authority in overriding Mr Hornsby’s decision.
178. Mr Aloï forwarded the complaint to Mr Hornsby for comment on the basis that Mr Aloï would have to answer to Mr Hawkins and Ms Bletsas the following day.²⁷¹ Mr Hornsby responded.²⁷²

To me this is not solely based on a 25k cash out Request Phillip lee has been allowed to swipe 30m + in CUP over the last few months. He constantly tries to use proxy players to swipe on his behalf claiming they are real players. His loss during this period is no more than 5m and his so called player friends simply transfer their CUP swipes in chips back to LEE.

As per chip liability, Lee had approx 14m in plaques at home and always requesting me to grant approval to swipe 500k CUP to clear his CCF balance then immediately redraw without using his plaques. I allow this as the casino best interests is to get paid on CCF debts and the best interests of keeping a relationship with Lee for the business.

The problem last night was the multitude of requests such as cashouts 80k and 90k then a casino chq for 2m non winnings, then a cheque to a non rated friend, then another 25k cash to a non rated individual on Lee behalf. Also a number of marketing and gaming staff causing cage a highly pressurized environment being conversed to me over the phone while around 9pm.

Due to cage concerns, I requested to hold further cashouts. I then explained the situation to DQ over the phone and authorised the cash out.

Lee went home and took another 12m in Non winning cheques in Plaques and spat his dummy over our decisions to not let him do as he pleases, even if we only required a little more time to further clarify what he was up to

Lee has being playing games for a number of weeks now with CUP requests far exceeding his play losses. This concerns me and should concern the company if allowed to continue unabated.

179. Mr Aloï met with Ms Bletsas the following day regarding Mr Lee’s play and she told him that she would address Mr Quayle’s behaviour with him. However, Mr Aloï did not observe this taking place.²⁷³
180. On 28 May 2015, in an email from Mr Quayle to Ms Bletsas, copying Mr Aloï and Mr Hornsby, the following measures were imposed on Mr Lee’s payment activity:²⁷⁴
- No charge monthly CUP (30days) withdrawal of 10m, any subsequent withdrawals are limited to 1m/ day at 1.5% commission;
 - Can Cash out of 5% of CUP withdrawal;
 - Winnings to be calculated at the end of play (daily), winner’s check can be issued if ratings show winnings
 - Non winnings check can be issued for other gaming transactions- chips out etc
 - CUP withdrawals must clear before chips issued
 - Any special requests or approvals outside of this arrangement need to include Christine Bletsas and or Damian Quayle as approvers.
181. Mr Hornsby added that Mr Lee would not be permitted to have any CCF.²⁷⁵
182. Mr Quayle was not called to give evidence to the Review, or to otherwise explain this incident, and in these circumstances it is appropriate to emphasise that no inference or conclusion adverse to Mr Quayle personally is made in relation to this incident.
183. In evidence, Mr Aloï accepted that:²⁷⁶
- (a) the \$10M limit on Mr Lee’s CUP withdrawals was not a “significant limitation”;
 - (b) Mr Lee was still allowed to withdraw 5% of CUP transactions in cash, when cash withdrawals were not even permitted for other patrons using CUP; and
 - (c) the restrictions still allowed Mr Lee to take advantage of the non-winnings cheques system.
184. Mr Aloï accepted that the restrictions did nothing to address the concerns that Mr Lee’s CUP swipes were not commensurate with his level of play and that he used other players as proxies.²⁷⁷ He agreed that it was a “thoroughly deficient” response, and explained that further restrictions were not imposed because it was best for The Star’s business that he be allowed to continue to do what he wanted, and because he was a \$20 million-player.²⁷⁸ Mr Aloï accepted that this was an instance in which The Star prioritised revenue over

compliance with its own rules as well as very serious compliance and regulatory concerns, including concerns Mr Aloï held that Mr Lee was engaging in money-laundering.²⁷⁹

185. Mr Aloï said that he raised his concerns about Mr Lee with senior management and the AML Team.²⁸⁰ However, he had no specific recollection of so doing and there are no documents before the Review indicating that he did so.
186. In any event, whatever concerns were escalated, it was accepted by Mr Aloï that Mr Lee was allowed to continue with other forms of gaming and other forms of payment at The Star.²⁸¹ Mr Lee utilised the CUP Process a number of times in the period August 2015 to February 2016, in amounts ranging from \$200,000 to \$10 million.²⁸²
187. Mr Bekier told the Review he was aware that Mr Lee was a user of the CUP Process at The Star and was one of the largest local players at the time. He was also aware that Mr Lee had swiped \$22 million on his CUP card over just three days in 2015.²⁸³ However, Mr Bekier did not accept that debits of this quantum were in and of themselves an abuse of the CUP Process. He said he would have relied on the AML Team to inquire as to how Mr Lee was able to withdraw such large amounts.²⁸⁴ As noted above, Mr Bekier agreed he did not make any inquiries to satisfy himself that Mr Lee had in fact been using the funds for gaming.²⁸⁵
188. Mr Hawkins agreed in evidence that he monitored high value players.²⁸⁶ However, he said he had no recollection of Mr Lee's CUP transactions in 2015.²⁸⁷ This was despite the fact that Mr Lee was the largest user of the CUP Process. Mr Hawkins accepted that it was not a common occurrence for a patron to swipe \$11 million in a single day on a CUP card and that he would have expected the matter to be brought to his attention and he would have been generally kept updated on Mr Lee's play at the time.²⁸⁸ His evidence was that he was not made aware that various staff members at that time had expressed concern that Mr Lee was using the CUP Process as an ATM facility, but that those concerns should have been raised through the AML Team and escalated immediately.²⁸⁹

Mr Lee's Usage of CUP cards after 2015

189. Various staff members at The Star continued to monitor Mr Lee's use of the CUP Process throughout 2016 until early 2017.
190. Mr Hawkins accepted he was briefed about Mr Lee's use of the facility by Mr Quayle (who reported directly to Mr Hawkins at that time) from around 2016 onwards.²⁹⁰ The

documentary evidence indicates that Mr Hawkins and Mr Quayle were continuing to approve Mr Lee's CUP swipes and generally monitoring his play until October 2017.²⁹¹

191. On 20 April 2016, Mr Power emailed Mr Hawkins and Mr Quayle, stating that while he believed the legal risk of CUP was "low to moderate", from a "PR perspective" he recommended introducing "documented guidelines which you use for the purposes of you making a decision as to whether to permit our biggest CUP user (PL) to draw down further funds from his CUP account."²⁹² Mr Power told the Review that he held concerns at this time that Mr Lee was moving "alarming" amounts of money through the CUP Process at The Star.²⁹³
192. On 10 May 2016, Mr Power sent Mr Quayle a markup of proposed guidelines prepared by Mr Quayle for the approval of CUP transactions.²⁹⁴ The guidelines originally stated they were for approvals relating to "Phillip Lee" but Mr Power crossed that out in handwriting, and replaced it with "Potential High Risk Customers".
193. Mr Power gave evidence that "high risk" meant that he held concerns that Mr Lee's gambling was not commensurate to the amount he was withdrawing on his CUP card and this presented a risk to the business as Mr Lee was using the CUP Process "as an ATM".²⁹⁵ However, Mr Power did not accept that the appropriate course was to recommend that Mr Lee not be permitted to use the CUP Process.²⁹⁶ He explained "he was being assured by the gaming managers that his level of play did justify or warrant the use of that service and the transactions that he had made".²⁹⁷
194. On 11 May 2016, Mr Power presented an advice he prepared to Mr Bekier at a meeting at which he said Ms Martin would also have been present.²⁹⁸ Among other matters raised for consideration regarding CUP was the:²⁹⁹

Use by prominent customer under certain self-imposed operational restrictions that are not defined or documented and able to be influenced by commercial objectives.

195. Although Mr Power did not confirm that the "prominent customer" was Mr Lee, it can be reasonably inferred from the proposed guidelines that had been worked on by Mr Quayle and Mr Power the previous day, that the reference was to Mr Lee.³⁰⁰ Ms Martin stated that she did not recall the document but it was possible that Mr Power provided it to her.³⁰¹ There is no evidence of any risk management steps taken in response to Mr Power's advice at this time.

196. Around six months later, on 26 January 2017, Mr Quayle sent Mr Hawkins a spreadsheet showing monthly gaming activity by Mr Lee, including CUP withdrawals, for the period July 2015 to December 2016, which revealed 31 CUP transactions.³⁰² The following day, Mr Quayle sent an email to Mr Hawkins about Mr Lee’s gaming activity and use of the CUP Process, stating, “[t]he agreement I have with Philip is that when he loses more than 50% of the last CUP draw down he can request further CUP funds”.³⁰³ Mr Hawkins accepted that he was being kept up to date on Mr Lee’s activities by Mr Quayle during this period.³⁰⁴
197. The evidence before the Review indicates that Mr Lee swiped his CUP card at The Star for the last time on 15 February 2017.³⁰⁵ Mr Lee gambled less frequently, and in smaller amounts, from January 2018 to 16 June 2018.³⁰⁶
198. On 19 July 2021, Star Entertainment issued a group-wide withdrawal of licence in respect of Mr Lee owing to an ATO garnishing order.³⁰⁷

Conclusions to be drawn from the case study of Mr Lee

199. Mr Lee gave evidence that there were instances where he would be issued winnings cheques by the casino after gambling.³⁰⁸ He said he did not receive any cheques without some gambling at The Star but agreed that he sometimes purchased more chips than he would use for play. He said that if he had not used up his chips and decided not to gamble on a particular day, he could take his chips away or exchange them for cash or a cheque.³⁰⁹ Mr Lee said he sometimes gave chips away to other people.³¹⁰ He also sometimes took chips away with him from the casino.³¹¹
200. An internal The Star spreadsheet showed that in the six-month period from 8 May 2015 to 10 November 2016, Mr Lee’s total CUP card swipes were \$39,960,000. He was issued \$6,845,000 in winnings cheques and a remarkable amount of \$31,935,000 in non-winnings cheques as well as \$1,229,500 in cash outs.³¹²
201. It was not put to Mr Lee in his evidence to the Review that he engaged in money laundering or any other improper conduct. No finding of impropriety of any kind is made against Mr Lee. What the case study of Mr Lee demonstrates is the nature of the risks of the CUP Process, the huge sums of money involved, and The Star’s approach to the risks. The relevance of the case study is the light that it sheds on the suitability of The Star to operate a casino in NSW.

202. The case study demonstrates that there were clear money laundering risks to which The Star failed to respond. In particular, there is no evidence that indicates The Star was checking the source of Mr Lee's funds, including in respect of the transactions from 4 to 6 April 2015 amounting to \$22.8 million.
203. For a large amount of the time that Mr Lee used the CUP Process at The Star he was not eligible to do so because he was not an international rebate player. The Star's Standard Operating Procedures were flouted. Despite sustained concern of more junior staff members that Mr Lee's level of CUP withdrawals was not commensurate with his level of play, no meaningful restrictions were placed on his use of CUP cards. Risks were drawn to the attention of senior management but no effective controls were imposed. Revenue was prioritised and compliance and risk management concerns were ignored.

Chapter 12.12 The legality of the Temporary CCF and the attendant risks

204. One issue that arose in the course of the public hearings, was whether counter-cheques used by The Star in conjunction with the Temporary CCF were valid cheques. If they were not, then on each occasion on which The Star provided chips to a patron before cleared funds had arrived in The Star's bank accounts after the patron had swiped a CUP card, it was providing credit to the patron in breach of section 74 of the *Casino Control Act*.
205. This matter arises only in relation to counter-cheques issued in conjunction with the Temporary CCF used for CUP transactions, rather than counter-cheques issued more generally (for example, in conjunction with a normal CCF).
206. Section 75(1) of the *Casino Control Act* provides that a "cheque" has the same meaning as in the *Cheques and Payment Orders Act 1986* (Cth). In fact, that statute has now been re-named the *Cheques Act 1986* (Cth) (***Cheques Act***), but nothing turns on this. Section 10(1) of the *Cheques Act* provides:
- A cheque is an unconditional order in writing that:
- (a) is addressed by a person to another person, being a financial institution; and
 - (b) is signed by the person giving it; and
 - (c) requires the financial institution to pay on demand a sum certain in money.
207. For a normal CCF which was not associated with the use of a CUP card, The Star required a patron to produce a personal cheque, payable to the casino operator, to satisfy the requirements of section 75(2) of the *Casino Control Act* before credit for gambling was

provided to the patron. For domestic patrons, The Star held just a photocopy of a cheque, but for patrons with overseas bank accounts, a personal cheque was held on file.³¹³ The Cheque Cashing and Deposit Facilities SOP stated that patrons with CCFs had the option of providing a personal cheque or using a Star-produced counter-cheque, but:³¹⁴

It is The Star's policy to bank the first cheque drawn on a new CCF so a banking history may be established. Once a cheque has been banked and paid, then we can hold patron cheques as per the current legislative requirements.

208. The SOP further stated that patrons with overseas bank accounts must provide a personal cheque, “because overseas banks do not honour The Star-generated counter-cheques”.³¹⁵
209. This procedure was dispensed with, in respect of CUP transactions, where a counter-cheque was raised by The Star in place of a personal cheque.³¹⁶
210. Mr Aloï gave evidence to the Review that every patron swiping a CUP card at The Star had been issued a card by an overseas bank.³¹⁷ As KWM was asked to assume in its April 2013 advice to The Star, UnionPay cards were not linked to savings accounts (in the manner that debit cards are linked to savings accounts in Australia) but UnionPay customers prepaid amounts of money onto the card which they could then access through certain EFTPOS terminals.³¹⁸ KWM was asked to assume that it would take up to 24 hours for all UnionPay transactions to clear.³¹⁹ In fact the evidence demonstrated that it took up to 48 hours for funds resulting from a patron swiping a CUP debit card to arrive in The Star’s bank accounts.³²⁰
211. The Star raised a counter-cheque for each patron swiping their CUP card, that would never be honoured by their overseas bank, as The Star knew. If the counter-cheques associated with the Temporary CCF work around were not valid cheques, then The Star was in breach of the prohibition on credit contained in section 74(1) every time a CUP card was swiped and a Temporary CCF created.
212. Counsel Assisting made two submissions. The first submission was that the counter cheques associated with the Temporary CCF put in place in relation to the use of CUP cards were not valid cheques within the meaning of section 10 of the *Cheques Act* because they did not in fact require the drawee bank to pay anything. There was no cheque account between the patron and the bank in China and The Star knew that the counter cheque which it was generating would not be honoured by the bank in China. The second submission made by Counsel Assisting was that if the counter cheques associated with the temporary CCP complied with section 10 of the *Cheques Act*, they were nevertheless shams because

neither The Star nor the patron intended that the counter cheques would in fact operate as payment mechanisms to The Star.³²¹

213. In response to Counsel Assisting's first submission, The Star submitted that The Star-generated counter-cheques issued for the Temporary CCFs were valid cheques, in accordance with the requirements of section 10 of the *Cheques Act*. The Star submitted that there was no requirement under that section that a financial institution be required or likely to honour an order to pay for the cheque to be a valid order.³²²
214. The submission of The Star Entities that the counter-cheques created for the purposes of the Temporary CCF satisfied the requirements of section 10 of the *Cheques Act* is accepted. The form of the counter cheque was an order by the drawer requiring the financial institution in China to pay. That it would not in fact do so does not mean that the instrument did not satisfy the requirements of section 10. In Tyree *Australian Law of Cheques and Payment Orders* (Butterworths, 1988), it is noted that a person may draw a valid cheque on a financial institution with which they hold no account, albeit that there would be no reason for the institution to honour the cheque.³²³
215. Counsel assisting's second submission, that the counter-cheques were "sham" documents, relied on the fact that The Star knew they would not be honoured by the overseas banks. So far as the patron was concerned, Counsel Assisting submitted that the evidence demonstrated that Mr Lee had no intention to sign a cheque; he held no cheque facility with the bank in China and did not read English.³²⁴ Counsel Assisting submitted that it should reasonably be inferred that Mr Lee could not have appreciated that he was signing cheques in conjunction with each of his CUP swipes. Counsel Assisting submitted that the real transaction evidenced by the counter-cheques was not a cheque transaction but an IOU, or no transaction at all. Counsel Assisting acknowledged that there was no evidence about the state of mind of other patrons using CUP cards at The Star.³²⁵
216. The Star contended that the counter-cheques it raised in conjunction with Temporary CCFs were not shams for a number of reasons including that:
- (a) The Star had a high degree of confidence that the counter-cheques would be redeemed, and therefore the counter-cheque would never have to be banked; indeed section 75(5) expressly contemplated the outcome that a cheque accepted by The Star may not need to be banked;³²⁶
 - (b) the evidence of Mr Lee could not be extrapolated to other patrons;³²⁷

- (c) The Star’s legal obligation under the *Casino Control Act* was simply to bank the cheque (not that the cheque need be honoured), which it intended to do (this being supported by reference to a memorandum of Mr White, and the SOPs),³²⁸ and
 - (d) Section 75(6)(a) supported a finding that there was no sham, because it envisaged that a cheque might be dishonoured, after which the casino operator would be precluded from accepting a cheque from that person again.³²⁹
217. The leading authority in Australia on the meaning of “sham” is the decision of the High Court in *Equuscorp Pty Ltd v Glengallan Investments (Equuscorp)* (cited with approval in *Boenscs v Pascoe*³³⁰ and *Lewis v Condon*.³³¹ In *Equuscorp*, the High Court held that a sham refers to “steps which take the form of a legally effective transaction but which the parties intend should not have the apparent, or any, legal consequences”.³³²
218. As the NSW Court of Appeal observed in *Lewis v Condon* at [63], “[b]ecause a finding of sham requires a finding of an intent to deceive, considerations associated with *Briginshaw v Briginshaw* (1938) 60 CLR 336 require a cautious approach”.
219. It is not appropriate to determine, in the context of this suitability review, the question of whether the counter-cheques issued for the Temporary CCF arrangements in connection with CUP cards were shams. As the issue involves determining whether there was an intention to deceive, this is a matter best reserved to curial proceedings with all of the protections of pleadings, particulars and other Court procedures, as well as the protections of an appellate regime. These considerations were addressed by Commissioner Bergin SC in Chapter 4.7 of the Bergin Report.
220. Furthermore, the issue has arisen in an unsatisfactory way in this Review because the evidence of only one patron has been received, Mr Lee. This limitation was acknowledged by Counsel Assisting.
221. In these circumstances it is left as an open question whether the counter-cheques issued by The Star in connection with the Temporary CCF were shams. The conclusion which follows is that this Review has not determined that the Temporary CCF used in connection with CUP cards swiped at The Star involved a breach of the *Casino Control Act*.
222. Even though the legal issue has not been determined, it remains the case that throughout the whole of the period from 2014 to 2020, The Star courted the risk that the Authority would take the view that The Star was providing credit to patrons in the period before the

funds had cleared into The Star's bank account. Instead of being frank with the Authority about that matter, The Star developed a "workaround" and did not in any satisfactory way draw that "workaround" to the Authority's attention.

Chapter 12.13 Money Laundering Risks

223. The Star's money laundering risk assessment in respect of the CUP Process was far from satisfactory. The AML/CTF Risk Assessment requested by Mr Aloï in 2013, and completed by Mr David Kelley, then the AML/CTF Compliance Officer, rated the AML/CTF risk for the CUP facility as "low".

224. Mr Kelley noted on the form that:³³³

China is not a prescribed country, movement of funds is via independent commercial banking process subject to regulation and scrutiny. Terms of compliance with casino ICM is completed. SOPs have been designed to track movement of funds into Hotel accounts. Cleared funds moved into front money account in same name as room and card. Front money account subject to existing KYC procedures. No credit function – draw down on cleared funds only.

225. Mr Kelley did not identify any money laundering or terrorism financing risks associated with the CUP proposal.

226. Mr Aloï wrote on the form that the process was "low risk, as funds must be from cardholder and standard AML/CTF reporting applies".³³⁴ It was not indicated on the form what that reporting was. The Star Entities' position in submissions to this Review was that no international funds transfer instructions (IFTI) reports to AUSTRAC were required for CUP transactions.³³⁵

227. The only risks noted on the form under the heading "potential effects (ie fines, other penalties)", were:

- (a) financial loss due to fines from AUSTRAC; and
- (b) ILGA repercussions.

228. Ms McKern concluded that this risk assessment was "minimal in form and content" and lacked "detail of the contemplated transactions and analysis of the ML typologies to which The Star may have been exposed; it fails to examine the details of the arrangements or articulate the controls in place or necessary".³³⁶ The 2013 assessment was plainly an unsophisticated risk assessment for a process through which around \$900 million ultimately flowed from overseas banks to the casino.

229. A further difficulty with the 2013 risk assessment is that the assessment of risk was premised on the fact that transactions would be reported to AUSTRAC. However, the evidence revealed that The Star took the view that it was not required to lodge IFTIs in respect of CUP transactions (a matter about which the Review expresses no opinion), so this form of reporting to AUSTRAC did not occur.³³⁷
230. Throughout the seven years that the CUP Process was in operation no further AML/CTF risk assessment was undertaken, including at the point when the Temporary CCF was introduced.³³⁸
231. It is true that **KYC** checks were conducted on patrons using the CUP Process since a front money account was opened on their behalf. According to Mr Aloï, the KYC process for the opening of front money accounts took only “10 minutes” long³³⁹ and was not extensive. It consisted of the Cage obtaining 100 points of ID and conducting a World Check and Google Search on the patron.³⁴⁰
232. However, no source of wealth checks were conducted by the Cage in the opening of front money accounts.³⁴¹ In oral evidence, Ms McKern agreed that the funds obtained via the CUP Process carried a lower risk of money laundering because the funds had cleared the patron’s Chinese bank account.³⁴² The immediate source of funds was clear. However, there was no interrogation beyond that to understand how the patron came into possession of those funds in his or her bank account.³⁴³
233. Ms McKern said that the money laundering risks associated with the CUP Process are exemplified through the case study of Mr Lee.³⁴⁴ Mr Lee was permitted to use the CUP facility to withdraw non-winnings cheques worth nearly \$32 million. His CUP swipes were not supported by rated play, which was observed by members of staff, including Mr Aloï, who personally held concerns that Mr Lee was engaging in money laundering.³⁴⁵ Mr Lee had withdrawn funds from an overseas bank account. After he received non-winnings cheques, he had obtained his money through the casino.
234. The other obvious money laundering risk associated with the CUP Process was its lack of transparency. The fact that CUP transactions were conducted through the hotel obscured the fact that they were in reality transactions with a casino for the purpose of gambling. This created a risk that the bank that issued the CUP card or a law enforcement agency reviewing the patron’s bank account statements would not understand the true nature of the transaction. Mr Stevens gave evidence that one of the reasons that CUP cards were swiped

at the hotel was that some patrons did not want to have “The Star Pty Ltd on that transaction record.”³⁴⁶ Mr White accepted that it was a “reasonable assumption” that CUP transactions would appear to be hotel transactions to anyone viewing a patron’s bank account statement.³⁴⁷ Ms Martin accepted in her oral evidence that the “two step process” adopted for CUP transactions did not necessarily “set up clearly across ourselves and NAB transparent arrangements”.³⁴⁸

235. Ms McKern stated in her report:³⁴⁹

Whilst the underlying transaction to move patron funds from China to The Star is quite simple, the procedures and documentation associated with the CUP Arrangements were complex, involved multiple stages and introduced features designed to present the transaction as being something other than what it was. This opacity within the transaction value chain has the hallmarks of a layering typology and renders the arrangements vulnerable to exploitation by money launderers.

Chapter 12.14 Other risks of the CUP Process

236. The Star Entertainment Legal Team and members of senior management of Star Entertainment were at all times aware of various serious risks of the CUP Process. By early 2014 there was some concern amongst senior employees that The Star Counterparties may be in breach of the Merchant Agreement with NAB in relation to the CUP Process. On 11 April 2014, Mr White emailed his colleagues Mr Damon Colbert and Mr Kelley identifying a number of express restrictions in the Merchant Agreement on the use of CUP cards.³⁵⁰ He noted:

- We have authorised NAB to withdraw amounts from our related account in relation to any fines, penalties or similar costs that NAB may incur under card scheme rules (which would include CUPs [sic] scheme rules) because our conduct in relation to the merchant services ...
- We want to NAB [sic] that in having received or receiving the merchant services we have not been and will not be in breach of any relevant law or obligation owed to any person.

237. Mr White concluded that “I do not believe there is a breach of the NAB’s Merchant Terms”.³⁵¹

238. Mr White forwarded his email to Mr Power on 24 April 2015.³⁵²

239. Mr White said he carefully reviewed the Merchant Agreement at the time.³⁵³ Mr White accepted that the NAB Merchant Terms entitled NAB to recover fines, penalties and other costs that NAB incurred under the UnionPay Scheme Rules, and that The Star Counterparties had warranted that they had not been in breach of any “relevant law” or

obligation owed to any person.³⁵⁴ Clause 1.1 of the Merchant Agreement defined “relevant law” to include the UnionPay Scheme Rules.³⁵⁵ However, Mr White agreed that he had overlooked this point in providing his advice.³⁵⁶

240. The question of compliance with the Merchant Agreement was obviously an important one. It is surprising that Star Entertainment did not seek external legal advice on that question at the time. That would have been the prudent course, as Mr White accepted.³⁵⁷ In early October 2015, Mr Power met with Ms Martin.³⁵⁸ While Ms Martin could not recall their discussion at this meeting, she did accept that at around this time, she asked for steps to be taken to understand the legal position associated with accepting CUP cards from a contractual/merchant terms perspective.³⁵⁹
241. On 9 October 2015, Mr Power sent an email to Mr White stating that he had discussed CUP with Ms Martin, and that the next steps were to:³⁶⁰
1. Update business about changes to China Union Pay
 2. Identify any new risks introduced
 3. Detail the legal position associated with accepting China Union Pay from a contractual (Merchant Terms perspective) as well as an AML / CTF perspective. Compliance and Regulatory perspective and, more generally, from a risk perspective (including reputational risk).
 4. Identify any steps that can be undertaken to mitigate those risks
 5. Organise a briefing with Matt, Chad and Paula to outline findings above
242. Mr Power gave evidence that he thought the position in relation to The Star’s contractual obligations needed to be considered and discussed.³⁶¹
243. The Star Entities accepted that as of at least October 2015, The Star was on notice of the risk that it was in breach of its Merchant Agreement with NAB by reason of the CUP Process. Despite knowledge of this risk, no external legal advice was sought and there is no evidence that consideration was given to terminating the CUP Process.
244. In October 2015, NAB queried a CUP transaction. In this regard, on 22 October 2015, Ms Deborah Waterson of Star Entertainment emailed Mr Power, copying Ms Martin, and reported that she had spoken to a Neil Williams from NAB:³⁶²

Neil was enquiring about the volume and expected value figures, he asked if we were aware that China Union Pay transactions were not to be utilised for gaming purposes and then advised that as part of the merchant approval assessment, questions had been raised in regards to the proposed coding of these transactions (Hotels, Motels and Resorts) and the dollar value of the transactions - his exact comment was "that

makes for a very expensive Hotel room". At this stage I advised Neil that I would look into his queries and would get back to him in regards to the matter.

245. Mr Power gave evidence that this was the first time he had received an email in relation to queries raised by NAB on CUP, and although the email referred to a conversation which he had with Ms Waterson, he did not recall that conversation.³⁶³ Ms Martin accepted that at this point she was aware that there were queries from NAB about the use to which the CUP cards were being put.³⁶⁴ Ms Martin responded to Ms Waterson, thanking her for passing on the information, and, copying Mr White, requesting that he stay across the issue and discuss it with Mr Power as needed. Mr White responded:³⁶⁵

This may be worth a quick call between us. NAB's approach appears to be changing with a change in personnel (it was NAB who recommended the charge code that is used at The Star.

246. On 28 October 2015, Mr White emailed Mr Power, copying Ms Martin.³⁶⁶ He forwarded a copy of Mr Haberley's 19 March 2013 email to Mr Aloï, which has been discussed above, and stated that:

this was the one I was previously referring to where we sought input from NAB on how this would work and they say use the relevant code and that our internal transfers after a transaction swipe are not information for CUP or NAB.

I see that the person we are dealing with in this chain is not particularly senior and will check the position of the person raising questions in Qld.

247. It is apparent that Mr White was searching for any written documentation which may have recorded that NAB representatives were aware of the true purpose of the CUP transactions.
248. On 5 November 2015, Ms Waterson followed up in an email to Mr White, stating that she had received another phone call from Mr Williams, who stated, among other things, that "unless we were able to provide revised figures the project may be cancelled by NAB. This cancellation would be based on the risk that the service would be used for Gambling services as per the figures already provided".³⁶⁷
249. Mr Power accepted in evidence that he was aware of this risk, and that he knew NAB was concerned that CUP cards were being used for gambling.³⁶⁸ In respect of Mr Williams' queries, Ms Martin accepted that one individual at NAB was suspicious about whether the CUP card transactions were really for purchasing hotel accommodations, but did not accept that there was a real prospect that NAB did not understand the true purpose of the CUP swipes.³⁶⁹

250. On 30 November 2015, Mr Power prepared an RAR.³⁷⁰ Mr Hawkins and Mr Power gave evidence that RAR stood for “request, action, response.”³⁷¹ Mr Power recorded the following as an emerging issue: “Casino Licence Review – TM review of CUP”. Mr Power was unaware what “TM” was a reference to, but did recall that he was making a reference to the CUP Process in the context of the casino periodic suitability review being conducted by Dr Horton QC at the time.³⁷² Mr Power could not confirm whether the use of the CUP Process had been disclosed to Dr Horton QC, and denied that a decision was made not to disclose the process to Dr Horton QC.³⁷³ The use of CUP cards at The Star was not referred to all in the Horton Report. If it had been disclosed to Dr Horton QC, it is likely that Dr Horton QC would have referred to it in his report.
251. On or around 11 May 2016, Mr Power presented a “Memo of Legal Advice Re Key Risks” to Mr Bekier and Ms Martin, and possibly Mr Stevens, at a meeting.³⁷⁴ He stated that he discussed the CUP Process in the course of providing advice to Mr Bekier about various risks faced by The Star, and “there was some detailed discussion about the CUP arrangement and the risks associated with it, including potential financial exposure to NAB and CUP.”³⁷⁵
252. Mr Bekier accepted that a meeting occurred on 11 May 2016 between himself, Ms Martin and possibly Mr Stevens, and he most likely discussed the advice with them at the meeting.³⁷⁶ Ms Martin did not recall the meeting or what was discussed, but accepted that she was made aware of the memorandum and would have been taken through the issues and risks outlined in the table.³⁷⁷ It is found that Mr Power provided this written document to Ms Martin and Mr Bekier and that he met with them to discuss it.
253. The 11 May 2016 advice said:³⁷⁸

Whether CUP transfers for gambling purposes are permitted and the potential for the service to be used as a means of circumventing restrictions imposed by the Chinese Government on Chinese nationals withdrawing funds from China. More specifically

(a) Whether CUP Policy supporting practice of converting CUP credit through the SR lounge by swiping CUP card on NAB Eftpos (and attributing an amount to a Hotel room and creating a temporary CCF for gambling) is permitted or known.

(b) Issue is whether The Star is circumventing China laws and creating a reputational risk and taking active steps to conceal this practice (noting NAB email).

(c) Use by prominent customer under certain self-imposed operational restrictions that are not defined or documented and able to be influenced by commercial objectives.

254. It is clear that the “prominent customer” referred to was Mr Phillip Lee.
255. Mr Power told the Review that by this time he was considering whether the CUP Process placed The Star in breach of its contractual arrangements with NAB and was concerned that it was being concealed from UnionPay, and perhaps NAB.³⁷⁹ His evidence was that “conceal this practice” meant “conceal the fact that it was intended to be used for gaming”.³⁸⁰
256. Mr Bekier accepted that the risks being identified were concerning. His evidence was that it was a collective and individual failing that The Star had not revisited its initial assumptions that the CUP Process was acceptable.³⁸¹
257. Mr Power gave evidence that it had been suggested to him that NAB was collaborating with The Star to deceive UnionPay, and insisted that this had a bearing on whether The Star’s conduct deceived UnionPay.³⁸² Mr Power did not accept that the only appropriate step for him was to ascertain exactly what NAB knew, and insisted that it was his responsibility simply to provide legal advice and highlight risks associated with the use of the facility.³⁸³ He ultimately accepted that he perhaps should have advised Mr Bekier to ascertain exactly what NAB knew or did not know.³⁸⁴
258. Ms Martin’s evidence was that while she did not recall receiving the advice, words like “conceal practice” and “circumvent laws” generally were of concern to her.³⁸⁵
259. By late 2016, Star Entertainment was looking to introduce the CUP Process at its Queensland casinos. On 28 November 2016, Mr White emailed several colleagues about this and stated:³⁸⁶

As you may be aware, VIP use of China Union Pay credit cards is a sensitive area and we need to ensure that relevant documentation is drafted to minimise potential risk to the business. Accordingly, if at all possible, I would like to amend the standard wording produced for these transactions in the relevant billing system with the following:

"Transfer to customer's The Star account"

260. Mr White attached an “information copy” document for the Astral Tower and Residences which described the transaction as “CUP Front Money”.³⁸⁷ By this time, he understood that there was a prohibition on the direct purchase of gambling chips through CUP cards, and that the purpose of the transactions was to purchase gaming chips.³⁸⁸

261. On 16 January 2017, Mr White emailed Mr Barton (who at that time was the Chief Financial Officer of Star Entertainment), Mr Theodore, Ms Martin and other members of senior management to alert them to recent overseas developments relating to the tightening of use of CUP cards at casinos. He attached two recent media articles and stated:³⁸⁹

if the general gist of the stories is correct and Beijing is looking to limit the use of CUP for capital outflows, then we should be aware of this and considering our potential exposure should CUP be shut down as a payment method for The Star Entertainment Group or CUP is both shut down as a payment method and CUP refuses to clear one or more approved transactions.

262. While Mr Theodore did not have a recollection of reading the email, he thought it was likely that he did, and in any event, understood at the time the risks identified in the email.³⁹⁰ However, Mr Theodore said his perception was that UnionPay had tacitly accepted the practice of using CUP cards to obtain funds for gambling.³⁹¹

263. Ms Martin accepted that she appreciated there were some risks associated with the use of the CUP Process at this time, and the risks identified in Mr White's email were known to her.³⁹² Mr Barton, who left the employ of Star Entertainment some years ago, did not give evidence to the Review.

264. On 1 May 2017, Mr White emailed various colleagues, and copied Mr Hawkins, Mr Barton, Mr Theodore and Ms Martin, stating:³⁹³

As I am sure you will appreciate from previous discussions between us, the use of China Union Pay direct debit cards at our properties is a sensitive issue, particularly as China Union Pay cards are not to be used directly for acquiring gaming chips.

The potential for issues has been highlighted over the last 3 working days with requests for detailed documentation on CUP transactions from:

- China Union Pay (via NAB), in relation to 4 large transactions from March;

...

The details in the information provided can be extremely sensitive, particularly where the relevant documentation does not support the charge as a credit to the relevant patron's hotel room, which is the basis for the relevant transaction.

In light of the requests for information and from some of the documentation collected, please could you liaise with the relevant teams at your properties to ensure:

- The upper limit for a CUP swipe is reduced to \$100,000, with a maximum of 5 swipes on a card in one day – any potential exception to this to be approved by Chad [Barton];

- Opera entries for CUP transactions are in the patron's name and refer to the patron's room [number]. We have today discovered that at The Star, Sydney

the recent Opera receipts for CUP transactions are coded to room “0000” for customer “CUP Transactions”. The Star is required by its Merchant provider (NAB) to keep accurate transaction records, so we need to keep correct receipts within Opera. Please could you ensure that going forward CUP Opera receipts are coded to the relevant patron’s room and addressed in the name of the cardholder. CUP transactions cannot be transacted for patrons who do not have a hotel room.

265. On 2 May 2017, Mr White was notified by Mr Theodore that UnionPay had queried, via NAB, some CUP transactions placed through the Astral Hotel terminal.³⁹⁴
266. On 3 May 2017, Mr White sought legal advice from KWM on whether the CUP transactions that had been settled could be unwound by UnionPay, “were it to find out that a merchant facility was operated in breach of its rules”.³⁹⁵
267. Mr White told the Review that by this time he thought it was possible that UnionPay would find that the CUP transactions were in breach of its rules.³⁹⁶ He said that at around this time he raised this prospect with Mr Barton. He said Mr Barton responded by saying, “well let’s just wait until they take it away from us”.³⁹⁷ As Mr Barton was not called to give evidence no finding is made that he in fact said any such thing. In any event, Mr White thought that was the genesis of his request to KWM for advice.³⁹⁸
268. On 4 May 2017, a junior lawyer from KWM sent a short one page email to Mr White setting out some “preliminary thoughts”. That is the only form of advice in evidence that is responsive to Mr White’s request. The email stated it “may be arguable” that The Star has not breached the Merchant Agreement by processing “hotel package transactions” with CUP cards.³⁹⁹ The email also cautioned:⁴⁰⁰

It is not clear based solely on the documents that you have provided to us that NAB has understood that it may have endorsed or permitted behaviour by the Star that could potentially breach the scheme rules. Rather, it appears from the email chain alone that NAB was considering the most appropriate merchant code for the hotel packages transaction, such as “membership accounts” or possibly “lodging”.

269. Mr White gave evidence that he definitely would have shared this advice with Ms Martin, and that it was likely he briefed Mr Barton on it.⁴⁰¹
270. Ms Martin stated that she did not recall Mr White seeking this advice or receiving this advice from him, but accepted that the advice indicated that there was a risk that The Star had breached the terms of the Merchant Agreement.⁴⁰² She thought it was “inconclusive” as to whether KWM had concerns that NAB did not know the true purpose of the transactions.⁴⁰³

271. Mr Bekier stated that he was not made aware of the advice, but accepted that the risk raised by KWM was “very significant”, and precisely the type of risk about which he should have been made aware.⁴⁰⁴ It was his view that the fact that this information was not escalated to him represented a significant failure within the organisation.⁴⁰⁵
272. In closing submissions, The Star Entities conceded that several of their employees:⁴⁰⁶
- (a) were on notice that from 2015 NAB may not have understood the true nature of the CUP transactions; and
 - (b) did not take appropriate steps to ensure that NAB and UnionPay were not misled, but instead, caused or allowed The Star to respond to inquiries in a way which was liable to mislead both NAB and UnionPay.

Chapter 12.15 Dealings with NAB

Mr Theodore’s dealings with Mr Bowen from NAB

273. In 2016 Mr Andrew Bowen was the Director for Institutional Banking, Industrial Sector at NAB, and was Star Entertainment’s account manager.⁴⁰⁷ In 2016, Mr Theodore was Star Entertainment’s Head of Strategy and Investor Relations, as well as Head of Treasury, and had responsibility for the administration of the Star Entertainment Group’s bank accounts.⁴⁰⁸
274. Mr Theodore said in his statement to the Review that he believed that employees at NAB were aware that CUP swipes were used for gambling purposes.⁴⁰⁹ This included reference to conversations Mr Theodore said he had with Mr Bowen about the CUP facility at The Star in September 2016 and March 2017.⁴¹⁰
275. Having heard Mr Theodore’s evidence, the Review invited Mr Bowen to provide a statement to the Review, if he wished, outlining his version of events. Mr Bowen chose to provide a statement and was then called to give oral evidence. Notably, neither The Star Entities nor Mr Theodore sought to challenge Mr Bowen on his account.
276. On 2 March 2016, Mr Bowen emailed Mr Theodore asking for a teleconference to discuss CUP. Mr Bowen’s email stated:⁴¹¹

we have been contacted by China Union Pay re some transactions that were processed over January for you and they were wanting to confirm that the transactions are compliant with their scheme rules.

We are obviously keen to continue to support you with this business and the purpose of the call would be to understand what the transactions relate to, confirm that the transactions are within the China Union Pay Scheme rules and then agree how we will respond to China Union Pay.

277. Neither Mr Theodore nor Mr Bowen recalled what occurred on the teleconference, or whether it took place.⁴¹²
278. Mr Theodore said that he had discussions with Mr Bowen in September 2016 about setting up CUP merchant terminals in The Star Entertainment Group's Queensland casino. He said that Mr Bowen told him:⁴¹³

he understood that the terminals were for VIP customers based on level of gaming spend, that the transactions would take place as "hotel transactions" with terminals located outside the casino area, and that once cleared, the funds would primarily be used by the patrons for gaming, as this was similar to the way that the service was set up in Sydney.

279. Mr Theodore told the Review that was his best recollection of the meeting, but that he had no records of it.⁴¹⁴ He did not recall telling Mr Bowen specifically that CUP cards were used for gambling at The Star but assumed that Mr Bowen understood that based on a prior discussion with him in September 2016.⁴¹⁵
280. Mr Bowen denied making the statements Mr Theodore attributed to him during their meeting in September 2016.⁴¹⁶ He told the Review that it was his understanding that the terminal in the hotel was not to be used for gaming or gambling-related purposes.⁴¹⁷
281. On 22 March 2017, Mr Theodore attended a "general catch up" meeting with Mr Bowen in Melbourne.⁴¹⁸ He stated that at the meeting, they discussed a number of topics, including queries from UnionPay that had been responded to by NAB. Mr Theodore gave evidence that Mr Bowen had confirmed NAB's position that it was still comfortable to provide the service to The Star, "on the basis that the terminals were located outside the casino and that gaming transactions were not conducted at the terminals".⁴¹⁹
282. Mr Bowen disputed Mr Theodore's recollection of the discussion at their 22 March 2017 meeting.⁴²⁰ Mr Bowen said in his statement:⁴²¹

While it is true that if we had discussed the installation of CUP terminals I would have made it clear that gambling transactions could not be conducted through them, I would not have made a general statement about NAB being "comfortable" providing services in such vague terms. I was not involved with monitoring The Star's compliance with the CUP scheme rules this work would have been undertaken by the Transactional Banking or Merchant Risk Operations teams.

283. In oral evidence before the Review, Mr Bowen gave evidence consistent with this paragraph in his statement and denied having any understanding at that time that the CUP cards at The Star were being used for gambling purposes.⁴²²
284. On 30 March 2017, Mr Bowen sent Mr Theodore an email forwarding a reminder from UnionPay, regarding the terms and conditions of the CUP facility (**30 March 2017 Email**).⁴²³ The email stated:
- As Star Entertainment Group’s Acquiring Bank, NAB are committed to protecting our customers reputation. NAB would like to ensure that all transactions through Star Entertainment Group Merchant Facilities restrict gambling. Gambling applies a separate Merchant Category Code to what is currently applied to the Star Entertainment Groups [sic] Astral VIP merchant terminal, thereby we must ensure that no proceeds or deposits for gambling are placed through this terminal.
- Please ensure strict controls are in place to avoid any gambling credits being placed through the terminals.
285. It is difficult to see why Mr Bowen would have sent this email if he had made the statements attributed to him by Mr Theodore during their 22 March 2017 meeting. Mr Bowen gave evidence that the 30 March 2017 Email was consistent with his understanding that the CUP-enabled terminals at The Star were not to be used for gambling purposes.⁴²⁴
286. Mr Theodore did not accept that Mr Bowen’s email was completely contrary to his alleged knowledge of how the CUP facility was being used.⁴²⁵ He accepted, however, that he did not respond to Mr Bowen by writing back something to that effect.⁴²⁶ He agreed in evidence that after receiving this email he thought The Star needed to consider whether NAB’s position had changed.⁴²⁷
287. Mr Theodore also said that he considered that given the relationship between NAB and The Star, and the volume of CUP transactions, no NAB representative could reasonably believe that the funds withdrawn by patrons at the hotel using their CUP cards were used for non-gaming expenditure only.⁴²⁸
288. In contrast, Mr Bowen stated that it was his understanding that the transactions ranged from approximately \$10,000 to \$200,000 a piece, and that he thought they were non-gaming related, and that patrons used those funds for the hotel, entertainment, first class flights, tours, shopping, meals, and chartering The Star’s private jet, which would “cost a lot”.⁴²⁹ He saw no reason to be alarmed by the volume of the transactions.⁴³⁰ He also denied having any understanding that the CUP cards were being used in casinos around the world to purchase gaming chips.⁴³¹

289. Mr Theodore also said in oral evidence that he considered there was “tacit acceptance” by UnionPay that the CUP cards were used to purchase gaming chips.⁴³² He explained that his belief was based on industry practice.⁴³³ This was not a matter that Mr Theodore set out in his statement.
290. The way in which this matter evolved in evidence before the Review was not entirely satisfactory for determining a disputed question of fact. Mr Theodore provided a statement and was examined upon it. Subsequently Mr Bowen was invited to provide a statement. Mr Bowen chose to do so and was examined on it. Counsel for Mr Theodore, who by that time was separately represented, chose not to challenge Mr Bowen’s evidence or indeed ask any questions of Mr Bowen. Mr Theodore was not subsequently recalled to be challenged on Mr Bowen’s version of events.
291. In the circumstances, it is not necessary to make a finding about Mr Theodore’s credit in relation to his evidence of conversations with Mr Bowen. However, as Mr Bowen’s version of events was not challenged and was inherently credible, Mr Bowen’s evidence as to his state of mind and verbal communications with Star Entertainment concerning the use of CUP cards at The Star is accepted without any qualification.

Misleading responses to NAB in 2019

292. In the period June to December 2019, NAB conveyed a number of UnionPay’s queries regarding CUP transactions to Star Entertainment. During that period, Ms Sarah Scopel was the Group Treasurer of Star Entertainment.⁴³⁴ Part of her role involved acting as point of liaison with the group’s banks and for that reason she received many of the communications from NAB.⁴³⁵ Ms Scopel initially reported to Mr Barton, and then to Mr Theodore, when he became the Chief Financial Officer.⁴³⁶ Ms Paulinka Dudek, at that time was a Senior Treasury Manager, and reported to Ms Scopel,⁴³⁷ as did Mr Aloj and Ms Perkovic.⁴³⁸
293. On 18 June 2019, Mr Stephen Napiza of NAB forwarded Ms Dudek a query from UnionPay regarding certain flagged CUP transactions (**18 June Request**). The UnionPay email said, “[t]he reasons is suspiciously large amount gambling transaction with improper MCC”.⁴³⁹ The Star was asked to:
1. Explain the business scope of the relevant merchants;
 2. Explain what type of goods or services did the cardholder purchased;

3. Provide the supporting documents for the attached transactions (including but not limited to contact, agreement, invoice, etc).
294. Ms Dudek forwarded the query on to Ms Scopel, Mr White and a cage employee, Ms Juanita Larkin, whom she requested to collate necessary information for the response. Mr White suggested providing what he described in his email as the “hotel invoice statements”, and which were referred to before the Review as the “Information Copy” documents. He suggested the following response be provided to NAB:⁴⁴⁰
1. The merchant operates integrated resorts in Australia, consisting of hotels, restaurants and other entertainment facilities.
 2. The cardholder purchased hotel accommodation services with the transactions in question.
 3. Invoices for the relevant transactions are attached.
295. On 19 June 2019, Ms Dudek responded to Mr Napiza’s email, copying in Ms Scopel, with the wording suggested by Mr White (**19 June Response**).⁴⁴¹
296. The documents Ms Dudek described as “invoices” were the so-called “Information Copy” documents. These were on Treasury Casino & Hotel letterheads, referred to a patron, identified a room number and arrival and departure date, contained a narrative “transfer to customer’s account” and gave every appearance of being an invoice for accommodation at the hotel. She also enclosed corresponding merchant terminal receipts in the name of Jupiters Limited.⁴⁴²
297. Ms Dudek accepted in oral evidence that her response was “utterly misleading”.⁴⁴³ The Star Entities accepted that this response and others like it were indefensible. They were obfuscatory, misleading and unethical.⁴⁴⁴ Mr White, a lawyer, had drafted these responses. He told the Review that the response was expressed this way to put as much distance as possible between the CUP transactions and the fact that they ultimately funded the purchase of gambling chips.⁴⁴⁵
298. Ms Dudek gave evidence that she was aware that the responses were misleading at the time, but had deferred to Mr White on the response and did not personally have any part in putting the response together.⁴⁴⁶ Ms Dudek gave evidence that there was an internal policy, impressed upon her by Ms Scopel, that any non-standard questions or requests from Star Entertainment’s relationship banks had to be approved by the legal department.⁴⁴⁷ Ms Scopel’s evidence was that she did not recall reading the 19 June Response, and would only have been “generally” aware that NAB was making inquiries on behalf of UnionPay as to

whether the cards had been used to fund gambling.⁴⁴⁸ She accepted that at some time in 2019 she would have seen the invoices and terminal receipts, and accepted, after some lengthy questioning, that the “transfer to customer’s account” had some connection with transfers to patrons’ front money accounts.⁴⁴⁹

299. Later on 19 June 2019, Mr Napiza from NAB asked Ms Dudek in a further email (into which Ms Scopel was copied):⁴⁵⁰

Can you please confirm with client that the transactions does not contain any gambling component in this exchange and solely for accommodation only?

300. Ms Dudek forwarded this email to Mr White asking whether to confirm the transactions were made solely in the hotel.⁴⁵¹ Ms Dudek said in her statement that she was unable to locate a response to this email from Mr White or a specific response to NAB, and the Review has not identified any response.

301. Ms Dudek knew that UnionPay’s concern at this time was to establish whether there was a gambling component to the CUP transactions, and was aware that NAB was conveying her responses to UnionPay.⁴⁵² She accepted it was beyond doubt that she was aware that CUP cards were being used to fund gambling.⁴⁵³ Ms Scopel said that she did not recall specifically reading this email, but if she had, she would have been aware that UnionPay wanted to know if the cards had been used to fund gambling.⁴⁵⁴

302. On 27 August 2019, a similar request came from UnionPay to The Star via NAB, about a series of large transactions that took place at the Queensland and Sydney casinos, requesting information about the same three matters as the 18 June Request (**27 August Request**).⁴⁵⁵ The response sent by Ms Dudek to NAB, copying Ms Scopel, contained the same wording as the 19 June Response (**27 August Response**).⁴⁵⁶ It was approved by Mr White.⁴⁵⁷ Again this response was, as accepted by Ms Dudek, utterly misleading.⁴⁵⁸

303. Ms Scopel accepted that the fact that she was copied into the 27 August Response meant that her awareness and involvement in the responses to NAB was increasing.⁴⁵⁹ She expected that she was aware by this time that the CUP cards had been used to fund gambling, and that UnionPay was interested in that very question.⁴⁶⁰

304. On 30 August 2019, the NAB followed up, requesting more details, including detailed tax invoices showing “a breakdown of the transactions to determine what were the payments for”.⁴⁶¹ Ms Dudek responded that the “invoices provided are the actual tax invoices and

consistent with what we have provided NAB for the last few years”⁴⁶² (**30 August Response**).

Ms Arthur’s involvement

305. The evidence establishes that following the 30 August Response, NAB representatives internally queried the accuracy of Star Entertainment’s representations. At this point, Ms Tanya Arthur from NAB became more directly involved.

306. Ms Arthur was requested by an NAB colleague to ask Star Entertainment if any portion of the transactions were used for gambling purposes.⁴⁶³ Ms Arthur responded in an email dated 4 September 2019, stating:⁴⁶⁴

I have spoken to Paulinka and she has followed up with the appropriate internal department again for clarification.

She confirms the transactions were used for hotel accommodation services only.

307. Ms Arthur was requested by her colleague to obtain further clarification:⁴⁶⁵

I understand that casino chips or gambling credits could fall under the definition of ‘hotel accommodation services’.

Appreciate confirmation that there’s no gambling component to the ‘hotel accommodation services’.

308. Ms Arthur responded on 10 September 2019, advising that:⁴⁶⁶

she said that there was no gambling component, so I take this includes chips and credits.

309. Ms Arthur’s evidence was that she spoke to Ms Dudek on 4 September 2019 and Ms Dudek informed her that there was no gambling component to the CUP transactions.⁴⁶⁷ Ms Dudek confirmed that the transactions “were used for hotel accommodation services only”.⁴⁶⁸ When Ms Arthur’s colleague sought further clarification, Ms Arthur did not speak to Ms Dudek again. Rather, her 10 September 2019 email set out further details of the same call with Ms Dudek. She agreed her email could have been clearer about that point.⁴⁶⁹

310. Ms Dudek told the Review she did not recall having a telephone conversation with Ms Arthur at that time, or any direct telephone conversations with Ms Arthur regarding CUP. She only recalled having a conversation with Ms Arthur, accompanied by Ms Scopel in or around December 2019.⁴⁷⁰ Her evidence was that she did not believe it could have occurred, because:⁴⁷¹

I wouldn't have felt comfortable discussing the matter with Ms Arthur over the phone. If there was a question that was posed to me from Ms Arthur, I would have followed up with Mr White to confirm an appropriate response back. But I wouldn't have been in a position to feel comfortable responding to Ms Arthur on that direct request over the phone.

311. In circumstances where Ms Dudek had no recollection of the phone call, Ms Arthur's evidence is accepted, particularly in light of it being contemporaneously documented by Ms Arthur in the email to her NAB colleagues.

NAB queries continue

312. On 22 October 2019, Mr Meldrum of NAB sent Ms Dudek a further request for information on behalf of UnionPay, copying Ms Arthur of NAB, in relation to an additional 13 transactions for three patrons at the Astral Hotel terminal.⁴⁷² UnionPay's inquiries were becoming more specific:

Could you please advise details with regard to these transactions – being, copies of tax invoices and your confirmation on what the transactions represented.

*The following is a transcript received from UPI with regard to further details for previously advised transactions:-

We wonder what does it mean regarding “Transfer to customer’s account” in Description column. It is not clear what were the transactions purchased, what kind of specific service, etc. Meanwhile, one amount of Debit and one amount of Credit, and the Balance Due is 0.00AUD, we also have query in this part.

(emphasis in original)

313. Ms Dudek forwarded the response to Mr White and Mr David Smart, copying Ms Scopel and Mr Aloï, requesting assistance on responding to the inquiry.⁴⁷³ Ms Scopel requested that Ms Dudek have a discussion with her prior to responding to NAB.⁴⁷⁴
314. By return email, Mr White proposed the following response:⁴⁷⁵

Certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues within the resort, as well as travel expenses (for example limousine transfers, internal flights) and external expenses (for example local tourism tour operator expenses), during their time in Australia and whilst staying at The Star Entertainment Group's resorts. Such expenses are consolidated within the guest's personal account, which is linked to the guest's hotel accommodation, and cleared with a transfer from the hotel accommodation account, as noted in the receipt.

315. Mr White requested that the proposed response be “run by” Mr Theodore, and added:

My only concern with the wording above is whether it may cause [UnionPay] to flag that these transactions are not being properly coded, if not directly linked to accommodation. I am hopeful that the above retains the link to hotel accommodation, whilst noting other expenses – eg dining, transfers – are also potentially within this.

316. Upon receiving the draft response, Ms Dudek forwarded it to Mr Theodore and asked if he was comfortable with the wording.⁴⁷⁶ She stated in her evidence that Mr Theodore did not respond directly, but that Ms Scopel had followed up with him, and he had confirmed the wording with her.⁴⁷⁷ Mr Theodore accepted that he received an email from Ms Dudek on 31 October 2019, but did not recall any subsequent conversations.⁴⁷⁸
317. Ms Scopel gave evidence that in around late-2019 she first became aware that the CUP cards had been used in connection with gambling.⁴⁷⁹ She said she spoke with Mr Theodore about a response to NAB at around this time and had conversations with him on multiple occasions regarding particular responses from early in November.⁴⁸⁰ By this time she was concerned that statements being made to NAB were not transparent.⁴⁸¹
318. Ms Dudek responded to NAB on 4 November 2019 (**4 November 2019 Response**), copying both Ms Scopel and Ms Arthur, stating:⁴⁸²

Please see responses below for the queries raised by UnionPay –

1 Previously advised transactions

Certain very high end premium guests at The Star Entertainment Group’s integrated resorts incur expenses at the hotel, across a range of entertainment venues within the resort, as well as travel expenses (for example limousine transfers, flights) and external expenses (for example local tourism tour operator expenses), during their time in Australia and whilst staying at The Star Entertainment Group’s resorts. Such expenses are consolidated within the guest’s personal account, which is linked to the guest’s hotel accommodation, and cleared with a transfer from the hotel accommodation account, as noted in the receipt.

2 New transaction requests

- The merchant operates integrated resorts in Australia, consisting of hotels, restaurants and other entertainment facilities.
- The cardholder purchased hotel accommodation services with the transactions in question.
- Invoices for the relevant transactions are attached.

319. Both Ms Dudek and Ms Scopel accepted that this email was misleading.⁴⁸³ Mr White said in evidence that the response should not have been sent.⁴⁸⁴ Mr Theodore denied it was misleading because he said that he believed that NAB understood how the CUP Process

operated. However he accepted that the communication was inappropriate and should not have been sent.⁴⁸⁵ As was accepted by The Star Entities in closing submissions, the 4 November 2019 Response was obfuscatory, misleading and highly inappropriate.⁴⁸⁶

320. On 4 November 2019, a UnionPay representative attempted to make contact and issue a query directly with Star Entertainment.⁴⁸⁷ Ms Scopel, to whom the request was escalated, requested that the representative communicate with The Star via NAB only for customer privacy and security reasons.⁴⁸⁸ Ms Scopel accepted that from this time she was directly involved in the queries from UnionPay via NAB.⁴⁸⁹ The request was also forwarded to Mr White and Mr Theodore.⁴⁹⁰ Mr Theodore accepted that by this time he was in no doubt that UnionPay wished to confirm the true purpose of the CUP transactions. He agreed that Star Entertainment failed to take a transparent approach.⁴⁹¹

Mr Bekier, Mr Hawkins and Ms Martin are informed of NAB queries

321. Later, on 5 November 2019, Mr Theodore sent an email to Mr Bekier, copying Mr Hawkins and Ms Martin, informing them that Star Entertainment had been receiving more requests for details from UnionPay about transactions going through the NAB hotel terminals. He stated:⁴⁹²

We have had this in the past. We gave high level answers and it blew over. The requests we are getting now however are seeking more detail.

The requests come from CUP through NAB to us. We go back to NAB and they pass it through.

We also yesterday received a direct request from CUP's SYDNEY office (they contacted Stephen Witten who directed them to Peter Humphreys). We have not had this approach before.

We continue to respond to requests through NAB with Oliver White's assistance on drafting the replies.

When we last got focused questions we reduced our limits and it seemed to assist (or we assume it did because the request stopped for a period). We currently have a transaction limit of \$100k per swipe and up to 5 swipes per customer. There are some transactions at the \$100k but the vast majority are at lower levels (although still need to review the data in more detail).

We are doing work around the required limits and frequency to assess what we should do around reducing the limits in a way that minimises the customer impact and reduces risk with CUP but given the current focus I have asked the team to reduce the current limit to \$50k per transaction and a maximum of two transactions per customer per day whilst we get more clarity on how CUP will respond. The requests we are getting from CUP generally relate to customers who have over \$100k daily transactions so that should at least keep us under that threshold while we get a sense on the level of enquiry.

I think it is prudent we do this in the short term - we can monitor it and review whether we want to shift it (or want to make exceptions for any specific customers).
I will work with Greg on best managing this.

NAB's 6 November 2019 request and telephone calls

322. On 6 November 2019, Ms Arthur from NAB sent a further request, this time directly to Ms Scopel (**6 November 2019 Request**). Ms Scopel accepted that this email was a significant escalation of the matter.⁴⁹³ Ms Arthur stated in the email that UnionPay had issued NAB with a notice indicating they were considering issuing a directive to NAB ceasing provision of UnionPay card acceptance to The Star, and that UnionPay could fine NAB and terminate, if NAB did not comply.⁴⁹⁴ In particular, she noted:

From our conversation with local UnionPay representatives, China's central bank (i.e. PBOC People's Bank of China similar to our RBA) is not satisfied with UnionPay's explanations received from The Star (via NAB) for previous irregular transaction investigation requests. PBOC has observed individual cardholders spending more than \$20m at The Star which they believe includes gambling and are struggling to see how this level of expenditure could be made on non-gambling entertainment.

323. As has been accepted by The Star Entities, this email evidences the fact that both UnionPay and the PBOC were concerned that the CUP transactions being conducted by The Star included a gambling component, and were seeking written confirmation that they did not.⁴⁹⁵ It is also evident that at this time, UnionPay and PBOC had been and would continue to review explanations provided by Star Entertainment to NAB.

324. Ms Arthur's email requested example breakdowns of expenditures of patrons, as well as "written confirmation that no transactions via the merchant facility includes a gambling component".⁴⁹⁶ Ms Scopel accepted that she was in no doubt at this point in time that UnionPay was concerned to confirm that the CUP cards were not being used to fund gambling.⁴⁹⁷

325. Ms Arthur and Ms Scopel spoke on the telephone on 6 November 2019. It is found that during that call, Ms Scopel offered to reduce transaction limits on the CUP cards. That is consistent with Ms Scopel's email to Mr Theodore later that evening stating, "Tanya said the suggestion should go a long way and will liaise with the merchant team to get a guide on how to beat communications it... extension beyond midday tomorrow is still pending...".⁴⁹⁸ Ms Arthur's evidence to the Review was that she did not have any understanding at that time that the transactions were being used to fund gambling. That evidence is accepted.⁴⁹⁹

326. At 8:57am on 7 November 2019, Ms Arthur emailed Ms Scopel to advise that UnionPay could not obtain an extension to PBOC’s request for additional information, and they had asked if The Star could provide any terms and conditions that communicate to guests that they cannot use a UnionPay card for gambling expenses.⁵⁰⁰ Ms Arthur stated that she would call Ms Scopel to discuss.
327. Ms Scopel gave evidence that she had a telephone call with both Mr Theodore and Ms Arthur on the morning of 7 November 2019 in which Mr Theodore said words to the effect that they could not provide specific confirmation that the transactions were non-gaming related, to which Ms Arthur responded “yes, yes I know”.⁵⁰¹ Ms Scopel said that from the tone of this response, she concluded that Ms Arthur was aware of the difficulty Star Entertainment was having in providing the non-gaming confirmations and was comfortable with the intended responses to UnionPay’s requests.⁵⁰² Ms Scopel did not recall Mr Theodore specifically stating that the CUP cards had not been used to fund gambling.⁵⁰³ Ms Scopel’s evidence was that the three of them discussed a reduction in transaction limits for CUP cards.⁵⁰⁴ Ms Scopel stated that Ms Arthur requested that The Star provide examples of high value non-gaming transactions in its response that the NAB could then use in their response to UnionPay.⁵⁰⁵
328. Mr Theodore’s recollection was different. He said Ms Scopel had informed him that she had spoken to Ms Arthur and Ms Arthur confirmed she understood that The Star could not provide confirmation that the transactions were not for gaming. Mr Theodore did not include this evidence in his witness statement.⁵⁰⁶
329. Ms Arthur gave evidence that she could not recall one way or another whether there occurred a phone call between Mr Theodore, Ms Scopel and her on 7 November 2019.⁵⁰⁷ However, she was firm that at no time in 2019 did Ms Scopel or Mr Theodore convey to her that the CUP transactions had been used to fund gambling.⁵⁰⁸

Assessing Ms Arthur’s evidence

330. Ms Arthur was subjected to a searching examination during the public hearings of the Review by senior counsel for The Star Entities and senior counsel for Ms Scopel. Ms Arthur emerged from that examination with her credibility intact. Her evidence is accepted in its entirety. In particular, it is accepted that no-one at NAB made her aware that CUP cards swiped at Star Entertainment’s hotels had been used to fund gambling.⁵⁰⁹ Ms Arthur did not understand from any of the responses provided by The Star to NAB’s queries that

CUP cards had been used to fund gambling.⁵¹⁰ Ms Arthur's explanation that she never asked Ms Scopel outright whether CUP cards had been used to fund gambling because she believed the responses that had been provided by Star Entertainment is also accepted.⁵¹¹

331. A telephone call may well have occurred on 7 November 2019 involving Ms Arthur, Ms Scopel and possibly, Mr Theodore. It is entirely possible that Ms Scopel or Mr Theodore spoke in riddles to Ms Arthur to try and indicate in an oblique way the difficulty which they believed they had in telling the truth to UnionPay and PBOC. However, Ms Arthur's evidence that she was not made aware during any such call that the CUP cards were used for gambling is accepted without qualification. Furthermore, there is no logical reason why Ms Arthur would have knowingly participated in creating a chain of false and misleading documentation to present to UnionPay.

Star Entertainment's 7 November 2019 response

332. On 7 November 2019, Ms Scopel sent a draft email response to Mr Theodore and Mr White.⁵¹² Ms Scopel said that Mr Theodore and Mr White had dictated this response to her.⁵¹³ This matter was not put to Mr White or Mr Theodore and no finding is made on that point. Whatever the correct position, the draft was sent to each of them to review. Further, Mr White forwarded the draft email on to both Ms Martin and Mr Power.⁵¹⁴
333. On 7 November 2019, Ms Scopel sent a response to Ms Arthur, copying Mr Theodore (**7 November Response**). The response is set out in full:⁵¹⁵

Without specific customer transactions to review it is difficult to understand the areas of concern. I have reviewed our CUP usage data for 2019 YTD and our records do not show any individual spending amounts in the range of \$20m, with the maximum spend only a fraction of this amount.

As previously mentioned, certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues within the resort, travel expenses (for example limousine transfers, flights) and external expenses (for example local tourism tour operator expenses, food and beverage, major events and entertainment), during their time in Australia and whilst staying at The Star Entertainment Group's resorts. Such expenses are consolidated within the guest's personal account, which is linked to the guest's hotel accommodation, and cleared with a transfer from the hotel accommodation account, as noted in the receipts provided previously.

These services may include both internal and external services provided or consumed.

Some examples of external services provided which may be charged to customer accounts are attached (jets, premium wines, jewellery, cars, cruises, travel experiences, concert tickets and events for customers etc.).

There are also a number of luxury services The Star provides to its VVIP customers that may be charged to their resort accounts, including:

- Use of the two owned Bombardier Global 6000 Aircraft which have an operating cost of USD\$15k per hour (<https://businessaircraft.bombardier.com/en/aircraft/global-6000#!#bbapdp-section-1>). Typical notional flight cost between Australia and Asia range between \$370k and \$450k per trip. Plans can be used for a variety of domestic and international flights by The Star's VVIP customers.
- Use of The Star's yachts - The Star currently owns a 100 ft Sunseeker Yacht (<https://www.sunseeker.com.au/#!/#page=1>) and 145 ft Benetti Super Yacht (<http://www.benettiyachts.it/>) in addition to other yachts that are available for use by premium customers.
- Accommodation at a range of Hotels owned and operated by The Star. For example purposes accommodation at The Darling Gold Coast and The Darling Sydney suites can range from \$7K - \$10K per night depending on time of the year and room type (VIP patrons can arrive with large groups, including family and friends, requiring multiple rooms)
- In addition to room charges, expenses incurred typically include premium goods and services such as wine and 24-hr butler service. Dinners or lunches at The Star's premium Food and Beverage facilities may include rare wines procured specifically for the customers and can include large group bookings (these services can result in charges ranging in the hundreds of thousands of dollars in some instances)

Attached is an overview of the types of luxury offerings customers frequently consume.

We confirm the terminal is located in The Star Grand hotel, outside of gaming related areas and gaming transactions are not conducted at the hotel.

To provide further comfort around the nature of transactions, we could restrict the transaction size to \$50K with no more than one of this value per day available for customers to pay for resort expenses. For customer expenses exceeding this amount, we will then require alternate payment methods to cover the excess charges. Please advise if such enhanced restrictions would be preferred by CUP/NAB and we can implement the limits, effective immediately.

334. Attached to the email were brochures for various luxury items, including expensive wines and a Star Entertainment Group brochure entitled "Luxury Entertainment Overview".⁵¹⁶ This email was breathtakingly misleading, and deliberately so.
335. Ms Martin accepted that this response was misleading and that she did nothing to prevent it being sent.⁵¹⁷ Ms Martin said that she reviewed the draft email in "haste" and that she did not read the email fully until after it was sent.⁵¹⁸ It may well be the case that Ms Martin had limited time to review the draft email. However it is clear from the careful and particular amendments which Ms Martin suggested to the draft email that she must have

understood at the time that the response to NAB was misleading. Ms Martin made the following suggestions to the draft response:⁵¹⁹

This looks ok to me noting the advice Oliver has already provided in relation to the potential risk regarding the inclusion of jet services.

I would also suggest removing the tour company receipt for the private japan tour if this actually relates to travel in Japan as I am not sure that helps our case with connecting expenses to hotel stays in Sydney, Australia.

336. Mr Theodore agreed that he authorised the sending of this email.⁵²⁰ Ms Martin and Ms White contributed to this email being sent. The fact that an email of this kind was sent by Star Entertainment and approved by senior management reflects an organisation which had lost its ethical compass.

Subsequent queries from UnionPay

337. Ms Arnott gave evidence that, at around this time in late-November 2019, she had been informed about inquiries by NAB in relation to the use of CUP cards, and it was her understanding that the process was not going to be in use for much longer.⁵²¹ She stated that at the end of a meeting in which Mr Hornsby and Mr White were in attendance, she said words to the effect that CUP “is not necessarily a good method for us”, though did not elaborate on why.⁵²² Ms Arnott gave evidence that Mr Hornsby responded with words to the effect that:⁵²³

It’s really big. You would be responsible for closing down [a very large amount of money].

338. Ms Arnott stated that her sense was that Mr Hornsby, “clearly wanted to continue to - to use the cards and I didn't necessarily think that that was a good idea, certainly not to expand it...he was making it clear that - that he thought it was a valuable channel for us to use”, and “he was certainly putting his case forward for why it would be valuable for that to continue”.⁵²⁴

339. The queries from UnionPay kept coming. On 26 November 2019, Ms Arthur sent an email to Ms Scopel and Ms Dudek attaching a spreadsheet listing 200 transactions that had taken place at the Astral VIP terminal. The email specifically referenced 156 of the transactions, amounting to around \$11 million in total. Ms Arthur stated:

UnionPay have responded with a request for supporting information on a further list of transactions. I apologise for these ongoing requests. We have highlighted to UnionPay the level of time/effort required to fulfil these requests, that it’s not

sustainable on an ongoing basis as well as the level of offence continually asking the same question about different transactions is likely to cause.

Similar to before, can you please provide purchase invoices of the below transactions or if the transactions involved any account top-up, provide the spending details of the accounts and costs evidence accordingly (transaction list is also attached).

340. On 9 December 2019, Ms Dudek responded, with the same 3-point wording, as issued in the 19 June Response.⁵²⁵ Ms Arthur stated by return email that the response had been forwarded to UnionPay which had requested further information clarifying the expenditure since “the current invoices give no detail on what has been purchased”.⁵²⁶
341. Ms Dudek gave evidence that there was a phone call between herself, Ms Scopel and Ms Arthur on 12 December 2019. Ms Dudek stated that the conversation was managed by Ms Scopel and the questions concerned what sort of information UnionPay was after. Ms Dudek said they did not discuss whether UnionPay wanted to know whether the funds had been used for gambling, or whether the cards had in fact been used for gambling.⁵²⁷ While Ms Arthur had no recollection of this conversation, she said it was not possible that she became aware that the CUP cards had been used to fund gambling.⁵²⁸ That evidence is accepted.
342. On 12 December 2019, Ms Dudek sent a draft response to Mr White, stating that she and Ms Scopel had spoken to Ms Arthur that morning “and advised that we would send through the same response that was provided to NAB/CUP back in November providing the examples of typical customer expenses as well as re-offering to reduce the transaction size to \$50k per customer per day”.⁵²⁹
343. Both Mr White and Ms Scopel made amendments to the draft response.⁵³⁰
344. The final response, dated 16 December 2019, from Ms Dudek to Ms Arthur, largely replicated the 7 November Response.⁵³¹
345. Ms Dudek told the Review that the responses sent to NAB were misleading and that she knew that at the time.⁵³² She accepted that they were unethical.⁵³³ 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.⁵³⁴
346. Ms Scopel, as Group Treasurer, was more senior than Ms Dudek. Ms Scopel stated that while she had concerns that some responses were misleading, she did not believe she was

in a position to challenge Mr White and Mr Theodore about those concerns.⁵³⁵ She said she was uncomfortable with the approach that was taken but did not challenge it.⁵³⁶ Ms Scopel stated that she was “concerned that if I didn't provide the response The Star wanted, which was consistent with the previous agreed approach to responding that - that it seemed to operate at NAB for a long time, that it could impact my employment”.⁵³⁷

The UnionPay warning letter

347. There was a further escalation on 3 March 2020. Ms Arthur forwarded to Ms Scopel a request from UnionPay seeking further information about transactions. Ms Arthur stated in her email that:⁵³⁸

UnionPay acknowledges the Star provided examples of customer expenditure but are seeking more detailed supporting documents for these transactions to demonstrate they are not for the purposes banned under their rules and regulations. In addition, UnionPay have noticed an upward trend of transaction volumes on the terminal since last year and are seeking an explanation on this increase.

348. Ms Arthur also attached a warning letter from UnionPay to NAB requiring NAB to take action by 9 March 2020 (**Warning Letter**). The Warning Letter stated:⁵³⁹

As per your responses, the transactions were for “accommodation services”, and “do not include any component for the purpose of gambling”. NAB has provided some items of the customers’ expenses as an example, yet [UnionPay] haven’t received the detailed supporting documents for the questioned transactions.

- Provide supporting documents for the transactions listed in the attachment, and explain what type of goods or services did the cardholders purchase;
- Conduct further investigations (such as conducting on-site visit, retrieving transaction documents etc.) on the merchant to see if the transactions at ASTRAL-VIP were related to any prohibited business;
- Assigning prohibited MCCs to prohibited business as per the requirements of UPI Operating Regulations.

349. Ms Scopel told the Review that upon reading the Warning Letter she was concerned that UnionPay had been misled about the use to which the CUP cards were being put.⁵⁴⁰

The Warning Letter ought to have been brought to the attention of the Board. It was not. There was no adequate explanation from management for why it was not brought to the Board’s attention.⁵⁴¹

Chapter 12.16 The Cessation of the CUP Process in 2020

350. The Warning Letter prompted Star Entertainment to take steps to bring the CUP Process to an end. Mr Theodore directed that this payment channel be terminated.⁵⁴²

351. Even the way in which it was brought to an end lacked candour. On 4 March 2020, Mr Theodore emailed Mr Hawkins, copying Mr White, Ms Scopel and Mr Whytcross, and requested that Mr Hawkins' team be notified of the following:⁵⁴³

Due to increased administration associated with the use of CUP card transactions for the purposes of contributing to hotel account balances, The Star has made an operational decision to discontinue this transaction type across all properties.

352. Mr Theodore and Mr White had settled the terms of that notification.⁵⁴⁴ Clearly this was not the real reason why the CUP Process was discontinued. It was discontinued because UnionPay and PBOC did not accept the false and misleading explanations which Star Entertainment had provided to them suggesting that CUP cards were not being used by patrons to obtain funds for gambling.

353. On 4 March 2020, Ms Scopel emailed Ms Arthur at NAB stating that from 7 March 2022 The Star Entertainment Group would cease accepting CUP card transactions at all NAB terminals across all properties.⁵⁴⁵

354. On 7 October 2021, Mr Theodore called Mr Mazzaferro, a senior executive at NAB.⁵⁴⁶ That same day, Mr Mazzaferro sent an email to various NAB colleagues including Ms Arthur confirming the contents of the telephone call, as follows:⁵⁴⁷

I just received a call from Harry Theodore CFO Star. Harry wanted to let me know that Star had been notified by SMH/Nine that they are intending to run a story on Star. While Star have refused to comment to Nine the line of questions provided to Star leads them to believe the story will focus on the following:

* The use of China Union Pay ("CUP") Merchant Terminals in the hotel to provide funds to hotel guests who then used those funds for gambling

* This occurred from 2014 until 2020 when the terminals were removed

* The terminals were removed in 2020 after questioning from CUP via NAB revealed that allowing funds to be drawn through use of the terminals for gambling was in breach of the scheme rules

* Harry said this was the point of concern for Star, i.e. they breached the scheme rules and in hindsight allowing this practice was not the right thing to do

* Star had sought legal advice in 2014 before allowing funds to be drawn this way and while the practice was not permitted under the Casino Control Act,

Star had engaged the casino regulator, added additional controls and received approval to use the terminals this way from the regulator. They also believed at the time they were acting within scheme rules

* The controls implemented included limiting usage to debit cards, requiring staff to tell customers credit cards could not be used this way and if they found that a credit card had been used then refunding the money

* Harry confirmed that Star has not heard from Austrac since it was told in June 2021 that Austrac was investigating Star for a serious non-compliance of the AML-CTF Act

* Harry said that Star had engaged HWL Ebsworth to conduct an internal review and the risk of Money Laundering through this practice was considered low

* Harry confirmed that in questioning from SMH/Nine that no mention had been made of NAB however it is a risk and Star wanted to be transparent with us

355. Ms Arthur stated that when she read this email she was shocked.⁵⁴⁸

356. In a subsequent videoconference with executives of Star Entertainment, to discuss the *60 Minutes* media allegations, Star Entertainment chose not to address the allegations regarding the CUP facility.

357. On 23 December 2021, Ms Arthur sent an email to Mr Danny Huang, by then the Group Treasurer at Star Entertainment, referring to the telephone call between Mr Theodore and Mr Mazzaferro and stated:⁵⁴⁹

So that NAB can better understand the circumstances surrounding this apparent disconnect, we would be grateful if you would provide us with the following information.

...

Explain what Star now knows about how the CUP terminals may have been used for gambling related purposes.

358. Ms Arthur gave evidence that it took over two months for NAB to respond to the disclosures made by Mr Theodore to Mr Mazzaferro and that because it had not been raised again by Star Entertainment in subsequent meetings, NAB felt that some further explanation was required.⁵⁵⁰

359. So far as the Review is aware, Star Entertainment has never responded to this letter in substance. On 14 March 2022, Star Entertainment sent NAB a short letter stating that because of the Review, it would be inappropriate for The Star to respond to NAB's queries.⁵⁵¹

Chapter 12.17 Misleading the Regulator in 2021 about the CUP Process

360. On 30 August 2021, L&GNSW issued to The Star an information request and Notice to Produce pursuant to section 21 of the *Gaming and Liquor Administration Act 2007*

(NSW).⁵⁵² Among other things, that Notice requested the provision of information about when the CUP Process first commenced at The Star, who provided approval of its initial implementation, and significantly at Question 3.⁵⁵³

“Was the Regulator informed about the CUP Process? If not, why not?”

361. On 10 September 2021, in a letter from Mr Aloï, at that time the Regulatory Manager at The Star, The Star responded to the Notice (**10 September 2021 Response**).⁵⁵⁴ The response to Question 3 question stated in part:⁵⁵⁵

Yes, the casino regulator was informed about The Star’s intended use of the CUP Process as part of a request to update relevant internal controls.

ILGA was advised in May 2013 about the proposed introduction of the CUP Process and how it would work in a meeting with Graeme Stevens (Regulatory Affairs Manager) and David Aloï (Cashier Services Manager).

Approval to change the Cheque Cashing Facility ICM to facilitate the use of the CUP Process was given by ILGA on 5 June 2013. This change allowed for Electronic Funds Transfers to be used to deposit funds into a Front Money account and, accordingly, for the acceptance of fund transfers involving China Union Pay debit cards.

362. This response was effectively replicated in a response on behalf of The Star Entities’ solicitors dated 8 November 2021 in response to a 1 October 2021 information request from the Review.⁵⁵⁶

In May 2013, prior to introduction of the CUP Process, The Star advised the Authority of the proposed use of CUP debit cards as part of The Star’s application to vary the Internal Control Manual 3: Cheque Cashing/Deposit Facilities during Executive Operations meetings and with the Authority’s on-site employees.

363. Mr Aloï accepted that the 10 September 2021 Response was not a clear and transparent response to the regulator.⁵⁵⁷ Further, The Star Entities accepted in closing submissions that both of these responses to regulator inquiries.⁵⁵⁸

ought to have been written in far more qualified terms. In particular, both letters failed to mention that The Star had failed to communicate to the Authority its understanding that the CUP Scheme Rules prohibited the purchase of gaming chips and the fact that the purpose of locating the CUP terminal in the hotel lobby was to avoid disclosing to UPI that the transactions were for gaming, which are matters that ought to have been disclosed.

364. These responses to regulator inquiries were misleading and concealed material information. The question was whether the Authority had been informed of the CUP Process in 2013. The answer provided on 10 September 2021 was that the Authority was informed in May 2013 of “the intended use of the CUP Process” and “how it would work”. The answer

provided on 8 November 2021 was that the Authority was told in May 2013 of the “proposed use of CUP debit cards”. In fact, the Authority was not informed of these matters since it was not informed that the CUP cards would be swiped at the hotel, or that it was believed that UnionPay prohibited CUP cards being used to purchase gaming chips.

Chapter 12.18 The Project Zurich Report on CUP

365. Each of the non-executive directors of Star Entertainment gave evidence that at no time while the CUP Process operated at The Star was the Board alerted to any of the risks identified by senior management that have been considered in this Chapter.⁵⁵⁹ Even the UnionPay Warning Letter was not notified to the Board, and nor was the decision to cease using the CUP Process.
366. In the aftermath of the Bergin Inquiry, the Board of Star Entertainment directed that a review be conducted in order to understand whether any of the problems uncovered at Crown Resorts had also occurred at Star Entertainment. This review became known as “Project Zurich” and commenced in April 2021. The law firm HWLE was engaged to assist.⁵⁶⁰
367. As referred to in Chapter 3, in 2021, the RCCOL investigated the use of CUP cards at Crown Melbourne. As a result, Project Zurich was expanded to include investigation into the CUP Process at Star Entertainment.⁵⁶¹
368. On or around 12 September 2021, the Board was briefed with a paper prepared by HWLE entitled “Project Zurich – Review Paper 3: China Union Pay”.⁵⁶² The paper stated that HWLE had reviewed The Star’s use of CUP to “evaluate the possible extent of regulatory or commercial criticism and whether there are any lessons to be learnt from the now discontinued conduct”. The paper provided a sanitised account of the CUP Process at Star Entertainment, and had been reviewed and commented upon by Star Entertainment lawyers prior to its finalisation.⁵⁶³ The paper concluded that the use of CUP at Star Entertainment:⁵⁶⁴
- (a) did not involve any regulatory contraventions but “arguably represented questionable commercial conduct”;
 - (b) did not breach any Australian law;
 - (c) was a breach of the UnionPay Scheme Rules, of which The Star was aware but not directly contractually bound;

- (d) was not revealed in responses to NAB and UnionPay enquiries, and, as a result of The Star's responses, UnionPay and NAB *might* have been misled about the use to which CUP cards were put;
 - (e) there was no real harm caused by the practice however, because patrons and the regulator had not been misled about the CUP Process, and key NAB executives had condoned it in its inception; and
 - (f) was not adverse to The Star's compliance with its AML/CTF obligations. CUP did not inherently undermine The Star's AML effort or diligence.
369. The Project Zurich paper concluded that the historical use of CUP “would not conform to The Star's current corporate culture and risk appetite” because: (i) The Star did not adhere to the rules of a major card scheme in which it participated; (ii) The Star attracted financial and reputational risk; (iii) The Star appeared to have less regard for foreign legal issues than Australian ones; and (iv) Some parts of management felt unconstrained by the spirit of controls.⁵⁶⁵
370. Following the presentation of the paper, the Board requested a response from management.⁵⁶⁶
371. On 1 October 2021, Mr Bekier presented another paper to the Board entitled “Management response to CUP issue”.⁵⁶⁷ The paper indicated that it provided “additional relevant context” to the use of CUP at The Star, and stated:⁵⁶⁸
- (a) that the Authority had been advised about the proposed introduction of the CUP Process and how it would operate, in May 2013, and had approved an ICM amendment allowing for its use;
 - (b) an AML/CTF Risk assessment had been performed on the Process;
 - (c) legal advice had been received in relation to compliance with the *Casino Control Act* in 2013;
 - (d) from 2016 onwards, management had commenced restricting the use of CUP by reducing the amount that could be transferred and introducing approval limits. This resulted in a gradual reduction of the moneys transferred.
372. The paper identified three primary failings of management regarding the CUP Process.⁵⁶⁹
1. ***Focusing on technical legal aspects rather than ‘doing the right thing’.*** Throughout the 8 years of operation of CUP, Management relied on the

technical legality of the process and its acceptability as widespread industry practice instead of reflecting on whether it was the appropriate thing to do.

2. ***Not responding to changes in the risk profile.*** From very humble beginnings, the CUP process expanded to become a very important funds transfer mechanism for international gaming guests. As volumes increased, so did the risk, but Management failed to consider the changes in the risk profile until very late.
 3. ***Insufficient communication to the Board of material operational changes.*** Management did not inform the Board adequately of the changes in the risk profile and the operational changes that occurred over time to manage this risk (e.g the reduction in the ability to transfer funds or the discontinuation of the service).
373. Despite the inadequate disclosures in the Project Zurich paper and the management response presented by Mr Bekier, following receipt of those papers, the Board was on notice that:
- (a) it was management’s understanding that use of the CUP card was in breach of UnionPay Scheme Rules;
 - (b) NAB and/or UnionPay may have been misled by management about the use to which the CUP cards had been put at The Star;
 - (c) the “risk profile” of CUP had increased as volumes had increased but management failed to consider that until very late in the piece; and
 - (d) for many years the Board had not been informed about the risks associated with the CUP Process.
374. Despite this, nothing further was done at the time by the Board to follow up these matters. Thus, for example, it did not cause further inquiries to be made to understand whether NAB or UnionPay had been misled. Indeed, Mr Sheppard gave evidence that he anticipated that any emails to NAB would come to light during the course of this Review. He agreed steps “could have been taken more quickly”.⁵⁷⁰
375. Instead, in ASX Releases on 11 and 12 October 2021, in response to serious media allegations, which included that Star Entertainment had allowed Chinese high rollers to use special debit and credit cards to withdraw hundreds of millions of dollars for gambling disguised as hotel expenses, the Board of Star Entertainment confidently stated that a number of assertions in the media reports were considered to be misleading.⁵⁷¹

376. It was left to the public hearings of this Review to uncover the deeply troubling culture permeating the ranks of senior management at Star Entertainment, demonstrated by the many facets of the deception involved in the use of the CUP Process.

Chapter 12.19 Conclusions

377. The many governance, risk management and cultural failings of Star Entertainment demonstrated by the evidence in relation to the CUP Process are assessed in Chapter 26. It is sufficient for present purposes to identify that these failings included:

- (a) instituting what was from the outset an inherently deceptive practice which disguised as hotel expenses the use of CUP cards for gambling;
- (b) misleading and concealing material information from the Authority in 2013, 2014 and 2021;
- (c) an inadequate AML/CTF risk assessment in 2013 which was never updated, despite the burgeoning use of CUP cards at The Star to become a mechanism for over \$900 million to be provided to patrons for gambling;
- (d) repeatedly courting the risk of breaching the *Casino Control Act*, the UnionPay Scheme Rules, and the Merchant Agreement with NAB;
- (e) repeatedly breaching Standard Operating Procedures and ignoring AML/CTF risks in the manner in which Mr Phillip Lee was permitted to use CUP cards;
- (f) false, misleading and unethical communications to its bankers which were sanctioned by senior management;
- (g) more junior management being afraid to speak out about conduct which they knew was misleading and unethical;
- (h) the failure of material information about the CUP Process and its risks to be communicated to the Board of Star Entertainment; and
- (i) a Board of Star Entertainment which had no insight at all into a very significant payment mechanism at its casinos and the true culture of the organisation which it led.

378. The communications by The Star to the Authority in relation to the CUP Process reveal a casino operator which treated its regulator with disdain. The communications were deceptive. The Star gave a deceptive account of oral and undocumented communications with the Authority in 2013 to falsely claim that the CUP Process had been properly

disclosed at that time. Whilst no recommendation is made in this regard, the Authority may wish to consider the desirability of ensuring that all communications from the operator of The Star Casino be in writing, or confirmed in writing, and be made to a nominated officer of the Authority.

Endnotes

- ¹ **Exhibit B-44** (INQ.017.001.0001 at .0933).
- ² **Exhibit B-23** (STA.3412.0153.0315 at .0316).
- ³ Aloi: Day 8, T807.39-42; **Exhibit B-23** (STA.3412.0153.0315 at .0316 - .0317).
- ⁴ Aloi: Day 8, T821.23-32; T891.22-29.
- ⁵ **Exhibit B-3311** (STA.3401.0006.3677).
- ⁶ **Exhibit B-22** (STA.3412.0151.0013 at .0016).
- ⁷ **Exhibit B-123** (STA.3008.0008.0072).
- ⁸ Aloi: Day 8, T821.16-32.
- ⁹ **Exhibit M-36** (INQ.028.001.1361 at .1796).
- ¹⁰ Aloi: Day 8, T837.37-42.
- ¹¹ **Exhibit B-3100** (STA.3401.0006.2956 at .2961).
- ¹² *Ibid* at .2960.
- ¹³ **Exhibit B-3058** (STA.3401.0003.6985); **Exhibit B-3059** (STA.3401.0003.7006).
- ¹⁴ **Exhibit B-3331** (CORRO.001.001.0190 at .0315).
- ¹⁵ **Exhibit F-13** (STA.3034.0001.2165 at .2166).
- ¹⁶ Aloi: Day 8, T805.43-806.15. See also **Exhibit F-7** (STA.3034.0001.0736 at .0736).
- ¹⁷ Aloi: Day 8, T806.37-40.
- ¹⁸ **Exhibit B-23** (STA.3412.0153.0315 at .0318).
- ¹⁹ *Ibid*.
- ²⁰ **Exhibit B-2966** (STA.3401.0007.1049 at .1050).
- ²¹ Theodore: Day 25, T2896.25-46.
- ²² **Exhibit B-1085** (STA.3410.0017.1974).
- ²³ Aloi: Day 8, T813.4-7.
- ²⁴ Aloi: Day 8, T813.17-20.
- ²⁵ Aloi: Day 8, T813.20-25.
- ²⁶ Aloi: Day 8, T813.38-45.
- ²⁷ Aloi: Day 8, T814.5-13.
- ²⁸ **Exhibit B-332** (STA.3401.0001.4216 at .4217).
- ²⁹ Aloi: Day 8, T813.25-27.
- ³⁰ Aloi: Day 8, T813.29-36.
- ³¹ **Exhibit B-332** (STA.3401.0001.4216 at .4218).
- ³² *Ibid* at .4217.
- ³³ *Ibid* at .4216.
- ³⁴ Aloi: Day 8, T821.7-14.
- ³⁵ **Exhibit F-31** (STA.3034.0001.1676 at .1677).
- ³⁶ *Ibid* at .1676.

37 Star Entities' Written Submissions dated 21 June 2022 para [D.15].

38 **Exhibit B-332** (STA.3401.0001.4216); Aloï Day 8, T813.43-814.2.

39 **Exhibit B-3331** (CORRO.001.001.0190 at .0318).

40 **Exhibit B-3103** (STA.3002.0009.0292 at .0292 and .0296).

41 Star Entities' Written Submissions dated 21 June 2022 para [D.122].

42 **Exhibit B-2931** (STA.3402.0007.2472 at .2479).

43 Ibid at .2601 - .2604.

44 **Exhibit B-2931** (STA.3402.0007.2472 at .2481).

45 Ibid at .2492; Theodore: Day 25, T2852.18-20.

46 **Exhibit B-2931** (STA.3402.0007.2472 at .2492).

47 Ibid at .2501-2502.

48 Ibid.

49 Ibid at .2501.

50 Ibid at .2502, .2504 - .2505.

51 Ibid at .2505.

52 **Exhibit B-2931** (STA.3402.0007.2472 at .2502).

53 Ibid at .2600.

54 Ibid at .2583.

55 Ibid at .2598.

56 Star Entities' Written Submissions dated 21 June 2022 para [D.122].

57 Star Entities' Written Submissions dated 21 June 2022 para [D.164].

58 Star Entities' Written Submissions dated 21 June 2022 para [D.169].

59 Counsel Assisting's Oral Submissions: Day 41, T4225.10-18.

60 **Exhibit R-2** (STA.3066.0001.0001 at .0002).

61 Stevens: Day 6, T656.15-19; Day 7, T771.3-9.

62 Aloï: Day 8, T814:5-13.

63 Power: Day 18, T1997.7-15.

64 Bekier: Day 27, T3058.27-45.

65 Hawkins: Day 23, T2646.27-46.

66 White: Day 15, T1656.15-20.

67 White: Day 15, T1659.1-5; T1659.27-32.

68 White: Day 15, T1664.22-24.

69 Theodore: Day 25, T2905.16-27.

70 Theodore Day 25, T2905.1-8.

71 Arnott: Day 14, T1605.40-45; **Exhibit A-1**, para 77 (INQ.002.004.0241 at .0262).

72 Arnott: Day 14, T1606.5-22; **Exhibit A-1**, para 97 (INQ.002.004.0241 at .0262).

73 Arnott: Day 14, T1606.30-38; **Exhibit A-1**, para 97 (INQ.002.004.0241 at .0262).

74 Star Entities' Written Submissions dated 21 June 2022 para [D.122].

75 **Exhibit B-93** (STA.3412.0151.0082 at .0083); **Exhibit B-253** (STA.3006.0003.0361); **Exhibit B-1421** (STA.3105.0007.2383).

76 **Exhibit B-2242** (STA.3401.0003.8490); **Exhibit B-1420** (STA.3002.0010.0101). See also email from **Exhibit B-253** (STA.3006.0003.0361); **Exhibit B-1834** (STA.3401.0005.1453 at .1454).

77 **Exhibit B-3058** (STA.3401.0003.6985 at .6991).

78 **Exhibit B-3059** (STA.3401.0003.7006 at .7019).

79 **Exhibit B-2925** (STA.3401.0003.6907).

80 Ibid at .6935, .6966.

81 Ibid at .6931.

82 Ibid at .6963.

83 Ibid at .6957.

84 Ibid at .6968.

85 Ibid at .6949-50.

86 Ibid at .6938.

87 Star Entities' Written Submissions dated 21 June 2022 para [D.117].

88 **Exhibit B-2929** (STA.3401.0003.6855).

89 Power: Day 18, T1995.16-23; White: Day 15, T1648.42-47.

90 **Exhibit B-2928** (STA.3401.0003.6853 at .6854).

91 Star Entities' Written Submissions dated 21 June 2022 para [D.16].

92 Stevens: Day 6, T643.44-644.11, T647.27-648.8; **Exhibit B-2943** (STA.3401.0007.0424 at .0426).

93 **Exhibit A-1339** para 72 (INQ.002.004.0145 at .0160).

94 **Exhibit B-26** (STA.3008.0008.0067).

95 **Exhibit B-2943** (STA.3401.0007.0424 at .0425).

96 **Exhibit C-1** (STA.3027.0001.0001).

97 Ibid.

98 **Exhibit C-2** (STA.3027.0001.0003).

99 Ibid.

100 Stevens: Day 6, T634.40-635.14.

101 Aloï: Day 8, T824.45-825.10.

102 Stevens: Day 6, T635.36-43.

103 Stevens: Day 6, T639.4-30.

104 Stevens: Day 6, T655.31-656.28.

105 Stevens: Day 6, T646.35-40.

106 Stevens: Day 6, T646.35-647.4.

107 Stevens: Day 6, T641.20-24.

108 Aloï: Day 8, T825.32-38.

109 Aloï: Day 8, T826.40-46.

- 110 Aloï: Day 8, T825.35-38.
- 111 **Exhibit C-3** (STA.3023.0001.2032); **Exhibit C-4** (STA.3023.0001.2034).
- 112 Aloï: Day 8, T827.37-47.
- 113 **Exhibit B-29** (STA.3008.0004.0869); **Exhibit C-5** (STA.3023.0001.1326); **Exhibit C-6** (STA.3023.0001.1327).
- 114 Stevens: Day 6, T648.5-8.
- 115 Star Entities' Written Submissions dated 21 June 2022 para [D.33].
- 116 **Exhibit C-8** (STA.3023.0001.1331); **Exhibit C-9** (STA.3023.0001.1333 at .1342); **Exhibit C-10** (STA.3023.0001.1954); **Exhibit C-11** (STA.3023.0001.1956 at .1965).
- 117 **Exhibit Q-7** (STA.3418.0101.6532); **Exhibit Q-8** (STA.3418.0101.6533).
- 118 **Exhibit F-19** (STA.3034.0001.0006).
- 119 **Exhibit F-19** (STA.3034.0001.0006); **Exhibit F-20** (STA.3034.0001.0007); **Exhibit F-21** (STA.3034.0001.0009).
- 120 **Exhibit C-317** (STA.3008.0023.8406).
- 121 **Exhibit B-38** (STA.3008.0008.0184 at .0188).
- 122 **Exhibit B-3331** (CORRO.001.001.0190 at .0318).
- 123 **Exhibit G-860** (STA.3411.0002.1750 at .1751).
- 124 **Exhibit B-3331** (CORRO.001.001.0190 at .0316-.0317).
- 125 White: Day 16, T1712.30-35; Power: Day 18, T1996.42-1997.5; Theodore: Day 25, T2876.43-45.
- 126 Martin: Day 19, T2150.1-23.
- 127 **Exhibit B-3331** (CORRO.001.001.0190 at .0316).
- 128 Ibid at .0300.
- 129 **Exhibit B-117** (STA.3412.0151.0097).
- 130 **Exhibit B-565** (STA.3104.0006.5927).
- 131 **Exhibit B-1884** (STA.3435.0126.5558).
- 132 Ibid.
- 133 **Exhibit D-40** (STA.3009.0007.0605).
- 134 Ibid.
- 135 **Exhibit C-330** (INQ.018.001.0001 at .0061); **Exhibit C-317** (STA.3008.0023.8406).
- 136 Aloï: Day 8, T830.44-831.1; **Exhibit F-19** (STA.3034.0001.0006); **Exhibit F-20** (STA.3034.0001.0007).
- 137 **Exhibit B-117** (STA.3412.0151.0097).
- 138 Power: Day 18, T2008.25-28; Power Day 18, T2008.37-48.
- 139 **Exhibit B-327** (STA.3401.0006.8831).
- 140 **Exhibit B-397** (STA.3402.0008.1057).
- 141 Ibid.
- 142 Power: Day 18, T2021.1-17.
- 143 Power: Day 18, T2021.26-34.
- 144 Power: Day 18, T2021.36-43.

- 145 Martin: Day 19, T2172.7-21.
- 146 Theodore: Day 25, T2904.29-38.
- 147 **Exhibit B-460** (STA.3402.0007.6696).
- 148 Martin: Day 19, T2172.25-34.
- 149 Star Entities' Written Submissions dated 21 June 2022 para [D.69].
- 150 Bekier: Day 26, T2992.44-48; T2993.1-10.
- 151 Theodore: Day 25, T2849.35-39.
- 152 Theodore: Day 25, T2895.4-2896.3.
- 153 Theodore: Day 25, T2905.23-27.
- 154 Aloï: Day 8, T810.43-811.21.
- 155 Power: Day 18, T2008.22-47.
- 156 Power: Day 18, T2015.7-46.
- 157 Martin: Day 19, T2152.6-10.
- 158 Martin: Day 19, T2152.12-37.
- 159 Star Entities' Written Submissions dated 21 June 2022 para [D.2(a)].
- 160 Star Entities' Written Submissions dated 21 June 2022 para [D.2(a) and (b)].
- 161 Star Entities' Written Submissions dated 21 June 2022 para [D.75]-[D.77].
- 162 Star Entities' Written Submissions dated 21 June 2022 para [D.75].
- 163 Star Entities' Written Submissions dated 21 June 2022 para [D.76]-[D.77].
- 164 See for example, **Exhibit B-1430** (STA.3002.0010.0096).
- 165 Star Entities' Written Submissions dated 21 June 2022 para [D.2(b)].
- 166 Star Entities' Oral Submissions: Day 41, T4202.5-8
- 167 **Exhibit B-32** (STA.3412.0151.0026); **Exhibit B-3331** (CORRO.001.001.0190 at .0316) which stated that funds were deposited within "24 hours"; **Exhibit G-785** (ILGA.010.001.0129 at .0158).
- 168 Stevens: Day 6, T657.30-34.
- 169 White: Day 15, T1666.18-22; **Exhibit B-32** (STA.3412.0151.0026 at .0029).
- 170 **Exhibit B-32** (STA.3412.0151.0026 at .0027).
- 171 Ibid at .0029.
- 172 Ibid at .0028.
- 173 Aloï: Day 8, T833.36-44.
- 174 **Exhibit B-38** (STA.3008.0008.0184).
- 175 Stevens: Day 6, T657.36-39.
- 176 Stevens: Day 6, T657.41-47; **Exhibit C-7** (ILGA.013.001.0073).
- 177 **Exhibit C-7** (ILGA.013.001.0073).
- 178 **Exhibit D-25** (STA.3401.0007.0412 at .0413).
- 179 Stevens: Day 6, T659.22-25; Brodie: Day 21, T2379.11-19.
- 180 Brodie: Day 21, T2379.11-2380.2.

- 181 Brodie: Day 21, T2380.41-46.
- 182 **Exhibit P-3** (ILGA.017.001.0039 at .0039).
- 183 **Exhibit B-47** (STA.3009.0009.0020).
- 184 White: Day 15, T1669.36-48.
- 185 **Exhibit F-54** (STA.3034.0001.0591) (an erroneously dated version of which had previously been produced to the Review, **Exhibit B-3409** (STA.3009.0009.0001)).
- 186 Aloï: Day 7, T792.26-30; Aloï: Day 7, T787.45-788.22.
- 187 Aloï: Day 7, T793.9-21.
- 188 **Exhibit F-54** (STA.3034.0001.0591 at .0592).
- 189 Aloï: Day 7, T797.10-18; see also **Exhibit B-833** (STA.3008.0002.1493); **Exhibit B-1310** (STA.3008.0023.7964 at .8008).
- 190 See for example, **Exhibit B-1310** (STA.3008.0023.7964 at .7979).
- 191 **Exhibit F-54** (STA.3034.0001.0591 at .0592).
- 192 Ibid.
- 193 Ibid at .0592 - .0593.
- 194 Ibid at .0592.
- 195 **Exhibit B-47** (STA.3009.0009.0020).
- 196 Bekier: Day 27, T3048.9-12.
- 197 White: Day 15, T1682.9-12; T1682.47-1683.1.
- 198 Star Entities' Written Submissions dated 21 June 2022 para [D.48]; Bekier: Day 27, T3053.1-5.
- 199 Star Entities' Written Submissions dated 21 June 2022 para [D.128], [D.129].
- 200 White: Day 15, T1681.30-33; T1683.36-40; Stevens: Day 6, T660.18-44.
- 201 Star Entities' Written Submissions dated 21 June 2022 para [D.49].
- 202 **Exhibit Q-7** (STA.3418.0101.6532); **Exhibit Q-8** (STA.3418.0101.6533).
- 203 **Exhibit C-330** (INQ.018.001.0001 at .0071).
- 204 Ibid at .0072.
- 205 **Exhibit C-330** (INQ.018.001.0001 at .0072); **Exhibit B-1070** (STA.3418.0024.3201).
- 206 Star Entities' Written Submissions dated 21 June 2022 para [D.154]-[D.155].
- 207 Qin: Day 6, T565.18-568.44; **Exhibit E-1** (Exhibit E).
- 208 Lee: Day 6, T570.23-45.
- 209 Lee: Day 6, T571.29-36.
- 210 Aloï: Day 8, T859.16-22; **Exhibit B-977** (STA.3422.0020.8413 at .8456).
- 211 Lee: Day 6, T572.38-572.1.
- 212 Lee: Day 6, T572.8-34.
- 213 Lee: Day 6, T573.19-21; **Exhibit B-989** (STA.3422.0020.8994).
- 214 Lee: Day 6, T580.22-35.
- 215 Lee: Day 6, T580.37-581.10.
- 216 Lee: Day 6, T569.42-570.9; 570.39-45.

- 217 **Exhibit C-20** (STA.0014.0001.0449 at .0469).
- 218 Aloi: Day 9, T918.1-11.
- 219 Lee: Day 6, T578.44-579.9.
- 220 Lee: Day 6, T579.11-28.
- 221 **Exhibit B-2925** (STA.3401.0003.6907 at .6938 and .6925).
- 222 Star Entities' Written Submissions dated 21 June 2022 para [D.121].
- 223 Lee: Day 6, T581.12-48.
- 224 Aloi: Day 8, T861.21-30.
- 225 Exhibit B-54 (STA.3014.0006.2471 at .2473, .2471-2472).
- 226 Ibid at .2472.
- 227 **Exhibit B-54** (STA.3014.0006.2471).
- 228 Ibid.
- 229 Bekier: Day 27, T3066.46-3067.1.
- 230 **Exhibit B-66** (STA.3014.0002.1906); Aloi: Day 8, T863.46-864.28.
- 231 Bekier: Day 27, T3065.1-27.
- 232 Bekier: Day 27, T3065.29-3066.9.
- 233 **Exhibit B-67** (STA.3014.0006.2591).
- 234 Ibid.
- 235 Lee: Day 6, T586.35-39; T589.32-36; **Exhibit B-73** (STA.3014.0002.1932 at .1937 to .1939); **Exhibit F-60** (STA.3014.0002.1932_T at .1937_T-.1941_T).
- 236 **Exhibit B-73** (STA.3014.0002.1932).
- 237 Ibid.
- 238 Bekier: Day 27, T3066.1-9.
- 239 Bekier: Day 27, T3067.4-34.
- 240 Bekier: Day 27, 3068.20-3069.15.
- 241 Day 19, Martin: T2157.34-46.
- 242 Martin: Day 19, T2159.22-25.
- 243 Martin: Day 19, T2157.40-2159.1.
- 244 Aloi: Day 8, T867.3-37.
- 245 **Exhibit B-73** (STA.3014.0002.1932 at .1933); **Exhibit F-60** (STA.3014.0002.1932_T).
- 246 Lee: Day 6, T585.23-32.
- 247 Aloi: Day 8, T854.23-26.
- 248 Lee: Day 6, T584.10-23.
- 249 Lee: Day 6, T587.17-42.
- 250 Lee: Day 6, T580.10-14.
- 251 **Exhibit B-74** (STA.3014.0006.2604 at .2604-.2605).
- 252 Aloi: Day 8, T869.5-8.

- 253 **Exhibit B-74** (STA.3014.0006.2604).
- 254 Aloi: Day 8, T870.20-25.
- 255 Aloi: Day 8, T870.27-33.
- 256 Aloi: Day 8, T871.8-872.5.
- 257 **Exhibit B-78** (STA.3014.0006.2483 at .2487).
- 258 Aloi: Day 8, T874.22-34, **Exhibit B-78** (STA.3014.0006.2483).
- 259 Aloi: Day 8, T875.1-14.
- 260 **Exhibit B-78** (STA.3014.0006.2483).
- 261 Aloi: Day 8, T876.31-877.14.
- 262 Aloi: Day 8, T881.3-17.
- 263 **Exhibit G-54** (STA.3008.0014.0203); **Exhibit G-55** (STA.3008.0014.0204).
- 264 **Exhibit G-55** (STA.3008.0014.0204).
- 265 Houlihan: T1318.25-28; **Exhibit G-55** (STA.3008.0014.0204).
- 266 **Exhibit G-55** (STA.3008.0014.0204).
- 267 Arnott: Day 14, T1604.47-1605.12.
- 268 Houlihan: Day 12, T1317.25-1318.10.
- 269 Aloi: Day 8, T877.30-40.
- 270 Aloi: Day 8, T878.4-879.19; **Exhibit B-79** (STA.3014.0006.2584 at .2586-.2588).
- 271 Aloi: Day 8, T879.21-33.
- 272 **Exhibit B-79** (STA.3014.0006.2584 at .2585).
- 273 Aloi: Day 8, T881.14-21.
- 274 **Exhibit B-80** (STA.3014.0006.2580 at .2581).
- 275 **Exhibit B-80** (STA.3014.0006.2580).
- 276 Aloi: Day 8, T882.22-883.13.
- 277 Aloi: Day 8, T884.31-885.1.
- 278 Aloi: Day 8, T885.4-15.
- 279 Aloi: Day 8, T885.17-29.
- 280 Aloi: Day 8, T871.7-48.
- 281 Aloi: Day 8, T873.4-20.
- 282 **Exhibit B-83** (STA.3014.0002.1970); **Exhibit B-84** (STA.3014.0002.1976); **Exhibit B-85** (STA.3014.0002.1988); **Exhibit B-90** (STA.3014.0002.1994); **Exhibit B-94** (STA.3014.0002.1999); **Exhibit B-95** (STA.3014.0002.2005); **Exhibit B-109** (STA.3014.0002.2053); **Exhibit B-110** (STA.3014.0002.2076).
- 283 Bekier: Day 27, T3064.1-9, T3066.46-3067.1.
- 284 Bekier: Day 27, T 3067.9-3068.16.
- 285 Bekier: Day 27, T3068.20-23.
- 286 Hawkins: Day 23, T2649.6-9.
- 287 Hawkins: Day 24, T2677.5-26.

- 288 Hawkins: Day 24, T2683.42-2685.12.
- 289 Bekier: Day 27, T3069.24-40.
- 290 Hawkins: Day 23, T2649.14-26; 2652.39-46.
- 291 **Exhibit B-222** (STA.3411.0008.7764); **Exhibit B-419** (STA.3422.0017.4789); **Exhibit B-420** (STA.3422.0017.4791); **Exhibit B-448** (STA.3411.0010.6428).
- 292 **Exhibit B-117** (STA.3412.0151.0097).
- 293 Power: Day 18, T2010.1-20.
- 294 Power: Day 18, T2011.33-39.
- 295 Power: Day 18, T2012.6-41.
- 296 Power: Day 18, T2012.43-48.
- 297 Power: Day 18, T2012.46-48.
- 298 Power: Day 18 T2013.27-43.
- 299 **Exhibit B-124** (STA.3009.0009.0058).
- 300 **Exhibit B-122** (STA.3412.0151.0105).
- 301 Martin: Day 19, T2161.28-31.
- 302 **Exhibit B-183** (STA.3411.0008.4105); **Exhibit B-184** (STA.3411.0008.4112).
- 303 **Exhibit B-185** (STA.3411.0008.2491).
- 304 Hawkins: Day 24, T2680.32-2681.13.
- 305 **Exhibit B-1070** (STA.3418.0024.3201).
- 306 **Exhibit B-977** (STA.3422.0020.8413).
- 307 **Exhibit B-3143** (STA.3412.0013.2322); **Exhibit B-3336** (STA.3412.0012.6196 at .6197).
- 308 Lee: Day 6, T591.39-592.1.
- 309 Lee: Day 6, T591.6-592.42.
- 310 Lee: Day 6, T592.46-593.1.
- 311 Lee: Day 6, T592.3-20.
- 312 **Exhibit C-330** (INQ.018.001.0001 at .0071); **Exhibit B-1070** (STA.3418.0024.3201).
- 313 Aloï: Day 8, T848.42-849.22.
- 314 **Exhibit D-3** (STA.3012.0005.0037 at .0059).
- 315 **Exhibit D-3** (STA.3012.0005.0037 at .0059).
- 316 **Exhibit F-54** (STA.3034.0001.0591 at .0592); **Exhibit Q-8** (STA.3418.0101.6533).
- 317 Aloï: Day 8, T854 28-32.
- 318 **Exhibit B-24** (STA.3008.0008.0078 at .0079).
- 319 Ibid.
- 320 **Exhibit C-7** (ILGA.013.001.0073 at .0073); Stevens: Day 6, T625.27-343, T658.28-40; Aloï: Day 8, T837.37-42.
- 321 Counsel Assisting's Oral Submissions: Day 38, T4023.36-39.
- 322 Star Entities' Written Submissions dated 21 June 2022 para [D196], [D204].

- 323 Professor Tyree, *Australian Law of Cheques and Payment Orders* (Sydney: Butterworths, 1988) at [3.1], [7.9]-[7.10].
- 324 Lee: Day 6, T585.23-32; T574.14-30; T580.5-8.
- 325 Counsel Assisting's Oral Submissions: Day 38, T4024.14-21.
- 326 Star Entities' Written Submissions dated 21 June 2022 para [D.211].
- 327 Star Entities' Written Submissions dated 21 June 2022 para [D.221].
- 328 Star Entities' Written Submissions dated 21 June 2022 para [D.213]-[D.216], [D.218]-[219].
- 329 Star Entities' Written Submissions dated 21 June 2022 para [D.219].
- 330 *Boenscs v Pascoe* (2019) 268 CLR 593.
- 331 (2013) 85 NSWLR 99
- 332 *Equuscorp* (2004) 218 CLR 471 [46].
- 333 **Exhibit B-2966** (STA.3401.0007.1049 at .1051).
- 334 *Ibid* at .1054.
- 335 Star Entities' Written Submissions dated 21 June 2022 para [D146].
- 336 **Exhibit C-330** (INQ.018.001.0001 at .0070).
- 337 *Ibid*.
- 338 Theodore: Day 26, T2938.19-25.
- 339 Aloi: Day 7, T786.30-35.
- 340 Aloi: Day 7, T786.20-25.
- 341 Aloi: Day 7, T786.43-787.28.
- 342 McKern: Day 28, T3185.25-31.
- 343 Aloi: Day 7, T786.43 – 787.28.
- 344 **Exhibit C-330** (INQ.018.001.0001 at .0070).
- 345 Aloi: Day 8, T876.26-29.
- 346 Stevens: Day 6, T640.20-641.9.
- 347 White: Day 16, T1732.45-1733.22.
- 348 Martin: Day 19, T2152.47-2153.10.
- 349 **Exhibit C-330** (INQ.018.001.0001 at .0070).
- 350 **Exhibit B-77** (STA.3008.0008.0358 at .0359).
- 351 *Ibid* at .0360.
- 352 *Ibid* at .0358.
- 353 White: Day 15, T1657.34-37.
- 354 White: Day 15, T1658.10-1659.5.
- 355 **Exhibit B-329** (STA.3401.0001.4101 at .4129).
- 356 White: Day 15, T1664.36-40.
- 357 White: Day 15, T1665.9-19.
- 358 **Exhibit A-1186**, para 89 (INQ.002.004.0090 at .0102).

359 Martin: Day 19, T2148.12-17.
 360 **Exhibit B-91** (STA.3412.0151.0079 at .0079).
 361 Power: Day 18, T2004.20-26.
 362 **Exhibit B-93** (STA.3412.0151.0082 at .0083).
 363 **Exhibit A-1186**, para 99 (INQ.002.004.0090 at .0104).
 364 Martin: Day 19, T2151.24-28.
 365 **Exhibit B-93** (STA.3412.0151.0082 at .0082).
 366 **Exhibit B-96** (STA.3412.0151.0084 at .0084).
 367 **Exhibit B-100** (STA.3412.0151.0091 at .0092).
 368 Aloï: Day 18, T2005.9-22.
 369 Martin: Day 19, T2154.32 to 2155.2
 370 **Exhibit B-102** (STA.3009.0009.0021).
 371 Hawkins: Day 23, T2649.44-2650.2; Power: Day 18, T2005.30-33.
 372 Power: Day 18, T2006.1-14.
 373 Power: Day 18, T2006.16-29.
 374 **Exhibit B-124** (STA.3009.0009.0058); Power: Day 18, T2013.27-43.
 375 Exhibit A-1186 (INQ.002.004.0090 at 0103).
 376 Bekier: Day 28, T3130.11-44.
 377 Martin: Day 19, T2165.28-39.
 378 **Exhibit B-124** (STA.3009.0009.0058 at .0058).
 379 Power: Day 18, T2014.39-2015.20.
 380 Power: Day 18, T2015.19-20.
 381 Bekier: Day 27, T3063.4-21.
 382 Power: Day 18, T2017.11-20.
 383 Power: Day 18, T2017.24-28.
 384 Power: Day 18, T2017.30-44.
 385 Martin: Day 19, T2165.9-12.
 386 **Exhibit B-147** (STA.3401.0006.7347 at .7347).
 387 **Exhibit B-148** (STA.3401.0006.7348).
 388 White: Day 16, T1727.1-43.
 389 **Exhibit B-167** (STA.3401.0003.6859 at .6859).
 390 Theodore: Day 25, T2883.5 to 2884.13.
 391 Theodore: Day 25, T2884.15-24.
 392 Martin: Day 19, T2166.37-2167.8.
 393 **Exhibit B-287** (STA.3401.0001.4063 at .4063).
 394 **Exhibit B-324** (STA.3002.0012.0473 at .0473).
 395 **Exhibit B-3095** (STA.3401.0006.6254 at .6255).

396 White: Day 15, T1703.47-1704.12.

397 White: Day 15, T1704.14-48.

398 White: Day 15, T1705.4-6.

399 **Exhibit B-3095** (STA.3401.0006.6254 at .6254).

400 Ibid.

401 White: Day 15, T1707.10-31.

402 Martin: Day 19, T2169.4-2170.8.

403 Martin: Day 19, T2171.1-13.

404 Bekier: Day 27, T3079.7-27.

405 Bekier: Day 27, T3080.14-30.

406 Star Entities' Written Submissions dated 21 June 2022 para [D.57].

407 Bowen: Day 34, T3699.17-25; **Exhibit A-1339**, para 89 (INQ.002.004.0145 at.0164).

408 Theodore: Day 25 2879.14; **Exhibit A-1339**, para 5 (INQ.002.004.0145 at.0145).

409 Ibid para 89 at. 0164.

410 Ibid.

411 **Exhibit B-113** (STA.3008.0004.0893).

412 **Exhibit K-6** (INQ.002.004.0290 at .0292); Theodore: Day 25, T2877.35-2878.8; **Exhibit A-1339**, para 93(a) (INQ.002.004.0145 at .0166); **Exhibit K-6**, para 22 (INQ.002.004.0290 at .0292).

413 Exhibit A-1339, para 89(b) (INQ.002.004.0145 at.0164).

414 Theodore: Day 25, T2880.1-19.

415 Theodore Day 25, T2885.35-46.

416 **Exhibit K-6** para 24 (INQ.002.004.0290 at .0292 - .0293); Bowen: Day 34, T3702.9-36.

417 Bowen: Day 34, T3701.25-45; **Exhibit K-6**, para 15 (INQ.002.004.0290 at .0291).

418 **Exhibit B-251** (STA.3435.0015.8582).

419 **Exhibit A-1339**, para 89(d) (INQ.002.004.0145 at .0164).

420 **Exhibit K-6**, para 26 (INQ.002.004.0290 at .0293).

421 Ibid.

422 Bowen: Day 34, T3702.44-3703.36.

423 **Exhibit B-253** (STA.3006.0003.0361).

424 Bowen: Day 34, T3704.26-30.

425 Theodore: Day 25, T2887.1-20.

426 Theodore: Day 25, T2888.30-47.

427 Theodore: Day 25, T2889.8-46.

428 **Exhibit A-1339**, para 87(a)(v) (INQ.002.004.0145 at .0163).

429 Bowen: Day 34, T3705.5-30.

430 Bowen: Day 34, T3705.20-30.

431 Bowen: Day 34, T3705.32-36.

- 432 Theodore: Day 25 2870.7-10.
- 433 Theodore: Day 25 2870.42-45 and 2871.46-48.
- 434 Scopel: T97.1-4.
- 435 Dudek: T91.15-45; Scopel: T115.6-8.
- 436 Scopel: T97.27-36.
- 437 Dudek: T23.36-464.
- 438 Scopel: T97.22-26.
- 439 **Exhibit B-1430** (STA.3002.0010.0096).
- 440 **Exhibit B-1414** (STA.3105.0007.2853).
- 441 **Exhibit B-1430** (STA.3002.0010.0096).
- 442 **Exhibit B-1432** (STA.3002.0010.0098); **Exhibit B-1433** (STA.3002.0010.0099); **Exhibit B-1434** (STA.3002.0010.0100).
- 443 Dudek: Day 1, T59.35-46.
- 444 Star Entities' Written Submissions dated 21 June 2022 para [D.82].
- 445 White: Day 16, T1715.15-27.
- 446 Dudek: Day 1, T54.9-36.
- 447 Dudek: Day 1, T58.19-37.
- 448 Scopel: Day 2, T106.4-45.
- 449 Scopel: Day 2, T108.134-109.9.
- 450 **Exhibit B-1421** (STA.3105.0007.2383).
- 451 Ibid.
- 452 Dudek: Day 1, T56.35-44.
- 453 Dudek: Day 1, T57.44-58.1.
- 454 Scopel: Day 2, T113.30-48.
- 455 **Exhibit B-1594** (STA.3002.0010.0004 at .0004).
- 456 Ibid.
- 457 **Exhibit B-1639** (STA.3401.0005.3069 at .3069).
- 458 Dudek: Day 1, T59.40-46.
- 459 Scopel: Day 2, T114.20-25.
- 460 Scopel: Day 2, T114.44-48; T116.4-36; T117.5-11.
- 461 **Exhibit B-1643** (STA.3002.0010.0050).
- 462 **Exhibit B-1645** (STA.3002.0010.0001).
- 463 **Exhibit B-1670** (NAB.001.001.0694 at .0694 - .0695).
- 464 Ibid at .0694.
- 465 **Exhibit B-1670** (NAB.001.001.0694 at .0694).
- 466 Ibid.
- 467 Arthur: Day 2, T209.12-45.

468 Arthur: Day 2, T248.4-22.
469 Arthur: Day 2, T254.1-14.
470 Dudek: Day 1, T61.10-29.
471 Dudek: Day 1, T61.24-29.
472 **Exhibit B-1802** (STA.3002.0010.0434 at .0433 – .0434).
473 **Exhibit B-1773** (STA.3105.0011.5533 at .5533).
474 Ibid.
475 **Exhibit B-1785** (STA.3105.0011.4753 at .4753).
476 **Exhibit B-1787** (STA.3105.0011.4873).
477 Dudek: Day 1, T63.46-47. See also **Exhibit B-1792** (STA.3105.0006.4369).
478 **Exhibit A-1339**, at 94(a) (INQ.002.004.0145 at.0167).
479 Scopel: Day 2, T104.14-18.
480 Scopel: Day 2, T119.24-120.5.
481 Scopel: Day 2, T118.4-20.
482 **Exhibit B-1802** (STA.3002.0010.0434 at .0434).
483 Dudek: Day 1, T65.8-10; Scopel Day 2, T120.234-37.
484 White: Day 16, T1720.21-22.
485 Theodore: Day 26, T2913.13-43.
486 Star Entities' Written Submissions dated 21 June 2022 para [D.88].
487 **Exhibit B-1797** (STA.3401.0003.1566 at .1567).
488 **Exhibit B-1813** (STA.3401.0005.3084 at .3084).
489 Scopel: Day 2, T123.13-16.
490 **Exhibit B-1797** (STA.3401.0003.1566 at .1566).
491 Theodore: Day 26, T2915.17-36.
492 **Exhibit B-1806** (STA.3006.0003.0358).
493 Scopel: Day 2, T124.1-5.
494 **Exhibit B-1834** (STA.3401.0005.1453 at .1455).
495 Star Entities Written Submissions dated 21 June 2022 para [D.91].
496 **Exhibit B-1834** (STA.3401.0005.1453 at .1454).
497 Scopel: Day 2, T124.45-125.1.
498 **Exhibit B-1814** (STA.3401.0019.3844).
499 Arthur: Day 2, T216.14-17.
500 **Exhibit B-1867** (STA.3105.0011.6203).
501 Scopel: Day 2, T129.36-130.2.
502 Scopel: Day 2, T159.30-45.
503 Scopel: Day 2, T130.7-9.
504 Scopel: Day 2, T156.26-35.

- 505 Scopel: Day 2, T156.47-157.4.
- 506 Theodore: Day 26, T2921.6-12.
- 507 Arthur: Day 2, T212.15-34.
- 508 Arthur: Day 2, T212.36-44.
- 509 Arthur: Day 2, T205.10-28.
- 510 Arthur: Day 2, T207.46-208.10; T210.46-211.16; T214.14-224; T217.37-218.4; T219.39-220.8.
- 511 Arthur: Day 2, T221.1-18.
- 512 **Exhibit B-1834** (STA.3401.0005.1453 at .1453 - .1454).
- 513 Scopel: Day 2, T125.3-14, T126.1831.
- 514 **Exhibit B-1834** (STA.3401.0005.1453 at .1453).
- 515 **Exhibit B-1828** (STA.3105.0011.5300 at .5300 - .5301).
- 516 **Exhibit B-1829** (STA.3105.0011.5303); **Exhibit B-1830** (STA.3105.0011.5332).
- 517 Martin: Day 19, T2182.31-2184.1.
- 518 Martin: Day 19, T2184.6-15.
- 519 **Exhibit B-1844** (STA.3105.0011.6197 at .6197).
- 520 Theodore: Day 26, T2925.9-12.
- 521 Arnott: Day 14, T1607.19-22; **Exhibit A-1**, para 98 (INQ.002.004.0241 at .0262).
- 522 Arnott: Day 14, T1607.7-15; **Exhibit A-1**, para 98 (INQ.002.004.0241 at .0262).
- 523 Arnott: Day 14, T1607.29-33; **Exhibit A-1**, para 98 (INQ.002.004.0241 at .0262).
- 524 Arnott: Day 14, T1607.42-1608.2.
- 525 **Exhibit B-2059** (STA.3401.0003.2247 at .2249).
- 526 Ibid.
- 527 Dudek: Day 1, T68.23-39.
- 528 Arthur: Day 2, T219.10-27.
- 529 **Exhibit B-2059** (STA.3401.0003.2247 at .2248).
- 530 Ibid at .2247.
- 531 **Exhibit B-2069** (STA.3002.0010.0389 at .0389).
- 532 Dudek: Day 1, T53.46 – T54.25.
- 533 Dudek: Day 1, T77.20.
- 534 Dudek: Day 1, T77.23–38.
- 535 Scopel: Day 2, T128.3-13.
- 536 Scopel: Day 2, T129.1-8.
- 537 Scopel: Day 2, T128.10-13.
- 538 **Exhibit B-2240** (STA.3401.0003.8482 at .8483).
- 539 **Exhibit B-2242** (STA.3401.0003.8490).
- 540 Scopel: Day 2, T137.45-48.
- 541 Star Entities' Written Submissions dated 21 June 2022 para [D102].

- 542 **Exhibit B-2244** (STA.3401.0007.2760).
- 543 **Exhibit B-2253** (STA.3401.0001.2790).
- 544 **Exhibit B-2249** (STA.3401.0001.2827).
- 545 **Exhibit B-2256** (STA.3105.0011.5343).
- 546 **Exhibit B-3149** (NAB.003.001.0099).
- 547 Ibid.
- 548 Arthur: Day 2, T224.25-27.
- 549 **Exhibit B-3449** (STA.3009.0007.0480).
- 550 Arthur: Day 2, T225.46-226.4.
- 551 **Exhibit D-39** (STA.3009.0007.0583).
- 552 **Exhibit B-3099** (STA.3401.0006.2951).
- 553 Ibid at .2953.
- 554 **Exhibit B-3100** (STA.3401.0006.2956).
- 555 Ibid at .2960.
- 556 **Exhibit B-3331** (CORRO.001.001.0190 at .0316).
- 557 Day 8: Aloï, T848.4-19.
- 558 Star Entities' Written Submissions dated 21 June 2022 para [D.54].
- 559 Sheppard: Day 29, T3277.29-39, T3292.7-18, T3312.40-44; Heap: Day 30, T3392.27-T3393.35, T3396.12-24; Bradley: Day 31, T3466.25-27; Pitkin: Day 33 T3591.28-30, T3592.16-27, T3594.13-16; Lahey: Day 33, T3670.36-48; O'Neill: Day 34, T3792.47-T3793.20; Day 35, T3882.1-19.
- 560 **Exhibit B-2837** (STA.3412.0003.5112).
- 561 **Exhibit B-2972** (STA.3402.0007.1612); **Exhibit B-2973** (STA.3402.0007.1618); **Exhibit B-3103** (STA.3002.0009.0292).
- 562 **Exhibit B-3103** (STA.3002.0009.0292).
- 563 Power: Day 18, T2051.40 to T2053.15.
- 564 **Exhibit B-3103** (STA.3002.0009.0292 at .0292 and .0296).
- 565 Ibid at .0296.
- 566 Sheppard: T3296.16-22; O'Neill: T3830.4-7.
- 567 **Exhibit B-3117** (STA.3411.0002.1796 at .1796).
- 568 Ibid at .1796-1797.
- 569 Ibid at .1797.
- 570 Sheppard: Day 29, T3296.36-44.
- 571 **Exhibit H-473** (INQ.003.006.0539); **Exhibit B-3176** (STA.3411.0001.7109).