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31 May 2021

**Inquiry into the suitability of Crown Melbourne Limited to hold a casino licence
Commissioner Hon. Ray Finkelstein AO QC**

Thank you for the opportunity to make a submission to the inquiry into the suitability of Crown Melbourne Limited to hold a casino licence. This submission explores the social and legal obligations of Crown Casino to protect the community from harms that result from gambling.

The Alliance contends that in order to assess whether it is in public interest for Crown Melbourne to continue to hold the casino licence, the Commission must consider the broad range of harms that have occurred in relation to the manner in which the casino has been allowed to operate.

The Alliance asserts the public interest test outweighs the legal obligations required of Crown to prevent and minimise the harms caused by gambling to the community. We further contend the minimum obligations that do exist are woefully inadequate. Further, where legal obligations do exist they have routinely failed to be met, and in some cases, actively thwarted.

We argue that current legal obligations are out of step with community standards and changes are required to stipulate and codify these in unambiguous legal terms in order to hold the casino operator effectively to account. Legislative reforms are fundamentally required to remediate the harm and loss of community confidence in both the casino operator, casino regulator and state government at large.

Greater transparency, accountability, enforcement measures and penalties are also essential. When dealing with an operator with one of the largest gambling footprints in the world, in a country with the worst gambling losses per capita, located in the heart of a city of five million people. The state government has a duty of care to protect all Victorians from the harms that result from gambling at this venue.

To this end, our submission specifically addresses the following Terms of Reference:

B. Whether Crown Melbourne is complying with the Casino Control Act, the Casino (Management Agreement) Act 1993, the Gambling Regulation Act 2003 (together with any regulations or other instruments made under any of those Acts), and any other applicable laws.

C. Whether Crown Melbourne is complying with the Crown Melbourne Contracts.

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D. Whether it is in the public interest for Crown Melbourne to continue to hold the casino licence in Victoria.

E. If you consider that Crown Melbourne is not a suitable person, or that it is not in the public interest for Crown Melbourne to hold the casino licence in Victoria, what action (if any) would be required for Crown Melbourne to become a suitable person, or for it to be in the public interest for Crown Melbourne to continue to hold the casino licence in Victoria.

J. Whether you consider changes to relevant Victorian legislation, including the Casino Control Act and the Victorian Commission for Gambling and Liquor Regulation Act 2011, as well as the Crown Melbourne Contracts, are necessary for the State to address your findings and implement your recommendations.

K. Whether there are any other matters necessary to satisfactorily resolve the matters set out in paragraphs A to J, above.

We have made a range of recommendations below to this effect.

In addition, the Alliance undertook extensive community outreach and consultation to ensure the voices of lived experience were able to be heard directly by the Commission. It is regrettable the timeframe inhibited many individuals and organisations from actively contributing to this process. Early uncertainty around confidentiality and a failure to adequately address accessibility limitations meant that it is unlikely the Commission heard from the full range of people with an interest in this issue. The shame and stigma surrounding gambling harm continues to act as a significant barrier for people coming forward, as does the fear of actively speaking out against a powerful institution like Crown.

This submission draws upon testimony from people and families impacted by gambling harm and who have shared insights on gambling at Crown Casino. In some cases testimony has been provided on the condition of anonymity, however, the Alliance is able to furnish further evidence of these claims should this be required.

Thank you once again for the opportunity to provide advice to the Commission. If you have any questions about this submission, please do not hesitate to contact us.

Yours sincerely,

Margaret Quixley
 Acting Executive Director

Tim Costello
 Chief Advocate

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Recommendations

A casino licence is not a right. The grant of a licence by a jurisdiction must be earned by demonstrable good behaviour and good character. The Alliance for Gambling Reform considers that Crown has so consistently breached its duty of care to customers, and failed community standards of responsible service of gambling and anti-money laundering legal obligations, that it is not a suitable person to hold a casino licence. These breaches are outlined in our submission, in the revelations of the NSW Bergin Inquiry, and are now being heard at the WA Royal Commission into Crown.

We consider that Crown cannot be trusted to uphold undertakings, due to its track record in failing to implement even the most modest (and in our view, insufficient) requirements of Victorian reviews. Its behaviour during the Bergin Inquiry in delaying its submissions of evidence, as has occurred again in the lead up to the Victorian Royal Commission, shows that it does not deal with governments, or the broader public, in good faith.

If any operator were to be awarded a casino licence in Victoria, the following are the minimum standards the Alliance considers necessary, in the public interest, to protect customers and the community from the harms of gambling.

A. Lift the harm minimisation requirements to hold a licence

1. **Ban all gambling-linked loyalty programs and inducements.¹**

Loyalty programs should be prohibited for products that incentivise harmful consumer behaviours. The evidence presented through our community of lived-experience advocates overwhelmingly demonstrates that Crown's loyalty program significantly exacerbates harm.

2. **Implement a universal, identity-linked cashless gambling card.²**

A cashless gambling system will facilitate stronger harm minimisation policy measures, including precommitment and self-exclusion systems. If appropriately designed, these will better support people to take control of their gambling, while also preventing money-laundering. Such a system should provide safeguards against people being able to lose large amounts of funds beyond what they can afford.

¹ Alliance submission to the Australian Competition and Consumer Commission's (ACCC) Customer Loyalty Schemes (2019) https://d3n8a8pro7vhmx.cloudfront.net/gx/pages/2292/attachments/original/1573357135/AGR_Submission_to_ACCC_Customer_Loyalty_Scheme_Review_Oct_2019.pdf?1573357135

² Alliance Cashless Gambling Position Paper (2020) https://d3n8a8pro7vhmx.cloudfront.net/gx/pages/2218/attachments/original/1608254210/AGR_Cashless_Gambling_Position_Paper.pdf?1608254210

3. Require thorough due diligence of the operator to know its customers.

Crown has demonstrated that it targets people who gamble heavily to try and entice them to lose as much as possible. Victorian legislation should supplement AUSTRAC rules, and require a casino operator to have clear “Know Your Customer” protocols and to demonstrate that they are implemented. These protocols should include steps to establish that the funds the person will use to gamble have a legitimate source and are not proceeds of crime to reduce the level of money-laundering that takes place at the casino. They should also contain mechanisms to ensure that customers are not losing more than they can afford.

B. Remove special concessions within Crown Melbourne contracts

4. Remove legal exemptions that undermine harm minimisation principles and financially penalise taxpayers for regulatory reforms.

The unrestricted mode for EGMs within the Crown Melbourne contract must be removed entirely. Exemptions that exist that allow for provision of credit and consumption of free alcohol must be removed in order to reduce harm. The \$200 million compensation clause disincentivises reform, and is grossly out of step with community standards. It must immediately be removed from operator contracts.

C. Improve responsible service of gambling and staff training

5. All casino staff should be trained within the Victorian-wide RSG training program run by the Victorian Responsible Gambling Foundation.

Staff training must be independently administered to remove the conflict of interest. If necessary, the casino operator should finance the development of Responsible Service of Gambling (RSG) training specific to casino situations.

6. Increase the number of gambling-facing venue staff who are resourced, trained, supported and empowered to identify and approach patrons displaying signs of gambling harm.

Mandate the minimum number of staff who are trained and available to intervene based on patron occupancy, and implement robust third party monitoring and evaluation. Data analytics should be used to support staff intervention.

7. Strengthen regulation to codify clearer guidance regarding interventions related to clear signs of gambling harm.

End the voluntary self-regulation of the industry by requiring the regulator to interpret improved legislation, regulations and detailed guidelines for RSG, and to draft the code of conduct by which the casino will operate. The intention of such a code of conduct is that patrons exhibiting signs of harm, defined based on current research, will receive meaningful intervention from casino staff that demonstrably leads to the prevention or reduction of harm.

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D. Legislate, monitor and enforce good governance

8. Empower the regulator to hold a casino operator to account by making recommendations to both the Minister and the operator.

Crown has not adequately responded to recommendations in licence reviews. Monitoring and enforcement of the casino operator must fundamentally be reformed. The Victorian Government needs to intervene with legislation and regulation, or penalties, when any casino operator fails to thoroughly implement recommendations from periodic reviews.

9. Significantly increase penalties for breaches so that they act as a strong deterrent.

Maximum penalties must be significantly increased to act as a meaningful deterrent to predatory business practices and failure to comply, at the level of tens of millions of dollars for serious breaches, up to \$50 million. Penalties for breaches to self exclusion must apply to the operator rather than the individual.

10. Improve transparency of the operator such that all documents are kept private by exception rather than usual practice.

Unless key documents are made publicly available, it is not possible for community members to even recognise if a breach has occurred. Crown has lost the trust of the community and being completely transparent about operations is an essential first step in recovering that trust. Like major casino operations in jurisdictions such as Canada, the casino operator should be required to produce extensive data publicly on patrons accessing harm minimisation measures the casino has put in place and the report should be subject to independent audit.

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Gambling harm

Definition

The Alliance takes a public health approach to gambling harm. In this submission, we use the term 'harm' to describe any negative consequence that results from a person's own or another's gambling. These commonly accepted harms include:

- Financial problems
- Relationship conflict or breakdown
- Health problems
- Emotional or psychological distress
- Reduced capacity in other parts of your life
- Cultural harms
- Criminal activity

Gambling harm extends beyond addiction, often impacting many people, not just the person who is gambling. Family members, friends, employers and the broader community can also be harmed by someone else's gambling. As a community, we have recognised the harms to others that tobacco represents, and have policies that aim to prevent passive smoking. We need to build protections for those who are harmed by an activity they cannot directly control.

'I saw a gentle caring person, becoming violent and unpredictable. It came to a stage where I feared living with this person. I had to seek help from the police and the courts to keep my daughter safe and to not end up on the streets.' **Divya*, former partner**

These harms can be quantified, either in terms of productive years lost, as a standard public health modelling exercise, or in broader social costs. Victorian research shows that gambling causes more "years lost to disability" than osteoarthritis, diabetes, bipolar affective disorder, schizophrenia and epilepsy combined.³ Recent budget related estimates indicate that while tax revenue in Victoria is around \$2 billion, the annual social costs of gambling is some \$7 billion.⁴

Prevalence

It is difficult to correctly estimate the level of harm in the community because prevalence studies are based on self-reporting of time and financial losses, estimates of harm, and assumptions about survey participation.⁵ Shame and stigma also act as a barrier to accurate self-reporting.

³ Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T 2016, *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne, figure 20

⁴ Browne, M, Greer, N, Armstrong, T, Doran, C, Kinchin, I, Langham, E & Rockloff, M 2017, *The social cost of gambling to Victoria*, Victorian Responsible Gambling Foundation, Melbourne.

⁵ Auer, M., & Griffiths, M. D. (2017). Self-Reported Losses Versus Actual Losses in Online Gambling: An Empirical Study. *Journal of gambling studies*, 33(3), 795–806. <https://doi.org/10.1007/s10899-016-9648-0>

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The Victorian Responsible Gambling Foundation (the Foundation) estimates:⁶

- about 330,000 adults in Victoria who gamble (9.6 per cent) experience at least one form of gambling-related harm
- poker machines alone account for 37.7 percent of gambling harm in Victoria
- 70 percent of gambling harm is experienced by people whose behaviour is not classified as problem gambling*
- 6.1 percent of Victorian adults – about 300,000 people – are harmed by someone else’s gambling.

These findings reinforce that gambling harm is experienced on a spectrum, by a cross section of society, with wide-ranging implications for the individual and community.

This understanding is reinforced by the results of the recently published study of banking data in the UK and the researchers’ analysis of links between gambling expenditure and negative impacts on health and finances.⁷ That study, examining the banking transactions of six million customers over seven years, showed that for every 10 percent increase in gambling expenditure, significant negative consequences are observable. These include increased risk of payday loans, mortgage defaults, unemployment, recourse to disability pensions for people previously not needing that support, reduction of expenditure on health and education, and increased risk of death.

*Language disclaimer

A widely used, standard definition of disordered gambling is that “Problem Gambling is characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community”⁸. While there is no agreement on definitions of “difficulties” or the scale of “adverse consequences” that would constitute harm, the Alliance believes that any difficulties and any adverse consequences are harmful. We avoid the use of the term “problem gambler” as it is stigmatising and victim-blaming. We recognise the Problem Gambling Severity Index is widely used in research and clinical settings, but consider that even those gamblers characterised using that system as being at low or medium risk, can in fact experience significant harm.⁹ The Alliance aims to prevent or reduce harm from gambling, regardless of the risk factor of individual gamblers, and particularly with regard to their families, carers, colleagues and community, who are also impacted by gambling.

⁶ Rockloff, M, Browne, M, Hing, N, Thorne, H, Russell, A, Greer, N, Tran, K, Brook, K & Sproston, K 2020, Victorian population gambling and health study 2018–2019, Victorian Responsible Gambling Foundation, Melbourne.

⁷ Muggleton, N., Parpart, P., Newall, P. *et al.* The association between gambling and financial, social and health outcomes in big financial data. *Nat Hum Behav* 5, 319–326 (2021). <https://doi.org/10.1038/s41562-020-01045-w>

⁸ Neal, P., Delfabbro, P., & O’Neil, M. (2005). *Problem gambling and harm: Towards a national definition. Commissioned for the Ministerial Council on Gambling.* Prepared by the SA Centre for Economic Studies with the Department of Psychology, University of Adelaide. November 2005.

<http://www.adelaide.edu.au/saces/gambling/publications/ProblemGamblingAndHarmTowardNationalDefinition.pdf>

⁹ Browne et al 2016 *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation

Alliance for Gambling Reform detailed submission

A. Crown's lack of commitment to harm minimisation

'I was frequently in Crown for many hours, often sitting at only one machine, no one ever came to check if I was ok, other than to ask if I wanted another drink... No one ever offered any help. There was no sign of Responsible Service of Gambling or Alcohol when I was in Crown, I never saw staff intervene or speak to anyone about their well-being in relation to either gambling or alcohol. I was not aware of any help services at Crown, no one ever offered any support while I was gambling there.' **Anna, retired business woman**

While Crown is often promoted as an international attraction and a place for wealthy 'high roller' gamblers, a majority of Crown's revenue (around 60%) is derived from local or domestic patrons¹⁰ so there is a strong imperative for Crown to instigate robust, proactive and evidence-based harm minimisation and consumer protection measures to protect Australians from the significant and long lasting harm that can result from gambling.

The lack of care taken by Crown in terms of understanding and mitigating the potential for harm from gambling products offered, and the lack of care taken to protect those vulnerable to gambling harm, speak directly to the company's unsuitability to hold a casino licence.

The most recent review of the Melbourne based casino notes,¹⁰ to date, Crown has taken an apathetic approach to harm minimisation practices, with very little evidence to suggest they are being proactive or even keeping up with best practice harm minimisation implemented in other, similar, international casinos (as claimed in their Code of Conduct). Evidence from whistleblowers and people who have experienced harm at Crown go further to suggest Crown has actively thwarted the minimum requirements, such as offering branded 'picks' to override harm minimisation features and failing to enforce self-exclusion despite availability of facial recognition technology.^{11 12}

The vast majority of harm minimisation initiatives undertaken at Crown are focused on gamblers in crisis or at the extreme end of the harm spectrum, or they are measures that, as currently implemented, have little evidence of effectiveness.

Our assessment is that present requirements have allowed Crown to develop a culture of at best 'turning a blind eye', and at worst willfully ignoring the harms it causes.

¹⁰ VCGLR. Sixth review of the casino operator and licence, June 2018.

¹¹ Crown Casino whistleblower posts YouTube video of 'pick' enabling autoplay on pokie, ABC (May 2018) <https://www.abc.net.au/news/2018-05-23/crown-casino-whistleblower-posts-pick-autoplay-video/9792020>

¹² 'Just spin': Gamblers, experts say pokie self-exclusion is not working, The Age (Nov 2019) <https://www.theage.com.au/national/victoria/it-s-just-spin-gamblers-experts-say-pokie-self-exclusion-not-working-20191025-p534do.html>

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It is our view that Crown has breached harm minimisation principles so egregiously and so consistently that it has demonstrated a culture and work practices that preclude future reform. A company so wilful in its breaches of the public's trust is not fit to hold a casino licence, a privilege bestowed on Crown on behalf of the people of Victoria via its government. Any future casino licensee should be required to be proactive on reducing gambling harm, be obliged to intervene earlier, and be held accountable for failures to prevent and reduce harms in the community.

Loyalty schemes and pre-commitment

The [loyalty] card was an incentive to go to Crown, and once in there, I rarely left until all my money was gone. The card gave me access to a 'special room' that only cardholders could access, with a dedicated bar and staff who served me at the machine. When you walk into the casino there is a sea of machines - the area is massive, being able to go into a smaller, more intimate space to gamble gave me a sense of being special.' **Anna, retired business woman**

State gambling regulations mandate Crown to operate the Victoria-wide pre-commitment system YourPlay. Prior to this, Crown operated its own pre-commitment system known as Play Safe, available under its loyalty program.

A well-designed pre-commitment system can help empower people to take control of their own gambling through a range of tools that provide accurate information to them on the time and money spent gambling over a set period (session, week, month or year); facilitate them setting their own limits on time and/or money spent gambling over set periods; and facilitate short-term self-exclusion through setting a limit to \$0. It can also support venues pushing out tailored and dynamic harm minimisation messaging based on an individual's own gambling use or population norms.^{13 14} Pre-commitment systems like this can be stand-alone, or embedded into digital payment options, as detailed below.

There is some evidence of the effectiveness of pre-commitment systems as a harm minimisation and consumer protection mechanism where the system is well designed in that the system is universal (i.e., everyone must participate at all times to gamble), it applies across a wide geographic area (e.g., system applies across the entire state), has binding limits (i.e., limits cannot be exceeded once set), and allows instantaneous lowering (but not increasing) of limits. In contrast, there is now clear evidence that pre-commitment systems are not effective where these elements have not been included.^{15 16}

¹³ Thomas, A., Christensen, D., et al. Review of electronic gaming machine pre-commitment features: Limit Setting (AIFS, 2016).

¹⁴ Thomas, A., Rintoul, A., et al. Review of electronic gaming machine pre-commitment features: Transaction History Statements (AIFS, 2016).

¹⁵ Livingstone, C., Rintoul, A., & Francis, L. "What is the evidence for harm minimisation measures in gambling venues?" Evidence Base, 2014:2.

¹⁶ Whetton, S et al. Evaluation of YourPlay Final Report (South Australian Centre for Economic Studies, 2019).

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YourPlay incorporates some elements of effective design e.g., operating across a wide geographic area, facilitating immediate lowering of limits, tracking use, providing dynamic messaging on machines regarding spending in the current session and when approaching any pre-set limit. However, the system is undermined by being voluntary rather than universal, and does not have binding limits. The recent evaluation of YourPlay demonstrated issues with design have severely limited its effectiveness.¹⁷ Those that are particularly relevant to Crown are discussed below.

Partial systems (i.e., voluntary to take part) have consistently demonstrated very low uptake. (e.g., around 1-2% of patrons)^{18 19}. YourPlay currently has around one tenth of that with only 0.1% uptake across Victoria.¹⁷ The YourPlay evaluation suggests that uptake has been markedly higher at Crown compared to other Victorian venues but this appears to be due to patrons signing up in order to unlock the unrestricted mode on EGMs at Crown.¹⁷ Unrestricted EGM use is only available at Crown in Victoria and only possible where people use precommitment options [see section "Remove special measures" below].

Harmful business practices: Pre-commitment deactivating EGM harm minimisation

Despite its deficiencies, the YourPlay system was fundamentally designed to reduce gambling harm. However, an unintended consequence of the activation of YourPlay at Crown is that doing so switches on an 'unrestricted mode' for up to 1000 EGMs. This happens at any time people are using their card. It occurs automatically and without any transparent notification to those signing up to YourPlay, including people who are at risk of gambling harm who are using YourPlay as a protection mechanism.

This means that in effect, signing up for one harm minimisation strategy (pre-commitment) automatically deactivates other stronger Victorian-wide harm minimisation measures that are active on EGMs as standard practice (e.g. \$5 maximum bets, maximum spin rates, \$50 or less note acceptors). Given people can gamble beyond any pre-set limit on the YourPlay system, the only harm minimisation measure that is in operation when gambling on unrestricted EGMs may be dynamic messaging re time and money spent in that session.

The lack of seriousness with which Crown approaches precommitment, or even taking basic steps to know its customers, can perhaps best be seen in its lack of response to patrons setting maximum daily limits too high to act as an effective limiting mechanism:

'When I signed up at Crown, I was asked to fill in a form and nominate how much I would allow myself to spend per day which would be placed on my card. I nominate \$1 million per day and was not questioned about this. Looking back, that seems outrageous now.'

¹⁷ Whetton, S et al. Evaluation of YourPlay Final Report (South Australian Centre for Economic Studies, 2019).

¹⁸ Thomas, A., Christensen, D., et al. Review of electronic gaming machine pre-commitment features: Limit Setting (AIFS, 2016).

¹⁹ Livingstone, C., Rintoul, A., & Francis, L. "What is the evidence for harm minimisation measures in gambling venues?"

Evidence Base, 2014:2.

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What good is a million dollar limit? And where did they think I was getting a million dollars from anyway? **Carolyn, former officer manager**

Other issues with the YourPlay program as it currently operates in Victoria include that it has been set up such that customers have to opt in to YourPlay when signing up to a loyalty program (rather than opt out). Linkage to the loyalty program was granted on advice it would act as a natural feeder into the YourPlay system.²⁰ This means that Crown reaps all the benefits of encouraging individuals to sign up to its loyalty program, without encouraging (indeed, at times actively discouraging) using YourPlay as a harm minimisation strategy. Those who do sign up to YourPlay, are then placed at even greater risk of gambling harm as other harm minimisation measures on EGMs are automatically deactivated.

Harmful business practices: Loyalty programs

'Incentives that kept me going to Crown ... included free parking so long as you were wasting money in the Casino either on the tables, poker, or pokies. Free drinks with the points you have on your Loyalty card' **Carolyn, former office manager**

Crown has an extensive, heavily promoted, loyalty program, which in 2018 had over 400,000 members.²¹ This program consists of several tiers of membership with customers being able to join the lowest tier and work their way up tiers by spending money on gambling or non-gambling products. Members are offered a range of free or discounted benefits including free parking at Crown, accommodation offers, and special promotions. Members of higher-level tiers can access a greater range of free and discounted offers including access to private gambling rooms.

Loyalty programs reward spending and can encourage increased spending, with the lure of 'something for nothing'.²² We heard from many community members that free parking was a particularly dangerous inducement for those working in the city where parking costs are high.

'At Crown I had a [loyalty] card that gave me access to free parking anytime - not an insignificant inducement in the city! All I had to do was gamble for 30 minutes a day. Of course I never stayed only 30 minutes, [I] always stayed until nothing was left. Turns out that was the most expensive parking I ever used.' **Anna, retired business woman**

The research on the links between loyalty cards and gambling harm is also clear - loyalty card members tend to spend more time and money gambling, gamble more frequently, and are more likely to report gambling problems than non-program members.²³

²⁰ Whetton, S et al. Evaluation of YourPlay Final Report (South Australian Centre for Economic Studies, 2019).

²¹ VCGLR. Sixth review of the casino operator and licence, June 2018.

²² McCall, M., & Voorhees, C. (2010). The drivers of loyalty program success, *Cornell Hospitality Quarterly*, 51(1), p35-52

²³ Van Dyke, N. et al 2016, "The role of loyalty programs in gambling", commissioned by Gambling Research Australia

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Allowing people to accrue loyalty points leading to free or discounted offers from their gambling is very clearly contrary to harm minimisation principles.

Every person we spoke to who regularly attended Crown remarked that receiving inducements through the loyalty program made their harm worse, enticed them to stay longer and gamble more than they planned.

'[A family member] worked her way through the members grades and gaining access to the mahogany card, which is one of the higher statuses in the casino and there was a whole list of things that she received; hotel rooms, corporate invitations to football games, concert tickets, valet parking, movie tickets...Coles Myer vouchers. My mother was also assigned a host that could speak Chinese so that there was regular communication and made her feel comfortable and cared for.' **Confidential community networker**

Another 'perk' of Crown loyalty card membership is free or discounted alcohol, with higher levels of membership entitling people to more complimentary drinks. This aspect of loyalty card membership is particularly pernicious as alcohol is well known to interfere with individuals' decision making²⁴ and therefore contrary to responsible harm minimisation by a gambling provider.

'When I was winning, I would be offered free drinks until I would get drunk and lose all that I had won in the first place.' **Confidential Gambling Reform Community Educator**

It is an offence to knowingly allow a person to gamble while intoxicated and to serve a person alcohol while intoxicated,²⁵ yet we heard from several community members who indicated Crown was often the place they came at the end of a night when 'no one else would let them in'.

'I first started gambling at Crown around fifteen years ago, around the time when I first discovered pokies. Back then I had a circle of hard drinking, drug taking friends. We would use substances and drink until the early hours of the morning, then set off into the city. Knowing that we were likely to be turned away from other venues, we would invariably end up in Crown.' **Stuart, primary school teacher**

Crown states that they review memberships eligible to move beyond base level to identify people who have displayed clear signs of harm from gambling in the past²⁶ and all loyalty card members must receive an activity statement at least annually. These strategies, however, are unlikely to protect the majority of members from harm related to increased

²⁴ George, S., Rogers, R., Duka, T. (2005). The acute effect of alcohol on decision making in social drinkers, *Psychopharmacology*, 182, p160-169.

²⁵ Gambling Regulation Act, 2003.

²⁶ VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

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gambling to achieve loyalty points. Membership reviews target those already experiencing significant harm and there is no transparency on the actions taken where harm is detected. Activity statements can be useful when provided at regular intervals (e.g., monthly) but an annual gambling activity statement provides little protection as significant harm can be experienced over a 12-month period. A person can easily have lost their house within a 12 month period of gambling.

Self-Exclusion

'When I told staff I wanted to self exclude, I was taken into a small office near the Crown basement car park by security officers. The staff in the office tried to talk me out of self exclusion, making it clear that 'if you win, you won't be able to take the money, we'll have to give you a fine.' **Confidential** **Gambling Reform Community Educator**

Crown relies heavily on its self-exclusion program to minimise gambling harm. Self-exclusion involves an individual entering into a legally binding voluntary agreement to be excluded from the venue for a set period of time or indefinitely (until such time as the individual applies to revoke the self-exclusion). These agreements allow venue staff to approach and require the self excluded person to leave the venue. Any winnings accrued are forfeited and the self-excluded contracts allow the venue to prosecute the individual for breach of contract. This legal liability reverses the burden of responsibility from the casino operator "serving" the gambling product, to the individual experiencing harm from that product.²⁷

While Crown holds up its self-exclusion program as the primary measure relied upon to meet harm minimisation requirements, the Alliance has received numerous examples of not only Crown's failure to enforce the self exclusion system, but also the weaponising of this legal burden to threaten those experiencing gambling harm.

'I self-excluded myself from Crown some years ago, which not only did nothing but was destructive as well. If I went in & lost - Crown staff did nothing. If I went in and won - Crown staff threatened me with prosecution.

Later, after I stopped gambling, I wanted to remove the self-exclusion, because I needed to go to Crown for a job I had at the time. Crown insisted that I come into the Casino to be interviewed by a panel to remove the ban, despite my objection to having to come inside the Casino and the proximity of the poker machines. At the meeting, I was appalled to find that instead of offering counselling as they are required to do, a staff member just gave me lots of brochures and information about signing up again as a VIP member. '

- **Anonymous, Victorian professional woman, 30s**

²⁷Gamblers can self-exclude from pokies venues but there's no evidence a pub or club has ever been prosecuted, ABC (Oct 2020) <https://www.abc.net.au/news/2020-10-09/pokies-self-exclusion-myth-sees-no-venues-punished/12743558>

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While self-exclusion is a service that should be offered at any gambling venue, the evidence demonstrates that it is almost solely used by gamblers experiencing significant harm from their gambling and is only taken up by a very small percentage of people experiencing harm. Further, there is only modest evidence of its effectiveness for those who do take it up and use it as intended.²⁸ It should not, therefore, be the sole or even majority, focus of harm minimisation practice implemented at any venue, and particularly one associated with the gambling expenditure of Crown.

Concerningly, the Alliance heard from a number of community members actively discouraged from help-seeking in this manner.

'Staff was saying things like "Oh yes, they used to have some business cards in here ...sorry we just run out. Come in later on ...I'll ask the manager".' **Peter, hypnotherapist, counsellor**

Such examples speak to a culture among staff of actively deterring patrons and undermining even the most basic harm minimisation programs that Crown has in place.

It is unclear why those who have self excluded are still able to continue to enter and gamble at this venue. Technology now exists that can, and should, be deployed to support successful implementation of self-exclusion. This includes Facial Recognition Technology (FRT) and use of electronic identification when entering premises that can be checked against a database. NSW clubs are currently rolling out ClubsPass, which links check-in with the venue's exclusion register. South Australian venues raced to implement FRT as it was made the price for permission to install note acceptors on pub and club poker machines.²⁹

³⁰ FRT in SA is clearly able to identify people who had self-excluded.³¹ Sky City in Adelaide introduced FRT in 2019.³²

Despite this technology existing for some time, Crown has only recently started using it, installing an electronic identity check at entry into high roller rooms (in response to recommendation from the Fifth review of the casino operator and licence) and extending its FRT to include all entrances at the casino (in response to recommendations from the Sixth review into casino operator and licence).

²⁸ Livingstone, C., Rintoul, A., & Francis, L. (2014). "What is the evidence for harm minimisation measures in gambling venues?" Evidence Base, 2.

²⁹ Facial recognition technology introduced into South Australia <https://www.cbs.sa.gov.au/facial-recognition-technology>

³⁰ Warnings facial recognition tech not enough to offset damage, The Adelaide Advertiser (Jan 2021)

<https://www.adelaidenow.com.au/news/south-australia/warnings-facial-recognition-tech-not-enough-to-offset-damage-if-pokies-accept-bank-notes/news-story/91a386f47b58b3ec5c99f3c591d32715>

³¹ Facial recognition technology spots thousands of problem gamblers in SA venues, The Adelaide Advertiser (May 2021)

<https://www.adelaidenow.com.au/news/south-australia/facial-recognition-technology-spots-thousands-of-problem-gamblers-in-sa-venues/news-story/244a699e73e484b75a33efd9eb102996>

³² SkyCity Adelaide installs facial recognition to catch barred gamblers, The Adelaide Advertiser (Nov 2019)

<https://www.adelaidenow.com.au/business/sa-business-journal/skycity-adelaide-installs-facial-recognition-to-catch-barred-gamblers/news-story/92eb61228b0b8bcbf6cc69283050f02b>

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It is unknown to what degree the expanded FRT is being used by Crown to identify and intervene with self-excluded persons, nor how successful this has been in identifying self-excluded people and/or reducing attempts to breach self-exclusion.

What is abundantly clear is that Crown's self-exclusion system is not designed with the individual, community or harm minimisation principles in mind.

All evidence we have seen suggests that Crown does not take provision or enforcement of this program seriously because the legal requirements are skewed in its favour. Rather, Crown appears to actively discourage its "best customers" from self-excluding, allowing them to continue gambling when they do, seizing profits if they win and threatening legal action rather than caring for the person experiencing harm from its product. It is perplexing how such a system has been allowed to operate for over two decades, and held up as the pinnacle of harm minimisation efforts when in fact there is no legal incentive for Crown to enforce even this most basic harm minimisation measure (other than simply to notify the VCGLR that a self excluded person has entered the casino).

'I kept returning when I self excluded and I always felt like they knew who I was but were choosing to turn a blind eye because I kept losing money.' Confidential **Gambling Reform Community Educator**

That the onus (and penalty) is placed on the individual rather than the operator serving and profiting from a dangerous and harmful product is shameful, and must urgently be addressed.

Digital gambling payments solution

A universal, identity-linked cashless gambling card can effectively support harm minimisation strategies, including precommitment and self-exclusion, and draw upon technology to support staff to intervene, while also eliminating money laundering.

The Bergin Inquiry in NSW into Crown recommended moving to a cashless payment scheme, given the evidence provided regarding money-laundering in Crown casinos.³³ The Independent Liquor and Gaming Authority has announced that Crown has agreed to move entirely to a cashless gambling system in its NSW operations, and The Star casino has agreed to work with ILGA to implement this system.³⁴ NSW Liquor and Gaming have just announced a trial of cashless payment systems for pub and club poker machines.³⁵

There is, however, considerable risk that a cashless gambling payment system could, through the adoption of frictionless payment, exacerbate harm. Although no jurisdiction

³³ Bergin, P. (2021) *Inquiry under section 143 of the Casino Control Act 1992 (NSW)*, State of NSW, section 5.1.14, p. 620

³⁴ NSW ILGA announcement in relation to Crown Sydney (May 2021)

<https://company-announcements.afr.com/asx/cwn/e006238f-b3b2-11eb-87e6-ae470c0fa4d3.pdf>

³⁵ First trial of cashless gaming technology <https://www.nsw.gov.au/media-releases/first-trial-of-cashless-gaming-technology>

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currently operates a 100% digital or cashless payment system, recent recommendations have reinforced the need for clear harm minimisation design features.³⁶

The Alliance has developed a position paper on appropriate design features.³⁷ The key harm minimisation features of a digital payment system are:

- Identity verification in order to allow linkage to a (self) exclusion system
- Prohibition on the use of credit to transfer funds directly or indirectly to the payment account
- Introduction of friction in the form of time delays after top up, forcing breaks in use
- No automatic top up of funds
- Limiting the amount that can be placed on the card to \$200 at any one time, to require a break to top up the card where heavy, and likely harmful, gambling is taking place
- Ability to quarantine funds, particularly winnings
- Providing time and financial limit settings determined by the customer
- Providing timely reporting of losses to the customer
- Strict privacy provisions to prevent the use of customer data by venues or third parties, with the exception of de-identified data for research and policy development

Recommendations to lift harm minimisation standards

- 1. Ban all gambling-linked loyalty programs and inducements.**
- 2. Implement a universal, identity-linked cashless gambling card.**
- 3. Require thorough due diligence of the operator to know its customers.**

³⁶ Gainsbury, S. & Blaszczyński, A. 2020 Digital Gambling Payment Methods: Harm Minimisation Policy Considerations, *Gambling Law Review*, vol 24/7, pp 466-472

³⁷ Alliance Cashless Gambling Position Paper https://d3n8a8pro7vhmx.cloudfront.net/gx/pages/2218/attachments/original/1608254210/AGR_Cashless_Gambling_Position_Paper.pdf?1608254210

B. Crown's special concessions

Unrestricted Electronic Gaming Machines

Unrestricted Electronic Gaming Machines (EGMs) fundamentally undermine the statewide gambling harm minimisation strategy. Under the Crown Melbourne contracts, Crown are licenced to operate up to 1000 EGMs in 'unrestricted mode' in specified areas of the casino so long as the user is offered the option to set time and money limits. This is in contrast to every other venue in Victoria.

EGM use in an 'unrestricted mode' can result in huge losses over a short period of time. To reduce harm from excessive spending, Victoria – in line with other states and territories and international standards – has mandated limits on particular structural characteristics of EGMs to slow the rate of expenditure. These include limits on maximum bet size (\$5 per spin), maximum spin speed, and a limit of \$50 bills on note acceptors.

These controls are designed to reduce the harm for those at risk while limiting the impact on enjoyment for other users. For example, when Victoria reduced maximum bet size from \$10 to \$5 this led to a significant reduction in EGM expenditure. It is unlikely to have had any adverse impact on individuals, as the vast majority of EGM users still do not bet very high (e.g., no more than \$1 per spin), tending to select minimum bet and max lines.³⁸

When these limits are deactivated, the machines can accept larger bank notes, spin at a faster rate and disable the need for manual activation of individual bets (making the game much more continuous). They also no longer have a \$5 bet limit. All of this leads to the potential for far higher rates of loss per hour for users.

Crown is the only venue in Victoria that is licenced to turn off these limits. The exemption is completely contrary to harm minimisation principles. In the most part, it increases the risk for those already experiencing harm as they are much more likely to be making higher bets and spending significant amounts of money per session, with no benefit for those not experiencing harm.^{39 40}

Inappropriate service of alcohol

'I have to admit that I was a drinker at that time and the access to cheap alcohol in the venues as well as encouragement from the staff, despite clear signs of being under the

³⁸ Livingstone, C., Rintoul, A., & Francis, L. (2014). "What is the evidence for harm minimisation measures in gambling venues?" Evidence Base, 2.

³⁹ Blaszczynski, A, Sharpe, L, and Walker, M 2001. The assessment of the impact of the reconfiguration on electronic gaming machines as harm minimisation strategies for problem gambling Final Report. University of Sydney Gambling Research Unit.

⁴⁰ Rockloff, M, Browne, M, Hing, N, Thorne, H, Russell, A, Greer, N, Tran, K, Brook, K & Sproston, K 2020, Victorian population gambling and health study 2018–2019, Victorian Responsible Gambling Foundation, Melbourne

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influence which helped in losing much more money than otherwise.' **Peter, hypnotherapist, counsellor**

The Alliance also notes that inappropriate service of alcohol is associated with failures of responsible service of gambling, and may lead to increased gambling. Patrons who are refused service of alcohol due to intoxication are still not prevented from gambling. The provision of alcohol through offering discounted or free alcohol can incentivise gambling as alcohol can impair decision making and lead to increased or uncontrolled gambling.⁴¹ As such, we recommend that offers of free or discounted alcohol are banned in gambling areas of the casino.

Provision of credit

Crown offers credit in the form of delayed cashing of cheques. No other land-based venues are permitted to offer credit facilities for gambling in Victoria. People gambling on credit are effectively gambling with money they do not have at the time. This is clearly contrary to harm minimisation principles and has the potential to lead to significant and lasting harm.⁴² Allowing this business practice at Crown may have been justified by reference to it as an offering for international junkets, but Crown are permitted to offer domestic (local) customers a delay of up to five days before a cheque is presented for payment.

Special concessions

Crown pays rent of just \$1 a year for its expansive Southbank site to the state government. The Alliance understands the deal to extend the Crown licence from 2033 to 2050 also includes a clause that could trigger the government being liable to pay Crown compensation of up to \$200 million for regulatory changes, including future harm minimisation reforms, that have an adverse impact on Crown profits.⁴³ Both concessions are grossly out of step with community standards, however compensation payable by the taxpayer is particularly egregious and must immediately be removed from operator contracts.

Recommendations to remove special concessions

- 4. Remove legal exemptions that undermine harm minimisation principles and financially penalise taxpayers for regulatory reforms.**

⁴¹ George, S., Rogers, R., Duka, T. (2005). The acute effect of alcohol on decision making in social drinkers, *Psychopharmacology*, 182, p160-169.

⁴² Alliance for Gambling Reform submission on gambling with credit https://d3n8a8pro7vnm.cloudfront.net/gx/pages/2292/attachments/original/1620092761/AGR_Submission_2021_Interactive_Gambling_Prohibition_on_Credit_Card_Bill_.pdf?1620092761

⁴³ Section 2 of the Casino and Gambling Legislation Amendment Act 2014: http://classic.austlii.edu.au/au/legis/vic/num_act/caglaa201473o2014387/s8.html

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C. Crown's poor track record on responsible service of gambling and staff training

There were times I would stay between 2-3 days at Crown without ever being approached by staff, dealers would recognise me, as they were changing shifts from day to day, I would be walking around in a daze, barely being able to open my eyes, though no one ever noticed the length of time I had been there. [a family member], a lady in her 80's was there quite frequently and would stay there for up to 36 hours without any intervention. '

- Confidential **community networker**

There is an obvious conflict of interest that exists between a gambling operator's business model and its obligations to minimise and prevent harm. The only way to manage this conflict is to ensure harm minimisation measures expected by the community are clearly codified in law, and that the code is written with public health measures in mind, not the protection of profit.

Responsible Service of Gambling: Early identification and intervention

'During my time as a Crown Member and gambling at Crown not once did anyone approach me to see if I was gambling too much. I could sit there all day and the only contact I received from staff was to ask me if I needed another drink.' **Carolyn, former office manager**

In line with Code of Conduct requirements, Crown trains some staff in observable signs of gambling harm with the intended aim of approaching these people and offering support and referrals to specialist support 'as required'.

There is some evidence that people experiencing gambling harm display observable signs that can be seen by staff on the floor of gambling venues and that with appropriate training and support, staff can and will discuss gambling with patrons displaying such signs.^{44 45} However, the potential for this to be an effective harm minimisation measure is greatly dependent on the way it is implemented.

The Ministerial Direction pursuant to venue Codes of Conduct requires operators to discourage customers from engaging in extended and intensive gambling (a strong sign of harmful gambling); observe for this and other signs of gambling harm; interact with customers to reduce gambling harm; and intervene where there is a display of behaviour consistent with gambling harm. However, there is very little direction regarding when and

⁴⁴ Delfabbro, P., Osborn, A., McMillen, J., Neville, M., & Skelt, L. (2007). The identification of problem gamblers within gaming venues. Final Report. Melbourne, Victorian Department of Justice.

⁴⁵ Thomas, A., Delfabbro, P., & Armstrong, A. (2014). Validation study of in-venue problem gambler indicators. Melbourne, Swinburne University.

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how this should occur, and little anecdotal evidence from the people we spoke to that staff are empowered or encouraged to intervene when witnessing signs of harm.

'The only times I would get approached by staff is when someone complained about me asking for money, and instead of asking if I was okay, they would throw me out.' Confidential

Gambling Reform Community Educator

While context is important and it is inadvisable for regulation to be over-prescriptive, a lack of direction can be used as a loophole for inaction. In addition, the degree to which this measure - even when run optimally - results in positive outcomes for people (i.e., reduction in harm), is as yet unknown and requires rigorous evaluation.

Further, the number of staff empowered to engage and intervene with people displaying signs of gambling harm appears, from the information available, to be grossly inadequate. The latest licensing review⁴⁶ suggests that while staff on the floor may receive some training in observable signs, they are expected to liaise with the Responsible Gambling Liaison Officer (RGLO) or senior management in relation to any patron they observe displaying signs of harm. The RGLOs are then tasked with observing this patron on their *next visit* and to then act as they see fit, recording information in a database. According to the VCGLR's Sixth review of the casino operator and licence, Crown have one to two RGLOs on duty at any one time across the whole of the Casino. These RGLOs work out of the RGSC and are tasked with a large range of duties with their time heavily biased to managing the exclusion program. Their ability to be out on the floor and available to conduct observations and interventions would therefore be very limited.

Intervention on the basis of observed signs of gambling harm as a harm minimisation strategy relies on frequent observations by numerous on-floor staff and timely intervention at the point that behaviours are displayed. The referral and delayed observation strategy described as operating by Crown is unlikely to result in early engagement with patrons or timely intervention with patrons experiencing harm from their gambling. Every venue in Victoria is required to have a Responsible Gambling Officer on duty at all times in addition to other staff who are trained to identify signs of gambling harm. However, to be effective a venue the size of Crown must have far more than one staff member available and able to approach patrons exhibiting signs of gambling harm at any and all times.

The inability of Crown staff to observe and intervene in a timely way is evidenced by their own statistics that record that, on average, around 100-112 patrons were recorded as displaying signs of gambling harm in 2016-18 (up from an average of 75 per week in 2013) and that RSGC staff acted on observable signs on only 14 occasions in 2015; 92 times in 2016 and 149 times between 1/1 and 30/9 in 2017.⁴⁶ The uptrend in figures suggests that training has improved over recent years (as it has Victoria wide) but the low raw numbers

⁴⁶ VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

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in a venue the size of Crown also demonstrate that this strategy is not being implemented in an effective manner.

This structure contrasts to Crown's Responsible Service of Alcohol (RSA) systems, which include many more RSA officers out on the floor at any one time, actively observing and proactively engaging and intervening with patrons e.g., offering water and food, discussing responsible consumption of alcohol, removing intoxicated patrons.⁴⁷

Intervening on the basis of observed signs of gambling harm still has a high potential for failure when relying solely on staff seeing the signs in patrons, particularly when staff are busy with additional tasks. Data analytics should be used to support staff observations. They have strong potential to increase both the number and accuracy of identifications. This is a specific recommendation of the Sixth review of the casino operator and licence but is yet to be enacted by Crown.

Proactive strategies: Data analytics

According to the latest publicly available information within the 2019-20 VCGLR annual report, there is still no active use of data analytics to support proactive identification of people at risk of harm despite this being in place in other international casinos and being raised with Crown over 10 years ago, including repeated recommendations.

The VCGLR made very clear recommendations - with deadlines - to move beyond research, modelling and trials to active implementation (see recommendations 7-9, Sixth review of the casino operator and licence). These deadlines have yet to be met apart from commencing some research.

Manual identification of people experiencing harm from their gambling will - even with optimal training and support - inevitably result in missed identification. Crown is the only continuously open gambling venue in Victoria and, as such, has a strong obligation to provide protection against harm from protracted and intensive gambling.

Data analytics is a potentially powerful tool to support manual identification of people experiencing or at risk of harm based on their gambling data. Historical data can be analysed against modelling to identify patterns of gambling that indicate risk of harm (e.g., placing very large bets; a sudden or continuous upward trend in losses), and live data can be used to provide real time risk monitoring alerts to staff based on indicators of elevated risk of harm (e.g., gambling for extended periods of time; breaching self-imposed limits). Data can also support self-limiting via tailored and dynamic messaging about relative risks that can be pushed to users in real time.

Currently relevant data is automatically collected when patrons use YourPlay or Crown loyalty cards and Crown has already developed models using historical data.

⁴⁷VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

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The Commission should examine reasons for continued inaction and compel the casino operator to be brought in line with comparable international venues.

Responsible Service of Gambling: Encouraging breaks in use

Staff observations and data analytics can and should be used to alert staff to individuals who should be offered a break in use. Crown currently tracks 'play periods' for loyalty card members and they receive alerts after four hours of continuous use (a length of time associated with problematic gambling⁴⁸), but Crown's current Code of Conduct does not indicate any specific period of time to trigger an intervention.

According to the Sixth review of the casino operator and licence, Crown's internal policy requires a RGLO to remind loyalty card members to take a break after 16 hours of gambling, and only requires gamblers to take a break after 24 hour of continuous gambling.⁴⁹ This policy is clearly at odds with proactive harm minimisation and the research evidence, and submissions to the Commission demonstrate that even this woefully inadequate policy is not being enforced.

'I was sometimes there at 6.30am pressing one cent bets at a time just to keep going...No one ever asked me if I was ok. I never saw them ask anyone else if they were ok.' **Sarah***,
medical professional

Proactive strategies: Breaks in gambling

Continuous gambling is associated with harm as it inhibits the person's ability to be fully aware of time and money spent gambling. This is particularly the case in EGM gambling where the pace of the machine and its structural features can lead people to become totally absorbed by the product to the exclusion of any other consideration, a type of cognitive dissociation commonly known as entering 'the zone'.⁵⁰ Further, extended periods of use constitute a known sign of gambling harm on EGMs.⁴⁸

Forced or optional breaks in gambling is a harm minimisation strategy that provides people with a significant break in their gambling, allowing them time to consider how much money and/or time they have spent, and whether they wish to continue or stop. As a 24 hour venue it is vital that Crown is proactive in ensuring people have ample breaks in their gambling.

While Crown has some practices in place to support breaks in use, they are primarily

⁴⁸ Thomas, A., Delfabbro, P., & Armstrong, A. (2014). Validation study of in-venue problem gambler indicators. Melbourne, Swinburne University

⁴⁹ VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

⁵⁰ Oaks, J., Pols, R., Lawn, S., & Battersby, M. (2020). The "Zone": a Qualitative Exploratory Study of an Altered State of Awareness in Electronic Gaming Machine Problem Gambling, *International Journal of Mental Health and Addiction*, 18, pp177-194.

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passive options – such as lounge areas, ‘responsible gambling’ messaging, announcements about entertainment. These are very unlikely to break the concentration of someone gambling ‘in the zone’, and should be clearly prescribed to the operator.

Responsible Service of Gambling: Active engagement with patrons

The VRGF has implemented a 2-stage Responsible Service of Gambling (RSG) training program for staff employed in Victorian hotels and clubs. This program trains staff on observing and responding to people displaying signs of ‘gambling problems’. It is predicated on an early intervention model, encouraging staff to engage with patrons displaying any signs of gambling harm to suggest breaks in use, and offer support and assistance where this appears warranted.

Crown currently train their own staff in RSG. There is no visibility of the content of training offered to staff so no way of independently assessing its comprehensiveness in terms of reach (across staff) or depth (in content) regarding observing and intervening in relation to observable signs. Nor is there transparency regarding protocols guiding if and when staff would actually intervene with people displaying signs of gambling harm, and what that intervention looks like e.g., When will they continue to observe? When will they suggest a break in use? When would they talk about self-exclusion options or insist on a break in use?

The VCGLR recommended in their latest licencing review that *“Crown Melbourne review its allocation of staffing resources to increase the number of work hours actually available to responsible gambling and intervention with patrons”* and that this *“might be achieved through training more gaming staff to undertake assessments and then approach patrons identified as at risk, without the need to contact a RGLO”*.⁵¹

This recommendation has resulted in Crown employing additional RG staff but it is unclear how many more (if any) are on duty at any one time, nor to what degree they are on the floor actively observing and intervening. There is also no evidence of any change in strategy whereby more staff are empowered to actively engage with patrons showing signs of gambling harm.

Across the gambling industry there is a need for greater support for staff to empower them to support patrons without fear of penalty from their employer.

After so many reviews and failures of Crown to implement basic harm minimisation practices, and to train their staff to intervene, the right to set their own guidelines and to train their own staff should be removed from the operator. The VRGF should be made responsible for training casino staff as part of the Victoria-wide training system.

⁵¹ VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

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A remaining issue that pertains across Victoria is a lack of definitive direction in the Ministerial Directions relating to the Code of Conduct regarding action to be taken following identification of signs of gambling problems. Government should consider the need to strengthen regulations to direct when and what action should occur when clear signs of gambling problems are present given the evidence demonstrates that Crown is reluctant to proactively instigate action to prevent or reduce harm without either regulation or external pressure.

Recommendations to improve responsible service of gambling

- 5. All casino staff should be trained within the Victorian-wide RSG training program run by Victorian Responsible Gambling Foundation.**
- 6. Increase the number of gambling-facing venue staff who are resourced, trained, supported and empowered to identify and approach patrons displaying signs of gambling harm.**
- 7. Strengthen regulation to codify clearer guidance regarding interventions related to clear signs of gambling harm.**

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D. Crown's poor record of governance

One of the strongest criticisms of the most recent licence review was that Crown had made little real progress in acting on the main responsible gambling recommendations from the VCGLR's prior (Fifth) review of the casino operator and licence, leading to repeated and stronger recommendations to act. To the extent that the regulator has been able to exert pressure on Crown to improve its performance, the VCGLR noted that, rather than proactive improvement, the harm minimisation practices put in place are *"largely driven by regulatory or other external pressures"*,⁵² suggesting stronger regulation is required to codify community expectations.

Given the reluctance of Crown to imperil its profits to meet community expectations of harm prevention or reduction, it is time for these external pressures to have the force of law.

Ineffective regulator and insufficient penalties

Whether real or perceived, it is clear the regulator does not have the necessary powers to effectively monitor or penalise the casino operator when it breaches legal obligations. That it took a departmental whistleblower turning to the media to uncover systemic money laundering, and an inquiry led by another state to investigate the full extent of such illicit practices, reveals a culture of a disempowered regulator that warrants further exploration. The only way to restore community confidence is to overhaul the entire department responsible for regulating the casino and to equip them with the resources and legal tools necessary to guarantee effective oversight.

The Sixth review highlights *"a disconnect between Crown Melbourne's regulatory obligations and Crown's assessment of them"*, pointing to significant problems in compliance and enforcement. The review further questions *"whether Crown's internal culture and practice is conducive to full compliance with regulatory expectations and public interest"*, suggesting recommendations require Ministerial oversight rather than negotiation with Crown alone.⁵²

Penalties must be actively enforced and sufficient to act as an effective deterrent, not the cost of doing business. That Telstra can be fined \$50 million over unconscionable treatment of customers contrasts starkly with the maximum \$1 million that Crown was recently fined over its junket operations (some two years later).⁵³ This fine is also markedly higher than other recent fines imposed for serious breaches including a \$25,000 fine for failing to operate a pre-commitment system for Fully Automated Table Games (FATG) between the 10th November 2015 and the 12th of June 2016. We note the maximum penalty has remained unchanged since 1991.

⁵² VCGLR (2018). Sixth review of the casino operator and licence, June 2018.

⁵³ Crown Casino in Melbourne fined \$1 million over junket operations, ABC (April 2021)

<https://www.abc.net.au/news/2021-04-27/crown-casino-in-melbourne-fined-1-million-over-junket-operations/100098942>

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Poor transparency and accountability

Transparency supports accountability in a high risk environment, however, both transparency and accountability appear to be severely lacking at Crown.

According to the 2019-20 VCGLR Annual Report, Crown has developed a strategy in relation to harm minimisation in response to recommendations of the Sixth review but this does not appear to be publicly available, preventing any independent critique of the value or effectiveness of this strategy or any transparency regarding what additional measures, if any, have been rolled out under the strategy.

Crown is required to have an Internal Control Statement (ICS) and Standard Operating Procedures (SOP) approved by VCGLR but these are not public documents. They also have a Responsible Gambling Policy that is internal only. We understand Crown regularly commissions research and internal reviews on the effectiveness of its policies and harm minimisation strategies (for example the "time out program" trial) however these also are not available for public scrutiny or peer review.

Furthermore, the environment in which Crown has been allowed to operate, including the movement of staff and executives between the casino operator, the regulator, and political office,⁵⁴ and more recently the personal relationships that have been exposed between the regulator and Crown is deeply concerning.⁵⁵ Whether real or perceived, this conflict erodes community confidence and increases the risk of corruption. The propriety or otherwise of such appointments and relationships speaks directly to the public interest of Crown holding the casino licence and requires further scrutiny by the Commission.

Recommendations to improve governance

- 8. Empower the regulator to hold the casino operator to account by making recommendations to both the Minister and the operator.**
- 9. Significantly increase penalties for breaches so that they act as a strong deterrent.**
- 10. Improve transparency of the operator such that all documents are kept private by exception rather than usual practice.**

⁵⁴ Coonan offered position on Crown board, ABC (Aug 2011)

<https://www.abc.net.au/news/2011-08-26/coonan-offered-position-on-casino-board/2856858>

⁵⁵ WA chief casino officer stood aside after media scrutiny over friendship with Crown staff, Perth Casino Royal Commission hears, WA Today (May 2021) <https://www.watoday.com.au/national/western-australia/complex-casino-regulation-demands-formal-training-wa-gaming-and-wagering-boss-20210507-p57pu9.html>

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Who we are

The Alliance for Gambling Reform is a national advocacy organisation and registered health charity formed out of an urgent need to address the harmful and unfair impacts of gambling and its normalisation in Australia. We are a non-partisan alliance of more than 60 organisations who share our objectives of preventing and minimising harm from gambling, and we are entirely funded by individuals, foundations and local governments that do not have any ties with the gambling industry.

We take a public health approach to gambling reform, centring those with lived experience of gambling harm at the core of our work based on the principle that those closest to the harm are those closest to the solutions. We seek to collaborate meaningfully with elected representatives, local councils, service agencies, faith and community groups to prevent and reduce harm through policy change. The Alliance also provides coordination, expert advice and practical resources to our supporter organisations, community groups and the media.