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TRANSCRIPT OF PROCEEDINGS

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TRANSCRIPT IN CONFIDENCE

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O/N H-1373660

**VICTORIAN COMMISSION FOR  
GAMBLING AND LIQUOR REGULATION**

**MR R. KENNEDY, Deputy Chairperson  
MS H. VERSEY, Commissioner  
MS D. HUNTERSMITH, Commissioner  
MS D. O'DONNELL, Commissioner  
MR A. SCOTT, Commissioner**

**In the matter of:**

**CROWN MELBOURNE LTD**

**MELBOURNE**

**10.01 AM, THURSDAY, 21 JANUARY 2021**

**MR C. WARFE and MR S. MAY appeared to assist the Commission  
MR R. MEADE and MR K. LOXLEY appeared for the Respondent**

**THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE**

5 ASSOCIATE: We'll now commence the matter of disciplinary action of Crown Melbourne Limited.

MR KENNEDY: Good morning. And thanks, everybody, for attending today. I just want to do a quick rollcall if we've got everybody that we thought we have. Xavier, I understand that you're going to be speaking on behalf of Crown in the main or deflecting to others as the case may require. Mary is here. Mr Reilly is here. 10 Yes. Thank you. I believe you have counsel assisting, Mr Meade and Mr Loxley.

MR LOXLEY: That's correct. Mr Loxley.

15 MR KENNEDY: Correct. And with us by Zoom, Ken and Michelle. Welcome all. Just by way of recap. On the 2<sup>nd</sup> of October 2020, the Commission has issued a notice to Crown in respect of alleged contraventions of clause 2.5.1 in respect of their dealings with three junket entities, namely, Mr Simon Pan, Mr Zezhai Song and Mr Joseph Wong. And on the 17<sup>th</sup> of November, the Commission amended that 20 show cause notice to include further matters in respect of its engagement with Mr Alvin Chau and his Suncity junket.

25 Crown responded to both the notice and the amended notice on the 30<sup>th</sup> of October and the 12<sup>th</sup> of December respectively and the commissioners had a chance to consider that response fully and today provides an opportunity for any further matters to be submitted by Crown and for the Commission to seek clarification on any of – a number of issues that may have arisen as a consequence of that response.

30 So in the first instance, I'm going to invite Mr Walsh to make an opening statement on behalf of Crown. And then I'll ask counsel assisting the Commission to lead with some of the clarification matters that we'd like to explore. But in that opening submission, I'd just invite Mr Walsh to advise the Commission whether in fact it's conceded that Crown may have not complied with the internal control statement obligations in any or all of the particulars. With that, I'll pass to you, Mr Walsh. 35

MR X. WALSH: Thank you, Chair. If it's appropriate, Mr Barton wanted to make a few comments before I spoke.

40 MR KENNEDY: Of course.

MR WALSH: If I can throw to Mr Barton - - -

MR KENNEDY: Yes.

45 MR WALSH: - - - and then I'll follow directly thereafter.

MR KENNEDY: Please, Mr Barton.

ASSOCIATE: Ken, you're currently muted. And if you can unmute.

5 MR K. BARTON: The sounds – I can hear you, Chairman, very well. It's Ken Barton here.

MR KENNEDY: Yes. Hello.

10 MR BARTON: I couldn't hear Xavier's response, but I'm working on a presumption that Xavier said he'll throw to me for some introductory comments first.

MR KENNEDY: He did, indeed. Yes.

15 MR BARTON: Yes. I'll grab that – I'll grab that handball, Chairman. And I can hear you reasonably clearly, but not anybody in the rest of the room. So I'll talk and if you're able to hear me, that's probably the most important thing. Firstly, thank you very much for the opportunity to come to the Commission to address you today in relation to the show cause notice. I was going to do some introductions, but I  
20 think you may have already introduced everybody in the room. I think that's right.

So, as you mentioned, Xavier Walsh, the CEO of Crown Melbourne, is in the room; Mary Manos, our general counsel, can't be seen, but for Crown Resorts. Here with me in Sydney is Michelle Fielding, who's our group executive general manager of  
25 regulatory compliance. I think also in the room Chris Reilly, director of corporate affairs. And we have Kane Loxley of counsel, I think, on the – well, I can't see him, but I assume that they're in the room as well.

Chairman, I've been fortunate enough over the last few months, particularly towards  
30 the end of last year, to have the opportunity to present to the Commission the work we're doing around our reform agenda. We're covering a very extensive range of areas within the organisation, spanning things such as AML CTF, our broad-based compliance, risk management across the organisation, our organisation structure, transparency, accountability and remuneration structures and, importantly now, a  
35 broad-ranging program we're undertaking to assess our current culture and look at gaps in our culture, particularly around areas of compliance.

We've had some, I think, really good and constructive dialogue with the Commission about the progress of those initiatives and, I think, as we've engaged with those  
40 initiatives, I think really that they're wide-ranging and their comprehensive. And given all of the matters that Crown has been confronting, I think, clearly, the importance of these has been escalated and the work that has been done and the focus have been on those areas by the board, I think, is acknowledged across the organisation, certainly, and hopefully that's been conveyed to the Commission as  
45 well.

I think it's acknowledgement that these reforms are so comprehensive and wide-ranging that we did see that there were areas of our risk management processes and governance that did need improvement, identified those. Some of those were being worked on well in advance of the work that was being undertaken by the Inquiry last  
5 year. Some was work that came about from matters that were raised at the Inquiry, and I accept that they reflect areas where we believe in the past we may have fallen short in, such as governance, management oversight, transparency and accountability.

10 Our goal through all of these exercises is to lift the bar for us on where we stand with compliance. We want to be exemplars in this area. We want people to observe that Crown, like a lot of things that we do, does this – the work on compliance, risk  
15 management and these other areas of governance amongst the best. We're taking lessons from people who have done this well and getting advice from people who are experts in these fields to make sure we understand where we need to get to and we've got a plan to get to those places. So that's our goal, to be extremely good at these things.

The other area I'd like to mention to the Commission is that we see – and I think  
20 we've made this statement in respect of a number of areas – that our goal shouldn't just be compliance. We obviously need to make sure we understand and fully comply with all of our obligations in the regulatory frameworks that we operate in. But we also want to more broadly comply with – be within community standards are where the expectations are and with a good understanding of what the intent is and,  
25 as we've observed in a number of places, there is some broad purposes of the legislation to keep the casino free from all influence or exploitation to make sure that we conduct our operations in a fair way and that the casino is operating for the good of the community, more importantly, in ..... with tourism and for everyone's benefit. We want to make sure that we understand not just what our compliance obligations  
30 are, but also to work collectively with the Commission and, more broadly, the duties and expectations that we do achieve those purposes in the Act and by just reflecting, we think, some of the best standards, the best capability that, in fact, we bring ..... in the industry.

35 I was only making those comments by way of introductory remarks. We provided the written submissions, Chairman, as you mentioned in relation to the specific matters that were raised in the show cause notice. We actually don't have any further submissions to make, as I say. But we are obviously available to answer any questions that you do have. The only other offer I'll put before I hand over to  
40 Xavier, Chairman, is that this forum is one which is interested or appropriate to continue to update ..... reform agenda, or we can always do that as we have in other forum, but it's an offer that's available and we want to continue to keep updating the commission as we make progress across all of our reform agendas.

45 This may not be the appropriate forum, but as always, we're available at any time should you wish for us to give you further updates on how we're progressing with that really important reform program ..... But if you prefer to focus on matters at

hand, we can – I'll pass this briefly to Xavier to make some comments and answer any questions.

5 MR KENNEDY: Yes. Thank you very much, Mr Barton. I do acknowledge those remarks and – and clearly, the Commission is very interested in the reform program as it progresses, but today's probably a matter more for the particulars of the show cause notice, so we might confine ourselves to that, but I look forward to an opportunity soon for further updates on the reform agenda. So Mr Walsh.

10 MR WALSH: Good morning, commission. Good morning, Chairman. Thank you for the opportunity to present today and appear to answer any questions and also make comment on our submission. To answer your question directly, Chairman, Crown does not concede that we have breached our ICSs as articulated in the show cause notice. Having said that, Crown is certainly not dismissive of the concerns that  
15 the commission has raised. The requirement of the ICS is that we have a -arobust process for establishing or performing due diligence on junket operators. We believe we had that process, but that's not to say that the process wasn't foolproof, and I don't think that the obligation is one to have a foolproof process.

20 The other observation I'd like to make is that the level at which we should be judged and measured against, it needs to be appropriate to the time at which the incidents occurred, and it's our contention that the standards upon which we hold ourselves now have evolved substantially since the standards that applied at the time, not just  
25 on ourselves, but on the industry practice generally, and with other regulators, not just gaming regulators, but the regulatory environment in totality. We're now operating in an environment where we're looking at suspicion versus proof or allegation versus charge or conviction, which may have been the relevant standard at the – at the time.

30 We do acknowledge that there are elements of the particulars that highlight shortcomings that could have been addressed at the time and weren't. For example, the incidents of cash in pit 86, you know, wasn't given enough emphasis in the decision to continue ongoing relations with Alvin Chau and Suncity. You know, the question's been asked, should Crown have approached Mr Song directly and asked  
35 him about allegations of past charges relating to illegal activity. It didn't, and in terms of Mr Wong or Mr Prower, you know, did we put enough gravity on the allegations against him and the sanctions that were imposed and then were lifted by the UN.

40 However, we contend that this does not represent a failure of the ICS which requires Crown to have a robust process. The material that we were provided and as articulated in our response evidences the fact that we did have a good process and a –  
and a comprehensive process. Was it perfect? We're not contending that it was perfect, and clearly, we have evolved since that time both in terms of our processes  
45 and personnel, and if we look at the judgments that were made at the time and the decision-making as a result of the process that we went through, would different calls

have been made or different decisions been made in respect of the four persons mentioned in the particulars?

5 The answer is no, and you know, we, whilst not conceding and not agreeing that we have breached the ICSs, we do agree with the commission that we should not be dealing with the four persons noted in the particulars, and in coming to that conclusion is based not only further review and a different set of eyes internally looking at that decision-making process but also in terms of the commission's – the commission's concerns as raised in the show cause notice and elsewhere. We have  
10 been going through a process of organisational restructure. Ken's mentioned some of it in previous presentations.

In terms of updating the Commission, I can advise that Jacinta Maguire and Roland Theiler, who were both senior in the VIP international team, will be leaving the  
15 organisation at the end of January. Further changes are likely to flow in terms of personnel in the VIP international team as a result of us seizing – ceasing to deal with junkets unless and of course until there is a process agreed with the regulators for us to reengage in terms of licencing and probity. In having said that Crown agrees that we should not deal with the four persons listed in the show cause notice, I  
20 can advise that or reiterate that Mr Prower or Mr Wong was issued a WOL, or withdrawal of licence, in November following the show cause notice at late October.

Mr Song and Mr Chau had stop codes applied to their accounts in December 2020. The stop codes prevent them from entering any of the VIP rooms at Crown or  
25 indeed, participating in a program, a gaming program at Crown, and those – those two individuals were referred to the person of interest committee, which resolved to issue them a withdrawal of licence. For – for completion, Mr Pan was issued a withdrawal of licence in August 2019. As I say, we note the concerns of the commission in relation to the four persons subject to the show cause, and those  
30 concerns were factored into our decision-making.

With that, I'm happy to take any questions that commission may have in respect to our response or indeed, the – the matters listed in the show cause, but certainly, you  
35 know, Crown has matured in terms of the – not only the personnel, but as I say, the structures put in place, the composition of the person of interest committee, the expansion of the sources we go to to collect information on patrons of substance or high value, and that's evidenced by the work that we're doing on the significant player review, which I've spoken to the commission about previously in relation to local and domestic customers, and that work continues, and if it pleases, I can give  
40 the commission an update of where we're at on that. I know that's not the subject of this hearing, but I thought I would just offer that if it was of interest to the commission.

45 MR KENNEDY: Thank you, Mr Walsh. Counsel assisting the commission today are Mr Scott May and Mr Cameron Warfe. I'll ask them to lead on the matters that we seek some clarification and further comment on. There may be similar matters requiring clarification that individual commissions may wish to raise. I invite them

to ..... through the chair as we progress. I think in respect of particular 1, it's Mr Warfe.

5 MR C. WARFE: Yes. Thank you, Chair. In relation to particular one, which relates to the junket agent Simon Pan, I put that there are – there are two broad issues that relate to this issue and are being raised by Crown and its response. The first is in relation to the scope of clause 2.5.1 in relation to junket agents. I'd just like to run through some of the relevant principles and seek some understanding in relation to the scope of the ICS and the role that agents play. So Mr Walsh, you'll note that the core principle of the relevant ICS is to ensure that Crown remains free from criminal influence and exploitation, and this reflects one of the primary purposes of the Casino Control Act under which those ICSs are made.

15 In that document, there's a number of identified risk events which the ICS seeks to – seeks to address, and they are outlined in the appendix to that ICS. Do you have a copy of that document?

MR WALSH: I do.

20 MR WARFE: I believe you do. So on page 5 of that document you will see that there are four risk events which have been identified, and the first being criminal influence and exploitation.

MR WALSH: Yes.

25 MR WARFE: To the right of those risk events you'll see the list of minimum standards and controls that are set out in the ICS and, relevant for these purposes, is the minimum standards and controls set out in 2.5. And you will see that the risk event that clause 2.5 seeks to address is that of criminal influence and exploitation.

30 MR WALSH: Yes.

MR WARFE: You see with that. The primary clause in relation to – that we're addressing in the disciplinary action is clause 2.5.1, which states that:

35 *Crown will ensure that it has robust processes in place to consider the ongoing probity of its registered junket operators, junket players and premium players.*

40 The – as outlined in the notice, Simon Pan was a registered junket agent and did – and acted as agent on behalf of a junket operator on the 5<sup>th</sup> of September 2017, and that junket operator was Ngok Hei Pang; you'd agree with that - - -

MR WALSH: Yes.

45 MR WARFE: - - - statement. In relation to your – or Crown's obligations under clause 2.5.1, to ensure it has robust processes in place, would you accept that a

consideration of junket agents that are acting on behalf of a junket operator would be relevant to the ongoing probity of that specific junket operator?

MR WALSH: Yes, I would.

5

MR WARFE: And that the obligations and authorisations that junket agent has when acting on behalf of a junket operator, they're set out in paragraph 18 of the notice to show cause, and that includes:

10 *Common junket operator duties, including buy ins, partial settlements, cash outs, deposits, withdrawals and program settlements.*

Is that correct?

15 MR WALSH: Yes.

MR WARFE: And would you accept that when performing those common junket operator duties a junket agent undertaking those duties would involve the potential risk - the potential for the risk event of criminal influence and exploitation to potentially occur?

20

MR WALSH: Potentially, yes.

MR WARFE: So it would follow that the suitability of the relevant junket agent would be a relevant consideration in managing the risk of criminal influence and exploitation under the ICS?

25

MR WALSH: Oh, I think the suitability is certainly relevant. The difficulty I have is that the agent is not specific - in terms of acknowledging or conceding that we've breached the ICS is that the agent's not called out in that clause. And I can only assume that that's deliberate, because agent is referred to in other obligations throughout the ICS, including by 2.5.2.

30

MR WARFE: Noting the fact that clause 2.5.1 does not specifically refer to junket agent, but would the existence of a relationship between the junket operator and a junket agent be a relevant consideration in considering the ongoing probity of that operator?

35

MR WALSH: Yes, I think it's a consideration, yes.

40

MR WARFE: And therefore, the robust process in place to consider the ongoing probity of a junket operator, which is clearly contained within the scope of clause 2.5.1, would include a consideration of any junket agent that that junket operator seeks to utilise as part of its operations?

45

MR WALSH: Yes, the extent to which, though, is, you know, subjective. But, yes.

MR WARFE: What do you mean by that, Mr Walsh?

5 MR WALSH: Well, the issue is that it's a consideration and it depends on what we know or what we can find out, and obviously there was a deal of work done on Mr Pan and, you know, a judgment call was made on what we knew and what we didn't know about Mr Pan at the time. It doesn't go to the same standard, I believe, in my opinion, as called out directly in terms of junket operators, junket players and premium players.

10 MR WARFE: And so did Crown consider whether the appointment of Simon Pan as an agent for the junket operator Pang had an impact on the ongoing probity of that junket operator?

15 MR WALSH: Yes, I would say that they – that the company did. Whether, indeed, it made the right evaluation is another matter. And I think that that is really the premise of our response to all of the matters, is that, you know, whether we had a robust process – we believe and argue that we did – whether we used the right judgment as a result of having conducted that process of inquiry, you know, is another matter, and we would concede that, you know, clearly there's room for  
20 improvement.

MR WARFE: So in relation to particular 1, and as you have referenced elsewhere in your response, this is matter of a process was in place, it was followed, but it – and an evaluative judgment was made in relation to the suitability of Crown interacting with this individual in this regard?  
25

MR WALSH: Yes.

30 MR WARFE: You've noted in your opening statement and, just for point of clarification, you say that:

*Would the decisions that were made, would they have been different?*

35 And you indicated that:

*No, they would not have been different.*

MR WALSH: No, no, I indicated - - -

40 MR LOXLEY: I think you said .....

MR WALSH: Did I? Sorry, I'm – my apologies. My apologies, Commission. No, I meant yes. Evidenced by the fact that when the foreperson's – well, the three – the – sorry, the two persons, being Song and Chau more recently, and then Mr Wong or  
45 Mr Pereira in – at an earlier time in November, were ..... by the person of interest committee.

UNIDENTIFIED MALE: Yes.

MR WALSH: So – my apologies if I've confused the Commission, I meant absolutely no.

5

MR WARFE: And, in fact, I will take you to your - - -

MR WALSH: No, they're not persons we should be dealing with, I apologise.

10 MR WARFE: ..... But yes. I'm glad we clarified that.

MR WALSH: Yes, my apologies.

15 MR WARFE: That point. I will take you to – I'm just – my apologies. In relation to Crown's ultimate decision to withdraw Mr Pan's licence on the 18<sup>th</sup> of August 2019, in the notice to show cause and in reflecting Crown's information that it had been provided to the Commission, that was as a result of further due diligence checks undertaken by Crown which ultimately revealed his position as sole director and shareholder of Triple 8 International Proprietary Limited and his involvement as a  
20 witness in two Count Court of Victoria proceedings in 2015. Is the – is that set out in – as set out in the notice, would you agree with that assessment?

25 MR WALSH: Yes, there were also behavioural issues as well that led to, I think, his initial withdrawal of licence. And, again, when looking with today's eyes back at the information we now have, or subsequently received after an initial inquiry and then further work, you know, would we have continued to deal with Simon Pan at the time? You know, the answer's no.

30 MR WARFE: And so Crown would accept that if it was aware of the information that it is now aware of in relation to that individual it's likely that it – a different decision would have been reached in relation to the suitability to engage with that individual?

35 MR WALSH: That's correct.

MR WARFE: You'll note that, in paragraph 5 of the notice, it sets out some relevant matters which Crown then, as part of its decision to withdraw the licence of Mr Pan, then took into account. And you'll see that there are three matters outlined there in paragraph 5. You'll see the first deals with a matter before the Port Phillip  
40 City Council, which occurred on the 20<sup>th</sup> of July 2012.

MR WALSH: Yes.

45 MR WARFE: The second deals with Mr Pan being a witness in a Victorian County Court proceeding in 2015.

MR WALSH: Yes.

MR WARFE: And the third deals with another court proceeding, in 2015, which deals – and references specifically with the principle place of business of Mr Pan’s company at 39 Tope Street.

5 MR WALSH: Yes.

MR WARFE: You’d agree that all of those events occurred prior to 2017?

10 MR WALSH: Yes.

MR WARFE: And you would also agree that, if – that, therefore, that information could have been available to Crown if adequate searches has been made in relation to that individual.

15 MR LOXLEY: Could I just interject here to note that, in paragraph 17 of appendix A, the commission appear to accept that:

20 *While Crown should have established Mr Pan’s business interests earlier than July 2019, the same cannot be said with respect to the second aspect of the media allegation, being the County Court proceeding.*

So what appears to be put at the moment may be inconsistent with a concession that the commission itself made in paragraph 17 of the notice.

25 MR WARFE: I accept that - the difference between whether that information was available and then whether it was reasonable for Crown to be able to obtain that information. I guess, the purpose is that those events had occurred prior to 2017. They weren’t future events that hadn’t arisen by the time of the allegation. Maybe I’ll clarify in the sense that – and with reference to paragraph 17 of the notice, then,  
30 with respect to the first and third instances of the media allegations that, if Crown had been aware of Mr Pan’s directorship of that relevant company, then it would have been in a position to identify those issues have arisen and taken them into account when determining the suitability of that individual.

35 MR WALSH: Yes, I agree with that. What I would like to just reiterate, if it’s okay for a moment, you know, again, you know, the information – Mr Pan – I’ll stand corrected on this, but my understanding is he’s never been charged with anything and he wasn’t subject to the relevant court proceedings. Entities associated with were, and so, you know, in today’s lens, you know, we’d look at it and say there’s a fair  
40 amount of association there that’s causing us reason to have concern and probe deeper. What the decision making process at the time was, again, as I say, in the light of different industry standards, different community standards – you know, had this information come up now, we would have made a different call.

45 MR WARFE: So you would contend that, at the time of making the decision, do you accept that the instances that are set out in paragraph 5 would have been relevant considerations, even at that time of making the decision?

MR WALSH: Look, again, I think they're relevant, but we're operating, you know, in 2012, and even in 2015, you know, against a set of standards that have certainly moved and evolved forward from there in terms of those I mentioned earlier. Typically the practice was, you know, unless there were charges or convictions, you know, it was less likely than more likely that an adverse decision would go against that particular patron. And, of course, each case depended upon the totality of the information available to us and what the allegations were, so I'm not saying that there was any hard and fast rule. This is quite a fluid decision making process that anyone goes through. What I will say is our risk appetite has moved substantially and, had these facts been presented today, the – Crown's position is that it wouldn't have continued to do business with Mr Pan. But that doesn't speak to did Crown have a process and did Crown, you know, conduct background checks and so forth on Mr Pan.

MR WARFE: Would you accept that the requirement for robust processes in the ICS would include the decision making criteria and parameters in – to determine whether to proceed to conduct business with and individual.

MR WARFE: Yes, I would, and I would also add that those processes were in place. Would a group of company executives now make the same decision as those executives made at the time? I'm suggesting, no, they wouldn't, and I would also add one of the reasons for that is that there is a different composition of people making those decisions and have the ability to veto those decisions than was the case back then.

MR WARFE: But if it was considered that the decision making process or the criteria that were applied in reaching a decision at that time are found to be flawed or unreasonable, that that would demonstrate the failure of a robust process.

MR LOXLEY: Sorry. Can I just interject again. I think we might be straying beyond the particulars that Crown has responded to and has appeared today to meet. The particular of the charge is clearly expressed as being a failure to establish Mr Pan's business interests, and that that failure to establish those business interests leads to a failure to obtain all available and relevant information. To go back a step and just to add to some points that Xavier and Ken have made, it's important to analyse this, in my submission, starting by reference to section 121, subsection (4), that requires that a system of control to be approved and be implemented, and it's that system – or that clause, rather – that is alleged to have been contravened. And then one turns to the order requirement in 2.5.1 of the ICS, and that, in its terms, says that:

*Crown will ensure it has a robust process in place to consider –*

And this, I think, permeates through our submissions and probably explains the position that we take today. There is a clear distinction between having a robust process in place, in other words, a system to evaluate and make an evaluative judgement, and, on the other hand, a decision. And as Mr Walsh has said and Mr

5 Barton has said, the fact that Crown has evolved its decision making process and its evaluative criteria in a way that it would make a decision today, based on certain information, than what it made two or three or more years ago based on that same information does not bespeak a failure to have a robust process in place that would result in a breach of 2.5.1 and, in turn, a breach of 1214 of the Act. And the only other point I would make is with respect to Mr Pan. Not identifying that he was a director of a company, in my respectful submission, does not mean that a system of controls fails. Systems are not fail-proof, and a single instance of missing a piece of information does not mean that a robust process was not in place.

10 MR WARFE: I think, in that respect, the requirement of Crown to have a robust process in place is one for consideration in terms of whether, objectively, the processes that were implement can be considered to be robust in all its considerations. And, obviously, the commission is here to understand what those processes are to then make its determination as to whether they were, in all the facts and circumstances – meets that requirement to be a robust process.

15 MR LOXLEY: Indeed. The only rejoinder I would add is that we're also meeting very specific charges that, if established, will result in a breach of the Act and provide a ground for disciplinary action, which is a serious consequence. And so one needs to be specific and directed to the charges as they've been framed.

20 MR WARFE: I have no further clarification.

25 MR KENNEDY: Thank you.

MR MAY: Chair – excuse me – I have a minor clarification. Mr Walsh, one of the issues you said was Mr Pan was never charged or convicted.

30 MR WALSH: That was my recollection, Mr May.

MR MAY: Yes.

35 MR WALSH: If I've got that wrong - - -

MR MAY: No. I know, no – you haven't – well, I'm not sure whether you've got it wrong or not. But what I would direct your attention to is clause 2.5.1 of the Junket and Premium Player ICS states that, and we've discussed this somewhat, that:

40 *Crown will ensure it has robust processes in place to ensure the ongoing probity of its registered junket operators.*

So is what you're saying, at the time that these matters were considered, Crown's test with respect to probity was whether someone had been charged or convicted?

45 MR WALSH: Not necessary. But I – what I am saying is it weighted – it put more weight on that than perhaps an allegation – and I would submit that that wasn't just

5 Crown's process, that was industry practice. And, moreover, we – you know, the environment we're operating in in terms of our view of the regulatory environment and, you know, again away from just the gaming regulatory environment, and community expectations were differently. Clearly, in recent times, there's been far more scrutiny and emphasis and reporting, widespread, on these matters of concern that have highlighted that expectations have moved.

10 MR MAY: You would agree, though, that the term "probity" is not limited to charges of criminal conviction?

MR WALSH: No. No. I'm not suggesting that, at all - - -

MR MAY: Yes. And - - -

15 MR WALSH: I'm just suggesting the manner in which the information gathered was then assessed. That what I'm – that's what I'm speaking to.

MR MAY: At the time?

20 MR WALSH: At the time.

MR MAY: And you'd agree that probity is somewhat synonymous with suitability in a general sense, the concept of suitability?

25 MR WALSH: I think it goes to suitability, yes.

MR MAY: Yes. And so just to be crystal clear, that at the time these matters with Mr Pan were considered, what I'm – did Crown, really, misconstrue the test that – or the requirement in 2.5.1, in that it overly narrowly considered matters that would lead them to say that, "This person is not of sufficient probity.", because it was too limited in its view with respect to charges or criminal convictions?

30 MR WALSH: I would say that it was appropriate at the time. Had this matter come up and this information been available today where we're casting a much wider net. And from the board down, the company's taking a much lower risk tolerance, I'm suggesting that in fact a different judgment might have been made in respect of Mr Pan, had we put today's lens and today's risk profile of Crown on – on this matter.

40 MR MAY: And so when you say, "today's lens", though, so if we were to apply this same test now, you're saying there would be a different outcome than there was then. But applying the same test of, "this person's probity"?

MR WALSH: I'm suggesting that's the case, yes.

45 MR KENNEDY: Commissioner.

MR SCOTT: Yes, Mr Walsh, there is in fact – or there was, at the time, no definition of “probity” within the system, was there?

MR WALSH: Not to my understanding. I’m not aware of one, Mr Scott.

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MR SCOTT: So it fell to those making the decisions to work out from time to time what they considered on a matter by matter basis, were the elements of probity that mattered most?

10 MR WALSH: That’s correct.

MR SCOTT: And that would lead, wouldn’t it, to some uncertainty from time to time as to which set of criteria were going to be considered?

15 MR WALSH: Yes. In terms of the weighting on each piece of information that had been gathered, that’s right. It would have been subject to the judgment of those making the decision.

MR SCOTT: Yes. And do you consider that that was a robust way of assessing probity, if it was not necessarily defined? It wasn’t defined, at all, and it would vary from case to case?

MR WALSH: Look, I would suggest that it was robust. It could, obviously, have been improved. There was a process where information was gathered from various sources. It went to a group that made the decision and resulted in an outcome. Could that process have been improved? Obviously, we say it could have, because we’ve done it, subsequently and also changed the composition of the decision-makers. However, I wouldn’t concede that it wasn’t robust, and it certainly wasn’t foolproof.

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MR SCOTT: Would you go as far as conceding that the more improvements to the system and to the process that are made, the more robust it gets?

MR WALSH: Yes.

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MR SCOTT: And is the converse then also true, that the more improvements that were needed to be made, the less robust it was beforehand?

MR WALSH: I – well, again, and I don’t want to sound argumentative, but you know, we’re taking an environment now and looking back in hindsight and applying it to facts of some – and judgements made of some years ago. So in terms of would yesteryear’s process and approval process have been appropriate given the company’s risk profile, the expectations of the community, and indeed the Commission, would it have passed muster today? You know, I think, that we would suggest that it, certainly, needed to be improved. Whether it would have passed with a C grade or a higher grade is subject to contention. But, certainly, we recognise that improvements needed to be made and have been. Does that mean that we didn’t

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comply with the ICS as it stood at the time? We suggest, we submit that we did comply with the ICS at the time.

5 MR SCOTT: Thanks for the answer, Mr Walsh. That wasn't the question that I asked, though?

MR WALSH: Okay.

10 MR SCOTT: I was asking a comparative question. And it seemed to be to be a logical follow-up to the question that I proposed, and you'd answered immediately before that.

MR WALSH: Sorry.

15 MR SCOTT: Does it follow that the more improvements that you need to make to a system and a process means that the process was less robust than it would have been had fewer improvements been recommended and adopted?

20 MR WALSH: Yes. I would agree with that, yes.

MR SCOTT: Thank you.

MR KENNEDY: Danielle.

25 MS HUNTERSMITH: I just have a couple of questions - - -

MR WALSH: Certainly.

30 MS HUNTERSMITH: - - - as well. I just want to go to the concept of a "robust process" and what that involves. So I think, you've already said that in designing that process, that that in designing that process, that that should have regard to the intention of the legislation. I think you agree with that, is that right?

35 MR WALSH: Yes. Yes.

MS HUNTERSMITH: Okay. So really it should – that robust process, part of the rationale for that is to make sure that the casino is free from criminal influence or exploitation, yes?

40 MR WALSH: Yes.

MS HUNTERSMITH: Okay. So I just want to go to the concept of robust then. What do you understand by the word "robust"?

45 MR WALSH: I would suggest that it connotes comprehensive, extensive – again, I don't think it goes to, you know, "You'll never have a failing." Or, "It's not fail-proof." But certainly, something more than haphazard or adequate. You know,

“robust” connotes, you know – as I say, I think, “comprehensive” is probably the best word.

5 MS HUNTERSMITH: Yes. Okay. And, I think, the dictionary definition would align with that in terms of strong and vigorous, etcetera. So in terms of process at that time, turning to the particulars of the allegation that – about the breach, was there – at that time, did you ask people what companies they hold a directorship in?

10 MR WALSH: I believe - - -

MS HUNTERSMITH: And what their business - - -

MR WALSH: - - - director searches - - -

15 MS HUNTERSMITH: And what their business interests were?

MR WALSH: - - - were part of the process.

20 MS HUNTERSMITH: It was?

MR WALSH: That’s my understanding. I’ll stand corrected on that, because I wasn’t dealing with the VIP International Business at the time. If it’s acceptable to the Commission, I’d like to defer to Michelle Fielding to answer that question, if you can hear me, Michelle?

25 MS M. FIELDING: Yes. Sorry, I’m – but we’re only hearing parts of what was said. So I’m sorry if what I’m saying doesn’t correlate to what’s just been discussed. Can you hear me properly?

30 MR SCOTT: Yes.

MS HUNTERSMITH: Yes.

35 MR WALSH: Yes. The question was in relation, “Did we do director searches as part of our due diligence?” I - - -

MS FIELDING: Yes.

40 MR WALSH: - - - I believe that’s the question.

MS FIELDING: So company searches were undertaken as part of the due diligence process for junket operators, under section 2.5.1 of the ICS.

45 MS HUNTERSMITH: And what about for agents, did you say? Or just for operators?

MR WALSH: The question was - - -

MS FIELDING: I missed that.

MR WALSH: - - - “agents or just operators?” “Just operators, or agents?”  
Michelle.

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MS FIELDING: I would have to confirm with agents. I don’t know that off the top of my head. So I’ll take that on notice and come back to you, if that’s okay?

MS HUNTERSMITH: So I think, what you’re saying is that company searches may  
10 have been done and it may have failed to reveal that he was a director – that in relation to the particular one, that Pan was a director of Triple 8?

MR WALSH: I – yes, I’d – look, I’d need to refresh my memory on the exact timing. But I’ll – that could have been the case.

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MS HUNTERSMITH: Or it could be that you didn’t conduct searches in relation to agents, only in relation to operators?

MR WALSH: Yes. Well, that – as Ms Fielding indicated, we’ll – if we can take  
20 that on notice and come back and confirm to the Commission?

MS HUNTERSMITH: So if you had have conducted a search ad if it had have been revealed that he was a director, I think, what you’re saying in your response is that  
25 would have led you then to, perhaps, exclude him earlier? Because it was when you became aware of his interests that led to the exclusion. Is that right?

MR WALSH: No. No. I’m saying that that, certainly, would have been a factor in the decision-making process of those at the time, had that – if we had today’s structure and today’s risk profile in our minds, the Commission’s concerns, the  
30 community expectations, then, we certainly would have acted at the time. However, we’re judging this particular incident or matter against standards that were in place some years ago.

MS HUNTERSMITH: Yes. I think we’re going back to the difference between the  
35 decision-making and the actual robust process.

MR WALSH: Okay. Thank you.

MS HUNTERSMITH: So part of the allegation in our Show Cause Notice is that  
40 you failed to establish his business interests. So we’re saying as part of that, that you didn’t know that he was director of Triple 8 until later. So I think you don’t know the answer to that. Is that what you’re saying?

MR WALSH: No. Well, no. What I’m saying is if we made a mistake in terms of  
45 we didn’t identify it in this particular instance and, again, we’ll need to check whether, in fact, we did conduct the search or not. What I’m suggesting is in terms of the actual charge being put to Crown, did we have a process? Yes, we did. Was it

perfect? I think, that's the matter for the Commission to decide. But whether, in fact, we made a mistake on a particular matter, I don't think, goes to whether we had a robust process or not.

5 MS HUNTERSMITH: But you're not sure whether the process included doing company searches of agents?

MR WALSH: Correct. I'm not.

10 MS HUNTERSMITH: Okay. So if it didn't, would you say that's a robust process in relation to an operator, if you don't even look at their agents' - - -

MR WALSH: Well, I - - -

15 MS HUNTERSMITH: - - - business interests in that way, by doing company searches, at least within Australia?

MR WALSH: Look, I think it's a matter. It would depend upon the other information available to us, in terms of the other searches that were done in terms of whether there was anything nefarious in anything else that we'd uncovered. The fact that he was a shareholder in a licensed brothel, I don't think, in and of itself, would have excluded him.

MS HUNTERSMITH: I'm not sure whether it would have or not. But I'm just saying, would it not need to be part of a robust process that, at the very least, you conduct searches to establish his business interests, at least, within Australia?

MR WALSH: Well, certainly, that's the intention, should we reengage with junkets going forward is to do - is to include agents. You know, whether agents were adequately dealt with at the time, you know, that's again, a matter for the Commission to opine on. But I just can't concede that we didn't have a robust process, even if we hadn't conducted a company search on Mr Pan - a director search on Mr Pan.

35 MR LOXLEY: I think this - - -

MS HUNTERSMITH: So you - - -

MR LOXLEY: Sorry. I was just going to add just one thing to what Mr Walsh is saying. I think this exchange does go to the drafting of 2.5.1 and the omission of reference to "junket agent". And I heard what counsel assisting noted about an agent being relevant to the probity of an operator. And even if that's accepted, Ms Fielding has confirmed that correct - company and director searches were conducted on operators. Now, it's a question of degree, of course. But you'd accept that if they're conducted on operators, that's indicative, we would say, of a robust process.

If it is the case that they weren't conducted on agents, I'm not sure Crown would accept that, on the terms of 2.5.1, the failure to conduct them of agents is necessarily a breach of that clause. I just wanted to make that point. That - - -

5 MS HUNTERSMITH: Yes.

MR LOXLEY: - - - it might be accepted that the agents' probity is relevant to the operators. But there's going to be a question as to the extent to which you need to undertake searches on agents, particularly, when they're not directly called out in the  
10 clause.

MS HUNTERSMITH: So let's break that down a little bit. In relation to looking at probity of operators, you're saying that in conducting a robust process, you don't really need to look at agents, at all, because of that clause, because it does n't  
15 specifically say, "agents". Is that what you're saying?

MR LOXLEY: No. No. The point's not that. The point is that a failure to conduct searches on each and every agent, in our submission, would not indicate that there's a failure ensure a robust process was in place to consider probity of operators.  
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MS HUNTERSMITH: So in terms of a robust process, being a fulsome and a - I can't remember your exact word, but a very extensive, I think you said, process, that you wouldn't be worried about somebody who has the lawful authority to act on behalf of an operator, nearly as much as you would of the operator? Why would they  
25 not be treated equally?

MR LOXLEY: Sorry, I think, we're working on the premise here that there were no searches conducted of agents. And we need to come back - - -

30 MS HUNTERSMITH: No. No. No.

MR LOXLEY: - - - to you on that.

MS HUNTERSMITH: I'm going back to the question of whether, just because it doesn't say, "agents", that you're seriously saying that in assessing an operator, you don't equally assess their lawfully appointed agents who can effectively do exactly the same acts as an operator?  
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MR LOXLEY: So what I'm saying is that Crown's required to have a system of controls in place, and that system is approved through legislation. And that system is drafted in particular terms. And we're meeting a charge of a breach of a section of the Act. And when one has regards to the particular terms of 2.5.1, there is no reference there to "agents". Now, that's not to say that an agent's probity is, in no way relevant to that of an operator. But the point being, all the checks that one  
40 undertakes for an operator may not necessarily need to be undertaken for an agent in order to comply with 2.5.1.  
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MS HUNTERSMITH: So you're saying there's a lesser standard that you would apply to agents because it doesn't appear in the drafting and that's okay because, you say, that's the way that you interpret that. Is that right?

5 MR LOXLEY: Correct.

MS HUNTERSMITH: I understand your point. All right. Thanks.

MR KENNEDY: Mr May.

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MR MAY: Thank you, Chair. Just before we move on to the second particular, I do have one further question in relation to Mr Pan. Mr Walsh, the 19<sup>th</sup> January 2017 VIP Operations Meeting, and I'll give you the CRL reference, if you'd like. It's 509.017.4631. There seems to be a minuted discussion of the probity of Mr Zhang

15 Pei Lang, or I'll call "Mr Zhang" or "ZPL" in the document, which appears he's seeking to - - -

MR LOXLEY: Sorry, counsel. I'm not sure we have that document in front of us. So could you - - -

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MR MAY: Yes. Sorry. Sorry. Apologies. So it's the VIP Operations Meeting on the 19<sup>th</sup> of January. It was Annexure B in Crown's response - - -

MR LOXLEY: Thank you.

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MR MAY: - - - to the Commission. It is – and there's a CRL document number up the top right-hand side that might assist you. It's 5 – I'll repeat it – 509.017.4631.

MR LOXLEY: Yes. I've got it. It's advisory.

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UNIDENTIFIED SPEAKER: What – sorry to keep you waiting, but what was the date of the meeting?

MR MAY: The date of the meeting was the 19<sup>th</sup> of January 2017.

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MR WALSH: Yes, Mr May.

MR MAY: And what I would say, if you agree, is there's a discussion here for – Mr Zhang is looking to resume work for the Song junket. And there then appears to be what I would regard as a discussion of, perhaps, his probity. Would you agree with that?

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MR WALSH: Yes.

45 MR MAY: And you, yourself, there confirm there's no criminal investigations regarding him. But there's an action item?

MR WALSH: No. That's Mr Walsh, who's the head of Crown Security - - -

MR MAY: Sorry. Wrong Mr Walsh, my sincere - - -

5 MR WALSH: No. That's all right.

MR MAY: - - - apologies.

MR WALSH: That's all right.

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MR MAY: Well, Mr Craig Walsh confirms that. And there is an action item for a police clearance for Mr Zhang as in, I'm assuming that's the red text. Yes, that's correct?

15 MR WALSH: Yes. I'm – that's how I read that note, yes.

MR MAY: So would you regard this as a – sorry, and Mr Zhang is a, when we say, “resume working for the Song junket”, he's a junket agent?

20 MR WALSH: That's correct.

MR MAY: So is this an instance where Crown has gone on to consider the probity of a junket agent or taken steps to do that?

25 MR WALSH: Yes.

MR MAY: Notwithstanding the submission, which appears to be that Crown, well, interprets clause 2.5.1 as it's not needed to?

30 MR WALSH: Well, it's not specified in the ICS. I mean, this particular instance, whether that was pursued because as noted in the minutes, there's an ongoing matter with the ATO. So it's possible that at the time Mr Craig Walsh was referring to the fact that there'd been enquiries regarding other regulatory agencies regarding Mr Zhang, and that that led them to say, “Hang on, let's, you know, probe a little further  
35 here.” I can't tell because I wasn't at the meeting.

But I – as I – I think, I mentioned earlier, in terms of agents, it was more – there were a range of things that we consider when we're looking at the appropriateness of people to do business with Crown. And that would include things like law  
40 enforcement request, garnishee orders, ATO requests, and how frequently and how recent they are. And I can only imagine that that was the case in this instance.

MR MAY: So perhaps, the – I'll put the due diligence here, with respect to Mr Zhang, seems to be higher than that that was undertaken in relation to Mr Pan?

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MR WALSH: Look, I'm only reading the note there. So I'd have to answer in the affirmative there. And, as I say, it depends on the situation you're dealing with. So

if there's more matters that are cause for concern then, clearly, you know, our expectation even then would have been to dig a little further.

MR MAY: Thank you. I will - - -

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MS FIELDING: I would answer that, if I could, because that Crown – although Crown hasn't applied 2.5.1 across the field to agents, we have looked into those that have come to note, when relevant. And we do have junket agents run through the Dow Jones check on a daily basis. So there are a number of checks in place for agents. And we have addressed matters where relevant. As we've said earlier, for 10 Mr Pan in particular, the fact that he had a licensed brothel business probably didn't in fact, in time, raise an elevation. But other matters do, and we do address those from time to time, as required.

15 MR KENNEDY: So Commissioner Versey.

MS H. VERSEY: Yes. Thank you, Mr Walsh. I'm just looking at your Appendix A, I think, of your response. Sorry, it's Appendix A of our amended notice. At 20 paragraph 12, you say that Crown alleges or Crown claims that they did do probity checks for Mr Pan. However, Crown alleges that as no adverse material was found by these checks, Crown didn't retain any records relating to the searches and was unable to produce them. That's our allegation. Is that correct that you don't retain records of your probity check?

25 MR WALSH: No. Well, no. In terms of the - - -

MS FIELDING: I'll interrupt. Yes. I'm happy to answer the statement, if it assists? I think, that when I read through the papers, I'm not sure that it's been 30 construed as we've intended, so I'd apologise for that. But what the systems do, so World-Check previously, and Dow Jones, currently. When you run a person's name through those systems, you only get a result returned if there's adverse information. So we run approximately 400,000 people's names through that system every day. It only returns results for people that it has an amount of adverse information on. So 35 when we get no result returned and we have no record, that means that those databases are saying that that person's clear. So "no record" is a positive thing, not that we haven't retained a record.

MS VERSEY: So you do retain records of the searches that you've done.

40 MS FIELDING: Yes. So we will have records that we can pull from our archives to show the people who have had adverse records returned. When we don't have a record returned, the person is clear in our systems.

MS VERSEY: Okay. Do you have a record of the fact you've done the checks?

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MS FIELDING: I think the older system, World-Check, wasn't able to retain that. I believe the new system now does – can retain that information .....

MS VERSEY: Now, Mr Walsh, what you appear to be saying is that things have changed so that what was considered a robust probity check back in 2017, things have changed and so you wouldn't accept or you don't believe that what you considered was robust then would be considered robust now. Is that what you're saying?

MR WALSH: I'm not sure that I quite said that, Ms Versey. But what I'm saying is, you know, robust is such a subjective term, you know. Is our – has our process improved since then? Yes, it has. Do I – would I say our process today is more robust than our process back then? I absolutely would. I'm just not quite - - -

MS VERSEY: So what do you say that has changed in terms of the regulator's expectations of what a robust process is?

MR WALSH: I think that through the New South Wales inquiry, and indeed, you know, this matter that we're talking to today, the attitude of – not just the regulator, but I think the community generally, and indeed, our company is a much lower tolerance. Rather than, you know, we're not aware of something and, therefore, you know, it's probably okay, doesn't cut the mustard in the current environment.

MS VERSEY: And do you think it cut the mustard back in 2017?

MR WALSH: Well, I think that – again, I – you know, as I say, I don't really want to sound argumentative. I apologise if I do. But do I think yesteryear's processes in 2017 or, you know, would stand – that would stand the scrutiny today? No. I think there's a higher standard that we need to – and have been applying to the same set of circumstances that might have been presented to today's decision makers, as opposed to those who were evaluating it at the time.

MS VERSEY: Okay.

MR MAY: Thank you, Chair. I will now, if it pleases the Commission, move to particular 2, which is in relation to the junket operator Zezhai Song. So in essence, Crown submits that it did attempt to verify the allegations regarding Mr Song's imprisonment in China from – in 2003. And I'm just going to take you through, Mr Walsh, just some of the meetings of the VIP Operations Team, if that – if you have them before you, that would be of assistance. So this is in annexure B of the – of Crown's first response to the show cause notice. So essentially, there's a meeting of the VIP Operations Team of 20 December 2016, and it records an action from Mr Kunaratnam and/or Mr Deng to ask Mr Song about the imprisonment issue.

MR KENNEDY: Are you able to identify that document, Mr Walsh?

MR WALSH: Is it – does it commence at point 4, Mr May, that says, "We haven't yet been able to obtain further information". Is that where you're looking?

MR MAY: Sorry. Bear with me.

MR KENNEDY: Is there a CRL number with it?

MR MAY: Yes. Yes, there is, Chair. The CRL reference number is  
5 CRL.509.017.4638. But essentially, what I'm asking is this group tasked Mr  
Kunaratnam, in this instance, to ask Song about the imprisonment issue.

MR WALSH: Yes, I see that.

MR MAY: So there's then a meeting of the VIP Operations – sorry, the VIP  
10 Operations Team on 4 January 2017. Do you have that before you? I have the CRL  
reference, if that assists.

MR WALSH: Is it in 4636?

15 MR MAY: Correct. That's right.

MR WALSH: Yes.

MR MAY: And it asks, again, Mr – and I take the reference to Ishan being Mr  
20 Kunaratnam and Mr Deng to speak to Song/ZPL. That's correct, isn't it? So the red  
being the action, follow-up action?

MR WALSH: I believe so. Yes.

25 MR MAY: There's a statement there that says. "Our world has changed and we  
don't want to do anything wrong". Are you able to give me any idea what that  
statement means or refers to?

MR WALSH: Again, I think this is in the – subsequent to the China detentions, and  
30 I think there was a material shift in Crown's risk tolerance for dealing with the VIP  
International business and its participants, and that's what I take that reference to be.

MR MAY: According to Crown's response to the disciplinary action notice, there's  
35 a meeting it appears on 12 January 2017 occurs between Mr Kunaratnam and Mr  
Zhang, and I think the response indicates that neither speak a common language, and  
- - -

MR WALSH: I recall seeing that. Yes.

40 MR MAY: - - - it was translated. Yes. So it was a meeting that was translated, and  
I understand from Crown's response that they've spoken with various individuals,  
including Mr Kunaratnam, but you would agree that the outcome of this meeting was  
that the – and Mr Kunaratnam advised that the matter was discussed, and I take the  
matter being the imprisonment matter was discussed, but not in great detail.

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MR WALSH: I recall reading that. Yes.

MR MAY: Yes. And that Mr Zhang did not advise Mr Kunaratnam either way about whether Mr Song had been convicted, charged, detained, et cetera, in China.

MR WALSH: Yes. It was inconclusive. Yes.

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MR MAY: Inconclusive. Yes. Thank you. So in the response, and this – I suppose this can be classed as an attempt to verify the allegations, but Mr Kunaratnam relays the discussion to Mr Theiler, and apologies if I've mispronounced that, do we have any clear indication of then what occurred after that? Or what Mr Theiler did or  
10 didn't do in response to Mr Kunaratnam's advice?

MR WALSH: No, I don't. I know the company subsequently made other inquiries but was unable to verify either way of the veracity of the allegation that was – I think it was outlined in a media report in China. But no, there was no conclusive answer  
15 as to whether the allegations were, in fact, correct or not correct. Our understanding was internally, that we had had – that there was a strong indication that it was correct, but we just couldn't verify it.

MR MAY: And so there's then a meeting of the VIP operations team again on the  
20 12<sup>th</sup> of January, and I can give you the CRL reference, if you like.

MR WALSH: Please, is that 35?

MR MAY: No, 436 – 4633 is the last four digits.

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MR WALSH: So the first meeting on that page is 17 January.

MR MAY: Yes. Sorry, the second meeting in there.

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MR WALSH: Yes.

MR MAY: Listed VIP Operations meeting at 12 January 2017.

MR WALSH: Yes.

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MR MAY: And I suppose the conclusion in the first dot point is, "We", being Crown, "haven't been able to obtain further information regarding the 2003 President report and that – would you agree that probably concludes then the consideration of this group regarding Mr Song and his suitability.  
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MR KENNEDY: No. I think – I think it concluded it at the time I – again, I'd need to defer to Michelle or take it on notice whether further inquiries were made, but I think in terms of that matter at that time that was the finality of the efforts made.

45  
MS FIELDING: Mr May, I think that on top of the inquirer's main part there was also ongoing due diligence regarding Mr Song, ..... also continuing to run him

through World-Check and the Dow Jones to see if any matters arose through those processes. There was also the annual review of his profile through the processes.

5 MR MAY: Ms Fielding, in relation to the 2003 imprisonment issue though, although there was routine checks through the external databases, they would not have produced anything different, would that?

MS FIELDING: That wouldn't, no. That wouldn't.

10 MR MAY: So, Mr Walsh, the issue here is in relation or the ICS states again, and we've had discussions about that it requires a robust process, would you agree that tasking Mr Kunaratnam to speak with the junket agent and not even the operator, junket agent, or an – I'm not even sure he was a junket agent at the time, but an  
15 individual might not be necessarily a robust process to ensure the probity, once Crown has been put on notice, that there's an allegation here that he may have been imprisoned in 2003.

MR WALSH: No. What I would say is that – that, in my opinion, we should have gone and asked Mr Song directly. I – I – I certainly can concede that whether that  
20 leads to there's no robust process is what I argue the alternative.

MR MAY: So would you – the process that Crown deployed at the time to consider Mr Song's suitability was not the one you've outlined; it was the one that appeared to occur here which was Mr Kunaratnam was tasked and you're saying that it would  
25 have been better to speak to Mr Song directly.

MR WALSH: It certainly would have been helpful, whether, in fact, you know, Mr Song would have confirmed, truthfully or otherwise, or denied truthfully or otherwise, who's to know, and then what the – the decisionmakers would have done  
30 with that information given that the matter related to 2003 it would be speculation. What I'm suggesting is it would have been helpful to ask him directly then perhaps go through his – his agent.

MR MAY: Should it not have been slightly concerning to those involved at the time  
35 that there's a meeting. The purpose of the meeting appears to be to determine or find more information in relation to this 2003 imprisonment issue and the outcome (a) it is discussed but not in great detail and then secondly, Mr Zhang doesn't provide advice either way. Do you think that would be more significant cause for concern?

40 MR WALSH: Look, I don't think it was satisfactorily resolved. I'd certainly concede that. You know, again, I, you know, the – at the pains of sort of repeating myself I'm not sure that then leads to there's no robust process on this matter. It wasn't concluded satisfactorily in terms of establishing the voracity of the media allegation. It would have been more helpful to have done that. Whether it would  
45 have changed the outcome of the decision-making given the age of the matter relevant to when it was being considered, you know, I can't say.

MR MAY: Would not a robust process - and you explained it would have been better speaking to Mr Song directly.

MR WALSH: Yes.

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MR MAY: And you've indicated as well when you've answered there that Mr Song might not have been truthful.

MR WALSH: Yeah, I don't know. I mean, I'm not Mr Song so I can't speak to it.

10

MR MAY: So let's say - we'll put it another way. Even if - there's a live issue here with respect to - it's been identified by this group that he may have been imprisoned in 2003 in relation to, I think, gambling related crimes in China said to be the allegation. Was it - wouldn't not a robust process require more investigation or more digging than was done in this instance and not only speaking to Mr Song, as you've agreed, is one element but maybe even more.

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MR WALSH: Look, potentially, you know, yes. On this particular matter the - again, what I'm - I just can't concede is the fact that we might have - should have done more on a particular matter pertaining - regarding a particular junket operator I don't think leads to the conclusion that we didn't have a robust process. I think I made the comment in my opening remarks. Certainly, you know, the processes we go through aren't fool proof. I mean, mistakes get made. I don't think that leads to a conclusion that it's systemic and therefore, you know, the process is not robust.

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MR MAY: But this is an instance, is it not, where Crown has been put on notice there's an issue and the investigation process that Crown undertook to verify or determine that allegation was lacking.

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MR WALSH: More could have been done, correct. As I say whether that would have changed the ultimate judgment the time given the age of the - of the matter, who's to say. I - I - I don't know. You know, again, with the sort of risk tolerance that the company has now this matter, if it was being reviewed again today, would not be left in the manner that it was back then.

30

MR MAY: Mr Walsh, if - so Crown has - well, Crown commissioned a report from the Berkeley Research Group which, I think, is attached in the materials, and it does go through in some significant amount of detail in relation to Mr Song. Would you accept that a more robust process would have been undertaking a process like that at the time where an allegation has been raised and Crown has more comprehensively had an external party go through and provide it with advice with respect to the probity of that individual.

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MR WALSH: I certainly think that, you know, having engaged a group like Berkeley at the time would have been more robust. I don't, again, without wanting to be cute, I don't think it leads to - it wasn't robust but I do concede that, you know, had that - had that - a firm like that been engaged, that review been undertaken at the

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45

time it would have been a more robust process. I will also make the comment, if I may, that the Berkeley report didn't come up with any new information other than what we already had been able to establish ourselves.

5 MR MAY: Is that correct because on page 45 of that report it provides, perhaps, more information about Mr Song being sentenced to two years and eight months.

MR WALSH: I – sorry, I'm going from my memory, Mr May, but I thought the reference in the Berkeley report to that was that a discrete source made that – made  
10 that same allegation, however, it hadn't been – it hadn't been confirmed in the Berkeley report that it was in fact 100 per cent confirmed which was the situation we had prior to engaging Berkeley to do that report. Again, I'll stand corrected, but I'm pretty sure that's my – I think my recollection is accurate.

15 MR LOXLEY: So just for the benefit of the Commission the reference there to Song being sentenced to two years and eight months is a reference to client supplied information. So Berkeley understand that Crown had said that he was and then the discrete source provides commentary which matches that assertion so there's no independent verification of that.

20

MR MAY: I have no further questions at this time.

MR KENNEDY: If you'd like to move on to - - -

25 MS HUNTERSMITH: Sorry. Can I just a question, going back to the concept of robust process and - we established before, I asked you about that needing to reflect the purpose of the legislation of ensuring that the casino's free from criminal influence and exploitation, and you agreed with that; is that right?

30 MR WALSH: Yes.

MS HUNTERSMITH: Okay. I think you've also said that the robust process that Crown uses depends, to a certain extent, upon your risk appetite; is that right?

35 MR WALSH: Yes.

MS HUNTERSMITH: So are you saying that the robust – how you go about ensuring that the casino is free from the criminal influence and exploitation will vary depending upon your risk appetite?

40

MR WALSH: Yes.

MS HUNTERSMITH: And is that – does that mean that the intention of the legislation has changed over time or, simply, your interpretation of it?

45

MR WALSH: Look, I would suggest that it's our – when I say our, I'm talking from the board down's interpretation of the risk, and its not just Crown. I would say

the industry – Mr Song, in evaluation him and our – appropriateness of dealing with him, you know, one of the factors we take into account is which other casinos around the world deal with him. There’s a variety of sources of information and factors that go into deciding that. And I think I mentioned earlier to your point, that the board  
5 has set the tone to say, you know, what might have been, you know, acceptable in the past is not now. There’s a much lower tolerance for risk when dealing with not just internationals, but agents generally.

MS HUNTERSMITH: But you’re not suggesting that the intention of the legislation  
10 has changed over time.

MR WALSH: No. No, I’m not. I’m not, but I would say that, you know, the word robust – I know you asked me earlier, you know, for my understanding of it. I’m  
15 sure if you went around the room, you know, you may well get different interpretations of that, and all I’m saying is it’s subjective. So I think it is open for an interpretation change by the company to say, “Well, you know, we’ve decided that, you know, whilst robust might have meant that, going forward, you know, we’re taking a lower risk tolerance and our standard has lifted.

MS HUNTERSMITH: So you’re saying, from your point of view at the time, it was  
20 robust or extensive to simply ask somebody who wasn’t actually the agent – didn’t even speak the same language – about – sorry – it wasn’t actually the operator or, perhaps, not the agent, and didn’t speak the same language, as to whether the operator had been, in fact, imprisoned or convicted

MR WALSH: No, I’m not – Sorry. I’m not suggesting that. What I am suggesting  
25 is that, you know, a judgment call that would have been made at the time and deemed to be appropriate, that, in today’s lens would not be appropriate – and we acknowledge that, you know, and, I think I mentioned earlier my preference would  
30 have been that we asked Mr Song directly. I don’t think that failure, therefore, though, flows to a breach of the ICS in terms of not having a robust process. Could we have improved? This is clearly an example where we could have.

MS HUNTERSMITH: So you’re saying there could have been a robust process  
35 which was somehow breached, but that doesn’t mean that you’ve breached the ICS.

MR WALSH: Sorry. Again, I don’t want to sound cute, but I think there’s a big  
40 difference between a process which is a totality of information and a totality of decision making – there’s a big difference between that being not robust and failing in one element of that.

MS HUNTERSMITH: But – and being on notice about this issue, that you think it  
45 sufficiently discharged Crown’s responsibility to ensure that the casino was free from criminal elements to go about it the way that it was gone about at that time by Crown.

MR WALSH: Yes. As I understand, there's been no further allegations against Mr Song since that time, and the matter was in 2003. So you know - - -

MS HUNTERSMITH: So because it was old, you didn't need to inquire further.

5

MR WALSH: No, no, no. I'm not suggesting that. I'm just suggesting that I don't think a failure for us to get a satisfactory, unequivocal result on whether, in fact, Mr Song did spend time in jail or not lead to a breach of the ICS, being the process overall. That's what I'm suggesting – submitting.

10

MS HUNTERSMITH: Okay. Thanks.

MR KENNEDY: Mr May.

15 MR MAY: Yes. Thank you, Chair. If there's no more questions with respect to Mr – for the particular pertaining to Mr Song, I'll move to particular 3, which is in relation to Mr Pereira apologies again if my pronunciation is poor. In Crown's submission to the commission, it argues that it made an evaluative judgment regarding reinstating Mr Pereira licence, and I understand that the reinstatement  
20 appears to have occurred 20 September 2017; is that right?

MR WALSH: I believe that's the case. I - - -

MR MAY: Are you able to shed any light on who made that decision?

25

MR WALSH: No, I'd need to take that on notice, Mr May. I assume it was the senior executives in the VIP international team, but exactly who and in what forum that decision was made, I would need to take that on notice.

30 MR MAY: So you take it on notice it probably wasn't the VIP operations team that we have the meeting minutes of? Is that - - -

MR WALSH: Look, I - - -

35 MR MAY: You're not sure. If you're not sure - - -

MR WALSH: I'm not sure. Sorry.

40 MR MAY: That's all right. Would anyone else at Crown be able to clarify that question?

MR MEADE: I can probably answer .....

45 MS FIELDING: Mr May, I don't know the exact answer to that question, but I do know that Mr Preston spoke to me when this matter arose, that they had done some considerable checks to make that decision. So my assumption is that Mr Preston .....

MR MEADE: Sorry. Just to add to what Ms Fielding said, the decision maker would have included Mr Preston, Mr Felstead and Mr Nielson, the former general counsel.

5 MR MAY: Thank you. Is there any documented material or information regarding how this judgment occurred by – presumably by Mr Preston, Felstead and Nielson?

MR WALSH: Not – I haven't seen it, Mr May. Again, if we could take that one on notice, we could certainly look.

10

MR MAY: Yes, that would be helpful if we can do so.

MR KENNEDY: Okay. Well, we'll do that.

15 MR MAY: I suppose my observation, Mr Walsh, is there's – I think, when we look at the response from Crown with respect to Mr Song where it's explained and we've discussed the steps that were taken, what appears here missing is how that group – or that came to that decision and, you know, what – are there minutes of that – the meeting that would indicate, "Yes, we sat down and evaluated and made that  
20 evaluative judgment and what we took into account and not." But I'm assuming - or taking – the Crown will take on notice and be able to provide any such document.

MR WALSH: Yes.

25 UNIDENTIFIED FEMALE: Mr Meade might able to help .....

MR MAY: Yes.

30 MR MEADE: There are such documents on this. We could put together a submission both outlining the process and documenting the decision, if that would assist the commission.

MR KENNEDY: Thank you.

35 MR MAY: Yes. Thank you, Mr Meade. I think – my question, I suppose, Mr Walsh, was why in the response – well, why has Crown done that and performed that with respect to Mr Song, but not done that with respect to Mr Pereira.

40 MR WALSH: If I may, can I defer to one of our legal team for that. I don't know the answer to that myself, Mr May.

45 MR MEADE: I can probably provide some insight. The form of the response was of, as Mr Walsh pointed out in respect of Mr Pan, a response to the framing of the specific breaches, in that there was not – the question put was that that there was a failure to have a robust process, whereas the matters which were considered in relation to Mr Pereira were indicative of a robust process. It's just the decision in the end, it would appear, is the aspect to – with which the commission had objection. So

5 as Mr Walsh has mentioned a couple of times already, had the same information been presented with today's eyes, ..... the Crown has today, a different decision would have been made, and indeed, at the – as Mr Walsh again mentioned, on the 30<sup>th</sup> November, a different decision was made, and a withdrawal of licence was issued to Mr Pereira.

10 So the framing was – of that response was a response to the framing of the submissions, but if it would assist the commission, I'm sure ..... can take on notice the question of actually documenting and explaining the decision and how it came about, including a reference to documents from the time.

15 MR LOXLEY: And just to add to what Mr Meade said, Commissioners, generally, I think if it – if it's of assistance, Crown can take several of the questions that have been put today, both from the bench and counsel assisting, on notice and provide a discrete written submission that addresses matters that haven't been able to be responded to comprehensively today. I know there was an invitation for us to provide further written submissions at the start of this week, but we were met – preparing in the absence of knowing what the questions - - -

20 MR KENNEDY: Yes.

MR LOXLEY: - - - were, and so if we can do that - - -

25 MR KENNEDY: That would be - - -

MR LOXLEY: - - - within a short period of time - - -

MR KENNEDY: That would be welcomed.

30 MR LOXLEY: Thank you.

35 MR MAY: So I suppose we'll certainly wait to receive that submission with respect to the decision-making process occurring on or around 20 September 2017. I just want to come back to a question, Mr Walsh, about the ICS itself. So the ICS requires that – well, clause 2.51, and I know we've discussed this at length, ensuring robust processes to ensure the probity of these individuals, and that's processes, it's plural, of course. Would you agree that the – that encompasses the adequate collection of material as an investigation as part of a robust process, but also that the decision-making process is forms part of that?

40 MR WALSH: Yes.

45 MR MAY: And so it's reasonable, therefore, to conclude that the robustness required under the ICS applies to both, but also to that decision-making process, and that if the decision-making process is – fails or is lacking, then it can be potentially concluded that that's not a robust process, and for example, if a person reached a decision that was just maybe perhaps all relevant information being collected and –

but the decision was wholly incorrect, either by the standards of today or the standards of then if – to the extent that they’re any different, you would agree, though, that that forms part of the general process?

5 MR WALSH: I think the decision-making element is definitely part of the process. The outcome of that decision-making process, you know, is again subjective, and so you know, the – if – if, for example, there was a situation where a decision was overridden, then I – then I would agree with you. But – but if the collective decision was that – that in this case, Mr Pereira or Mr Wong as he’s otherwise known was  
10 approved to continue, regardless of our views on that decision, I don’t think that goes to the process being failing. I – I think it – it’s more a question of the judgement used at the time.

MR LOXLEY: Could I just make one further observation to what Mr Walsh said  
15 about this distinction between information gathering and process and then decision. If, as Mr May said, correct and complete information was gathered but someone within the licensee made an objectively incorrect decision, clause 2.5.2 of the ICS provides for the VCGLR to formally request that the licensee or Crown, in this case,  
20 cease its relationship with that person. So that’s just necessary to bear in mind, I think, when looking at the protections that the ICS provides in the event that the decision-maker, notwithstanding the assistance of a robust process, gets it quote-  
unquote wrong.

MR MAY: So your submission is it’s the decision – it’s the commission’s role to  
25 double-check and ensure that those decision are being made correctly, and if it disagrees, order the cessation of relationship.

MR LOXLEY: No. I’m just saying, when one looks carefully at the way in which  
30 those audit provisions are drafted, the primary obligation on Crown is to have a robust process in place to make a consideration, and whether – if a decision that the commission disagrees with is made, there is a process in place within the ICS for the commission to direct that that relationship cease, and if Crown were not to cease that relationship, they would be in breach of the ICS.

35 MR MAY: Pending the receipt of the additional information, I don’t have any further questions on this point.

MR KENNEDY: We’ll go, Mr Warfe, to particular 4.

40 MR WARFE: I’m happy to proceed if the commission and everyone else is to move on to particular 4. Particular 4 is in relation to Alvin Chau and what is commonly referred to as the Suncity junket, and the specific particular is that Crown had failed to have regard to particular incidents of noncompliance during its ongoing probity assessments, particularly in 2018 and 2019, as set out in the notice. Before I move  
45 on to some of the clarifications, there is some queries in relation to the timeline in relation to this particular, and I did just want to run through an overview of the relevant points on the timeline and provide Crown with an opportunity just to get

them to agree or to point out if they disagree with any of the timings of those incidents.

5 So I'll start with Mr Chau was – became a registered junket operator on the 10<sup>th</sup> of September 2009, and at that time, he was allocated a risk rating of moderate. I'll note that if there are any issues in relation to any of the points that I read out, I am able to bring you to a source document so that we can clarify where that has come from or where we need to seek that. In February 2014, Mr Chau's risk rating was raised to significant, and that was as a result of an alleged association with Cheng  
10 Ting Kong and their involvement in particular organisations and criminal activity.

In May of 2016, a Wealth-X report indicated that Mr Chau was a former member – alleged to be a former member of the Triads, and on the 12<sup>th</sup> of December 2016, Crown obtained a C6 report which indicated that Mr Chau was a PEP with criminal  
15 links. This brings us to 2017 and the involvement of the federal law enforcement agency AUSTRAC. It's outlined that in early 2017, AUSTRAC commenced a compliance review of Crown, and that included an onsite assessment on the 17<sup>th</sup> of May 2017. Following that, an email was received from AUSTRAC on the 1<sup>st</sup> of June requesting certain documents, and those documents were provided to AUSTRAC on  
20 the 8<sup>th</sup> of June.

In the interim, Crown – the risk rating for Mr Chau on the 5<sup>th</sup> of June was raised to high risk PEP, and an email was – an internal email was sought seeking approval to continue doing business as a result of the increase of this risk rating. Following the  
25 provision of documents to AUSTRAC, again on the 8<sup>th</sup> of June, AUSTRAC sent an email to Crown which set out its concerns in relation to its – Crown's ongoing business with Mr Chau, and on receipt of that email, Crown undertook a comprehensive review of the matters and requested the documents that were relevant to Mr Chau be collated and sent to Mr Preston for consideration in response to  
30 AUSTRAC's email.

On the 16<sup>th</sup> of June was when Mr Preston approved the ongoing relationship with Mr Chau by way of email in response to the previous collation and provision of all of the relevant probity documents in relation to Mr Chau. This then led to a meeting  
35 between Crown and AUSTRAC on the 22<sup>nd</sup> of June 2017 dealing with that matter. Following that it appears that sometime between October 2017 and April 2018 Crown conducted its money laundering risk assessment of Mr Chau, which ultimately generated the money laundering risk assessment report dealing with those  
40 activities.

As part of that process Crown then implemented a number of additional or enhanced controls over the operation of the Suncity junket. The timing of the notification of these enhanced controls to Suncity is a matter of uncertainty. The Commission was provided with some documents which indicated that this information had been  
45 requested to be passed on to senior management of Suncity in late March of 2018. However, it's uncertain to whom that notification has occurred and, with any respect,

it was at least on the 17<sup>th</sup> of April 2018 where Crown notified Suncity staff of those additional controls, which would then take effect on the 20<sup>th</sup> of April 2018.

5 Those additional controls came into effect on that date and Crown conducted an audit to ensure compliance with those additional controls, and it appears that it's at that time that the amount of \$5.6 million was located within the Suncity service desk. Following that audit it's claimed the Crown contacted Mr Chau directly to reiterate the new procedures and enhanced controls that were – had been put in place, and on 10 the 26<sup>th</sup> of April Crown received the law enforcement agency request for footage and information regarding the \$5.6 million transfer. A subsequent audit of the Suncity desk occurred on the 5<sup>th</sup> of May 2018. Again, the – there's some uncertainty.

15 The oral testimony of Mr Preston before ILGA seems to indicate that some areas of non-compliance were identified during that audit, however, in Crown's response to this notice they have indicated that the result of that audit was that they were found complaint and there was a message sent that confirms that, which was provided as one of the attachments to their response. Subsequent to that it was on the 15<sup>th</sup> of 20 May 2018 where, again, Crown received a letter from AUSTRAC and, although that that – the existence of that letter has been disclosed, the actual letter itself has not been provided to the Commission, as outlined in Crown's submissions. Again, there was further engagement with Crown with AUSTRAC on the 18<sup>th</sup> of May 2018 and, again, the exact details of that engagement have not been disclosed other than the fact that the issue of the \$5.6 million was raised as part of those discussions at that 25 time.

That was confirmed and set out in the letter from Crown to AUSTRAC on the 25<sup>th</sup> of 30 May 2018. This takes us to, then, the relevant annual reviews that were conducted in relation to Mr Chau. Again, the dates of those reviews are a little bit difficult to ascertain as some of the source documents don't have – are undated. However, it appears that the annual review for 2018 occurred in late 2018, based on some of the 35 documents that are referred to in that annual review. And then, again, the 2019 annual review which occurred in approximately mid-2019. That concludes the summary of the relevant timeline of the incidents that were building up across the operation of the Suncity junket during that time, and I'll just provide an opportunity if there's anything in that summary or chronology that Crown wish to either correct or add to, for the sake of the Commission's clarity.

MR MEADE: Mr Warfe, do you mind if I just check a couple of matters?

40 MR WARFE: Yes.

MR MEADE: In relation to – there was just a – parts of it were just a choice of words, but I think you referred to 16 June and then 22 June. On the 16<sup>th</sup> of June 45 2018 Mr Preston was said to have approved the continuing relationship with Mr Chau, and then you - - -

MR WARFE: Yes.

MR MEADE: - - - said that that led to a meeting with AUSTRAC on the 22<sup>nd</sup> of June? I think it might have - - -

MR WARFE: Sorry, no, not led to, no.

5

MR MEADE: Yes, I just wanted to confirm that there was no connection between the – or no necessary connection between those two events.

MR WARFE: I don't think there's a connection between them, other than the fact that there appears to be dual processes in play that Crown was in the process of responding to an AUSTRAC request for clarification.

10

MR MEADE: ..... - - -

MR WARFE: And also appears to have turned its mind to the ongoing probity of Mr Chau, in relation to the change of its risk – of his risk rating from significant to high, and there was a point in time in the documents we have where a decision has been made to continue to operate and conduct business with Mr Chau.

15

MR MEADE: That's right, it's just – it's not to say that the 22 June AUSTRAC meeting was a reaction to the 16 June Preston decision.

20

MR WARFE: No, not at all.

MR MEADE: Okay, thank you. And the other thing that I just wanted to clarify for the Commission, I think at one point you referred to a \$5.6 million transfer. Just for the benefit of the Commission, that should have been a reference to a deposit.

25

MR WARFE: Correct. I'm sorry, a misuse of the term, that should be a deposit. So I think, in that regard, for clarity, there was some indication in the amended notice that some of the enhanced or additional controls that had been put in place by Crown were in response to the discovery of the \$5.6 million within the service desk. It's clear that consideration of those and the implementation of those enhanced controls were in – had been considered and were in play prior to the discovery of that sum of money. And so for – if there is any indication in the notice of that timing I would submit that the – Crown's response in the documents that have been provided indicate that those enhanced controls were certainly considered to be putting in play prior to the discovery of that money.

30

35

Having established that timeframe, I only have a few areas which I wish to take you to for clarification. In Crown's response at paragraph 12.2 – are you there – is a reference to – or in 12.1 you mention the email received from AUSTRAC and the interactions between Crown and AUSTRAC. And in 12.2 you say:

40

*While there's no specific reference to the AUSTRAC email in documentation relating to subsequent probity previews of Mr Chau the steps taken by Crown demonstrate that it did have regard to the content of the email.*

45

5 I just wanted to seek clarification, would you accept that there may be a difference between Crown taking actions in direct response to a request from AUSTRAC, or from another agency, which may demonstrate that you have – you've taken steps in response to that. And then whether that instance has then been subsequently considered as part of an ongoing probity assessment of a particular entity.

MR WALSH: Sorry. Are you asking me is there a difference?

10 MR WARFE: Yes. Would you accept that there's a difference?

MR WALSH: Well, I think the two are related because the people that were involved in dealing with AUSTRAC, I mean, led by the AML compliance officer at the time, Mr Preston, was the same person that would have been involved in the decision-making around Mr Chau. So, yes, if AUSTRAC had asked it to do something specifically then that would be a separate step to say we've had regard to that in terms of this decision, but my understanding of the matter is that AUSTRAC was certainly interested in Mr Chau. They did ask us to come back to them on some questions they had in regarding his suitability to continue to have a relationship with Crown. My understanding is that those questions were answered and that those answers were accepted.

MR WARFE: But I think your submission and the fact that – that you relate the fact that steps had been taken by Crown as a demonstration that the AUSTRAC inquiries then, necessarily, formed part of the ongoing probity assessment and considerations of that junket operator.

MR WALSH: Yes.

MR WARFE: So I think is it possible that, as you say, it may be, at times, the same people involved or at least one similar person or common person across different processes, but that unless that person has then specifically raised that issue in the context of an ongoing probity assessment, there's a potential for others involved in the decision-making process, unless it's documented as part of the ongoing probity assessment, even not to be aware of those instances or that it's not adequately taken into account as part of the cumulative ongoing probity assessment?

MR WALSH: Yes. And I understand your point. I'm not, again, familiar, as we sit here, as to what documentation was recorded in terms of the decision-making, but, you know, I would be staggered if Mr Felstead and others weren't aware of the AUSTRAC inquiries, because, you know, obviously it raised concerns internally and, Mr Felstead, I imagine would have also been – I can't say conclusively, but I would be – my expectation would be that he would have been either if not involved in the decision-making, certainly aware of the decision to continue to deal with Mr Chau, and he certainly would have been aware of the AUSTRAC interest in Mr Chau.

MR WARFE: Yes. Could I take you, now, to the summary document that was provided to Mr Preston on the 8<sup>th</sup> of June. It was provided as an attachment to the response to the amended notice. I'll just confirm the tab and the CRL number. So it was provided as tab 3 in that response with a CRL reference ending in 6441.

5

MR WALSH: You might just need to give me a moment, Mr Warfe.

MR WARFE: I appreciate that. It's a word document with Cheok Wa Chau name and a number S/C2510755 on the top.

10

MR WALSH: Sorry. So in the index, did you say it was tab 3?

MR WARFE: Tab 3.

15

MR WALSH: Just bear with us. Sorry.

MR WARFE: I'm happy to assist finding that document.

MR WALSH: Yes. Thank you. I'm just trying to - - -

20

MR WARFE: Are the Commissioners happy they've got that document?

MR MAY: Give us the CRL again.

25

MS VERSEY: It's diligent 360.

MR WARFE: Diligent 4.33.

MS VERSEY: Yes, page 360.

30

MR LOXLEY: Could you provide us with the title of the document.

MR WARFE: It's in the tab. It's a Word document.

35

MR LOXLEY: Yes.

MR WARFE: The title is given Cheok Wa Chau.doc. It's an attachment to an email with a CRL ending 6439.

40

MR LOXLEY: Just one moment.

MR MEADE: If you can give me the CRL.

MR WARFE: It's CRL.500.002.6441.

45

MR WALSH: I apologise for the delay; we're with you now. Thank you.

MR WARFE: So this was one of the documents that was provided to Mr Preston when he requested the probity documents be provided for reconsideration. And it's broadly a summary of the adverse information that Crown had at the time against Mr Chau for its consideration of his ongoing probity. You will note that, in that document, there's a number of references to requests for information law enforcement agencies in 2014 as well as 2016. And there's a reference to the Four Corners program in September of 2014.

MR WALSH: Sorry. I just don't see the reference to the second law enforcement request in 2016.

MR WARFE: At the top of the second page of that document.

MR WALSH: Sorry. I'm on page 1. So I need to go to page 2. Yes. Sorry. I see that. Yes.

MR WARFE: Yes. Also contained in that – on that second page is a reference to the C6 report. On this document, it's dated the 5<sup>th</sup> of June 2017, whereas, as agreed, in the chronology, as provided to the Commission, the date of that document was the 12<sup>th</sup> of December 2016.

MR WALSH: I accept what you're saying.

MR WARFE: You've seen a copy.

MR WALSH: I've got no further information than that.

MR WARFE: And it's in that summary where it's noted that Mr Chau was a foreign PEP. The risk rating against Mr Chau was increased to high PEP at that time. And this was the first time his PEP status was realised. Would you accept that, then, in fact, the first time his PEP status was realised was, in fact, the date of the C6 document on the 12<sup>th</sup> of December 2016?

MR WALSH: That's what this document states, so I've got no reason to believe otherwise.

MR WARFE: And is it routine for someone who's identified as foreign PEP, would they routinely have their risk rating increased from significant to high as a result?

MS FIELDING: I understand that that's correct, Mr May. We'll confirm that for you, but that is my understanding.

MR WARFE: ..... So could you explain for the Commission, if Crown had received a report in December of 2016 indicating that an individual was a PEP, the reason why it took approximately six month for that information to be actioned and for a risk rating to be increased from significant to high?

MS FIELDING: No, I don't know that, I can take that on notice, though, and come  
.....

5 MR WARFE: Could you explain the different processes that may apply to an  
operator or an individual who has a risk rating of significant versus high. What  
changes when their risk rating increases in that respect?

MS FIELDING: No, I – it's not ....., but I'm happy to take that on notice and come  
10 back to you.

MR WARFE: So there's no clear escalation of due diligence protocols or steps that  
would apply to someone with a significant risk rating versus someone with a high  
risk rating?

15 MS FIELDING: Yes, I believe there is. For example, one of those things is .....  
email that was sent to Mr Preston ..... continue to do business with that person. I just  
would rather not speculate ..... to respond to that. I can't .....

MR WARFE: Okay. But you'd accept, then, that for a period of approximately six  
20 months there was an individual identified as a PEP that had – was managed by  
Crown under a significant risk rating as opposed to a high risk rating?

MS FIELDING: Again, I'm sorry, I just don't have the detail. I would have to .....  
come back to you, sorry.

25 MR WARFE: Okay, I'll - - -

MS FIELDING: I'm not being evasive, Mr May, I just don't know .....

30 MR WARFE: No, that's okay. It's Mr Warfe taking the reins again this time,  
Michelle, I appreciate you don't have the video, and we sometimes get confused with  
our voices being very similar. Well, I'll move on from that document to the money  
laundering risk assessment document which, again, was provided as an attachment to  
Crown's submissions. It ends with a COL of 6185. That is – was tab 5 in the  
35 response and it's titled Money Laundering, Terrorism and Financial Risk Assessment  
Review for Mr Chau. And, again, if I take you to the – my apologies, the paragraphs  
aren't numbered. It looks to be the sixth paragraph that commences:

40 *Following a World-Check result –*  
Just confirming everyone's got a copy of that.

MR LOXLEY: No, I'm sorry, we're just pulling it up on the screen.

45 MR WARFE: No, that's okay, I'll – I've got a hard copy if that will assist.

UNIDENTIFIED MALE: That would be very helpful.

UNIDENTIFIED MALE: Thank you very much.

UNIDENTIFIED MALE: Thank you.

5 MR WARFE: I didn't have all of them, but I ..... the copy for that. So I'll take you, again, to paragraphs – there's six paragraphs on the first page. It states:

*Following a World-Check result in June 2017 identifying Mr Chau as a foreign politically exposed person –*

10 it follows –

*...Mr Chau's customer risk assessment was increased in accordance with the Crown Melbourne AML/CTF program to high.*

15 So you'd accept that's, again, confirming that that escalation of risk rating occurred at that time?

MR WALSH: I accept what you're saying, that's reflected in that document.

20 MR WARFE: And I'll take you to the paragraph before that, which commences:

*Given the size and scope of the Suncity junket operator's operations Crown Melbourne has assessed the due diligence material available to it and has determined that it is appropriate to continue to do business with the ultimate beneficial owner Mr Chau.*

25

I'd like you to explain the clarifying or the first part of that sentence:

30 *Given the size and scope of the Suncity junket operator's operations –*

would that indicate that the size and scope of a junket operator's operations is taken into consideration when considering their probity?

35 MR WALSH: Yes, it is, and I think I mentioned that earlier. The reference there, I'm interpreting that as the fact that Suncity operate in many casinos around the world, and so, you know, obviously, you know, we can't rely on that as the sole piece of probity that we do, but it's obviously one piece of information that's useful when looking at – when you're looking at the overall picture of an operator.  
40 Certainly, the fact that they're operating in multiple jurisdictions around the world would provide us with a deal of comfort.

MR WARFE: And you'll see in that background section of that risk assessment review it refers to the turnover of the Suncity junkets in that third paragraph - - -

45

MR WALSH: Yes.

MR WARFE: - - - exceeding \$20.5 billion - - -

MR WALSH: Yes.

5 MR WARFE: - - - between financial years '15 and '18. Is the Commission to understand that Crown would not adjust its level of probity assessment based on the level of income received from a particular junket operator?

MR WALSH: No, I wouldn't infer that.

10

MR WARFE: So the phrase:

*Given the size and scope of the Suncity junket operator's operations –*

15 does not import any consideration as to how the size and scope of the income generated by a junket operator, and therefore it's taken into account when considering whether to continue to do business with it?

MR WALSH: No, I don't believe so.

20

MR WARFE: Okay. As outlined in the notice, critically, the particulars outline that the annual reviews which occurred in 2018 and 2019 did not appear to make reference to the relevant incidents that are set out in the notice, being the continued inquiries from AUSTRAC as the Federal regulator for money laundering concerns, the breach of the enhanced controls which had occurred on the 20<sup>th</sup> of April on the discovery of the \$5.6 million. Would you accept that both of those incidents would be relevant considerations in considering the ongoing probity of a junket operator?

25

MR WALSH: Yes.

30

MR WARFE: And the documents provided to the Commission in relation to those annual reviews, I've got a copy of those documents. The first, for the 2018, appears to be a two-page document, which sets out a summary of the adverse information which has been gleaned from some of the probity checks and a copy of the identified of the individual. And, again, the 2019 review spans to three pages. These were provided to the Commission under a section 26 notice in 2019. Would you – I appreciate you may not have had an opportunity to review those documents recently, but would you accept that neither of those incidents are referred to in those summary documents?

35

40

MR WALSH: Look, it doesn't appear so, no.

MR WARFE: And would that – would those documents be routinely referenced to in terms when conducting the annual review of a junket operator's probity?

45

MR WALSH: If you're asking me should they, I – I – I – I – you know, I would have expected to see them in there. I – I can't explain why there's no reference to it.

MR WARFE: So I – my question is then, how does the commission have comfort that the Crown has undertaken a robust process in considering the ongoing probity of a junket operator when the documents which appear to be the basis on which those ongoing probity assessments are made do not include relevant and significant information which may impact on the decision or recommendation whether it  
5 continue to conduct business with a particular entity?

MS FIELDING: Mr May, I offer there that those profiles were going to Mr ..... and Mr Preston, who were ..... Mr Preston was relevant in the annals at that time. So the letters would have either been addressed to him or provided to him – AUSTRAC on their arrival, and so I don't believe that Mr Preston was ..... information, even though I accept what you're saying that it wasn't information that was provided by Mr .....

MR MEADE: And can I just add to that, if I may, Mr Warfe. I think the commission has been appraised of the effect of section 123 of the Anti-Money Laundering and Counter-Terrorism Financing Act of 2006, which inhibits Crown's ability to disclose certain categories of information. It's quite a strict prohibition, and it does from time to time limit the ability of persons within Crown to also see that category of information. But the document to which you've taken Mr Walsh  
15 was prepared by a member or members of Crown's VIP credit team, not members of the AML team.  
20

And I'm not going to opine one way or the other, and I don't know for certain – for certain here, but given that is not a document that came from the AML team, it may be the case that that document was not capable of having that information contained within it. But as Ms Fielding has observed, it was escalated to a person who would have been capable of contemplating those matters and had knowledge of those matters.  
25

MR WARFE: But that would rely on the fact that those individuals would then – would require their – to apply their corporate knowledge of other incidents and events that have occurred within Crown or within Crown's knowledge when making its ongoing probity assessments during their review as part of a team. Is that correct?  
30

MR WALSH: Yes. I'd agree with that.  
35

MR WARFE: And so, in what other ways did Crown ensure that all relevant information that was before it was put to the relevant decision makers at the time they were considering whether to continue to conduct business with the junket operators?  
40

MR WALSH: Well, aside from the two – two matters you raised of the – the – the AUSTRAC concerns and the 5.6 million, because obviously Mr Preston was aware of both and my understanding is certainly was Mr Felstead, the documents themselves go a – a – a long way to demonstrating the – the sort of inquiries that the business made in terms of satisfying itself to conduct a process to make an assessment on whether to continue to do business with Mr Chau or not.  
45

MR WARFE: And we are to accept, then, that there may be other relevant information that is within Crown's remit that would also necessarily make its way before the decision makers as part of the ongoing probity assessment?

5 MR WALSH: I – I – I – I – I don't know the answer to that question other than, as I say, the – the – the – for example, the issue, if – if – if we put aside for a moment whether the AUSTRAC inquiries could or couldn't be disclosed to others or whether they were aware of it and that's why it's not in this document, I – I can't answer that. But if we look at the other item you raised, the \$5.6 million in the – in the cabinet,  
10 certainly, the decision makers were aware of that. Whether there were – whether there was other material, I – I – I can't speculate on. What I can say is, obviously, there is extensive material that is listed on these charts that was demonstrating that there was a process.

15 Would it have been preferable to have the 5.6 million referenced? Yes. You know, it would – it would then be a – a record that's, you know, available to be seen, you know, historically, you know, whereas at the moment, you're asking me questions on a document where it's not reflected and again, we're taking the benefit of the knowledge of the people that are here today to confirm that – that there was an  
20 awareness of it. But you know, obviously, it would have been ideal if it was actually in the – the – in the documents themselves so it's there in memoriam.

MR WARFE: And in fact, there's no information that appears, at least on the face of the record, that would go towards a junket operator's general compliance with  
25 Crown's directions, controls, in the way that they conduct their junket operations that may be relevant to consider whether to continue to operate with that individual on an ongoing basis.

MR WALSH: Yeah. I'm – yes. I don't have an example here. Whether – whether  
30 it's in the minutes of the meeting where these matters were considered or not, I – I – I can't speculate on. I – you know, we'd need to check our files, but in – in terms of whether it's disclosed in this – these documents, I think it's clear that that particular instance is not. Whether that was documented as part of the decision-making process, I – I can't speak to. But what I can say is it's my understanding that – that  
35 at least two of the decision makers were aware of the incidents.

MR WARFE: Would you accept, then, that the – the inability to confirm or point to with certainty and clarity whether those matters had been considered and recorded as  
40 part of the decision-making process would suggest that – and would point to flaws within a robust process?

MR WALSH: Look, a – a flaw is a strong word. Is it an omission? Yes. You know – you know, would it have been – if you said to me, "Is it preferable for it to be in there or not in there," I'd say it would be preferable to be in there. I – I don't  
45 know that I'd describe it as a flaw, though. I don't, again, want to be cute, but flaw, for me, has a far deeper connotation than – than – than an omission.

MR WARFE: Certainly. I've got nothing further. Thank you, commission.

MR MAY: Chair, I just had a couple more queries if it pleases the commission.  
Just – I want to – if I can come back to the C6 Group due diligence report regarding  
5 Mr Chau, which is the first annexure to the Crown's second response to the show  
cause notice, green heading, picture of Mr Chau on it.

MR WALSH: Sorry. Again, Mr May, you'll just need to give us a moment.

10 MR MAY: No. Sorry. That's fine, and for the commission's reference, it's tab –  
diligent tab 4.3.1.

MR WALSH: Mr Warfe passed it over.

15 MR MAY: He's very kind.

MR WALSH: Thank you, Mr May.

MR MAY: Excellent. So obviously, this report goes through various – and on page  
20 3, I think it is, of the report, it says, "Potential red flags," and we've discussed that he  
subjects a PEP in his own capacity. But the second dot point under that heading  
says:

25 *According to media reports, Chau is associated with Beng Yaju, an individual  
reportedly affiliated with Chinese criminal syndicates.*

So you can see that there.

MR WALSH: Yes.  
30

MR MAY: When we then look – and we spoke about that document, which is the  
word document that I suppose summarised relevant matters in relation to Mr Chau,  
and it's – this is the CRL document ending in .6441, the Word document.

35 MR WALSH: Yes.

MR MAY: The third attachment.

MR WALSH: Sorry.  
40

MR MAY: There seems - - -

MR WALSH: Thank you.

45 MR MAY: - - - there seems to be nothing in that document in relation to that  
specific allegation that Mr Chau's associated with Beng Yaju, is there?

MR WALSH: Looking at it now, I can't see it, Mr May.

MR MAY: And from the documents that have been attached to the response, it doesn't appear that Crown undertook any due diligence with respect to Mr Chau to again track down that alleged associated that's cropped up in the C6 report.

MR WALSH: Look, I'm not aware of further inquiries made along that line. I don't know if Ms Fielding's aware, but I'm not aware of further inquiries on that one.

MR MAY: So I suppose my point is something has cropped up in a C6 report here, in the second dot point, and it lists an individual. It lists an allegedly associated, admittedly in relation to media reports, but would a robust process, again, inquire further in relation to that allegation to try and ascertain it – get to the bottom of it, so that the decision maker can have regard to, “What is this about and should we do business with this individual anymore?”

MR WALSH: Look, it's a potential step that could have been taken. You know, again, why it wasn't, I can't speculate.

MR MAY: And I agree you can't speculate why it wasn't, but it wasn't and what I suppose I'm putting to you, Mr Walsh, is, if Crown were undertaking due diligence reports and adverse information pops up in a due diligence report, surely the definition of robust and a robust process would require further examination when those things pop up.

MR WALSH: Potentially. I mean – and the reason I'm not - - -

MR MAY: Well, particularly - - -

MR WALSH: - - - not being cute, because - - -

MR MAY: Sorry, Mr Walsh. Particularly, when we're talking about the allegation being an affiliation with a Chinese criminal syndicate. That's - - -

MR WALSH: I understand the reason for concern. You know, I can only imagine that the – there would have been some influence on the thinking in terms of it being according to media reports. Mr Chau is a well known businessman throughout Asia. He's the executive chairman of a publicly listed company. Notwithstanding that, there's plenty of speculation and supposition around his history, yet, you know, nothing that I'm aware of has been, you know, demonstrated other than it's exactly that. So whether that influenced it, I can't say, but, again, you know, when I look at the other two documents in terms of the reviews done by Crown that Mr Warfe passed me a moment ago, you know, the inquiries made were extensive.

MR MAY: But didn't pertain to this particular - - -

MR WALSH: No, no, no. I concede that, yes.

MR LOXLEY: To make one point – sorry, Mr May.

MR MAY: Yes.

5 MR LOXLEY: Just following on from this line of questioning. Particular 4 is  
confined to a failure to have regard to incidents of non-compliance by Mr Chau  
and/or Suncity during ongoing probity assessments. It's clearly defined in those  
terms. I don't mean to pre-emptively stop this line of question, but it's hard to see  
10 how a failure to follow up this reference in the C6 group could be relevantly a failure  
to have a robust process in the way that the particular's framed.

MR MAY: And it may be that the particulars, framed in the way that they are, and  
that, of course, the ground of disciplinary action is a failure to comply or implement  
the ICS, and it has been discovered as – after considering the Crown's response in  
15 these documents that, indeed, there is more here than was originally put.

MR LOXLEY: My point is simply that we're meeting the charge as framed - - -

20 MR MAY: It's not enough.

MR LOXLEY: - - - and there's no reference in that charge to a failure by Crown  
beyond not having regard to an instance of non-compliance by Chau and/or Suncity.

25 MR MAY: So if I can move on then, perhaps, I think you'd agree that the  
AUSTRAC matter is within the particulars.

MR LOXLEY: Yes.

30 MR MAY: And that I may move on to that matter.

MR KENNEDY: Yes.

35 MR MAY: I'd just like to come back to that Word document, which is the third  
attachment to annexure B, in relation to Mr Chau.

MR WALSH: Sorry, Mr May. If I hold it up, is that the document?

40 MR MAY: That is the document. If I could take you to the second page of that, Mr  
Walsh.

MR WALSH: Yes.

MR MAY: There's a statement there by the author that:

45 *There has been no suggestion or request by any government body, including  
AUSTRAC, to discontinue doing business with Mr Chau.*

MR WALSH: I see that.

MR MAY: When AUSTRAC emails Crown – sorry – Cameron, have you got that – sorry – no, I think I've found the email. When AUSTRAC emails Crown and Mr  
5 Howe, on 8 June 2017, it actually states that:

*It is clear Crown is aware that Mr Chau is both a foreign PEP and has a substantial criminal history.*

10 It also states it wants – AUSTRAC wants Crown to provide it with documentation evidence in the Crown's consideration of the appropriateness in continuing to provide services to Mr Chau and how it considers its business relationship is consistent with, you know, the – or the commitment – or the objects, really, in the AML/CTF Act. So do you think this summary document, where it says there's no  
15 suggesting from AUSTRAC to discontinue doing business, is actually a consistent reflection or a consistent summary of what AUSTRAC actually emailed Crown about.

MR WALSH: Look, I may get the timing of these things wrong, but the allegation  
20 that – or assertion that AUSTRAC made that Mr Chau has an extensive criminal history, I don't believe, has been substantiated. Certainly, there's lots of speculation and allegations. What transpired between AUSTRAC's thinking of that original position that they put and the response that Crown subsequently provided could well have lead to the fact there's no suggestion to stop doing business because it appears  
25 that they were satisfied with the responses they received in respect to the matters they were inquiring.

MR MAY: But where a law enforcement agency's saying these types of things and asking for explanations, could that be – said to be – excuse me – that that is a  
30 suggestion from AUSTRAC to discontinue doing business? I mean, it's certainly implied.

MR WALSH: I think, if AUSTRAC had come back to us after we'd provided the explanation and had further queries or raised concerns, again, as to why we're –  
35 notwithstanding the answers provided, why we're still dealing with this person, I would agree. My understanding is that hasn't occurred, so, you know, again, without wanting to be cute, if AUSTRAC have made an assertion on the basis of claims that, once they understand a little more of the detail, their position may well have changed and that's why they didn't then pursue the matter any further.  
40

MR MAY: Thank you, Mr Walsh.

MR WALSH: I would say the fact that a regulator like AUSTRAC is asking a lot of questions around Mr Chau is reason for us to be concerned.  
45

MR MAY: Thank you. Coming back to that – again, that Word document that, sort of, summarises the issues for – I believe it's for Mr Preston to make his decision. And in the last sentence on that document is in bold, and it says:

5           *At this point in time, Mr Chau was not charged with any criminal activity.*

Is that the ultimate test that was being applied at the time?

MR WALSH: I think it was a significant test. I mean, it – because, obviously, if the  
10 standard had been or the test had been, “Are there any allegations?” You know, I'm assuming a different decision would have been made. The fact that that's stated in the manner in which it is – and I articulated earlier the fact that I think that Crown's risk tolerance and society's risk tolerance for money laundering and other matters has changed. So have our standards changed and evolved? Yes, they have.

15 MR MAY: Thank you, Chair. I have no further questions.

MR KENNEDY: I think we've probably – we've heard all we need to hear today. There is a number of matters that have been taken on notice. How much time do you  
20 think you'll need to response to - - -

MR LOXLEY: Chair, may I just make some very brief closing remarks? I don't mean to detain - - -

25 MR KENNEDY: If that's the case, I think we will take a break. If that's the proposition.

MR LOXLEY: It will be no mor than one or two minutes.

30 MR KENNEDY: Okay. I think we'll – look, if you don't mind, we'll take a break for 10 minutes.

MR LOXLEY: Of course.

35 MR KENNEDY: Thank you.

**ADJOURNED**

**[12.35 pm]**

40

**RESUMED**

**[12.47 pm]**

45 MR KENNEDY: I think there's a couple of questions from the Commission that we might have first and then I'll throw to that closing that you wanted ..... so I think, Commissioner Scott.

MR SCOTT: Yes, thanks, Chairman. Just be clear, is there any difference between the classification PEP high and Customer Risk Rating high? Or is the same thing but someone's a PEP as well?

5 MR WALSH: The risk rating high is the same. I think I'm correct, and I'll throw to Ms Fielding if I'm incorrect, that there's a different process though that the company goes through when someone's been identified as a PEP as opposed to if it was just somebody locally. Michelle, have I got that correct? I'm pretty sure I have.

10 MS FIELDING: That's my understanding as well.

MR SCOTT: Okay.

15 MR WALSH: So with a PEP, Mr Scott, there's a formal process with AML as opposed to if there was, for example in the significant player reviews, that that person would go to the committee.

MR SCOTT: What precisely does Crown's risk appetite statement say now and what did it say before what I believe was the recent upgrading of that statement?

20

MR WALSH: Look, I'm sorry, I can't quote the words. I do know that it's the appetite and the communication from the board has been very clear that the risk appetite is very much reduced from what it was. Again, Michelle or Ken, can I throw to either of you to articulate exactly what's stated?

25

MR BARTON: Yes, I didn't quite hear the question ..... but I think I interpreted ..... what is our risk tolerance now in dealing with – presumably the question is around junkets or other high risk rated ..... I think that's the question?

30 MR WALSH: The question – I'm sorry, Mr - - -

MR SCOTT: The question specifically is what does your risk appetite statement currently say and what did it used to say before its recent upgrade?

35 MR BARTON: I'm sorry, I still didn't pick it up ..... I can hear you clearly .....

MR WALSH: Yes, okay. I'll repeat and tell me if I've got it wrong, Mr Scott. The question was can – what does our current risk appetite statement say now versus what it said previously?

40

MR BARTON: Yes. It's really embedded in our risk profile in our risk management reports in the risk register, but I think there's been an overriding conclusion by the board that at this time we have no risk tolerance in dealing with junkets. And that's been manifested in our policy which we've announced publicly but also worked through in consultation with the Commission and other regulators, that we will not deal with junkets until there's a process in place prior to licensing or

45

approval or some other form of sanction by regulators of each of the jurisdictions that we operate.

5 So the question for us now is we – we have no tolerance for dealing with junkets until we see there's a process in place that's regulatory endorsed to deal with the future and we suspended all dealings with junkets.

MR SCOTT: I hope, Mr Walsh, you don't have to repeat this one, but I'll try to make it repeatable in case Mr Barton can't hear me. What was that risk appetite statement beforehand or was that also "embedded," as you put, within the risk assessment?

MR WALSH: Can I – so was – was the risk appetite embedded or was it a statement is the question.

15 MR SCOTT: The previous.

MR WALSH: The – sorry, the previous risk appetite. Was there a - - -

20 MR BARTON: Yes, so - - -

MR WALSH: Sorry.

MR BARTON: Yes. I mean, there wasn't a – unless someone was going jump in –  
25 a documented or a clearly articulated board appetite for risk. There is a process for escalation of risks through the risk ..... board so where there is a matter we so identify as a high risk matter, that is taken through a risk committee – there's a – a process we go through to do risk assessments. There were various risks on our risk register that were linked to the international VIP visits. So those were being discussed at the risk  
30 committee and included in reporting to the board but there wasn't a prescriptive risk that said "there is this level of appetite to deal with junkets" on .....

MR SCOTT: Mr Walsh, the initial risk rating matrix is part of the system.

35 MR WALSH: Yes.

MR SCOTT: What were the elements of the initial risk ratings for the four individuals that are the subject of this action?

40 MR WALSH: The – what were the risk ratings or what were the risk elements?

MR SCOTT: Well the risk ratings and also what elements; the likelihood and the impact. Because the two of them together obviously - - -

45 MR WALSH: Yes, yes, yes.

MR SCOTT: - - - lead to the rating.

MR WALSH: Yes, I understand the question. Without going to the files I can't tell you off the cuff, Mr Scott. I can – we can certainly dig that out, I'd be reticent to sort of opine because I might get it wrong. But – but obviously they went – there is a process and as you know, and correctly point out, likelihood versus consequence.  
5 And that would have been done, I just can't opine to it.

MR LOXLEY: That can be addressed in a further written submission, Mr Scott.

MR SCOTT: Thank you. Was there, as is often the case after the initial risk rating is formed, certain treatments or controls specifically introduced to reduce the risk rating and if so what were those risk ratings reduced to as a result of those treatments?  
10

MR WALSH: Again, we'd have to go to the documents and – and find those for you. But some of the more tangible examples would be the cash controls put on Suncity in that room in particular that pertained to that particular group. We have taken other steps more recently with regard to the way cash moves around the casino in terms of it has to come through the main cage, limits on how much we'll take, etcetera, etcetera. But they're more broadly to everyone as opposed to just a particular junket operator. But we, again, could dig out the material you're seeking.  
15  
20

MR SCOTT: Yes. Thank you. I don't have any other questions.

MS HUNTERSMITH: I just have a brief couple. To do with looking again at risk appetite and also risk in terms of effective processes and diligence, and so on, and the extensiveness of processes in assessing probity of junket operators and players, etcetera, you talked about the scale and scope of the operator not affecting your process before; is that right?  
25

MR WALSH: Not affecting the process in terms of, for example, I thought the question put was in relation to their financial value to Crown. However, I did confirm that I believed that the scale and scope of operators as it pertained to a multijurisdictional operation certainly was a factor that we do take into account.  
30

MS HUNTERSMITH: Would not also the scale and scope effect the risk in terms of somebody – an operator – who has a very high turnover, I guess, in both Crown and perhaps elsewhere, would that not pose a likely more significant risk in terms of availability of cash and also possible effects of if the risks were realised?  
35

MR WALSH: Potentially. Potentially, that's correct. Yes.  
40

MS HUNTERSMITH: So would it not effect, therefore, the processes and the diligence required?

MR WALSH: Again, it would depend on the counterbalancing controls that were in place from where the – if the risk is just simply the size of the operator, it's more pointing to, you know, for the company, the consequences of something going  
45

wrong. So it certainly talks to consequence. I'm not sure that it speaks necessarily to likelihood. It would depend on the situation.

5 MS HUNTERSMITH: Well, there's two – there's the consequence to the company, but there's also the possible wrongdoing, I guess, would be on a greater scale, would it not, to somebody who possibly has much more political influence and general wealth and turnover?

10 MR WALSH: Look, potentially. Again, it would be a case-by-case assessment. I – sorry. I can't be more specific than that.

MS HUNTERSMITH: Yes.

15 MR WALSH: But that's how I would see it.

MS HUNTERSMITH: I guess what I'm saying is, in relation to somebody like Chau, the fact that the turnover is so high, in fact, should increase the due diligence process, the robust process, because the risks associated with somebody who has such large value worldwide may be dire consequences.

20 MR WALSH: Yes. The other way to look at that is also, because they are so large, there's more to track down given the extent of their operations as opposed to, you know, a smaller operator who might only operate in, you know, a couple of casinos or a couple of jurisdictions, there's less to look at.

25 MS HUNTERSMITH: So we're probably in a heated agreement that it requires a higher level of due diligence.

30 MR WALSH: Yes, yes. Sorry if I've been verbose, but, yes.

MS HUNTERSMITH: Okay. Thank you. That's the end of my questions.

35 MS VERSEY: Mr Walsh, I noted that Mr Chau, you increased his risk rating to high PEP. Can you tell me what criteria have you got in place? At what point does the risk become so high that you decide that they should be suspended or you should stop doing business? What's your criteria that you apply if the risk – if you've increased the risk assessment, what's the point where you decide you need to take action?

40 MR WALSH: Well, currently, he – if Mr Chau was just an individual, he would fall under the significant player review that I've spoken to earlier. It would go to the person of interest committee which is represented by the three CEOs of the casinos, each of the security and surveillance heads, the group head of anti-money laundering, the group head of compliance, the group head of risk, and the group responsible  
45 gambling manager, and they would make a decision.

MS VERSEY: Is that at present or was that at the time?

MR WALSH: No, no, no. That's at present. I can't - - -

MS VERSEY: So what was the situation at the time?

5 MR WALSH: Well, the situation at the time would have been adjudicated on by the decision-makers as a collective. Exactly what those discussions had and what determinants that they made in respect of individual operators, I can't speak to because I wasn't part of the process at that time.

10 MS VERSEY: So if the evidence you've got has increased the risk – so, in Mr Chau's situation, he goes up to high - at that time what, then, were the processes in operation to continue to manage that risk and continue to assess it so that if there came a point where you would go, okay, we need to suspend or we need to no longer deal with this person.

15 MR WALSH: Typically, someone as – that is high is getting a more obvious level of scrutiny on an ongoing basis that if there was a breach, typically that would escalated more so than if there was some sort of breach and a person or the junket operator had been risk-assessed at a lower level. It's like a heightened state of alert, I suppose. And depending upon what came out of either something that occurred at  
20 the property or the ongoing searches that are done by Dow Jones or somewhere else, obviously, that would require an assessment. Had they been at a much lower risk rating, perhaps not. It would depend on, again – again, I'm sorry to be verbose – but it's not a hard and fast process that, I don't believe, then that it is now where you  
25 would go to the – if you were rated high, you go to the person of interest committee and a decision would be made.

MR KENNEDY: All right. Well, I was asking you earlier about matters that had been taken on notice and how much time you would need to respond to those. Were  
30 you in a position to give us an indication as to what you would like?

MR LOXLEY: Yes. I think we were proposing two weeks if possible, Commissioner – chairman, which would be 4 February. The reason for that is we'd like to be as comprehensive as possible and carefully review the transcript of  
35 questions asked by both counsel assisting and the commissioners today, consider the responses that were given by Crown, identify what is actually - - -

MR KENNEDY: Yes. Okay.

40 MR LOXLEY: - - - currently not before you and then respond accordingly.

MR KENNEDY: I think 14 days is acceptable. I'd just ask the secretariat about the timing in getting the transcript available.

45 UNIDENTIFIED MALE: We're expecting to get that tonight.

MR KENNEDY: Okay. Well, that's good. That will be – 14 days will be fine.

MR LOXLEY: Thank you, Chairman. And might I seek your indulgence to just make - - -

MR KENNEDY: Yes. Thank you.

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MR LOXLEY: - - - a few short remarks. Crown's position on this disciplinary hearing is driven, as it must be, by the specific charges, the terms of the legislation and the terms of the internal control statement. And we've addressed, rather, Crown's interpretation of those provisions and documents. It doesn't follow from  
10 the fact that Crown has improved its processes over time and acknowledges now that its past processes could and should be improved that the Act has been breached in these four instances.

To Ms Huntersmith's important question to Mr Walsh earlier about the objects of the  
15 Act, we of course accept that the objects of the Act remain as they were at the time of the events under examination. But by changing the standards it applies, Crown is doing so in line with shifting expectations, as Mr Walsh has said, both from its regulators and from the community. The fact that those expectations have changed and Crown has responded in kind, does not mean, in my respectful submission, that  
20 the previous lower threshold that was applied was one that had insufficient regard to the objects of the Act or Crown followed a process that failed to ensure that the operation of its casinos, and management of its casinos, was free from criminal influence and exploitation. They were the remarks I wish to make in closing. And Mr Barton may wish to thank the commissioners for their time.

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MR KENNEDY: Just before we do that, how would you see changing expectations manifesting themselves on the part of the regulator?

MR LOXLEY: Perhaps that's Crown's apprehension of those changing  
30 expectations, chairman, if I can put it in that polite way. I think, by virtue of the experience before ILGA last year and the public interest in casino regulation and the operation of casinos, Crown has taken those matters very seriously and it apprehends, I believe, that the regulator will, both in New South Wales and Victoria and Western Australia, will want ongoing and comprehensive engagement and it  
35 appreciates, I think, that the interpretation that the regulator will give to provisions of the legislation and its powers may be different than it was previously. That's the way that it's put, if I can put it in that respectful fashion.

MR KENNEDY: Crown's apprehension?

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MR LOXLEY: It's Crown's apprehension.

MR KENNEDY: Mr Barton, is there anything you wish to - - -

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MR BARTON: Thank you very much, Chairman. I won't take up any more time. I see we've gone a little over time. I just wanted to thank the Chairman and the Commission for the time you've given us today. Hopefully we've given

comprehensive answers. We'll follow up on the matters that remain outstanding and, Chairman and the rest of the Commission, I look forward to the continued engagement that we've had over the last few months to keep giving you updates as we progress on our reform journey and you wanted, as we've said all along, worked  
5 constructively and cooperatively with the Commission as it works through this experience and inquiries in these matters. So thank you for your time. I appreciate the audience you've given us.

MR KENNEDY: We will also look forward to that and I'd like to thank everybody  
10 for their frankness today and the input has helped inform the Commission. We'd like to thank counsels assisting. I think I'll, on that note, adjourn the hearing and we'll await the submission and the further detail in the coming weeks. Thank you all.

15 **ADJOURNED**

**[1.06 pm]**