

VICTORIAN CASINO AND GAMING AUTHORITY**COMMERCIAL IN CONFIDENCE****MINUTES OF MEETING NO. 150****HELD IN THE BOARD ROOM****AT LEVEL 4 35 SPRING STREET MELBOURNE****ON FRIDAY 21 MAY 1999 COMMENCING 10.00 AM****ITEM 1 PRESENT/ IN ATTENDANCE/ APOLOGIES****1 (a) Present**

Mrs Sue Winneke, Chairman
Professor Anne Edwards, Deputy Chairperson
Mr Henry Bosch
Mr George Davis (till 12.15 pm)
Dr Desmond Hore
Mr Donald Swan
Professor Trang Thomas

1 (b) In Attendance

Mr Robert Chappell, Legal Officer
Ms Sylvia Grobtuch, Assistant Director, Legal and Legislation
Mr Bill Lahey, Director of Gaming and Betting
Mr Kenneth McLeod, Secretariat Officer

Mr Warwick Isherwood, Maddock Lonie and Chisholm
Mr Craig Ng, Maddock Lonie and Chisholm

1 (c) Apologies

Reverend Professor Robert Gribben

ITEM 2 MINUTES OF PREVIOUS MEETING**2 (a) Confirmation of Minutes of Meeting No. 146**

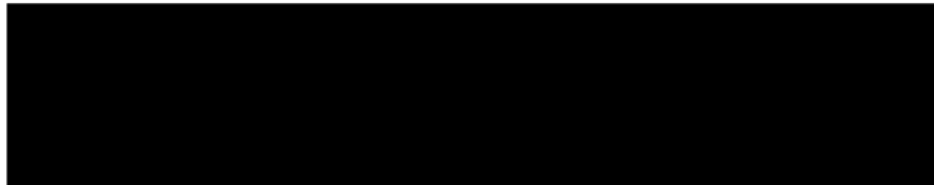
Members agreed that the minutes of Meeting No 146 were confirmed.

Authority Meeting

ITEM 3 PROPOSED MERGER BETWEEN CROWN LIMITED AND PBL

{Between 10.00 am and 11.45 am the Authority, together with the Director of Gaming and Betting, held an in camera session during which discussions took place involving, at different stages, Mr Robert Chappell, Ms Sylvia Grobtuch and the representatives of the Authority's solicitors, Maddock Lonie and Chisholm.}

Members considered material relating to the economic benefit to the State of Victoria of the proposed merger and noted that a new clause, 22.1(r), has been added to the Casino Agreement.



Members also noted that the Government has indicated that the State's interest in preserving the successful operation of the Melbourne Casino would be protected by the inclusion of a clause in the Casino Agreement by which PBL undertakes to use its best endeavours to ensure that the Melbourne Casino business is conducted in a way beneficial to the business, to Crown Limited and to the State.

In arriving at its decisions the Authority also considered:

- whether, in the present circumstances, it would be possible to strengthen the Casino Agreement so as to further benefit the State of Victoria and concluded that such further strengthening would not be practicable at the present time.
- the correspondence provided by Mr James Packer on 14 and 16 April 1999 addressing, in PBL's opinion, the economic benefits to the State of Victoria which would flow from the implementation of the merger.

Members comprehensively reviewed probity and financial material provided and were satisfied that, on the facts presented, there was no reason not to approve the proposed merger having regard to probity and financial considerations.

Members noted the contents of an additional paper tabled at the meeting by the Director of Gaming and Betting, being an addendum to Item 3.3 of the papers to set out fine tuning to the wording of the proposed changes to the Casino Agreement and the proposed Deed of Undertaking and Guarantee.

Authority Meeting

Members noted the capacity of the Authority to conduct ongoing reviews of the casino licence holder under section 25 of the *Casino Control Act* 1991.

3.1 Summary Paper - Recommendations

Members finally considered a paper providing recommendations in relation to the proposed merger between Crown Limited and Publishing and Broadcasting Ltd.

Members agreed:

- to approve the proposed merger;
- that all relevant persons and entities who will be associates of the new licence holder are satisfactory as to their probity; and
- to approve the proposed new directors of Crown Limited under clause 22.1(c) of the Casino Agreement, subject to the Director of Casino Surveillance issuing special employee licences to relevant individuals.

Members also agreed to:

- direct the execution of the Transaction Documents at Items 3.3(c), 3.3(d) and 3.3(e), amended as noted in the addendum to Item 3.3 of the papers, that is those not concerning the refinancing arrangements;
- direct the execution of the Transaction Documents concerning the refinancing arrangements at Item 3.3(f), amended as noted in the addendum to Item 3.3 of the papers, and subject to receipt of the certificate from Clayton Utz stating that the conditions precedent have been satisfied;
- approve, under clause 22.1(a) of the Casino Agreement, the disposal by Hudson Conway Ltd of all its shareholdings in Crown Limited, to take effect on or after the date on which the Minister for Gaming provides approval under section 142 of the *Casino Control Act* 1991 in relation to the Transaction Documents at Items 3.3(c) to 3.3(f);
- approve, under clause 22.1(f) of the Casino Agreement, any acquisitions by Publishing and Broadcasting Ltd of more than 5% of Crown Limited, to take effect on or after the date on which the Minister for Gaming provides approval under section 142 of the *Casino Control Act* 1991 in relation to the Transaction Documents at Items 3.3(c) to 3.3(f);
- advise the Minister for Gaming of the Authority's decisions in relation to the merger;

Authority Meeting

- seek the approval of the Minister for Gaming under section 142 of the *Casino Control Act* 1991 in relation to the Transaction Documents at Items 3.3(c) to 3.3(f); and
- authorise the Chairman to give all notices necessary or convenient in relation to the Authority's approval of the proposed merger.

Members noted the high quality of the material prepared and presented to them for consideration and the Chairman requested that the staff of the Authority involved be commended for the excellent work undertaken.

The meeting closed at approximately 12.30 pm

Signed.....
Chairman

...../...../..... **Dated**





COMMERCIAL IN CONFIDENCE

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MEETING NO. 150

FRIDAY 21 MAY 1999

at 10.00 am

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- ITEM 2. Minutes of Previous Meeting**
- ITEM 3. Proposed Merger of Crown Limited and PBL**

VICTORIAN CASINO AND GAMING AUTHORITY**COMMERCIAL-IN-CONFIDENCE****AGENDA**

MEETING NO. 150
10.00 am FRIDAY 21 MAY 1999
BOARD ROOM LEVEL 4 35 SPRING STREET MELBOURNE

- 1. PRESENT/ IN ATTENDANCE/ APOLOGIES**
- 2. MINUTES OF PREVIOUS MEETING**
- 3. PROPOSED MERGER OF CROWN LIMITED AND PBL**
 - 3.1 Summary Paper - Recommendations**
 - 3.2 Economic Matters**
 - (a) Paper - Economic Impact
 - (b) NIEIR report provided to Members on 12 March 1999
 - (c) Supporting Paper No 3 provided at 30 March 1999 meeting
 - (d) Supporting Paper No 2 provided at 30 March 1999 meeting
 - (e) Paper provided at 9 April 1999 meeting
 - (f) Papers provided at 27 April 1999 meeting
 - (g) Memo and response regarding advice from DTF
 - 3.3 Transaction Documents**
 - (a) Paper - Explanation of Transaction Documents
 - (b) Supporting Paper No 1 provided at 30 March 1999 meeting
 - (c) Eighth Variation Agreement to the Casino Agreement
 - (d) Supplemental Casino Agreement
 - (e) Deed of Release (VCGA)

PTO

VICTORIAN CASINO AND GAMING AUTHORITY**COMMERCIAL-IN-CONFIDENCE****AGENDA**

**MEETING NO. 150
10.00 am FRIDAY 21 MAY 1999
BOARD ROOM LEVEL 4 35 SPRING STREET MELBOURNE**

continued**3.3 Transaction Documents (continued)**

(f) Refinancing Documents

(i) Deed of Undertaking and Guarantee

(ii) Letter of Undertaking

(iii) Master Security Agreement Discharge

(g) Authorisation Deed

3.4 Probity

(a) Report

(b) Legal Advice

(c) Supplementary Legal Advice

(d) Paper - Analysis of Legal Advice on Probity Issues

(e) Paper - Associates Requiring Approval

(f) Paper - Supplementary Report on Mr Nick Falloon

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 1 Present/In Attendance/Apologies

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 2 Minutes of Previous Meeting

VICTORIAN CASINO AND GAMING AUTHORITY**COMMERCIAL IN CONFIDENCE****MINUTES OF SPECIAL MEETING NO. 146****HELD IN THE BOARD ROOM****AT LEVEL 4 35 SPRING STREET MELBOURNE****ON FRIDAY 9 APRIL 1999 COMMENCING 10.00 AM****ITEM 1 PRESENT/ IN ATTENDANCE/ APOLOGIES****1 (a) Present**

Mrs Sue Winneke, Chairman
Mr Henry Bosch
Mr George Davis
Reverend Professor Robert Gribben
Dr Desmond Hore
Mr Donald Swan
Professor Trang Thomas

1 (b) In Attendance

Mr Bill Lahey, Director of Gaming and Betting
Mr Kenneth McLeod, Secretariat Officer

1 (c) Apologies

Professor Anne Edwards, Deputy Chairperson

1 (d) PBL Delegation

Mr James Packer, Chairman PBL
Mr Nick Falloon, Chief Executive Officer, PBL
Mr Geoff Kleemann, Chief Financial Officer, PBL

Special Authority Meeting

ITEM 2 Proposed Crown Limited / PBL Merger

The Chairman welcomed the delegation comprised of Mr James packer, Mr Nick Falloon and Mr Geoff Kleemann to the meeting and invited them to speak to the PBL merger proposal.

The delegation members made a number of observations about the merger proposal, in particular that:

- the issue to be determined related to guarantees that gaming revenue from Crown Casino would be maximised given that as a result of the merger proposal Crown Limited would become a subsidiary company of PBL;
- the merger proposal as put guarantees those obligations already placed on Crown Limited to maximise gaming revenue, and indeed goes further than this;
- under the merger proposal the new Crown board will be an independent body comprised of the existing members plus Mr Kerry Packer, Mr James Packer, Mr Ashok Jacob, Mr Nick Falloon and Mr Geoff Kleemann;
- the merger proposal, at approximately \$2 billion, represents the biggest deal done by the Packer family to date and as such provides strong incentives for the family to obtain successful outcomes;
- the merger proposal will provide a number of benefits including -
 - * guarantees by PBL to maximise gaming revenue from the Crown Casino;
 - * capacity to utilise other PBL assets such as television and magazines to cross promote and thereby enhance prospects for maximising gaming revenue from Crown Casino;
 - * improvement of the day to day management of Crown as a number of existing problems both at board and management level will be eliminated;
- PBL needs to be free to consider future investment opportunities and therefore cannot accept the restrictions that would be placed on PBL by the single purpose covenant, especially since no such restrictions apply to either of the gaming operators, TABCORP and Tattersall's; and
- PBL wishes to grow the asset and the only inhibiting factor to that happening is the proposed restrictions.

Mr Bosch explained that, though the Authority recognised that the proposal being put by PBL would improve the financial soundness of Crown Casino, that same proposal also requires the Authority to accept a risk in relation to the priority Victorian interests would receive given PBL's fiduciary duty to its wider interests in the entertainment world.

Special Authority Meeting

Mr Bosch emphasised that it was the Authority's duty, having regard to the existing legislation and the agreements in place with Crown Limited, a wholly owned Victorian company, to ensure that the interests of Victoria remain paramount and that the Authority's objectives under the legislation, in particular the object of the Authority in "promoting tourism, employment and economic development generally in the State", are met.

Mr Bosch concluded that the proposal as presently structured would not necessarily guarantee those objectives and that his inclination was, therefore, to deny approval of the merger with PBL as presently proposed.

The Chairman then invited questions from other Members and the following responses from the delegation members were noted:

- in terms of the merger appearing to be a risk, all the present rights and remedies relating to Crown Limited are proposed to continue under PBL, including the power to remove the casino licence, which power could be invoked should the need arise
- PBL would be happy to develop its Internet potential in ways which would see benefits accruing to Victoria provided that this could be done within a competitive taxation framework;
- PBL recognises that one consequence of growing the Crown business could be adverse impacts on the Victoria wide club and hotel gaming machine network being serviced by the gaming operators TABCORP and Tattersall's;
- PBL has already made a number of changes to its original proposal and now seeks to persuade the Authority that the proposal in its present form is acceptable as it significantly improves the overall position in relation to Crown Casino notwithstanding that the Authority still has an area of concern; and
- PBL has received legal advice which suggests that the proposal they have submitted meets all the current legislative requirements.

Members noted that the merger documentation did not directly address the link with the Authority's objectives.

Members agreed that PBL provide a further submission to the Authority which should focus on addressing how the merger proposal meets the Authority's obligations as set out under section 140 of the *Casino Control Act* 1991, in particular the object of the Authority in "promoting tourism, employment and economic development generally in the State".

Members also agreed that the submission should be lodged with the Authority by close of business on Tuesday 13 April 1999.

Special Authority Meeting

The meeting then concluded with the Chairman thanking the members of the delegation for their attendance and observations.

ITEM 3 Other Business

{These matters were considered first during an in camera session}

3 (a) Conflict of Interest

Members noted that Mr Donald Swan is the non executive chairman of Employment National, which organisation conducts preliminary recruiting for Crown Limited from time to time.

Members agreed that, given the potential for a conflict of interest to occur:

- Mr Swan and the Chairman will monitor the situation closely; and
- Mr Swan would abstain from future decisions of the Authority should a conflict of interest be perceived.

3 (b) Position of Director of Casino Surveillance

Members discussed the position of the Director of Casino Surveillance and agreed that the Chairman should provide advice to the Minister for Gaming regarding changes proposed to be made to the position.

The meeting closed at approximately 12.40 pm

Signed.....

Chairman

...../...../..... **Dated**

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 3 Proposed Merger of Crown Limited and PBL

- 3.1 Summary Paper - Recommendations**
- 3.2 Economic Matters**
- 3.3 Transaction Documents**
- 3.4 Probity**

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 3.1 Summary Paper - Recommendations

VICTORIAN CASINO AND GAMING AUTHORITY

PROPOSED CROWN/PBL MERGER - RECOMMENDATIONS

PURPOSE

1. To recommend that the Authority consider the merger between Crown Limited (Crown) and Publishing and Broadcasting Limited (PBL), subject to the Authority's decisions in respect of probity and the giving of all necessary Ministerial consents and approvals.

BACKGROUND/COMMENT

2. Reports on the economic, commercial and probity aspects of the proposed Crown/PBL merger proposal are provided at Items 3.2, 3.3 and 3.4 of the papers below.
3. Members should note that the Transaction Documents are drafted so that they may be executed by all parties prior to the merger being approved, but will only come into effect if and when all of the following events have occurred:
 - (a) The Authority has approved the probity of all relevant persons and entities;
 - (b) The Minister has given all necessary approvals and consents;
 - (c) PBL has acquired the Crown shares.
4. Members should also note that the Authority's execution of the Transaction Documents which relate to the refinancing would not in any way signify the Authority's approval of the proposed refinancing arrangements. The State has agreed to enter into those arrangements and the Authority's execution of the documents means only that it has entered into several minor specific obligations (such as the obligation to give notice of possible licence cancellation to the financiers), as outlined below in the paper at Item 3.3(a).

RECOMMENDATION

5. That, after assessment of the economic impacts and commercial issues, the proposed changes to the Transaction Documents and the Probity Investigation Report dated 10 May 1999, the Authority consider the merger between Crown Limited (Crown) and Publishing and Broadcasting Limited (PBL), subject to -
 - the Authority's decisions in respect of the probity of all relevant persons and entities who will be associates; and

- the Authority's approval under clause 22.1(c) of the Casino Agreement of the proposed new directors of Crown Limited (subject to the Director of Casino Surveillance issuing special employee licences to relevant individuals) -

and, if the Authority agrees to the merger, the Authority-

Casino Agreement and related documents

- (a) direct the execution of the Transaction Documents at Items 3.3 (c), (d) and (e) ie those not concerning the refinancing arrangements; and

Refinancing Documents

- (b) direct the execution of the Transaction Documents concerning the refinancing arrangements at Item 3.3 (f), subject to the certificate being received from Clayton Utz, which states that the conditions precedent have been satisfied; and

Share transactions


- (c) under clause 22.1(a) of the Casino Agreement, approve the disposal by Hudson Conway Limited of all its shareholdings in Crown Limited, to take effect on or after the date on which the Minister provides approval under section 142 of the *Casino Control Act* in relation to the Transaction Documents at Items 3.3 (c) to (f); and
- (d) under clause 22.1(f) of the Casino Agreement, approve the acquisition by PBL of more than 5% of Crown Limited, to take effect on or after the date on which the Minister provides approval under section 142 of the *Casino Control Act* in relation to the Transaction Documents at Items 3.3 (c) to (f); and

Advising Minister and seeking Minister's approvals and consents

- (e) advise the Minister of the Authority's decisions in relation to the merger; and
- (f) seek the Minister's approval under section 142 of the *Casino Control Act* in relation to the Transaction Documents at Items 3.3 (c) to (f); and

Notices

- (g) authorise the Chairman to give all notices necessary or convenient in relation to the Authority's approval of the proposed merger.

Approved: 
Director of Gaming and Betting

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 3.2 Economic Matters

- (a) Paper - Economic Impact
- (b) NIEIR report provided to Members on 12 March 1999
- (c) Supporting Paper No 3 provided at 30 March 1999 meeting
- (d) Supporting Paper No 2 provided at 30 March 1999 meeting
- (e) Paper provided at 9 April 1999 meeting
- (f) Papers provided at 27 April 1999 meeting
- (g) Memo and response regarding advice from DTF

VICTORIAN CASINO AND GAMING AUTHORITY

Commercial-in-Confidence

PROPOSED CROWN/PBL MERGER - ECONOMIC IMPACT
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PURPOSE

1. To provide members with an overall assessment of the economic impact on Crown Limited (Crown) and the State of Victoria from the proposed merger (takeover) of Crown by Publishing and Broadcasting Limited (PBL).

BACKGROUND

2. The paper brings together the following documents previously provided to members:
 - Report by the National Institute of Economic and Industry Research (NIEIR), (headed by Dr Peter Brain) dated 3 March (see **item (b)**);
 - A paper titled "Supporting Paper No. 3 - Legal Treatment of Economic Impact" with attached advice from Mr John Barnard QC and Mr Peter Clark (see **item (c)**);
 - A paper titled "Supporting Paper No. 2 - Refinancing" (see **item (d)**);
 - A table comparing the proposed covenants with the current covenants and the initial policy objectives (see **item (e)**); and
 - A paper that assessed the economic benefits that PBL claimed would arise from the merger (see **item (f)**).

COMMENTS

3. The NIEIR Report (see **item (b)**), predicted a net economic loss to Victoria, in net present value (NPV) terms, of about \$150 million. This figure was comprised of positive direct benefits of about \$10 million offset by potential negative indirect losses of about \$160 million. The potential negative indirect economic impacts related to the foregoing of "substantial benefits that would have accrued to the Victorian economy, should the owners have remained in Victoria". These related mainly to "newly developing gaming opportunities" combined with the negative impact arising from "the focus of head office activities in Sydney".
 4. 
 5. Since the advice was received from Messrs Barnard and Clark, the proposed Transaction Documents have been amended to put conditions on PBL's future gaming activities. These now provide that if PBL pursues anywhere in Australia a business similar to that of Crown, it must use its best endeavours to ensure that such [new] business is conducted in a manner which is beneficial both to that business and to Crown, and which promotes tourism, employment and economic development in Victoria and is not detrimental to Crown's interest.
 6. PBL has claimed that a number of benefits would arise to both Crown and Victoria from the proposed merger. These claims were assessed in a paper considered by the Authority on 27 April 1999 (see **item (f)**). PBL's main claim was that cross-promotional opportunities arising from the merger would bring additional customers to Crown and contribute to Victorian tourism and economic development. This is a reasonable claim.
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PBL also maintained that its investment of \$1.8 - \$2.0 billion in Crown, including \$1.0 billion of new equity, would ensure that Crown was not disadvantaged in future investment decisions by PBL and that future growth opportunities for Crown would be supported. This assertion is reasonable.

7. To assist the Authority in determining the appropriate scope of regulation of the merged entity, in the event that the proposed merger of Crown and PBL is approved, advice was sought from the Secretary of the Department of Treasury and Finance on 14 April 1999. A copy of this memorandum and the Secretary's response dated 5 May 1999 is provided as **item (g)**. The Secretary advised that the Casino Sub-Committee of Cabinet agreed that the proposed financial security offered by PBL is adequate and that the inclusion of a clause in the Casino Agreement, by which PBL undertakes to use its best endeavours to ensure that the Melbourne Casino business is conducted in a way beneficial to the State would be adequate to preserve the State's interest.

RECOMMENDATION

8. That the Authority note the above report.

Approved:

.....
Director of Gaming and Betting

Mtg Ref: VCGA 150/Friday 21 May 1999
Source: Bill Balgowan, Casino Project Manager
Doc Ref: i/el-casino/Bill/bdpapers/bm150May/EconImp1.doc

The economic impact of the proposed Crown/PBL merger

**A report for the
Victorian Casino and Gaming Authority**

**Prepared by the
National Institute of Economic and Industry Research,
trading as National Economics**

*416 Queens Parade, Clifton Hill, Victoria, 3068
Telephone: (03) 9488 8444; Facsimile: (03) 9482 3262*

March 1999

While the National Institute endeavours to provide reliable forecasts and believes the material is accurate it will not be liable for any claim by any party acting on such information.

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1. Introduction

The report is prepared for the VCGA with the aim of analysing the economic impact to the Victorian economy of the proposed merger between Crown Limited and Publishing and Broadcasting Limited. The analysis is based on a comparison between the performance of Crown Limited without the merger proceeding and the anticipated performance of the merged entity. Necessarily we also include the effects any changes would have on the activities of competing Victorian interests.

Information presented in this report has been gathered from various sources including NIEIR economic forecasts. In the process members of NIEIR met with representatives of the VCGA, Crown Limited (Crown) and Publishing and Broadcasting Limited (PBL).

2. Executive summary

- The economic impact to the Victorian economy of the proposed merger is expected to be a net loss of \$150 million.
- The loss of control from within the Victorian economy, of such an important asset, has indirect effects that largely contribute to this net loss.
- The refinancing arrangements PBL expects to institute will remove the difficulties Crown has with financial covenants.
- The improving financial position should remove pressures on the government for further legislative amendments. This benefit is in addition to any financial benefit suggested by this report.
- The new structure proposed by the merger requires a new direction in the way the Casino Agreement preserves the economic benefits to the Victorian economy.
- Quantitative targeting of value-added benefits within Victoria could substantially mitigate the indirect effects of the merger.
- The notional ability of the owners of the Casino to deliver the second hotel tower and Lyric Theatre will not change. It is anticipated however that the merged organisation may be better positioned to meet all the relevant capital expenditure needs, and hence capture any benefits associated with their building.
- In addition to the net loss experienced the merger has redistributive consequences.
 - The value of future income returned to Victorians falls due to the change of ownership. The new ownership structure represents a movement away from a largely Victorian base to a broader national perspective.
 - The relaxing of debt servicing requirements in the merged entity results in an increase in the economic value of direct capital expenditure work undertaken in Victoria.
 - Increased gambling revenue will provide the state with larger gambling tax receipts. Much of this increase in the merged entity will arise from development of digital technology and interactive gaming. The increase in present value of this stream of revenue is \$83 million.
 - The expected increase in patronage coupled with well-managed growth in new gaming products may provide a direct increase in employment in the state. The management of growth in new products, especially their development and support requirements, will be crucial for an increase in employment.
 - The reduction in overhead costs attributable to media and financial synergies will result in a reduction in associated spending in Victoria. In addition the focus of head office activities in Sydney will have a negative impact.
 - Importantly much of the benefit of the merger to the new organisation comes at a cost to other gaming industry firms, including Tabcorp, Tattersalls and companies who would invest in newly developing gaming opportunities.

3. Regulatory impact of merger

The impact of the merger has been evaluated in terms of Crown operating as a "third arm" of the PBL organisation. Much of the benefits to Crown are a direct result of the financial strength of this group. In turn PBL is able to use tax losses from Crown in a more expedient manner. The group will be able to return dividends to its shareholders, or capitalise new ventures in any area that maximises its return on investment. The Crown complex will represent an enormous physical and monetary asset, which will command considerable attention. However it will compete for organisational attention with a successful television network, the nations premier stable of magazines, film and telecommunication interests.

In short PBL will not be a single purpose company whose sole aim is to obtain maximum Gross Gaming Revenue (GGR).

One of the aims of the legislation that allowed the introduction of a casino in Victoria was to maximise the financial benefits to the state of Victoria. As a result the objectives of the transaction documents, which dealt with the casino licensing arrangements, were written with this objective in mind. Three relevant clauses of the Casino Agreement, highlighting the impact of the merger to these objectives, are presented below.

22.1 (p) The Company must not carry on or conduct any business other than the business contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority.

22.1 (q) The Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority.

28. Casino operating practices

The Company must strive to obtain the maximum Gross Gaming Revenue by conducting its operations in the Temporary Casino and the Melbourne Casino as a discrete business operated in Melbourne in a proper and efficient manner having regard to the best operating practices in international casinos of a similar size and nature to the Melbourne Casino.

Avoiding legalistic interpretation of the clauses presented above we note that they have been designed to focus the activities of the Casino licence holders to the casino alone. The aim relates less to issues of control than issues of maximising benefit to the state. In a sole purpose company without subsidiaries clause 28 allows both Victorian economic and shareholder interests to be given priority equally. Victorians benefit by the licence holder maintaining a high quality venue and maximising revenue, which maximises taxes. The shareholders benefit because their incomes are solely or substantially derived from efficient and proper handling of these revenues.

This focus on only casino-related activities is directly breached in spirit by the merger. Although technically Crown (a single purpose company) remains in control of the casino its operating manner necessarily changes.

In the new entity, a *proper and efficient manner* would require the directors of PBL to maximise the benefit to its shareholders by looking at the performance of all its assets, of which Crown is only one. There are scenarios in which the maximising of GGR is not the proper or efficient course for directors to take, simply because of concerns that exist outside of casino-related activities.

It is not clear that any activities planned by any of the parties would contravene the spirit of the clauses presented. It is anticipated that PBL would be interested in increasing revenues and maintaining standards, the relevant question is whether they would be obliged to do so. The casino agreement is still required to set a framework in which the Victorian economic benefit is maximised. This report identifies these sections of the agreement as ones requiring rewriting, to ensure the economic aims are still met if the merger takes place.

4. Minimising the negative impact on the Victorian economy

The net loss to the Victorian economy identified in the report is \$150 million. As reported the loss is largely due to the indirect effect of foregoing substantial benefits that would have accrued to the Victorian economy, should the owners have remained in Victoria. The direct effects are only marginal which reflects the benefits in operating performance being countered by the ownership changes.

Therefore, to minimise this loss the relevant bodies must ensure the activity that was to be generated from within Victoria still goes ahead.

One of the primary concerns identified is the high degree of value-adding the development of online technology is anticipated to bring. Harnessing these returns could be lucrative for the Victorian economy.

Coupled with the diversity of Tabcorp, Tattersalls, bookmakers and electronic gaming machine manufacturers, Crown is a vital part of the Victorian gaming industry. When the casino licence was granted this diversity concentrated within Victoria must have been considered. The industry as it stands could play an important role in developing opportunities for Victorians in the future. The merger will dilute the mass of activity currently focused within the Victorian economy, and could diminish these opportunities.

Therefore any steps aimed at minimising the impact must address the quality of concessions given. This report has valued the indirect effect as a proportion of a growing stream of income, it is heavily discounted, and conservative in nature. An unsatisfactory outcome would see concessions which gave a small increase in current state revenue or small increase in short term jobs when the potential for a substantial and profitable sector of the local economy has been diminished.

To effectively minimise the impact to the state, the Victorian economy needs substantial access to a growing income stream in a technologically relevant industry. PBLs stable of assets largely consists of interests that are envisaged to provide such benefits. The development of PBL Online is one example of such an asset. However without direction Victoria could not expect more than its normal share of such interests. A casino licence is one example of an economic opportunity for which greater control does exist, purely as a result of the regulatory-based nature of gaming. However the casino licence has been *bundled* up with other assets in the merger so the only practical solution must deal with the bundle as a whole.

To maintain the spirit of the Casino Agreement it must stipulate quantitative targets for value added activity undertaken in Victoria by the new operator. These targets should be in proportion to the benefit of the merger to PBL and the costs incurred by the economy through the loss of Victorian based strategic opportunities. Value-added is defined in terms of employment and direct profits generated in Victoria. As a guide these targets would be designed to add a net present value of \$150 million to the amount of activity already generated. The advantage of this type of concession is that considering the high quality selection of assets PBL has, this target would add long term prospects to the Victorian economy. In addition the imposition would not be onerous on PBL as it represents a stream of value-added activity of only about 20 million dollars per year (assuming 3 per cent growth and the same discount rate as the indirect costs was evaluated).

Targeting the online gaming business only would be riskier than the quantitative targeting that has been suggested. If the online activities of the merged organisation were centred in Victoria, the indirect costs of the merger would be reduced by \$69 million.

In conclusion measures that seek to compensate for the loss of opportunities for the Victorian economy should specifically target quality replacements. By looking at the picture of PBL as a whole, quantitative targeting returns the effective economic value that has been lost.

5. Victorian economic impact tables

5.1 Overall Victorian economic impact

A summary of the net direct and indirect benefits to the Victorian economy.

Direct economic benefit/(loss)	\$10.66	Million
<u>Plus</u>		
Indirect economic benefit/(loss) due to the elimination of strategic opportunities for Victorian based operators	(\$160.47)	Million
Net benefit/(loss)	(\$149.81)	Million

5.2 Victorian impact by economic measure

Documents the impact to the Victorian economy due to changes in a number of economic measures. For each measure we present the direct effects, those experienced at the level of the organisations themselves. In addition we measure what are the indirect costs, associated with the merger, to other Victorian organisations. For example, if the merged organisation lifted revenue we need to determine how much of that revenue displaced expenditure from alternative gaming/entertainment venues, and how much was new business. The loss to other Victorian enterprises is presented as "Crowding Out" or "CO" in the tables. This table includes the value of income streams to the Victorian economy, the benefits associated with capital expenditure undertaken, changes in the value of gaming tax receipts, changes in the economic activity associated with the day to day running of the complex and the value of payroll costs.

	Merger	Crowded out¹	Net change
	<i>\$mil, benefit/(loss)</i>		
Economic measure			
Enterprise value/income stream	(22)	(84)	(107)
PV of capital expenditure benefit	37	(9)	28
PV of gaming tax receipts	132	(49)	83
Economic benefit of overhead costs	(100)	25	(75)
PV of related payroll expenses	103	(21)	82

Notes: 1. The loss to the Victorian economy of the economic activity thwarted by the merger. For more details on these calculations see Appendix A.

5.3 Forecast performance measures (1999 – 2010)

Provides detailed projections of gaming revenue, EBITDA (earnings before interest, tax, depreciation and abnormals), gaming taxes and payroll costs up to 2010.

	Gaming revenue			Gaming tax receipts			
	Crown no merger	Crown & PBL merged	Crown + crowded out ¹	Crown no merger	Crown & PBL merged	Crown + crowded out ¹	
	\$mil	\$mil	\$mil	\$mil	\$mil	\$mil	
1999	657	657	657	1999	125	125	125
2000	699	711	706	2000	131	132	132
2001	726	750	739	2001	134	137	135
2002	761	803	785	2002	137	142	139
2003	815	879	852	2003	143	150	146
2004	862	947	912	2004	148	157	152
2005	911	1017	974	2005	154	165	159
2006	959	1086	1034	2006	159	173	165
2007	1002	1147	1087	2007	164	180	171
2008	1036	1196	1129	2008	168	186	176
2009	1069	1242	1167	2009	173	193	181
2010	1101	1289	1207	2010	177	199	187

Note: 1. Crown + CO refers to the total of Crown operating without the merger plus the expected amount of activity subsequently crowded out (thwarted) by the merger.

	Payroll costs			EBITDA			
	Crown no merger	Crown & PBL merged	Crown + crowded out ¹	Crown no merger	Crown & PBL merged	Crown + crowded out ¹	
	\$mil	\$mil	\$mil	\$mil	\$mil	\$mil	
1999	151	151	151	1999	196	196	196
2000	159	160	159	2000	215	223	219
2001	161	164	162	2001	228	243	235
2002	161	165	162	2002	244	271	257
2003	167	173	169	2003	271	310	292
2004	172	179	174	2004	295	346	322
2005	177	186	179	2005	319	384	354
2006	182	192	185	2006	343	420	385
2007	187	200	191	2007	364	453	411
2008	193	207	196	2008	380	478	432
2009	199	215	203	2009	395	501	450
2010	204	222	209	2010	410	525	468

Note: 1. Crown + CO refers to the total of Crown operating without the merger plus the expected amount of activity subsequently crowded out (thwarted) by the merger.

5.4 Organisation specific impacts

Reports on the specific changes in the organisations. In addition we report the implied percentage of total Australian gaming revenue captured by the relevant organisation.

<i>Net present value(NPV)</i>	Crown no merger <i>\$mil</i>	Crown & PBL merged <i>\$mil</i>	Crown + crowded out¹ <i>\$mil</i>
Enterprise value	1766	2252	2054
Economic benefit, capital expenditure	975	1012	N/A
Future gaming tax receipts (Victorian)	1840	1973	1898
Activity, overhead costs (Victorian)	750	639	N/A
Activity, payroll costs (Victorian)	2139	2242	2165
Additional value to PBL (non-Crown)	0	196	45
Additional value to Hudson Conway	0	22	5
Australian gaming revenue, share 2010	7.78%	9.10%	8.52%

Note: 1. Crown + CO refers to the total of Crown operating without the merger plus the expected amount of activity subsequently crowded out (thwarted) by the merger.

6. Assumptions

The document outlining the assumptions is presented in four separate sections. These sections cover the different areas in which the effects of the merger will impact. The first, is the direct effect of the refinancing on the casino operations and covenant requirements. The second deals with projections of revenues and costs for the casinos' operations under either ownership option. Included in the section are the assumptions dealing with effects the changes in the performance of the casino will have on other related businesses in Victoria. The third relates to the changes in share registry and its impact on the state share of profit distribution. The fourth and final set of assumptions relates to the indirect or head office, effects caused by the merger.

6.1 Refinancing assumptions

- Under each scenario we assumed that the refinancing arrangements as presented in the merger document are accepted. In terms of our modeling we have made a number of keys assumptions to allow a direct comparison. Although the refinancing arrangements has the effect of PBL purchasing the debt of the Crown organisation, the best way to model this change is to assume the relevant debt attributable to the Crown purchase is retained by the entity at the rates of interest PBL can secure.
- The Crown 9.5 per cent unsecured \$150 million notes (CROHB) are retained in all scenarios until their maturity date.
- In the merged entity there are no dividends payable on the PBL acquired Converting Preference Shares.
- In the case of Crown without the merger we assume the organisation can utilise cash reserves and scale back capital expenditure (or sell assets) to meet the banking covenants on debt levels.
- In either case the levels of debt attributable to the Casino Entertainment Complex (CEC) are quite high. We have modelled a rapid debt repayment schedule for both scenarios. In the case of Crown on its own, the target is slightly lower than the merged entity, reflecting the inherent risks associated with the single purpose company. In the merged organisation the reduction target need not be as low. However the target we modelled for PBL does represent a movement back towards the net debt/enterprise value of its other businesses.
- The rapid reduction in debt under both scenarios is crucial to the assumptions made about the second hotel tower and Lyric Theatre. We assumed that the arrangements would be enforced so long as it was assessed to be in the best interests of the Victorian economy especially its tourism sector. If this was the case we assume that both parties would at that point make a decision as to whether to build, own and operate them or to build them in cooperation with a third party. Importantly it would not be sensible to assume that the construction would be of an uneconomic nature. Either way the horizon for such a decision is assumed to be equal for both scenarios. Therefore so long as the debt levels are manageable quickly then the required constructions impact would not differ under each scenario.

- All scenarios include the maintenance of cash holdings of around \$75 million. In the short term the cash holdings of Crown would have to be depleted by a small amount to meet debt-financing covenants.
- Enterprise valuation: The present value of the dividend flow is calculated to the horizon at 2010. At the horizon the capitalisation multiple used is 9 which is at the higher range of values used by independent experts to value Crown presently. We do believe however this is very conservative considering the movement of the Crown business to a broad entertainment focus.
- The discount rate that we choose to employ in each scenario is 9.25 per cent. This figure incorporates our belief that the outlook for dividends in the medium term is good in both scenarios. We also incorporate the belief that the inherent risk associated with the stock (Crown) would naturally fall upon resolution of financing difficulties.

6.2 Revenue and cost assumptions, including crowding out

- It is assumed that the drivers for profitability operate on two levels, revenue and overhead costs. This allows us to make important assumptions about the cost base faced by the organisation in the generation of profits. By fixing the contribution of each dollar of revenue to profits, payroll, taxes and other costs it allows us to model revenue development in a robust fashion.
- Importantly it allows the operational side of the Crown business to be removed from the synergies that are created in the merger. Hence all of the synergies either make a contribution to increasing the revenues within the business or change the overhead cost structure.
- The profit contributions per dollar of revenue are obtained from Crown's 1999 budget forecasts and are modelled as fixed proportions throughout.
- In the case of Electronic Gaming Machines (EGMs) there appears to be an upward trend in the win per machine amount. Although there is no increase in the number of machines available to the Casino, we anticipate an increase in the utilisation rate of the machines available.
- For international CBP gaming historical win rates are assumed. The levels of commissions required to maintain revenue in this area are fixed at 1999 levels. We anticipate there may be scope for a tightening of these costs in the future. However we have chosen to model these earnings in a conservative fashion, by only considering revenue growth.
- Online gaming is assumed to offer similar profit opportunities to the EGM market. This is largely due to the low percentage of payroll costs per dollar in this market. Whilst we understand the support staffing requirements for online gaming may be substantial, especially initially, this level of profitability should be able to be achieved.
- We assume that all the gaming undertaken on the Internet attracts an equal level of taxation. In reality however, some of this gaming will be undertaken by overseas patrons. It is unclear where this taxation will be directed. If no tax was payable on those amounts the cost of the merger would be higher, with a similar result if the tax is paid to the state in which the operation is based (assumed to be New South Wales).

- When modeling the opportunities crowded out (CO) by the merger we assume the same cost structures as the Crown base case. Considering much of the crowding out occurs in the well-developed grind market (domestic tables and EGMs), such an assumption conservatively values the income streams that these operators may have developed. For instance, in Victoria the other gaming operators Tabcorp and Tattersalls may well have been able to generate even better incomes than we modelled.
- The growth in overhead costs is anticipated to be different should a merger proceed. The synergies that exist with PBL Television and Magazines should lead to marketing and event costs growing at a lower rate than Crown alone would experience.
- Additionally in the area of corporate services the merged entity would undergo a small amount of rationalisation that would keep cost growth under control. The merger should also advantage the “Crown Services” and “Finance” segments of the overhead costs.
- The impact to the Victorian economy of the changes in overhead costs needs to include possible migration of some of these services interstate. This may be especially relevant in the areas of corporate services and finance. As such, we modelled a 15 per cent migration of costs away from Victoria by 2010. The feedback effects are assumed to return 25 per cent of this lost activity in new opportunities developed within Victoria.
- As explained the earnings are driven by overhead costs that are described above, and by fixed proportions of revenues. The drivers of revenue for the three scenarios are presented below.

Crown no merger	Crown & PBL merged	Crown + crowded out
• Gross state product	• Gross state product	• Gross state product
• Visitor growth	• Visitor growth	• Visitor growth
• International revenue growth	• International revenue growth	• International revenue growth
• EGM utilisation	• EGM utilisation	• EGM utilisation
• Market expansion	• Market expansion	• Market expansion
• 20% of online gaming	• Local synergies/technology	• Lost local/technology growth
	• International market development	• Lost international market growth
	• 30% of online gaming	• 27.5% of online gaming

Notes on revenue growth rates

- Gross state product (GSP), Visitor growth to the Casino Complex, and International revenue growth figures are all based on output from NIEIR economic modelling. Importantly each of these is included in all scenarios.
- Market expansion relates to the dual effects of an aging population and of consumption expenditure outpacing GSP growth. The changing social mix induced by immigration also combines to increase expected expenditures 1 per cent faster than economic growth.

- Local synergies/technology refers to the benefits PBL will be able to access from utilising all of the merged groups abilities to increase revenue. These synergies relate to the ability to attract people to the casino through the use of cross-promotion, as well as the technological advantages digital technology may provide. The net effect is an exogenous increase in CEC related revenues of 10 per cent by 2010.
- Lost local technology is set at 25 per cent of the exogenous extra growth achieved by the merger (10 per cent, local synergies/technology). Hence when evaluating the amount crowded out we assume a 2.5 per cent exogenous growth of the Crown revenues to calculate the amount lost.
- In the case of Crown standing alone and the merged entity the online gaming market is assumed to be 9 per cent bonus on top of the total gaming expenditure in Australia in 2010.
- The total gaming expenditure in 2010 is derived from annual projected economic growth figures. Using the base figures of gambling expenditure in 1998 we inflated them using only economic growth. Therefore we consider this is a conservative estimate of the online market potential.
- PBL and its television and magazines interests would contribute significantly to the development and profitability of the online gaming experience. As such we consider the bonus of 10 per cent market share to be conservative. In addition the amount crowded out is calculated to be only 75 per cent of this additional share (7.5 per cent). Obviously all 10 per cent market share has actually been poached from other online gaming operators, however by reducing this amount in our calculations we recognise that the online gaming market may not be as profitable without the support of such an important player as PBL Online.
- International market development relates to PBL's anticipated ability to improve the profitability of this market. As stated previously their association with high-roller type gaming will offer advantages in making this market more lucrative. This may be through an increase in revenue or a reduction in costs and commissions.
- We prefer to model this improvement in terms of increased revenues, a 4 per cent increase by 2010. If however similar gains could be made by looking at the cost side of the equation, the cost of the merger to the state would be increased due to the loss in anticipated taxation receipts. Once again 25 per cent of this improvement is crowding out opportunities that may have been developed elsewhere, hence a 1 per cent increase by 2010 is modelled in the scenario evaluating the crowding out effects.
- In addition to the synergies that are extended towards the gaming business, the new PBL structure (post-merger), offers benefits to the television, magazine and enterprises divisions also. These benefits are largely associated with the increase in cash flows that the entire organisation experiences. These flows may be especially important in the television and magazines industries, as technological innovation becomes the norm. The television industry faces large capital costs in response to digital technology, and the magazine industry requires constant regeneration of products to survive. The increased cash flow will be keenly sought considering PBL's commitment to wealth generation through quality asset purchases. It is assumed that a benefit to the non-Crown related PBL assets must be taken into account. We have modelled a 5 per cent increase in PBL's maintainable earnings. This translates into an increase in value of \$196 million. To place this into perspective however this only

represents a movement from the midpoint to the high range capitalisation multiples used by N M Rothschild & Sons in their independent expert's report into the merger for PBL. Once again using the 25 per cent crowding out rule we value the amount of income crowded out in this case to be \$49 million.

- The other large beneficiary of this arrangement is Hudson Conway Limited (Hudson Conway). Unlike an ordinary shareholder for which we can assume profit maximising portfolio objectives, Hudson Conway has limited room to move without the merger. Covenants with the VCGA coupled with large share sales being problematic, have resulted in the company owning an under-performing and non-liquid asset. The Converting Preference Shares (CPS) that they own also presents performance difficulties. Under the merger, with the exception of a one-year ban on trading PBL shares, Hudson Conway is relieved of many of its financing burdens.
- In return for losing control of Crown and the costs/benefits of holding a much more diverse stock, Hudson Conway is rendered liquid again to pursue other interests. A conservative estimate of the gain is obtained from the difference in balance sheets in the SG Hambros independent expert report into the merger for Hudson Conway. The gain is valued at \$22 million. As per PBL, 25 per cent of the gain is expected to crowd out other opportunities. The gain is perhaps underestimated which leads to a reduction in the positive effect to the Victorian economy.
- A final issue concerns the amount of capital expenditure the owners of the Casino would invest. In order to capture balance between the return of funds to the shareholders and the maintenance of a high-class complex, we modelled a penalty function for under investing.
- The large amount spent on the buildings in the CEC was a direct result of the monopoly licensing and the requirement to develop the entire area into an attraction in its own right. However the plant and equipment used to operate the casino on a daily basis must maintain its attraction throughout time. It would be hoped that the value of this stock is kept up through maintenance and recapitalisation. To capture this requirement we penalise revenue by 25 per cent of the difference between 1998 plant and equipment values and their current book value (which accounts for the amount invested and depreciation claimed). To induce a long run solution a small incentive (6 per cent revenue bonus) is available to capitalisation in excess of 1998 levels. Both organisations are assumed to maximise enterprise value with respect to capital expenditure, after other financial obligations have been met.
- To obtain the economic benefit of the capital expenditure we assume a multiplier effect of 50 per cent.

6.3 Share registry assumptions

- In order to measure the changes in distribution of incomes across states we analysed the distribution of the shares, both in the Crown and PBL.
- Separate ownership groups of Hudson Conway (including associated interests), Packer Family interests, Institutional owners, Others (Crown) and Undefined (PBL) were identified.
- The interesting feature of the ownership structures was the large number of small Victorian shareholders in Crown, and the large proportion of institutional shareholders in PBL.

- Once the ownership of the shares is identified, we need to assume a rate at which that income is returned to the state. In order to do this we analyse recent expenditure patterns of the parties involved and broad measures of economic activity.
- For the purposes of all calculations the share registry information and share of incomes are fixed at post merger levels. We appreciated that the Packer interests have expressed interest in increasing their post merger share. However whose interests would be displaced is unclear, especially considering the short-term ban on Hudson Conway trading, so it remains unchanged.
- The following table outlines the ownership structure of the two companies pre-merger and of the merged entity. It also includes the proportion of incomes that this assumed to benefit Victoria for each of the groups.

Crown shareholders	Share (%)	Victorian benefit (%)	No. of shares (mil)
Hudson Conway	37	50	369
Packer interests	9	23	90
Institutional	27	36	269
Others (Crown)	27	64	269
Total	100	47.5	996

PBL shareholders	Share (%)	Victorian benefit (%)	No. of shares (mil)
Packer interests	44	23	225
Institutional	50	36	256
Undefined (PBL)	6	36	31
Total	100	30.3	512

Merged shareholders	Share (%)	Victorian benefit (%)	No. of shares (mil)
Hudson Conway	5.6	50	34
Packer interests	38.7	23	233
Institutional	46.5	36	280
Others (Crown)	4.1	64	24
Undefined (PBL)	5.1	36	31
Total	100	32.8	603

6.4 Indirect effects

The indirect effects associated with the loss of strategic opportunities in Victoria are considered, for purposes of this report, to be substantial. This effect is heightened by the structure of the merged organisation and the opportunities it is faced with. The merger will create a substantial increase in cash flows being generated for the PBL organisation, cash flows which Crown would have not been able to access as quickly without the merger. The diversity the PBL organisation will have in its three arms of operation will allow a strong platform for expansion. Technological development is widely accepted as presenting a potentially revolutionary impact on the entertainment industry. Historically PBL has been interested in generating wealth through exceptional management of quality assets. All of these factors suggest a merged organisation will be interested in developing the full potential of the new asset as well as grabbing hold of new opportunities.

The lost strategic advantage operates on two levels, on one hand there will be opportunities that interstate firms will access through PBL that would have otherwise gone to Victorian interests. The second is the loss of indirectly associated activity that would have been created had the Victorian gaming industry remained undiluted. On the first level the loss could be related to something as simple as geographic location. For instance when management is faced with a choice between tenders or proposals of equal value or equal return, they choose the company situated in the same geographic area. More likely will be the loss of opportunity, of all but the largest company in Victoria, to compete on favourable terms. The indirect effect also includes the loss of profitability that Tabcorp and Tattersalls experience due to the declining critical mass in gaming related activity.

On the second level losses can be as significant as losing cooperative arrangements between the company and educational or research institutions. These sorts of arrangements we consider crucial especially in the areas of online gaming and technological development. Due to the large amount of research being required for the such ventures local institutions will be able to provide relevant and timely project development.

The most important point to consider with regard to these effects is that they are not necessarily policy driven from within an organisation. The following assumptions have been made about these effects in our model. Despite this the effects are severe nonetheless.

- The impact of these effects is based upon revenues rather than upon profits.
- The indirect effect each year is defined as 10 per cent of the revenues from online-gaming and 4 per cent of other revenues.
- Significantly the discount rate we choose is high (16 per cent) reflecting the volatile nature of the type of investments and revenues that are foregone.

Appendix A

Spreadsheet notes on calculations

How to recalculate the table in Section 5.2

The table is constructed by taking the organisational specific impacts, and by using the Victorian impact factors, obtaining a correctly weighted Victorian economic impact. After obtaining the impact the merger itself would have, and the impact of the crowding out caused by it, a net benefit is obtained by adding the two together.

If all activity and ownership was centred in Victoria the impact of the merger would be simply the difference between the values presented in Section 5.4 for the Crown scenario and the values presented for the PBL scenario. Similarly if all the activity crowded out were centred in Victoria, the cost of crowding out would be the difference between the Crowded out column and the Crown column. As this is not the case the impacts need to be weighted by the proportion attributable to the Victorian economy.

For example, the benefit of the merger alone in terms of gaming tax receipts is stated to be \$132 million (see Section 5.2). It is obtained by multiplying the PBL tax impact factor (100 per cent) by the NPV of tax receipts under PBL (\$1,973 million), minus, the Crown tax impact factor (100 per cent) by the NPV of tax receipts under Crown (\$1,840 million), allowing for rounding.

The cost of crowding out tax receipts is reported to be \$49 million. This is obtained by multiplying the amount crowded out (Crowded Out minus Crown, \$1,898 million minus \$1,840 million) by the crowding out Victorian impact factor (85 per cent).

Hence the net benefit of the merger to the Victorian economy in terms of gaming tax receipts is obtained by adding a benefit of \$132 million dollars to a loss of \$49 million resulting in a net benefit of \$83 million.

The other figures are obtained in a similar fashion, the only difference being the valuation of the income stream must also include the effects of each of the PBL and the Hudson Conway specific gains. However the ownership of PBL (non-Crown Assets, i.e. pre-merger) and of Hudson Conway differs in composition to either Crown or the merged entity and as such must be adjusted accordingly.

Impact factors used to calculate direct benefit

	Crown no merger (per cent)	Crown & PBL merged (per cent)	Crown + crowded out (per cent)
Enterprise value/income stream	48	33	25
PV of economic benefit of Capex	100	100	25
PV of gaming tax receipts	100	100	85
Economic benefit of overhead costs	90	90	-25
PV of payroll costs	100	100	80

Organisation specific impacts

Net present value	Crown no merger (\$ million)	Crown & PBL merged (\$ million)	Crown + crowded out (\$ million)
Enterprise value	1766	2252	2054
Economic benefit, capital expenditure	975	1012	N/A
Future gaming tax receipts (Victorian)	1840	1973	1898
Activity, overhead costs (Victorian)	750	639	N/A
Activity, payroll costs (Victorian)	2139	2242	2165
Additional value to PBL (non-Crown)	0	196	45
Additional value to Hudson Conway	0	32	8

The figures used for the income stream for Crown and PBL are obtained from shareholder records and are discussed in the Section 6.3. The negative 25 per cent value in the crowding out column of overhead costs needs clarification. As this variable measures only the direct costs incurred by the owners of the casino there is no notion of crowding out. However in the merged case the lower costs are presumably achieved through cost savings and economies with other related parties. This loss is revenue to Victoria is measured directly, however the activity previously undertaken for Crown would occur in at least a small part somewhere else within the Victorian economy. Hence a -25 per cent figure down plays the loss of the overhead cost reduction by assuming 25 per cent of those resources are applied elsewhere.

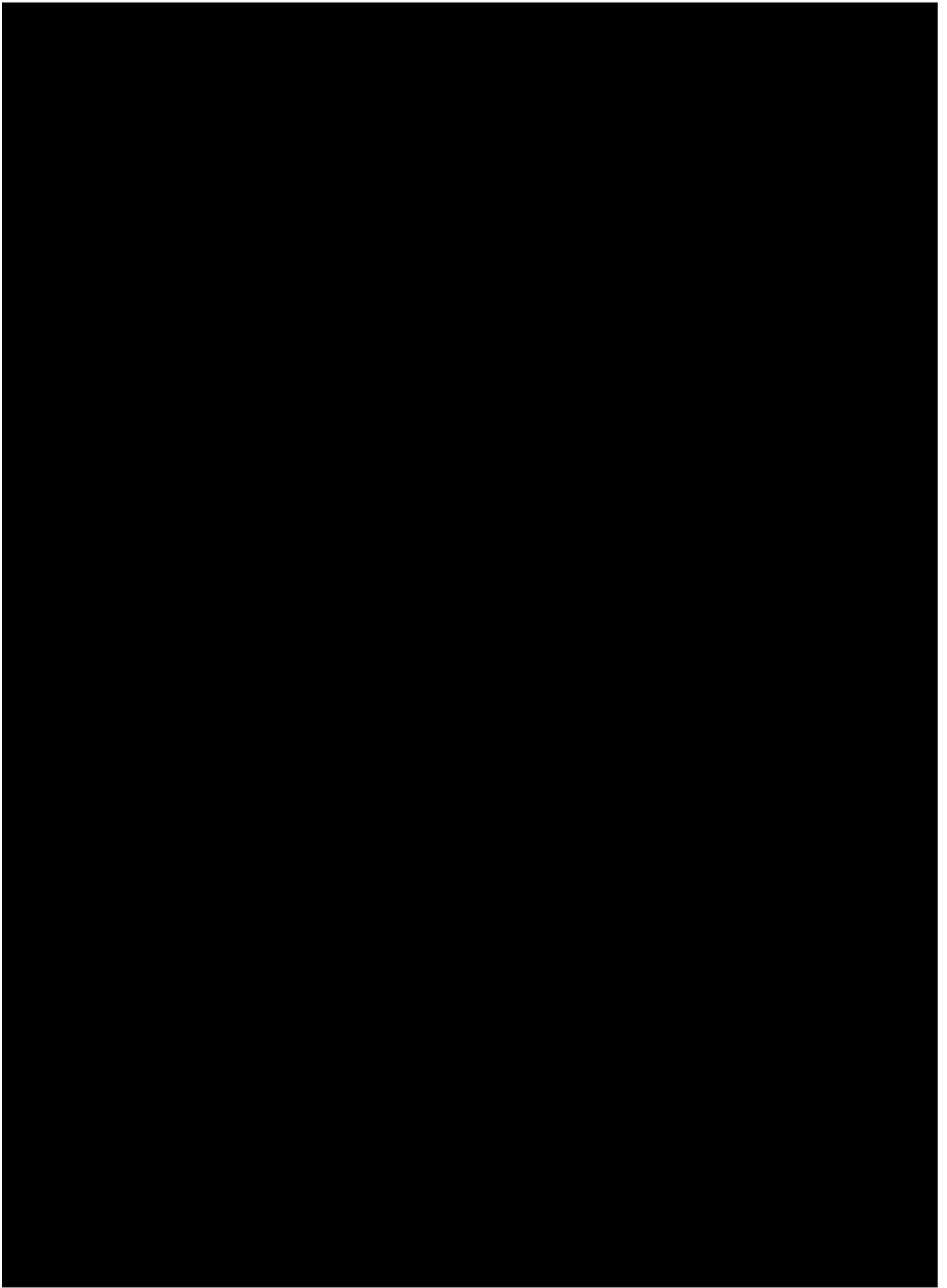
To illustrate the written description of the drivers of revenue growth the actual values used are presented below.

Revenue growth rates (per cent)

Series list

1. Gross state product
2. Visitor growth
3. Market expansion
4. International revenue growth
5. EGM utilisation
6. Local synergies/technology growth (PBL)
7. International market development growth (PBL)
8. Total online gaming market (per cent) – represents the size of the market as a percentage bonus on top of the forecast total Australian gaming expenditure value.

Series	1	2	3	4	5	6	7	8
2000	4.0	2.0	0.5	7.0	2.0	0.9	0.4	0.7
2001	0.3	2.0	0.5	2.6	2.0	0.9	0.4	1.3
2002	-1.1	0.5	0.5	3.5	1.9	0.9	0.4	2.5
2003	3.3	0.5	0.5	4.2	1.9	0.9	0.4	3.8
2004	2.3	0.5	0.5	3.0	1.9	0.9	0.4	5.0
2005	2.3	0.5	0.5	3.0	1.8	0.9	0.4	6.2
2006	2.3	0.5	0.5	3.0	1.8	0.9	0.4	7.3
2007	2.3	0.5	0.5	3.0	1.8	0.9	0.4	8.1
2008	2.3	0.5	0.5	3.0	1.7	0.9	0.4	8.5
2009	2.3	0.5	0.5	3.0	1.7	0.9	0.4	8.7
2010	2.3	0.5	0.5	3.0	1.7	0.9	0.4	9.0



**THE VICTORIAN CASINO AND
GAMING AUTHORITY**

**IN THE MATTER OF
THE OBJECTS OF
THE VICTORIAN CASINO AND
GAMING AUTHORITY
AND THE
ECONOMIC IMPACT OF
THE PROPOSED
CROWN/PBL MERGER**

.....
**COUNSEL IS BRIEFED TO ADVISE
THE VICTORIAN CASINO AND
GAMING AUTHORITY**
.....

**Counsel: Mr John Barnard QC
Clerk: Dever.
Fee: \$4000 per day
with
Mr Peter Clark
Clerk: John Dever
Fee: \$1800 per day**

Date: 3 March 1999

**Solicitor: Sylvia Grobtuch
Assistant Director, Legal and Legislation
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Counsel is briefed to provide written advice for the Victorian Casino And Gaming Authority (“the Authority”) in relation to the following matter:

Whether the statutory objects of the Victorian Casino and Gaming Authority allow it to examine the indirect economic impact of the proposed Crown/PBL merger, as assessed in the report prepared by National Economics (“the report”), and the general financial implications of the merger.

In examining the report, counsel’s attention is specifically drawn to the table at the top of page 7. That table sets out a summary of both the direct economic benefit and the indirect economic loss predicted to flow from the merger. It is the aspect of the indirect economic loss on which the advice is sought.

Counsel should have regard to section 84 of the *Gaming and Betting Act 1994* which sets out the objects, functions, powers and duties of the Authority as follows:

“ 84. Objects, functions, powers and duties

The Authority has the functions, powers, objects and duties conferred on it under this Act, the Casino Control Act 1991, the Casino (Management Agreement) Act 1993, the Gaming Machine Control Act 1991, the Club Keno Act 1993, the Lotteries Gaming and Betting Act 1966, the Gaming No. 2 Act 1997 or any other Act.

This provision refers to the various provisions of other legislation administered by the Minister for Gaming, which impose specific statutory powers and functions on the Authority or contain a general purpose or objects provision. For the purposes of this matter, it appears relevant only to look at the following provisions of the Casino Control Act 1991:

140. Object of the Authority

The object of the Authority is to maintain and administer systems for the licensing, supervision and control of casinos, for the purpose of--

- (a) ensuring that the management and operation of casinos remains free from criminal influence or exploitation; and
- (b) ensuring that gaming and betting in casinos is conducted honestly; and
- (c) promoting tourism, employment and economic development generally in the State.

141. Functions of the Authority

- (1) The Authority has the following functions--
 - (a) such functions as are necessary or convenient to enable it to achieve its objects; and
 - (b) such other functions as are conferred or imposed on it by or under this or any other Act or law.
- (2) Without limiting its other functions, the Authority --
 - (a) must oversee the operation and regulation of casinos;
 - (ab) must consider any system of controls and administrative and accounting procedures proposed by the Director to ensure that the taxes, charges and levies payable under this Act are paid and must approve or reject the system;
 - (b) must advise the Minister concerning policy in relation to supervision and inspection of casinos;
 - (c) must do all things it is authorised or required to do under this Act .

In examining this matter, Counsel may wish to consider the following arguments:

1. Section 140 of the Casino Control Act provides that it is an object of the Authority to “maintain and administer systems for the licensing, supervision and control of casinos, for the purpose of.....promoting.....economic development generally in the State.”.

This suggests that the Authority’s role is confined to looking at economic development in the context only of maintaining and administering systems for the licensing, supervision and control of casinos.

To look at the indirect economic loss predicted to flow from the merger is outside the scope of the Authority’s role. This is because the matters considered in the report, in particular the cost to other gaming industry operators, including Tabcorp and Tattersall’s, who “would invest in newly developing gaming opportunities” (see foot of page 2 of the Executive Summary of the report) do not have any bearing on systems for the licensing, supervision and control of casinos.

2. The most significant of these “newly developing gaming opportunities” is the provision of interactive or internet gambling. This activity is not yet

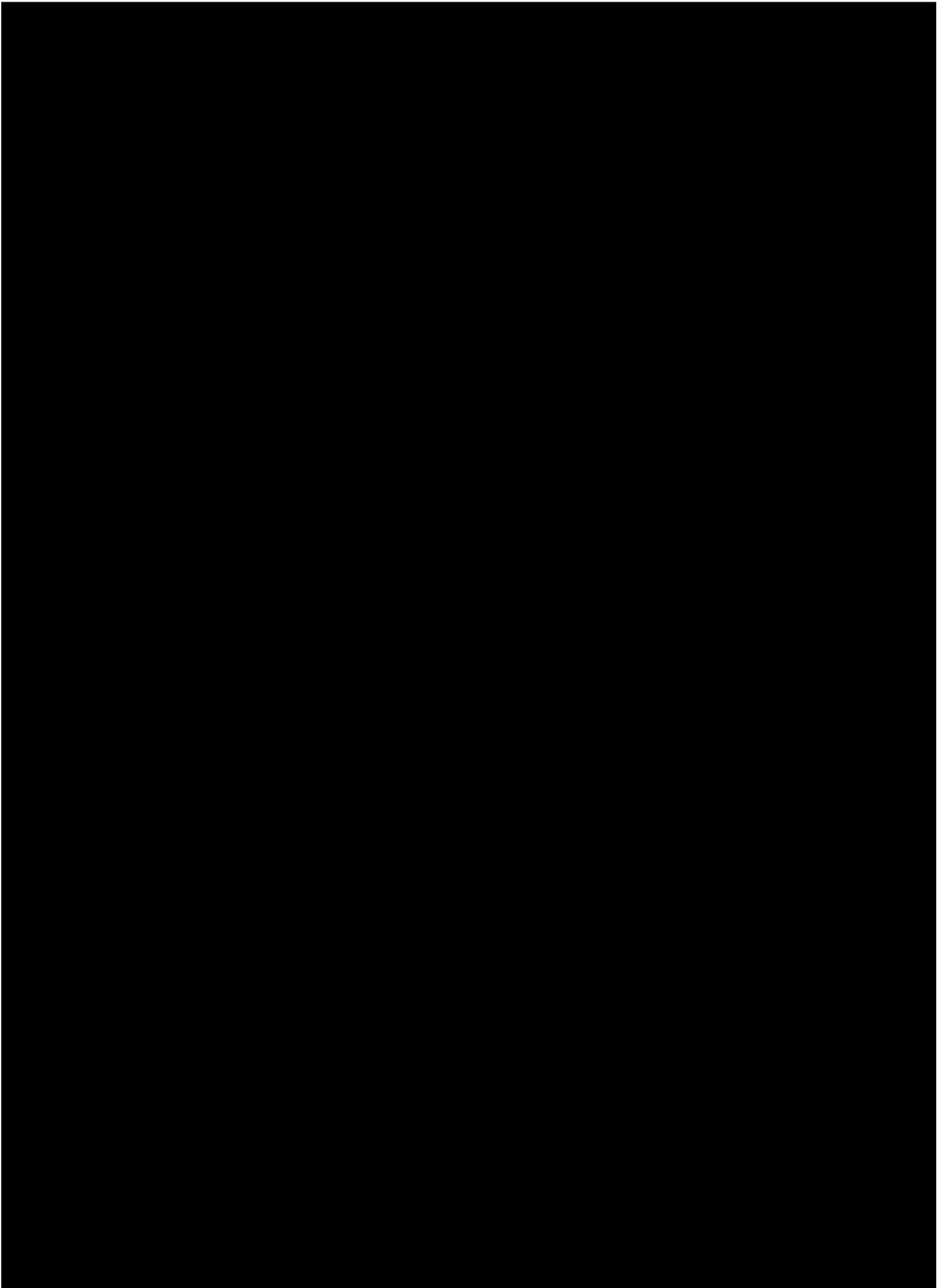
authorised under Victorian law. Arguably, then, the Authority may not even take it into account in making a decision, as it is currently an illegal activity in Victoria.

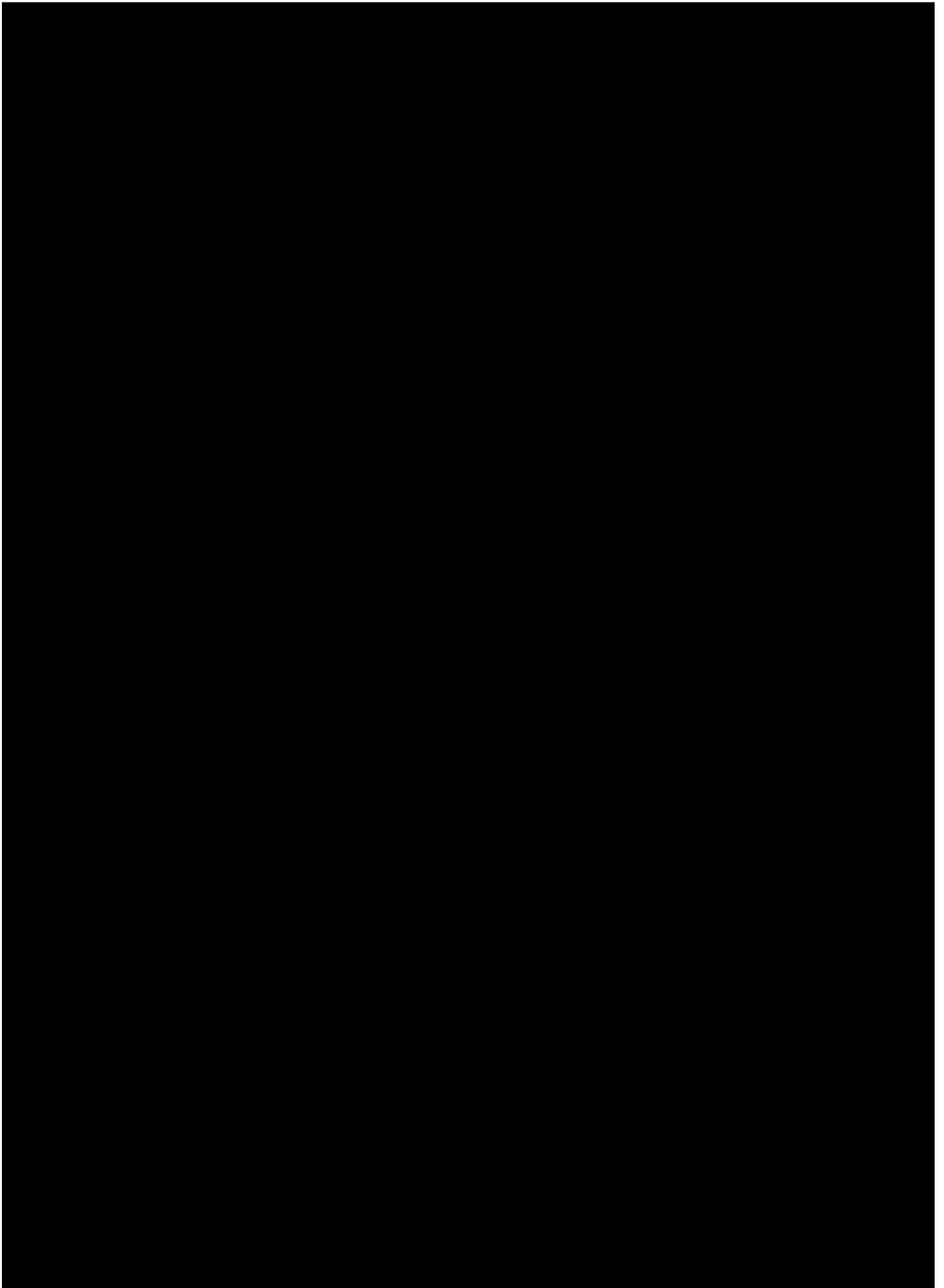
Section 7 of the Gaming No. 2 Act 1997 provides that that all lotteries ie forms of gambling are prima facie unlawful. However, section 8 of that Act provides an exception to this general prohibition by stating that, if a form of gambling falls within the authorisation provided by one of the pieces of gambling legislation, it is lawful. It follows that, if interactive gambling as a form of gambling is not specifically provided for under our legislation, then it is prohibited as an unlawful lottery.

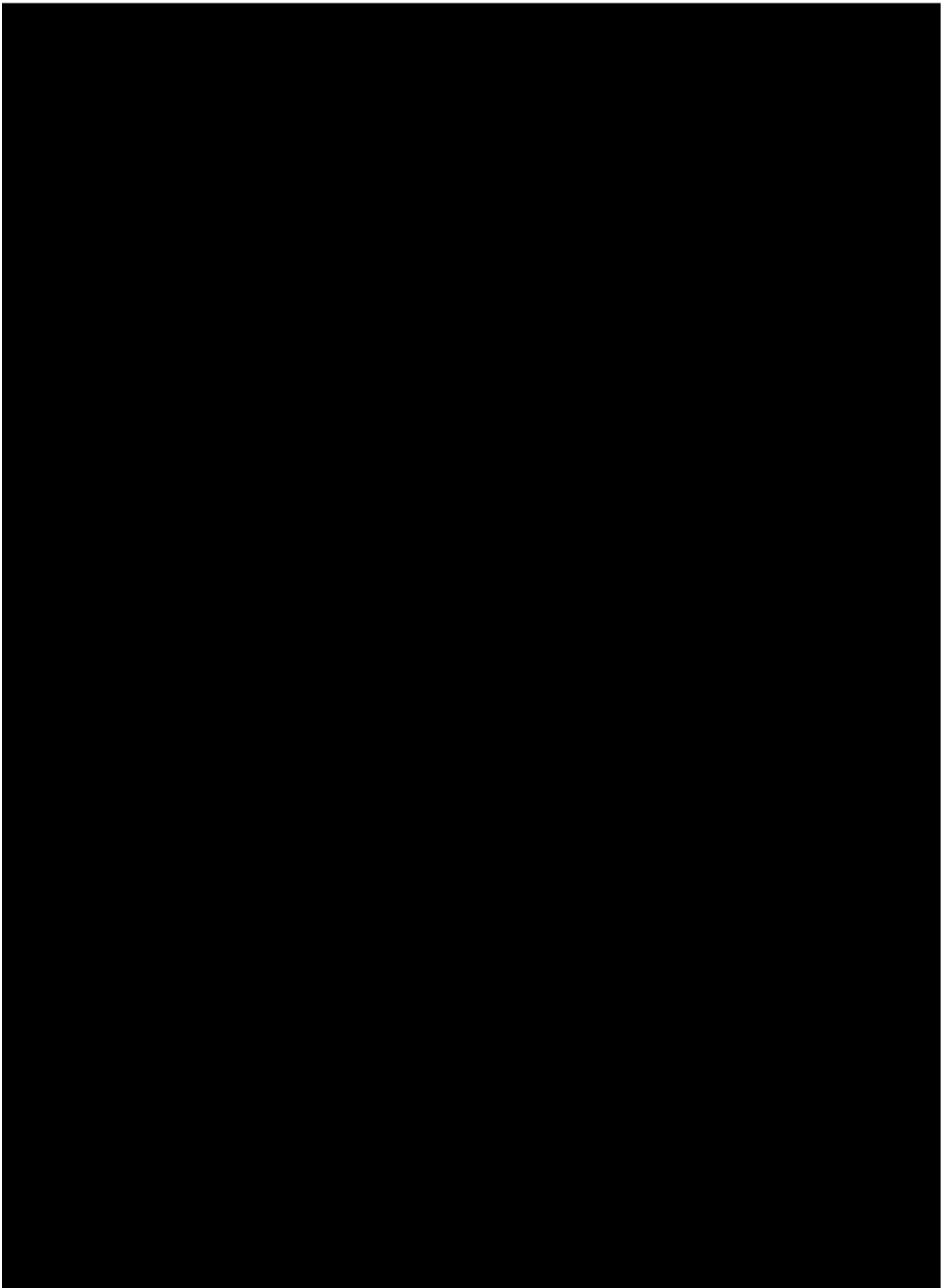
Currently, Tabcorp's wagering (& bookmaking), bookmakers and Tattersall's Lotteries can be offered interactively (they already are over the telephone and Tatts lotteries over the Internet) and it may be possible for Crown to offer its games over the internet from within the Casino. However, the offering of electronic gaming machine games is clearly designed to be venue based and so the offering of those games over the internet is at present unlawful. Authorising this form of interactive gambling in Victoria would require specific authorisation by an Act of Parliament. No such legislation has yet been even introduced into the Victorian Parliament. For a provider of that form of gambling to provide it legally would further require that person to obtain some form of licence under the legislation.

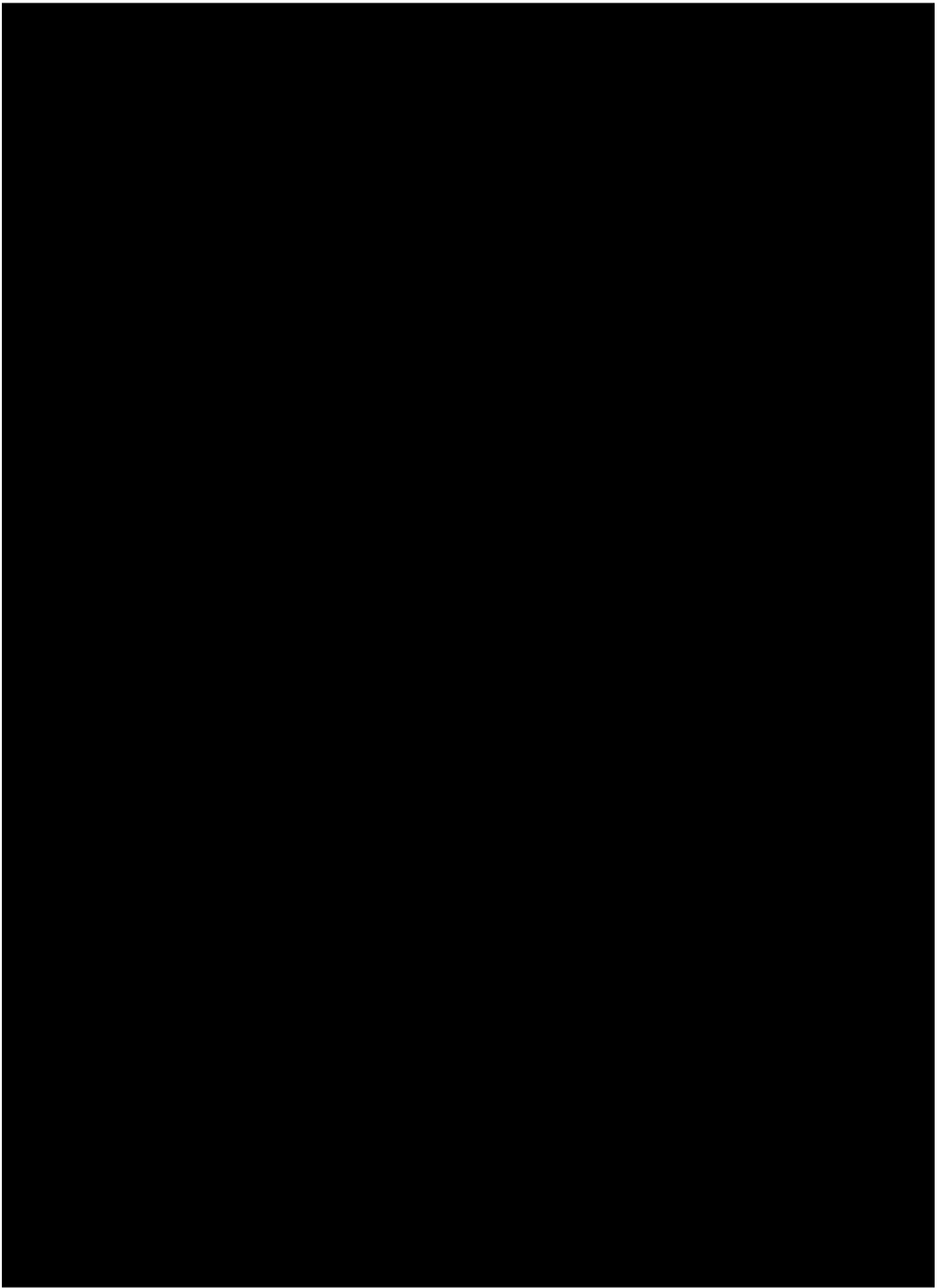
In addition, in order to be able to provide interactive gambling services over the internet (but not from within the casino), Crown Limited ("Crown") may have to apply to the Authority under the Casino Agreement to approve that activity as ancillary or complementary to its current business. If the Authority did not grant that approval, then Crown would have to ask the Authority to change that covenant in the Casino Agreement (the single purpose company covenant) and allow it to engage in an activity which is not ancillary or complementary to its current business.

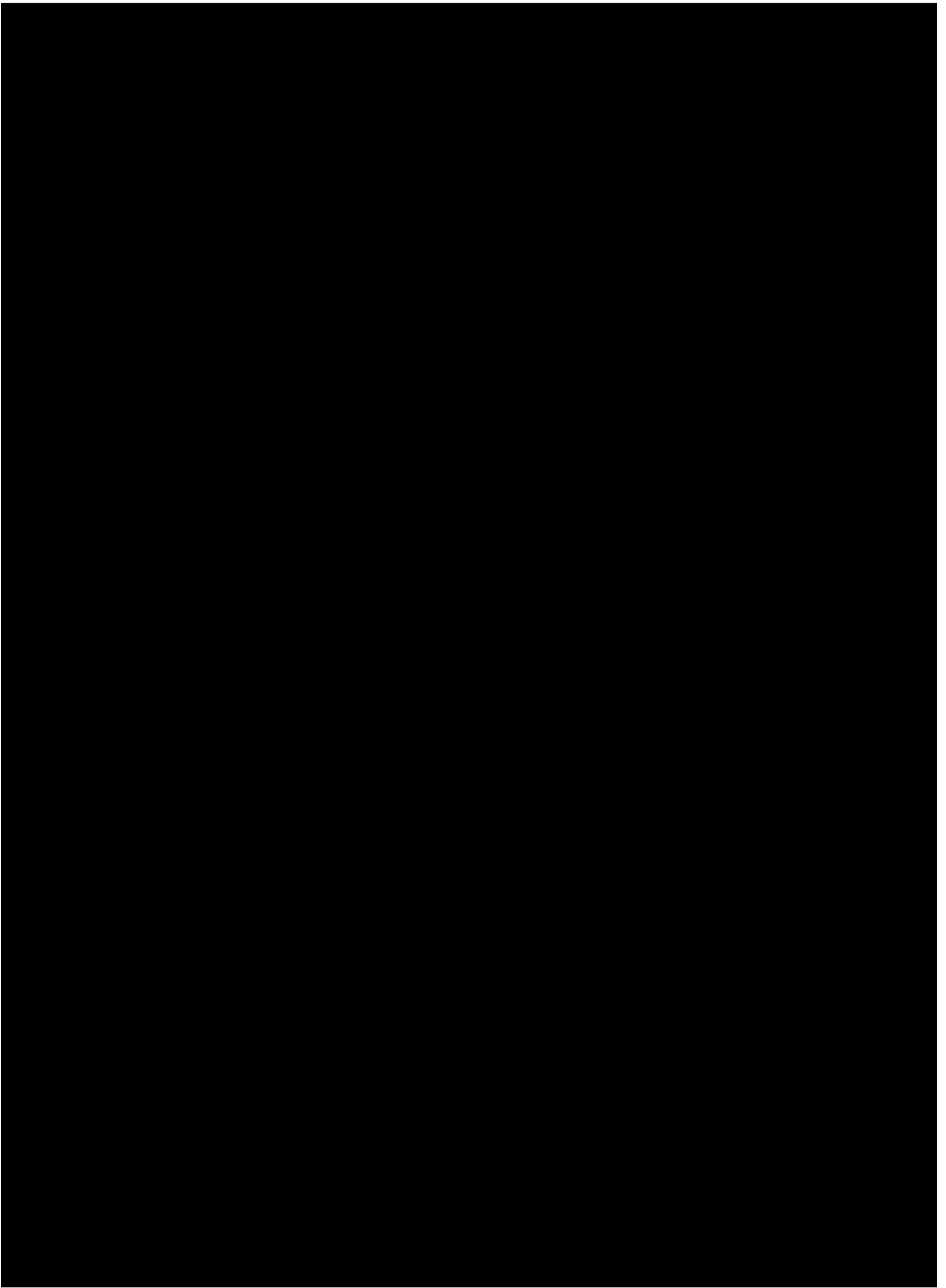
3. Section 140 of the Casino Control Act refers to the Authority's objects as including "promoting.....**economic development generally** in the State.". It is arguable that the situation of other gaming industry operators, such as Tabcorp and Tattersall's is not caught by those words, as that situation concerns the economic development of specific entities, not the general situation in the State.

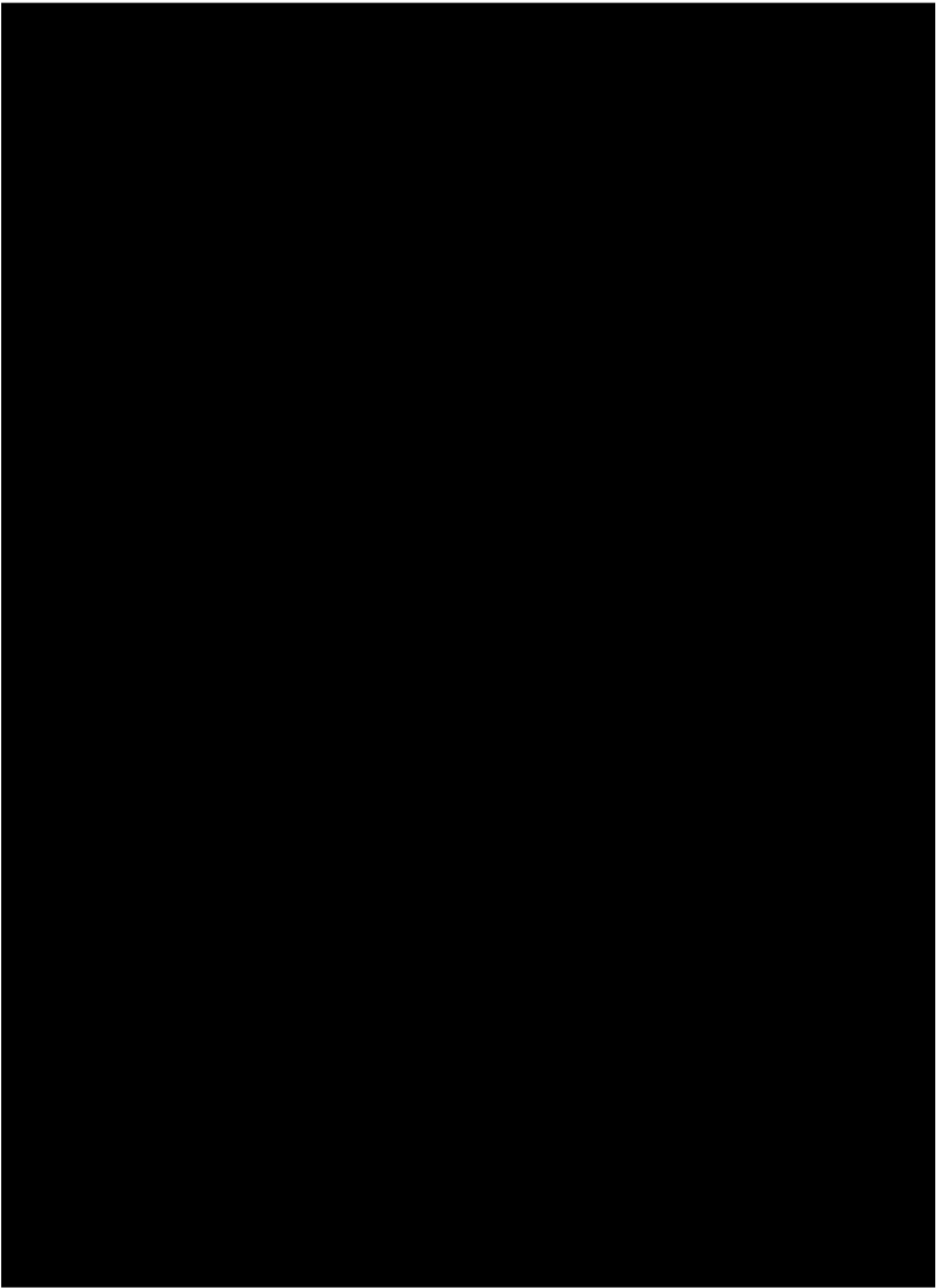


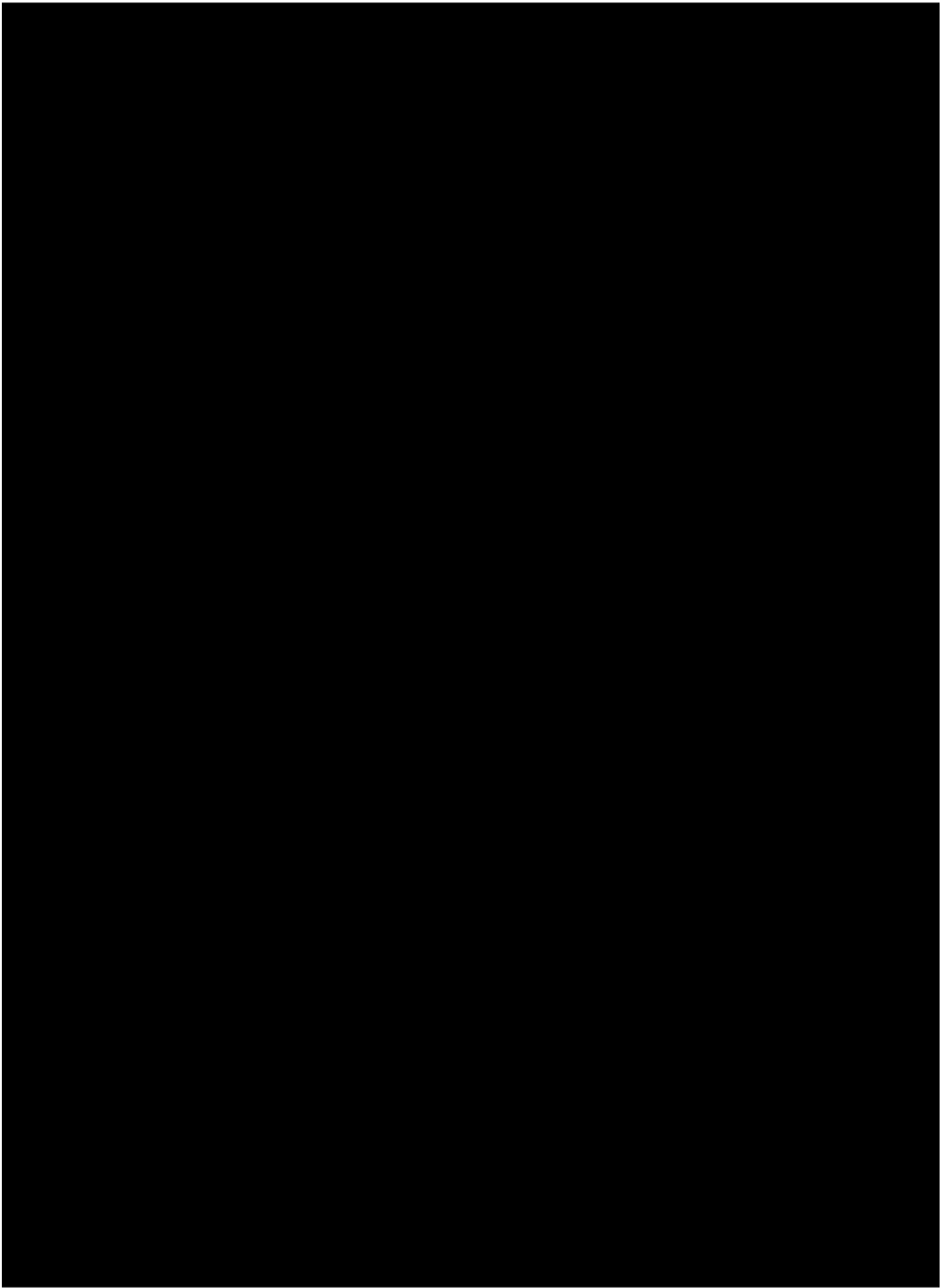


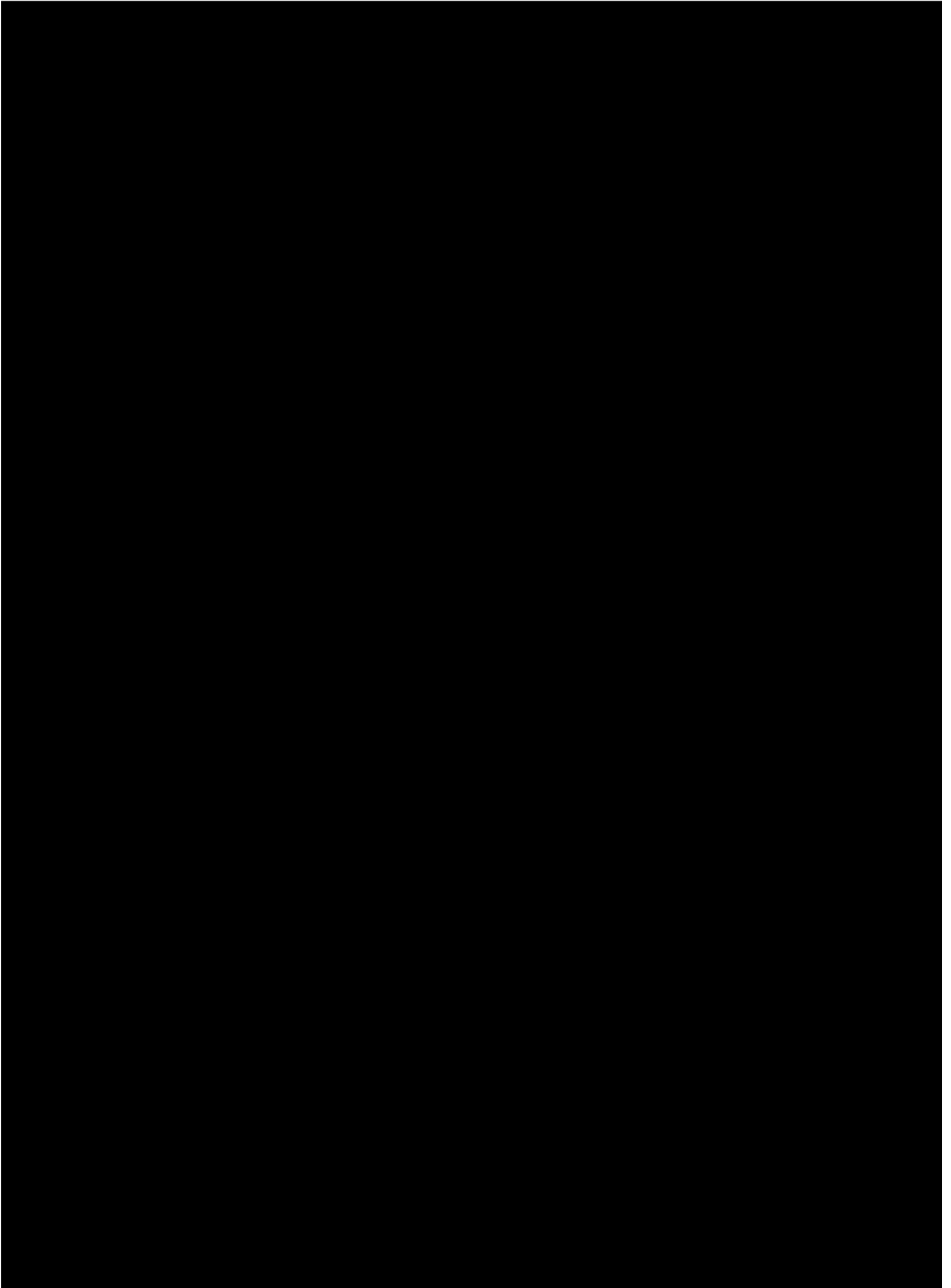


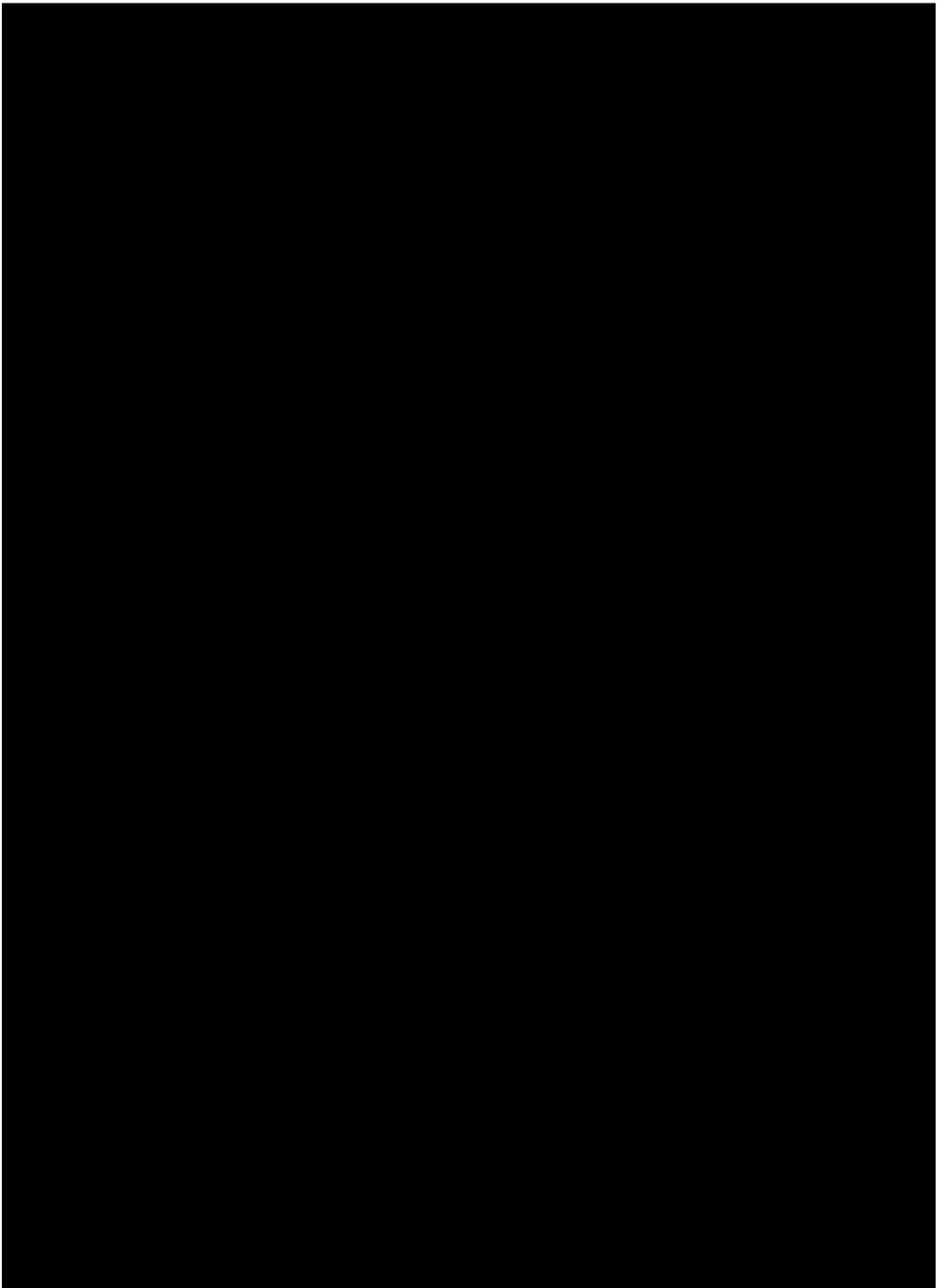












PROPOSED CROWN/PBL MERGER

Supporting Paper No. 2

Refinancing

PURPOSE

1. To brief the Authority concerning the proposed refinancing of Crown Limited. Both Crown and PBL have requested that this matter be considered by the Authority simultaneously with its consideration of the proposed merger of Crown with PBL, as they regard it as an integral part of the proposed merger.

PROPOSAL

2. On 5 March 1999, PBL submitted a revised refinancing proposal, (refer to **Attachment 2-A**). Under the proposal, PBL will inject \$1,000 million of new equity into Crown, which will be used to retire most of Crown's secured debt. However, some of the proposed changes from the current arrangements cause concern.
3. The main cause of concern is the proposal that the State would give up its fixed and floating charge, in exchange for a \$100m letter of credit, which would incorporate the existing \$25m letter of credit for Liquidated Damages relating to any delays with the Second Hotel.
4. Other significant proposed changes include the termination of the Master Security Agreement ("MSA") and the Site Lease Supplemental Agreement ("SLSA"). The equity injection was increased to \$1.0 billion from the previously proposed \$800m. Part of the additional funds were to be used by Crown to facilitate the conversion of the Converting Preference Shares ("CPS") into ordinary shares, following their purchase from Hudson Conway.

COMMENTS

5. Senior Treasury Officers and an Officer of the Victorian Government Solicitor ("VGS") indicated to Crown/PBL that they were not prepared to accept any diminution in the State's security position. In particular, they were not willing to recommend that the State give up its fixed and floating charge. However, they recognise that circumstances have changed materially since the charge was put in place.
6. There were also some concerns regarding the size of the proposed \$100m letter of credit, its initial term of only two years and the mechanisms for ensuring its ongoing replacement. The Officers also felt that the State would want to retain the \$25.0m letter of credit to cover Liquidated Damages as a separate security, because it is in the legislation (Management Agreement).
7. On the positive side, they recognised that there are benefits to the State of the proposed refinancing. In particular, the liquidity of a letter of credit compared with a fixed and floating charge.

Proposed Crown/PBL Merger
Supporting Paper No. 2—Refinancing

7. On the positive side, they recognised that there are benefits to the State of the proposed refinancing. In particular, the liquidity of a letter of credit compared with a fixed and floating charge.
8. The offer by PBL of an additional covenant in favour of the Authority, that the PBL Group would not exceed a gearing ratio of 60% while the cross guarantee is in place was also seen as additional security for the State. This in effect mirrors clause 22.1(m) of the Casino Agreement which would still apply to Crown.
9. On 15 March 1999, the Minister for Gaming wrote to the Chief Financial Officer of PBL, Mr Geoff Kleemann, regarding the proposed refinancing of Crown (refer to **Attachment 2-B**). The Minister advised PBL that the refinancing proposal “is primarily a matter for the Authority”. He also stated that he wished to ensure “that the security provided to the State is not diminished” and based on advice that he had received, “the proposal as framed is not acceptable to the State”.

FURTHER AMENDED PROPOSAL

10. In response to the State’s concerns, PBL submitted a number of proposed changes on 22 March 1999. A summary of these changes is provided in **Attachment 2-C**. Details of the proposed changes are contained in an e-mail from PBL’s lawyer Mr John Angus at Freehill Hollingdale & Page (refer to **Attachment 2-D**). The documentation has been amended to reflect these proposed changes.
11. As set out in **Attachment 2-C**, the main changes from the proposal of 5 March 1999 are as follows:
 - (a) \$25m Letter of Credit for Liquidated Damages (Second Hotel) remains.
 - (b) A separate \$100m Letter of Credit is provided to secure unpaid casino taxes.
 - (c) A mechanism will be put in place to ensure that the \$100m Letter of Credit is replaced at least six months prior to its expiry.
 - (d) PBL will incorporate into its loan document a priority secured position for the State covering any unpaid taxes with a cap of \$100m.

FURTHER COMMENTS

12. The changes proposed by PBL on 22 March 1999, appear to go a long way towards adequately addressing the State’s initial concerns. DTF officers have indicated they are prepared to recommend the amended refinancing proposal to the Minister.
13. The Authority’s lawyers, Maddock Lonie & Chisholm, are reviewing the proposed refinancing documents. They have been instructed to ensure that any clauses in the MSA or the SLSA that are still relevant, are put into the new agreements, if it is agreed that the MSA and SLSA can be terminated.



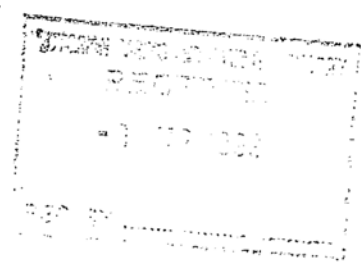
Attachment 2-A

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 24 ARTARMON RD
 WILLOUGHBY
 POSTAL ADDRESS
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 SYDNEY NSW 2001
 AUSTRALIA
 PH 02 9906 9999

5 March 1999

Mr Bill Lahey
 Director of Gaming and Betting
 Victorian Casino and Gaming Authority
 Level 5/35 Spring Street
 MELBOURNE VIC 3000

07087



Dear Sir

CROWN REFINANCING PROPOSAL

Further to your correspondence dated 25 February 1999, addressed to Crown Ltd, and their reply dated 26 February 1999 I am pleased to provide the Authority with final documentation for the proposed refinancing of Crown Ltd.

Publishing & Broadcasting Limited would be pleased to discuss this submission with you, should you so desire, at the earliest opportunity. The primary contact should be with:

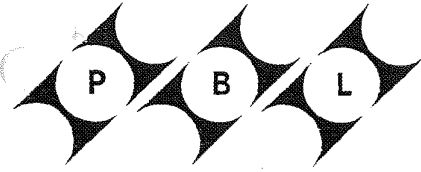
Mr Nick Falloon ph: [REDACTED] fx: [REDACTED]
 Mr Geoff Kleemann ph: [REDACTED] fx: [REDACTED]

The Annexures (A – F) referred to in the attached Refinancing Proposal will be hand delivered to your office this afternoon.

Yours sincerely

[REDACTED SIGNATURE]

Geoff Kleemann
 Chief Financial Officer



**PUBLISHING AND
BROADCASTING
LIMITED**

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Crown Merger with PBL - Refinancing Proposal

1 Introduction

As part of the proposed merger between Publishing and Broadcasting Limited ("PBL") and Crown Limited, which has now received overwhelming support from their respective shareholders (the "Merger"), PBL proposes to refinance Crown's existing secured bank debt using unsecured facilities which PBL has or will obtain from its existing banking group. Those securities can then be released. Further, PBL is seeking herein to have the State Charge similarly released in exchange for a \$100 million letter of credit (with an unlimited top up obligation) in favour of Victorian Casino and Gaming Authority ("the Authority") and the State of Victoria (the "State"). It is also proposed that the obligations of the Authority and the State under the Master Security Agreement and related agreements be substantially discharged.

This memorandum describes PBL's refinancing proposal (the "Refinancing Proposal") and seeks the necessary consents of the Authority and the State to the arrangements. It also annexes the documentation needed to implement the proposal, including financing documents which have been substantially approved by or on behalf of the applicable banks.

2 Outline of Proposal

- 2.1 To reduce Crown's debt servicing costs, PBL proposes to refinance upon Merger all of Crown's financial indebtedness that is secured over Crown group assets (being \$586 million as at 31/12/98) and to repay the first series of unsecured notes (being \$150 million) at the earliest opportunity.
- 2.2 From Crown's view point, that existing indebtedness will be retired by an injection of approximately \$800 million in equity from PBL through its subscription for ordinary shares in Crown. In addition, Crown will be entitled to a discharge of all the mortgages and charges currently granted to its existing secured financiers.
- 2.3 PBL will fund this equity injection with corporate borrowings from its existing banking group (the "PBL Banks"). The PBL Banks provide funding to PBL Group on an unsecured basis, namely it is supported purely by a group guarantee from PBL and its subsidiaries together with an undertaking not to encumber group assets and other financial covenants (details of which covenants are set out in annexure A).

- 2.4 The PBL Banks have approved that funding subject to the following conditions:
- the Crown Group being released (upon repayment) from the current securities given to Crown's existing banks and instead joined to the PBL Group guarantee in favour of the PBL Banks; and
 - release of the State Charge so that the Crown Group assets are unencumbered.
- 2.5 In exchange the Authority and the State will receive the benefit of:
- a \$100 million standby Letter of Credit to secure unpaid taxes, any liquidated damages payable in respect of the South Tower and Lyric Theatre and any other Crown liability under the casino licence, casino and management agreements and other State Documents. Although the initial Letter of Credit will have a face amount of \$100 million, there will be an **unlimited** obligation to provide further Letters of Credit on each occasion that the Letter of Credit is called and there is no limit on the number of claims that the State can make under the Letters of Credit.
 - a Deed of Undertaking and Guarantee from PBL in relation to obligations owed by Crown. In this way the Authority and State also have the benefit of a PBL guarantee and other undertakings which are given to the PBL Banks. This includes an undertaking from PBL not to allow its "Total Liabilities" to exceed 60% of the "Total Assets" of the Merged group.
- 2.6 It is also proposed that the Authority and the State will be discharged from their obligations under the Master Security Agreement and Site Lease Supplemental Agreement in exchange for significantly less onerous obligations to be incorporated in Letters of Undertakings to be issued to the PBL Banks.

3 Benefits to the Authority and State

The Refinancing Proposal will substantially improve the position of the Authority and State. These benefits include:

- significantly improved security for payment of taxes and other amounts owing by Crown, in that a standby letter of credit is liquid and can be called upon at any time at the option of Authority. This is in contrast to the enforcement of a mortgage or charge which may require disposal of the casino assets. Further, the credit rating of the issuing bank will substantially exceed the existing credit of Crown.
- the performance of Crown's obligations under the State Documents will be guaranteed by the resources of PBL, which is a more substantial and financially secure entity with strong liquidity and diversified interests and investments. In particular, whereas the net equity of Crown is (as at 30/6/98) only \$817 million (with a debt to equity ratio of 119%) the net equity of the Merged group will be approximately \$2,550 million (with a debt to equity ratio of 79%), and whereas Crown's interest cover is currently only 2.4 times, the initial interest cover of the Merged group following the proposed refinancing will be 4.3 times.
- Crown's undertaking to the Authority to maintain a gearing ratio of less than 60% ("VCGA Gearing Ratio") will be enhanced from "borderline compliance" to comfortable compliance in that (as at 30/6/98) the VCGA Gearing Ratio for Crown is 60% whereas following the Merger and proposed refinancing it will be 51% for the Merged group.

- as a result of the proposed refinancing the Casino assets will no longer be encumbered and the Authority and State's obligations under the Master Security Agreement will be substantially discharged.

4 Existing Crown secured financing

4.1 Crown currently has 4 secured credit facilities each dated 30 July 1997 with or lead by Australia and New Zealand Banking Group Limited ("ANZ") and/or Bank of America or its Australian subsidiary ("BA"), the substantive covenants of which are primarily set out in the Senior Facilities Deed:

- \$650 million Bill Facility Agreement with ANZ, BA and other syndicated banks;
- \$36 million Bill Facility Agreement with ANZ dated 14 October 1997;
- \$30 million Overdraft Facility Agreement with ANZ; and
- \$25 million Letter of Credit Facility Agreement with BA,

(the "Existing Secured Facilities").

The indebtedness under these facilities as at 31 December 1998 is \$586 million.

4.2 The above facilities are secured by the following mortgages and charges in favour of ANZ Capel Court Limited as security agent (the "Security Agent") for the relevant financiers:

- fixed and floating charge from Crown Limited over all its assets;
- mortgage of lease from Crown Limited over the Site Lease;
- real property mortgages from Crown Limited and Melbourne Live Pty Limited over the freehold land upon which the Casino development has been and is to be constructed; and
- equitable share mortgage from Crown Management Holdings Pty Limited over shares in Crown Management Pty Limited,

(each an "Existing Crown Security" - more fully described in annexure F).

The basis upon which the Security Agent holds the Existing Crown Securities and the respective rights of each secured financier are set out in the Security Sharing Deed dated 30 July 1997.

5 Repayment of Existing Secured Facilities and other indebtedness

5.1 Following the Merger, PBL proposes to redeem and/or cancel each of the following:

- \$741 million Existing Secured Facilities (described above); and
- \$150 million unsecured (series 1) notes.

5.2 As part of the Merger, PBL is to acquire from Hudson Conway Limited all of the Converting Preference Shares ("CPS") on issue from Crown and Hudson Conway's entitlement ("CPS Entitlement") to receive further CPS based upon this year's financial performance of Crown. PBL propose, as part of the refinancing of Crown, to eliminate the debt service costs to Crown of the CPS by arranging for their conversion into ordinary shares.

- 5.3 To enable Crown Limited to pay out the above and to convert the CPS, PBL will need to subscribe for up to \$1 billion of ordinary shares in Crown Limited. For this purpose, the written approval of the Authority is requested under clause 22.1(f) of the Casino Agreement and Article 2.7 of Crown's constitution.
- 5.4 PBL will fund the above through its unsecured corporate borrowing facilities set out in Annexure A (the "PBL Bank Facilities"). As part of this funding the PBL Banks will require that Crown Limited and certain of its subsidiaries join the PBL Group guarantee by signing the New Guarantor Deeds set out in Annexure B.
- 5.5 However, PBL will also extend to the Authority and the State the benefit of a PBL guarantee to support the obligations owed by the Crown Group to the Authority and the State under the casino licence, the casino and management agreements and the other State Documents. Similarly, PBL will provide an additional covenant in favour of the Authority and State not to allow the "Total Liabilities" to exceed 60 percent of the "Total Assets" of the PBL Group (in effect mirroring clause 22.1(m) of the Casino Agreement, which will still apply to Crown). These are set out in the Deed of Undertaking and Guarantee in Annexure C.

6 Release of Securities

- 6.1 Upon repayment of the Existing Secured Facilities the Security Agent will release and discharge all of the Existing Crown Securities. The Security Sharing Deed will then also be terminated because, upon the release of the securities, it will cease to have any operation.
- 6.2 The PBL Banks, as unsecured creditors, prohibit the PBL Group from (subject to limited exceptions) entering into any secured facilities or otherwise encumbering their assets. Following the Merger the PBL Banks will therefore require that Crown's assets be unencumbered so as to be available to the PBL Banks equally with all other unsecured creditors of Crown.
- 6.3 For this reason PBL is also seeking the release of the State Charge so that the assets of Crown Group will be free of any encumbrance.
- 6.4 In exchange for the release of the State Charge, PBL will procure the issue of a Letter of Credit for the benefit of the Authority and the State in an amount of \$100 million to cover unpaid taxes, liquidated damages and any other amounts owing under the State Documents. This Letter of Credit will be in the same form as, and will replace, the existing \$25 million Letter of Credit held by the State (in respect of liquidated damages) and will be issued under the LC Facility Agreement set out in Annexure E. As noted above there are real advantages to the Authority in having such a highly realisable and credit enhanced form of security.
- 6.5 Although a \$100 million Letter of Credit should provide ample coverage for any unpaid taxes, in the event it is partly called upon then PBL will 'top up' the Letter of Credit through the provisions of an additional or varied Letter of Credit. Provision has been made for this in the LC Facility Agreement (see annexure D) and a corresponding undertaking from PBL in clause 4 of the Deed of Undertaking and Guarantee (see Annexure C).
- 6.6 The agreement of the Authority and the State to the release of State Charge and the mechanism for its exchange for the above Letter of Credit will be also set out in clause 4 of the Deed of Undertaking and Guarantee from PBL set out in Annexure D.

7 Master Security Agreement and Site Lease Supplemental Agreement

7.1 With the release of the Existing Crown Securities much of the Master Security Agreement dated 30 July 1997 (MSA) and Site Lease Supplemental Agreement (SLSA) dated 30 July 1997 will no longer be relevant.

7.2 In particular, the provisions dealing with:

- priority between the State Charge and Existing Crown Security (in the MSA); and
- enforcement of those securities,

which are central to both agreements will cease to have any operation upon release of the securities. This is consistent with clause 23 of the MSA.

7.3 Given this, PBL and Crown have suggested to their banks that the Authority and the State be released from their obligations under the MSA and SLSA in exchange for a Letter of Undertaking in the form of Annexure E containing significantly less onerous obligations. The form of that Letter of Undertaking has been approved by ANZ as agent for the PBL Banks and the banks' lawyers.

7.4 Similarly, the consent of the Authority and the State is sought to the termination of the MSA and SLSA and their replacement with Letters of Undertaking to be issued to the PBL Banks on the conditions set out in clause 4 of the Deed of Undertaking and Guarantee: see Annexure C.

8 Summary of requested consents

In light of the above the following approvals and consents are requested from the Authority and State to facilitate implementation of the Refinancing Proposal:

- written approval to issue of \$1 billion ordinary shares in Crown Limited under clause 22.1(f) of the Casino Agreement and Article 2.7 of Crowns constitution;
- consent to discharge of Existing Secured Facilities and Existing Crown Securities under clause 32 of the Casino Agreement and clause 25.2(d) of the Management Agreement;
- consent to replacement of Letter of Credit under clause 18 of Management Agreement; and
- consent to release of the State Charge.

If the Refinancing Proposal is acceptable to the Authority and State then, it may be appropriate to consider some consequential amendments to other existing agreements between Crown and the State to reflect, for instance, the discharge of the Master Security Agreement.

9 FINANCIAL BENEFITS OF REFINANCING

This section sets out how the Merger and above Refinancing Proposal will impact positively on the financial position of both Crown and the Merged group

9.1 Impact on financial position of Merged group

The Merged (Crown/PBL) group significantly enhances Crown's financial position when considered in the context of a merged group versus Crown as a stand alone operation. Primarily, the expanded group has significant improvements in financial ratios and greatly improved liquidity.

The debt to equity ratio moves from 119% to 79%. In addition, Crown's undertaking to the Authority to maintain a gearing ratio of less than 60% is enhanced from "borderline compliance" to comfortable compliance. Further, Crown's existing creditors and lenders are comforted in the additional liquidity and cashflow that results from the expanded group. Overall borrowing margins are thus greatly reduced as a consequence of the reduced risk profile. This translates to greater earnings to both Crown and the merged group.

	Crown June 98 \$000	Post Merger PBL * June 98 Proforma \$000
Total Assets	2,067	5,205
Net Borrowings	971	2,019
Total Liabilities	1,250	2, 655
Shareholders Funds	817	2,550
VCGA Gearing Ratio	60%	51%
Debt to Equity Ratio	119%	79%

* Grant Samuel Independent experts report

	Crown June 98 \$million	Post Merger PBL * June 98 Proforma \$million
EBITDA	109.9	543.0
Interest costs	72.1	126.7
Interest cover	1.5	4.3

* NM Rothschild & Son: Independent Experts Report

From Crown's view point the Merger and Refinancing Proposal will significantly improve both:

- Crown's gearing;
- Crown's cash flow position.

The details of these improvements are set out below.

9.2 Impact on Crown's gearing

As outlined above, PBL intends to inject substantial capital into Crown to significantly reduce its level of debt through:

- repayment and cancellation of \$741 million Existing Secured Facility;
- redemption of \$150 million unsecured (Series 1) notes; and
- conversion of CPS on issue and CPS Entitlement (following their purchase from Hudson Conway).

The following table sets out the financial position of Crown before and after the proposed refinancing and also reflects the removal of the CPS.

31 December 1998 \$000s	Pre Merger	Proforma Post Refinance (with CPS)	Proforma Post Refinance (eliminating CPS)
Total Assets	1,997,252	1,997,252	1,997,252
Liabilities			
Borrowings	936,000	200,000	200,000
CPS and leases	88,605	88,605	23,498
Other	127,355	127,355	127,355
Total Liabilities	1,151,960	415,960	359,853
Shareholders Funds	845,292	1,581,292	1,646,399
VCGA Gearing Ratio	57.7%	20.8%	17.6%
Debt to equity ratio	121.2%	18.3%	13.6%

By any standard, the level of debt maintained by Crown after implementing the Refinancing Proposal is extremely conservative. To put this in context, the following are relevant ratios for a selection of similar companies:

For year ended 30 June 1998	Total Liabilities to Total Assets	Debt to Equity %
Crown	17.6	13.6
Jupiters	35.5	27.5
Burswood	42.2	48.4
Star City Holdings	63.2	146.5
Village Roadshow	48.5	48.2
Fairfax (John)	45.6	58.4
Seven Network	65.5	125.8
News Corporation	46.8	35.2

9.3 Impact on Crown's cash flow position

Earnings before interest, tax, depreciation and amortisation ("EBITDA") is generally regarded as being the equivalent of cash flow. EBITDA is then available to meet all finance costs, debt repayment, capital expenditure, tax and working capital requirements.

As a consequence of implementing the Refinancing Proposal, a considerably smaller proportion of Crown's EBITDA will be committed to interest payments, significantly reducing the risk profile of Crown. For example, based on Crown's results for the six months ended 31 December 1998, the following table shows the interest cover of Crown:

Six months Ended 31 December 1998	Actual Smillion	Proforma - After Refinancing Smillion
EBITDA	110.8	110.8
Interest costs	46.9	12.0
Interest cover	2.4	9.2

Again, with such an interest cover ratio, Crown would be financed in a very conservative manner. To put this in context, the following are relevant interest cover ratios for a selection of companies:

	Interest Cover Ratio
Crown	9.2
Jupiters	7.2
Burswood	8.2
Star City Holdings	7.9
Village Roadshow	3.1
Fairfax (John)	5.1
Seven Network	5.4
News Corporation	3.0

At this level of debt, Crown is in a very strong position to absorb any volatility risk inherent in the international business, and has very substantial residual cash flows to maintain and reinvest in the casino facility.

List of Annexures

Annexure A:

- \$1 billion Syndicated Facility available to the Merged (PBL/Crown) Group from all syndicate banks - highlighting (in mark up) the additional covenants agreed with the banks to recognise the Crown casino business and licence arrangements.
- Summary of \$1.275 billion (in aggregate) bilateral facilities which are or are to be available to the Merged (PBL/Crown) Group from individual syndicate banks.

Annexure B: New Guarantor Deeds by which the Crown Group is joined as signatories to the Group guarantees in the above facilities

Annexure C: Deed of Undertaking and Guarantee from PBL

Annexure D: LC Facility Agreement and form of \$100m Letter of Credit to be issued to the State

Annexure E: Letter of Undertaking from the Authority and the State

Annexure F: List of Existing Crown Securities (other than State Charge)

Attachment 2-B

COPY

15 March 1999

Mr Geoff Kleemann
Chief Financial Officer
Publishing and Broadcasting Limited
GPO Box 9
SYDNEY NSW 2001

Dear Mr Kleemann

CROWN - PBL MERGER

I refer to your submissions made with respect to the proposed merger of Crown Limited ("Crown") and Publishing and Broadcasting Limited ("PBL"). I received your supplementary proposal for re-financing on Friday 5 March 1999.

The question of approval of your proposal is primarily a matter for the Victorian Casino and Gaming Authority, but under section 142 of the Casino Control Act, I am required to approve any agreements into which the VCGA may enter. In addition, I have an obvious interest in ensuring that the security provided to the State under the existing transaction documents is not diminished.

On that basis, I am concerned that the re-financing proposal involves the release by the State of the existing fixed and floating charge and its replacement with a letter of credit issued under a facility available to PBL. Based upon the advice I have received, the replacement security offered reduces the level of protection available to the State. Accordingly, the proposal as framed is not acceptable to the State, and I would thus not be in a position to agree to the proposed changes to the transaction documents.

I will arrange for representatives of the State and the VCGA to contact you in order that my concerns might be addressed and with a view to achieving an outcome which is acceptable to all parties.

Yours sincerely,

ROGER M HALLAM, MLC
Minister for Finance
Minister for Gaming



Attachment 2-C

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 FACSIMILE: (612) 9965 2985
 E-Mail: [REDACTED]

<i>To</i>	BILL LAHEY
<i>Company</i>	VCGA
<i>Fax No</i>	03 9651 3888
<i>From</i>	GEOFF KLEEMANN
<i>Date</i>	22 MARCH 1999
<i>Subject</i>	CROWN / PBL
<i>Pages</i>	2

Message:

Bill

As discussed, please find enclosed a summary of changes proposed and the benefits to VCGA and the State. I have also included my view of how the 'mechanics' would work.

Please call if any questions.

Regards

[REDACTED]
Geoff

Refinancing Proposal

Further to our submission dated 5th March, PBL offers the following amendments in order to further enhance the States position and overcome any concerns it, and the VCGA, may have, re its secured position relative to unpaid taxes.

- The \$100M Letter of Credit offered to secure unpaid taxes and liquidated damages payable in respect of the South Tower and Lyric Theatre will be split as to
 - \$25M bank guarantee against liquidated damages
 - \$100M standby Letter of Credit to secure unpaid taxes (ie to cover approx six months of tax payments)
- PBL will undertake to renew the Letter of Credit, for a further two year period, at least six months prior to its expiry.
- The Letter of Credit will be provided by a strong credit worthy bank of at least AA (Standard & Poors) credit rating. This effectively provides a very simple and liquid secured position against six months of unpaid taxes. As previously noted the Letter of Credit will be 'topped up' to \$100M whenever it is called by the State.
- In addition PBL will incorporate into its loan document a priority secured position for the State covering any unpaid taxes, capped at \$100M (ie an effective further six months of secured cover against unpaid taxes)

The practical effect of the above would be

- The State would retain a secured position of \$200M against unpaid taxes at all times
- If the taxes are not paid for any one month the State would call upon the Letter of Credit which would trigger payment to the State by the Letter of Credit provider and PBL would be obliged to top up the Letter of Credit to \$100M.
- If, however, a bank does not issue a 'top up' Letter of Credit, this would signal a severe financial deterioration within the PBL group, and the following sequence is likely. The State would immediately recognise this and commence discussions with PBL and its financiers and most likely seek a new licensee. During this time it would have the remaining balance of the Letter of Credit available to draw upon for any unpaid taxes and, if required, the State would have a priority position, up to \$100M, over Crown's assets during any liquidation process.

This would effectively provide a twelve month window, from first indication of financial difficulty, for the State to locate a new licensee, without any loss of tax revenue.

It should be noted that the State retains protection from PBL's financial covenants (ie the 60% total liability to total assets test) and it would be most unlikely that any financiers would allow unpaid taxes to jeopardise retention of the casino licence.

The amended documentation to achieve the above and effect some other minor amendments will be forwarded to you today.

Re: general \ refinancing proposal

Attachment 2-D

Balgowan Bill

From: Lahey Bill
To: Balgowan Bill; Chappell Robert; Crosbie Bernard; Grobtuch Sylvia
Subject: FW: PBL
Date: Monday, March 22, 1999 4:32PM
Priority: High

DEAR ALL

FOR YOUR INFORMATION.

ROBERT COULD YOU PLEASE EMAIL TO OUR LEGAL ADVISERS.

THANKS

BILL

From: SMTP: [REDACTED]
To: bill lahey
Subject: PBL
Date: Monday, March 22, 1999 4:23PM

<<File Attachment: 90610137.DOC>> <<File Attachment: 90590002.DOC>> <<File Attachment: 90600096.DOC>>

----- Forwarded by Carmel Markou/Sydney/FHP/AU on 22/03/99
 16:00 -----

John Angus
 22/03/99 14:16

To: [REDACTED]
cc: [REDACTED]
Subject: PBL

FREEHILL HOLLINGDALE & PAGE

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 Further to the discussions today between Geoff Kleeman and Deborah Radford I enclose revised drafts of the following documents:

Refinancing Proposal
 Annexure C - Deed of Undertaking and Guarantee (which now incorporates a variation of the State Charge as
 Annexure D - LC Facility Agreement

These documents have been amended to reflect the proposal for keeping the State Charge in place but subject to a limit of 100,000,000 as well as the provision of a Letter of Credit for this amount. Changes to the earlier versions of these documents have been markedup.

Kind regards

John Angus

(See attached file: 90600096.DOC)(See attached file: 90590002.DOC)(See *attached file: 90610137.DOC*)

Crown Merger with PBL - Refinancing Proposal

1 Introduction

As part of the proposed merger between Publishing and Broadcasting Limited ("PBL") and Crown Limited, which has now received overwhelming support from their respective shareholders (the "Merger"), PBL proposes to refinance Crown's existing secured bank debt using unsecured facilities which PBL has or will obtain from its existing banking group. Those securities can then be released. Further, PBL is seeking herein to have the ~~State Charge similarly released in exchange for a \$100moneys secured by the State Charge limited to \$100 million in exchange for a \$100 million~~ letter of credit (with an unlimited top up obligation) in favour of Victorian Casino and Gaming Authority ("the Authority") and the State of Victoria (the "State"). It is also proposed that the obligations of the Authority and the State under the Master Security Agreement and related agreements be substantially discharged.

This memorandum describes PBL's refinancing proposal (the "Refinancing Proposal") and seeks the necessary consents of the Authority and the State to the arrangements. It also annexes the documentation needed to implement the proposal, including financing documents which have been substantially approved by or on behalf of the applicable banks.

2 Outline of Proposal

- 2.1 To reduce Crown's debt servicing costs, PBL proposes to refinance upon Merger all of Crown's financial indebtedness that is secured over Crown group assets (being \$586 million as at 31/12/98) and to repay the first series of unsecured notes (being \$150 million) at the earliest opportunity.
- 2.2 From Crown's view point, that existing indebtedness will be retired by an injection of approximately \$800 million in equity from PBL through its subscription for ordinary shares in Crown. In addition, Crown will be entitled to a discharge of all the mortgages and charges currently granted to its existing secured financiers.
- 2.3 PBL will fund this equity injection with corporate borrowings from its existing banking group (the "PBL Banks"). The PBL Banks provide funding to PBL Group on an unsecured basis, namely it is supported purely by a group guarantee from PBL and its subsidiaries together with an undertaking not to encumber group assets and other financial covenants (details of which covenants are set out in annexure A).
- 2.4 The PBL Banks have approved that funding subject to ~~the following conditions:~~ the Crown Group being released (upon repayment) from the current securities given to Crown's existing banks and instead joined to the PBL Group guarantee in favour of the PBL Banks, ~~and~~
 - ~~release of the State Charge so that the Crown Group assets are unencumbered.~~
- 2.5 In exchange the Authority and the State will receive the benefit of:
 - a \$100100 million standby Letter of Credit to from a bank or financial institution with a credit rating of AA (Standard & Poors) or better. The Letter Credit will secure unpaid taxes, any liquidated damages payable in respect of the South Tower and Lyric Theatre and any other Crown liability under the casino licence;

~~casino and management agreements and other State Documents.~~ Although the initial Letter of Credit will have a face amount of \$~~100~~100 million, there will be an **unlimited** obligation to provide further Letters of Credit on each occasion that the Letter of Credit is called and there is no limit on the number of claims that the State can make under the Letters of Credit. In addition PBL will agree to replace (or renew) the Letter of Credit (and each replacement Letter of Credit) at least six months prior to its expiry date with a replacement or renewal Letter of Credit having a further 2 year term.

- a Deed of Undertaking and Guarantee from PBL in relation to obligations owed by Crown. In this way the Authority and State also have the benefit of a PBL guarantee and other undertakings which are given to the PBL Banks. This includes an undertaking from PBL not to allow its "Total Liabilities" to exceed 60% of the "Total Assets" of the Merged group.

2.6 In addition the existing \$25million bank guarantee for liquidated damages would remain in place in accordance with the existing arrangements.

2.7 It is also proposed that the Authority and the State will be discharged from their obligations under the Master Security Agreement and Site Lease Supplemental Agreement in exchange for significantly less onerous obligations to be incorporated in Letters of Undertakings to be issued to the PBL Banks.

3 **Benefits to the Authority and State**

The Refinancing Proposal will substantially improve the position of the Authority and State. These benefits include:

- significantly improved security for payment of taxes and other amounts owing by Crown, in that a standby letter of credit is liquid and can be called upon at any time at the option of Authority. This is in contrast to the enforcement of a mortgage or charge which may require disposal of the casino assets. Further, the credit rating of the issuing bank will substantially exceed the existing credit of Crown.
- the performance of Crown's obligations under the State Documents will be guaranteed by the resources of PBL, which is a more substantial and financially secure entity with strong liquidity and diversified interests and investments. In particular, whereas the net equity of Crown is (as at 30/6/98) only \$817 million (with a debt to equity ratio of 119%) the net equity of the Merged group will be approximately \$2,550 million (with a debt to equity ratio of 79%), and whereas Crown's interest cover is currently only 2.4 times, the initial interest cover of the Merged group following the proposed refinancing will be 4.3 times.
- Crown's undertaking to the Authority to maintain a gearing ratio of less than 60% ("VCGA Gearing Ratio") will be enhanced from "borderline compliance" to comfortable compliance in that (as at 30/6/98) the VCGA Gearing Ratio for Crown is 60% whereas following the Merger and proposed refinancing it will be 51% for the Merged group.
- the State would retain the existing \$25 million bank guarantee.
- the State would also retain the State Charge up to a limit of \$100 million.

- as a result of the proposed refinancing the Casino assets will no longer be encumbered (other than by the State Charge) and the Authority and State's obligations under the Master Security Agreement will be substantially discharged.

4 Existing Crown secured financing

4.1 Crown currently has 4 secured credit facilities each dated 30 July 1997 with or lead by Australia and New Zealand Banking Group Limited ("ANZ") and/or Bank of America or its Australian subsidiary ("BA"), the substantive covenants of which are primarily set out in the Senior Facilities Deed:

- \$650 million Bill Facility Agreement with ANZ, BA and other syndicated banks;
- \$36 million Bill Facility Agreement with ANZ dated 14 October 1997;
- \$30 million Overdraft Facility Agreement with ANZ; and
- \$25 million Letter of Credit Facility Agreement with BA,

(the "Existing Secured Facilities").

The indebtedness under these facilities as at 31 December 1998 is \$586 million.

4.2 The above facilities are secured by the following mortgages and charges in favour of ANZ Capel Court Limited as security agent (the "Security Agent") for the relevant financiers:

- fixed and floating charge from Crown Limited over all its assets;
- mortgage of lease from Crown Limited over the Site Lease;
- real property mortgages from Crown Limited and Melbourne Live Pty Limited over the freehold land upon which the Casino development has been and is to be constructed; and
- equitable share mortgage from Crown Management Holdings Pty Limited over shares in Crown Management Pty Limited,

(each an "Existing Crown Security" - more fully described in annexure F).

The basis upon which the Security Agent holds the Existing Crown Securities and the respective rights of each secured financier are set out in the Security Sharing Deed dated 30 July 1997.

5 Repayment of Existing Secured Facilities and other indebtedness

5.1 Following the Merger, PBL proposes to redeem and/or cancel each of the following:

- \$741 million Existing Secured Facilities (described above); and
- \$150 million unsecured (series 1) notes.

5.2 As part of the Merger, PBL is to acquire from Hudson Conway Limited all of the Converting Preference Shares ("CPS") on issue from Crown and Hudson Conway's entitlement ("CPS Entitlement") to receive further CPS based upon this year's financial performance of Crown. PBL propose, as part of the refinancing of Crown, to eliminate the debt service costs to Crown of the CPS by arranging for their conversion into ordinary shares.

5.3 To enable Crown Limited to pay out the above and to convert the CPS, PBL will need to subscribe for up to \$1 billion of ordinary shares in Crown Limited. For this purpose, the

written approval of the Authority is requested under clause 22.1(f) of the Casino Agreement and Article 2.7 of Crown's constitution.

- 5.4 PBL will fund the above through its unsecured corporate borrowing facilities set out in Annexure A (the "PBL Bank Facilities"). As part of this funding the PBL Banks will require that Crown Limited and certain of its subsidiaries join the PBL Group guarantee by signing the New Guarantor Deeds set out in Annexure B.
- 5.5 However, PBL will also extend to the Authority and the State the benefit of a PBL guarantee to support the obligations owed by the Crown Group to the Authority and the State under the casino licence, the casino and management agreements and the other State Documents. Similarly, PBL will provide an additional covenant in favour of the Authority and State not to allow the "Total Liabilities" to exceed 60 percent of the "Total Assets" of the PBL Group (in effect mirroring clause 22.1(m) of the Casino Agreement, which will still apply to Crown). These are set out in the Deed of Undertaking and Guarantee in Annexure C.

6 Release of Securities

- 6.1 Upon repayment of the Existing Secured Facilities the Security Agent will release and discharge all of the Existing Crown Securities. The Security Sharing Deed will then also be terminated because, upon the release of the securities, it will cease to have any operation.
- 6.2 The PBL Banks, as unsecured creditors, prohibit the PBL Group from (subject to limited exceptions) entering into any secured facilities or otherwise encumbering their assets. Following the Merger the PBL Banks will therefore require that generally Crown's assets be unencumbered so as to be available to the PBL Banks equally with all other unsecured creditors of Crown.
- 6.3 However For this reason PBL is also seeking the release of the State Charge so that the assets of Crown Group will be free of any encumbrance. the PBL Banks will agree to the State Charge remaining in place subject to a limit of \$100 million.
- 6.4 In exchange for the release of limit on the State Charge, PBL will procure the issue of a Letter of Credit for the benefit of the Authority and the State in an amount of ~~\$100~~100 million to cover unpaid taxes, liquidated damages and any other amounts owing under the State Documents. This Letter of Credit will be in the same form as, and will ~~replace~~ be in addition to, the existing \$25 million Letter of Credit held by the State (in respect of liquidated damages) and will be issued under the LC Facility Agreement set out in Annexure E. As noted above there are real advantages to the Authority in having such a highly realisable and credit enhanced form of security.
- 6.5 Although a ~~\$100~~100 million Letter of Credit, coupled with the State Charge, should provide ample coverage for any unpaid taxes, in the event it is partly called upon then PBL will 'top up' the Letter of Credit through the provisions of an additional or varied Letter of Credit. Provision has been made for this in the LC Facility Agreement (see annexure D) and a corresponding undertaking from PBL in clause 4 of the Deed of Undertaking and Guarantee (see Annexure C). PBL will also undertake to maintain a current Letter of Credit for \$100 million. The suggested mechanics for this are also set out in clause 4 of the Deed of Undertaking and Guarantee.

6.6 The agreement of the ~~Authority and the State to the release of~~ limit on the State Charge and the mechanism for its ~~exchange for the above~~ the issue of the Letter of Credit will be also set out in clause 4 of the Deed of Undertaking and Guarantee from PBL set out in Annexure D.

7 Master Security Agreement and Site Lease Supplemental Agreement

7.1 With the release of the Existing Crown Securities much of the Master Security Agreement dated 30 July 1997 (MSA) and Site Lease Supplemental Agreement (SLSA) dated 30 July 1997 will no longer be relevant.

7.2 In particular, the provisions dealing with:

- priority between the State Charge and Existing Crown Security (in the MSA); and
- enforcement of those securities,

which are central to both agreements will cease to have any operation upon release of the securities. This is consistent with clause 23 of the MSA.

7.3 Given this, PBL and Crown have suggested to their banks that the Authority and the State be released from their obligations under the MSA and SLSA in exchange for a Letter of Undertaking in the form of Annexure E containing significantly less onerous obligations. The form of that Letter of Undertaking has been approved by ANZ as agent for the PBL Banks and the banks' lawyers.

7.4 Similarly, the consent of the Authority and the State is sought to the termination of the MSA and SLSA and their replacement with Letters of Undertaking to be issued to the PBL Banks on the conditions set out in clause 4 of the Deed of Undertaking and Guarantee: see Annexure C.

8 Summary of requested consents

In light of the above the following approvals and consents are requested from the Authority and State to facilitate implementation of the Refinancing Proposal:

- written approval to issue of \$1 billion ordinary shares in Crown Limited under clause 22.1(f) of the Casino Agreement and Article 2.7 of Crowns constitution;
- consent to discharge of Existing Secured Facilities and Existing Crown Securities under clause 32 of the Casino Agreement and clause 25.2(d) of the Management Agreement;
- consent to replacement of Letter of Credit under clause 18 of Management Agreement; and
- consent to release of the State Charge.

If the Refinancing Proposal is acceptable to the Authority and State then, it may be appropriate to consider some consequential amendments to other existing agreements between Crown and the State to reflect, for instance, the discharge of the Master Security Agreement.

9 FINANCIAL BENEFITS OF REFINANCING

This section sets out how the Merger and above Refinancing Proposal will impact positively on the financial position of both Crown and the Merged group

9.1 Impact on financial position of Merged group

The Merged (Crown/PBL) group significantly enhances Crown's financial position when considered in the context of a merged group versus Crown as a stand alone operation. Primarily, the expanded group has significant improvements in financial ratios and greatly improved liquidity.

The debt to equity ratio moves from 119% to 79%. In addition, Crown's undertaking to the Authority to maintain a gearing ratio of less than 60% is enhanced from "borderline compliance" to comfortable compliance. Further, Crown's existing creditors and lenders are comforted in the additional liquidity and cashflow that results from the expanded group. Overall borrowing margins are thus greatly reduced as a consequence of the reduced risk profile. This translates to greater earnings to both Crown and the merged group.

	Crown June 98 \$000	Post Merger PBL * June 98 Proforma \$000
Total Assets	2,067	5,205
Net Borrowings	971	2,019
Total Liabilities	1,250	2,655
Shareholders Funds	817	2,550
VCGA Gearing Ratio	60%	51%
Debt to Equity Ratio	119%	79%

* Grant Samuel Independent experts report

	Crown June 98 \$million	Post Merger PBL * June 98 Proforma \$million
EBITDA	109.9	543.0
Interest costs	72.1	126.7
Interest cover	1.5	4.3

* NM Rothschild & Son: Independent Experts Report

From Crown's view point the Merger and Refinancing Proposal will significantly improve both:

- Crown's gearing;
- Crown's cash flow position.

The details of these improvements are set out below.

9.2 Impact on Crown's gearing

As outlined above, PBL intends to inject substantial capital into Crown to significantly reduce its level of debt through:

- repayment and cancellation of \$741 million Existing Secured Facility;
- redemption of \$150 million unsecured (Series 1) notes; and
- conversion of CPS on issue and CPS Entitlement (following their purchase from Hudson Conway).

The following table sets out the financial position of Crown before and after the proposed refinancing and also reflects the removal of the CPS.

31 December 1998 \$000s	Pre Merger	Proforma Post Refinance (with CPS)	Proforma Post Refinance (eliminating CPS)
Total Assets	1,997,252	1,997,252	1,997,252
Liabilities			
Borrowings	936,000	200,000	200,000
CPS and leases	88,605	88,605	23,498
Other	127,355	127,355	127,355
Total Liabilities	1,151,960	415,960	359,853
Shareholders Funds	845,292	1,581,292	1,646,399
VCGA Gearing Ratio	57.7%	20.8%	17.6%
Debt to equity ratio	121.2%	18.3%	13.6%

By any standard, the level of debt maintained by Crown after implementing the Refinancing Proposal is extremely conservative. To put this in context, the following are relevant ratios for a selection of similar companies:

For year ended 30 June 1998	Total Liabilities to Total Assets	Debt to Equity %
Crown	17.6	13.6
Jupiters	35.5	27.5
Burswood	42.2	48.4
Star City Holdings	63.2	146.5
Village Roadshow	48.5	48.2

Outline of Refinancing Proposal

Fairfax (John)	45.6	58.4
Seven Network	65.5	125.8
News Corporation	46.8	35.2

9.3 Impact on Crown's cash flow position

Earnings before interest, tax, depreciation and amortisation ("EBITDA") is generally regarded as being the equivalent of cash flow. EBITDA is then available to meet all finance costs, debt repayment, capital expenditure, tax and working capital requirements.

As a consequence of implementing the Refinancing Proposal, a considerably smaller proportion of Crown's EBITDA will be committed to interest payments, significantly reducing the risk profile of Crown. For example, based on Crown's results for the six months ended 31 December 1998, the following table shows the interest cover of Crown:

Six months ended 31 December 1998	Actual \$million	Proforma - After Refinancing \$million
EBITDA	110.8	110.8
Interest costs	46.9	12.0
Interest cover	2.4	9.2

Again, with such an interest cover ratio, Crown would be financed in a very conservative manner. To put this in context, the following are relevant interest cover ratios for a selection of companies:

	Interest Cover Ratio
Crown	9.2
Jupiters	7.2
Burswood	8.2
Star City Holdings	7.9
Village Roadshow	3.1
Fairfax (John)	5.1
Seven Network	5.4
News Corporation	3.0

At this level of debt, Crown is in a very strong position to absorb any volatility risk inherent in the international business, and has very substantial residual cash flows to maintain and reinvest in the casino facility.

List of Annexures

Annexure A:

- \$1 billion Syndicated Facility available to the Merged (PBL/Crown) Group from all syndicate banks - highlighting (in mark up) the additional covenants agreed with the banks to recognise the Crown casino business and licence arrangements.
- Summary of \$1.275 billion (in aggregate) bilateral facilities which are or are to be available to the Merged (PBL/Crown) Group from individual syndicate banks.

Annexure B: New Guarantor Deeds by which the Crown Group is joined as signatories to the Group guarantees in the above facilities

Annexure C: Deed of Undertaking and Guarantee from PBL

Annexure D: LC Facility Agreement and form of \$100m Letter of Credit to be issued to the State

Annexure E: Letter of Undertaking from the Authority and the State

Annexure F: List of Existing Crown Securities (other than State Charge)



COMMERCIAL IN CONFIDENCE

CONTENTS

SPECIAL MEETING NO. 146

FRIDAY 9 APRIL 1999

at 10.00 am

- ITEM 1. Present/ In Attendance/ Apologies**
- ITEM 2. Proposed Crown Limited / PBL Merger**



COMMERCIAL IN CONFIDENCE

AGENDA

SPECIAL MEETING

NO. 146

TO BE HELD ON
FRIDAY 9 APRIL 1999

- ITEM 1. Present/ In Attendance/ Apologies
- ITEM 2. Proposed Crown Limited / PBL Merger

Note: There will be a half hour presentation by representatives of PBL commencing at 10.30 am

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 1. Present/In Attendance/Apologies

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 2. Proposed Crown Limited / PBL Merger

COMPARISON OF EXISTING COVE**Policy Objectives**

- (1) Compliance with the provisions of the *Casino Control Act* 1991 (the Act).
- (2) An appropriate corporate structure:
 - Single purpose company (SPC) (capital quarantined from other activities);
 - 60% gearing (Liab/(Liab + SH funds));
 - 2 sponsors with initial 40% equity;
 - Sponsor's min. equity of 10% for 5 yrs;
 - No shareholder with 20+% after 3 yrs;
 - Holdings above 5% require approval;
 - Fully underwritten debt and equity.
- (3) Construction of a casino complex to an international quality in accordance with the approved drawings and timetable (with significant penalties for any delays).
- (4) That the casino is operated in accordance with international best practice (to create employment and encourage tourism).
- (5) That the State and the Authority do not incur any financial liability in relation to development and operation of the casino.
- (6) That the State and the Authority have appropriate controls over the management and operation of the casino.
- (7) That the State and the Authority have appropriate powers in the event of default or failure by the casino operator.
- (8) Financial and community benefits to Melbourne and Victoria are maximised:
 - Up-front licence payments;
 - On-going casino taxes and other fees;
 - Wide range of ancillary facilities;
 - Employment & economic development;
 - International and interstate promotion.

(Refer to Brief to Applicants - 22.12.1992)

NANTS RELATING TO THE CROWN CASINO WITH COVEN

Current Transaction Documents

- (a) Casino Licence – granted 19.11.1993 (40yr term):
 - No. of tables & EGMs; makes compliance with MA and CA conditions of the licence (2 amendments).
- (b) Management Agreement (“MA”) - 20.09.93:
 - Reqd. by s15 of the Act; Fixes fees and charges; Sets 12yr exclusivity period; Development approval; Liquidated damages (LDs) (5 variations)
- (c) Casino Agreement (“CA”) – 21.09.93:
 - Under s14 & 142 of the Act; Company structure; SPC /sole business; 60% gearing (Total Liab./ Assets).
- (d) Master Security Agreement (MSA) – Initial with NAB 21.09.93 Current with ANZ 30.07.97.
- (e) Fixed and Floating Charge (“F&FC”) (to the State).
- (f) Bank Guar./Letters of Credit (LC) - \$57.6m + \$25m.
- (g) Sponsor’s Guarantees (of Crown by Hudson Conway).
- (h) Supplemental Sponsor’s Agreement (SSA)(ind directors)
- (i) Site Lease - 99yr term
- (j) Site Lease Supplemental Agreement
- (k) Supplemental Operations Agreement
- (l) Temporary Casino Lease
- (m) Temporary Casino Supplemental Agreement
- (n) Supplemental Development Agreement (“SDA”)
- (o) Contractor’s Deed (mirrors the SDA with Grocon).

A number of Complementary Agreements were entered into by Crown Ltd in connection with the casino development. Material changes to these require prior Authority approval:

- (p) Founding Shareholders’ Agreement
- (q) Development Agreement (“DA”)
- (r) Construction Agreement
- (s) Finance Documents / Credit Facility Agreement
- (t) Operations Agreement (Crown Management/HudCon)
- (u) Underwriting Agreement (Equity)
- (v) Guarantee and Indemnity for DA
- (w) Note Agreements (Series 1 and 2)
- (x) Trust Deeds (Series 1 and 2)

ENANTS PROPOSED IN MERGER WITH PBL

**Proposed Transaction Documents
(new or amendments)**

- (A) A Performance Guarantee (PG) (between the State, Crown and PBL) (Note 1):
- Obliges PBL to ensure that both PBL and Crown perform their obligations to the State;
 - Provides for injunctive relief to the State against PBL if Crown does not cure a breach of the CA;
 - Imposes a 60% gearing ratio on the PBL Group; and
 - Incorporate any necessary residual clauses from the MSA, SSA and SDA if these are terminated.
- (B) An 8th Variation Agreement to the CA (Note 2):
- Impose a 60% gearing ratio on PBL (offered by PBL);
 - A SPC covenant to be negotiated.
- (C) A Supplemental Casino Agreement (SCA) (between the Authority, Crown and PBL) (Note 2):
- An obligation to the Authority on PBL that it will ensure that Crown performs its obligations under the CA (e.g. gaming revenue is maximised at the casino);
 - Provides for injunctive relief to the Authority against PBL if Crown does not cure a breach of the CA.
- (D) MSA – regulates priorities between respective securities - would become largely redundant by Crown repaying most of its secured debt, with the \$1.0 billion of new equity to be injected by PBL (Note 2). (Residual clauses to be negotiated, depending on refinancing arrangements).
- (E) “F&FC” – is a requirement of the MA and the MSA - it is over all of Crown’s assets - it is to be capped at \$100m to reflect the reduced risk (project “completion” and successful operating experience over 2 years) (Note 2).
- (F) New \$100m LC to secure any unpaid casino taxes and other charges in exchange for State agreeing to cap the F&FC at \$100m (total security \$200m) (Note 2).

Notes: (1) This new agreement requires the approval of the Minister on behalf of the State, as advised by the Victorian Government Solicitor.

(2) The Authority requires the Minister’s approval to enter into this agreement/amendment.

VICTORIAN CASINO AND GAMING AUTHORITY

Commercial-in-Confidence

PROPOSED CROWN/PBL MERGER - ECONOMIC BENEFITS

PURPOSE

1. To provide an assessment of the economic benefits to Crown Limited (Crown) and Victoria which Publishing and Broadcasting Limited (PBL) claimed will arise from the proposed merger of Crown with PBL.

BACKGROUND

2. Following the Special Meeting of the Authority held on Friday 9 April 1999, the Chairman of PBL, Mr James Packer, wrote to the Chairman of the Authority on 14 April (refer to **Attachment A**). Mr Packer confirmed the reasons why, in PBL's opinion, the two outstanding issues (viz. a sole purpose undertaking from PBL and an undertaking from PBL concerning maximisation of Crown's Gross Gaming Revenue (GGR)) were inappropriate and also alluded to the economic benefits to Victoria of the merger.
3. On 15 April 1999, the Chairman responded to Mr Packer's letter of 14 April (refer to **Attachment B**), informing him that members would want some elaboration of the claimed economic benefits to Victoria. On 16 April 1999, Mr Packer replied (refer to **Attachment C**), explaining why Crown would not be adversely affected by any other gaming investment by PBL and how cross-promotional opportunities would bring additional customers to Crown and contribute to "Victoria's tourism and economic development".

COMMENTS

4. An assessment of each of the claimed economic benefits to Crown and Victoria arising from the proposed merger of Crown with PBL follows:

(a) PBL will guarantee Crown's obligation to maximise GGR.	Crown's improved financial position will enhance its ability to comply with this obligation.
(b) PBL will guarantee that Crown will remain a Single Purpose Company (SPC).	This should assist Crown management to focus on improving Crown's operations.
(c) PBL's investment of \$1.8 - \$2.0 billion in Crown (including \$1.0 billion of new equity), is sufficient incentive to ensure that growth opportunities for Crown will be supported, not withstanding any other PBL business interests.	The large size of PBL's investment in Crown and PBL's strong financial position, should ensure that Crown is not disadvantaged in future investment decisions by PBL.
(d) The performance of Crown will improve as demonstrated by the fact that GTV Channel 9 in Victoria is PBL's best performing TV business.	The Packers/PBL have demonstrated an ability to effectively and profitably manage their business operations.


- | | |
|--|---|
| (e) The proposed refinancing of Crown will substantially improve the security position of the State and the Authority. | The refinancing will alleviate the concerns that the Authority had with Crown's high gearing ratio. A financially strong Crown, which is a significant contributor to State revenue, may provide additional comfort to those rating agencies assessing the State's credit worthiness. |
| (f) Crown and the State will benefit from cross promotional and marketing activities by PBL which will be very cost effective for Crown (e.g. GTV9 and PBL magazines will be able to promote Crown outside Victoria which will encourage tourism). | This seems to be a reasonable claimed benefit which is not currently available to Crown. It is a common business practice among large corporate groups, who capitalise on their synergy with related entities. |
| (g) The Nine Network will be able to use Crown's facilities for live events resulting in mutual benefits. | This would be of benefit to Crown (and subsequently gaming revenue) as its facilities were designed for such large events. |
| (h) Crown and other PBL businesses will be able to co-sponsor major events for their mutual benefit. | Whilst this was technically feasible before, it would be more achievable and possibly on better terms, post the merger. |
| (i) Crown management will be freed from the responsibilities and distractions of being a publicly listed company and will be able to better concentrate on maximising GGR. | Crown's past operational and financial performance may have suffered as a result of its compliance difficulties with the ASX and ASIC. |
| (j) If PBL becomes involved in any other new casino or related business in Australia it will be based in Victoria, if everything else is equal. | This is a possible benefit to Victoria to the extent that it will have the option of matching the "bids" of other States for PBL's new gambling investments. |
| (k) Crown will be given a prominent position on appropriate "ninemsn" websites (e.g. its Gateway Travel Site which will promote Crown and Victoria as a tourist destination). | This is seen as a potential benefit. |
| (l) Crown will be given free of charge unused advertising and editorial space on PBL's TV channels at a rate of at least \$3m/yr. | This is a benefit. |

- | | |
|--|--|
| <p>(m) PBL will ensure that Crown expends a minimum of \$300m over the next 10 years to maintain and improve its facilities and this will have a multiplier effect on employment and economic development in Victoria.</p> | <p>This represents a real commitment to ensuring that the Crown Casino Complex is maintained as a world class facility and that Crown has the financial resources to adopt new products and leading edge technologies.</p> |
| <p>(n) The \$130m increase in Crown's market capitalisation of Victorian based non institutional shareholders, since the merger was announced, has benefited Victoria.</p> | <p>Whilst the Authority has no obligation regarding Crown's share holders, the appreciation in Crown's share price has benefited the State indirectly.</p> |

RECOMMENDATION

5. That the Authority note the above report and advise if any further information is required.

Approved:

.....

Director of Gaming and Betting

MEETING DATE: Tuesday 27 April 1999
 SOURCE: Bill Balgowan, Casino Project Manager



Attachment A

OFFICE OF THE CHAIRMAN

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BROADCASTING
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jamesp@pbl.com.au

14 April 1999

Mrs S Winneke
Chairman
Victorian Casino & Gaming Authority
Level 5
35 Spring Street
MELBOURNE VIC



Dear Mrs Winneke,

Proposed Crown/PBL Merger ("Merger")

Thank you for arranging the meeting on Friday 9 April 1999, attended by Board members and staff of the Authority and myself, Nick Falloon and Geoff Kleemann, to discuss the two outstanding issues:

- proposed new **clause 2.21(r)** of the Casino Agreement – 'sole purpose' undertaking from PBL that it will not be involved in any other casino-related business without VCGA prior written approval;
- proposed **clause 4(d)** of Supplementary Casino Agreement – PBL undertaking to procure that Crown obtains maximum 'Gross Gaming Revenue' and that this Revenue will not be adversely affected by any other PBL business.

PBL acknowledges that:

- after the Merger Crown will no longer be both the ultimate publicly listed owner and the operator of the Melbourne Casino;
- under the *Casino Control Act*, one of the objects of the Authority is to have systems for the Melbourne Casino which have the purpose of:
 - '(c) promoting tourism, employment and economic development generally in the State'.

As arranged, I am writing to confirm:

- PBL's intentions for the Crown Casino business;

-2-

- the reasons why the Merger will benefit tourism, employment and economic development in the State; and
- the reasons why, in PBL's opinion, the two proposed PBL undertakings are inappropriate.

Shortly stated, the points we have previously made in our written and oral submissions are:

1. Crown's existing 'sole purpose' undertaking and maximisation of Gross Gaming Revenue covenant will not be affected by the Merger.
2. If either the undertaking or the covenant is breached, the Authority has its existing rights to take disciplinary action, including cancellation, suspension or variation of the Casino Licence.
3. In addition, PBL will, by new Deed of Undertaking and Guarantee, guarantee to the Authority (and the State) Crown's performance of this undertaking and covenant (together with all the other undertakings from Crown).
4. PBL's investment of approximately \$1.8 billion in Crown will give it sufficient incentive to ensure that Crown's Gross Gaming Revenue is maximised, notwithstanding any other PBL business interest.
5. PBL has existing Victorian businesses including GTV Television which is PBL's best performing television business.
6. The two proposed PBL undertakings could put PBL at a disadvantage when it is competing with other purchasers to acquire a casino-related business. Nether TABCorp or Tattersalls is subject to equivalent restrictions.
7. It is better for Crown and the State that PBL actually be encouraged to acquire other casino-related businesses. Otherwise they could be acquired by third parties which do not have the same commitment that PBL already has to support the Crown Casino (and consequently the State). Such a third party, in fact, might be aiming to have an adverse impact on the Crown Casino. PBL's aim will be to work with Crown to grow gaming businesses in Australia. This will attract additional overseas and interstate visitors to Victoria.
8. PBL's position is analogous to the position of Hudson Conway when the Casino Licence was granted. Hudson Conway effectively controlled Crown and was the developer and manager of the Casino. Accordingly the two proposed PBL undertakings would go further than the original regulatory regime.
9. PBL's investment in Crown will include a refinancing that will substantially improve the security position of the Authority and the State in case Crown breaches any of its agreements with the Authority or the State (including standby letter of credit for \$100 million; preferred security position for \$100 million).
10. Crown will continue to operate as a 'stand alone company' under its own Board of Directors.

-3-

11. Crown (and the State) will benefit from cross promotional and marketing activity by PBL which will be very cost-effective for Crown. For example:
 - PBL's Nine Network television stations and its magazines will be able to promote Crown, including outside Victoria which will encourage Victorian tourism;
 - Nine Network will be able to use Crown facilities for live events – jointly with Crown or otherwise; and
 - Crown and other PBL businesses will be able to co-sponsor major events.
12. Crown management will be freed from the responsibilities and distractions of Crown being a public company so they will be able to concentrate on maximising Crown's Gross Gaming Revenue.

Having regard to the discussions during the meeting on 9 April, PBL confirms the following additional points:

- (a) if PBL becomes involved in any other casino or other related business in Australia which does not already have an established place of business and everything else is otherwise equal, PBL will ensure that such business is based in Victoria;
- (b) PBL will ensure that Crown's Board of Directors will always include at least two Victorians;
- (c) Crown will be given a prominent position on appropriate ninemsn websites, e.g. Getaway travel site. This will promote Crown (and Victoria) throughout Australia as a tourist destination;
- (d) as a 100% subsidiary of PBL, Crown will be given unused advertising space in PBL's television broadcasts including New South Wales and Queensland. PBL already does this for its magazine business which has a 'standby advertisement' ready for use. Crown will have the benefit of at least \$3 million per annum of editorial and advertising space. It is expected that such free promotion will increase both Crown and Victoria's visitor numbers;
- (e) PBL will ensure that Crown expends a minimum of \$300 million over the next 10 years to improve and maintain the Crown Casino assets. This will assist to maximise Crown Casino's gross Gaming Revenue and will, through the multiplier effect, be a major contribution towards Victoria's economic development.

It is worth noting that the benefits of the Merger have already started to be realised by Victorians. The increase in Crown's share price since the announcement of the Merger has produced an appreciation of approximately \$130 million in the market value of the shares held in Crown by Victorian based non-institutional shareholders of Crown. Such an increase in wealth will contribute to Victoria's future economic development.

-4-

In conclusion, we believe that the relevant object of the Authority and the Authority's intent of maintaining the current regulatory position will be satisfied by:

- the existing undertakings and covenants from Crown (now guaranteed by PBL); and
- the enhanced prospects for the Crown Casino and Victoria's economic development under PBL's ownership of Crown.

Yours faithfully

James Packer

c.c. Mr Lahey



VICTORIAN CASINO AND GAMING AUTHORITY **Attachment B**

Commercial in Confidence

15 April 1999

Mr James Packer
Chairman
Publishing and Broadcasting Limited
Level 3, 54 Park Street
SYDNEY 2000

Dear Mr Packer

Proposed Crown/PBL Merger

I acknowledge receipt of your letter dated 14 April 1999, in which you-

- acknowledge certain matters relevant to the parameters within which the Authority makes its decisions;
- set out in 12 points PBL's position concerning the proposed single purpose and gaming revenue covenants;
- outline some economic benefits you believe would follow from approval of the merger;
- give an indication of PBL's intentions with respect to the Melbourne Casino business;
- argue for the approval of the merger without the single purpose and gaming revenue covenants.

There are some matters in your letter, concerning the economic benefits, on which I believe the members will want elaboration when they next discuss the merger proposal.

I have requested the Director of Gaming and Betting to prepare advice for the Authority on these matters and ask that PBL pursue this with the Director and his staff.

Yours sincerely

SUE WINNEKE
Chairman

Level 5
35 Spring Street
Melbourne
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PO Box 1988R
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Vic 3001

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16. APR. 1999 17:03

PBL 61 2 92576398

Attachment C



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jamepp@pbl.com.au

16 April 1999

BY FACSIMILE (03) 9651 4999

~~Mrs S Winneke~~

Chairman
Victorian Casino & Gaming Authority
Level 5
35 Spring Street
MELBOURNE VIC 3000

Dear Mrs Winneke,

Proposed Crown/PBL Merger ("Merger")

I refer to my letter of 14 April and, at the suggestion of Mr Bill Lahey, am writing to elaborate on the reference in point 7 of that letter to:

"PBL's aim will be to work with Crown to grow gaming businesses in Australia."

As PBL will have already invested \$1.8 billion in Crown then, if PBL invests in other gaming businesses (e.g. a second casino), PBL believes that:

- (a) Crown will not be adversely affected;
- (b) There will be opportunities for cross-promotion (and cross-selling) between the gaming businesses (using relationship and loyalty marketing and brand management);
- (c) Having regard to economies of scale, there will be additional funds and resources available for overseas marketing of all the PBL/Crown gaming businesses; and
- (d) Such cross-promotion and overseas marketing will lead to Crown obtaining additional customers (especially from overseas) with resulting contributions to Victoria's tourism and economic development.

In other words, PBL will be able to carry out the same marketing activities for future gaming businesses that it will immediately carry out between television, magazines and the Crown Casino.

Yours sincerely,

James Packer
Chairman



DEPARTMENT OF TREASURY & FINANCE
MEMORANDUM

TO: IAN LITTLE
SECRETARY DEPARTMENT OF TREASURY & FINANCE

FROM: BILL LAHEY
DIRECTOR OF GAMING AND BETTING

DATE: 14 APRIL 1999

SUBJECT: PROPOSED CROWN/PBL MERGER

Purpose

1. To seek advice on the State's policy in relation to economic matters arising from the proposed merger between Publishing and Broadcasting Limited (PBL) and Crown Limited (Crown).
2. The two matters are:
 - the level of security required from the merged entity to cover the State's financial risk which may arise from any failure to pay taxes and other monies owed to the State.
 - the appropriate scope of regulation of the merged entity's commercial operations in relation to casino and related activities.

Background

3. The proposed merger will require the Authority to enter into commercial agreements with either Crown or PBL or both.
4. Under section 142(1) of the *Casino Control Act* 1991, the Authority may enter into agreements (on behalf of the State) for or in connection with establishment and operation of casinos.
5. Under section 140 of the *Casino Control Act* 1991, amongst other things, an object of the Authority is to maintain and administer systems for the licensing, supervision and control of casinos for the purpose of promoting tourism, employment and economic development generally in the State.
6. Under section 102 of the *Gaming and Betting Act* 1994, a function of the Director of Gaming and Betting is to report generally to and assist the Authority regarding the operation of the *Casino Control Act* 1991.

Issues

Refinancing

7. Crown has given a fixed and floating charge to the State (for itself and the Authority) over all its present and future assets including the Casino Licence and the Site and the Melbourne Casino Complex to secure all of its present and future obligations under the Management Agreement and Casino Agreement. These obligations include the completion of the Casino Complex and the payment of casino taxes. In addition to the fixed and floating charge, Crown has provided a \$25 million letter of credit to cover payment of liquidated damages arising from delays to the completion of the second hotel tower and the Lyric Theatre.
8. These securities were established prior to the construction and operation of the Melbourne Casino. In light of the stability of revenue being generated by the now fully operational casino, it may be appropriate to review this as the financial risk to the State has been reduced.
9. For the Authority to be in a position to properly discharge its statutory obligation and consider the proposed merger, it will need to be aware of the State's position on the required levels of security arising from a failure by either Crown or PBL to pay casino taxes, complete the second hotel tower and Lyric Theatre, and the payment of liquidated damages arising from delays to the completion of the second hotel tower and Lyric Theatre.

Commercial Regulation of the Merged Entity

10. Clauses 22(1)(p) and (q) of the Casino Agreement currently require Crown to be a single purpose company and not to have subsidiaries except with the consent of the Authority.
11. At present Crown owns and operates the Melbourne Casino. In the proposed arrangement, Crown will continue to operate the casino but PBL would be the beneficial owner of the casino complex.
12. Therefore, the Authority will need to be advised as to the appropriate scope of regulation of the merged entity's commercial operations in relation to casino and related activities i.e. the beneficiary (PBL) or to confine the scope of the single purpose company restrictions to the Casino operator (Crown).

Conclusion

13. It is not considered to be within the objects of the Authority for it to offer a determination of policy, nor does the expertise exist within the staff of the Director of Gaming and Betting to achieve this. This is traditionally a role of the Department of Treasury and Finance proper and as such I seek advice on both issues.

NOTED:

BILL LAHEY
Director of Gaming and Betting

IAN LITTLE
SECRETARY DEPARTMENT OF
TREASURY AND FINANCE

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Department of Treasury and Finance

1 Treasury Place, Melbourne,
GPO Box 4379 OO, Melbourne Victoria 3001,
Telephone: (03) 9651 5111
Facsimile: (03) 9654 7215
DX 210759

98/00378
17367

Mr Bill Lahey
Director of Gaming & Betting
Victorian Casino and Gaming Authority
5th Floor, 35 Spring Street
MELBOURNE VIC 3000

Handwritten:
A/DG+B
12/5/99
Ms Grobtech
FJA

05 MAY 1999



Dear Mr Lahey *BLM*

Bid for Crown Ltd

I refer to your memo of 14 April 1999, in which you seek the Government policy on the financial security and commercial arrangements proposed by Publishing and Broadcasting Limited (PBL) in relation to Crown Ltd. I understand that this information is to assist the Victorian Casino and Gaming Authority in its assessment of the proposed transaction documents to which it is a party.

The Casino Sub-Committee of Cabinet met last week to consider the issues you raised. It agreed that I should convey to you the resolutions of the Sub-Committee.

The Sub-Committee agreed that the proposed financial security offered by PBL to the State is adequate to protect the State's interest, subject to final verification.

On the scope of commercial regulation, the Sub-Committee agreed that the State's interest in preserving the successful operation of the Melbourne Casino, would be protected by the inclusion of a clause in the Casino Agreement, by which PBL undertakes to use its best endeavours to ensure that the Melbourne casino business is conducted in a way beneficial to the business, to Crown and to the State and that is not detrimental to Crown's interests.

Yours sincerely



Ian Little
Secretary

File Ref: F99/00484/1

VICTORIAN CASINO AND GAMING AUTHORITY

COMMERCIAL-IN-CONFIDENCE

ITEM 3.3 Transaction Documents

- (a) Paper - Explanation of Transaction Documents
- (b) Supporting Paper No 1 provided at 30 March 1999 meeting
- (c) Eighth Variation Agreement to the Casino Agreement
- (d) Supplemental Casino Agreement
- (e) Deed of Release (VCGA)
- (f) Refinancing Documents
 - (i) Deed of Undertaking and Guarantee
 - (ii) Letter of Undertaking
 - (iii) Master Security Agreement Discharge
- (g) Authorisation Deed
- (h) Addendum

VICTORIAN CASINO AND GAMING AUTHORITY

Commercial in Confidence

PROPOSED CROWN/PBL MERGER— EXPLANATION OF TRANSACTION DOCUMENTS

PURPOSE

1. To brief the Authority on documents which the Authority may wish to execute in the event that it approves the proposed merger of Crown Limited (“**Crown**”) and Publishing and Broadcasting Limited (“**PBL**”).

BACKGROUND

Commercial regulation

2. On 30 March 1999, the Authority was provided with a progress report on commercial regulation [**Document 3.3(b)**]. The report refers to a comprehensive report on the proposed transaction prepared by solicitors Maddock Lonie & Chisholm (“**ML&C**”) [**Attachment 1-A to Document 3.3(b)**].
3. Draft implementation documents (prepared by ML&C in conjunction with their report) were discussed at officer level between the State, Crown and PBL in late March. There was agreement on the majority of matters, but PBL had concerns about clauses proposed to bolster the effect of the existing single purpose covenant. These concerns were raised with members in a special meeting on 9 April 1999, attended by Messrs James Packer, Nick Falloon and Geoff Kleemann—respectively PBL’s Chairman, Chief Executive and Chief Financial Officer.
4. Following that meeting, further discussion took place at officer level. The agreed outcome was a proposed licence condition encapsulating the spirit of the PBL representatives’ discussions with the Authority. This condition is the suggested clause 22.1(r) of the Casino Agreement. This clause has been approved by ML&C.

Refinancing

5. With the integration of Crown into PBL, the proposed merger also involves a complete restructuring of financing and associated financial security arrangements, both for Crown and PBL. These matters are the concern of the State. The level of financial security offered to the State by Crown/PBL does not require the approval of the Authority. However, the Authority is to be a party to the arrangements because casino licence disciplinary action will remain as a consequence of a default.
6. The proposed new financing arrangements have been agreed between the State and PBL in the form of a Deed of Undertaking and Guarantee. Under this Deed, the existing Master Security Agreement is terminated and the substance of the Authority’s current rights and obligations is continued. That Deed and associated have been prepared (for PBL) by Freehill Hollingdale & Page and have been reviewed (for the State) by the Victorian Government Solicitor’s Office (“**VGSO**”) and Clayton Utz and (for the Authority) by ML&C.

DOCUMENTS

7. The principal draft documents submitted for the Authority's consideration are:
 - Eighth variation agreement to the Casino Agreement [**Document 3.3(c)**] *(making necessary amendments to clause 22 of the Casino Agreement and the supporting definitions)*;
 - Supplemental Casino Agreement [**Document 3.3(d)**] *(binding PBL directly to the Authority and providing for injunctive relief)*;
 - Deed of VCGA Release [**Document 3.3(e)**] *(releasing collateral promises which either are redundant now or will be redundant on completion of the merger—the State will be executing a similar document)*.
8. The refinancing documents submitted for the Authority's consideration are:
 - Deed of Undertaking and Guarantee [**Document 3.3(f)(i)**] *(containing detailed financial covenants, mainly for the benefit of the State, but also containing agreement to the termination of the Master Security Agreement and the granting of Letters of Undertaking by the State and the Authority)*;
 - Master Security Agreement Discharge [**Document 3.3(f)(ii)**] *(performance of the agreement to terminate the Master Security Agreement)*;
 - Letter of Undertaking [**Document 3.3(f)(iii)**] *(taking up various notification and right of audience provisions formerly contained in the Master Security Agreement)*.
9. An Authorisation Deed [**Document 3.3(g)**] has been prepared for the Minister for Gaming to give his consent, for the purposes of section 142 of the **Casino Control Act 1991**. (This document is not for execution by the Authority.)
10. Attached are—
 - “Detailed Explanation of the Proposed Transaction Documents”—this goes through the seven documents, clause by clause [**Attachment 1** to this paper].
 - “Comparative table—amendments to clause 22 of the Casino Agreement”—this demonstrates, on a before, during and after basis, how clause 22 of the Casino Agreement will be affected by the amendments [**Attachment 2** to this paper].

COMMENT/ISSUES

Refinancing due diligence

11. Clayton Utz, on behalf of the State, have given Crown and PBL a list of conditions precedent to be satisfied before they will advise the State to execute the refinancing documents (one of which is the Deed of Undertaking and Guarantee). By way of example, one of these conditions is confirmation that no, or no further, Foreign Investment Review Board approval is required.
12. The Authority should hold over execution of any refinancing document until the conditions precedent are satisfied. Clayton Utz will provide the Authority with a certificate on which the Authority may rely for this satisfaction.

Timing of execution

13. The drafting of the transaction documents anticipates that they will be executed by all parties prior to the merger being finally approved but will only come into effect when both the Authority expresses its final satisfaction with the proposed associates and the Minister expresses his satisfaction with the commercial regulation arrangements. ML&C have confirmed that this approach is appropriate.
14. Therefore, subject to refinancing due diligence, there is no reason why the Authority, on being presented with documents executed by the parties other than the State, should not execute them, should it agree to the merger.

Ministerial consent

15. The documents which are subject to Ministerial approval under section 142 of the Casino Control Act have been prepared in consultation with the Minister's VGSO legal adviser. Accordingly, no objection is expected from the Minister to the content or form of the documents.

Regulatory objectives

16. It is considered that the obligations to be imposed on Crown and PBL, post merger, place the Authority in substantially the same regulatory position *vis a vis* the Melbourne Casino as it enjoys now. In particular, the wording of proposed clause 22.1(r)—agreed to by the State—is designed to clarify and reinforce the relevant ongoing role of the single purpose covenant.

RECOMMENDATION

17. That the Authority note the paper.

Approved: 

Director of Gaming and Betting

Meeting: No. 150
21 May 1999

ATTACHMENT 1

DETAILED EXPLANATION OF THE PROPOSED TRANSACTION DOCUMENTS

Eighth Variation Agreement to the Casino Agreement

Parties

Victorian Casino and Gaming Authority—Crown Limited

Overview

The Eighth Variation Agreement to the Casino Agreement makes amendments to the Casino Agreement to allow for the fact that, post merger, there will no longer be a special relationship with the original sponsors and founding shareholders (principally Hudson Conway Limited) and that the casino operator, Crown Limited, is to become a wholly owned subsidiary of another company.

Recitals

The recitals set out the background and purpose of the Agreement.

Clauses

Clause 1 is a machinery clause which incorporates by reference all of the definitions in the Casino Control Act and the Casino Agreement.

Clause 2 sets out **conditions precedent** to the operation of the Agreement. The Agreement is of no force or effect until both the Minister approves it under section 142 of the Casino Control Act and the Authority approves PBL as an associate of Crown. The Authority is required to give notice of each event within 5 days.

Clause 3 makes the necessary amendments to the Casino Agreement.

Clause 3.1 inserts new definitions of “Deed of Undertaking and Guarantee”, “Holding Company”, “Holding Company Group”, “Performance Guarantee”, “Supplemental Casino Agreement”, “Total Group Assets” and “Total Group Liabilities” and amends the existing definition of “Transaction Document”.

Of particular note, the **Holding Company** is the ultimate Australian holding company of the licensee. In this case it means PBL. The definition seeks to overcome the unnecessary complications which would be involved in examining the gearing ratios of the offshore Packer trusts.

Clause 3.2 omits from the Casino Agreement provisions relating to founding shareholders which will become redundant when PBL becomes the sole owner of Crown shares. For instance, clause 22.1(b) currently requires Hudson Conway to retain no less than 10% of the shares in Crown for 12 months after completion of the Southern Hotel Tower and Lyric Theatre and clause 22.1(ad) requires Carlton and United Breweries Limited to retain at least 3%.

Detailed explanation of the proposed transaction documents

Clause 3.3 remakes the existing clause 22.1(*f*), retaining the requirement for Crown to seek the Authority's approval for movement of 5% or more on Crown's share register. (It removes a grandfather clause which allowed founding shareholders to increase their holdings.) Although in practice, post merger, this will only restrict PBL from moving the shares around within the group, it would prevent PBL from having a full or partial float of Crown, or from selling Crown to another party, without the consent of the Authority.

Clause 3.4 inserts a new clause 22.1(*ma*) requiring PBL to maintain a group gearing ratio of less than 60% and goes on to make consequential changes throughout the rest of clause 22. This mirrors the existing clause 22.1(*m*).

Clause 3.5 inserts a new clause 22.1(*r*) requiring PBL to use its best endeavours to ensure that the PBL Group conducts all its businesses to the benefit of and not to the detriment of the Authority's statutory objective of promoting tourism, employment and economic development generally in the State.

Clause 3.6 inserts a new clause 22.1(*s*) making the on-going provision to the State of a \$100 million letter of credit (as required by the Deed of Undertaking Guarantee as security for payment of tax and other obligations) a licence condition.

Clause 4 is a standard provision confirming that the amendments do not affect the overall operation of the Casino Agreement.

Clause 5 incorporates by reference some standard interpretation provisions.

Supplemental Casino Agreement

Parties

Victorian Casino and Gaming Authority—Crown Limited—Publishing and Broadcasting Limited

Overview

The Supplemental Casino Agreement establishes a direct regulatory relationship between the Authority and Publishing and Broadcasting Limited, as ultimate owner of the licensee of the Melbourne Casino.

Recitals

The recitals set out the background and purpose of the Agreement, and expressly state that the Agreement is made under section 142 of the Casino Control Act.

Clauses

Clause 1 is a machinery clause which incorporates by reference all of the definitions in the Casino Control Act and the Casino Agreement, and specifically defines "Deed of Undertaking and Guarantee", "Casino Variation Agreement" (the Eighth Variation Agreement) and "Guaranteed Obligations".

Detailed explanation of the proposed transaction documents

Clause 2 sets out a **condition precedent** to the operation of the Agreement. The Agreement is of no force or effect until the Casino Variation Agreement is in force. The Authority is required to give notice of that event within 5 days.

Clause 3 has PBL make the same warranties as Crown was required to give in order to be a suitable company to receive a casino licence. Please note that certain paragraphs are excluded. These relate to particular circumstances of Crown and Hudson Conway in 1993 and are not capable of being adopted by PBL.

Clause 4 contains direct promises from PBL to the Authority that PBL will ensure that it and all the members of its group observe clause 22 of the Casino Agreement; transfer shares and do other things if those are necessary to remedy a breach of or enforce the Casino Agreement and promptly provide information as required by the Authority.

Clause 5 contains a formal guarantee and indemnity by PBL in respect of the obligations of its subsidiaries.

Clause 6 is a technical provision intended to confirm that PBL (and no other Packer entity) is the Holding Company for the purposes of the Casino Agreement.

Clause 7 is a technical provision intended to remove a possible, unintended consequence of clause 22.1(f) of the Casino Agreement which, operating in conjunction with the share entitlement provisions of the Corporations Law in the circumstance where a person acquired 6% of PBL, would require PBL to dispose of shares in Crown.

Clause 8 is a technical provision to ensure that the Authority can enforce promises against PBL without first enforcing breaches of the Casino Agreement.

Clause 9 is intended to give the Authority the capacity to enforce the Agreement by injunction.

Clauses 10–11 contain technical and housekeeping matters.

Deed of VCGA Release

Parties

Victorian Casino and Gaming Authority—Crown Limited—Crown Management Pty Ltd—Hudson Conway Limited—The Federal Hotels Pty Ltd

Overview

The Deed of Release discharges Hudson Conway Limited and The Federal Hotels Pty Ltd from any residual obligations that they may still have under the original licensing arrangements. Crown is also released from certain obligations which are now merely formal and the Authority is similarly released. The relationships which this Deed unwinds were mainly dormant in any event and will be completely redundant if the merger proceeds.

Recitals

The recitals set out the background and purpose of the Agreement.

Detailed explanation of the proposed transaction documents

Clauses

Clause 1 is a machinery clause which incorporates by reference all of the definitions in the Casino Control Act and the Casino Agreement, in addition to the specific terms “Casino Agreement”, “Effective Date”, “PBL”, “Relevant Agreements”, “Sponsor Guarantee”, “Sponsors”, “Supplemental Operations Agreement”, “Supplemental Sponsors Agreement” and “Transaction Document”. [The agreements establish certain collateral promises by the sponsors to the Melbourne Casino project.]

Clause 2 sets out **conditions precedent** to the operation of the Agreement. The Agreement is of no force or effect until both the Minister approves it under section 142 of the Casino Control Act, the Authority approves PBL as an associate of Crown and PBL obtains all the shares in Crown. The Authority is required to give notice of the first two events within 5 days.

Clause 3 releases Hudson Conway from all of its future collateral obligations to the Authority in relation to the construction, development, operation and performance of the Melbourne Casino.

Clause 4 releases Federal Hotels from all of its future collateral obligations to the Authority in relation to the construction, development, operation and performance of the Melbourne Casino.

Clause 5 releases Crown from its future obligations to the Authority under the Supplemental Sponsors Agreement.

Clause 6 releases the Authority from any obligations to Crown, Hudson Conway or Federal Hotels under any of the documents.

Clause 7 contains an acknowledgment by Crown Management that it remains bound by the relevant agreements.

Clause 8 confirms that the releases granted by the Deed do not relate to past conduct and operate prospectively only.

Clauses 9 and 10 contain standard machinery and housekeeping provisions.

Deed of Undertaking and Guarantee

Parties

Victorian Casino and Gaming Authority—State of Victoria—Publishing and Broadcasting Limited—Crown Limited—17 existing subsidiary companies of PBL

Overview

This document regulates the financial relationships, post merger, between the State, the Authority and the PBL Group. It replaces the Master Security Agreement. It provides for the termination of the Master Security Agreement and the granting of Letters of Undertaking by the State and the Authority to the financiers of the PBL Group.

Under the Master Security Agreement, Crown had both secured and unsecured borrowings, all of which were subordinate to a charge in favour of the State in respect of casino taxes and

Detailed explanation of the proposed transaction documents

other obligations under the Management Agreement. In contrast, PBL's finances are "negative pledge" with the position of lenders being protected by cross guarantees between all members of the PBL Group and promises on their part not to encumber any assets.

As part of the merger, PBL will recapitalise Crown, removing the need for any secured borrowings (which is consistent with the negative pledge arrangement). This document accommodates the State's requirement to retain a secured position relating to taxes and the need to regulate the borrowing arrangements in view of the capacity, under the cross guarantees, for Crown to be called upon to meet debt calls on other parts of the PBL Group.

Recitals

The recitals set out the background and purpose of the Deed.

Clauses

Clause 1 contains definitions and technical and interpretive provisions. Of note are clause 1.6—which provides that the obligations of PBL and all its subsidiaries are both joint and several—and clause 1.8—which provides that the obligations of the State and the Authority are several or individual only.

Clause 2 contains warranties by PBL and all its subsidiaries that they are legally capable of entering the Deed, that their financial positions are as they appear to be and that they understand that the State and the Authority rely on those warranties in entering into the Deed.

Clause 3 promises to the State and the Authority that PBL and all its subsidiaries will honour Crown's obligations under the various laws and agreements, will not exceed the 60% gearing ratio, will keep proper records and maintain their status at law, will not give any security, will ensure that appropriate members of the PBL Group are made parties to the Deed and will tell the State and the Authority about any change in the financial arrangements that is favourable to the financiers.

Clause 4 provides for issue and renewal of letters of credit (to the State) in support of casino tax and other obligations, the release (by the State) of certain mortgages of land, the capping (by the State) of the existing fixed and floating charge, the discharge (by both the State and the Authority) of the Master Security Agreement and the granting (by both the State and the Authority) of Letters of Undertaking. The monetary level of the letters of credit and the cap on the fixed and floating charge is \$100 million, with a provision for "top up" to \$200 million.

Clause 5 contains various technical provisions to ensure the paramountcy of the entitlements of the State and the Authority.

Clause 6 provides for the capture of new subsidiaries in the arrangements under the Deed and for the release of certain subsidiaries from their obligations with the consent of the State and the Authority.

Clause 7 contains general and machinery provisions.

Schedules

Schedule 1 lists the companies providing the guarantees to the State and the Authority.

Detailed explanation of the proposed transaction documents

Schedule 2 prescribes the form of the letter of credit.

Schedule 3 contains the amendments to the fixed and floating charge.

Schedule 4 prescribes the form of the Letter of Undertaking (*see below for clause notes*).

Schedule 5 lists relevant PBL mastheads.

Schedule 6 prescribes the form of deed by which new guarantors are introduced.

Schedule 7 lists the securities to be relinquished in exchange for the letters of credit under clause 4.

Master Security Agreement Discharge

Parties

Victorian Casino and Gaming Authority—State of Victoria—Crown Limited—ANZ Capel Court Limited

Overview

This document brings to an end the Master Security Agreement, as required by clause 4.2(d) of the Deed of Undertaking and Guarantee.

Recitals

The recitals set out the background and purpose.

Clauses

Clause 1 is a machinery clause which incorporates by reference all of the definitions in the Casino Control Act and the Casino Agreement, in addition to the specific terms “Casino Variation Agreement”, “Deed of Undertaking and Guarantee”, “Effective Date”, “Existing Crown Securities” and “PBL”.

Clause 2 sets out, as conditions precedent to the operation of the Agreement, the commencement of the Casino Variation Agreement and delivery to the State of surrenders of existing Crown securities.

Clause 3 contains a technical representation by ANZ Capel Court Limited

Clause 4 releases all the parties from each others’ promises.

Clause 5 terminates the parties agree that the Master Security Agreement.

Clause 6 preserves the parties’ rights in relation to existing breaches of the Master Security Agreement.

Clause 7 contains general technical provisions concerning stamp duty, legal expenses, &c.

Clause 8 contains interpretive provisions

Detailed explanation of the proposed transaction documents

Letter of Undertaking

Party

Victorian Casino and Gaming Authority *to* Various financial institutions

Overview

The sending of this letter to PBL's financiers is one of the conditions of the Deed of Undertaking and Release which replace similar provisions in the Master Security Agreement. The Letter of Undertaking operates to give assurances to PBL's financiers that Crown's licence will not be cancelled or suspended until after they have had the opportunity to make representations.

Clauses

Clause 1 sets out the background of the Letter.

Clause 2 provides definitions of "Authority", "Controller" [in the context of insolvency], "Crown", "Finance Documents", "Financier", "Management Agreement", "Minister", "PBL Group", "State"; it also incorporates by reference certain definitions in the Management Agreement and sets out standard interpretive provisions.

Clause 3 contains promises by the State to give notice of any action it proposes to take under the Management Agreement. It also contains promises by the Authority to give notice to the financiers of any "cure notice" under the Casino Agreement or "show cause notice" under the Casino Control Act which may result in the suspension or cancellation of the Casino Licence. It goes on to restrain the Authority from suspending or cancelling the Casino Licence if a financier satisfies the Authority that it should not do so.

Clause 4 provides for the termination of the Letter of Undertaking on repayment of the money advanced.

Clause 5 contains notice provisions and a statement that the law of Victoria applies to the document.

Authorisation Deed

Party

Minister for Gaming *to* Victorian Casino and Gaming Authority

Overview

This document is the formal instrument whereby the Minister will authorise the Authority to enter into the Eighth Variation Agreement to the Casino Agreement and the Supplemental Casino Agreement. **Please note that this document is not executed by the Authority.**

Recitals

The recitals set out the background and purpose of the Agreement.

Detailed explanation of the proposed transaction documents

Clauses

Clause 1 contains definitions and machinery provisions.

Clause 2 contains the approval of the Minister to the Authority entering into the Eighth Variation Agreement, the Casino Supplemental Agreement and the Deed of Release, for the purposes of section 142 of the Casino Control Act.

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>22.1 The following are conditions of this document:</p> <p>(a) unless the Authority approves in writing otherwise, prior to the Completion (as defined in the Management Agreement) of the Melbourne Casino Complex (excluding the Lyric Theatre (as defined in the Management Agreement)):</p> <p>(i) subject to paragraph (aa), Hudson Conway Limited ('HCL') must not Dispose of any Shares held by it, and must procure that any wholly owned subsidiary that holds Shares (such shareholding entity a 'relevant entity') does not Dispose of any Shares;</p> <p>(ii) subject to paragraph (ab), HCL must subscribe for (whether directly or through a nominee holding under a bare trust), and procure that any relevant entity subscribes for, its entitlement to Shares offered under a pro rata or entitlement offer of Shares to shareholders in the Company; and</p> <p>(iii) subject to paragraph (ac), HCL must ensure that any relevant entity remains a wholly owned subsidiary;</p> <p>(aa) paragraph (a)(i) does not prevent a Disposal of Shares if following such Disposal the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p> <p>(ab) paragraph (a)(ii) does not require HCL or any relevant entity to subscribe for all Shares for which HCL or the relevant entity is entitled to subscribe under the offer if, following the allotment by the Company of all Shares to be issued under the offer, the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p>	<p>22.1 The following are conditions of this document:</p> <p>(a) unless the Authority approves in writing otherwise, prior to the Completion (as defined in the Management Agreement) of the Melbourne Casino Complex (excluding the Lyric Theatre (as defined in the Management Agreement)):</p> <p>(i) subject to paragraph (aa), Hudson Conway Limited ('HCL') must not Dispose of any Shares held by it, and must procure that any wholly owned subsidiary that holds Shares (such shareholding entity a 'relevant entity') does not Dispose of any Shares;</p> <p>(ii) subject to paragraph (ab), HCL must subscribe for (whether directly or through a nominee holding under a bare trust), and procure that any relevant entity subscribes for, its entitlement to Shares offered under a pro rata or entitlement offer of Shares to shareholders in the Company; and</p> <p>(iii) subject to paragraph (ac), HCL must ensure that any relevant entity remains a wholly owned subsidiary;</p> <p>(aa) paragraph (a)(i) does not prevent a Disposal of Shares if following such Disposal the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p> <p>(ab) paragraph (a)(ii) does not require HCL or any relevant entity to subscribe for all Shares for which HCL or the relevant entity is entitled to subscribe under the offer if, following the allotment by the Company of all Shares to be issued under the offer, the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p>	<p>22.1 The following are conditions of this document:</p> <p>(a) unless the Authority approves in writing otherwise, prior to the Completion (as defined in the Management Agreement) of the Melbourne Casino Complex (excluding the Lyric Theatre (as defined in the Management Agreement)):</p> <p>(i) subject to paragraph (aa), Hudson Conway Limited ('HCL') must not Dispose of any Shares held by it, and must procure that any wholly owned subsidiary that holds Shares (such shareholding entity a 'relevant entity') does not Dispose of any Shares;</p> <p>(ii) subject to paragraph (ab), HCL must subscribe for (whether directly or through a nominee holding under a bare trust), and procure that any relevant entity subscribes for, its entitlement to Shares offered under a pro rata or entitlement offer of Shares to shareholders in the Company; and</p> <p>(iii) subject to paragraph (ac), HCL must ensure that any relevant entity remains a wholly owned subsidiary;</p> <p>(aa) paragraph (a)(i) does not prevent a Disposal of Shares if following such Disposal the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p> <p>(ab) paragraph (a)(ii) does not require HCL or any relevant entity to subscribe for all Shares for which HCL or the relevant entity is entitled to subscribe under the offer if, following the allotment by the Company of all Shares to be issued under the offer, the total number of Shares held by HCL and any relevant entity is not less than 33.5% of the total number of Shares then on issue;</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>(ac) paragraph (a)(iii) does not require a relevant entity to remain a wholly owned subsidiary of HCL if the total number of Shares held by HCL and any other relevant entities is not less than 33.5% of the total number of Shares then on issue;</p> <p>(ad) CUB must not Dispose of any Shares held by CUB until after the Melbourne Casino is Completed and open for business;</p> <p>(b) at any time during the period of 1 year from the date that the Melbourne Casino Complex (excluding the Lyric Theatre (as defined in the Management Agreement)) is Completed (as defined in the Management Agreement), the aggregate number of Shares held by HCL and any relevant entity must not be less than the lesser of:</p> <p>(i) 10% of the total number of Shares on issue; and</p> <p>(ii) the number of Shares held by HCL and any relevant entity at the time of such Completion (calculated on the basis that there has been compliance with clauses 22.1(a) to (ac));</p> <p>(c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;</p> <p>(d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;</p> <p>(e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed;</p>	<p>(ac) paragraph (a)(iii) does not require a relevant entity to remain a wholly owned subsidiary of HCL if the total number of Shares held by HCL and any other relevant entities is not less than 33.5% of the total number of Shares then on issue;</p> <p>(ad) CUB must not Dispose of any Shares held by CUB until after the Melbourne Casino is Completed and open for business;</p> <p>(b) at any time during the period of 1 year from the date that the Melbourne Casino Complex (excluding the Lyric Theatre (as defined in the Management Agreement)) is Completed (as defined in the Management Agreement), the aggregate number of Shares held by HCL and any relevant entity must not be less than the lesser of:</p> <p>(i) 10% of the total number of Shares on issue; and</p> <p>(ii) the number of Shares held by HCL and any relevant entity at the time of such Completion (calculated on the basis that there has been compliance with clauses 22.1(a) to (ae));</p> <p>(c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;</p> <p>(d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;</p> <p>(e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed;</p>	<p>(c) the Company must obtain the prior written approval of the Authority to any appointment of a director or alternate director of the Company;</p> <p>(d) the Company must procure the vacation from office of any director or alternate director of the Company in accordance with any direction to that effect by the Authority;</p> <p>(e) the articles of association of the Company must provide at all times for a minimum of 5 directors to be appointed;</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>(f) except for the persons who are Founding Shareholders under the Founding Shareholders Agreement, the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;</p> <p>(g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;</p> <p>(h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the <i>Corporations Law</i>, issue notices pursuant to Sections 718 and 719 of the <i>Corporations Law</i> in respect of particular Shares;</p> <p>(i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the <i>Corporations Law</i>) without the prior written approval of the Authority;</p>	<p>(f) except for the persons who are Founding Shareholders under the Founding Shareholders Agreement, the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;</p> <p>(g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;</p> <p>(h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the <i>Corporations Law</i>, issue notices pursuant to Sections 718 and 719 of the <i>Corporations Law</i> in respect of particular Shares;</p> <p>(i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the <i>Corporations Law</i>) without the prior written approval of the Authority;</p>	<p>(f) the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;</p> <p>(g) where required by the Authority, the Company must enforce the disposal of Shares of any person in accordance with the procedures for such disposal set out in the articles of association of the Company;</p> <p>(h) if so requested by the Authority, the Company must when requested, at any time that it is a company within the meaning of Part 6.8 of the <i>Corporations Law</i>, issue notices pursuant to Sections 718 and 719 of the <i>Corporations Law</i> in respect of particular Shares;</p> <p>(i) except for the issue of partly paid shares in the Company to employees of the Company (not exceeding 5% of the fully diluted total issued capital of the Company), options issued to the Sponsors (not exceeding 15% of the fully diluted total issued capital of the Company) and subject to clause 22.1(m) unsecured debt securities issued in the ordinary course of business of the Company which do not materially increase the total indebtedness of the Company, the Company must not issue any shares of a class other than the Shares or any other security (as defined in section 92 of the <i>Corporations Law</i>) without the prior written approval of the Authority;</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
(j) the Company must not, without the prior written approval of the Authority, issue or announce the issue of Shares, if such issue would require the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX;	(j) the Company must not, without the prior written approval of the Authority, issue or announce the issue of Shares, if such issue would require the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX;	(j) the Company must not, without the prior written approval of the Authority, issue or announce the issue of Shares, if such issue would require the approval of holders of Shares under rule 7.1 of the Listing Rules of ASX;
(k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;	(k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;	(k) the memorandum and articles of association of the Company must not be amended without the prior written approval of the Authority;
(l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;	(l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;	(l) no person may be appointed as auditor of the Company unless that person's appointment has first been approved in writing by the Authority;
(m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;	(m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;	(m) subject to clause 22.6, the Company must procure that at any time Total Liabilities does not exceed 60% of Total Assets without the prior written approval of the Authority;
	(ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority;	(ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority;
(n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company and a list of the top 50 holders of Shares registered at the end of the previous month;	(n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company and a list of the top 50 holders of Shares registered at the end of the previous month;	(n) the Company must provide to the Authority within 14 days of the end of each month details of all Shares issued by the Company and a list of the top 50 holders of Shares registered at the end of the previous month;
(o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;	(o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;	(o) a director or alternate director of the Company must not gamble in the Temporary Casino or the Melbourne Casino;
(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority; and	(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority; and	(p) the Company must not carry on or conduct any business other than the businesses contemplated by or authorised under this document and the Casino Licence or any business incidental to or complementary with those businesses except with the prior written approval of the Authority;

Comparative table—amendments to clause 22 of the Casino Agreement

Current text	Marked up for amendment	New text
<p>(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority.</p>	<p>(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;</p> <p>(r) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:</p> <p style="padding-left: 20px;">(i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and</p> <p style="padding-left: 20px;">(ii) which is not detrimental to the Company’s interests; and.</p> <p>(s) the Company must ensure that the State is at all times the beneficiary and holder of letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).</p>	<p>(q) the Company must not establish or acquire a Subsidiary unless it relates to an incidental or complementary business referred to in paragraph (p) except with the prior written approval of the Authority;</p> <p>(r) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:</p> <p style="padding-left: 20px;">(i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and</p> <p style="padding-left: 20px;">(ii) which is not detrimental to the Company’s interests; and</p> <p>(s) the Company must ensure that the State is at all times the beneficiary and holder of letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).</p>
<p>22.2 In clause 22.1, ‘Share’ or ‘Shares’ includes, as the context requires, any other class of voting security (as defined in section 92 of the <i>Corporations Law</i>) issued by the Company.</p>	<p>22.2 In clause 22.1, ‘Share’ or ‘Shares’ includes, as the context requires, any other class of voting security (as defined in section 92 of the <i>Corporations Law</i>) issued by the Company.</p>	<p>22.2 In clause 22.1, ‘Share’ or ‘Shares’ includes, as the context requires, any other class of voting security (as defined in section 92 of the <i>Corporations Law</i>) issued by the Company.</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the <i>Corporations Law</i> to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the <i>Corporations Law</i> as if that Part applied.</p>	<p>22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the <i>Corporations Law</i> to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the <i>Corporations Law</i> as if that Part applied.</p>	<p>22.3 For the purposes of clause 22.1, a reference to a person being entitled to Shares has the same meaning as a reference in Part 6.7 of the <i>Corporations Law</i> to a person being entitled to voting shares in a company and that person's entitlement will be calculated in the manner prescribed for calculation of substantial shareholdings in Part 6.7 of the <i>Corporations Law</i> as if that Part applied.</p>
<p>22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.</p>	<p>22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.</p>	<p>22.4 For the purpose of paragraphs 22.1(p) and (q), a business is incidental or complementary to the contemplated businesses if a dominant purpose of the business is to operate in support of and in conjunction with the contemplated businesses in order to increase or preserve the revenue of those contemplated businesses.</p>
<p>22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.</p>	<p>22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.</p>	<p>22.5 For the purposes of clause 22.1, 'hold' or 'held' in relation to Shares means that those Shares are beneficially owned, and includes Shares registered in the name of a nominee holding under a bare trust.</p>
<p>22.6 Any approval given by the Authority under clause 22.1(m) may be given subject to such conditions as the Authority determines.</p>	<p>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma) may be given subject to such conditions as the Authority determines.</p>	<p>22.6 Any approval given by the Authority under clauses 22.1(m) and 22.1(ma) may be given subject to such conditions as the Authority determines.</p>
<p>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clause 22.1(m), the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clause 22.1(m) to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.</p>	<p>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma), the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma) to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.</p>	<p>22.7 If at any time there is any change in Australian Accounting Standards or their application and such change will have a material impact on the compliance by the Company with clauses 22.1(m) and 22.1(ma), the Authority agrees to discuss with the Company amendments that may be required to the definitions relevant to clauses 22.1(m) and 22.1(ma) to ensure that the provisions of this document would have the same economic effect had such a change not been made. The Authority is not obliged to agree to any such amendments.</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>22.8 For the purpose of monitoring compliance by the Company with clause 22.1(m), the Company must calculate the ratio of Total Liabilities to Total Assets as at the last day of every month ('Calculation Day') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day.</p>	<p>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma), the Company must calculate the ratio of Total Liabilities to Total Assets and the ratio of Total Group Liabilities to Total Group Assets as at the last day of every month ('Calculation Day') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day.</p>	<p>22.8 For the purpose of monitoring compliance by the Company with clauses 22.1(m) and 22.1(ma), the Company must calculate the ratio of Total Liabilities to Total Assets and the ratio of Total Group Liabilities to Total Group Assets as at the last day of every month ('Calculation Day') and provide to the Authority written details of such calculation within not more than 10 Business Days after the Calculation Day.</p>
<p>22.9 If the ratio calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company addressed to the Authority by not later than the 20th day of the month following the Calculation Day.</p>	<p>22.9 If any the ratio calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company and the Holding Company Group addressed to the Authority by not later than the 20th day of the month following the Calculation Day.</p>	<p>22.9 If the ratio calculated under clause 22.8 is greater than 60%, the Company must procure that its auditor provides to the Authority a Solvency Report in respect of the Company addressed to the Authority by not later than the 20th day of the month following the Calculation Day.</p>
<p>22.10 If the ratio calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects the ratio will not exceed 60% and the financial position of the Company and the Group. Any such written submissions must be provided to the Authority by not later than the 20th day of the month following the Calculation Day.</p>	<p>22.10 If any the ratio calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects the ratio will not exceed 60% and the financial position of the Company and the Holding Company Group. Any such written submissions must be provided to the Authority by not later than the 20th day of the month following the Calculation Day.</p>	<p>22.10 If the ratio calculated under clause 22.8 is greater than 60%, the Company may make written submissions to the Authority for consideration by the Authority for the purposes of clause 22.12 in relation to the period within which the Company expects the ratio will not exceed 60% and the financial position of the Company and the Holding Company Group. Any such written submissions must be provided to the Authority by not later than the 20th day of the month following the Calculation Day.</p>
<p>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Group.</p>	<p>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.</p>	<p>22.11 For the purposes of clause 22.12, the Authority may by notice in writing to the Company require the Company to provide to the Authority within the period specified in the notice such further information as the Authority requires in relation to a Solvency Report or the financial position of the Company and the Holding Company Group.</p>

Comparative table—amendments to clause 22 of the Casino Agreement

<i>Current text</i>	<i>Marked up for amendment</i>	<i>New text</i>
<p>22.12 If:</p> <p>(a) the ratio calculated under clause 22.8 is greater than 60%;</p> <p>(b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;</p> <p>(c) the Authority is satisfied that the Company will comply with clause 22.1(m) within a period acceptable to the Authority; and</p> <p>(d) the Authority is otherwise satisfied with the financial position of the Company and the Group;</p> <p>the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clause 22.1(m).</p>	<p>22.12 If:</p> <p>(a) any the ratio calculated under clause 22.8 is greater than 60%;</p> <p>(b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;</p> <p>(c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma) within a period acceptable to the Authority; and</p> <p>(d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group;</p> <p>the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma).</p>	<p>22.12 If:</p> <p>(a) any ratio calculated under clause 22.8 is greater than 60%;</p> <p>(b) the Solvency Report provided under clause 22.9 concludes that there is a reasonable basis for believing that the Company will meet its debts as and when they fall due for the next 12 months;</p> <p>(c) the Authority is satisfied that the Company will comply with clauses 22.1(m) and 22.1(ma) within a period acceptable to the Authority; and</p> <p>(d) the Authority is otherwise satisfied with the financial position of the Company and the Holding Company Group;</p> <p>the Authority may determine not to issue a notice to the Company under clause 31.2 of this document in respect of the breach of clauses 22.1(m) and 22.1(ma).</p>

PROPOSED CROWN/PBL MERGER


Supporting Paper No. 1

Commercial Regulation

PURPOSE

1. To brief the Authority on the commercial regulation aspects of the proposed merger.

BACKGROUND

2. 
3. Draft implementation documents (prepared by ML&C in conjunction with their report) were agreed at officer level with the State and submitted to Crown for officer level discussion with Crown and PBL. Crown indicated concerns with the proposed documents (letter from Peter Ronec of Crown dated 19 March 1999—**Attachment 1-B**) which were responded to by letter (**Attachment 1-C**) and discussed in a meeting on 23 March 1999 attended by Mr Ronec, Mr Geoff Kleeman (chief financial officer of PBL), staff of the Authority and external lawyers for both sides. The matters were further discussed in a telephone conference with Mr Nick Falloon (chief executive of PBL) on 24 March 1999.
4. The end result of the correspondence and discussions is that Crown and PBL—
 - have significant concerns with some conditions proposed in the draft documents;
 - wish to make a presentation to the Authority in person.
5. In light of the discussions, ML&C have provided a follow up Position Paper (**Attachment 1-D**) and Crown has supplied (on behalf of itself and PBL) further clarification of their position in the form of a memorandum (**Attachment 1-E**).

ISSUES

General

6. The principal draft documents submitted to Crown and PBL were:
 - **Eighth variation agreement to the Casino Agreement**
In addition to removing references made redundant by Crown becoming a wholly owned subsidiary, this document proposed amendments to:
 - ♦ impose the Crown gearing ratio on any parent company of Crown;

- ◆ maintain the requirement that movements in Crown's share register of 5% entitlement or more be subject to the prior approval of the Authority; and
- ◆ impose an analogue to the single purpose covenant on Crown's parent company or any related entity of it.
- **Supplemental Casino Agreement**
This document proposed direct promises by PBL to ensure that Crown performs its obligations under the Casino Agreement, and in particular:
 - ◆ confirms that PBL is obliged to ensure that gaming revenue in the Melbourne Casino is maximised; and
 - ◆ provides for injunctive relief in the event of an uncured breach of the Casino Agreement by Crown.
- **Performance Guarantee [to State]**
This document mirrored the Supplemental Casino Agreement concerning Crown's Management Agreement obligations to the State (such as the construction of the Southern Hotel Tower and Lyric Theatre). The document was prepared by ML&C on behalf of the Victorian Government Solicitor.

The Authority would be a party to the first two documents (which in addition require the approval of the Minister for Gaming) while the third document is a matter for the Minister alone.

7. PBL's concerns principally relate to the extension of the single purpose covenant and there being a PBL group obligation to ensure the maximisation of gaming revenue. The gearing ratio covenant has been expressly offered by PBL and, whilst Crown has indicated resistance to the share register and injunctive relief issues, it is not expected that they ultimately be contentious.

Single purpose covenant

8. Clauses 22.1(p) and (q) of the Casino Agreement currently require Crown to be a single purpose company and not to have subsidiaries, except with the consent of the Authority.
9. This effectively made Crown's business a stand-alone, single venue operation. Any consideration Crown's major shareholder, Hudson Conway Limited ("HCL"), may have had of developing another site using Crown's resources was, in the absence of approval by the Authority, prevented by a combination of the following factors:
 - HCL could not use Crown's resources for such a project other than on "arm's length" terms approved by the independent directors. To do otherwise would infringe the provisions of the Corporations Law intended to protect the "non-associated" public shareholders.
 - Crown could not engage in an arm's length consultancy business in relation to other casinos without breaching the single purpose covenant.
10. This situation changes when Crown becomes a wholly owned subsidiary, as proposed by PBL. There are no longer any non-associated public shareholders to be protected, meaning that there is no requirement for Crown to act other than in PBL's interests. Two immediate scenarios come to mind:

- PBL could “cannibalise” Crown to establish a competitor elsewhere in Australia.
 - PBL could acquire another casino (such as the presently closed Christmas Island casino) and market it through Crown’s network. This could allow it to swap high roller business between the two venues and set up a casino tax bidding war between Victoria and the other jurisdiction.
11. It was therefore proposed to insert a new clause 22.1(r) into the Casino Agreement to restrain Crown’s parent and any related entity from undertaking any other Australian casino or casino-like activity.
 12. PBL had two particular concerns about this clause. One is that the original drafting would have captured Consolidated Press Holdings Limited (“CPH”) (a Packer entity which holds 40% of PBL). The other is that this would permanently and significantly fetter PBL’s general commercial flexibility. It was submitted that commercial reality dictated that PBL would maximise Crown’s performance and that PBL’s position should be made analogous to that of HCL.
 13. The submission concerning CPH is considered justified and it was indicated to PBL that the final recommendation to the Authority would not include CPH or the Packer family members personally. This treats those people the same way as HCL is presently treated.
 14. By way of background, the licensing arrangements for Sydney’s Star City Casino prevent the licensee, manager, operator and owner from directly or indirectly having any—
 - entitlement to shares; or
 - financial or economic interest; or
 - operational or management interest
 in a casino operator in Australia, other than in New South Wales. (This requirement may have influenced the CPH decision not to proceed with an interest in the Sydney Casino in 1997.)

Maximise gaming revenue covenant

15. Clause 28 of the Casino Agreement requires Crown to take steps to maximise gaming revenue¹, on the assessment of casino taxes is based. In the absence of such a provision, Crown could choose, for instance, a cost-cutting business strategy which, although it reduced total turnover, increased profit.
16. The draft Supplemental Casino Agreement imposes a mirror obligation on PBL. This requirement anticipates that, among other things, capital spending will be controlled on a PBL-group basis and that there is the possibility that PBL will take Crown’s cash flows for capital spending in other parts of the group and not allocate sufficient new capital to Crown to develop the full potential of that particular business.
17. PBL has submitted that its business interest is parallel to that of the Authority and the State in that, having taken on significant commitments in Crown, it will do all it can to develop and maximise the Melbourne Casino business.

¹ “...consistent with best operating practices in international casinos of a similar size and nature.”

18. PBL has also raised ancillary concerns, best encapsulated in the question: *Would it be a breach for Channel 9 Melbourne to take advertising [of, say, weekend packages] from Star City.*
19. PBL's concerns about this covenant are similar to those concerning the single purpose covenant. However, they may be resolved by adoption of slightly less positive wording. As for the ancillary concerns, they can only be resolved on a common-sense basis.

Summary

20. The basis of the discussions between officers was a set of documents prepared to maintain the substance of the *status quo*. PBL's concerns, which all relate to commercial or economic (rather than probity) regulation, arise because the proposed merger separates the licence holder from the effective owner of the Melbourne Casino. The key question to answer is the extent to which the owner of the Melbourne Casino should be regulated commercially or economically. Currently the owner and licensee are the same. In the proposed arrangement Crown is the licensee but the owner of the benefit is PBL.
21. Although the Authority is the custodian of much of the economic and commercial regulation, a decision to change would be a policy matter for the Government. The appropriate conservative approach for the Authority is to start with a proposal which gives the maximum assurance that the objectives of the existing economic and commercial regulation will continue to be achieved.
22. Accordingly, the Minister (who must approve the transaction documents changes under section 142 of the **Casino Control Act 1991** if they are to be implemented) has been asked to give an indication of the extent, if any, to which he is prepared to agree to a relaxation of that regulation, which is essentially a matter of government policy.
23. In the meantime, it is also appropriate for the Authority to consider alternative ways of being satisfied about those commercial and economic objectives. PBL has asked for the opportunity for its executives to make a submission to the Authority and they should be allowed this.

Attachment 1 -A

This Attachment is the Report to the Victorian Casino and Gaming Authority concerning the proposed merger between Crown Limited and Publishing and Broadcasting Ltd.

It is an Attachment to “Supporting Paper No. 1; Commercial regulation” of the paper entitled “PROPOSED CROWN/PBL MERGER - STATUS REPORT”.

As it is a bulky document, it is provided separately from the other Authority papers.

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 CROWN CORPORATE

Attachment 1-B



Peter Ronc
 Chief General Manager – Finance & Corporate



ATTENTION: Ms S Grobtuch

COMPANY: Victorian Casino and Gaming Authority

FACSIMILE NUMBER: (03) 9651 4999

FROM: Peter Ronc

OUR FACSIMILE NUMBER: (03) 9292-7296

OUR TELEPHONE NUMBER: (03) 9292-7290

TOTAL PAGES: 5
 (including this page)

Please see attached.



19 March 1999

Mr Bill Lahey
 Director of Gaming and Betting
 Victorian Casino And Gaming Authority
 Level 5 35 Spring Street
 MELBOURNE VIC 3000

Attention: Ms S Grobtuch

Dear Mr Lahey

Proposed Merger – Crown Limited and Publishing And Broadcasting Limited (PBL)

Thank you for your facsimiles of 15 and 16 March 1999 attaching draft enabling documents.

We have discussed the documents with representatives of PBL and Hudson Conway and attempted to convey to you in this letter their views as well as our own. We have not yet obtained comments from Federal Hotels.

The drafts raise certain commercial issues, some of them fundamental, which we will set out in this letter. There are also some drafting comments which we have included in an attachment.

Eighth Variation Agreement to the Casino Agreement

<u>Clause No.</u>	<u>Comments</u>
-------------------	-----------------

3.1	The far-reaching definition of "Related Entity" should be deleted in light of the comment on clause 3.5.3 below.
-----	--

3.3	As previously indicated, our preference is to delete clause 22.1(f) of the Casino Agreement entirely. If this is not acceptable:
-----	--

- please insert "(other than a member of the Holding Company Group)" after the word "person" each time it appears in the proposed new clause 22.1(f); and
- clause 22.3 needs to be deleted to ensure that clause 22.1(f) does not extend to shareholdings above the PBL Group (which are beyond the control of PBL).

Article 2.7 of Crown's Constitution will also need to be correspondingly amended, and we request approval for this under clause 22.1(k) of the Casino Agreement.



<u>Clause No.</u>	<u>Comments</u>
3.4	The inclusion of clause 22.1(ma) is acceptable. It appears appropriate to make consequential amendments to clauses 22.6 and 22.7 so that they refer to the new clause 22.1(ma) as well as to clause 22.1(m).
3.5.3	This clause is unacceptable. Crown Limited is already subject to a "sole purpose" test under clause 22.1(p). However, Crown's existing shareholders are not subject to such business restraints, and nor should PBL be. Moreover, agreeing to any such restraints would not appear consistent with proper exercise of the duties of the directors of PBL to its shareholders.

Performance Guarantee

This document is basically acceptable, being consistent with the performance guarantee included as Annexure C to PBL's Financing Proposals of 5 March 1999. Other elements of those proposals will require further documentation (as set out in the annexures to the 5 March submission). PBL looks forward to discussing the documentation with you following the VCGA's consideration of its proposal.

Our comment on clause 8 of the Supplemental Casino Agreement below also applies to clause 7 of this document.

Supplemental Casino Agreement

As this document essentially repeats the provisions of the Performance Guarantee, but in favour of VCGA, our preference is that the VCGA be simply made a party to the Performance Guarantee (as was suggested by PBL in its Financing Proposals). If that is not acceptable to the VCGA or the State, our comments are as follows:

<u>Clause No.</u>	<u>Comments</u>
4(a)	We assume that clause 4(a) adds nothing to the performance guarantee in clause 5 of this document and therefore it should be deleted.
4(b)	Again, clause 4(b) appears to relate to the obligations of Crown Limited in clause 22.1(g) of the Casino Agreement. It is therefore already covered by the performance guarantee in clause 5 and should be deleted.
4(d)	This clause is unacceptable. Similarly to clause 3.5.3 of the draft Eighth Variation Agreement, this provision is broad and uncertain and imposes restrictions, as well as positive obligations, that Crown Limited's shareholders do not currently bear. Read in its broadest terms, it would stifle other legitimate business interests of PBL. The VCGA should rely on the commercial reality that it is in both parties' interests to maximise Gross Gaming Revenue.

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CROWN CORPORATE

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<u>Clause No.</u>	<u>Comments</u>
8	This should be deleted as the document is essentially about monetary compensation (being a guarantee and indemnity) and therefore the references to entitlement to equitable relief are inappropriate.

Deed of Release

<u>Clause No.</u>	<u>Comments</u>
4A	<p>Please insert an additional clause as follows:</p> <p>"On and from the Effective Date, the Authority releases and discharges the Company from all further and future obligations under the Supplemental Sponsors Agreement;"</p>

In addition to the changes described above and in the attachment to this letter, there is a large number of changes to the Casino Agreement and Management Agreement which we regard as less important, but desirable to reflect events which have occurred since those documents were originally executed, or the proposed Financing Proposals. We believe that the VCGA would agree that it is desirable to tidy up these matters, and we would appreciate the opportunity to discuss them with you.

Yours sincerely



Peter Ronco
Chief General Manager – Corporate and Legal

attach



Attachment - Drafting Comments

<u>Clause No.</u>	<u>Comments</u>
-----------------------	-----------------

Eighth Variation Agreement to the Casino Agreement

Crown's Address	Could this please be updated to "8 Whiteman Street, South Bank". The same applies to the other documents.
--------------------	---

3.1	We suggest that, in the definition of "Holding Company", the words "section 9 of" be inserted before "the Corporations Law".
-----	--

Performance Guarantee

1.2	Because the definition of "Guaranteed Obligations" incorporates the definition of "Transaction Documents" in the Management Agreement, the latter definition will need to be reviewed in due course.
-----	--

General	There are various minor omissions in cross references to clauses.
---------	---

Supplemental Casino Agreement

1.2(e)	The definition of "Guaranteed Obligations" refers to a definition of "Transaction Documents" in the Casino Agreement. The definition in that agreement will need to be amended to reflect changes in financing arrangements and other developments.
--------	---

2.1.2	We suggest that this clause be deleted and the following be substituted:
-------	--

"The Eighth Variation Agreement To The Casino Agreement has force and effect".

3(a)	We suggest that the bracket after "Casino Agreement" be deleted and inserted after "paragraphs 7, 9 and 10".
------	--

Deed of Release

1.2	We suggest that items (a) and (b) of the definition of "Effective Date" be changed to:
-----	--

"(a) the date on which clauses 2.1.1 and 2.1.2 are satisfied; and

(b) the date on which clause 2.1.3 is satisfied".

3	Please insert at the end of this clause the following:
---	--

"and acknowledges that Hudson Conway is no longer a Sponsor for the purposes of the Casino Agreement and other Transaction Documents."

4	Please insert at the end of this clause the following:
---	--

"and acknowledges that Federal Hotels is no longer a Sponsor for the purposes of the Casino Agreement and other Transaction Documents."

(It will be necessary to also include an appropriate definition of "Transaction Documents".)



VICTORIAN CASINO AND GAMING AUTHORITY

22 MAR 1999

FAXED

Mr Peter Ronec
 Chief General Manager – Finance and Corporate
 Crown Limited
 8 Whiteman Street
 SOUTHBANK 3006

Dear Mr Ronec

**Proposed merger—Crown Limited and Publishing
 and Broadcasting Limited**

Thank you for your letter of 19 March 1999, which has been discussed at officer level and with the legal advisers of the Authority and the State.

Your comments are noted, and will be placed before the Authority. However, it is not presently proposed to amend the substance of the draft documents prior to them being submitted to the Authority.

It may assist your further consideration to note that these documents were carefully constructed to preserve the substance of the present regulatory position in the post-merger environment.

In particular, please note:

Eighth variation agreement

Clause 3.3

Clause 22.1(f) will still provide for the consent of the Authority to allow intra-group transfers of Crown Shares where there is a legitimate reason for the transfer and the transfer otherwise allows the Authority to comply with its statutory obligations. A commitment will be sought from the Authority that it will endeavour to give urgent consideration to such requests.

(The consent to any consequential amendment to Crown's constitution will be recommended).

Clause 3.4

This is essentially a technical drafting issue which will be considered by the Authority's lawyers.

Clause 3.5.3.

The substance of the existing single purpose covenant in the Casino Agreement will be significantly diminished if Crown ceases to have a diversified share register.

Level 5

35 Spring Street

Melbourne

VIC 3000

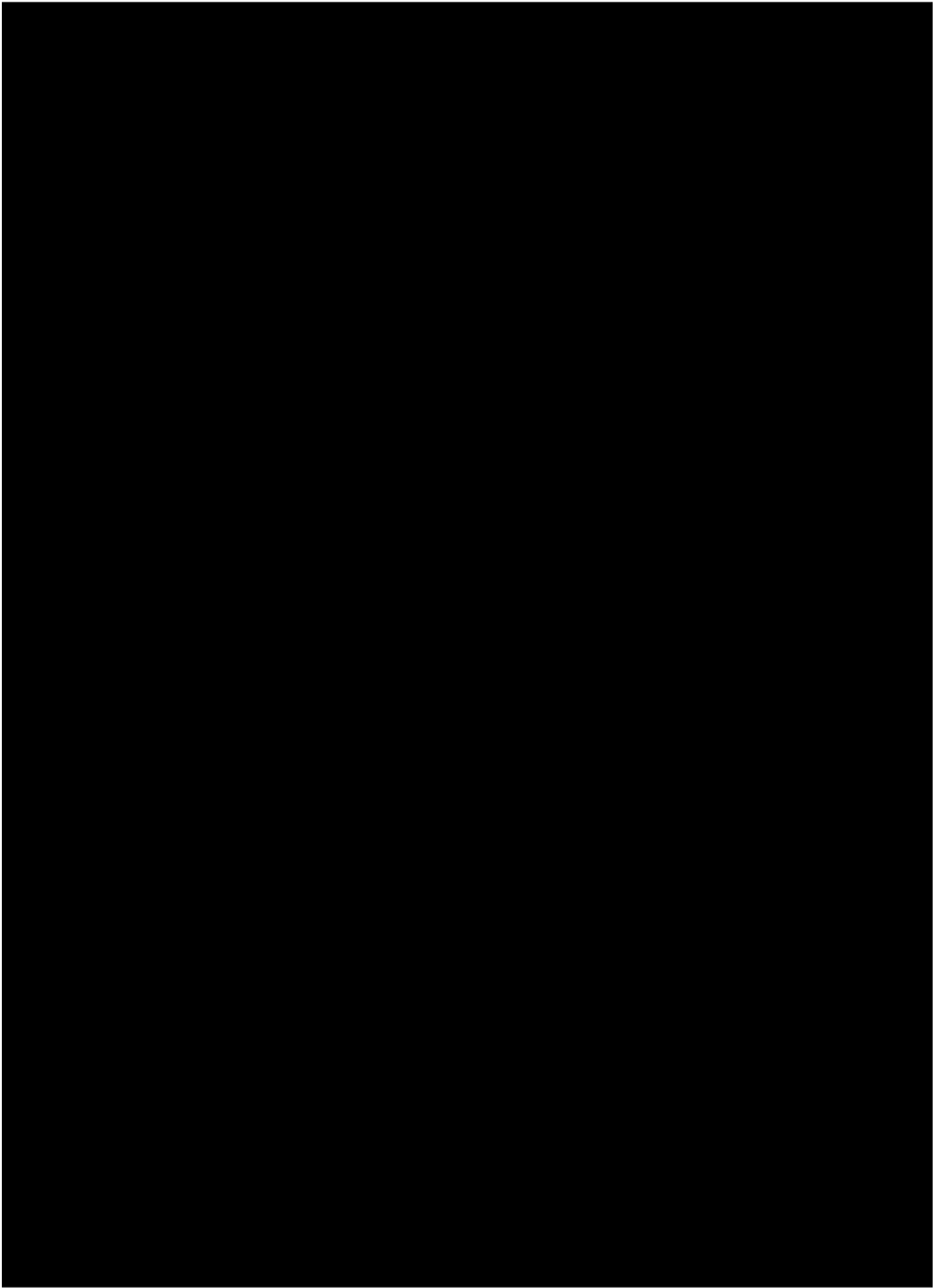
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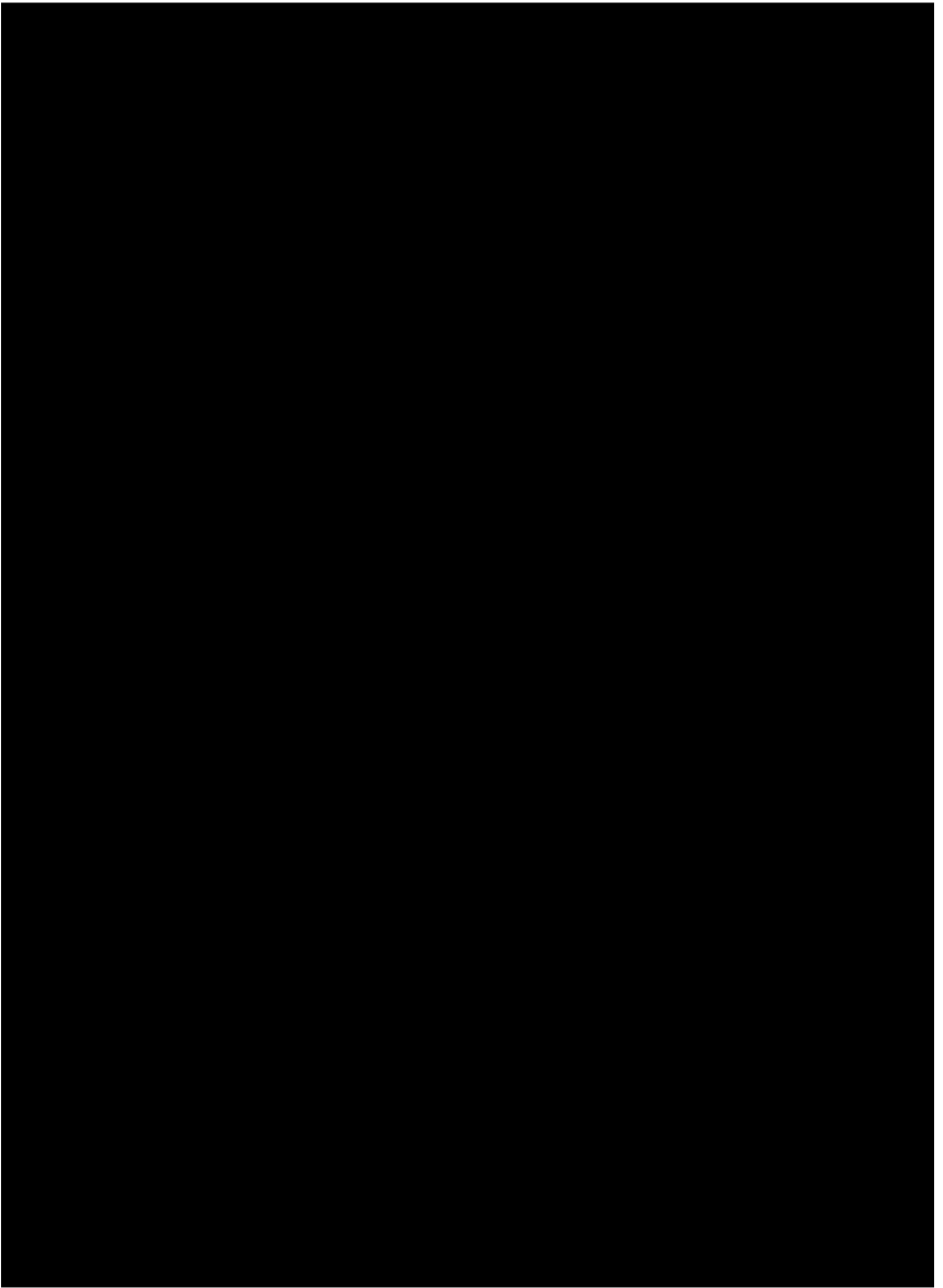
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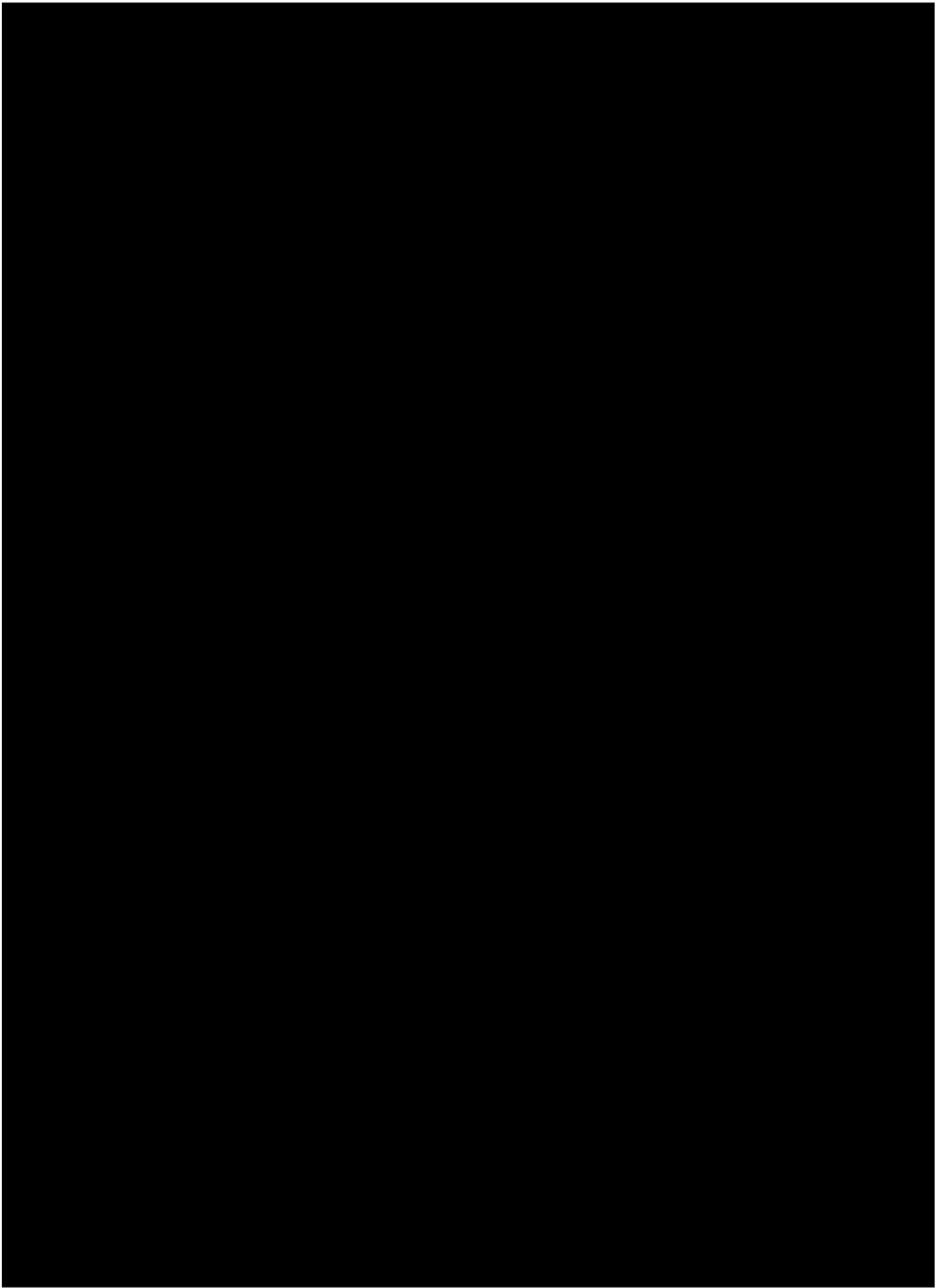
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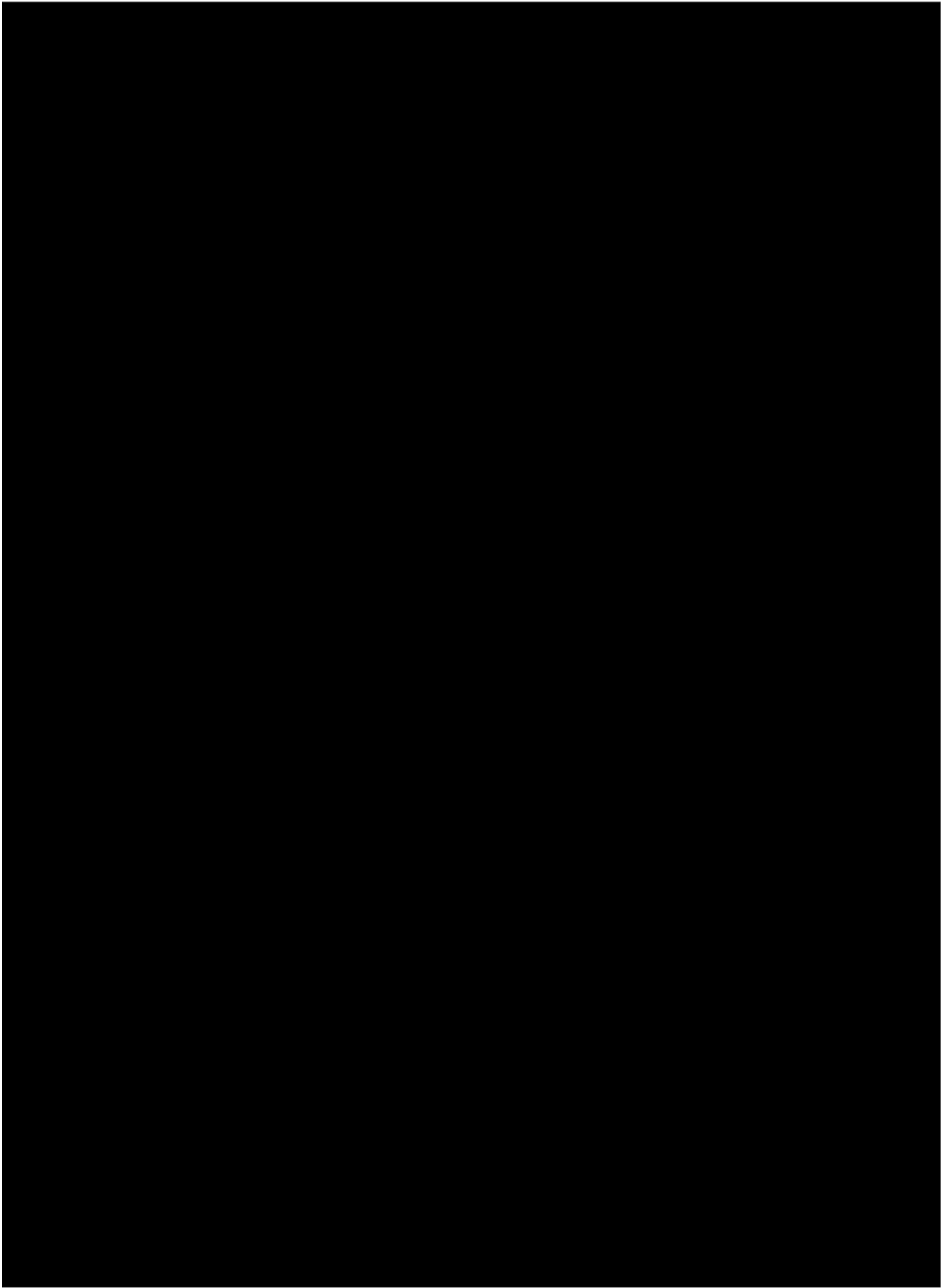
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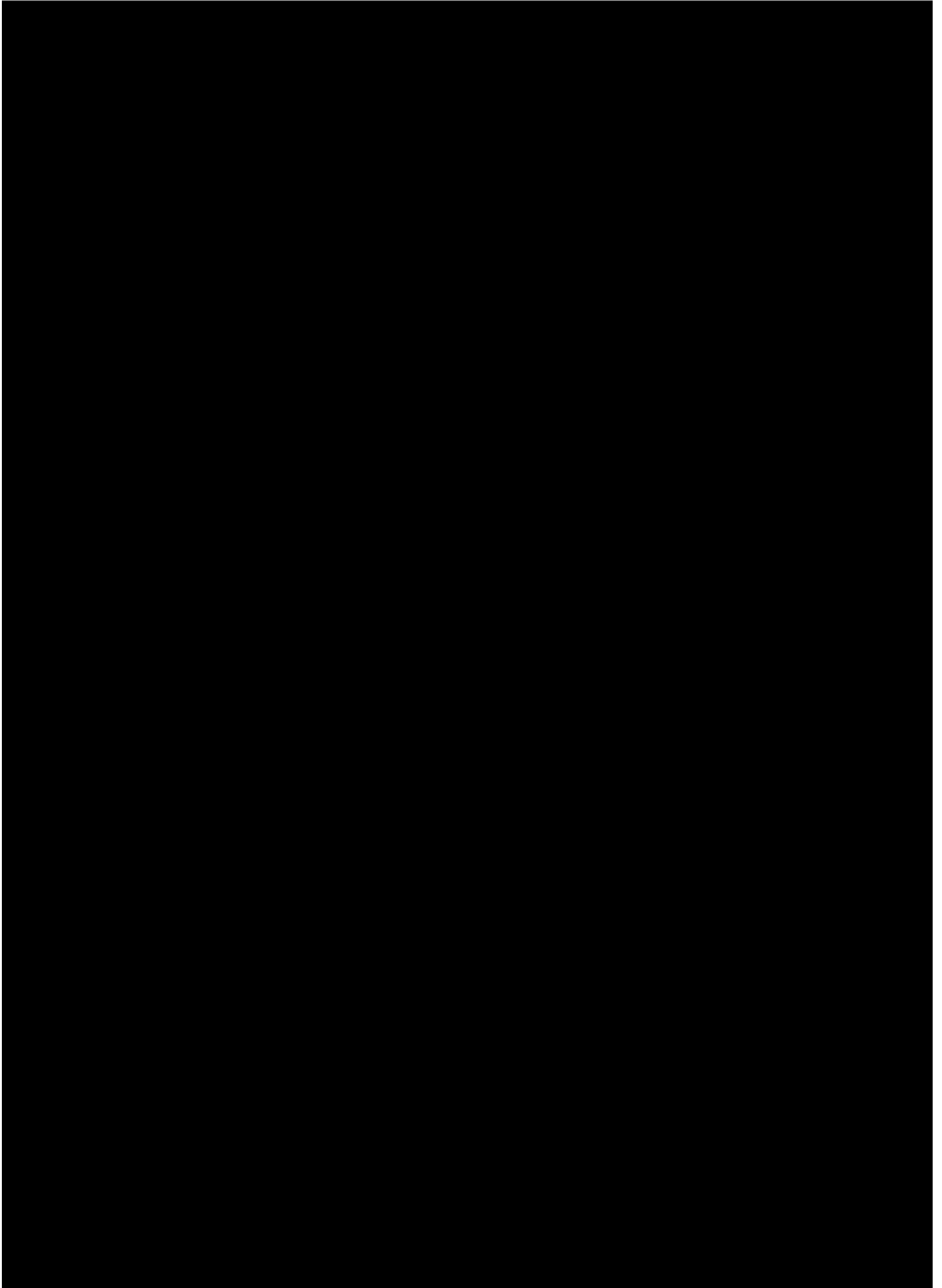
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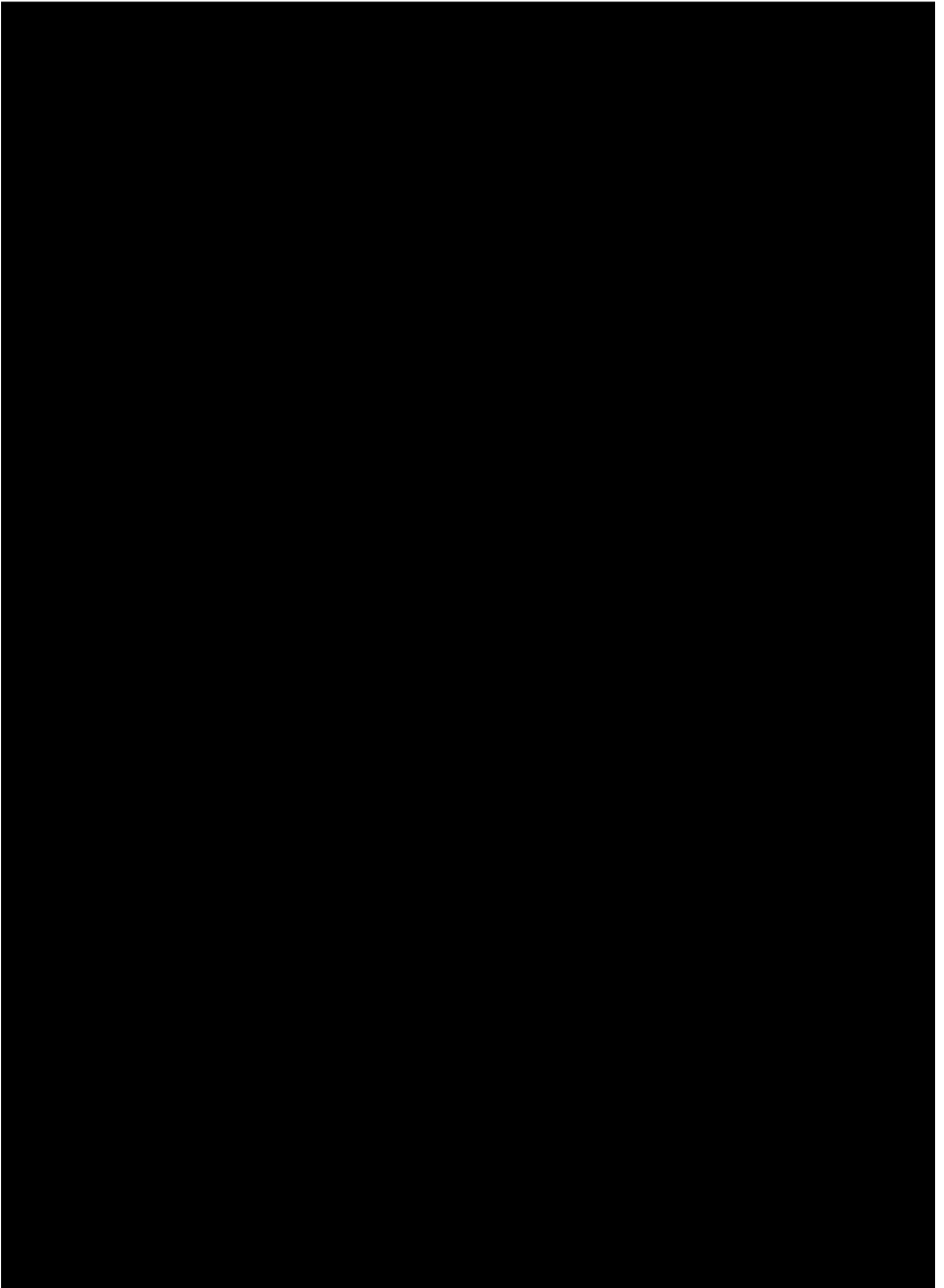


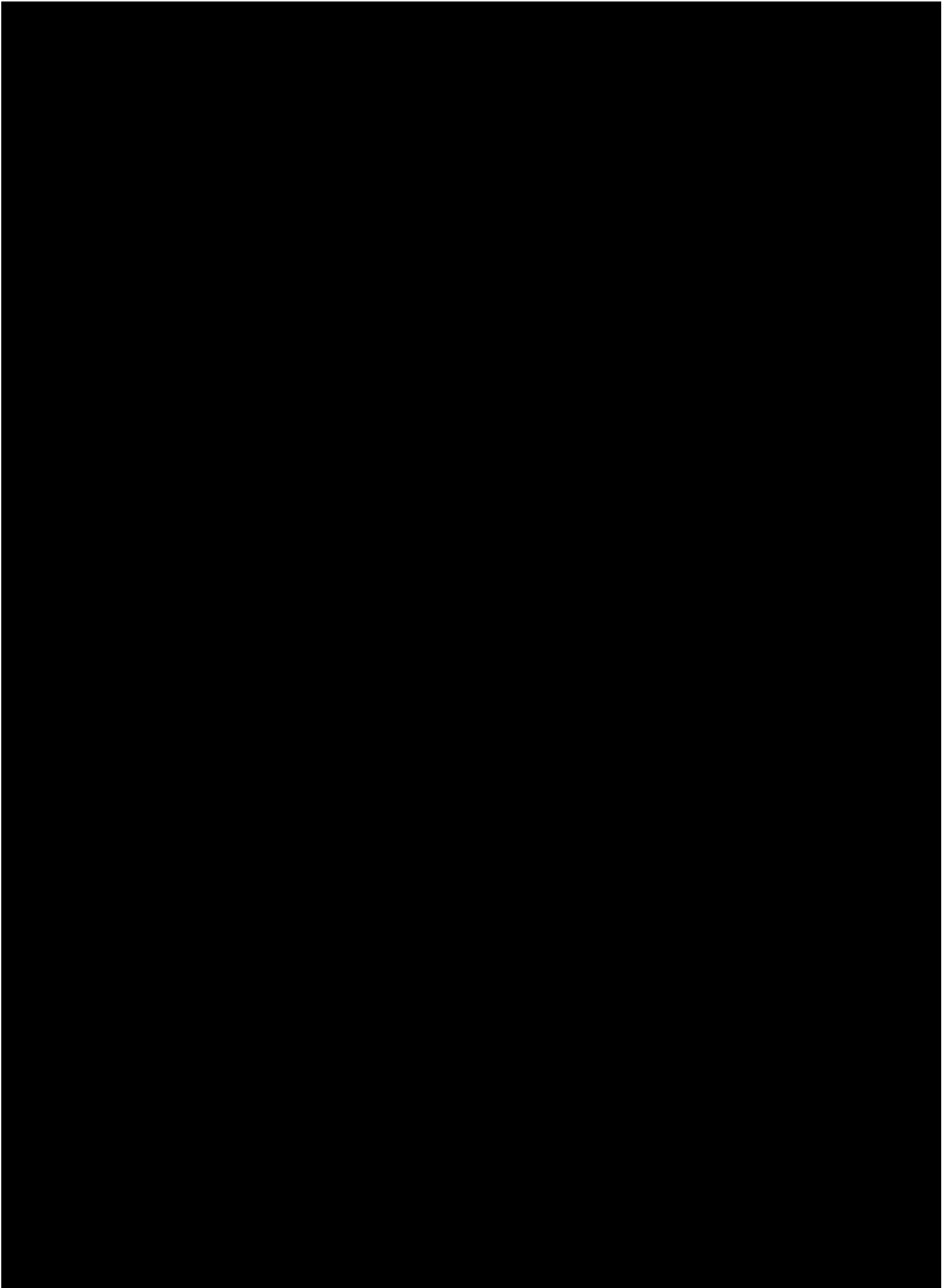












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Attachment 1-E

MEMORANDUM

RATIONALE REGARDING CERTAIN PROVISIONS IN AGREEMENTS BETWEEN THE VICTORIAN CASINO AND GAMING AUTHORITY ("VCGA"), CROWN LIMITED ("CROWN") AND OTHERS

Background

In submissions made in December 1998 and subsequently, Crown requested a number of amendments to the Casino Agreement and other documents. These amendments were to facilitate or reflect the proposed merger with Publishing and Broadcasting Limited (together with its subsidiaries being referred to as "PBL").

The VCGA's lawyers have drafted agreements which would satisfy most of Crown's requests. However, they contain additional provisions which are unacceptable to Crown/PBL.

The Main Provisions In Dispute

There are a number of provisions drafted by VCGA's lawyers which are unacceptable to Crown/PBL, at least in their current form, but two in particular raise fundamental commercial issues on which the parties have been unable to agree.

One is a "sole purpose" undertaking proposed to be imposed on PBL and other "related entities" (broadly defined) of Crown, restricting their ability to engage in casino-related activities other than those at the Melbourne Casino.

The other, briefly summarised, requires PBL to do all in its power to maximise the gaming revenue of Crown.

These provisions are set out more fully in the attachment to this paper.

As advised to the VCGA, these provisions are commercially unacceptable to PBL and severely reduce the likelihood of the transaction being completed.

The VCGA's Position

Officers of the VCGA ("Authority Staff") have indicated that the intention of the draft documents was to "preserve the substance of the present regulatory position in the post-merger environment".

It is common ground that Crown is presently subject to a "sole purpose" undertaking (clause 22.1(p)) and an obligation to maximise gaming revenue (clause 28) in the Casino Agreement.

Authority Staff say that the substance of Crown's sole purpose undertaking will be significantly diminished if Crown ceases to have a diversified share register. They state that the proposed additional "sole purpose" clause is designed to "preserve the existing situation where the Crown "resource" is focused entirely on Victoria-based casino activity", and express concern that the economic benefits to the people of Victoria that arise under the existing arrangements with Crown might be diminished under the proposed merger.

In discussing the proposed clauses, Authority Staff raised specific concerns that PBL might divert Crown's resources, or resources which would otherwise be provided to Crown, towards other investment opportunities of PBL.

It appears that Authority Staff see the practical effect of the proposed merger being that PBL will be the de facto holder of the Casino Licence and that it should be regulated accordingly.

2.

Crown/PBL's Position

1. The proposed provisions do not preserve the present regulatory position but go much further.
2. The provisions impose restrictions, as well as positive obligations, which Crown's existing shareholders do not currently bear.
3. From Crown/PBL's perspective, the VCGA is in effect equating Crown with PBL, whereas it should see PBL's position as analogous to (but from the VCGA's perspective more attractive than) the position of Hudson Conway because:
 - (a) at the time the present regulatory regime was established, Hudson Conway effectively controlled Crown and its Board and was the developer and manager of the Casino – PBL's control will effectively be no greater;
 - (b) in its capacity as developer and manager, Hudson Conway's interests did not have to coincide with Crown's and it was free (in that capacity) to act in its own interests; and
 - (c) Hudson Conway was free to (and did) consider other casino-related activities.

For the above reasons, it is incorrect to impose new obligations on Crown's shareholder(s) on the basis that the ownership structure has changed. When the regulatory regime was established, Hudson Conway had effective control of Crown and could, subject to its legal obligations, direct the activities of Crown and transfer assets into or out of Crown. PBL is in a materially similar position being able to exercise control, subject to its legal obligations. The fact that PBL will control Crown through a larger percentage shareholding does not materially affect the relative positions of Hudson Conway and itself.

4. Crown's "sole purpose" undertaking will not be affected by the merger and PBL is willing to guarantee Crown's performance of all its obligations under the Casino Agreement.
5. It is commercially impossible to impose a "sole purpose" regime on an existing multi-faceted group of companies such as PBL. This principle was clearly understood when the present regulatory regime was established as there is no application of this regime to Hudson Conway or the other sponsors.
6. The provisions would, read in their broadest terms, stifle other legitimate business interests of PBL (and other parties over whom PBL and Crown have no control).
7. Agreeing to such restraints on the business of PBL (and others) may not appear consistent with the proper exercise of the duties of the directors of PBL to its shareholders.
8. The VCGA should rely on the commercial reality that it is in both parties' interests to maximise Gross Gaming Revenue.
9. To the extent that the provisions may tend to lessen competition, they are unnecessary, unreasonable and, in the long term, probably ineffective. If PBL does not take the opportunities which the VCGA seeks to take away from it as a condition of the merger, the opportunities will be taken by other parties which will have no interest in supporting Crown and in fact will have an interest in harming it.

3.

10. In the absence of the proposed provisions, the economic benefits to the people of Victoria are likely to be enhanced, not diminished, by the proposed merger because:
- (a) the PBL Group and its related entities are presently not relevantly constrained from competing with or otherwise damaging Crown. By contrast, after the merger PBL will not only be supporting Crown financially and guaranteeing its performance but it will have a strong incentive to maximise its revenue in order to obtain a return from PBL's investment;
 - (b) the PBL Group will have a 100% exposure to Crown, unlike Crown's existing major shareholder - this provides greater comfort regarding PBL's incentive to maximise Crown's revenue as it will invest \$1.8 billion and owns 100 percent of the business; and.
 - (c) Crown will benefit from the financial security of being a wholly-owned subsidiary of PBL (which has agreed to accept a "gearing ratio test" in addition to Crown's existing obligation), the diversity of the PBL Group and freedom from the distractions which come from being directly answerable to public investors.
11. The provisions drafted by the VCGA's lawyers in any event go beyond what, on the understanding of PBL/Crown, was the intention of the VCGA. By way of an extreme example, the gaming revenue provision would arguably prevent PBL's publishing arms from accepting advertising business from another casino (at least within Australia) or even require it to provide unlimited free advertising to Crown.

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4.

ATTACHMENT**The Main Provisions In Dispute****Proposed New Clause 22.1(r) of the Casino Agreement:**

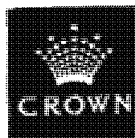
".....the Company must not itself, and must procure that each of its Related Entities does not, participate.....assist or otherwise be involved with any casino or any business or activity which the Authority considers to be either a casino business or a related activity to a casino business anywhere in Australia, other than the Melbourne Casino, except with the prior written approval of the Authority."

Clause 4(d) of Proposed Supplementary Casino Agreement

".....PBL undertakes to the Authority that it will do all things within its powers.....to procure that the Company obtains the maximum Gross Gaming Revenue, and that the Company's Gross Gaming Revenue is not adversely affected by any other business interests of PBL or its Related Entities."

24/03 '89 WED 17:45 FAX 61 3 9292 7295
61 3 9292 7295
CROWN CORPORATE

001



Peter Ronc
Chief General Manager - Finance & Corporate

ATTENTION:

Mr Bill Lahey
Director of Gaming and Betting

FACSIMILE NUMBER:

(03) 9651 4999

FROM:

Peter Ronc

OUR FACSIMILE NUMBER:

(03) 9292-7296

OUR TELEPHONE NUMBER:

(03) 9292-7290

TOTAL PAGES:
(including this page)

6

Please see attached.

24/03 '99 WED 17:45 FAX 61 3 9292 7295

CROWN CORPORATE

002



24 March 1999

Mr Bill Lahey
Director of Gaming and Betting
Victorian Casino and Gaming Authority
Level 5
35 Spring Street
MELBOURNE VIC 3000

Dear Mr Lahey

Proposed Merger – Crown and PBL

We refer to our letter of 19 March 1999 which detailed our views on the merger documentation as a whole and to our meeting yesterday during which we discussed certain fundamental outstanding issues relating to the merger documentation.

We attach a memorandum prepared by PBL and Crown detailing the rationale supporting their view that Clause 3.5.3 of the Eighth Variation Agreement to the Casino Agreement and Clause 4(d) of the Supplemental Casino Agreement are unacceptable.

Yours sincerely



Peter Ronc
Company Secretary

attach.

Maddock Lonie & Chisholm

LAWYERS



DATED

1999

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN LIMITED

MELBOURNE CASINO PROJECT

**EIGHTH VARIATION AGREEMENT
TO THE CASINO AGREEMENT**

(Draft 3 dated 12 May 1999)

A MEMBER OF
advoc asia
ADELAIDE, COLOMBO, DUBAI, HONG KONG,
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

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COMMERCIAL IN CONFIDENCE

**MELBOURNE CASINO PROJECT
EIGHTH VARIATION AGREEMENT TO THE CASINO AGREEMENT**

THIS AGREEMENT is made on 1999

BETWEEN**VICTORIAN CASINO AND GAMING AUTHORITY**

a statutory authority established under the *Gaming and Betting Act 1994*
with its office at Level 5, 35 Spring Street, Melbourne

(“**Authority**”)

AND**CROWN LIMITED ACN 006 973 262**

of Level 1, 99 Queensbridge Street, South Melbourne

(“**Company**”)

RECITALS

- A. The Authority and the Company entered into an agreement dated 21 September 1993 providing, among other things for the grant of the Casino Licence to the Company (“**Casino Agreement**”).
- B. The Casino Agreement has been varied by the Master Security Agreement dated 30 July 1997 and by variation agreements dated 19 November 1993, 31 March 1994, 25 May 1994, 7 March 1995(2), 8 May 1997 and 2 July 1998.
- C. The parties have agreed to amend the Casino Agreement in the manner set out in this document.

THE PARTIES AGREE**1. DEFINITIONS**

Unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act 1991* or the Casino Agreement have the same meaning when used in this document.

2. CONDITIONS PRECEDENT**2.1 Conditions**

This document has no force or effect unless and until:

COMMERCIAL IN CONFIDENCE

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- 2.1.1 the Minister has given his approval to the Authority entering into this document under section 142 of the *Casino Control Act* and in accordance with clause 4 of the Casino Agreement;
- 2.1.2 the Authority is satisfied that Publishing and Broadcasting Limited ACN 009 071 167 is a suitable person to be associated with the management of the Melbourne Casino, for the purposes of sections 28 and 28A of the *Casino Control Act*; and
- 2.1.3 PBL acquires all the Shares in the Company.

2.2 Notification

The Authority must notify the Company within five Business Days of the conditions precedent set out in clause 2.1 being satisfied.

3. VARIATION OF CASINO AGREEMENT

The parties agree that the Casino Agreement is varied with effect from the date of this document in the following manner:

3.1 New Definitions

- 3.1.1 Insert the following definitions in clause 2 in their appropriate alphabetical order:

“**Deed of Undertaking and Guarantee**” means the agreement under which, amongst other things, the Holding Company and other related companies guarantee to the Authority and the State, the due and punctual performance of certain obligations owed by members of the Group to the Authority and the State;

“**Holding Company**” means the Company’s ultimate holding company, within the meaning of that expression as defined in section 9 of the *Corporations Law*, but read as though the reference in paragraph (b) to ‘no body corporate’ were a reference to ‘no body corporate incorporated in Australia’;

“**Holding Company Group**” means:

- (a) the Holding Company;
- (b) the Holding Company’s Subsidiaries (including without limitation, the Company and its Subsidiaries); and
- (c) any other entity which the directors of the Holding Company are required to consolidate in the consolidated profit and loss accounts and balance sheets of the Holding Company under the *Corporations Law*;

COMMERCIAL IN CONFIDENCE

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“Supplemental Casino Agreement” means the agreement under which the Holding Company guarantees to the Authority, the due and punctual performance of obligations owed by each member of the Holding Company Group to the Authority;

“Total Group Assets” means the aggregate of all assets of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as assets;

“Total Group Liabilities” means the aggregate of all liabilities of the Holding Company Group which according to Australian Accounting Standards are defined, or would be regarded, as liabilities.

3.1.2 In the definition of **‘Transaction Document’** in clause 2:

- (a) replace the word “and” on the second last line with a comma; and
- (b) after the last word, but before the semi-colon, insert “, the Deed of Undertaking and Guarantee and the Supplemental Casino Agreement”.

3.2 Provisions relating to Hudson Conway and CUB

Delete the following clauses:

- 3.2.1 clause 22.1(a);
- 3.2.2 clause 22.1(aa);
- 3.2.3 clause 22.1(ab);
- 3.2.4 clause 22.1(ac);
- 3.2.5 clause 22.1(ad); and
- 3.2.6 clause 22.1(b).

3.3 Provision relating to Founding Shareholder

Delete clause 22.1(f) and substitute with the following:

- “(f) the Company will not knowingly permit a person or, upon becoming aware of a person being entitled, allow a person to continue to be entitled to a number of Shares which exceeds 5% of the total number of Shares on issue at any time, without the prior written approval of the Authority;”.

COMMERCIAL IN CONFIDENCE

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3.4 Provision relating to Gearing Ratio

3.4.1 Insert the following as clause 22.1(ma):

“(ma) Total Group Liabilities must not at any time exceed 60% of Total Group Assets without the prior written approval of the Authority;”.

3.4.2 In clause 22.6, replace the words “clause 22.1(m)” on the first line with “clauses 22.1(m) and 22.1(ma)”.

3.4.3 In clause 22.7, replace the words “clause 22.1(m)” wherever they appear in that clause with “clauses 22.1(m) and 22.1(ma)”.

3.4.4 In clause 22.8:

(a) replace the words “clause 22.1(m)” on the second line with “clauses 22.1(m) and 22.1(ma)”; and

(b) after the words “Total Assets”, insert “and the ratio of Total Group Liabilities to Total Group Assets”.

3.4.5 In clause 22.9:

(a) replace the words “the ratio” on the first line with “any ratio”; and

(b) after the words “in respect of the Company”, insert “and the Holding Company Group”.

3.4.6 In clause 22.10:

(a) replace the words “the ratio” wherever they appear in that clause with “any ratio”; and

(b) replace the words “the Group” wherever they appear in that clause with “the Holding Company Group”.

3.4.7 In clause 22.11, replace the words “the Group” on the last line with “the Holding Company Group”.

3.4.8 In clause 22.12:

(a) in paragraph (a), replace the words “the ratio” with “any ratio”;

(b) replace the words “clause 22.1(m)” wherever they appear in that clause with “clauses 22.1(m) and 22.1(ma)”; and

(c) in paragraph (d), replace the words “the Group” with “the Holding Company Group”.

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3.5 Provisions relating to Sole Purpose Covenant

- 3.5.1 In clause 22.1(p), delete the word “and” on the last line.
- 3.5.2 In clause 22.1(q), replace the full stop on the last line with a semi-colon.
- 3.5.3 Insert the following as clause 22.1(r):

- “(r) the Holding Company Group, if it pursues anywhere in Australia a business similar to that of the Company, will use its best endeavours to ensure that such business is conducted in a manner:
- (i) which is beneficial both to that business and to the Company and which promotes tourism, employment and economic development generally in the State of Victoria; and
 - (ii) which is not detrimental to the Company’s interests; and”.

3.6 Provision relating to Letter of Credit

Insert the following as clause 22.1(s):

- “(s) the Company must ensure that the State is at all times the beneficiary and holder of letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).”.

4. CONFIRMATION OF OTHER TERMS

The parties acknowledge and confirm that except as expressly varied by this document, the terms and conditions of the Casino Agreement remain in full force and effect.

5. GENERAL PROVISIONS

Clauses 36 and 40 to 47 (inclusive) of the Casino Agreement apply to this document as if expressly included in this document.

COMMERCIAL IN CONFIDENCE

EXECUTED by the parties as a deed.

THE OFFICIAL SEAL of VICTORIAN CASINO AND GAMING AUTHORITY is hereto affixed in accordance with the directions of the Authority in the presence of:

..... Chairman
..... Full name
..... Director of Gaming and Betting
..... Full name

THE COMMON SEAL of CROWN LIMITED ACN 006 973 262 was affixed in the presence of authorised persons:

..... Director
..... Full name
..... Usual address
..... Director
..... Full name
..... Usual address

Maddock Lonie & Chisholm

LAWYERS



DATED

1999

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN LIMITED

- and -

PUBLISHING AND BROADCASTING LIMITED

MELBOURNE CASINO PROJECT
SUPPLEMENTAL CASINO AGREEMENT

(Draft 3 dated 12 May 1999)

A MEMBER OF
adv *asia*
ADELAIDE, COLOMBO, DUBAI, HONG KONG,
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

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COMMERCIAL IN CONFIDENCE

**MELBOURNE CASINO PROJECT
SUPPLEMENTAL CASINO AGREEMENT**

THIS AGREEMENT is made on 1999

BETWEEN**VICTORIAN CASINO AND GAMING AUTHORITY**

a statutory authority established under the *Gaming and Betting Act 1994*
with its office at Level 5, 35 Spring Street, Melbourne, Victoria

(“**Authority**”)

AND**CROWN LIMITED ACN 006 973 262**

of Level 1, 99 Queensbridge Street, South Melbourne, Victoria

(“**Company**”)

AND**PUBLISHING AND BROADCASTING LIMITED ACN 009 071 167**

of 1st Floor, 24 Artarmon Road, Willoughby, New South Wales

(“**PBL**”)

RECITALS

- A. The Authority and the Company entered into an agreement dated 21 September 1993 providing, among other things for the grant of the Casino Licence to the Company (“**Casino Agreement**”).
- B. The Company and PBL have submitted a proposal to the Authority which, if approved by the Authority and others, will enable PBL to acquire all the Shares in the Company.
- C. The Authority enters into this Agreement with the Company under section 142 of the *Casino Control Act 1991*.

THE PARTIES AGREE**1. DEFINITIONS****1.1 Definitions in Casino Agreement**

Unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act 1991* or the Casino Agreement have the same meaning when used in this Agreement.

COMMERCIAL IN CONFIDENCE

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1.2 Additional Definitions

In addition to clause 1.1, in this Agreement:

“**Casino Variation Agreement**” means the Eighth Variation Agreement to the Casino Agreement dated on or about the date of this Agreement;

“**Deed of Undertaking and Guarantee**” means the Deed of Undertaking and Guarantee dated on or about the date of this Agreement between PBL, the companies named in that agreement as guarantors, the Company, the Authority and the Hon. Roger M Hallam MLC acting for and on behalf of the State of Victoria;

“**Guaranteed Obligations**” means the respective obligations of each member of the Holding Company Group under the Transaction Documents.

2. CONDITIONS PRECEDENT**2.1 Conditions**

This Agreement has no force or effect unless and until the Casino Variation Agreement has force and effect.

2.2 Notification

The Authority must notify the Company within five Business Days of the condition precedent set out in clause 2.1 being satisfied.

3. REPRESENTATIONS AND WARRANTIES

- (a) PBL makes the Warranties (other than the Warranties contained in paragraphs 7, 9 and 10) contained in Schedule 3 of the Casino Agreement as at the date of this Agreement.
- (b) PBL acknowledges that the Authority has agreed to give its approval to the merger described in Recital B in reliance on the warranties described in clause 3(a).

4. UNDERTAKINGS

Until this Agreement is terminated, PBL undertakes to the Authority that it will:

- (a) comply with, and ensure that each member of the Holding Company Group complies with, the conditions set out in clause 22 of the Casino Agreement, as if it, and each member of the Holding Company Group, were parties to the Casino Agreement;
- (b) ensure that the Company requires the transfer of or compulsorily transfers Shares in accordance with the Company's constitution, if such transfer

COMMERCIAL IN CONFIDENCE

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will remedy a breach of the Casino Agreement, or if the Authority requests the Company to procure the transfer of those Shares;

- (c) do all other things within its powers, including exercising or refraining from exercising any voting rights relating to any Shares, to procure that the affairs of the Company are conducted in accordance with the conditions set out in clause 22 of the Casino Agreement; and
- (d) promptly provide to the Authority all information in its possession or under its control in connection with the operation of the Melbourne Casino and the Melbourne Casino Complex as may reasonably be required by the Authority from time to time.

5. PERFORMANCE GUARANTEE**5.1 Guarantee**

PBL unconditionally and irrevocably guarantees to the Authority the due and punctual performance by each member of the Holding Company Group of the Guaranteed Obligations of that member of the Holding Company Group.

5.2 Indemnity

PBL unconditionally and irrevocably indemnifies the Authority for all losses, costs, expenses, damages and liabilities suffered or incurred by the Authority as a result of any member of the Holding Company Group failing to perform any of the Guaranteed Obligations owed by it.

5.3 Payment

Any payment which PBL is liable to pay under clauses 5.1 and 5.2 must be paid by PBL to the Authority within five Business Days of a demand being made by the Authority on PBL.

6. PBL IS THE HOLDING COMPANY

The Authority and PBL agree that, for the purpose of the Casino Agreement, PBL will be regarded as the Holding Company (as defined in clause 2 of the Casino Agreement) of the Company.

7. ENTITLEMENT TO SHARES**7.1 Shareholding in PBL**

The Authority agrees that it will not regard:

- 7.1.1 the Company as breaching clause 22.1(f) of the Casino Agreement or article 2.7 of the Company's constitution; or
- 7.1.2 PBL as breaching clauses 4 or 5 of this Agreement,

COMMERCIAL IN CONFIDENCE

4

if a person becomes entitled to more than 5% of the total number of Shares in the Company solely through that person's shareholding in PBL.

7.2 Casino Control Act 1991 not Affected

For clarity, PBL and the Company acknowledge that clause 7.1 does not affect the operation of the *Casino Control Act 1991*, or the Authority's powers under the *Casino Control Act 1991*, including without limitation, in relation to the approval of a major change in the situation existing in relation to the Company or the Melbourne Casino.

8. PROVIDE COPY OF NOTICE

Each of PBL and the Company must provide the Authority with a copy of any notice given to it by any of its financiers (whether directly or through their agent) requiring it to remedy any breach or event of default however described, as soon as practicable after it receives such notice

9. PBL ACKNOWLEDGEMENTS

9.1 Independent Undertakings

PBL acknowledges that:

- 9.1.1 its representations and undertakings given in this Agreement are independent representations and undertakings; and
- 9.1.2 the Authority may enforce its rights under this Agreement against PBL without having to exercise any rights under the Casino Agreement against the Company.

9.2 Additional Obligations

PBL acknowledges its obligations under this Agreement are in addition to, and not in derogation from, its obligations under the Deed of Undertaking and Guarantee.

10. INJUNCTIONS AND DAMAGES

10.1 Acknowledgement

PBL acknowledges that, if there is a breach or a threatened breach of the terms of this Agreement, the injury which will be suffered by the Authority is of a character which cannot be fully compensated for solely by a recovery of monetary damages.

10.2 Right to Equitable Relief

PBL agrees that if it breaches or if there is a threat of a breach of the terms of this Agreement, then in addition to any damages which may be suffered by the Authority and any other remedies which the Authority

COMMERCIAL IN CONFIDENCE

5

may pursue under this Agreement or under any applicable law, the Authority will be entitled to equitable relief, including the issue of a temporary or permanent injunction, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damage or posting of any bond or other surety.

10.3 Additional Rights

For clarity, PBL acknowledges that the rights conferred upon the Authority under this clause 10 are in addition to, and not in place of, the rights conferred upon the Authority under clauses 5.2 and 5.3.

11. FURTHER ASSURANCES

The Company and PBL each agrees to do everything for the purpose of giving full force and effect to the terms of this Agreement and the rights and obligations of the parties to it, including without limitation, to execute all documents which the Authority may require.

12. COSTS AND STAMP DUTY

- (a) Each party must pay its own costs of preparing, negotiating and executing this Agreement.
- (b) The Company must pay all stamp duty on this Agreement and on any document executed to give effect to this Agreement.

13. NO WAIVER

A failure of the Authority at any time to require full or part performance of any obligations under this Agreement will not in any way affect the rights of the Authority to require that performance subsequently.

14. ACKNOWLEDGEMENT

- (a) The Company and PBL acknowledge that, except as expressly provided for in this Agreement:
 - (i) nothing contained in or implied by this Agreement or any other Transaction Document prejudices or affects, or is intended in any way to impose any obligation or restriction on the Authority which conflicts with the obligations and duties of, and restrictions on, the Authority under the Relevant Legislation; and
 - (ii) if there is any conflict between the provisions of this Agreement or of any Transaction Documents and the provisions of the Relevant Legislation, the provisions of the Relevant Legislation prevail.

COMMERCIAL IN CONFIDENCE

6

- (b) The Authority in entering into this Agreement does so on behalf of the State pursuant to the authority granted to the Authority under section 142 of the *Casino Control Act*.

15. GOVERNING LAW

- (a) This Agreement is governed by the laws of Victoria.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and courts entitled to hear appeals from those courts.

EXECUTED by the parties as a deed.

THE OFFICIAL SEAL of VICTORIAN CASINO AND GAMING AUTHORITY)
is hereto affixed in accordance with the)
directions of the Authority in the presence)
of:)

..... Chairman

..... Full name

..... Director of Gaming and Betting

..... Full name

THE COMMON SEAL of CROWN LIMITED ACN 006 973 262 was affixed)
in the presence of authorised persons:)

..... Director

..... Full name

..... Usual address

..... Director

..... Full name

..... Usual address

COMMERCIAL IN CONFIDENCE

THE COMMON SEAL of PUBLISHING)
AND BROADCASTING LIMITED ACN)
009 071 167 was affixed in the presence of)
authorised persons:

.....	Director
.....	Full name
.....	Usual address
.....	Director
.....	Full name
.....	Usual address

Maddock Lonie & Chisholm

LAWYERS



DATED

1999

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN LIMITED

- and -

CROWN MANAGEMENT PTY LTD

- and -

HUDSON CONWAY LIMITED

- and -

THE FEDERAL HOTELS PTY LTD

MELBOURNE CASINO PROJECT

DEED OF VCGA RELEASE

(Draft 3 dated 12 May 1999)

A MEMBER OF
advoc asia
ADELAIDE, COLOMBO, DUBAI, HONG KONG,
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

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DX 259 MELBOURNE

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COMMERCIAL IN CONFIDENCE

**MELBOURNE CASINO PROJECT
DEED OF VCGA RELEASE**

THIS DEED is made on

1999

BETWEEN**VICTORIAN CASINO AND GAMING AUTHORITY**

a statutory authority established under the *Gaming and Betting Act 1994*
with its office at Level 5, 35 Spring Street, Melbourne, Victoria

("Authority")

AND**CROWN LIMITED ACN 006 973 262**

of Level 1, 99 Queensbridge Street, South Melbourne, Victoria

("Company")

AND**CROWN MANAGEMENT PTY LTD ACN 059 301 610**

of Level 1, 99 Queensbridge Street, Southbank, Victoria

("Crown Management")

AND**HUDSON CONWAY LIMITED ACN 009 556 629**

of Level 1, 99 Queensbridge Street, Southbank, Victoria

("Hudson Conway")

AND**THE FEDERAL HOTELS PTY LTD ACN 004 108 249**

of 812 Pacific Highway, Chatswood, New South Wales

("Federal Hotels")

RECITALS

- A. Each of Hudson Conway and Federal Hotels has, either individually or collectively, alone or with others, entered into the Relevant Agreements with the Authority.
- B. The Company and Publishing and Broadcasting Limited have submitted a proposal to the Authority which, if approved by the Authority and others, will enable PBL to acquire all the Shares in the Company.
- C. The Sponsors have asked the Authority to release them from their obligations under the Relevant Agreements.

THE PARTIES AGREE**1. DEFINITIONS****1.1 Definitions in *Casino Control Act 1991***

Unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act 1991* have the same meaning when used in this Deed.

1.2 Additional Definitions

In addition to clause 1.1, in this Deed:

“**Casino Agreement**” means the agreement dated 21 September 1993 between the Authority and the Company providing, among other things, for the grant of the Casino Licence to the Company (as varied);

“**Effective Date**” means the date on which the last of all the conditions precedent set out in clause 2.1 is satisfied;

“**PBL**” means Publishing and Broadcasting Limited ACN 009 071 167;

“**Relevant Agreements**” means, collectively, the Sponsor Guarantee, the Supplemental Sponsors Agreement and the Supplemental Operations Agreement;

“**Sponsor Guarantee**” means the guarantee dated 21 September 1993 by Hudson Conway in favour of the Authority;

“**Sponsors**” means, collectively, Hudson Conway and Federal Hotels;

“**Supplemental Operations Agreement**” means the agreement dated 21 September 1993 between the Authority, the Company, Crown Management and the Sponsors, which is supplemental to the operations agreement dated 30 August 1993 between the Company and Crown Management providing for the conduct of the operations of the Temporary Casino and the Melbourne Casino;

“**Supplemental Sponsors Agreement**” means the agreement dated 21 September 1993 between the Authority, the Company and the Sponsors, which is supplemental to the founding shareholders agreement dated 30 August 1993 between each Sponsor, Carlton & United Breweries Limited and the Company providing for the subscription of shares in the Company;

“**Transaction Document**” has the same meaning as defined in the Casino Agreement.

2. CONDITIONS PRECEDENT**2.1 Conditions**

This Deed has no force or effect unless and until:

2.1.1 the Minister has given his approval to the Authority entering into this document under section 142 of the *Casino Control Act*; and

2.1.2 the Authority is satisfied that PBL is a suitable person to be associated with the management of the Melbourne Casino, for the purposes of sections 28 and 28A of the *Casino Control Act*; and

2.1.3 PBL acquires all the Shares in the Company.

2.2 Authority Notification

The Authority must notify the Company within five Business Days of the conditions precedent set out in clauses 2.1.1 and 2.1.2 being satisfied.

2.3 Company Notification

The Company must notify the Authority within five Business Days of the condition precedent set out in clause 2.1.3 being satisfied.

3. RELEASE OF HUDSON CONWAY**3.1 Release**

On and from the Effective Date, the Authority releases and discharges Hudson Conway from all further and future obligations under each of the Relevant Agreements.

3.2 Acknowledgement

For clarity, the Authority acknowledges that after the Effective Date, Hudson Conway will no longer be regarded as a 'Sponsor' for the purposes of the Casino Agreement and other Transaction Documents.

4. RELEASE OF FEDERAL HOTELS**4.1 Release**

On and from the Effective Date, the Authority releases and discharges Federal Hotels from all further and future obligations under each of the Supplemental Sponsors Agreement and the Supplemental Operations Agreement.

4.2 Acknowledgement

For clarity, the Authority acknowledges that after the Effective Date, Federal Hotels will no longer be regarded as a 'Sponsor' for the purposes of the Casino Agreement and other Transaction Documents.

5. RELEASE OF COMPANY

On and from the Effective Date, the Authority releases and discharges the Company from all further and future obligations under the Supplemental Sponsors Agreement.

6. RELEASE OF AUTHORITY**6.1 Hudson Conway**

On and from the Effective Date, Hudson Conway releases and discharges the Authority from all further and future obligations under each of the Relevant Agreements.

6.2 Federal Hotels

On and from the Effective Date, Federal Hotels releases and discharges the Authority from all further and future obligations under each of the Supplemental Sponsors Agreement and the Supplemental Operations Agreement.

6.3 Company

On and from the Effective Date, the Company releases and discharges the Authority from all further and future obligations under the Supplemental Sponsors Agreement.

7. CROWN MANAGEMENT ACKNOWLEDGEMENT

Crown Management acknowledges and agrees with each of the Authority, the Company and the Sponsors that the releases and discharges under this Deed do not affect Crown Management's obligations to the Authority under the Supplemental Operations Agreement, which remain in full force and effect.

8. EARLIER BREACHES

The parties agree and acknowledge that the releases and discharges under this Deed do not prejudice the rights of any party in respect of any antecedent breach or default under the Relevant Agreements.

9. GENERAL**9.1 Entire Understanding**

This Deed contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Deed and have no effect.

9.2 Further Assurance

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Deed.

9.3 Legal Costs and Expenses

Each party must pay its own legal costs and expenses in relation to the negotiation, preparation and execution of this Deed and other documents referred to in it, unless expressly stated otherwise.

9.4 Stamp Duty

The Company must pay all stamp duty (including all fines and penalties except those arising from the default of another party) on this Deed and any document executed under it.

10. INTERPRETATION**10.1 Governing Law and Jurisdiction**

This Deed is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

10.2 Persons

In this Deed, a reference to:

10.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;

10.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and

10.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference

COMMERCIAL IN CONFIDENCE

6

to the body which most closely serves the purposes or objects of the first-mentioned body.

10.3 Joint and Several

If a party consists of more than one person, this Deed binds them jointly and each of them severally.

10.4 Legislation

In this Deed, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

10.5 This Document, Clauses and Headings

In this Deed:

10.5.1 a reference to this or other document includes the document as varied or replaced regardless of any change in the identity of the parties;

10.5.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this Deed all of which are deemed part of this Deed;

10.5.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form; and

10.5.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Deed.

10.6 Counterparts

This Deed may be executed in any number of counterparts all of which taken together constitute one instrument.

10.7 Number and Gender

In this Deed, a reference to:

10.7.1 the singular includes the plural and vice versa; and

10.7.2 a gender includes the other genders.

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EXECUTED by the parties as a deed.

THE OFFICIAL SEAL of **VICTORIAN CASINO AND GAMING AUTHORITY** is hereto affixed in accordance with the directions of the Authority in the presence of:

.....	Chairman
.....	Full name
.....	Director of Gaming and Betting
.....	Full name

THE COMMON SEAL of **CROWN LIMITED** ACN 006 973 262 was affixed in the presence of authorised persons:

.....	Director
.....	Full name
.....	Usual address
.....	Director
.....	Full name
.....	Usual address

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THE COMMON SEAL of CROWN)
MANAGEMENT PTY LTD ACN 059)
301 610 was affixed in the presence of)
authorised persons:

..... Director
..... Full name
..... Usual address
..... Director
..... Full name
..... Usual address

THE COMMON SEAL of HUDSON)
CONWAY LIMITED ACN 009 556 629)
was affixed in the presence of authorised)
persons:

..... Director
..... Full name
..... Usual address
..... Director
..... Full name
..... Usual address

COMMERCIAL IN CONFIDENCE

THE COMMON SEAL of THE)
FEDERAL HOTELS PTY LTD ACN)
004 108 249 was affixed in the presence of)
authorised persons:

- Director
- Full name
- Usual address
- Director
- Full name
- Usual address

Deed of Undertaking and Guarantee

Publishing and Broadcasting Limited

ACN 009 071 167

The companies listed in schedule 1

Crown Limited

ACN 006 973 262

Victorian Casino and Gaming Authority

and

**The Honourable Roger M Hallam MLC on behalf of the
State of Victoria**

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This deed

is made on 1999 between:

1. **Publishing and Broadcasting Limited**
ACN 009 071 167
of 24 Artarmon Road, Willoughby, New South Wales
(PBL)
2. **The companies listed in schedule 1** (collectively the
"Guarantors" and individually a "Guarantor")
3. **Crown Limited**
ACN 006 973 262
of Level 1, 99 Queensbridge Street, South Melbourne, Victoria
(Crown)
4. **Victorian Casino and Gaming Authority**
a statutory authority established under the Gaming and Betting Act
1994
of level 5, 35 Spring Street, Melbourne, Victoria
(Authority)
5. **The Honourable Roger M Hallam MLC**
the Minister for the Crown for the time being administering the Casino
Control Act 1991, acting for and on behalf of the State of Victoria
(State)

Recitals

- A. Each of the Beneficiaries will have Guaranteed Obligations owing to it by the Crown Group under the State Documents.
- B. The Guarantors have agreed to grant the guarantee contained in this deed in favour of each of the Beneficiaries in connection with any such Guaranteed Obligations.
- C. The parties have agreed to make the other undertakings and agreements contained in this deed.

This deed witnesses

as follows:

1 Definitions and interpretation

1.1 Definitions

In this deed:

Accounts means profit and loss accounts and balance sheets, cash flow statements and statements, reports and notes for the 12 month period ending on 30 June in each year (including, without limitation, directors' reports and

auditors' reports attached to or intended to be read with any of them), prepared in accordance with Accounting Principles;

Accounting Principles means generally accepted accounting principles and applicable approved accounting standards in Australia as in effect from time to time consistently applied;

Adjusted Interim Accounts means profit and loss accounts and balance sheets, cash flows statements and statements, reports and notes for the 12 month period ending on 31 December in each year, notionally prepared and interpolated from the Interim Accounts for the 6 month period ending on 31 December in that year and the Accounts for the 12 month period ending on 30 June in that year, prepared on a basis consistent with the Accounts for the 12 month period ending on 30 June in that year;

Approved Bank means a bank or financial institution which: -

- (a) has an office in Australia; and
- (b) is rated not less than AA⁻ by Standard & Poors;

Authorisation means any approval, authorisation, consent, exemption, filing, licence, notarisisation, registration or waiver, however described, and any renewal of or variation to any of them;

Authority has the same meaning as in the Casino Control Act;

Beneficiaries means the Authority and the State;

Bilateral Facility Agreement means each of the following:

- (a) a \$225,000,000 bill facility agreement between Publishing and Broadcasting (Finance) Limited (**Borrower**), PBL and the other PBL subsidiaries listed in schedule 1 therein (**Guarantors**) and Australia and New Zealand Banking Group Limited (**ANZ**) originally dated 10 November 1992;
- (b) a \$300,000,000 facility agreement between the Borrower, the Guarantors and ANZ providing for both the acceptance and discounting of bills plus a letter of credit option;
- (c) a \$175,000,000 cash advance facility agreement between the Borrower, the Guarantors and Toronto Dominion Australia Limited;
- (d) a \$275,000,000 cash advance facility agreement between the Borrower, the Guarantors and BA Australia Limited;
- (e) a \$100,000,000 cash advance facility agreement between the Borrower, the Guarantors and Citibank N.A.;
- (f) a \$200,000,000 cash advance facility agreement between the Borrower, the Guarantors and The Chase Manhattan Bank;

Broadcasting Licence means a licence or analogous Authorisation under the Broadcasting Services Act;

BT means Bankers Trust Company;

Business Day means a day on which banks are open for general banking business in Sydney and Melbourne other than a Saturday, Sunday or public holiday;

Casino Agreement means the Casino Agreement dated 29 September 1993 between the Authority and Crown, providing for the grant of the Casino Licence;

Casino Control Act means the Casino Control Act 1991 (Victoria);

Casino Licence means the licence granted to Crown under the Casino Control Act as contemplated by the Casino Agreement;

Consolidated EBITDA means, in respect of any period, consolidated operating profit for that period before taking into account Interest and Taxes, and after adding back depreciation and amortisation, all as determined in accordance with, and by reference to, the relevant Financial Statements and Accounting Principles. In calculating Consolidated EBITDA, disregard any extraordinary or abnormal items (to the extent not already excluded and without any double counting or double excluding);

Contingent Liability means any contingent liability under a guarantee given to a third party to the extent that a note relating to such contingent liability has been, or is required to be, made in Accounts or consolidated Accounts (as the case may be) in accordance with Accounting Principles or in Interim Accounts or consolidated Interim Accounts (as the case may be);

Core Business means:

- (a) the ownership and operation of the Australian commercial television broadcasting licences TCN9, GTV9 and QTQ9 and the ownership, publication and distribution of the Core Titles;
- (b) any business of entertainment, leisure, gaming, telecommunications, media, communications and/or data and other like services and businesses including, but not limited to, the publishing, syndication and distribution of printed and electronic media, and includes the investment (whether direct or indirect) in any such business;

and includes:

- (c) all businesses carried on as incidental to a Core Business; and
- (d) the provision of corporate, treasury, research, production and other services which are incidental or related to the carrying on of those businesses, or assets which have been previously utilised in carrying on any of the activities referred to above but which have become surplus to those activities;

Core Title means:

- (a) The Australian Women's Weekly and Woman's Day; and
- (b) any other wholly-owned title or masthead whose audited circulation in Australia (for any edition) from time to time equals or exceeds 350,000, and, where the context permits, the publication, syndication and

distribution of any such title or masthead. A reference to the "holding" of a Core Title includes publication, syndication or distribution;

Crown Group means Crown and its subsidiaries;

Dollars, A\$ and \$ means the lawful currency of the Commonwealth of Australia;

Event of Default means an event the occurrence of which entitles the Authority to issue a notice to Crown under sub-section 20(2) of the Casino Control Act pursuant to clause 31.2 of the Casino Agreement or clause 25.2 of the Management Agreement;

Excluded Subsidiaries means ACP Partnership Services Pty Limited ACN 084 755 948, Magazine Holdings Limited ARBN 084 689 627, Debentures and Securities Holdings Limited ARBN 084 689 743, ACP Masthead Nominees Pty Limited ACN 083 158 794 and Mastheads LP Management;

Existing Crown Securities means the Security Interests listed in schedule 7;

Finance Lease means any lease or other arrangement which must be accounted for as a finance lease under Accounting Principles;

Financial Indebtedness means, subject to clause 1.2(o), any indebtedness, present or future, actual or contingent, in respect of moneys borrowed or raised or any financial accommodation whatever, including, without limitation, under or in respect of any bill, bond, debenture, note, certificate of deposit, transferable or negotiable instrument, acceptance, mandatorily redeemable or repurchasable share or stock, discounting arrangement, Finance Lease, hire purchase, deferred purchase price (for more than 90 days) of any asset or service, or any obligation to deliver goods or provide services paid for in advance by any financier or in connection with any other financing transaction;

Financial Statements means, at any date, the more recent in point of time of consolidated Accounts or consolidated Adjusted Interim Accounts (as the case may be) that relates to a 12 month period that ends on, or that ended prior to, that date;

Gearing Ratio means the undertakings in clause 3.2;

Government Agency means any government or government department, any governmental, semi-governmental or judicial person or any person (whether autonomous or not) charged with the administration of any applicable law;

Guaranteed Obligations means the respective obligations of each member of the Crown Group under the State Documents;

Interest means interest, amounts in the nature of interest and other periodic fees (excluding, for the avoidance of doubt, establishment or similar fees payable once only) in connection with Financial Indebtedness calculated in accordance with Accounting Principles, including, without limitation, the interest component (calculated in accordance with Accounting Principles) of rentals incurred, paid or provided for under Finance Leases and dividends declared or accrued on redeemable preference shares;

Interim Accounts means profit and loss accounts and balance sheets, cash flow statements and statements, reports and notes, for the 6 month period ending on 31 December in each year, prepared on a basis consistent with the Accounts that immediately preceded the preparation of the Interim Accounts;

Letter of Undertaking means a deed poll in the form of schedule 4 executed by the Beneficiaries in favour of a Senior Bank Recipient in accordance with clause 4.3;

Management Agreement means the Management Agreement dated 22 September 1993 between Crown and The Honourable Haddon Storey QC MLC acting for and on behalf of the State;

Master Security Agreement means the Master Security Agreement dated 30 July 1997 between the State, the Authority, Crown and ANZ Capel Court Limited;

Mastheads means the Australian trademarks (without the Australian goodwill in the business associated with the trademarked products) listed in Schedule 5, and any replacement of these trademarks;

MSA Discharge means the deed referred to in clause 4.2(d);

New Guarantor Agreement means a deed substantially in the form of schedule 6 (or where PBL is concerned as to the stamp duty consequences of such a deed another deed or agreement proposed by PBL which has, to the Beneficiaries' reasonable satisfaction, the same effect as a deed in the form of schedule 6);

PBL Group means PBL and its subsidiaries;

Permitted Security Interest means a Security Interest that:

- (a) is a possessory lien arising by operation of law where that lien arises in the ordinary course of business and there is no default in respect of the underlying obligations to the person entitled to that lien or that lien is being contested in good faith;
- (b) is a charge or lien imposed by law to secure the payment of money where the payment of that money is not overdue or that payment is being contested in good faith;
- (c) arises in respect of goods sold and delivered in the ordinary course of business in favour of the seller by virtue of the retention or reservation of title of such goods by the seller until payment of the purchase price for such goods or any other goods previously sold and delivered by that seller provided that there is no default in the underlying obligation to pay the purchase price for such goods or the obligation to pay all or part of such purchase price is being contested in good faith;
- (d) existed prior to the acquisition of the asset which is subject to a Security Interest and is discharged no later than 90 days (or such longer period as the Beneficiaries may approve, such approval not to be unreasonably withheld) after the acquisition of that asset;

Deed of Undertaking and Guarantee

- (e) existed over the assets of a person which becomes a member of the PBL Group after the date of this agreement, as at the date such person become a member of the PBL Group, and was not created in contemplation of, or in connection with, the transaction by which such person becomes a member of the PBL Group and is discharged no later than 90 Business Days (or such longer period as the Beneficiaries may approve, such approval not to be unreasonably withheld) after that transaction;
- (f) is a cross charge over an interest in a joint venture (that is not a subsidiary of the grantor of the Security Interest) in favour of one or more of the other parties to the joint venture;
- (g) secures Financial Indebtedness incurred in respect of goods or services provided or to be provided in the ordinary course of business or in respect of any documentary letter of credit or similar instrument issued in respect of goods or services provided or to be provided in the ordinary course of business for a period not exceeding 90 days;
- (h) secures Financial Indebtedness (other than Financial Indebtedness under paragraph (g)) and the Permitted Security Interests under this paragraph (h) do not, in aggregate, affect more than 7.5 per cent of the Total Consolidated Assets of the PBL Group provided that the Beneficiaries may from time to time agree in writing with PBL that certain transactions (whether or not constituting Security Interests) are to be deemed to be a Security Interest and a Permitted Security Interest for the purposes of this paragraph and clause 3.4(a); or
- (i) is entered into with the prior written consent of the Beneficiaries;

Potential Event of Default means any event or circumstance which by reason only of the passage of time or the giving of notice or both would become an Event of Default;

Principal Broadcasting Licence means a Broadcasting Licence that relates to, or is required for, a Core Business;

Relevant Provision means:

- (a) clause 3.2, clause 3.4, clause 3.5, clause 6.1, clause 6.2, clause 6.3 and clause 6.4; and
- (b) any provision of clause 1 to the extent it relates to or affects any provision referred to in paragraph (a);

Security Interest means:

- (a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right or other arrangement (including, without limitation, any conditionally repayable deposit or "flawed-asset" arrangement) having the same or equivalent commercial effect as a grant of security; or
- (b) an agreement to create or give any arrangement referred to in paragraph (a) of this definition,

and, for the avoidance of doubt, a Finance Lease is not a Security Interest;

Senior Bank Agent means Australia and New Zealand Banking Group Limited in its capacity as agent under the Syndicated Cash Advance Facility Agreement and each successor agent;

Senior Bank Facility Agreement means:

- (a) Syndicated Cash Advance Facility Agreement;
- (b) each Bilateral Facility Agreement; and
- (c) each agreement or other document incorporating the terms and conditions upon which financial accommodation in a principal amount of not less than \$50 million in aggregate is provided to the PBL Group, whether by a bank or other financial institution or pursuant to the issue of debt instruments;

Senior Bank Recipient means:

- (a) in respect of the Syndicated Cash Advance Facility Agreement, the Senior Bank Agent; and
- (b) in respect of any other Senior Bank Facility Agreement, the relevant provider of financial accommodation thereunder or, if more than one such provider, their agent or trustee;

Site Lease means the Melbourne Casino Project Crown Lease dated 19 November 1993 between the State and Crown;

Site Lease Supplemental Agreement means the Site Lease Supplemental Agreement dated 30 July 1997 between the State, Crown and ANZ Capel Court Limited;

State Charge means the fixed and floating charge dated 19 November 1993 between, Crown and The Honourable Haddon Storey QC MLC for and on behalf of the State as amended by the State Charge Variation Deed;

State Charge Variation Deed means the deed to be made between the Honourable Roger M Hallam MLC for and on behalf of the State and Crown in the form or substantially in the form set out in Schedule 2;

State Document means each of:

- (a) the Casino Control Act;
- (b) the Casino Licence;
- (c) the Casino Agreement;
- (d) the Management Agreement; and
- (e) the Site Lease; and
- (f) the State Charge.

State Letter of Credit means an irrevocable standby letter of credit in the form of Schedule 1 with blanks duly completed issued by an Approved Bank;

Syndicated Cash Advance Facility Agreement means the cash advance facility agreement entitled "\$1,000,000,000 Syndicated Cash Advance Facility

Agreement” dated 14 November 1994 (as amended and restated on 24 October 1997 and varied on or about the date of this Deed) between Publishing and Broadcasting (Finance) Limited (as borrower), PBL and others (as guarantors), the financial institutions listed in schedule 2 thereto (as lenders) and Australia and New Zealand Banking Group Limited (as agent);

Taxes means any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding (together with any related interest, penalty, fine and expense in connection with any of them) levied or imposed by any Government Agency, other than (except for the purposes of the definition of **Consolidated EBITDA**) those imposed on overall net income and **Taxation** shall have a corresponding meaning;

Total Assets means, at any date, the total (on a consolidated basis) of all assets of the PBL Group including, without limitation, the value ascribed to any asset or benefit consequent upon the recognition of a Contingent Liability or a Finance Lease, as determined in accordance with, and by reference to, the relevant Financial Statements and Accounting Principles;

Total Liabilities means the aggregate of all liabilities of the PBL Group determined in accordance with, and by reference to, the relevant Financial Statements and Accounting Principles; and

Transaction means the transactions evidenced by certain documents entered into by certain related bodies corporate of PBL and BT and/or certain partnerships in which those related bodies corporate have an interest (whether proprietary, management or control), which provide, amongst other things, for the sale by ACP Mastheads Pty Limited to Magazine Holdings Limited, and the licence back by ACP Publishing Pty Limited from Magazine Holdings Limited, of the Mastheads and the issue by members of the PBL Group of Guarantees in favour of certain of those related bodies corporate and/or partnerships.

1.2 General

In this deed, including the recitals, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) a word denoting an individual or person includes corporation, firm, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a word denoting any gender includes all genders;
- (e) a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this deed;
- (f) a schedule or annexure forms part of this deed;

- (g) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (h) a reference to any party to this deed or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (i) a reference to a **subsidiary** of a body corporate is to an entity which that body corporate controls for the purposes of Parts 3.6 and 3.7 of the Corporations Law and a reference to a **wholly owned subsidiary** is to a wholly owned subsidiary as defined in section 9 of the Corporations Law;
- (j) a reference to a **related body corporate** in relation to another body corporate is to a body corporate which is related to that other body corporate in accordance with section 50 of the Corporations Law;
- (k) a reference to a **holding company** in relation to another body corporate is to a body corporate of which that other body corporate is a subsidiary;
- (l) a reference to an **associate** is to an associate for the purposes of Division 2 of Part 1.2 of the Corporations Law;
- (m) a reference to an approved accounting standard is to that standard (and, where applicable, any of its provisions) as modified or re-enacted from time to time;
- (n) a reference to the **value** of an asset means the value attributed to that asset in the relevant Financial Statements;
- (o) no particular Financial Indebtedness shall be taken into account more than once, so that, for example, a Guarantee shall be excluded to the extent that the Financial Indebtedness guaranteed by it is already taken into account; and
- (p) where a Guarantor is incorporated outside Australia, a reference to the Corporations Law or the laws of Australia is a reference to the corresponding laws of the Guarantor's place of incorporation and a reference to Accounting Principles is a reference to relevant Accounting Principles in the Guarantor's place of incorporation.

1.3 Headings and parts of Speech

In this deed, including the recitals:

- (a) headings are for convenience of reference only and do not affect interpretation; and
- (b) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

1.4 Business Day

If the day on which any act, matter or thing is to be done under this deed is not a Business Day, then that act, matter or thing shall be done no later than the next Business Day unless it falls in the succeeding calendar month in which case it shall be done on the preceding Business Day.

1.5 Accounting Terms, Accounting Principles and Accounting Standards

A reference to an accounting term is to be interpreted in accordance with approved accounting standards under the Corporations Law, schedule 5 of the Corporations Regulations and, where not inconsistent with those accounting standards and that schedule, Accounting Principles. A reference to **consolidated** in relation to accounts or other financial information, data or statistics with respect to a person means treated for accounting purposes as if Accounting Principles for the creation of consolidated accounts applicable to an economic entity, applied to the person.

1.6 Guarantor's Obligations

Any condition or agreement under this deed on the part of two or more Guarantors shall bind them jointly and each of them severally, and, subject to clause 6.4, the Beneficiaries may at any time and from time to time proceed against any one or more of the Guarantors in respect of the obligations of the Guarantors under this deed as they may choose in their absolute discretion, and the Beneficiaries shall not be obliged to make any claim against all the persons comprising the Guarantors.

1.7 Execution by less than All Parties

This deed shall bind each of the Guarantors and each of the New Guarantors executing it or a New Guarantor Agreement notwithstanding that one or more of the Guarantors or the New Guarantors may not execute or may not be bound by this deed or a New Guarantor Agreement.

1.8 Beneficiaries Obligations

Any condition or agreement on the part of the Beneficiaries under this deed shall bind them severally and not jointly.

2 Representations and warranties
2.1 Representations and warranties

PBL, and each of the other Guarantors represents and warrants as at the date of this deed that:

- (a) **(status)** it is a company limited by shares incorporated and existing under the laws of its place of incorporation and is not in liquidation, provisional liquidation, receivership or administration;

- (b) **(power)** it has full power:
- (1) to own its property and assets and carry on its business as it is now being conducted; and
 - (2) to enter into, exercise its rights and perform and comply with its obligations under this deed;
- (c) **(authorisation)** all action, conditions and things required by applicable law to be taken, fulfilled or done (including the obtaining of any necessary Authorisations) in order:
- (1) to enable it lawfully to enter into, and exercise its rights and perform and comply with its obligations under, this deed; and
 - (2) to ensure that this deed constitutes its valid and legally binding obligations, enforceable against it in accordance with its terms except to the extent limited by equitable principles and laws affecting creditors' rights generally,
- have been taken, fulfilled or done;
- (d) **(obligations binding)** this deed constitutes its valid and legally binding obligations, enforceable against it in accordance with its terms except to the extent limited by equitable principles and laws affecting creditors' rights generally;
- (e) **(no filings or Taxes)** it is not necessary or desirable to ensure the legality, validity, enforceability or admissibility in evidence of this deed that this deed or any other instrument be filed or registered with any Government Agency or that any Taxes be paid;
- (f) **(no trust)** it has not entered into this deed as a trustee;
- (g) **(ranking of obligations)** its unsecured payment obligations under each State Document to which it is a party rank and will continue to rank at all times at least equally with all its other present and future unsecured payment obligations (including, without limitation, contingent unsecured payment obligations) other than those which are mandatorily preferred by law; and
- (h) **(Existing Crown Securities)** no member of the PBL Group or the Crown Group has granted any Security Interests to secure the moneys secured by the Existing Crown Securities other than the Security Interests created by the Existing Crown Securities.

2.2 Reliance

PBL, and each of the other Guarantors acknowledges that the Beneficiaries have entered into this deed in reliance on these representations and warranties.

2.3 Survival and repetition

The representations and warranties in clause 2.1 survive execution of this deed and (except for any matters (other than any matter which a Beneficiary acting reasonably has advised PBL is unacceptable to it) disclosed in writing to the

Beneficiaries prior to the date of repetition and, in relation to clause 2.1(h) only, except also for any Permitted Security Interest) shall be deemed to be repeated at 6 monthly intervals from the date of this deed.

3 PBL Undertakings

3.1 Performance Guarantee

- (a) The Guarantors:
- (1) unconditionally and irrevocably guarantee to the Beneficiaries the due and punctual performance by each Crown Group member of the Guaranteed Obligations of that Crown Group member; and
 - (2) unconditionally and irrevocably indemnify the Beneficiaries for all losses, costs, expenses, damages and liabilities suffered or incurred by Beneficiaries as a result of any Crown Group member failing to perform any of the Guaranteed Obligations owed by it.
- (b) Any amount which the Guarantors are liable to pay under clause 3.1(a) must be paid to the Beneficiaries within 2 Business Days of a demand being made by the Beneficiaries on the Guarantors. Any such demand must:
- (1) be in writing, state the amount demanded and confirm that:
 - (A) a written demand for payment of the amount has been made on the relevant Crown Group member by the Beneficiaries;
 - (B) at least 2 Business Days has passed since the demand on the relevant Crown Group member was made; and
 - (C) the demand on the relevant Crown Group member remains unsatisfied; and
 - (2) be signed by an authorised officer of the Beneficiaries.
- (c) Any payment made by the Guarantors to the Beneficiaries under this deed which represents or is in respect of an amount owing by a Crown Group member under the State Documents will operate as a discharge of the liability of the Crown Group member under the State Documents to the extent of the amount paid by the Guarantors to the Beneficiaries.

3.2 Gearing Ratio

PBL will not, without the prior written consent of the Beneficiaries, permit or suffer Total Liabilities of the PBL Group to exceed 60% of Total Assets of the PBL Group.

3.3 General undertakings

PBL and Crown must:

- (a) **(maintain records)** keep proper records and books of account and procure that proper records and books of account are kept for the Crown Group and, in the case of PBL, the PBL Group;
- (b) **(maintain status)** ensure that it and each member of the Crown Group and, in the case of PBL, each of the Guarantors maintains its status as a company limited by shares incorporated under the Corporations Law and shall not transfer nor permit the transfer of its or their jurisdiction of incorporation outside Australia; and
- (c) **(Authorisations)** ensure that it and, in the case of PBL, each other Guarantor obtains and maintains and complies with any conditions attaching to, any Authorisations which it requires to carry out the transactions contemplated by, and to ensure the validity, enforceability or admissibility in evidence of, this deed.

3.4 Negative Pledge

- (a) PBL and each of the Guarantors will not and will procure that the PBL Group will not create or permit to subsist any Security Interest (other than a Permitted Security Interest) over any of their present or future assets or revenues or over any present or future assets or revenues of the PBL Group.
- (b) The Beneficiaries and PBL agree that the Transaction is deemed:
 - (1) to be a Security Interest and a Permitted Security Interest for the purposes of clause 3.4(a) and paragraph (h) of the definition of **Permitted Security Interest** in clause 1.1; and
 - (2) to affect \$155,000,000 of the Total Consolidated Assets of the PBL Group for the purposes of paragraph (h) of the definition of **Permitted Security Interest** in clause 1.1.

3.5 PBL Group Guarantors

PBL shall, subject to clause 6.1, ensure that each member of the PBL Group that holds a Principal Broadcasting Licence or a Core Title is a Guarantor or an Excluded Subsidiary, provided that:

- (a) until such time as the Excluded Subsidiary is or becomes a wholly owned direct or indirect subsidiary of PBL, the Excluded Subsidiary is not required to be or become a Guarantor under this subparagraph; and
- (b) upon the Excluded Subsidiary being or becoming a wholly owned direct or indirect subsidiary of PBL, the Excluded Subsidiary must become a Guarantor by duly executing and delivering a New Guarantee Agreement within 40 Business Days of that occurrence, and the postamble to clause 6.1(a) applies mutatis mutandis.

3.6 Amendment of Relevant Provisions

If any provision of the Syndicated Cash Advance Facility Agreement or a Bilateral Facility Agreement which corresponds to any Relevant Provision is

amended in a manner favourable to the financiers under the Syndicated Cash Advance Facility Agreement or the relevant Bilateral Facility Agreement, as the case may be, PBL must:

- (a) promptly give notice to the Beneficiaries setting out details of the amendment;
- (b) if the Beneficiaries or either of them so requests PBL in writing, [(such request to be made no later than [40] Business Days after the notice under clause 3.6(a))], each of the parties must enter into a deed amending the applicable Relevant Provision of this deed in the same manner as the amendment to the corresponding provision of the Syndicated Cash Advance Facility Agreement or the relevant Bilateral Facility Agreement, as the case may be.

4 Letter of Credit, Releases and Letter of Undertaking

4.1 Issue of Letter of Credit

- (a) PBL will deliver to the State the State Letter of Credit against delivery of the State Charge Variation Deed and other documents set out in clause 4.2(c) and (d).
- (b) If, at any time a claim for an amount is made by the State under the State Letter of Credit and Guaranteed Obligations are actually, contingently or prospectively owing at that time, then PBL will procure the issue and delivery of an additional letter of credit to the State issued by an Approved Bank and with a face value equal to such amount but otherwise in the same form as the State Letter of Credit and expiring on the same date as the State Letter of Credit.
- (c) For so long as there are any Guaranteed Obligations actually, contingently or prospectively owing, PBL must deliver to the State a replacement State Letter of Credit no later than 6 months prior to the stated expiry date of the then current State Letter of Credit. A replacement State Letter of Credit under this clause must have a term of not less than 3 years from the stated expiry date of the State Letter of Credit it replaces.

4.2 Releases

Against delivery by PBL to the State of each of the following:

- (a) the initial State Letter of Credit; and
- (b) a discharge duly executed of each of the Existing Crown Securities together with a copy, certified as true and correct, of any statutory form or instrument necessary in connection with each such discharge,

the State will execute and deliver to PBL each of the following:

- (c) State Charge Variation Deed and any statutory form or instrument necessary in connection with the variation to the State Charge effected by that instrument; and
- (d) a deed (in a form agreed between the parties) discharging and terminating each of the Master Security Agreement and the Site Lease Supplemental Agreement.

PBL, if it has not already done so, undertakes to promptly lodge each statutory form or other instrument referred to in clause 4.2(b) with the appropriate Government Agency.

4.3 Letter of Undertaking

Subject to the execution of the MSA Discharge by all parties to it, the Beneficiaries will execute and deliver to:

- (a) each Senior Bank Recipient as at the date of this deed; and
- (b) any other Senior Bank Recipient notified by PBL to the Beneficiaries from time to time,

a Letter of Undertaking in the form of Schedule 4.

4.4 Crown and other assurances

- (a) Nothing in a Letter of Undertaking is to be construed as relieving Crown from the observance or performance of any of its obligations under any State Document.
- (b) Nothing in a Letter of Undertaking restricts the right or power of the Authority to appoint a manager pursuant to section 22 of the Casino Control Act following the cancellation, suspension or surrender of the Casino Licence.
- (c) Crown and PBL each:
 - (1) irrevocably authorises the Authority to disclose and release to any Senior Bank Recipient and their advisers any and all information with respect to the affairs of any Crown Group member which forms the grounds or event giving rise to a notice under section 20(2) of the Casino Control Act or any other notice contemplated in a Letter of Undertaking;
 - (2) acknowledges that it has expressly authorised the Authority to disclose information referred to in clause 4.4(c)(1) to any Senior Bank Recipient and their advisers; and
 - (3) agrees to the matters referred to in clause 4.4(d).
- (d) The Authority confirms that it does not object to the PBL Group disclosing to any Senior Bank Recipient any information of the type referred to in clause 4.4(c) but:
 - (1) this clause does not constitute a consent, direction or authorisation from the Authority to the Transaction Parties to or for the provision of information to any Senior Bank Recipient;

- (2) this clause does not limit the obligations of Crown under section 151 of the Casino Control Act; and
- (3) the Authority shall not incur any liability to PBL, Crown or any other Guarantor as a result of this clause and PBL indemnifies and will keep indemnified the Authority in respect of all actions, claims, demands or costs of any other person arising out of or in connection with the disclosure by Crown to any Senior Bank Recipient of any information of the type referred to in clause 4.4(c).

4.5 Default

Crown and the Beneficiaries agree that it is an Event of Default and a contemporaneous default under clause 9.1 of the Site Lease if:

- (a) PBL fails to procure the issue and delivery of an additional letter of credit to the State in accordance with clause 4.1(a) and such failure continues for 60 days; or
- (b) PBL fails to deliver to the State a replacement State Letter of Credit in accordance with clause 4.1(c) and such replacement State Letter of Credit has still not been delivered to the State 60 days prior to the expiry of the then current State Letter of Credit.

4.6 Waiver of an Event of Default

If the State gives a notice under clause 2.12(b) of the State Charge in relation to an Event of Default then:

- (a) the State shall be taken to also have waived its rights powers and remedies under clause 9.1 of the Site Lease in as a consequence of the event constituting that Event of Default and must not exercise those rights powers and remedies as a consequence of that event; and
- (b) the Authority shall not be entitled to issue a notice under sub-section 20(2) of the Casino Control Act in relation to that event.

5 Saving Provisions

5.1 Principal Obligation

Each guarantee and indemnity contained in this deed is a principal obligation and shall not be treated as ancillary or collateral to any other right or obligation however created or arising.

5.2 Continuing obligation

Each guarantee and indemnity contained in this deed is a continuing obligation of PBL, despite any settlement of account or the occurrence of any other thing and remains in full force and effect until all the Guaranteed Obligations have been satisfied in full.

5.3 Independent obligation

Each guarantee and indemnity contained in this deed is a separate and independent obligation of PBL.

5.4 Unconditional obligations

The liability of PBL and the other Guarantors under this deed shall not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate it or them from its obligations in whole or in part including, without limitation:

- (a) the grant to the Crown Group or any member of the Crown Group or any other person of any time, waiver or other indulgence or consideration or concession, or, subject to clause 6.3, the discharge or release of a Guarantor or any other Security Interest or Guarantee held by the Beneficiaries in respect of the Guaranteed Obligations;
- (b) the winding up of the Crown Group or any member of the Crown Group;
- (c) the Beneficiaries exercising or refraining from exercising any other Security Interest or Guarantee or any of the rights, powers or remedies conferred on it or them by law or by this deed or any other agreement with any other person;
- (d) the variation, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part of this deed or any other Security Interest or Guarantee now or in the future held by the Beneficiaries from any other person;
- (e) the failure by the Beneficiaries to give notice to the Guarantors of any default by the Crown Group or any member of the Crown Group under this deal or any other agreement;
- (f) any legal limitation, disability, incapacity or other circumstances related to the Crown Group or any member of the Crown Group;
- (g) any other event or circumstance (whether similar or dissimilar to any of the foregoing); or
- (h) any variation or novation of a right of the Beneficiaries or a State Document.

5.5 No competition

Whilst any demand under clause 3 remains unpaid, PBL may not, without the consent of Beneficiaries:

- (a) take any enforcement action (including, without limitation, such action under a mortgage, charge or other encumbrance) against a Crown Group member or its property; or
- (b) prove in competition with the Beneficiaries if a liquidator, provisional liquidator, administrator or trustee in bankruptcy is appointed in respect

of a Crown Group member or a Crown Group member is otherwise unable to pay its debts when they fall due; or

- (c) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of a mortgage, charge, other encumbrance or guarantee held for the Guaranteed Obligations or any money payable under this deed.

5.6 Avoided transaction

If a claim is made that all or part of a payment, obligation, settlement, transaction, conveyance or transfer (“**Avoided Transaction**”) in connection with the Guaranteed Obligations is void or voidable under law relating to liquidation, administration, insolvency or the protection of creditors or for any other reason and the claim is upheld, conceded or compromised, then the Beneficiaries are entitled immediately as against PBL to the rights in respect of the Guaranteed Obligations to which they would have been entitled if the Avoided Transaction had not taken place.

5.7 No merger

The Beneficiaries’ rights under this deed are additional to and do not merge with or affect and are not affected by any mortgage, charge or other encumbrance held by Beneficiaries or any other obligation of PBL to Beneficiaries, despite any rule of law or equity or any statutory provision to the contrary.

6 Guarantor provisions

6.1 New Guarantors

- (a) Subject to clause 6.2, if PBL acquires or creates any subsidiary it shall:
 - (1) as soon as practicable and in any event no later than 20 Business Days after that creation or 40 Business Days after that acquisition (as the case may be) notify the Beneficiaries of the identity of the subsidiary and provide the Beneficiaries with details of its date and place of incorporation, the ownership percentages and its assets and business activities (including, without limitation, actual or expected Total Assets and Consolidated EBITDA) and such other information as the Beneficiaries may request; and
 - (2) if that subsidiary:
 - (A) holds or will hold a Principal Broadcasting Licence or a Core Title;
 - (B) has or is expected to have Total Assets such that the Total Assets of the Guarantors (excluding that subsidiary), Crown and the Excluded Subsidiaries (without any double counting) would be less than 90 per

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cent of the Total Assets of the PBL Group (including that subsidiary); or

- (C) has or is expected to have Consolidated EBITDA such that the Consolidated EBITDA of the Guarantors (excluding that subsidiary), Crown and the Excluded Subsidiaries (without any double counting) would be less than 90 per cent of the Consolidated EBITDA of the PBL Group (including that subsidiary),

as soon as practicable and in any event no later than 20 Business Days after that creation or 40 Business Days after that acquisition (as the case may be), procure that the subsidiary duly executes and delivers to the Beneficiaries a New Guarantee Agreement, together with such other documents as the Beneficiaries may require (including, without limitation, opinions from lawyers practising in any jurisdiction outside Australia where that subsidiary is incorporated or carries on business).

- (b) Subject to clause 6.2, if:
- (1) whether or not it is obliged to do so, any subsidiary of PBL (other than Crown) gives a guarantee or guarantee and indemnity for the benefit of the financiers under the Syndicated Cash Advance Facility Agreement or a Bilateral Facility Agreement in relation to the obligations owed to such financiers under the Syndicated Cash Facility Agreement or the applicable Bilateral Facility Agreement, as the case may be; and
 - (2) that subsidiary is not already a Guarantor under this deed and is not otherwise required to provide a New Guarantor Agreement under clause 6.1(a),

then PBL shall:

- (3) as soon as practicable and in any event no later than 20 Business Days after the giving of that guarantee or guarantee and indemnity, notify the Beneficiaries of the identity of the subsidiary and details of the guarantee or guarantee and indemnity, as the case may be; and
- (4) as soon as practicable, and in any event no later than 40 Business Days after the giving of that guarantee or guarantee and indemnity as the case may be, procure that the subsidiary duly executes and delivers to the Beneficiaries a New Guarantee Agreement (if the guarantee or guarantee and indemnity provided to the applicable financier is subject to any limitations or restrictions, the New Guarantee Agreement shall be amended to incorporate corresponding limitations or restrictions, as the case may be), together with such other documents as the Beneficiaries may require (including without limitation, opinions from lawyers practicing in any jurisdiction outside Australia where that subsidiary is incorporated or carries on business).

6.2 Limitation on Clause 6.1

In respect of any subsidiary of PBL which is not a wholly owned subsidiary, the obligation of PBL under clause 6.1 to procure that the subsidiary duly executes and delivers to the Beneficiaries a New Guarantee Agreement shall be only an obligation to use its best endeavours to procure that the subsidiary so executes and delivers a New Guarantee Agreement.

6.3 Release of Guarantors

- (a) The Beneficiaries upon written request from PBL from time to time, shall release and discharge any one or more Guarantors (other than PBL) and shall promptly execute formal releases and other instruments as PBL may reasonably require if the Beneficiaries are satisfied that:
- (1) no Event of Default or Potential Event of Default has occurred and is continuing;
 - (2) the release and discharge will not result in the occurrence of an Event of Default or Potential Event of Default;
 - (3) any existing subsidiary of PBL that is required to become a Guarantor in connection with the proposed release has duly executed and delivered a New Guarantee Agreement; and
 - (4) in the case of a Guarantor that holds a Principal Broadcasting Licence or a Core Title, the relevant Guarantor has ceased to be a subsidiary of PBL or has ceased to hold a Principal Broadcasting Licence or a Core Title.
- (b) The release and discharge of a Guarantor shall not diminish the obligations and liabilities of the remaining Guarantors.

6.4 Order of Claim

Notwithstanding anything contained in clause 3, in the event that the Beneficiaries desire to make demand on a Guarantor (in its capacity as a guarantor) it shall first make demand on PBL and shall only make demand on any other Guarantor if PBL shall not have satisfied that demand within 15 Business Days of the date on which that demand is made.

7 General

7.1 Costs and expenses

PBL will pay on demand:

- (a) any stamp duty, tax or other impost payable upon the execution of this deed; and
- (b) any cost or expense reasonably incurred by the Beneficiaries in connection with enforcing its rights under this deed (including but limited to the cost of any external legal advice and representation).

7.2 Payments free of withholdings

- (a) All payments by PBL and the other Guarantor under this deed must be:
- (1) without any set-off counterclaim or condition; and
 - (2) made free and clear of, and without deduction for, or by reference to, any present or future Taxes, unless required by applicable law.
- (b) If PBL or another Guarantor is required to make any withholding or deduction for Taxes from any amounts to be paid to the Beneficiaries under this deed then PBL or the other Guarantor, as the case may be, will pay such additional amounts as may be necessary in order that the net amounts receivable by the Beneficiaries after such withholding or deductions equals the respective amounts which would have been receivable by the Beneficiaries in the absence of such withholding or deductions.

7.3 Notices

- (a) Any notice or other communication including, but not limited to, any request, demand, consent or approval, to or by PBL, Crown or the Guarantors or Beneficiary:
- (1) must be in legible writing and in English addressed as shown below:
 - (A) if to PBL Crown or the Guarantors:

Address: 24 Artarmon Road
Willoughby NSW 2065

Attention: Treasurer

Facsimile: (02) 9965 2017
 - (B) if to a Beneficiary:

Address:

Attention:

Facsimile:

or as specified to the sender by any party by notice;
 - (2) where the sender is a company, must be signed by an Officer or under the common seal of the sender;
 - (3) is regarded as being given by the sender and received by the addressee:
 - (A) if by delivery in person, when delivered to the addressee;
 - (B) if by post, 3 Business Days from and including the date of postage; or

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(C) if by facsimile transmission, when received by the addressee in legible form,

but if the delivery or receipt under sub-paragraph (A) or (C) is on a day which is not a Business Day or is after 4.00 pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and

- (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) A facsimile transmission is regarded as legible unless the addressee telephones the sender after the transmission is received and informs the sender that it is not legible.
- (c) A notice given or other action taken on behalf of Crown or a Guarantor by PBL shall be deemed given or taken by Crown or that Guarantor, as the case may be.

7.4 Governing law and jurisdiction

- (a) This deed is governed by the laws of the State of Victoria.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory, in respect of any proceedings in connection with this deed.

7.5 Waivers

Failure or delay in exercise, or partial exercise, of a right arising from a breach of this deed does not result in a waiver of that right and a party is not entitled to rely on such delay or any conduct of another party as a defence to the exercise of a right or by that other party.

7.6 Cumulative rights

The rights, powers and remedies conferred by this deed upon the Beneficiaries (or either of them) are cumulative and in addition to, and do not derogate from, any other right of remedy available to the Beneficiaries (or either of them) by law or under any other document.

7.7 Equitable remedies

- (a) Each of Crown, PBL and the other Guarantors acknowledges that, if there is a breach or threatened breach of the terms of this deed by any of them, the injury which will be suffered by the Beneficiaries (or either of them) is of the character which cannot be fully compensated for solely by a recovery of monetary damages.
- (b) Each of Crown, PBL and the other Guarantors agrees that if it breaches or if there is a threat of a breach by it of the terms of this deed, then in addition to any damages which may be suffered by the Beneficiaries (or

either or them) and any other remedies which the Beneficiaries (or either of them) may pursue under this deed or under any applicable law, the Beneficiaries (or either of them) will be entitled to equitable relief, including the issue of a temporary or permanent injunction, by any court of competent jurisdiction against the commission or continuance of any such breach or threatened breach, without the necessity of proving any actual damage or posting of any bond or other surety.

- (c) For clarity, each of Crown, PBL and the other Guarantors acknowledges that the rights conferred upon the Beneficiaries (or either of them) under this clause 7.7 are in addition to, and not in place of, any of the rights conferred upon the Beneficiaries (or either of them) under any other clause of this deed.

7.8 Severability

Any provision in this deed which is invalid or unenforceable in any jurisdiction is, as to that jurisdiction, ineffective and capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this deed or affecting the validity or enforceability of that provision in any other jurisdiction.

7.9 Counterparts

This deed may be executed in any number of counterparts. All counterparts of this deed taken together shall be deemed to constitute the one instrument.

7.10 Variation

A variation of this deed must be in writing and signed by the parties to this deed.

7.11 Attorneys

Each of the attorneys executing this deed states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

Schedule 1 - Guarantors

Name	ACN	Place of Incorporation	Registered Office
Publishing and Broadcasting Limited	009 071 167	Western Australia	24 Artarmon Road, Willoughby 2068
TCN Channel Nine Pty Limited	001 549 560	NSW	24 Artarmon Road, Willoughby 2068
General Television Corporation Pty Limited	004 330 036	VIC	24 Artarmon Road, Willoughby 2068
Queensland Television Limited	009 674 373	Qld	24 Artarmon Road, Willoughby 2068
Territory Television Pty Limited	009 594 987	NT	24 Artarmon Road, Willoughby 2068
Nine Network Australia Pty Limited	008 685 407	WA	24 Artarmon Road, Willoughby 2068
Nine Television (Netherlands Antilles) Pty Limited	082 628 500	NSW	24 Artarmon Road, Willoughby 2068
Australian Consolidated Press Limited	054 523 027	NSW	24 Artarmon Road, Willoughby 2068
ACP Mastheads Pty Limited	009 852 680	Qld	24 Artarmon Road, Willoughby 2068
Consolidated Magazines Pty Limited	008 550 632	ACT	24 Artarmon Road, Willoughby 2068
ACP Magazines Pty Limited	054 605 640	WA	24 Artarmon Road, Willoughby 2068
ACP Publishing Pty Limited	0053 273 546	NSW	24 Artarmon Road, Willoughby 2068
PBL Securities Limited	073 975 514	NSW	24 Artarmon Road, Willoughby 2068
PBL Luxembourg S.A.	N/A	Luxembourg	5 Boulevard Royal Royal Rome II L-2449 Luxembourg
PBL Pay TV Pty Ltd	084 940 367	VIC	24 Artarmon Road, Willoughby 2068

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Robbdoc Pty Limited

086 229 138

NSW

24 Artarmon Road,
Willoughby 2068

Schedule 2 - State Letter of Credit

[Insert name of issuer]

[] 1999

To: *[Name and Address of Beneficiary]*

Dear Sirs,

[Insert name of Issuer] has pleasure in detailing the particulars of the following letter of credit issued in your favour.

[insert name of issuer]
Irrevocable Standby Letter of Credit No. _____
Dated _____

Issuer: *[Insert name of Issuer]*

On Account of: Publishing and Broadcasting (Finance) Limited

Beneficiary: The State of Victoria

Face Amount and initial Maximum Liability:
 A\$100,000,000

Expiry Date: *[In the case of the initial Letter of Credit the Expiry Date is no earlier than the third anniversary of the issue date. In the case of each replacement Letter of Credit under clause 4.1(c), the Expiry Date is a date no earlier than the third anniversary of the Letter of Credit it replaces. In the case of a "top up" Letter of Credit under clause 4.1(b) the Expiry Date is the same as the then current State Letter of Credit.]*

Available at: The Issuer at *[insert address in Australia]*

By Drafts on: The Issuer

Payable at: 2 Business Days after sight (**Business Day** being for the purposes of this Letter of Credit a day (other than a Saturday or Sunday) on which banks are open for general banking business in Melbourne)

Enfaced: "Drawn under *[insert name of Issuer]* Irrevocable Standby Letter of Credit No. _____ dated 1999".

Returnable to: The Issuer at *[insert address]*

Issued in connection with:

[Describe State Documents]

A claim under this Letter of Credit may be made by delivery to the Issuer at the address stated above, by no later than 3.00pm (Melbourne time) on a Business Day on or before the Expiry Date, of a draft payable to the credit of an account in the name of the Beneficiary together with a certificate signed by the State's Nominated Representative stating:

- (a) that the person executing the certificate has authority to execute the certificate on behalf of the Beneficiary;
- (b) that the certificate is made pursuant to the terms of this Letter of Credit;
- (c) that the amount claimed is not more than the amount available under this Letter of Credit;
- (d) that there has been a failure to pay:
 - (1) [any amount of liquidated damages due under clause 17.2 of the Management Agreement which has not been paid;
 - (2) any tax required to be paid under clauses 22 or 22A of the Management Agreement or section 81J or section 81M of the Casino Control Act 1991 of Victoria in full or in part; or]
 - (3) any other amount due but unpaid under any ***[other State Document]***
 (the **Default Sum**);
- (e) that the Beneficiary has made demand on Publishing and Broadcasting Limited for payment of the Default Sum and that Publishing and Broadcasting Limited has defaulted in making such payment; and
- (f) that the Beneficiary requests payment of the Default Sum or the Maximum Liability, whichever is the lesser.

Multiple drawings are permitted under this Letter of Credit up to an aggregate amount equal to the initial Face Amount of this Letter of Credit. The Maximum Liability will automatically reduce by the amount of each such drawing and reduces to nil on the Expiry Date.

There is no responsibility on the part of the Issuer to investigate the authenticity of the certificate or any other document accompanying any draft, the authenticity of the signatures on any of them, the authority of the signatories to sign them or the authority of the bearer of the draft to present the draft and accompanying certificate and other documents.

The Issuer engages with the Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be paid free and clear of any set-off, counterclaim or deduction within 2 Business Days of presentation.

This Letter of Credit is not assignable or transferable.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Brochure No 500.

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As to matters not governed by the said Uniform Customs and Practice for Documentary Credits, this Letter of Credit is governed by and is to be construed in accordance with the laws of Victoria.

For and on behalf of *[insert name of Issuer]*

Signed for and on behalf of
[Insert name of Issuer]
by its duly appointed attorney in
the presence of:

Witness

Attorney

Name (please print)

Name (please print)

Date of Power of Attorney:

Schedule 3 - State Charge Variation Deed

This State Charge Variation Deed

is made on by:

1. **Honourable Roger M Hallam MLC the Minister for the time being administering the Casino Control Act, acting for and on behalf of the State of Victoria (State)**
- and**
2. **Crown Limited**
ACN 006 973 262
of Level 1, 99 Queensbridge Street, South Melbourne Victoria
(Company)

Recitals

- A. The State entered into a Fixed and Floating Charge (**State Charge**) (ASIC Registration No. 416367) dated 19 November 1993 with the Company.
- B. Under the State Charge, the Company charged certain of its property and assets in favour of the State.
- C. The State has agreed to limit the amount of the Secured Moneys secured by the State Charge.

This Deed witnesses and the parties agree as follows:

1 **Interpretation**

Expressions defined in the State Charge used in this deed (other than those defined in this deed) have the same meaning in this deed.

2 **Variation of State Charge**

The State Charge is varied with effect from the date of this deed in the manner set out in the Schedule to this deed.

3 **Confirmation of other terms**

The parties acknowledge and confirm that except as expressly varied by this deed, the terms and conditions of the State Charge remain in full force and effect.

4 Incorporated provisions

Clauses 21, 22, 23, 24, 25, 26 and 27 of the State Charge apply to this deed as if expressly included in it.

Executed as a deed:

Signed sealed and delivered by the
Honourable Roger M Hallam MLC the Minister for the
time being administering the Casino
Control Act, acting for and on behalf
of the State of Victoria
by its attorney in the
presence of:

Witness

The Honourable Roger M Hallam _____ MLC

Name (please print)

Name (please print)

Signed sealed and delivered for
Crown Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Schedule of Amendments to the State Charge

- 1 In Clause 2.8 insert “subject to the limit in clause 2.12(a)” before “if” in line 2.
- 2 Insert a new clause 2.12 as follows:

“2.12 Limit on Secured Moneys

 - (a) [Notwithstanding that the Charge is and remains security for the payment or repayment of the whole of the Secured Moneys, nevertheless, the aggregate amount of the Secured Moneys secured by the Charge, and hence the aggregate amount which may be recovered by the State in the exercise of its rights powers and remedies under this deed or at law, is limited to the aggregate from time to time of the following:
 - (1) \$100,000,000; and
 - (2) at any time after an Event of Default has occurred (other than one in respect of which the State has given a notice under clause 2.12(b)) an amount equal to \$100,000,000 less the aggregate from time to time of:
 - (A) the amount of any drawings made under a State Letter of Credit after the occurrence of the Event of Default; and
 - (B) the aggregate amount for which any State Letters of Credit are available to be drawn on from time to time after the occurrence of the Event of Default.
 - (b) If the State has not exercised any of its rights, powers and remedies under this deed or at law in respect of an Event of Default, the State may by notice to the Chargor, irrevocably elect to waive those rights powers and remedies. In such event, the Event of Default shall be taken not to have occurred for the purposes of clause 2.12(a).
 - (c) Clause 2.12 (a) does not affect or limit the obligation of the Company to pay the full amount of Secured Moneys.
 - (d) Clause 2.9 does not affect or limit clause 2.12(a)”.
 - (e) In this clause 2.12; “**State Letter of Credit**” has the meaning given in the Deed of Undertaking and Guarantee dated 1999 between Publishing and Broadcasting Limited, the Guarantors named in that deed, Crown Limited, the Authority and the State.

- (b) The following expressions defined in the Management Agreement have the same meaning in this letter of undertaking:

Business Day;
Casino Agreement;
Casino Control Act;
Casino Licence; and
Transaction Documents.

- (c) In this letter of undertaking, headings and boldings are for convenience only and do not affect the interpretation of this letter of undertaking and, unless the context otherwise requires:

- (1) words importing the singular include the plural and vice versa;
- (2) other parts of speech and grammatical forms of a word or phrase defined in this letter of undertaking have a corresponding meaning;
- (3) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (4) a word denoting an individual or person includes corporation, firm, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (5) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (6) a reference to any party to this letter of undertaking or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns.

- (d) If the day on which any act, matter or thing is to be done under this letter of undertaking is not a Business Day, then that act, matter or thing shall be done no later than the next Business Day unless it falls in the succeeding calendar month in which case it shall be done on the preceding Business Day.

- (e) This letter of undertaking is made as a deed poll and is given in favour of and for the benefit of the Beneficiary and its respective successors and permitted assigns.

3 Operative provisions

- (a) The State undertakes to the Beneficiary that it will as soon as practicable:
- (1) notify the Beneficiary of the giving of any notice by the State to Crown under clause 25.2 of the Management Agreement; and

Deed of Undertaking and Guarantee

- (2) provide the Beneficiary with a copy of any such notice.
- (b) The Authority undertakes to the Beneficiary that it will as soon as practicable notify the Beneficiary of the giving of any notice by it to Crown:
- (1) under clause 31.2 of the Casino Agreement;
 - (2) under section 20(2) of the Casino Control Act where in the opinion of the Authority such notice may lead to a suspension, cancellation or variation of the Casino Licence,
- and provide the Beneficiary with a copy of any such notice;
- (c) Despite the provisions of paragraph 3(a) the Authority shall not be obliged to disclose to the Beneficiary the grounds or event giving rise to the service of a notice under section 20(2) of the Casino Control Act where in the opinion of the Authority to do so would contravene section 151 of the Casino Control Act or breach any other obligation or duty of the Authority.
- (d) The Authority agrees with the Beneficiary that the Authority will not cancel or suspend the Casino Licence under section 20(4) of the Casino Control Act if, within 14 days after the service of a notice under section 20(2), a Financier satisfies the Authority that the Authority should not cancel or suspend the Casino Licence.
- (e) The Authority agrees with the Beneficiary that the Authority will not give a notice to Crown under section 20(2) or section 20(7) of the Casino Control Act following the occurrence of any event specified in clause 31.2 of the Casino Agreement or clause 25.2 of the Management Agreement in any of the following circumstances:
- (1) if the breach, default or event is capable of remedy it is remedied within the cure period allowed in the relevant document to the reasonable satisfaction of the Authority or the State, as the case may be; or
 - (2) if the breach, default or event is not capable of remedy and the payment of damages constitutes in the reasonable opinion of the State or the Authority, as the case may be, proper redress and the required amount of damages is paid within 21 days of the due date for payment; or
 - (3) if the Beneficiary has not been given notice of the breach, default or event in accordance with clause 2(a) or 2(b).
- (f) Nothing in paragraph 2(e) shall prevent the Authority from issuing a notice under section 20(2) or section 20(7) of the Casino Control Act in order to issue a letter of censure or impose a fine in accordance with the provisions of the Casino Control Act.
- (g) Nothing in this letter of undertaking restricts the right or power of the Authority to appoint a manager pursuant to section 22 of the Casino Control Act following the cancellation, suspension or surrender of the Casino Licence.

- (h) The [State] undertakes to the Beneficiary that it will, as soon as practicable, notify the Beneficiary of the giving of any notice to the Crown under clause 9.1 of the Site Lease and forthwith provide the Beneficiary with a copy of each such notice.
- (i) The [State] agrees with the Beneficiary that the [Minister] will not terminate the Site Lease or re-enter the Site or any part of the Site following the service of a notice under clause 9.1 of the Site Lease:
 - (1) if the breach, default or event to which the notice refers is capable of remedy and it is remedied within the cure period allowed in the notice to the reasonable satisfaction of the [State];
 - (2) if the breach, default or event to which the notice refers is not capable of remedy but, in the reasonable opinion of the [State], the payment of damages constitutes proper redress, the required amount of damages is paid within 21 days of the time period specified in the notice; or
 - (3) if the Beneficiary has not been given notice of the breach, default or event to which the notice refers in accordance with paragraph 2(h).
- (j) Nothing in this document shall be construed as relieving Crown from the observance or performance of any of its obligations under any Transaction Document.

4 Termination

The obligations of the Authority and the State under this letter of undertaking terminate once the financial accommodation referred to in paragraph 1(a) is fully and finally repaid or paid.

5 General

- (a) Any notice or other communication including, but not limited to, any request, demand, consent or approval, to or by a party to this deed or the Beneficiary:
 - (1) must be in legible writing and in English addressed as shown below:
 - (A) if to the Authority:
 - Address: Level 5, 35 Spring Street
Melbourne VIC 3000[opt44]
 - Attention: [opt45]
 - Facsimile:

Deed of Undertaking and Guarantee

(B) if to the State:

Address:

Attention:

Facsimile:

(C) if to the Beneficiary:

Address: [opt46]

Attention: [opt47]

Facsimile: [opt48]

or as specified to the sender by any party by notice;

(2) where the sender is a company, must be signed by an officer or under the common seal of the sender;

(3) is regarded as being given by the sender and received by the addressee:

(A) if by delivery in person or by post, when delivered to the addressee;

(B) if by facsimile transmission when received by the addressee in legible form,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and

(4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

(b) This letter of undertaking is governed by the laws of Victoria.

Executed as a deed poll:

**Signed sealed and delivered for
Victorian Casino and Gaming Authority**
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

**Signed sealed and delivered by the
Honourable Roger M Hallam MLC the Minister for the
time being administering the Casino
Control Act, acting for and on behalf
of the State of Victoria**
in the
presence of:

Witness

The Honourable Roger M Hallam
MLC

Name (please print)

Name (please print)

Schedule 5 - Mastheads

Australian House and Garden
Australian Personal Computer
The Australian Women's Weekly
Belle
Cleo
Deals on Wheels
Dolly
Earthmovers and Excavators
PC User
The Picture
People with Pix
Rugby League Week
Trade-A-Boat
Unique Cars

deed be treated as if it had been a signatory of the Principal Deed as an additional party, and as if this deed were part of the Principal Deed, and the rights and obligations of the parties shall be construed accordingly.

3. **ONE AGREEMENT**

This deed, any other New Guarantor Agreement and the Principal Deed shall be read and construed as one document and references in the Principal Deed to the Principal Deed (however expressed) shall be read and construed as references to the Principal Deed, any other New Guarantor Agreement and this deed.

4. **REPRESENTATIONS AND WARRANTIES**

The New Guarantor hereby represents and warrants to the Beneficiaries:

- (a) that the New Guarantor is a subsidiary of PBL; and
- (b) that the representations and warranties contained in clause 2.1 of the Principal Deed, if repeated at the date of this deed with reference to the New Guarantor and the facts subsisting on the date of this deed, would be true and accurate.

5. **GENERAL**

5.1 **Governing Law**

This deed is governed by the law in force in the State of Victoria.

5.2 **Submission to Jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Victoria and any courts that may hear appeals from those courts in respect of any proceedings in connection with this deed.

6. **COUNTERPARTS**

This Deed may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

EXECUTED as deed.

Schedule 7 - Existing Crown Securities

- 1 Mortgage of land dated 30 July 1997 from Melbourne Live Pty Ltd in favour of ANZ Capel Court Limited over the land comprised in Certificates of Title Volume and Folio numbers 6519/602, 9117/032, 6253/477, 6087/365, 5061/124, 8404/673, 9580/903, 9468/166, 8597/415, 10182/514, 10182/515, 8444/586 and 10269/386 registered number U950791W.
- 2 Mortgage of land dated 30 July 1997 from Crown Limited in favour of ANZ Capel Court Limited over the whole of the land comprised in Crown Lease Volume 1212 Folio 436, registered number U950787G.
- 3 Mortgage of land dated 30 July 1997 granted by Crown Limited in favour of ANZ Capel Court Limited over the land comprised in Certificates of Title Volume and Folio numbers 5867/263, 5867/264, 9874/285, 9876/112, 9872/067, 10269/373, 10269/374, 10294/436, 10294/804 and 8329/636, registered number U950792T.
- 4 Fixed and floating charge dated 30 July 1997 granted by Crown Limited in favour of ANZ Capel Court Limited, registered number 602946.
- 5 Equitable mortgage of shares dated 13 August 1998 granted by Crown Management Holdings Pty Limited in favour of ANZ Capel Court Limited, registered number 658921.

Executed as a deed:

PBL:

Signed sealed and delivered for
Publishing and Broadcasting Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Crown:

Signed sealed and delivered for
Crown Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Authority:

Signed sealed and delivered for
Victorian Casino and Gaming Authority
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

State:

Signed sealed and delivered by the
Honourable Roger M Hallam MLC the Minister for the
time being administering the Casino
Control Act, acting for and on behalf
of the State of Victoria

in the
presence of:

Witness

The Honourable Roger M Hallam
MLC

Name (please print)

Guarantors:

Signed sealed and delivered for
Publishing and Broadcasting Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
TCN Channel Nine Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

Signed sealed and delivered for
General Television Corporation Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Queensland Television Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Territory Television Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Nine Network Australia Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

Signed sealed and delivered for
Nine Television (Netherlands Antilles) Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Australian Consolidated Press Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
ACP Mastheads Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Consolidated Magazines Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

Signed sealed and delivered for
ACP Magazines Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
ACP Publishing Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
Pay TV Holdings Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
PBL Securities Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

Signed sealed and delivered for
PBL Financial Services BV
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
White Whale Pty Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
PBL Luxembourg S.A.
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered for
PBL Pay TV Pty Ltd
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Deed of Undertaking and Guarantee

Signed sealed and delivered for
Crown Limited
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Letter of Undertaking

To:

[One of a number of financial institutions]

ACN #

of #

(Beneficiary)

1 Introduction

- (a) The Beneficiary has or has agreed to provide financial accommodation to the PBL Group or members of it pursuant to the Finance Documents.
- (b) Crown has guaranteed, amongst other things, the repayment of the financial accommodation referred to in paragraph 1(a).
- (c) The Authority and the State have agreed to issue this letter of undertaking to the Beneficiary.

2 Definitions

- (a) In this letter of undertaking:
 - Authority** means the Victorian Casino and Gaming Authority, a statutory authority established under the Gaming and Betting Act 1994 of Victoria;
 - Controller** means an administrator or a liquidator;
 - Crown** means Crown Limited ACN 006 973 262;
 - Finance Documents** means *[insert details of relevant documentation]*;
 - Financier** means a person who from time to time has provided to the PBL Group or members of it any financial accommodation which is outstanding and includes the Beneficiary;
 - Management Agreement** means “the Agreement” as defined in the Casino (Management Agreement) Act 1993 of Victoria;
 - Minister** means the Minister for Gaming of the State;
 - PBL Group** means Publishing and Broadcasting Limited ACN 009 071 167 and its subsidiaries;
 - State** means the State of Victoria.

- (b) The following expressions defined in the Management Agreement have the same meaning in this letter of undertaking:

Business Day;
Casino Agreement;
Casino Control Act;
Casino Licence; and
Transaction Documents.

- (c) In this letter of undertaking, headings and boldings are for convenience only and do not affect the interpretation of this letter of undertaking and, unless the context otherwise requires:

- (1) words importing the singular include the plural and vice versa;
- (2) other parts of speech and grammatical forms of a word or phrase defined in this letter of undertaking have a corresponding meaning;
- (3) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (4) a word denoting an individual or person includes corporation, firm, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (5) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (6) a reference to any party to this letter of undertaking or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns.

- (d) If the day on which any act, matter or thing is to be done under this letter of undertaking is not a Business Day, then that act, matter or thing shall be done no later than the next Business Day unless it falls in the succeeding calendar month in which case it shall be done on the preceding Business Day.

- (e) This letter of undertaking is made as a deed poll and is given in favour of and for the benefit of the Beneficiary and its respective successors and permitted assigns.

3 Operative provisions

- (a) The State undertakes to the Beneficiary that it will as soon as practicable:
- (1) notify the Beneficiary of the giving of any notice by the State to Crown under clause 25.2 of the Management Agreement; and

- (2) provide the Beneficiary with a copy of any such notice.
- (b) The Authority undertakes to the Beneficiary that it will as soon as practicable notify the Beneficiary of the giving of any notice by it to Crown:
 - (1) under clause 31.2 of the Casino Agreement;
 - (2) under section 20(2) of the Casino Control Act where in the opinion of the Authority such notice may lead to a suspension, cancellation or variation of the Casino Licence,and provide the Beneficiary with a copy of any such notice;
- (c) Despite the provisions of paragraph 3(a) the Authority shall not be obliged to disclose to the Beneficiary the grounds or event giving rise to the service of a notice under section 20(2) of the Casino Control Act where in the opinion of the Authority to do so would contravene section 151 of the Casino Control Act or breach any other obligation or duty of the Authority.
- (d) The Authority agrees with the Beneficiary that the Authority will not cancel or suspend the Casino Licence under section 20(4) of the Casino Control Act if, within 14 days after the service of a notice under section 20(2), a Financier satisfies the Authority that the Authority should not cancel or suspend the Casino Licence.
- (e) The Authority agrees with the Beneficiary that the Authority will not give a notice to Crown under section 20(2) or section 20(7) of the Casino Control Act following the occurrence of any event specified in clause 31.2 of the Casino Agreement or clause 25.2 of the Management Agreement in any of the following circumstances:
 - (1) if the breach, default or event is capable of remedy it is remedied within the cure period allowed in the relevant document to the reasonable satisfaction of the Authority or the State, as the case may be; or
 - (2) if the breach, default or event is not capable of remedy and the payment of damages constitutes in the reasonable opinion of the State or the Authority, as the case may be, proper redress and the required amount of damages is paid within 21 days of the due date for payment; or
 - (3) if the Beneficiary has not been given notice of the breach, default or event in accordance with clause 2(a) or 2(b).
- (f) Nothing in paragraph 2(e) shall prevent the Authority from issuing a notice under section 20(2) or section 20(7) of the Casino Control Act in order to issue a letter of censure or impose a fine in accordance with the provisions of the Casino Control Act.
- (g) Nothing in this letter of undertaking restricts the right or power of the Authority to appoint a manager pursuant to section 22 of the Casino Control Act following the cancellation, suspension or surrender of the Casino Licence.

- (h) The [State] undertakes to the Beneficiary that it will, as soon as practicable, notify the Beneficiary of the giving of any notice to the Crown under clause 9.1 of the Site Lease and forthwith provide the Beneficiary with a copy of each such notice.
- (i) The [State] agrees with the Beneficiary that the [Minister] will not terminate the Site Lease or re-enter the Site or any part of the Site following the service of a notice under clause 9.1 of the Site Lease:
 - (1) if the breach, default or event to which the notice refers is capable of remedy and it is remedied within the cure period allowed in the notice to the reasonable satisfaction of the [State];
 - (2) if the breach, default or event to which the notice refers is not capable of remedy but, in the reasonable opinion of the [State], the payment of damages constitutes proper redress, the required amount of damages is paid within 21 days of the time period specified in the notice; or
 - (3) if the Beneficiary has not been given notice of the breach, default or event to which the notice refers in accordance with paragraph 2(h).
- (j) Nothing in this document shall be construed as relieving Crown from the observance or performance of any of its obligations under any Transaction Document.

4 Termination

The obligations of the Authority and the State under this letter of undertaking terminate once the financial accommodation referred to in paragraph 1(a) is fully and finally repaid or paid.

5 General

- (a) Any notice or other communication including, but not limited to, any request, demand, consent or approval, to or by a party to this deed or the Beneficiary:
 - (1) must be in legible writing and in English addressed as shown below:
 - (A) if to the Authority:
 - Address: Level 5, 35 Spring Street
Melbourne VIC 3000[opt81]
 - Attention: [opt82]
 - Facsimile:

(B) if to the State:

Address:

Attention:

Facsimile:

(C) if to the Beneficiary:

Address: [opt83]

Attention: [opt84]

Facsimile: [opt85]

or as specified to the sender by any party by notice;

(2) where the sender is a company, must be signed by an officer or under the common seal of the sender;

(3) is regarded as being given by the sender and received by the addressee:

(A) if by delivery in person or by post, when delivered to the addressee;

(B) if by facsimile transmission when received by the addressee in legible form,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and

(4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

(b) This letter of undertaking is governed by the laws of Victoria.

Executed as a deed poll:

Signed sealed and delivered for
Victorian Casino and Gaming Authority
by its attorney in the
presence of:

Witness

Attorney

Name (please print)

Name (please print)

Signed sealed and delivered by the
Honourable Roger M Hallam MLC the Minister for the
time being administering the Casino
Control Act, acting for and on behalf
of the State of Victoria
in the
presence of:

Witness

The Honourable Roger M Hallam
MLC

Name (please print)

Name (please print)

Maddock Lonie & Chisholm

LAWYERS



DATED

1999

THE HONOURABLE ROGER M HALLAM MLC

- and -

VICTORIAN CASINO AND GAMING AUTHORITY

- and -

CROWN PTY LTD

- and -

ANZ CAPEL COURT LIMITED

MELBOURNE CASINO PROJECT
MASTER SECURITY AGREEMENT DISCHARGE

(Draft 1 dated 13 May 1999)

A MEMBER OF

advocasia

ADELAIDE, COLOMBO, DUBAI, HONG KONG,
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

140 WILLIAM STREET MELBOURNE VICTORIA AUSTRALIA 3000

EMAIL: info@maddocks.com.au

WEB SITE: www.maddocks.com.au

TELEPHONE: + (61 3) 9288 0555

FACSIMILE: + (61 3) 9288 0666

DX 259 MELBOURNE

{590450/CEN/CEN0244:1}

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COMMERCIAL IN CONFIDENCE

**MELBOURNE CASINO PROJECT
MASTER SECURITY AGREEMENT DISCHARGE**

THIS DEED is made on

1999

BETWEEN**THE HONOURABLE ROGER M HALLAM MLC**

the Minister of the Crown for the time being administering the *Casino Control Act 1991*, acting for and on behalf of the State of Victoria

("State")

AND**VICTORIAN CASINO AND GAMING AUTHORITY**

a statutory authority established under the *Gaming and Betting Act 1994* with its office at Level 5, 35 Spring Street, Melbourne, Victoria

("Authority")

AND**CROWN LIMITED ACN 006 973 262**

of Level 1, 99 Queensbridge Street, South Melbourne, Victoria

("Company")

AND**ANZ CAPEL COURT LIMITED ACN 004 768 807**

of Level 6, 100 Queen Street, Melbourne, Victoria
in its capacity as security agent under the Security Sharing Deed and the Securities

("Agent")

RECITALS

- A. The parties have entered into the Master Security Agreement on 30 July 1997 ("Master Security Agreement").
- B. The parties have agreed to release each other from further and future obligations under the Master Security Agreement, and to terminate the Master Security Agreement.

COMMERCIAL IN CONFIDENCE

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THE PARTIES AGREE**1. DEFINITIONS****1.1 Definitions in *Casino Control Act 1991***

Unless the context otherwise requires or the contrary intention appears, terms defined in the *Casino Control Act 1991* or the Master Security Agreement have the same meaning when used in this Deed.

1.2 Additional Definitions

In addition to clause 1.1, in this Deed:

“**Casino Variation Agreement**” means the Eighth Variation Agreement to the Casino Agreement dated on or about the date of this Deed;

“**Deed of Undertaking and Guarantee**” means the Deed of Undertaking and Guarantee dated on or about the date of this Deed between PBL, the companies named in that agreement as guarantors, the Company, the Authority and the State;

“**Effective Date**” means the date on which the last of all the conditions precedent set out in clause 2.1 is satisfied;

“**Existing Crown Securities**” has the same meaning as in the Deed of Undertaking and Guarantee;

“**PBL**” means Publishing and Broadcasting Limited ACN 009 071 167;

2. CONDITIONS PRECEDENT**2.1 Conditions**

This Deed has no force or effect unless and until:

2.1.1 the Casino Variation Agreement has force and effect; and

2.1.2 PBL has delivered to the State, duly executed discharge of each of the Existing Crown Securities.

2.2 State Notification

The State must notify the other parties within five Business Days of the condition precedent set out in clause 2.1 being satisfied.

3. REPRESENTATION

The Agent represents and warrants to the other parties that:

- (a) it is the only security agent under the Security Sharing Deed and the Securities; and
- (b) it has power and authority to enter into this Deed in its capacity as agent for and on behalf of the Financiers.

4. MUTUAL RELEASE

On and from the Effective Date, each party releases and discharges the other parties from all further and future obligations under the Master Security Agreement.

5. TERMINATION

The parties agree that the Master Security Agreement will terminate, and be regarded as terminated, on and from the Effective Date.

6. EARLIER BREACHES

The parties agree and acknowledge that the releases and discharges under this Deed do not prejudice the rights of any party in respect of any antecedent breach or default under the Relevant Agreements.

7. GENERAL

7.1 Entire Understanding

This Deed contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Deed and have no effect.

7.2 Further Assurance

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Deed.

7.3 Legal Costs and Expenses

Each party must pay its own legal costs and expenses in relation to the negotiation, preparation and execution of this Deed and other documents referred to in it, unless expressly stated otherwise.

7.4 Stamp Duty

The Company must pay all stamp duty (including all fines and penalties except those arising from the default of another party) on this Deed and any document executed under it.

8. INTERPRETATION

8.1 Governing Law and Jurisdiction

This Deed is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

8.2 Persons

In this Deed, a reference to:

- 8.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- 8.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and
- 8.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

8.3 Joint and Several

If a party consists of more than one person, this Deed binds them jointly and each of them severally.

8.4 Legislation

In this Deed, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

8.5 This Document, Clauses and Headings

In this Deed:

- 8.5.1 a reference to this or other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 8.5.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this Deed all of which are deemed part of this Deed;
- 8.5.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form; and

COMMERCIAL IN CONFIDENCE

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8.5.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Deed.

8.6 Counterparts

This Deed may be executed in any number of counterparts all of which taken together constitute one instrument.

8.7 Number and Gender

In this Deed, a reference to:

8.7.1 the singular includes the plural and vice versa; and

8.7.2 a gender includes the other genders.

COMMERCIAL IN CONFIDENCE

EXECUTED by the parties as a deed.

SIGNED SEALED AND DELIVERED)
by THE HONOURABLE ROGER M)
HALLAM MLC in the presence of:)
)

.....
Hon. Roger M Hallam MLC

..... Witness

..... Full name

..... Usual address

THE OFFICIAL SEAL of VICTORIAN)
CASINO AND GAMING AUTHORITY)
is hereto affixed in accordance with the)
directions of the Authority in the presence)
of:)

..... Chairman

..... Full name

..... Director of Gaming and Betting

..... Full name

COMMERCIAL IN CONFIDENCE

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THE COMMON SEAL of CROWN LIMITED ACN 006 973 262 was affixed in the presence of authorised persons:)))

..... Director
..... Full name
..... Usual address
..... Director
..... Full name
..... Usual address

THE COMMON SEAL of ANZ CAPEL COURT LIMITED ACN 004 768 807 was affixed in the presence of authorised persons:))))

..... Director
..... Full name
..... Usual address
..... Director (or Company Secretary)
..... Full name
..... Usual address

Maddock Lonie & Chisholm

LAWYERS



DATED

1999

THE HONOURABLE ROGER M HALLAM MLC

- and -

VICTORIAN CASINO AND GAMING AUTHORITY

MELBOURNE CASINO PROJECT

AUTHORISATION DEED

(Draft 3 dated 12 May 1999)

A MEMBER OF
advoc asia

ADELAIDE, COLOMBO, DUBAI, HONG KONG,
JAKARTA, KUALA LUMPUR, MANILA, MELBOURNE,
MUMBAI, NEW DELHI, PERTH, SINGAPORE, SYDNEY, TIANJIN

140 WILLIAM STREET MELBOURNE VICTORIA AUSTRALIA 3000

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FACSIMILE: + (61 3) 9288 0666

DX 259 MELBOURNE

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THIS DEED is made on

1999

BY

THE HONOURABLE ROGER M HALLAM MLC

the Minister of the Crown for the time being administering the *Casino Control Act 1991*

(“Minister”)

TO

VICTORIAN CASINO AND GAMING AUTHORITY

a statutory authority established under the *Gaming and Betting Act 1994* with its office at Level 5, 35 Spring Street, Melbourne, Victoria

(“Victoria”)

RECITALS

- A. Under section 142 of the *Casino Control Act 1991*, the Authority may, with the approval of the Minister, enter into agreements on behalf of the State for or in connection with the establishment and operation of casinos.
- B. The Authority proposes to enter into agreements with Crown and PBL for or in connection with the operation of the Melbourne Casino.
- C. Under this Deed, the Minister authorises the Authority to enter into those agreements for and on behalf of the State.

THE PARTIES AGREE

1. DEFINITIONS

In this Deed, unless expressed or implied to the contrary:

“**Crown**” means Crown Limited ACN 006 973 262;

“**Melbourne Casino**” means the casino identified in the definition of the Melbourne Casino in the Management Agreement scheduled to the *Casino (Management Agreement) Act 1993*;

“**PBL**” means Publishing and Broadcasting Limited ACN 009 071 167;

“**Relevant Documents**” means the documents listed in the Schedule to this Deed;

“**State**” means the State of Victoria, Australia;

2. MINISTER'S APPROVAL

2.1 Approval

In accordance with section 142 of the *Casino Control Act 1991*, the Minister approves of the Authority entering into the Relevant Documents on behalf of the State.

2.2 Acknowledgement

The Minister acknowledges that the Relevant Documents are for or in connection with the establishment and operation of the Melbourne Casino.

SCHEDULE

Relevant Documents

1. Eighth Variation Agreement to the Casino Agreement, between the Authority and Crown;
2. Supplemental Casino Agreement, between the Authority, Crown and PBL; and
3. Deed of VCGA Release, between the Authority, Crown, Hudson Conway Limited ACN 009 556 629 and The Federal Hotels Pty Ltd ACN 004 108 249;
4. Deed of Undertaking and Guarantee, between the Authority, Crown, PBL, the Minister acting for and on behalf of the State, and the companies named in the deed as guarantors;
5. Letters of Undertaking referred to in the Deed of Undertaking and Guarantee mentioned in paragraph 4 above, in favour of PBL's financiers; and
6. Master Security Agreement Discharge between the Authority, Crown, the Minister acting for and on behalf of the State and ANZ Capel Court Limited ACN 004 768 807.

EXECUTED by the Minister as a deed poll.

SIGNED SEALED AND DELIVERED)
by **THE HONOURABLE ROGER M**)
HALLAM MLC in the presence of:)

.....
Hon. Roger M Hallam MLC

.....

Witness

.....

Full name

.....

Usual address

VICTORIAN CASINO AND GAMING AUTHORITY

Commercial in Confidence

<p>PROPOSED CROWN/PBL MERGER Addendum to Item 3.3</p>
--

BACKGROUND

1. Since the principal papers were circulated on 14 May 1999, the PBL and the State's legal representatives have requested some "fine tuning" to the wording of the proposed changes to the Casino Agreement and the proposed Deed of Undertaking and Guarantee.

CASINO AGREEMENT

2. PBL's solicitors were concerned that the originally proposed clause 22.1(s) (which imposes the requirement for a \$100 million letter of credit) would unexpectedly put PBL and Crown into default if the refinancing was not simultaneous with closure of the acquisition. In recognition of this, the proposed clause has been reworded to include reference to the status quo and transition to the new arrangements. The revised clause (with added words in **bold**) reads:

(s) unless the Company, the Holding Company, the State and the Authority agree otherwise, the Company must ensure that the State is at all times the beneficiary and holder of:

(i) a first ranking unlimited fixed and floating charge over all the assets and undertakings of the Company; or

(ii) a first ranking fixed and floating charge, limited to an amount of not less than \$100,000,000.00, over all the assets and undertakings of the Company, together with a letter or letters of credit from banks or financial institutions acceptable to the State, in form and substance acceptable to the State, up to an aggregate amount of not less than \$100,000,000.00 (in addition to any other letter of credit or bank guarantee which must be provided to the State under the Management Agreement).

3. The State's solicitors were keen to confirm that default under this clause would not be confused with default in relation to a substantively similar (but procedurally different) promise in the Deed of Undertaking and Guarantee. This is achieved by inserting a new paragraph (aa) in clause 31.2 of the Casino Agreement (relating to default notices), as follows:

31.2 ... it shall be a contravention of a condition of the Casino Licence enabling the Authority to serve a notice on the Company pursuant to section 20(2) of the Casino Control Act if any of the following events occurs...

(aa) an Event of Default (as described in the Deed of Undertaking and Guarantee) occurs under the Deed of Undertaking and Guarantee...

DEED OF UNDERTAKING AND GUARANTEE

4. These discussions alerted all the lawyers to a possible ambiguity in the definition of "Event of Default" in clause 1.1 of the Deed of Undertaking and Guarantee, which is

corrected by omission of the interlined words:

Event of Default means an event the occurrence of which entitles the Authority to issue a notice to Crown under sub-section 20(2) of the Casino Control Act pursuant to clause 31.2 of the Casino Agreement or clause 25.2 of the Management Agreement;

5. PBL's lawyers have sought to remove any potential double jeopardy by adding the bolded words to clause 4.5 of the Deed:

4.5 Crown and the Beneficiaries agree that it is an Event of Default and a contemporaneous default under clause 9.1 of the Site Lease if:

- (a) *PBL fails to procure the issue and delivery of an additional letter of credit to the State in accordance with clause 4.1(a) and such failure continues for 60 days; or*
- (b) *PBL fails to deliver to the State a replacement State Letter of Credit in accordance with clause 4.1(c) and such replacement State Letter of Credit has still not been delivered to the State 60 days prior to the expiry of the then current State Letter of Credit.*

Crown, PBL and the Beneficiaries agree that Crown shall be regarded at any time as having satisfied the requirements of clause 22.1(s)(ii) of the Casino Agreement unless an Event of Default occurs and is subsisting.

DISCUSSION

6. The State, which is the beneficiary of these provisions, has requested the changes.
7. The purposes of the changes are:
- for the security covenant to more closely reflect Crown's obligations to the State (under the existing and proposed security arrangements); and
 - to clarify the remedies available if there is default in any payment due to the State (essentially casino tax of the order of \$10–15 million monthly).
8. The re-wording was settled between the advisers of the Authority and the State. PBL has indicated its agreement to the amendments. Documents in this form have been submitted to PBL and Crown for execution.
9. On the evening of 20 May 1999 the Chief Executive of PBL advised in writing that PBL had accepted the proposed documents and was in the process of executing them.

RECOMMENDATION

10. That the Authority note this addendum.

Approved: 
Director of Gaming and Betting

Meeting: No. 150
 21 May 1999

VICTORIAN CASINO AND GAMING AUTHORITY

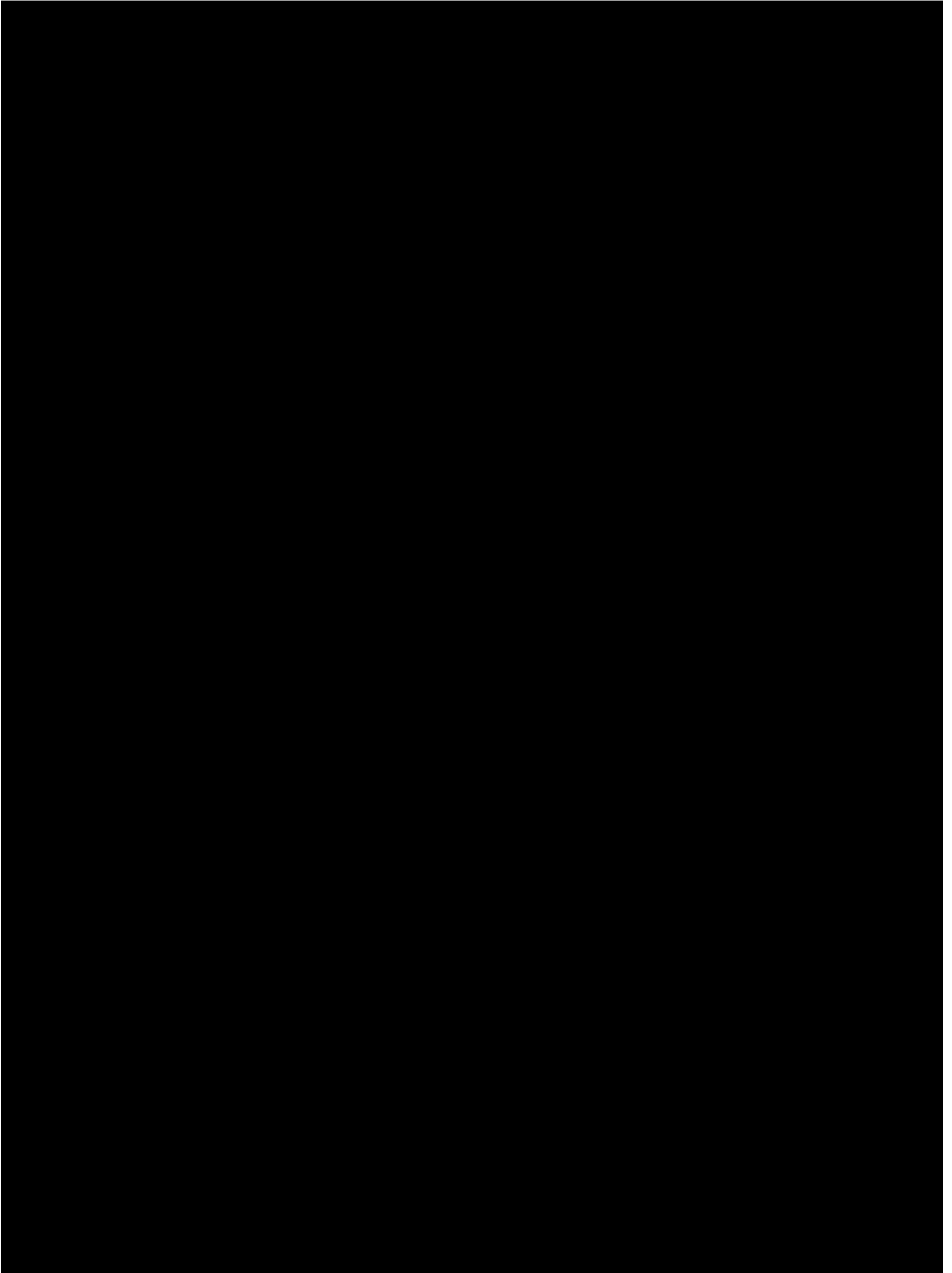
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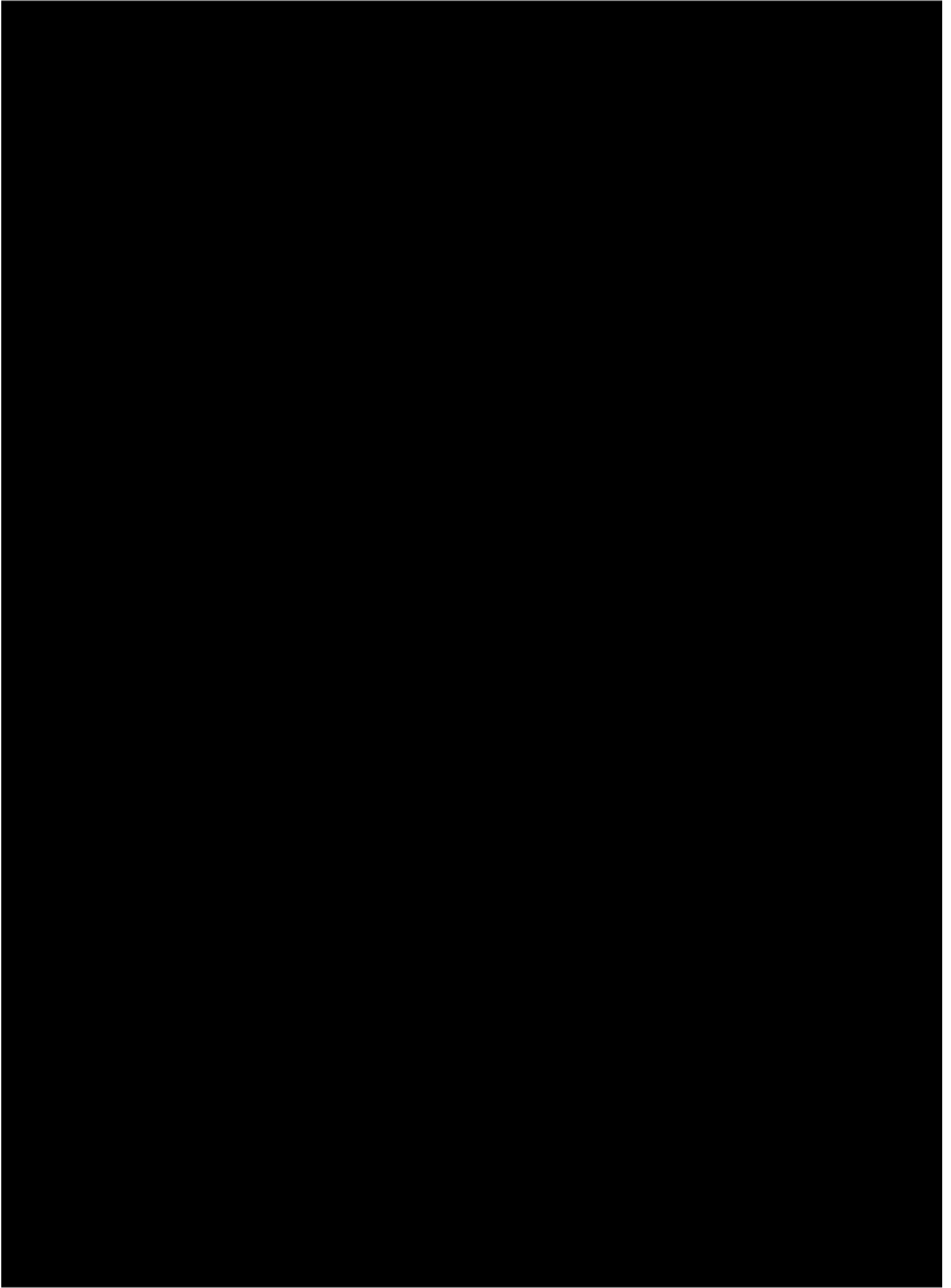
ITEM 3.4 Probity

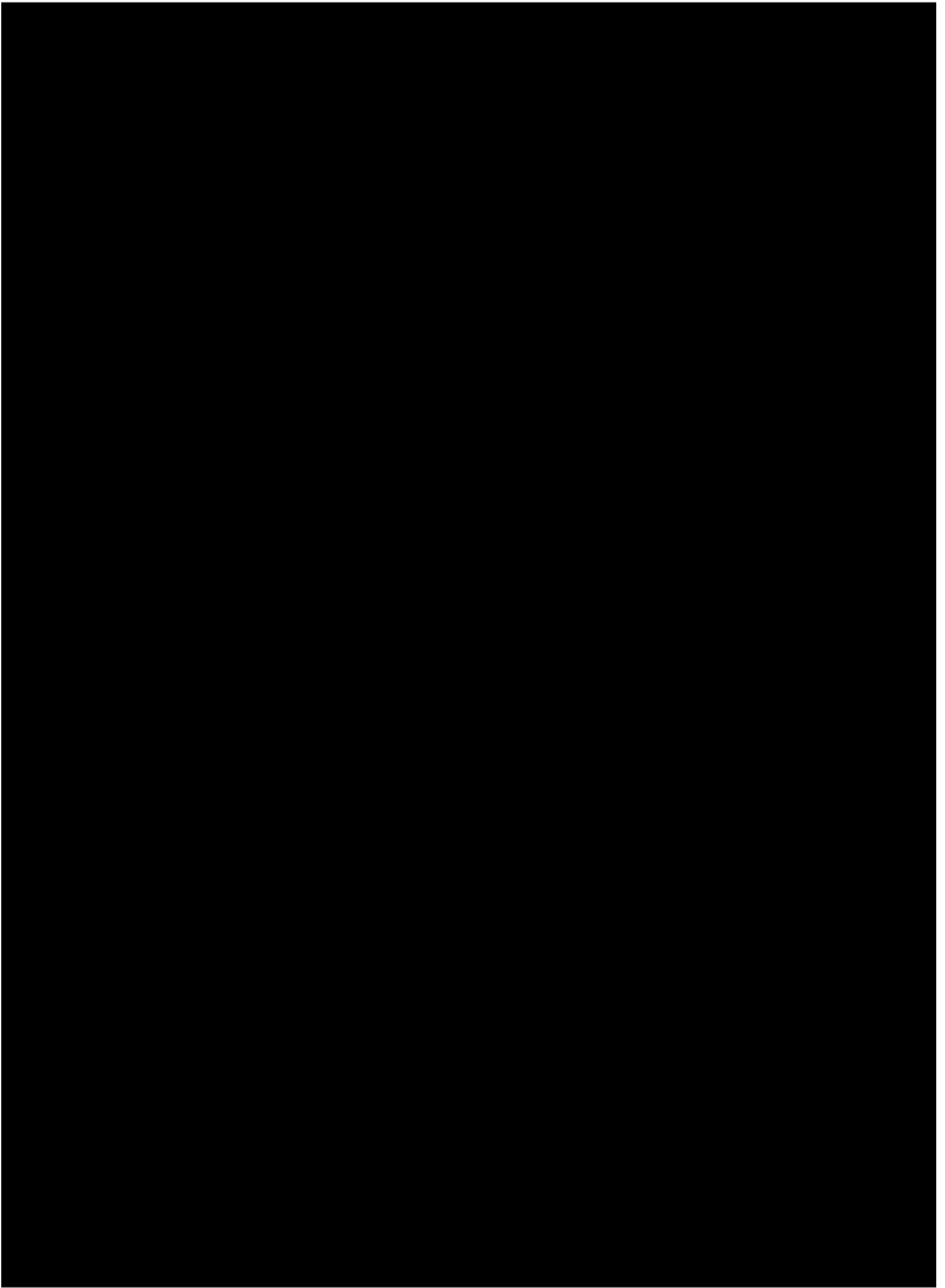
- (a) Report
- (b) Legal Advice
- (c) Supplementary Legal Advice
- (d) Paper - Analysis of Legal Advice on Probity Issues
- (e) Paper - Associates Requiring Approval
- (f) Paper - Supplementary Report on Mr Nick Falloon

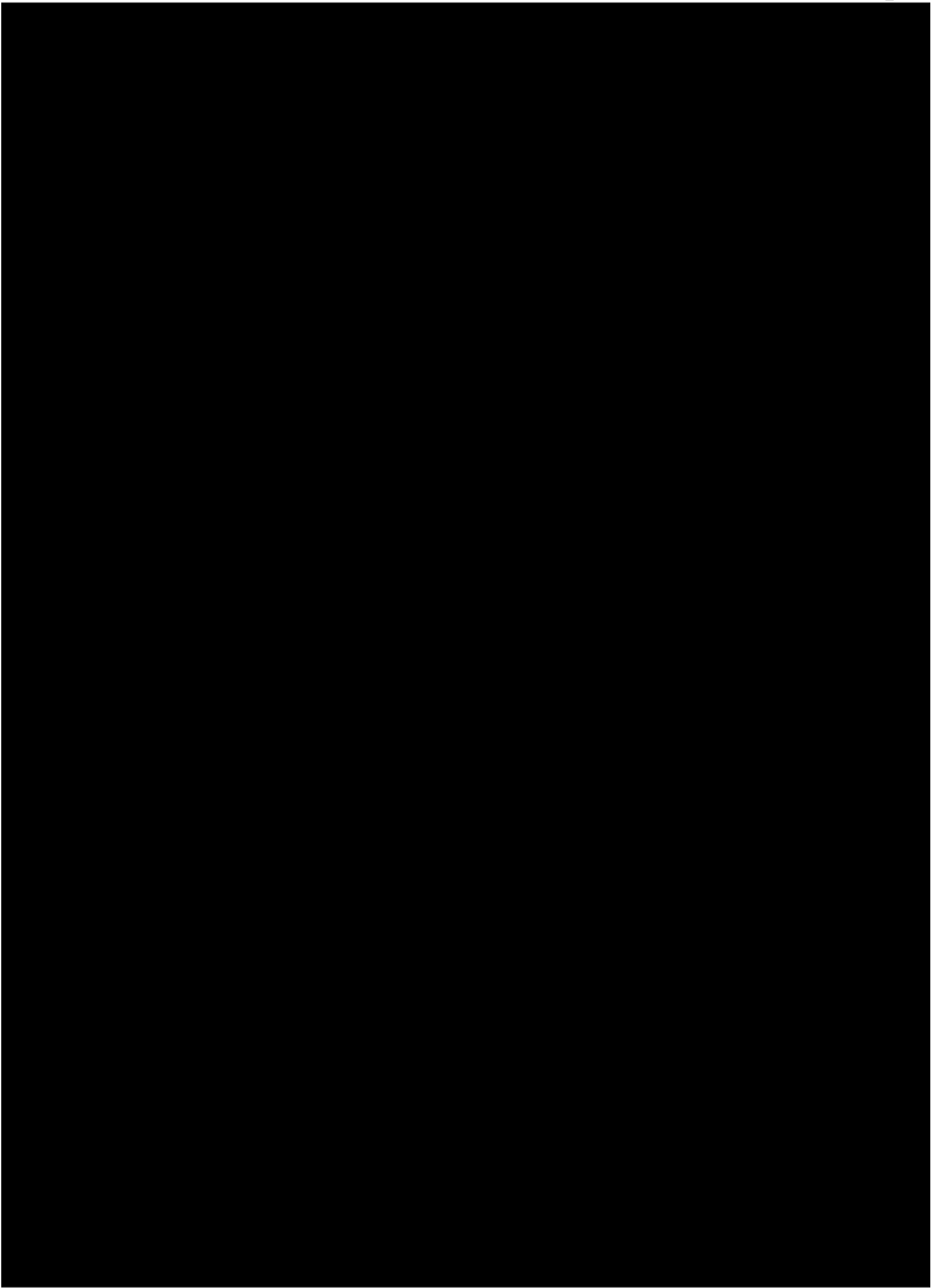
Item 3.4(a) Probity Investigation Report

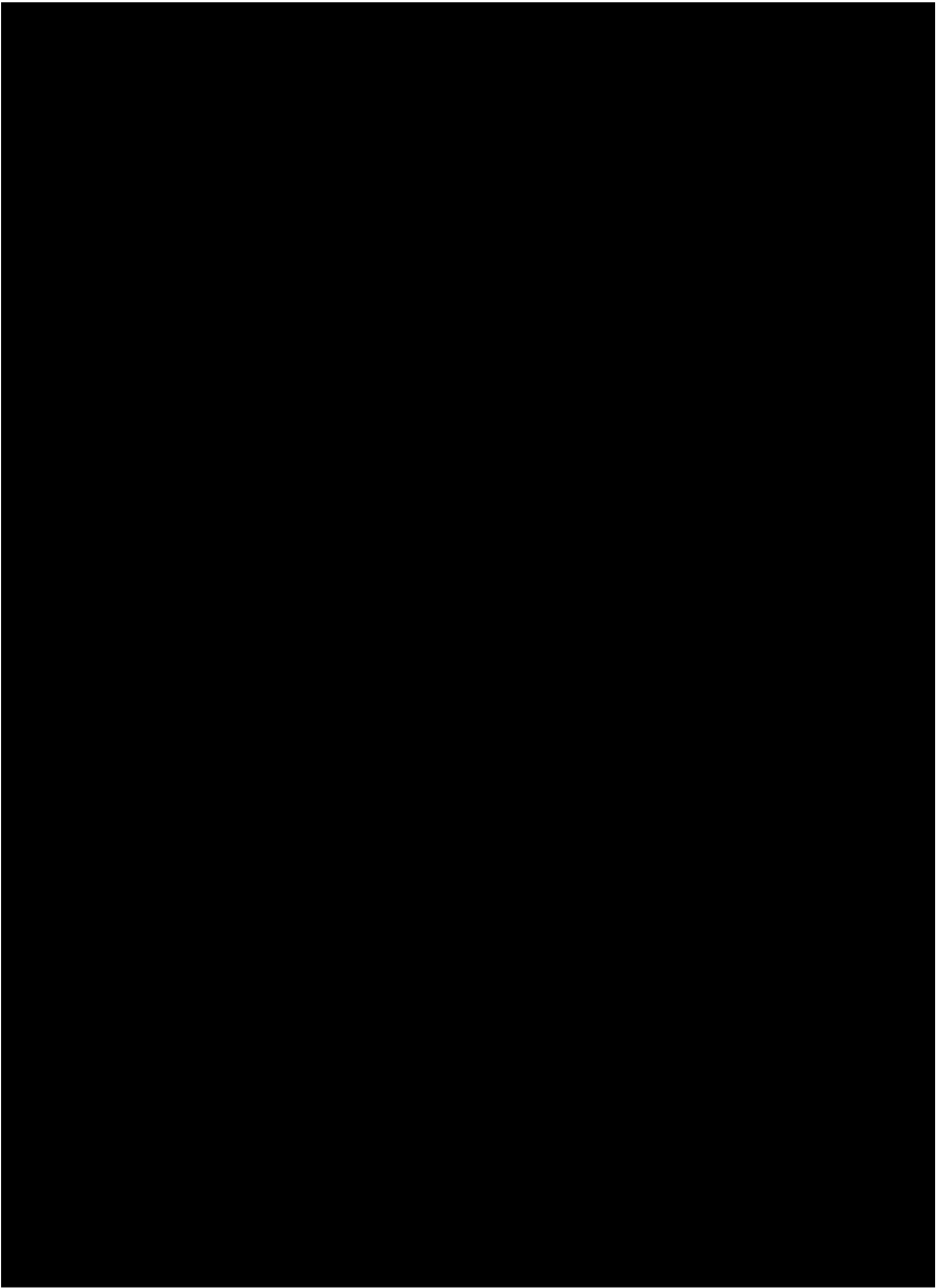
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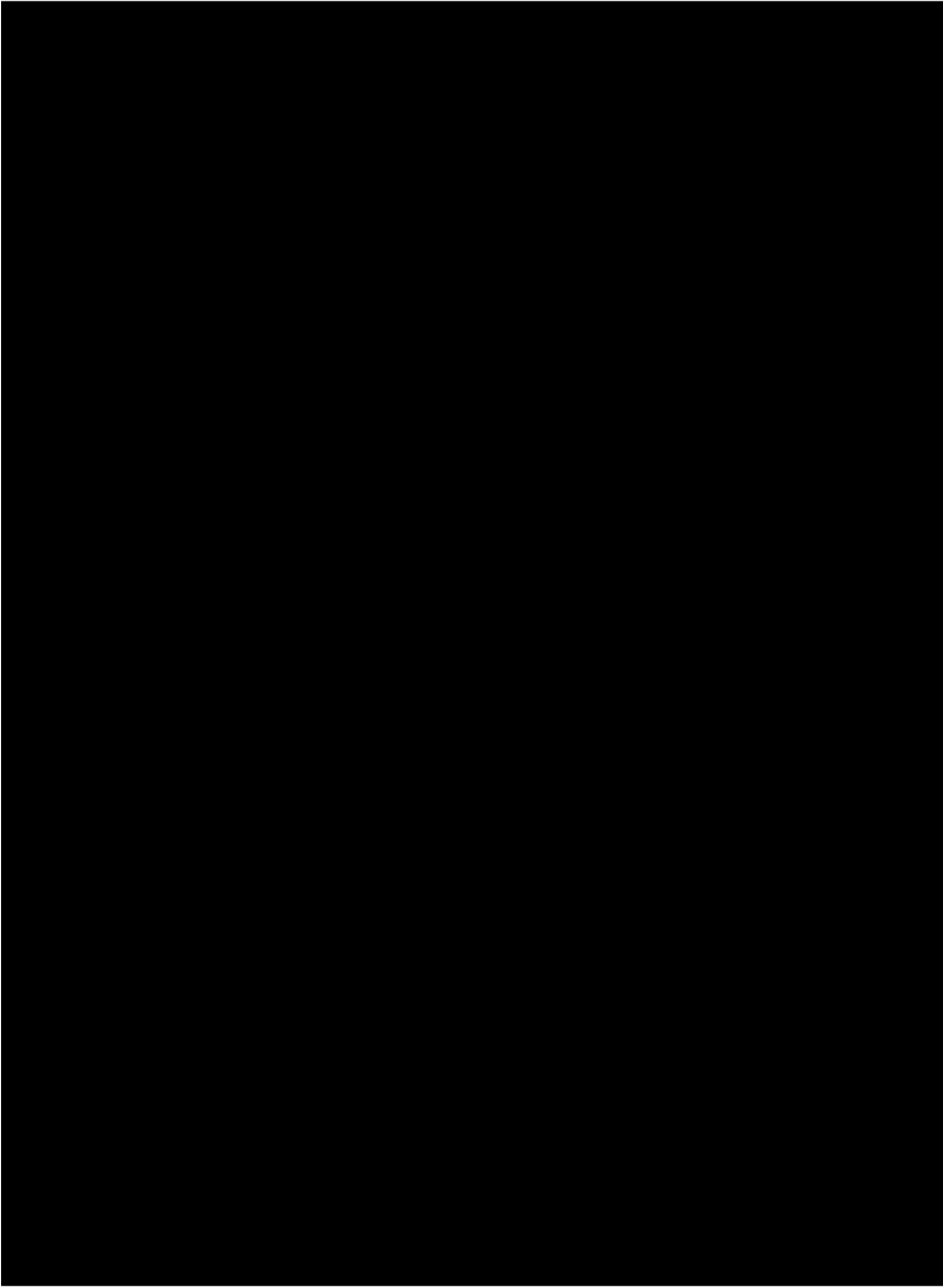


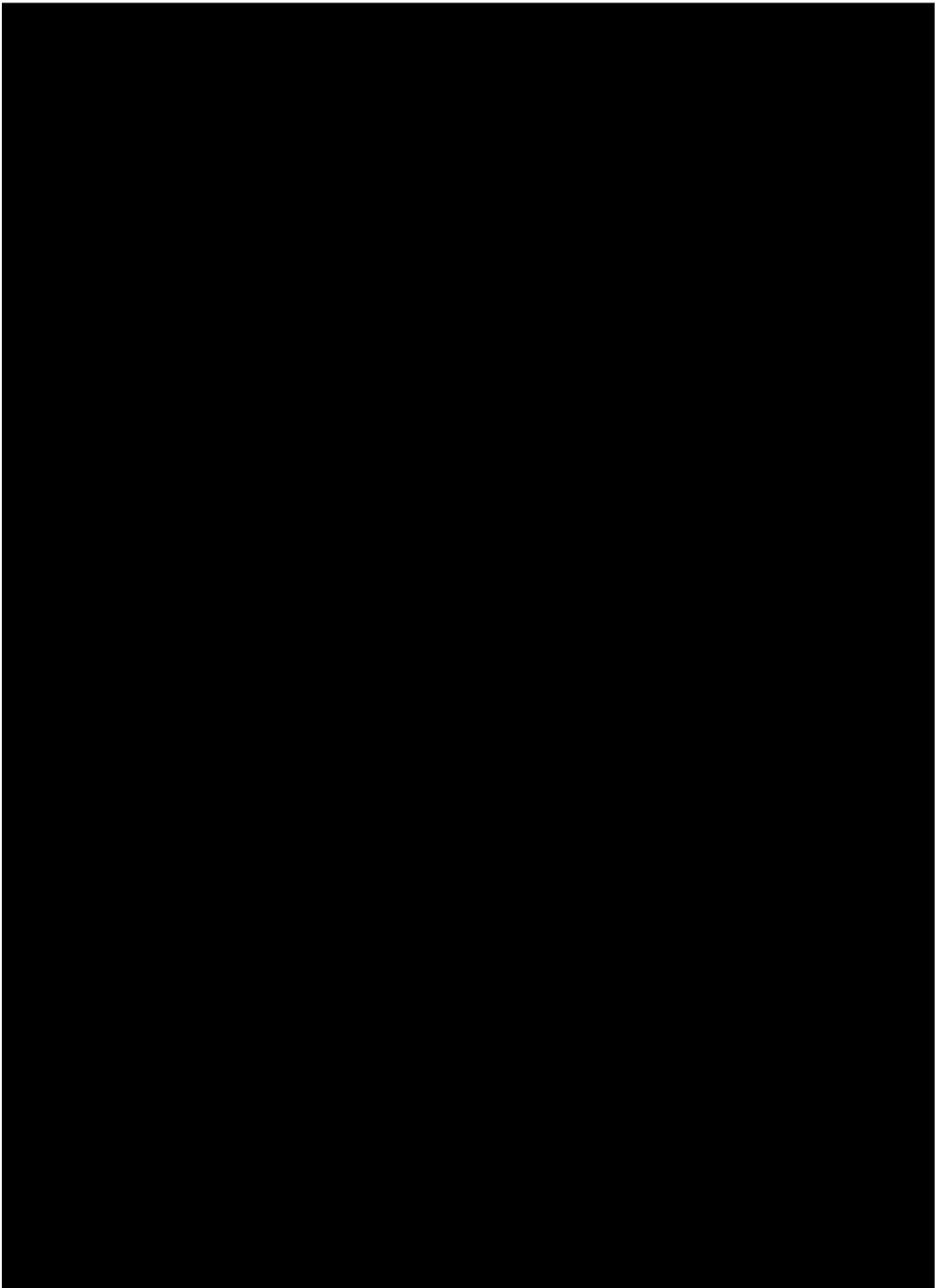


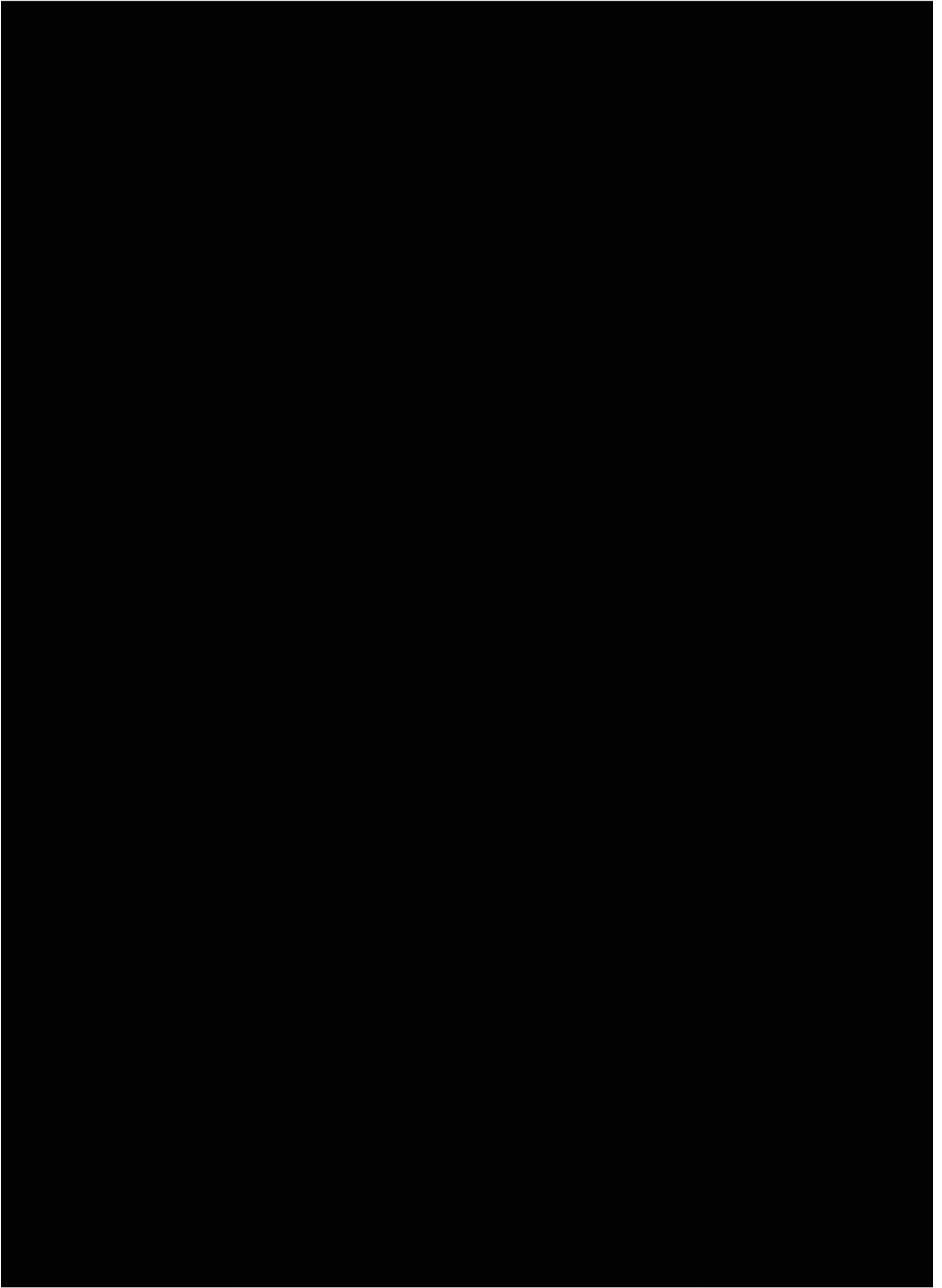












VICTORIAN CASINO AND GAMING AUTHORITY

PROPOSED CROWN/PBL MERGER - ASSOCIATES REQUIRING APPROVAL

For Approval 21 May 1999

ASSOCIATE	ROLE	FINANCIAL	PROBITY	RECOMMENDATION
Cousins Geoffrey Ashton	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Cubbin Graham Allan	Director, PBL	Satisfactory - See Issues 1	Satisfactory	Approve the Associate
Consolidated Press Holdings Limited	Significant shareholder in PBL	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999
Danziger Rowena	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Davis Robert Bernard	Company Secretary, PBL	Satisfactory	Satisfactory	Approve the Associate
Falloon Nicholas Graham	Director & CEO, PBL	See Supplement to Probity Investigation Report dated 10 May 1999	See Supplement to Probity Investigation Report dated 10 May 1999	See Supplement to Probity Investigation Report dated 10 May 1999
Gyngell Bruce	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Jakob Ashok Peter	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Kleemann Geoffrey Raymond	Director, PBL	Satisfactory - See Issues 2	Satisfactory	Approve the Associate
Leckie David John	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Muir Laurence Macdonald	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Packer James Douglas	Executive Chairman, PBL	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999
Packer, Kerry Francis Bullmore	Director, PBL	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999
Petre Daniel	Director, PBL	Satisfactory	Satisfactory	Approve the Associate

Publishing and Broadcasting Limited		See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999	See Probity Investigation Report dated 10 May 1999
Turner Richard Wallace	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Whyte Robert Michael	Director, PBL	Satisfactory	Satisfactory	Approve the Associate
Wright Stephen John Stanley	Company Secretary, PBL	Satisfactory - See Issues 3	Satisfactory	Approve the Associate

Note: Kerry Packer, James Packer, Publishing and Broadcasting Limited and Consolidated Press Holdings Limited are the subject of a separate Probity Investigation Report dated 10 May 1999 compiled by the Compliance Manager, Casino Control Branch. Victoria Police probity checks on the associates were returned on 30 March 1999 indicating no issues of concern.

Financial checks were conducted on the associates through provision of Credit Reference Association of Australia reports and checks with Dun and Bradstreet and indicated no issues of concern.

A check of the Australian Securities and Investments Commission (ASIC) database was conducted and all individuals were identified.

ISSUES

1. Graham Allan Cubbin

Mr Cubbin was approved by the Authority in December 1993 as an associate of Bareage Pty Ltd in relation to the acquisition by that company of a substantial shareholding in Crown Casino Limited. At that time Mr Cubbin declared, and the Authority was made aware, that he was a "...former General Manager of Finance of the failed Ariadne Australia Limited. Following the collapse of Ariadne, he was charged by the Queensland Corporate Affairs Office with falsification of the books of account of Ariadne Finance Limited. At the subsequent committal hearing, the presiding Magistrate found Mr Cubbin had no case to answer."

Mr Cubbin has again disclosed this matter in his Personal History Proforma in relation to the merger.

2. Geoffrey Raymond Kleemann

Mr Kleemann was a previous director of Pioneer International Ltd which was the subject of a complaint alleging internal corruption, price fixing and insider trading. The ASIC investigator indicated that the complaint was not supported in any way and seemed to be all in the complainant's imagination.

3. Stephen John Stanley Wright

Mr Wright was a director of Ballarat Industrial Minerals Pty Ltd. A Managing Controller was appointed to the company on 23 February 1995 and reported a possible breach of section 429 of the Corporations Law. No action was taken by the then Australian Securities Commission (ASC).

Mr Wright was a director of Kymfind Pty Ltd which was dissolved on 10 July 1992. A complaint was made to the ASC alleging that nearly \$6 million in cash or investments was lost in a takeover transaction conducted by other companies which had some association with Kymfind Pty Ltd. The documents had been anonymously handed to the ASC in relation to the "Adsteam" (Adelaide Steamship Company - John Spalvins) investigation as Mr Spalvins was also a director of Kymfind.

There was no criticism of Kymfind Pty Ltd or Mr Wright in the ASC report and the ASC officer assessing the complaint recommended no further action in respect of the matter, and the file was closed.

Approved:

.....
Director of Gaming and Betting

Mtg Ref: 150/21 May 1999
Source: Anthony O'Hea, Senior Analyst

Item 3.4(f) Supplementary Report on Mr Nick Falloon

This document is to be provided separately before the commencement of the meeting scheduled for Friday 21 May 1999.

COMPARISON OF EXISTING COVENANTS RELATING TO THE CROWN CASINO WITH COVENANTS PROPOSED IN MERGER WITH PBL

Policy Objectives	Current Transaction Documents	Proposed Transaction Documents (new or amendments)
<p>(1) Compliance with the provisions of the <i>Casino Control Act 1991</i> (the Act).</p> <p>(2) An appropriate corporate structure:</p> <ul style="list-style-type: none"> • Single purpose company (SPC) (capital quarantined from other activities); • 60% gearing (Liab/(Liab + SH funds)); • 2 sponsors with initial 40% equity; • Sponsor's min. equity of 10% for 5 yrs; • No shareholder with 20+% after 3 yrs; • Holdings above 5% require approval; • Fully underwritten debt and equity. <p>(3) Construction of a casino complex to an international quality in accordance with the approved drawings and timetable (with significant penalties for any delays).</p> <p>(4) That the casino is operated in accordance with international best practice (to create employment and encourage tourism).</p> <p>(5) That the State and the Authority do not incur any financial liability in relation to development and operation of the casino.</p> <p>(6) That the State and the Authority have appropriate controls over the management and operation of the casino.</p> <p>(7) That the State and the Authority have appropriate powers in the event of default or failure by the casino operator.</p> <p>(8) Financial and community benefits to Melbourne and Victoria are maximised:</p> <ul style="list-style-type: none"> • Up-front licence payments; • On-going casino taxes and other fees; • Wide range of ancillary facilities; • Employment & economic development; • International and interstate promotion. <p>(Refer to Brief to Applicants - 22.12.1992)</p>	<p>(a) Casino Licence – granted 19.11.1993 (40yr term):</p> <ul style="list-style-type: none"> • No. of tables & EGMs; makes compliance with MA and CA conditions of the licence (2 amendments). <p>(b) Management Agreement (“MA”) - 20.09.93:</p> <ul style="list-style-type: none"> • Req'd. by s15 of the Act; Fixes fees and charges; Sets 12yr exclusivity period; Development approval; Liquidated damages (LDs) (5 variations) <p>(c) Casino Agreement (“CA”) – 21.09.93:</p> <ul style="list-style-type: none"> • Under s14 & 142 of the Act; Company structure; SPC /sole business; 60% gearing (Total Liab./ Assets). <p>(d) Master Security Agreement (MSA) – Initial with NAB 21.09.93 Current with ANZ 30.07.97.</p> <p>(e) Fixed and Floating Charge (“F&FC”) (to the State).</p> <p>(f) Bank Guar./Letters of Credit (LC) - \$57.6m + \$25m.</p> <p>(g) Sponsor's Guarantees (of Crown by Hudson Conway).</p> <p>(h) Supplemental Sponsor's Agreement (SSA)(ind directors)</p> <p>(i) Site Lease - 99yr term</p> <p>(j) Site Lease Supplemental Agreement</p> <p>(k) Supplemental Operations Agreement</p> <p>(l) Temporary Casino Lease</p> <p>(m) Temporary Casino Supplemental Agreement</p> <p>(n) Supplemental Development Agreement (“SDA”)</p> <p>(o) Contractor's Deed (mirrors the SDA with Grocon).</p> <p>A number of Complementary Agreements were entered into by Crown Ltd in connection with the casino development. Material changes to these require prior Authority approval:</p> <p>(p) Founding Shareholders' Agreement</p> <p>(q) Development Agreement (“DA”)</p> <p>(r) Construction Agreement</p> <p>(s) Finance Documents / Credit Facility Agreement</p> <p>(t) Operations Agreement (Crown Management/HudCon)</p> <p>(u) Underwriting Agreement (Equity)</p> <p>(v) Guarantee and Indemnity for DA</p> <p>(w) Note Agreements (Series 1 and 2)</p> <p>(x) Trust Deeds (Series 1 and 2)</p>	<p>(A) A Performance Guarantee (PG) (between the State, Crown and PBL) (Note 1):</p> <ul style="list-style-type: none"> • Obliges PBL to ensure that both PBL and Crown perform their obligations to the State; • Provides for injunctive relief to the State against PBL if Crown does not cure a breach of the CA; • Imposes a 60% gearing ratio on the PBL Group; and • Incorporate any necessary residual clauses from the MSA, SSA and SDA if these are terminated. <p>(B) An 8th Variation Agreement to the CA (Note 2):</p> <ul style="list-style-type: none"> • Impose a 60% gearing ratio on PBL (offered by PBL); • A SPC covenant to be negotiated. <p>(C) A Supplemental Casino Agreement (SCA) (between the Authority, Crown and PBL) (Note 2):</p> <ul style="list-style-type: none"> • An obligation to the Authority on PBL that it will ensure that Crown performs its obligations under the CA (e.g. gaming revenue is maximised at the casino); • Provides for injunctive relief to the Authority against PBL if Crown does not cure a breach of the CA. <p>(D) MSA – regulates priorities between respective securities - would become largely redundant by Crown repaying most of its secured debt, with the \$1.0 billion of new equity to be injected by PBL (Note 2). (Residual clauses to be negotiated, depending on refinancing arrangements).</p> <p>(E) “F&FC” – is a requirement of the MA and the MSA - it is over all of Crown's assets - it is to be capped at \$100m to reflect the reduced risk (project “completion” and successful operating experience over 2 years) (Note 2).</p> <p>(F) New \$100m LC to secure any unpaid casino taxes and other charges in exchange for State agreeing to cap the F&FC at \$100m (total security \$200m) (Note 2).</p> <p><u>Notes:</u> (1) This new agreement requires the approval of the Minister on behalf of the State, as advised by the Victorian Government Solicitor.</p> <p>(2) The Authority requires the Minister's approval to enter into this agreement/amendment.</p>