



Memorandum

TRIM ID:

To:	Adam Ockwell, Director, Compliance		
From:	Tim Bryant, Team Leader; Lindsey Hilliard, Inspector; Miriam Holmes, Special Counsel		
cc	Cameron Warfe, Acting Director Legal Services		
Division:	Compliance and Legal Services Divisions		
Subject:	China Investigation	Date:	2 April 2019

Purpose

1. To seek instructions regarding the next steps in progressing to finalise the investigation by the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) into the circumstances surrounding the criminal detention of 19 Crown employees in China.

Background

2. On or about 13 October 2016, 19 Crown employees (including two former employees) were criminally detained by Chinese authorities in China. On 26 June 2017, all 19 Crown employees¹ appeared in the Shanghai Baoshan District Court (the **Court**) and pleaded guilty to offences related to the promotion of gambling in China.
3. In July 2017, the VCGLR commenced an investigation, under the relevant legislation², for the purposes of assessing the circumstances leading up to the detention, conviction and imprisonment of Crown staff, to determine whether any disciplinary action or other regulatory action should be taken against Crown Melbourne Ltd and/or its licensed employees.
4. Since July 2017 the VCGLR has requested Crown to provide information and since January 2018 the VCGLR has formally required Crown to produce documents specifically referring to its statutory information gathering powers. In August 2018 and November 2018 the VCGLR wrote to Crown and required that all documents requested under the statutory notices be produced to the VCGLR within a nominated timeframe. Further in January and February 2019 the VCGLR reminded Crown of its responsibility to comply with the notices issued under the *Casino Control Act 1991* (see **Appendix A1 - 4**). However, on 18 March 2019 Crown produced another 87 documents relevant to the investigation (**March 2019 batch**) in response to statutory notices issued in February and August 2018. Attached for your reference is the Minter Ellison covering letter and index (**Appendix B**).

Issues

(i) **March 2019 batch**

5. **Responses to statutory Notices in February 2018 and August 2018.** The majority of documents in the March 2019 batch are in response to statutory notices issued in February 2018 and August 2018.
6. **New substantive information disclosed.** The March 2019 batch includes new substantive information that is relevant to the investigation. A summary of this new substantive information is

¹ Including the two former employees

² *Casino Control Act 1991*, the *Gambling Regulation Act 2003* and the *Victorian Commission Gambling and Liquor Regulation Act 2011*

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set out at the end of this memorandum. It is proposed this new evidence is included in the report as appropriate.

7. **Documents previously disclosed.** The March 2019 batch included documents that were previously disclosed. It is unclear why Crown has disclosed them again. Further, in the March 2019 batch Crown has provided the final Crown Resorts Ltd Financial Plan and budget for F16 – F19, despite earlier requests. Previously the VCGLR was only given incomplete drafts of this document.

8. **New information following on from previously disclosed documents.** There are a small number of documents in the March 2019 batch that flow on from documents previously disclosed. For example, another email in response to an earlier email. This includes emails from persons who have been current Crown employees throughout the VCGLR investigation.

9. **Email attachment missing.** There are a number of emails in the March 2019 batch with the attachments to the emails missing. The VCGLR has sourced most of the attachments from the internet.

10. **Recommendation:** It is recommended that the VCGLR request Crown to explain in writing why these documents were not disclosed earlier, noting that:

- the March 2019 batch responds to statutory notices issued in February and August 2018;
- a number of the documents are emails to and from current Crown employees; and
- a number of the documents are email responses to emails previously disclosed to the VCGLR.

The correspondence to Crown may also note the previous notices issued by the VCGLR to Crown to disclose documentation, and the possibility of disciplinary action for failure to comply with the notices (s.20(1)(b)) and/or the possibility of initiating action under section 27 of the *Casino Control Act 1991*. Draft correspondence is attached (**Appendix C**) The delay in providing information is also discussed later in this report in relation to whether this should be referenced in the investigation report.

(ii) **Mr Ratnam**

11. The March 2019 batch included a Crown organisation chart (as at October 2014) that described the persons who are “*key stakeholders with active involvement or interest in VIP*”. The organisation chart included the Chairman (Mr Packer), the Deputy Chairman (Mr Alexander), and a number of Crown senior executives, including Mr Ratnam described as “Special Assistant to the Chairman”. The organisation chart shows that Mr Ratnam reports to the Chairman, as well as Mr Johnson (CPH Finance Director). Mr Packer was the Chairman of Crown Resorts Limited until August 2015 and Chairman of Crown Melbourne Ltd until May 2016.

12. The March 2019 batch, and other documents already disclosed to the VCGLR, show that Mr Ratnam received (or was copied into with others) a number of significant emails regarding Crown’s operations in China prior to the detention of employees, he also participated in a key meeting of senior executives in February 2015 about China and travelled to China as a senior executive on Crown roadshows. There are only a couple of emails that Mr Ratnam responds to where he refers to traveling to China to show support for the Crown staff in China.

13. In the Sixth Casino Review Mr Ratnam was described in a Crown organisation chart as the President of International Development, and he had four reports, including an executive chef and manager at the Capital Golf Club. He reported to Mr Felstead. During the Sixth Review, Mr Alexander stated that Mr Packer was engaged in the business and spoke with senior executives regularly about the business (see page 57 of the Sixth Review report).

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14. Mr Ratnam has also been referred to in the media. In media dated 10 January 2016 Mr Ratnam was described as 'special assistant to Mr Packer' and holds responsibility for the casino's Capital Golf Club and nightspot, Club 23. On 1 June 2015, he was described as "Mr Ratnam holds many senior positions at Crown including vice -president of VIP Gaming Services and also uses the title 'special assistant to the executive chairman' who is James Packer. He has also been referred to as Crown's "Mr Fix-it" and Crown's VIP "Mr Fix-it".

15. Mr Ratnam is now the senior executive responsible for the International VIP Marketing team based in Hong Kong.

16. Given Mr Ratnam's title as Special Assistant to the Chairman, with a reporting line to Mr Packer, and Mr Ratnam receiving or being copied into a number of key emails about the China operations, it is open to gather more information about Mr Ratnam's role in the period between July 2014 and October 2016. Further inquiries might be made about whether Mr Ratnam reported any information to the Chairman of the Crown Resorts Ltd and Crown Melbourne Ltd boards, and/or whether the Chairman gave any instructions to Mr Ratnam (to pass on to the Executive) about Crown's operations in China.

17. Although, on the evidence available to date, it appears that Mr Ratnam did not make any decisions, nor make any recommendations, provide advice or instructions about Crown's operations in China to Crown's senior executive or others. Interviews have been conducted with several staff and all executives, from Mr Chen through to Mr Craigie, identified as having reporting and management responsibility for Crown's operations in China prior to the detentions in October 2016. To date, Crown and the witnesses have not given any evidence or inference to any direct or indirect or matrix reporting responsibilities regarding their operations in China to the Chairman (save for the organisational chart).

18. If the VCGLR does pursue further inquiries regarding the role of Mr Ratnam, this would also necessitate pursuing any other follow up avenues of inquiry that may result from receiving further information, including interviewing him, about his reporting responsibilities and what he or others were told, advised and/or instructed.

19. **Recommendation:** The Compliance investigators recommend that no further material is sought in relation to Mr Ratnam, as he does not appear to be a decision-maker or have any management responsibility for Crown's operations in China. If you were minded to seek additional information, the investigators recommend that statutory notices are issued seeking details of Mr Ratnam's role in the relevant period, why he received the various emails regarding the VIP International operations in China and if he had any engagement with Mr Packer, and if so, the nature of that engagement regarding Crown's operations in China. If the VCGLR gathers further evidence in relation to Mr Ratnam this will take at least a month to gather and assess the additional information.

(iii) Crown's engagement with the VCGLR

20. During the investigation, the VCGLR has identified a number of matters of concern in respect of Crown's engagement with the VCGLR.

21. **Delay.** As noted above, Crown has delayed providing documents in response to statutory notices issued by the VCGLR since the beginning of the investigation. This was noted in the Sixth Casino Review Report. There is significant concern that Crown has not given priority to complying with the statutory notices issued during the course of the investigation. At key points, for example in June 2018 and March 2019, when the VCGLR was seeking to finalise the investigation, Crown has disclosed substantive new documents. This failure to respond to notices within the specified timeframes appears to be due to Crown choosing to disclose documents to the VCGLR as part of its class action discovery process and possibly as a tactic to delay the finalisation of the investigation. There is a possibility this delay could continue as the discovery in the class action remains ongoing.

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22. **Redactions.** In the initial phase of the investigation until September 2018, Crown responded to the statutory notices by providing numerous redacted documents. The documents were redacted on various grounds – irrelevance (as assessed by Crown), commercial sensitivity or legal professional privilege. In August 2018, the VCGLR notified Crown that it was obliged to disclose all documents in unredacted form, save for where the information was subject to legal professional privilege. Thereafter, Crown provided numerous documents in unredacted form, but maintained its claim of privilege on various documents, including minutes of board meetings, the Chinese Court judgement and Chinese indictment document, and chose not to waive privilege. In the March 2019 batch there were documents redacted on the grounds of legal professional privilege. There is no current legislative or other mechanism to test any claims by Crown to redact documents on the grounds of legal professional privilege.

23. **August 2017 Presentation to VCGLR:** In August 2017 Crown gave a presentation to Executives and officers of the VCGLR about the criminal detention of staff in China. The evidence gathered during the investigation indicates that information given in the presentation to the VCGLR was not accurate. The presentation states:

- A. Mintz advised Crown that *“according to sources working in the Public Security Bureau (PSB) in China, most provincial levels of the PSB had intelligence units that **routinely monitored people engaged in gambling**”.*

However, the Mintz advice³ disclosed during the investigation stated that *“According to sources working in the Public Security Bureau (PSB) system ..., most provincial levels of the PSB had intelligence units that **routinely monitor people who work in the gambling business**”.*

Note: This presentation to the VCGLR is consistent with the evidence given by Mr Felstead at interview that he recalled that the questioning of a Crown employee by Chinese police in July 2015 related to a customer, not about Crown’s operations in China. However, documentary evidence produced on 18 March 2019 to the VCGLR indicates that Crown and Mr Felstead was advised that the questioning of the Crown employee related to allegations the employee was organising gambling tours, not about a customer.

- B. Crown staff were instructed to not hand out promotional materials that referred to gaming facilities or terms of play (**Crown did not produce such materials for distribution in China**).

However, the March 2019 batch included details of:

- a. A shipment of gambling promotional materials in boxes from Crown Casino to China that was held at China’s customs office in Guangzhou. The shipment contained personalised invitations which stated that patrons required \$1 million front money to participate in a gambling event.
- b. An email to the Hong Kong office, accompanying Crown promotional magazines (which contained details of gambling events in Australia), giving instructions for 300 promotional magazines (gambling version) to be hand delivered to staff from China for use in China.

24. **February 2016 presentation to VCGLR:** The March 2019 batch included draft VIP International slides to be included in a Crown presentation to the VCGLR in February 2016. There is an email from Mr Felstead directing the slides to be deleted from the presentation or amended and notes: *Slide 9 “Remove this slide as I’m not sure how wise it is to talk about corruption crackdowns in China to this group.”* It is a matter for Crown as to what information to present to the VCGLR during the annual presentation meeting, but with hindsight this was a notable omission from the presentation.

³ Dated 24 March 2015 (check later version)

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25. **Failure to provide all information.** There are a number of examples where Crown has failed to provide all information. For example, in the March 2019 batch attachments to a number of emails were not provided. Similarly, the staff remuneration information provided in September 2018 was largely incomplete, with the information from the key financial years missing for most staff, and had to be requested again. Crown stated that it was an administrative oversight.

26. **Recommendation:** The VCGLR Executive consider whether the matters above regarding Crown's interaction with the VCGLR are addressed, and if so whether they should be addressed by:

- including the information in the investigation report to the Commissioners
- including the information in a separate report to the Commissioners
- meeting with the Executive Chairman of Crown to discuss further Crown's interaction with the VCGLR with a view to securing the remaining documents (if any)

(iv) Duties of a director

27. There has been some discussion about the duties of Mr Felstead as a director of Crown Melbourne Ltd and the information he was aware of as CEO of Australian Resorts that does not appear to have been disclosed to the Crown Melbourne Ltd Board. This may be a matter you may wish to raise with the Executive and whether any further steps should be taken in this regard.

(v) Class action

28. The Federal Court made further orders on 14 March 2019 requiring the discovery of emails to and from various Crown staff to be discovered by 20 May 2019. The parties are to resolve to reduce the discovery to no more than 50,000 documents. According to earlier court orders made on 30 November 2018 the compulsory court ordered mediation is to be conducted by 20 June 2019. The matter is scheduled for a six week hearing commencing May 2020.

(vi) Report drafting

29. A draft report has been prepared and can be made available to the Executive and Commissioners by 11 April 2019. However, if the Executive decides that Compliance should pursue further inquiries, as discussed above, then finalisation of the report will be delayed.

Recommendations

30. The VCGLR request an explanation from Crown about the delay in providing the documentation in the March 2019 batch. Approved
 Not approved
31. Compliance Director, after consultation with the VCGLR Executive, to advise investigators whether any further investigation is undertaken in relation to the role of Mr Ratnam and his possible interaction with the Chairman regarding Crown's operations in China. Approved
 Not approved
32. Compliance Director discuss with the VCGLR Executive what action (if any) is taken in relation to Crown's interaction with the VCGLR over the course of the investigation, in particular whether information regarding Crown's interaction with VCGLR is included in the report. Approved
 Not approved
33. Compliance Director discuss with the VCGLR Executive what action (if any) is taken regarding the duties of a director of Crown Melbourne Ltd. Approved
 Not approved

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Topic	Nature of Information
Double Down approach	<ul style="list-style-type: none"> - In August 2014 Chen advised Felstead, (O'Connor, Ratnam) in response to the Macau downturn that Crown could either adopt a Double Down approach to maintain aggressive targets and heavily promote London and Australia (plus give out credit) as alternative gambling locations to Macau. Alternatively, Crown could take an Austerity approach and cut projections, promotions and reduce credit limits. - The approach depends on the risk appetite of the company – the double down approach would expose the company to “a lot more risk”. - This email generates discussion with Felstead, Johnston and possibly Alexander. - In September 2014 Chen writes to VIP International marketing staff about the HUGE OPPORTUNITY with the trend of customers avoiding Macau, but going overseas and encourages them to get aggressive and win profitable business. (see also November 2014 email to staff)
Organisational Chart	<ul style="list-style-type: none"> - An Oct 2014 VIP marketing workshop document provides an organisational chart of those key stakeholders interested in VIP – including Packer, Ratnam and other most senior executives in Crown, plus provides an organisational chart for all the VIP dept at that time (including staff in China).
Risks to staff/Exec in China	<ul style="list-style-type: none"> - Sales team in many countries (esp China) operating under constant threat of being detained, questioned and harassed with regard to their customers and activities (Oct 2014 Workshop document) - O'Connor email in March 2015 to Chen suggesting they reconsider travel to China for roadshow - Evidence of conference call to staff about Feb 2015 MPS announcement (13 Mar 15) - Email to VIP International marketing staff attaching Reception Guidelines, if Chinese police contact Crown employees (13 Mar 15) - Use of codes for telephone call with Chen in China from O'Connor in Melbourne (23 Mar 15) - Email to staff re South Koreans detention (June 2015) - Email trail about promoting Crownbet in China. A Chinese employee states: <i>Internet gambling is illegal in China – Sales team will take high risk – so please think carefully.</i> His manager replies “<i>If you are too worried about something within the grey line, how are going to develop the regions for me??? Time to think seriously about your role.</i>” (May 2016) - Multiple references by Mr Chen linking remuneration to the risks in China- June 2016 - <i>My particular role, as is the case of most staff on the International Sales team, is one that carries with it personal risks as well. We operate in markets where we are at risk of being harassed by authorities and threatened by our customers... The rewards that I earn from Crown are what make it worth taking these risks, sacrificing my family and my health...;</i> For staff and proposed new remuneration structure - <i>China data looks to me to be skewed very low especially since the China jobs should all have a significant risk premium</i>” (June 2016) - July 2016 - Mr O'Connor forwards Mr Chen's salary instructions, from March 2015 about his salary if Chen is detained in China, to the Crown HR team - <i>It's probably wise for someone else, in addition to myself, to hold this information.</i> - Email trail re upcoming roadshow and request for another person from

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	<ul style="list-style-type: none"> - Australia to attend, Chen notes . <i>China remains sensitive and we do not want to show up to meetings with more than a couple of folks.</i> (August 2016)
China office	<ul style="list-style-type: none"> - Jan 2015 - Email trail about investigating setting up a Crown China office
Reporting to Rankin	<ul style="list-style-type: none"> - June 2015 - Barton emails Rankin with a media report about the detention of the South Koreans. Rankin responds "<i>We should be on high alert for this type regulatory action in China. Specifically the training of new in country sales staff should be reviewed and be extensive.</i>" This message was forwarded by Mr Craigie to Mr Felstead.
Gambling materials used in China	<ul style="list-style-type: none"> - June 2015 email trail about boxes being held at Guangzhou customs office from Crown casino – contains personalised invitations (invites state "successful patron required participate in new gaming program with min. \$1mil front money) and gifts. Directed to send to Hong Kong office. - June 2016 – Crown VIP Explore magazine – China will receive 450 non-gaming version, but 300 gaming version to be sent to Hong Kong to then be given to staff working in China.
Xiong questioning in China	<ul style="list-style-type: none"> - Felstead and O'Connor are advised that questioning of Mr Xiong in July 2015 related to organising gambling tours (this contrary to Felstead interview responses) and Crown letter was to corroborate Mr Xiong explanation to police that he organised leisure trips, denying he was involved in gambling trips. (9 July 15) - Felstead and O'Connor aware that there was another employee questioned by Chinese police (10 July 15)
Roadshows	<ul style="list-style-type: none"> - December 2015 – email listing all the potential agents/ customers approached in China during Dec 2015 roadshow to travel to Australia
Bernstein report	<ul style="list-style-type: none"> - O'Connor aware of Bernstein report in August 2015 that stated that police in several Chinese cities had implemented "Chain Break", the operation against foreign casinos. The report noted that "<i>Beijing wants to break the foreign casinos' money chain flows and clamp down on the individuals who scout gamblers from China</i>". O'Connor comments he better keep his head down (noting he was in China at the time)
F15 Half year results	<ul style="list-style-type: none"> - Email trail re information to be given to Australian public re Crown's explanation about slowdown in Macau, with answers referencing the anti-corruption campaign, tightening of visa rules and money transfers by China (Feb 2015)
Feb 2016 VCGLR presentation	<ul style="list-style-type: none"> - Draft slides for VIP International provided, as well as revised draft slide show for presentation to VCGLR. - Mr Felstead directs that Slide 9 "<i>Remove this slide as I'm not sure how wise it is to talk about corruption crackdowns in China to this group.</i>"
Targets	<ul style="list-style-type: none"> - Email by Chen about the unreasonableness of the targets in F14, F15, F16 and F17 (June 2016)