



file 84

## Memorandum

TRIM ID:

<b>To:</b>	Tim Bryant, Team Leader		
<b>From:</b>	Ben Considine, Inspector		
<b>Division:</b>	Compliance		
<b>Subject:</b>	Crown Melbourne Limited - China INV-2881	<b>Date:</b>	13 December 2017

### Purpose

1. To provide an investigation update into enquiries regarding Crown Melbourne Limited (CML).

### Background

2. On 16 October 2016, open source Media outlets reported that 19 Crown Resort Limited (CRL) employees had been detained in mainland China on suspicion of contravening Chinese anti-gambling regulations<sup>1</sup>.
3. Crown Melbourne Limited (CML) holds the Casino licence in Victoria to operate at 8 Whiteman Street, Southbank. CRL is listed as an associated entity of the licence holder.
4. On 26 November 2016, open source media outlets reported that the Australian Federal Government was formally notified by the People's Republic of China of three Australian Citizens had been detained on suspicions of contravening Chinese anti-gambling legislation<sup>2</sup>.
5. On 5 March 2017, further open source media outlets reported 18 CRL employees had been formally charged by the People's Republic of China for contraventions Chinese anti-gambling legislation<sup>3</sup>.
6. On 26 June 2017, CRL released a media release which stated, 16 of the 19 had been convicted by the Shanghai Baoshan District Court of contraventions of Article 303, Clause 1 and Article 25, Clause 1 of the *Criminal Law of the Peoples Republic of China* (CLPRC), which states:
 

*Article 303, Clause 1, is that anyone who organises gambling parties or is engaged in gambling as one's main business for the purpose of making profits shall be sentenced to not more than three years of fixed-term imprisonment, detention, or surveillance, and shall be jointly fined.*

*Article 25, Clause 1, is that a joint crime is an intentional crime committed by two or more persons jointly.*
7. The defendants had been fined the equivalent of AUD 1.67 million which CRL intended to pay ex gratia, and 11 were sentenced to a period of 9 months incarceration and 5 for a period of 10 months<sup>4</sup>.

<sup>1</sup> The Age media article 'Crown employees held in China after late-night raids on homes'.

<sup>2</sup> The Sydney Daily Telegraph article 'Crown assembles legal war room in act of 'a--- covering''

<sup>3</sup> The Daily Telegraph article 'Inside Crown's China bust and how Australian Jason O'Connor was arrested'.

<sup>4</sup> Crown resorts ASX/Media release dated 26 June 2017.

8. On 10 July 2017, CML advised the VCGLR four licensed employees had been convicted by the Shanghai Baoshan District Court of contraventions of Article 303, Clause 1 and Article 25, Clause 1 of the CLPRC<sup>5</sup>.

*The following employees were reported to have been convicted:*

<i>Jason O'Connor</i>	<i>C9700099</i>	<i>Alfred Gomez</i>	<i>C9802640</i>
<i>Peng (Jerry) Xuan</i>	<i>C08104332</i>	<i>Dan (Jane) Pan</i>	<i>C13109759</i>

9. On 13 July 2017, open source media outlets reported 10 of the incarcerated CRL employee's has been released by Chinese authorities<sup>6</sup>.

#### **Relevant legislation**

10. The following provision of the *Casino Control Act 2003* (the CCA) apply:

*Section 20 of the CCA - Cancellation suspension or variation of casino licence;*

*Section 24 of the CCA - General investigations;*

*Section 28A of the CCA - On-going monitoring of associates and others;*

*Section 45 of the CCA - Conditions of licence;*

*Section 53 of the CCA - Suspension of licence;*

*Section 55 of the CCA - Termination of employment on suspension or cancellation of licence;*

*Section 56 of the CCA - Casino operator to provide information relating to licensees; and*

*Section 105 of the CCA - Rights of inspector on casino premises.*

#### **Issues/Comments**

11. The Investigation Teams initial assessments surrounded the four licensed employees with the position of obtaining detailed information regarding the internal operation of CML's international junket activities seen as a priority.
12. The position was Inspectors would be able to obtain firsthand knowledge and an in-depth understanding of CML's position in China which could then be used to commence disciplinary action against CML.
13. Inspectors wrote to all employees requesting they attend an interview. Unfortunately, all but Jason O'Connor surrendered their Casino licenses meaning they were no longer captured as regulated entities.
14. To date Inspectors have not heard from the three employees who surrendered their licenses and as such are unable to make further enquiries of this nature as there is no regulatory capture of these individuals.
15. Mr Connor who maintains his casino license has been approached by Inspectors but has provided a medical certificate advising of his unavailability to participate in an interview due to trauma experience while in detention and therefore is medically unfit. No timeframe has been provided for his recovery.

<sup>5</sup> Crown correspondence to Ms Alex Fitzpatrick, Licensing Director VCGLR dated 10 July 2017.

<sup>6</sup> Herald Sun article 'China releases first of jailed Crown Staff'

16. Inspectors have requested a number of documents from CML and CRL pertaining to the companies risk matrix's and international operations as follows: 53

*All minutes from Crown Resorts Board and sub-committee minutes regarding the assessment of Crown's business operations within mainland China post 1 July 2016.*

*All version of the Crown's Group Risk Committee's Charter, Management plan and Management Policy post 1 July 2016.*

*Advice received from Wilmer Hale and Mintz regarding China operations.*

*Any information received by the Crown group addressing its China operations in particular advice addressing concerns to mitigate Article 303 and 25 of the Criminal Law of the People's Republic of China.*

17. CML has since provided all material requested which has been assessed and comprehensively reported on in an email to Director Compliance and yourself dated Monday the 11th of December 2017.
18. Of particular note was CML decision to redact the majority of information pertaining to China operations and legal advice they obtained which alleged their activities complied with Chinese law.
19. In a memo address to myself accompanying the documents Joshua Preston, Chief Legal Officer- Australian Resorts provided the following (in part):

*There are no specific minutes of meetings of the Crown Resorts Board or the Risk Management Committee regarding the assessment of Crown's business operations within mainland China. This is because Crown's business operations within mainland China were not assessed in isolation, separately from Crown's other operations.*

*Because Crown did not have an office in mainland China, there was less formality in communications with staff located there than staff based in Australia. Briefings on compliance aspects evidently occurred primarily by teleconference, rather than by emails.*

*Further, for reasons of confidentiality, we understand that many written communications made by staff in China were via platforms such as 'Wechat' and 'WhatsApp', rather than by email. Communications on such platforms are not retained on Crown's centralised IT systems.*

*Crown is not in a position to provide the VCGLR with copies of legal advice that it received from Wilmer Hale or any other firm, as Crown does not intend to waive privilege in respect of that advice.* 7

20. In summary, the investigation has reached a critical stage, Crown claiming legal privilege has complicated issues and it is recommended the following actions be considered.
21. Inspectors contact DFAT or a similar Government agency to ascertain the likelihood of obtaining documentary evidence regarding the CML employee's detention in China and CML involvement.
22. Compliance engages a Chinese based law firm to secure court documents, and a further official request to CML be made to ascertain if they have obtained any such documents.
23. Inspectors are of the opinion moving straight into a record of interview with CML to put all documents and allegations to CML is the logical next stage of the investigation.
24. Once CML has responded to all allegations, it is further recommended a disciplinary action is prepared for the commission to consider CML continued suitability.

**Recommendation**

25. For your review, consideration and handover.

- Approved
- Not approved



**Ben Considine**  
Inspector

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**Tim Bryant**  
Team leader