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TRANSCRIPT OF PROCEEDINGS

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**COMMISSIONER: HON. RAY FINKELSTEIN AO QC**

**IN THE MATTER OF A ROYAL COMMISSION  
INTO THE CASINO OPERATOR AND LICENCE**

**MELBOURNE, VICTORIA**

**09.33 AM, TUESDAY, 06 JULY 2021**

**Counsel Assisting the Commission  
(instructed by Corrs Chambers  
Westgarth as Solicitors Assisting the  
Commission)**

**MS PENNY NESKOVIC QC  
MS MEG O'SULLIVAN**

**Counsel for Crown Resorts Limited**

**MR MICHAEL BORSKY QC**

**Counsel for Victorian Commission for  
Gambling and Liquor Regulation**

**MR PETER ROZEN QC  
MR JUSTIN BRERETON  
MS SARALA FITZGERALD**

**Counsel for Consolidated Press Holdings**

**MR OREN BIGOS QC**

**Counsel for the State of Victoria**

**MR PETER GRAY QC  
MR GLYN AYRES  
MS GEORGIE COLEMAN  
MS HELEN TIPLADY**

09:33 1 COMMISSIONER: Good morning, everyone. Please sit down.  
09:33 2  
09:33 3  
09:33 4 **HOUSEKEEPING**  
09:33 5  
09:33 6  
09:33 7 MS NESKOVCIN: Commissioner, we wish to raise a matter at  
09:33 8 the outset this morning. Yesterday evening documents or  
09:33 9 correspondence was produced to the Commission under Notices  
09:33 10 to Produce. Your associate has provided you with a bundle and  
09:33 11 I have a copy for my learned friend.  
09:33 12  
09:33 13 COMMISSIONER: 33 seconds ago.  
09:33 14  
09:33 15 MS NESKOVCIN: No doubt you've had a chance to read them.  
09:33 16  
09:33 17 COMMISSIONER: I've read one paragraph.  
09:33 18  
09:33 19 MS NESKOVCIN: Commissioner, do you have a copy  
09:33 20 available?  
09:33 21  
09:34 22 COMMISSIONER: Yes, I've got them.  
09:34 23  
09:34 24 MS NESKOVCIN: The first letter is a letter of 1 July from  
09:34 25 Crown to, this is the Chief Executive Officer of the Victorian  
09:34 26 Commission for Gambling and Liquor Regulation, the VCGLR.  
09:34 27  
09:34 28 COMMISSIONER: I have three letters.  
09:34 29  
09:34 30 MS NESKOVCIN: Yes, do you see the one of 1 July to the CEO  
09:34 31 of the VCGLR?  
09:34 32  
09:34 33 COMMISSIONER: Yes, I have that one. I haven't looked at  
09:34 34 that.  
09:34 35  
09:34 36 MS NESKOVCIN: I draw your attention to the fourth or fifth  
09:34 37 paragraph in that letter.  
09:34 38  
09:34 39 COMMISSIONER: Yes.  
09:34 40  
09:34 41 MS NESKOVCIN: We submit that that gives rise to a waiver of  
09:34 42 privilege to all tax advices and associated documents.  
09:34 43  
09:35 44 There is a second letter that is in materially the same terms to the  
09:35 45 Secretary of the Department of Treasury and Finance, also dated  
09:35 46 1 July, and the fifth paragraph in that letter is in similar terms to  
09:35 47 the paragraph to which I just directed your attention.

09:35 1  
09:35 2 COMMISSIONER: They look pretty much the same, don't they?  
09:35 3  
09:35 4 MS NESKOVCIN: Yes. In those circumstances, Commissioner,  
09:35 5 we inquire as to Crown's position and whether or not it maintains  
09:35 6 its claim for privilege in relation to the tax advices.  
09:35 7  
09:35 8 COMMISSIONER: Okay. Mr Borsky, good morning.  
09:35 9  
09:35 10 MR BORSKY: Good morning, Commissioner. I'm urgently  
09:35 11 seeking instructions but I certainly don't --- in light of the terms  
09:35 12 of the 1 July letter, particularly the letter to the VCGLR which  
09:35 13 read:  
09:35 14  
09:36 15 *We have received preliminary advice that .....*  
09:36 16  
09:36 17 I don't advance any submission at this stage.  
09:36 18  
09:36 19 COMMISSIONER: No. I mean, I can tell you out of personal  
09:36 20 experience I lost a few trying to protect privilege arguments on  
09:36 21 similar kinds of statements. Most of mine were made in  
09:36 22 affidavits. "We have advice that we've got a good case", bang,  
09:36 23 you are a goner. Some of the cases I actually remember, although  
09:36 24 they were a very long time ago, they left a bad feeling.  
09:36 25  
09:36 26 MR BORSKY: Well, Commissioner, if you couldn't win the  
09:36 27 argument, then I wouldn't dare try. As I say, I'm seeking  
09:36 28 instructions to confirm that position formally, but I don't advance  
09:36 29 a submission at this stage --  
09:36 30  
09:36 31 COMMISSIONER: Fair enough.  
09:36 32  
09:36 33 MR BORSKY: --- save to say our learned friend indicated that  
09:36 34 Counsel Assisting's submission would be that there has been  
09:36 35 a waiver in relation to all tax advices ---  
09:36 36  
09:36 37 COMMISSIONER: On the topic.  
09:36 38  
09:36 39 MR BORSKY: On the topic would be our submission. Not all  
09:37 40 tax advices simpliciter.  
09:37 41  
09:37 42 COMMISSIONER: No, no --- well, we were going to get to this  
09:37 43 stage sooner rather than later. We got to this stage rather late. It  
09:37 44 was inevitable, so the privilege on the various advices all to deal  
09:37 45 with the tax question is gone. That seems pretty clear. But ---  
09:37 46  
09:37 47 MR BORSKY: There is the bonus jackpot tax question into

09:37 1 which the Commission has been inquiring.  
09:37 2  
09:37 3 COMMISSIONER: All advices that relate to spreadsheet issues.  
09:37 4  
09:37 5 MR BORSKY: Yes, I see. I'm not meaning to split hairs. I'm  
09:37 6 seeking to clarify. Crown is a large organisation and it has  
09:37 7 a range of tax affairs and by this letter it hasn't waived any  
09:37 8 privilege on tax advice, which on a literal reading of my friend's  
09:38 9 submission, she may have been ---  
09:38 10  
09:38 11 COMMISSIONER: (a), she doesn't mean it, and secondly I don't  
09:38 12 care about tax advice on any other topic.  
09:38 13  
09:38 14 MR BORSKY: That helps. Save for that clarification I have no  
09:38 15 submissions on that in opposition to what my friend has said and  
09:38 16 we are seeking instructions urgently.  
09:38 17  
09:38 18 COMMISSIONER: Yes, fine. Okay.  
09:38 19  
09:38 20 MS NESKOVICIN: Thank you, Commissioner.  
09:38 21  
09:38 22 The third correspondence is a letter of 2 July 2021 from Arnold  
09:38 23 Bloch Leibler, the solicitors for the directors, to the Minister for  
09:38 24 Consumer Affairs, Gaming and Liquor.  
09:38 25  
09:38 26 Commissioner, that is a letter we may wish to go to in the course  
09:38 27 of today. I understand my learned friend, Mr Borsky, has  
09:38 28 an application for a non-publication order to make in relation to  
09:38 29 paragraphs 31 to 34 of that letter.  
09:38 30  
09:38 31 COMMISSIONER: It's a long letter. Okay. Deal with it now?  
09:38 32  
09:38 33 MR BORSKY: If that is convenient.  
09:38 34  
09:38 35 COMMISSIONER: Sure.  
09:38 36  
09:38 37 MR BORSKY: And I will do it somewhat cryptically or  
09:39 38 obliquely by reference to the letter if I may. The Commissioner  
09:39 39 can see on page 5, paragraph 31 ---  
09:39 40  
09:39 41 COMMISSIONER: Slow down.  
09:39 42  
09:39 43 MR BORSKY: I beg your pardon, Commissioner?  
09:39 44  
09:39 45 COMMISSIONER: Yes.  
09:39 46  
09:39 47 MR BORSKY: Those paragraphs address confidential, and, in

09:39 1 our submission, highly sensitive features of Crown's commercial  
09:39 2 and financial arrangements. I'm instructed that none of that detail  
09:39 3 is in the public domain.  
09:39 4  
09:39 5 COMMISSIONER: Just give me a second. I will look at them  
09:40 6 one at a time.  
09:40 7  
09:40 8 Paragraph 31, there are amounts mentioned.  
09:40 9  
09:40 10 MR BORSKY: There are --- yes.  
09:40 11  
09:40 12 COMMISSIONER: If I get your annual reports, isn't this  
09:40 13 information which you are obliged to disclose as a matter of law?  
09:40 14 Like, if I get your annual accounts, it will have a balance sheet  
09:40 15 like all accounts have a balance sheet. You are a publicly listed  
09:40 16 company.  
09:40 17  
09:40 18 MR BORSKY: Yes.  
09:40 19  
09:40 20 COMMISSIONER: I will have a list of assets and liabilities and  
09:40 21 have notes to the accounts telling me pretty much all of this.  
09:40 22  
09:40 23 MR BORSKY: No, and it is particularly the second half of  
09:40 24 paragraph 31 which is not so much the numbers, although on my  
09:40 25 instructions the numbers too are not in the public domain, but  
09:40 26 the ---  
09:40 27  
09:41 28 COMMISSIONER: I don't want to say anything about the  
09:41 29 content, but these are liabilities?  
09:41 30  
09:41 31 MR BORSKY: Yes.  
09:41 32  
09:41 33 COMMISSIONER: You have to disclose liabilities. That's what  
09:41 34 a balance sheet does. Assets on one side, liabilities on the other.  
09:41 35  
09:41 36 MR BORSKY: I understand that.  
09:41 37  
09:41 38 COMMISSIONER: Unless this company has a different way of  
09:41 39 filing its annual accounts than the rest of the world, this is  
09:41 40 regulated by --- anyhow.  
09:41 41  
09:41 42 MR BORSKY: It is particularly the description of ---  
09:41 43  
09:41 44 COMMISSIONER: Consequence.  
09:41 45  
09:41 46 MR BORSKY: --- various events and conditions related to  
09:41 47 various events as defined in "Facilities", which form the second

09:41 1 half of paragraph 31, which I'm instructed are not in the public  
09:41 2 domain.  
09:41 3  
09:41 4 COMMISSIONER: Are these like self-evident propositions? I.e.,  
09:41 5 do I need to look at a --- I've seen hundreds of them. So have  
09:41 6 you. This is par for the course.  
09:42 7  
09:42 8 MR BORSKY: May I respectfully ask the Commission to read,  
09:42 9 in particular, the last part of the final seasons in paragraph 31  
09:42 10 which commences after the words "casino licenses" in the middle  
09:42 11 of the third last line. Sorry, that was very cryptic. I hope the  
09:42 12 Commissioner is with me. There is a comma, and the words "or  
09:42 13 a".  
09:42 14  
09:42 15 COMMISSIONER: Got it.  
09:42 16  
09:42 17 MR BORSKY: In my submission, the words from "or a" and  
09:42 18 what follows are by no means self-evident and I'm instructed are  
09:42 19 not in the public domain.  
09:42 20  
09:43 21 I'm also instructed, Commissioner, that back in April there was  
09:43 22 correspondence between Allens, who instruct us, and Solicitors  
09:43 23 Assisting the Commission, not on this point precisely, but on the  
09:43 24 question of financial sensitivity of some financial documents  
09:43 25 which Crown did produce in response to notices. Crown sought  
09:43 26 some restriction of publication on the grounds of commercial  
09:43 27 sensitivity and Solicitors Assisting did indicate ---  
09:43 28  
09:43 29 COMMISSIONER: They were the documents that would have  
09:43 30 gone to McGrathNicol?  
09:43 31  
09:43 32 MR BORSKY: Yes, precisely, and in print ---  
09:43 33  
09:43 34 COMMISSIONER: I remember that. There was a vast number  
09:43 35 of documents, as per usual, you were required to produce, and no  
09:43 36 doubt lots of it would have been sensitive material.  
09:43 37  
09:44 38 MR BORSKY: And accepted to be so, and it was indicated to us.  
09:44 39 We haven't overnight been able to find the actual orders. It may  
09:44 40 be that an order wasn't in fact, made about which we make no  
09:44 41 complaint, but certainly Solicitors Assisting in their letter to  
09:44 42 Allens dated 8 April this year did confirm that non-publication  
09:44 43 orders restricting access to sensitive financial documents would  
09:44 44 be made, restricting that access to Counsel Assisting, Solicitors  
09:44 45 Assisting and the Commission staff, and we would respectfully  
09:44 46 submit that the matters referred to in paragraphs 31 to 34 are at  
09:44 47 least as sensitive.

09:44 1  
09:44 2 COMMISSIONER: And the other question that immediately  
09:44 3 comes to mind, having just read this is your reporting obligations.  
09:44 4  
09:44 5 MR BORSKY: Yes.  
09:44 6  
09:44 7 COMMISSIONER: Your listing obligations.  
09:44 8  
09:44 9 MR BORSKY: Yes.  
09:44 10  
09:44 11 COMMISSIONER: Is this the kind of material that falls within  
09:44 12 the statutory and listing rule 5.2 whatever it is obligation?  
09:45 13  
09:45 14 MR BORSKY: Well ---  
09:45 15  
09:45 16 COMMISSIONER: It comes pretty close.  
09:45 17  
09:45 18 MR BORSKY: Well, I'm instructed that the company has been  
09:45 19 and continues to be giving careful consideration to precisely what  
09:45 20 it needs to disclose to the market. An update was released to the  
09:45 21 market just yesterday morning. The detail to which I've referred  
09:45 22 obliquely and cryptically in this letter was not disclosed in that  
09:45 23 update. I think that's all I can say in answer to what the  
09:45 24 Commissioner has put to me. But certainly the company has  
09:45 25 given and is continuing to give very careful consideration to what  
09:45 26 needs to be disclosed. That, in a sense, is another basis for the  
09:45 27 position I'm instructed to adopt in relation to these details. It  
09:45 28 would be regrettable if, by a side wind, this were to enter into the  
09:46 29 public domain, notwithstanding that separate consideration.  
09:46 30  
09:46 31 COMMISSIONER: I will do it in this way: let me just --- can  
09:46 32 you at some stage get somebody to look at your published  
09:46 33 accounts ---  
09:46 34  
09:46 35 MR BORSKY: Yes.  
09:46 36  
09:46 37 COMMISSIONER: --- or interim accounts, I don't know whether  
09:46 38 you publish quarterly or yearly updates, presumably you do  
09:46 39 something like that.  
09:46 40  
09:46 41 MR BORSKY: Yes.  
09:46 42  
09:46 43 COMMISSIONER: I'm interested to know, first of all, whether  
09:46 44 the parts before the comma ---  
09:46 45  
09:46 46 MR BORSKY: I understand. Particularly the numbers.  
09:46 47

09:46 1 COMMISSIONER: Yeah, yeah, yeah. If I can either get them or  
09:46 2 work them out ---  
09:46 3  
09:46 4 MR BORSKY: I understand.  
09:46 5  
09:46 6 COMMISSIONER: --- from your published accounts, then you  
09:46 7 can forget about getting a non-publication order.  
09:46 8  
09:46 9 MR BORSKY: At least for that part.  
09:46 10  
09:46 11 COMMISSIONER: I'm talking about the bits before the comma.  
09:46 12  
09:47 13 I'm troubled about paragraph 34 because it states the obvious.  
09:47 14 There is probably not a facility in the land that doesn't say that.  
09:47 15  
09:47 16 MR BORSKY: I understand.  
09:47 17  
09:47 18 COMMISSIONER: So that leaves a bit of 31 and 32 and 33, but  
09:47 19 I will do this deal with you: I will keep it confidential for the time  
09:47 20 being, you check your listing rule obligations, because I'm  
09:47 21 concerned that this might become public tomorrow or the day  
09:47 22 after or the day after. In other words, you might be under  
09:48 23 an obligation. Just check it. If you come back to me and say  
09:48 24 they've taken clear advice that this is not required to be disclosed,  
09:48 25 then I will keep it confidential. We don't have to worry about  
09:48 26 that now. From the comma, and the word "or", all of 32 and all  
09:48 27 of 33, I will maintain confidentiality for the time being. Is that  
09:48 28 enough?  
09:48 29  
09:48 30 MR BORSKY: And would at least on an interim basis ---  
09:48 31  
09:48 32 COMMISSIONER: Yes, then you ---  
09:48 33  
09:48 34 MR BORSKY: Reserve the confidentiality of the entirety of 31.  
09:48 35 We will urgently review not just the annual report but also the  
09:48 36 more recent updates.  
09:48 37  
09:49 38 COMMISSIONER: There will be quarterly or half-yearly  
09:49 39 reports.  
09:49 40  
09:49 41 MR BORSKY: Just to confirm whether or not those numbers  
09:49 42 broken down, if they are, in 31 ---  
09:49 43  
09:49 44 COMMISSIONER: Or if the market could readily work it out  
09:49 45 some way or another.  
09:49 46  
09:49 47 MR BORSKY: I understand. Again, as my instructions obtained



09:49 1 urgently overnight were that none of it is in the public domain,  
09:49 2 but we will check it the way the Commissioner suggests.  
09:49 3 Provisionally, on an interim basis, would you please preserve the  
09:49 4 confidentiality of 31 in its entirety.  
09:49 5  
09:49 6 COMMISSIONER: Yes.  
09:49 7  
09:49 8 MR BORSKY: If the Commissioner pleases.  
09:49 9  
09:49 10 MS NESKOVCIN: Subject to the Commission, we will tender  
09:49 11 those letters.  
09:49 12  
09:49 13 COMMISSIONER: All three letters?  
09:49 14  
09:49 15 MS NESKOVCIN: Yes.  
09:49 16  
09:49 17 COMMISSIONER: Okay.  
09:49 18  
09:49 19  
09:49 20 **EXHIBIT (UNNUMBERED) - LETTER FROM CHIEF**  
09:49 21 **EXECUTIVE OFFICER OF CROWN TO THE**  
09:49 22 **VICTORIAN COMMISSION FOR GAMBLING AND**  
09:49 23 **LIQUOR REGULATION DATED 1 JULY 2021**  
09:49 24  
09:49 25  
09:49 26 **EXHIBIT (UNNUMBERED) - LETTER TO SECRETARY**  
09:49 27 **OF THE DEPARTMENT OF TREASURY AND FINANCE**  
09:49 28 **DATED 1 JULY 2021**  
09:49 29  
09:49 30  
09:49 31 **EXHIBIT (UNNUMBERED) - LETTER FROM ARNOLD**  
09:49 32 **BLOCH LEIBLER TO THE MINISTER FOR CONSUMER**  
09:49 33 **AFFAIRS, GAMING AND LIQUOR DATED 2 JULY 2021**  
09:49 34  
09:49 35  
09:49 36 MS NESKOVCIN: Commissioner, the next witness is Mr Weeks  
09:49 37 who is waiting patiently on videoconference.  
09:49 38  
09:49 39 COMMISSIONER: Good morning, Mr Weeks.  
09:49 40  
09:49 41 WITNESS: Good morning.  
09:49 42  
09:49 43 COMMISSIONER: You can hear us, we can hear you. Good.  
09:49 44  
09:49 45 MS NESKOVCIN: Mr Weeks, you will asked to swear or affirm  
09:50 46 your evidence. One moment.  
09:50 47

09:50 1  
09:50 2 **MR NICK WEEKS, AFFIRMED**  
09:50 3  
09:50 4  
09:50 5 **EXAMINATION-IN-CHIEF BY MS NESKOVGIN**  
09:50 6  
09:50 7  
09:50 8 MS NESKOVGIN: Thank you, Mr Weeks, and good morning.  
09:50 9  
09:50 10 A. Good morning.  
09:50 11  
09:50 12 Q. You've prepared a statement for this Commission. Do you  
09:50 13 have a copy in front of you?  
09:50 14  
09:50 15 A. I do.  
09:50 16  
09:50 17 Q. Does it bear the numbers CRW.998.001.0423?  
09:50 18  
09:50 19 A. It does.  
09:50 20  
09:50 21 Q. Have you had an opportunity to review that statement  
09:51 22 recently?  
09:51 23  
09:51 24 A. Yes, I have.  
09:51 25  
09:51 26 Q. Is it true and correct to the best of your knowledge and  
09:51 27 belief?  
09:51 28  
09:51 29 A. It is.  
09:51 30  
09:51 31 MS NESKOVGIN: Commissioner, I tender the statement and all  
09:51 32 of the attachments in the statement.  
09:51 33  
09:51 34 COMMISSIONER: The statement of Mr Weeks dated 7 June  
09:51 35 2021 with the attachments will be Exhibit 416.  
09:51 36  
09:51 37  
09:51 38 **EXHIBIT #RC0416 - STATEMENT OF MR NICK WEEKS**  
09:51 39 **(WITH ATTACHMENTS) DATED 7 JUNE 2021**  
09:51 40  
09:51 41  
09:51 42 MS NESKOVGIN: Thank you, Mr Weeks.  
09:51 43  
09:51 44 Mr Weeks, you qualified as a lawyer and you worked as a lawyer  
09:51 45 for about nine years at the start of your career?  
09:51 46  
09:51 47 A. That's correct.

- 09:51 1  
09:51 2 Q. You then worked for the Australian Rugby Union for about  
09:51 3 seven years as head of Legal, then General Counsel, then General  
09:51 4 Manager, strategy, corporate affairs and legal?  
09:51 5  
09:51 6 A. That's correct.  
09:51 7  
09:51 8 Q. You then joined the National Rugby League Limited in  
09:51 9 2013 as General Manager of Integrity and General Counsel?  
09:51 10  
09:51 11 A. Yes.  
09:51 12  
09:51 13 Q. You held that position until about 2014, and you then  
09:52 14 became Head of Integrity?  
09:52 15  
09:52 16 A. That's right.  
09:52 17  
09:52 18 Q. That was a position you held for about three years?  
09:52 19  
09:52 20 A. Yes.  
09:52 21  
09:52 22 Q. You became the Chief Operating Officer in September ---  
09:52 23 sorry, I withdraw that. You became the Chief Operating Officer  
09:52 24 in about March 2017 until September 2020?  
09:52 25  
09:52 26 A. That's correct, yes.  
09:52 27  
09:52 28 Q. You then stepped down from that position and took on  
09:52 29 a six-month consulting role that expired in about February this  
09:52 30 year?  
09:52 31  
09:52 32 A. Yes.  
09:52 33  
09:52 34 Q. You say you then approached Crown in February 2021 as  
09:52 35 your consultancy was drawing to an end. That was in March  
09:52 36 2021?  
09:52 37  
09:52 38 A. Yes, February/March 2021.  
09:52 39  
09:52 40 Q. You are currently the Executive General Manager,  
09:52 41 Transformation & Regulatory Response at Crown?  
09:52 42  
09:52 43 A. That's correct.  
09:52 44  
09:52 45 Q. You are on a 12-month contract at the moment?  
09:52 46  
09:52 47 A. Yes.

- 09:52 1  
09:52 2 Q. Broadly, your role is to coordinate and oversee the  
09:53 3 Remediation Plan to work with responsible executives to ensure  
09:53 4 they have the resources necessary to deliver the parts of the plan  
09:53 5 that fall within their area of responsibility and to keep the Board  
09:53 6 informed of progress; is that correct?  
09:53 7  
09:53 8 A. It is.  
09:53 9  
09:53 10 Q. You say in your statement that you approached Crown  
09:53 11 because you recognised it needed someone with your skills and  
09:53 12 experience. I just want to explore what skills you saw as relevant  
09:53 13 to Crown's present circumstances, if I might. I presume you  
09:53 14 meant the experience or skills that you acquired in your integrity  
09:53 15 role at the NRL?  
09:53 16  
09:53 17 A. I think it was those skills but also just more broadly my  
09:53 18 skills as someone that has worked both in the legal area but also  
09:53 19 as a senior executive for a number of years.  
09:53 20  
09:53 21 Q. Thank you. There were a number of integrity issues that  
09:54 22 affected the NRL while you were both Head of Integrity and  
09:54 23 Chief Operating Officer, weren't there?  
09:54 24  
09:54 25 A. There was.  
09:54 26  
09:54 27 Q. I just want to go through some of those issues briefly to  
09:54 28 identify what they were, how they were relevant to your skills and  
09:54 29 background, and similarities with Crown's present position.  
09:54 30 Some of the issues included doping allegations; correct?  
09:54 31  
09:54 32 A. That's correct.  
09:54 33  
09:54 34 Q. There were also alcohol, drug abuse and other player  
09:54 35 misdemeanour issues?  
09:54 36  
09:54 37 A. That's correct.  
09:54 38  
09:54 39 Q. Salary cap breaches?  
09:54 40  
09:54 41 A. Yes.  
09:54 42  
09:54 43 Q. What came to be known as the Penrith sex tapes?  
09:54 44  
09:54 45 A. Yes.  
09:54 46  
09:54 47 Q. Match fixing and betting scandals?

09:54 1  
09:54 2 A. Allegations of those things, yes.  
09:54 3  
09:54 4 Q. Anything else?  
09:55 5  
09:55 6 A. Yes. There was a range of other integrity matters that arose  
09:55 7 over the seven years that I was in that role, but you've identified  
09:55 8 a number of the more high profile ones that attracted quite a lot  
09:55 9 of media attention during that period.  
09:55 10  
09:55 11 Q. You mentioned that they occurred over the time of your  
09:55 12 role, and it is the case, isn't it, that those issues weren't isolated to  
09:55 13 a period of time, they occurred over a number of years?  
09:55 14  
09:55 15 A. I think it is fair to say that in sport and in rugby league  
09:55 16 those matters have been happening for as long as the game has  
09:55 17 been around and continue to happen.  
09:55 18  
09:55 19 Q. But in the case of the NRL, the NRL identified that they  
09:55 20 were significant issues and called for significant reform; correct?  
09:55 21  
09:55 22 A. Certainly the NRL during my time, and still is, is very  
09:55 23 focused on trying to reduce the number of integrity issues that  
09:56 24 impact the sport.  
09:56 25  
09:56 26 Q. And they impact the sport, don't they, because there is  
09:56 27 an expectation that a major sporting league like the NRL will live  
09:56 28 up to community values and expectations?  
09:56 29  
09:56 30 A. That is certainly one of the factors, yes.  
09:56 31  
09:56 32 Q. And it otherwise has reputational consequences?  
09:56 33  
09:56 34 A. It does, yes.  
09:56 35  
09:56 36 Q. And that can affect things like not only support from the  
09:56 37 fans but also sponsorship?  
09:56 38  
09:56 39 A. Yes.  
09:56 40  
09:56 41 Q. So when you approached Crown because you recognised it  
09:56 42 needed someone with your skills and background, was it because  
09:56 43 of your experience in reforming an entity with integrity or culture  
09:56 44 issues or was it something else?  
09:56 45  
09:56 46 A. Look, that was part of it. As others had been watching in  
09:56 47 the press, the Bergin Inquiry and the report and things that flowed

09:56 1 after the report was issued, so as someone who was looking for  
09:57 2 their next opportunity, it struck me that that company had lost  
09:57 3 a number of senior executives and was operating in a difficult  
09:57 4 environment in terms of the regulatory scrutiny it was under, and  
09:57 5 it was my view that that may be a company that could use  
09:57 6 someone with my background and experience, and that's why I  
09:57 7 approached Crown at the time.

09:57 8

09:57 9 Q. I see. And I think one thing that was unique to the NRL,  
09:57 10 and perhaps I'm wrong about this, is that the issues that they were  
09:57 11 trying to deal with were not created by themselves, or were they?  
09:57 12 Were they issues within the broader league or issues within the  
09:57 13 organisation, the National Rugby League Ltd?

09:57 14

09:57 15 A. Most of them --- as governing body of the sport, most of  
09:57 16 those issues occurred at the clubs that the NRL was responsible  
09:57 17 for regulating, as regulating part of the NRL competition. So  
09:58 18 most of them were outside of the organisation, though from time  
09:58 19 to time, like any organisation, issues emerged within the NRL as  
09:58 20 well.

09:58 21

09:58 22 Q. I see. So the responsibility for regulating the league is  
09:58 23 partly what drove the NRL to identify the need and importance of  
09:58 24 reform; is that fair to say?

09:58 25

09:58 26 A. Certainly it's always been the ambition of the NRL in terms  
09:58 27 of its regulatory role to reduce the number of integrity issues that  
09:58 28 affected the sport, and build a stronger reputation within the  
09:58 29 community and more broadly.

09:58 30

09:58 31 Q. But do you agree that the NRL had to identify the integrity  
09:58 32 issues in order to lead the program for reform?

09:58 33

09:58 34 A. Yes, I agree with that, yes.

09:58 35

09:58 36 Q. By the time you left the NRL, did you feel that it was in  
09:58 37 good shape?

09:58 38

09:58 39 A. I felt very comfortable that in my 7.5 years I had made  
09:59 40 a very valuable contribution. I was comfortable about that. I  
09:59 41 don't --- I didn't have an expectation of eliminating conduct that  
09:59 42 brought disrepute upon the game in my period there, but I was  
09:59 43 very comfortable with the contribution I made.

09:59 44

09:59 45 Q. You agree it took a number of years to get to the point  
09:59 46 where you were comfortable with the contribution and where  
09:59 47 things were left?

09:59 1  
09:59 2 A. Yeah. I don't think that that job was ever going to be  
09:59 3 finished by anyone. I think it is a continuing process of trying to  
09:59 4 improve.  
09:59 5  
09:59 6 Q. That's the case with all cultural reform, isn't it?  
09:59 7  
09:59 8 A. I think it is, yes.  
09:59 9  
09:59 10 Q. It takes a long time and it is a continuing process?  
09:59 11  
09:59 12 A. I think it is a continuing process. That's correct.  
09:59 13  
09:59 14 Q. But it takes time? A long time?  
09:59 15  
09:59 16 A. It takes time and commitment, no doubt.  
09:59 17  
09:59 18 Q. You understand that Crown has the privilege of holding the  
10:00 19 only casino licence in Victoria?  
10:00 20  
10:00 21 A. I understand that.  
10:00 22  
10:00 23 Q. And you understand there are suitability requirements  
10:00 24 under the Casino Control Act?  
10:00 25  
10:00 26 A. Yes.  
10:00 27  
10:00 28 Q. And they are relevant to whether Crown should be able to  
10:00 29 continue to hold the casino licence?  
10:00 30  
10:00 31 A. Yes.  
10:00 32  
10:00 33 Q. You understand that Crown is to be judged by its  
10:00 34 behaviour, past and present?  
10:00 35  
10:00 36 A. Yes.  
10:00 37  
10:00 38 Q. It is the behaviour that we look to determine whether or  
10:00 39 not Crown is a suitable person, namely whether it is a person of  
10:00 40 good repute, having regard to honesty and integrity?  
10:00 41  
10:00 42 A. Yes.  
10:00 43  
10:00 44 Q. You understand public confidence in Crown is also  
10:00 45 important?  
10:00 46  
10:00 47 A. I do.

10:00 1

10:00 2 Q. You say in your statement, Mr Weeks, at paragraph 7 that  
10:01 3 you:

10:01 4

10:01 5 *..... contacted Crown in February 2021 as my consulting*  
10:01 6 *arrangement with the NRL was drawing to an end. I*  
10:01 7 *reached out to Crown as I was considering my next role*  
10:01 8 *and recognised the Company was going through a period*  
10:01 9 *of disruption and may be looking for people with my skills*  
10:01 10 *and background.*

10:01 11

10:01 12 What was the "disruption" that you are referring to?

10:01 13

10:01 14 A. Well, I think in that period, February, was just after the  
10:01 15 Bergin Report was issued, a number of directors and CEOs had  
10:01 16 left the organisation at that point. I'm not sure what part of  
10:01 17 February this Royal Commission was announced as a review and  
10:01 18 then I think a Royal Commission if memory serves me correctly,  
10:01 19 similarly in WA. So there was a path ahead of the company  
10:01 20 where it had to navigate through a number of regulatory inquiries  
10:01 21 and they had recently been found by the NSW regulator to be not  
10:02 22 a suitable entity to commence the restricted gaming licence in  
10:02 23 Sydney. So, clearly, the company was going through a very  
10:02 24 challenging period.

10:02 25

10:02 26 Q. Thank you. And I take it that prior to you approaching  
10:02 27 Crown or around that time, you familiarised yourself with the  
10:02 28 Bergin Inquiry and the report?

10:02 29

10:02 30 A. Yes, I read that report over late February, early March.

10:02 31

10:02 32 Q. What did you identify as the misconduct or cultural issues  
10:02 33 that had been examined in the ILGA Inquiry?

10:02 34

10:02 35 A. There were a number. Clearly the relationship with major  
10:02 36 shareholder, CPH, was one that the Bergin Report is having  
10:02 37 an adverse influence on the culture and conduct of the  
10:02 38 organisation. There was the conduct by the company in failing to  
10:03 39 properly limit or restrict or rather prevent the infiltration of  
10:03 40 criminal influence into the casino. There was a failure to  
10:03 41 properly administer the junket operations, and then there was  
10:03 42 failure of the company to properly look after its staff that were  
10:03 43 working in China who were arrested. So they were, I think, the  
10:03 44 key themes that I identified in that report.

10:03 45

10:03 46 Q. So I think you identified the key behaviours or let's just call  
10:03 47 them misconduct, unacceptable behaviour, but what did you



10:03 1 identify as the cultural issues that were driving the misbehaviour?

10:03 2

10:03 3 A. Yeah, okay. Well, I think that overriding cultural issue was  
10:03 4 the company prioritised profit over all those other considerations  
10:03 5 that a company with a good culture would balance more evenly.

10:04 6 So I think that was a fundamental failing. It seemed to me that  
10:04 7 there were people in the organisation in positions of influence  
10:04 8 and power that were exercising very poor judgment in terms of  
10:04 9 some of the decision-making that occurred, and my sense was  
10:04 10 from reading that report that the level of reporting, the quality of  
10:04 11 reporting and the escalation of issues in the organisation wasn't  
10:04 12 occurring in a way that it ought to be.

10:04 13

10:04 14 Q. They sound different to the integrity issues that you were  
10:04 15 experiencing or had experienced at the NRL; is that a fair  
10:04 16 comment?

10:04 17

10:04 18 A. Some of them are different, but I think my experience with  
10:04 19 these things is that a lot of these issues are about having the right  
10:05 20 people with good judgment in the right positions. And if you can  
10:05 21 achieve that, then I think there is a good prospect of trying to  
10:05 22 prevent some of those issues emerging. So, in terms of ultimately  
10:05 23 having good people in the right positions, I think there is real  
10:05 24 similarities.

10:05 25

10:05 26 Q. I see. Thank you.

10:05 27

10:05 28 You agree that the issues you just identified, both the  
10:05 29 misbehaviour and the cultural issues that were driving the  
10:05 30 misbehaviour are significant and complex issues?

10:05 31

10:05 32 A. Yeah, there is a level of complexity, but also in some cases  
10:05 33 not overly complex, relatively straightforward, I think. Just  
10:05 34 failings of people to exercise good judgment and their  
10:05 35 responsibilities properly.

10:05 36

10:05 37 Q. All right. Can we go back to your statement, please,  
10:05 38 Mr Weeks. You said in paragraph 8 that you met the company in  
10:05 39 early March to express your interest. You discussed your  
10:06 40 background and experience and the type of people and skills that  
10:06 41 the company needed; do you see that in paragraph 8?

10:06 42

10:06 43 A. I do, yes.

10:06 44

10:06 45 Q. During these discussions you met with each of the Crown  
10:06 46 directors other than Professor Horvath who had earlier announced  
10:06 47 his decision to retire, so that means you met with Ms Halton,

10:06 1 Ms Korsanos and Ms Coonan?

10:06 2

10:06 3 A. That's correct. Yes.

10:06 4

10:06 5 Q. You said:

10:06 6

10:06 7 *The directors I met with talked about the plans that were*  
10:06 8 *being developed at that time to address the findings in the*  
10:06 9 *Bergin Report. They also described the number of*  
10:06 10 *departures in the executive management team at the*  
10:06 11 *Company and the need to bring in additional resources*

10:06 12

.....

10:06 13

10:06 14 Do you see that?

10:06 15

10:06 16 A. I do.

10:06 17

10:06 18 Q. As part of this discussion, the directors talked about their  
10:06 19 desire to recruit an experienced executive who would be  
10:06 20 responsible for overseeing the delivery of Crown's reform plans;  
10:07 21 do you see that?

10:07 22

10:07 23 A. Yes.

10:07 24

10:07 25 Q. At paragraph 11, you say:

10:07 26

10:07 27 *During these discussions I tried to understand as best I*  
10:07 28 *could the perspective of the directors on the Company's*  
10:07 29 *situation. It was important to me to understand if there*  
10:07 30 *was a genuine commitment among the leadership of the*  
10:07 31 *Company to turn things around and restore trust and*  
10:07 32 *confidence in the Company.*

10:07 33

10:07 34 You see that?

10:07 35

10:07 36 A. Yes.

10:07 37

10:07 38 Q. What was said to you at that time led you to believe that  
10:07 39 there was genuine commitment about turning things around; that  
10:07 40 is true?

10:07 41

10:07 42 A. Is, sorry, what true?

10:07 43

10:07 44 Q. Is it true that based on what was said to you at the time,  
10:07 45 there was genuine commitment to turning things around?

10:07 46

10:07 47 A. Yeah, that was certainly my preliminary view based on

10:07 1 those early meetings. I gained a level of confidence in those  
10:07 2 three directors that I met, that they were committed to doing what  
10:08 3 the company needed to do to fix those things that needed to be  
10:08 4 fixed.

10:08 5

10:08 6 Q. And did you consider at the time that the directors of  
10:08 7 course would say that they were committed to turning things  
10:08 8 around because ILGA had just provided them with a letter saying  
10:08 9 that they were no longer considered suitable?

10:08 10

10:08 11 A. Yes.

10:08 12

10:08 13 Q. You took that into account?

10:08 14

10:08 15 A. No, I did, and I think in forming that opinion, it was shaped  
10:08 16 by what the directors said and also what they didn't say. I didn't  
10:08 17 hear then and I haven't heard it since, any suggestion that they  
10:08 18 had been unfairly treated through the Bergin process, or that there  
10:08 19 was anything in there that they didn't accept. There's never --- I  
10:08 20 never heard that type of language in my early discussions or since  
10:08 21 then.

10:08 22

10:08 23 Q. And you recognise that ---

10:08 24

10:08 25 COMMISSIONER: Can I just interrupt.

10:08 26

10:08 27 MS NESKOVCIN: Yes.

10:08 28

10:08 29 COMMISSIONER: Why was that absence of complaint  
10:09 30 important in your mind, Mr Weeks?

10:09 31

10:09 32 A. Well, I think had the directors had said, "Listen, we've got  
10:09 33 this report, we don't think a lot of it but we're going to have to go  
10:09 34 through this". My view at the time would have been as someone  
10:09 35 who is considering joining the company, knowing how regulators  
10:09 36 operate, that is going to be a pretty difficult road ahead if that was  
10:09 37 the view the company took, and now --- I didn't get that  
10:09 38 perspective in those meetings, Commissioner.

10:09 39

10:09 40 COMMISSIONER: I see. Thanks.

10:09 41

10:09 42 MS NESKOVCIN: Mr Weeks, wasn't it also important to you,  
10:09 43 having regard to your skills and background, to understand that  
10:09 44 the directors themselves acknowledge and accepted things had  
10:09 45 gone wrong, because that's the fundamental plank, or  
10:09 46 a fundamental plank for true reform, acceptance ---  
10:09 47

10:09 1 A. It is, yes.  
10:09 2  
10:09 3 Q. --- and acknowledging that things had gone wrong?  
10:09 4  
10:09 5 A. I agree. That is critical.  
10:10 6  
10:10 7 Q. You are aware at the time that essentially ILGA had invited  
10:10 8 Crown to consult with ILGA about its view about present  
10:10 9 unsuitability, and that is how Crown came up with its list of  
10:10 10 proposed reforms?  
10:10 11  
10:10 12 A. I learnt that subsequent as I joined and learnt more about  
10:10 13 the process, but, yes, that is right.  
10:10 14  
10:10 15 Q. But that is the case, isn't it? That was the sequence of  
10:10 16 events, the reforms were put in place as a consequence of ILGA's  
10:10 17 determination about unsuitability?  
10:10 18  
10:10 19 A. Well, I don't think that's quite accurate. I think the  
10:10 20 development of the remediation plan was an aggregation of  
10:10 21 a number of reform plans that were already in train through 2020,  
10:10 22 plus additional reforms that were directly responsive to the  
10:10 23 Bergin Report and the correspondence we received from ILGA.  
10:11 24 So it was an aggregation of reforms that company had  
10:11 25 commenced and those that it needed to commence.  
10:11 26  
10:11 27 Q. So what you've identified is that there were reforms already  
10:11 28 in place and then reforms that were essentially reactive to ILGA's  
10:11 29 position; is that correct?  
10:11 30  
10:11 31 A. Yes, reactive or responsive, that's correct.  
10:11 32  
10:11 33 Q. And having regard to the reforms that were already in  
10:11 34 place, they were reforms that had only been identified in the  
10:11 35 course of the ILGA Inquiry; correct?  
10:11 36  
10:11 37 A. I'm not sure I could answer that accurately. Some of them  
10:11 38 were commenced during 2020, I'm not sure if they were in train  
10:11 39 prior to the Bergin Inquiry or not. I wasn't around but I'm not  
10:11 40 100 per cent certain.  
10:11 41  
10:11 42 Q. Have you at any stage sat down and looked at what reforms  
10:12 43 have been in place whether 20 or 21 and turned your mind  
10:12 44 whether they are reactionary in the sense that they are reforms  
10:12 45 that truly could have been put in place a long time ago, but  
10:12 46 weren't?  
10:12 47

10:12 1 A. Well, I'm sure many of the reforms that have now been put  
10:12 2 in place and have recently been and will be, ought to have been  
10:12 3 put in place before the Bergin Inquiry. There is no doubt about  
10:12 4 that in my mind. I haven't done the exercise of trying to trace it  
10:12 5 back pre-Bergin to determine which ones, but I agree that many  
10:12 6 of them should have been in place for a lot longer.

10:12 7

10:12 8 Q. It is because of that, that one can be somewhat sceptical  
10:12 9 about whether or not there is a genuine commitment to reform as  
10:12 10 opposed to a purely reactionary response to reform; do you  
10:12 11 agree?

10:12 12

10:12 13 A. Yeah. I think the motives behind the company's desire to  
10:13 14 reform are various on my assessment. Clearly some of them have  
10:13 15 been spurned by the regulatory scrutiny that the company has  
10:13 16 been under. I think that is fair, and there is a lot --- a number of  
10:13 17 reforms that are directly responsive to issues identified in the  
10:13 18 Bergin Inquiry and in this Commission. But equally I think, and I  
10:13 19 detected and observed in my time at Crown a desire from the  
10:13 20 directors in particular to reform the company. I got a real sense  
10:13 21 that they are not comfortable with how the company has been  
10:13 22 operating historically and want to turn that around.

10:13 23

10:13 24 Q. And part of your assessment about this genuine desire or  
10:13 25 commitment to reform is that you've observed Crown allocating  
10:13 26 significant resources to the reform project; correct?

10:13 27

10:13 28 A. That's part of it. I think talk is easy, but when you've got to  
10:14 29 commit resources, implement decisions and rules that have  
10:14 30 an adverse impact on the company's bottom line, then that gives  
10:14 31 you, in my view at least, a better indication of the strength of  
10:14 32 commitment.

10:14 33

10:14 34 Q. Another way of looking at it is to say, well, these are visible  
10:14 35 things we can point to demonstrate that we are committed,  
10:14 36 have a look, we have a list, we have a reform program, and one  
10:14 37 can be cynical about that too, wouldn't you agree?

10:14 38

10:14 39 A. I think you can be cynical about a lot of things. But that  
10:14 40 cynicism isn't something that I have formed based on my  
10:14 41 observations working in the company.

10:14 42

10:14 43 Q. You say talk is easy. You recognise that that is probably  
10:14 44 one of the most important things to drive true reform; wouldn't  
10:14 45 you agree?

10:14 46

10:14 47 A. Sorry, that talk is?

10:15 1  
10:15 2 Q. No --- well, yes. You said that talk is easy ---  
10:15 3  
10:15 4 A. Yes.  
10:15 5  
10:15 6 Q. --- but the message, you talk about tone from the top ---  
10:15 7  
10:15 8 A. Yes.  
10:15 9  
10:15 10 Q. --- not just the board, but senior executives, that is  
10:15 11 fundamental, isn't it?  
10:15 12  
10:15 13 A. I think it is very important.  
10:15 14  
10:15 15 Q. It's not just the talk, it's the right message as well?  
10:15 16  
10:15 17 A. It is the right message; yes, I agree with that.  
10:15 18  
10:15 19 Q. We'll come to that in a moment.  
10:15 20  
10:15 21 A. Okay.  
10:15 22  
10:15 23 Q. At the early stages of familiarising --- of meeting the  
10:15 24 directors and familiarising yourself with the company, did any of  
10:15 25 the directors share with you what they considered to be the  
10:15 26 cultural problems at Crown?  
10:15 27  
10:15 28 A. I think I certainly picked up during different points of  
10:15 29 engagement with directors their observations on cultural  
10:16 30 problems. One of them has clearly been, that I picked up from  
10:16 31 discussions, is the apparent lack or absence of people ---  
10:16 32 employees' willingness to speak up when they identify issues that  
10:16 33 concern them or that appear wrong. That is certainly something  
10:16 34 that we've talked about internally. There has been voiced to me  
10:16 35 by directors a need to improve reporting and the escalation of  
10:16 36 issues through to the board and its committees. That is  
10:16 37 something that has been identified to me.  
10:16 38  
10:16 39 The other thing that I've discussed with directors is the need to  
10:16 40 materially improve the company's engagement with its regulators  
10:16 41 which has been described to me as poor, which is something that  
10:16 42 I also picked up reading the Bergin Report and other things.  
10:16 43  
10:17 44 Q. You are aware of the Deloitte cultural review, are you?  
10:17 45  
10:17 46 A. I am.  
10:17 47

- 10:17 1 Q. Are you aware that as part of the early stages of the work,  
10:17 2 Victoria Whitaker, the partner from Deloitte, met with Ken  
10:17 3 Barton and Alicia Gleeson who shared with her their views about  
10:17 4 Crown's cultural issues; were you aware of that?  
10:17 5
- 10:17 6 A. I am aware that that meeting took place.  
10:17 7
- 10:17 8 Q. Are you aware that meeting took place because it came up  
10:17 9 in this Commission?  
10:17 10
- 10:17 11 A. I did see some, I'm not sure if I saw all of the discussion in  
10:17 12 the Commission in relation to those meetings, but I did see some  
10:17 13 of it, yes.  
10:17 14
- 10:17 15 Q. So that's how you became aware that those discussions had  
10:17 16 occurred?  
10:17 17
- 10:17 18 A. Yes, that's right.  
10:17 19
- 10:17 20 Q. Ms Gleeson confirmed that the perception shared with her  
10:18 21 by Mr Barton and Ms Gleeson in regards to Crown's culture  
10:18 22 included psychological safety, which is the point you made about  
10:18 23 fear of speaking up, or people's willingness or lack of willingness  
10:18 24 to speak up. She also identified as an issue the Board not  
10:18 25 providing feedback, permafrost in middle management, people  
10:18 26 were not being held to account, people trying to deal with  
10:18 27 problems themselves rather than escalating them, complacency  
10:18 28 and a lack of clarity in escalating issues; are you aware of that list  
10:18 29 of cultural problems?  
10:18 30
- 10:18 31 A. Yes, I'm familiar with that discussion I think that you had  
10:18 32 with Victoria at the time and identifying some of those things. I  
10:18 33 can't recall whether all those things were discussed in that  
10:18 34 discussion you had or not.  
10:18 35
- 10:18 36 Q. I just asked you what the directors, the present directors had  
10:19 37 shared with you about their perceptions, and you agree with me  
10:19 38 that there is some overlap?  
10:19 39
- 10:19 40 A. Yes.  
10:19 41
- 10:19 42 Q. But there is also some points that they haven't presently  
10:19 43 identified, including the board not providing feedback?  
10:19 44
- 10:19 45 A. That's true, but I haven't sat down with the directors and  
10:19 46 asked them expressly to tell me all the things that they are  
10:19 47 concerned about. My response to your question was piecing

10:19 1 together different discussions I've had at different times on  
10:19 2 different issues.

10:19 3

10:19 4 Q. Don't you think you need to do that to get the message  
10:19 5 right?

10:19 6

10:19 7 A. Well, I think --- you mention the Deloitte culture reform,  
10:19 8 the phase that we are about to embark upon is the phase of  
10:19 9 identifying what Crown wants its target culture to be, and to  
10:19 10 develop the plan and roadmap to move the company and its  
10:19 11 culture to that target plan. All those things you raised will be  
10:20 12 discussed internally by the business to identify how we ought to  
10:20 13 address them.

10:20 14

10:20 15 Q. But what I don't understand is, why wait? Why can't the  
10:20 16 discussion occur now, why hasn't it occurred already, to put the  
10:20 17 company --- sorry, go ahead.

10:20 18

10:20 19 A. That's okay. The work that the company is doing now is to  
10:20 20 identify exactly what the culture is at the moment. I think it is  
10:20 21 fair to say that we can glean a number of aspects of the  
10:20 22 company's culture from evidence and information in this Royal  
10:20 23 Commission, also the Bergin Report. But this exercise by the  
10:20 24 company is a very thorough one in which it is surveying and  
10:20 25 speaking to all its employees, or as many as we possibly can,  
10:20 26 a very large number, to understand exactly where we are at the  
10:20 27 moment, what are the weaknesses and strengths of our culture.  
10:20 28 Then we will identify where we want to be and then we will build  
10:20 29 that roadmap as to how we are going to get there. We expect to  
10:21 30 have much of that work done by the middle of August. I sense,  
10:21 31 with the new CEO and Chief People & Culture Officer arriving,  
10:21 32 a much greater sense of urgency around doing that work.

10:21 33

10:21 34 Q. Mr Weeks, what I don't understand is why all that work is  
10:21 35 necessary. The ILGA Inquiry, this Commission, have both  
10:21 36 identified cultural issues which you agree are some --- at least  
10:21 37 some of the issues that the board agrees with. Isn't just having  
10:21 38 a culture review another way of saying, "Look, we are doing  
10:21 39 something", instead of actually doing something?

10:21 40

10:21 41 A. Look, I don't agree with that. I agree with what you say,  
10:21 42 that there are many aspects of Crown's culture that have been  
10:21 43 highlighted by this Royal Commission, the Bergin Report and  
10:21 44 clearly they need to be addressed and I'm confident they will be.  
10:22 45 But if Crown is to do this and do it properly, then I think it is very  
10:22 46 important that we engage heavily with all of our employees, all  
10:22 47 12,000 permanent employees and more contractors, so we have



- 10:22 1 a really clear understanding of all aspects of our culture, not just  
10:22 2 the ones that have been discussed in this Royal Commission.  
10:22 3 This is an absolute priority for the company and it needs to do it  
10:22 4 properly and well, and there is a balance there, I think, between  
10:22 5 doing the work required, to do it properly and well, and moving  
10:22 6 with greater haste just on those things that we identify now. So  
10:22 7 I think that the company's approach to this is a sensible one.  
10:22 8
- 10:22 9 Q. You think it is important to have a survey to get  
10:22 10 a cross-section or cover the field with views of what the company  
10:22 11 is like, and it is important for the company to then act on that; is  
10:22 12 that what you are saying?  
10:22 13
- 10:22 14 A. What I'm saying is the company needs to determine really  
10:23 15 clearly what sort of company it wants to be and what sort of  
10:23 16 culture it wants to have. Once it determined what that is, which  
10:23 17 we will do in the coming six weeks or so, you need to understand  
10:23 18 where you are really clearly so you know how you are going to  
10:23 19 get there. I think that is the process that is the right process that  
10:23 20 is one that is supported by people that do this cultural reform  
10:23 21 work.  
10:23 22
- 10:23 23 Q. What you are trying to highlight is the importance of  
10:23 24 employee and contractor surveys; correct?  
10:23 25
- 10:23 26 A. That is one aspect.  
10:23 27
- 10:23 28 Q. One aspect?  
10:23 29
- 10:23 30 A. One aspect, yes. What I'm trying to highlight is we need to  
10:23 31 get a really clear handle and gauge on what the current culture is,  
10:23 32 and the way in which the company has determined it should do  
10:23 33 that is through the process of the Deloitte engagement that I think  
10:24 34 you are familiar with, which will draw to a conclusion in the next  
10:24 35 two weeks.  
10:24 36
- 10:24 37 Q. We'll come to the progress of that in a moment. Let's talk  
10:24 38 about the reform program which you've mentioned in your  
10:24 39 statement. It is being called the remediation plan. It is referred  
10:24 40 to at paragraph 24 of your statement, Mr Weeks. It is the case,  
10:24 41 isn't it, that following the ILGA letter of 15 February 2021 which  
10:24 42 is referred to in paragraph 21 of your statement, Crown has  
10:24 43 encapsulated its ongoing and new reform projects in the  
10:24 44 remediation plan, it provided that to ILGA and it provides it to  
10:24 45 ILGA as and when it is updated; is that a fair summary?  
10:24 46
- 10:24 47 A. No. So we provided to ILGA and also the VCGLR and the

10:25 1 GWC in WA on a monthly basis. That is the process we engaged  
10:25 2 in. We commenced that with ILGA when we delivered the  
10:25 3 original plan in March, and I think the VCGLR and the GWC  
10:25 4 received the first version of the plan at the end of May, and we've  
10:25 5 subsequently given them an update at the end of June.

10:25 6

10:25 7 Q. Thank you. We will go to the update as at the end of June  
10:25 8 in a moment. It is part of your function, Mr Weeks, to report  
10:25 9 regularly to the board on the progress of the Remediation Plan?

10:25 10

10:25 11 A. That's correct.

10:25 12

10:25 13 Q. And this Commission has already heard some evidence  
10:25 14 about the Remediation Plan. By repeating the summary I'm about  
10:25 15 to go to in a moment, I don't mean to de-emphasise or not  
10:25 16 emphasise aspects of it. We have seen the detail, the plan  
10:26 17 elaborated in your report in the Remediation Plan, through the  
10:26 18 course of the evidence, but if I could just touch on a few  
10:26 19 highlights, please.

10:26 20

10:26 21 The Remediation Plan, as you've already indicated, has included  
10:26 22 senior executive and board renewal?

10:26 23

10:26 24 A. Yes.

10:26 25

10:26 26 Q. It has included changes in governance structures and  
10:26 27 organisational structures?

10:26 28

10:26 29 A. It has.

10:26 30

10:26 31 Q. It has included the appointment of new roles, such as  
10:26 32 Mr Blackburn who has given evidence in this Commission?

10:26 33

10:26 34 A. Yes.

10:26 35

10:26 36 Q. The appointment of Mr Tony Weston, the Chief People &  
10:26 37 Culture Officer?

10:26 38

10:26 39 A. Yes.

10:26 40

10:26 41 Q. He started recently, didn't he?

10:26 42

10:26 43 A. Yes, about a month ago.

10:26 44

10:26 45 Q. The Remediation Plan includes the rollout of the important  
10:26 46 joint AML/CTF program?

10:26 47

10:26 1 A. Yes.  
10:26 2  
10:27 3 Q. It was also included enhancements to the risk management  
10:27 4 framework and separation of the risk and internal audit  
10:27 5 functions?  
10:27 6  
10:27 7 A. Yes.  
10:27 8  
10:27 9 Q. It has included changes to Crown's relationship and  
10:27 10 interactions with CPH?  
10:27 11  
10:27 12 A. Yes.  
10:27 13  
10:27 14 Q. It has included changes to the VIP international business?  
10:27 15  
10:27 16 A. Yes, that's right.  
10:27 17  
10:27 18 Q. It has included a review of the junkets, Persons of Interest  
10:27 19 and significant player programs?  
10:27 20  
10:27 21 A. Yes.  
10:27 22  
10:27 23 Q. And also the cultural reform program which we'll come to  
10:27 24 in a minute. Is there any aspect of the Remediation Plan that you  
10:27 25 specifically wanted to highlight in your evidence this morning?  
10:27 26 We will come to the cultural reform program in a moment.  
10:27 27  
10:27 28 A. Yes, no, I don't think I need to highlight any. You have  
10:27 29 a copy of the plan and you touched on most of the key elements  
10:27 30 of it.  
10:27 31  
10:27 32 Q. Thank you. Mr Weeks, we've been assisted by solicitors  
10:28 33 for Crown in identifying the recent Remediation Plan submitted  
10:28 34 to ILGA and the VCGLR.  
10:28 35  
10:28 36 Commissioner, they are CRW.512.196.0003 and  
10:28 37 CRW.512.196.0053 as at 30 June 2021. I tender those, and I  
10:28 38 would ask the operator to call up the second document, which is  
10:28 39 CRW.512.196.0053.  
10:28 40  
41  
42 **EXHIBIT (UNNUMBERED) - REMEDIATION PLAN**  
43 **SUBMITTED TO ILGA AND VCGLR**  
44  
45  
10:28 46 MS NESKOVCIN: Do you have a hard copy of that? It is not in  
10:28 47 your statement, Mr Weeks.

10:28 1  
10:28 2 A. I have a hard copy, thank you.  
10:28 3  
10:28 4 Q. As we can see from the underlining or the red highlight, the  
10:28 5 red highlights the changes that have been made to the previous  
10:29 6 version of the Remediation Plan of 27 May, and this Remediation  
10:29 7 Plan identifies the various areas of reform, the changes already  
10:29 8 made, the next steps, who is responsible, and target timing;  
10:29 9 correct?  
10:29 10  
10:29 11 A. Yes.  
10:29 12  
10:29 13 Q. I don't want to go through all of the detail, I just want to  
10:29 14 talk about a few items and the target timing. Many items have  
10:29 15 been completed, such as what we can see on page 1, point 1; do  
10:29 16 you see that?  
10:29 17  
10:29 18 A. I do.  
10:29 19  
10:29 20 Q. For some items, there is no time frame provided because  
10:29 21 the work is conceptual or is ongoing. I will give you as  
10:29 22 an example the work regarding the rollout of the AML/CTF  
10:29 23 program, which is item 14.  
10:29 24  
10:29 25 A. Yes, that's correct.  
10:29 26  
10:30 27 Q. Mr Blackburn has said --- he hasn't given a forecast for  
10:30 28 when AML uplift will be achieved because it is heavily  
10:30 29 dependent on ongoing funding and support and commitment from  
10:30 30 other parts of the business, but he has set an aspirational date of  
10:30 31 31 December 2022; you are aware of that?  
10:30 32  
10:30 33 A. I would need to just double-check that date, but if Steven  
10:30 34 said that, then I'm sure it is right.  
10:30 35  
10:30 36 Q. He said that in a presentation that he's prepared, so assume  
10:30 37 that is correct, please, Mr Weeks. My point is this is an ongoing  
10:30 38 process.  
10:30 39  
10:30 40 A. Well, there are some aspects ---  
10:30 41  
10:30 42 Q. Do you agree with that?  
10:30 43  
10:30 44 A. Well, there's many aspects of business operations that are  
10:30 45 never complete. There is always a process of refinement and  
10:30 46 improvement, and I would imagine that the AML/CTF program is  
10:30 47 one of those areas that Steven Blackburn and his team will be

10:31 1 constantly trying to refine and improve.  
10:31 2  
10:31 3 Q. That is one aspect of the timing of the Remediation Plan.  
10:31 4 You mention some processes are the subject of ongoing  
10:31 5 refinement, you will never get to the end point because something  
10:31 6 new will emerge and you will have to address that. You always  
10:31 7 have to be turning your mind to these things; correct?  
10:31 8  
10:31 9 A. That's correct.  
10:31 10  
10:31 11 Q. But it is also fair to say that some items in this Remediation  
10:31 12 Plan have had a bit of slippage?  
10:31 13  
10:31 14 A. There are inevitably some items that will have had some  
10:31 15 slippage, yes.  
10:31 16  
10:31 17 Q. Take for example the Deloitte work, there has been a little  
10:31 18 bit of slippage in the Deloitte forensic work and in the culture  
10:31 19 review; correct?  
10:31 20  
10:31 21 A. Yes. In the Deloitte forensic review work there has been,  
10:31 22 yes.  
10:31 23  
10:31 24 Q. The Deloitte forensic review has involved an expanded  
10:32 25 scope of work as well; correct?  
10:32 26  
10:32 27 A. That's correct. Yes.  
10:32 28  
10:32 29 Q. That expanded scope has come about because of the China  
10:32 30 UnionPay card issue which has been added to Deloitte's scope of  
10:32 31 work; correct?  
10:32 32  
10:32 33 A. That's correct.  
10:32 34  
10:32 35 Q. Another aspect that has emerged recently is the allegations  
10:32 36 of money laundering that were the subject of media reports by  
10:32 37 Nick McKenzie?  
10:32 38  
10:32 39 A. Are you referring to the reports in the last couple of days?  
10:32 40  
10:32 41 Q. I am.  
10:32 42  
10:32 43 A. Yes, that's true.  
10:32 44  
10:32 45 Q. My point is things are still coming out of the woodwork, so  
10:32 46 the reform program is going to be expanded and the timeline will  
10:32 47 be extended on account of things like that, recently discovered

10:32 1 issues as a result of the Remediation Plan program; do you accept  
10:32 2 that?

10:32 3

10:32 4 A. I accept that, but the example you raise with Deloitte on the  
10:33 5 China UnionPay issue, we had engaged them to do that work to  
10:33 6 give us clarity about exactly what has occurred in the hotel  
10:33 7 accounts. But we sat down and worked with Deloitte to sequence  
10:33 8 that work such that it didn't delay the phase 2 and 3 work that  
10:33 9 they had already been engaged in on the patron accounts any  
10:33 10 longer than we needed to. There are ways in which we can work  
10:33 11 with people to try and sequence those things to get them done as  
10:33 12 quickly as we practically can.

10:33 13

10:33 14 Q. All right. Let's contrast that with what Promontory has  
10:33 15 done. Promontory have completed their reports, item 13. Are  
10:33 16 you aware of that?

10:33 17

10:33 18 A. Yes.

10:33 19

10:33 20 Q. But those reports have given rise to a considerable amount  
10:33 21 of further work for Crown to bring its annual policies and  
10:33 22 procedures up to scratch; hasn't it?

10:33 23

10:34 24 A. Yes, certainly the vulnerabilities assessment, that is correct,  
10:34 25 yes.

10:34 26

10:34 27 Q. Well, can we now go to item 24 on page 0095, which is the  
10:34 28 culture review.

10:34 29

10:34 30 A. Sorry ---

10:34 31

10:34 32 Q. Have you got that --- item 33, sorry.

10:34 33

10:34 34 A. 33, yes.

10:34 35

10:34 36 Q. You mentioned a moment ago that there has been a bit of  
10:34 37 slippage but according to this document, phase 4 is scheduled for  
10:34 38 mid-August, if you flick over to the next page, please, operator.

10:34 39

10:34 40 A. Yes. Yes, that's right. That program hasn't slipped, it's  
10:34 41 actually been accelerated.

10:34 42

10:34 43 Q. It slipped from the initial proposal and engagement, hasn't  
10:34 44 it?

10:34 45

10:34 46 A. Well, it slipped from the initial engagement that occurred  
10:34 47 last year in large part because the CEO left, and in

10:35 1 an environment where you want to reset culture, one of the really  
10:35 2 important things is that it is owned, genuinely owned by the  
10:35 3 leader, and the way I see that is the CEO is the critical role. So  
10:35 4 Steve McCann, the new CEO, joined at 1 June. Since he joined,  
10:35 5 he has accelerated this phase 4.

10:35 6

10:35 7 Q. I see. And phase 4, according to this document, it has  
10:35 8 a target timing of 16 August 2021. Phase 4 is broadly the  
10:35 9 roadmap, identifying where you want to get and how you are  
10:35 10 going to get there, isn't it?

10:35 11

10:35 12 A. Yes.

10:35 13

10:35 14 Q. That's the critical part, wouldn't you agree?

10:35 15

10:35 16 A. Yes, I think that design of where you want to be and then  
10:35 17 how you will implement it, and when, is the critical part, I agree.

10:35 18

10:35 19 Q. In terms of this document, phase 4 is just identifying the  
10:36 20 roadmap, then you have to implement the roadmap; correct?

10:36 21

10:36 22 A. That's correct, yes.

10:36 23

10:36 24 Q. Ms Whitaker said, when she was called to give evidence,  
10:36 25 and this was a few weeks ago, that she had not yet received  
10:36 26 instructions in relation to phase 4. Has that changed?

10:36 27

10:36 28 A. Yes, that has changed. So Deloitte have been engaged now  
10:36 29 to deliver --- to assist us to deliver phase 4.

10:36 30

10:36 31 Q. I see. When did that change, Mr Weeks?

10:36 32

10:36 33 A. I couldn't tell you the precise date but it would have  
10:36 34 happened within the first week or so of Tony Weston's arrival.  
10:36 35 So I would have to double-check this for you, but I think it would  
10:36 36 have been around 10 or 14 June, around that time.

10:36 37

10:36 38 Q. I see.

10:36 39

10:36 40 A. Maybe a little bit later.

10:36 41

10:36 42 Q. As we were just discussing, the implementation of the  
10:36 43 roadmap is the period of time that is the most difficult to  
10:37 44 quantify; wouldn't you agree?

10:37 45

10:37 46 A. At the moment it is, but we will be able to quantify that by  
10:37 47 16 August.

- 10:37 1  
10:37 2 Q. Ms Arzadon has provided a report in these hearings. Have  
10:37 3 you read her report, Mr Weeks?  
10:37 4  
10:37 5 A. Yes, I have.  
10:37 6  
10:37 7 Q. Ms Arzadon said that to embed culture that is  
10:37 8 self-sustaining can take three to five years; I take it you wouldn't  
10:37 9 dispute that?  
10:37 10  
10:37 11 A. I think to embed culture across an organisation takes time.  
10:37 12 I think you can achieve cultural change more quickly, but to  
10:37 13 properly embed it takes time. Whether it takes three to five years,  
10:37 14 I will let others assess, but I agree it takes time to embed it  
10:37 15 properly.  
10:37 16  
10:37 17 Q. It is embedment that is really important because that is the  
10:38 18 only way that you can ensure that Crown doesn't go back to its  
10:38 19 old ways?  
10:38 20  
10:38 21 A. I think embedding it is vitally important, but changing it  
10:38 22 and changing it quickly is equally important so you get that  
10:38 23 momentum for change.  
10:38 24  
10:38 25 Q. Thank you. Can I ask you about paragraph 25 of your  
10:38 26 statement. Your statement says that:  
10:38 27  
10:38 28 *In consultation with ILGA, Crown has agreed to appoint*  
10:38 29 *an independent expert to assess the adequacy, and*  
10:38 30 *monitor the effectiveness, of the Remediation Plan. That*  
10:38 31 *work will start in the coming days and will involve*  
10:38 32 *an initial period of work by the independent monitor to*  
10:38 33 *assess the adequacy of Crown's financial crime related*  
10:38 34 *projects, followed by periodic assessments to verify the*  
10:39 35 *Remediation Plan is being implemented in accordance*  
10:39 36 *with the time frames and deliverables described in that*  
10:39 37 *plan.*  
10:39 38  
10:39 39 Your statement was prepared on 7 June 2021, and you said that  
10:39 40 that appointment was to occur in the coming days. Has that now  
10:39 41 occurred, Mr Weeks?  
10:39 42  
10:39 43 A. Yes, it has occurred. It did occur in a day or two after this  
10:39 44 statement was signed.  
10:39 45  
10:39 46 Q. And who is the independent expert?  
10:39 47



10:39 1 A. Kroll.

10:39 2

10:39 3 Q. What are their qualifications or area of expertise?

10:39 4

10:39 5 A. They have a broad operation. I think they are a global  
10:39 6 outfit. I don't exactly know the breadth of their services that they  
10:39 7 provide but they have brought on some people to assist them with  
10:39 8 this engagement.

10:39 9

10:40 10 Q. Are their instructions broadly within the terms set out in  
10:40 11 paragraph 25 or is --- what are the terms of their engagement?

10:40 12

10:40 13 A. So we have a tripartite arrangement between Kroll, Crown  
10:40 14 and ILGA in relation to their appointment, and there is  
10:40 15 an engagement letter with a scope of work that has been agreed.  
10:40 16 That scope of work is divided into two phases, the first phase is  
10:40 17 consistent with that section of my statement you have just taken  
10:40 18 me to, in that they will provide a report about the adequacy and  
10:40 19 effectiveness of our AML programs but they will also make  
10:40 20 an assessment of whether or not Crown has completed other  
10:40 21 projects in its Remediation Plan, or to the extent they haven't yet  
10:40 22 been completed, is there a satisfactory plan and resourcing in  
10:40 23 place to deliver those within the time frame that we've identified,  
10:41 24 and then after that phase, the subsequent phases are coming back  
10:41 25 to the statement to check that, one, the work has been done and  
10:41 26 remains in place, but two, to make sure those other programs  
10:41 27 have been delivered as we said they would be.

10:41 28

10:41 29 Q. Thank you, Mr Weeks. Just excuse me for a moment.

10:41 30

10:41 31 Commissioner, Mr Weeks dropped out of the audio for  
10:41 32 a moment, but it has been picked up on the transcript.

10:41 33

10:41 34 COMMISSIONER: It has or hasn't?

10:41 35

10:41 36 MS NESKOVICIN: Thank you, Mr Weeks, we had a technical  
10:41 37 glitch at this end.

10:41 38

10:41 39 A. Okay.

10:41 40

10:41 41 Q. This is essentially an arrangement that ILGA has required  
10:41 42 of Crown; is that correct?

10:41 43

10:41 44 A. Yes.

10:41 45

10:41 46 Q. Has Kroll provided a report so far?

10:41 47

10:41 1 A. No, not to my knowledge. They have separate meetings  
10:41 2 with ILGA so we don't direct their engagement or control it or  
10:42 3 influence it. We've expressly made that out. So I'm not exactly  
10:42 4 sure what reports they have provided to ILGA already, but  
10:42 5 certainly we anticipate there will be a formal report which we  
10:42 6 expect to be delivered around the end of July.

10:42 7

10:42 8 Q. Thank you. I now want to move to the cultural reform  
10:42 9 program, please, Mr Weeks. Can we go to paragraph 37 of your  
10:42 10 statement, please.

10:42 11

10:42 12 A. Yes.

10:42 13

10:42 14 Q. You say that:

10:42 15

10:42 16 *Although there are elements of the Plan that have been*  
10:42 17 *completed or are substantially complete, there are other*  
10:42 18 *elements of the Plan that are ongoing:*

10:42 19

10:42 20 *a. Culture --- Crown is in the midst of a significant phase*  
10:42 21 *of work that is designed to improve its culture. I have*  
10:42 22 *been made aware of and have read material that has*  
10:43 23 *described this work, which includes:*

10:43 24

10:43 25 *i. The 2020 rollout of new Company-wide values .....*

10:43 26

10:43 27 Do you see that?

10:43 28

10:43 29 A. Yes.

10:43 30

10:43 31 Q. Are you aware that that is a workstream that commenced in  
10:43 32 late 2018/early 2019?

10:43 33

10:43 34 A. I know it has been going for some time, I don't know  
10:43 35 exactly when it commenced.

10:43 36

10:43 37 Q. It was only rolled out in 2020. That's the case, isn't it?

10:43 38

10:43 39 A. That is certainly what I've read, yes.

10:43 40

10:43 41 Q. In paragraph ii you mention:

10:43 42

10:43 43 *A culture reform program, which was described in*  
10:43 44 *a December 2020 Board paper and involves a range of*  
10:43 45 *initiatives.*

10:43 46

10:43 47 That is a board paper that you've mentioned there which

10:43 1 Mr Barton prepared; correct?  
10:43 2  
10:43 3 A. That's correct.  
10:43 4  
10:43 5 Q. I want to go to that if I might, operator, at  
10:44 6 CRW.518.004.8953. Have you got that?  
10:44 7  
10:44 8 A. I have it.  
10:44 9  
10:44 10 Q. I take it you've read this paper?  
10:44 11  
10:44 12 A. I have, yes.  
10:44 13  
10:44 14 Q. I take it you've also read Deloitte's letter of engagement for  
10:44 15 the culture review?  
10:44 16  
10:44 17 A. I'm not sure that I have read that.  
10:44 18  
10:44 19 Q. Have you read their first or phase 1 report?  
10:44 20  
10:44 21 A. Yes, I have.  
10:44 22  
10:44 23 Q. According to the Remediation Plan, that was still in the  
10:44 24 process of being adopted or completed. Has that now been  
10:44 25 completed?  
10:44 26  
10:44 27 A. No, I think it is still in draft. I checked that at the end of  
10:44 28 last week, and I think the response I got was that we were  
10:45 29 anticipating a final form of that around 7 July, so any day now.  
10:45 30  
10:45 31 Q. What is the hold-up? It's been in draft for weeks ---  
10:45 32  
10:45 33 A. I'm not sure.  
10:45 34  
10:45 35 Q. --- do you know what the hold-up is.  
10:45 36  
10:45 37 A. I don't know, I'm sorry.  
10:45 38  
10:45 39 Q. So you've read the phase 1 report. Did you notice any  
10:45 40 similarities between Mr Barton's paper of 7 December and  
10:45 41 aspects of the phase 1 report?  
10:45 42  
10:45 43 A. Some of the findings in that phase 1 report?  
10:45 44  
10:45 45 Q. Well, actually, some of the steps, some of the elements of  
10:45 46 the reform program that Deloitte have identified as the culture  
10:45 47 cultural program that Crown should embark upon. Did you

10:45 1 notice any similarities?

10:45 2

10:45 3 A. I'm not sure if I understand the question, I'm sorry.

10:45 4

10:45 5 Q. That's all right. We'll go through it briefly.

10:45 6

10:45 7 A. Yes.

10:45 8

10:45 9 Q. Mr Barton's paper of 7 December has an introduction. You  
10:46 10 see the second paragraph says:

10:46 11

*A longer term area of focus is around Crown's culture.*

10:46 13

10:46 14 Do you see that?

10:46 15

10:46 16 A. I do.

10:46 17

10:46 18 Q. The paragraph beneath that says:

10:46 19

*In considering a process to review Crown's culture the  
10:46 20 key is to retain the strengths that have underpinned our  
10:46 21 success, and to also take learnings from the Public  
10:46 22 Inquiry .....*

10:46 24

*Crown's culture is led from the top of the organisation,  
10:46 25 from the Board, CEO and senior leaders defining our  
10:46 26 desired culture, communicating it in simple terms and  
10:46 27 demonstrating it through our actions.*

10:46 28

10:46 29 Do you see that?

10:46 30

10:46 31

10:46 32 A. Yes.

10:46 33

10:46 34 Q. He then mentions some preliminary work to date. Can I  
10:46 35 then go over the page, please. He mentions the current situation  
10:46 36 and I want to ask you to look at the section on approach. Have  
10:46 37 you got that, Mr Weeks?

10:46 38

10:46 39 A. I do.

10:46 40

10:47 41 Q. He says:

10:47 42

*The starting point for cultural reform starts with  
10:47 43 an assessment of the tone from the top. The tone from the  
10:47 44 top begins with the Board, whose primary tasks include  
10:47 45 approving strategy and monitoring execution of the plan,  
10:47 46 setting risk appetite and exercising appropriate oversight  
10:47 47*

10:47 1 *regarding risk mitigations, with the underlying goal of*  
10:47 2 *preserving and creating shareholder value.*  
10:47 3  
10:47 4 You would agree with all of that, wouldn't you, Mr Weeks?  
10:47 5  
10:47 6 A. Sorry, I'm just reading it again carefully.  
10:47 7  
10:47 8 Q. Yes, please do.  
10:47 9  
10:47 10 A. Yes, I agree with that.  
10:47 11  
10:47 12 Q. I don't mean any disrespect by this, but these are fairly  
10:47 13 generic points that you might read about in articles and textbooks  
10:47 14 on reform and leadership; would you agree with that?  
10:48 15  
10:48 16 A. Yes. I think they are some of the things that you would see  
10:48 17 in a range of different papers or opinions on culture.  
10:48 18  
10:48 19 Q. All right. If we could just go over to the next page, please.  
10:48 20 Mr Barton then sets out the execution plan:  
10:48 21  
10:48 22 1. Reviewing the 'tone from the top'.  
10:48 23  
10:48 24 2. *Reviewing and refining the strategic intent*  
10:48 25  
10:48 26 Which is mentioned in part of point 1; do you see that?  
10:48 27  
10:48 28 A. Yes.  
10:48 29  
10:48 30 Q. He notes that Crown has set its strategic intent for FY21; do  
10:48 31 you see that?  
10:48 32  
10:48 33 A. Yes, I do.  
10:48 34  
10:48 35 Q. Over the page, please, point 3 is "Clarifying our purpose  
10:48 36 and values", and that is something that Crown has done?  
10:48 37  
10:48 38 A. Yes.  
10:48 39  
10:48 40 Q. That was the work in 2020?  
10:48 41  
10:49 42 A. Yes.  
10:49 43  
10:49 44 Q. "Assessing current culture", that is something Crown is  
10:49 45 doing with the assistance of Deloitte?  
10:49 46  
10:49 47 A. That is correct.

10:49 1  
10:49 2 Q. "Determining the gaps and planning remediation", that is  
10:49 3 the phase 2, phase 3 work that Deloitte are assisting Crown with?  
10:49 4  
10:49 5 A. Yes, I think that is right.  
10:49 6  
10:49 7 Q. Paragraph 6, "Implementing a governance structure for  
10:49 8 People and Culture", the second paragraph mentions:  
10:49 9  
10:49 10 An Enterprise Culture Steering Group should be  
10:49 11 *established.*  
10:49 12  
10:49 13 Has that steering group been established, Mr Weeks?  
10:49 14  
10:49 15 A. I'm not aware if it has or not.  
10:49 16  
10:49 17 Q. Point 7:  
10:49 18  
10:49 19 Develop and implement a measurement process for  
10:49 20 *culture.*  
10:49 21  
10:49 22 That is what phase 2 and 3 --- sorry, that is what phase 2 of  
10:49 23 Deloitte's work comprises; correct?  
10:50 24  
10:50 25 A. I'm not sure if that is done in phase 2 or in the latter phase  
10:50 26 4. Phase 2 is really to identify what it is now, and then as we  
10:50 27 move towards it with a plan we need to come up with a way to  
10:50 28 measure it.  
10:50 29  
10:50 30 Q. I see. Thank you.  
10:50 31  
10:50 32 Then over the page, "Audit and information sharing". It says:  
10:50 33  
10:50 34 *Internal audit should have responsibility for measurement*  
10:50 35 *and reporting around culture.*  
10:50 36  
10:50 37 Has that recommendation been complemented or is that to await  
10:50 38 the outcome of the phase 4 culture review?  
10:50 39  
10:50 40 A. Well, I think that will be determined through the phase 4  
10:50 41 culture review. I think it is relevant also in assessing this paper,  
10:50 42 written by the past CEO in December, that I would expect there  
10:50 43 will be elements of this that will be revisited by the new CEO and  
10:50 44 the new Chief People & Culture Officer during that phase 4, so  
10:51 45 they are comfortable and the Board is comfortable with  
10:51 46 an approach that those new executives are satisfied with.  
10:51 47

10:51 1 Q. I see. Thank you.  
10:51 2  
10:51 3 This memorandum was prepared by Mr Barton in  
10:51 4 December 2020, and Deloitte's work commenced in  
10:51 5 December 2020. You are aware of that?  
10:51 6  
10:51 7 A. I knew it started late last year so, yes.  
10:51 8  
10:51 9 Q. Were you aware that Mr Barton actually met with the  
10:51 10 Deloitte partners to discuss this work piece in August 2020?  
10:51 11  
10:51 12 A. I was aware that he had met with Deloitte, and we had that  
10:51 13 discussion earlier about his interview and discussions you've had  
10:51 14 in this Commission. I'm not sure if that was that meeting or there  
10:51 15 was a prior one, I'm not sure.  
10:51 16  
10:51 17 Q. That meeting I mentioned was in December 2020.  
10:51 18  
10:51 19 A. Okay.  
10:51 20  
10:51 21 Q. There was an initial engagement, he met with three partners  
10:51 22 from Deloitte to talk about what work they might be able to do  
10:52 23 for Crown in August 2020. So I take it you weren't aware of  
10:52 24 that?  
10:52 25  
10:52 26 A. No, I wasn't.  
10:52 27  
10:52 28 Q. Were you aware that Deloitte provided proposals for their  
10:52 29 scope of work in September and October 2020?  
10:52 30  
10:52 31 A. No, I wasn't.  
10:52 32  
10:52 33 Q. The engagement itself didn't actually occur until December  
10:52 34 2020, so there was a period of about three or four months of  
10:52 35 delay; were you aware of that?  
10:52 36  
10:52 37 A. I wasn't aware of the delay because I wasn't aware of those  
10:52 38 initial discussions. I wasn't at the company then.  
10:52 39  
10:52 40 Q. Does that delay raise any concerns to your mind about  
10:52 41 commitment to culture reform?  
10:52 42  
10:52 43 A. Well, I think that if I --- I wasn't at the company at the time,  
10:52 44 but that was during the Bergin Inquiry, if memory serves me  
10:52 45 correctly. So I would imagine that during that public  
10:52 46 examination of the company, putting on hold some of this work  
10:53 47 may make some sense so you can understand the environment at

10:53 1 the conclusion of that inquiry before you make some further  
10:53 2 decisions around this culture work.

10:53 3

10:53 4 Q. Can we have a look at 37 of your statement, please,  
10:53 5 Mr Weeks. We were just looking at paragraph 37a ---

10:53 6

10:53 7 A. Yes.

10:53 8

10:53 9 Q. --- significant work that had already been commenced and  
10:53 10 we discussed point a.iii, which is the engagement of Deloitte.  
10:53 11 You also mentioned changes to remuneration structures,  
10:53 12 leadership and board changes, and enhanced employee  
10:53 13 communications.

10:53 14

10:53 15 A. Yes.

10:53 16

10:53 17 Q. In the next paragraph you say that:

10:53 18

10:53 19 *I have been involved in discussions with the executive*  
10:53 20 *team and Board in relation to the culture uplift project.*  
10:54 21 *I have also spoken directly with the Executive Chairman*  
10:54 22 *about my experience and interest in the management of*  
10:54 23 *conduct or behavioural risk, which is an important*  
10:54 24 *element of culture.*

10:54 25

10:54 26 *Following these conversations, I was asked to prepare*  
10:54 27 *a discussion paper for the Board, which I did for the 24*  
10:54 28 *May 2021 meeting ..... The paper was designed to provide*  
10:54 29 *ideas based on my experience about how Crown can*  
10:54 30 *cascade a renewed tone from the top through the*  
10:54 31 *organisation.*

10:54 32

10:54 33 Do you see that?

10:54 34

10:54 35 A. Yes, I do.

10:54 36

10:54 37 Q. This was the first paper on culture that you had prepared  
10:54 38 since joining Crown; correct?

10:54 39

10:54 40 A. Yes, I joined Crown in March and I did this paper in May;  
10:54 41 that's correct.

10:54 42

10:54 43 Q. Previously the papers that you prepared for the board were  
10:54 44 updates on the progress of the Remediation Plan; correct?

10:54 45

10:54 46 A. That's correct.

10:54 47



10:54 1 Q. So out of the blue you are asked to prepare a paper around  
10:55 2 culture and how Crown can cascade a renewed tone from the top?

10:55 3

10:55 4 A. It wasn't out of the blue. I --- this was --- the culture piece  
10:55 5 of the Remediation Plan was something that the Board and  
10:55 6 particularly the Executive Chairman was particularly keen to  
10:55 7 advance in an environment where we were waiting for the  
10:55 8 commencement of a new CEO and new Chief People & Culture  
10:55 9 Officer. So, you know, Deloitte was and is doing its work.  
10:55 10 Those two very important positions in terms of culture had been  
10:55 11 appointed but not yet commenced, and the Executive Chairman  
10:55 12 in particular was keen to maintain momentum and to get some  
10:55 13 ideas, and she and I had some discussions, and she asked me to  
10:55 14 produce a paper based on those discussions. That's how it came  
10:55 15 about.

10:55 16

10:55 17 Q. Mr Blackburn gave evidence that on 18 May 2021,  
10:56 18 Ms Coonan directed him to urgently prepare in his RSG  
10:56 19 enhancement paper things that could be started or done  
10:56 20 immediately so that Crown was in the best position for statements  
10:56 21 to the Commission. Did Ms Coonan ask you to prepare this  
10:56 22 statement or paper on 21 May 2021 so that Crown would have  
10:56 23 something for this Commission?

10:56 24

10:56 25 A. Absolutely not. This was based on discussions that I had  
10:56 26 had with Helen Coonan around this area of managing conduct  
10:56 27 risk, she was interested in it and asked me to put together a paper  
10:56 28 for her, which I did, and then she read that and she asked me then  
10:56 29 to put that together for the board.

10:56 30

10:56 31 Q. Could we look at that paper, please, Mr Weeks.

10:56 32

10:56 33 Operator, CRW.512.110.0055. You got that? It is 21 May.

10:56 34

10:57 35 A. Got it now, thank you.

10:57 36

10:57 37 Q. At the time you prepared this, you had seen Mr Barton's  
10:57 38 paper of 7 December 2020?

10:57 39

10:57 40 A. Yes.

10:57 41

10:57 42 Q. In preparing this paper, did you use Mr Barton's paper as  
10:57 43 a starting point and build on that?

10:57 44

10:57 45 A. No, I didn't.

10:57 46

10:57 47 Q. The reason I ask is there are some areas of overlap. So you

10:57 1 don't think that you used that as a starting point in any way? It is  
10:57 2 not a criticism, I'm just trying to understand the evolution of the  
10:57 3 document.

10:57 4

10:57 5 A. No, I didn't use that. It was really based on --- I have  
10:57 6 an interest in this area, I had some discussions with the Exec  
10:57 7 Chair and she asked me to put together a paper, and that's what I  
10:57 8 did.

10:57 9

10:57 10 Q. Your interest in this area, does that come from reading  
10:57 11 articles and texts? Have you done any training?

10:58 12

10:58 13 A. It came from my previous role managing reputational and  
10:58 14 conduct risk in the NRL, so I've had a long-term interest in it. I  
10:58 15 also have read some texts and articles about it. I think it is  
10:58 16 an issue, when I look at challenges that the broader community  
10:58 17 and business community has, the proper and effective  
10:58 18 management of conduct and reputational risk has certainly been  
10:58 19 elevated in recent years. So in terms of my own career interest,  
10:58 20 this is an area I've always been interested in.

10:58 21

10:58 22 Q. Yes, thank you.

10:58 23

10:58 24 If we have a look at the bottom of the first page, there is  
10:58 25 a heading "a culture of integrity and accountability". The  
10:58 26 paragraph above that, you've identified the purpose of the paper  
10:58 27 which, as you said in your statement, to propose a way in which  
10:59 28 Crown can cascade the new tone from the top through the  
10:59 29 organisation.

10:59 30

10:59 31 A. Yes.

10:59 32

10:59 33 Q. And under the heading of "A culture of integrity and  
10:59 34 accountability", you identify three overarching principles: one,  
10:59 35 identify and affirm our purpose and values; number two, develop  
10:59 36 specific rules that reflect those values; and, three, drive the  
10:59 37 importance of following the rules into every part of the business.  
10:59 38 These are very generic points, aren't they, Mr Weeks?

10:59 39

10:59 40 A. That section is generic overarching points, I agree with that.

10:59 41

10:59 42 Q. Paragraph 1 under the next heading "How do we get  
10:59 43 there?", "Make it the number one priority for the new Board,  
10:59 44 CEO and leadership team", that is important, but again it is  
10:59 45 a generic point?

10:59 46

10:59 47 A. Well, it is an important point.

10:59 1  
10:59 2 Q. Very important. And the reason I suggested the similarity  
11:00 3 with Mr Barton's paper is it is very similar to some of the points  
11:00 4 that Mr Barton had already raised in December 2020; do you  
11:00 5 agree?  
11:00 6  
11:00 7 A. Well, I think if you picked up any paper from any  
11:00 8 consultant or academic paper on changing culture, this would be  
11:00 9 a common theme, that if it is not owned by the senior leaders, the  
11:00 10 prospect of it being successful are remote.  
11:00 11  
11:00 12 Q. The second point on this page, adopting a new code, a new  
11:00 13 Code of Conduct, that is something new that hadn't been  
11:00 14 mentioned in Mr Barton's paper and that was an idea you wanted  
11:00 15 to put forward to Crown?  
11:00 16  
11:00 17 A. Yes, I felt that having been a new person in Crown and  
11:00 18 reviewed its Code of Conduct and observed others, I felt the Code  
11:01 19 of Conduct could be prepared in a way that was more available to  
11:01 20 the broad cross-section of staff that we have in the organisation.  
11:01 21  
11:01 22 Q. Thank you. Over the page you identified some examples  
11:01 23 from presumably doing some internet searching?  
11:01 24  
11:01 25 A. That's right.  
11:01 26  
11:01 27 Q. You see that?  
11:01 28  
11:01 29 A. Yes.  
11:01 30  
11:01 31 Q. Paragraph 3, "communicate relentlessly", again this is  
11:01 32 a point that you would see in articles and literature on this  
11:01 33 subject, "communicate relentlessly"?  
11:01 34  
11:01 35 A. Yes. I agree with that.  
11:01 36  
11:01 37 Q. It says that:  
11:01 38  
11:01 39 *To deliver a culture of integrity and accountability at*  
11:01 40 *Crown we need to be constantly talking about it and*  
11:01 41 *reinforcing its importance. The message needs to be*  
11:01 42 *repeated in different ways and in different forums.*  
11:01 43  
11:01 44 Do you see that?  
11:01 45  
11:01 46 A. Yes.  
11:01 47

- 11:01 1 Q. You are emphasising the need to communicate, get the  
11:01 2 message across, but Crown hasn't yet determined what that  
11:01 3 message is going to be; is that fair to say?  
11:01 4
- 11:01 5 A. That is fair to say that the phase 4 work which will  
11:02 6 complete by the middle of August will identify exactly whether  
11:02 7 or not the purpose and values of the company, or a shift in what  
11:02 8 those messages should be, that's correct.  
11:02 9
- 11:02 10 Q. Although you are saying in this paper, "Get the message  
11:02 11 across and communicate", you haven't actually given the  
11:02 12 directors any examples or any tools, have you?  
11:02 13
- 11:02 14 A. I think I have.  
11:02 15
- 11:02 16 Q. Well, the example of the C-suite executives that you  
11:02 17 mention, who should be delivering integrity training, that is not  
11:02 18 something they --- it is something they could implement but it's  
11:02 19 not something they could then be doing. My point is, how are the  
11:02 20 directors to know how to deliver on these cultural reforms? Have  
11:02 21 you assessed their capability and expertise in this area,  
11:02 22 Mr Weeks?  
11:02 23
- 11:02 24 A. The Board's capability and expertise? No.  
11:02 25
- 11:02 26 Q. In leading culture reform?  
11:03 27
- 11:03 28 A. I haven't done a specific assessment of each of their  
11:03 29 backgrounds to form my own views about their capacity to  
11:03 30 deliver it, but what this paper was a discussion paper which,  
11:03 31 if there is an appetite to deliver some of it, then plans need to be  
11:03 32 built. My own perspective on this is, I think if new people come  
11:03 33 into a new organisation with different experiences and  
11:03 34 backgrounds, then it is a sensible thing for a board to try and  
11:03 35 learn from those different backgrounds and experience. That is  
11:03 36 what the purpose of this paper was.  
11:03 37
- 11:03 38 Q. I understand.  
11:03 39
- 11:03 40 A. It wasn't meant to be a fully formed plan, it was  
11:03 41 a discussion paper to promote some ideas for discussion by the  
11:03 42 Board.  
11:03 43
- 11:03 44 Q. So I take it you haven't identified a need for training in  
11:03 45 leadership change or reform --- cultural reform? Have any of the  
11:03 46 directors asked you about such training?  
11:03 47

11:03 1 A. Well, Tony Weston, the Chief People & Culture Officer,  
11:04 2 commenced on 7 June. He is a very experienced HR professional  
11:04 3 with lots of change management experience. So, you know,  
11:04 4 my --- this project will be led by him and Steve McCann. I will  
11:04 5 be providing assistance along the way with that plan, but that will  
11:04 6 be fundamentally Tony Weston's role. It might be an assessment  
11:04 7 that he makes now that he is with the business.

11:04 8

11:04 9 Q. Look, what you've identified is that what you bring to the  
11:04 10 role is your experience in reform and change, and Mr Weston is  
11:04 11 bringing his experience in leading reform and change. But as far  
11:04 12 as you are aware, there has been no assessment about the  
11:04 13 directors' capability to lead the reform and change that Crown  
11:04 14 needs to undergo?

11:04 15

11:04 16 A. Yes. I think the way I see it working is the directors need  
11:04 17 to set the direction and the strategy, and then Steve McCann, the  
11:05 18 new CEO, and Tony Weston and the rest of the leadership team,  
11:05 19 they are the ones responsible for delivering this in the business.

11:05 20

11:05 21 Q. Okay.

11:05 22

11:05 23 A. So in terms of the day-to-day experience of doing this  
11:05 24 work, it will be the new leadership team that Crown has  
11:05 25 appointed to deliver it.

11:05 26

11:05 27 Q. I see. So that is work for the future; is that right,  
11:05 28 Mr Weeks?

11:05 29

11:05 30 A. Well, as we've touched on, that work will be mapped out 16  
11:05 31 August, just over a month away.

11:05 32

11:05 33 Q. Thank you. Now, I just want to put a few propositions to  
11:05 34 you if I might, Mr Weeks.

11:05 35

11:05 36 When you joined Crown and you familiarised yourself with the  
11:05 37 organisation and you read the Bergin Report, you must have  
11:05 38 realised that some of the issues that had been explored in the  
11:05 39 ILGA Inquiry were historic issues like the China arrests issue;  
11:06 40 correct?

11:06 41

11:06 42 A. Yes.

11:06 43

11:06 44 Q. Then there were some issues that were more recent, such as  
11:06 45 the money laundering issues in 2019, bearing in mind that the  
11:06 46 inquiry commenced in 2019; correct?

11:06 47

11:06 1 A. Were those the Riverbank and Southbank matters?  
11:06 2  
11:06 3 Q. Yes.  
11:06 4  
11:06 5 A. Yes. Yes.  
11:06 6  
11:06 7 Q. And then there were issues that were being explored that  
11:06 8 were ongoing, they were the allegations and dealings with junket  
11:06 9 operators; correct?  
11:06 10  
11:06 11 A. Yes.  
11:06 12  
11:06 13 Q. I take it you turned your mind to how long each of the  
11:06 14 current directors have been with the organisation and whether it  
11:06 15 overlapped with any of those periods?  
11:06 16  
11:06 17 A. Certainly I had an awareness in broad terms how long each  
11:06 18 of the directors have been in the company, yes.  
11:06 19  
11:06 20 Q. If any of the current directors had been at Crown during  
11:06 21 a period of misconduct and they let Crown get like that, or they  
11:06 22 didn't prevent it, do you agree it would be reasonable to doubt  
11:07 23 whether they are capable of leading the reform and changes that  
11:07 24 Crown needs to undergo?  
11:07 25  
11:07 26 A. I wouldn't accept that proposition, I think you would need  
11:07 27 to look at the circumstances under which each of those things  
11:07 28 arose and the decision-making that allowed it to occur before you  
11:07 29 could make assessments about people.  
11:07 30  
11:07 31 Q. Do you think it would be reasonable to form the view that  
11:07 32 a person in that situation was not genuinely committed to true  
11:07 33 reform?  
11:07 34  
11:07 35 A. No, I don't, I don't accept that.  
11:07 36  
11:07 37 Q. Did you ask the directors, "How did you let it get like  
11:07 38 this?"?  
11:07 39  
11:07 40 A. When I was being interviewed for the job I didn't put that  
11:07 41 question to them and I haven't since.  
11:07 42  
11:07 43 Q. If it was the case that the culture issues that we've just  
11:07 44 discussed, the culture issues that you identified, the culture issues  
11:08 45 that Mr Barton identified to Ms Whitaker, if it was the case that  
11:08 46 those culture issues had been identified within the organisation at  
11:08 47 least two years prior to the engagement of Deloitte but the current

11:08 1 directors had not addressed them, do you think it would be  
11:08 2 reasonable to doubt whether they had a genuine commitment to  
11:08 3 turning things around?

11:08 4  
11:08 5 A. Yes, again, I think that is --- to me, a difficult binary  
11:08 6 question to answer in a binary way. I think you would need to  
11:08 7 understand how that information emerged in terms of those  
11:08 8 cultural problems, what responsibility the then senior leadership  
11:08 9 in the company had to address that themselves, before I could  
11:08 10 properly answer that.

11:08 11  
11:08 12 Q. Thank you. I want you to assume that past failings or  
11:09 13 cultural issues occurred because Crown engaged in risk-taking  
11:09 14 behaviour. Do you understand what I'm asking you to assume?

11:09 15  
11:09 16 A. Yes.

11:09 17  
11:09 18 Q. If risk-taking behaviour has continued and is continuing  
11:09 19 under the current watch of the current directors, do you think it is  
11:09 20 reasonable to doubt whether they have the capability and genuine  
11:09 21 commitment to turn things around?

11:09 22  
11:09 23 A. What I've observed since I joined in March is that there has  
11:09 24 been a very clear direction to the senior management at the  
11:09 25 company about what standards are expected. If those standards  
11:09 26 aren't being adhered to, I'm not sure that I would apportion  
11:09 27 responsibility to the directors. I think that would probably be  
11:09 28 responsibility that I would look to the senior management, who  
11:09 29 have been charged with that responsibility for.

11:09 30  
11:09 31 Q. You understand based on your training and interest in this  
11:10 32 area that an important part of leadership change is the ability for  
11:10 33 self-reflection, to look back and understand what mistakes you  
11:10 34 have made and take responsibility for them?

11:10 35  
11:10 36 A. Yes, absolutely.

11:10 37  
11:10 38 MS NESKOVICIN: Commissioner, I have nothing further for  
11:10 39 Mr Weeks.

11:10 40  
11:10 41

11:10 42 **QUESTIONS BY THE COMMISSIONER**

11:10 43

11:10 44

11:10 45 COMMISSIONER: I have a couple of questions, Mr Weeks, if  
11:10 46 that's okay.

11:10 47

- 11:10 1 Is it necessarily correct that if a company has been failing in its  
11:10 2 conduct, that is acting inappropriately and improperly, sometimes  
11:10 3 illegally, for a period of a decade or more, the Board must accept  
11:10 4 some responsibility for that?  
11:10 5
- 11:10 6 A. I think that if there is a pattern likely described for the  
11:11 7 period in which you described it, the Board as the governing body  
11:11 8 of that organisation needs to accept responsibility for that, yes.  
11:11 9
- 11:11 10 COMMISSIONER: Would you also accept this as a proposition:  
11:11 11 if there has been extensive misconduct over a period of time in  
11:11 12 a corporate organisation, then not only is the board responsible in  
11:11 13 a sort of "I'm the leader" sense, but maybe is the cause of the  
11:11 14 problem?  
11:11 15
- 11:11 16 A. I would be a bit hesitant to draw that conclusion. My  
11:11 17 experience working with boards is that, you know, the quality of  
11:11 18 their decision-making is often driven by the quality of  
11:11 19 information they are receiving and the people that are providing it  
11:11 20 to them. So there will be circumstances in which bad things  
11:12 21 happen at companies which are attributable to the executive and  
11:12 22 the information that has been provided.  
11:12 23
- 11:12 24 COMMISSIONER: Is that really to say that if I examine  
11:12 25 a corporation and look at its affairs and identify misconduct  
11:12 26 varying from moderately bad to very serious, let's say over  
11:12 27 a period of 10 years, it is okay to say that this is management's  
11:12 28 problem, or management caused and not the board? In other  
11:12 29 words ---  
11:12 30
- 11:12 31 A. Sorry, Commissioner, you are dropping out there. You are  
11:12 32 cutting in and out a bit. I'm sorry.  
11:12 33
- 11:12 34 COMMISSIONER: That's okay. Let me put it to you differently.  
11:12 35 Do you accept this as a proposition: that at some point in time, if  
11:12 36 there has been corporate misconduct for an extended period,  
11:13 37 varying from moderately bad to seriously bad, then at some point  
11:13 38 it becomes --- it's caused by some failings in the board, not proper  
11:13 39 oversight, not looking at what's going on, not showing up enough  
11:13 40 times, not paying attention, I don't know what it might be, but  
11:13 41 from my perspective, take it that I don't accept as a general  
11:13 42 proposition, you can have long-term misbehaviour at  
11:13 43 management level, including senior management level, and not  
11:13 44 hold the board accountable for it, otherwise I don't need a board  
11:13 45 in a company, they may as well not be there?  
11:13 46
- 11:13 47 A. Yes. Well, I mean, I think if you accept the proposition



11:13 1 that the effective management of risk at an organisation is one of  
11:13 2 key priorities of boards and conduct risk, being a subset of risk,  
11:14 3 has been managed very poorly within the organisation for a long  
11:14 4 period of time, then I think it is reasonable to say the board must  
11:14 5 accept responsibility for that. However, I think you would also  
11:14 6 just need to be careful to examine the factors that cause that, the  
11:14 7 role of management, the role of escalation of issues as well.

11:14 8

11:14 9 COMMISSIONER: And what about simply lack of oversight?

11:14 10

11:14 11 A. Yes, I think that that can be a factor that attributes  
11:14 12 responsibility of boards, where things go wrong, that they haven't  
11:14 13 been as inquisitive as they ought to have been.

11:14 14

11:14 15 COMMISSIONER: What responsibility do you attribute to the  
11:14 16 Board of Crown for the failings that you know about that have  
11:14 17 occurred in the last decade or so?

11:14 18

11:14 19 A. Well, I think it appears clear to me that some of the  
11:15 20 structural changes that are occurring in the organisation recently  
11:15 21 are changes that should have been made earlier. I do have,  
11:15 22 having read the Bergin Report and understanding some of the  
11:15 23 communications that were occurring in the company, particularly  
11:15 24 through CPH with different people, that I don't think the Board  
11:15 25 were aware of. So there was that influence there that had caused  
11:15 26 significant problems, which has now been severed. But I think  
11:15 27 that quite clearly, there are changes that the company is making  
11:15 28 now, that could have been made much earlier in the piece, and I  
11:15 29 expect the Board, having reflected upon that, would share that  
11:15 30 view.

11:15 31

11:15 32 COMMISSIONER: Thanks, Mr Weeks. Mr Rozen?

11:15 33

11:15 34 MR ROZEN: I note the time, Commissioner. I will be about 15  
11:16 35 minutes. Given it is a video link, it might be best to do that and  
11:16 36 then have the break. But I'm in your hands.

11:16 37

11:16 38 I don't know about others, of course.

11:16 39

11:16 40 COMMISSIONER: Does anyone want a break now or wait for  
11:16 41 15 minutes?

11:16 42

11:16 43 MR BORSKY: In case it is relevant, Commissioner, Mr McCann  
11:16 44 has been here waiting patiently for, I think, over an hour now. So  
11:16 45 if it is convenient to the Commission and Mr Weeks is content to  
11:16 46 continue, it might be best to sit on.

11:16 47

11:16 1 COMMISSIONER: Okay.

11:16 2

11:16 3 MR BORSKY: Thank you, Commissioner.

11:16 4

11:16 5

11:16 6 **CROSS-EXAMINATION BY MR ROZEN**

11:16 7

11:16 8

11:16 9 MR ROZEN: Mr Weeks, my name is Mr Rozen. I appear for the

11:16 10 VCGLR in this Royal Commission. Taking up briefly the

11:16 11 discussion you've just had with the Commissioner, when you

11:16 12 were asked a question about Board responsibility in relation to

11:16 13 misconduct at Crown, I understood that your answer, one of the

11:17 14 answers you gave was that it depends on information flows, that

11:17 15 is, were the Board --- was the Board kept informed about

11:17 16 developments by management. Did you say something along

11:17 17 those lines a few minutes ago?

11:17 18

11:17 19 A. Along those lines. And whether or not the information that

11:17 20 was provided to them at various times was accurate, painted a full

11:17 21 picture of what was occurring, yes.

11:17 22

11:17 23 Q. I want to suggest to you that that is a two-way street, isn't it,

11:17 24 that boards, especially of large organisations like Crown, can

11:17 25 influence information flows; they can indicate in various ways to

11:17 26 management what they want to know about and also what they

11:17 27 don't want to know about; do you agree with that?

11:17 28

11:17 29 A. I think that is a fair statement.

11:17 30

11:17 31 Q. And you would be familiar from your general experience

11:18 32 that bad news doesn't always travel up in organisations?

11:18 33

11:18 34 A. That is true, and I think there is a variety of reasons as to

11:18 35 why that occurs from time to time.

11:18 36

11:18 37 Q. Now, that's not what I wanted to ask you about. I wanted to

11:18 38 ask you about the relationship between Crown and the regulator.

11:18 39 It is a matter you touch on in your statement at page 9. Perhaps if

11:18 40 that could be brought up. Halfway down the page you say:

11:18 41

11:18 42 *An important area that reflects the Company's culture is*

11:18 43 *its engagement with regulators.*

11:18 44

11:18 45 Do you see that?

11:18 46

11:18 47 A. Yes, I do.

11:18 1

11:18 2 Q. You say:

11:18 3

11:18 4 *I have experience working with regulators and I believe it*

11:18 5 *is important to build cooperative relationships based on*

11:18 6 *openness and trust.*

11:18 7

11:19 8 You go on and say, not surprisingly, that you don't have any

11:19 9 firsthand knowledge with casino regulators, but you said earlier

11:19 10 in discussions with the directors you learnt that the relationship

11:19 11 had been poor, that was the word you used earlier; is that right,

11:19 12 Mr Weeks?

11:19 13

11:19 14 A. I think that was the word I used. It was those discussions

11:19 15 but also my reading of the Bergin Report as I was coming into

11:19 16 Crown, and some of the Bergin reports that the VCGLR

11:19 17 published once I was there.

11:19 18

11:19 19 Q. That's right. You said it was what you were told, as I

11:19 20 understood your evidence, was consistent with what you saw in

11:19 21 the Bergin Report and other things that you have read. You have

11:19 22 anticipated my next question, which was what were those other

11:19 23 things that you read which consolidated that view?

11:19 24

11:19 25 A. Yes. So I read the decision in relation --- or the section,

11:19 26 rather in relation to the VCGLR issue on the junket operations, so

11:20 27 the inadequate nature of controls on junkets, and I also read the

11:20 28 report on the China arrests. They were the two principal

11:20 29 documents that were Victorian regulator focused, in addition to

11:20 30 Bergin, that helped me form that view.

11:20 31

11:20 32 Q. Focusing on the first of those, particularly in relation to

11:20 33 junkets, would you agree with me that that is an important report

11:20 34 to the task you have for two reasons: firstly, because it gives you

11:20 35 some insight into the regulator's view about the substantive

11:20 36 matter, that is the inadequacy of controls in relation to junket

11:20 37 operations; you agree with that?

11:20 38

11:20 39 A. I do.

11:20 40

11:20 41 Q. It's important for a second reason, because it gives you

11:20 42 an insight, an up-to-the-minute real time insight, given the report

11:21 43 is dated April of this year, about the regulator's view of Crown's

11:21 44 relationship with it, at least in relation to senior management in

11:21 45 Melbourne. Do you agree with that?

11:21 46

11:21 47 A. Yes.

- 11:21 1  
11:21 2 Q. Perhaps if I can take you to one specific part of the report,  
11:21 3 VCG.0001.0002.6984, dated 27 April 2021. Firstly, in addition  
11:21 4 to the maximum fine of \$1 million being imposed under the  
11:21 5 Casino Control Act, there was an issue of censure to Crown; do  
11:21 6 you recall that, Mr Weeks?  
11:21 7  
11:21 8 A. Yes, I recall that.  
11:21 9  
11:21 10 Q. Perhaps we can go to the decision it's on page \_0002 of the  
11:21 11 document. One of the requirements imposed by the VCGLR you  
11:22 12 will see in 2b, halfway down the page that Crown was to:  
11:22 13  
11:22 14 *Provide the Commission with monthly reports on the*  
11:22 15 *progress of implementing the reform programs outline*  
11:22 16 *outlined in the Reform Agenda it identified to the*  
11:22 17 *Commission during the course of this matter .....*  
11:22 18  
11:22 19 A. Yes.  
11:22 20  
11:22 21 Q. That is the Remediation Plan, also referred to as the  
11:22 22 Remediation Plan, isn't it, that is --- you referred to earlier as you  
11:22 23 providing monthly updates to the VCGLR?  
11:22 24  
11:22 25 A. Yes, that's correct.  
11:22 26  
11:22 27 Q. So that is --- I think you are suggesting in your statement at  
11:22 28 page 9 that the provision of that document on a monthly basis  
11:22 29 updated to the VCGLR is part of the shift in approach by the  
11:23 30 company, but it is actually a requirement under the letter of  
11:23 31 censure, wouldn't you agree?  
11:23 32  
11:23 33 A. That is absolutely the case. I think I would point to some  
11:23 34 other things which aren't required that we've done with the  
11:23 35 VCGLR to point to that shift in the relationship but that is true,  
11:23 36 this is a requirement.  
11:23 37  
11:23 38 Q. Sure. In fairness to you, the other matters you point to are  
11:23 39 sharing the work of Deloitte in relation to financial crime and  
11:23 40 sharing the financial crime and compliance change plan, that is  
11:23 41 Mr Blackburn's plan, isn't it, that was approved?  
11:23 42  
11:23 43 A. Yes, it is.  
11:23 44  
11:23 45 Q. They are other matters. In fairness to you, Crown is not  
11:23 46 obliged to share those matters with the VCGLR, but it is not  
11:23 47 a difficult thing for Crown to do; would you agree with that?

11:23 1  
11:23 2 A. Well, it's not a difficult thing, but I have observed that just  
11:23 3 in my short time, the question now is should we provide this to  
11:24 4 our regulators on ---  
11:24 5  
11:24 6 Q. Yes.  
11:24 7  
11:24 8 A. --- a whole range of documents we are receiving. My  
11:24 9 perception, looking at matters and talking to people, is that wasn't  
11:24 10 historically the case in the company, so I have detected quite  
11:24 11 a significant shift in the company's posture with its regulators.  
11:24 12  
11:24 13 Q. Has it been drawn to your attention that not only has it not  
11:24 14 been the practice in the past but that in relation to the Sixth  
11:24 15 Review report there are several examples of the regulator having  
11:24 16 to ask, often on more than one occasion, for copies of reports that  
11:24 17 have been obtained by Crown? Is that something that has been  
11:24 18 drawn to your attention?  
11:24 19  
11:24 20 A. Certainly, I'm not sure whether it was from the Sixth  
11:24 21 Review or elsewhere, but it has been clear to me from discussions  
11:24 22 and from documents that I've read, that extracting relevant  
11:24 23 material from the company has been a challenge for the Victorian  
11:25 24 regulator historically.  
11:25 25  
11:25 26 Q. And that is something that you are seeking to address in the  
11:25 27 manner that you've described; is that right?  
11:25 28  
11:25 29 A. Well, I think more accurately the company is. So I think  
11:25 30 my discussions with Steven Blackburn, with Steve McCann and  
11:25 31 more broadly Xavier Walsh and others, that this is the way in  
11:25 32 which the company chooses to operate now.  
11:25 33  
11:25 34 Q. Understand. You would agree with me, wouldn't you,  
11:25 35 Mr Weeks, that provision of reports and attending meetings with  
11:25 36 a regulator whilst important, is relatively low hanging fruit in  
11:25 37 terms of improving the relationship?  
11:25 38  
11:25 39 A. That's fair, yes.  
11:25 40  
11:25 41 Q. What I'm getting at is it is when the regulator seeks to  
11:25 42 enforce the law and take enforcement action against a regulated  
11:25 43 entity, in this case Crown, that is the more pointy end of the  
11:26 44 relationship; is it not?  
11:26 45  
11:26 46 A. Yes, that's one of the pointy ends, I think that's right.  
11:26 47

11:26 1 Q. That's why I want to ask you about this disciplinary action  
 11:26 2 matter, and perhaps if we can go to page \_0067. You will recall  
 11:26 3 from your reading of this that the VCGLR report concludes with  
 11:26 4 a reference to two matters in closing. Do you recall reading that,  
 11:26 5 Mr Weeks?

11:26 6  
 11:26 7 A. Yes, if you take me to it, I'm sure it will trigger my  
 11:26 8 memory.

11:26 9  
 11:26 10 Q. Sure. You will see there at paragraph 263 the VCGLR  
 11:26 11 wrote:

11:26 12

11:26 13 *Finally, in closing, there are two additional matters that*  
 11:26 14 *the Commission considers appropriate to record as part*  
 11:26 15 *of these reasons.*

11:26 16

11:26 17 *264. In doing so, the Commission notes that these are not*  
 11:27 18 *matters that are strictly relevant to the Commission's*  
 11:27 19 *consideration of the outcome of this matter.*

11:27 20

11:27 21 *265. They are however matters that the Commission*  
 11:27 22 *considers it appropriate to formally record as part of*  
 11:27 23 *these confidential reasons, particularly having regard to*  
 11:27 24 *the nature of the regulatory relationship that the*  
 11:27 25 *Commission considers ought to exist between Crown and*  
 11:27 26 *the Commission.*

11:27 27

11:27 28 It is the first of them that I want to take you to. You will see at  
 11:27 29 paragraph 266 at the bottom of the page a reference to a meeting  
 11:27 30 just before Christmas last year between Ms Coonan, the Chair of  
 11:27 31 Crown's parent company, and others, meeting with senior officers  
 11:27 32 of the VCGLR, at which there was a presentation by Ms Coonan;  
 11:27 33 do you see that?

11:27 34

11:27 35 A. Yes, I see that. If the operator can expand that second  
 11:27 36 page now, it would be good. Yep. Okay.

11:27 37

11:27 38 Q. You will see there is a quote there from Ms Coonan. This  
 11:27 39 was a transcribed meeting and the quote is Ms Coonan saying:

11:27 40

11:28 41 *I think it is absolutely critical that we have lines of*  
 11:28 42 *communication open and that as we negotiate what I*  
 11:28 43 *would call perhaps some of our shortcomings we're able*  
 11:28 44 *to work through them together so that we do get a good*  
 11:28 45 *outcome.*

11:28 46

11:28 47 Then there is a reference to Mr Walsh, the Crown Melbourne

11:28 1 CEO, speaking at the presentation. Then if you can focus at  
11:28 2 paragraph 270, towards the bottom of that page, you will see the  
11:28 3 Commission regarded its view that:

11:28 4  
11:28 5 *The Commission considers it highly regrettable that, so*  
11:28 6 *soon after being given a presentation which included*  
11:28 7 *these specific statements from Ms Coonan and Mr Walsh,*  
11:28 8 *at the hearing before the Commission on 21 January 2021*  
11:28 9 *(and in the written submissions that were produced on 5*  
11:28 10 *February 2021), Crown would take an approach that was*  
11:28 11 *so clearly at odds with the matters that had been*  
11:28 12 *expressed at the meeting on 17 December 2020.*

11:28 13  
11:29 14 Finally, at the top of the following page, page 69 of the  
11:29 15 document, you will see the Commission recorded that:

11:29 16  
11:29 17 *The Commission had been hopeful, following the*  
11:29 18 *presentations from Ms Coonan and Mr Walsh, that*  
11:29 19 *a more cooperative approach would in fact be taken to*  
11:29 20 *regulation, commensurate with Crown's privileged*  
11:29 21 *position as both the sole holder of a casino licence in*  
11:29 22 *Victoria, and also, as a corporate citizen who enjoys*  
11:29 23 *(specifically insofar as the matters referred to in these*  
11:29 24 *confidential reasons are concerned) a degree of*  
11:29 25 *self-regulation as a result of the reforms that occurred in*  
11:29 26 *2004.*

11:29 27  
11:29 28 And then finally, and I apologise for this long reading, Mr  
11:29 29 Weeks:

11:29 30  
11:29 31 *The Commission considers this matter to have been*  
11:29 32 *Crown's first opportunity to have demonstrated by, by its*  
11:29 33 *deeds, that it had altered its previous approach to*  
11:29 34 *regulatory matters.*

11:29 35  
11:29 36 I heard you in evidence you gave earlier, Mr Weeks, refer to the  
11:29 37 importance of demonstrating through actions change in culture.  
11:30 38 Do you recall saying that earlier to Counsel Assisting?

11:30 39  
11:30 40 A. I don't recall it specifically, but it sounds like something  
11:30 41 that I would say.

11:30 42  
11:30 43 Q. It is a cliché, but of course actions speak louder than words,  
11:30 44 do they not?

11:30 45  
11:30 46 A. They do.

11:30 47

11:30 1 Q. Does this episode cause you concerns as an outsider that  
11:30 2 has recently come into the organisation about the commitment of  
11:30 3 senior officers at Crown to real change in the relationship with  
11:30 4 the VCGLR?

11:30 5  
11:30 6 A. Sorry, do the sections you've just taken me through cause  
11:30 7 me to question that, is that what you are asking?

11:30 8  
11:30 9 Q. Yes, do they raise concerns in your mind?

11:30 10  
11:30 11 A. Well, I think --- it is difficult for me to comment on those  
11:30 12 matters that you've taken me to in circumstances where I wasn't  
11:30 13 at those --- I wasn't even at the company in December or January  
11:31 14 when those meetings and engagements took place. So it is  
11:31 15 difficult to comment specifically for me on those matters. What  
11:31 16 I am very comfortable commenting on is what I've observed over  
11:31 17 the four months that I have been at the company, in my  
11:31 18 interactions with Mr Walsh and Ms Coonan and others at the  
11:31 19 company, and that is one in which they are --- they and the  
11:31 20 company, is determined to improve those relationships. So I  
11:31 21 recognise the comments that have been made in the judgment as  
11:31 22 being ones that the author of that judgment considered  
11:31 23 inconsistent, but it is difficult for me to speak to those specific  
11:31 24 matters. I'm much more comfortable speaking to what I have  
11:31 25 observed over the four months I've been at the company.

11:31 26  
11:31 27 Q. If I understand your evidence correctly, Mr Weeks, you are  
11:31 28 saying what you've heard Mr Walsh and others say has given you  
11:32 29 some comfort about their commitment to the change program?

11:32 30  
11:32 31 A. No, that's not what I meant to convey. What I meant to  
11:32 32 convey is what I've heard them say and what I've seen the  
11:32 33 company do. For example, the relationship with the regulator in  
11:32 34 NSW was very poor at the conclusion of the Bergin Inquiry and  
11:32 35 the report. But I have been working closely with that regulator  
11:32 36 now and the Executive Chairman, and that relationship has  
11:32 37 improved dramatically to the point where it is quite  
11:32 38 a collaborative one. Still work to do, but quite collaborative. So  
11:32 39 that type of interaction that I've witnessed gives me a high level  
11:32 40 of confidence about the bona fides of the Board and the company  
11:32 41 to improve its relationships with regulators, in addition to some  
11:32 42 of what you described as low hanging fruit in terms of provision  
11:32 43 of information and meetings, I've seen what I would describe as  
11:33 44 really material improvements in relationships, particularly up  
11:33 45 here in NSW.

11:33 46  
11:33 47 Q. I won't take you through the detail of this report,



11:33 1 Mr Weeks, and I don't need to because you have told us you have  
11:33 2 read it. You are not suggesting, are you, that the concerns that  
11:33 3 I've just read out to you are unfounded, are you?

11:33 4  
11:33 5 A. No. I'm not. I'm not questioning that at all.

11:33 6  
11:33 7 Q. And they represent the most recent, published view of the  
11:33 8 Victorian regulator in relation to its relationship with Crown, as  
11:33 9 the document says, the first opportunity Crown had to  
11:33 10 demonstrate its bona fides in a practical way, don't they?

11:33 11  
11:33 12 A. That's true. I think you mentioned that report was  
11:33 13 published in April, was it?

11:33 14  
11:33 15 Q. Yes. End of April.

11:33 16  
11:33 17 A. End of April. I commenced in March and the --- I was  
11:34 18 surprised when I read that report. I was surprised about the  
11:34 19 approach that the company had taken to the matters that it was ---  
11:34 20 that was the substance of the report, because it didn't reflect my  
11:34 21 observations of the approach the company was adopting.

11:34 22  
11:34 23 Q. So what is the Commission --- what is this Royal  
11:34 24 Commission to make of that, that apparent dichotomy between  
11:34 25 what you have been told the company is doing and what it  
11:34 26 actually did in relation to this matter?

11:34 27  
11:34 28 A. Well, I think --- your --- I've raised --- my experience with  
11:34 29 the company and its regulators is across regulators in NSW, in  
11:34 30 Victoria and in WA. The matter you are taking me to is in  
11:34 31 relation to a specific issue that involved the assessment of  
11:34 32 a potential breach of Crown's obligations under its regulatory  
11:34 33 obligations, and it was sanctioned for that. And I accept what the  
11:35 34 report says about the way that Crown approached that throughout  
11:35 35 that hearing. I'm not sure how long it went for before the  
11:35 36 decision was published in April. My observations through my  
11:35 37 dealings with Crown and regulators in NSW and Victoria since  
11:35 38 this report and WA have satisfied me that the approach of Crown  
11:35 39 currently is different to the one described in the report.

11:35 40  
11:35 41 Q. I don't want you to misunderstand the recency or lack of it  
11:35 42 in relation to these matters. What is being referred to is the  
11:35 43 conduct of Mr Walsh and others at a hearing in January of this  
11:35 44 year and in submissions that were filed in February of this year.  
11:35 45 You understand that?

11:35 46  
11:35 47 A. I understand that.

11:35 1  
11:35 2 Q. Have you had cause to speak to Mr Walsh about this matter  
11:35 3 since you've read this report?  
11:35 4  
11:35 5 A. I didn't speak to Mr Walsh. I have spoken to others in the  
11:36 6 organisation about it.  
11:36 7  
11:36 8 Q. Who have you spoken to?  
11:36 9  
11:36 10 A. I spoke to Rob Meade, who is one of the lawyers in our  
11:36 11 team, that I think is a very good quality young lawyer, to  
11:36 12 understand the rationale behind the approach that Crown took to  
11:36 13 the matters in this report.  
11:36 14  
11:36 15 Q. I'm sorry, I missed that last bit, Mr Weeks. Can I ask you  
11:36 16 to repeat what Mr Meade said to you?  
11:36 17  
11:36 18 A. I didn't actually say what he said to me. I said I spoke to  
11:36 19 him about the report to understand Crown's approach to this  
11:36 20 particular issue.  
11:36 21  
11:36 22 Q. I see. And what did you learn from that? What did  
11:36 23 Mr Meade say to you?  
11:36 24  
11:36 25 A. Well, I was interested in Rob's view because when I read  
11:36 26 the report, it seemed like a pretty comprehensive and clear  
11:37 27 decision in relation to the evidence available, and I was interested  
11:37 28 as to why Crown didn't accept some of the allegations that had  
11:37 29 been made by the VCGLR and he described an approach in  
11:37 30 which the company had formed a view and had some advice to  
11:37 31 suggest that, I think that it was on reasonable ground.  
11:37 32  
11:37 33 Q. Mr Meade was in fact one of the people providing that  
11:37 34 advice, wasn't he, when he was at MinterEllison?  
11:37 35  
11:37 36 A. I think MinterEllison were involved in this process, yes.  
11:37 37  
11:37 38 Q. Did Mr Meade say to you that in hindsight perhaps  
11:37 39 a different approach ought to have been taken?  
11:37 40  
11:37 41 A. What Rob said to me when I questioned him about it, he  
11:37 42 said words to the effect that that type of approach wasn't  
11:37 43 something that was discussed at the time. That is a more  
11:38 44 conciliatory approach in relation to some of the allegations.  
11:38 45 Perhaps I will rephrase that. When I say it wasn't discussed, it  
11:38 46 wasn't one that was adopted by the company at the time.  
11:38 47

11:38 1 Q. I see. But it was or it wasn't discussed, I'm not sure I  
11:38 2 understand that, Mr Weeks.

11:38 3

11:38 4 A. What I didn't want to suggest was that there was no  
11:38 5 discussion in the company, because I wasn't there. This was  
11:38 6 a relatively short conversation with Mr Meade. I said to him, in  
11:38 7 my experience, sometimes with a regulator when they've  
11:38 8 identified potential wrongdoing, it is appropriate to accept that as  
11:38 9 part of a company's ability to improve and move on, and he  
11:38 10 explained to me that at the time that wasn't the decision the  
11:38 11 company made. Not to say that it wasn't discussed as an option,  
11:38 12 but it wasn't the decision that was made during this process.

11:38 13

11:38 14 Q. Finally, Mr Weeks, what do you point to in support of your  
11:39 15 observation that subsequent to this, since the end of April this  
11:39 16 year, there is an improvement in the relationship between Crown  
11:39 17 and VCGLR? You say there is an improvement, don't you? Is  
11:39 18 that your evidence?

11:39 19

11:39 20 A. No, my evidence was that there has been an improvement  
11:39 21 in the relationship with the NSW regulator. My evidence would  
11:39 22 be that there has been an improved approach from Crown with  
11:39 23 respect to its regulator in the VCGLR, particularly in relation to  
11:39 24 the provision of information. Whether or not that has impacted  
11:39 25 the relationship materially is probably something that others  
11:39 26 would have a better assessment of, who have a closer, direct  
11:39 27 connection with that relationship, which I don't have.

11:39 28

11:39 29 MR ROZEN: I see. Thank you, Commissioner.

11:39 30

11:39 31 COMMISSIONER: Thank you very much.

11:40 32

11:40 33 MR GRAY: No questions from the State.

11:40 34

11:40 35 COMMISSIONER: Thanks, Mr Gray.

11:40 36

11:40 37 COMMISSIONER: Mr Borsky?

11:40 38

11:40 39

11:40 40 **RE-EXAMINATION BY MR BORSKY**

11:40 41

11:40 42

11:40 43 MR BORSKY: Mr Weeks, you were asked some questions about  
11:40 44 the Commissioner about the importance of holding the board  
11:40 45 responsible for Crown's failings. You recall those questions?

11:40 46

11:40 47 A. Yes, I do.

11:40 1  
11:40 2 Q. You are aware, I take it, that eight former directors of  
11:40 3 Crown have left the Board in recent months?  
11:40 4  
11:40 5 A. I'm aware of that.  
11:40 6  
11:40 7 Q. And you are aware that within those eight departures were  
11:40 8 all of the CPH nominee directors?  
11:41 9  
11:41 10 A. Yes, I'm aware of that.  
11:41 11  
11:41 12 Q. You've given evidence that you read the Bergin Report?  
11:41 13  
11:41 14 A. Yes.  
11:41 15  
11:41 16 Q. Commissioner Bergin expressed views and made findings,  
11:41 17 did she not, as to the responsibility of some of the then directors  
11:41 18 for the failings by Crown?  
11:41 19  
11:41 20 A. Yes, she did.  
11:41 21  
11:41 22 Q. Did you see, in your review of the Bergin Report, any  
11:41 23 criticisms of the oversight or direction of any of the directors left  
11:41 24 on the Crown Board to lead the reform efforts?  
11:41 25  
11:41 26 A. I don't recall seeing any of that criticism.  
11:41 27  
11:41 28 Q. To be clear about it, I'm meaning in my question to refer to  
11:41 29 Ms Coonan, presently the Executive Chair, Ms Korsanos and  
11:41 30 Ms Halton. Do you understand?  
11:41 31  
11:41 32 A. I understand, yes.  
11:41 33  
11:42 34 Q. And obviously no criticisms were made by Commissioner  
11:42 35 Bergin of any of the new directors, Mr Carter or Mr Morrison or  
11:42 36 any of the new senior executives that have been brought in  
11:42 37 post-Bergin to try and lead the reform program?  
11:42 38  
11:42 39 A. Yes, that's correct.  
11:42 40  
11:42 41 Q. In answer to questions from Counsel Assisting, you gave  
11:42 42 evidence that you've heard the current directors --- (audio  
11:42 43 interruption).  
11:42 44  
11:42 45 I will put that again, Mr Weeks --- perhaps I will wait a moment.  
11:42 46 (Pause)  
11:42 47

11:42 1 COMMISSIONER: Try again.  
11:43 2  
11:43 3 MR BORSKY: Mr Weeks, in answer to questions from  
11:43 4 Counsel Assisting, you gave evidence that you have heard the  
11:43 5 current directors of Crown acknowledge and accept that there  
11:43 6 were failings at Crown; do you recall giving that evidence?  
11:43 7  
11:43 8 Sorry, Mr Weeks, you have been muted for some reason. I will  
11:43 9 wait again.  
11:43 10  
11:43 11 COMMISSIONER: We have a problem again.  
11:43 12  
11:43 13 A. Is that better?  
11:43 14  
11:43 15 MR BORSKY: That's much better.  
11:43 16  
11:43 17 A. Okay, good.  
11:43 18  
11:43 19 COMMISSIONER: Third go.  
11:43 20  
11:43 21 MR BORSKY: Mr Weeks, in answer to questions from Counsel  
11:43 22 Assisting, you gave evidence that you have heard the current  
11:43 23 directors acknowledge and accept that there were failings at  
11:43 24 Crown; do you recall giving that evidence?  
11:43 25  
11:43 26 A. I do.  
11:43 27  
11:44 28 Q. More specifically, have you heard from any of the current  
11:44 29 directors or other senior leaders at Crown any reflections on  
11:44 30 Crown's approach to the Bergin Inquiry and to its dealings with  
11:44 31 regulators more broadly in that era before you joined the  
11:44 32 company?  
11:44 33  
11:44 34 A. Yes, I have. I think some of those discussions commenced  
11:44 35 even in my discussions about joining the company, but certainly  
11:44 36 once I joined became much more fulsome. They described to me  
11:44 37 an approach in the Bergin Inquiry which was a combative  
11:44 38 approach, I think I would describe it, with the regulator and with  
11:44 39 that inquiry. And with the benefit of hindsight, they accepted that  
11:44 40 that was the wrong approach in terms of engaging with an inquiry  
11:44 41 of that nature, but also the wrong approach with regulators  
11:45 42 generally. I received a consistent direction from the Board to  
11:45 43 management, since I commenced in early March, in preparation  
11:45 44 for engagement with this Royal Commission and the Royal  
11:45 45 Commission in WA, that the company should be as cooperative  
11:45 46 as it can be with these two Commissions.  
11:45 47

11:45 1 COMMISSIONER: That really invites a question from me. Is  
11:45 2 that attitude borne of the approach in the ILGA Inquiry backfired,  
11:45 3 it didn't work, and when it doesn't work, you have to move on and  
11:45 4 try another approach? It doesn't tell me anything about any  
11:45 5 change in culture. If you have a go at something and it is  
11:45 6 a failure, then you have a go at something else.

11:45 7  
11:45 8 A. Yes, I didn't take it that way, Commissioner. I accept that  
11:45 9 that might be open for people to take it that way, but the way I  
11:46 10 took it was that the Board which was, at that point, only three  
11:46 11 directors who were really in charge of the Board at that stage  
11:46 12 after a number of directors had stood down, had a much greater  
11:46 13 control over how it should be handled, and they had made  
11:46 14 a determination that this was the right way of handling it.

11:46 15  
11:46 16 COMMISSIONER: Okay.

11:46 17  
11:46 18 MR BORSKY: Mr Weeks, you've given answers in evidence to  
11:46 19 questions from Counsel Assisting and also from Mr Rozen about  
11:46 20 Crown's relationship with its regulators. Do you in your role at  
11:46 21 Crown personally deal with the NSW regulator ILGA, and any  
11:46 22 other of the State regulators?

11:46 23  
11:46 24 A. Yes, my relationship --- my personal relationship has been  
11:46 25 primarily with ILGA because the work we are doing with them  
11:46 26 and Kroll is around our Remediation Plan. So I would have  
11:47 27 certainly weekly dialogue with Kroll and probably every week or  
11:47 28 second week with the regulator in NSW. I don't have that close  
11:47 29 personal relationship with regulators in Victoria or WA. Others  
11:47 30 are managing those relationships.

11:47 31  
11:47 32 Q. In terms of the NSW regulator then, ILGA, what have you  
11:47 33 heard from representatives of that regulator about their  
11:47 34 perceptions of the current state of the relationship between  
11:47 35 Crown and its regulator?

11:47 36  
11:47 37 A. I've had a number of discussions that have been quite  
11:47 38 pointed and directly in relation to that. They have been that the  
11:47 39 relationship now is night and day compared to what it was pre  
11:47 40 and immediately post-Bergin, and the people I've spoken to at  
11:48 41 ILGA, on the Board of ILGA, have attributed that in large part to  
11:48 42 the departure of former executives of the company that used to  
11:48 43 manage that relationship, and the fact that the Board, in particular  
11:48 44 the Executive Chairman, has taken responsibility for that  
11:48 45 relationship post-Bergin. And now, as we get into the nuts and  
11:48 46 bolts of our reform program, people like myself, Steven  
11:48 47 Blackburn and now Steve McCann as he's joined the company,

11:48 1 will get much more closely involved in that relationship as we  
11:48 2 build it.

11:48 3

11:48 4 Q. More generally, Mr Weeks, how have your observations of  
11:48 5 the culture within Crown since you joined, compared to the  
11:48 6 culture that you read and heard about in the Bergin Report and  
11:48 7 through the Bergin Inquiry?

11:48 8

11:48 9 A. Certainly we touched on that, the way in which the  
11:49 10 company has approached its regulators. That was a theme in the  
11:49 11 Bergin Report that that was a combative posture, and I haven't  
11:49 12 detected that at all, I've detected the opposite of that.

11:49 13

11:49 14 I've also detected, as I have mentioned, a clear direction to  
11:49 15 management to cooperate, be as open as possible with these  
11:49 16 Commissions of Inquiries and our regulators. I'm not as plugged  
11:49 17 into the operational aspects of the business because of my role,  
11:49 18 but they are the principal observations I've made, perhaps in  
11:49 19 addition to the fact that I have observed, as a new person in the  
11:49 20 organisation, quite a caring approach from Crown and its board  
11:49 21 and senior management to employees across the group. And I've  
11:49 22 seen that in the way the company has tried as best it can to look  
11:50 23 out for people during this process, which is quite a stressful  
11:50 24 process for many people at different levels of the organisation,  
11:50 25 but also the way in which the company has responded to a rolling  
11:50 26 set of shutdowns in its operations and the way in which it has  
11:50 27 looked after employees through those processes.

11:50 28

11:50 29 So, you know, I found the culture that I've experienced to be  
11:50 30 an open one and one quite different to what I've read in the  
11:50 31 reports.

11:50 32

11:50 33 Q. Finally, Mr Weeks, why do you say that this Commission  
11:50 34 could have any confidence that Crown will stay the course on  
11:50 35 culture reform rather than just going back to its old ways after  
11:50 36 this Commission and perhaps other inquiries have concluded?

11:50 37

11:50 38 A. Yes, I mean my own assessment is there is a range of  
11:50 39 factors that could give the Commission that comfort, one of  
11:51 40 which is the quality of people that have come into the  
11:51 41 organisation. My assessment of those people has been that they  
11:51 42 are particularly strong. I have spent a lot of time with Steven  
11:51 43 Blackburn over the short period of time I've been there, and I'm  
11:51 44 particularly impressed with his strength of leadership. My early  
11:51 45 insights into Steve McCann has been very positive, as someone  
11:51 46 with a long corporate track record who won't compromise his  
11:51 47 reputation in a role like this. So I think the people that have

11:51 1 come into it, the systems and structure that have been built and  
11:51 2 then the piece of work that we are focused very much on now is  
11:51 3 the culture. And so I'm confident that the company will move the  
11:51 4 culture to one in which the type of conduct that has been  
11:51 5 observed in the company historically won't be acceptable in the  
11:51 6 company. That's my assessment.

11:51 7

11:52 8 MR ROZEN: As the Commission pleases.

11:52 9

11:52 10

11:52 11 **FURTHER QUESTIONS BY THE COMMISSIONER**

11:52 12

11:52 13

11:52 14 COMMISSIONER: I've got two questions, just to finish off. My  
11:52 15 first question is when I go back to the Board --- and when I refer  
11:52 16 to the Board, I mean every member of the board, not just some of  
11:52 17 them --- is it possible that what we know from Bergin and what  
11:52 18 we've seen here about what the company has done, is it possible  
11:52 19 that that could have happened if there had have been proper  
11:52 20 oversight by the Board?

11:52 21

11:52 22 A. Well, I think there are aspects of what has occurred that the  
11:52 23 Board legitimately would have had no insight into, and I think  
11:53 24 that that's something that does happen in companies where  
11:53 25 a Board that operates at a high level as non-executive directors  
11:53 26 does not have the visibility about the day-to-day operations of the  
11:53 27 business. Now, one of the things the Commission has identified,  
11:53 28 and the Bergin Report, is there has been a large number of those  
11:53 29 things that have occurred in the business.

11:53 30

11:53 31 COMMISSIONER: Over a long period of time?

11:53 32

11:53 33 A. Over a long period of time, that's correct. I do think the  
11:53 34 point that has been made is there has been accountability in the  
11:53 35 Board level in the sense that eight directors have stood down.  
11:53 36 My observations are with the new Board who have a greater level  
11:53 37 of control and influence over decisions that are made, are  
11:53 38 approaching things differently than I've read.

11:53 39

11:53 40 COMMISSIONER: My question was about the Board over the  
11:54 41 last 10 years, and I used the word "board", I tried to make it clear  
11:54 42 I was talking about the whole Board, not just some of them, not  
11:54 43 just those who might have been appointed by a major  
11:54 44 shareholder. I'm trying to work out whether it is conceivable that  
11:54 45 what has happened over the last decade, and probably a lot  
11:54 46 longer, would have been possible had there been proper oversight  
11:54 47 by the Board.



11:54 1  
11:54 2 A. Is it possible? If the oversight had have been better and  
11:54 3 more effective, then I think prospects of the breadth of issues that  
11:54 4 have been identified here and in Bergin would not have been as  
11:54 5 great, would be my assessment. But to then say that there would  
11:54 6 have been none of those issues, I think that is probably ---  
11:54 7  
11:54 8 COMMISSIONER: I didn't say none of those issues ---  
11:54 9  
11:54 10 A. No, no, I accept that.  
11:54 11  
11:54 12 COMMISSIONER: My second question is, what confidence can  
11:55 13 anybody have about the future when the spotlight is turned off?  
11:55 14  
11:55 15 A. Well, in my experience in life the quality of people in  
11:55 16 organisations are key, and if you have people in organisations that  
11:55 17 care about their reputation, that have strong ethical grounding,  
11:55 18 that understand their role and exercise good judgment, that is  
11:55 19 a very good starting point. I think the company hasn't had that  
11:55 20 historically, but I think it has it now. So I think you get a lot of  
11:55 21 comfort from that.  
11:55 22  
11:55 23 That will not guarantee you success. Those people need to build  
11:55 24 the systems and processes in the company to ensure that issues  
11:55 25 that have emerged in the past don't occur, so they get elevated  
11:55 26 and dealt with earlier.  
11:55 27  
11:55 28 Then, thirdly, I think the cultural change such that when people  
11:56 29 come into the organisation, they are new to it, they get their  
11:56 30 formal induction and the rest of those documents, but when they  
11:56 31 get on to the gaming room floor or the hotels or bars or back  
11:56 32 offices, there is a culture which is clear about what standards are  
11:56 33 accepted and what aren't. And that's the piece of work that  
11:56 34 I think the new CEO will lead. There is a real commitment to  
11:56 35 deliver and I think it will be delivered. So they are the things I  
11:56 36 would point to.  
11:56 37  
11:56 38 COMMISSIONER: Thanks very much, Mr Weeks.  
11:56 39  
11:56 40 MS NESKOVICIN: Thank you, Mr Weeks. If Mr Weeks could  
11:56 41 be excused?  
11:56 42  
11:56 43 COMMISSIONER: He can be excused. Thank you.  
44  
45  
46 **THE WITNESS WITHDREW**  
47

1  
11:56 2 COMMISSIONER: Timing. How are we going to do this?  
11:56 3  
11:56 4 MS NESKOVCIN: We need a short break to change the  
11:56 5 configuration of the room, and Ms O'Sullivan will take the next  
11:56 6 witness, which is Mr McCann.  
11:56 7  
11:56 8 COMMISSIONER: Time estimates? Say we come back at 10  
11:57 9 past, I'm trying to work out when we break for a meal or  
11:57 10 whatever.  
11:57 11  
11:57 12 MS O'SULLIVAN: Certainly depending on, well, on the basis  
11:57 13 that it might take about 10 or 15 minutes (inaudible) I will  
11:57 14 certainly go at least up until lunch --  
11:57 15  
11:57 16 COMMISSIONER: Sure.  
11:57 17  
11:57 18 MS O'SULLIVAN: --- and potentially over lunch as well.  
11:57 19  
11:57 20 COMMISSIONER: Or we can have the lunch break a bit later.  
11:57 21 We'll see how we go. We'll take a break.  
11:57 22  
11:57 23  
11:57 24 **ADJOURNED** [11.57AM]  
12:17 25  
12:17 26  
12:17 27 **RESUMED** [12.17PM]  
12:17 28  
12:17 29  
12:17 30 **MR STEPHEN BARRY MCCANN, AFFIRMED**  
12:17 31  
32  
33 **EXAMINATION-IN-CHIEF BY MS O'SULLIVAN**  
34  
35  
36 COMMISSIONER: Thank you.  
37  
12:17 38 MS O'SULLIVAN: Thank you, Mr McCann. Can you please  
12:17 39 state your full name and business address for the Commission?  
12:17 40  
12:17 41 A. Stephen Barry McCann. 8 Whiteman Street, Southbank.  
12:17 42  
12:18 43 Q. And your occupation?  
12:18 44  
12:18 45 A. CEO of Crown Resorts and Managing Director pending  
12:18 46 probity.  
12:18 47

12:18 1 Q. I see. You appear today pursuant to a Notice to Attend  
12:18 2 issued by the Royal Commission; is that right?

12:18 3

12:18 4 A. I do.

12:18 5

12:18 6 Q. You have prepared a written witness statement dated 15  
12:18 7 June 2021; is that right?

12:18 8

12:18 9 A. I have.

12:18 10

12:18 11 Q. What I can see in front of you, is that a copy of your  
12:18 12 witness statement?

12:18 13

12:18 14 A. Yes, it is.

12:18 15

12:18 16 Q. Thank you, operator.

12:18 17

12:18 18 Mr McCann, is that statement true and correct to the best of your  
12:18 19 knowledge?

12:18 20

12:18 21 A. Yes, it is.

12:18 22

12:18 23 MS O'SULLIVAN: I tender the statement, Commissioner.

12:18 24

12:18 25 COMMISSIONER: Statement of Steve McCann, 15 June 2021,  
12:18 26 Exhibit 422.

12:18 27

28

29

**EXHIBIT #RC0422 - STATEMENT OF MR STEPHEN  
BARRY MCCANN DATED 15 JUNE 2021**

30

31

32

12:18 33 MS O'SULLIVAN: Mr McCann, I just want to start by asking  
12:18 34 you some questions about your background, qualifications and  
12:18 35 experience.

12:19 36

12:19 37 It is the case, is it not, that immediately prior to taking on your  
12:19 38 role at Crown, you were the Group CEO and Managing Director  
12:19 39 of Lendlease; is that right?

12:19 40

12:19 41 A. Yes, that is right.

12:19 42

12:19 43 Q. That is a role you held for approximately 12 years; is that  
12:19 44 right?

12:19 45

12:19 46 A. That's correct.

12:19 47

12:19 1 Q. Prior to being CEO your roles at Lendlease included roles  
12:19 2 in finance and investment and included the role of Chief  
12:19 3 Financial Officer; is that right?

12:19 4  
12:19 5 A. That's correct.

12:19 6  
12:19 7 Q. Overall, you worked for Lendlease for approximately 15 to  
12:19 8 16 years; is that right?

12:19 9  
12:19 10 A. That's correct.

12:19 11  
12:19 12 Q. Prior to working for Lendlease you worked in equity and  
12:19 13 capital markets for and amongst others, ABN AMRO; is that  
12:19 14 right?

12:19 15  
12:19 16 A. That's right.

12:19 17  
12:19 18 Q. You had worked as an M&A lawyer at the start of your  
12:19 19 career; is that right?

12:19 20  
12:19 21 A. That's right.

12:19 22  
12:19 23 Q. You have a Bachelor of Laws and a Bachelor of Economics  
12:19 24 majoring in finance; is that right?

12:19 25  
12:19 26 A. That's right.

12:19 27  
12:19 28 Q. Just a couple of questions about Lendlease, it is the case  
12:20 29 that Lendlease is listed on the ASX, and I think you said it has  
12:20 30 a market capitalisation of approximately \$9 billion; is that right?

12:20 31  
12:20 32 A. About that, yes.

12:20 33  
12:20 34 Q. Lendlease employs approximately 13,000 staff in 11  
12:20 35 countries, is that right?

12:20 36  
12:20 37 A. It did. The number is coming down because of the sale of  
12:20 38 a couple of businesses, but yes, 13,000 for most of the time when  
12:20 39 I was CEO.

12:20 40  
12:20 41 Q. Lendlease's core business is property development,  
12:20 42 construction and managing investments; is that right?

12:20 43  
12:20 44 A. That's correct.

12:20 45  
12:20 46 Q. If I can just ask a couple of questions about the matters  
12:20 47 you've included in your curriculum vitae.

12:20 1  
12:20 2 Operator, can we go to page ending 472 in this document. Mr  
12:21 3 McCann, you can follow on the screen or you are welcome to  
12:21 4 look at the hard copy in front of you. You have there a career  
12:21 5 summary that you've set out there. Is it the case that each of your,  
12:21 6 what you call the C-suite roles, each of your C-suite roles were at  
12:21 7 Lendlease?  
12:21 8  
12:21 9 A. That's correct, yes.  
12:21 10  
12:21 11 Q. If we can go over the page to page 0473, Mr McCann,  
12:21 12 you've set out a number of bullet points which I understand relate  
12:21 13 to your professional experience. I have a couple of questions  
12:21 14 about some of them. I see in particular at the third bullet point  
12:21 15 you set out some financial statistics, essentially, some figures.  
12:21 16 Can I ask, are they figures that relate to Lendlease's global  
12:21 17 business or just the Australian part of the business?  
12:21 18  
12:21 19 A. The global business.  
12:21 20  
12:22 21 Q. If we can go over the page, operator, to page ending 0474.  
12:22 22  
12:22 23 Mr McCann, I will draw your attention to the third bullet point  
12:22 24 starting with the word, "Achieved". You set out there some data  
12:22 25 essentially about safety, and I see in particular you've set out  
12:22 26 some information about the fatality rate and reductions of the  
12:22 27 fatality rate that occurred whilst you were at Lendlease. Same  
12:22 28 question as before: are they statistics that relate to Lendlease's  
12:22 29 global business or just the Australian part of the business?  
12:22 30  
12:22 31 A. The global business.  
12:22 32  
12:22 33 Q. Thank you.  
12:22 34  
12:22 35 You can take that down, thank you, operator.  
12:22 36  
12:22 37 Mr McCann, generally speaking, is it the case that prior to  
12:22 38 starting work at Crown you've had no prior experience in the  
12:22 39 casino sector?  
12:22 40  
12:22 41 A. That's correct.  
12:22 42  
12:22 43 Q. But in respect of gambling sector more broadly, is it the  
12:23 44 case you have had some experience; I understand you worked for  
12:23 45 a bookie as you supported yourself through university; is that  
12:23 46 right?  
12:23 47

12:23 1 A. That's right.

12:23 2

12:23 3 Q. And other than working for the bookie whilst you were at  
12:23 4 uni, can you tell the Commission whether you have any other  
12:23 5 experience in the gambling industry generally?

12:23 6

12:23 7 A. No, I don't.

12:23 8

12:23 9 Q. Other than things you might have learnt, say, in the past  
12:23 10 month or experiences you've had in the past month, can you tell  
12:23 11 us whether you have any background or experience in the  
12:23 12 Responsible Service of Gaming?

12:23 13

12:23 14 A. No.

12:23 15

12:23 16 Q. Now I want to ask the same question, really, about  
12:23 17 anti-money laundering. Can you tell the Commission what  
12:23 18 background or experience, if any, you have in anti-money  
12:23 19 laundering?

12:23 20

12:23 21 A. Direct experience, none. Knowledge formed from reading  
12:23 22 quite a lot before I joined, I would say quite a bit, and increasing  
12:24 23 rapidly.

12:24 24

12:24 25 Q. Okay. So direct experience, none, before you started to do  
12:24 26 reading for taking on the role of CEO; is that right?

12:24 27

12:24 28 A. That's correct.

12:24 29

12:24 30 Q. Is it right that since you've started as CEO you have started  
12:24 31 to gain some basic knowledge and understanding of anti-money  
12:24 32 laundering regulation and procedures; is that right?

12:24 33

12:24 34 A. I would suggest far more than basic.

12:24 35

12:24 36 Q. I see. Thank you.

12:24 37

12:24 38 You have attached to your witness statement a position  
12:24 39 description for the Crown Resorts CEO position. I noticed that  
12:24 40 the position description specifies Melbourne as the location for  
12:24 41 the role. I can see you are in Melbourne today but is it the case  
12:24 42 that you are presently living in Sydney; is that right?

12:24 43

12:24 44 A. Yes, my family lives in Sydney but I committed to the  
12:24 45 Board that I would spend at least 50 per cent of my time in  
12:24 46 Melbourne. As it happens, it has been a lot more than that so far.

12:24 47

- 12:25 1 Q. Yes. In part that might have been border closures which  
12:25 2 contributed to that?  
12:25 3
- 12:25 4 A. Actually, that's not correct. My family was with me two  
12:25 5 weeks ago and I was due to return with them. They've returned  
12:25 6 to Sydney, I've stayed in Melbourne.  
12:25 7
- 12:25 8 Q. Is it your long-term plan to remain based in Sydney but to  
12:25 9 travel to Melbourne for the purposes of the role approximately  
12:25 10 50 per cent of the time, is that right?  
12:25 11
- 12:25 12 A. At least 50 per cent of the time, yes.  
12:25 13
- 12:25 14 Q. I see. In terms of you taking on the role, is it right that you  
12:25 15 were first approached about the role in approximately February  
12:25 16 2021?  
12:25 17
- 12:25 18 A. That's correct.  
12:25 19
- 12:25 20 Q. Over the course of the next couple of months, you explored  
12:25 21 the possibility of joining Crown Resorts as the new CEO; is that  
12:25 22 right?  
12:25 23
- 12:25 24 A. Yes.  
12:25 25
- 12:25 26 Q. Your recruitment as CEO was announced on 10 May 2021;  
12:25 27 is that right?  
12:25 28
- 12:25 29 A. That's right.  
12:25 30
- 12:25 31 Q. Shortly thereafter, in fact, on 16 May 2021 you signed  
12:26 32 a formal contract of employment with Crown Resorts; is that  
12:26 33 right?  
12:26 34
- 12:26 35 A. I thought that I had signed that on the day of the  
12:26 36 announcement or the evening before the announcement.  
12:26 37
- 12:26 38 Q. Operator, can we bring up Mr McCann's witness statement  
12:26 39 again, CRW.998.001.0459. Can we go to page 0463. Mr  
12:26 40 McCann, I am going to draw your attention to paragraph 21. You  
12:26 41 said that at the end of paragraph 21 that you ultimately --- sorry,  
12:26 42 that discussions ultimately culminated in a formal contract of  
12:26 43 employment which you signed on 16 May 2021. Just  
12:26 44 checking ---  
12:26 45
- 12:26 46 A. Sorry, that may be an error. Certainly my recollection was  
12:27 47 it was signed the night before the ASX announcement.

12:27 1  
12:27 2 Q. The night before the? Sorry, I didn't catch the last ---  
12:27 3  
12:27 4 A. The night before Crown announced it to the ASX.  
12:27 5  
12:27 6 Q. And you agree that Crown did announce it to the ASX on  
12:27 7 10 May?  
12:27 8  
12:27 9 A. That is my recollection, yes. I checked that earlier this  
12:27 10 morning.  
12:27 11  
12:27 12 Q. Thank you. Is it the case that your last day of work at  
12:27 13 Lendlease was 31 May 2021?  
12:27 14  
12:27 15 A. Yes.  
12:27 16  
12:27 17 Q. So you started at work the very next day on 1 June 2021; is  
12:27 18 that right?  
12:27 19  
12:27 20 A. I did.  
12:27 21  
12:27 22 Q. Is it the case that whilst you started work at Crown on 1  
12:27 23 June 2021 you didn't start in the role of CEO?  
12:28 24  
12:28 25 A. I can't act as Managing Director until I achieve probity.  
12:28 26 And my understanding as well, as CEO, my role, essentially there  
12:28 27 is a condition subsequent, which is to achieve probity, and up  
12:28 28 until that point in time I can provide advice and recommendations  
12:28 29 to the Board but I can't bind the company in decisions.  
12:28 30  
12:28 31 Q. I see. This is not quite what I asked. What I asked was, is  
12:28 32 it the case that when you started work at Crown on 1 June 2021,  
12:28 33 you didn't start in the role of CEO? Your answer to me started  
12:28 34 off being about the Managing Director, but I want to for the  
12:28 35 moment talk about the role of CEO. As I understand it, when you  
12:28 36 started work on 1 June you didn't start in the role of CEO; is that  
12:28 37 right?  
12:28 38  
12:29 39 A. As I think I said, I did commence for all practical purposes  
12:29 40 in the role of CEO. However, because of probity restrictions I  
12:29 41 can't bind the company in decisions. Certainly, I didn't start in  
12:29 42 another role.  
12:29 43  
12:29 44 Q. I see. You didn't start in another role?  
12:29 45  
12:29 46 A. No.  
12:29 47



12:29 1 Q. I see. So just to understand the kind of succession and how  
12:29 2 it worked, you understand that Ken Barton was formerly the  
12:29 3 CEO; is that right?

12:29 4

12:29 5 A. Yes.

12:29 6

12:29 7 Q. And that when he departed, Ms Coonan took on essentially  
12:29 8 the role of CEO under the moniker of Executive Chairman; is  
12:29 9 that right?

12:29 10

12:29 11 A. She took on the role of Executive Chairman.

12:29 12

12:29 13 Q. Did that essentially involve performing the duties that  
12:29 14 would otherwise be performed as of CEO because there was no  
12:29 15 CEO at that point?

12:29 16

12:29 17 A. Effectively, yes.

12:29 18

12:29 19 Q. Is it the case that Ms Coonan continues to perform that role,  
12:30 20 notwithstanding you have started work at Crown?

12:30 21

12:30 22 A. Yes.

12:30 23

12:30 24 Q. I'm wanting to understand precisely what it is you are doing  
12:30 25 as you await what you've called probity approval. Can I ask you  
12:30 26 to look at this document.

12:30 27

12:30 28 Operator, can we bring up COM.0001.0029.0004.

12:30 29

12:30 30 You can see, Mr McCann, that this is an ASX and media release  
12:30 31 dated 10 May 2021 referring to the appointment of the Chief  
12:30 32 Executive Officer and Managing Director, and you can see  
12:30 33 obviously it is referring to you in the first couple of paragraphs. I  
12:30 34 just wanted to draw your attention to the third paragraph, and  
12:31 35 there you can see it says --- it starts off by describing your  
12:31 36 delayed retirement from Lendlease and it says that you will retire  
12:31 37 from the board of Lendlease on 31 May 2021. Can you see the  
12:31 38 part I'm referring to, Mr McCann?

12:31 39

12:31 40 A. Yes.

12:31 41

12:31 42 Q. It goes on to say:

12:31 43

12:31 44 *Mr McCann will join Crown effective 1 June 2021 and*  
12:31 45 *will assume the role of Chief Executive Officer and*  
12:31 46 *Managing Director upon receipt of all probity and*  
12:31 47 *regulatory approvals.*

12:31 1  
12:31 2 It is right, is it not, that --- you have not received all probity and  
12:31 3 regulatory approvals yet; that's the case, is it not?  
12:31 4  
12:31 5 A. Yes.  
12:31 6  
12:31 7 Q. So --- but do you say you have nonetheless assumed the  
12:31 8 role of Chief Executive Officer?  
12:31 9  
12:31 10 A. For practical purposes, yes, but as I said, I cannot bind the  
12:31 11 company.  
12:31 12  
12:32 13 Q. So is that the only distinction that you see, that you are  
12:32 14 essentially performing the role but you can't bind the company; is  
12:32 15 that the only distinction you see?  
12:32 16  
12:32 17 A. I can't bind the company and, therefore, decisions that do  
12:32 18 bind the company need to be made by the Executive Chairman  
12:32 19 and/or the Board. So I can make recommendations to the  
12:32 20 Executive Chairman and/or the Board but can't make decisions in  
12:32 21 isolation.  
12:32 22  
12:32 23 Q. Do you agree with me that that's not what it says here in  
12:32 24 this media release?  
12:32 25  
12:32 26 A. It doesn't say it in that level of detail, no.  
12:32 27  
12:32 28 Q. Well, it's not that it is lacking in detail, it is saying  
12:32 29 something materially different, is it not? Is it not the case that  
12:32 30 this media release is saying that you will only assume the role of  
12:32 31 CEO once you have received all of the probity and regulatory  
12:32 32 approvals?  
12:32 33  
12:33 34 A. That's what it says, yes.  
12:33 35  
12:33 36 Q. Yes, and that's not what has occurred; is that right?  
12:33 37 Essentially you have assumed the role with a small carve-out,  
12:33 38 which is you are not binding the company?  
12:33 39  
12:33 40 A. That's my summary of what I understand the technical  
12:33 41 position to be. I don't understand that to be unusual.  
12:33 42  
12:33 43 Q. I'm not really interested in what is usual or unusual, I'm just  
12:33 44 interested in understanding whether what is written in this media  
12:33 45 release by Crown both to the ASX and also to the public  
12:33 46 generally is actually accurate.  
12:33 47

12:33 1 A. My reading is it is because it says upon receipt of all  
12:33 2 probity and regulatory approvals.

12:33 3

12:33 4 Q. Yes, and you've agreed with me that you haven't received  
12:33 5 those probity and regulatory approvals; is that right?

12:33 6

12:33 7 A. That's correct.

12:33 8

12:33 9 Q. It says in the next paragraph:

12:33 10

12:33 11 *To ensure a seamless transition, Helen Coonan will*  
12:33 12 *continue to perform her executive responsibilities as*  
12:34 13 *interim Executive Chairman until Mr McCann has*  
12:34 14 *received necessary approvals to perform in his role as*  
12:34 15 *Chief Executive Officer and Managing Director.*

12:34 16

12:34 17 It is the case that Ms Coonan continues to perform the role of  
12:34 18 Executive Chairman and will do so until you receive those  
12:34 19 regulatory approvals; is that right?

12:34 20

12:34 21 A. That's correct.

12:34 22

12:34 23 Q. Is it the case, in a sense, that you've got almost like, from  
12:34 24 a practical perspective, you almost have two CEOs operating the  
12:34 25 Crown Resorts business at the moment?

12:34 26

12:34 27 A. I think that we have an Executive Chairman, and we have  
12:34 28 a pending CEO, as described. So, is there overlap in what we do?  
12:34 29 Of necessity, yes.

12:34 30

12:34 31 Q. I thought you weren't really a pending CEO. I thought you  
12:34 32 told me you have essentially taken on and started the role of CEO.

12:35 33

12:35 34 A. For practical purposes, apart from being able to bind the  
12:35 35 company, yes.

12:35 36

12:35 37 Q. But you have been doing things such as writing letters on  
12:35 38 Crown letterhead on behalf of Crown signed off as CEO of  
12:35 39 Crown Resorts, have you not?

12:35 40

12:35 41 A. I have.

12:35 42

12:35 43 Q. And in those letters you have been speaking with the  
12:35 44 authority of the Crown CEO; have you not?

12:35 45

12:35 46 A. Not to the extent that it can't bind the company, no, but  
12:35 47 I have represented myself as the CEO.

- 12:35 1  
12:35 2 Q. So what are people who receive letters from you, written on  
12:35 3 Crown letterhead, signed by you, and underneath your name it  
12:35 4 says Crown CEO, what are they to understand?  
12:35 5  
12:35 6 A. I think it depends on the audience, obviously, but if I'm  
12:35 7 writing to the regulator, who is aware that I don't yet have probity  
12:35 8 approval, I don't think there would be any confusion as to what  
12:35 9 my role is.  
12:36 10  
12:36 11 Q. Yes. But is it the case --- tell me, you will know more  
12:36 12 about the letters you've written than I do, I've only seen two ---  
12:36 13 when you write the letters on Crown letterhead signed Steve  
12:36 14 McCann, CEO of Crown Resorts, is there anything in the letter  
12:36 15 that says "I can't bind Crown Resorts"?  
12:36 16  
12:36 17 A. No.  
12:36 18  
12:36 19 Q. Okay. So, do you understand, Mr McCann, just questions  
12:36 20 about the regulatory framework for the casino and in particular  
12:36 21 for people who come to be senior managers and people who have  
12:36 22 influence over the business of the casino, do you understand that  
12:36 23 by reason of you accepting an offer of the role of CEO of Crown  
12:36 24 Resorts, you are deemed to be an associate of the casino  
12:36 25 operator?  
12:36 26  
12:36 27 A. Yes.  
12:36 28  
12:36 29 Q. And you understand that as an associate you need approval  
12:36 30 from the VCGLR?  
12:36 31  
12:36 32 A. Yes.  
12:36 33  
12:37 34 Q. And you understand that in order to get approval from the  
12:37 35 VCGLR you need to apply to the VCGLR for approval?  
12:37 36  
12:37 37 A. Yes.  
12:37 38  
12:37 39 Q. Can you tell the Commission, do you have any  
12:37 40 understanding as to the reasons that underpin the statutory  
12:37 41 requirement that associates of a casino require regulatory  
12:37 42 approval?  
12:37 43  
12:37 44 A. There is a range of reasons, but under the various  
12:37 45 regulations that apply to Crown it is a required part of the role.  
12:37 46  
12:37 47 Q. Yes, but what I'm asking you is do you understand why it is

12:37 1 required? Why regulatory approval is required?

12:37 2

12:37 3 A. We are a heavily regulated industry for very good reasons,  
12:37 4 which include issues around Responsible Gaming, anti-money  
12:37 5 laundering, financial crime, so there is quite a robust set of  
12:38 6 regulations and licensing requirements.

12:38 7

12:38 8 Q. Yes, I understand that. But that answer --- that answer  
12:38 9 seems to me to be just about why there is a regulation of a casino.  
12:38 10 My question to you is, do you have understanding of the reasons  
12:38 11 underpinning the regulatory requirement for associates of  
12:38 12 a casino to be approved by the regulator?

12:38 13

12:38 14 A. To ensure that there is no reason that that associate is not  
12:38 15 an appropriate person.

12:38 16

12:38 17 Q. I see. Do you have any understanding of what the types of  
12:38 18 reasons might be for someone not to be approved as an associate  
12:38 19 of a casino operator?

12:38 20

12:38 21 A. Potentially past criminal practices and activities, potentially  
12:38 22 financial instability or insolvency.

12:38 23

12:38 24 Q. Thank you. It is the case, is it not, that you were sent  
12:38 25 an email, look, it's not a memory test nor is it a trick question, so  
12:39 26 if necessary I can take you to the necessary document, but it is the  
12:39 27 case, is it not, that you were sent an email on 11 May 2021 by  
12:39 28 an employee of Crown Melbourne who explained that it would be  
12:39 29 a requirement, now that you had agreed to become CEO, that you  
12:39 30 obtain approval as an associate from the VCGLR and from other  
12:39 31 State regulators, and in the email you were sent a link for the  
12:39 32 relevant making of an application for approval to the VCGLR?  
12:39 33 That is the case, is it not?

12:39 34

12:39 35 A. Yes.

12:39 36

12:39 37 Q. In fact, I might just take you to that.

12:39 38

12:39 39 Tab 8 of your bundle, Commissioner.

12:39 40

12:39 41 Operator, can we bring this one up on the screen,  
12:39 42 CRW.510.079.0080.

12:39 43

12:40 44 Is it the case, Mr McCann, that is an email you received on 11  
12:40 45 May 2021?

12:40 46

12:40 47 A. Yes.

- 12:40 1  
12:40 2 Q. Is it the case that notwithstanding receipt of that email, you  
12:40 3 did not apply to the VCGLR for approval to be an associate of  
12:40 4 Crown Melbourne until late yesterday afternoon?  
12:40 5  
12:40 6 A. That's correct.  
12:40 7  
12:40 8 Q. Can you tell me why was there a delay between 11 May  
12:40 9 and late yesterday afternoon on you making an application to the  
12:40 10 VCGLR for approval to be an associate of the casino operator?  
12:40 11  
12:40 12 A. As has already been discussed, I completed my role as CEO  
12:40 13 of Lendlease the day before I commenced at Crown. So there  
12:40 14 wasn't any period in between those two roles. The first step in  
12:40 15 applying for probity is to apply for a fit-to-work clearance. That  
12:41 16 fit-to-work clearance requires, amongst other things, a police  
12:41 17 check and a credit check. That police check and that credit check  
12:41 18 must be attached to the application for probity clearance in  
12:41 19 Victoria. My police check and credit check arrived at Crown on  
12:41 20 14 June, despite having been applied for on 11 May. In the last  
12:41 21 two weeks, it is fair to say there has been a lot to get done, and  
12:41 22 I have in the meantime contacted my various accountants. I have  
12:41 23 a fairly complicated list of past directorships which I needed to  
12:41 24 work through, and to the best of my ability I have completed the  
12:41 25 application as quickly as possible in the last three weeks. I still  
12:41 26 haven't received, by the way, all of the forms I require for NSW.  
12:41 27 We applied last week for clearance to be able to lodge the NSW  
12:41 28 application without my university degrees because they still  
12:42 29 haven't arrived.  
12:42 30  
12:42 31 Q. I see. Is it the case that you applied for a fit-to-work  
12:42 32 clearance and a police check as preliminary matters in order to  
12:42 33 enable you to make an application to the VCGLR, and that  
12:42 34 fit-to-work clearance and police check application were made on  
12:42 35 11 May?  
12:42 36  
12:42 37 A. My recollection is 11 May, yes, or thereabouts.  
12:42 38  
12:42 39 Q. When you say "thereabouts", potentially within the next  
12:42 40 couple of days; is that right?  
12:42 41  
12:42 42 A. Yes, that's my recollection, yes.  
12:42 43  
12:42 44 Q. Just in terms of your application for approval to other  
12:42 45 state ---  
12:42 46  
12:42 47 A. In fact, actually, I will correct that. I applied for the

- 12:42 1 fit-to-work clearance before 11 May.  
12:42 2
- 12:42 3 Q. I see. And the police check is either on 11 May or shortly  
12:42 4 thereafter; is that right?  
12:42 5
- 12:42 6 A. Before 11 May. The way that it works, which you probably  
12:43 7 know, is that if the fit-to-work clearance is not automatically  
12:43 8 done online, which it can be and be very quickly turned around, it  
12:43 9 is then done manually by a police officer and that can take, and in  
12:43 10 this case, did take more than a month.  
12:43 11
- 12:43 12 Q. Is it the case that the last piece of information that you  
12:43 13 needed in order to make your application to the VCGLR, that last  
12:43 14 piece of information came in on 14 June? Is that right?  
12:43 15
- 12:43 16 A. Yes.  
12:43 17
- 12:43 18 Q. It is the case, is it not, that you are not presently a director  
12:43 19 of either Crown Resorts Ltd or Crown Melbourne Ltd; is that  
12:43 20 right?  
12:43 21
- 12:43 22 A. That's correct.  
12:43 23
- 12:43 24 Q. Is it the case you are not presently a director of any, what I  
12:43 25 might broadly call Crown company?  
12:43 26
- 12:44 27 A. That's correct.  
12:44 28
- 12:44 29 Q. Can you tell the Commission, are there plans for you to  
12:44 30 become a director of Crown Resorts Ltd?  
12:44 31
- 12:44 32 A. Yes.  
12:44 33
- 12:44 34 Q. Can you elaborate on those plans?  
12:44 35
- 12:44 36 A. Once I obtain probity of clearance, my expectation is that  
12:44 37 I will be nominated to the Board and join the Board.  
12:44 38
- 12:44 39 Q. Is that the same in respect of Crown Melbourne? Is it also  
12:44 40 a plan you become a director of Crown Melbourne upon receipt  
12:44 41 of the probity clearance?  
12:44 42
- 12:44 43 A. I expect so, although we are visiting our corporate  
12:44 44 governance structure as we speak.  
12:44 45
- 12:44 46 Q. I see. I would like to ask you some questions about the due diligence  
12:44 47 you undertook before joining Crown. It is the case, is it not, that

12:44 1 before you accepted the offer of employment in the role of CEO  
12:44 2 at Crown, you spoke to a number of people both within and  
12:44 3 outside Crown about Crown?

12:44 4

12:44 5 A. Yes.

12:44 6

12:44 7 Q. You spoke with Helen Coonan; is that right?

12:44 8

12:45 9 A. Yes.

12:45 10

12:45 11 Q. You spoke with each of the other current directors?

12:45 12

12:45 13 A. Yes.

12:45 14

12:45 15 Q. If you need clarity, that is Ms Korsanos, Ms Halton, Nigel  
12:45 16 Morrison and Bruce Carter?

12:45 17

12:45 18 A. Yes.

12:45 19

12:45 20 Q. Can I ask, did those discussions with the directors cover the  
12:45 21 opening of the Crown Casino at Barangaroo?

12:45 22

12:45 23 A. Broadly, yes.

12:45 24

12:45 25 Q. Did the discussions cover the Bergin Inquiry?

12:45 26

12:45 27 A. Say that again?

12:45 28

12:45 29 Q. Did the discussions you had with the directors cover the  
12:45 30 Bergin Inquiry?

12:45 31

12:45 32 A. Yes.

12:45 33

12:45 34 Q. Did the discussions cover the existence of the Victorian  
12:45 35 Royal Commission?

12:45 36

12:45 37 A. Yes.

12:45 38

12:45 39 Q. And the Perth Royal Commission?

12:45 40

12:45 41 A. Yes.

12:45 42

12:45 43 Q. And, generally speaking, can you tell us what other types of  
12:45 44 topics or matters were discussed?

12:45 45

12:45 46 A. Given that it was a discussion around my potential  
12:45 47 employment as CEO of Crown, the discussion was around my



12:46 1 experience, around my interest in the role. There was a lot of  
12:46 2 discussion around the transformation that Crown needed to  
12:46 3 undertake. Helen Coonan, in my very first meeting, suggested  
12:46 4 that I read the Bergin Report in full and made a number of other  
12:46 5 observations around the cultural journey that we needed to  
12:46 6 embark upon and the other directors similarly.  
12:46 7

12:46 8 Q. I see. Did you read the Bergin Report in full?  
12:46 9

12:46 10 A. Yes.  
12:46 11

12:46 12 Q. Can you tell us, was there any one thing in the Bergin  
12:46 13 Report which gave you particular cause for concern?  
12:46 14

12:46 15 A. Many things.  
12:46 16

12:46 17 Q. Can you tell us what they were?  
12:46 18

12:46 19 A. There was a range of issues clearly around the vulnerability  
12:46 20 of Crown as a company to infiltration by financial crime. Clearly  
12:47 21 the discussions around the bank accounts that Crown uses and the  
12:47 22 access to those bank accounts, the culture of Crown and the ---  
12:47 23 I think the word was deleterious influence of CPH over a period  
12:47 24 of time, and a range of other issues.  
12:47 25

12:47 26 Q. I see. I want to explore for a moment some of the  
12:47 27 differences between Lendlease on the one hand and Crown on the  
12:47 28 other hand. Is it the case that Lendlease didn't have a specific  
12:47 29 industry regulator?  
12:47 30

12:47 31 A. A range of regulators, including ASIC.  
12:47 32

12:47 33 Q. Yes.  
12:47 34

12:47 35 A. And various regulators overseas as well.  
12:47 36

12:47 37 Q. I mean, ASIC regulates all companies.  
12:47 38

12:47 39 A. Sure.  
12:47 40

12:47 41 Q. My question was about whether or not Lendlease had  
12:48 42 a specific industry regulator.  
12:48 43

12:48 44 A. Well, yes, in the various businesses that Lendlease  
12:48 45 managed around the world, in most jurisdictions there were  
12:48 46 licenses required. For example, construction licenses, contracting  
12:48 47 licenses.

12:48 1  
12:48 2 Q. Yes, and was that the case in Australia as well?  
12:48 3  
12:48 4 A. Yes.  
12:48 5  
12:48 6 Q. Just in terms of that layer of regulation, was that a matter of  
12:48 7 you had to obtain the licence, and then you had that licence from  
12:48 8 then on out, or was there a process that Lendlease had to obtain  
12:48 9 the licence and have the licence renewed every so often and was  
12:48 10 under the scrutiny of the entity that granted the licence?  
12:48 11  
12:48 12 A. It varies around the world. I can't recall the exact details of  
12:48 13 those licence requirements. The most recent event I can recall is  
12:48 14 that in Queensland the licence requirements were changed around  
12:49 15 financial guarantees which led to quite a challenge with  
12:49 16 Lendlease. There are probably a range of others. I know in  
12:49 17 China our licence got downgraded at one point as well, and in  
12:49 18 New York we underwent a prosecution, and that prosecution  
12:49 19 resulted in a deferred prosecution agreement in 2012 and so that  
12:49 20 was a significant event.  
12:49 21  
12:49 22 Q. Was the prosecution by the regular prosecutorial authority  
12:49 23 or a regulated body?  
12:49 24  
12:49 25 A. It was by the New York DA.  
12:49 26  
12:49 27 Q. New York?  
12:49 28  
12:49 29 A. The District Attorney.  
12:49 30  
12:49 31 Q. I see. Can I ask you this, when you were considering the  
12:49 32 Crown CEO role, did you reflect at all on the differences between  
12:49 33 Lendlease as a property development, construction, funds  
12:49 34 management company on the one hand and Crown, which is  
12:49 35 a gambling, entertainment and integrated resorts company?  
12:49 36  
12:50 37 A. Of course.  
12:50 38  
12:50 39 Q. Can you elaborate on what your reflections were, and in  
12:50 40 particular I'm interested in what reflections you may or may not  
12:50 41 have had on how you might have to adapt, for example, your  
12:50 42 leadership skills, to fit the different environment at Crown?  
12:50 43  
12:50 44 A. Yes. It is clearly a different environment and clearly  
12:50 45 a different regulatory regime. As I think I mentioned in my  
12:50 46 witness statement, I know I mentioned it in my witness statement,  
12:50 47 when I was approached to consider whether I would be interested

12:50 1 in the Crown role, it was at a point where I had been the CEO of  
12:50 2 a public company of similar scale for 12 years, which covered  
12:50 3 a range of businesses in a range of countries. Despite the fact that  
12:50 4 most public company CEOs' tenure is much shorter than that,  
12:51 5 I am very strongly of the view that the formative years of a CEO  
12:51 6 is a very steep learning curve, and I'm very firmly of the view that  
12:51 7 I am a much better CEO today than I was when I began my  
12:51 8 journey as CEO. I still have the energy to do a role like this; I  
12:51 9 wouldn't have completed one job and then started another the  
12:51 10 next day if I didn't. I still have the passion and I believe I can  
12:51 11 make a very significant difference based on my experience over  
12:51 12 many years addressing a number of challenges that I've addressed  
12:51 13 over the years.

12:51 14

12:51 15 Q. I understand all of that, but my question is specifically on  
12:51 16 whether or not you reflected on the different nature of Lendlease  
12:51 17 compared to Crown, notwithstanding that they both have  
12:51 18 a similar scale, both in different industries and whether you had  
12:51 19 reflected on whether that might require any change to the manner  
12:51 20 in which you perform the role as CEO?

12:52 21

12:52 22 A. I think the most obvious point is probably the fact that the  
12:52 23 current Royal Commission in Victoria, the Royal Commission  
12:52 24 that is pending, or is underway in WA, the outcomes of the  
12:52 25 Bergin Inquiry, all of those challenges make it a very challenging  
12:52 26 and quite different role to the role I had.

12:52 27

12:52 28 Q. I see. Did you, or have you reflected on how having  
12:52 29 an industry specific regulator might require some differences in  
12:52 30 the manner in which you perform the role of CEO?

12:52 31

12:52 32 A. I would say more broadly there are a range of regulations  
12:52 33 that apply to Crown as a casino operator, which clearly meant  
12:52 34 that I had to educate myself as to those differences very quickly.

12:52 35

12:52 36 Q. Yes. What has been the result of your self-education about  
12:53 37 the differences?

12:53 38

12:53 39 A. Well, I do not want to suggest for a moment that, I think  
12:53 40 five weeks in, that I've reached a level of expertise that I intend to  
12:53 41 reach, but I have spent a lot of time, I'm working about 100 hours  
12:53 42 a week at the moment. I've read a massive volume of materials.  
12:53 43 I've met with the Victorian and NSW regulator, I've presented  
12:53 44 and had Q&As to over 300 staff and a range of other things. So  
12:53 45 I have educated myself as well as I could in the last five weeks.

12:53 46

12:53 47 Q. I see.

12:53 1  
12:53 2 You've mentioned just now that you've met with the NSW and  
12:53 3 Victorian regulators.  
12:53 4  
12:53 5 A. (Nods head).  
12:53 6  
12:53 7 Q. Just in respect of the Victorian regulator, the VCGLR, it is  
12:53 8 the case, is it not that you've had one meeting with them in the  
12:54 9 last, is it about within the last two weeks; is that right?  
12:54 10  
12:54 11 A. Yes.  
12:54 12  
12:54 13 Q. Was that around about mid-June; is that right?  
12:54 14  
12:54 15 A. That would be right, yes.  
12:54 16  
12:54 17 Q. Was that a face-to-face meeting?  
12:54 18  
12:54 19 A. Yes.  
12:54 20  
12:54 21 Q. Is it right that on the Crown side it was you, Helen Coonan  
12:54 22 and Steven Blackburn who attended the meeting?  
12:54 23  
12:54 24 A. Yes.  
12:54 25  
12:54 26 Q. And from the VCGLR's side, was it the case that there was  
12:54 27 Catherine Myers and Ross Kennedy at the meeting?  
12:54 28  
12:54 29 A. Yes.  
12:54 30  
12:54 31 Q. Would you describe that meeting as an amicable meeting?  
12:54 32  
12:54 33 A. Very much so.  
12:54 34  
12:54 35 Q. Roughly how long did the meeting last?  
12:54 36  
12:54 37 A. 45 minutes, I think.  
12:54 38  
12:54 39 Q. Can you tell us generally what were the types of matters  
12:54 40 that were discussed?  
12:54 41  
12:55 42 A. Really the primary purpose of the meeting was to introduce  
12:55 43 me to the regulator. The regulator forwarded to us ahead of the  
12:55 44 meeting, pretty much as we walked into the meeting, a brief  
12:55 45 agenda. The first part of that agenda was a reminder of the  
12:55 46 communication protocols, which made it clear that we couldn't  
12:55 47 talk about matters before the Commission. We talked about my

12:55 1 arrival. We talked about the fact that we intended to continue to  
12:55 2 notify and update the regulator very frequently and have a very  
12:55 3 open and transparent level of communication. We had already  
12:55 4 written to the regulator about the potential underpayment of tax,  
12:55 5 which had been discussed broadly in the media and we had  
12:55 6 advised them that we would update them when it was  
12:55 7 appropriate.

12:55 8

12:56 9 Q. Who initiated the meeting, was it Crown or the VCGLR?

12:56 10

12:56 11 A. I'm not sure. We were looking to meet, but the request for  
12:56 12 the meeting actually came from Catherine Myers so I'm not sure  
12:56 13 if that was in response to someone reaching out from Crown or  
12:56 14 not.

12:56 15

12:56 16 Q. I take from that it certainly wasn't your initiative, because  
12:56 17 otherwise you would have been able to tell me you initiated the  
12:56 18 meeting.

12:56 19

12:56 20 A. No. I requested, I suggested, very early on after my arrival  
12:56 21 at Crown that I should meet the regulators as soon as possible. I  
12:56 22 didn't make the phone call.

12:56 23

12:56 24 Q. But did you task someone else to make the phone call?

12:56 25

12:56 26 A. I asked for a meeting to be set up.

12:56 27

12:56 28 Q. Did you during the meeting, ask the VCGLR to be open  
12:56 29 and frank with you about their views and issues with Crown?

12:56 30

12:56 31 A. Yes.

12:56 32

12:56 33 Q. And what about vice versa? Did the VCGLR ask you to be  
12:57 34 open and frank with them or, for example, to share any of your  
12:57 35 early assessments of what you had learned in the short period of  
12:57 36 time you had been at Crown?

12:57 37

12:57 38 A. The --- I'm trying to recall the exact conversation, but I  
12:57 39 certainly gave them my early impressions. I spoke about my  
12:57 40 background, why I was at Crown and my early impressions of the  
12:57 41 people I had met at Crown.

12:57 42

12:57 43 Q. Yes. Did you speak to --- again, I'm still asking questions  
12:57 44 about the meeting you had with the VCGLR. Did you speak  
12:57 45 about the relationship between the two entities, between Crown  
12:57 46 and the VCGLR?

12:57 47

- 12:57 1 A. Yes.
- 12:57 2
- 12:57 3 Q. Did you speak about how to improve the relationship?
- 12:57 4
- 12:57 5 A. Yes. We spoke in general terms about the need for
- 12:57 6 transparency and frequency of communication. Steve Blackburn
- 12:57 7 also spoke about his SC&C plan and upgrade plan, although
- 12:58 8 somewhat briefly, but that's, they were the conversations.
- 12:58 9
- 12:58 10 Q. Was it the VCGLR who were saying that they had a need
- 12:58 11 for transparency?
- 12:58 12
- 12:58 13 A. No.
- 12:58 14
- 12:58 15 Q. So it was Crown, was it?
- 12:58 16
- 12:58 17 A. That was part of the entire purpose of the meeting.
- 12:58 18
- 12:58 19 Q. And who specifically, was it you, Steve Blackburn or
- 12:58 20 Ms Coonan who was talking about the need for transparency?
- 12:58 21
- 12:58 22 A. All three.
- 12:58 23
- 12:58 24 Q. I presume that is transparency on part of Crown; is that
- 12:58 25 right?
- 12:58 26
- 12:58 27 A. Yes.
- 12:58 28
- 12:58 29 Q. During the meeting, or in fact at any other occasion, give
- 12:58 30 any assurances to the VCGLR about the approach that Crown
- 12:58 31 proposed to take towards the VCGLR?
- 12:58 32
- 12:58 33 A. I think there has been quite a bit of correspondence
- 12:59 34 between Crown and the VCGLR since I've been at Crown. My
- 12:59 35 only other direct correspondence was the letter sent last week.
- 12:59 36
- 12:59 37 Q. Okay. So then if we were to confine my question just to the
- 12:59 38 meeting, there weren't any assurances given to the VCGLR
- 12:59 39 during the course of the meeting that you had; is that right?
- 12:59 40
- 12:59 41 A. When you say "assurances", I'm not sure I understand the
- 12:59 42 question.
- 12:59 43
- 12:59 44 Q. Choose any synonym you like for "assurance"; did you or
- 12:59 45 any of the other Crown people who were present at the meeting,
- 12:59 46 give any undertaking, or any promise, or any assurance to the
- 12:59 47 VCGLR about any new or different approach Crown proposed to

12:59 1 take vis-à-vis the VCGLR?  
12:59 2  
12:59 3 A. As I said it was a brief meeting, a 45-minute meeting. We  
13:00 4 covered the entire, I guess, high level context of Crown's desire  
13:00 5 for an ongoing, transparent, open relationship and  
13:00 6 a demonstration that the cultural reform that we were undertaking  
13:00 7 was going to be successful and maintained that way. I'm not sure  
13:00 8 if that is an undertaking, but that's certainly the impression we  
13:00 9 were trying to convey.  
13:00 10  
13:00 11 Q. Are you aware that recently the VCGLR fined Crown one  
13:00 12 million dollars for contravention of section 121(4) of the *Casino*  
13:00 13 *Control Act*?  
13:00 14  
13:00 15 A. Yes.  
13:00 16  
13:00 17 Q. Have you read the VCGLR's reasons dated 27 April 2021 in  
13:00 18 respect of that disciplinary action?  
13:00 19  
13:00 20 A. Yes.  
13:00 21  
13:00 22 Q. So you will be aware, no doubt, therefore, that that was the  
13:01 23 culmination, the reasons for decision, which was the culmination  
13:01 24 of a process; you are aware of that?  
13:01 25  
13:01 26 A. Yes.  
13:01 27  
13:01 28 Q. And are you aware that that process, it is really to assist you  
13:01 29 by giving some context, it was a process started back on 2  
13:01 30 October 2020 wherein the VCGLR issued a notice to Crown  
13:01 31 Melbourne, requiring Crown to show cause as to why disciplinary  
13:01 32 action should not be taken?  
13:01 33  
13:01 34 A. Yes.  
13:01 35  
13:01 36 Q. I see. And I take it when you say you read the reasons for  
13:01 37 decision, you read them from go to whoa; is that right?  
13:01 38  
13:01 39 A. I didn't read them completely, no, I was directed to the  
13:01 40 relevant parts of it.  
13:01 41  
13:01 42 Q. I see. Can you recall what the relevant parts of it were?  
13:01 43  
13:01 44 A. My summary would be that having provided assurances  
13:01 45 around transparency and the culture between Crown and the  
13:02 46 VCGLR, that was then called into question, due to the way that  
13:02 47 Crown managed its response to the Show Cause Notice.

13:02 1  
13:02 2 Q. I see. Are you referring to there, the comments that were  
13:02 3 made by the VCGLR right towards the end of the decision ---  
13:02 4  
13:02 5 A. Yes.  
13:02 6  
13:02 7 Q. --- when it made some observations about the  
13:02 8 inconsistencies between assurances given about a particular  
13:02 9 approach it planned to take to the regulator and the regulator  
13:02 10 seeing that that was not consistent with the way Crown had  
13:02 11 responded to the Show Cause Notice?  
13:02 12  
13:02 13 A. That was the primary --- my primary focus, yes.  
13:02 14  
13:02 15 Q. I see. And do you agree that the regulator having to  
13:02 16 essentially point out at the end of the decision, a real  
13:02 17 inconsistency between Crown's words and Crown's actions, that  
13:03 18 that is a very serious matter that is quite concerning?  
13:03 19  
13:03 20 A. Yes.  
13:03 21  
13:03 22 Q. And it demonstrates, does it not, that there is, as recent as  
13:03 23 the beginning of this year, an ongoing problem with the  
13:03 24 relationship between Crown and its regulator?  
13:03 25  
13:03 26 A. I think an ongoing problem suggests that problem exists  
13:03 27 today and I don't agree with that.  
13:03 28  
13:03 29 Q. I see. Do you not agree with it because --- why? Because  
13:03 30 you've taken on the role, or what is it that makes you say that it is  
13:03 31 different now?  
13:03 32  
13:03 33 A. So, well firstly in relation to how the relationship is now, as  
13:03 34 I said, there has been a range of correspondence between Crown  
13:03 35 and the VCGLR since I've been at Crown, to try and keep the  
13:03 36 VCGLR fully informed of every issue that is relevant to the  
13:04 37 regulation of Crown. And that's been very frequent. The meeting  
13:04 38 that I attended was a very amicable meeting and it was  
13:04 39 acknowledged by Catherine Myers that that is how we were  
13:04 40 dealing with the VCGLR. So they were, they probably are my  
13:04 41 primary observations. And in relation to the January incident,  
13:04 42 which has obviously preceded that, clearly that was in a specific  
13:04 43 situation.  
13:04 44  
13:04 45 Q. I see.  
13:04 46  
13:04 47 Now I want to ask you about the bonus jackpot and



13:04 1 underpayment of gaming tax issue.  
13:04 2  
13:04 3 A. (Nods head).  
13:04 4  
13:04 5 Q. I appreciate you haven't been at Crown for very long, but is  
13:04 6 it right that you have in quite recent times been briefed on the  
13:04 7 issue?  
13:05 8  
13:05 9 A. In my witness statement I make reference to the fact that I  
13:05 10 became aware of the issue on 7 June and immediately requested  
13:05 11 a number of steps, including the appointment of QC to provide  
13:05 12 advice. I met with Ernst & Young to discuss the issues and  
13:05 13 a wider range of tax issues which I identified in my witness  
13:05 14 statement and I have read, albeit I wouldn't want to suggest that  
13:05 15 I'm an expert on it, I've read various pieces of advice.  
13:05 16  
13:05 17 Q. You've set out in your witness statement that you first came  
13:05 18 to learn of the issue on 7 June 2021. And you further said that  
13:05 19 you learnt of the issue on 7 June as a result of reading  
13:05 20 a newspaper article that had been emailed to you by the General  
13:06 21 Manager of corporate affairs.  
13:06 22  
13:06 23 A. That's my recollection, yes.  
13:06 24  
13:06 25 Q. Now, I'm going to put some propositions to you, Mr  
13:06 26 McCann, in particular four, and I want you to --- sorry, five,  
13:06 27 about the evidence which has been given to this Commission and  
13:06 28 I want you to assume the propositions I put are correct, and then  
13:06 29 at the end I am going ask you a question. So assume that these  
13:06 30 are matters that the evidence to this Commission has  
13:06 31 demonstrated.  
13:06 32  
13:06 33 Firstly, that from 2012 to 2018, Crown did not disclose and  
13:06 34 concealed from the VCGLR, the bonus jackpots in respect of  
13:06 35 which it was claiming deductions, namely costs associated with  
13:07 36 food and beverage, car parking and hotel accommodation.  
13:07 37  
13:07 38 Secondly, that from 2018 Crown was not forthcoming with the  
13:07 39 VCGLR in relation to the bonus jackpots issue.  
13:07 40  
13:07 41 Thirdly, that Crown itself, did not regard --- sorry, that Crown did  
13:07 42 not regard itself as being on strong legal grounds in relation to the  
13:07 43 deductibility of bonus jackpots comprising food and beverages,  
13:07 44 car parking and hotel accommodation.  
13:07 45  
13:07 46 And, fourthly, that the Crown business decided nonetheless to  
13:07 47 deduct the costs associated with the gaming machines food

13:07 1 program, being hotel accommodation, car parking and food and  
13:07 2 beverage. And the final proposition I want you to accept as true,  
13:07 3 is that this is an ongoing issue, not a historical issue.

13:07 4

13:07 5 Given those matters, and also the potential magnitude, by which I  
13:07 6 mean the potential dollar amount of the underpayment of tax, are  
13:08 7 you surprised or concerned that it was not raised with you earlier  
13:08 8 than 7 June 2021?

13:08 9

13:08 10 A. I think my answer to that is no.

13:08 11

13:08 12 Q. And I am surprised, so why don't you tell me why you are  
13:08 13 not surprised?

13:08 14

13:08 15 A. Because there was, and remains, from my assessment,  
13:08 16 a desire for Crown to prove that it has, and is under significant  
13:08 17 remediation, and cultural reform, and part of that is to make full  
13:08 18 disclosure in accordance with the terms of this Royal  
13:08 19 Commission and there was an accidental omission, as I  
13:08 20 understood it, of notification around this particular issue. So I'm  
13:08 21 not sure, given, that it surprised me on the day, I'm not sure why  
13:09 22 necessarily people would have ---

13:09 23

13:09 24 COMMISSIONER: (Inaudible).

13:09 25

13:09 26 MS O'SULLIVAN: You started at Crown on 1 June.

13:09 27

13:09 28 A. Yes.

13:09 29

13:09 30 Q. And in fact you had signed a contract of employment  
13:09 31 sometime in mid-May?

13:09 32

13:09 33 A. Yes.

13:09 34

13:09 35 Q. You had been talking to Crown people since about  
13:09 36 23 February about the role of CEO. And throughout all that time  
13:09 37 there is a real issue about Crown underpaying tax. Not only  
13:09 38 about Crown underpaying tax, but also about it having concealed  
13:09 39 the underpayment, and when I say "concealed", I mean concealed  
13:10 40 from the VCGLR. And the quantum of the underpayment is  
13:10 41 potentially in the hundreds of millions of dollars, plus interest,  
13:10 42 penalty interest. And I'm saying to you that in that scenario, it is  
13:10 43 surprising that you weren't told until 7 June and, then on 7 June,  
13:10 44 the way you came to learn about it was because someone from  
13:10 45 corporate affairs sent you a newspaper article?

13:10 46

13:10 47 I'm saying to you that I find that whole scenario concerning and

13:10 1 you've told me that none of it surprises you, and I want to know  
13:10 2 why it doesn't surprise you.

13:10 3

13:10 4 A. Firstly, I have not said that I don't find that whole scenario  
13:10 5 concerning. What you asked me is whether the fact that between  
13:10 6 1 June and 7 June no one brought it to my attention, did I find  
13:11 7 that concerning. And surprising. And my answer is I didn't find  
13:11 8 it surprising or concerning because, amongst other things, the  
13:11 9 organisation, as I understand it, had been under the impression  
13:11 10 that it had disclosed what it needed to disclose ---

13:11 11

13:11 12 COMMISSIONER: The question is was it surprising to you that  
13:11 13 it wasn't disclosed to you?

13:11 14

13:11 15 A. To me.

13:11 16

13:11 17 COMMISSIONER: First, yes.

13:11 18

13:11 19 A. I don't --- no, I don't think it was surprising. It was  
13:11 20 obviously disappointing now that I know what I know, but at the  
13:11 21 time there was a lot of activity around trying to disclose  
13:11 22 everything required to be disclosed for the purposes of the  
13:11 23 Commission, I don't ---

13:11 24

13:11 25 COMMISSIONER: For you personally, forget about the  
13:11 26 Commission.

13:11 27

13:11 28 A. I don't think --- people were trying to bring me up to speed  
13:11 29 on a lot of things. The fact that it didn't specifically go to this  
13:11 30 issue doesn't surprise me, given the quantum of things I was  
13:11 31 being brought up to speed on. And I would add, no one that I'm  
13:11 32 aware of, was of a view that the issue could have been hundreds  
13:12 33 of millions of dollars.

13:12 34

13:12 35 MS O'SULLIVAN: So no one told you that the quantum could  
13:12 36 potentially have been hundreds of millions of dollars?

13:12 37

13:12 38 A. No.

13:12 39

13:12 40 Q. When did you first learn that the quantum could be  
13:12 41 hundreds of millions of dollars?

13:12 42

13:12 43 A. The first reference to that scale came from what I was told  
13:12 44 on 7 June through that media report.

13:12 45

13:12 46 Q. So you were disappointed that it wasn't brought to your  
13:12 47 attention earlier than 7 June. That's the evidence you gave a few

13:12 1 moments ago; is that right?  
13:12 2  
13:12 3 A. I am now, yes.  
13:12 4  
13:12 5 Q. I see. And do you say that it ought to have been brought to  
13:12 6 your attention earlier than that?  
13:12 7  
13:12 8 A. Yes.  
13:12 9  
13:12 10 Q. Who ought have brought it to your attention earlier than 7  
13:13 11 June?  
13:13 12  
13:13 13 A. So I was provided a range of materials ---  
13:13 14  
13:13 15 Q. No, no, who do you say ought have brought it to your  
13:13 16 attention earlier than 7 June?  
13:13 17  
13:13 18 A. I was trying to answer that question.  
13:13 19  
13:13 20 Q. No, you were talking about materials that were you  
13:13 21 provided with. And you have already told me that you think it  
13:13 22 ought to have been told to your attention earlier than 7 June. I'm  
13:13 23 asking you a simple question, which is: who do you say ought to  
13:13 24 have brought it to your attention?  
13:13 25  
13:13 26 A. Crown's lawyers.  
13:13 27  
13:13 28 Q. Crown's lawyers. I see.  
13:13 29  
13:13 30 A. Yes.  
13:13 31  
13:13 32 Q. Do you not say that it ought have been brought to your  
13:13 33 attention by any of the directors who knew of the issue?  
13:13 34  
13:13 35 A. I was about to suggest that having been provided a range of  
13:13 36 materials by Crown's lawyers, my expectation would have been  
13:13 37 that it was in those materials.  
13:13 38  
13:13 39 Q. Okay. But my question is completely different to the  
13:13 40 answer you've given. Is it your evidence that you say this ought  
13:14 41 to have been brought to your attention but only by the lawyers,  
13:14 42 and you don't say it ought have been brought to your attention by  
13:14 43 any of the directors?  
13:14 44  
13:14 45 A. I'm not saying that the directors, or, indeed, management of  
13:14 46 Crown should not have brought it to the attention of the lawyers,  
13:14 47 I'm saying the way I was communicated with on these issues, was

13:14 1 that I was provided a whole lot of materials by the lawyers.

13:14 2

13:14 3 Q. You keep describing what happened, But I'm not talking  
13:14 4 about what happened. I'm talking about who you think, given  
13:14 5 that you've told us that you think it ought to have been brought to  
13:14 6 your attention earlier, right, and then we found out that your  
13:14 7 evidence is you think it ought to have been brought to your  
13:14 8 attention by Crown's lawyers. And it turns out it wasn't.

13:14 9

13:15 10 A. Yeah.

13:15 11

13:15 12 Q. It was first brought to your attention by corporate affairs, by  
13:15 13 sending you an email with a newspaper article.

13:15 14

13:15 15 A. Yes.

13:15 16

13:15 17 Q. And my question is, is it only Crown lawyers who you  
13:15 18 think ought to have brought it to your attention earlier? Is it not  
13:15 19 also the case that you consider that Crown directors ought have  
13:15 20 brought it to your attention earlier?

13:15 21

13:15 22 A. It would have been nice to have been told earlier by a range  
13:15 23 of people, including Crown's directors, but my understanding was  
13:15 24 they had provided me all the material they thought was relevant  
13:15 25 and obviously it was omitted, by error. Not deliberately.

13:15 26

13:15 27 Q. So the tax issue you say was inadvertently omitted from  
13:15 28 materials which were, what were they, briefing materials were  
13:15 29 they?

13:15 30

13:16 31 A. And a whole range of documents, emails, briefing  
13:16 32 materials, yes.

13:16 33

13:16 34 Q. So you come into the new job, like when there is a change  
13:16 35 of government and they get the red books and blue books,  
13:16 36 and everyone has to get up to speed, you got a series of briefing  
13:16 37 materials that you were provided with when you first took on the  
13:16 38 role on 1 June; is that right?

13:16 39

13:16 40 A. Yes.

13:16 41

13:16 42 Q. And missing from those materials was any mention of the  
13:16 43 bonus jackpots issue and the potential underpayment of gaming  
13:16 44 tax to the tune of potentially, hundreds of millions of dollars?

13:16 45

13:16 46 A. It wasn't brought to my attention.

13:16 47

13:16 1 Q. I see. Do you not see something wrong with a scenario  
13:16 2 whereby a new CEO takes the role of a large and significant  
13:16 3 company which has a potential underpayment of tax to the tune  
13:17 4 of hundreds of millions of dollars, and the only person who thinks  
13:17 5 they might tell the CEO about it is someone from corporate  
13:17 6 affairs who sends you an email saying, "you better have a look at  
13:17 7 this newspaper article"?

13:17 8

13:17 9 A. That's not how I would summarise the situation.

13:17 10

13:17 11 Q. I see. That's okay, we can have a difference of opinion on  
13:17 12 that.

13:17 13

13:17 14 What was more important? What was in the briefing materials  
13:17 15 that whomever compiled them thought was more important that  
13:17 16 you understand, if not this issue, of the potential underpayment,  
13:17 17 and when I say underpayment, I really should say underpayment  
13:17 18 and concealment of gaming taxes?

13:17 19

13:17 20 A. I can't recall the exact detail of what was in all of the  
13:17 21 information, suffice to say though, as you would understand, I  
13:17 22 began at Crown on 1 June. I was not provided any non-public  
13:18 23 information before that date, could not be provided any  
13:18 24 non-public information before that date. So, to me, it is not  
13:18 25 unreasonable that people didn't direct me to every issue that I  
13:18 26 needed to be directed to in the first week at Crown. I think that  
13:18 27 yesterday there was a lot of evidence provided by Xavier Walsh.  
13:18 28 It seemed clear to me that Xavier had a different view of the scale  
13:18 29 of the issue and obviously regrets the way things were handled.  
13:18 30 And my view is people make mistakes. It is not ideal. It would  
13:18 31 be great if we were in a perfect environment. We're not. There is  
13:18 32 a lot of pressure on people at the moment and people make  
13:18 33 mistakes. So I don't believe there was any deliberate  
13:18 34 concealment from me of that information, of any information, in  
13:18 35 fact, since I've been at Crown.

13:18 36

13:18 37 Q. I'm not suggesting that there was any deliberate  
13:19 38 concealment on that issue, to you --

13:19 39

13:19 40 A. Yes.

13:19 41

13:19 42 Q. --- but I do say that there is a problem with the company if it  
13:19 43 cannot prioritise that type of matter in the briefing materials it  
13:19 44 provides to its new CEO. Do you agree with that proposition?

13:19 45

13:19 46 A. I think it was an error.

13:19 47

13:19 1 Q. So you agree with me that it should have been prioritised?

13:19 2

13:19 3 A. I can't recall the numbers, but my understanding is there's  
13:19 4 circa 90,000 documents that have been filed for the purpose of  
13:19 5 this Commission, in that order, so there is a lot of information.

13:19 6 On top of that, I need to --- in my role I need to have regard to all  
13:19 7 of our stakeholders and all of the issues that a public company  
13:19 8 faces. So there is a lot to get across in a week, and so if people  
13:20 9 didn't point me to issues that were not front of mind, I see that as  
13:20 10 an error and, yes, it is unfortunate. But I'm not blaming people  
13:20 11 for that.

13:20 12

13:20 13 Q. Do you see that as indicative of a culture at Crown where  
13:20 14 people are afraid to deliver or escalate bad news?

13:20 15

13:20 16 A. That is not the culture that I see at Crown.

13:20 17

13:20 18 Q. That's not my question. My question is whether you agree  
13:20 19 with me that the fact you weren't briefed on it, and only found out  
13:20 20 about it in a completely incidental manner, whether that is  
13:20 21 demonstrative or indicative of a culture at Crown whereby people  
13:20 22 do not escalate or are scared to spread bad news?

13:20 23

13:20 24 A. No, I don't believe that's the culture at Crown and,  
13:20 25 therefore, I can't think that is indicative of that culture, otherwise  
13:21 26 I would have made that conclusion.

13:21 27

13:21 28 Q. I see. But you do agree with me that the tax issue, insofar  
13:21 29 as using that as shorthand for there being a potential  
13:21 30 underpayment of hundreds of thousands of dollars in gaming  
13:21 31 taxes, with there being an issue about it being concealed from the  
13:21 32 VCGLR, that that is a big issue presently facing Crown?

13:21 33

13:21 34 A. It is a big issue presently facing Crown, definitely.

13:21 35

13:21 36 Q. And you are in various forms of damage control about it; is  
13:21 37 that right?

13:21 38

13:21 39 A. We are trying to get to the bottom of the issue, and we have  
13:21 40 made a commitment that once we do form a view on how much  
13:21 41 we feel the underpayment is, plus penalty interest, we will pay  
13:21 42 that amount to the State Government and we will engage with the  
13:21 43 regulators and the State Government to provide them all of the  
13:21 44 information that we have, and to discuss their perspective of it  
13:21 45 and how we reached our view as to the quantum, and we will  
13:22 46 engage in an open and transparent discussion about that. That is  
13:22 47 the position of Crown.

13:22 1  
13:22 2 Q. So insofar as you are proposing to engage in a transparent  
13:22 3 discussion, is it the case you will be providing to the VCGLR and  
13:22 4 the State Government all of the various legal advices that Crown  
13:22 5 has obtained on the issue over the years?  
13:22 6  
13:22 7 A. I will take legal advice on how we deal with all of that but  
13:22 8 we will be providing all of the information that is relevant to that.  
13:22 9  
13:22 10 COMMISSIONER: Why wouldn't you provide the legal advices  
13:22 11 if you were going to be open and transparent?  
13:22 12  
13:22 13 A. I need to take advice on our privilege position here. I'm not  
13:22 14 sure what I'm supposed to talk about.  
13:22 15  
13:22 16 COMMISSIONER: You are allowed to talk.  
13:22 17  
13:22 18 A. Okay, fine ---  
13:22 19  
13:22 20 COMMISSIONER: My question is if you are open and  
13:22 21 transparent, why wouldn't you provide the advice?  
13:22 22  
13:22 23 A. My view is we will. My expectation is we will. We also  
13:22 24 have auditing numbers that KPMG has been auditing and we will  
13:22 25 provide that as well. That's my expectation.  
13:23 26  
13:23 27 MR BORSKY: Commissioner, if I may ---  
13:23 28  
13:23 29 COMMISSIONER: What?  
13:23 30  
13:23 31 MR BORSKY: --- since undertaking to you this morning that I  
13:23 32 would obtain instructions as urgently as I could on the company's  
13:23 33 position, I have since obtained those instructions. I don't need to  
13:23 34 elaborate if you would prefer I don't in the presence of the  
13:23 35 witness.  
13:23 36  
13:23 37 COMMISSIONER: I would prefer you don't.  
13:23 38  
13:23 39 MR BORSKY: Very well.  
13:23 40  
13:23 41 MS O'SULLIVAN: Sorry, I'm unclear about what that exchange  
13:23 42 ---  
13:23 43  
13:23 44 COMMISSIONER: We have secret conversations around here,  
13:23 45 it's almost sign language!  
13:23 46  
13:23 47 A question from me to you, though, is it a good time to have



13:23 1 a break?  
13:23 2  
13:23 3 MS O'SULLIVAN: Yes.  
13:23 4  
13:23 5 COMMISSIONER: Good. We will have a break for 45 minutes.  
13:23 6 Come back at 2 o'clock?  
13:23 7  
13:23 8 MS O'SULLIVAN: Yes.  
13:23 9  
13:23 10 COMMISSIONER: Bit less? No complaints, objections,  
13:23 11 nothing. 2 o'clock. We will adjourn until then.  
13:23 12  
13:23 13  
13:23 14 **ADJOURNED** [1.23PM]  
14:18 15  
14:18 16  
14:19 17 **RESUMED** [2.00 PM]  
14:19 18  
19  
20 COMMISSIONER: Thank you.  
21  
22 MS O'SULLIVAN: Thank you, Commissioner.  
23  
24 Mr McCann, before the break we were discussing what I call the  
25 bonus jackpots/underpayment of gaming tax issue. It is the case,  
26 is it not, that you recently have taken some initiative on that  
27 issue?  
28  
29 A. Yes, after I became aware of the issue I spoke to the  
30 chairman about appointing EY, or reappointing EY to review the  
31 position and about appointing Queen's Counsel as well to review  
32 the position.  
33  
34 Q. And you have written to the Secretary of the Department of  
35 Treasury and Finance, that is the Victorian department, about the  
36 underpayment of tax issue; that's right, isn't it?  
37  
38 A. Yes.  
39  
40 Q. That was a letter dated 1 July 2021; is that right?  
41  
42 A. Yes.  
43  
44 Q. In that letter you, on behalf of Crown, have admitted  
45 underpayment of Crown's casino tax liability; is that right?  
46  
47 A. We've admitted that we formed a preliminary view as to

1 a quantum, yes.

2

3 Q. No, I'm not asking about quantum, I'm asking about  
4 liability. Is it the case that in that letter you on behalf of Crown  
5 admitted underpayment of Crown's casino tax liability?

6

7 A. I just want to check the letter and make sure I get my facts  
8 correct.

9

10 Q. Sure, I will take you to the letter in a minute, but perhaps  
11 you might think about my question first.

12

13 Is it the case that Crown admits that it has underpaid its casino  
14 tax liability?

15

16 A. My recollection from the letter is that ---

17

18 Q. No, I'm not asking you about the letter and I'm not asking  
19 you about your recollection. I'm asking you about Crown's  
20 position. Is it the case that it is Crown's position that it has  
21 underpaid the tax it owes in respect of gaming taxes?

22

23 A. The preliminary view we formed is that we are likely to  
24 have underpaid gaming taxes.

25

26 Q. I see. Now, I will take you to the letter, Mr McCann. Can  
27 we bring up this document, CRW.512.204.0001.

28

29 Operator, if you can scroll down so that Mr McCann can see the  
30 full page of the letter, the first page of the letter.

31

32 I presume that is a letter you recognise, Mr McCann?

33

34 A. Yes.

35

36 Q. Yes, and that is the letter that you drafted and sent to the  
37 Secretary of the Victorian Department of Treasury and Finance  
38 on 1 July 2021; is that right?

39

40 A. Yes.

41

42 Q. You've said in the letter that --- you've used the term, "we",  
43 so here I'm looking at paragraph that begins with "in short". You  
44 used the term "we" and by that term I presume you mean Crown  
45 Resorts, is that right?

46

47 A. Yes.

1  
2 Q. Globally speaking to encompass within that Crown  
3 Melbourne?

4  
5 A. Yes.

6  
7 Q. So you've said there:

8  
9 *In short we have received preliminary advice that there*  
10 *has been an under-reporting of casino tax liability of*  
11 *approximately \$8.8 million excluding interest over the*  
12 *period financial year 2013 to date related to the incorrect*  
13 *deduction of certain bonus rewards referable to free*  
14 *accommodation and car parking provided to patrons.*

15  
16 Now, just pausing there, insofar as you've said that, "we've  
17 received preliminary advice", I presume you mean legal advice;  
18 is that right?

19  
20 A. Yes.

21  
22 Q. And the advice you are referring to there ---

23  
24 A. Sorry, my apologies. And accounting advice. We have  
25 received advice from EY and KPMG.

26  
27 Q. Yes, I see. So the preliminary advice there is both legal  
28 advice and accounting advice; is that right?

29  
30 A. Yes.

31  
32 Q. And the accounting advice was provided by EY; is that  
33 right?

34  
35 A. Yes, the accounting advice as to the tax treatment was  
36 provided by EY, the accounting advice as to the quantum was  
37 provided by KPMG. They audited the numbers we provided.

38  
39 Q. I see. All right. So EY and KPMG provided advice but  
40 both of those pieces of advice were accounting advice; is that  
41 right?

42  
43 A. EY was tax advice, KPMG was audit advice.

44  
45 Q. Okay. And you might assist me here, insofar as you are  
46 referring there to preliminary advice, are you also referring to  
47 a legal opinion of Mr Robertson QC dated 19 June 2021?

- 1  
2 A. Referring to both the advice from EY and from  
3 Mr Robertson.  
4  
5 Q. I see. So EY, KPMG and Mr Robertson?  
6  
7 A. Well, yes, yes.  
8  
9 Q. Are you aware that over the years Crown has obtained  
10 multiple legal advices on the deductibility of the bonus jackpots?  
11  
12 A. I'm aware Crown's received multiple advices on various tax  
13 issues. At the time of writing this letter, the only advices I had  
14 seen were the advices I referred to: EY, KPMG and Mark  
15 Robertson.  
16  
17 Q. Okay. So at the time of writing this letter, were you  
18 unaware that Crown had received legal advices on the  
19 deductibility of the bonus jackpots in 2012, 2017 and 2018?  
20  
21 A. No. I was aware that Crown had received advice, yes. I  
22 had not read the advice.  
23  
24 Q. Okay. We might be at cross-purposes. Plainly Crown has  
25 received advice --  
26  
27 A. Yes.  
28  
29 Q. --- and I'm trying to figure out what advice you are referring  
30 to in the letter, and then separately to that whether you knew, and  
31 you've answered that, you've said that the advice was from three  
32 sources: EY, KPMG and Mr Robertson QC ---  
33  
34 A. Yes.  
35  
36 Q. --- right? Now, as it transpires, Crown has received  
37 multiple legal advices over the years on the deductibility of the  
38 bonus jackpots, and I want to know whether you knew that when  
39 you wrote this letter.  
40  
41 A. I'm not aware of the specific advice that was sought  
42 previously. What I am aware of is that there was a number  
43 suggested of \$272.6 million, and that was the detail we provided  
44 to seek advice on. I'm not aware whether or not that had  
45 previously been sought.  
46  
47 Q. Let's just forget about numbers altogether. Let's not

1 mention a single dollar figure and let's just talk about advice.

2

3 A. Yep.

4

5 Q. Right? Because it is the case, you can take it from me, that  
6 over the years Crown has sought and received multiple legal  
7 advices on the deductibility of the bonus jackpot, okay, over and  
8 above the ones that you have referred to, being Mr Robertson, the  
9 EY and the KPMG. Right? So you can take it from me that is  
10 the case.

11

12 A. Okay.

13

14 Q. I want to know whether you knew that, when you wrote this  
15 letter.

16

17 A. As I said, I knew that various pieces of tax advice have  
18 been received on various issues. The specificity of it, I was not  
19 aware of.

20

21 Q. Yes, but of course ---

22

23 COMMISSIONER: Can I --- I would like you to pay attention to  
24 the question precisely, and the question doesn't relate to advice  
25 about various tax issues or anything like that. We're talking about  
26 a single issue, casino tax. The question you were asked related to  
27 advices about a casino tax, not other various advices. Can you  
28 answer the question on the basis that the question of advices and  
29 other advices relate to casino tax? Not GST, not deductions for  
30 aeroplane flights or anything like that.

31

32 A. Yes.

33

34 COMMISSIONER: All right. Now pay attention to the question.

35

36 Ask it again, please.

37

38 MS O'SULLIVAN: When you wrote this letter, were you aware  
39 that Crown had, in the past, received multiple legal advices on  
40 the issue of the deductibility of the bonus jackpots?

41

42 A. Yes, I think so.

43

44 COMMISSIONER: You wrote this letter three or four days ago.

45

46 A. Yes.

47

1 COMMISSIONER: Is it difficult to remember what you knew  
2 then?

3

4 A. Well, it's the terminology, Commissioner, I apologise ---

5

6 COMMISSIONER: What can't you understand?

7

8 A. The bonus jackpots issue. I'm not sure that was referred to  
9 in previous advice. I can't comment on that.

10

11 MS O'SULLIVAN: Let's use a different issue. Why don't you  
12 choose. You choose a description for the issue that is referred to  
13 in this letter, your choice. You choose it, and I will ask you  
14 a question about that description.

15

16 A. I was referring in this letter to the under-reporting of the  
17 casino tax liability of approximately \$8.8 million over the period  
18 2013 to date. That was the advice I was referring to.

19

20 Q. Let's forget about figures. You've called it the  
21 under-reporting of casino tax. Are you happy if I use that phrase?

22

23 A. Yes.

24

25 Q. Okay. All right. Are you aware, and were you aware when  
26 you wrote this letter, that Crown has in the past received multiple  
27 legal advices about the under-reporting of casino tax liability?

28

29 A. Yes.

30

31 Q. All right. Are you aware that Crown received internal legal  
32 advice about it in 2012?

33

34 A. Yes.

35

36 Q. Are you aware that Crown received external legal advice  
37 from Mr Young QC about it in 2014?

38

39 A. No.

40

41 Q. Were you aware that Crown received advice from Minters  
42 about the issue in 2018?

43

44 A. No.

45

46 COMMISSIONER: Who drafted this letter for you? Who  
47 drafted the letter?

- 1  
2 A. Yeah, I'm trying to remember. I believe I drafted it with the  
3 assistance of my CFO.  
4  
5 MS O'SULLIVAN: Would that be Mr McGregor?  
6  
7 A. Yes.  
8  
9 Q. Yes. So tell us about how that drafting came about. Were  
10 you in the same room together, was someone seated and typing,  
11 and the other person standing over the other person's shoulder?  
12 Was someone dictating? Tell us the circumstances in which the  
13 letter was drafted.  
14  
15 A. So I think, I'm trying to recall, but I would have --- I  
16 actually can't recall. I can't recall.  
17  
18 Q. Well, 1 July was last Thursday.  
19  
20 A. Yes.  
21  
22 Q. So last Thursday you presumably were in Melbourne?  
23  
24 A. Yes.  
25  
26 Q. Yes, and presumably this was drafted when you were at  
27 work?  
28  
29 A. Yes.  
30  
31 Q. And it is a pretty significant letter because it is a letter to  
32 the Government.  
33  
34 A. Yes.  
35  
36 Q. And in particular, it is a letter to the Secretary of that part  
37 of the Government that is very concerned about taxes --  
38  
39 A. Yes.  
40  
41 Q. --- and this is a letter which fesses up to the underpayment  
42 of potentially some millions of dollars of taxes.  
43  
44 A. Yes.  
45  
46 Q. And you can't remember the circumstances in which it was  
47 drafted, notwithstanding that that was done last Thursday?

1  
2 A. I can recall that it was drafted, I had input from my CFO  
3 Alan McGregor. I can also recall that it was circulated. It was  
4 viewed --- I believe it would have been viewed by the Chairman  
5 before it was sent and then it was certainly then forwarded to the  
6 Board after it was sent. But I'm not --- I'm just struggling with  
7 the recollection of who wrote the first draft but I'm sure there will  
8 be an audit trail to that effect.

9  
10 Q. When you say you "believe" it was seen by the Chair, did  
11 you send it in draft to the Chair?

12  
13 A. I can't recall, but I do recall specifically discussing with the  
14 entire Board that I would send this letter.

15  
16 Q. All right, and when did that discussion occur?

17  
18 A. On the day before Thursday.

19  
20 Q. And was that a face-to-face discussion?

21  
22 A. It was a videoconference.

23  
24 Q. Right. Insofar as you talk about the letter, when you had  
25 the discussion with the board, was the letter already drafted or  
26 was it just formulated conceptually in your head?

27  
28 A. It hadn't been drafted at that point.

29  
30 Q. All right. So what did you tell the Board that was going to  
31 go in the letter?

32  
33 A. Broadly the contents. That we would advise the  
34 Government, Treasury specifically, that we had received  
35 preliminary advice that there was an under-reporting and we  
36 would advise what we understood that quantum to be at this  
37 point, that we would undertake to have further engagement once  
38 we had reached a more considered view.

39  
40 Q. Yes, and did you raise the figure of \$8.8 million with those  
41 members of the Board?

42  
43 A. Yes.

44  
45 Q. Did any of them say to you, "oh, that's different to advice  
46 that we've had in the past"?

47



- 14:19 1 A. Not in that conversation, no.  
14:19 2  
14:19 3 Q. But in a later conversation did members of the Board say  
14:19 4 that to you?  
14:19 5  
14:19 6 A. No.  
14:19 7  
14:19 8 Q. Just to understand what you understood when you drafted  
14:19 9 and sent this letter, you understood that Crown had obtained  
14:19 10 an internal legal advice on the under-recording of casino tax  
14:19 11 liability in 2012 but you were unaware of advice obtained by  
14:19 12 Crown on that issue in 2014 and 2018; is that right?  
14:20 13  
14:20 14 A. I was unaware of the specific advice. As I said earlier,  
14:20 15 I was aware that advice had been received on a range of things,  
14:20 16 including casino tax, but I was unaware of those specific advices.  
14:20 17 I hadn't seen them, I hadn't read them.  
14:20 18  
14:20 19 Q. You are new to the organisation.  
14:20 20  
14:20 21 A. Yes.  
14:20 22  
14:20 23 Q. Who is briefing you on these issues?  
14:20 24  
14:20 25 A. Well, in the first instance, following when I became aware  
14:20 26 of this, the immediate conversations were primarily with the  
14:20 27 CFO, Alan McGregor, and then I subsequently met with EY,  
14:20 28 I think that was on 11 June, on the Friday. Then I had subsequent  
14:20 29 conversations with EY as well I think on the Monday. So a range  
14:20 30 of people.  
14:20 31  
14:20 32 Q. When you say a "range of people", it is people from EY and  
14:20 33 Alan McGregor; is that right?  
14:20 34  
14:20 35 A. Primarily, yes.  
14:20 36  
14:20 37 Q. When did you first learn that Crown had obtained some  
14:21 38 earlier legal advice on the issue?  
14:21 39  
14:21 40 A. It would have been in the context of those conversations in  
14:21 41 that week.  
14:21 42  
14:21 43 Q. Did you ask what was the effect of the legal advice or what  
14:21 44 was the conclusion of the legal advice?  
14:21 45  
14:21 46 A. I asked had we received advice before, I recall that. And I  
14:21 47 recall feedback that we had a range of advices.

14:21 1  
14:21 2 Q. Yes. Did you not say, "well, there is a range of advices,  
14:21 3 what was the conclusion of --- were they all of the same effect,  
14:21 4 were they different"?  
14:21 5  
14:21 6 A. No, I think I was aware they were different, but as to how I  
14:21 7 became aware of that, I can't recall. But what I can recall is that I  
14:21 8 immediately said we need advice immediately. We need to go  
14:21 9 and get immediate, current advice.  
14:21 10  
14:22 11 Q. Yes. Why wouldn't you have been satisfied with the  
14:22 12 previous advice you'd been given on the issue?  
14:22 13  
14:22 14 A. As far as I was aware, the information that we were seeking  
14:22 15 advice on was current information. So I felt we should get  
14:22 16 current advice.  
14:22 17  
14:22 18 Q. When you say current information, aren't you saying here  
14:22 19 that there is an under-reporting that goes back, extends from  
14:22 20 financial year 2013 to date?  
14:22 21  
14:22 22 A. Yes.  
14:22 23  
14:22 24 Q. So were you concerned that the advice that had previously  
14:22 25 been given was not up to date?  
14:22 26  
14:22 27 A. No ---  
14:22 28  
14:22 29 COMMISSIONER: Were you shopping around for better  
14:22 30 advice?  
14:22 31  
14:22 32 A. No, Commissioner, definitely not. What I was seeking to  
14:22 33 do was to get clear advice, and we have in fact sought further  
14:22 34 advice.  
14:22 35  
14:22 36 COMMISSIONER: The preliminary advice to which you refer  
14:23 37 was definitely not clear advice, was it?  
14:23 38  
14:23 39 A. That's why we sought further advice, yes.  
14:23 40  
14:23 41 COMMISSIONER: And the preliminary advice that you got was  
14:23 42 sufficiently uncertain that the figure you have in your letter is  
14:23 43 potentially misleading?  
14:23 44  
14:23 45 A. It potentially will not be the number we land on. Could be  
14:23 46 higher.  
14:23 47

14:23 1 COMMISSIONER: Correct. And the number you have in that  
14:23 2 letter is different from the number that you get if you relied on or  
14:23 3 applied the other advices, the advice you got in 2012, the advice  
14:23 4 you got in 2014, the advice you got in 2018 and so on, and  
14:23 5 different from the advice you got the other day as well?  
14:23 6  
14:23 7 A. It is different than the advice we got the other day, yes.  
14:23 8  
14:23 9 COMMISSIONER: So, do I take the figure in this letter is  
14:23 10 an opening position for bargaining purposes?  
14:23 11  
14:23 12 A. Not at all, Commissioner.  
14:23 13  
14:23 14 COMMISSIONER: But there is nothing accurate about it?  
14:23 15  
14:23 16 A. At the time that we wrote this letter, we had a pretty high  
14:24 17 degree of confidence that was the right number based on the  
14:24 18 advice we have.  
14:24 19  
14:24 20 COMMISSIONER: The barrister who gave you the advice didn't  
14:24 21 have a high degree of confidence. How did you get a high degree  
14:24 22 of confidence? Just explain that.  
14:24 23  
14:24 24 A. We understood the advice we received, we agreed with the  
14:24 25 advice based on our ---  
14:24 26  
14:24 27 COMMISSIONER: He did not have a high degree of confidence.  
14:24 28  
14:24 29 A. He flagged there was another item which could have been  
14:24 30 interpreted differently, that's why we went to get that advice.  
14:24 31  
14:24 32 COMMISSIONER: Which was a multiple of about three times  
14:24 33 this figure.  
14:24 34  
14:24 35 A. Which is why we said it was preliminary advice, which is  
14:24 36 why we got more advice and we said we would come back to  
14:24 37 Treasury to have a fulsome discussion once we had that.  
14:24 38  
14:24 39 COMMISSIONER: Do you think this was an honest letter to  
14:24 40 write when you had advice from counsel that was problematic,  
14:24 41 and suggesting that at least in counsel's view, the amount at issue  
14:24 42 from that counsel's perspective might have been three times this  
14:24 43 figure?  
14:24 44  
14:24 45 A. All I can say, Commissioner, is that I was being honest  
14:25 46 when I wrote this letter. It was my honest representation of what  
14:25 47 I understood the position to be.

14:25 1  
14:25 2 COMMISSIONER: Maybe honest, but not forthcoming and  
14:25 3 candid.  
14:25 4  
14:25 5 A. Well, I'm sorry if that is your interpretation, Commissioner,  
14:25 6 it certainly was not my intention.  
14:25 7  
14:25 8 MS O'SULLIVAN: The letter doesn't paint the full picture, does  
14:25 9 it?  
14:25 10  
14:25 11 A. In what sense?  
14:25 12  
14:25 13 Q. Well, it doesn't refer to the fact that Crown has had multiple  
14:25 14 pieces of advices on the issue over the years. In fact, this letter  
14:25 15 suggests that you've received preliminary advice, which I put to  
14:25 16 you suggests that it is the first advice, when that is patently not  
14:25 17 the case.  
14:25 18  
14:25 19 MR BORSKY: I object to the question.  
14:25 20  
14:25 21 COMMISSIONER: Why?  
14:25 22  
14:25 23 MR BORSKY: Because, Commissioner, if the premise of my  
14:25 24 learned friend's question is that there have been multiple advices  
14:25 25 to Crown over the years bearing upon the quantum of the  
14:26 26 underpaying or under-reported casino tax liability, then that is  
14:26 27 a false premise.  
14:26 28  
14:26 29 COMMISSIONER: No, that's not the question and you know it.  
14:26 30  
14:26 31 MR BORSKY: Well ---  
14:26 32  
14:26 33 COMMISSIONER: The advices, if applied, the quantum would  
14:26 34 vary from year to year. Because an advice given in 2012, or  
14:26 35 2014, would have quite different ones, so nothing to do with the  
14:26 36 quantum. It is the principle that the advice stands for, or the  
14:26 37 point of principle that the advice is that it is the correct  
14:26 38 application of the definition of the gaming tax, and based on the  
14:26 39 earlier advices, this figure is completely wrong.  
14:26 40  
14:26 41 MR BORSKY: And the circumstances in which the witness is  
14:26 42 asked ---  
14:26 43  
14:26 44 COMMISSIONER: We can have a debate about it, I just  
14:26 45 disagree that's the premise of the question, that's all.  
14:26 46  
14:26 47 MR BORSKY: The circumstances in which the witness is being

14:26 1 asked these series of questions includes that his letter sent to the  
14:26 2 State and the VCGLR last week was either not an honest or not  
14:27 3 a fully candid and forthcoming letter on the question of quantum,  
14:27 4 and so, in my respectful submission, my learned friend needs to  
14:27 5 be very careful to eschew any notion she ought know is false, that  
14:27 6 there had been advice prior to what Mr McCann describes as the  
14:27 7 preliminary advice, that the liability was approximately  
14:27 8 \$8.8 million, because there has been no such prior advice. As the  
14:27 9 witness has conceded, readily and candidly, there has been advice  
14:27 10 since.

14:27 11  
14:27 12 COMMISSIONER: You know what we are talking about. The  
14:27 13 application of the principles accepted in the other advices would  
14:27 14 not produce this figure or anything near it. The other advices said  
14:27 15 certain items were not deductible.

14:27 16  
14:27 17 MR BORSKY: Well ---

14:27 18  
14:27 19 COMMISSIONER: And the preliminary advice says that maybe  
14:27 20 this is deductible but, what counsel say, is a matter about which  
14:28 21 minds may differ.

14:28 22  
14:28 23 MR BORSKY: Yes ---

14:28 24  
14:28 25 COMMISSIONER: And why isn't that misleading? I have  
14:28 26 preliminary advice that it is this figure and the preliminary advice  
14:28 27 is it is uncertain. Minds may differ means at best 50/50.

14:28 28  
14:28 29 MR BORSKY: I don't want improperly to have an argument in  
14:28 30 front of the witness --

14:28 31  
14:28 32 COMMISSIONER: Correct.

14:28 33  
14:28 34 MR BORSKY: --- but I've made my submission about the  
14:28 35 question and the issue of quantum and what advice, if any, had  
14:28 36 been obtained on this before that.

14:28 37  
14:28 38 COMMISSIONER: I think the witness has learned enough about  
14:28 39 what to say in the next answer so we'll give it a go, anyhow.

14:28 40  
14:28 41 MS O'SULLIVAN: Yes.

14:28 42  
14:28 43 Mr McCann, you know I'm not asking you about quantum, and in  
14:28 44 fact a few questions ago I said let's forget about the figures  
14:28 45 altogether. Do you remember that?

14:28 46  
14:28 47 A. Yes.

14:28 1  
14:28 2 Q. So you understand I'm not asking you about specific  
14:28 3 amounts of quantum?  
14:28 4  
14:28 5 A. Yes.  
14:28 6  
14:28 7 Q. It is the case, is it not, that your letter did not disclose the  
14:29 8 fact that Crown had received previous advices on this issue?  
14:29 9  
14:29 10 A. It did not.  
14:29 11  
14:29 12 Q. Did you know when you wrote this letter that the advice  
14:29 13 that you referred to here, the one that you speak about in that  
14:29 14 paragraph that you have received, that out of all of them, that  
14:29 15 advice was the most favourable to Crown insofar as it indicated  
14:29 16 the lowest amount of underpayment?  
14:29 17  
14:29 18 A. No, I did not.  
14:29 19  
14:29 20 Q. In the last paragraph you say:  
14:29 21  
14:29 22 *I am informed that the balance relates to amounts which*  
14:29 23 *should not be recognised as revenue to begin with and*  
14:30 24 *have therefore been validly offset, with the vast majority*  
14:30 25 *relating to bonuses involving free bets, as represented by*  
14:30 26 *non-redeemable pokie credits.*  
14:30 27  
14:30 28 When you say, "I am informed", how were you so informed?  
14:30 29  
14:30 30 A. Informed by the advice that I had received and the  
14:30 31 discussions with our CFO.  
14:30 32  
14:30 33 Q. CFO, did you say?  
14:30 34  
14:30 35 A. Yes.  
14:30 36  
14:30 37 Q. So you were informed by Mr McGregor and by your  
14:30 38 discussions with EY; is that right?  
14:30 39  
14:30 40 A. Yes.  
14:30 41  
14:30 42 Q. And ---  
14:30 43  
14:30 44 A. And by the advice we had received, yes.  
14:30 45  
14:30 46 Q. And by the written advice?  
14:30 47

14:30 1 A. Yes.  
14:30 2  
14:30 3 Q. When you say, "written advice", is that just Mr Robertson's  
14:30 4 advice or is that Mr Robertson's advice and other advice?  
14:30 5  
14:30 6 A. Mr Robertson's advice.  
14:30 7  
14:30 8 Q. I see. It is the case, is it not, that you wrote a letter in  
14:30 9 relevantly identical terms to the VCGLR?  
14:30 10  
14:30 11 A. Yes.  
14:30 12  
14:31 13 Q. That was written and sent on the same day, 1 July 2021?  
14:31 14  
14:31 15 A. Yes, and I may have referred to the advice, the letter to  
14:31 16 Treasury as well in that letter, I think.  
14:31 17  
14:31 18 Q. Yes, indeed. They cross-refer to each other.  
14:31 19  
14:31 20 A. Yes.  
14:31 21  
14:31 22 Q. Can we bring up CRW.512.204.0003.  
14:31 23  
14:31 24 That is a letter you recognise, Mr McCann, is that right?  
14:31 25  
14:31 26 A. Yes.  
14:31 27  
14:31 28 Q. That is the letter I just referred to, the one that you sent to  
14:31 29 VCGLR on 1 July in relevantly identical terms to the letter you  
14:31 30 had sent to the Secretary of Department?  
14:31 31  
14:31 32 A. Yes.  
14:31 33  
14:31 34 Q. It is the case, is it not, that Crown received another legal  
14:31 35 advice on this issue, by which I mean the issue referred to in the  
14:31 36 letter yesterday?  
14:32 37  
14:32 38 A. Yes.  
14:32 39  
14:32 40 Q. Can we bring this document up, please,  
14:32 41 CRW.512.202.0005. That's a copy --- sorry?  
14:32 42  
14:32 43 COMMISSIONER: No, no, I was just having a conversation  
14:32 44 about the disclosure of the advice. I interrupted you earlier. I  
14:32 45 didn't want to interfere with the witness.  
14:32 46  
14:32 47 MR BORSKY:

14:32 1  
14:32 2 If I may, Commissioner, I have confirmed instructions that in  
14:33 3 light of the terms of the 1 July letters ---  
14:33 4  
14:33 5 COMMISSIONER: Privilege is gone?  
14:33 6  
14:33 7 MR BORSKY: --- my client does not maintain any claim for  
14:33 8 privilege of this advice which is now onscreen, albeit it bears  
14:33 9 a yellow marking, or ---  
14:33 10  
14:33 11 COMMISSIONER: --- (speaking over) ---  
14:33 12  
14:33 13 MR BORSKY: --- that is so, or in respect of the advice from  
14:33 14 Mr Robertson QC about which the witness has been answering  
14:33 15 questions too.  
14:33 16  
14:33 17 COMMISSIONER: And the earlier ones, MinterEllison,  
14:33 18 Neil Young, the other internal advices ---  
14:33 19  
14:33 20 MR BORSKY: On Mr Young's advice, again I need to be and  
14:33 21 wish to be careful in the presence of the witness.  
14:33 22  
14:33 23 COMMISSIONER: We'll deal with that ---  
14:33 24  
14:33 25 MR BORSKY: It may be on a different ---  
14:33 26  
14:33 27 COMMISSIONER: The question is slightly different, the  
14:33 28 principle is exactly the same.  
14:33 29  
14:33 30 MR BORSKY: The Commissioner understands our position on  
14:33 31 it, I think.  
14:33 32  
14:33 33 COMMISSIONER: Yes.  
14:33 34  
14:33 35 MR BORSKY: As the Commissioner pleases.  
14:34 36  
14:34 37 MS O'SULLIVAN: It may be we have discussions later as to the  
14:34 38 scope of the waiver.  
14:34 39  
14:34 40 COMMISSIONER: No privilege is claimed over this?  
14:34 41  
14:34 42 MR BORSKY: I confirm.  
14:34 43  
14:34 44 COMMISSIONER: Yes.  
14:34 45  
14:34 46 MS O'SULLIVAN: Mr McCann, you can see what we have up  
14:34 47 on screen is a memorandum of advice that Crown Resorts



14:34 1 received yesterday.  
14:34 2  
14:34 3 A. Yes.  
14:34 4  
14:34 5 Q. I presume this was an advice that was brought to your  
14:34 6 attention yesterday; is that right?  
14:34 7  
14:34 8 A. Last night.  
14:34 9  
14:34 10 Q. You are aware, are you not, that the authors of this advice  
14:34 11 come to a view which is contrary to the views expressed by EY  
14:34 12 and Mr Robertson QC?  
14:34 13  
14:34 14 A. Yes.  
14:34 15  
14:34 16 MS O'SULLIVAN: Perhaps we can go to paragraph 6 of the  
14:34 17 document, please, operator.  
14:34 18  
14:34 19 COMMISSIONER: Just --- panic stations. I just saw the cover  
14:35 20 sheet of the advice. It is obtained by ABL. We had a similar  
14:35 21 conversation. I didn't realise until I saw a minute ago, or like  
14:35 22 a second ago, it had ABL's name on it, not Allens' name on it.  
14:35 23  
14:35 24 MR BORSKY: That is true. That is true. Technically I can only  
14:35 25 speak for the company.  
14:35 26  
14:35 27 COMMISSIONER: I know.  
14:35 28  
14:35 29 MR BORSKY: We are trying to be as of much assistance to the  
14:35 30 Commission as we can.  
14:35 31  
14:35 32 COMMISSIONER: I take that up to a point, but that's okay.  
14:35 33  
14:35 34 MR BORSKY: We don't need to have that debate.  
14:35 35  
14:35 36 COMMISSIONER: Yeah, and you can't waive their privilege,  
14:35 37 as much as I would like you to be able to do that.  
14:35 38  
14:35 39 We'll have to proceed on the basis that until --- can we go through  
14:35 40 the same routine this time as last time? You check and see ---  
14:36 41  
14:36 42 MR BORSKY: I think last time, from somewhere in the ether,  
14:36 43 lawyers were watching and Solicitors Assisting got informed of  
14:36 44 the position far more efficiently than I could be. Perhaps we'll  
14:36 45 rely on the same device if the Commission pleases.  
14:36 46  
14:36 47 COMMISSIONER: Yes, smoke signals.

14:36 1  
14:36 2 MS O'SULLIVAN: Yes, well ---  
14:36 3  
14:36 4 COMMISSIONER: We can't do anything ---  
14:36 5  
14:36 6 MS O'SULLIVAN: No, that is the end of that line of questioning  
14:36 7 in the circumstances. It may be that it has to be revisited but  
14:36 8 we'll see in due course.  
14:36 9  
14:36 10 A. May I make a comment? Am I allowed to make  
14:36 11 a comment?  
14:36 12  
14:36 13 MS O'SULLIVAN: I'm sure that when Mr Borsky gets the  
14:36 14 opportunity to ask you some questions he will give you that  
14:36 15 opportunity.  
14:36 16  
14:36 17 A. Okay.  
14:36 18  
14:36 19 Q. Mr McCann, I want to ask you a bit about culture. You  
14:37 20 mentioned culture in your witness statement ---  
14:37 21  
14:37 22 A. Yes.  
14:37 23  
14:37 24 Q. --- on quite a few occasions.  
14:37 25  
14:37 26 Operator, perhaps we can bring up Mr McCann's witness  
14:37 27 statement, CRW.998.001.0459. If we can turn to paragraph 35.  
14:37 28  
14:37 29 You said there, Mr McCann, tell me if you can see it, that in your  
14:37 30 view, achieving the transformation --- and by that I presume you  
14:37 31 mean cultural transformation, but tell me if you disagree, but  
14:37 32 I think from the context, that is what you are talking about, is that  
14:37 33 right?  
14:37 34  
14:37 35 A. Yes.  
14:37 36  
14:37 37 Q. You are saying there, are you not, that:  
14:37 38  
14:37 39 *..... achieving the transformation required does not require*  
14:37 40 *a massive replenishment across the various layers of the*  
14:37 41 *organisation. It requires instead that the senior*  
14:38 42 *management consistently live and breathe the values and*  
14:38 43 *purpose of the organisation and demonstrate full*  
14:38 44 *accountability and a culture of strict compliance.*  
14:38 45  
14:38 46 Now, they are of course very pretty words but how, in practice,  
14:38 47 do you ensure that senior management consistently live and

14:38 1 breathe the values and purpose of the organisation and  
14:38 2 demonstrate full accountability and a culture of strict  
14:38 3 compliance? In other words, how do you achieve that? How do  
14:38 4 you propose to achieve it?

14:38 5  
14:38 6 A. So, if it is okay, I will talk about my experience.

14:38 7  
14:38 8 Q. Yes.

14:38 9  
14:38 10 A. So at Lendlease, I joined ---  
14:38 11

14:38 12 Q. Sorry, I'm actually going to ask you specifically about your  
14:38 13 experience at Lendlease in a moment. I won't deny you that  
14:38 14 opportunity to talk about it, but I'm just interested, instead of  
14:38 15 looking backwards, looking forwards, how you propose to  
14:39 16 achieve what you have set out here in the witness statements.

14:39 17  
14:39 18 A. There are a range of steps that we will undertake, and they  
14:39 19 are underway already. Some of these were underway before I  
14:39 20 joined, obviously, so there has been a lot of change already at  
14:39 21 a board and senior management level. There has been work done  
14:39 22 already on both culture and systems and processes. None of it is  
14:39 23 complete, but it has begun. On culture, specifically, the steps  
14:39 24 from here, the most immediate step, there is --- so firstly I have  
14:39 25 presented to a range of people within Crown already. What I  
14:39 26 would say is that my assessment of those conversations, and the  
14:39 27 question and answer sessions that have followed, is that there is  
14:39 28 a very significant population of Crown who are crying out for the  
14:39 29 ability to speak up, the ability to be involved, the ability to restore  
14:40 30 the pride in the organisation that they used to feel but currently is  
14:40 31 obviously challenged because their family and friends are  
14:40 32 struggling with what is going on.

14:40 33  
14:40 34 So that, to me, when I say that there is a culture of openness and  
14:40 35 transparency that I've walked into, that is my experience, and that  
14:40 36 there are a lot of people who are concerned about their future and  
14:40 37 are looking for strong leadership.

14:40 38  
14:40 39 The next step will be, there is a senior leadership forum on 15  
14:40 40 July, which will be about 60-odd people, a combination of senior  
14:40 41 management, but also some up-and-coming performers. The  
14:40 42 purpose of that conversation is to discuss where we are headed  
14:41 43 from here. We will have received a draft report from Deloitte by  
14:41 44 then on our current state. The plan is to finalise that report,  
14:41 45 having had input from that senior leadership forum. Deloitte will  
14:41 46 then produce a subsequent document for discussion around the  
14:41 47 future state and the roadmap to that future state so we will engage

14:41 1 across that. They've already interviewed, done a survey, I think,  
14:41 2 of 7,500 people. There has been a range of focus groups covering  
14:41 3 about 400-odd people, and there will be a series of other inputs.  
14:41 4 So that goes to how do you design the future state, how to  
14:41 5 communicate the future state.

14:41 6  
14:41 7 Within that, the values and purpose which I have spoken about  
14:41 8 here in a few places, we need to revisit that, do we have the right  
14:41 9 purpose, one of the observations that I think has been made,  
14:41 10 perhaps in Elizabeth Arzadon's report is that that purpose needs  
14:42 11 to align with the purpose of the regulators, have we done enough  
14:42 12 there, we need to revisit that. There is a lot of other things that  
14:42 13 we will need to do.

14:42 14  
14:42 15 Then, in terms of living and breathing the values and purpose of  
14:42 16 the organisation, from my experience, and the phrase that I have  
14:42 17 used, which does seem to resonate amongst the employees, is that,  
14:42 18 "what you walk past is what you condone". So if you see  
14:42 19 behaviour that is inappropriate, you should speak up. I've told  
14:42 20 staff that they should not do what I ask them to do if they feel  
14:42 21 uncomfortable. They should explain why they feel  
14:42 22 uncomfortable, but they should not feel, irrespective of whether it  
14:42 23 is me, Helen Coonan or whether it is anyone else in the  
14:42 24 organisation, that I'm not asking them to do something that ---  
14:42 25 excuse me --- that is inconsistent with their values.

14:42 26  
14:43 27 Q. Do you wish to take a break?

14:43 28  
14:43 29 A. I'm fine.

14:43 30  
14:43 31 COMMISSIONER: Let's take a 10-minute break.

14:43 32  
14:43 33 MS O'SULLIVAN: Yes.

14:43 34  
14:43 35 MR BORSKY: We have heard from solicitors for the directors  
14:43 36 and have confirmed their position that there is no claim for  
14:43 37 privilege in respect of the advice obtained yesterday.

14:43 38  
14:43 39 COMMISSIONER: Guess I expected that?

14:43 40  
14:43 41 MR BORSKY: It is your Commission. You can say what you  
14:43 42 like!

14:43 43

14:43 44

14:43 45 **ADJOURNED**

**[2.43PM]**

14:53 46

14:53 47

14:53 1       **RESUMED** **[2.53PM]**  
14:53 2  
14:53 3  
14:53 4       **COMMISSIONER:** Thank you.  
14:53 5  
14:53 6       **MS O'SULLIVAN:** Mr McCann, just before the break we were  
14:53 7 starting to talk about culture, and in fact, you've explained to the  
14:53 8 Commission some of the steps that will be taken over the next  
14:53 9 little while in terms of achieving reform of Crown's culture, and  
14:53 10 at the beginning you said you wanted to talk a little bit about your  
14:53 11 experience at Lendlease, and that is what I want to turn to now.  
14:53 12 You have said in your witness statement that you led Lendlease  
14:54 13 through a significant transformation of culture, purpose, and  
14:54 14 systems. I want to ask you some questions about culture and in  
14:54 15 particular your transformation whilst you were at Lendlease. I  
14:54 16 don't want to do it all in one go, I want to do it in parts.  
14:54 17  
14:54 18       If we can just start at the beginning for the benefit of the  
14:54 19 Commission, can you perhaps describe to us the culture at  
14:54 20 Lendlease at the start of what you have described as the cultural  
14:54 21 transformation process?  
14:54 22  
14:54 23       A. There were multiple aspects. So when I first joined  
14:54 24 Lendlease as the CEO of the investment management business, it  
14:54 25 had just lost its largest flagship fund and the business was under  
14:54 26 hostile attack, and it was a turnaround role, essentially. So I had  
14:55 27 to engage with staff and set a new direction and a new purpose  
14:55 28 and a new culture. That was in 2005.  
14:55 29  
14:55 30       Q. What you have described for me there is the circumstances  
14:55 31 of that part of Lendlease at the time.  
14:55 32  
14:55 33       A. Yes.  
14:55 34  
14:55 35       Q. I would be more interested in understanding what the  
14:55 36 culture was ---  
14:55 37  
14:55 38       A. Yes.  
14:55 39  
14:55 40       Q. --- at the time. So what was the culture and what was it  
14:55 41 about the culture that made a transformation necessary?  
14:55 42  
14:55 43       A. I spoke about one specific part of the business, but let me  
14:55 44 ---  
14:55 45  
14:55 46       Q. Feel free to talk about any part of Lendlease.  
14:55 47

14:55 1 A. Yes, let me broaden it out. I'm trying to get my dates in  
14:55 2 order.

14:55 3

14:55 4 I became the finance director of Lendlease in February 2007 and  
14:55 5 the CEO in, I think, October 2008. As you would probably  
14:56 6 understand, it was in the middle of the financial crisis, so there  
14:56 7 was a lot to be done. The culture at the time, I would describe as  
14:56 8 one of a lack of accountability and a siloed mentality across the  
14:56 9 businesses, and a lack of purpose.

14:56 10

14:56 11 Q. All right, so the way you have described that there, it is  
14:56 12 almost self-evident why there was --- why it was necessary for  
14:56 13 some change in that culture. Can you tell us specifically how  
14:56 14 cultural change came about and in particular what was your role  
14:56 15 in the cultural change?

14:56 16

14:56 17 A. Yes, so I will try and keep my answers short, but it is a long  
14:56 18 history.

14:56 19

14:56 20 In any cultural change within an organisation, it requires  
14:57 21 a combination of leadership from the top, obviously. It also  
14:57 22 requires setting a direction and a purpose and a vision that people  
14:57 23 can subscribe to, buy into, be motivated and energised by, but it  
14:57 24 also requires systems and processes that enable them to follow  
14:57 25 the leadership that is being provided. So, you know, it is all well  
14:57 26 and good to stand up and say you expect certain behaviours, but  
14:57 27 you need to live and breathe those behaviours and you need to set  
14:57 28 up the systems and processes that protect people from failure  
14:57 29 because mistakes will be made on an ongoing basis.

14:57 30

14:57 31 Perhaps if I could talk about the safety culture at Lendlease,  
14:57 32 because that is probably the area that I felt was the biggest  
14:57 33 transformation, and probably the thing that I'm most proud of.

14:57 34

14:58 35 I think I've specified in my witness statement somewhere the  
14:58 36 numbers, but suffice to say there was a significant reduction in  
14:58 37 fatalities, from an average of nine fatalities a year around the  
14:58 38 world in the 10 years leading up to and including my first year as  
14:58 39 CEO, to, that was reduced to four fatalities in the next decade, and  
14:58 40 when I left there were none.

14:58 41

14:58 42 When I left Lendlease, we had record low incident rates across  
14:58 43 every metric. How that was achieved, which I intend to apply the  
14:58 44 way at Crown, I liken that issue in a company like Lendlease,  
14:58 45 which is one of the largest contractors in the world, has, at any  
14:58 46 given point in time, about 350,000 subcontractors working on its  
14:59 47 sites around the world, with a very low margin business in

14:59 1 particular in the construction business, where margins can be sub  
14:59 2 three per cent, there is not much room to invest a lot of money on  
14:59 3 safety or other practices and systems, you have to try and achieve  
14:59 4 world's best practice without a huge budget. So the only way you  
14:59 5 can do that is you can't throw more resources at the same  
14:59 6 problem. You have to have a combination of people who are  
14:59 7 leading, whose job is safety, relating to safety, and you have to  
14:59 8 have an entire organisation that buys into that, that thinks about it  
14:59 9 every day.

14:59 10  
14:59 11 When I say I liken that to Crown, Crown as we've talked about, it  
14:59 12 is a regulated environment because we have a licence, a social  
14:59 13 licence, and also regulatory licence also, to make money  
15:00 14 essentially out of people gambling. That does clearly come with  
15:00 15 a significant amount of responsibility, and again when I look at  
15:00 16 Crown's challenges, there has been a lot discussed around  
15:00 17 Responsible Gaming and other issues. I've done quite a bit of  
15:00 18 work to try and understand those issues, although I don't want to  
15:00 19 suggest that I'm an expert on that or anything else we've  
15:00 20 discussed today, but I've done a lot of work. The way that I see  
15:00 21 Crown in Melbourne, it is a very significant asset, obviously, at  
15:00 22 peak it is probably, well, it can accommodate 5,000 to 6,000  
15:00 23 people gambling at any one time at peak, and at peak it probably  
15:00 24 has about 700 people walking the floor. A small number of  
15:01 25 those, maybe too small, but I need to do more work, are engaged  
15:01 26 full-time in Responsible Gaming, the balance are not. In my  
15:01 27 opinion, they need to all be trained to be very conscious of that  
15:01 28 issue. They need to be trained not to walk past something that  
15:01 29 they don't condone. They need to live and breathe values which  
15:01 30 are aligned with the social responsibility, essentially, and I see  
15:01 31 that as a very strong parallel to the safety journey of Lendlease.  
15:01 32

15:01 33 Q. Yes, thank you. Just briefly going back to the Lendlease  
15:01 34 culture, I just want to give you the opportunity to tell us whether  
15:01 35 that is in respect of the safety example or more broadly the  
15:01 36 specifics of your role in leading the cultural change.

15:02 37  
15:02 38 A. I think it is simply not possible for any one person to  
15:02 39 achieve that sort of transformation. Clearly as the CEO it is your  
15:02 40 accountability and responsibility, but I need to surround myself  
15:02 41 with the best possible people to achieve that and invest in  
15:02 42 resources that we can invest in to achieve that. So there is a lot to  
15:02 43 be done.

15:02 44  
15:02 45 But as I said, I think what I have walked into is a group of people,  
15:02 46 in Melbourne there is circa 11,500, and when I talk to them they  
15:02 47 seem very open, very transparent, very honest, decent,

15:02 1 hardworking people, and they are looking for direction, and they  
15:02 2 are looking for leadership. And I don't see that as solely my role,  
15:03 3 but I see that as my ultimate accountability.

15:03 4  
15:03 5 Q. Yes. Thank you. Just a last question about the Lendlease  
15:03 6 cultural change. Roughly how long do you think it took for the  
15:03 7 cultural change that you've described to be effective and  
15:03 8 embedded?

15:03 9  
15:03 10 A. My recollection, and, I mean, data isn't the only measure  
15:03 11 but it helps me put a timeline on things, I guess, as I said, the  
15:03 12 seven fatalities a year by 2012 are down to one, and the next four  
15:03 13 years we had zero. So I think I would suggest that that  
15:03 14 transformation took two years.

15:03 15  
15:04 16 MS O'SULLIVAN: No further questions.

15:04 17  
15:04 18

15:04 19 **QUESTIONS BY THE COMMISSIONER**

15:04 20  
15:04 21

15:04 22 COMMISSIONER: Thanks, Ms O'Sullivan.

15:04 23  
15:04 24 I've got a couple which are wholly unrelated to what we've been  
15:04 25 talking about so far. I'm not sure you will be able to answer  
15:04 26 many or any of the questions, I am going to give it a go, but if  
15:04 27 you can't answer them, it is as much to ask you these questions as  
15:04 28 to put the lawyers on notice of an issue which we are going to  
15:04 29 have to deal with sooner rather than later.

15:04 30  
15:04 31 Under the agreement, or under one of the agreements that the  
15:04 32 Melbourne casino --- not Crown Resorts in Sydney or Crown  
15:04 33 Resorts or the Crown Casino in Perth, but the Melbourne casino,  
15:04 34 that's Resorts Melbourne, Crown Melbourne, whatever you want  
15:04 35 to call it, it has an agreement with the regulator that does two  
15:05 36 things. It does lots of things, but this discussion does two very  
15:05 37 important things. It requires the Melbourne company, not Crown  
15:05 38 Resorts the parent company, it is indifferent to the parent  
15:05 39 company, but it requires the Melbourne company to have a CEO,  
15:05 40 a Chief Financial Officer, a Chief Operating Officer, and the  
15:05 41 heads of gaming, surveillance, international and domestic VIP  
15:05 42 business, and compliance. It requires them to have each of those  
15:05 43 people in its employ, and they have to live in Victoria. That's  
15:05 44 what the agreement says. I'm trying to work out how what you  
15:05 45 plan to do and what the company plans to do fits in with Crown  
15:06 46 Melbourne's legal obligations to have a CEO and the other people  
15:06 47 that I've mentioned living in Victoria. And it seems to me that



15:06 1 you are talking about a situation where there will be two CEOs,  
15:06 2 maybe two financial officers and two operating officers and two  
15:06 3 of everything. I'm mystified at the moment how this is intended  
15:06 4 to work. I know you might not know the answer because you are  
15:06 5 too new, but it would help if you had some --- if you put some  
15:06 6 light on that and if you can't, somebody else is going to have to,  
15:06 7 because at the moment, the proposal that you have in mind that is  
15:06 8 in your statement seems to me to be outside the legal arrangement  
15:06 9 that the Melbourne company is allowed to adopt.

15:06 10

15:07 11 A. If what I've said in my statement contradicts the legal  
15:07 12 requirements, I apologise for that. It certainly wasn't intended.

15:07 13

15:07 14 COMMISSIONER: No, no, we might be talking about  
15:07 15 mechanical things and procedural things.

15:07 16

15:07 17 A. Yes.

15:07 18

15:07 19 COMMISSIONER: But you are the CEO, the Melbourne  
15:07 20 company has to have a CEO and the CEO has to live in Victoria.

15:07 21

15:07 22 A. Yes.

15:07 23

15:07 24 COMMISSIONER: In other words, the idea when the casino was  
15:07 25 set up is it is a Victorian casino, Victorian-run, Victoria-operated  
15:07 26 with Victoria's economic and social interests as its principal  
15:07 27 concern, apart from operating its business.

15:07 28

15:07 29 A. Yes.

15:07 30

15:07 31 COMMISSIONER: So that is the model that was agreed between  
15:07 32 the Government and the casino.

15:07 33

15:07 34 A. Yes.

15:07 35

15:07 36 COMMISSIONER: I'm not sure how, if I have a CEO in  
15:07 37 Melbourne operating the Melbourne business in charge of  
15:07 38 Melbourne business, reporting to the Board and nobody else ---  
15:07 39 I don't know where anybody else is coming into this like the way  
15:08 40 you described your position.

15:08 41

15:08 42 A. Yes, so I don't have a complete answer, Commissioner, but  
15:08 43 I am aware of the issue and the challenge. My understanding  
15:08 44 from the historical position is that Xavier Walsh is the CEO of  
15:08 45 Melbourne, Ken Barton was the CEO of Crown Resorts, Ken was  
15:08 46 a Sydney resident. The structure worked in that regard.

15:08 47

15:08 1 COMMISSIONER: It might have worked but it might not have  
15:08 2 been legal.  
15:08 3  
15:08 4 A. My understanding was it met the requirements because  
15:08 5 there was a CEO of Melbourne. But as I said, I'm not full beat on  
15:08 6 this, I need to do some more work on it. But what I will say is  
15:08 7 there is a review of this underway, a review of how we should be  
15:08 8 structured ---  
15:08 9  
15:08 10 COMMISSIONER: I know that, I'm very well aware of that.  
15:08 11 That's the notion, you got legal advice and you told the regulator  
15:08 12 about centralising functions, do not assume that that will be the  
15:09 13 position in the future. That is, do not assume you are permitted  
15:09 14 to do that.  
15:09 15  
15:09 16 A. Yes, that's not the assumption that I have.  
15:09 17  
15:09 18 COMMISSIONER: Okay.  
15:09 19  
15:09 20 A. And look, when I say we are doing a review, we are  
15:09 21 looking into the corporate governance structure, board  
15:09 22 membership in Victoria, et cetera, as well as the management  
15:09 23 structure. I have committed to spend at least 50 per cent of my  
15:09 24 time in Melbourne. I will relocate to Melbourne if I have to.  
15:09 25 That is something I have discussed with my family, we haven't  
15:09 26 made that decision yet, but there is a fair bit to get to the bottom  
15:09 27 of what is the best structure is for the organisation, meeting our  
15:09 28 requirement ---  
15:09 29  
15:09 30 COMMISSIONER: My worry is that the agreement says the  
15:09 31 CEO has to live in Melbourne. All the senior management, and  
15:09 32 including any executive director, actually, is required by the  
15:09 33 agreement to live in Melbourne. It is meant to be  
15:09 34 a Melbourne-run show.  
15:09 35  
15:09 36 A. I think, as I said, we need to make sure that we meet our  
15:09 37 legal requirements in how the Melbourne business is run and the  
15:09 38 Melbourne asset has to be run to be the premium resort in the  
15:10 39 country.  
15:10 40  
15:10 41 COMMISSIONER: (Inaudible).  
15:10 42  
15:10 43 A. Yes, all those things, so we need to make sure that is the  
15:10 44 case. I believe it is the case, it will be the case.  
15:10 45  
15:10 46 COMMISSIONER: Part of the issue that I have, which I can't  
15:10 47 work out how this is going to work, is my understanding of

15:10 1 corporate structures is the CEO reports to the Board, not to  
15:10 2 anybody else.

15:10 3

15:10 4 A. Yes.

15:10 5

15:10 6 COMMISSIONER: So if I have a CEO in Melbourne whose sole  
15:10 7 report is to the Board, as if there is another CEO somewhere else  
15:10 8 from some other company, I get it's not just some other company,  
15:10 9 but the parent company, or the holding company, I don't know  
15:10 10 what structure is going to make that work, because the --- if there  
15:10 11 is a Melbourne CEO like there has been, that CEO cannot be  
15:10 12 beholden to you. That CEO is beholden to the Board.

15:10 13

15:10 14 A. The Board.

15:11 15

15:11 16 COMMISSIONER: Takes his directions from the Board, reports  
15:11 17 to the Board, and there is no person standing in between the CEO  
15:11 18 running the Melbourne operation and the Board, and every other  
15:11 19 one of these heads of sections that the agreement refers to. It is  
15:11 20 a complication, and I don't know how you can satisfactorily work  
15:11 21 your way around it. Maybe you can. But it's not self-evident to  
15:11 22 me at the moment how you can actually do that. And assume  
15:11 23 this, assume that I have in mind, to the extent that I might make  
15:11 24 recommendations about it, making it impermissible for  
15:11 25 delegation outside the company.

15:11 26

15:11 27 A. Yes.

15:11 28

15:11 29 COMMISSIONER: So they can take advice from whoever they  
15:11 30 want, but if I'm right that the whole set-up was to be managed  
15:11 31 and run in Victoria, so there is no conflict of interest with Sydney  
15:12 32 or Perth, that is the Melbourne people look after Melbourne and  
15:12 33 don't care what is happening in Perth and don't care what is  
15:12 34 happening in Sydney, because there is a potential mismatch in  
15:12 35 how it should go, old-fashioned conflict of interest, if you like,  
15:12 36 for me it is a serious problem which inevitably has to be  
15:12 37 addressed --- that is a speech, that is not a question --- if you have  
15:12 38 some input that would help, because it is a problem I have in my  
15:12 39 mind which has to be dealt with.

15:12 40

15:12 41 A. Yes, it is complicated --

15:12 42

15:12 43 COMMISSIONER: I know.

15:12 44

15:12 45 A. --- clearly, and it is complicated by the fact that any  
15:12 46 subsidiary, any subsidiary board obviously has an ultimate parent  
15:12 47 as well, so we need to work through that.

15:12 1  
15:12 2 COMMISSIONER: You bet.  
15:12 3  
15:12 4 A. Yeah.  
15:12 5  
15:12 6 COMMISSIONER: And you should assume that I have in mind  
15:12 7 making sure that the subsidiary board is not a subservient  
15:12 8 organisation.  
15:12 9  
15:12 10 A. Yep.  
15:12 11  
15:12 12 COMMISSIONER: Ie, this subsidiary board should, as the  
15:12 13 agreements contemplate and as the legislation contemplates, it  
15:13 14 should run Victoria. No parent company, no holding company  
15:13 15 should run Victoria. Now I know that is quite inconsistent with  
15:13 16 the advice you have been getting from outside advisors about  
15:13 17 how it is efficient to centralise functions, but at the moment just  
15:13 18 assume that I think centralising functions either isn't permissible  
15:13 19 at all because it is inconsistent with the agreement, or should be  
15:13 20 made impermissible, ie, this is as parochial as you get, but  
15:13 21 Victorians for Victoria.  
15:13 22  
15:13 23 A. Yes, I understand that. I grew up in Victoria.  
15:13 24  
15:13 25 COMMISSIONER: Okay.  
15:13 26  
15:13 27 A. I had the misfortune of following St Kilda all my life,  
15:13 28 which is a disaster, but ---  
15:13 29  
15:13 30 COMMISSIONER: They have a good coach.  
15:13 31  
15:13 32 A. All I can offer is that it is complicated. That said, I think  
15:13 33 there is a structure that we obviously have to make sure complies  
15:14 34 and make sure delivers what it needs to, and then there is the  
15:14 35 commercial reality of decision-making, and the issue of conflicts  
15:14 36 that may or may not arise and how they will be dealt with. My  
15:14 37 personal view is that firstly, Crown Melbourne is clearly the  
15:14 38 outstanding resort in the country. It needs to be maintained as  
15:14 39 such to meet our obligations.  
15:14 40  
15:14 41 COMMISSIONER: (Inaudible) as well.  
15:14 42  
15:14 43 A. Only if there is an objective or even a possibility that, say,  
15:14 44 Crown Sydney could become a superior resort.  
15:14 45  
15:14 46 COMMISSIONER: It could be a serious problem. If it is not  
15:14 47 already a problem.

15:14 1  
15:14 2 A. I personally don't see that because it is a fraction of the size.  
15:14 3 It is a small gaming facility with a nice hotel.  
15:14 4  
15:14 5 COMMISSIONER: Turnover ---  
15:14 6  
15:14 7 A. Is part of it, yes.  
15:15 8  
15:15 9 COMMISSIONER: That said, that is more turnover than no  
15:15 10 turnover, but ---  
15:15 11  
15:15 12 A. Really, one of the big drivers for Victoria is tourism  
15:15 13 revenue, and part of the vision around having Crown Sydney is to  
15:15 14 become more appealing to international tourism spend, which  
15:15 15 would go to both Sydney and Melbourne.  
15:15 16  
15:15 17 COMMISSIONER: I know that is the theory, but if you look at  
15:15 18 the figures, I think you promised to pay the NSW Government  
15:15 19 a billion dollars over 10 years. That is taking a lot of revenue out  
15:15 20 of Melbourne, isn't it?  
15:15 21  
15:15 22 A. Hopefully out of Star.  
15:15 23  
15:15 24 COMMISSIONER: You will have competition issues, I get that.  
15:15 25 But my concern is the potential, and your concern might be  
15:15 26 whether, doing what you are doing, and what you've started to do,  
15:15 27 whether that is in fact breach of the agreement.  
15:15 28  
15:15 29 A. We need to ---  
15:15 30  
15:16 31 COMMISSIONER: And one of the things we did ask for is  
15:16 32 documents which considered that. None are forthcoming. Now,  
15:16 33 that means you hadn't considered it, and that in itself is a serious  
15:16 34 problem in my book.  
15:16 35  
15:16 36 A. Yes, so ---  
15:16 37  
15:16 38 COMMISSIONER: This is not so much a criticism, I'm flagging  
15:16 39 it to your ---  
15:16 40  
15:16 41 A. Yes, and there is work to be done. I certainly haven't  
15:16 42 completed my assessment of the situation, but I'm well aware of  
15:16 43 the requirements and we will make sure that we meet them. And  
15:16 44 if your requirements, or recommendations or requirements from  
15:16 45 this Commission are different, we'll have to make sure we meet  
15:16 46 them too.  
15:16 47

15:16 1 COMMISSIONER: 10 years ago I could make requirements, but  
15:16 2 no longer.

15:16 3

15:16 4 A. Yes.

15:16 5

15:16 6 COMMISSIONER: Yes. All right, anybody want to ask any  
15:16 7 questions? No, all the way around?

15:16 8

15:16 9

15:16 10 **RE-EXAMINATION BY MR BORSKY**

15:16 11

15:16 12

15:16 13 MR BORSKY: I do, Commissioner.

15:16 14

15:17 15 Could the witness please be taken back to --- no I withdraw that.

15:17 16

15:17 17 Mr McCann, I am going to ask you some more questions, if I  
15:17 18 may, about the work you did at Lendlease. You've given some  
15:17 19 evidence about that already in answer to Counsel Assisting's  
15:17 20 questions; do you recall?

15:17 21

15:17 22 It is right, isn't it, that you were CFO and MD for Lendlease for  
15:17 23 over 12 years?

15:17 24

15:17 25 A. Yes.

15:17 26

15:17 27 Q. You'd led that substantial public and multinational  
15:17 28 company through the GFC, and multiple regulatory  
15:17 29 investigations, and the COVID-19 pandemic?

15:18 30

15:18 31 A. Yes.

15:18 32

15:18 33 Q. And, as part of your work leading Lendlease, you led the  
15:18 34 company through a significant transformation of its culture and  
15:18 35 systems, focusing in particular on its social licence to operate?

15:18 36

15:18 37 A. Yes.

15:18 38

15:18 39 Q. In answer to a question from Counsel Assisting, you gave  
15:18 40 evidence that the culture at the time that you came into Lendlease  
15:18 41 was characterised by a lack of accountability, lack of purpose,  
15:18 42 and a siloed mentality across the business; do you recall giving  
15:18 43 that evidence?

15:18 44

15:18 45 A. Yes.

15:18 46

15:18 47 Q. Could you please tell the Commission, as specifically as

15:18 1 you are able, about how you went about within Lendlease  
15:18 2 transforming that culture? What did you do in order to transform  
15:18 3 the culture?

15:18 4

15:18 5 A. So in the first instance I listened a lot and tried to get to the  
15:19 6 bottom of what I saw as the drivers of the siloed culture, because  
15:19 7 from the outside looking in it, appeared that there were three very  
15:19 8 strong businesses that didn't seem to work together. Having done  
15:19 9 my analysis, I came to the conclusion that it was worse than that:  
15:19 10 they pretty much despised each other. So I set about developing  
15:19 11 what we labelled the integrated model, which was simply  
15:19 12 collaboration, really, between the businesses, but described in  
15:19 13 a bit more sophisticated way than that, which led to Lendlease  
15:19 14 pursuing a strategy to become the leading international real estate  
15:19 15 player across integrated developments around the world.

15:19 16

15:19 17 I know this isn't the culture question, but in terms of measuring  
15:19 18 output, you have to measure it in some way, Lendlease's pipeline  
15:19 19 in those projects is over \$100 billion today, so I would suggest it  
15:20 20 was very successful. And that is \$100 billion of projects that fit  
15:20 21 that category of integrated projects where development,  
15:20 22 construction and investments are all working together.

15:20 23

15:20 24 So that was the first step to set that vision. We created a purpose,  
15:20 25 create the best places, which had a lot behind it than just those  
15:20 26 simple words, but you have to keep it simple to give people  
15:20 27 something to turn up to work and believe in and be motivated by.

15:20 28

15:20 29 And we built all of our decisions around the key themes that we  
15:20 30 saw driving the future of the business. We took a ten-year view,  
15:20 31 we re-assessed those every year, we only changed one of them,  
15:20 32 which was about six years in. The others remained the same for  
15:20 33 the whole 12 years that I was the CEO.

15:20 34

15:20 35 And then I've talked about the safety journey so I don't think I  
15:21 36 should repeat that. We again refreshed our purpose last year  
15:21 37 during the COVID pandemic, because we felt that the, "create the  
15:21 38 best places" was not necessarily really capturing the social issues  
15:21 39 as well as we could have and should have. So we spent a lot of  
15:21 40 time going through with our team a review of all of those.

15:21 41

15:21 42 When I became the CEO I introduced the value of trust, which  
15:21 43 wasn't on --- every corporation has a list of values; some live and  
15:21 44 breathe them, others don't. Lendlease certainly did. We also felt  
15:21 45 that one of the things that would differentiate us as a business was  
15:21 46 sustainability, both social and environmental sustainability. We  
15:21 47 used to be known as a leader in that some years back, but we had

15:21 1 lost that position. So we set ourselves the ambition to reclaim  
15:21 2 that position, and I think five out of the last six years, the  
15:22 3 Lendlease's flagship Commercial fund has been awarded the  
15:22 4 award for the most sustainable fund in the world, amongst about  
15:22 5 \$3 trillion worth of assets under management, and five out of the  
15:22 6 top 10 funds are Lendlease-managed funds globally.

15:22 7  
15:22 8 So we've taken a leadership position in that space. We've signed  
15:22 9 up to carbon targets that are world-leading. So we've set  
15:22 10 a number of flags on the hill and, frankly, I think we've had  
15:22 11 a group of very authentic leaders that have lived and breathed that  
15:22 12 vision. And most of them were leaders that were identified very  
15:22 13 early on in my time at Lendlease. One of the first people is now  
15:22 14 the CEO of Stockland, another public company, another is  
15:22 15 currently the CEO of the Crown Estate, managing all of the Royal  
15:23 16 Family's assets in London. Another is the CEO of Lendlease,  
15:23 17 another is the CEO of Lendlease Investment Management, and  
15:23 18 another is the CEO of Lendlease Asia.

15:23 19  
15:23 20 So I think, when I look back on that journey, identifying the  
15:23 21 people who are authentic, high quality, trustworthy, honest,  
15:23 22 decent people, is part of my job, that's what I'm planning to do at  
15:23 23 Crown, and that's one step. There is a lot of other process steps,  
15:23 24 there is a lot of other system issues that need to be fixed in any  
15:23 25 organisation. But to my way of thinking, the purpose of systems  
15:23 26 and processes is to provide employees the opportunity to be  
15:23 27 successful. It is not to constrain them, it is to provide them the  
15:23 28 opportunity to be successful. There is a lot of literature around  
15:23 29 this, around retribution versus reformation. There has to be  
15:23 30 a balance. You can't have either, you have got to have both.

15:23 31  
15:24 32 Q. I was going to ask you, related to that, whether you  
15:24 33 encountered any cultural resistance within Lendlease to the  
15:24 34 cultural transformation that you were working to effect? And, if  
15:24 35 so, how you dealt with it at Lendlease.

15:24 36  
15:24 37 A. Yes. Certainly early on. Firstly, I was an outsider so I  
15:24 38 wasn't welcomed with open arms, and there was a lot of  
15:24 39 resistance. There was what we used to call the marzipan layer,  
15:24 40 which I think most big companies have, people who have been  
15:24 41 there for a long time and behaved in a certain way and believed  
15:24 42 that they are the key to the organisation and they set the tone. So  
15:24 43 I met a lot of resistance through that. And there was a resistance  
15:25 44 to change. So we didn't have a burning platform at Lendlease, I  
15:25 45 would say. It is a big difference at Crown. We have a massive  
15:25 46 burning platform, we have people with open arms wanting to  
15:25 47 change, and I've had 12 years as a public company CEO so I'm



15:25 1 not starting from scratch.

15:25 2

15:25 3 Q. How did you deal with the cultural resistance at Lendlease?

15:25 4

15:25 5 A. Firstly, I think it is very important not to jump to  
15:25 6 conclusions. It is --- anyone who has got experience in a senior  
15:25 7 management role forms a view on people and judges people fairly  
15:25 8 early. I'm no different. I've already formed a preliminary view  
15:25 9 on who I think the best quality people might be that I've met, but  
15:25 10 I'm not certain, and I need to work through that. There will be  
15:26 11 people who simply are not up for the journey and there will be  
15:26 12 people that definitely are, and I need to make sure that I spend the  
15:26 13 time to make the right decisions. As I said, it has to be  
15:26 14 a combination of retribution and reformation. It's not a case of  
15:26 15 fire everyone who has made a mistake.

15:26 16

15:26 17 Q. I was trying to direct my question to your experience at  
15:26 18 Lendlease. May we take it from that answer that at Lendlease  
15:26 19 you dealt with cultural resistance through a combination of  
15:26 20 retribution and reformation?

15:26 21

15:26 22 A. Yes. Yes.

15:26 23

15:26 24 Q. Does that mean a combination of carrot and stick?

15:26 25

15:26 26 A. Yes. So consequence management is the phrase that I've  
15:26 27 used historically, and I think again the safety journey is probably  
15:26 28 a good example. So we did start to take some very strict  
15:27 29 reactions and measures when things went wrong for a period of  
15:27 30 time, and then we backed off because the last thing you want is in  
15:27 31 that sort of issue --- and I would again draw a parallel with  
15:27 32 Responsible Gaming and also with financial crime --- you don't  
15:27 33 want reporting going underground. You want more and more  
15:27 34 observations. You want the maximum number of observations  
15:27 35 you can get and the minimum number of incidents. That is what  
15:27 36 we achieved at Lendlease. By the time I left we had a safety app  
15:27 37 where, I can't remember the numbers, but I'm pretty sure it was in  
15:27 38 the order of 200,000 observations a year, and more than  
15:27 39 90 per cent of our sites had no critical incidents at all. So I think  
15:27 40 that that is --- my experience is --- so that is a combination, it's  
15:28 41 a combination of systems, a combination of culture.

15:28 42

15:28 43 Q. Turning back to Crown then, how many people does Crown  
15:28 44 employ across Australia?

15:28 45

15:28 46 A. I think it is in the order of 18,500, thereabouts.

15:28 47

- 15:28 1 Q. How many people does Crown employ within Victoria?  
15:28 2  
15:28 3 A. 11,500.  
15:28 4
- 15:28 5 Q. Do you and Ms Coonan communicate with Crown staff as  
15:28 6 a broad group in any way?  
15:28 7  
15:28 8 A. Yes.  
15:28 9
- 15:28 10 Q. How?  
15:28 11  
15:28 12 A. The Chairman writes a letter every week which gets  
15:28 13 distributed to all staff, providing an update on relevant events.  
15:28 14 My recollection, since I've been at Crown, every one of those  
15:28 15 letters has talked about encouraging people to speak up, if  
15:28 16 anything --- if they see anything that they think is wrong. It also  
15:29 17 encourages them to use some of our facilities around mental  
15:29 18 health and other issues. That is a standard part of that. I have  
15:29 19 filmed videos that have gone out to the whole staff. I do them  
15:29 20 fortnightly. So it is kind of --- actually, the Chairman does hers  
15:29 21 every week and on top of that I do my video fortnightly. And that  
15:29 22 is usually --- or that is talking about culture, basically. It is  
15:29 23 talking about --- giving a broad update but talking primarily  
15:29 24 about culture.  
15:29 25
- 15:29 26 I've presented, as I think I said earlier, my guess is over 300 staff  
15:29 27 members and invited a question and answer session. The tone of  
15:29 28 those conversations has all been about where Crown is in terms  
15:29 29 of the challenges it faces, the damage that has been done to its  
15:29 30 brand, and to the pride of the organisation and the need for  
15:29 31 people to speak up and to not feel that it's not a place they want to  
15:30 32 be.  
15:30 33
- 15:30 34 Q. So they are the messages you've been delivering in your  
15:30 35 face-to-face discussions or meetings with a few hundred so far,  
15:30 36 Crown staff?  
15:30 37
- 15:30 38 A. Yes.  
15:30 39
- 15:30 40 Q. What have you heard from Crown staff in your face-to-face  
15:30 41 meetings or discussions with the few hundred that you have so far  
15:30 42 been able to meet with?  
15:30 43
- 15:30 44 A. I've heard a very consistent response, which is that that is  
15:30 45 exactly what they need, exactly what they want from  
15:30 46 management, that they have been crying out for those messages.  
15:30 47 Job security is a big concern. That comes up each time. They are

15:30 1 worried about their future.  
15:30 2

15:31 3 Q. As you understood it from Ms Coonan, at least, and  
15:31 4 perhaps others, you have been recruited in part because of your  
15:31 5 track record on cultural transformation and your capacity to drive  
15:31 6 cultural change; is that right?  
15:31 7

15:31 8 A. Yes.  
15:31 9

15:31 10 Q. You've read the Bergin Report, as you said in answer to  
15:31 11 Counsel Assisting?  
15:31 12

15:31 13 A. Yes.  
15:31 14

15:31 15 Q. Have you formed any views yet as to the causes of Crown's  
15:31 16 cultural failings historically and whether or not the culture can in  
15:31 17 fact be transformed?  
15:31 18

15:31 19 A. Yes, I have.  
15:31 20

15:31 21 Q. Would you tell the Commissioner what those are?  
15:31 22

15:31 23 A. Yes. Firstly, I think I would struggle to disagree with much  
15:31 24 of what was said in the Bergin Report. I certainly would agree  
15:32 25 with the observation around the deleterious influence of CPH,  
15:32 26 and a range of others things in relation to the attitudes towards  
15:32 27 obligations around anti-money laundering, financial crime,  
15:32 28 et cetera, the issues that were called out. It is hard not to agree  
15:32 29 with those findings.  
15:32 30

15:32 31 In terms of whether I think Crown can change? Firstly, yes.  
15:32 32 A lot of the changes that are necessary have been made. They  
15:32 33 haven't started with my arrival, they started some time back, and I  
15:32 34 know that the departure of a number of key people and the  
15:32 35 separation of the CPH relationship was relevantly recent, but  
15:32 36 prior to that, as I think I mentioned earlier, there had already been  
15:32 37 work underway around cultural transformation. There was  
15:32 38 an engagement with the University of Queensland that goes back  
15:33 39 to 2019 that got derailed during COVID, and then it got picked  
15:33 40 up again and then derailed again when Ken Barton left. So that is  
15:33 41 an initial piece of work. That gives me a bit of a timeline as to  
15:33 42 how much people have been focused on this issue.  
15:33 43

15:33 44 The Deloitte work I mentioned, there is a whole range of other  
15:33 45 things. I think the journey has well and truly begun. I said in my  
15:33 46 witness statement that I thought that several months was my  
15:33 47 estimate of what was required, and I want to be very clear on that.

15:33 1 I also said, in my witness statement, that this was my initial view  
15:33 2 and that more work was required, but I do see the change of  
15:33 3 systems, the change of people, the establishment of a target  
15:33 4 culture and a roadmap to that culture, as what I'm talking about as  
15:33 5 a several-month journey. I see embedding that culture and  
15:33 6 measuring the success, which is referred to by many experts, as  
15:33 7 taking a lot longer. But the first stage I'm confident we will get  
15:34 8 done in a matter of months and I won't tolerate failure.

15:34 9

15:34 10 Q. I want to take you back to a letter which Counsel Assisting  
15:34 11 took you to. It is the letter that you sent to the State Secretary of  
15:34 12 Treasury and Finance dated 1 July 2021. CRW.512.204.0001, I  
15:34 13 hope is the code. I'm reliably informed by my learned friend that  
15:34 14 it is.

15:34 15

15:35 16 Do you have a hard copy of this letter or are you relying on the  
15:35 17 screen?

15:35 18

15:35 19 A. There is a hard copy in front of me.

15:35 20

15:35 21 Q. I will take you through it. It is only a two-page letter but  
15:35 22 I will take you there in some detail.

15:35 23

15:35 24 You were asked a number of questions about this letter, both by  
15:35 25 Counsel Assisting and the Commissioner, Mr McCann. Do you  
15:35 26 recall those questions?

15:35 27

15:35 28 A. Yes.

15:35 29

15:35 30 Q. I want to start by directing your attention to the fourth  
15:35 31 paragraph which commences, "Following the media reports on  
15:36 32 Monday 7 June", this year. You see that?

15:36 33

15:36 34 A. Yes.

15:36 35

15:36 36 Q. You've told the Secretary of the Department of Treasury  
15:36 37 and Finance that following those media reports, immediate  
15:36 38 inquiries were made and were ongoing.

15:36 39

15:36 40 A. Yes.

15:36 41

15:36 42 Q. Was that true?

15:36 43

15:36 44 A. Yes. In fact, I would say that I also made it clear that  
15:36 45 Crown's tax affairs are complex, and I made it clear that this was  
15:36 46 preliminary advice and that inquiries were ongoing.

15:36 47

15:36 1 Q. Yes. I'm going to take you through this slowly. The next  
15:36 2 passage I was going to take you through was your reference to  
15:36 3 preliminary advice. You see, in the very next paragraph, you  
15:36 4 stated that you, Crown, had received, "preliminary advice there  
15:37 5 has been an under-reporting of casino tax liability of  
15:37 6 approximately \$8.8 million (excluding interest) over the period  
15:37 7 FY2013 to date"; you see that?

15:37 8

15:37 9 A. Yes.

15:37 10

15:37 11 Q. Was that true on 1 July when you wrote it?

15:37 12

15:37 13 A. To the best of my understanding --- well, yes, the  
15:37 14 preliminary advice said that, yes.

15:37 15

15:37 16 Q. On 1 July when you wrote this letter, were you aware of  
15:37 17 any advice previously obtained by Crown on the extent or  
15:37 18 quantum of the under-reporting of casino tax liability in respect  
15:37 19 of bonus jackpots?

15:37 20

15:37 21 A. No.

15:37 22

15:37 23 Q. I then want to draw your attention ---

15:37 24

15:37 25 COMMISSIONER: Can I just ask, I don't have Mr Robertson's  
15:37 26 advice. Is it a preliminary advice? I looked at it a while ago,  
15:37 27 a couple of days ago. I might be completely wrong about that,  
15:37 28 but I didn't read it as him saying it is a preliminary advice. I read  
15:38 29 it as saying, "this is my advice".

15:38 30

15:38 31 MR BORSKY: Quite so, with respect, and I don't want to coach  
15:38 32 the witness or put ---

15:38 33

15:38 34 COMMISSIONER: You can coach him, I don't mind.

15:38 35

15:38 36 MR BORSKY: All right. Thank you.

15:38 37

15:38 38 Preliminary advice was your characterisation; correct,  
15:38 39 Mr McCann, not Mr Robertson QC's characterisation of the  
15:38 40 advice?

15:38 41

15:38 42 A. Yes.

15:38 43

15:38 44 Q. And I suggest to you that you characterised the advice as  
15:38 45 preliminary advice precisely because you were erring on the side  
15:38 46 of caution, mindful of the fact that the company was still making  
15:38 47 inquiries and still making investigations and you wanted to get to

15:38 1 the bottom of the issue accurately, promptly and transparently  
15:38 2 with the State; correct?

15:38 3

15:38 4 A. Yes.

15:38 5

15:38 6 COMMISSIONER: That is coaching.

15:38 7

15:38 8 MR BORSKY: I was invited to do it.

15:38 9

15:38 10 COMMISSIONER: I gave you permission, it was my fault, I  
15:38 11 know.

15:38 12

15:38 13 MR BORSKY: I now want to draw your attention, Mr McCann,  
15:39 14 to the first paragraph at the top of the next page where you  
15:39 15 note --- you see the words, the paragraph begins, "Whilst we do  
15:39 16 not believe"?

15:39 17

15:39 18 A. Yes.

15:39 19

15:39 20 Q. And:

15:39 21

15:39 22 *Whilst we do not believe the level of underpayment is as*  
15:39 23 *has been reported in the media .....*

15:39 24

15:39 25 Pausing there, did you hold that belief? As at 1 July, did you  
15:39 26 personally believe the amount reported in the media was  
15:39 27 inaccurate?

15:39 28

15:39 29 A. Yes.

15:39 30

15:39 31 COMMISSIONER: Did you know one way or the other if you  
15:39 32 only had preliminary advice? In other words, there is  
15:39 33 an inconsistency we are about to get to.

15:39 34

15:39 35 A. Yes, although ---

15:39 36

15:39 37 COMMISSIONER: Either it is preliminary and you don't  
15:39 38 know ---

15:39 39

15:39 40 A. Yes.

15:39 41

15:39 42 COMMISSIONER: --- or it is not preliminary and you do know.

15:39 43

15:39 44 A. My interpretation, and it is complex, so apologies if this is  
15:40 45 overstating the position, but my interpretation of the advice was,  
15:40 46 and my understanding also of the perspective within Crown was  
15:40 47 that there were three items that needed to be explored, and that

15:40 1 the \$272.6 million reported in the media was not, in anyone's  
15:40 2 mind, the amount of underpayment that we believed at the time,  
15:40 3 nor is it today. So the preliminary advice we had, which we then  
15:40 4 sought further advice on, was around the three aspects of the tax  
15:40 5 that we thought --- I mean it was around the whole thing, but the  
15:40 6 three that we thought were the grey area ---

15:40 7  
15:40 8 COMMISSIONER: The three items that were deducted? I think  
15:40 9 food ---

15:40 10  
15:40 11 A. Yes, sorry.

15:40 12  
15:40 13 COMMISSIONER: --- car parking ---

15:40 14  
15:40 15 A. And accommodation.

15:40 16  
15:40 17 COMMISSIONER: --- and accommodation.

15:40 18  
15:40 19 A. They were the three that in my mind we were seeking  
15:40 20 clarity around.

15:40 21  
15:41 22 COMMISSIONER: They are not (inaudible) issues?

15:41 23  
15:41 24 A. Yes ---

15:41 25  
15:41 26 COMMISSIONER: They go to one topic, not the big topic.

15:41 27  
15:41 28 A. Say that again, sorry, please?

15:41 29  
15:41 30 COMMISSIONER: They go to one topic, or one issue.

15:41 31  
15:41 32 A. Yes, they go to the issue that I was focused on that I  
15:41 33 understood was the issue emerging from the discussions at the  
15:41 34 Commission.

15:41 35  
15:41 36 COMMISSIONER: There is another issue which you didn't  
15:41 37 understand.

15:41 38  
15:41 39 A. That's right.

15:41 40  
15:41 41 COMMISSIONER: It is the subject of counsel's advice though?  
15:41 42 It is a complicated issue, but it is the subject of counsel's advice,  
15:41 43 he dealt with more than food, hotel and car parking.

15:41 44  
15:41 45 A. Yes, so ---

15:41 46  
15:41 47 COMMISSIONER: You weren't in any way forming any

15:41 1 opinion, preliminary or otherwise, by writing this letter or  
15:41 2 expressing a view about it?  
15:41 3  
15:41 4 A. No. So the question that was put to me before about my  
15:41 5 honesty in writing this letter ---  
15:41 6  
15:41 7 COMMISSIONER: Yes.  
15:41 8  
15:41 9 A. --- I will say very strongly, this was my honest perspective  
15:41 10 at the time, having regard to what I knew at the time, which were  
15:42 11 that these were the three items for consideration.  
15:42 12  
15:42 13 COMMISSIONER: Okay.  
15:42 14  
15:42 15 MR BORSKY: And I should ask you this too: in addition to this  
15:42 16 letter reflecting your honest views as at 1 July, did it candidly  
15:42 17 reflect your views on the subject you were addressing or did you  
15:42 18 hold something back and fail to be forthcoming in relation to the  
15:42 19 subject?  
15:42 20  
15:42 21 A. It candidly reflected my views, and my reference to  
15:42 22 "ongoing" was a clear reference, I thought, that we hadn't  
15:42 23 bottomed it out.  
15:42 24  
15:42 25 Q. In the second paragraph at the top of this page which  
15:42 26 commences, "As CEO", do you see that?  
15:42 27  
15:42 28 A. Yes.  
15:42 29  
15:42 30 Q. You told the State and in the equivalent letter you told the  
15:42 31 VCGLR that you are determined that any shortcomings identified  
15:42 32 by Crown, or by regulatory investigations, will be addressed  
15:43 33 quickly; was that true when you wrote the letter?  
15:43 34  
15:43 35 A. Yes.  
15:43 36  
15:43 37 Q. Does it remain true?  
15:43 38  
15:43 39 A. Yes.  
15:43 40  
15:43 41 Q. You told the State that it was Crown's intention to pay  
15:43 42 Crown's estimation of the amount owing on a reservation of  
15:43 43 rights basis, together with penalty interest once your inquiries had  
15:43 44 been finalised, and once you had a chance to explain, to the State,  
15:43 45 Crown's calculations of the amount outstanding? Was that true  
15:43 46 on 1 July?  
15:43 47



15:43 1 A. Yes.  
15:43 2  
15:43 3 Q. And does it remain your intention?  
15:43 4  
15:43 5 A. Yes.  
15:43 6  
15:43 7 Q. Can you go further than that? Can you give a commitment  
15:43 8 that that is what will be done?  
15:43 9  
15:43 10 COMMISSIONER: Doesn't need a commitment. If it is a legal  
15:43 11 obligation, the company is committed. Whether the witness gives  
15:43 12 a commitment or not is not going to add to the legal obligation.  
15:43 13  
15:43 14 MR BORSKY: Very well.  
15:43 15  
15:43 16 Mr McCann, it has been proposed, has it not, that if there are any  
15:43 17 difference in views between --- as to the quantum of the tax  
15:44 18 owing between Crown on the one hand or the VCGLR or the  
15:44 19 State on the other, that cannot be resolved by negotiation, then  
15:44 20 an alternative dispute resolution will be conducted to resolve any  
15:44 21 differences quickly and cost-effectively, that is so, isn't it?  
15:44 22  
15:44 23 A. Yes.  
15:44 24  
15:44 25 Q. Then in the final paragraph of this letter you respectfully  
15:44 26 proposed a meeting between Crown representatives and relevant  
15:44 27 officials at Treasury and Finance, and the Department of Justice  
15:44 28 and Community Safety. Why did you propose that meeting?  
15:44 29  
15:44 30 A. So that we could work through the amounts in discussion  
15:44 31 and disclose our own estimate calculations and how we arrived at  
15:44 32 those, and hear from Government if they have a different view  
15:44 33 around all of that. The intention was to pay the amount that we  
15:45 34 estimated ahead of that meeting.  
15:45 35  
15:45 36 MR BORSKY: As the Commission pleases.  
15:45 37  
15:45 38 A. I just want --- sorry, can I say something?  
15:45 39  
15:45 40 MR BORSKY: Yeah, you did want to make a comment earlier,  
15:45 41 which my learned friend ---  
15:45 42  
15:45 43 A. No, I think you've covered it. I was a bit defensive before, I  
15:45 44 must say, but I did want to bring out my own language around  
15:45 45 "ongoing", et cetera, but I do also want to make the point that  
15:45 46 there are two amounts, and --- I'm still not sure what I'm allowed  
15:45 47 to talk about in terms of the advice ---

15:45 1  
15:45 2 MR BORSKY: You are. You are.  
15:45 3  
15:45 4 A. --- currently within Crown's contemplation as the most  
15:45 5 likely amounts. We will be paying the higher amount with  
15:45 6 interest, and we will then discuss with Treasury whether in fact  
15:45 7 that is the right amount. We will not be paying the lower amount.  
15:45 8  
15:46 9 MR BORSKY: Thank you.  
15:46 10  
15:46 11 COMMISSIONER: You have a go.  
15:46 12  
15:46 13 MS O'SULLIVAN: I have no further questions, Commissioner,  
15:46 14 but I am just going to ask that the witness is not excused. That is  
15:46 15 because a number of documents have only been produced, and  
15:46 16 I think they are documents from the VCGLR, and there is no  
15:46 17 complaint about them being late, it is just that they have been  
15:46 18 produced I think at least one very large one relevant to Mr  
15:46 19 McCann this morning, and some during the course of this  
15:46 20 afternoon which touch on some of the matters that Mr McCann  
15:46 21 has given evidence about. I simply haven't had the opportunity to  
15:46 22 review them carefully. It may be that upon review there is no  
15:46 23 matter I wish to raise with Mr McCann, but just in the event that  
15:46 24 there is, I ask that he not be excused, and we will of course  
15:46 25 communicate with Crown at the earliest opportunity as to what  
15:47 26 the situation is.  
15:47 27  
15:47 28 COMMISSIONER: Yes. Can't object to that?  
15:47 29  
15:47 30 MR BORSKY: No. Of course he's excused for today, may we  
15:47 31 take it? I understand my learned friend is saying that in the event  
15:47 32 that the Commission wants to hear from Mr McCann again, there  
15:47 33 won't be a need, and we certainly won't insist on another Notice  
15:47 34 to Appear, and if that's ---  
15:47 35  
15:47 36 COMMISSIONER: You are not entitled to one.  
15:47 37  
15:47 38 MR BORSKY: No, so we make no objection or point on that.  
15:47 39  
15:47 40 COMMISSIONER: If I don't excuse him, I can call him back any  
15:47 41 time.  
15:47 42  
15:47 43 MR BORSKY: Yes, but he is excused for today, may we  
15:47 44 enquire?  
15:47 45  
15:47 46 COMMISSIONER: Excused for today, yes.  
15:47 47

15:47 1 MR BORSKY: And we don't need to treat him as being in the  
15:47 2 course of cross-examination. As we've done with all of our  
15:47 3 witnesses, we haven't said a word with Mr McCann over lunch.  
15:47 4 That would be impractical, in my respectful submission ---

15:47 5  
15:47 6 COMMISSIONER: Just leave it.

15:47 7  
15:47 8 MR BORSKY: Thank you.

15:47 9

15:47 10

15:47 11 **FURTHER QUESTIONS BY THE COMMISSIONER**

15:47 12

15:47 13

15:47 14 COMMISSIONER: I know it is getting late in the day and  
15:47 15 everyone wants to get out of here, but there is one thing that  
15:47 16 sticks in my mind also about profit on the one hand and running  
15:48 17 a straight business on the other.

15:48 18

15:48 19 A casino is a particularly unique kind of business. I just need to  
15:48 20 take two examples for the question I want to ask you. Money  
15:48 21 laundering is illegal, but the more cash that comes into the  
15:48 22 business, the more money you make. Problem gambling is  
15:48 23 a serious social problem. But the more people gamble, the more  
15:48 24 money you make. There is not a whole lot of business where  
15:48 25 there is a direct conflict between acting lawfully and running  
15:48 26 a business operation. I mean sometimes you can cheat, you can  
15:48 27 cheat on your taxes, you can do a whole bunch of things, but  
15:48 28 usually there is not a direct clash between money-making on the  
15:48 29 one side, that is running a fit and efficient and proper business  
15:49 30 organisation and obeying the law on the other. You can do both  
15:49 31 pretty well, pretty comfortably, but you can't do that here. I'm  
15:49 32 trying to work out how you actually deal with something like  
15:49 33 that.

15:49 34

15:49 35 If you say to money launderers, don't come and launder your  
15:49 36 money here, go back to the racetrack or do it on --- not eBay, what  
15:49 37 do you call it, internet and stuff like that, cryptocurrency, I have  
15:49 38 no idea how it works, but they tell me you can launder money  
15:49 39 that way. If you send away people who gamble, you are losing  
15:49 40 business. Isn't that just an inherent problem, a conflict which you  
15:49 41 will never be able to deal with satisfactorily?

15:49 42

15:49 43 A. It certainly adds a challenge. That said, I am firmly of the  
15:49 44 view --- so there is a couple of things I would like to talk about.  
15:49 45 One was referred to by Steve Blackburn, I think in his evidence,  
15:50 46 around people thinking about the victims and not about the  
15:50 47 immediate issue, and not the financial issue, but --- and not

15:50 1 punitively but thinking about the impact on victims. And that  
15:50 2 goes, I think, to the heart of the social licence to operate.

15:50 3

15:50 4 It is my firm view, and I've had this view on most of the things  
15:50 5 I've been involved in in my professional career, if you take  
15:50 6 a short-term perspective on what the rules and regulations are and  
15:50 7 what your social permission is to carry on any activity, you are  
15:50 8 likely to reach a different set of priorities to if you take  
15:50 9 a long-term view. The long-term viability and sustainability of  
15:50 10 Crown requires both a social licence and a regulatory licence to  
15:51 11 operate. Increasingly, the focus on Responsible Gaming and the  
15:51 12 focus on other issues, environmental and other social issues more  
15:51 13 broadly in the community, has changed exponentially. It has  
15:51 14 changed and will continue to change. And unless Crown keeps  
15:51 15 pace with that change, it is simply a matter of time before Crown  
15:51 16 loses its social licence and/or its regulatory licence to operate.

15:51 17

15:51 18 So, taking a long-term view, I see a complete alignment between  
15:51 19 driving the best outcomes for all of our stakeholders, investors,  
15:51 20 employees, people that use our facilities. Unless you are aligned  
15:51 21 in the way that you make your asset available to the public to  
15:51 22 meet the commitments that you've made to the State, you will go  
15:51 23 out of business. Maybe the only surprising thing is it has taken  
15:52 24 this long for Crown to work that out. But certainly I think that is  
15:52 25 pretty clear to me.

15:52 26

15:52 27 COMMISSIONER: Okay. Yep. Thanks. You are free to go for  
15:52 28 the short-term.

15:52 29

15:52 30 A. Thanks.

15:52 31

15:52 32

15:52 33 **THE WITNESS STOOD DOWN**

15:52 34

15:52 35

15:52 36 MS O'SULLIVAN: Thank you, Commissioner. The next  
15:52 37 witness is Mr Alan McGregor. It is plain that we won't finish him  
15:52 38 today.

15:52 39

15:52 40 COMMISSIONER: It depends on how long we sit. We won't  
15:52 41 finish him today, okay.

15:52 42

15:52 43 MS O'SULLIVAN: I haven't consulted with Ms Neskovicin, but  
15:52 44 just looking at the time, I wonder if we might either just adjourn  
15:52 45 to tomorrow or take a short five-minute break ---

15:52 46

15:52 47 COMMISSIONER: Why don't we take a short five-minute break

15:52 1 and see what the lay of the land is and see what everybody  
15:52 2 agrees. I'm quite happy to do what everybody is here, whichever  
15:52 3 way they want to proceed, I will go along with that. In other  
15:52 4 words, I don't mind sitting for an hour, 1.5 hours, if it is at all  
15:52 5 possible to finish with him. I will work on everybody else's  
15:53 6 convenience. But we have two ---  
15:53 7  
15:53 8 MR BORSKY: Two directors.  
15:53 9  
15:53 10 COMMISSIONER: We will have the same problem tomorrow as  
15:53 11 we have today, I think.  
15:53 12  
15:53 13 MS O'SULLIVAN: Yes.  
15:53 14  
15:53 15 COMMISSIONER: Now, see if you can work it out.  
15:53 16  
15:53 17  
15:53 18 **ADJOURNED** [3.53PM]  
16:00 19  
16:00 20  
16:00 21 **RESUMED** [4.00PM]  
16:00 22  
16:00 23  
16:00 24 COMMISSIONER: Sit down, everybody.  
16:00 25  
16:00 26 MS NESKOVCIN: Thank you, Commissioner. The next witness  
16:00 27 is Mr Alan McGregor.  
16:01 28  
16:01 29  
16:01 30 **MR ALAN FRANK MCGREGOR, SWORN**  
16:01 31  
16:01 32  
16:01 33 **EXAMINATION-IN-CHIEF BY MS NESKOVCIN**  
16:01 34  
16:01 35  
16:01 36 MS NESKOVCIN: Mr McGregor, would you please state your  
16:01 37 full name.  
16:01 38  
16:01 39 A. Alan Frank McGregor.  
16:01 40  
16:01 41 Q. And your business address, please?  
16:01 42  
16:01 43 A. 8 Whiteman Street, Southbank.  
16:01 44  
16:01 45 Q. And your current occupation?  
16:01 46  
16:01 47 A. Chief Financial Officer, Crown Resorts.

16:01 1  
16:01 2 Q. You have provided or prepared two statements in response  
16:01 3 to a Request for Statement; is that correct?  
16:01 4  
16:01 5 A. Yes.  
16:01 6  
16:01 7 Q. You are here under a Notice to Attend?  
16:01 8  
16:01 9 A. Yes.  
16:01 10  
16:01 11 Q. Do you have the statements in front of you, Mr McGregor?  
16:01 12  
16:01 13 A. I do.  
16:01 14  
16:01 15 Q. Can you have a look at the statement with the identification  
16:01 16 number CRW.998.001.0023.  
16:01 17  
16:01 18 A. Yes.  
16:01 19  
16:01 20 Q. You have that statement there?  
16:01 21  
16:01 22 A. Yes.  
16:01 23  
16:01 24 Q. The second statement is CRW.998.010.0508.  
16:01 25  
16:02 26 A. Yes.  
16:02 27  
16:02 28 MS NESKOVCIN: I understand there are corrections you wish  
16:02 29 to make to the statement which Dr Button will lead you on.  
16:02 30  
16:02 31  
16:02 32 **EXAMINATION BY DR BUTTON**  
16:02 33  
16:02 34  
16:02 35 DR BUTTON: Thank you.  
16:02 36  
16:02 37 Mr McGregor in your first statement you say that you took up the  
16:02 38 role of CFO on 20 August 2020. Is that the date that you  
16:02 39 formally took up the role, having received your probity  
16:02 40 approvals?  
16:02 41  
16:02 42 A. Yes, it is.  
16:02 43  
16:02 44 Q. Did you act in that role before you formally took the role  
16:02 45 with probity approvals?  
16:02 46  
16:02 47 A. Yes, I did, I was appointed as CFO on or around 23 March

16:02 1 2020, subject to probity approvals being --- coming through for  
16:02 2 Sydney.  
16:02 3  
16:02 4 Q. For Sydney, was it?  
16:02 5  
16:02 6 A. Yes.  
16:02 7  
16:02 8 Q. In your second statement you make reference in paragraph  
16:02 9 4 to KPMG having been engaged to complete a review of  
16:02 10 calculations and final numbers remain subject to that review.  
16:03 11 Have you now had a response from KPMG on the work they  
16:03 12 were undertaking?  
16:03 13  
16:03 14 A. Yes, we have on the first stage of the work they were  
16:03 15 undertaking.  
16:03 16  
16:03 17 Q. Was that the figures in the 16 June version of the  
16:03 18 spreadsheet?  
16:03 19  
16:03 20 A. Yes, it is.  
16:03 21  
16:03 22 Q. At the time that you gave this statement, 1 July 2021, the  
16:03 23 company had received advice from Robertson QC?  
16:03 24  
16:03 25 A. That's right.  
16:03 26  
16:03 27 Q. Was your views that you express about the extent of any tax  
16:03 28 liabilities of the company based on or informed by the Robertson  
16:03 29 advice?  
16:03 30  
16:03 31 A. Yes, it was.  
16:03 32  
16:03 33 Q. Since you've given this statement, the company has  
16:03 34 obtained a further advice from Archibald QC. Have you been  
16:03 35 made aware of that?  
16:03 36  
16:03 37 A. Yes, I was made aware of that yesterday.  
16:03 38  
16:03 39 Q. Can you just outline what you propose to do having  
16:03 40 received a further advice in terms of how that affects the matters  
16:03 41 that are subject of your statement?  
16:03 42  
16:03 43 A. Sure. Archibald's advice differs from Robertson's in that he  
16:04 44 has come to the conclusion that the dining part of category 8 of  
16:04 45 the bonusing rewards is not deductible for GGR purposes. So we  
16:04 46 will be --- I haven't had a chance to read the advice in detail yet  
16:04 47 nor talk to anyone about it, but our intention will be to do that

16:04 1 promptly and work through from there.

16:04 2

16:04 3 Q. So you will review the advice and discuss the path forward

16:04 4 with your colleagues at Crown?

16:04 5

16:04 6 A. Yes.

16:04 7

16:04 8 DR BUTTON: Thank you.

16:04 9

16:04 10

16:04 11 **EXAMINATION BY MS NESKOVCIN, CONTINUED**

16:04 12

16:04 13

16:04 14 MS NESKOVCIN: Mr McGregor, subject to those matters, are

16:04 15 your statements true and correct to the best of your knowledge

16:04 16 and belief?

16:04 17

16:04 18 A. They are.

16:04 19

16:04 20 MS NESKOVCIN: Commissioner, I tender those statements and

16:04 21 the attachments. Mr McGregor's second statement is a response

16:04 22 to RFS-021.

16:04 23

16:04 24 Mr Peter Herring has also given a statement in response to

16:04 25 RFS-021 and I seek to tender that as well, along with the

16:04 26 attachments. For the transcript, the statement is

16:05 27 CRW.998.001.0502.

16:05 28

16:05 29 COMMISSIONER: I will find out what exhibit numbers we are

16:05 30 up to.

16:05 31

16:05 32 Alan McGregor's first statement, 16 April 2021, will be Exhibit

16:05 33 425.

16:05 34

16:05 35 The second statement dated 1 July 2021 will be Exhibit 426, and

16:05 36 the other 427.

37

38

39

40 **EXHIBIT #RC0425 - FIRST STATEMENT OF MR ALAN**

41 **FRANK MCGREGOR (WITH ATTACHMENTS) DATED**

42 **16 APRIL 2021**

43

44

45 **EXHIBIT #RC0426 - SECOND STATEMENT OF MR**

46 **ALAN FRANK MCGREGOR (WITH ATTACHMENTS)**

47 **DATED 1 JULY 2021**



1  
2  
3 **EXHIBIT #RC0427 - STATEMENT OF MR PETER**  
4 **HERRING (WITH ATTACHMENTS) DATED 30 JUNE**  
5 **2021**

16:05 6  
16:05 7  
16:05 8 MS NESKOVCIN: Thank you, Commissioner.  
16:05 9  
16:05 10 Mr McGregor, you are a qualified chartered accountant?  
16:05 11  
16:05 12 A. Yes.  
16:05 13  
16:05 14 Q. You commenced work at Crown in Perth in 2005?  
16:05 15  
16:05 16 A. Yes, that's right.  
16:05 17  
16:05 18 Q. You became the CFO of Crown Perth in March 2007?  
16:05 19  
16:05 20 A. Yes.  
16:05 21  
16:05 22 Q. You held that position until April 2013?  
16:05 23  
16:05 24 A. That's right.  
16:05 25  
16:05 26 Q. You were then appointed CFO of Crown Melbourne in  
16:05 27 August 2013?  
16:05 28  
16:06 29 A. Yes.  
16:06 30  
16:06 31 Q. You held that position until August 2020; is it? Or March  
16:06 32 2020?  
16:06 33  
16:06 34 A. Sorry, I think I was Crown Melbourne CFO from  
16:06 35 April 2013.  
16:06 36  
16:06 37 Q. Until what point, sorry?  
16:06 38  
16:06 39 A. August 2014 when the role moved to an Australian Resorts  
16:06 40 role.  
16:06 41  
16:06 42 Q. I see. You remained in that role until your present role as  
16:06 43 CFO of Crown Resorts in March 2020?  
16:06 44  
16:06 45 A. That's right.  
16:06 46  
16:06 47 Q. Subject to the probity matters you just explained to

16:06 1 Dr Button.  
16:06 2  
16:06 3 A. That's right.  
16:06 4  
16:06 5 Q. Your responsibilities as CFO of Crown Resorts includes  
16:06 6 responsibility for the overall financial management of Crown  
16:06 7 Resorts and its subsidiary businesses?  
16:06 8  
16:06 9 A. Yes.  
16:06 10  
16:06 11 Q. It also includes responsibility for development of financial  
16:06 12 strategy with the CEO and executive team?  
16:06 13  
16:06 14 A. Yes, it does.  
16:06 15  
16:06 16 Q. You also report regularly to the Board on financial matters?  
16:06 17  
16:06 18 A. I do.  
16:06 19  
16:06 20 Q. And as required?  
16:06 21  
16:07 22 A. Yes.  
16:07 23  
16:07 24 Q. If the Board asked you to prepare a report on a particular  
16:07 25 matter, would you do that?  
16:07 26  
16:07 27 A. Yes, I would.  
16:07 28  
16:07 29 Q. Same for the CEO?  
16:07 30  
16:07 31 A. Yes.  
16:07 32  
16:07 33 Q. You are a regular invitee to the Crown Resorts Board  
16:07 34 meeting; correct?  
16:07 35  
16:07 36 A. I am. That's correct.  
16:07 37  
16:07 38 Q. You are also a regular invitee to --- or were a regular  
16:07 39 invitee to the Crown Melbourne board meetings?  
16:07 40  
16:07 41 A. Correct.  
16:07 42  
16:07 43 Q. Does that continue to be the case?  
16:07 44  
16:07 45 A. Yes, it does.  
16:07 46  
16:07 47 Q. I want to ask you questions about Crown's VIP

16:07 1 international business. You recall, late last year, management  
16:07 2 undertook a review of the VIP international business?  
16:07 3  
16:07 4 A. Yes.  
16:07 5  
16:07 6 Q. It included obtaining advice from local lawyers in the  
16:07 7 jurisdictions in which it operates overseas?  
16:07 8  
16:07 9 A. Yes.  
16:07 10  
16:08 11 Q. Was that primarily Asia, or I'm conscious you have  
16:08 12 London --- if you want to exclude London from this discussion  
16:08 13 then ---  
16:08 14  
16:08 15 A. (Nods head).  
16:08 16  
16:08 17 Q. --- you are nodding, what's your answer ---  
16:08 18  
16:08 19 A. In my understanding I wasn't close to seeking that advice.  
16:08 20 It was the VIP management team, but my understanding is we did  
16:08 21 seek advice from certain jurisdictions in Southeast Asia about the  
16:08 22 operating model.  
16:08 23  
16:08 24 Q. Thank you. So that advice was legal advice. Did Crown  
16:08 25 also seek risk advisory or risk advice, strategic advice?  
16:08 26  
16:08 27 A. I'm not sure that we did. I can't answer that question, I'm  
16:08 28 sorry.  
16:08 29  
16:08 30 Q. Part of the work that management was doing involved  
16:08 31 undertaking an assessment of the VIP operating protocols?  
16:08 32  
16:08 33 A. Yes, I understand that to be the case.  
16:08 34  
16:09 35 Q. I want to ask you about a memorandum that you and  
16:09 36 Mr Walsh prepared in January this year.  
16:09 37  
16:09 38 Operator, could you please call up CRW.507.001.7275.  
16:09 39  
16:09 40 You recognise this memorandum as a memorandum that you and  
16:09 41 Mr Walsh prepared in relation to the overseas sales team,  
16:09 42 Mr McGregor?  
16:09 43  
16:09 44 A. I do.  
16:09 45  
16:09 46 Q. And you see in the first paragraph it says that the board  
16:09 47 meeting of directors --- sorry, that:

- 16:09 1  
16:09 2 *At the board of directors' meeting on 11 November 2020*  
16:09 3 *it was recommended that Crown permanently cease*  
16:09 4 *dealing with all junkets, subject to consultation with*  
16:09 5 *gaming regulators in Victoria, WA, and NSW. The*  
16:09 6 *recommendation was adopted .....*  
16:09 7  
16:09 8 Do you see that?  
16:09 9  
16:09 10 A. Yes, I do.  
16:09 11  
16:09 12 Q. The next paragraph says:  
16:09 13  
16:09 14 *A board paper in support of the above recommendation*  
16:09 15 *included a financial analysis with an assumption that the*  
16:09 16 *existing Hong Kong office would be closed and that the*  
16:10 17 *overseas employee based sales model revert to a local*  
16:10 18 *Melbourne based model.*  
16:10 19  
16:10 20 That was a paper you prepared?  
16:10 21  
16:10 22 A. In conjunction with Mr Walsh, yes.  
16:10 23  
16:10 24 Q. It says:  
16:10 25  
16:10 26 *This paper further advances that assumption and*  
16:10 27 *recommends the permanent closure of Crown's overseas*  
16:10 28 *offices in Hong Kong and Auckland (New Zealand has*  
16:10 29 *similar restrictions on promotion of overseas gambling as*  
16:10 30 *some other countries) .....*  
16:10 31  
16:10 32 Do you see that?  
16:10 33  
16:10 34 A. Yes.  
16:10 35  
16:10 36 Q. So you understood at the time what the restrictions on  
16:10 37 promotion of overseas gambling was in New Zealand did you?  
16:10 38  
16:10 39 A. I had a broad understanding of that. That wasn't my area of  
16:10 40 expertise, but I understood it was similar to overseas  
16:10 41 jurisdictions.  
16:10 42  
16:10 43 Q. What was your broad understanding about what it was that  
16:10 44 was prohibited?  
16:10 45  
16:10 46 A. Promotion of overseas gambling to foreign jurisdictions.  
16:10 47

- 16:11 1 Q. So promotion of gambling in overseas casinos?  
16:11 2  
16:11 3 A. Yes.  
16:11 4  
16:11 5 Q. Why was it necessary for Crown to close the New Zealand  
16:11 6 office if what its staff in New Zealand were doing was not  
16:11 7 illegal?  
16:11 8  
16:11 9 A. I think we just took an approach that we would close down  
16:11 10 all of the overseas offices. I think we saw New Zealand as being  
16:11 11 very low risk compared to Hong Kong but we took the decision at  
16:11 12 that time that we thought it was prudent to close down all of the  
16:11 13 overseas offices and all of our overseas domiciled personnel and  
16:11 14 run the business out of Melbourne.  
16:11 15  
16:11 16 Q. Was that for financial reasons?  
16:11 17  
16:11 18 A. No, it wasn't.  
16:11 19  
16:11 20 Q. What were the reasons?  
16:11 21  
16:11 22 A. They were risk-based reasons. There were obviously  
16:11 23 crackdowns, not so much crackdowns, but we sought advice in  
16:11 24 Hong Kong in particular for our staff in Hong Kong and the  
16:11 25 advice came back saying that there were risks associated with  
16:12 26 operating a casino business in Hong Kong and in that region and  
16:12 27 so with the appetite of the business to risk decreasing  
16:12 28 significantly and on the back of our decision to cease dealing  
16:12 29 with junkets we decided that we would recommend that we shut  
16:12 30 down the overseas models.  
16:12 31  
16:12 32 Q. Thank you. I want to ask you some questions about the  
16:12 33 gross gaming revenue tax points that you are familiar with, I  
16:12 34 take?  
16:12 35  
16:12 36 A. Yes.  
16:12 37  
16:12 38 Q. And we've heard evidence prior to today that Crown loyalty  
16:12 39 members can use pokie points and Crown Rewards points at  
16:12 40 non-Crown outlets; you are aware of that?  
16:12 41  
16:12 42 A. They can ---  
16:12 43  
16:12 44 Q. Sorry, not aware of the evidence, but you agree with the  
16:12 45 effect of that evidence?  
16:12 46  
16:12 47 A. They can use Crown Rewards points at venues around the

16:13 1 site, yes.

16:13 2

16:13 3 Q. I suggest they could also use pokie points. Do you see that

16:13 4 as a distinction or are you rolling it all up into rewards points?

16:13 5

16:13 6 A. No, I think the way I understand it is Crown Rewards is the  
16:13 7 umbrella program, if you like, consisting of pokie points, which  
16:13 8 are earned on a machine, table games points which are earned on  
16:13 9 a table, and what we call lifestyle points which are earned  
16:13 10 elsewhere around the property. So you are right, all those three  
16:13 11 categories can be used to redeem points around the property.

16:13 12

16:13 13 Q. Including at non-Crown-owned outlets?

16:13 14

16:13 15 A. Some of them, yes.

16:13 16

16:13 17 Q. So if a Crown loyalty member uses pokie points and  
16:13 18 rewards points as a non-Crown outlet, how does Crown  
16:13 19 compensate the non-Crown outlet for the use of those points?

16:13 20

16:13 21 A. They would invoice us periodically, probably monthly  
16:13 22 I think for the amounts that we owe them that have been  
16:14 23 redeemed through non-Crown entities.

16:14 24

16:14 25 Q. How does that occur? In a dollar amount? Or does it in  
16:14 26 a point and a conversion to a dollar amount?

16:14 27

16:14 28 A. I think it is a dollar amount.

16:14 29

16:14 30 Q. Can you ---

16:14 31

16:14 32 A. I can't be more clear on that. I'm not that close to that  
16:14 33 process unfortunately.

16:14 34

16:14 35 Q. Now, dealing with Crown-owned outlets, we've heard  
16:14 36 evidence that a Crown loyalty member can use pokie rewards  
16:14 37 points or Crown Rewards points at a Crown-owned outlet. You  
16:14 38 are aware of that?

16:14 39

16:14 40 A. Yes.

16:14 41

16:14 42 Q. How does Crown recognise that revenue spend at its own  
16:14 43 owned outlets?

16:14 44

16:14 45 A. There would be a revenue piece at the outlet where the  
16:14 46 reward was redeemed, and there would be a corresponding  
16:14 47 deduction to the loyalty balance, I suspect, that related to that

- 16:15 1 redemption.
- 16:15 2
- 16:15 3 Q. You are aware of Matchplay?
- 16:15 4
- 16:15 5 A. Yes.
- 16:15 6
- 16:15 7 Q. Some of the issues that have been explored, including in
- 16:15 8 your voice, concern the bonus jackpots issue and you understand
- 16:15 9 that to mean the car park, hotel, or dining rewards expense point?
- 16:15 10
- 16:15 11 A. The phrase has been quite interchangeable through
- 16:15 12 Crown --
- 16:15 13
- 16:15 14 Q. Yes.
- 16:15 15
- 16:15 16 A. --- so in some instances we refer to bonus jackpots as all
- 16:15 17 eight categories, in some other instances or in some other reports
- 16:15 18 they are referred to as category 8.
- 16:15 19
- 16:15 20 Q. For today's purposes, just assume, when I say bonus
- 16:15 21 jackpots, I'm talking about car park, hotel and dining.
- 16:15 22
- 16:15 23 A. Understood.
- 16:15 24
- 16:15 25 Q. I want you to assume that in closing submissions, Counsel
- 16:15 26 Assisting this Commission will submit that Crown has at
- 16:15 27 a minimum underpaid tax in respect of bonus jackpots, being the
- 16:15 28 three components that I mentioned, and also in respect of
- 16:16 29 Matchplay. Just make that assumption for me. If that were the
- 16:16 30 case, would you, Mr McGregor, be able to calculate what the
- 16:16 31 underpayment of tax might have been?
- 16:16 32
- 16:16 33 A. The categories are split in the document that I submitted as
- 16:16 34 part of my statement, yes.
- 16:16 35
- 16:16 36 Q. I see. So it is something you are capable of doing?
- 16:16 37
- 16:16 38 A. Yes, and estimating a material way, yes.
- 16:16 39
- 16:16 40 Q. Would you also be able to undertake that calculation
- 16:16 41 estimating or taking into account super tax, penalty interest and
- 16:16 42 offsets as well?
- 16:16 43
- 16:16 44 A. It would take some time due to the complexity of the super
- 16:16 45 tax arrangements, but it could be done.
- 16:16 46
- 16:16 47 Q. I'm going to ask you to do that, please, as soon as you are

16:16 1 reasonably able, and the Commission will correspond with your  
16:16 2 solicitors to follow that up, thank you.

16:16 3

16:16 4 A. (Nods head).

16:16 5

16:17 6 Q. I want to ask you some questions about dining rewards.

16:17 7 You are familiar with the dining rewards program?

16:17 8

16:17 9 A. Yes.

16:17 10

16:17 11 Q. You understand that dining rewards expire after 14 days?

16:17 12

16:17 13 A. Yes.

16:17 14

16:17 15 Q. And you understand, don't you, that gambling tax is  
16:17 16 payable each month?

16:17 17

16:17 18 A. That's right.

16:17 19

16:17 20 Q. That is under the Management Agreement?

16:17 21

16:17 22 A. Yes.

16:17 23

16:17 24 Q. So if a dining reward is --- if dining rewards are earned in  
16:17 25 a particular month, let's say in the middle of June but not  
16:17 26 redeemed until the middle of the following month, say middle of  
16:17 27 July, does Crown still claim a deduction in respect of the  
16:17 28 redemption?

16:17 29

16:17 30 A. No. The deduction is when the rewards are redeemed.

16:17 31

16:17 32 Q. So in that example that I gave, points earned in June, we  
16:17 33 better say because of the 14-day period, end of June ---

16:17 34

16:17 35 A. Sure.

16:17 36

16:17 37 Q. --- and redeemed beginning of July, is a deduction claimed  
16:18 38 in those circumstances?

16:18 39

16:18 40 A. Yes, end of July.

16:18 41

16:18 42 Q. On what basis?

16:18 43

16:18 44 A. On the basis that the reward would have been redeemed at  
16:18 45 an outlet. So the dining outlet would register the revenue, be it  
16:18 46 \$7.50, for example, and there would be a corresponding \$7.50  
16:18 47 deduction.



16:18 1  
16:18 2 Q. How does that reconcile with the calculation or the point  
16:18 3 that we just discussed a moment ago about the management  
16:18 4 agreement and gambling tax being paid each month?  
16:18 5  
16:18 6 A. That would be an input into the gaming tax calculation for  
16:18 7 the month.  
16:18 8  
16:18 9 Q. All right. Can I ask you to have a look at your second  
16:18 10 statement, please. I want to ask you some questions about  
16:18 11 paragraph 29.  
16:19 12  
16:19 13 A. Yes.  
16:19 14  
16:19 15 Q. You've been asked a question and provided an answer in  
16:19 16 respect of commission-based players gaming revenue; you see  
16:19 17 that?  
16:19 18  
16:19 19 A. Yes.  
16:19 20  
16:19 21 Q. Does Matchplay for non-commission-based players and  
16:19 22 Matchplay for commission-based players work in the same way?  
16:19 23  
16:19 24 A. I understand it too, yes.  
16:19 25  
16:19 26 Q. When did Crown commence Matchplay deductions for  
16:19 27 commission-based players' gaming revenue?  
16:19 28  
16:19 29 A. For the purposes of --- I don't know, to be honest. I  
16:19 30 imagine it would have been quite some time ago but I couldn't  
16:19 31 tell you what year.  
16:19 32  
16:19 33 Q. Could it possibly go back to about 2005?  
16:19 34  
16:19 35 A. Potentially.  
16:19 36  
16:20 37 Q. So looking at the calculations that you've set out in the  
16:20 38 table in paragraph 29, if Matchplay is found to be not deductible,  
16:20 39 would you agree that Crown's commission-based players' gaming  
16:20 40 revenue since 2012 is understated by approximately \$93 million?  
16:20 41  
16:20 42 A. The deductions would be, yes.  
16:20 43  
16:20 44 Q. What is the tax impact, having regard to the calculation or  
16:20 45 the basis for calculation of the gaming tax revenue? Is it roughly  
16:20 46 10 per cent of that figure?  
16:20 47

- 16:20 1 A. Yes, commission-based play tax rate is 10 per cent.  
16:20 2
- 16:20 3 Q. Again, assume that in closing submissions Counsel  
16:20 4 Assisting may make the submission that Matchplay is not  
16:20 5 deductible, I am going to ask you to prepare a table from the  
16:20 6 inception of Matchplay as to the tax impact; would you be able to  
16:21 7 prepare that calculation? Do you have the information available  
16:21 8 to do that?  
16:21 9
- 16:21 10 A. Yes, I think I would. As I said, it might take some time just  
16:21 11 due to the complexities of the super tax arrangements.  
16:21 12
- 16:21 13 Q. I understand. Would you be able to include, as a separate  
16:21 14 item, the penalty interest calculation?  
16:21 15
- 16:21 16 A. I think so.  
16:21 17
- 16:21 18 Q. We'll follow that up separately, thank you, Mr McGregor.  
16:21 19
- 16:21 20 Finally, can we go back to paragraph 26. This is where you  
16:21 21 mention return to player statistics under section 115 of the *Casino*  
16:21 22 *Control Act* ---  
16:21 23
- 16:21 24 A. Yes.  
16:21 25
- 16:21 26 Q. --- do you see that? And you are broadly familiar with  
16:21 27 section 115?  
16:21 28
- 16:21 29 A. Broadly, yes.  
16:21 30
- 16:21 31 Q. As I understand paragraph 26, in calculating return to  
16:22 32 player statistics under section 115, Crown factors in the effect of  
16:22 33 all promotions with a capital P ; is that correct?  
16:22 34
- 16:22 35 A. Yes.  
16:22 36
- 16:22 37 Q. And when we look at what you set out in paragraph 27 and  
16:22 38 28, am I right in assuming, where you talk about the breach of  
16:22 39 section 115, that your calculations proceed on a global basis or  
16:22 40 you essentially average it across all of the electronic gaming  
16:22 41 machines?  
16:22 42
- 16:22 43 A. Yes.  
16:22 44
- 16:22 45 Q. You haven't looked at it on an individual EGM-by-EGM  
16:22 46 basis?  
16:22 47

16:22 1 A. No.

16:22 2

16:22 3 Q. If it is the case that Crown has wrongfully made deductions  
16:22 4 in respect of some items, say the bonus jackpots, is it not possible  
16:22 5 that on an EGM-by-EGM basis there has been a breach of section  
16:22 6 115, namely operating at a return to player of 87 per cent or  
16:23 7 more?

16:23 8

16:23 9 A. I couldn't answer that question. I don't know the answer.

16:23 10 In terms of individual machines, I'm not sure how that would be  
16:23 11 calculated.

16:23 12

16:23 13 Q. Does Crown calculate that all on an EGM-by-EGM basis?

16:23 14

16:23 15 A. I don't know.

16:23 16

16:23 17 Q. Do you know if there is the information available to do  
16:23 18 that?

16:23 19

16:23 20 A. No, I don't.

16:23 21

16:23 22 Q. I am going to ask you to make some inquiries to see if that  
16:23 23 is the case, and assuming that there had been deductions in  
16:23 24 respect of bonus jackpots, and, on the assumption that those  
16:23 25 deductions have been wrongfully obtained, ask you to see if you  
16:23 26 have the information available to determine whether there has  
16:23 27 been a breach of section 115 on an EGM-by-EGM basis for the  
16:23 28 last five years. We'll follow that up separately, thank you.

16:23 29

16:23 30 Could we go back to paragraph 16 of your statement, please,  
16:23 31 Mr McGregor. You said in this paragraph that:

16:23 32

*The tax impact, including super tax, of deductions .....*

16:24 34

16:24 35 So the impact of deductions incorrectly taken across financial  
16:24 36 year 2012 to year-to-date 2021, and you set out some figures  
16:24 37 there, don't worry about the figures.

16:24 38

16:24 39

16:24 40

16:24 41 *..... (this document is what I was referring to when I*  
16:24 42 *indicated to Nigel Morrison and others that my estimate*  
16:24 43 *of Crown's tax exposure was about [8 million]) .....*

16:24 44

16:24 45 Do you see that?

16:24 46

16:24 47 A. Yes.

16:24 1  
16:24 2 Q. What is the discussion you are referring to there where you  
16:24 3 refer to indicating to Nigel Morrison?  
16:24 4  
16:24 5 A. There was a meeting on a Thursday, I think it was, I can't  
16:24 6 remember the date off the top of my head, with Board members,  
16:25 7 it wasn't a Board meeting, but it was a meeting with directors  
16:25 8 present, and Allens talking about the bonus jackpots matter, and  
16:25 9 we were pending the advice from our external advice ---  
16:25 10 assuming I can talk about external advice, can I?  
16:25 11  
16:25 12 Q. Yes, you can.  
16:25 13  
16:25 14 A. Pending the advice from counsel which was imminent and I  
16:25 15 had had a discussion with EY who are our tax advisors, who have  
16:25 16 been dealing, working closely with counsel, and they had  
16:25 17 indicated to me that the advice would likely result in the hotels  
16:25 18 and the parking component not being deductible. So I had the  
16:25 19 spreadsheet, which was the 16 June file, in front of me and  
16:25 20 quickly calculated what those two components would mean to  
16:25 21 a tax exposure amount.  
16:25 22  
16:25 23 Q. I'm not clear, when you say Thursday, what is the date of  
16:26 24 that Thursday meeting?  
16:26 25  
16:26 26 A. I'm trying to remember when we had the advice. I think it  
16:26 27 was --- the advice came in on the 19th, I suggest might have been  
16:26 28 Thursday 16, 17 June.  
16:26 29  
16:26 30 Q. I see. Who were the directors present at that meeting?  
16:26 31  
16:26 32 A. I think all of them were present, I think.  
16:26 33  
16:26 34 Q. Ms Korsanos, Ms Halton, Mr Morrison, Ms Coonan?  
16:26 35  
16:26 36 A. (Nods head).  
16:26 37  
16:26 38 Q. And Mr Carter?  
16:26 39  
16:26 40 A. I can't remember whether Mr Carter was there or not.  
16:26 41  
16:27 42 Q. I want to ask you a question about Barangaroo, or the  
16:27 43 Sydney casino. Have you, in your capacity as CFO of either  
16:27 44 Crown Resorts or Crown Melbourne, at any time been ask to  
16:27 45 consider and calculate the financial impact of the opening of the  
16:27 46 Sydney casino on Crown Melbourne?  
16:27 47

- 16:27 1 A. I'm not sure I understand the question. When you mean say  
16:27 2 financial impact, you mean?  
16:27 3
- 16:27 4 COMMISSIONER: On revenue.  
16:27 5
- 16:27 6 A. Of it not opening?  
16:27 7
- 16:27 8 COMMISSIONER: Of it opening.  
16:27 9
- 16:27 10 MS NESKOVCIN: No, of it opening.  
16:27 11
- 16:27 12 A. No, not specifically. We've worked on a budget for the  
16:27 13 coming year, with some key assumptions surrounding that,  
16:27 14 obviously. That budget is in a draft format, considering Mr  
16:27 15 McCann has only just started he hasn't had a chance to get across  
16:28 16 it, but we haven't --- from a management perspective, we've  
16:28 17 looked out a little further than that, but that hasn't gone to the  
16:28 18 Board ---  
16:28 19
- 16:28 20 Q. So that is a recent piece of work?  
16:28 21
- 16:28 22 A. It is relatively recent, yes.  
16:28 23
- 16:28 24 Q. I'm more interested into anything historical. Sydney has  
16:28 25 been in the pipeline for a number of years and its opening was ---  
16:28 26 is one thing, what it would actually mean, especially once you  
16:28 27 start to get some figures. Going back two, three, four years, even  
16:28 28 more, have you in your capacity as CFO of Crown Melbourne or  
16:28 29 Crown Resorts ever been asked to consider and evaluate the  
16:28 30 financial impact on Crown Melbourne of the opening of the  
16:28 31 Sydney casino?  
16:28 32
- 16:29 33 A. Not in my current capacity as CFO of Crown Resorts  
16:29 34 because I was only in this role since April last year. I think there  
16:29 35 may have been projections we did for Melbourne some time ago  
16:29 36 where some of the short-term impact on Melbourne might have  
16:29 37 been factored in, in terms of Sydney opening. I think it would  
16:29 38 have been some years ago from memory, because obviously  
16:29 39 we've been in a COVID environment and a lot has happened in  
16:29 40 the intervening period.  
16:29 41
- 16:29 42 Q. Was it your recollection from the work that you did, or any  
16:29 43 other work that you've done as CFO, that there was going to be  
16:29 44 a negative financial impact on Crown Melbourne from the  
16:29 45 opening or existence of the Sydney casino?  
16:29 46
- 16:29 47 A. Only short-term in terms of ---

16:30 1

16:30 2 Q. Sorry, what do you regard as short-term?

16:30 3

16:30 4 A. So I think the thinking was that when Sydney opened there  
16:30 5 would be a curiosity factor, so to speak, where we would  
16:30 6 probably see a lot of our local premium players go to Sydney to  
16:30 7 sample the Sydney offering, which would have a short-term  
16:30 8 impact on the Melbourne business until such time as the Sydney  
16:30 9 business settled down. So when I say short-term, I'm meaning  
16:30 10 probably in the first year only.

16:30 11

16:30 12 Q. As CFO, being familiar with Crown Resorts --- so you  
16:30 13 became the CFO Crown Resorts in March 2020 and you now  
16:30 14 have a much broader understanding of the Crown Group. Now  
16:30 15 that you have that understanding, does it change your assessment  
16:31 16 in any way of the financial impact on Crown Melbourne from the  
16:31 17 opening of the casino in Sydney?

16:31 18

16:31 19 A. No, not really. They are two distinct jurisdictions, and they  
16:31 20 are very different. I think obviously Melbourne has a very large  
16:31 21 local business. It is not just a member-only casino like Sydney  
16:31 22 will be. Sydney will be more so focused on the premium side of  
16:31 23 the market than the entry level. So I think in the --- Sydney being  
16:31 24 the bigger market, I think it will be --- I'm not --- my personal  
16:31 25 opinion is I don't think there is going to be a negative impact on  
16:31 26 either business. I think both businesses will grow as a result.

16:31 27

16:31 28 MS NESKOVCIN: Thank you. Ms O'Sullivan has a couple of  
16:31 29 questions for you, Mr McGregor.

16:31 30

16:31 31

16:31 32 **QUESTIONS BY THE COMMISSIONER**

16:31 33

16:31 34

16:31 35 COMMISSIONER: Before you do that, I'm interested to know  
16:31 36 about this last topic.

16:31 37

16:32 38 It's the case, isn't it, that Crown Sydney, if it opens, is keen to  
16:32 39 attract overseas patrons?

16:32 40

16:32 41 A. Yes, that was always the business model, Commissioner.

16:32 42

16:32 43 COMMISSIONER: Correct. And the overseas patrons are not  
16:32 44 like local patrons so if you are in Melbourne, you can fly up to  
16:32 45 Sydney and come back to Melbourne, that's okay. That doesn't  
16:32 46 work for the overseas patrons, does it?

16:32 47

16:32 1 A. No, it doesn't, certainly not currently.  
16:32 2  
16:32 3 COMMISSIONER: What calculations have you done to the  
16:32 4 extent to which the overseas patrons will shift their business from  
16:32 5 Melbourne to Sydney?  
16:32 6  
16:32 7 A. None recently.  
16:32 8  
16:32 9 COMMISSIONER: Forget about recently. When was the last  
16:32 10 time you did the calculations?  
16:32 11  
16:32 12 A. On what?  
16:32 13  
16:32 14 COMMISSIONER: The likely impact of opening Sydney, if it  
16:32 15 opens, on the premium business for overseas players. The likely  
16:32 16 impact on Melbourne, ie, they are not going to go to two places at  
16:33 17 once.  
16:33 18  
16:33 19 A. Yes. I can't recall that we have done recent --- when I say  
16:33 20 recent, I'm talking about the last couple of years --- there was  
16:33 21 obviously an original business case done for Sydney, which was  
16:33 22 some years ago ---  
16:33 23  
16:33 24 COMMISSIONER: Yes, okay, and because you had to work out,  
16:33 25 for example, whether you were going to make enough money to  
16:33 26 make good your promise to the NSW Government, which was to  
16:33 27 pay, minimum, a billion dollars' tax over a decade.  
16:33 28  
16:33 29 A. I think it was 15 years.  
16:33 30  
16:33 31 COMMISSIONER: Pardon?  
16:33 32  
16:33 33 A. I think it was 15 years.  
16:33 34  
16:33 35 COMMISSIONER: I thought it was 10?  
16:33 36  
16:33 37 A. I might stand corrected.  
16:33 38  
16:33 39 COMMISSIONER: You are probably right. In order to work out  
16:33 40 whether you have a viable operation in NSW, one thing you had  
16:33 41 to work out, because one major expense, was the promise to pay  
16:33 42 the NSW Government a billion dollars ---  
16:33 43  
16:33 44 A. Yes.  
16:33 45  
16:33 46 COMMISSIONER: --- over ten --- so you had to work out not  
16:33 47 only whether you are going to get that back, plus a reasonable

16:34 1 return, plus cover all your other expenses. You had to do that,  
16:34 2 otherwise you wouldn't run a business.  
16:34 3  
16:34 4 A. Yes.  
16:34 5  
16:34 6 COMMISSIONER: Okay. So I'm interested to know, when you  
16:34 7 were doing those --- I got another question as well. Is the tax in  
16:34 8 Sydney cheaper than the tax in Melbourne? You should know  
16:34 9 this.  
16:34 10  
16:34 11 A. I can't tell you off the top of my head. The Melbourne  
16:34 12 rate --- I can tell you what the Melbourne rates are. Obviously  
16:34 13 we haven't opened gaming in Sydney, so --- I think they are  
16:34 14 cheaper in Sydney, but I couldn't tell you what they are off the  
16:34 15 top of my head.  
16:34 16  
16:34 17 COMMISSIONER: Okay, then come back. In order to work out  
16:34 18 whether the idea of a Sydney operation was viable, you had to  
16:34 19 work out where your customers were going to come from. Make  
16:34 20 assessments about that; correct?  
16:34 21  
16:34 22 A. Yes.  
16:34 23  
16:34 24 COMMISSIONER: And a fair bit of the customers was going to  
16:34 25 come from overseas patrons?  
16:34 26  
16:34 27 A. Yes.  
16:34 28  
16:35 29 COMMISSIONER: Junket players, because you were doing  
16:35 30 business with junket players back then --  
16:35 31  
16:35 32 A. Yes.  
16:35 33  
16:35 34 COMMISSIONER: --- and those people who stand behind the  
16:35 35 junket players?  
16:35 36  
16:35 37 A. Yes.  
16:35 38  
16:35 39 COMMISSIONER: And the idea was a large part of that cohort  
16:35 40 was going to come from Asia.  
16:35 41  
16:35 42 A. Yes.  
16:35 43  
16:35 44 COMMISSIONER: That was the prospect.  
16:35 45  
16:35 46 A. Yes, that was the business model.  
16:35 47



16:35 1 COMMISSIONER: Including China?  
16:35 2  
16:35 3 A. Yes, they would have been expecting some patrons from  
16:35 4 China.  
16:35 5  
16:35 6 COMMISSIONER: I take it you weren't going to double the  
16:35 7 number of patrons from China? I assume that your business  
16:35 8 model built in or assumed that a lot of the business from  
16:35 9 Melbourne was going to shift to Sydney; correct?  
16:35 10  
16:35 11 A. No, I don't think so, and I qualify this statement,  
16:35 12 Commissioner, by saying I wasn't involved in pulling together  
16:35 13 those numbers when they were pulled together.  
16:35 14  
16:35 15 COMMISSIONER: You've seen them?  
16:35 16  
16:35 17 A. I've seen them some time ago. I don't think the Sydney  
16:35 18 model was predicated on getting business from Melbourne.  
16:35 19 I think it was my --- my observations were that it was certainly  
16:36 20 gaining some market share from The Star, and it was offering  
16:36 21 a new premium offering in Sydney and we thought that there was  
16:36 22 more business to be had in Sydney than was currently there.  
16:36 23  
16:36 24 COMMISSIONER: You mean from people living in NSW?  
16:36 25  
16:36 26 A. Both from locals and probably overseas tourists.  
16:36 27  
16:36 28 COMMISSIONER: The homework that you were asked to do,  
16:36 29 just to clarify it, on the section 115 issue, can you do separate  
16:36 30 calculations for both Matchplay and bonus points?  
16:36 31  
16:36 32 A. By machine or overall?  
16:36 33  
16:36 34 COMMISSIONER: No, no, by machine, because the Act talks  
16:36 35 about by machine.  
16:36 36  
16:36 37 A. (Nods head).  
16:36 38  
16:36 39 COMMISSIONER: As long as the information is available, can  
16:36 40 you go back to when Matchplay first commenced? In other  
16:37 41 words, I'm not interested in just --- Matchplay I think is pre-2012.  
16:37 42 So I want to go back all the way.  
16:37 43  
16:37 44 A. Yeah, I will take that away, Commissioner. I don't know  
16:37 45 whether that is doable or not all the way back there in terms of  
16:37 46 the systems and source data, but I'll certainly ---  
16:37 47

16:37 1 COMMISSIONER: If you can't do it, you can't do it.  
16:37 2  
16:37 3 A. Yep.  
16:37 4  
16:37 5 COMMISSIONER: Just that if you can, and the same also for the  
16:37 6 underpayment question. Not the 115 question, just a straight  
16:37 7 underpayment of tax, casino tax question. Can you do Matchplay  
16:37 8 all the way back from when it began as long as you've got the  
16:37 9 data?  
16:37 10  
16:37 11 A. Again, I'm not sure we can, but I understand the question.  
16:37 12  
16:37 13 COMMISSIONER: If it can't be done, it can't be done. We  
16:37 14 might have to do averages all the way back. But if you have the  
16:37 15 data, it would be good if you could do it.  
16:37 16  
16:37 17 A. Understood.  
16:37 18  
16:37 19 MS NESKOVICIN: Thank you, Mr McGregor. Ms O'Sullivan  
16:38 20 has some questions for you.  
16:38 21  
16:38 22  
16:38 23 **EXAMINATION BY MS O'SULLIVAN**  
16:38 24  
16:38 25  
16:38 26 MS O'SULLIVAN: Mr McGregor, just to confirm, in  
16:38 27 July/August 2019 you were the CFO of Crown Melbourne; is that  
16:38 28 right?  
16:38 29  
16:38 30 A. Sorry, say that again?  
16:38 31  
16:38 32 Q. July/August 2019, were you the Chief Financial Officer of  
16:38 33 Crown Melbourne?  
16:38 34  
16:38 35 A. I was the Chief Financial Officer of Australian Resorts  
16:38 36 incorporating Crown Melbourne.  
16:38 37  
16:38 38 Q. I see. And then again the question is about July and August  
16:38 39 2019. Around that time you became aware, no doubt, of  
16:38 40 allegations in the media about money laundering on Crown's  
16:38 41 bank accounts; is that right?  
16:38 42  
16:38 43 A. I would have, yes.  
16:38 44  
16:38 45 Q. Fast-forward about 14 months, now I want to ask you  
16:38 46 a question about October 2020. It is the case, is it not, that you  
16:38 47 were involved in an internal Crown investigation into prospective

- 16:38 1 money laundering on Crown's bank accounts; is that right?  
16:39 2  
16:39 3 A. I wouldn't call it an investigation. I was asked --- if you are  
16:39 4 referring to a paper in October, I was asked to coordinate a paper  
16:39 5 on various internal parties are looking into it.  
16:39 6  
16:39 7 Q. Yes. And you did in fact prepare a paper that is right?  
16:39 8  
16:39 9 A. That's right.  
16:39 10  
16:39 11 Q. And that paper set out an explanation as to tasks that had  
16:39 12 been undertaken by Crown employees looking at transactions on  
16:39 13 Crown's bank accounts; is that right?  
16:39 14  
16:39 15 A. That's right.  
16:39 16  
16:39 17 Q. And in particular the investigations that were conducted  
16:39 18 were looking into cash deposits, potential structuring activity and  
16:39 19 suspicious deposit distributors used on various Crown bank  
16:39 20 accounts between 2013 and 2019; is that right?  
16:39 21  
16:39 22 A. That's right.  
16:39 23  
16:39 24 Q. So you say you didn't do the investigation yourself, but is it  
16:39 25 right that either it was done by people in your team or done with  
16:39 26 your oversight?  
16:39 27  
16:40 28 A. No. I was asked by Mr Barton, there were a number of  
16:40 29 work streams happening at that time around various parts of the  
16:40 30 business. I was asked by Mr Barton to put together a memo  
16:40 31 which was intended, as I understood it, for either the Risk  
16:40 32 Committee and/or the Board that summarised those various  
16:40 33 work streams that were happening internally.  
16:40 34  
16:40 35 Q. Yes. And you prepared that memo and there were a couple  
16:40 36 of different drafts of the memo; is that right?  
16:40 37  
16:40 38 A. That's right.  
16:40 39  
16:40 40 Q. And you recall that. You recall, no doubt, that the bank  
16:40 41 accounts that were examined were those in the names of  
16:40 42 Southbank Investments and Riverbank Investments; is that right?  
16:40 43  
16:40 44 A. Yes, I think there was a couple also in the name of Crown  
16:40 45 Melbourne and Burswood.  
16:40 46  
16:40 47 Q. Yes, that is right. That is what your memo does reveal?

16:40 1  
16:40 2 A. Yes.  
16:40 3  
16:41 4 Q. I call it an internal investigation, but you might wish to call  
16:41 5 it something else and let me know if you do, but what was looked  
16:41 6 at were transactions on the bank accounts in the names of  
16:41 7 Southbank Investments, Riverbank Investments, Crown  
16:41 8 Melbourne Ltd and Burswood Nominees Ltd; that accords with  
16:41 9 your recollection?  
16:41 10  
16:41 11 A. That is my recollection, yes.  
16:41 12  
16:41 13 Q. Can we go to GTA.0001.0001.1082, please, operator.  
16:41 14  
16:41 15 Mr McGregor, do you recognise that document?  
16:41 16  
16:41 17 A. Yes.  
16:41 18  
16:41 19 Q. Save --- I might ask the operator to scroll through the  
16:41 20 document. I'm not asking you to read it now, Mr McGregor, but  
16:41 21 for it to be scrolled through so you can see the full document.  
16:41 22  
16:42 23 Mr McGregor, save for the bits highlighted in yellow, that is  
16:42 24 a copy of the memorandum that you prepared on or about 15  
16:42 25 October 2020?  
16:42 26  
16:42 27 A. It looks like it is, yes.  
16:42 28  
16:42 29 Q. Can I just ask you, in the intervening period between July  
16:42 30 and August 2019, which is when there were allegations made in  
16:42 31 the media about money laundering on Crown's bank accounts,  
16:42 32 and then this period here which is October 2020, did you have  
16:42 33 any involvement or were you aware of any internal investigation  
16:42 34 at Crown into money laundering on Crown's bank accounts? The  
16:43 35 question is about the intervening period.  
16:43 36  
16:43 37 A. Sure. I had little or no involvement. I was aware that there  
16:43 38 was a number of investigations, if you like, into AML activity at  
16:43 39 Crown and into the AML program and the like in that intervening  
16:43 40 period.  
16:43 41  
16:43 42 Q. I see. Did you have any involvement in those, what I think  
16:43 43 you've called work streams?  
16:43 44  
16:43 45 A. Not directly. I remember that I have, or had, attended  
16:43 46 meetings with some of the lenders in late 2019. We were in the  
16:43 47 process of seeking some refinancing with some of the banks.

16:43 1 I was in my previous role, but Mr Barton and others brought me  
16:43 2 into some of the discussions with the banks, effectively I guess  
16:44 3 for my own development because I hadn't had too much exposure  
16:44 4 to Treasury before. And in some of those meetings I recall the  
16:44 5 lenders asking for presentations on AML program and the like.  
16:44 6 And in some of those meetings I recall Mr Preston being there  
16:44 7 and Mr Stokes and others presenting to the banks on AML  
16:44 8 matters. Other than that, probably not a lot of direct involvement.  
16:44 9

16:44 10 Q. Okay. I'm less interested, just for the moment, on AML  
16:44 11 matters generally and more interested specifically on the  
16:44 12 investigation into potential money laundering on Crown's bank  
16:44 13 accounts, which I understand is the subject of this memo. So  
16:44 14 really my question is just specifically about investigations into  
16:44 15 money laundering on Crown's bank accounts.  
16:44 16

16:44 17 A. Sure.  
16:44 18

16:44 19 Q. In that intervening period, which is approximately  
16:45 20 14 months between June/July August 2019 when there were  
16:45 21 allegations in the media about money laundering on Crown's  
16:45 22 bank accounts, and then fast-forward October 2020 when this  
16:45 23 memo was prepared, to your knowledge was there any internal  
16:45 24 investigation at Crown looking into whether or not there had been  
16:45 25 money laundering on Crown's bank accounts?  
16:45 26

16:45 27 A. I don't have any direct knowledge of that, no.  
16:45 28

16:45 29 Q. So what changed in October 2020 such that this  
16:45 30 investigation that you describe in the memo occurred?  
16:45 31

16:45 32 A. As I said, I think from memory, late 2019 was when the  
16:45 33 Southbank and Riverbank accounts were closed. The Bergin  
16:45 34 Inquiry took place throughout --- pretty much throughout 2020.  
16:45 35 There was a lot of internal activity from various departments and  
16:46 36 Crown VIP, AML, Treasury, et cetera, and Legal for that matter,  
16:46 37 looking into AML activity in the bank accounts, as I understood  
16:46 38 it. And because there was so much activity going on, there was  
16:46 39 probably some chance of some double-up or crossover in terms of  
16:46 40 effort. I was also aware at the time that Initialism and Grant  
16:46 41 Thornton had been engaged, and at that point Mr Barton asked  
16:46 42 me to put together a memo. As I understood it, it was intended  
16:46 43 for the Risk Committee and the Board, I don't think it ever made  
16:46 44 it to either, for the purposes of summarising the activity that was  
16:46 45 undertaken internally. Which is what I did.  
16:46 46

16:46 47 Q. So you say this memo was intended for the Risk Committee

16:46 1 and the Board. But am I right to understand that your evidence is  
16:46 2 that it never made it up to the Risk Committee and Board?  
16:46 3

16:47 4 A. I'm not aware it ever got tabled at the Risk Committee or  
16:47 5 the board.  
16:47 6

16:47 7 Q. Why is that?  
16:47 8

16:47 9 A. I don't know. I could only speculate. I think it was  
16:47 10 probably because things were moving so quickly that by the time  
16:47 11 we settled, or I and others settled on this document, it had moved  
16:47 12 on in terms of its current status.  
16:47 13

16:47 14 Q. Well ---  
16:47 15

16:47 16 A. That would be my assumption.  
16:47 17

16:47 18 Q. Did you attend Board meetings or Risk Committee  
16:47 19 meetings?  
16:47 20

16:47 21 A. Yes.  
16:47 22

16:47 23 Q. You didn't think to raise the matters that had been  
16:47 24 ascertained as a result of the investigations described in the  
16:47 25 memo? You didn't think to raise that at the meeting of the Risk  
16:47 26 Committee?  
16:47 27

16:47 28 A. No, as I said, I was preparing the document for Mr Barton.  
16:47 29 He was attending the Risk Committees and the board as CEO at  
16:47 30 that time. There were various of these matters that would have  
16:48 31 been discussed through those meetings. Not in direct response to  
16:48 32 this memo, obviously, because I don't think it ever got tabled.  
16:48 33

16:48 34 Q. Is it the case that if you were at a meeting and Mr Barton  
16:48 35 didn't raise it, you were going to raise it?  
16:48 36

16:48 37 A. No, I don't think so. I've never --- I don't recall anything  
16:48 38 being raised about these matters, or not raised about these matters  
16:48 39 that came to my attention.  
16:48 40

16:48 41 Q. Do you not think the members of the Risk Committee  
16:48 42 would want to know what had been ascertained by the  
16:48 43 investigations that are described in the memo?  
16:48 44

16:48 45 A. Yes. As I said, just because the memo itself didn't get  
16:48 46 tabled at the meeting doesn't mean the subject matter wasn't  
16:48 47 discussed.

16:48 1  
16:48 2 Q. Okay, so on your recollection, was the subject matter  
16:48 3 discussed at a Risk Committee meeting?  
16:48 4  
16:48 5 A. I can't recall. I would have assumed that these matters  
16:49 6 would be the subject of discussion throughout, and they probably  
16:49 7 were, but I can't specifically recall.  
16:49 8  
16:49 9 Q. Is it fair to characterise this memorandum as setting out, in  
16:49 10 a sense, the process that was undertaken to look at the  
16:49 11 transactions on the accounts and some of the results of the  
16:49 12 investigation?  
16:49 13  
16:49 14 A. Yes, I think that's fair.  
16:49 15  
16:49 16 Q. Operator, can we look at page ending 1084. If we can go  
16:49 17 down to the bottom half of the page.  
16:49 18  
16:49 19 There, Mr McGregor, I want to draw your attention to the table  
16:49 20 that is set out there. Before we look at the table, I want to look at  
16:50 21 the sentence immediately above, where it says:  
16:50 22  
16:50 23 *..... detailed findings are included in the tables in appendix*  
16:50 24 *1. A summary table is presented below. Cash deposits*  
16:50 25 *into Crown bank accounts had diminished significantly in*  
16:50 26 *recent years.*  
16:50 27  
16:50 28 A. Yes.  
16:50 29  
16:50 30 Q. For understanding, it is the case in the left-hand side of the  
16:50 31 table, what is being set out there are potential cash deposits under  
16:50 32 \$10,000 and what is set out on the left is the number of  
16:50 33 transactions?  
16:50 34  
16:50 35 A. On the left-hand side the number of transactions, that's  
16:50 36 right.  
16:50 37  
16:50 38 Q. Yes, and on the right-hand side, am I right to understand  
16:50 39 that it is essentially, it is the same results but it is expressed in  
16:50 40 terms of the value of the deposits as opposed to the number of the  
16:50 41 deposits?  
16:50 42  
16:50 43 A. That's correct.  
16:50 44  
16:50 45 Q. Yes, and you can see there, on the second row of the entire  
16:50 46 table, there is references to SB, RB, CM and CP. Am I to  
16:51 47 understand that "SB" short for Southbank?

16:51 1  
16:51 2 A. Yes.  
16:51 3  
16:51 4 Q. And "RB" is short for Riverbank?  
16:51 5  
16:51 6 A. Yes.  
16:51 7  
16:51 8 Q. And "CM" is short for Crown Melbourne?  
16:51 9  
16:51 10 A. Yes.  
16:51 11  
16:51 12 Q. And "CP" is short for Crown Perth?  
16:51 13  
16:51 14 A. That's right.  
16:51 15  
16:51 16 Q. Where it says "CM ANZ", that is a reference to the Crown  
16:51 17 Melbourne Limited bank account at ANZ, is that right?  
16:51 18  
16:51 19 A. That's right.  
16:51 20  
16:51 21 Q. And where it says "CP ANZ", that is a reference to the  
16:51 22 Burswood Nominees bank account with ANZ; is that right?  
16:51 23  
16:51 24 A. Yes, I think that's right.  
16:51 25  
16:51 26 Q. Can I draw your attention to the totals at the bottom of the  
16:51 27 page, I'm looking at the totals on the right-hand box. It is the  
16:51 28 case, is it not, that the results of the investigation showed, at least  
16:51 29 when it came to the value of transactions, that there was a very  
16:51 30 similar value of transactions when we are looking comparing the  
16:52 31 Southbank account with the Crown Melbourne account?  
16:52 32  
16:52 33 A. Yes.  
16:52 34  
16:52 35 Q. I mean, and I presume they are uncannily similar numbers,  
16:52 36 but I presume that is coincidental; would that be your  
16:52 37 understanding?  
16:52 38  
16:52 39 A. That would be my understanding.  
16:52 40  
16:52 41 Q. This also shows that there were transactions --- sorry,  
16:52 42 potential cash deposits under the \$10,000 which were recorded  
16:52 43 not only in the Crown Melbourne account but also in the  
16:52 44 Burswood Nominees account; you agree with that, I presume?  
45  
46 A. Yes. And potential cash deposits is probably important to  
47 note because this was an internal review and there were, as



1 I think I put it in this memo, excuse me, some difficulties we had  
2 with the different banks and the different codes that they used  
3 around what they described as cash or otherwise.

4

5 Q. Yes. There were some challenges in you understanding  
6 from the words that were used, as interested transaction or cash  
7 transactions, and different banks use different codes, and some of  
8 them were more straightforward than others; is that right?

9

10 A. That's right.

11

12 Q. It is the case, is it not, that shortly after this work had been  
13 done and you had prepared this memo, that Crown engaged Grant  
14 Thornton and Initialism to review bank accounts for indications  
15 of money laundering?

16

17 A. Yes, I'm not sure of the sequencing. I think it may have  
18 been before this but I can be corrected on that.

19

20 Q. All right. I understand you had at least some involvement  
21 in the engagement of Initialism; is that right?

22

23 A. No. Well, I signed the engagement letter as an authorising  
24 officer of the company, but I wasn't responsible for setting out the  
25 scope of the Initialism work.

26

27 Q. I see. All right, did you --- yes, I'm looking at a document  
28 here which I think is the one you are referring to, which is  
29 a statement of work, essentially an engagement by Crown of  
30 Initialism ---

31

32 A. Yes.

33

34 Q. --- which has your signature and name on it ---

35

36 A. Yes.

37

38 Q. --- the date 2.10.2020, and just for the transcript reference  
39 for my learned friends, I'm looking at document  
40 INI.0001.0001.0726, but I don't need to take you to that,  
41 Mr McGregor. Tell me, this memo that we've been talking about,  
42 you've told me it was prepared to go to the --- it was intended for  
43 the Risk Committee and the board.

44

45 A. That was my understanding.

46

47 Q. Understanding, yes. Now, the Grant Thornton and the

1 Initialism reports, what was the intent for them?

2

3 A. I couldn't tell you. They were, I think --- the Initialism and  
4 Grant Thornton scope and instructions came from Mr Barton, as  
5 far as I'm aware. They were initiated to investigate Southbank  
6 and Riverbank accounts first and foremost, I think. What the  
7 intention of the outcome of those reports was, I couldn't say.

8

9 Q. Do you know who the intended audience was for the Grant  
10 Thornton and Initialism reports?

11

12 A. No, but I assume it would have been senior management,  
13 possibly the Risk Committee and the Board as well.

14

15 Q. Do you know whether one of the intended audience for the  
16 Grant Thornton and Initialism reports was in fact the Bergin  
17 Inquiry?

18

19 A. I'm not sure. It may have been. Certainly I think it got  
20 covered in the Bergin Inquiry from memory, that those reports  
21 were being ---

22

23 Q. They certainly got tendered at the Bergin Inquiry ---

24

25 A. Yes.

26

27 Q. --- but that's not quite my question. My question is whether  
28 you know that that was one of the intended audience for the  
29 Grant Thornton and Initialism reports.

30

31 A. I don't know.

32

33 Q. You don't know.

34

35 A. No.

36

37 Q. Did you come to learn that notwithstanding that the  
38 investigation which you describe in this memo, notwithstanding  
39 that that included the Burswood Nominee and Crown Melbourne  
40 bank accounts to the value that you set out there in the summary,  
41 did you come to learn that notwithstanding that, Grant Thornton  
42 and Initialism were only engaged to look at indications of money  
43 laundering on the Southbank and the Riverbank accounts?

44

45 A. I've come to know that more recently, yes.

46

47 Q. So you didn't learn that at the time?

1

2 A. Not that I recall, no.

3

4 Q. Do you have any idea as to why, especially in light of what  
5 is set out in your memo here about the Crown Melbourne and the  
6 Burswood Nominees accounts, why those accounts were  
7 excluded from the remit of what Grant Thornton and Initialism  
8 were asked to look into?

9

10 A. No, I don't know.

11

12 Q. Okay. Thank you. If I use the term "CUP practice", is that  
13 something that you are familiar with?

14

15 A. Yes.

16

17 Q. Yes. So you are aware that it's a practice that was engaged  
18 in at Crown, we're told between approximately 2012 and 2016,  
19 whereby international patrons would go to the Crown Towers  
20 front desk, make a payment on their CUP card, but --- mostly on  
21 CUP cards but not exclusively on CUP cards, and then take  
22 a receipt to the cage and get the value of what they had paid the  
16:57 23 hotel in the form of chips or exchange voucher, or ---

16:57 24

16:57 25 A. Purchase voucher, yes.

16:57 26

16:57 27 Q. Thank you. So you are familiar with that process?

16:57 28

16:57 29 A. I am more familiar with it now, yes.

16:57 30

16:58 31 Q. So we understand that the practice took place between 2012  
16:58 32 and 2016, and is it the case that for most, not all but most of that  
16:58 33 time you were the Chief Financial Officer of Crown Melbourne?

16:58 34

16:58 35 A. During that period I occupied a couple of roles, but I was  
16:58 36 CFO Crown Melbourne initially and then CFO of Crown Resorts.

16:58 37

16:58 38 Q. I see. Were you aware of the practice at the time?

16:58 39

16:58 40 A. Not in the detail I am now, no.

16:58 41

16:58 42 Q. What were you aware of at the time?

16:58 43

16:58 44 A. I would have seen, I think, references to it and VIP  
16:58 45 presentations and the like. In preparation for this I noted I was  
16:58 46 an attendee at some VIP working group meetings in early 2013  
16:58 47 where it was an item. I don't recall, other than seeing those

16:59 1 documents and preparing for --- I didn't recall that coming up in  
16:59 2 those meetings. So that is probably the extent of my knowledge  
16:59 3 through the period.

16:59 4  
16:59 5 Q. I'm interested in whether it came to your attention by  
16:59 6 reason of you being in charge of the money, so to speak, and I'm  
16:59 7 wondering whether it ever came to your attention by reason that I  
16:59 8 presume you were looking carefully at the Crown financial  
16:59 9 accounts, and whether or not you observed that there was very  
16:59 10 large transactions being transacted through the Crown Towers  
16:59 11 accounts but which were not being booked as revenue for Crown  
16:59 12 Towers.

16:59 13  
16:59 14 A. No, because they wouldn't have been booked as revenue for  
16:59 15 Crown Towers. They were effectively a cash --- a movement of  
17:00 16 cash between one part of the business and another. So I would  
17:00 17 have been, and I was and I am, privy to financial information,  
17:00 18 financial performance information across the business, including  
17:00 19 the hotels. But at no point did these transactions feature in those  
17:00 20 performance reports because they weren't recorded as revenue.

17:00 21  
17:00 22 Q. Yes. That's as I understand it. I don't quibble with you  
17:00 23 there. I guess my decision is slightly different. I'm interested to  
17:00 24 know whether or not it came to your attention precisely because it  
17:00 25 didn't feature as revenue for Crown Towers and yet the money  
17:00 26 was flowing through Crown Towers. The transactions were  
17:00 27 being transacted at Crown Towers and, as we understand, were  
17:00 28 being put into the Crown Towers bank account?

17:00 29  
17:00 30 A. No, that didn't come to my attention.

17:00 31  
17:00 32 Q. Is that something that you would expect would or should  
17:00 33 have come to your attention?

17:01 34  
17:01 35 A. Possibly, yes.

17:01 36  
17:01 37 Q. And when you say --- all right. Do you agree with the  
17:01 38 proposition that really it should have raised perhaps a red flag for  
17:01 39 the finance team, that there were a lot of money, and we know it's  
17:01 40 at least \$160 million that was being transacted through the hotel  
17:01 41 and into the hotel bank accounts, but not being booked at revenue  
17:01 42 to the hotel, do you agree that is a red flag that should have been  
17:01 43 picked up at the time?

17:01 44  
17:01 45 A. No, not necessarily, because it never would have been  
17:01 46 booked as revenue to the hotel.

17:01 47

17:01 1 Q. Yes, we know that, and that is precisely what I say should  
17:02 2 be a red flag for the finance team, that there is a lot of money  
17:02 3 flowing through the hotel that is not being booked as revenue?

17:02 4  
17:02 5 A. No, maybe we are at cross-purposes. My understanding of  
17:02 6 it is that it was a transaction made at the hotel on an EFTPOS  
17:02 7 terminal, for example, and in terms of its accounting, it was  
17:02 8 a balance sheet transaction, not one that would have found its  
17:02 9 way into the revenue of the hotel anyway. It was something that  
17:02 10 was obviously approved by various senior parts of the business  
17:02 11 and as a result, sure, there were large amounts of money going  
17:02 12 through it, but there were large amounts of money going through  
17:02 13 the casino as well.

17:02 14  
17:02 15 Q. Yes. I understand that and appreciate all of that, but my  
17:02 16 question is really, as we understand it, sorry, as what we've been  
17:03 17 told from Crown staff, the money --- I appreciate there is a lot of  
17:03 18 money flowing through the casino ---

17:03 19  
17:03 20 A. Sure.

17:03 21  
17:03 22 Q. --- but this is money that is going into the Crown Towers  
17:03 23 bank account and then being swept into, I believe it is a Crown  
17:03 24 Melbourne operating account and it is that that I'm suggesting is  
17:03 25 something that could have or should have been picked up and  
17:03 26 was a red flag for the finance team, that there was sweeps or huge  
17:03 27 amounts of money from the Crown Towers bank accounts --  
17:03 28 forget about what is on the books, we know it is not booked as  
17:03 29 revenue, but that sheer --- the sheer amount of money that is  
17:03 30 coming from the Crown Towers bank account into the Crown  
17:03 31 Melbourne bank account, that is not money that is being earned  
17:03 32 by Crown Towers. It is that phenomenon that I'm suggesting to  
17:04 33 you should have been picked up by the finance team, and was  
17:04 34 a potential red flag that was missed or should have been looked  
17:04 35 at.

17:04 36  
17:04 37 A. Yes, potentially, if that is the case. I'm not across the detail  
17:04 38 of what bank accounts it went into and out of, but I understand  
17:04 39 your premise.

17:04 40  
17:04 41 MS O'SULLIVAN: I have no further questions.

17:04 42  
17:04 43 COMMISSIONER: Thank you.

17:04 44  
17:04 45  
17:04 46 **RE-EXAMINATION BY DR BUTTON**  
17:04 47

17:04 1  
17:04 2 DR BUTTON: Thank you.  
17:04 3  
17:04 4 Mr McGregor, you were asked some questions about the bonus  
17:04 5 jackpots and you gave some evidence about the deduction having  
17:04 6 been made when the reward was redeemed.  
17:04 7  
17:04 8 A. Yes.  
17:04 9  
17:04 10 Q. Just so there is no confusion about what you mean by  
17:04 11 "redemption" in that context, by "redemption" do you mean,  
17:04 12 I think you were taken to a dining example, but when the patron  
17:04 13 effectively used their voucher at the restaurant?  
17:04 14  
17:05 15 A. That's right. So I think the example given to me was  
17:05 16 obviously the dining rewards, as I understand them, expire in 14  
17:05 17 days. If they expire, they lapse. So they are recognised upon  
17:05 18 redemption at the outlet that they are presented to.  
17:05 19  
17:05 20 Q. And if they lapse, is there any deduction made for that  
17:05 21 lapsed voucher from the gross gaming revenue?  
17:05 22  
17:05 23 A. No.  
17:05 24  
17:05 25 Q. You were also asked some questions about the work that  
17:05 26 you did in October, or the work that you, for want of a better  
17:05 27 word, project-managed in 2020, to draw together the strands of  
17:05 28 what everybody was doing in the business. And you gave some  
17:05 29 evidence where you stressed that you were looking at potential  
17:05 30 cash transactions. Can you explain why you weren't able to be  
17:05 31 definitive about what you were looking at was in fact a cash  
17:05 32 transaction?  
17:06 33  
17:06 34 A. Sure. These were internal investigations, so all we had to  
17:06 35 go on was the bank statement data that we had. Obviously  
17:06 36 Deloitte, doing their work, they would be far more forensic with  
17:06 37 the resources they had available to them, but all we had was the  
17:06 38 bank statement data so we are interpreting the codes and the  
17:06 39 references used on that statement data by the various banks, and  
17:06 40 they differed significantly. Some of the banks used cash I think  
17:06 41 as a descriptor, which was very helpful. Many of the others  
17:06 42 didn't. So we were trying to determine the extent to which we  
17:06 43 could what designated cash transactions and in some instances we  
17:06 44 did actually contact the ANZ, our transactional banker, and seek  
17:06 45 their assistance.  
17:06 46  
17:06 47 Q. Could the operator bring up GTA.0001.0001.1082. You

17:07 1 see the fourth paragraph down, you say:

17:07 2

17:07 3 *Further, the various banks use very different codes .....*

17:07 4 *which has hampered our ability to clearly determine the*

17:07 5 *source and description of certain transactions.*

17:07 6

17:07 7 Is that the matter you have just been referring to?

17:07 8

17:07 9 A. Yes, so the approach we took was err on the side of caution

17:07 10 and include anything that we thought may indicate a cash

17:07 11 transaction, and it was always the idea that we would try and

17:07 12 ultimately determine whether that was the case or not.

17:07 13

17:07 14 Q. If the operator could go over the page ---

17:07 15

17:07 16 COMMISSIONER: Can I just ask a question about that. There

17:07 17 are two or three banks you are looking at. They use different

17:07 18 codes and they appear on your bank statements.

17:07 19

17:07 20 A. Yes.

17:07 21

17:07 22 COMMISSIONER: I'm not sure how difficult it would have been

17:07 23 to ring up the bank and say "What is code A and code B and code

17:07 24 C?" That could have taken all of five, seven, ten minutes? I

17:08 25 don't appreciate the difficulty. I've done it myself. I've got

17:08 26 information from the banks. I don't understand, I ring them up,

17:08 27 somebody tells me and it is good. You are a bunch of

17:08 28 accountants and properly-trained people. Did you deliberately

17:08 29 not ring the bank?

17:08 30

17:08 31 A. No, Commissioner. I didn't --- to put it your way, I didn't

17:08 32 really understand the difficulty either, but certainly when we

17:08 33 contacted the ANZ in particular, they had some codes, I think

17:08 34 from memory they were called AGT or something. We sent them

17:08 35 a whole bunch of sample data to look through and verify whether

17:08 36 they were cash deposits as we thought they might be. From

17:08 37 memory they responded and said some of them were bank

17:08 38 transfers, not cash deposits.

17:08 39

17:08 40 COMMISSIONER: So you found out what it was?

17:08 41

17:08 42 A. There had been some instances but it wasn't clear that those

17:08 43 particular codes always meant a particular thing.

17:08 44

17:08 45 COMMISSIONER: Did the banks tell you that they use one

17:08 46 single code for different types of transactions?

17:08 47

17:08 1 A. They weren't able to be clear for the work that we were  
17:09 2 doing on what any particular code meant.  
17:09 3  
17:09 4 COMMISSIONER: Okay.  
17:09 5  
17:09 6 DR BUTTON: Commissioner, some of those matters are  
17:09 7 addressed on the next page.  
17:09 8  
17:09 9 If the operator could go over the page.  
17:09 10  
17:09 11 You've observed there that the Commonwealth Bank was the  
17:09 12 most straightforward; is that fair?  
17:09 13  
17:09 14 A. Yes, they were very helpful.  
17:09 15  
17:09 16 Q. HSBC did not provide adequate details, the narrative was  
17:09 17 more limited and then in respect of ANZ there is quite a lengthy  
17:09 18 description that I won't take you through. It goes through some of  
17:09 19 matters that you've just recalled about having made enquiries  
17:09 20 with ANZ and the result of those enquiries. If I could take you to  
17:09 21 the last line in the last paragraph, it is recorded in the memo there  
17:09 22 that what is represented is the "worst-case scenario"; you see  
17:09 23 that?  
17:09 24  
17:09 25 A. Yes.  
17:09 26  
17:09 27 Q. Does that reflect the approach that was taken; if it was even  
17:09 28 potentially cash it was included in the numbers Counsel Assisting  
17:10 29 took you to?  
17:10 30  
17:10 31 A. That's right.  
17:10 32  
17:10 33 Q. You were also asked some questions around the extent of  
17:10 34 the reviews that were undertaken. There has been some evidence  
17:10 35 in this Commission that as well as having Australian dollar  
17:10 36 currency accounts, the Crown Melbourne and I think Burswood  
17:10 37 have some foreign currency accounts.  
17:10 38  
17:10 39 You would recall that there was some foreign currency accounts  
17:10 40 held with the ANZ and some foreign currency accounts held with  
17:10 41 the Commonwealth Bank; are you aware of that?  
17:10 42  
17:10 43 A. Yes.  
17:10 44  
17:10 45 Q. Are you able to say whether patrons could deposit cash in  
17:10 46 foreign currency into those foreign currency accounts such that  
17:10 47 they would be really needing to be reviewed as a priority for



17:10 1 potential structuring?

17:10 2

17:10 3 A. No. My understanding is that those accounts were set up  
17:10 4 for TT transactions into only.

17:10 5

17:10 6 Q. And you know enough about money laundering that you  
17:10 7 only need to look at structuring when you have cash?

17:11 8

17:11 9 A. Yes.

17:11 10

17:11 11 Q. You were also asked some questions about the review that  
17:11 12 was undertaken by Grant Thornton and Initialism and it was  
17:11 13 drawn to your attention that they were only engaged in respect of  
17:11 14 the Riverbank and Southbank accounts.

17:11 15

17:11 16 Now, you may not be aware of this, but Ms Shamai from Grant  
17:11 17 Thornton gave evidence that in her briefing discussion with the  
17:11 18 MinterEllison and Initialism, she was told that those two accounts  
17:11 19 of Riverbank and Southbank were the accounts of high priority,  
17:11 20 and that the Crown Melbourne and Burswood Nominees were to  
17:11 21 be reviewed at a later point. Were you ever made aware of that  
17:11 22 matter?

17:11 23

17:11 24 A. No.

17:11 25

17:11 26 Q. Similarly, Mr Jeans from Initialism said he thought it was  
17:11 27 always Crown's intention to do an investigation on Crown  
17:11 28 Melbourne and Burswood but Riverbank and Southbank were  
17:11 29 prioritised because of their relevance to the Bergin Inquiry. Were  
17:12 30 you aware of that?

17:12 31

17:12 32 A. No, I wasn't.

17:12 33

17:12 34 Q. Were you aware that the work that was being undertaken by  
17:12 35 Grant Thornton to review Crown Melbourne and Burswood  
17:12 36 Nominees accounts didn't ultimately proceed because Deloitte  
17:12 37 was engaged to undertake a much wider exercise?

17:12 38

17:12 39 A. Yes, I am aware of that.

17:12 40

17:12 41 Q. It was suggested to you that notwithstanding that the  
17:12 42 memorandum that you prepared was to your understanding  
17:12 43 intended ultimately to go up to the board or Risk Committee ---  
17:12 44 I don't think we have this document on the system but we'll get it  
17:12 45 loaded, Commissioner, it is the ERCC pack from the November  
17:12 46 2020, which was I understand the next meeting of that committee  
17:12 47 after this memorandum was prepared.

17:12 1  
17:12 2 I will give everyone the reference, CRW.502.004.1352 at 1465.  
17:12 3 I'm told it is not on the system, but we'll get it loaded up.

17:12 4  
17:13 5 That does record, Commissioner, that the Riverbank and  
17:13 6 Southbank reviews were brought to the attention of that  
17:13 7 Committee in November 2020.

17:13 8  
17:13 9 Thank you. That was all I had to ask.

17:13 10  
17:13 11 COMMISSIONER: Thank you.

17:13 12  
17:13 13 MS NESKOVICIN: Thank you, Commissioner. No further  
17:13 14 questions for Mr McGregor.

17:13 15  
17:13 16 COMMISSIONER: Mr McGregor, you are free to go now.  
17:13 17 Thank you very much.

18

19

20 **THE WITNESS WITHDREW**

21

22

17:13 23 A. Thank you.

17:13 24

17:13 25

17:13 26 **HOUSEKEEPING**

17:13 27

17:13 28

17:13 29 MR BORSKY: I'm conscious of the time, Commissioner, but I'm  
17:13 30 also conscious that you did me a deal earlier today in relation to  
17:13 31 the interim non-publication protections. I'm content to address  
17:13 32 you further. I have obtained instructions on the sensitivity and  
17:13 33 the continuing confidentiality of paragraphs 31 to 34. I'm content  
17:13 34 to address that now or in the morning, whatever is more  
17:13 35 convenient.

17:13 36

17:13 37 COMMISSIONER: In the morning.

17:13 38

17:13 39 MR BORSKY: As the Commission pleases.

17:14 40

17:14 41 COMMISSIONER: It won't take long?

17:14 42

17:14 43 MR BORSKY: No. It may be more efficient if those instructing  
17:14 44 me write to Solicitors Assisting. We have carefully reviewed  
17:14 45 each of the paragraphs 31 to 34 and will send Solicitors Assisting  
17:14 46 the note highlighting the parts which are both not in the public  
17:14 47 domain and considered to be sensitive.

17:14 1  
17:14 2 COMMISSIONER: Okay.  
17:14 3  
17:14 4 MR BORSKY: So it won't be the entirety of paragraphs 31 to 34  
17:14 5 which we seek permanent restriction in respect of, and you will  
17:14 6 form your own views on it when you see it, but I will have it sent  
17:14 7 overnight to Solicitors Assisting.  
17:14 8  
17:14 9 COMMISSIONER: Thank you very much.  
17:14 10  
17:14 11 MS NESKOVCIN: Commissioner, we are resuming at 9.30 with  
17:14 12 Ms Halton. The initial part of the evidence will be in private  
17:14 13 hearing with Crown and the directors present. The other parties  
17:14 14 have been notified and have been given a not before 9.45 start  
17:14 15 time.  
17:14 16  
17:14 17 COMMISSIONER: Thank you. I adjourn until 9.30 tomorrow.  
17:15 18  
19  
20 **HEARING ADJOURNED AT 5.15 PM UNTIL**  
21 **WEDNESDAY, 7 JULY 2021 AT 9.30 AM.**

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