
TRANSCRIPT OF PROCEEDINGS

COMMISSIONER: HON. RAY FINKELSTEIN AO QC

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

MELBOURNE, VICTORIA

09.33 AM, FRIDAY, 09 JULY 2021

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08:54 1 COMMISSIONER: Good morning. Thank you.
08:54 2
09:33 3 Ms O'Sullivan?
09:33 4
09:33 5 MS O'SULLIVAN: Thank you, Commissioner. The next
09:33 6 witness is Robyn McKern from McGrathNicol. Could the
09:33 7 witness be sworn, please.
09:33 8
09:33 9
09:33 10 **MS ROBYN BEVERLEY MCKERN, SWORN**
09:33 11
09:33 12
09:33 13 **EXAMINATION-IN-CHIEF BY MS O'SULLIVAN**
09:33 14
09:33 15
09:33 16 MS O'SULLIVAN: Thank you, Ms McKern. Could you please
09:33 17 state your full name and business address.
09:33 18
09:33 19 A. Robyn Beverley McKern, Level 6/1, 71 Collins Street.
09:33 20
09:33 21 Q. Thank you, and you are a partner at McGrathNicol?
09:34 22
09:34 23 A. That's correct.
09:34 24
09:34 25 Q. You appear pursuant to a Notice to Attend?
09:34 26
09:34 27 A. That's correct.
09:34 28
09:34 29 Q. It is the case, is it not, that McGrathNicol have concluded
09:34 30 a review into, broadly speaking, a number of aspects of how
09:34 31 Crown addresses the risk money laundering at its casino?
09:34 32
09:34 33 A. That's correct.
09:34 34
09:34 35 Q. McGrathNicol, under your leadership, has prepared
09:34 36 a written report for the Royal Commission dated 5 July 2021
09:34 37 titled, "Royal Commission Into Casino Operator and Licence
09:34 38 Forensic Review, AML/CTF"?
09:34 39
09:34 40 A. Correct.
09:34 41
09:34 42 Q. That report has a number of appendices, is that right?
09:34 43
09:34 44 A. Yes.
09:34 45
09:34 46 Q. I understand there are a couple of corrections you seek to
09:34 47 make to the report; is that right?

09:34 1
09:34 2 A. Yes.
09:34 3
09:34 4 MS O'SULLIVAN: We might just, Commissioner, start with the
09:34 5 corrections. I understand Ms McKern that the first change is at
09:34 6 page 13 of the report; is that right?
09:34 7
09:34 8 A. That's correct.
09:34 9
09:34 10 COMMISSIONER: Sorry, page 1-3?
09:34 11
09:34 12 MS O'SULLIVAN: 1-3. Internal page numbering,
09:35 13 Commissioner. Looking at item 2 on page 13, two bullet points
09:35 14 and one starts with 37 DAB accounts and 47 SK accounts. Is it
09:35 15 right that the number "30" there should be "41"?
09:35 16
09:35 17 A. That's correct.
09:35 18
09:35 19 Q. Where it says, "45 SK" accounts, is it the case that that
09:35 20 number shouldn't be 45, it should be "47"?
09:35 21
09:35 22 A. That's correct.
09:35 23
09:35 24 Q. Are there some changes to be made, again looking within
09:35 25 that same box, item 2, is it right there are changes to be made to
09:35 26 the dollar figures at the top of the box?
09:35 27
09:35 28 A. Yes. So what became apparent to us in documents we
09:35 29 received in the last day or two was that there are some dead
09:35 30 accounts that offset these DAB accounts, so there is \$13 million
09:36 31 of monies owed to the same patrons that - sorry, these patrons
09:36 32 also owe the casino \$13 million collectively. So those numbers,
09:36 33 22 million and 25.2, totalling 47 million, they in fact total 33
09:36 34 after taking account of the debt owed by those patrons to the
09:36 35 casino.
09:36 36
09:36 37 Q. I see.
09:36 38
09:36 39 A. So the net owing by the casino to these patrons is
09:36 40 33 million. We haven't calculated all the numbers through as yet.
09:36 41
09:36 42 Q. I see. All right, so these changes you seek to make are
09:36 43 a consequence of information you have received just very
09:36 44 recently, is that right?
09:36 45
09:36 46 A. Yes.
09:36 47

09:36 1 Q. So it is an update, essentially, to some of the data in the
09:36 2 report; is that right?
09:36 3
09:36 4 A. Yes.
09:36 5
09:36 6 Q. Is it the case that by reason of the changes that you've
09:36 7 referred to just now, and the additional data that McGrathNicol
09:36 8 has received after completing the report, that there are some
09:36 9 consequential changes to table 9 on page 38?
09:36 10
09:36 11 A. That's correct.
09:36 12
09:37 13 Q. Is it right that rather than going through now, you are not in
09:37 14 a position to go through now and correct all of the figures in table
09:37 15 9, but what is proposed is that you will essentially update table 9;
09:37 16 is that right?
09:37 17
09:37 18 A. Yes.
09:37 19
09:37 20 Q. Thank you. And, tell me, are you confident that the update
09:37 21 won't be material to the conclusions that you draw in the report,
09:37 22 otherwise draw in the report?
09:37 23
09:37 24 A. No. The total balance changes to a reduced number from
09:37 25 47 to 33, but the issues remain the same.
09:37 26
09:37 27 Q. I see. Thank you. Can we just turn to page 69.
09:37 28 Ms McKern, I draw your attention to 8.6.3.
09:37 29
09:38 30 A. Yes.
09:38 31
09:38 32 Q. At that paragraph there are a number of quotes, but in
09:38 33 particular do you wish to make an amendment to the first quote
09:38 34 that is set out?
09:38 35
09:38 36 A. Yes, I do. The questionnaire responder actually responded
09:38 37 twice, and we inadvertently picked up his draft response rather
09:38 38 than his final response. I will read his final response:
09:38 39
09:38 40 *I am certainly aware that a significant number of*
09:38 41 *high-end patrons have been exited from the business since*
09:38 42 *Crown has adopted approach towards source of wealth*
09:38 43 *requirements. That is, Crown commenced a process of*
09:38 44 *Know Your Customer which is in my view unprecedented.*
09:38 45
09:38 46 I am sorry, I think my printout is cut off, I'm sure he says, "which
09:38 47 is in my 12 years unprecedented."

09:38 1
09:38 2 *I would say the culture of Crown has changed markedly.*
09:38 3 *Previously the company had the balance between profits*
09:38 4 *skewed towards profit.*
09:38 5
09:39 6 Sorry, again, I think my printout is cut off here. I think he said,
09:39 7 "a balance between profit and compliance skewed towards
09:39 8 profit". I'd have to check, I'm sorry, my printout is incorrect.
09:39 9
09:39 10 Q. I see. Is it your view that there is a change to the words
09:39 11 used but not a material change to the meaning sought to be
09:39 12 conveyed?
09:39 13
09:39 14 A. That's correct.
09:39 15
09:39 16 MS O'SULLIVAN: Thank you. Subject to those corrections and
09:39 17 a revised table 9, I seek to tender the report, Commissioner, with
09:39 18 its appendices.
09:39 19
09:39 20 COMMISSIONER: The McGrathNicol report titled, "Forensic
09:39 21 Review AML/CTF" dated 5 July 2021 will be Exhibit Number?
09:39 22
09:39 23 ASSOCIATE: 447.
09:39 24
09:40 25 COMMISSIONER: Thank you. In due course when table 9 is
09:40 26 substituted I will swap the pages.
09:40 27
09:40 28
09:40 29 **EXHIBIT #RC0447 - MCGRATHNICOL REPORT TITLED**
09:40 30 **"FORENSIC REVIEW AML/CTF" DATED 5 JULY 2021**
09:40 31
09:40 32
09:40 33 MS O'SULLIVAN: Yes.
09:40 34
09:40 35 You are a founding partner of McGrathNicol, is that right?
09:40 36
09:40 37 A. Yes.
09:40 38
09:40 39 Q. McGrathNicol itself is an independent chartered
09:40 40 accountancy firm is that right?
09:40 41
09:40 42 A. Yes.
09:40 43
09:40 44 Q. You personally are a fellow of Chartered Accountants,
09:40 45 Australia and New Zealand, is that right?
09:40 46
09:40 47 A. Yes.

- 09:40 1
09:40 2 Q. You have expertise in financial crimes and investigation, is
3 that correct ?
4
5 A. Yes.
6
7 Q. You have been engaged as an expert witness in a number of
09:40 8 proceedings in the superior State Courts and in the Federal Court of
09:40 9 Australia, is that right?
09:40 10
09:40 11 A. Yes.
09:40 12
09:40 13 Q. For this engagement, for the forensic review you've done for
09:40 14 the purposes of the Royal Commission, is it the case that
09:40 15 McGrathNicol have had a team of staff working on the forensic
09:40 16 review?
09:40 17
09:40 18 A. That's correct.
09:40 19
09:40 20 Q. And you have led that team?
09:40 21
09:40 22 A. That's right.
09:40 23
09:40 24 Q. I want to ask you some preliminary questions about the
09:40 25 scope of the task that McGrathNicol has undertaken. I will list
09:41 26 some of the aspects that are addressed in the report. It is the case,
09:41 27 is it not, that one of the things that McGrathNicol has done in its
09:41 28 forensic review is it has looked for indications of money
09:41 29 laundering on Crown's patron accounts, being Crown's bank
09:41 30 accounts into which patrons can deposit money?
09:41 31
09:41 32 A. That's right. We've done data analysis to try and identify
09:41 33 indicative behaviours.
09:41 34
09:41 35 Q. Thank you. And separately, McGrathNicol have done data
09:41 36 analysis looking for indications of money laundering on Crown's
09:41 37 DAB accounts; is that right?
09:41 38
09:41 39 A. That's correct.
09:41 40
09:41 41 Q. McGrathNicol has reviewed some of Crown's new
09:41 42 AML patron account controls; is that right?
09:41 43
09:41 44 A. Yes.
09:41 45
09:41 46 Q. You've also looked into Crown's transaction monitoring
09:41 47 program with a particular focus on Sentinel, is that right?

09:41 1
09:41 2 A. That's correct.
09:41 3
09:41 4 Q. You've also examined Crown's Know Your Customer
09:41 5 processes and controls and assessed their adequacy and
09:42 6 compliance with legislative requirements; is that right?
09:42 7
09:42 8 A. Yes, more particularly looking at recent changes to those
09:42 9 controls.
09:42 10
09:42 11 Q. You have considered Crown's new Financial Crime &
09:42 12 Compliance Change Program?
09:42 13
09:42 14 A. Yes.
09:42 15
09:42 16 Q. You've also had a look at some techniques of money
09:42 17 laundering on the casino floor and addressed how - sorry, and
09:42 18 assessed how Crown addresses those risks; is that right?
09:42 19
09:42 20 A. Yes.
09:42 21
09:42 22 Q. They are some very broad topics covered by the forensic
09:42 23 review. Before we delve more specifically into some of the
09:42 24 conclusions and observations that McGrathNicol has made, I
09:42 25 would just like to explore a little bit the methodology that
09:42 26 McGrathNicol has observed in order to conduct the forensic
09:42 27 review. It is the case, is it not, that one of the first things that
09:43 28 McGrathNicol did was review relevant Crown documentation,
09:43 29 for example, policies, procedures and so on, and also review
09:43 30 some reports prepared by others for Crown, such as reports
09:43 31 prepared by Deloitte and Initialism; is that right?
09:43 32
09:43 33 A. Yes, that's correct.
09:43 34
09:43 35 Q. McGrathNicol has also interviewed a number of senior
09:43 36 employees in anti-money laundering roles at Crown, but also
09:43 37 senior employees in the area of technology, credit, surveillance,
09:43 38 cage and accounts, recruitment and finance; is that right?
09:43 39
09:43 40 A. That's correct.
09:43 41
09:43 42 Q. It is the case, is it not, that McGrathNicol conducted
09:43 43 questionnaires of senior staff in roles such as anti-money
09:43 44 laundering risk, compliance, audit and security roles?
09:43 45
09:43 46 A. Yes.
09:43 47

09:43 1 Q. Another part of the methodology has been essentially data
09:43 2 analysis of data from both Crown's patron accounts and also
09:43 3 Crown's DAB and safekeeping accounts; is that right?

09:43 4
09:44 5 A. That's right, for a specific period, 1 January forward -
09:44 6 sorry, 1 January 2019 to varying dates for each.

09:44 7
09:44 8 Q. Sorry, is that 1 January or 1 July 2019?

09:44 9
09:44 10 A. 1 January 2019.

09:44 11
09:44 12 Q. Thank you. Another of McGrathNicol's methodologies was
09:44 13 to conduct surveys of Crown employees; is that right?

09:44 14
09:44 15 A. That's right.

09:44 16
09:44 17 Q. The surveys were both of, if we might group them, the first
09:44 18 group, there were surveys done of Crown employees who are
09:44 19 what we call casino floor staff; is that right?

09:44 20
09:44 21 A. Yes.

09:44 22
09:44 23 Q. And then another group of employees were also surveyed,
09:44 24 and they were what is called the second line of defence staff; is
09:44 25 that right?

09:44 26
09:44 27 A. Yes.

09:44 28
09:44 29 Q. That broadly means those people who are employed mostly
09:44 30 in anti-money laundering roles; is that right?

09:44 31
09:44 32 A. That's correct, and the first group, the on-floor staff, were
09:44 33 more specifically employees who held a special casino employee
09:44 34 licence.

09:44 35
09:45 36 Q. I see. Thank you. Lastly, is it the case that McGrathNicol
09:45 37 also conducted focus group discussions with both casino floor
09:45 38 staff and staff in anti-money laundering roles; is that right?

09:45 39
09:45 40 A. That's right. Two focus groups with the floor staff and one
09:45 41 with the AML people.

09:45 42
09:45 43 Q. Is it the case that the matters set out in your report, would
09:45 44 you say that they are quite significantly informed by information
09:45 45 and feedback given by Crown's employees?

09:45 46
09:45 47 A. Yes. Yes. So we started with documents, and then we

09:45 1 looked to - a lot of what we were trying to achieve was trying to
09:45 2 understand whether what was said on statement or by policy and
09:45 3 so forth had life on the ground in the casino. So we certainly
09:45 4 informed our findings by what we were told by staff.

09:45 5

09:45 6 Q. Thank you. I'm going to attempt to summarise some of the
09:46 7 main conclusions of the report, and I'm going to start by
09:46 8 summarising them. By summarising them I don't seek to
09:46 9 diminish the detail, nor do I seek to shy away from some of the
09:46 10 limitations and caveats that you have set out in the report.

09:46 11

09:46 12 A. (Nods head).

09:46 13

09:46 14 Q. We will get to them hopefully in some detail, time
09:46 15 permitting, and those caveats and limitations are set out in
09:46 16 writing in the report in any event. But what I would like to just
09:46 17 establish from the outset is just some of the main conclusions in
09:46 18 some of the areas of investigation.

09:46 19

09:46 20 So just in terms of some of the specific areas of investigation, is it
09:46 21 right that the McGrathNicol forensic review identified potential
09:46 22 structuring, being a money laundering technique, on Crown's
09:46 23 DAB accounts?

09:46 24

09:46 25 A. Yes. I would describe them as behaviours potentially
09:46 26 indicative of money laundering, yes.

09:46 27

09:46 28 Q. And obviously there is importance in the word, "potential",
09:47 29 which we will come to in a moment.

09:47 30

09:47 31 Is it the case that the McGrathNicol forensic review did not
09:47 32 identify any transactions indicative of structuring on Crown's
09:47 33 patron accounts over the period 1 January 2019 to 22 February
09:47 34 2021?

09:47 35

09:47 36 A. Yes.

09:47 37

09:47 38 Q. Thank you. Is it the case that McGrathNicol identified
09:47 39 indications of parking of money in Crown's DAB accounts and
09:47 40 safekeeping accounts?

09:47 41

09:47 42 A. Yes. And we've used the word "parking" to describe
09:47 43 monies that have stayed in that account untouched for a period of
09:47 44 time.

09:47 45

09:47 46 Q. Thank you. It is the case, is it not, that parking of funds
09:47 47 may be indicative of money laundering?

09:47 1
09:47 2 A. Yes, insofar as that creates a distance between the activity
09:47 3 and the funds being accessed.
09:47 4
09:47 5 Q. It is the case, is it not, that parking of funds might also have
09:48 6 a legitimate explanation?
09:48 7
09:48 8 A. Yes.
09:48 9
09:48 10 Q. It is the case, is it not, that McGrathNicol reviewed some of
09:48 11 Crown's new patron account controls?
09:48 12
09:48 13 A. Yes.
09:48 14
09:48 15 Q. McGrathNicol concluded that if effectively implemented
09:48 16 they will prevent and deter certain types of money laundering; is
09:48 17 that right?
09:48 18
09:48 19 A. Yes.
09:48 20
09:48 21 Q. You've also concluded, have you not, that they do have the
09:48 22 hallmarks of having been implemented at speed and in an ad hoc
09:48 23 manner; is that right?
09:48 24
09:48 25 A. Yes.
09:48 26
09:48 27 Q. Again, just on the patron account controls, you have
09:48 28 concluded, have you not, that the implementation of the controls
09:48 29 is immature, manual and unlikely to be sustainable in
09:48 30 a post-COVID environment?
09:48 31
09:48 32 A. Yes, at risk of being unsustainable.
09:48 33
09:48 34 Q. I see. Thank you. And you looked specifically within
09:48 35 Crown's transaction monitoring program at the Sentinel platform,
09:49 36 used by Crown; is that right?
09:49 37
09:49 38 A. Yes.
09:49 39
09:49 40 Q. You have observed it is recently implemented and
09:49 41 effectively in a trial phase; is that right?
09:49 42
09:49 43 A. Yes.
09:49 44
09:49 45 Q. You have set out in your report, have you not, some
09:49 46 concerns about data entry validation and quality assurance in
09:49 47 respect of the data inputs into Sentinel; is that right?

09:49 1
09:49 2 A. Yes, concerns that those aspects haven't been fully
09:49 3 explored, in terms of ensuring that that quality is in place.
09:49 4
09:49 5 Q. I see. Thank you. It is right, is it not, that you have
09:49 6 identified a lack of what might be generally called prudential
09:49 7 regulation insofar as Crown holds, in some instances,
09:49 8 a significant amount of patron money; is that right?
09:50 9
09:50 10 A. Yes, that is an observation we made.
09:50 11
09:50 12 Q. You've looked at Crown's Know Your Customer regime as
09:50 13 it presently stands and as it is prospected to stand, and you have
09:50 14 observed that it is earmarked for a significant uplift which you
09:50 15 have suggested is indicative of under-investment to date; is that
09:50 16 right?
09:50 17
09:50 18 A. Yes.
09:50 19
09:50 20 Q. In terms of Crown being an entity the subject of change,
09:50 21 you have observed, have you not, that specifically in the area of
09:50 22 how Crown deals with money laundering risks, that it is
09:50 23 undergoing some significant internal review and changes to all
09:50 24 aspects, being personnel, policies, procedures and systems; is that
09:50 25 right?
09:50 26
09:50 27 A. Yes.
09:50 28
09:50 29 Q. It is the case, is it not, that you observed that the
09:50 30 employees, the feedback from the employees also reflected that
09:51 31 Crown was in a period of change; is that right?
09:51 32
09:51 33 A. Yes.
09:51 34
09:51 35 Q. Is it the case that in terms of your assessment of changes,
09:51 36 Crown still has a lot of work ahead of it to uplift AML processes,
09:51 37 procedures and systems? Is that fair?
09:51 38
09:51 39 A. Yes, although not just my assessment, Crown's assessment,
09:51 40 particularly Mr Blackburn's assessment.
09:51 41
09:51 42 Q. Yes, and so your assessment essentially accords with
09:51 43 Mr Blackburn's assessment that there is - Crown's essentially at
09:51 44 the early stages of an uplift, and that there is a significant amount
09:51 45 of work yet to do; is that right?
09:51 46
09:51 47 A. Yes.

09:51 1
09:51 2 Q. McGrathNicol did carefully review what might be called
09:51 3 the Steve Blackburn uplift plan, also called the Financial Crime
09:51 4 & Compliance Change Program. You reviewed that carefully, is
09:52 5 that right?
09:52 6
09:52 7 A. Yes.
09:52 8
09:52 9 Q. You have concluded it is comprehensive and appropriately
09:52 10 prioritised; is that right?
09:52 11
09:52 12 A. Yes.
09:52 13
09:52 14 Q. You have concluded that it is likely that the Financial
09:52 15 Crime & Compliance Change Program will give rise to some
09:52 16 significant change at Crown; is that fair?
09:52 17
09:52 18 A. Yes.
09:52 19
09:52 20 Q. You have identified that its success is dependent on
09:52 21 a number of variables which can be grouped under the headings,
09:52 22 "funding", "technology" and "people"; is that right?
09:52 23
09:52 24 A. Yes.
09:52 25
09:52 26 Q. We will come back to those variables in a moment, but just
09:52 27 trying to conclude the overview essentially of the report.
09:52 28
09:52 29 You've made some conclusions, which I've kind of grouped under
09:52 30 the heading, conclusions about timing and time frames.
09:52 31
09:52 32 It is the case, is it not, that McGrathNicol have concluded that
09:53 33 Crown's remediation in its approach to money laundering risk is
09:53 34 both a work in progress and also far less advanced than could
09:53 35 reasonably be expected of an entity that has been providing
09:53 36 gaming services for as long as Crown has and that has been
09:53 37 subject to AML legislative requirements for the period that it has;
09:53 38 is that fair?
09:53 39
09:53 40 A. Yes.
09:53 41
09:53 42 Q. In terms of timing, is it right that McGrathNicol have
09:53 43 concluded, on the basis of both the documentary evidence that
09:53 44 you've seen but also feedback from employees, that Crown's
09:53 45 improvement to its AML architecture, I guess you might call it,
09:53 46 started in earnest in about September or October of last year,
09:53 47 which coincided with the Bergin Inquiry's uncovering of evidence

09:53 1 of behaviours which were indicative of money laundering? Is
09:54 2 that right?
09:54 3
09:54 4 A. Well, certainly a number of employees date it further back
09:54 5 than that, around 2017 --
09:54 6
09:54 7 Q. Yes.
09:54 8
09:54 9 A. --- which I believe is after the China issues, but around the
09:54 10 time that Louise Lane was appointed, then Nick Stokes. So
09:54 11 I think they had some expertise in the business dating back to that
09:54 12 date. So certainly within the AML team in particular, they date it
09:54 13 from there. I think the on-the-floor staff date it more from the
09:54 14 increase in policy activity that happened through September,
09:54 15 October, through to yesterday, before the 30th of June.
09:54 16
09:54 17 Q. And when you said September/October ---
09:54 18
09:54 19 A. --- sorry, last year, 2020.
09:54 20
09:54 21 Q. Is it the case, is it not, that you've looked at Mr Blackburn's
09:54 22 assessment of Crown's financial crime program, and insofar as he
09:54 23 has assessed it as being at a foundational level, it is
09:54 24 McGrathNicol's view, is it not, that if it is foundational, it is only
09:55 25 barely and recently so; is that right?
09:55 26
09:55 27 A. Yes.
09:55 28
09:55 29 Q. Lastly in terms of timing, you have observed, have you not,
09:55 30 that you've called it currently a rare window of opportunity for
09:55 31 Crown to embed new processes and practices which might be
09:55 32 challenging to customers who might be accustomed to the old
09:55 33 way of things being done, and that there is a window of
09:55 34 opportunity now which presents by reason of there being lower
09:55 35 international patronage and lower overall patronage at the casino;
09:55 36 is that correct?
09:55 37
09:55 38 A. Yes, I think that is right. It is an unusual period at the
09:55 39 casino. That thought was informed by a comment in the focus
09:55 40 groups from one of the floor employees who talked about it; "we
09:55 41 keep closing down, every time we open again the customers have
09:55 42 new rules to abide by". But I think that is an opportunity to
09:56 43 re-educate customers about the way it is going forward.
09:56 44
09:56 45 Q. I see. Thank you. I just want to ask you some questions
09:56 46 about indications of structuring on the DAB accounts, so let's
09:56 47 start with the DAB accounts first and then we are going to move

09:56 1 to the patron accounts.
09:56 2
09:56 3 A. I just dropped my glasses. Excuse me.
09:56 4
09:56 5 Q. Starting by looking at transactions on the DAB accounts,
09:56 6 just by way of context, you are familiar, are you not, with the
09:56 7 scope of the work that Deloitte is performing for Crown, which is
09:56 8 - in particular you are familiar, are you not, with what is called
09:56 9 the phase 2 of the Deloitte forensic review?
09:56 10
09:56 11 A. Yes, as described in their engagement letter, yes.
09:56 12
09:56 13 Q. Is it your understanding that Deloitte's phase 2 scope of
09:56 14 work doesn't include doing any transactional review of the DAB
09:57 15 accounts?
09:57 16
09:57 17 A. As I understand it, they are directed towards the bank
09:57 18 accounts. I don't know whether that means that finding things in
09:57 19 the bank accounts means they will then turn to the DAB accounts
09:57 20 to see how transactions are reflected there.
09:57 21
09:57 22 Q. I see. But it is your understanding that Deloitte might delve
09:57 23 into the DAB accounts to follow various particular transactions,
09:57 24 but are not otherwise doing a full transactional review similar to
09:57 25 the one that they are doing on the bank accounts, the patron
09:57 26 accounts?
09:57 27
09:57 28 A. Based on their engagement letter, that is my understanding.
09:57 29
09:57 30 Q. McGrathNicol, by contrast, did look for potential
09:57 31 structuring on Crown's DAB accounts; is that right?
09:57 32
09:57 33 A. Yes.
09:57 34
09:57 35 Q. Can we go to page 14 of the report, please, operator, and
09:57 36 item 4.
09:57 37
09:57 38 Is it right that that sets out essentially a conclusion as to
09:58 39 McGrathNicol's analysis of the DAB and safekeeping account
09:58 40 transactions for structuring?
09:58 41
09:58 42 A. Yes, that's correct.
09:58 43
09:58 44 Q. You have applied a test for the identification of potential
09:58 45 structuring; is that right?
09:58 46
09:58 47 A. Yes.

- 09:58 1
09:58 2 Q. Is that the test set out there, two or more cash deposits in
09:58 3 respect of a single patron below \$10,000 that, when combined
09:58 4 over a set period of 24, 48 or 72 hours, total to be more than
09:58 5 \$10,000?
09:58 6
09:58 7 A. That's correct.
09:58 8
09:58 9 Q. So that is essentially the criteria which you applied for the
09:58 10 data analysis; is that right?
09:58 11
09:58 12 A. Yes.
09:58 13
09:58 14 Q. It is the case, is it not, that that data analysis did reveal
09:58 15 potential structuring on Crown's DAB accounts insofar as the
09:58 16 data analysis had positive results when you applied that criteria to
09:58 17 it?
09:58 18
09:58 19 A. Correct.
09:58 20
09:58 21 Q. And the McGrathNicol analysis identified 1,914 individual
09:59 22 transactions which met the criteria?
09:59 23
09:59 24 A. That's right, in the 72-hour window.
09:59 25
09:59 26 Q. Yes.
09:59 27
09:59 28 A. Yes.
09:59 29
09:59 30 Q. You've got there a couple of bullet points. It is the case, is
09:59 31 it not, that your analysis revealed the most recent transaction for
09:59 32 Melbourne occurred on 25 May 2021?
09:59 33
09:59 34 A. That's right.
09:59 35
09:59 36 Q. The most recent transaction for Perth occurred on 16 June
09:59 37 2021?
09:59 38
09:59 39 A. That's right.
09:59 40
09:59 41 Q. When you referred to the most recent transaction, that is the
09:59 42 most recent transaction which met the criteria that was applied?
09:59 43
09:59 44 A. That's correct, yes.
09:59 45
09:59 46 Q. There is a caveat that you've set out in your report; that is
09:59 47 right, is it not?

09:59 1
09:59 2 A. Yes.
09:59 3
09:59 4 Q. Just to summarise, and tell me if I have the summary
09:59 5 wrong, is it right that the caveat that you've set out is that the
09:59 6 behaviours which have been identified as potential structuring
10:00 7 may actually relate to genuine gaming behaviour, and that some
10:00 8 further investigation is required to rule those instances either in or
10:00 9 out of the potential structuring category?
10:00 10
10:00 11 A. Yes, that's correct.
10:00 12
10:00 13 Q. Staying on the DAB accounts for the moment, it is the case
10:00 14 that McGrathNicol have identified what we might call parked
10:00 15 funds on both the DAB accounts and the safekeeping accounts, is
10:00 16 that right?
10:00 17
10:00 18 A. Yes.
10:00 19
10:00 20 Q. I should have asked you earlier, can you explain the
10:00 21 difference between the DAB accounts and safekeeping accounts?
10:00 22
10:00 23 A. Yes. So the DAB accounts - we understood they were all
10:00 24 DAB accounts, and then we identified through some information
10:00 25 provided that they actually have two sorts of accounts that
10:00 26 a patron might have with the casino. They open a DAB account
10:00 27 and they may also have a safekeeping account. For all intents
10:01 28 and purposes they are the same, they are opened the same way,
10:01 29 they have all the same controls around identification and so forth,
10:01 30 but it is like running a saving account and a transaction account,
10:01 31 perhaps, at your bank under the same account number.
10:01 32
10:01 33 Q. You essentially looked, did you not, for instances where
10:01 34 patrons of the casino had money in the DAB accounts or
10:01 35 safekeeping accounts that they hadn't touched for a long period;
10:01 36 is that right?
10:01 37
10:01 38 A. That's right. We looked at only accounts with greater than
10:01 39 \$50,000 at 15 June 2021, and we identified the most recent
10:01 40 activity on either the DAB or the safekeeping account for those
10:01 41 accounts. So those that we found, we've identified the dates of
10:01 42 those last transactions. What we may not have found is funds that
10:02 43 were in there for a lengthy period within the period we looked at,
10:02 44 but didn't have a balance as at 30 June. We haven't identified
10:02 45 those ones.
10:02 46
10:02 47 Q. If we can look at page 13, internal page 13, thanks,

10:02 1 operator. Item 2.
10:02 2
10:02 3 Obviously acknowledging that - those figures at the bottom of
10:02 4 the page of 30 and 45, you indicated earlier that 30 in fact should
10:02 5 be 41 and 45 should in fact be 47. You've identified those
10:02 6 number of accounts that hadn't recorded a transaction since 2019,
10:02 7 and one of those accounts had a balance of \$1.5 million; is that
10:02 8 right?
10:02 9
10:02 10 A. In that's right.
10:02 11
10:02 12 Q. In terms of the safekeeping accounts, you identified 47
10:03 13 safekeeping accounts which hadn't recorded a transaction since
10:03 14 2020 with the highest balance of those accounts being just
10:03 15 a fraction over \$7 million?
10:03 16
10:03 17 A. That's right.
10:03 18
10:03 19 COMMISSIONER: Just a question about the accounts. Not that
10:03 20 interest on bank accounts is worth discussing nowadays ---
10:03 21
10:03 22 A. Yes.
10:03 23
10:03 24 COMMISSIONER: --- but are these interest-bearing or
10:03 25 non-interest-bearing?
10:03 26
10:03 27 A. Non-interest bearing.
10:03 28
10:03 29 COMMISSIONER: Like I said, it doesn't matter very much these
10:03 30 days.
10:03 31
10:03 32 MS O'SULLIVAN: Obviously, that is a lot of money to have
10:03 33 parked at the casino, and it is the case, is it not, that transactions
10:03 34 such as -- well, sorry, a scenario like what you've described here,
10:03 35 which is that there are a number of accounts, number of DAB
10:03 36 accounts and safekeeping accounts where patrons have quite
10:03 37 substantial amounts of money remaining at the casino that have
10:03 38 been untouched for a significant period, that may be as a result of
10:04 39 reasons which are not untoward at all, but it also may be
10:04 40 indicative of a money laundering technique which is called
10:04 41 parking, which is essentially trying to put distance between the
10:04 42 deposit and the withdrawal; is that right?
10:04 43
10:04 44 A. Yes. That's right, and I think, as with all indications of
10:04 45 money laundering, a fuller context needs to be established to
10:04 46 really infer the character.
10:04 47

10:04 1 Q. Yes. And you have, have you not, in particular identified
10:04 2 two possible --- insofar as you might want to take this analysis
10:04 3 and jump immediately to a conclusion that it is indicative of
10:04 4 people parking funds for the purposes of money laundering, you
10:04 5 have identified, have you not, that in particular COVID, which
10:04 6 has meant a closure of the casino for certain periods but also the
10:04 7 closure of some interstate borders and national borders, might mean
10:05 8 that the reason for these funds being untouched over the period
10:05 9 you've looked at might be explained by COVID as opposed to
10:05 10 a desire on the part of these patrons to be laundering money through
10:05 11 the casino; is that right?

10:05 12
10:05 13 A. That's right, and in an anecdotal sense, these were told by
10:05 14 employees, that yes, people leave their money there, they are
10:05 15 going to come back, they haven't come back because of COVID.

10:05 16
10:05 17 Q. I see. So, on that, tell me, to your knowledge, to the extent
10:05 18 that the parking of funds might be seen to be, for example,
10:05 19 involuntarily because of COVID and the consequent closure of
10:05 20 the casino or borders and so on, to your knowledge can the
10:05 21 patrons request a return of the funds that they have held in the
10:05 22 casino, held in the DAB and safekeeping accounts?

10:06 23
10:06 24 A. I would have thought so. Typically that is done at the cage,
10:06 25 I understand, but I would have thought, if they wanted their
10:06 26 money back, they could have their money back.

10:06 27
10:06 28 Q. I see. Thank you. Moving off the DAB accounts and just
10:06 29 on to the patron accounts, patron accounts are the Crown bank
10:06 30 accounts into which patrons can deposit money; is that right?

10:06 31
10:06 32 A. That's right.

10:06 33
10:06 34 Q. You are aware that Deloitte are doing some data analysis in
10:06 35 respect of the patron accounts and they are doing data analysis
10:06 36 across transactions, I think that is just a bit over seven years of
10:06 37 transactions; is that right?

10:06 38
10:06 39 A. I believe so.

10:06 40
10:06 41 Q. That is your understanding.

10:06 42
10:06 43 A. Yes.

10:06 44
10:06 45 Q. By contrast, what McGrathNicol did wasn't a transactional
10:06 46 analysis over seven years' worth of data but rather you looked at
10:06 47 a period, is it 1 January 2019 to 22 February 2021?

10:06 1
10:06 2 A. That's correct.
10:06 3
10:06 4 Q. Yes.
10:06 5
10:06 6 A. Using the data sourced from Deloitte which they sourced
10:06 7 from Crown.
10:06 8
10:06 9 Q. Yes. All right. So you were using, perhaps not even
10:07 10 similar, the same data that Deloitte is looking at?
10:07 11
10:07 12 A. I believe so.
10:07 13
10:07 14 Q. But you were looking at a more confined period?
10:07 15
10:07 16 A. Correct.
10:07 17
10:07 18 Q. Is it right that McGrathNicol didn't identify any transactions
10:07 19 exhibiting the characteristics of structuring?
10:07 20
10:07 21 A. I believe that's correct. Let me just remind myself. Yes,
10:07 22 that's right. In the bank accounts, that's correct.
10:07 23
10:07 24 Q. Again, there were a couple of caveats or limitations that
10:07 25 you've set out in respect of those conclusions. One, is it the case
10:07 26 that McGrathNicol's analysis - there was some limitation by
10:07 27 reason that you could only look at transactions where the patron
10:07 28 ID was identifiable in the narration of the bank transaction; is that
10:07 29 right?
10:07 30
10:07 31 A. Yes, that's right. We took quite a conservative view, so we
10:07 32 had to have accounts where we could tell who the patron was and
10:07 33 we had to have accounts where the bank statements were clear
10:08 34 that it was a cash transaction.
10:08 35
10:08 36 Q. All right, and so to the extent there were transactions where
10:08 37 you couldn't identify the patron in respect of whom the deposit
10:08 38 was made or that it was cash, they were excluded from the
10:08 39 review; is that right?
10:08 40
10:08 41 A. That's correct.
10:08 42
10:08 43 Q. All right. Now, just in terms of some of the other
10:08 44 observations that were made in the McGrathNicol report, you
10:08 45 have looked in particular at carded play and it is the case, is it
10:08 46 not, that McGrathNicol has looked at and heard feedback from
10:08 47 employees about the value of the Crown Rewards card in terms

10:08 1 of identifying patrons and tracking their activities?

10:08 2

10:08 3 A. Yes. I would say more that we've heard the feedback from
10:08 4 the people than we've directly looked at it, but we've followed
10:09 5 through things that they've told us. And it is the employees' view
10:09 6 that the rewards card is integral to the process and we certainly
10:09 7 discussed that with other senior people, including Mr Blackburn,
10:09 8 that the Crown Rewards card on its face and to the market looks
10:09 9 like a loyalty scheme where you get rewards, but in fact it is a key
10:09 10 control mechanism by which Crown obtains information for its
10:09 11 KYC program.

10:09 12

10:09 13 Q. I see. Is it the case that in fact some of the employees, their
10:09 14 feedback was that they could - it was their view that some of the
10:09 15 money laundering risks would be reduced if all patrons were
10:09 16 required to have a rewards card in order to play?

10:09 17

10:09 18 A. Yes. That was their view across the board. The AML
10:09 19 crew, the second line of defence think that is an excellent idea.
10:09 20 The on-the-floor people probably have a more nuanced view and
10:10 21 understanding of what that might mean from a commercial
10:10 22 perspective in terms of people's preparedness to play if they are
10:10 23 not anonymous.

10:10 24

10:10 25 Q. What are your views about the benefits from an anti-money
10:10 26 laundering perspective of making carded play mandatory?

10:10 27

10:10 28 A. Well, it clearly provides that additional information of who
10:10 29 you've got in the casino and what they are doing there, so carded
10:10 30 play records, as you play, your activity, so how long you've spent
10:10 31 at a table or a machine, and it gives the cage in particular, if that
10:10 32 patron is then cashing out, gives them information, that - gives
10:10 33 them a context around the amount of money they might be
10:10 34 cashing out, and whether that makes sense based on what they
10:10 35 bought in for and how long they've been playing.

10:10 36

10:10 37 Q. I see. Thank you. Now, just some questions briefly about
10:10 38 the Financial Crime & Compliance Change Program. You
10:10 39 mentioned earlier McGrathNicol's conclusions that it is both
10:11 40 comprehensive and appropriately prioritised. You have
10:11 41 identified, have you not, that the success is dependent upon
10:11 42 a number of variables that can be grouped under headings,
10:11 43 "people", "technology" and "funding". Perhaps starting with
10:11 44 technology, can you expand a little bit on how you see that as
10:11 45 a variable in terms of the success of the Financial Crime &
10:11 46 Compliance Change Program?

10:11 47

10:11 1 A. So there is certainly a range of elements within the
10:11 2 financial crime program that rely on technology solutions,
10:11 3 including the digital verification and a whole range of things. We
10:11 4 spoke to Mr Ong, who is the head of their IT, to better understand
10:11 5 how progressed these were and what the capability within the IT
10:11 6 team would have been. They have a very large and, I would say,
10:11 7 sophisticated IT capability. I would say that a lot of their
10:12 8 investment and focus has been on things such as surveillance and
10:12 9 mechanism of their gaming and so forth, but many of these things
10:12 10 can also be used for AML purposes, and perhaps to date hasn't
10:12 11 been as directed to that function, so they are not starting from
10:12 12 scratch in that regard. The sort of programs - Mr Ong seemed
10:12 13 very comfortable with what was expected of him and his team
10:12 14 over the years ahead. I think the headcount that he thinks he
10:12 15 might need is something like 20 to 30 more people over a two-year
10:12 16 period. He did not seem at all concerned about that being
10:12 17 difficult to get. He said that there is a general understanding that
10:12 18 what they need will be funded, and that is within their skill set
10:12 19 capability. Equally, a number of the things that are envisaged,
10:12 20 some of them have a level of advancement, so obviously Sentinel
10:12 21 is well advanced, investigation into digital verification is well
10:13 22 advanced, and others are at the discovery stage and they don't
10:13 23 know quite yet what that will involve. Going forward, they need
10:13 24 to figure out how that will fit in with their systems. They have
10:13 25 a lot of systems across three properties.

10:13 26

10:13 27 Q. Is it right in terms of technology, some of the proposed
10:13 28 uplift insofar as it will require the use of technology, some of
10:13 29 those projects are not quite even yet at the scoping or costing
10:13 30 stage; is that right?

10:13 31

10:13 32 A. In that's correct.

10:13 33

10:13 34 Q. Just in terms of funding and people, can you tell us a bit
10:13 35 about how those are contingencies on the success of the Financial
10:13 36 Crime & Compliance Change Program?

10:13 37

10:13 38 A. Starting with funding, Mr Blackburn's plan has been
10:13 39 endorsed by the Board, so that has something like \$21 million of
10:13 40 headcount included, which has already effectively been
10:13 41 committed. That will be on an annual basis.

10:13 42

10:14 43 There is reference to his plan to other contingencies, so IT is
10:14 44 clearly one of them, but also people and finance and a whole
10:14 45 range of things to come into play and working together for the
10:14 46 plan to succeed. But to contextualise, even that \$20 million cost,
10:14 47 Crown's worst-case scenario, looking at a paper that UBS

10:14 1 produced back in February when they were trying to figure out
10:14 2 what the financial position might be, they were forecasting
10:14 3 a dividend of \$200 million next year. So it is obviously
10:14 4 a significant number, but it is not significant in the context of
10:14 5 Crown's overall position. So it is obviously something to be wary
10:14 6 of, should the position change. But I don't see it as a high risk
10:14 7 issue, just a key dependency. And the people side of things, this
10:14 8 is clearly a critical piece. So 10 or so people in the team a year
10:15 9 ago, 50-ish now, 110 planned, so getting those people, getting
10:15 10 that talent in, is a very important piece of being able to achieve
10:15 11 all the things they are trying to achieve in a very short space of
10:15 12 time.

10:15 13
10:15 14 Q. I see. Thank you. One last thing I want to ask you about,
10:15 15 in the report you look at Crown's new Source of Funds Policy
10:15 16 which, as I understand it, and please correct me if I've got this
10:15 17 wrong, the new policy requires the customer to fill out a source of
10:15 18 funds form for transactions where they are transacting more than
10:15 19 \$25,000 a day; have I got that right?

10:15 20
10:15 21 A. Yes.

10:15 22
10:15 23 Q. It is right, is it not, that the employees who were the subject
10:15 24 of the questionnaire ---

10:15 25
10:15 26 A. Focus group.

10:15 27
10:15 28 Q. --- subject of the focus group gave feedback about it and in
10:15 29 particular some of them were indicating that two out of every
10:16 30 three potential transactions above that amount were being
10:16 31 rejected either because the cashier was rejecting them, because
10:16 32 the source of funds didn't meet the criteria, or alternatively the
10:16 33 customers were choosing to walk away in preference to filling out
10:16 34 the source of funds form. Have I got that right?

10:16 35
10:16 36 A. Yes, that's what we were told, yes.

10:16 37
10:16 38 Q. I was just interested in your thoughts about whether, if that
10:16 39 is the case in a sustained manner, whether that might lead
10:16 40 ultimately to commercial pressure on the AML side of the
10:16 41 business to get rid of a policy if the frontline staff are saying that
10:16 42 this policy is causing customers to walk away rather than fill in
10:16 43 the form. Are you concerned about the sustainability of a policy
10:16 44 like that, in circumstances where it might come under pressure to
10:16 45 get rid of it because it is deterring business?

10:16 46
10:17 47 A. Yes, I understand that pressure. I think I would say that

10:17 1 that is a pressure on a whole range of activities in the AML space,
10:17 2 not just the source of funds issue, but certainly that feedback is
10:17 3 relevant. I think there is an issue of educating their customers
10:17 4 that this is how it goes. So it may be that it is two out of three
10:17 5 being turned away or not being able to fulfil that objective. If
10:17 6 they are genuine customers, they will either come to the party on
10:17 7 that or behave differently. If it is elicit funds trying to be placed,
10:17 8 they presumably will behave differently or go somewhere else if
10:17 9 they want to deal with that. So I can understand that there might
10:17 10 be commercial pressure around that, and I think that goes for all
10:17 11 of the controls that have been put in. There will be - there is
10:17 12 a tension between some of these controls and ongoing gaming as
10:17 13 it used to be, and that is what - the crux of what needs to be
10:18 14 managed with strong leadership and commitment.

10:18 15

10:18 16 MS O'SULLIVAN: Thank you. My time is up.

10:18 17

10:18 18 COMMISSIONER: It is. Thank you, Ms O'Sullivan.

10:18 19

10:18 20 MS O'SULLIVAN: There is lots more to ask, but my time is up.

10:18 21

10:18 22 COMMISSIONER: We started a couple of minutes late, but
10:18 23 I have deemed now to be 10.15.

10:18 24

10:18 25 MS O'SULLIVAN: Thank you, Commissioner.

10:18 26

10:18 27 COMMISSIONER: Mr Rozen.

10:18 28

10:18 29

10:18 30 **CROSS-EXAMINATION BY MR ROZEN**

10:18 31

10:18 32

10:18 33 MR ROZEN: I know your powers are extensive, I didn't realise
10:18 34 they were that extensive!

10:18 35

10:18 36 Ms McKern, my name is Peter Rozen. I appear for the VCGLR.
10:18 37 I want to ask you some questions about the survey you conducted
10:18 38 as part of the work that you did for the Royal Commission.
10:18 39 Perhaps we could go to native page 23, please, operator.

10:18 40

10:18 41 You say there that it was by agreement with Solicitors Assisting
10:18 42 and Crown that the scope has been addressed by undertaking the
10:18 43 following investigative procedures and you set them out. The
10:19 44 surveys are at (e) and (f) in that list. Is that right, Ms McKern?

10:19 45

10:19 46 A. Yes.

10:19 47

10:19 1 Q. You said earlier that in relation to the first survey, (e), the
10:19 2 survey of the significant number of floor staff, that the cohort that
10:19 3 were surveyed were those that held special casino licenses?

10:19 4

10:19 5 A. Yes.

10:19 6

10:19 7 Q. Was that McGrathNicol's judgment that that was the
10:19 8 appropriate cohort, or was it Solicitors Assisting, or how did you
10:19 9 decide?

10:19 10

10:19 11 A. That was our choice because we were trying to get to
10:19 12 people who were involved in designated services.

10:19 13

10:19 14 Q. Presumably because of their high level of responsibility
10:19 15 within the operation of the casino, you considered that more
10:19 16 weight could be attached to their opinions; is that essentially the
10:20 17 thinking?

10:20 18

10:20 19 A. Correct. Yes.

10:20 20

10:20 21 Q. In terms of the numbers, if we could please go to native
10:20 22 page 91, please, operator. To orientate you, Ms McKern, this is
10:20 23 part 12 of your report where you deal with the survey of Crown
10:20 24 employees.

10:20 25

10:20 26 A. Yes.

10:20 27

10:20 28 Q. You see at paragraph 12.2.7, the reader's attention is drawn
10:20 29 to table 17 which summarises the population and sample sizes for
10:20 30 each survey as well as the number of respondents.

10:20 31

10:20 32 A. Yes.

10:20 33

10:20 34 Q. I assume, in other reports that you have done, other similar
10:20 35 reports to this one, that you've conducted surveys such as this, as
10:20 36 part of investigations?

10:20 37

10:21 38 A. Well, I personally haven't, but, yes, members of my team
10:21 39 have, yes.

10:21 40

10:21 41 Q. All right. Just at a general level, I assume that the reason
10:21 42 you conduct surveys, or your team have conducted surveys in
10:21 43 such investigations, and you did it here, is because the views of
10:21 44 the employees can add some significance to an analysis of
10:21 45 documents and senior employees?

10:21 46

10:21 47 A. Yes, that's correct.

10:21 1
10:21 2 Q. A very clunky question, but ---
10:21 3
10:21 4 A. Yes, that's correct, and there is an efficiency in taking this
10:21 5 process and you can access a larger sample than you might by
10:21 6 other means, yes.
10:21 7
10:21 8 Q. What I'm getting at is there is only so much you can learn
10:21 9 from desktop reviews, looking at documents and interviewing
10:21 10 senior staff.
10:21 11
10:21 12 A. That's right. Particularly in a time of such change.
10:21 13
10:22 14 Q. Indeed. We see some numbers in table 17, and we've got
10:22 15 a total of casino special licence holders there of 2,919. I'm
10:22 16 instructed there are considerably more than that, something in
10:22 17 excess of 8,000 special casino licence holders that are employed
10:22 18 by Crown. Are you able to explain the difference in those
10:22 19 numbers? Is that a particular subset that you were focused on?
10:22 20
10:22 21 A. So the population I believe was advised to us by Crown.
10:22 22 This is only Crown Melbourne, so I don't know if your 8,000
10:22 23 includes other locations. We only focused on Melbourne. And
10:22 24 we did select these special licence holders within those particular
10:22 25 areas. So we were after those areas of special casino licence
10:23 26 holders, less so management and other people who are not
10:23 27 directly on the floor. So it is certainly a subset of the numbers
10:23 28 that you tell me.
10:23 29
10:23 30 Q. Thank you. I've just been told that that 8,000 might include
10:23 31 some whose licenses have not been cancelled for various reasons,
10:23 32 so I don't want to mislead you about that.
10:23 33
10:23 34 A. Yes.
10:23 35
10:23 36 Q. That sample size you have chosen, 48 per cent, are you able
10:23 37 to assist us in the thinking behind that?
10:23 38
10:23 39 A. It was pragmatism as much as anything else in the
10:23 40 circumstances of the casino in trying to reach all these people.
10:23 41 You will see we tried to get a high percentage of those in smaller
10:23 42 teams, but we understood, with the table games and so forth, a lot
10:23 43 of these people might not have been stood down at the moment
10:23 44 we were there, but the level of operation was quite low. Whilst
10:23 45 they were on the books, they aren't necessarily all working in the
10:23 46 current environment. But it was informed by pragmatism.
10:23 47

10:24 1 Q. I understand. But nonetheless, as you say in 12.2.7, the
10:24 2 response rates you receive give the results a confidence level in
10:24 3 excess of 90 per cent, and I take it from that, therefore, a reliable
10:24 4 response as far as you are concerned?

10:24 5
10:24 6 A. Yes. On that I have probably - may have potentially
10:24 7 overstated that confidence level only inasmuch as I took that
10:24 8 from the ABS survey, sample and it applies to representative
10:24 9 samples. This is not necessarily a representative sample in that
10:24 10 we have a different level of representation within the different groups.
10:24 11 We have used these results to inform and corroborate, or not, other
10:24 12 information that we have found. So I don't think it is sufficiently
10:24 13 scientific to extrapolate and say this is absolutely the case, but I
10:24 14 certainly think there is enough responses there and enough
10:24 15 breadth of responses there to be used in the way that we've used
10:25 16 it.

10:25 17
10:25 18 Q. I understand. Can I take you to appendix E where you set
10:25 19 out some detail of the survey.

10:25 20
10:25 21 Operator, this is at page number ending 0127. I don't think it has
10:25 22 a native page number.

10:25 23
10:25 24 Are you able to access appendix E in your hard copy?

10:25 25
10:25 26 A. I have a hard copy, yes.

10:25 27
10:25 28 Q. And this is the detailed results of the survey.

10:25 29
10:25 30 A. Yes.

10:25 31
10:25 32 Q. Is that what is set out here?

10:25 33
10:25 34 A. Yes.

10:25 35
10:25 36 Q. And it contains both quantitative responses and also
10:25 37 a selection of qualitative responses that were provided?

10:25 38
10:25 39 A. That's right.

10:25 40
10:25 41 Q. In relation to the various pie charts, I wanted to ask you
10:25 42 about one of them that appears at page .0147. I'm assuming you
10:25 43 have these numbers on your hard copy?

10:25 44
10:25 45 A. I do, yes.

10:25 46
10:25 47 Q. Thank you. It concerns culture. That was the section 4.2,

10:26 1 culture, of the survey. Do you see in the second box that appears
10:26 2 on that page, the question was:

10:26 3

10:26 4 *If I report unusual or suspicious behaviour in relation to*
10:26 5 *potential money laundering I believe appropriate action*
10:26 6 *will be taken to investigate my report.*

10:26 7

10:26 8 Do you see that?

10:26 9

10:26 10 A. Yes.

10:26 11

10:26 12 Q. And, as is common with these things, respondents were
10:26 13 asked whether they strongly agreed, agreed, neither agreed nor
10:26 14 disagreed, disagreed or strongly disagreed and those answers are
10:26 15 represented in the chart. And the narrative summary of the
10:26 16 results on the right-hand side from McGrathNicol was that
10:26 17 74 per cent of survey respondents indicated they believe action
10:26 18 will be taken if they report suspicious or unusual behaviour.

10:26 19

10:26 20 A. Yes.

10:26 21

10:26 22 Q. One, of course, would hope that the result would be
10:27 23 100 per cent in response to a question like that. Another way of
10:27 24 looking at that data of course is that 26 per cent of people didn't
10:27 25 agree that appropriate action would be taken, or perhaps more
10:27 26 accurately, either didn't agree or didn't --- (speaking over) ---

10:27 27

10:27 28 A. Yes. So the disagree, I would say --- my glasses aren't that
10:27 29 great, I think about 7 per cent, the number is.

10:27 30

10:27 31 Q. Yes.

10:27 32

10:27 33 A. Yes.

10:27 34

10:27 35 Q. Are those figures from your perspective and perhaps also
10:27 36 from your team's, are they cause for concern given the recent time
10:27 37 in which this survey was conducted?

10:27 38

10:27 39 A. Not particularly, particularly given that there is a low
10:27 40 number of disagree, and I think across any sample, any survey,
10:27 41 you are more likely to have people who fall in one extreme or the
10:27 42 other, on balance I would say that is a good result.

10:27 43

10:28 44 Q. Finally, I want to ask you about the qualitative responses.
10:28 45 These were some free text sections that were available to people?

10:28 46

10:28 47 A. Yes.

10:28 1
10:28 2 Q. At the start of appendix E, you don't necessarily need to go
10:28 3 back to it, you said a balance section of qualitative responses has
10:28 4 been provided. What does that mean?

10:28 5
10:28 6 A. That we didn't put every single response in there, but we
10:28 7 grouped them by ones that had the same sentiments around them
10:28 8 and we ensured that each different sentiment was represented by
10:28 9 a comment or two.

10:28 10
10:28 11 Q. I see. And perhaps it might be easiest to go to page .0164,
10:28 12 where we see a selection of responses to the question:

10:28 13
10:28 14 *Please outline below any other matters that you feel*
10:28 15 *would be important or valuable to share with the*
10:29 16 *Commission, including in relation to money laundering or*
10:29 17 *financial crime.*

10:29 18
10:29 19 That is this Royal Commission?

10:29 20
10:29 21 A. Yes.

10:29 22
10:29 23 Q. If I understand the information you've just given about that,
10:29 24 what we see there is a balanced selection of quotes that represents
10:29 25 both the good and the bad if I can put it that way.

10:29 26
10:29 27 A. Yes, it may be in that section we produced all of them
10:29 28 because it is such an open piece but I can check my notes on that
10:29 29 and advise.

10:29 30
10:29 31 Q. I think that would be helpful if you could --

10:29 32
10:29 33 A. Yes.

10:29 34
10:29 35 Q. --- but I just want to understand from you whether the
10:29 36 various dot points, you may not be able to answer this, whether
10:29 37 the various dot points there represent individual respondents or
10:29 38 whether some of the quotes might be attributable to where one
10:29 39 respondent might have ---

10:29 40
10:29 41 A. Two or three dot points. Again I would have to check that,
10:29 42 yes.

10:29 43
10:29 44 Q. Perhaps I will go to one example of them if I could. It is
10:30 45 the sixth dot point, the respondent says:

10:30 46
10:30 47 *In my time at Crown, I can list many many times where*

10:30 1 *things have been either covered up, not reported to the*
10:30 2 *VCGLR as required, or a blatant disregard for the*
10:30 3 *law/Casino Control Act have occurred. Long serving*
10:30 4 *middle management is the issue, not the recent board*
10:30 5 *members that resigned. They think they are above the*
10:30 6 *law, and make decisions that are not in-line with Crown's*
10:30 7 *policies or their requirements under the law.*

10:30 8

10:30 9 And that was a response from one of the respondents. I gather
10:30 10 that was included because it is not a one-off, it represents at least
10:30 11 a number of respondents that express that view?

10:30 12

10:30 13 A. It could be a one-off. I do think in this field that we did
10:31 14 include all the responses because it was a much more open
10:31 15 question than some of the others that were explaining a "yes" or
10:31 16 "no" response. Yes, so I'm pretty sure we included all of those,
10:31 17 but again, I will check. I would be surprised if that particular
10:31 18 one, that there were a multiple of them in the same vein.
10:31 19 I suspect it was the one.

10:31 20

10:31 21 Q. I understand. I won't go through each one of them, but the
10:31 22 one immediately under it, referring to "Crown is a sewer", which
10:31 23 is similarly very strongly worded; would you agree?

10:31 24

10:31 25 A. Yes.

10:31 26

10:31 27 MR ROZEN: I think I've used up my time. Thank you,
10:31 28 Commissioner.

10:31 29

10:31 30 COMMISSIONER: Thank you, Mr Rozen.

10:31 31

10:31 32 DR BUTTON: Commissioner, I believe I'm next, but the
10:31 33 running ---

10:31 34

10:31 35 COMMISSIONER: The running sheet says we have coffee.

10:32 36

10:32 37 DR BUTTON: The running sheet says we have our break at this
10:32 38 point.

10:32 39

10:32 40 COMMISSIONER: Do you want to begin and we'll have a break
10:32 41 in 15 minutes or half an hour, something like that?

10:32 42

10:32 43 DR BUTTON: Commissioner, I would, save for the fact that
10:32 44 I have a contact lens issue I need to address in order to read
10:32 45 anything.

10:32 46

10:32 47 COMMISSIONER: I will abide by the chart.

10:32 1
10:32 2 DR BUTTON: Thank you.
10:32 3
10:32 4
10:32 5 **ADJOURNED** [10.32AM]
10:32 6
10:32 7
10:47 8 **RESUMED** [10.47AM]
10:47 9
10:47 10
10:47 11 **FURTHER EXAMINATION BY MS O'SULLIVAN**
10:47 12
10:47 13
10:47 14 MS O'SULLIVAN: Commissioner, Ms McKern wants to read
10:47 15 into the transcript the correct quote that was attributed to the
10:47 16 employee, because the document she was reading the first time
10:47 17 around was cut off on the right-hand side, so I might give her the
10:47 18 opportunity to read that into the transcript.
10:47 19
10:47 20 A. So the correct words are:
10:47 21
10:47 22 *I am certainly aware that a significant number of high*
10:47 23 *end patrons have been exited from the business since*
10:47 24 *Crown has adopted a very different attitude towards*
10:48 25 *source of wealth requirements. That is Crown*
10:48 26 *commenced a process of Know Your Customer which is in*
10:48 27 *my time unprecedented. I would say the culture of Crown*
10:48 28 *has changed from wealth focus to a compliance focus.*
10:48 29
10:48 30 COMMISSIONER: Thank you.
10:48 31
10:48 32 MS O'SULLIVAN: And ---
10:48 33
10:48 34 A. And - I just read the one in my report, my apologies, this
10:48 35 is the one I meant to read. My apologies. Let's try again:
10:48 36
10:48 37 *I am certainly aware that a significant number of high*
10:48 38 *end patrons have been exited from the business since*
10:48 39 *Crown has adopted a very different approach towards*
10:48 40 *source of wealth requirements. That is Crown*
10:48 41 *commenced an approach of Know Your Customer, which*
10:48 42 *is unprecedented in my 12 years at Crown. The culture of*
10:48 43 *Crown has changed markedly. Previously the company*
10:48 44 *had the balance between profit and compliance far too*
10:48 45 *skewed towards profit.*
10:48 46
10:48 47 MS O'SULLIVAN: Thank you, Ms McKern, and did you have

10:48 1 the opportunity during the break to do a check of the questions
10:48 2 that Mr Rozen asked you about the comments made in section
10:49 3 5.16 of appendix E?

10:49 4
10:49 5 A. Yes, I have.

10:49 6
10:49 7 Q. I think you were going to check whether they were
10:49 8 a selection or whether it was the entirety of the comments the
10:49 9 employees made at the free text option.

10:49 10
10:49 11 A. So it was a selection, I've been told we picked the sample
10:49 12 for each survey, there were around 65 responses to the question in
10:49 13 the OTF section. We included sample comments with more
10:49 14 detail, not just the ones that said it's fine or that it was bad.

10:49 15
10:49 16 MS O'SULLIVAN: I see. Thank you.

10:49 17
10:49 18 DR BUTTON: Commissioner, noting the time.

10:49 19
10:49 20 COMMISSIONER: You get extra.

10:49 21
10:49 22

10:49 23 **CROSS-EXAMINATION BY DR BUTTON**

10:49 24
10:49 25

10:49 26 DR BUTTON: Thank you.

10:49 27
10:49 28

10:49 28 Ms McKern, my name is Ms Button and I act for Crown. I
10:49 29 understand that McGrathNicol would have had a team on this
10:49 30 particular assignment, it wasn't done by you alone?

10:49 31
10:49 32

10:49 32 A. Correct.

10:49 33
10:49 34

10:49 34 Q. I think McGrathNicol explains in the report that you had
10:49 35 input from an AML expert called Ms Waldren, is that right?

10:50 36
10:50 37

10:50 37 A. That's right.

10:50 38
10:50 39

10:50 39 Q. Is that because the internal McGrathNicol team didn't have
10:50 40 AML expertise?

10:50 41
10:50 42

10:50 42 A. Particularly in the compliance area, yes.

10:50 43
10:50 44

10:50 44 Q. Did Ms Waldren review the report?

10:50 45
10:50 46

10:50 46 A. No.

10:50 47

10:50 1 Q. Part of the analysis that McGrathNicol undertook was to
10:50 2 group transactions by whether they occurred within a window of
10:50 3 24 hours, 48 hours, 72 hours as part of the structuring analysis?

10:50 4

10:50 5 A. Yes.

10:50 6

10:50 7 Q. Can I take it that Ms Waldren, as the consulting AML
10:50 8 expert, signed off on the selection of those windows?

10:50 9

10:50 10 A. No. Those windows were formed partly because they gave
10:50 11 us a point of comparison with other testing that had been done,
10:50 12 and partly because we had the data from about two weeks before
10:50 13 we were due to report so we had limited time to do lots of testing.

10:50 14

10:51 15 Q. So you had to prioritise what would be the best form of
10:51 16 testing for what you were trying to do?

10:51 17

10:51 18 A. Yes.

10:51 19

10:51 20 Q. I wanted to come back to what structuring is. If you have
10:51 21 your report at page 0029, paragraph 3.3.3, you see the last
10:51 22 sentence - you are describing in the paragraph cuckoo smurfing,
10:51 23 but in the last sentence you say:

10:51 24

10:51 25 *It often involves 'structuring' which AUSTRAC describes*
10:51 26 *as the 'the deliberate division of a large amount of cash*
10:51 27 *into a number of smaller deposits to avoid a single larger*
10:51 28 *transaction and fall below the reporting threshold'."*

10:51 29

10:51 30 A. Yes.

10:51 31

10:52 32 Q. Similarly at 3.3.4, two pages over, you describe the
10:52 33 typology 11:

10:52 34

10:52 35 *Transactions structured to avoid customer identification*
10:52 36 *or reporting thresholds, where transactions are*
10:52 37 *deliberately split into smaller amounts to avoid threshold*
10:52 38 *transaction reporting to AUSTRAC, eg structuring chip*
10:52 39 *cash-outs.*

10:52 40

10:52 41 You understand, don't you, that the threshold transaction that
10:52 42 these definitions or descriptions of structuring are talking about is
10:52 43 the requirement to file a TTR with AUSTRAC for \$10,000 or
10:52 44 more transaction in or out of cash?

10:52 45

10:52 46 A. Yes.

10:52 47

10:52 1 Q. You also understand from those descriptions of what
10:52 2 structuring is that it involves the deliberate breaking of larger
10:52 3 transactions into sub-\$10,000 transactions?

10:52 4
10:52 5 A. That's correct.

10:52 6
10:52 7 Q. Part of the challenge is that there are any number of reasons
10:53 8 why people might legitimately engage in sub-\$10,000
10:53 9 transactions more than once.

10:53 10
10:53 11 A. Yes.

10:53 12
10:53 13 Q. Would you agree, an example of that is if I were a gaming
10:53 14 patron and I went to the casino at 10 pm and I bought in for chips
10:53 15 for \$8,000 cash, that would be below \$10,000, and if I did some
10:53 16 gaming and I came back the next day and I came back at 9.30, for
10:53 17 example, and got another \$8,000 worth of chips for cash, that
10:53 18 would fall within the type of transaction that your analysis would
10:53 19 have captured?

10:53 20
10:53 21 A. Yes.

10:53 22
10:53 23 Q. And you agree that in that instance, unless there is
10:53 24 something that makes me suspect on its face, that doesn't look
10:53 25 like a suspect transaction?

10:53 26
10:53 27 A. Correct. Yes.

10:53 28
10:53 29 Q. I take it, from the description of your background, that you
10:54 30 are coming to this more from an accounting forensic point of
10:54 31 view, you are not a lawyer.

10:54 32
10:54 33 A. No.

10:54 34
10:54 35 Q. You would be aware, I assume, that the statutory
10:54 36 prohibition in section 142 of the AML/CTF Act, which is the
10:54 37 statutory prohibition on structuring, again, consistent with the
10:54 38 parts of your report I've taken you to, has this element of purpose
10:54 39 to it?

10:54 40
10:54 41 A. Yes.

10:54 42
10:54 43 Q. The Commissioner will have the Act, but it does refer to
10:54 44 there being a sole or dominant purpose of ensuring or attempting
10:54 45 to ensure that the money, digital currency or property involved in
10:54 46 the transactions was transferred in a manner and form that would
10:54 47 not give rise to a threshold transaction that would have to be

- 10:54 1 reported under section 43.
10:54 2
10:54 3 Now, you agree then that there are really two parts when looking
10:55 4 at structuring; you need to gather the transactions that you want
10:55 5 to examine, that's the first step.
10:55 6
10:55 7 A. Yes.
10:55 8
10:55 9 Q. And then the second step in analysing whether you might
10:55 10 have a problem with structuring is to look at whether there is
10:55 11 something that would suggest that the purpose, which is
10:55 12 an integral part of there being a structure, structuring in fact
10:55 13 exists?
10:55 14
10:55 15 A. Yes.
10:55 16
10:55 17 Q. And you can't form any conclusion about whether there is
10:55 18 structuring only by gathering, in effect, the data set of
10:55 19 transactions that you want to examine?
10:55 20
10:55 21 A. Yes, I agree.
10:55 22
10:55 23 Q. And all that McGrathNicol has done and purports to have
10:55 24 done is to have gathered the transaction set.
10:55 25
10:55 26 A. That's correct.
10:55 27
10:55 28 Q. And you don't, quite fairly, claim to have looked at
10:55 29 anything to do with whether in fact there is anything suspicious
10:55 30 about what you've identified in the DAB accounts?
10:55 31
10:55 32 A. That's right.
10:55 33
10:56 34 Q. If you go to part 5.5 of your report at page 42 and the native
10:56 35 page is 0043 on the hearing book version, it is correct, is it not,
10:56 36 that the proceedings you undertook - and when I use "you", I
10:56 37 mean McGrathNicol, not necessarily you personally - is set out
10:56 38 at 5.5.2? Is that right?
10:56 39
10:56 40 A. Yes.
10:56 41
10:56 42 Q. All that's been done, as I think you have confirmed, is
10:56 43 essentially gather the transactions?
10:56 44
10:56 45 A. Yes.
10:56 46
10:56 47 Q. When you say in 5.5.2:

- 10:56 1
10:56 2 *For the purposes of this analysis, transactions indicative*
10:56 3 *of structuring was defined as two or more cash deposits in*
10:56 4 *respect of a single patron below \$10,000 that, when*
10:56 5 *combined over a set period (24, 48 or 72 hours), totalled*
10:56 6 *to be more than \$10,000.*
10:56 7
- 10:57 8 Do you see that bit?
10:57 9
- 10:57 10 A. Yes.
10:57 11
- 10:57 12 Q. So you have defined as transactions indicative of
10:57 13 structuring, in fact, just the set of transactions that you've
10:57 14 identified?
10:57 15
- 10:57 16 A. That's right.
10:57 17
- 10:57 18 Q. Do you accept that that might be, perhaps for those not
10:57 19 paying close attention, a somewhat broad description of what is
10:57 20 indicative of structuring? Because all you've done is gathered
10:57 21 a set of transactions to look at?
10:57 22
- 10:57 23 A. I think that's right. I think that's why, for the purposes of
10:57 24 this analysis, that's how we've described it. But certainly it is not
10:57 25 to infer that the conclusions are that these are structuring
10:57 26 transactions, merely that they fit that criteria as disclosed.
10:57 27
- 10:57 28 Q. They fit the criterion of being a transaction within a data set
10:57 29 collated for examination?
10:57 30
- 10:57 31 A. Yes.
10:57 32
- 10:57 33 Q. I think you said in your evidence this morning, words to the
10:58 34 effect that some further investigation would be required to rule
10:58 35 instances in or out?
10:58 36
- 10:58 37 A. Yes, that's right.
10:58 38
- 10:58 39 Q. Can I suggest to you that it is a lot more than some further
10:58 40 examination; it is quite a lot of further examination that has to
10:58 41 occur.
10:58 42
- 10:58 43 A. Yes, that's correct.
10:58 44
- 10:58 45 Q. Yes.
10:58 46
- 10:58 47 A. Yes, and by way of example, your example, if those

10:58 1 transactions happened within one minute rather than seven hours,
10:58 2 you would have a different perception of how much more
10:58 3 investigation you might want to do.
10:58 4
10:58 5 Q. Yes, I will come back to further things you would look at,
10:58 6 but you would look at the temporal interval, as you have
10:58 7 indicated, between the two or more transactions?
10:58 8
10:58 9 A. Yes.
10:58 10
10:58 11 Q. You would look at the patron's gaming history?
10:58 12
10:58 13 A. Yes.
10:58 14
10:58 15 Q. You would look at their history with Crown, in fact, as
10:58 16 well, to see how long has this person been a patron, are they
10:58 17 playing carded, or if you are looking at DAB accounts they are
10:59 18 playing carded; you understand that don't you?
10:59 19
10:59 20 A. Yes.
10:59 21
10:59 22 Q. I'll come back to some further matters but I think we are on
10:59 23 common ground there is a lot more further analysis to work out if
10:59 24 you have a suspicion.
10:59 25
10:59 26 A. Yes. I think if you have a DAB account, you are identified,
10:59 27 you don't have to use the card to play.
10:59 28
10:59 29 Q. If you are playing uncarded, you - put it this way, if
10:59 30 a transaction is hitting the DAB account such that McGrathNicol
10:59 31 examined it, does it not follow that the person is playing carded?
10:59 32
10:59 33 A. I understand playing carded to be that you've swiped your
10:59 34 card as you are playing, and that is recognised so you have
10:59 35 ratings. What you are talking about is a transaction that happens
10:59 36 on the DAB account at the cage, and that would certainly be
10:59 37 recorded in the DAB account.
10:59 38
10:59 39 Q. Okay, but if you assume that ---
10:59 40
10:59 41 A. Certainly the pay-ins and pay-outs that hit the DAB account
10:59 42 are recorded.
10:59 43
11:00 44 Q. So we're clear on what might occur, your understanding is
11:00 45 that a person can go to the cage, carded, transact on their DAB
11:00 46 account, perhaps get some chips and go to a table and not swipe
11:00 47 in at the table?

11:00 1
11:00 2 A. Yes.
11:00 3
11:00 4 Q. That is something you would check, whether the player was
11:00 5 carded or not?
11:00 6
11:00 7 A. Yes, that would be a piece of information. Yup.
11:00 8
11:00 9 Q. Can we confirm the transactions in appendix B3 are the
11:00 10 transactions that are the 24-hour data set you've identified as
11:00 11 according to the definition that the report adopts are indicative of
11:00 12 structuring?
11:00 13
11:00 14 A. Yes.
11:00 15
11:00 16 Q. I want to examine a few of those. CRW.512.218.0001.
11:01 17 We've called this person customer 1. If you can see, near the top
11:01 18 of that page is a tiny little extract that is from your appendix B3
11:01 19 to identify this patron.
11:01 20
11:01 21 I can tell the Commissioner the exercise Crown undertook was
11:01 22 randomly to pick every 35th patron in this schedule, but in view
11:01 23 of the time constraints, I'm not going to take the Commission
11:01 24 through each 35th, but ---
11:01 25
11:01 26 COMMISSIONER: Pick a few samples.
11:01 27
11:01 28 DR BUTTON: I have a few samples, but the point for the
11:01 29 moment is this one has been picked at random.
11:01 30
11:01 31 You recognise that that is one of the patrons that has been thrown
11:01 32 up by your DAB structuring analysis?
11:01 33
11:01 34 A. I will take your word for that, yes.
11:01 35
11:02 36 Q. Take that as an assumption. What has been picked there is
11:02 37 an extract from your appendix B3 and if the operator could go to
11:02 38 0003, you can see a broader cut-and-paste from your report if the
11:02 39 operator scrolls down a bit. There is a transaction highlighted
11:02 40 there.
11:02 41
11:02 42 A. Yes.
11:02 43
11:02 44 Q. So it has been picked out of your report. If you want to find
11:02 45 it, it seems to be page 23 of your appendix B3.
11:02 46
11:02 47 If the operator could then go back to the first page.

11:02 1
11:02 2 You can see that what has been constructed is a timeline that has
11:03 3 been built up to analyse this customer's gaming. So we can see
11:03 4 that the customer deposited \$6,000 cash at 12.39 pm - if the
11:03 5 operator could scroll down to the timeline section - on 11
11:03 6 November 2019 and got a chip purchase voucher for \$6,000.
11:03 7
11:03 8 MS O'SULLIVAN: Sorry, I might interrupt. I'm not sure - I
11:03 9 just perhaps ask my learned friend to explain to the witness the
11:03 10 nature of the document. So it is not obvious on its face what it is
11:03 11 and just so that she is not confused about the question that is
11:03 12 coming, if it can be explained what the nature of the document is.
11:03 13
11:03 14 DR BUTTON: Happy to do that.
11:03 15
11:03 16 The first two pages are, in a sense, an aide memoire. They record
11:03 17 an analysis undertaken by Crown of this customer after receipt of
11:03 18 your report earlier in the week.
11:03 19
11:03 20 Now, it has footnotes that set out references to what is in the
11:04 21 balance of this little pack in terms of the records that have been
11:04 22 used to come to state the facts that are in the summary. But there
11:04 23 is a summary that I will take you through because if we go
11:04 24 through the records one by one, it will take hours. So, for your
11:04 25 purposes, I want you to assume the summary is correct ---
11:04 26
11:04 27 A. Yes.
11:04 28
11:04 29 Q. --- and if it turns out that any aspect of it isn't, then your
11:04 30 answer based on it will obviously not assist me.
11:04 31
11:04 32 COMMISSIONER: How do we assume that the summary is
11:04 33 correct?
11:04 34
11:04 35 DR BUTTON: The information is all annexed.
11:04 36
11:04 37 COMMISSIONER: Give me an example of one piece of
11:04 38 information.
11:04 39
11:04 40 DR BUTTON: Okay.
11:04 41
11:04 42 COMMISSIONER: None of this seems to be in evidence.
11:04 43
11:04 44 DR BUTTON: We got the report at midnight on Monday,
11:04 45 Commissioner.
11:04 46
11:04 47 COMMISSIONER: I'm not complaining about it, I'm trying to

11:04 1 work out how it will pan out.
11:04 2
11:04 3 DR BUTTON: If the Commissioner will give me leeway to
11:04 4 follow the exercise, I think you will find it is a satisfactory
11:04 5 exercise.
11:05 6
11:05 7 COMMISSIONER: Okay.
11:05 8
11:05 9 DR BUTTON: The first transaction that McGrathNicol
11:05 10 identified was the deposit of the \$6,000 at 12.39 pm, and then we
11:05 11 see there was a receipt of a chip purchase voucher in the first
11:05 12 bullet point. That is footnoted appendix 2, so if the operator
11:05 13 could go to page 0004, we can see an extract from a DAB
11:05 14 account screen. Cash, 6,000. CPV, chip purchase voucher,
11:05 15 \$6,000. That is broadly how the annexure is put together.
11:05 16
11:05 17 If we go back to the first page, the customer came in, got some
11:05 18 chips, around lunchtime. The second bullet points records the
11:05 19 gaming of the customer. Played the table games until
11:05 20 approximately 7.04 pm on that same day. That is footnoted to
11:06 21 appendix 3.
11:06 22
11:06 23 Could the operator go to page 0005. You will need to blow it up
11:06 24 a bit, thank you, operator.
11:06 25
11:06 26 To tell you a bit about what this is, you mentioned in your
11:06 27 evidence before that there are records of gaming activity
11:06 28 undertaken by patrons on the tables; do you recall that?
11:06 29
11:06 30 A. Yes.
11:06 31
11:06 32 Q. So McGrathNicol is aware that Crown has these sorts of
11:06 33 records?
11:06 34
11:06 35 A. Yes.
11:06 36
11:06 37 Q. Is it correct that McGrathNicol did not seek or examine
11:06 38 these sorts of records in undertaking the analysis that you did on
11:06 39 DAB account structuring in?
11:06 40
11:06 41 A. That's correct.
11:06 42
11:06 43 Q. Was that just a function of time?
11:06 44
11:06 45 A. And instructions, yes.
11:06 46
11:06 47 Q. Instruction ---

11:06 1
11:06 2 A. Yes, we were just asked to do that exercise of looking in
11:06 3 the DAB accounts, so yes.
11:06 4
11:06 5 Q. But you were only asked to look at the DAB accounts to
11:06 6 identify transactions within those windows; is that right?
11:06 7
11:06 8 A. That's right.
11:06 9
11:06 10 Q. Were you asked to stop there and not examine anything that
11:07 11 made them suspicious?
11:07 12
11:07 13 A. We weren't asked specifically to do that. That was
11:07 14 time-bound.
11:07 15
11:07 16 Q. Just so I'm clear, you were asked to identify the DAB
11:07 17 accounts for potential structuring?
11:07 18
11:07 19 A. Yes.
11:07 20
11:07 21 Q. But you could only really do step one, which is gathering
11:07 22 the data set, because of time constraints?
11:07 23
11:07 24 A. That's correct.
11:07 25
11:07 26 Q. For the Commissioner, and you can see what we are
11:07 27 looking at to understand the nature of the record that ---
11:07 28
11:07 29 COMMISSIONER: I've seen these in relation to Mr Hasna, I
11:07 30 think.
11:07 31
11:07 32 DR BUTTON: Okay.
11:07 33
11:07 34 If we work from the bottom we can see buy-in, towards the
11:07 35 middle, \$6,000. We can see average bets that are placed, and
11:07 36 then we can see the ups and downs in the actual win column
11:07 37 towards the right. You are broadly familiar that these records
11:07 38 allow Crown to see if the customer is playing carded, what their
11:08 39 periods of play have been and what their wins and losses have
11:08 40 been?
11:08 41
11:08 42 A. Yes.
11:08 43
11:08 44 Q. Do you agree the general proposition that if a customer is
11:08 45 playing carded and depositing money in and out of their DAB
11:08 46 accounts in cash, it is just objectively less likely that they are
11:08 47 trying to engage in structuring because they are playing carded,

11:08 1 and they are going through a DAB account - so their activities
11:08 2 are pretty closely tracked?
11:08 3
11:08 4 A. --- (speaking over) --- yes.
11:08 5
11:08 6 Q. Going back to the first page, being the summary again, we
11:08 7 can see based from the gaming record, and I don't ask you to try
11:08 8 and redo the maths, but the customer won approximately
11:08 9 \$11 million based on that rate of play.
11:08 10
11:08 11 A. 11,000.
11:08 12
11:08 13 Q. Sorry, 11,000. Yes. During this time the customer had
11:08 14 a \$17,000 chip cash out at 4.44 pm which was recorded as a TTR,
11:08 15 a threshold transaction report. So we can see that at page 0006.
11:09 16 Could the operator please go up a bit.
11:09 17
11:09 18 This is a document recording the threshold transaction reports
11:09 19 that this particular patron has generated within a specific date
11:09 20 range covered here which, in this particular extract, is 4
11:09 21 December 2017 to 15 November 2019.
11:09 22
11:09 23 Now, is it correct to say as well that McGrathNicol did not
11:09 24 request or examine TTR reports such as this in the structuring
11:09 25 analysis?
11:09 26
11:09 27 A. That's correct.
11:09 28
11:09 29 Q. Do you agree as a broad proposition that where a particular
11:09 30 customer has a long history of being entirely willing to generate
11:09 31 TTRs all over the time, objectively if they've then brought in
11:09 32 an amount sub-\$10,000 and fallen in your 24, 48, 72-hour
11:10 33 analysis, it is less likely that they are a suspicious customer; do
11:10 34 you agree with that?
11:10 35
11:10 36 A. I agree with that.
11:10 37
11:10 38 Q. We can see, I think there are broader records that aren't
11:10 39 necessarily entirely in this particular exhibit but this particular
11:10 40 customer is recorded as having, by Crown, 78 TTRs since being
11:10 41 a member from August 2016. So this customer does not seem to
11:10 42 be wanting to avoid generating TTRs; would you agree with that?
11:10 43
11:10 44 A. I would agree with that.
11:10 45
11:10 46 Q. I'm told the 78 TTRs are all in the exhibits. So they are all
11:10 47 there. Now, going back to the first page with this particular

- 11:10 1 customer, we had the customer cashed out at 4.44 and then appears
11:11 2 to go and have some dinner or something, and come back at
11:11 3 10.41 that night and deposited \$7,000 cash.
11:11 4
11:11 5 Now, it is a Crown comment, "likely part of the winnings from
11:11 6 the prior session", walked away cashed out with the \$17,000, popped
11:11 7 back 7,000 after having some dinner. Then the records show that
11:11 8 the customer played until 1.37 am, winning about \$16,000.
11:11 9 Again we have all the records for that. Played into the early hours,
11:11 10 1.19 am, customer deposited 24,000 in chips back into the
11:11 11 deposit account, and then at the same time withdrew 14,000 in
11:11 12 cash from their deposit account recorded as a TTR.
11:11 13
11:11 14 Again, that customer has finished his or her day in this case
11:11 15 of gaming with withdrawing a substantial portion of the winnings
11:11 16 and being quite happy to generate a TTR; you see that?
11:11 17
11:12 18 A. Yes.
11:12 19
11:12 20 Q. And then the customer on the next page of the records, which
11:12 21 I must be clear are not - these are Crown records, we will need
11:12 22 to provide the annexure to support the second bullet point
11:12 23 because I don't think they are there yet, but the Crown records
11:12 24 show the customer started playing again with a similar pattern
11:12 25 and generating two TTRs the next day. You see that?
11:12 26
11:12 27 A. Yes.
11:12 28
11:12 29 Q. Based on that analysis, you would agree it would be quite
11:12 30 fair to conclude that there is nothing suspicious in the
11:12 31 transactions that had been included for that patron in your
11:12 32 appendix B3?
11:12 33
11:12 34 A. Yes, after having done those investigations, yes.
11:12 35
11:12 36 Q. After undertaking those investigations, you would say there
11:12 37 is no indications of structuring for that patron?
11:12 38
11:12 39 A. That's correct.
11:12 40
11:12 41 Q. It is correct as well, is it not, that McGrathNicol had DAB
11:13 42 account data, obviously enough you did because you were
11:13 43 analysing the DAB accounts ---
11:13 44
11:13 45 A. Yes.
11:13 46
11:13 47 Q. --- but do you accept that the DAB account data that

11:13 1 McGrathNicol had showed the transactions on the accounts and
11:13 2 included details of deposits into the accounts and withdrawals
11:13 3 from the accounts?

11:13 4

11:13 5 A. Yes.

11:13 6

11:13 7 Q. And those transactions also included a type column
11:13 8 indicating whether it was a cash transaction, a chip transaction, or
11:13 9 various other types of transactions?

11:13 10

11:13 11 A. I believe so, yes.

11:13 12

11:13 13 Q. Let me just show you an example for this customer,
11:13 14 CRW.512.221.0001. So we can see here, account type deposit,
11:13 15 that is DAB account towards the middle. Document type, CDEP
11:13 16 is deposit, CDW is withdrawal, you are familiar with that?

11:13 17

11:14 18 A. Yes.

11:14 19

11:14 20 Q. And then we have amounts, balances, dates, times and type,
11:14 21 "cash", "CPV", "CCHP", do you see that column?

11:14 22

11:14 23 A. Yes.

11:14 24

11:14 25 Q. So it is correct, is it not, that notwithstanding that
11:14 26 McGrathNicol didn't have the opportunity to request the TTR
11:14 27 records and the gaming history, the records that were available
11:14 28 did allow for, if you had had time to do it, for McGrathNicol to
11:14 29 examine at least a certain level of related transactions. So you
11:14 30 could see, for example, some broader sight of the patron's activity
11:14 31 just from the DAB records alone? For example, bought in and
11:14 32 then got some chips.

11:14 33

11:14 34 A. I believe the information that we got was the DAB account
11:14 35 balance at 15 June, and then history of transactions. It wasn't
11:14 36 pre-sorted or provided to us on a patron-by-patron basis such as
11:15 37 this is.

11:15 38

11:15 39 Q. Yes. That's quite fair.

11:15 40

11:15 41 A. So there was a fair bit of processing involved to get to that
11:15 42 point.

11:15 43

11:15 44 Q. Yes, and I think the Commission has the records, but you
11:15 45 had two quite monstrously large Excel files, one for Melbourne
11:15 46 and one for Perth.

11:15 47

11:15 1 A. Yes.
11:15 2
11:15 3 Q. I think one had 260,000 lines of data in it.
11:15 4
11:15 5 A. I don't recall.
11:15 6
11:15 7 Q. But presumably it is within the technological wherewithal
11:15 8 to sort them in different ways so as to gather all the information
11:15 9 there by patron.
11:15 10
11:15 11 A. Yes.
11:15 12
11:15 13 Q. That was not an exercise that was undertaken for the
11:15 14 purposes of this structuring analysis?
11:15 15
11:15 16 A. That's right.
11:15 17
11:15 18 Q. Now, there are two - if we could go back to your report at
11:15 19 5.5.4, there are two customers whose accounts are highlighted as
11:16 20 examples in paragraph 5.5.4 of the report.
11:16 21
11:16 22 A. Yes.
11:16 23
11:16 24 Q. As quickly as I can, I want to take you through similar
11:16 25 information about the two that you have pulled out as examples
11:16 26 there. Could the operator bring up CRW.512.219.0001.
11:16 27
11:16 28 Here we have someone that has been labelled customer 6, and
11:16 29 just so no one is left wondering, it is customer 6 because
11:16 30 customers 2 to 5 were the other 35th random picks, and this is 6
11:16 31 and 7 are the ones that are referred to in the body of the report.
11:16 32
11:17 33 Now, we can see at the top again the little extract from your
11:17 34 report, seven cash deposits, 16 to 25 January 2021, and the
11:17 35 records are that this customer has been a member of Crown, or
11:17 36 a customer of Crown since 18 August 2010 and in that period has
11:17 37 generated 154 TTRs. I should let yourself and the Commission
11:17 38 know that the footnote is to Exhibit 27 which is presently being
11:17 39 loaded because it was accidentally left off of this package, but it
11:17 40 is coming to show the full extent of the TTRs.
11:17 41
11:17 42 Do you agree this customer again seems to have a long
11:17 43 history with Crown and be quite willing to generate TTRs?
11:17 44
11:17 45 A. Based on what you are telling me, yes.
11:17 46
11:17 47 Q. Now, if we go to this customer's timeline, starting a bit

11:17 1 further down the page, 16 January 2021, this starts with the
11:18 2 customer depositing \$5,000 into their account at 8.51 pm on 16
11:18 3 January 2021, and that's the first of the seven cash deposits that
11:18 4 your team has picked up; you see that?
11:18 5
11:18 6 A. Yes.
11:18 7
11:18 8 Q. I won't take you through all the supporting records, you see
11:18 9 how the whole thing is constructed, just in the interests of time,
11:18 10 but the customer got ---
11:18 11
11:18 12 A. Yes.
11:18 13
11:18 14 Q. --- a chip purchase voucher and then the gaming records
11:18 15 show that the customer played until 10.10 pm, lost approximately
11:18 16 \$5,825 based on the rate of play, and then the customer bought in
11:18 17 for another \$2,000 cash at the table, lost the further \$2,000, and
11:18 18 then deposited another \$7,000 into their DAB account at 22:19,
11:19 19 10.19 pm on the same evening. And that is the second cash
11:19 20 buy-in that you've recorded in your table, second cash into the
11:19 21 DAB.
11:19 22
11:19 23 A. Yes.
11:19 24
11:19 25 Q. So far, do you agree that what we can see is the customer
11:19 26 has put some cash in, lost it, put a bit more cash in at the table,
11:19 27 lost it, and then gone back to put another top-up into the DAB
11:19 28 account?
11:19 29
11:19 30 A. Yes.
11:19 31
11:19 32 Q. That just looks like really ordinary gaming behaviour?
11:19 33
11:19 34 A. Yes.
11:19 35
11:19 36 Q. If we continue over the page to this patron's day on 16
11:19 37 January 2021, the customer, having put that further \$7,000 in,
11:19 38 continued playing until 11.38 that evening and won \$10,700, and
11:19 39 at 11.30 cashed out for \$15,000 which was recorded with a TTR.
11:19 40
11:19 41 A. Yes.
11:19 42
11:20 43 Q. All in a night's gaming, really, isn't it? And you would
11:20 44 agree there is nothing suspicious in all of that?
11:20 45
11:20 46 A. Not from what you have told me, no.
11:20 47

11:20 1 Q. That customer ended the evening quite happy to generate
11:20 2 a TTR taking out the cash?
11:20 3
11:20 4 A. Yes.
11:20 5
11:20 6 Q. Based on this, the fact that there were two cash deposits
11:20 7 into the DAB accounts is entirely explicable by the customer's
11:20 8 gaming experience that evening?
11:20 9
11:20 10 A. Losing, yes.
11:20 11
11:20 12 Q. Yes. So then the customer has come back the next day.
11:20 13 We have the 17th. Again, bought in for \$5,000 into the DAB
11:20 14 account, received the chip purchase voucher, and then played the
11:20 15 table games until 10.54 pm that evening and won approximately
11:20 16 \$14,000. And then again cashed out at the end of the evening and
11:20 17 recorded a TTR.
11:20 18
11:20 19 A. Again, that is what you are telling me ---
11:20 20
11:20 21 Q. Yes.
11:20 22
11:21 23 A. --- and I believe that it is supported by the documents.
11:21 24
11:21 25 Q. I'm asking you to take it at face value.
11:21 26
11:21 27 A. Yes.
11:21 28
11:21 29 Q. Taking what I've explained to you as what Crown's records
11:21 30 show ---
11:21 31
11:21 32 A. Yes.
11:21 33
11:21 34 Q. --- again there is nothing suspicious in that day alone or that
11:21 35 day taken in combination with the previous date; do you agree
11:21 36 with that?
11:21 37
11:21 38 A. Yes, I do.
11:21 39
11:21 40 Q. Now, it seems the customer had a day off because we then
11:21 41 go through to 19 January. Deposited for 8,000 at 9.37 in the
11:21 42 evening. Got the chip purchase voucher, played games until
11:21 43 10.54, winning, which included a further, more minor buy-in at
11:21 44 the table, and cashed out again at the end of the night, again
11:21 45 another TTR?
11:21 46
11:21 47 A. Yes.

11:21 1
11:21 2 Q. So we have again another non-suspicious day by itself and
11:21 3 another non-suspicious day when combined with the previous
11:21 4 days?
11:21 5
11:21 6 A. Yes.
11:21 7
11:21 8 Q. We have moved down to 20 January. Similar sort of
11:22 9 behaviour. The patron has come in middle of the evening, 8.27
11:22 10 and put in his 5,000 cash and got the chip purchase voucher and
11:22 11 played, if you see the next bullet point, winning \$7,900 and then
11:22 12 at 9.32 he's cashed out for \$12,875 and another TTR at the end of
11:22 13 the evening.
11:22 14
11:22 15 A. Yes.
11:22 16
11:22 17 Q. You agree with me that is another not-suspicious day by
11:22 18 itself?
11:22 19
11:22 20 A. Yes.
11:22 21
11:22 22 Q. And it's another not-suspicious day in combination with the
11:22 23 other days?
11:22 24
11:22 25 A. Yes.
11:22 26
11:22 27 DR BUTTON: Commissioner, I think that I've made my point on
11:22 28 this particular exercise.
11:22 29
11:22 30 But can I ask you just quickly to confirm if you see a similar
11:22 31 pattern with the other cash deposits for this customer, buying in,
11:22 32 gaming activity, and on each occasion, barring 23 January,
11:23 33 generating a TTR when the customer left, there is nothing
11:23 34 suspicious about the set of transactions that you have included for
11:23 35 this customer in your report?
11:23 36
11:23 37 A. There is nothing suspicious from that information that I've
11:23 38 been provided and the timeline that has been said. I don't know
11:23 39 whether these were investigated on a timely basis, if they may
11:23 40 have triggered any interest by Crown until they were reported in
11:23 41 my report, so it is of interest, I think, to understand whether those
11:23 42 sorts of transactions are dismissed immediately, or whether this
11:23 43 investigation occurs to dismiss them, as has happened. But I
11:23 44 don't - I certainly agree, on the information you provided me,
11:24 45 had we done this investigation we would have come to the
11:24 46 conclusion that they were not structuring transactions.
11:24 47

11:24 1 Q. That's right, but to take you up on that point: you are not
11:24 2 suggesting, I would assume, that Crown ought to routinely
11:24 3 investigate matters that lack any reason for suspicion?
11:24 4

11:24 5 A. I would say I'm not sure - I'm not convinced that they
11:24 6 know that they lack any reason for suspicion until they've done
11:24 7 this level of investigation.
11:24 8

11:24 9 Q. But you are not saying that with any knowledge of the
11:24 10 casino industry or any AML expertise yourself, you are just
11:24 11 saying that from your viewpoint, you see transactions within
11:24 12 a window, and until you are shown something further you don't
11:24 13 really know one way or another whether they are suspicious?
11:24 14

11:24 15 A. Yes, I think you would want some level of sophistication
11:24 16 around that, for example, as I said before, if they happened in
11:24 17 a very concentrated period of time, which these haven't, based on
11:25 18 the documentation.
11:25 19

11:25 20 Q. Okay. You are aware that one of the things that Crown is
11:25 21 working on, arising out of, I think, some of the work Deloitte did,
11:25 22 was to develop - sorry, I withdraw that.
11:25 23

11:25 24 Did you examine the Sentinel rules that Crown applies to the
11:25 25 DAB accounts to examine buy-ins?
11:25 26

11:25 27 A. I personally didn't do it, but my team looked at them, yes.
11:25 28

11:25 29 Q. So you know that Crown does have some Sentinel rules
11:25 30 that are rolled out over the DAB accounts?
11:25 31

11:25 32 A. Yes, I do.
11:25 33

11:25 34 Q. And you know that Crown is working on further Sentinel
11:25 35 rules to analyse things around velocity of play, timing between
11:25 36 buy-ins and cash outs, things like that?
11:25 37

11:26 38 A. Yes, I do.
11:26 39

11:26 40 Q. Do those matters go to the point that you were just talking
11:26 41 about, like having some system to examine what is happening in
11:26 42 the DAB accounts?
11:26 43

11:26 44 A. Correct, yes.
11:26 45

11:26 46 Q. Now, can I just then take you just so we can look quickly at
11:26 47 the other customer that you've called out in report. If the operator

11:26 1 could bring up CRW.512.220.0127. This was the same analysis
11:26 2 for the customer that is referred to at 5.5.4(b) where your analysis
11:27 3 had identified seven cash deposits in the DAB account for Perth
11:27 4 - maybe it is the other one.
11:27 5
11:27 6 A. Yes. This says Melbourne on it.
11:27 7
11:27 8 Q. Yes, this is, I think, that is 5.5.1(a) in your report. This
11:27 9 customer has been shown to have six cash deposits in the DAB
11:27 10 account over a four-day period. This customer has had 208
11:27 11 TTRs since September 2019?
11:27 12
11:27 13 A. Yes.
11:27 14
11:27 15 Q. Again, would you agree this customer is not trying to avoid
11:27 16 TTRs?
11:27 17
11:27 18 A. Correct.
11:27 19
11:27 20 Q. On the analysis that has been undertaken, all of the
11:27 21 activities seem to be commencing a gaming session or
11:28 22 replenishing a depleted bank roll, as recorded by the wins and
11:28 23 losses. Would you agree that seeing transactions within a
11:28 24 particular window of time can in many instances be totally
11:28 25 explicable by the fact that someone has put in a certain amount of
11:28 26 money and they've lost it and they want to top up and keep
11:28 27 playing?
11:28 28
11:28 29 A. Yes, I agree.
11:28 30
11:28 31 Q. And there is nothing inherently suspicious in that?
11:28 32
11:28 33 A. Correct.
11:28 34
11:28 35 Q. Thinking about the time, if I can whip through this one
11:28 36 a little more quickly.
11:28 37
11:28 38 Timeline, 22nd of February 2021. Customer deposited 2,500 into the
11:29 39 DAB account early afternoon, got a chip purchase voucher and
11:29 40 then lost 8,800. That is having lost some money in the hours
11:29 41 previous, so that is - another thing you do is look at the gaming
11:29 42 activity prior to the point where you get your first cash
11:29 43 transaction?
11:29 44
11:29 45 A. Yes.
11:29 46
11:29 47 Q. Customer continued gaming until about 3 o'clock, and then

11:29 1 deposited winning 13,000 and made a deposit of chips into the
11:29 2 DAB account and seemed to go off for a while and come back at
11:29 3 7.37 in the evening and withdrew 10,000 worth of chips from the
11:29 4 DAB account, and then played, if we go over the page, until that
11:29 5 evening. Lost some money, and then made some further
11:29 6 deposits, and then played games until late that evening, 11.29.
11:29 7
11:29 8 Then we've got 23 February, the customer came in and deposited
11:30 9 4,500. Again, a pattern, coming in early afternoon, 1.44. Played
11:30 10 the games, won 6,200, cashed out 10,000 for chips, chips for
11:30 11 cash, and generated a TTR. You see the first bullet point under
11:30 12 23 February?
11:30 13
11:30 14 A. Yes.
11:30 15
11:30 16 Q. So what we see on that day is coming in, doing some
11:30 17 gaming, winning some money, leaving with some cash and
11:30 18 generating a TTR.
11:30 19
11:30 20 A. Yes.
11:30 21
11:30 22 Q. Then the customer, similarly to the previous day, had a bit
11:30 23 of a break and came back in the evening, and customer purchased
11:30 24 10,000 in chips from cash, and that is recorded as a TTR? You
11:30 25 see that?
11:30 26
11:30 27 A. Yes.
11:30 28
11:30 29 Q. So if this customer was, in the two first transactions, trying
11:30 30 to avoid a TTR, you agree it would make no sense that they
11:30 31 would then be cashing out, generating a TTR?
11:30 32
11:30 33 A. Yes.
11:30 34
11:30 35 Q. And then buying in again later that evening and generating
11:31 36 a TTR?
11:31 37
11:31 38 A. Yes.
11:31 39
11:31 40 Q. So you've got to look at the whole picture --
11:31 41
11:31 42 A. Correct.
11:31 43
11:31 44 Q. --- really, before you can even say there are indications of
11:31 45 structuring?
11:31 46
11:31 47 A. Yes, I agree, and I think I've said that in my report.

11:31 1
11:31 2 Q. I do - I don't mean ---
11:31 3
11:31 4 A. Sure.
11:31 5
11:31 6 Q. --- to discount that you've stated in your report that there is
11:31 7 gaming activity, we're trying to say it is critically important to
11:31 8 look at gaming activity before you can conclude there are
11:31 9 indications of structuring.
11:31 10
11:31 11 A. Yes, that's right.
11:31 12
11:31 13 Q. And that is something you just didn't have time to do?
11:31 14
11:31 15 A. That's right.
11:31 16
11:31 17 Q. But it is also the case that McGrathNicol did not ask Crown
11:31 18 to assist in pulling together the kind of gambling analysis that I've
11:31 19 been taking you through now.
11:31 20
11:31 21 A. No, that's correct too. We received the banking
11:31 22 information, I believe on 23 June, and so with the TTR process
11:31 23 and the dates by which we had to report - sorry, Notice to
11:32 24 Produce process and the dates by which we had to report, time
11:32 25 was limited by the time we analysed that information to get to
11:32 26 that position.
11:32 27
11:32 28 Q. Time was against you?
11:32 29
11:32 30 A. That's correct.
11:32 31
11:32 32 Q. And I think you have noted at the start of your report that
11:32 33 you did have full cooperation from Crown.
11:32 34
11:32 35 A. That's correct, yes.
11:32 36
11:32 37 Q. No reason to doubt they could have assisted with this sort
11:32 38 of analysis if time had permitted you to essentially ask for it.
11:32 39
11:32 40 A. Yes.
11:32 41
11:32 42 Q. If we just look at the 24th, the customer gamed overnight,
11:32 43 we can see. Recommenced gaming at 1.24 am, played tables
11:32 44 until 2.23, recommenced at 2.21 pm that day, so seems to have
11:32 45 gone off, have a sleep and have some lunch, and bought in for
11:32 46 10,000 cash, and again another TTR. Played on, winning 6,000
11:32 47 at 2.28, deposited the chips into his DAB and went off for the

11:32 1 afternoon, came back at 6.38, withdrew 10,000 from his DAB in
11:33 2 chips. Another chip withdrawal of 5,000 shortly after and played
11:33 3 on. He restarted gaming in the fourth bullet point at 8.34 pm.
11:33 4 Deposited 6,000 of cash and received a voucher, played on,
11:33 5 losing 6,000. Bought in some more at the table, lost a bit more.
11:33 6 Recommenced gaming 11.16, and received, bought in for 10,000,
11:33 7 another TTR that evening when he bought back in, customer
11:33 8 played table games, losing 8,500 and bought in for a further 5,000
11:33 9 just after midnight, received a chip purchase voucher and played
11:33 10 until 1.00 in the morning.

11:33 11
11:33 12 Then over the page he came back at 10 o'clock the next night and
11:33 13 deposited 8,000 cash into his deposit and played until 23:56.

11:34 14 Again, I know I've taken you through it fairly quickly --

11:34 15

11:34 16 A. Yes.

11:34 17

11:34 18 Q. --- but based on what you've seen and taking it at face value
11:34 19 what I've told you, you would agree there is nothing suspicious in
11:34 20 this customer?

11:34 21

11:34 22 A. That's correct, based on what you've told me.

11:34 23

11:34 24 Q. If you are trying to work out whether there is cause for
11:34 25 suspicion, which is at the heart of whether there is potentially
11:34 26 structuring, you need to look at a lot more than just the
11:34 27 transactions and temporal connection between the transactions?

11:34 28

11:34 29 A. Yes, that's right.

11:34 30

11:34 31 Q. You need to look at the gaming activity of the patron?

11:34 32

11:34 33 A. Yes.

11:34 34

11:35 35 Q. You would look at whether the patron is playing carded or
11:35 36 not?

11:35 37

11:35 38 A. Yes.

11:35 39

11:35 40 Q. You would look at the gaming activity and transaction
11:35 41 history of the patron either side of the episodes of interest?

11:35 42

11:35 43 A. Yes.

11:35 44

11:35 45 Q. And you would look at their history with Crown more
11:35 46 broadly in some instances?

11:35 47

11:35 1 A. Yes. Well, you would look at everything you knew about
11:35 2 them, which is many varied things at Crown. Yes.
11:35 3
11:35 4 Q. Yes. Are you aware of the content of the SOPs state what
11:35 5 personnel in the cage and on the table games should do if they
11:35 6 suspect structuring?
11:35 7
11:35 8 A. I have seen the SOPs and read them briefly, or read
11:35 9 excerpts of them which were most relevant. But I'm aware of
11:35 10 them, yes.
11:35 11
11:35 12 Q. Yes. If the operator could briefly bring up
11:36 13 CRW.510.013.2736.
11:36 14
11:36 15 This is a standard operating procedure for the cage.
11:36 16
11:36 17 A. Yes.
11:36 18
11:36 19 Q. And go to page 2747. Blow up paragraph 2.5. "Unusual
11:36 20 activity report". You see 2.5.1:
11:36 21
11:36 22 *Where a Cage employee identifies any unusual activity or*
11:36 23 *potentially suspicious behaviour a UAR will be*
11:36 24 *completed by the relevant employee using the designated*
11:36 25 *UAR form, or through the Crown digital platform.*
11:36 26
11:36 27 You see that?
11:36 28
11:36 29 A. Yes.
11:36 30
11:36 31 Q. And 2.5.3:
11:36 32
11:36 33 *Unusual Activity may include, but is not limited to:*
11:36 34
11:36 35 *(B) A patron reducing or splitting the amount of funds*
11:36 36 *presented to avoid a TTR*
11:36 37
11:36 38 You see that?
11:37 39
11:37 40 A. Yes.
11:37 41
11:37 42 Q. You understand the process to be that if someone at the
11:37 43 cage considered that a patron presenting with sub-\$10,000
11:37 44 amounts of cash more than once is suspicious, there is
11:37 45 a procedure, and the procedure they are supposed to follow is to
11:37 46 file a UAR?
11:37 47

- 11:37 1 A. Yes, I think it is unusual rather than suspicious.
11:37 2
11:37 3 Q. Yes, unusual activity report.
11:37 4
11:37 5 A. Yes.
11:37 6
11:37 7 Q. If they think something is not right ---
11:37 8
11:37 9 A. Yes.
11:37 10
11:37 11 Q. --- and it might be structuring, then that is what they are
11:37 12 supposed to do?
11:37 13
11:37 14 A. That's correct. I only differentiate because suspicious is
11:37 15 further up the chain, yes.
11:37 16
11:37 17 Q. Yes, indeed. Thank you for pulling me up on that.
11:37 18
11:37 19 Then there is a similar procedure for table game staff,
11:37 20 CRW.512.216.0001, if we can just quickly see the first page. We
11:37 21 have here the table games SOP, and at page 0097 - can you take
11:38 22 it from me that it basically says the same thing?
11:38 23
11:38 24 A. Yes.
11:38 25
11:38 26 Q. If they identify unusual activity, including a patron splitting
11:38 27 their buy-in to avoid a TTR, the procedure they are supposed to
11:38 28 follow is to file a UAR?
11:38 29
11:38 30 A. Yes.
11:38 31
11:38 32 Q. Now, none of the very many consultants who have been
11:38 33 looking at Crown's AML procedures in the recent times have
11:38 34 made adverse comments on those being the procedures; are you
11:38 35 aware of that?
11:38 36
11:38 37 A. Yes, yes, I believe so.
11:38 38
11:38 39 Q. It is also the case that it wasn't part of McGrathNicol's
11:38 40 process, as part of this report, to look at UARs?
11:38 41
11:38 42 A. No, only insofar as we enquired through focus groups and
11:39 43 surveys, familiarity of staff with UARs.
11:39 44
11:39 45 Q. Yes, but you didn't call for the UARs that ---
11:39 46
11:39 47 A. No, we didn't.

11:39 1
11:39 2 Q. --- any UARs in support of the DAB structuring analysis.
11:39 3
11:39 4 A. No.
11:39 5
11:39 6 Q. When you say "no", it is correct that you didn't call for
11:39 7 them?
11:39 8
11:39 9 A. It is correct that we didn't call for them.
11:39 10
11:39 11 Q. And obviously enough, I think as you note in the report,
11:39 12 McGrathNicol didn't have AUSTRAC clearance so you couldn't
11:39 13 examine whether there had been SMRs?
11:39 14
11:39 15 A. That's correct.
11:39 16
11:39 17 Q. I just want to be clear that through this report,
11:39 18 McGrathNicol is not saying that structuring has occurred through
11:39 19 Crown's DAB accounts.
11:39 20
11:39 21 A. That's correct, we've not reached that conclusion.
11:39 22
11:39 23 Q. All you've done is identify a set of transactions falling
11:39 24 within the temporal windows that you were asked to consider?
11:39 25
11:39 26 A. Yes.
11:39 27
11:39 28 Q. And you accept that there may well be entirely innocent
11:40 29 explanations, but that it would be necessary to go through each
11:40 30 transaction before it could be concluded whether there was any
11:40 31 cause for concern or not?
11:40 32
11:40 33 A. That's correct.
11:40 34
11:40 35 Q. But based on the three we've looked at today you accept
11:40 36 that there is no cause for concern, assuming - taking at face
11:40 37 value the information I've given you.
11:40 38
11:40 39 COMMISSIONER: For those three?
11:40 40
11:40 41 A. Yes, for those three, yes.
11:40 42
11:40 43 DR BUTTON: And certainly McGrathNicol is not saying by this
11:40 44 report that Crown's AML processes have failed in any respect in
11:40 45 relation to those DAB structuring accounts?
11:40 46
11:40 47 A. No, we didn't investigate that to form that conclusion.

- 11:40 1
11:40 2 Q. And you haven't made that conclusion?
11:40 3
11:40 4 A. No, we haven't.
11:40 5
11:40 6 Q. Can I turn then to the parked funds which you deal with in
11:40 7 section 5.4 of your report. Just looking at these ones, I think you
11:41 8 have been clear in your evidence that the mere fact that money
11:41 9 might sit in a DAB account for some period of time is not in and
11:41 10 of itself suspicious?
11:41 11
11:41 12 A. That's correct. I would only caveat that with - in and of
11:41 13 itself, that is correct. Like other transactions you would want to,
11:41 14 if it was there for a considerable period of time, you would
11:41 15 investigate other knowledge of that patron and their activities to
11:41 16 form any view that there was something untoward about it.
11:41 17
11:42 18 Q. And I think you've mentioned and discussed a little bit with
11:42 19 Counsel Assisting that COVID may be a factor. In your report at
11:42 20 5.4.5 you say that COVID may be a factor ---
11:42 21
11:42 22 A. Yes.
11:42 23
11:42 24 Q. --- in some of the ones you've identified. I want to suggest
11:42 25 to you that it is quite likely COVID is a factor, given that borders
11:42 26 have been closed internationally for more than a year now ; you
11:42 27 agree with that?
11:42 28
11:42 29 A. Yes, I would accept that.
11:42 30
11:42 31 Q. And the casinos in Melbourne and Perth have been closed
11:42 32 for extended periods, and in the case of Melbourne the casino
11:42 33 was closed for more than seven months of 2020; are you aware of
11:42 34 that?
11:42 35
11:42 36 A. Yes, I am aware of that.
11:42 37
11:42 38 Q. As well as shorter shutdowns outside of the big one ---
11:42 39
11:42 40 A. Yes, including in the last few weeks.
11:42 41
11:42 42 Q. On again, off again. The casino was closed for more than
11:42 43 three months in Perth in 2020?
11:42 44
11:42 45 A. Yes, I believe so.
11:42 46
11:42 47 Q. And to a lesser extent has had some smaller shutdowns as

11:43 1 well?

11:43 2

11:43 3 A. Yes, I believe so.

11:43 4

11:43 5 Q. As an Australian and a Victorian, you would also know that
11:43 6 there have been border restrictions between Victoria and other
11:43 7 States with Victorians - perhaps people not being free to travel
11:43 8 in and out of Victoria for quite extended periods?

11:43 9

11:43 10 A. Yes, I'm aware of that.

11:43 11

11:43 12 Q. Yes, we are all painfully aware of that. And WA is known
11:43 13 for having had a particularly hard-line stance as well?

11:43 14

11:43 15 A. Yes.

11:43 16

11:43 17 Q. Do you agree that by and large, the opportunity for patrons,
11:43 18 including those who have large DAB balances to go and game
11:43 19 using the funds they've sat there, has been severely curtailed in
11:43 20 the period that you've been analysing?

11:43 21

11:43 22 A. I would agree with that. By and large, obviously. We
11:43 23 haven't analysed every patrons' position.

11:43 24

11:43 25 Q. That's right. And you would accept that a patron whose
11:43 26 account that is included in your summary numbers in 5.4.3 of
11:44 27 your report, who has previously had quite a busy account, money
11:44 28 going in and money going out, and it stops and it looks parked
11:44 29 and you can see that that parking coincides broadly with COVID,
11:44 30 you would agree that that parking doesn't really look suspicious?

11:44 31

11:44 32 A. Yes, absent any other information about that customer, yes.

11:44 33

11:44 34 Q. That's right. Because they've had a busy account.

11:44 35

11:44 36 A. Yes.

11:44 37

11:44 38 Q. And it stopped.

11:44 39

11:44 40 A. Yes, presumably busy and clean is what you mean. Busy
11:44 41 and there is nothing within those transactions that pique your
11:44 42 suspicion, then the stopped - cessation of that activity would
11:44 43 create no more than suspicion.

11:44 44

11:44 45 Q. That's right, yes, but if you are just looking at parking by
11:44 46 itself, you see an inactive account, am I worried about it or not,
11:44 47 one thing you take into account was - it might be different if

11:44 1 a customer comes in, puts a large amount of money on the DAB
11:45 2 and goes away for two years.
11:45 3
11:45 4 A. Yes.
11:45 5
11:45 6 Q. That is a rather different scenario from a customer coming
11:45 7 in and using their DAB account ---
11:45 8
11:45 9 A. Yes, that's right.
11:45 10
11:45 11 Q. And then leave ---
11:45 12
11:45 13 A. And then leaving. Yes, I agree.
11:45 14
11:45 15 Q. Do you agree another factor that could explain inactive
11:45 16 DAB accounts is where the junket operator had a DAB account,
11:45 17 and then Crown made a decision first to suspend and then
11:45 18 terminate junket relationships, the fact of the suspension and later
11:45 19 cessation of junket relationships, which overlays with the COVID
11:45 20 period ---
11:45 21
11:45 22 A. Yes.
11:45 23
11:45 24 Q. --- but that could be another explanation why DAB
11:45 25 accounts would be inactive?
11:45 26
11:45 27 A. Yes. I would have thought in those circumstances if you
11:45 28 are ceasing relationships you would have returned funds from the
11:45 29 DAB account, so I think there is a question over why that
11:45 30 wouldn't also happen in ceasing junkets but I agree with your
11:45 31 proposition.
11:45 32
11:46 33 Q. But you have not sought any explanation from Crown about
11:46 34 which of the accounts that it has identified relate to - that you've
11:46 35 identified relate to junkets?
11:46 36
11:46 37 A. No.
11:46 38
11:46 39 Q. And you've not sought any information from Crown about
11:46 40 the procedures and thinking around returning money to junkets?
11:46 41
11:46 42 A. No. I am aware, as part of Mr Blackburn's plan, that there
11:46 43 is a process underway or contemplated to review accounts that
11:46 44 have been untouched for 180 days.
11:46 45
11:46 46 Q. Yes, and you are aware also that Crown is developing
11:46 47 Sentinel rules to flag what - potential parking in the DAB

11:46 1 accounts?
11:46 2
11:46 3 A. Yes, that rule isn't among the ones that we saw, which was
11:46 4 a May 2021 paper, I believe, and that did not have a parked rule
11:46 5 but it would not surprise me that there have been more recent
11:46 6 developments.
11:46 7
11:46 8 Q. Yes, I think - to be fair, it is a difficulty a number of
11:47 9 consultants in this Commission have had, you look at things in
11:47 10 a point of time ---
11:47 11
11:47 12 A. Correct, and it moves. I did check that fact in the last few
11:47 13 days, but ---
11:47 14
11:47 15 Q. You regard that as a positive thing to do?
11:47 16
11:47 17 A. Yes, it should, in my view, yes.
11:47 18
11:47 19 Q. Okay, but just going back to the junkets specifically, you've
11:47 20 not engaged in a discussion with Crown about whether it ought to
11:47 21 be routine to return money to junkets or how they are dealing
11:47 22 with that wash-up of having ceased business with junkets?
11:47 23
11:47 24 A. No.
11:47 25
11:47 26 Q. Can I ask the operator to bring up CRW.512.218.0013.
11:47 27 This is some information concerning the, we'll call it patron 056.
11:48 28 This is the patron that you've referred to in your report at 5.4.3(b),
11:48 29 being the account with a balance of 1.5 million. You see that?
11:48 30
11:48 31 A. Yes.
11:48 32
11:48 33 Q. So again this file, for the Commissioner's reference, has the
11:48 34 similar little pack of information to support the summary with the
11:48 35 footnotes. This customer is an Indonesian national, so again this
11:48 36 customer would be affected by border closures, do you agree with
11:48 37 that, being an Indonesian national?
11:48 38
11:48 39 A. Based in Indonesia you mean, living in Indonesia?
11:48 40
11:48 41 Q. Let me check. Well, if we make that assumption that the
11:48 42 home address, which is - it's probably going to be redacted, but
11:48 43 the home address is an address in Jakarta.
11:48 44
11:48 45 A. Okay, yes.
11:48 46
11:49 47 Q. Yes? And this patron transferred \$3 million and that

11:49 1 generated an IFTI to AUSTRAC.

11:49 2

11:49 3 A. Right.

11:49 4

11:49 5 Q. So this patron doesn't seem to be trying to fly under the

11:49 6 radar as far as AUSTRAC is concerned.

11:49 7

11:49 8 A. Yes.

11:49 9

11:49 10 Q. Then the customer transferred half of that amount to
11:49 11 a junket operator, leaving a balance of 1.5 million, and the player
11:49 12 was a key player on a program with the junket operator and had
11:49 13 rated play. We can see how he did there.

11:49 14

11:49 15 Now, the other thing is that Crown's records, and they are in here
11:49 16 for the Commissioner's reference at page 0016, but I won't go to
11:49 17 it, but Crown's records show this patron visited eight times
11:49 18 between 2015 and 2019 and participated as a player in junket
11:49 19 programs and we can see he visited one or two times a year. So,
11:49 20 taking that information, do you agree that an overseas patron
11:50 21 whose history is of visiting once or twice a year, there is every
11:50 22 chance that the reason that his DAB account is sitting there
11:50 23 undisturbed is because, probably one of two things, COVID has
11:50 24 prevented him travelling and Crown stopped dealing with
11:50 25 junkets?

11:50 26

11:50 27 A. Yes, I would agree.

11:50 28

11:50 29 Q. So you need to look at factors like that before forming
11:50 30 a suspicion that there is anything untoward in the fact that that
11:50 31 balance is fairly large and has been sitting there for a while?

11:50 32

11:50 33 A. I would agree.

11:50 34

11:50 35 Q. Now, CRW.3512.221.0004. You can call this patron 488.
11:50 36 Again we have the pack of information to support the summary.
11:50 37 This patron has a Macau passport and lives in Macau and was
11:51 38 a significant junket operator, having multiple junkets since 2010.
11:51 39 The summary goes on that prior to the casino closure in March
11:51 40 2020, the customer had thousands of transactions in their deposit
11:51 41 and safekeeping accounts. And the customer hasn't been back
11:51 42 since the border closures.

11:51 43

11:51 44 Taking that as face value, that is an example of what we were
11:51 45 discussing before, a busy account that has stopped at a particular
11:51 46 point in time. Do you agree, based on that, that it is likely that
11:51 47 there is a quite ready explanation for the fact that this account has

11:51 1 a sizeable balance because junkets dealt in big money?

11:51 2

11:51 3 A. Big money, yes.

11:51 4

11:51 5 Q. And also that that account has been inactive?

11:51 6

11:51 7 A. Yes, I would agree with that.

11:52 8

11:52 9 Q. I want to then turn to your third party transfers analysis,
11:52 10 report section 5.6. You have, it is probably a convenient
11:52 11 summary of the conclusions at page 0016 if we could go back to
11:52 12 the main report. It is correct that the ultimate conclusion that
11:53 13 arose from the third party transfer analysis was that you observed
11:53 14 a notable change in customer behaviour, which improved
11:53 15 Crown's money laundering risk profile, albeit in a period of low
11:53 16 activity; you see that?

11:53 17

11:53 18 A. That's correct, yes.

11:53 19

11:53 20 Q. Do you agree that potentially your figures are
11:53 21 over-inclusive because McGrathNicol wasn't able to or did not
11:53 22 examine the ultimate destination of the funds? And let me take
11:53 23 you to the part of the report that I'm referring to. Page 0046 of
11:53 24 the report. Do you see there in 5.6.4 you set out caveats and
11:54 25 limitations?

11:54 26

11:54 27 A. Yes.

11:54 28

11:54 29 Q. Do you want to go back a bit just to see that this is part of
11:54 30 your third-party analysis?

11:54 31

11:54 32 A. Yes, that's okay. I will look at it in hard copy. Yes.

11:54 33

11:54 34 Q. So your analysis is 5.6, transactions involving third-party
11:54 35 payments.

11:54 36

11:54 37 A. Yes.

11:54 38

11:54 39 Q. The caveats are at 5.6.4 and you see (d):

11:54 40

11:54 41 *The final destination of the funds was outside the scope of*
11:54 42 *this analysis, the funds may have been credited to the*
11:54 43 *DAB account identified or returned to the sender.*

11:54 44

11:54 45 A. Yes, that's correct.

11:54 46

11:54 47 Q. So if in fact any apparent disconformity was resolved and

11:54 1 the funds were credited to the patron's DAB account, then you
11:54 2 would agree that there has been no third-party transfer in that
11:54 3 instance?

11:54 4

11:54 5 A. No, it's been - well, it's been voided effectively, yes.

11:54 6

11:54 7 Q. That's right. And if the funds have been returned to sender,
11:55 8 equally there has been no successful third-party payment even if
11:55 9 there had been an attempt to make one?

11:55 10

11:55 11 A. Yes, I agree with that.

11:55 12

11:55 13 Q. And so the figures that you've set out in your report don't
11:55 14 take account of whether the funds were returned in any instance?

11:55 15

11:55 16 A. That's correct.

11:55 17

11:55 18 Q. Or whether they were credited to a DAB account upon
11:55 19 there being analysis to show that in fact it wasn't a third party ---

11:55 20

11:55 21 A. Yes. And that was really a function of it's quite difficult to
11:55 22 trace one from the other in the time available. I would say that
11:55 23 the Return of Funds Policy didn't kick in until 4 January, and the
11:55 24 volume of transactions we identified were really prior to, well
11:55 25 prior to that date. Whether there was returning of funds in that
11:55 26 period, I don't know. But I agree with the proposition that if they
11:55 27 had been returned then the numbers are overstated.

11:55 28

11:56 29 Q. Just looking at the summary, if we can quickly go back to
11:56 30 page 0016. I want to see if a date needs correcting.

11:56 31

11:56 32 A. Yes.

11:56 33

11:56 34 Q. If the operator could go up a bit. Do you see McGrathNicol
11:56 35 identified that that bullet point identified - and then in the
11:56 36 second sub bullet point "one instance"?

11:56 37

11:56 38 A. Yes.

11:56 39

11:56 40 Q. After the executive office memo, should that be 2020?

11:56 41

11:56 42 A. Yes, it should, thank you.

11:56 43

11:56 44 DR BUTTON: Commissioner, we will set this out more fully in
11:56 45 submissions, but if I can give you document references.

11:56 46

11:56 47 McGrathNicol has identified one instance after that memo was

11:56 1 sent, and the explanation that we will set out more fully in the
11:56 2 submissions is that the transfer was initially returned and then
11:56 3 confirmed as genuine by the patron in their own name. I will
11:56 4 give the Commission the document references:
11:57 5 CRW.512.217.0015 and CRW.512.217.0020.
11:57 6
11:57 7 Now, if we could just go to your report. Turning to your analysis,
11:57 8 I think you observed that Deloitte did some work identifying the
11:57 9 efficacy of the patron account controls including the third party
11:57 10 transfers?
11:57 11
11:57 12 A. Yes.
11:57 13
11:57 14 Q. That that work was quite labour-intensive but you didn't
11:57 15 seek to replicate the kind of intensive work they had done to
11:57 16 make - resolve any issues that - potential issues that you
11:57 17 flagged?
11:57 18
11:57 19 A. That's right, we looked at what they did and how they went
11:57 20 about it and accepted theirs.
11:57 21
11:57 22 Q. I think you say at your report in 6.3.16 that overall the new
11:57 23 policy of prohibition of third-party transfers appears to have been
11:58 24 effective?
11:58 25
11:58 26 A. Yes.
11:58 27
11:58 28 Q. And there are no instances you identified after the Return of
11:58 29 Funds Policy was implemented?
11:58 30
11:58 31 A. That's correct.
11:58 32
11:58 33 Q. Can I touch then on your observations about the Deloitte
11:58 34 review. Could the operator go to page 0015.
11:58 35
11:58 36 You see, "Deloitte review of bank accounts"?
11:58 37
11:58 38 A. Yes.
11:58 39
11:58 40 Q. Do you see the third paragraph which starts, "In our view"?
11:58 41
11:58 42 A. Yes.
11:58 43
11:58 44 Q. You say:
11:58 45
11:58 46 *In our view, it is necessary to consider the transactions in*
11:58 47 *the bank accounts and also how they are reflected, how*

11:58 1 *funds are subsequently transacted, within the DAB/SK*
11:58 2 *accounts, in order to gain a fulsome picture of what has*
11:58 3 *transpired.*

11:58 4
11:58 5 A. Yes.

11:58 6
11:58 7 Q. You go on to make reference to some further information
11:58 8 you would look at to get a full picture, and you say that that
11:59 9 additional information, you expect, "will be incorporated into
11:59 10 Deloitte's review as the work progresses".

11:59 11
11:59 12 You had a bit of a discussion with Counsel Assisting this
11:59 13 morning about that matter. I take it you are not being kept
11:59 14 informed minute by minute of what Deloitte is being asked to do
11:59 15 and what they are looking at?

11:59 16
11:59 17 A. That's correct.

11:59 18
11:59 19 Q. Excuse me one moment, I'm trying to get a document. Can
12:00 20 the operator bring up CRW.512.217.0008.

12:00 21
12:00 22 This is a sort of timing update, a timing for Deloitte's review. If
12:00 23 the operator could go through to the third page, we can see all the
12:00 24 data sources that Deloitte is going to be looking at, external bank
12:00 25 statements, SYCO system data, third-party information sources
12:00 26 and if we go down to the next 1, 2, 3, patron-related gaming and
12:00 27 wagering activity details within SYCO and the asterisk makes
12:00 28 that clear that is part of the patron DAB account activity and
12:00 29 patron-related UAR and SMR activity and other third party
12:01 30 information sources identified as relevant during the scope of
12:01 31 their work.

12:01 32
12:01 33 I just wanted to confirm with you that based on your expectations
12:01 34 you have referred to in the report, and what you can see Deloitte
12:01 35 is going to be looking at as information sources, so far as the
12:01 36 Deloitte review is working from bank accounts inwards, you don't
12:01 37 have any concerns about the ambit of the material that they are
12:01 38 examining? Let me put it to you this way, you are examining
12:01 39 everything you said they should be examining?

12:01 40
12:01 41 A. That's correct. Yes, it is necessary to examine the things
12:01 42 they now mention to reach conclusions about the bank data in
12:01 43 exactly the same way as you led me through the additional
12:01 44 information based on our analysis of the DAB information.

12:01 45
12:01 46 Q. That's right.
12:01 47

- 12:01 1 I think Ms Dobbin, Commissioner, gave some evidence even
12:01 2 back in late May about the way they were going to work from
12:02 3 bank account into the DAB data. So they weren't ignoring DAB
12:02 4 data. The exercise you were asked to do was a bit different, it
12:02 5 was starting from the DAB data as a standalone source, whereas
12:02 6 they are working their way from bank accounts but then
12:02 7 spreading out to all manner of other sources of information?
12:02 8
- 12:02 9 A. Yes. Can I just comment on that. The DAB data is
12:02 10 important because it is once it hits the DAB that it is accepted by
12:02 11 Crown as patrons' money. If it is in the bank account and goes
12:02 12 back out again and doesn't hit the DAB, for example, there may
12:02 13 be transactions of a different nature. It is a different character.
12:02 14 So I think it is important to actually go both ways.
12:02 15
- 12:02 16 Q. That's right. I think the point you've made is important for
12:02 17 another reason, and that is if anyone is trying to form conclusions
12:03 18 about whether Crown's controls have failed, they need to look not
12:03 19 only at what has gone into a bank account, but what happened
12:03 20 with it thereafter ---
12:03 21
- 12:03 22 A. Yes.
12:03 23
- 12:03 24 Q. --- including whether it shouldn't have been accepted by
12:03 25 Crown, whether it has been returned.
12:03 26
- 12:03 27 A. Yes, I agree.
12:03 28
- 12:03 29 Q. That is where both McGrathNicol and Deloitte have found
12:03 30 that the patron account controls are working?
12:03 31
- 12:03 32 A. Yes.
12:03 33
- 12:03 34 Q. You make reference in part 5.8 of your report to a series of
12:03 35 transactions on a ticket in and ticket out, and you say in
12:03 36 paragraph 5.8.5 that you requested assistance from Crown to
12:03 37 understand the transactions on 2 July but were unable to get
12:03 38 a response before filing this report. So that was Friday you ---
12:03 39
- 12:03 40 A. Yes.
12:03 41
- 12:03 42 Q. --- sort of asked Crown for help with that one and filed your
12:03 43 report on Monday.
12:03 44
- 12:04 45 A. Yes.
12:04 46
- 12:04 47 Q. And I think you made it clear to Crown a day or so ago that

12:04 1 even though you filed your report, you still would like the
12:04 2 answer.
12:04 3
12:04 4 A. Yes.
12:04 5
12:04 6 Q. Have you now got an answer from Crown?
12:04 7
12:04 8 A. I have received an answer, yes.
12:04 9
12:04 10 Q. Now, the last matter that I want to discuss with you is some
12:04 11 observations that you've made about Crown's AML program.
12:04 12
12:04 13 Could the operator bring up page 0011 of this report.
12:04 14
12:04 15 I think the first point you make there in part 4, which is headed,
12:04 16 "McGrathNicol review", is that it was not within the scope of
12:05 17 your exercise to review Crown's compliance with the *AML/CTF*
12:05 18 *Act and Rules*.
12:05 19
12:05 20 A. That's right.
12:05 21
12:05 22 Q. Had you been going to do that, you would have had to
12:05 23 undertake quite a deep review, really, of the program and ---
12:05 24
12:05 25 A. Correct.
12:05 26
12:05 27 Q. --- and a lot more ---
12:05 28
12:05 29 A. A lot more than we have done.
12:05 30
12:05 31 Q. Yes, so really what follows is just an observation that
12:05 32 McGrathNicol has made, that you just sought to make the
12:05 33 Commission aware of?
12:05 34
12:05 35 A. Yes, that's right.
12:05 36
12:05 37 Q. Just turning to that observation, you say that it is:
12:05 38
12:05 39 *..... a prerequisite for the development of a compliance*
12:05 40 *program that there be a risk assessment so the program*
12:05 41 *can meet the requirements that it be risk-based and take*
12:05 42 *into account the size, nature and complexity of the*
12:05 43 *business as required by the Act and the Rules.*
12:05 44
12:05 45 You see that bit?
12:05 46
12:05 47 A. Yes.

12:05 1
12:05 2 Q. Are you referring there to the requirements in the
12:06 3 *AML/CTF Rules*, section 9.1 of the AML Rules?
12:06 4
12:06 5 A. Yes.
12:06 6
12:06 7 Q. Is that something you looked at or did another member of
12:06 8 your team look at this particular ---
12:06 9
12:06 10 A. I looked at it and it is something I consulted with
12:06 11 Ms Waldren on.
12:06 12
12:06 13 Q. Okay. Just returning to your summary, you note - you
12:06 14 have two observations there, Mr Blackburn's FCCCP, that is his
12:06 15 change program pack you are referring to there?
12:06 16
12:06 17 A. Yes.
12:06 18
12:06 19 Q. It includes a plan to undertake an enterprise-wide risk
12:06 20 assessment to be completed by December 2021. And you noted
12:06 21 that the prevailing joint AML/CTF program does not refer to
12:06 22 an underlying risk assessment, and then there is a comment made
12:06 23 about that. There seem to be two observations; one,
12:07 24 Mr Blackburn is rolling out an interests-wide risk assessment
12:07 25 and, secondly, when you look at the program itself it doesn't refer
12:07 26 to an underlying risk assessment.
12:07 27
12:07 28 A. Yes.
12:07 29
12:07 30 Q. By, "underlying risk assessment", do you mean a risk
12:07 31 assessment of the kind that Mr Blackburn is conducting?
12:07 32
12:07 33 A. Yes.
12:07 34
12:07 35 Q. So you are not meaning to suggest that the program itself
12:07 36 does not adopt an approach which is risk-based in the sense that it
12:07 37 responds to risks and the elements that it contains are tailored to
12:07 38 the degree of risk, for example, that different patrons might
12:07 39 present?
12:07 40
12:07 41 A. Yes, but what I'm saying is that the risk assessment that it
12:07 42 relies upon is not recent, and so that it is difficult to - we didn't
12:07 43 do a full assessment of every element of the plan and whether it
12:08 44 relied on risk. It is quite apparent on its face that it does take into
12:08 45 account risks to a degree, but whether that is based on the current
12:08 46 state of both risks and controls, I would take it that it's not
12:08 47 because there is a need to do a further deep dive risk assessment

12:08 1 on AML.

12:08 2

12:08 3 Q. That is a bit of an assumption you are making there, that
12:08 4 because Mr Blackburn is rolling out a very deep and wide
12:08 5 assessment, you have reasoned backwards from that to say that
12:08 6 the risk assessment, otherwise, it is wanting?

12:08 7

12:08 8 A. Yes. I agree with that. Yes.

12:08 9

12:08 10 Q. I just want to understand ---

12:08 11

12:08 12 A. Yes, that's the process.

12:08 13

12:08 14 Q. You would accept that it is not a statutory requirement that
12:08 15 an AML program explicitly refer in its text to risk assessments?
12:08 16 That's not what the Rules require?

12:09 17

12:09 18 A. I will accept that. I'm not a lawyer so I haven't examined it
12:09 19 from that perspective although the sense of it is that it is to be
12:09 20 based on the size, complexity and the risks of that organisation,
12:09 21 and so it is necessary to have an assessment of the risks relevant
12:09 22 to the organisation to be compliant, in my view.

12:09 23

12:09 24 Q. Well, what the Rules require is that there be risk-based
12:09 25 systems and controls, it doesn't say you have to refer in the
12:09 26 document itself ---

12:09 27

12:09 28 A. Right.

12:09 29

12:09 30 Q. --- to risk assessments.

12:09 31

12:09 32 A. Okay.

12:09 33

12:09 34 Q. So do you accept that the second observation that the
12:09 35 program doesn't explicitly refer to an underlying assessment, in
12:09 36 fact does not suggest that the program for that reason is
12:09 37 non-compliant?

12:09 38

12:09 39 A. Yes, not for the lack of referral.

12:09 40

12:10 41 Q. You are aware that risk assessments have been undertaken
12:10 42 for a number of discrete and different categories of risk, and I
12:10 43 think you refer to that in your report at 0074.

12:10 44

12:10 45 You see there in the first part of the table you say that risk
12:10 46 assessments have been undertaken for discrete or different
12:10 47 categories of risk, including financial crime, but what hasn't been

12:10 1 done is an end-to-end enterprise-wide entire risk assessment of
12:10 2 financial crime.

12:10 3

12:10 4 A. That's right.

12:10 5

12:10 6 Q. But would you agree with me in that so far as

12:10 7 McGrathNicol's report in the part I just took you to has the
12:10 8 observation that suggests non-compliance with statutory rules, it

12:11 9 is really not a conclusion that you could have reached to express

12:11 10 a view that Crown's program doesn't comply with a statutory

12:11 11 measure of being risk-based? Let me put it this way: if you were

12:11 12 actually going to express a conclusion to this Commission, you

12:11 13 would have had to do a lot more work, and I think you are quite

12:11 14 clear you haven't done that work.

12:11 15

12:11 16 A. Yes, I agree with that, and I've cast it as a question for

12:11 17 consideration rather than a conclusion that it's not compliant.

12:11 18

12:11 19 Q. You are referring there to say, "we question whether it is

12:11 20 compliant"?

12:11 21

12:11 22 A. Yes.

12:11 23

12:11 24 Q. You are not seeking to suggest to the Commissioner that

12:11 25 the answer is one way or the other?

12:11 26

12:11 27 A. That's correct.

12:11 28

12:11 29 Q. You've reviewed, I assume, Mr Blackburn's program, or his

12:11 30 change program pack fairly closely?

12:11 31

12:11 32 A. Yes.

12:11 33

12:11 34 Q. You are aware that he situated Crown on an arc that

12:12 35 includes initial, foundational and then industrialised, advanced

12:12 36 and optimal?

12:12 37

12:12 38 A. Yes.

12:12 39

12:12 40 Q. Optimal, which seems perhaps not always to be optimal,

12:12 41 but we'll leave that. He positioned Crown at somewhat above

12:12 42 foundational.

12:12 43

12:12 44 A. Yes.

12:12 45

12:12 46 Q. Do you recall that one of the attributes that Mr Blackburn

12:12 47 ascribed to a foundational grading, as it were, was a compliant

12:12 1 AML/CTF program?
12:12 2
12:12 3 A. Yes.
12:12 4
12:12 5 Q. So you are not seeking to cavil with Mr Blackburn's
12:12 6 assessment of where Crown stood on that arc or the contents of
12:12 7 that arc?
12:12 8
12:12 9 A. No, no, not in any significant way. They are quite - the
12:12 10 differentiation between initial, foundational, is not hard and
12:12 11 closed. It is an arc, not a tick box of criteria, not criteria, and
12:12 12 there are certainly elements which are in different places on that
12:13 13 arc, so it is a summation of a range of views. So yes, I wouldn't
12:13 14 quibble with Mr Blackburn's assessment.
12:13 15
12:13 16 Q. You've reviewed the program, I assume?
12:13 17
12:13 18 A. Yes.
12:13 19
12:13 20 Q. And would you agree that it does adopt risk-based systems
12:13 21 and controls, albeit that Mr Blackburn's plan involves
12:13 22 an end-to-end drains up risk assessment which will be fed back
12:13 23 into improvements throughout the AML suite, including the
12:13 24 program?
12:13 25
12:13 26 A. Yes, you would expect that.
12:13 27
12:13 28 Q. Okay. I asked you a rather long question, but just to be
12:13 29 sure we are on the same page, you agree that the existing program
12:13 30 does adopt a risk-based system and controls, albeit that the
12:13 31 future is expected to see the extent to which that is done
12:13 32 improved?
12:13 33
12:14 34 A. Yes.
12:14 35
12:14 36 DR BUTTON: Thank you, Ms McKern. Nothing further.
12:14 37
12:14 38 If the Commission might note, I'm six minutes below my
12:14 39 allotment.
12:14 40
12:14 41 COMMISSIONER: Thank you, Ms Button, that's very
12:14 42 considerate of you.
12:14 43
12:14 44 MR GRAY: I have no questions.
12:14 45
12:14 46 COMMISSIONER: Thank you, Mr Gray.
12:14 47

12:14 1
12:14 2 **FURTHER EXAMINATION BY MS O'SULLIVAN**
12:14 3
12:14 4
12:14 5 MS O'SULLIVAN: Just a couple of questions, thank you,
12:14 6 Commissioner.
12:14 7
12:14 8 Ms McKern, you were asked a couple of questions by counsel of
12:14 9 Crown in respect of the TTR transactions you identified in your
12:14 10 report.
12:14 11
12:14 12 A. Yes.
12:14 13
12:14 14 Q. Just so you know what I'm talking about, I will get that
12:14 15 brought up.
12:14 16
12:14 17 This is the page ending 0047, please operator?
12:14 18
12:14 19 You say at the bottom that you requested assistance from Crown
12:14 20 to understand the transactions on 2 July. You were unable to get
12:15 21 a response before finalising the report and the evidence you gave
12:15 22 just earlier was that you subsequently corresponded with Crown
12:15 23 and said that you were still interested to know the answer and I
24 think my learned friend asked you if you got the answer and you
25 said, "yes". Can you tell us what was the answer?
26
27 A. The answer was, I don't recall it all to mind. I think it falls
28 in the category of it was an answer that said there was no control
29 failure exercised - apparent in this. In my view I don't have
30 enough information to perform an assessment of the response I
31 got.
32
33 Q. If we can just go to the page ending 0015, please, operator.
34 I'm interested in item 4, please. This is the structuring on the
35 DAB and safekeeping account.
36
37 A. Yes.
38
39 Q. And obviously right in the middle of the box there you've
40 identified that the McGrathNicol analysis found that there were
41 1,914 individual transactions concerning 272 unique patrons
42 which met the criteria we were talking about earlier?
43
44 A. For the 72-hour window, yes.
45
46 Q. Yes, within the 72-hour window. And you were taken to
47 I think there were three examples selected out of your data set.

1

2 A. Yes.

3

4 Q. And you were asked to assume that a number of facts about
5 the gaming activities of those particular patrons and matters such
6 as previous gaming activity where they had made cash deposits to
7 generate as TTRs.

8

12:16 9 A. Yes, I remember.

12:16 10

12:16 11 Q. You recall the entire discussion?

12:16 12

12:16 13 A. Yes.

12:16 14

12:16 15 Q. And in response to those three examples, you agree that if
12:16 16 all of those matters were correct, that the transactional activity
12:17 17 that was identified by McGrathNicol for those particular patron
12:17 18 wasn't suspicious?

12:17 19

12:17 20 A. Was not unusual.

12:17 21

12:17 22 Q. Yes, sorry, was not unusual.

12:17 23

12:17 24 A. Yes.

12:17 25

12:17 26 Q. It is the case, is it not, that that entire discussion says
12:17 27 nothing about the remaining transactions that you had identified
12:17 28 here as responding to the criteria which you had used to pick up
12:17 29 what might be indications of structuring?

12:17 30

12:17 31 A. That's correct. You would need to look at each
12:17 32 individually.

12:17 33

12:17 34 Q. Yes. And is it the case that your view is that as soon as it is
12:17 35 picked up according to this criteria, that it is worthy of further
12:17 36 investigation and should be further investigated?

12:17 37

12:17 38 A. It is my view that there could be a more sophisticated
12:17 39 triggering. So - and as we talked about that temporal issue,
12:18 40 things that were transacted within an hour would be quite
12:18 41 different than if they were transacted over the full three days, for
12:18 42 example. But, yes, I think they should be identified through
12:18 43 a system such as Sentinel and then subject to some review of the
12:18 44 context of that, particularly gaming.

12:18 45

12:18 46 Q. Is it your understanding that one of the possible outcomes
12:18 47 of such a review is that the - in some instances a further review

12:18 1 might indicate it is legitimate gaming activity and in other
12:18 2 instances the suspicion continues to grow in weight, that there are
12:18 3 two possible outcomes?

12:18 4
12:18 5 A. That is right, too.

12:18 6
12:18 7 Q. In respect of the latter where the suspicion continues to
12:18 8 grow in weight, is it your view that ultimately a review should be
12:19 9 conducted as to whether or not that patron should be allowed to
12:19 10 continue to be customer of the casino?

12:19 11
12:19 12 A. Yes. If that dot gets joined with a whole range of others
12:19 13 yes, I would agree, yes.

12:19 14
12:19 15 Q. Would it be fair to characterise what is being done here,
12:19 16 insofar as you've applied the structuring criteria, being two or
12:19 17 more cash deposits within a 72-hour period, that that is a stage 1
12:19 18 analysis and that that's - sorry, that that is a stage 1 analysis, you
12:19 19 agree with that?

12:19 20
12:19 21 A. Yes.

12:19 22
12:19 23 Q. Is it your understanding that in terms of what Deloitte are
12:19 24 doing in their phase 2 forensic review, they are doing something
12:19 25 similar on the bank accounts but they are not doing this analysis
12:19 26 on the DAB accounts?

12:19 27
12:19 28 A. That's my understanding.

12:19 29
12:19 30 MS O'SULLIVAN: Yes, thank you.

12:19 31
12:20 32 I don't have any further questions.

12:20 33
12:20 34

12:20 35 **QUESTIONS BY THE COMMISSIONER**

12:20 36
12:20 37

12:20 38 COMMISSIONER: Thank you. I just have one, really. I'm
12:20 39 trying to work out how you beat the system. If I didn't want to
12:20 40 excite any suspicion but I had, say, \$1.5 million that I wanted to
12:20 41 clean up, do you think I would be better off putting \$1.5 million
12:20 42 in, say in one go, so it attracts attention, gets a report because it is
12:20 43 above \$10,000, and then me and my co-bank robber go to the
12:20 44 gaming tables and he bets red, I bet black, 50/50, we turn over the
12:20 45 money for hours or days and just pay every time it is 0 or 00, we
12:20 46 pay a fee, the casino, cash out and go home? So we would look
12:20 47 like we are open, we gamble a lot, but we only lose 1/36th or

12:21 1 something, whatever you would lose. It's a small proportion,
12:21 2 a fee for providing a service. They are providing a service, I pay
12:21 3 a fee for the service, I don't know why people want to structure.
12:21 4 They would be better off doing it out in the open and attracting
12:21 5 less suspicion. Would that work, do you think?
12:21 6
12:21 7 A. Well, from the discussions with employees I don't think that
12:21 8 would work. They are very alert to the opposite side bettings --
12:21 9
12:21 10 COMMISSIONER: Okay.
12:21 11
12:21 12 A. --- yes, I think so, and much depends on whether one TTR
12:21 13 attracts more suspicion than lots of under transactions. But yes
12:21 14 ---
12:21 15
12:21 16 COMMISSIONER: It occurred to me, looking at the way the
12:21 17 documents went and what you look for and what you don't look
12:21 18 for, the more open you are, the better off you are getting away
12:21 19 with it.
12:21 20
12:22 21 A. Possibly, but, yes, on that criteria I think there is a range of
12:22 22 other controls on the floor that would identify you as doing
12:22 23 something unusual.
12:22 24
12:22 25 COMMISSIONER: Okay.
12:22 26
12:22 27 MS O'SULLIVAN: Just one administrative matter, in terms of
12:22 28 the matters that were put to Ms McKern by counsel for Crown,
12:22 29 a lot of it really does take the form of ---
12:22 30
12:22 31 COMMISSIONER: Not-yet-tendered evidence.
12:22 32
12:22 33 MS O'SULLIVAN: Well, certainly it hasn't been tendered and
12:22 34 does take the form of evidence. I do appreciate what might be
12:22 35 the submission, which is that in a number of instances the
12:22 36 documentary record might be able to be identified as
12:22 37 substantiated, but I did notice as it was going through that there
12:22 38 were matters contained in ---
12:22 39
12:22 40 COMMISSIONER: There was commentary.
12:22 41
12:22 42 MS O'SULLIVAN: Yes, there was commentary and opinion, and
12:22 43 there were assertions of fact that weren't referenced or footnoted
12:22 44 by reference to documents. In all fairness to my learned friends,
12:22 45 I should flag, although I will give some thought to it, that it is
12:23 46 likely that that will be a submission, that - unless that can be
12:23 47 tendered in the form of evidence and we can figure out who has

12:23 1 done the analysis, whose opinions and assertions they are, but it is
12:23 2 likely we will be submitting very little weight can be attributed to
12:23 3 the evidence on the basis of the assumption that all those matters
12:23 4 are true and correct.

12:23 5
12:23 6 DR BUTTON: Can I respond to that, Commissioner? I'm quite
12:23 7 content for the summary pages to be treated as a submission, but I
12:23 8 would tender, and I had assumed, based on the way we were
12:23 9 working, that documents referred to were tendered rather than
12:23 10 exhibit numbers for everything ---

12:23 11
12:23 12 COMMISSIONER: I don't have a problem.

12:23 13
12:23 14 DR BUTTON: --- that the records that substantiate them were
12:23 15 tendered ---

12:23 16
12:23 17 COMMISSIONER: I think Ms O'Sullivan was talking about
12:23 18 some commentary which is true commentary which is probably
12:23 19 not based on the records.

12:23 20
12:23 21 DR BUTTON: Yes, there were opinions, I don't cavil with that at
12:23 22 all, that's why I said I am quite content for those summaries to be
12:23 23 treated as submissions or aide memoires and the "evidence" is the
12:24 24 records that sit behind them.

12:24 25
12:24 26 COMMISSIONER: Okay.

12:24 27
12:24 28 DR BUTTON: Thank you.

12:24 29
12:24 30 COMMISSIONER: Thanks. I think Ms Arzadon is going to
12:24 31 come at 1.

12:24 32
12:24 33 MS O'SULLIVAN: Yes.

12:24 34
12:24 35 COMMISSIONER: Okay, we'll adjourn until 1.

12:24 36
12:24 37

12:24 38 **ADJOURNED** [12.24PM]

12:33 39
13:02 40

13:02 41 **RESUMED** [1.02 PM]

13:02 42
13:02 43

13:02 44 COMMISSIONER: Thank you, everyone. Sit down, please.

13:02 45
13:02 46

13:02 47 MS NESKOVICIN: Thank you, Commissioner. The next witness
is Ms Elizabeth Arzadon.

13:02 1
13:02 2 Ms Arzadon, can you hear us?
13:02 3
13:02 4 WITNESS: Yes, I can.
13:02 5
13:02 6 MS NESKOVCIN: You will now be sworn or take
13:02 7 an affirmation.
13:02 8
13:02 9
13:02 10 **MS ELIZABETH HOLLY MORRIS, AFFIRMED**
13:02 11
13:02 12
13:02 13 **EXAMINATION-IN-CHIEF BY MS NESKOVCIN**
13:03 14
13:03 15
13:03 16 MS NESKOVCIN: Would you please state your full name?
13:03 17
13:03 18 A. Elizabeth Holly Morris.
13:03 19
13:03 20 Q. Your business address?
13:03 21
13:03 22 A. Level 13, 111 Elizabeth Street, Sydney, NSW 2000.
13:03 23
13:03 24 Q. And your occupation?
13:03 25
13:03 26 A. I'm a psychologist.
13:03 27
13:03 28 Q. Your legal name is Elizabeth Morris, but I understand your
13:03 29 married name is Arzadon and that is the name you go by
13:03 30 professionally?
13:03 31
13:03 32 A. That's correct.
13:03 33
13:03 34 Q. You have prepared a report for the Commission entitled,
13:03 35 "Cultural change at Crown Melbourne", and for the transcript, the
13:03 36 document is COM.0007.0001.0178. Do you have a copy of the
13:03 37 report with you?
13:03 38
13:03 39 A. I do, yes, in front of me.
13:03 40
13:03 41 Q. It contains your opinion on the matters on which you have
13:03 42 been asked to provide an opinion, does it?
13:03 43
13:03 44 A. Yes, it does.
13:03 45
13:03 46 Q. Ms Arzadon, you hold a Master of Psychology and
13:04 47 Bachelor of Science with Honours in Psychology; is that correct?

13:04 1
13:04 2 A. That is correct.
13:04 3
13:04 4 Q. You have 20 years' experience as a strategy and
13:04 5 independent advisor diagnosing culture and designing change
13:04 6 programs for organisations?
13:04 7
13:04 8 A. Yes, that's correct.
13:04 9
13:04 10 Q. Across what range of industries might that be?
13:04 11
13:04 12 A. I would say the last 10 years the major majority of my work
13:04 13 has been in the financial sector, mostly in banking. I've done
13:04 14 a few culture reviews outside of that sector, but the majority is in
13:04 15 the financial sector. Before 2010 I was in a more general strategy
13:04 16 consulting role, still looking at culture, and in those reviews I did
13:04 17 look at organisations across a whole range of sectors, mining and
13:04 18 airlines. One thing I will just add is that even in the last couple of
13:04 19 years I did have a look at culture within boards and executive
13:04 20 teams, and that was across a range of sectors as well.
13:04 21
13:05 22 Q. Thank you. In 2015 to 2016 you were a special advisor for
13:05 23 APRA and assisted APRA's behavioural sciences unit to develop
13:05 24 their approach in evaluating risk culture in banks, pension funds
13:05 25 and insurances in Australia; is that correct?
13:05 26
13:05 27 A. That is correct.
13:05 28
13:05 29 Q. You also assisted APRA between August 2017 and April
13:05 30 2018 as part of the inquiry team appointed to carry out
13:05 31 a Prudential Inquiry into Commonwealth Bank; is that correct?
13:05 32
13:05 33 A. In that's correct.
13:05 34
13:05 35 Q. You led the workstream that prepared the leadership and
13:05 36 culture section of the report; is that correct?
13:05 37
13:05 38 A. Yes, that's correct.
13:05 39
13:05 40 Q. In late 2018 ASIC formed a corporate governance task
13:05 41 force to examine governance practices of large listed entities in
13:05 42 Australia, and you were commissioned to provide expert advice
13:05 43 on the way mindsets and behaviour within boards influence their
13:05 44 effectiveness; is that correct?
13:06 45
13:06 46 A. In yes, that's correct.
13:06 47

- 13:06 1 Q. I understand in the course of that work you undertook
13:06 2 an independent review of behavioural norms exhibited by boards
13:06 3 which involved interviewing directors and officers of a number
13:06 4 organisations across different industries; is that right?
13:06 5
- 13:06 6 A. Yes, that's right.
13:06 7
- 13:06 8 Q. You ultimately contributed to the report that was published
13:06 9 by ASIC on - or by the corporate governance task force entitled,
13:06 10 "Director and officer oversight and non-financial risk reporting",
13:06 11 is that right?
13:06 12
- 13:06 13 A. Yes, that's right.
13:06 14
- 13:06 15 Q. You've acted as a consultant to major banks and financial
13:06 16 institutions on the issue of risk culture; is that correct?
13:06 17
- 13:06 18 A. Yes, that's correct.
13:06 19
- 13:06 20 Q. You've also co-authored two publications, both published
13:06 21 this year, "Auditing risk culture: A practical guide" for the
13:06 22 Institute of Internal Audit and "Cultural audit in financial
13:06 23 services", is that right?
13:06 24
- 13:06 25 A. Yes, that's right.
13:06 26
- 13:07 27 Q. Turning to your report, Ms Arzadon, you say in paragraph
13:07 28 2.3 that you do not have experience in the casino sector, however
13:07 29 you consider that there are reasonable parallels that exists
13:07 30 between the risks in financial services institutions on the one
13:07 31 hand and casinos on the other, including the regulatory context.
13:07 32 What do you consider the parallels to be?
13:07 33
- 13:07 34 A. I think there are several parallels, actually, between the
13:07 35 casino sector and the financial sector. Maybe I will highlight
13:07 36 three.
13:07 37
- 13:07 38 The first would be the regulatory environment, so from a cultural
13:07 39 perspective, when an industry is a regulated industry, there is
13:07 40 an external party, the regulator, that generally has an influence
13:07 41 over the behavioural norms that exist within the institutions
13:07 42 within that sector. So that is the similarity between the financial
13:07 43 sector and casinos.
13:07 44
- 13:07 45 The second similarity I think would be the financial crime risk
13:07 46 that both sectors face, and I think this is a particularly interesting
13:08 47 parallel for Crown or the casino industry and banks, because

13:08 1 financial crime is not something that is a direct risk to the
13:08 2 revenue generation of the entity, but it is an obligation that they
13:08 3 need to manage financial risk due to their social licence.

13:08 4
13:08 5 And then the third parallel that I would highlight relates to the
13:08 6 work force. So banks are usually large organisations, ones that
13:08 7 I've dealt with are large institutions. They have a large frontline
13:08 8 work force which is somewhat distant from the senior leadership
13:08 9 team and usually dispersed over lots of locations geographically.
13:08 10 I think there are some similarities in terms of the casinos as well,
13:08 11 that they also have a large frontline work force, and that can
13:08 12 create some challenges when it comes to culture because
13:08 13 subcultures can develop in organisations like that. So I think
13:09 14 there are similarities there.

13:09 15
13:09 16 Q. Do you believe those parallels provide you with the
13:09 17 relevant expertise to be able to provide an opinion in relation to
13:09 18 the matters in your report regarding Crown Casino?

13:09 19
13:09 20 A. Yes, I think those similarities are helpful, and I might just
13:09 21 add that in particular over the last, well, maybe since the Royal
13:09 22 Commission into the financial services sector in Australia, many
13:09 23 financial institutions have been faced with cultural challenges
13:09 24 that they have to address and they have to address them in
13:09 25 a context in which they've been required to address them. So
13:09 26 I think this is another similarity with the current organisation that
13:09 27 we are looking at, Crown, because it is also an institution that is
13:09 28 being required to address its culture, so in that particular context I
13:09 29 think it is helpful to understand the background too.

13:09 30
13:09 31 Q. Thank you. You've been provided with a set of materials
13:10 32 listed in annexure 1 of your report, is that right?

13:10 33
13:10 34 A. That's correct.

13:10 35
13:10 36 Q. You haven't been asked to undertake a cultural review of
13:10 37 Crown and you have not done that, have you?

13:10 38
13:10 39 A. No, I wouldn't say I have done a culture review.

13:10 40
13:10 41 Q. Ordinarily a culture review would require you to look at
13:10 42 a much broader range of documents and speak to key
13:10 43 stakeholders and the like; is that right?

13:10 44
13:10 45 A. Yes, definitely.

13:10 46
13:10 47 Q. Based on the materials provided to you and the questions

13:10 1 you've been asked to opine upon, do you believe you have had
13:10 2 sufficient material in order to do that?
13:10 3
13:10 4 A. Yes, I think the scope of what I was asked to give
13:10 5 comments on, the background information that I had was very ---
13:10 6 a very good basis for drawing those conclusions.
13:10 7
13:10 8 Q. No doubt you've also relied upon your experience.
13:10 9
13:10 10 A. (Nods head).
13:10 11
13:10 12 Q. How do you believe your experience assists you in
13:10 13 providing a report, an opinion, in relation to the matters on which
13:10 14 you've been asked to provide an opinion?
13:10 15
13:10 16 A. I think there are a couple of things that are particularly
13:10 17 relevant. The dynamic between regulators and institutions is,
13:11 18 I think, a particular area that I have had a lot of experience in, and
13:11 19 so I think that is something I've drawn on my experience on in
13:11 20 relation to this context.
13:11 21
13:11 22 I think understanding how to diagnose culture, and then
13:11 23 identifying root causes and therefore using those to form the basis
13:11 24 for cultural change is another area that I've really got quite a lot
13:11 25 of experience on, and I think I've drawn on that in relation to the
13:11 26 report.
13:11 27
13:11 28 Finally, the effect of culture on conduct is also something that is
13:11 29 a strong feature in the work I've done previously
13:11 30 and drawn on heavily.
13:11 31
13:11 32 Q. Thank you. In your instructions you've been asked to have
13:11 33 regard to the material that has been provided to you to give
13:11 34 an opinion on Crown's relationship with the regulator and what
13:11 35 that suggests from a culture perspective, and to provide
13:11 36 an opinion on what sort of relationship you would expect
13:12 37 an organisation such as Crown to have with the regulator. You
13:12 38 note in your report that the supervisory model chosen by the State
13:12 39 Government and employed by the VCGLR is a risk-based model.
13:12 40 Can you explain to the Commission what you mean by a
13:12 41 risk-based model?
13:12 42
13:12 43 A. Risk-based models are utilised in a few different contexts,
13:12 44 risk and audit, assurance and regulators. In a regulatory context
13:12 45 a risk-based supervision model is one where the regulator
13:12 46 determines what the most material risks are from all the different
13:12 47 risks that the entity needs to manage, they determine which one is

13:12 1 the most material or significant, and then focuses their
13:12 2 supervision activities on those highest risk areas.

13:12 3

13:12 4 One of the implications of that is that they have to rely on the
13:12 5 entity's controls around the other risks that they are not directly
13:12 6 supervising, but they take this approach, or one of the reasons
13:13 7 why a supervisor would take the approach is to manage the
13:13 8 tension between finite resources and their responsibilities for
13:13 9 oversight or supervision.

13:13 10

13:13 11 Q. You say in your view that the risk-based model has cultural
13:13 12 implications and creates requirements for the dynamic between
13:13 13 supervisors and institutions, meaning the regulatory authority and
13:13 14 the casino on the other hand; is that correct?

13:13 15

13:13 16 A. Yes. Yes, I think it definitely has implications.

13:13 17

13:13 18 Q. You say that the implication is risk-based regulators rely
13:13 19 heavily on a culture of transparency and collaboration; is that
13:13 20 right?

13:13 21

13:13 22 A. Yes.

13:13 23

13:13 24 Q. That outcome of transparency and collaboration, I
13:13 25 understand, you say is more likely if the dynamic between the
13:13 26 institution regulator is based on three mutually reinforcing
13:14 27 characteristics: alignment of purpose, substantiated trust and
13:14 28 two-way respect; is that right?

13:14 29

13:14 30 A. Yes, that's correct.

13:14 31

13:14 32 Q. And you regard alignment of purpose as the most critical
13:14 33 element; is that right?

13:14 34

13:14 35 A. Yes, I think it is the most critical element because
13:14 36 alignment of purpose could be healthy alignment or unhealthy
13:14 37 alignment. It is healthy if the alignment of purpose is around
13:14 38 ensuring that the key stakeholder interests are taken into account
13:14 39 in terms of the activities of an institution, but if it was excluding
13:14 40 some of those key interests, for example, that would be quite
13:14 41 problematic. So I think it is very important to make sure that
13:14 42 both the regulator and the entity have a clear view of what the
13:14 43 goals of the sector are.

13:14 44

13:14 45 Q. You then give some insight based on materials provided to
13:14 46 you based on the cultural norms and the regulator with the casino
13:14 47 at present and historically in order to understand what the

13:15 1 relationship tells you now from a culture perspective, and I was
13:15 2 wondering if you could assist us with this aspect of your report.
13:15 3 As I understand it on page 8, you were looking there - 0185,
13:15 4 operator - you are looking there at the behavioural norms that
13:15 5 characterise the current dynamic between Crown and the
13:15 6 VCGLR; do you see that, Ms Arzadon?

13:15 7

13:15 8 A. Yes, yes.

13:15 9

13:15 10 Q. And over the page you talk about the behavioural norms
13:15 11 characterising the historical dynamic between Crown and the
13:15 12 VCGLR, and you mention the three dimensions aligned purpose,
13:15 13 trust and respect, and based on the illustrations you've given,
13:15 14 you've described the impact as a more relaxed dynamic
13:15 15 characterised by a restricted scope by the VCGLR as the basis for
13:15 16 alignment on purpose, trust and mutual respect. Could you
13:16 17 please assist us by explaining what you mean a more relaxed
13:16 18 dynamic characterised by a restricted degree of scope?

13:16 19

13:16 20 A. Well, one way in which there can be a more comfortable
13:16 21 relaxed dynamic is there is a more narrow scope for the regulator,
13:16 22 and the reason why this is helpful from a trust and respect
13:16 23 perspective is because it allows the entity to have more
13:16 24 confidence that they understand, they know what to expect in
13:16 25 terms of the regulator's oversight or intrusion on their activities so
13:16 26 they can have more confidence in the relationship. And
13:16 27 especially if the scope is based on some mutual interests then that
13:16 28 would give the institution further reason to have confidence that
13:16 29 they, both parties would act in alignment with expectations. And
13:17 30 I would even say that over time, this can help the respect
13:17 31 component as well because if a supervisor is really just
13:17 32 continuing to supervise a more restricted scope of activities they
13:17 33 would naturally develop some good skills in doing that. So there
13:17 34 is probably a good basis for the institution to have respect for
13:17 35 their oversight.

13:17 36

13:17 37 So it can be, on the surface I suppose, it's not always a healthy
13:17 38 thing, but it can be a good basis for having quite clearly defined
13:17 39 boundaries and, therefore, trust and respect and aligned purpose.

13:17 40

13:17 41 Q. But what does it mean for a more narrow scope for the
13:17 42 regulator?

13:17 43

13:17 44 A. Well, from the regulator's perspective, look, it does help
13:17 45 them to manage their resources. And I think that is probably
13:17 46 where the common interest lies. So from the regulator's
13:18 47 perspective they have finite resources and so, therefore, there is

13:18 1 an interest in trying to keep the scope of activities more narrow
13:18 2 so that they can do what they need to do with the resources
13:18 3 they've got, and from the entity's perspective, of course it is
13:18 4 helpful for them because they know that they are not going to
13:18 5 have intrusions in activities they may not want to have intrusion
13:18 6 in.

13:18 7
13:18 8 One thing, of course, is that a more narrowed scope from the
13:18 9 regulator's perspective means they may be overlooking things that
13:18 10 could be material risks. And one thing that I'm not sure we've
13:18 11 covered, and we may cover it later, but the importance of
13:18 12 transparency is so that the regulator has an accurate view of what
13:18 13 the material risks are so that in their narrowed scope they are
13:18 14 focusing on the highest risk areas. So that is where the
13:18 15 importance of transparency comes in.

13:18 16
13:18 17 Q. I see. Thank you. Moving on to the later part of your
13:19 18 report, you've been asked to provide an opinion on how culture
13:19 19 can be changed and what analysis, deep dives and structural
13:19 20 changes are necessary or desirable. As I understand it, you
13:19 21 broadly identify, and this is broadly, a leadership and broader
13:19 22 change aspect, formal and informal leavers and short and longer
13:19 23 term actions. What I'm interested in are some of the constructive
13:19 24 examples you've given about how to effect cultural change.
13:19 25 You've mentioned things like communicating personal benefits of
13:19 26 change which you describe as including vision workshops and
13:19 27 focus groups and objection clinics and role modelling, and you
13:19 28 mention holding up the mirror workshops and finding
13:19 29 opportunities for symbolic changes and skill building.

13:19 30
13:19 31 Now, these are things that us lawyers don't come across in our
13:20 32 day-to-day lives and I'm interested in your views as to whether or
13:20 33 not they are things that lay people, or people not trained in
13:20 34 cultural change, are able to do by themselves, or whether you
13:20 35 think that external assistance training or coaching, something like
13:20 36 that is required.

13:20 37
13:20 38 A. I would say that there is often some common sense in
13:20 39 change programs and in cultural change programs. But the
13:20 40 nuance around how components of a change program are
13:20 41 designed, and the significance of certain components, and even
13:20 42 how they are actually executed may not be something that a lay
13:20 43 person would necessarily appreciate and, therefore, the effect,
13:20 44 they may not get the same effect. Maybe if I give you
13:20 45 an example to illustrate that.

13:20 46
13:20 47 I think most lay people understand communications is

13:20 1 an important part of a culture change program, but a lay person
13:21 2 might think that communications should be telling staff what is
13:21 3 expected of the new behaviour. So, for example, we expect
13:21 4 a higher level of compliance. Now, in actual fact, the way that
13:21 5 cultural change is more effective, rather than telling staff what the
13:21 6 expectation is, is to engage them to understand what might be
13:21 7 a barrier from their reality, from their perspective to engaging in
13:21 8 better compliance.

13:21 9

13:21 10 I think you gave an example of objection clinics. An objection
13:21 11 clinic is something where you go to a particular subgroup, maybe
13:21 12 a frontline group of people, and you try to elicit or surface what
13:21 13 could be a barrier from their point of view. The reason why that
13:21 14 is important is that leadership reality and frontline reality are very
13:21 15 different. And a leader might think that they should tell staff, "this
13:21 16 is what you should be doing", they might actually not even realise
13:21 17 some of the barriers that are - that could impede that
13:21 18 behavioural change.

13:21 19

13:21 20 So that's why I think, whilst communications in general is
13:22 21 something that a lay person would understand, the actual nuances
13:22 22 of what is actually required to improve in communications and
13:22 23 how you do that, how do you create communications that
13:22 24 resonate and drive change, that is something I think probably
13:22 25 requires some expertise.

13:22 26

13:22 27 MS NESKOVCIN: Thank you. And you are familiar with the
13:22 28 Deloitte cultural review, aren't you, Ms Arzadon?

13:22 29

13:22 30 A. Yes, I am.

13:22 31

13:22 32 Q. You are familiar with the fact that it is being rolled out in
13:22 33 four phases?

13:22 34

13:22 35 A. Yes, I'm aware of that.

13:22 36

13:22 37 Q. The fourth phase is the roadmap phase. Do you envisage
13:22 38 that the things that we just discussed, these practical things,
13:22 39 workshops and training, will be part of phase four or after phase four
oryou are not able to say?

13:22 41

13:22 42 A. I don't know that it will definitely happen, but ordinarily it
13:22 43 would come after phase four. Phase four is, to my understanding,
13:22 44 defining the target state. That has to happen first before you can
13:23 45 analyse the gap between the current state and the target state.

13:23 46 After you have done that then you need to start engaging some of
13:23 47 these activities around understanding what the barriers are and so

13:23 1 forth. So I think there is quite a bit of time before you get to that
13:23 2 point.

13:23 3

13:23 4 Q. In information you've seen, is there anything to indicate that
13:23 5 those sorts of things are intended to be implemented or are in the
13:23 6 planning phase?

13:23 7

13:23 8 A. Well, there is a diagnosis of the current state. So that is
13:23 9 a good starting point. I haven't seen - I've seen many actions
13:23 10 around, say, communication and that sort of thing, but I haven't
13:23 11 heard very much yet in terms of a material review that would
13:23 12 suggest there are detailed discussions around the barriers to
13:23 13 change. That's not something I've come across.

13:23 14

13:23 15 Q. Thank you. Finally, you say that ultimately Crown can
13:24 16 change. What, in your opinion, is a necessary condition, if
13:24 17 anything, to ensure culture change is self-sustaining for Crown?

13:24 18

13:24 19 A. I do agree that change is possible, but having observed
13:24 20 a number of attempted culture changes in large organisations,
13:24 21 there is a common pitfall that I think would be a necessary
13:24 22 condition for change in this case, and that is that there needs to be
13:24 23 some kind of reconciliation between the primary profit motive of
13:24 24 any listed company, and the conduct and compliance obligations.
13:24 25 And when I say there has to be reconciliation, I don't mean
13:24 26 adding compliance to their profit motive, because if you try to
13:24 27 just add compliance on top of other revenue-generating purposes,
13:24 28 then actually what happens is you force a trade-off because
13:25 29 people have finite time and resources and focus and if they are
13:25 30 making a choice, what humans tend to do is pursue activities that
13:25 31 reward them.

13:25 32

13:25 33 At the moment, Crown is in a fairly favourable position in this
13:25 34 regard because there are benefits for engaging in good conduct,
13:25 35 and arguably you could say there are some restrictions on the
13:25 36 opportunities for the profit generation side of things. So they are
13:25 37 actually in a good position right now. But in the future, say about
13:25 38 three or five years, the conditions will change, and this is what
13:25 39 happens often with organisations that are placed into mandated
13:25 40 culture change, that later on down the road when things go back
13:25 41 to normal, then the usual pattern, which is that revenue
13:25 42 generation is rewarded and compliance is less naturally rewarded,
13:25 43 that's when you have prioritisation of revenue over compliance
13:25 44 and conduct.

13:25 45

13:25 46 So the solution, to come back to the starting point of what I was
13:25 47 just saying, is that I think the only way you can reconcile that is

13:26 1 to bring together the purpose of compliance and conduct with
 13:26 2 revenue generation. If they are one goal together, then that
 13:26 3 should form the basis for all the systems that reinforce behaviour.

13:26 4
 13:26 5 Q. Thank you. Have you seen any evidence, in the materials
 13:26 6 that you've been provided with, that that step has been taken or is
 13:26 7 contemplated?

13:26 8
 13:26 9 A. I haven't seen evidence of the integration of conduct and
 13:26 10 compliance into revenue generation. I've only seen reinforcement
 13:26 11 of the need to be compliant but that, as I said, is different to
 13:26 12 integrating it with their revenue generating purpose.

13:26 13
 13:26 14 MS NESKOVICIN: I see. Thank you, Ms Arzadon. That's all I
 13:26 15 wanted to raise with you, and I still have 15 minutes on the clock,
 13:26 16 so I'm transferring my 15 minutes to you, Commissioner, for ---

13:26 17
 13:26 18 COMMISSIONER: If I were you, I would take the opportunity
 13:27 19 to sell some of the time!

13:27 20
 13:27 21 MS NESKOVICIN: Ms Arzadon, you will now be asked some
 13:27 22 questions by other people in the room, thank you.

13:27 23
 13:27 24

13:27 25 **QUESTIONS BY THE COMMISSIONER**

13:27 26
 13:27 27

13:27 28 COMMISSIONER: Starting off with me. This might be a very
 13:27 29 simplistic view of the world, but let's say I have a large
 13:27 30 organisation, hypothetical company A, that for a long period of
 13:27 31 time has been driven by profit motive leading to the corporation
 13:27 32 or the staff of the corporation engaging in various bad behaviour,
 13:27 33 starting with staff in the broad middle management and people
 13:27 34 way down the line. And largely because that kind of behaviour
 13:27 35 was not frowned upon and became ingrained. It was, if you like,
 13:27 36 part of the culture.

13:27 37
 13:27 38 But, let's say, a new person comes in. The company is taken over
 13:28 39 on the Stock Exchange by another group, and what the new group
 13:28 40 does is it changes the leadership in the sense of putting in a new
 13:28 41 board, brings in a whole lot of reliable straight-shooting, honest
 13:28 42 people who are really skilled at their tasks, makes some changes
 13:28 43 at middle management as well and then the new team, the new
 13:28 44 directors, the new senior managers and middle managers make it
 13:28 45 abundantly clear to everybody else in the organisation, the
 13:28 46 hundreds of them or thousands of them, however many of them
 13:28 47 there may be, that the old ways are gone, these are the new ways

13:28 1 - and this is like me talking to my kids - unacceptable conduct
13:29 2 will be punished. If there is any deviation from the norm, there
13:29 3 will be a consequence.
13:29 4
13:29 5 Isn't that a really efficient way, I don't mean efficient, I mean
13:29 6 effective way of bringing about a cultural change, not so much in
13:29 7 people's minds, but more in what they are entitled to do or what is
13:29 8 expected of them? If they want to keep their jobs, then they have
13:29 9 to go along with a new way of doing business. Why isn't that, in
13:29 10 one sense, the beginning and end of it; as long as you have the
13:29 11 right people to do it. You have to make that assumption.
13:29 12
13:29 13 A. I agree it is the beginning. I don't necessarily think it is the
13:29 14 end of the problem. The reason I say that is that - I don't mean
13:29 15 this in the wrong way, but talk is cheap. People can really
13:30 16 believe they can at a conscious level that they are committed to
13:30 17 good conduct but even senior leaders, when the chips are down,
13:30 18 and they are faced with conflicting priorities around revenue, and
13:30 19 as I said, every listed company is under pressure to make returns
13:30 20 to shareholders. So unless they have not just agreed in their
13:30 21 heads that they want to make sure the organisation engages in
13:30 22 good conduct, but has fundamentally reconciled, how do we do
13:30 23 that? How do we still achieve high performance from a financial
13:30 24 standpoint and also make sure we comply? And understand the
13:30 25 trade-offs that that requires, because it does require trade-offs.
13:30 26 Maximising revenue generally, you can only maximise it without
13:30 27 taking some hit in some other areas. So I think people have to be
13:30 28 honest or not naive to the implications, and they have to resolve
13:30 29 those. So that's why I come back to this point about aligning the
13:31 30 compliance obligations with the revenue generating side for the
13:31 31 senior leaders as much as for everybody else.
13:31 32
13:31 33 COMMISSIONER: That is, if I may say so, a fatalist approach.
13:31 34 Corporations in their economic life will go through ups and
13:31 35 downs. Sometimes they do really well and make lots of money
13:31 36 and then the market or world situation changes and there is
13:31 37 an increased costs or a drain on profits, whatever it might be. But
13:31 38 how do you stop that kind of organisation, in the bad times,
13:31 39 slipping back into profit maximisation?
13:31 40
13:31 41 A. It is very difficult. I think it is very difficult. But I don't
13:31 42 think it is impossible. Actually, I would argue that the way that
13:31 43 some changes are happening right now in the corporate world and
13:31 44 socially that increase transparency, increases the natural
13:32 45 punishment of organisations for doing the right thing. So there
13:32 46 are some positive aspects of pressures that come on organisations
13:32 47 to engage in and reward good behaviour, but traditionally I think

13:32 1 that has not been so much the case.
13:32 2
13:32 3 So yes, it is a difficult challenge but I think if you can find
13:32 4 a way - maybe an example that I would use is instead of saying,
13:32 5 "I want you to sell this product and I want you to tick the boxes to
13:32 6 make sure you sell it to the right person", instead you say "I am
13:32 7 going to reward you for selling the right products to the right
13:32 8 people. That is one goal that you are trying to pursue." It is not
13:32 9 this and that, it's actually one thing I'm trying to ask you to do. If
13:32 10 you do that really well then you are going to get rewarded, I think
13:32 11 that should be the purpose that organisations set themselves in
13:32 12 order to really pursue profit in the right way.
13:32 13
13:32 14 COMMISSIONER: What happens if that model doesn't easily fit
13:33 15 with the nature of the business concerned that you are looking at,
13:33 16 ie a casino, where the trade-off - it's not like selling a product to
13:33 17 the right person; you are going to cause harm to some people,
13:33 18 come what may. It is just the nature of the beast, and there is
13:33 19 nothing you can ever do about that? How do you deal with that
13:33 20 kind of firm?
13:33 21
13:33 22 A. So there is an interesting paper that one of my colleagues
13:33 23 from the New York Fed wrote, called Kevin Stiroh. He would
13:33 24 argue that in this kind of situation, where potentially you could
13:33 25 say the market conditions, there is a disincentive to doing the
13:33 26 right thing - that is why you have regulators. You have to have
13:33 27 regulators to control that natural inherent drive, and I suppose
13:33 28 that comes back to the regulatory model that we talked about
13:33 29 earlier, and whether or not a risk-based model is such
13:33 30 an appropriate one.
13:33 31
13:34 32 COMMISSIONER: Yes. You should assume I'm a firm believer
13:34 33 in heavy-handed regulation for a long time. Anyhow, that's
13:34 34 enough questions from me. I think Mr Rozen has billed himself
13:34 35 first.
13:34 36
13:34 37 MS NESKOVICIN: This is Mr Rozen from the VCGLR,
13:34 38 Ms Arzadon.
13:34 39
13:34 40 COMMISSIONER: Thanks.
13:34 41
13:34 42 MR ROZEN: Thank you, Commissioner. No self-billing, I'm
13:34 43 just following the script, Commissioner.
13:34 44
13:34 45 COMMISSIONER: Yes, you are.
13:34 46
13:34 47

13:34 1 **CROSS-EXAMINATION BY MR ROZEN**

13:34 2

13:34 3

13:34 4 MR ROZEN: Good afternoon, Ms Arzadon. Am I pronouncing
13:34 5 your surname correctly?

13:34 6

13:34 7 A. That's correct, Arzadon.

13:34 8

13:34 9 MR ROZEN: Arzadon.

13:34 10

13:34 11 Counsel Assisting took you to limitations that you have identified
13:34 12 in your report, quite properly if I might say so, and you were
13:34 13 taken to your lack of background in the casino industry. There
13:34 14 are a couple of other issues you identify, time constraints you
13:35 15 were under to produce your report, I think you had ten working
13:35 16 days, is that right?

13:35 17

13:35 18 A. That's about right, yes.

13:35 19

13:35 20 Q. The other one I want to ask you about is the reliance on
13:35 21 secondary sources. You didn't speak to anyone from the VCGLR
13:35 22 about the matters that you were asked to express an opinion
13:35 23 about, did you?

13:35 24

13:35 25 A. No, I had to rely on the statement.

13:35 26

13:35 27 Q. Yes, I understand that. There is no criticism of you, I want
13:35 28 to understand precisely how it is that you have carried out the
13:35 29 task.

13:35 30

13:35 31 In relation to that you say, and this is at the bottom of page 9 of
13:35 32 your report if it helps you, you say that:

13:35 33

13:35 34 *It is difficult to provide a definitive assessment of cultural*
13:35 35 *root causes without speaking to organisational*
13:36 36 *participants themselves and examining a more*
13:36 37 *comprehensive dataset*

13:36 38

13:36 39 That is related to the point about the sources, is it not, Ms
13:36 40 Arzadon?

13:36 41

13:36 42 A. Yes, that would be right.

13:36 43

13:36 44 Q. If I can just clarify a little bit of terminology by reference to
13:36 45 the questions you were asked, these appear on page four of your
13:36 46 report. I am only going to ask you about the first question which
13:36 47 reads:

- 13:36 1
13:36 2 *Having regard to Mr Bryant's statement, the final China*
13:36 3 *Report and the VCGLR decision*
13:36 4
13:36 5 Then you were asked a series of questions. I just want to make
13:36 6 sure we are of one mind on what you are referring to when you
13:36 7 talk about Mr Bryant's statement, the China Report and the
13:36 8 VCGLR decision, they are shorthand expressions that were used
13:36 9 by Solicitors Assisting when they briefed you, is that right?
13:36 10
13:36 11 A. Yes, they were materials that were provided to me.
13:36 12
13:37 13 Q. They weren't the only materials provided to you but for the
13:37 14 purpose of this question, they were the three that you were asked
13:37 15 to consider, is that right?
13:37 16
13:37 17 A. That's correct, they were central to these questions. I would
13:37 18 probably say that I considered the whole set of materials that I was
13:37 19 given in forming my views.
13:37 20
13:37 21 Q. Yes, and drew on your experience as well --
13:37 22
13:37 23 A. Absolutely.
13:37 24
13:37 25 Q. --- as you explained earlier.
13:37 26
13:37 27 A. Yes.
13:37 28
13:37 29 Q. Just in relation to the three materials, can I ask that page 35
13:37 30 of the report be brought up, which is the index of documents? It
13:37 31 ends in .0212. Do you have a hard copy in front of you, Ms
13:37 32 Arzadon?
13:37 33
13:37 34 A. Yes, I do.
13:37 35
13:37 36 Q. Just so we are of one mind, the witness statement of Tim
13:37 37 Bryant is obviously tab 7 as listed there?
13:37 38
13:37 39 A. Yes, that's correct.
13:37 40
13:37 41 Q. The Final China Report is tab 8, Final China Investigation
13:37 42 Report?
13:37 43
13:37 44 A. That's true, yes.
13:37 45
13:37 46 Q. The VCGLR decision is tab 9, the Disciplinary Action
13:37 47 Inquiry decision, 27 April; is that right?

- 13:37 1
13:37 2 A. Yes, that's true.
13:37 3
- 13:38 4 Q. All right. This exercise may appear simplistic if I can
13:38 5 borrow an expression from the Commissioner, but I am going to
13:38 6 have a go at what admittedly is a lawyer's set of answers to your
13:38 7 questions and ask you if, based on what you've read and all the
13:38 8 work that you've done, whether you agree with them. So if we
13:38 9 could go back to question one, please, on page four, the first question
13:38 10 is:
13:38 11
- 13:38 12 *Having regard to Mr Bryant's statement, the Final China*
13:38 13 *Report, and the VCGLR decision, what does Crown's*
13:38 14 *relationship with the regulator suggest from a culture*
13:38 15 *perspective?*
13:38 16
- 13:38 17 That was the first question you were asked, Ms Arzadon. Can I
13:38 18 suggest this answer: what those three things suggest from
13:39 19 a culture perspective is that during the period described in those
13:39 20 documents, Crown had a poor culture; do you agree with that?
13:39 21
- 13:39 22 A. I think that is from the perspective of the VCGLR, I would
13:39 23 agree with that.
13:39 24
- 13:39 25 Q. Well, it is not just from the perspective of the VCGLR, it is
13:39 26 objectively, isn't it? They had a culture in which their risk
13:39 27 appetite, to use an expression we've heard regularly in this Royal
13:39 28 Commission, was to test the boundaries of legal compliance and
13:39 29 to promote profit-making above compliance; is that a fair
13:39 30 description of the culture?
13:39 31
- 13:39 32 A. Based on all the materials I've reviewed, I would say that is
13:39 33 fair.
13:39 34
- 13:39 35 Q. That is a poor culture, objectively speaking, isn't it, for
13:39 36 a corporation in Australia, not just from the regulator's
13:39 37 perspective; do you agree?
13:39 38
- 13:39 39 A. Yes, I would agree with that.
13:39 40
- 13:39 41 Q. Yes. The second question:
13:39 42
- 13:40 43 *What sort of relationship would you expect*
13:40 44 *an organisation to have with the regulator?*
13:40 45
- 13:40 46 Let's proceed on the basis that that question, which is a general
13:40 47 one, is limited to what sort of relationship you expect to see

13:40 1 between Crown and the VCGLR, so let's be quite specific. I
13:40 2 would suggest to you that an answer to that, so if you agree with
13:40 3 it, is that you would expect to see a relationship based on
13:40 4 honesty; do you agree with that?
13:40 5
13:40 6 A. Definitely.
13:40 7
13:40 8 Q. You would expect the relationship to be based on
13:40 9 transparency?
13:40 10
13:40 11 A. Yes.
13:40 12
13:40 13 Q. And you would expect the relationship to be based on
13:40 14 cooperation?
13:40 15
13:40 16 A. Yes, definitely.
13:40 17
13:40 18 Q. Finally, you would expect the relationship to be based on
13:40 19 candour, which is probably similar to honesty?
13:40 20
13:40 21 A. Yes.
13:40 22
13:40 23 Q. That's a two-way street, isn't it, in relation to those matters?
13:40 24 You would hope that both parties to the relationship exhibit those
13:41 25 characteristics?
13:41 26
13:41 27 A. Yes, that's true. Having a dynamic which is transparent and
13:41 28 open and honest does require certain behaviours on both sides.
13:41 29
13:41 30 Q. Is there anything in the material to suggest that in the
13:41 31 period described in those documents, the VCGLR didn't exhibit
13:41 32 those characteristics in its dealings with Crown?
13:41 33
13:41 34 A. Well, just maybe to clarify, there are behaviours required
13:41 35 on both sides to encourage an institution to be transparent and
13:41 36 candid. One of them is of course transparency and candour on
13:41 37 the other side, but there can be behaviours that reduce
13:41 38 transparency on the part of a regulator as well. And this is not
13:41 39 meant as a criticism, it is just an observation, but when
13:41 40 institutions start to exhibit poor outcomes in a regulated
13:42 41 environment then the natural response from a regulator is to
13:42 42 increase the intensity of supervision, which is a very appropriate
13:42 43 response. But in that process that can have an unintended side
13:42 44 effect on the part of the institution, which is to decrease their
13:42 45 transparency in response to the increased supervisory intensity.
13:42 46 So that is the dynamic I'm referring to when I say that the
13:42 47 behaviours on both sides contribute to a dynamic of transparency

- 13:42 1 from the institution to a regulator.
13:42 2
- 13:42 3 Q. I think I understand that. I'm not sure, and perhaps the
13:42 4 question wasn't clear, but from your reading of the material is
13:42 5 there anything to suggest that the VCGLR was less than honest in
13:42 6 its dealings with Crown?
13:42 7
- 13:42 8 A. No, not at all. I wouldn't say that.
13:42 9
- 13:42 10 Q. Would you say the VCGLR lacked transparency in its
13:42 11 dealings with Crown?
13:42 12
- 13:42 13 A. No, they seem very transparent.
13:42 14
- 13:42 15 Q. Crown, on the other hand, you would agree in its dealings
13:43 16 with the VCGLR didn't meet those various characteristics; did it?
13:43 17
- 13:43 18 A. No, I think there is evidence to suggest that they were not
13:43 19 transparent.
13:43 20
- 13:43 21 Q. Yes, and not always honest, as you will have seen from
13:43 22 Mr Bryant's statement when he said he was misled by
13:43 23 a presentation he received, for example?
13:43 24
- 13:43 25 A. Yes.
13:43 26
- 13:43 27 Q. You're nodding, the transcript will require an answer.
13:43 28
- 13:43 29 A. Yes.
13:43 30
- 13:43 31 Q. Thank you. If I can turn to the next question:
13:43 32
- 13:43 33 *Can the relationship between Crown and the regulator be*
13:43 34 *'fixed'?*
13:43 35
- 13:43 36 I think the answer is, "yes, but"; isn't it?
13:43 37
- 13:43 38 A. I would agree, "yes, but".
13:43 39
- 13:43 40 Q. After the word "but", what is really needed for the
13:43 41 relationship between Crown and the regulator to be fixed is change
13:43 42 on the part of Crown, isn't it?
13:43 43
- 13:43 44 A. That would be - yes, I would agree with that. That would
13:43 45 be one way that you could definitely heal the relationship.
13:43 46
- 13:44 47 Q. The evidence that this Royal Commission has heard from

13:44 1 all of the senior officers at Crown, I think bar none - and I know
13:44 2 you haven't heard this evidence but I ask you to accept that it
13:44 3 is this - from the new CEO, directors, other senior managers, is
13:44 4 that they are prioritising improving the relationship with the
13:44 5 regulator. I would ask you to accept that. And I would ask you
13:44 6 to also accept that those that have been asked this question, and I
13:44 7 can't say all of them have, but certainly Mr Blackburn and Mr
13:44 8 McCann were, accepted that was a matter largely within Crown's
13:44 9 control. That is that it can improve the relationship, it doesn't
13:44 10 need the VCGLR to do anything to improve the relationship.

13:44 11

13:44 12 Does that accord with your experience and reading of the
13:44 13 materials?

13:44 14

13:44 15 A. Yes, I think that is one way. Certainly Crown could take
13:45 16 many steps to improve the relationship with the VCGLR.

13:45 17

13:45 18 Q. The final question that you are asked is, "are there are any
13:45 19 impediments to doing so?" I suggest the principal impediment in
13:45 20 these circumstances is a lack of will on the part of Crown; would
13:45 21 you agree with that?

13:45 22

13:45 23 A. Well, that would be the first one, yes.

13:45 24

13:45 25 Q. Yes. Then there is also the issue that you referred to in
13:45 26 your response to the Commissioner's question, that is the risk of
13:45 27 backsliding; in other words, there could be temporary
13:45 28 improvements but once the gaze of Royal Commissions goes
13:45 29 away, there is a risk of backsliding; would you agree with that?

13:45 30

13:45 31 A. Definitely. There are also some other risks as well, in my
13:45 32 experience, again, looking at financial institutions who have been
13:45 33 through this process, the next period of years, actually, when
13:46 34 there is intense scrutiny on them and the regulator too, there will
13:46 35 be a very strong expectation around improvement and the desire
13:46 36 to show tangible improvement, and sometimes that focus on
13:46 37 quantifiable objective type of elements of change, the - there
13:46 38 can be an over-focus on that and maybe sometimes less of a focus
13:46 39 on more necessary, fundamental, less tangible issues that would
13:46 40 embed the change. So it is still a risky period for the next few
13:46 41 years.

13:46 42

13:46 43 Q. Finally, Ms Arzadon, you've identified in your report, if I
13:46 44 understand it correctly, that one potential impediment to
13:46 45 improvement in the relationship is a lack of leadership stability,
13:46 46 that is if there is to be a change, and I assume that applies to both
13:46 47 the regulator and Crown ---

13:46 1

13:46 2 A. Yes.

13:46 3

13:46 4 Q. --- that this is perhaps not the time for any fundamental
13:47 5 changes to the leadership of the regulator; is that important?

13:47 6

13:47 7 A. Yes. In my experience, one of the things that helps with
13:47 8 culture change is having some stable leaders, and often the ones
13:47 9 who are there at the time of a notable period are best placed to
13:47 10 really have the right understanding of what needs to change and
13:47 11 why. And so bringing in too many new people can be unhelpful
13:47 12 because they don't have the history or understanding, really. So I
13:47 13 do think stability in leadership going forward would be a good
13:47 14 idea.

13:47 15

13:47 16 Q. One final matter, if I may, Ms Arzadon, is there a risk in the
13:47 17 current situation where Crown have brought in a number of very
13:47 18 senior and no doubt highly reputable managers, and new CEO
13:48 19 and new officer responsible for financial crime, but who don't
13:48 20 have backgrounds in the casino industry and certainly no
13:48 21 background at Crown, is there a risk that they will be heavily
13:48 22 reliant on middle management who have been there for many
13:48 23 years and are perhaps part of the embedded cultural problems -
13:48 24 and I see you nodding - and how can that risk in your
13:48 25 experience be addressed, more importantly?

13:48 26

13:48 27 A. I think it is a good observation. I agree that actually when
13:48 28 you have a senior leadership team that doesn't have deep
13:48 29 experience in a sector, it can be very difficult for them to identify
13:48 30 issues that are going on or predict or know where to look, and
13:48 31 they do need to then rely on transparency and information flow
13:48 32 from the middle management up, even more than maybe they
13:48 33 would be if they did have experience. And one point I would also
13:49 34 make is that there is evidence to suggest that there is something
13:49 35 called permafrost, a resistance at the middle management level
13:49 36 already, as well, so that would suggest that that is going to be
13:49 37 a challenge.

13:49 38

13:49 39 So I think in terms of your question about what would be
13:49 40 a solution to this, I do - and I've said previous in other reports
13:49 41 that I've written that having at least a few people in the team, in
13:49 42 the senior management team that do have very deep expertise in
13:49 43 casinos, would be a very important thing to help mitigate that risk
13:49 44 of maybe naivety or not knowing what to look for, and that sort of
13:49 45 thing.

13:49 46

13:49 47 And the second thing I would say is really leaning into the

13:49 1 challenge of addressing the middle management layer, and
13:49 2 engaging them, rather than just telling them, to really engage
13:49 3 them to build that culture of transparency and openness and
13:49 4 making sure information flows upwards.
13:49 5
13:50 6 MR ROZEN: Thank you, Ms Arzadon. They are the questions I
13:50 7 have, and my minutes are for sale if anyone ---
13:50 8
13:50 9 COMMISSIONER: Thank you very much.
13:50 10
13:50 11 MS NESKOVICIN: I just wonder whether Ms Arzadon would
13:50 12 like a break now or after ---
13:50 13
13:50 14 COMMISSIONER: Your choice, Ms Arzadon, a 15-minute
13:50 15 break now or 45 minutes and a break. I think we'll take a break
13:50 16 now.
13:50 17
13:50 18 A. Yes, a break now is good.
13:50 19
13:50 20 COMMISSIONER: Are you happy with that?
13:50 21
13:50 22 A. Yes, I'm happy with that.
13:50 23
13:50 24 COMMISSIONER: Good.
13:50 25
13:50 26
13:50 27 **ADJOURNED** [1.50PM]
14:02 28
14:02 29
14:02 30 **RESUMED** [2.02PM]
14:03 31
14:03 32
14:03 33 **CROSS-EXAMINATION BY MR BORSKY**
14:03 34
14:03 35
14:03 36 MR BORSKY: As the Commission pleases. Ms Arzadon, my
14:03 37 name is Borsky. I appear for Crown. Can you hear me clearly?
14:03 38
14:03 39 A. Yes, I can.
14:03 40
14:03 41 Q. Ms Arzadon, you've already given some evidence today in
14:03 42 relation to the limitations on the scope of your work and so I don't
14:03 43 wish to and will endeavour not to labour that point. But I did
14:03 44 note that in answer to a question from Counsel Assisting, you
14:03 45 said that you have not been asked to and have not undertaken
14:03 46 a culture review of Crown; is that correct?
14:03 47

14:03 1 A. Yes. In a traditional sense of a fulsome cultural review, I
14:03 2 haven't spoken to anybody from Crown so I wouldn't say that I've
14:03 3 done a culture review.
14:03 4

14:03 5 Q. Yes, I was going to ask you precisely about that matter. It
14:03 6 is correct, isn't it, that you have not spoken to any employee or
14:04 7 director or officer of Crown?
14:04 8

14:04 9 A. No, I have not.
14:04 10

14:04 11 Q. In your report you were quite transparent about the
14:04 12 limitations, if I may respectfully say, and you did say in your
14:04 13 report that you were relying exclusively on what you referred to
14:04 14 as secondary sources; correct?
14:04 15

14:04 16 A. Yes, secondary sources, and of course my experience as
14:04 17 well.
14:04 18

14:04 19 Q. Yes, of course. In terms of data and information about
14:04 20 Crown in particular, you relied exclusively on secondary sources?
14:04 21

14:04 22 A. That's correct.
14:04 23

14:04 24 Q. For that reason and perhaps others, you said in your report
14:04 25 you were reluctant to draw any definitive conclusions; correct?
14:04 26

14:04 27 A. Yes, that's correct.
14:04 28

14:05 29 Q. So when earlier today you said in answer to a question from
14:05 30 Counsel Assisting that it was your view that the documents you
14:05 31 had been provided with provided you with a very good basis for
14:05 32 drawing the conclusions that you drew, could you explain how
14:05 33 the Commissioner is to understand that in light of the reluctance
14:05 34 you've expressed to draw any definitive conclusions in your
14:05 35 work?
14:05 36

14:05 37 A. So I would be reluctant to draw any definitive conclusions
14:05 38 about the root causes of all the cultural problems at Crown. I
14:05 39 couldn't do that without doing more work than what I've done.
14:05 40 But I think on the particular scope of questions that I've been
14:05 41 asked to comment on, I'm confident in the conclusions that I've
14:05 42 drawn within that defined scope.
14:05 43

14:05 44 Q. Another factor which you noted in your report that you said
14:06 45 might limit the extent to which your conclusions should be relied
14:06 46 upon was your inexperience in the casino sector; correct?
14:06 47

- 14:06 1 A. Yes, that's true.
14:06 2
14:06 3 Q. This afternoon you've orally given evidence about your
14:06 4 views as to there being some parallels between the casino sector
14:06 5 and the financial services sector; do you recall that?
14:06 6
14:06 7 A. Yes, I do.
14:06 8
14:06 9 Q. So would you agree then that some of the new senior
14:06 10 leaders who had been brought into Crown who may not have and
14:06 11 don't have direct industry experience in this particular industry,
14:06 12 that is the casino industry, but nevertheless have industry, say, in
14:06 13 the financial services sector, would in your view be bringing to
14:06 14 bear some relevant expertise?
14:06 15
14:06 16 A. They would certainly have relevant expertise.
14:06 17
14:06 18 Q. And more particularly, relevant for some of the
14:07 19 transformation challenges which Crown is confronting at present?
14:07 20
14:07 21 A. Yes. They would have relevance. I would expect a senior
14:07 22 leader to, in the scope of their responsibilities, have probably
14:07 23 a need for a much broader number of data points than potentially
14:07 24 the scope of what I've been asked to comment on, but I do
14:07 25 appreciate your point. If they have had experience in the
14:07 26 financial sector, like I have, then I agree there is definitely
14:07 27 relevance to that experience.
14:07 28
14:07 29 Q. You agree with my point on that?
14:07 30
14:07 31 A. I do.
14:07 32
14:07 33 Q. Ms Arzadon, you said to Counsel Assisting as well that you
14:07 34 are at least broadly familiar with some of the work that Deloitte
14:07 35 has been doing for Crown in relation to culture?
14:07 36
14:07 37 A. Yes, I'm aware of that.
14:07 38
14:07 39 Q. You reviewed, for example, the transcript of evidence on 9
14:07 40 June this year before the Royal Commission of Ms Victoria
14:07 41 Whitaker of Deloitte?
14:07 42
14:07 43 A. Yes, I have, yes.
14:07 44
14:08 45 Q. You've reviewed other documents relevant to Deloitte's
14:08 46 work for Crown in relation to culture, haven't you?
14:08 47

14:08 1 A. Yes, I have, several documents.
14:08 2
14:08 3 Q. Do you agree that it appears from those documents and the
14:08 4 evidence that Ms Whitaker has given that Deloitte's work is based
14:08 5 on extensive primary source material in relation to Crown and its
14:08 6 culture?
14:08 7
14:08 8 It wasn't supposed to be a difficult question but it seems the
14:08 9 system has frozen.
14:08 10
14:08 11 COMMISSIONER: We'll wait a minute. Sometimes it restores
14:08 12 itself, sometimes not. Anything we can do at our end?
14:09 13
14:09 14
14:09 15 (Pause due to technical difficulties)
14:09 16
14:10 17
14:10 18 MS NESKOVICIN: Commissioner, we are on the telephone
14:10 19 trying to make contact.
14:10 20
14:11 21 There is an issue at Ms Arzadon's end. She is just logging back
14:11 22 in.
14:12 23
14:12 24 WITNESS: Apologies for that.
14:12 25
14:12 26 COMMISSIONER: It's okay.
14:12 27
14:12 28 All right, Mr Borsky, go ahead.
14:12 29
14:12 30 MR BORSKY: Thank you, Commissioner.
14:12 31
14:12 32 COMMISSIONER: I've lost her on my screen.
14:12 33
14:12 34 MR BORSKY: Sometimes if the witness speaks they appear.
14:12 35
14:12 36 Can you hear me?
14:12 37
14:12 38 A. I can hear and see you.
14:12 39
14:12 40 MR BORSKY: The magic of technology.
14:12 41
14:13 42 Ms Arzadon, before the system froze I was asking a question
14:13 43 which I will repeat in case you didn't hear it. You had given
14:13 44 evidence already that you are at least partly familiar with the
14:13 45 work that Deloitte has been doing in relation to culture for
14:13 46 Crown?
14:13 47

- 14:13 1 A. Yes, that's correct.
14:13 2
14:13 3 Q. I wanted to ask you whether you agreed that it is apparent,
14:13 4 at least from the documents and information that you've reviewed
14:13 5 about the nature of Deloitte's work for Crown, that Deloitte's
14:13 6 work for Crown in relation to culture is based upon extensive
14:13 7 primary source material; do you agree?
14:13 8
14:13 9 A. Yes, I understand that.
14:13 10
14:13 11 Q. Do you agree?
14:13 12
14:13 13 A. I agree that Deloitte's work is based on primary source
14:13 14 material. Sorry, that is what you were asking?
14:13 15
14:13 16 Q. Well, yes, in part. I was asking you whether you agree that
14:13 17 Deloitte's work is based on extensive primary source material.
14:13 18 Do you mean to qualify your answer by leaving out the word,
14:14 19 "extensive" for some reason?
14:14 20
14:14 21 A. No, not at all.
14:14 22
14:14 23 Q. You are aware, for example, that Deloitte have conducted
14:14 24 a series of formal interviews in two phases; are you not?
14:14 25
14:14 26 A. Yes, my understanding is they did a small number of
14:14 27 interviews in the first phase, and I think they've done further
14:14 28 interviews now as well.
14:14 29
14:14 30 Q. Yes, and Ms Whitaker has met with Crown's directors?
14:14 31
14:14 32 A. Yes, I understand that.
14:14 33
14:14 34 Q. Deloitte have undertaken a cultural survey which was open
14:14 35 to all Crown staff to complete; are you aware of that?
14:14 36
14:14 37 A. Yes, I'm aware of that.
14:14 38
14:14 39 Q. You are aware that almost 7,500 responses to that cultural
14:14 40 survey have been received from Crown staff?
14:14 41
14:14 42 A. I wasn't aware of the final number but I will take that from
14:14 43 you.
14:14 44
14:15 45 Q. Since preparing your report, have you been provided with
14:15 46 a statement which did not exist at the time you prepared your
14:15 47 report made by Mr Tony Weston of Crown?

14:15 1
14:15 2 A. I have seen a statement by Mr Tony Weston, yes.
14:15 3
14:15 4 Q. Could the operator please bring up that statement which
14:15 5 should be CRW.998.001.0521.
14:15 6
14:15 7 Is that visible on a screen near you, Ms Arzadon?
14:15 8
14:15 9 A. Oh, goodness. Sorry.
14:15 10
14:15 11 MR BORSKY: You can't blame me for that too, Commissioner.
14:15 12
14:15 13 A. Sorry, I was trying to increase ---
14:15 14
14:15 15 Q. Not at all. Take your time, please.
14:15 16
14:15 17 A. Yes, I can see that.
14:15 18
14:15 19 Q. So this is a statement from Mr Weston, as I say, made in
14:16 20 July, dated 6 July. It post-dates your report, so I'm not meaning
14:16 21 to imply a hint of criticism for you for not having taken it into
14:16 22 account, but you have subsequently been provided with it, may I
14:16 23 take it?
14:16 24
14:16 25 A. Yes, I have seen this.
14:16 26
14:16 27 Q. If you go, please, operator, to the fourth page of that
14:16 28 statement there is a heading towards the bottom of that fourth
14:16 29 page which is, "The Crown Culture Change Program".
14:16 30
14:16 31 A. Yes, I see that.
14:16 32
14:16 33 Q. Have you read this recently, Ms Arzadon, or do you want to
14:16 34 take some time to re-read it?
14:16 35
14:16 36 A. No, I have read it recently.
14:16 37
14:16 38 Q. You will recall that Mr Weston outlines the phases of
14:16 39 Crown's culture change program. If we go over the page, please,
14:16 40 operator, in paragraph 19(b), Mr Weston states that the second
14:17 41 phase of that cultural change program is currently in progress and
14:17 42 he refers there, doesn't he, to that anonymous staff survey being
14:17 43 conducted by Deloitte to which I referred you to a few moments
14:17 44 ago. You see that, Ms Arzadon?
14:17 45
14:17 46 A. Yes, I see that.
14:17 47

14:17 1 Q. Again I'm not making any criticism of you for not
14:17 2 remembering the number, but you can see there it is almost 7,500
14:17 3 staff that responded.

14:17 4
14:17 5 A. Yes. That's right. You are correct.

14:17 6
14:17 7 Q. And that there were further follow-up interviews and focus
14:17 8 groups involving hundreds of Crown staff to deep dive into
14:17 9 potential root causes of cultural issues and to test existing
14:17 10 observations; do you see?

14:17 11
14:17 12 A. Yes, I can see that.

14:17 13
14:17 14 Q. That is the kind of what you would refer to as primary
14:17 15 source data which would be relevant and helpful to a cultural
14:18 16 review; do you agree?

14:18 17
14:18 18 A. Yes, definitely.

14:18 19
14:18 20 Q. Again, no criticism of you, but you have not been provided
14:18 21 with access to any such primary data?

14:18 22
14:18 23 A. No, I haven't.

14:18 24
14:18 25 Q. You reviewed a transcript of Ms Whitaker's evidence to this
14:18 26 Commission back in June, you've said.

14:18 27
14:18 28 A. Yes.

14:18 29
14:18 30 Q. Did you notice, in that review, that Ms Whitaker gave
14:18 31 evidence that the general sentiment expressed in the surveys
14:18 32 which she had by that stage herself reviewed was, "more positive
14:18 33 than what she had perhaps expected"?

14:18 34
14:18 35 A. One of my memories of what she was saying was that she
14:19 36 was surprised by the level of compliance that staff were
14:19 37 expressing. Maybe that's what you mean by more positive. So,
14:19 38 yes, I remember that.

14:19 39
14:19 40 Q. Do you still have Mr Weston's statement visible to you, Ms
14:19 41 Arzadon?

14:19 42
14:19 43 A. Yes, I do.

14:19 44
14:19 45 Q. In that sub-paragraph 19(b), which I asked you about
14:19 46 a moment ago, you see also that part of the phase 2 work being
14:19 47 done on Crown's culture change program included interviews

- 14:19 1 with some of Crown's external stakeholders, for example, its
14:19 2 regulators in each of the three jurisdictions in which it operates.
14:19 3
- 14:19 4 A. Yes, I see that.
14:19 5
- 14:20 6 Q. That phase is due to be completed one week from today, 16
14:20 7 July.
14:20 8
- 14:20 9 A. Yes, I see that.
14:20 10
- 14:20 11 Q. There are details of phase three, and then moving to
14:20 12 sub-paragraph (d), phase four will build on the findings of the earlier
14:20 13 phases and then involve Crown's leadership team, with assistance
14:20 14 from Deloitte, to define a roadmap for change and the
14:20 15 aspirational culture, including governance, measurement and
14:20 16 reporting frameworks, that are going to be required to manage
14:20 17 and assess that change. You see that?
14:20 18
- 14:20 19 A. Yes, I see that.
14:20 20
- 14:20 21 Q. Is that the kind of work which you expect a company in
14:20 22 Crown's position undertaking a substantial cultural
14:20 23 transformation, or seeking to, to be doing with the assistance of
14:20 24 external expert support?
14:20 25
- 14:21 26 A. Yes, that would be the beginning of a cultural change
14:21 27 program and that is exactly what I would expect the beginning
14:21 28 stages to be.
14:21 29
- 14:21 30 Q. My question was quite a long one, and perhaps unfairly
14:21 31 embedded within it was an assumption that you would agree, that
14:21 32 the people at Deloitte who are working with Crown, are, in your
14:21 33 view, experts in this area of cultural reform; do you agree with
14:21 34 that?
14:21 35
- 14:21 36 A. Yes, I believe that's one of their specialities and I think
14:21 37 Victoria Whitaker is considered to be an expert in that area.
14:21 38
- 14:21 39 Q. So you wouldn't term her or her colleagues at Deloitte as
14:21 40 a lay person in the sense you were using that word earlier in some
14:21 41 of your answers?
14:21 42
- 14:21 43 A. No, I definitely wouldn't.
14:21 44
- 14:21 45 Q. In your report, Ms Arzadon, you expressed an opinion that
14:22 46 Mr Weston is a generalist HR professional not showing technical
14:22 47 qualifications - sorry, I withdraw that. Start again.

- 14:22 1
14:22 2 You expressed the opinion that Mr Weston is a generalist HR
14:22 3 professional without technical qualifications showing deep
14:22 4 culture change expertise; do you recall expressing that opinion?
14:22 5
14:22 6 A. Yes, I have expressed that opinion.
14:22 7
14:22 8 Q. Again, you did not have the benefit of any statement from
14:22 9 Mr Weston at the time, but now having reviewed his statement ---
14:22 10 and if that could be brought back for Ms Arzadon, please --- and
14:22 11 particularly the second page of that statement at paragraph 8,
14:23 12 you've subsequently learned, subsequent to writing your report,
14:23 13 Ms Arzadon that Mr Weston has over 30 years of experience
14:23 14 across a range of industries he there refers to, and that his
14:23 15 experience has included leading the design and implementation
14:23 16 of the enterprise-wide culture change program at the National
14:23 17 Australia Bank during and after the Financial Services Royal
14:23 18 Commission?
14:23 19
14:23 20 A. Yes, I see that now.
14:23 21
14:23 22 Q. His experience included leading the HR functions at other
14:23 23 major corporations including K-Mart and Aristocrat Leisure,
14:23 24 again managing their design and implementation of culture
14:24 25 change programs; you see that?
14:24 26
14:24 27 A. Yes. I see that.
14:24 28
14:24 29 Q. And implementing a new operating model for 7-Eleven
14:24 30 Australia as part of a broader organisational transformation?
14:24 31
14:24 32 A. Yes, I think that involved a cultural component.
14:24 33
14:24 34 Q. His other experience includes other large scale
14:24 35 organisational transformations for the ALH Group, Fosters Wine
14:24 36 Business which is now Treasury Wines, and Telstra Corporation
14:24 37 Ltd?
14:24 38
14:24 39 A. Yes. I see that.
14:24 40
14:24 41 Q. Does that cause you to moderate or change your view as to
14:24 42 Mr Weston's possible lack of qualifications relevant to this area
14:24 43 of cultural change?
14:24 44
14:24 45 A. I would suggest that most large organisations generally
14:24 46 have some kind of transformational change effort going on and
14:25 47 most change programs have a cultural component. The two

14:25 1 examples given there, the NAB and the K-Mart example
14:25 2 probably - seem to be very focused on the design of the cultural
14:25 3 component of those change programs. I would say that the other
14:25 4 two examples may relate, have some cultural component, but
14:25 5 I think that is different to leading and designing a cultural change
14:25 6 program.

14:25 7
14:25 8 So my comment about the generalist HR nature of Mr Weston's
14:25 9 background was to say that most HR professionals have some
14:25 10 work and experience in cultural work, but that is different to
14:25 11 being a specialist culture change HR expert. So I'm not sure how
14:25 12 much I would necessarily moderate the comments I made and it's
14:25 13 not criticism to say that he is a generalist HR, professionally, as
14:25 14 he says, he has experience across a range of agencies, but I am
14:26 15 just making a distinction that a culture expert is like a specialist
14:26 16 as opposed to a generalist.

14:26 17
14:26 18 Q. But would you agree with me Mr Weston does have deep
14:26 19 culture change expertise?

14:26 20
14:26 21 A. He seems to have experience of culture change in some
14:26 22 culture change programs, but ---

14:26 23
14:26 24 Q. Leading - sorry, there was a delay that caused me to speak
14:26 25 over you. Please go ahead, Ms Arzadon.

14:26 26
14:26 27 A. I was saying it would be different to somebody from
14:26 28 Victoria Whitaker, for example, whose primary role is in advising
14:26 29 people specifically on culture change.

14:26 30
14:26 31 Q. Yes. In your report you also express the opinion that it
14:27 32 generally takes in the order of three to five years to embed
14:27 33 a culture that is self-sustaining?

14:27 34
14:27 35 A. Yes, that has been my experience.

14:27 36
14:27 37 Q. If I may respectfully pick up on one of the Commissioner's
14:27 38 questions about the possible beginning and end of cultural
14:27 39 change. You've read the Bergin Report, Ms Arzadon?

14:27 40
14:27 41 A. Yes, I have.

14:27 42
14:27 43 Q. And so you will have noticed that Commissioner Bergin
14:27 44 made particular observations about the influence of CPH,
14:27 45 Consolidated Press Holdings, on Crown's conduct and culture.
14:27 46 You've seen that?

14:27 47

- 14:27 1 A. Yes, I have seen that.
14:27 2
14:27 3 Q. Commissioner Bergin described that as a, "ubiquitous and
14:28 4 powerful influence"?
- 14:28 5
14:28 6 A. Yes, I recall reading that.
14:28 7
14:28 8 Q. And that it was a very important factor that impacted on
14:28 9 Crown to change its course away from that which had been set;
14:28 10 do you recall seeing that in Commissioner Bergin's report?
14:28 11
- 14:28 12 A. Yes, I do recall that.
14:28 13
14:28 14 Q. You've referred in your report too to what you acknowledge
14:28 15 is the significance of that past influence; correct?
14:28 16
- 14:28 17 A. Yes, I have, yes, I have referred to that.
14:28 18
14:28 19 Q. Are you aware that since, in recent months, without being
14:28 20 precise about the dates, in recent months the protocols and
14:28 21 agreements that previously applied as between Crown on the one
14:28 22 hand and CPH on the other have been terminated? Are you
14:29 23 aware of that?
14:29 24
- 14:29 25 A. Yes, I'm aware of that.
14:29 26
14:29 27 Q. And that the CPH nominee directors which previously
14:29 28 served on Crown's Board no longer serve as directors of Crown?
14:29 29
- 14:29 30 A. Yes, I'm aware of that.
14:29 31
14:29 32 Q. And that CPH has given undertakings to not to enter into
14:29 33 any information sharing arrangements with Crown? Are you
14:29 34 aware of that?
14:29 35
- 14:29 36 A. Yes, I'm aware of that.
14:29 37
14:29 38 Q. And not to initiate any discussions with Crown other than
14:29 39 through public forums about Crown's business or operations?
14:29 40
- 14:29 41 A. Yes, I understand that.
14:29 42
14:29 43 Q. And not to seek to have its, that is CPH's executives or
14:29 44 nominees, appointed to Crown's Board?
14:29 45
- 14:29 46 A. Yes. I understand that.
14:29 47

- 14:29 1 Q. I want to suggest to you and tell the Commission if you
14:29 2 agree or disagree, that the removal of what Commissioner Bergin
14:29 3 described as the, "ubiquitous and powerful influence of CPH",
14:30 4 and the effective rebuild of the Crown Board and senior
14:30 5 executive leadership of Crown, could lead to faster progress in
14:30 6 cultural change within Crown than you might otherwise expect
14:30 7 generally for a corporation, and no doubt you've had experience
14:30 8 with a number of corporations in your work. Do you agree with
14:30 9 that proposition?
14:30 10
- 14:30 11 A. I do agree that if the influence remained, that it would
14:30 12 probably slow progress if Mr Packer continued to play that role. I
14:30 13 would expect that would slow progress.
14:30 14
- 14:30 15 Q. Yes. And I think I'm putting to you the other side of the
14:30 16 same coin, but I want to put it squarely and give you
14:30 17 an opportunity to agree or disagree. Do you agree that the
14:30 18 removal of that influence could, and, indeed, is likely, to lead to
14:30 19 faster progress for Crown in its cultural change than you might
14:30 20 otherwise expect with a cooperation who is just embarking on
14:31 21 a cultural transformation?
14:31 22
- 14:31 23 COMMISSIONER: Do you mean faster than the three to five
14:31 24 years that Ms Arzadon referred to? Ask her directly.
14:31 25
- 14:31 26 MR BORSKY: Yes, thank you, Commissioner.
14:31 27
- 14:31 28 The three to five years is a view you have come to, may we take
14:31 29 it, based on your expertise with a range of corporations and your
14:31 30 knowledge of the academic literature and your expertise
14:31 31 generally; correct?
14:31 32
- 14:31 33 A. Yes, that's right.
14:31 34
- 14:31 35 Q. It's not a Crown specific figure or time period; correct?
14:31 36
- 14:31 37 A. No, it's not, it's a general time frame.
14:31 38
- 14:31 39 Q. Thank you, and so what I'm trying to put to you is that
14:31 40 Crown is in a very special circumstance. I mean that neutrally, not
14:31 41 necessarily good or bad, but special circumstance, in that until
14:31 42 recently it had a ubiquitous and powerful influence by a major
14:31 43 shareholder which, according to Commissioner Bergin, and
14:31 44 I think you agree, is at least part of its explanation for its past
14:32 45 failings; do you agree?
14:32 46
- 14:32 47 A. Yes, I do.

14:32 1
14:32 2 Q. So what I'm putting to you is that the removal of - the
14:32 3 recent removal of that influence and the effective rebuild of
14:32 4 Crown's Board and senior leadership team could in fact lead to
14:32 5 a quicker embedding of a new culture for Crown than your
14:32 6 general experience and the three to five-year time frame you have
14:32 7 expressed as a genuine opinion.
14:32 8
14:32 9 A. It might not seem logical or it might be counter-intuitive,
14:32 10 but in fact I don't think it does make much difference, because in
14:32 11 most circumstances with a large cultural change, particularly in
14:32 12 all the financial services industries that - financial institutions
14:32 13 that I've seen in recent times, inevitably there is leadership
14:32 14 change. Usually, actually, people in the board and the executive
14:32 15 are removed. And it still takes three to five years. So it might be
14:33 16 a somewhat unique circumstance, or seem like a unique
14:33 17 circumstance, but actually I don't think it is that unique. And so I
14:33 18 would argue there is a lot more required to embed a new culture
14:33 19 than just changing the leadership, and that purpose of embedding
14:33 20 is usually what takes the three to five years.
14:33 21
14:33 22 Q. Do you agree with me that the observations and
14:33 23 expectations of those with direct experience of Crown and with
14:33 24 access to what you call primary data sources about Crown's
14:33 25 culture should be given more weight than your more generic
14:33 26 opinions based on your experience generally with other
14:33 27 corporations on this question of the likely timeframe required?
14:33 28
14:33 29 A. Yes, I think --- --- (speaking over) ---
14:33 30
14:33 31 COMMISSIONER: Just wait.
14:33 32
14:33 33 MS NESKOVICIN: I'm not aware of there being some evidence
14:33 34 of another time frame.
14:33 35
14:33 36 COMMISSIONER: No, and it is worse than that. Deloitte
14:33 37 haven't even got to a stage where they can form a view about how
14:34 38 good or bad it is, so they --- anyhow.
14:34 39
14:34 40 MR BORSKY: With respect, I understand the fulness of the
14:34 41 Commissioner's point. Deloitte hasn't concluded its work and the
14:34 42 Commission doesn't yet have the benefit of the results of that
14:34 43 work --
14:34 44
14:34 45 COMMISSIONER: Correct.
14:34 46
14:34 47 MR BORSKY: --- but you know from Mr Weston's statement that

14:34 1 those things are ---
14:34 2
14:34 3 COMMISSIONER: I'm not complaining about - so they
14:34 4 interviewed 7,000 people, or they have 7,000 respondents, but
14:34 5 they might say, "this place is a complete disaster", who knows.
14:34 6 I don't know what the respondents or responses are. They could
14:34 7 be outrageous, they could be brilliant and Deloitte doesn't know,
14:34 8 or they will know now, they have got them.
14:34 9
14:34 10 MR BORSKY: Deloitte know something, you don't know, with
14:34 11 respect, Ms Whitaker gave you some evidence on 9 June about
14:34 12 some of what she was seeing but it was preliminary and general.
14:35 13
14:35 14 COMMISSIONER: Some people are happy they have a job.
14:35 15 That's what she said.
14:35 16
14:35 17 MR BORSKY: That may be an argument for another day.
14:35 18
14:35 19 COMMISSIONER: Yes.
14:35 20
14:35 21 MR BORSKY: But - I will go back to Ms Arzadon, if I may.
14:35 22 The Commission understands we will seek, at an appropriate
14:35 23 time, to put some of the results to the ---
14:35 24
14:35 25 COMMISSIONER: The next Royal Commission.
14:35 26
14:35 27 MR BORSKY: No, we will try and do it more efficiently than
14:35 28 that.
14:35 29
14:35 30 Ms Arzadon, do you agree that Crown's culture can change?
14:35 31
14:35 32 A. Yes, I would expect it can.
14:35 33
14:35 34 Q. In your report, you've made an observation that from your
14:36 35 review of the material which you were provided with, you have
14:36 36 not seen any statements by Crown's leaders specifying the nature
14:36 37 of individual leadership behaviour change required to drive the
14:36 38 transformation; do you recall making that observation?
14:36 39
14:36 40 A. Yes, I do.
14:36 41
14:36 42 Q. Now, obviously enough, you only had the materials you
14:36 43 were given and you were given those materials, may I ask when,
14:36 44 sometime in May or June?
14:36 45
14:36 46 A. Around that time frame.
14:36 47

14:36 1 Q. You've since been provided with Mr Weston's statement.
14:36 2 Have you also been provided with any transcript of the evidence
14:36 3 from senior Crown leaders that they gave to this Commission in
14:36 4 the past week or so?
14:36 5
14:36 6 A. Not in the last week, no.
14:36 7
14:37 8 Q. As efficiently as I'm able in the short time I have, I might
14:37 9 try to have brought up for you some transcript. We'll see how we
14:37 10 go.
14:37 11
14:37 12 Before I do that, Commissioner, so I don't forget, may I tender
14:37 13 Mr Weston's statement.
14:37 14
14:37 15 COMMISSIONER: Yes.
14:37 16
14:37 17
14:37 18 **EXHIBIT (UNNUMBERED) - STATEMENT OF MR TONY**
14:37 19 **WESTON DATED 6 JULY 2021**
14:37 20
14:37 21
14:37 22 COMMISSIONER: Treat it as tendered and we'll give it
14:37 23 an exhibit number in due course.
14:37 24
14:37 25 MR BORSKY: Thank you.
14:37 26
14:37 27 Rather than go into transcript, Ms Arzadon, I will try and do it in
14:37 28 a summary fashion, and if I go too quickly ---
14:37 29
14:37 30 COMMISSIONER: Paraphrase the evidence, that will do.
14:37 31
14:37 32 MR BORSKY: Yes.
14:37 33
14:37 34 Mr McCann is the new CEO of Crown Resorts; you understand
14:38 35 that?
14:38 36
14:38 37 A. Yes, that's right.
14:38 38
14:38 39 Q. He has given evidence that he has met face-to-face with
14:38 40 hundreds of Crown staff members already to discuss with them
14:38 41 the concerns that they have about the culture and other challenges
14:38 42 Crown faces and to impress upon them the need for them to
14:38 43 speak up about any concerns they have. I see you smiling. Were
14:38 44 you aware of that already?
14:38 45
14:38 46 A. Well, I'm aware - there has been for some time, I
14:38 47 understand, a recognition of the need for embedding a culture of

14:38 1 speaking up. That is something that I think many institutions are
14:38 2 becoming more and more aware of, and I have seen that,
14:38 3 comments about the importance of speaking up in some of the
14:38 4 other materials that I've reviewed.

14:38 5
14:38 6 Q. Mr McCann has also given evidence that a senior
14:39 7 leadership forum is being convened and will be held next week.
14:39 8 Are you aware of that?

14:39 9
14:39 10 A. I have heard that, yes.

14:39 11
14:39 12 Q. It will involve somewhere between 60 and 65 senior
14:39 13 management and up-and-coming management personnel and the
14:39 14 purpose of that will be to discuss Deloitte's work as it presently
14:39 15 stands and begin the next phase of work with buy-in from Crown
14:39 16 senior management; do you understand that?

14:39 17
14:39 18 A. Yes. Yes, that sounds like a good idea.

14:39 19
14:39 20 Q. Thank you. Mr McCann has also given evidence that he
14:39 21 will be seeking to align Crown's purposes with the purposes of its
14:39 22 regulators.

14:39 23
14:39 24 A. I haven't heard that but I take that.

14:39 25
14:39 26 Q. No. I expected you wouldn't have previously been aware of
14:40 27 that, but you agreed earlier today that that is I think you said one
14:40 28 of the most critical elements, or perhaps you said the most critical
14:40 29 element, in cultural transformation in the context of a regulated
14:40 30 entity.

14:40 31
14:40 32 A. Maybe let me clarify. I said that reconciling the conduct
14:40 33 and compliance obligations with the revenue generating purpose
14:40 34 of the organisation is the most critical thing. I think what you just
14:40 35 said there is about aligning the interests of the regulator and the
14:40 36 institution. Well, if that was the same thing, if they were aligning
14:40 37 between conduct and compliance and revenue generating, then I
14:40 38 would agree with your statement. But I don't know what the
14:40 39 purpose of both of those two bodies is, so

14:40 40
14:40 41 Q. Mr McCann has given evidence that in those dealings he's
14:40 42 had already with more than hundreds of staff, he's instructing
14:40 43 them never to do anything that any of them ever feel
14:41 44 uncomfortable in doing, irrespective of whether it is a very senior
14:41 45 leader telling them to do it. He's instructed all staff, including
14:41 46 staff on the gaming floor, never to walk past anything they do not
14:41 47 condone. You may not have been aware of that. Take it from me

14:41 1 that evidence has been given. Are they examples of the sorts of
14:41 2 individual leadership behaviour change that you would consider
14:41 3 are required to drive transformation?

14:41 4

14:41 5 A. That's not exactly what I was referring to. So there are two
14:41 6 issues that maybe I will highlight.

14:41 7

14:41 8 One is, and I mentioned this a little bit earlier, actually, that
14:41 9 telling people something, like, "you should speak up", is not the
14:41 10 same as trying to understand why they might not speak up. So I
14:41 11 agree that he has done a good job of expressing the expectation
14:42 12 that people will speak up, but I think there is still a lot of work to
14:42 13 do to understand why they may not. That's one point.

14:42 14

14:42 15 The other point is about individual leadership change, and I
14:42 16 suppose it is hard for me to make an evaluation of that because
14:42 17 obviously Mr McCann is new to the role. One thing I will say is
14:42 18 that when staff perceive a change in leadership behaviour, in the
14:42 19 same leader changing their behaviour, that is a very powerful way
14:42 20 of demonstrating that the culture should be shifting, or that things
14:42 21 are changing. But when the person is new, there is no change
14:42 22 that you can observe, so - that's not to say that change can't
14:42 23 happen, but you've actually got just one very particular lever that
14:42 24 you may not have at your disposal.

14:42 25

14:43 26 Q. So would you agree then that if there had been, for
14:43 27 example, a very senior representative within Crown Melbourne
14:43 28 who had been in a role of seniority and responsibility for many
14:43 29 years, say, from 2013, and had been in that role of responsibility
14:43 30 under the old culture, but were able to change and embrace the
14:43 31 new culture, that him or perhaps her staying on, and to be seen to
14:43 32 have changed and stayed on could send a powerful message to
14:43 33 others within the organisation?

14:43 34

14:43 35 A. Yes, I have seen examples of when that has been a very
14:43 36 powerful way to drive change.

14:43 37

14:43 38 Q. In your view, is it possible for even people who have been
14:43 39 in positions of responsibility, and may have made mistakes under
14:43 40 an old and deficient culture, to reform themselves and
14:44 41 satisfactorily contribute to a new reformed culture?

14:44 42

14:44 43 A. Absolutely. And that's why I made the points about the
14:44 44 need to invest really in genuine mindset and behaviour change
14:44 45 within the leadership team, because they need to be the ones
14:44 46 driving the change, they need to genuinely understand and have
14:44 47 a compelling reason to shift their behaviour, so that they can

14:44 1 demonstrate to others that the change is possible.

14:44 2

14:44 3 Q. Ms Arzadon, in your report you also - this is at page 23
14:44 4 for our friends - you also make the observation on what you had
14:44 5 reviewed and say that there was evidence that current
14:44 6 communication about the cultural change expected by senior
14:44 7 leaders may lack resonance for staff; do you recall making that
14:44 8 observation?

14:44 9

14:44 10 A. Yes, I do.

14:44 11

14:45 12 Q. Again I will try and summarise evidence for you which you
14:45 13 may not have been aware when you made that observation and
14:45 14 ask if it causes you to change your opinion on that. First,
14:45 15 Ms Whitaker - I withdraw that. This is from Ms Whitaker's
14:45 16 evidence, which I think you did review and it is transcript
14:45 17 page 1945 for our friends. Ms Whitaker said this, tell me if you
14:45 18 remember reading it or if you would like it brought up:

14:45 19

14:45 20 *First of all, the changing of the guard, both at the Board*
14:45 21 *and Executive level, will have a profound impact on the*
14:45 22 *culture of an organisation. Helen Coonan, as the*
14:45 23 *Executive Chair, sought to write to the business every*
14:45 24 *week. So she was sending out weekly updates to the*
14:45 25 *business, and we've had several people comment that*
14:46 26 *they've been very welcome additions. They, prior to that,*
14:46 27 *really didn't hear much from the Board at all, or from the*
14:46 28 *previous Chief Executives either. So this new open*
14:46 29 *communication has been received well within the*
14:46 30 *organisation.*

14:46 31

14:46 32 Is that familiar to you?

14:46 33

14:46 34 A. I do recall that.

14:46 35

14:46 36 Q. Does it appear to you, at least from that evidence from Ms
14:46 37 Whitaker, that Ms Coonan's communications are resonating with
14:46 38 staff?

14:46 39

14:46 40 A. I think they are welcome. I'm not sure if resonating is
14:46 41 necessarily the same as welcome.

14:46 42

14:46 43 Q. Okay. Ms Halton, who is a director of Crown, gave
14:46 44 evidence at transcript P-3599 to P-3600, and that was only this
14:46 45 week, Ms Arzadon. She said this:

14:46 46

14:46 47 *I would actually suggest to you that the employees are*

14:46 1 *very clear and we've already discussed what Ms Whitaker*
14:46 2 *has indicated, together with certainly some informal*
14:46 3 *soundings I and other members of the Board have taken*
14:47 4 *that people detect very clearly the change in tone from the*
14:47 5 *top. That is the message that we have So, no, I do not*
14:47 6 *accept staff will not approach this with an open mind. I*
14:47 7 *actually think - and this is the feedback Mr McCann has*
14:47 8 *already got since his arrival, a mere five weeks ago, that*
14:47 9 *people are very hungry for clear leadership and some*
14:47 10 *very unambiguous messages. That is what we are on*
14:47 11 *about.*

14:47 12
14:47 13 A. Yes. I would agree it sounds, from the materials that I've
14:47 14 read and from what you are sharing here, that there is a very clear
14:47 15 top-down communication of expectations.
14:47 16

14:47 17 Q. Ms Halton, at transcript 3644, then gave some evidence
14:47 18 about what she heard fed back to her from lower levels from
14:47 19 management. She said, and I'm paraphrasing, but transcript
14:48 20 3644, she said that she had seen a genuine change in the candour
14:48 21 of senior management, and she had been heartened by the fact
14:48 22 that so many had rung her to raise issues with things they were
14:48 23 concerned about.
14:48 24

14:48 25 So it seemed to Ms Halton at least, that that message from the top
14:48 26 was resonating and was getting through.
14:48 27

14:48 28 A. Yes --- (speaking over) ---
14:48 29

14:48 30 Q. Assuming, as I ask you to assume, that that is evidence that
14:48 31 Ms Halton has given, would you agree that that is evidence of the
14:48 32 messages, the new cultural tone from the top, achieving some
14:48 33 resonance with lower levels of management?
14:48 34

14:48 35 A. Certainly from the perspective of this speaking up issue, it
14:48 36 does seem like - there does seem to be effectiveness in that
14:48 37 communication going down about that.
14:48 38

14:48 39 Q. More broadly, not just on the speaking up issue, another
14:48 40 director, Ms Korsanos, gave evidence at transcript page 3698 that
14:49 41 she is already receiving feedback from Crown employees, that
14:49 42 they see the change which is being embraced in the organisation.
14:49 43 Assuming that evidence has been given, would you agree that
14:49 44 that also indicates that the cultural messages being sent as a new
14:49 45 tone from the top are resonating down below?
14:49 46

14:49 47 A. It is very hard to take the perspective of one person and

- 14:49 1 apply it to a general conclusion. It is one person's perspective.
14:49 2 And this is the point about Deloitte's work and why I think it's a
14:49 3 good idea to see what they have to say, because they have spoken
14:49 4 to a very large range of people and getting perspectives of
14:49 5 everybody. So I would agree from the perspective of that person
14:49 6 they have some examples, but whether that is generally
14:49 7 applicable across the whole of the organisation, it is hard to tell.
14:49 8
- 14:49 9 Q. Is the only way really to know one way or the other
14:50 10 whether the new cultural messages from the top are or are not
14:50 11 resonating at lower levels of management, to do the sort of
14:50 12 primary data work that Crown has commissioned Deloitte to do?
14:50 13
- 14:50 14 A. The only way to know for sure is to do that work, yes.
14:50 15
- 14:50 16 Q. And again, appreciating that you did the job you were
14:50 17 commissioned to do under time pressure, and only on the basis of
14:50 18 the information you were provided, you would agree, wouldn't
14:50 19 you, that a review just of some statements and reports and
14:50 20 an attempt to glean from those statements and reports the state of
14:50 21 Crown's culture and the prospect of culture reform is a very
14:50 22 difficult thing for you to have been asked to do?
14:50 23
- 14:50 24 A. It is a difficult thing, and if I was not - if I hadn't seen
14:51 25 many of these types of situations before, I might have a little less
14:51 26 confidence in it, but I have seen many of these before, so I agree
14:51 27 it is definitely not as robust a basis for forming those conclusions
14:51 28 as having done a piece of work like Deloitte has. I definitely
14:51 29 agree with that, but it is not ---
14:51 30
- 14:51 31 Q. When you say ---
14:51 32
- 14:51 33 A. --- (speaking over) --- materials.
14:51 34
- 14:51 35 Q. Sorry for interrupting you. Have you finished your answer?
14:51 36
- 14:51 37 A. Yes, I am.
14:51 38
- 14:51 39 Q. When you say - did you say you've seen lots of these sorts
14:51 40 of things before or done lots of these before?
14:51 41
- 14:51 42 A. I've seen examples of cultural change required on the part
14:51 43 of large organisations like Crown.
14:51 44
- 14:51 45 Q. Yes, but your past work, for example, some of the work
14:51 46 you did for ASIC after the Financial Services Royal Commission,
14:52 47 assessing company board cultures, that past work you did on the

14:52 1 basis of primary data; correct?
14:52 2
14:52 3 A. That's true, yes.
14:52 4
14:52 5 Q. You went to the board meetings, you observed board
14:52 6 members, you interviewed them. You conducted surveys
14:52 7 yourself even outside the boardroom; correct?
14:52 8
14:52 9 A. Absolutely. In all of the reviews we do, we do a very
14:52 10 similar type of data collection as what Deloitte is doing in their
14:52 11 review.
14:52 12
14:52 13 Q. Yes, but this piece of work you've done for this
14:52 14 Commission is different to the work you've done previously, in
14:52 15 that this piece of work didn't afford you the opportunity to have
14:52 16 any primary source data; correct?
14:52 17
14:52 18 A. No, because I wasn't asked to do a full culture review.
14:52 19
14:52 20 Q. Yes, you agree you were not asked to and did not do
14:52 21 a culture review for Crown or ---
14:52 22
14:52 23 COMMISSIONER: Four times is enough.
14:52 24
14:53 25 MR BORSKY: Pardon me, Commissioner. One moment,
14:53 26 please.
14:53 27
14:54 28 Just one final topic if I may, Commissioner, changing topics to
14:54 29 some extent.
14:54 30
14:54 31 Ms Arzadon, another observation or comment you made in your
14:54 32 report was about Ms Coonan, your words, "backtracking" on her
14:54 33 agreement. Do you recall that? I can take you to it if you don't.
14:54 34
14:54 35 A. No, I do recall that.
14:54 36
14:54 37 Q. That was a comment you made about what you had
14:54 38 understood to have been the perception of the VCGLR that
14:54 39 Ms Coonan backtracked on her agreement with them; correct?
14:54 40
14:54 41 A. Yes, correct, I didn't make that observation myself, I said
14:54 42 that was the perspective of the VCGLR.
14:54 43
14:55 44 Q. Yes.
14:55 45
14:55 46 Now, I want to - and that concerned in particular a disciplinary
14:55 47 hearing before the VCGLR in January this year; correct?

14:55 1
14:55 2 A. Yes, that's correct.
14:55 3
14:55 4 Q. The so-called backtracking which you considered the
14:55 5 VCGLR might have perceived, in Ms Coonan's position, was
14:55 6 from a position you understood she had expressed in December
14:55 7 last year; correct?
14:55 8
14:55 9 A. Yes, that's right.
14:55 10
14:55 11 Q. I think you and I have made it clear, it wasn't your opinion
14:55 12 you were expressing that Ms Coonan had backtracked on
14:55 13 an agreement, correct?
14:55 14
14:55 15 A. No, no, because I was making those statements in relation
14:55 16 to the relationship between the regulator and the institution, that
14:56 17 is why I was commenting on them being the perception of the
14:56 18 VCGLR.
14:56 19
14:56 20 Q. You had reviewed the reasons for the VCGLR decision ---
14:56 21
14:56 22 A. Yes.
14:56 23
14:56 24 Q. --- following that January 2021 hearing?
14:56 25
14:56 26 A. Yes.
14:56 27
14:56 28 Q. Do you agree with me that nowhere in those reasons does
14:56 29 the VCGLR express the review that Ms Coonan back tracked
14:56 30 from her agreement?
14:56 31
14:56 32 A. No. Sorry, I do agree with you that is not in that statement.
14:56 33
14:56 34 Q. Are you aware that Ms Coonan in fact did not participate in
14:56 35 that hearing and did not have any role in relation to that January
14:56 36 2021 hearing?
14:56 37
14:56 38 A. I'm not aware of that. As I said, my statement was based
14:56 39 on, or my comments were based on the statement from the
14:56 40 VCGLR about their perception of that backtracking occurring.
14:57 41 So I'm not aware - yes, I suppose I don't have the facts of the
14:57 42 matter to go on, because I was just commenting on the
14:57 43 perception.
14:57 44
14:57 45 MR BORSKY: Okay. Thanks, Ms Arzadon.
14:57 46
14:57 47 Thank you, Commissioner.

14:57 1
14:57 2 COMMISSIONER: Thanks, Mr Borsky.
14:57 3
14:57 4 Mr Hutley, are you online?
14:57 5
14:57 6 MR HUTLEY: Yes, thank you, Commissioner, I am.
14:57 7
14:57 8 COMMISSIONER: Good. Your turn to ask questions, if you
14:57 9 like.
14:57 10
14:57 11
14:57 12 **CROSS-EXAMINATION BY MR HUTLEY**
14:57 13
14:57 14
14:57 15 MR HUTLEY: Thank you very much.
14:57 16
14:57 17 Ms Arzadon, my name is Noel Hutley, I appear for Consolidated
14:57 18 Press Holdings and I am going to ask you some questions, as you
14:57 19 would imagine. You've been taken through your report in some
14:57 20 detail so I will try to be as efficient as I can.
14:57 21
14:57 22 If you would go kindly to page 14 of your report, which is
14:57 23 COM.007.0001 at 0191, you discuss there what you refer to as
14:58 24 the number of stages and I would like to ask you particularly
14:58 25 about stage one which you recorded something about.
14:58 26
14:58 27 You say that one defines current state culture, including key
14:58 28 behavioural norms, shared mindsets, formal and informal root
14:58 29 causes that exist with key organisational subgroups.
14:58 30
14:58 31 Now, you also, below that, the three dot points, if I could stop
14:58 32 with the first dot point, you say that:
14:58 33
14:58 34 *This stage requires an analysis of fundamental root*
14:58 35 *causes underlying the current state, the creation of*
14:58 36 *a vision for the future, and a gap analysis between the*
14:59 37 *two.*
14:59 38
14:59 39 Now the second two matters referred to in that sentence deal with
14:59 40 as I understand it the second and third dot points above; that is
14:59 41 correct?
14:59 42
14:59 43 A. Yes, that is correct.
14:59 44
14:59 45 Q. The first is, requires an analysis of the fundamental root
14:59 46 causes. Do I take it you consider that essential because unless
14:59 47 one has identified with particularity the cause or causes which

14:59 1 inform various behavioural norms, shared mindset, or shared
14:59 2 mindsets, and one has done that with brutal honesty, one is
14:59 3 inhibited from formulating a program to, as it were, extirpate the
15:00 4 behavioural norms or shared mindsets which are antithetical as to
15:00 5 what a company would describe as the future state cultures
15:00 6 which, by hypothesis, have been identified as conducive to
15:00 7 an appropriate running of the company? Is that, as I understand,
15:00 8 what has to take place?

15:00 9

15:00 10 A. Absolutely. The diagnosis of the current state is crucial.

15:00 11

15:00 12 Q. Right, and that diagnosis has to be brutally honest, correct?

15:00 13

15:00 14 A. I think I might have said in my report people should be
15:00 15 kind with the truth? I'm sorry, I'm not sure how that stacks up
15:00 16 with brutal honesty, but it does need to be honest, and absolutely
15:00 17 needs to be honest.

15:00 18

15:01 19 Q. Can I ask you one of the reasons that one in effect enquires
15:01 20 far and wide within the organisation is to, as it were, remove
15:01 21 self-serving bias on the part of what might be called senior
15:01 22 management and the current ruling regime. Do you agree with
15:01 23 that?

15:01 24

15:01 25 A. Yes, when you seek the views of those below, sometimes it
15:01 26 provides a different perspective than the perspective of senior
15:01 27 leaders.

15:01 28

15:01 29 Q. Quite. And would you agree with me there is a risk that
15:01 30 senior leaders will tend to, as it were, simplify the problems to
15:01 31 divert attention from their own participation in those problems?

15:01 32

15:01 33 A. Sometimes that does happen. It is often a human, natural
15:02 34 reaction to do that.

15:02 35

15:02 36 Q. Quite. And can I suggest to you that tendency is all the
15:02 37 more likely when the company is in crisis mode; do you agree
15:02 38 with that?

15:02 39

15:02 40 A. I would agree that would be a common reaction.

15:02 41

15:02 42 Q. Yes. And, therefore, one has to be particularly astute to
15:02 43 avoid the adoption of simplistic causes as being the driving force
15:02 44 of a problem which a company has arrived at; would you agree
15:02 45 with that?

15:02 46

15:02 47 A. I definitely agree with that.

15:02 1
15:02 2 Q. In other words, it requires a detailed and nuanced analysis
15:02 3 of the facts on the ground, what have been referred to I think in
15:02 4 questioning as primary sources; correct?
15:02 5
15:02 6 A. Yes, I agree with that.
15:02 7
15:02 8 Q. And that's why - and you describe this - to return to
15:02 9 page 14, you describe this as:
15:02 10
15:03 11 *However it is usually the current state analysis that is*
15:03 12 *most difficult.*
15:03 13
15:03 14 You see that?
15:03 15
15:03 16 A. Yes.
15:03 17
15:03 18 Q. And it is most difficult because one has to, in effect, divine
15:03 19 the causes through an extensive analysis of communications,
15:03 20 firstly; correct?
15:03 21
15:03 22 A. Yes, you need to go and speak to people in the
15:03 23 organisation.
15:03 24
15:03 25 Q. Right.
15:03 26
15:03 27 A. --- (speaking over) ---
15:03 28
15:03 29 Q. And you have to in effect bring your expertise to bear to, as
15:03 30 it were, remove self-serving biases in the analyses undertaken by
15:03 31 people at various levels; correct?
15:03 32
15:03 33 A. Yes. So what I would say is when you gather a variety of
15:03 34 different points of view you can compare them and try and find
15:03 35 commonality. I wouldn't say an analysis of culture judges the
15:03 36 veracity of statements, but rather when you put all of them
15:04 37 together you start to see what the common theme is.
15:04 38
15:04 39 Q. Like any professional, you bring to bear, in your analysis of
15:04 40 the human condition, what might be called a healthy, professional
15:04 41 scepticism; would you agree with that?
15:04 42
15:04 43 A. I would agree with that.
15:04 44
15:04 45 Q. Yes. You in effect go on to say:
15:04 46
15:04 47 *A robust process for assessing current state culture*

- 15:04 1 *involves gathering and triangulating a range of data*
15:04 2 *about the organisation's day-to-day reality for people in*
15:04 3 *different subgroups*
15:04 4
15:04 5 You see that?
15:04 6
15:04 7 A. Yes, that's true.
15:04 8
15:04 9 Q. What does triangulating mean?
15:04 10
15:04 11 A. Comparing and contrasting multiple data points.
15:04 12
15:04 13 Q. We have all heard that that hasn't happened to date in this
15:04 14 company; correct?
15:04 15
15:05 16 A. Not yet.
15:05 17
15:05 18 Q. You go on to say:
15:05 19
15:05 20 *This information is then assessed to identify characteristic*
15:05 21 *behavioural norms and mindsets*
15:05 22
15:05 23 Correct?
15:05 24
15:05 25 A. Yes.
15:05 26
15:05 27 Q. And then you say in the next sentence:
15:05 28
15:05 29 *Considering direct information from multiple*
15:05 30 *organisational members is especially important to avoid*
15:05 31 *'projecting' assumptions from an outside analyst about the*
15:05 32 *root causes of observable behaviour*
15:05 33
15:05 34 Now, "projecting" means imposing; do you agree with that?
15:05 35
15:05 36 A. I agree with that.
15:05 37
15:05 38 Q. An "outside analyst", what is that a reference to?
15:05 39
15:05 40 A. It is a reference to, and maybe this is an earlier point, but
15:05 41 without going and speaking to people in the organisation, you can
15:05 42 get a certain distance in term of forming conclusions based on the
15:06 43 materials and the facts and observing behaviour, but until you
15:06 44 actually speak to people, you don't have the full picture.
15:06 45
15:06 46 Q. And no one to date has had the full picture; correct?
15:06 47
15:06 48 A. I agree, yes.

- 15:06 1
15:06 2 Q. And with all due respect to her, the author of the Bergin
15:06 3 Inquiry didn't have the full picture; did she?
15:06 4
15:06 5 A. I don't know what process she took, but I assume she didn't.
15:06 6 I don't know if she spoke to lots of people within Crown or not.
15:06 7
15:06 8 Q. You don't know the scope of the investigation of staff
15:06 9 which took place in the course of that inquiry; correct?
15:06 10
15:06 11 A. I don't know the scope, no.
15:06 12
15:06 13 Q. I want to suggest to you that, with no disrespect,
15:06 14 investigating fundamental cultural norms through all the pressure
15:07 15 and perspective of individuals of a formal inquiry involving
15:07 16 people having to give evidence under oath is not ideal from your
15:07 17 point of view in analysing fundamental root causes; you would
15:07 18 agree with that?
15:07 19
15:07 20 A. I would agree with that.
15:07 21
15:07 22 Q. Thank you. You spoke about you being in a position to
15:07 23 express opinions which you were content to express, with the
15:07 24 qualifications you've given, by reference to what I think
15:07 25 Mr Borsky put to you and you agreed, the defined scope of your
15:07 26 inquiry; is that correct?
15:07 27
15:07 28 A. That's true, yes.
15:07 29
15:07 30 Q. By the defined scope of your inquiry, can the
15:08 31 Commissioner take it you are referring to the key questions which
15:08 32 appear in paragraph 1.3 at page four of your report?
15:08 33
15:08 34 A. Yes, that's what I'm referring to.
15:08 35
15:08 36 Q. And that is all; correct?
15:08 37
15:08 38 A. Yes, that's true.
15:08 39
15:08 40 Q. So, in effect, your opinions are limited to your best - in
15:08 41 effect, with the limited materials you've had, are limited to your
15:08 42 best opinion of cultural norms or behavioural norms which
15:08 43 operated as between Crown and the VCGLR; correct?
15:08 44
15:08 45 A. That's correct.
15:08 46
15:08 47 Q. That is all you are expressing an opinion about; correct?

15:08 1
15:08 2 A. And the other two points, I suppose, on whether ---
15:08 3 (speaking over) ---
15:08 4
15:08 5 Q. --- but I'm talking about root causes.
15:08 6
15:08 7 A. Yes.
15:08 8
15:08 9 Q. Correct? Do you agree with me?
15:08 10
15:09 11 A. Yes.
15:09 12
15:09 13 Q. Questions two and three are not dealing with root causes; correct?
15:09 14
15:09 15 A. Well, there is some implication of root causes in those
15:09 16 other two questions.
15:09 17
15:09 18 Q. Somewhat obliquely, would you agree with me?
15:09 19
15:09 20 A. I guess they underlie how easy it is to change culture and
15:09 21 how long it takes to change culture.
15:09 22
15:09 23 Q. Quite.
15:09 24
15:09 25 A. The root causes would impact that.
15:09 26
15:09 27 Q. Quite. And because, and as you've already accepted, you
15:09 28 haven't identified all the root causes. All you can express is what
15:09 29 might be called a broad assessment based upon your very
15:09 30 extensive experience; that's correct --
15:09 31
15:09 32 A. Yes.
15:09 33
15:09 34 Q. --- about the matters in respect of questions two and three?
15:09 35
15:09 36 A. Yes, I agree.
15:09 37
15:09 38 Q. Thank you. Now, you have taken, as an assumption for the
15:09 39 purposes of your exercise, if you would please go to paragraph
15:10 40 6.2, the assumption you have made with respect to the
15:10 41 dominating leadership style of Mr James Packer, you have taken
15:10 42 that as an assumption based upon what you have drawn from
15:10 43 certain paragraphs of the Bergin Report; correct?
15:10 44
15:10 45 A. Yes. I don't know Mr James Packer and I've not met him,
15:10 46 so I don't know whether he's a domineering individual, but that's
15:10 47 what I read in the Bergin Report.

15:10 1
15:10 2 Q. Right, so you have taken it as an assumption; correct?
15:10 3
15:10 4 A. I have.
15:10 5
15:10 6 Q. Thank you. But the relationship between the VCGLR and
15:11 7 Crown was a relationship which was principally, was it not,
15:11 8 between, as it were, between certain sections of Crown and the
15:11 9 VCGLR; correct?
15:11 10
15:11 11 A. Are you referring to the dynamic being unconstructive, or?
15:11 12
15:11 13 Q. No, no. All I'm saying is the personnel from Crown's
15:11 14 perspective who dealt with the VCGLR are a rather limited
15:11 15 group. Correct?
15:11 16
15:11 17 A. Yes, certainly the people who would be dealing with them
15:11 18 most often, yes.
15:11 19
15:11 20 Q. And it would it be fair to say you observed that, like in
15:11 21 many organisations, the people dealing in the regulatory side tend
15:11 22 to have legal training?
15:11 23
15:11 24 A. I'm sorry, could you repeat that? I had a lag on my internet.
15:11 25
15:11 26 Q. Certainly. Those who dealt on behalf of Crown on the
15:12 27 regulatory side tended to be lawyers; correct?
15:12 28
15:12 29 A. I would expect that.
15:12 30
15:12 31 Q. And lawyers can get into what might be called, as it were,
15:12 32 an over-technical mindset for various reasons, associated often
15:12 33 with their particular views about the appropriate way to deal with
15:12 34 organisations such as regulators; correct?
15:12 35
15:12 36 A. Yes, I would suggest there is a culture within the legal
15:12 37 community and regulatory community, and those patterns, yes,
15:12 38 have their own uniqueness.
15:12 39
15:12 40 Q. And you've seen, in your experience, breakdowns between
15:12 41 regulators and organisations often driven by what might be called
15:12 42 the smart Alec lawyer approach; correct?
15:12 43
15:12 44 A. I've seen that sometimes, yes.
15:12 45
15:13 46 Q. It is pretty common, isn't it?
15:13 47

- 15:13 1 A. I would suggest that, yes.
15:13 2
- 15:13 3 Q. It's often in effect the subculture which drives things
15:13 4 between an organisation and a regulator is peculiarly associated
15:13 5 with a certain attitude often exhibited by lawyers; correct?
15:13 6
- 15:13 7 A. Yes, because lawyers are usually involved in those
15:13 8 interactions, so, yes.
15:13 9
- 15:13 10 Q. It is a common experience you've had that lawyers can get
15:13 11 into what might be called the smart alec lawyer approach to
15:13 12 a regulator; you've seen that dozens of times, haven't you?
15:13 13
- 15:13 14 A. I suppose I've seen that interaction sometimes.
15:13 15
- 15:13 16 Q. And you haven't done the root cause analysis of the
15:13 17 VCGLR relationship with Crown from a perspective of
15:13 18 examining the cultural or behavioural attitudes of the individuals
15:14 19 who drove the interrelationship between Crown and the VCGLR;
15:14 20 have you?
15:14 21
- 15:14 22 A. No, I have based my opinion on the statements and actions
15:14 23 and behaviours that I observed in the various materials, and I
15:14 24 drew my conclusions from that perspective. Not an individual
15:14 25 perspective, no.
15:14 26
- 15:14 27 Q. Without that access, as it were, to what might be called
15:14 28 a deep analysis of the behaviour of the individuals who drove this
15:14 29 development, your opinion has to be suitably qualified as to the
15:14 30 causes which produced this particularly unfortunate development
15:14 31 in the relationship between these two organisations; correct?
15:14 32
- 15:14 33 A. Yes, if I spoke to people and understood their motivations,
15:14 34 I would have a much better understanding. That's true.
15:14 35
- 15:15 36 Q. One other thing, if I could. You have been referred to the
15:15 37 evidence of Ms Whitaker who you acknowledged is what might
15:15 38 be called an eminent practitioner in your professional field;
15:15 39 correct?
15:15 40
- 15:15 41 A. Yes, that's correct.
15:15 42
- 15:15 43 Q. As part of the documents which are referred to in your
15:15 44 report you attached a submission by Ms Whitaker as number six,
15:15 45 which I think is the document, if this could be brought up,
15:15 46 DTT.0000.0005.0009.
15:15 47

- 15:16 1 You've read that document, I take it?
15:16 2
15:16 3 A. Yes, I have.
15:16 4
15:16 5 Q. Ms Whitaker, on 0011, dealt with, in effect, in summary
15:16 6 form, her dealing with current officers in Crown; correct?
15:16 7
15:16 8 A. Yes, correct.
15:16 9
15:16 10 Q. If you go to 0015, you will see with her dealings with
15:17 11 Ms Alicia Gleeson who is the manager of human resources in
15:17 12 Melbourne and Sydney as you understand it; correct?
15:17 13
15:17 14 A. Yes, that's - I think ---
15:17 15
15:17 16 Q. And this is summary, and I know there was a spreadsheet
15:17 17 behind it, but I don't want to trouble you with that, but can we
15:17 18 take this as sufficiently representative of the detail behind it for
15:17 19 the purposes of my questions, and you will see she observes
15:17 20 various things in the right-hand column summary. For example,
15:17 21 at 59, Crown's people are perceived to be feeling quite battered
15:17 22 after the past year, and some areas where psychological safety
15:17 23 may be poor. You see that?
15:17 24
15:17 25 A. Yes, I do see that.
15:17 26
15:17 27 Q. So one is, in effect, examining the current culture of this
15:18 28 organisation in, in effect, what might be called historically unique
15:18 29 circumstances of the pandemic; do you agree with that?
15:18 30
15:18 31 A. Yes, I think that is what is being referred to there.
15:18 32
15:18 33 Q. Quite. That would be apt to create concern, that is, creating
15:18 34 concern throughout the community, about financial security;
15:18 35 correct?
15:18 36
15:18 37 A. Yes, definitely.
15:18 38
15:18 39 Q. It would also be apt to create a culture where change is
15:18 40 going to happen, because the world has accepted what has
15:18 41 happened will lead to profound changes in the way people
15:18 42 conduct their business at all manner of levels; do you agree with
15:18 43 that?
15:18 44
15:18 45 A. Of course there will be change, yes.
15:18 46
15:18 47 Q. Right. All I'm saying is, in effect, can I suggest to you that

15:18 1 the pandemic has created, besides all the other difficulties which
15:18 2 Crown is confronting, an environment where change will be - I
15:19 3 withdraw that.

15:19 4
15:19 5 The pandemic has created a point in history where, from your
15:19 6 perspective, bringing about cultural change will be optimised
15:19 7 because people are particularly and acutely expecting change in
15:19 8 all manner of their business lives; would you agree with that?

15:19 9
15:19 10 A. Yes, I definitely think it provides an opportunity to grasp
15:19 11 the momentum that is going to come.

15:19 12
15:19 13 Q. Thank you. Now, could I go on if I might over to the next
15:19 14 page at 0016. At 63 it said:

15:19 15
15:19 16 *In the past, GM and Executive have had a KPI around lifting*
15:19 17 *engagement scores, however this may have been shifted*
15:20 18 *towards more of a focus on financial indicators in recent*
15:20 19 *years.*

15:20 20
15:20 21 You see that?

15:20 22
15:20 23 A. Yes, I do.

15:20 24
15:20 25 Q. When it speaks of in, "recent years", the number of more
15:20 26 recent years one has been moving away from that KPIs of lifting
15:20 27 engagement scores, do you understand what engagement scores
15:20 28 refers to?

15:20 29
15:20 30 A. Yes, that's the staff engagement survey that would be done
15:20 31 in most organisations.

15:20 32
15:20 33 Q. There had been a number of staff engagements, had there
15:20 34 not, involving the staff; correct?

15:20 35
15:20 36 A. Yes, they probably did a survey every year.

15:20 37
15:20 38 Q. Yes. Do you recall reading the evidence of Ms Whitaker,
15:20 39 and I'm reading at transcript P-1921, and if it could be brought up
15:20 40 just shortly, that is COM.0004.0022.0001 at 0050.

15:20 41
15:21 42 For the point of view of the document controller, I will be coming
15:21 43 back to the document currently on screen, if I might.

15:21 44
15:21 45 Do you see from that line, "the surveys which were taken"; you
15:21 46 see that?

15:21 47

- 15:21 1 A. Yes, there was a survey conducted in 2018. Is that what
15:21 2 you are referring to?
15:21 3
- 15:21 4 Q. Yes, and there were Pulse surveys conducted by Culture
15:21 5 Amp in recent years; you see that?
15:21 6
- 15:21 7 A. Yes, I see that.
15:21 8
- 15:21 9 Q. Now, just so I can understand, from the point of view of the
15:22 10 current culture, would relatively recent surveys which would tend
15:22 11 not to be, as it were, infected by potentially confounding
15:22 12 circumstances such as the various inquiries to which Crown is
15:22 13 involved in and the like, let alone the pandemic, be informative
15:22 14 as to, as it were, identifying true root causes of cultural behaviour
15:22 15 within Crown, in your professional opinion?
15:22 16
- 15:22 17 A. Are you asking whether engagement surveys are helpful in
15:22 18 identifying root causes of cultural issues?
15:22 19
- 15:22 20 Q. Quite. In the peculiar circumstances we have here, that the
15:22 21 inquiry from Deloitte is taking place in what might be called
15:22 22 crisis times, particularly crises times not only by the inquiries
15:22 23 confronted by Crown, but also the pandemic, the past inquiries,
15:23 24 surveys, relatively recent, could be particularly valuable sources,
15:23 25 to undertake the sort of root cause analysis which you've referred
15:23 26 to. I'm asking for your professional view as to how you would
15:23 27 treat them?
15:23 28
- 15:23 29 A. My professional view, particularly in light of the previous
15:23 30 statement by - in Victoria's statement that in conversations she
15:23 31 had with the HR director says that there had been KPIs for
15:23 32 executives around engagement cause. What happens is that when
15:23 33 you give a KPI around engagement people are not always honest
15:23 34 in how they share their views to be; they feel pressured to say
15:23 35 good things because they know their manager will be assessed on
15:23 36 it. So, actually, I would question the candour on which people
15:23 37 were reporting their feelings during that period.
15:23 38
- 15:23 39 Q. I see. Thank you very much.
15:23 40
- 15:24 41 That tends to point up, would you agree with this, that in effect
15:24 42 analysis of root cause has to be very nuanced because of exactly
15:24 43 the sort of problem that you've observed upon; agree?
15:24 44
- 15:24 45 A. Yes, I agree. Yes.
15:24 46
- 15:24 47 Q. So, in effect, when one triangulates root causes one has to

15:24 1 filter through them the potentially confounding factors which
15:24 2 may tend to distort candour about the true position. I don't mean
15:24 3 that in an offensive way, just natural human attitudes; correct?

15:24 4
15:24 5 A. Yes, that's right; you need to make sure that people feel
15:24 6 comfortable being honest and triangulate different responses to
15:24 7 get a true - a fair sense of reality.

15:24 8
15:24 9 Q. Thank you very much.

15:24 10
15:25 11 Can I just then take you over in the report back to the document I
15:25 12 had up before, that was Ms Whitaker's statement, to point 0019.
15:25 13 If you go down to 29 March 2021, this seems to have been
15:25 14 a consultation between Ms Whitaker and her assistants and quite
15:25 15 a large number of apparently officers of the organisation. You
15:25 16 see that?

15:25 17
15:25 18 A. Yes, I see that.

15:25 19
15:25 20 Q. If you go over to 123, there was a discussion whether:

15:25 21
15:25 22 *Data being collected through the project will reflect the*
15:25 23 *sentiment of the business being under high levels of*
15:25 24 *scrutiny, uncertainty and associated stress.*

15:25 25
15:26 26 You see that?

15:26 27
15:26 28 A. Yes, I see that.

15:26 29
15:26 30 Q. Do you read that as an observation that it is very hard, and
15:26 31 requires great professional skill, to define real root causes in
15:26 32 circumstances where those who one seeks information for are
15:26 33 exposed to the sorts of conditions which are currently maintained
15:26 34 in relation to Crown; do you agree with that?

15:26 35
15:26 36 A. Yes. You need to use a variety of techniques and
15:26 37 experience in order to decipher what is the influence of the
15:26 38 current conditions from what the more stable root causes are.

15:26 39
15:26 40 Q. And can I suggest to you unless you bring to the exercise of
15:26 41 ascertaining cultural norms that what I've referred to in an earlier
15:27 42 stage is professional scepticism but I would also add sensitivity to
15:27 43 the human frailties at a time, such as Crown is confronting, there
15:27 44 is a high likelihood that you will misidentify root causes and
15:27 45 potentially overly simplify a complex causal series of relations
15:27 46 due to what might be called the convenient habit of trying to put
15:27 47 the blame on one person; would you agree with that?

15:27 1
15:27 2 A. I do definitely agree with that. I think culture is a very
15:28 3 complex issue and it shouldn't be boiled down to one thing, like
15:28 4 leaders only, it is actually much more systemic than that.
15:28 5
15:28 6 Q. Or particularly one leader ---
15:28 7
15:28 8 A. Or one leader, I agree with that.
15:28 9
15:28 10 Q. Or particularly even a major shareholder, would you agree
15:28 11 with that?
15:28 12
15:28 13 A. A major shareholder would have a large influence but is
15:28 14 definitely not the only component of culture.
15:28 15
15:28 16 Q. Right. And to know how those components have worked
15:28 17 requires a nuanced, subtle investigation of people, if I might not
15:28 18 appear too sycophantic, with your skills or the skills of
15:28 19 Ms Whitaker; would you agree with that?
15:28 20
15:28 21 A. Yes, I would agree with that.
15:28 22
15:28 23 MR HUTLEY: We have no further questions. Thank you.
15:28 24
15:28 25 COMMISSIONER: Thanks, Mr Hutley.
15:28 26
15:28 27 MR GRAY: No questions, Commissioner.
15:28 28
15:28 29 COMMISSIONER: Thank you, Mr Gray.
15:28 30
15:28 31 **FURTHER EXAMINATION BY MS NESKOVGIN**
15:28 32
15:28 33 MS NESKOVGIN: I just have two points I want to clarify with
15:28 34 Ms Arzadon. Can you hear me, Ms Arzadon?
15:29 35
15:29 36 A. Yes, I can.
15:29 37
15:29 38 Q. You were asked some questions by counsel for Crown,
15:29 39 Mr Borsky, about the tone from the top and whether the only way
15:29 40 to tell - he was putting to you that the only way to tell if the tone
15:29 41 or new tone is resonating is to do the sort of work that Deloitte is
15:29 42 doing and you agreed with that?
15:29 43
15:29 44 A. Yes.
15:29 45
15:29 46 Q. But in order to tell if the new tone from the top is
15:29 47 embedding a new culture, what is required in terms of the work
15:29 48 and the time frame?
15:29 49

15:29 1 A. Well, first of all for new behaviours to be embedded there
15:29 2 needs to be time. It is very difficult to test that until you have
15:29 3 a sufficient time scale, new behaviours are consistent to see if
15:29 4 they are maintained. But in terms of whether it is resonating and
15:29 5 changing people's mindset, then you need to ask people. There
15:29 6 needs to be that process of understanding from the different
15:29 7 perspective of people in different subgroups at different levels in
15:30 8 different parts of the business. What is their perception of what is
15:30 9 being told to them. So I think it takes time and listening.

15:30 10
15:30 11 COMMISSIONER: Can you detect it from behaviour rather than
15:30 12 interviews?

15:30 13
15:30 14 A. So in a process of cultural change there are steps that will
15:30 15 happen before you start to see the embedded behavioural change.
15:30 16 And it is important to try to identify some of those steps because
15:30 17 the actual behaviour change and the change in outcomes might
15:30 18 take quite a while. So in order to know you are going in the right
15:30 19 direction you want to test some of the mindsets and perceptions
15:30 20 first so that you know you are going in the right direction because
15:30 21 it will take time a bit of time before you see the actual behaviours
15:30 22 consistently change.

15:30 23
15:30 24 COMMISSIONER: I see.

15:30 25
15:30 26 MS NESKOVCIN: You were asked some questions about
15:30 27 Mr Weston's statement. Please call up CRW.998.0001.0521 on
15:31 28 the fifth page. You were asked some questions about the various
15:31 29 phases of work that Deloitte were doing and you were directed at
15:31 30 one point to phase four, which is referred to in paragraph (d). You
15:31 31 were asked if that is the kind of work which you would expect to
15:31 32 be undertaken for a cultural review. Do you recall that
15:31 33 exchange?

15:31 34
15:31 35 A. Yes, I do.

15:31 36
15:31 37 Q. And you said, "yes, that was the beginning of a culture
15:31 38 change program."

15:31 39
15:31 40 A. Yes.

15:31 41
15:31 42 Q. What did you mean by the beginning of a culture change
15:31 43 program? What is the beginning and what is the end and what is
15:31 44 the middle?

15:31 45
15:31 46 A. So what I see here is that there is defining the aspirational
15:31 47 state and developing a roadmap for change and establishing

15:31 1 governance and measurement and reporting frameworks. The
15:31 2 last part is really about project governance or management to
15:32 3 major sure that the project stays on track. I would assume that
15:32 4 developing a roadmap for change requires the definition of
15:32 5 a "from" and a "to" gap analysis and, therefore, designing actions
15:32 6 to address those gaps. But what is here so far is really just the
15:32 7 beginning of the design part of it. There is not actually
15:32 8 implementation of any of the things that you would need to do in
15:32 9 order to execute that change. So I think it is the starting block
15:32 10 rather than even into the race.

15:32 11

15:32 12 Q. Can you assist the Commission by explaining what you
15:32 13 mean and perhaps by giving some examples of the
15:32 14 implementation to execute the change? What practical things are
15:32 15 you referring to?

15:32 16

15:32 17 A. So generally in a culture change, and I think I laid this out
15:32 18 in my report, there are four different types of actions that need to
15:32 19 happen in order to drive the behaviour change. You need to
15:32 20 make sure that people have a compelling reason to change, you
15:33 21 have to change systems to reinforce it; that would be like the way
15:33 22 people's performance is measured or the way they are
15:33 23 incentivised. You need to build their skill in order to engage in
15:33 24 new behaviours. So if I make that practical it might be how does
15:33 25 a person - how does a frontline staff member in the casino deal
15:33 26 practically with an individual that needs to be stopped from their
15:33 27 behaviour, from their gambling, for example. If they haven't
15:33 28 done that a lot before they might need skill building in that area.
15:33 29 And the fourth category of actions is around role modelling by
15:33 30 leaders. And specifically around the particular new behaviours
15:33 31 that you are trying to embed. So I'm not saying - when I say
15:33 32 "role modelling", I'm not just saying, I don't know, any kinds of
15:33 33 behaviours that they are trying to role model, it needs to be
15:33 34 specifically targeted at the gap that needs to be bridged between
15:33 35 the current behaviour and the new behaviours.

15:33 36

15:34 37 So until you've actually done that analysis of what is the current
15:34 38 state and the future state and the gap then you don't know which
15:34 39 actions you need to design to specifically target those shifts.

15:34 40

15:34 41 Q. And can I also just clarify in terms of "role modelling" by
15:34 42 leaders, do you mean at board level, at senior executive level, at
15:34 43 something else? Could you explain that?

15:34 44

15:34 45 A. Really, it's leaders at all levels. In fact, for frontline staff,
15:34 46 probably the more important level is their supervisors because on
15:34 47 a day-to-day basis it is the supervisors who are really influencing

15:34 1 how they go about their job and setting the tone for them. So it
15:34 2 really has to be leadership all the way down through the
15:34 3 organisation.

15:34 4

15:34 5 Q. Thank you, Ms Arzadon. Commissioner, did you have
15:34 6 anything further?

15:34 7

15:34 8 COMMISSIONER: No, nothing further from me. And anybody
15:34 9 else. Ms Arzadon is excused.

15:34 10

15:34 11 MS NESKOVICIN: Thank you, Ms Arzadon. You are excused.

15:34 12

15:34 13 A. Thank you very much.

15:35 14

15:35 15

15:35 16 **THE WITNESS WITHDREW**

15:35 17

15:35 18

15:35 19 MS NESKOVICIN: Commissioner, that completes the evidence.
15:35 20 The next step is Counsel Assisting's closing submissions which
15:35 21 will be on Monday 19 July.

15:35 22

15:35 23 COMMISSIONER: Well, before we go, can I thank everybody,
15:35 24 counsel and solicitors, for their cooperation to make what would
15:35 25 otherwise be a difficult job much easier. Not simple, but much
15:35 26 easier. It wouldn't have worked without everybody's effort, hard
15:35 27 work in enormously difficult circumstances. So, thank you again.
15:35 28 Mr Hutley, you stay safe in Sydney.

15:35 29

15:35 30 MR HUTLEY: After what Melbourne's been through we never
15:35 31 complain.

15:35 32

15:35 33 COMMISSIONER: All right. I will adjourn until 19 July.

15:35 34

35

36 **HEARING ADJOURNED AT 3.35 PM UNTIL MONDAY,**
37 **19 JULY 2021 AT 9.30 AM**

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