

Royal Commission into the Casino Operator and Licence

STATEMENT OF ALAN MCGREGOR

Name: ALAN MCGREGOR

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Occupation: Chief Financial Officer

Date: 1 July 2021

"**Commission Based Players' Gaming Revenue**" has the meaning given to it in the Management Agreement.

"**Crown**" means Crown Resorts Limited and any subsidiary of Crown Resorts Limited including Crown Sydney Gaming Pty Ltd, Crown Melbourne Limited or Burswood Limited.

"**GGR**" means Gross Gaming Revenue, as defined in the Management Agreement.

"**Tax Impact**" has the same meaning as in CRW.510.059.0594.

"**Management Agreement**" means the Management Agreement dated 20 September 1993, as amended from time to time, and ratified by the Casino (Management Agreement) Act.

"**Super Tax**" means the additional tax payable under clause 22.2 of the Management Agreement, and which has been calculated in CRW.512.156.2466.

1. I make this statement on behalf of Crown Resorts Limited and Crown Melbourne Limited (together **Crown**) in response to the Royal Commission's Request for Statement – RFS-Crown-021-Tax Issue (**Request for Statement**), questions 5, 6, 7, 8, 13, 14 and 15.
2. This statement has been prepared on the basis of my own knowledge and enquiries I have made of various employees within the Crown Resorts Group. Information and assistance has also been provided to me by various subject matter experts within Crown.
3. This is my second statement to this Commission.
4. Before moving to answer the specific questions of RFS-021 which I am addressing, I provide to the Commission an updated file at Annexure 1 (Attachment C – Schedule detailing Bonus Jackpot Analysis 27 June 2021 w BJ Master REVIEW) (CRW.512.192.0002). The format of this file is consistent with CRW.512.156.2466 previously provided to the Commission, however

the numbers relating to the notional total tax deduction (including super tax) have changed slightly due to further detailed work undertaken in recent days to re-calculate the amounts of gaming tax (including super tax) payable by month. We have engaged KPMG to complete a review of the calculations and the final numbers remain subject to that review. I provide this updated file as I will be referencing these updated numbers in answering the following questions relating to RFS-021.

5. In summary the notional tax deduction, including super tax, on all Promotions (categories 1 – 8) across financial years 2012 to year to date 2021 (May 2021) is \$277,169,862, up from \$272,616,021 in CRW.512.156.2466. The amount relating to total bonusing of \$753,248,307 has not changed.

Q5. In respect of each Promotion, for each financial year since the 2012 financial year (inclusive), identify in a table:

a. the total expense;

6. The total expense for each Promotion for each financial year since 2012 to the present (May 2021) is shown in the table at Annexure 2 (CRW.512.191.0034). \$15,002,648 of the total was expensed to the P&L through the financial years 2012 to 2014 prior to the staged implementation to record Bonus Jackpots (category 8) as system generated bonuses from the 2013 financial year. The table has been colour coded to match the numbers by Promotion category listed on the "BJ Master (2021-6-26)" worksheet included within Annexure 1 (CRW.512.192.0002).

b. (to the extent it differs from sub-paragraph (a)) the total deduction (for purposes of calculating of GGR) claimed by Crown;

7. The deductions claimed by Crown, by Promotion, for the purposes of calculating GGR for each financial year since the 2012 financial year are shown in the table at Annexure 3 (CRW.512.191.0033). The table has been colour coded to match the numbers by Promotion category listed on the "BJ Master (2021-6-26)" worksheet included within Annexure 1 (CRW.512.192.0002).
8. With respect to categories 1-4 and 7, there is a corresponding amount included in turnover in

Crown's systems for the purposes of calculating GGR which relates to free bets. Portions of categories 5 and 6 also relate to free bets with the balance being cash and / or fixed prizes such as gift vouchers. Categories 5 and 6 only relate to approximately 1.2% of the overall Promotions amount. I do not currently have a breakdown of free bets vs other prizes for categories 5 and 6.

c. the Tax Impact (inclusive of Super Tax and interest under clause 22D of the Management Agreement); and

9. The notional tax amount, including super tax, for each Promotion category for each financial year since 2012 is \$277,169.862 (as referred to in paragraph 5 above) included at Annexure 4 (CRW.512.192.0001). For the avoidance of doubt, Annexure 4 (CRW.512.192.0001) provides the Tax Impact as defined above.
10. However, I refer to these amounts as notional tax amounts because a number of the categories of Promotions (categories 1-4 and 7) include free bets recorded as turnover in Crown's systems for the purposes of calculating GGR. Portions of categories 5 and 6 also relate to free bets with the balance being cash and / or fixed prizes such as gift vouchers. Categories 5 and 6 only relate to approximately 1.2% of the overall Promotions amount. I do not currently have a breakdown of free bets vs other prizes for categories 5 and 6.
11. In Crown's system, Crown has included these free bet amounts in turnover due to the various system configurations that have existed since Crown's inception, and at the same time has included a corresponding deduction from GGR so that the net effect on the calculation of GGR is nil, as if the free bets were not included at all.
12. In my recent re-reading of the definition of Gross Gaming Revenue within clause 2 of Schedule 1 to the Casino (Management Agreement) Act 1993 (Vic) (CMA Act), I do not consider that free bets fall within "... sums, including cheques and other negotiable instruments whether collected or not, received in any period by the Company from the conduct of playing games..."
13. Category 8 (Dining, Hotel and Parking Rewards) and a portion of categories 5 and 6 relating

to cash and/or fixed prizes are the only Promotions that do not include bonuses that are redeemed by play back through the Gaming Machine. Category 8 is the subject of the introduction of "Bonus Jackpots" from 2012.

14. In my mind, on recent reflection, the deductions relating to categories 1-4 and 7 and the free bets portion of categories 5 and 6 do not in any way give rise to an underpayment of tax. The Promotions related to these categories are effectively "free bets," not revenue generated from a customer and therefore not assessable for tax. The deductions relating to these categories are simply negating the effect of recording the free bets as revenue via the system configuration.
15. However, I am now of the understanding, that there has been an underpayment of tax relating to the hotels and parking component of category 8.
16. The tax impact, including super tax, of deductions incorrectly taken across financial years 2012 to year to date 2021 (May 2021) is \$9,167,275, up from \$8,075,418 in CRW.512.156.2466 (this document is what I was referring to when I indicated to Nigel Morrison and others that my estimate of Crown's tax exposure was circa \$8m). Due to the complex nature of the super tax calculation, this amount has been calculated on the assumption that all of the Promotions (categories 1-8) are not deductible. Therefore, the super tax amount allocated to the hotels and parking component of category 8 is higher than it otherwise would be if only the hotels and parking components were not deductible.
17. Crown has now re-calculated the tax amounts payable by month since 2012 to assess the underpayment of tax based on the hotels and parking components only being non-deductible and the corresponding impact on super tax. This amount is \$8,774,030. We are in the process of having this calculation further reviewed and intend to remit our final estimate plus an estimated interest component to the State as soon as possible. We currently estimate the interest component to be \$5,140,305 under clause 22D of the Management Agreement, but further work is required to confirm this amount.

18. It is Crown's position that the deductions made with respect to categories 1-7, and the balance of category 8, being Dining Rewards, are appropriate. Therefore, no interest is payable under clause 22D of the Management Agreement in respect of these items.

d. any offsets or adjustments to which Crown might be entitled by reason of clause 22C of the Management Agreement (assuming each Promotion was not properly deducted from GGR by Crown).

19. Crown is entitled to a GST offset pursuant to clause 22C.2 of the Management Agreement which governs the calculation of the State Tax Credit (Global GST Amount) relating to the requirement for the State to adjust its gambling tax arrangements to take account of the GST on gambling operations (refer clause 22C.1). In simple terms gaming tax is reduced by the amount of the State Tax Credit.
20. The impact on the State Tax Credit relating to the Promotions is only the GST amount relating to a deduction for Bonus Jackpots (category 8) amounting to \$8,274,147 across the financial years since 2012. This amount is included in the table at Annexure 5 (CRW.512.191.0032).
21. As the hotels and parking components of category 8 should not have been deducted there will be an adjustment required to the State Tax Credit for the amounts relating to hotels and parking estimated to be \$2,022,575 across the period. These adjustments are currently being reviewed.

Q6. In respect of each Promotion, for each financial year since the 2012 financial year (inclusive), identify:

a. the point in time when Crown recognised deductions for purposes of calculating GGR (i.e. are the deductions recognised when a loyalty program member redeems the Promotion, when the Promotions are issued, or at some other point in time); and

22. Crown recognises deductions for each Promotion for the purposes of calculating GGR when the Promotion is redeemed. For the 2012 financial year, any Dining, Hotels or Parking Promotions were not deducted for the purposes of calculating GGR, rather they were recognised as expenses in the EGM results. All other Promotions in existence in the 2012 financial year were recognised as deductions for the purposes of calculating GGR when the

Promotion was redeemed.

b. whether Crown recognised any aspect of the Promotion as a sum received from the conduct or playing of games and if so, which aspect or aspects, and at what point in time (i.e. when the Promotion is redeemed or at some other time).

23. For the purposes of calculating GGR for gaming machines, Crown has recognised all Promotions (other than Dining, Hotels, Parking and fixed prize Jackpot Payment promotions such as cash or gift cards) as sums received (i.e. turnover) from the conduct or playing of games at the point when the Promotion is redeemed. In other words, all Promotions (other than Dining, Hotels, Parking and fixed prize Jackpot Payment promotions such as cash or gift cards) are played through the gaming machine and, accordingly, recorded as turnover or a sum received from the conduct of playing of games. As described above, the amounts played through a gaming machine should not be recorded as turnover for the purposes of calculating GGR, however, they have been treated this way due to the system configuration.

Q7. More generally, and excluding Promotions, in each financial year since the 2012 financial year when did Crown recognise a sum received for purposes of calculating GGR? For example, did recognition occur when a customer put money into an electronic gaming machine, when a gambling session ended, after each spin of an electronic gaming machine, or at some other time?

24. Recognition of a sum received for the purposes of calculating GGR occurs after each spin of a gaming machine. This is then totalled on a daily basis and subject to audit by Crown's Revenue Audit team. As gaming tax is paid on a monthly basis, these daily amounts are summed together to calculate the monthly GGR upon which tax is payable.

Q8. Explain how Crown internally accounts for the "Dining Rewards" Promotion. If there has been any material change since the 2012 financial year, explain the change(s).

25. When a patron redeems a Dining Rewards Promotion at a restaurant, the face value of the voucher is recognised as revenue at the restaurant and a corresponding deduction is recognised against gaming machine revenue. Dining Rewards Promotions issued prior to the 2013 financial year were recognised as revenue at the restaurant, with a corresponding expense recognised in the EGM results.

Q13. In each financial year since the 2012 financial year (inclusive), did Crown factor in any of the Promotions (as amounts paid out, an amount wagered, a jackpot special prize, or otherwise) in calculating the return to players under section 115 of the Casino Control Act? If the answer is yes:

a. explain how they were factored in;

26. Yes, Crown records return to player (RTP) statistics, under s 115 of the Casino Control Act, factoring in the effect of all Promotions (categories 1 – 8). The effect of free bets relating to categories 1-7 are included in turnover with all Promotions (free bets and other bonusing) included as a deduction against GGR. A portion of bonusing concerning categories 5 and 6 relating to cash and / or fixed prizes such as gift cards are not included in turnover, but I do not have a breakdown of these amounts at present. Categories 5 and 6 only represent around 1.2% of total bonusing (categories 1-8). Refer tables in Annexure 6 (CRW.512.191.0022) which provide the detail of the calculations relating to Q13.

b. assuming the expenses associated with the Bonus Jackpots (within the meaning of CRW.510.059.0594) are not deductible for that purpose, has Crown breached section 115 of the Casino Control Act, and what is the extent of the breach?; and

27. If the expenses associated with the Bonus Jackpots are not deductible, I do not believe Crown has breached Section 115 of the Casino Control Act. Assuming Bonus Jackpots (category 8) are not deductible, Crown's RTP in each of the financial years since 2012 would have been in excess of 91.0%, averaging 91.60% across the 10 year period, well in excess of the minimum of 87% as required by Section 115 of the Casino Control Act.

c. assuming the expenses associated with each of the Promotions are not deductible for that purpose, has Crown breached section 115 of the Casino Control Act, and what is the extent of the breach?

28. If the expenses associated with each of the Promotions (category 1 – 8 including Bonus Jackpots) are not deductible, I do not believe Crown has breached Section 115 of the Casino Control Act. Assuming all Promotions (categories 1 - 8) are not deductible, Crown's RTP in each of the financial years since 2012 would have been 90.00% or greater, averaging 90.27%

across the 10 year period, still well in excess of the minimum of 87% as required by Section 115 of the Casino Control Act.

Q14. In respect of each Promotion, for each financial year since the 2012 financial year (inclusive), has Crown deducted expenses associated with the Promotions, or similar types of expenses, when calculating Commission Based Players' Gaming Revenue? If so, explain by category the deductions made.

29. For each financial year since the 2012 financial year, when calculating Commission Based Players' Revenue Crown has deducted the following expenses in relation to category 3, Pokie Credits (Matchplay). These amounts have also been included as turnover:

Financial Year	Pokie Credits (Matchplay)	Total Commission Based Players Gaming Revenue Deductions
2012	\$2,565,229	\$2,565,229
2013	\$4,867,603	\$4,867,603
2014	\$8,305,452	\$8,305,452
2015	\$9,396,598	\$9,396,598
2016	\$9,333,594	\$9,333,594
2017	\$13,019,349	\$13,019,349
2018	\$14,561,923	\$14,561,923
2019	\$14,951,631	\$14,951,631
2020	\$14,839,242	\$14,839,242
2021	\$1,258,703	\$1,258,703
Total	\$93,099,324	\$93,099,324

Q15. Identify all internal and external legal advices obtained by Crown which directly or indirectly relate to the deductibility of the expenses associated with the Promotions for purposes of calculating GGR. In respect of each advice, identify who within Crown received a copy of the advice. Annexe a copy of each advice to the statement.

30. I have caused a search to be undertaken of Crown's records to identify any advices which are relevant to this question and the persons within Crown who received those advices at various points in time prior to 7 June 2021. That information is set out in Annexure 7 (CRW.512.192.0003). The persons within Crown who would be able to verify the accuracy of that information are no longer employed by Crown.

Personal Information

Signed:

Date:

4 July 2021