



**Royal Commission  
into the Casino Operator and Licence**

NTP-164

**NOTICE TO PRODUCE DOCUMENTS TO A ROYAL COMMISSION**

To: The Proper Officer  
At: Crown Melbourne Limited  
Crown Towers  
Level 3, 8 Whiteman Street  
SOUTHBANK VIC 3006

**ROYAL COMMISSION INTO THE SUITABILITY OF CROWN MELBOURNE LIMITED TO HOLD A CASINO LICENCE**

A Royal Commission established under Letters Patent dated 22 February 2021, as amended 25 February 2021, is being held to inquire into and report on whether Crown Melbourne Limited is a suitable person to hold a Casino Licence under the *Casino Control Act 1991 (Vic)* and related matters.<sup>1</sup>

**What you must do**

You must produce the documents and things described in the Schedule below to:

The Solicitors Assisting the Royal Commission:  
Corrs Chambers Westgarth  
Level 25, 567 Collins Street, Melbourne  
(e) [contact@rccol.vic.gov.au](mailto:contact@rccol.vic.gov.au)

on or before **4.00pm on Tuesday 15 June 2021**.

**Objecting to this notice**

You may object to this notice if you have (or will have) a reasonable excuse for failing to comply with the notice. For example, it is a reasonable excuse to fail to comply with the notice if you are prohibited from disclosing the document/s or other thing/s by a court order. See section 18 of the *Inquiries Act 2014 (Vic)* (**Act**) for further examples of what constitutes a reasonable excuse.

You may also object to the notice by claiming that the document/s or thing/s specified in the schedule are not relevant to the subject matter of the inquiry.

If you wish to object to this notice, you must do so in writing to:

Kate Gill-Herdman  
Solicitor Assisting  
C/- Corrs Chambers Westgarth  
Level 25, 567 Collins St  
Melbourne, Victoria, 3000

<sup>1</sup> The terms of reference of the Royal Commission are set out as Annexure A to this Notice.



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(e) [contact@rccol.vic.gov.au](mailto:contact@rccol.vic.gov.au)

by 4.00pm on Friday 11 June 2021.

Your written objection must outline your reasons for objecting. If the Royal Commission is satisfied that your claim is made out, the Royal Commission may vary or revoke this notice.

**Failure to comply with this notice without a reasonable excuse may constitute a criminal offence. The maximum penalty for this offence is 240 penalty units or imprisonment for two years. See section 46 of the Act.**

**Failure to comply with this notice without a reasonable excuse may also result in the Royal Commission making an application to the Supreme Court of Victoria. The Court may then order you to comply with the notice within a specified period. See section 23 of the Act.**

Dated this 8<sup>th</sup> day of June 2021

A handwritten signature in black ink, appearing to be 'Ray Finkelstein', written over a horizontal line.

.....  
The Hon Ray Finkelstein AO QC  
Commissioner of the Royal Commission



## SCHEDULE

### In this Schedule:

- 1 All correspondence with Xavier Walsh in relation to the preparation of CRW.510.059.0594.
- 2 All calendar entries, file notes for any meeting with, and correspondence between, Mark Mackay and Ms Fielding, Mr Herring and Mr Walsh 10 days before and 10 days after 26 February 2021 that related to CRW.510.059.0594 or the information set out in CRW.510.059.0594.
- 3 A calculation of the Crown Melbourne Limited's contribution to the seed amount for 'Jackpot Payments' referred to in CRW.510.059.0594 for the period covering FY2014 to present.
- 4 A spreadsheet covering the matters set out in both tables in CRW.510.059.0594 in which the 'Matchplay and others' and the 'Tax Impact of Matchplay & others' columns are calculated deducting Jackpot Payments amounts.
- 5 Documents explaining each of the promotions referred to in CRW.510.059.0594.
- 6 The calculation of Bonus Points and Bonus Jackpots deductions and tax impact for FY20 and FY21 (YTD).
- 7 The calculation of the supertax impact on deductions for Bonus Points and Bonus Jackpots for FY2014-FY2021 (YTD).
- 8 An explanation of how customers access gaming machines operating in unrestricted mode since the introduction of YourPlay.
- 9 All correspondence with the Victorian Commission for Gambling and Liquor Regulation relating to changes to the Victorian Appendix to the Australian/New Zealand gaming Machine National Standard.
- 10 The memorandum which advised staff of the requirement to reclaim Crown branded picks and to discourage patrons from playing with a pick.
- 11 Correspondence with Xavier Walsh, Mark Kelly and Luke Overman in relation to the review of the controls for responsible gaming when upgrading a patron of Crown Melbourne Limited's loyalty program to a high reward tier.
- 12 Details of the Black Tier Rewards Plus Program.
- 13 The deductions and tax impact calculations in the spreadsheet set out in CRW.510.059.0594 for FY12 and FY13.



## NOTES

1. *Rights and obligations arising from this notice*

Annexure B to this notice sets out the rights and obligations of a recipient of a notice issued under section 17 of the *Inquiries Act 2014* (Vic).

2. *Meaning of 'document'*

In this notice, 'document' includes, in addition to a document in writing:

- (a) any book, map, graph or drawing;
- (b) any photograph;
- (c) any label, marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatsoever;
- (d) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (e) any film (including a microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (f) anything whatsoever on which is marked any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them.

3. *Production electronically*

To comply with this notice, you must produce the documents described in the Schedule via a secure data transfer link, which will be provided to you upon request. To request the secure data transfer link, please email [LTS.RCCOL@corrs.com.au](mailto:LTS.RCCOL@corrs.com.au).

Please specify the Notice to Produce reference number in the subject line of your email. In the body of your email, please identify the name(s) and email address(es) of the person(s) who require access to the secure data transfer link to upload the data.

Production must be in accordance with the Royal Commission Document Management Protocol.

4. *Production of things*

You may comply with this notice by delivering the things sought by the notice which are unable to be produced in electronic form to the address specified in the notice.

5. *Practice Directions*

You should consult all relevant practice directions published by the Royal Commission on its website prior to production.



## ANNEXURE A

### Definitions

Defined terms in the *Casino Control Act 1991* (Vic) have the same meaning in these letters patent unless the contrary intention appears. In addition:

- (a) Crown Melbourne Contracts means the documents referred to in s 25(1)(c) of the *Casino Control Act*.
- (b) Suitable Associate means a suitable person to be associated with the management of a casino under the *Casino Control Act*.

### Terms of Reference

The Letters Patent dated 22 February 2021, as amended 25 February 2021, specify that the Commission will inquire into and report on the matters set out below:

- A. Whether Crown Melbourne is a suitable person to continue to hold the casino licence under the *Casino Control Act*.
- B. Whether Crown Melbourne is complying with the *Casino Control Act*, the *Casino (Management Agreement) Act 1993* (Vic), the *Gambling Regulation Act 2003* (Vic) (together with any regulations or other instruments made under any of those Acts), and any other applicable laws.
- C. Whether Crown Melbourne is complying with the Crown Melbourne Contracts.
- D. Whether it is in the public interest for Crown Melbourne to continue to hold the casino licence in Victoria.
- E. If you consider that Crown Melbourne is not a suitable person, or that it is not in the public interest for Crown Melbourne to hold the casino licence in Victoria, what action (if any) would be required for Crown Melbourne to become a suitable person, or for it to be in the public interest for Crown Melbourne to continue to hold the casino licence in Victoria.
- F. Whether Crown Resorts is a Suitable Associate of Crown Melbourne.
- G. If you consider that Crown Resorts is not a Suitable Associate of Crown Melbourne, what action (if any) would be required for Crown Resorts to become a Suitable Associate of Crown Melbourne.
- H. Whether any other existing associates of Crown Melbourne are not Suitable Associates of Crown Melbourne.
- I. If you consider that any other existing associates of Crown Melbourne are not Suitable Associates of Crown Melbourne, what action (if any) would be required for those persons to become Suitable Associates of Crown Melbourne.
- J. Whether you consider changes to relevant Victorian legislation, including the *Casino Control Act* and the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (Vic), as well as the Crown Melbourne Contracts, are necessary for the State to address your findings and implement your recommendations.
- K. Whether there are any other matters necessary to satisfactorily resolve the matters set out in paragraphs A to J, above.



## ANNEXURE B

### STATEMENT OF RIGHTS AND OBLIGATIONS OF A PERSON SERVED WITH A NOTICE UNDER SECTION 17 OF THE *INQUIRIES ACT 2014* (VIC)

#### *Failure to comply with a notice*

1. Pursuant to section 46 of the Act, a person served with a notice under section 17 of the Act (**Notice**) must not, without reasonable excuse, fail to comply with the notice.

**It is a criminal offence to refuse or fail to produce a document or other thing to the Royal Commission without reasonable excuse, the maximum penalty for this offence is 240 penalty units or 2 years imprisonment.**

#### *Person may make a claim that he/she has a reasonable excuse for failing to comply with a notice to produce*

2. Subsection 18(1)(a) of the Act provides that a person on whom a notice is served may make a claim to the Royal Commission that the person has or will have a reasonable excuse for failing to comply with the notice.
3. Without limiting what may be a reasonable excuse for the purposes of subsection 18(1)(a), subsection 18(2) of the Act provides that it is a reasonable excuse for a person to fail to comply with a notice by refusing to give information to the Royal Commission if the information:
  - (a) in the case of a natural person, might tend to incriminate the person or make the person liable to a penalty; or
  - (b) is the subject of parliamentary privilege; or
  - (c) is the subject of public interest immunity; or
  - (d) is prohibited from disclosure by a court order; or
  - (e) is prohibited from disclosure by a provision of another enactment that specifically applies to the giving of information or the production of documents or other things to a Royal Commission; or
  - (f) is prohibited from disclosure by a provision of another enactment that is prescribed by the regulations for the purposes of section 34 of the Act.

#### *Person may make a claim that a document or other thing specified in the notice is not relevant*

4. Subsection 18(1)(b) of the Act provides that a person on whom a notice is served may make a claim to the Royal Commission that a document or other thing specified in the notice is not relevant to the subject matter of the inquiry.



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### ***Royal Commission may vary or revoke the notice***

5. Subsection 18(3) of the Act provides that if the Royal Commission is satisfied that the person's claim under subsection 18(1)(a) or (b) is made out, the Royal Commission may, by further written notice served on the person, vary or revoke the notice.
6. Subsection 18(4) of the Act provides the Royal Commission, by further written notice served on a person, may at any time on its own initiative vary or revoke a notice to produce or notice to attend served on the person.

### ***Legal professional privilege does not apply***

7. Pursuant to subsection 32(1) of the Act, it is not a reasonable excuse for a person to refuse or fail to produce a document or other thing to the Royal Commission on the grounds that the information, document or other thing is subject to legal professional privilege.
8. Pursuant to subsection 32(2) of the Act, information or a document or other thing does not cease to be the subject of legal professional privilege only because it is given or produced to a Royal Commission with a requirement to do so under the Act.

### ***Privilege against self-incrimination does not apply***

9. Pursuant to subsection 33(1) of the Act, it is not a reasonable excuse for a person to refuse or fail to comply with a requirement to give information or produce a document or other thing to the Royal Commission on the grounds that such production might tend to:
  - (a) incriminate the person; or
  - (b) make the person liable to a penalty.
10. Pursuant to subsection 33(2) of the Act, subsection 33(1) does not apply to the refusal or failure to produce a document or other thing if:
  - (a) proceedings for an offence with which the person has been charged have not finally been disposed of; or
  - (b) proceedings for the imposition or recovery of a penalty that have been commenced against the person have not finally been disposed of.

### ***Statutory secrecy and confidentiality***

11. Pursuant to subsection 34(1) of the Act, it is not a reasonable excuse for a person to refuse or fail to comply with a requirement to give information (including answering a question) or produce a document or other thing to the Royal Commission on the grounds that another enactment prohibits the person from giving the information or producing the document or other thing or imposes a duty of confidentiality on the person in relation to the information, document or other thing.
12. Pursuant to subsection 34(2) of the Act, a person is not subject to any criminal, civil, administrative or disciplinary proceedings or action only because the person complies



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with the requirement to give the information (including answering a question) or produce the document or other thing to the Royal Commission.

13. Pursuant to subsection 34(3) of the Act, subsections 34(1) and (2) do not apply to:
- (a) a provision of another enactment that specifically applies to the giving of information or the production of documents or other things to a Royal Commission; or
  - (b) a provision of another enactment that is prescribed by the regulations for the purposes of this section.

### ***Publication of information relating to Royal Commission inquiries***

14. Pursuant to subsection 24(1) of the Act, the Commissioner may make an order excluding any person from a proceeding of the Royal Commission if:
- (a) prejudice or hardship might be caused to any person, including harm to their safety or reputation; or
  - (b) the nature and subject matter of the proceeding is sensitive; or
  - (c) there is a possibility of any prejudice to legal proceedings; or
  - (d) the conduct of the proceeding would be more efficient and effective; or
  - (e) the Commissioner otherwise considers the exclusion appropriate.
15. Pursuant to subsection 26(1) of the Act, subject to subsection 26(2), the Commissioner may make orders prohibiting or restricting the publication of:
- (a) any information that may enable the identity of a person who has given, or is to give, information or evidence to the Royal Commission for the purposes of an inquiry to be ascertained; or
  - (b) any information or evidence given to the Royal Commission for the purposes of an inquiry.
16. Pursuant to subsection 26(2) of the Act, the Commissioner may make orders prohibiting or restricting the publication of information or evidence if:
- (a) prejudice or hardship might be caused to any person, including harm to their safety or reputation; or
  - (b) the nature and subject matter of the information is sensitive; or
  - (c) there is a possibility of any prejudice to legal proceedings; or
  - (d) the conduct of the proceeding would be more efficient and effective; or
  - (e) the Commissioner otherwise considers the prohibition or restriction appropriate.

**It is an indictable offence to knowingly or recklessly contravene an order made under section 24(1) or 26(1) of the Act, the maximum penalty for an offence is 600 penalty units or 5 years imprisonment.**





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### *Admissibility of answers, information, documents and other things*

17. Pursuant to subsection 40(1) of the Act, the production of a document or other thing to the Royal Commission and the fact that the document or other thing was produced is not admissible in evidence against the person in any other proceedings (being criminal, civil or administrative proceedings before a court, tribunal or person acting judicially or disciplinary proceedings), except in proceedings for:
- (a) an offence against the Act; or
  - (b) an offence against sections 254 or 314 of the *Crimes Act 1958* (Vic) in relation to Royal Commissions.

### *Production of false or misleading information*

18. Pursuant to subsection 50(1) of the Act, a person must not produce a document or other thing to a Royal Commission that the person knows to be false or misleading in a material particular unless the person indicates to the Royal Commission the respect in which it is false or misleading and, to the extent practicable, provides the correct information.

**It is an offence to produce a document or other thing to a Royal Commission that the person knows to be false or misleading in a material particular. The maximum penalty for this offence is 120 penalty units or 12 months imprisonment.**