

COMMISSIONER: THE HONOURABLE RAY FINKELSTEIN AO QC**IN THE MATTER OF A ROYAL COMMISSION
INTO THE CASINO OPERATOR AND LICENCE****MELBOURNE, VICTORIA****SUBMISSIONS ON BEHALF OF SONJA BAUER**

- 1 By letter dated 20 July 2021, the Solicitors Assisting the Commission invited any person in relation to whom adverse comments may be made in Counsel Assisting's **Closing Submissions** dated 20 July 2021, to make submissions in response.
- 2 These submissions are provided in response to that invitation. Ms Bauer relies on the matters herein insofar as the Closing Submissions refer to her personally. Insofar as adverse findings are sought about **Crown Melbourne Limited's Responsible Service of Gambling (RSG)**, Ms Bauer adopts Crown's submissions.
- 3 Ms Bauer, Crown's Group General Manager Responsible Gaming,¹ contends that it would not be appropriate for the Commission to conclude, as Counsel Assisting contemplate,² that there is doubt whether the required reform can be achieved while Ms Bauer occupies a senior position in RSG.
- 4 To the contrary, as Ms Bauer's recent experience of helping effect change at Crown demonstrates, someone with her experience, and knowledge, is likely to expedite, rather than hamper, Crown's change. The Commission ought be satisfied that Ms Bauer readily accepts that Crown's RSG systems and practices need to be improved,³ and that she desires change.⁴ Together with Mr Steven Blackburn, and her colleagues, Ms Bauer wants to be, and is well-suited to being, part of the solution to this very complex issue. The changes since 2019 that have been effected by Ms Bauer working as part of a team committed to this change, and to further change, are evidence of a change in Crown's commitment to this issue.
- 5 Ms Bauer filed a statement,⁵ and gave evidence over three and a half days to the Commission.⁶

¹ Exhibit RC0109 Statement of Sonja Bauer, 5 May 2021, tendered 1 June 2021 (**Statement**), CRW.998.001.0301 at .0301, [3].

² Closing Submissions, COM.0500.0001.0380 at .0704 [3.9].

³ T1119.12-15 (Bauer).

⁴ T1119.5-10 (Bauer).

⁵ Statement CRW.998.001.0301.

⁶ Ms Bauer gave evidence on 1 June 2021, 2 June 2021, 3 June 2021 and 21 June 2021.

- 6 Ms Bauer commenced working at Crown in 1994 and has held a number of positions since that time.⁷ Since 1 April 2017, Ms Bauer has held the position of Group General Manager Responsible Gaming at Crown.⁸
- 7 Ms Bauer is, or has recently been, a member of the following committees, which assist with Crown’s management of its RSG obligations:
- (a) the Crown Melbourne Responsible Gaming Management Committee (**RGMC**), of which she remains a member; and
 - (b) the Crown Melbourne Self Exclusion Revocation Committee (**SERC**), of which she was a member until 1 November 2020.
- 8 The functions and membership of each of these committees are set out in Ms Bauer’s statement.⁹ In summary:
- (a) the RGMC currently has 13 members, including the CEO, various senior employees and officers of Crown and two responsible gaming psychologists. The RGMC’s overarching duty is to monitor and review gaming, responsible gaming and associated activities to ensure that Crown provides a safe and responsible gaming environment, including consideration and feedback on the Responsible Gambling Code of Conduct (the **Code**) and Responsible Gaming Centre activities; and
 - (b) the SERC currently has five members, including Crown’s Senior Legal Counsel and two responsible gaming psychologists. The SERC’s primary function is to consider applications by persons who wish to revoke their self-exclusion from Crown.
- 9 Ms Bauer also explained that there is also a regular meeting that occurs that is called the VIP meeting/Operational management meeting.¹⁰ The purpose of such meetings is to update gaming managers on matters relating to responsible gaming initiatives, as well as to discuss customers who have come to notice in relation to potential gaming behaviours.¹¹ Ms Bauer no longer attends these meetings, but did so in the past.¹²
- 10 It is plain that Ms Bauer has shared responsibility for RSG with others, including the CEO, qualified psychologists and many other employees and officers of Crown more senior than her. Indeed, while Counsel Assisting’s submissions identify Ms Bauer’s evidence as the basis of many of the issues concerning RSG, no specific adverse findings are sought against her, other than the characterisation of her evidence as “defensive” – which is dealt with below¹³ – and that she ought not remain in her current

⁷ Statement, CRW.998.001.0301 at .0302, [5].

⁸ Statement, CRW.998.001.0301 at .0301, [3].

⁹ In relation to the RMGC: Statement CRW.998.001.0301 at .0303, [8]-[11];.0361, Annexure 1; in relation to the SERC: CRW.998.001.0301 at .0303 - 0304 [12]-[13], .0361, Annexure 1.

¹⁰ Statement, CRW.998.001.0301 at .0303, [7].

¹¹ Statement, CRW.998.001.0301 at .0304, [14].

¹² Statement, CRW.998.001.0301 at .0304, [15].

¹³ See paragraph 13(b) below.

role. What is said against Ms Bauer is, with those exceptions, said against the RSG framework.

- 11 It is undeniable that Crown has failed at times in ensuring the adequacy of its RSG practices. As Group General Manager Responsible Gaming, Ms Bauer accepts that reality. But Ms Bauer is committed to helping Crown re-establish itself as a leader in the industry and has already been actively involved in implementing changes to achieve this objective. She can, and will, be of assistance to Crown in its efforts to address the problems which have been identified in its RSG practices. There ought be no finding which would preclude her in participating in this process.
- 12 During Ms Bauer's evidence it was put to her that Crown no longer regards itself as a world leader in the delivery of responsible gaming practices.¹⁴ Ms Bauer accepted this was currently correct, but she had also explained that Crown "would certainly like to maintain that level" and "would like to be considered a leader within the industry".¹⁵ The extensive work being undertaken by Crown to fortify its RSG practices are set out comprehensively in Crown's submissions. Rather than repeat them here, as noted above, Ms Bauer adopts those submissions. Further, she says as follows.
- (a) Ms Bauer has had overarching responsibility for the implementation of the recommendations set out in the report from the Responsible Gaming Advisory Panel in their report delivered to Crown in August 2020 (the **RGAP Report**).¹⁶ As was explained during her evidence, under Ms Bauer's supervision, Crown has accepted all but one of the 17 recommendations made (the one not accepted was due to security concerns) and has either implemented or started consideration of the implementation process in relation to all of the recommendations.¹⁷ The recommendations in the RGAP Report are intended to address weaknesses identified in Crown's RSG practices and to assist Crown in its efforts to become an industry leader again.
- (b) Ms Bauer now reports to Mr Blackburn, who has recently been appointed to the position of Group Chief Compliance and Financial Crime Officer at Crown. He was appointed due to his considerable expertise in financial crime, and as part of his role will also address the issues in Crown's RSG framework.¹⁸ Indeed, he has already changed Crown's corporate structure such that Ms Bauer's role – Group General Manager Responsible Gaming – reports directly to him.¹⁹ The Commission ought be satisfied that Ms Bauer, working together with, and under the supervision of, Mr Blackburn, will assist Crown in addressing the weaknesses in its RSG practices.

¹⁴ T1118:27-46 (Bauer); T1119:1-15 (Bauer).

¹⁵ T1118:27-46 (Bauer); T1119:1-15 (Bauer).

¹⁶ Exhibit RC0109, Annexure d, Responsible Gaming Advisory Panel Review of Crown Resort's Responsible Gaming Programs and Services, August 2020 CRW.526.007.7005.

¹⁷ T1428:30 – T1433:47 (Bauer); see, especially, T1432:8-28 (Bauer).

¹⁸ T3021:2-5 (Blackburn).

¹⁹ T3021:21-23 (Blackburn).

13 As to Counsel Assisting’s submission that there is doubt whether Crown can achieve the required reform while Ms Bauer continues to occupy a senior position in RSG, that is not the case. Ms Bauer points to the following matters.

- (a) With one exception, there is no specific challenge to Ms Bauer’s evidence or criticism of her conduct in the Closing Submissions. The basis upon which this submission – which would, self-evidently, have very serious personal and professional consequences for Ms Bauer – is made is unclear. Insofar as it is premised on failures in the RSG process and procedures, there is no reason – and Counsel Assisting do not offer one – why Ms Bauer should, individually, bear the consequences of those failings.
- (b) The one criticism made specifically of Ms Bauer is that, during her evidence, she was “defensive and unable to accept the glaringly obvious ... [namely] that for too long Crown has not done enough and its actions were well below what was required to meet its RSG obligations”.²⁰ But it must be borne in mind that the matters put to Ms Bauer were complex, such as theories on how best to minimise gambling harm,²¹ and plainly warranted more comprehensive responses than simple yes or no answers. Her efforts to do so should not be understood as her being defensive. Further, Ms Bauer did accept that Crown’s RSG standard was below that which it should be.²²
- (c) There is no suggestion that Ms Bauer was involved in any of the “serial wrongdoing” alleged to have occurred while she has been working at Crown.²³ To the contrary, the sixth review of Crown’s casino licence undertaken by the VCGLR in 2018 addressed Crown’s compliance with its RSG obligations and concluded that it had substantially complied with its various regulatory requirements.²⁴ While that conclusion does not absolve Crown or Ms Bauer from responsibility for the flaws that did exist, or continue to exist, in its RSG framework, it is nevertheless relevant.
- (d) Plainly, Ms Bauer did not have the sole decision-making power in relation to Crown’s RSG practices. As set out above, the RGMC’s primary function was to monitor these practices to ensure that Crown provides a safe and responsible gaming environment that supports and drives harm minimisation. All key decisions about the framework, policies and implementation were made in consultation with line managers over the period, as well as being the focus of the RGMC.
- (e) Any weaknesses of Crown’s RSG practices are, therefore, issues which members of the RGMC, Ms Bauer’s line managers and Ms Bauer herself failed to address. Ms Bauer should not be held solely responsible for

²⁰ Closing Submissions COM.0500.0001.0380 at .0704, [3.8].

²¹ See, for example, T1123:4-31 (Bauer).

²² T1119:5-15 (Bauer).

²³ cf. Closing Submissions COM.0500.0001.0380 at .0704, [3.9].

²⁴ Exhibit RC0002, VCGLR Sixth Review of the Casino Operator and Licence, June 2018, tendered 17 May 2021: COM.0005.0001.0776 at .0898 (p 119).

decisions made in consultation with her line managers and the RGMC. Any such failings were, unfortunately, collective ones.

- 14 For these reasons, Ms Bauer contends that neither of the adverse findings made against her ought be made. While there were (plainly) shortcomings in the RSG framework, the failings are not such as to justify the serious findings sought against her personally.

Dated: 2 August 2021.

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