



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

10 March 2021

By hand delivery

The Senior Partner Melbourne
Minter Ellison
Level 20 Collins Arch
447 Collins Street
MELBOURNE VIC 3000

Contact
Abigail Gill
Email: [Redacted]
Partner
Craig Phillips

Dear Sir/Madam

Royal Commission into the suitability of Crown Melbourne Limited to hold a Casino Licence (Commission)

As you will be aware, the Honourable Linda Dessau AC, the Governor of Victoria, has established a Royal Commission to enquire into whether Crown Melbourne Limited (**Crown Melbourne**) is a suitable person to continue to hold the casino licence under the *Casino Control Act 1991 (Vic)*, whether Crown Resorts Limited is a Suitable Associate of Crown Melbourne and related matters.

By Terms of Reference dated 22 February 2021 and amended on 25 February 2021, the Honourable Ray Finkelstein AO QC has been appointed Commissioner and Chairperson of the Commission.

Corrs Chambers Westgarth are being appointed as Solicitors Assisting the Commission.

Enclosed with this letter is a Notice to Produce Documents to the Commission, served in accordance with section 19 of the *Inquiries Act 2014 (Vic)*. The Terms of Reference are included as an Annexure to the Notice to Produce.

A Document Management protocol will be circulated shortly.

If you have any queries, please contact Abigail Gill on [Redacted]

Craig Phillips
Partner

Abigail Gill
Partner



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

NTP-002

NOTICE TO PRODUCE DOCUMENTS TO A ROYAL COMMISSION

To: The Senior Partner in Melbourne

At: Minter Ellison
Level 20 Collins Arch
447 Collins Street
MELBOURNE VIC 3000

**ROYAL COMMISSION INTO THE SUITABILITY OF CROWN MELBOURNE LIMITED
TO HOLD A CASINO LICENCE¹**

What you must do

You must:

- produce the document/s or other thing/s specified below; or
- attend the Royal Commission and produce the document/s or other thing/s specified below; or
- attend the Royal Commission to give evidence until excused; or
- attend the Royal Commission to give evidence until excused and produce the document/s or other thing/s specified below.

Where you must produce documents and/or things

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

on or before **4.00pm on 17 March 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.

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

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

Ben Reade
Solicitor Assisting
C/- Corrs Chambers Westgarth
level 25, 567 Collins St
Melbourne, Victoria, 3000
(e) [REDACTED]

by **4.00pm on Friday, 12 March 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 10th day of March 2021

[REDACTED]
The Hon Ray Finkelstein AO QC
Commissioner of the Royal Commission

SCHEDULE

In this Notice to Produce:

“**advice**” means any written advice or the notes or record of any oral advice, including advice provided by Minter Ellison.

“**ANZ**” means Australia and New Zealand Banking Group Limited.

“**AUSTRAC**” means the Australian Transaction Reports and Analysis Centre.

“**Bergin Inquiry**” means the inquiry conducted by the Hon Patricia Bergin SC pursuant to s 143 of the *Casino Control Act 1992* (NSW).

“**Bergin Report**” means the report of the Bergin Inquiry published on 1 February 2021.

“**Casino Licence**” means the licence granted under and subject to the provisions of the *Casino Control Act 1991* (Vic) on 19 November 1993, to Crown Melbourne Limited then known as Crown Casino Ltd to conduct and play games and use gaming equipment at the Melbourne Casino, as varied from time to time.

“**CBA**” means Commonwealth Bank of Australia.

“**China arrests**” means the arrests in China of 19 employees of Crown Resort Pte Ltd on or about 13 or 14 October 2016.

“**Crown Company**” means Crown Resorts Limited, Crown Melbourne Limited or Burswood Limited.

“**Crown Melbourne**” is a reference to Crown Melbourne Limited.

“**Crown Resorts**” is a reference to Crown Resorts Limited.

“**CPH**” is a reference to Consolidated Press Holdings Pty Ltd.

“**2019 Deloitte Report**” means the report prepared by Deloitte Australia in June 2019 in relation to Crown Resorts’ risk management program.

“**Junket**” has the same meaning as that term is used in the Sixth Review.

“**Lieberman class action**” is a reference to the group proceeding commenced in the Supreme Court of Victoria by Greg Lieberman against Crown Resorts being action No S ECI 2020 04566.

“**management agreement**” means the agreement a copy of which is set out in Schedule 1 of the *Casino (Management) Agreement Act 1993* (Vic) together with any variation to that agreement.

“**the Grant Thornton Reports**” means the reports prepared by Grant Thornton Australia Limited being forensic data analysis of the Southbank and Riverbank bank accounts, that were provided to the Bergin Inquiry in November 2020.

“**the Initialism Reports**” means the reports prepared by Initialism Pty Ltd reviewing the Southbank Investments Pty Limited and Riverbank Investments Pty Limited bank accounts for indications of money laundering, that were provided to the Bergin Inquiry in November 2020.

“Responsible Gambling Code of Conduct” means the Responsible Gambling Code of Conduct of Crown Melbourne under and subject to the *Gambling Regulation Act 2003* (Vic) as updated from time to time, noting that the current revision is Code 12 with an effective date of July 2019.

“Zantran class action” is a reference to the representative proceeding commenced in the Federal Court of Australia by Zantran Pty Limited against Crown Resorts being action No VID1317 of 2017.

1. Any advice provided to, or correspondence or communications with, a Crown company, CPH or James Packer, within the past five years, that relates to or concerns:
 - (a) the fact, or the possibility, of money laundering:
 - (i) at the Melbourne Casino;
 - (ii) at the Perth Casino operated by Burswood Limited;
 - (iii) through Southbank Investments Pty Ltd; or
 - (iv) through Riverbank Investments Pty Ltd;
 - (b) media allegations in relation to money laundering:
 - (i) at the Melbourne Casino;
 - (ii) at the Perth Casino operated by Burswood Limited;
 - (iii) through Southbank Investments Pty Ltd; or
 - (iv) through Riverbank Investments Pty Ltd;
 - (c) the China arrests;
 - (d) the fact, or the possibility of, links between a Crown company and persons or entities engaged or alleged to be engaged in human and/or sex-trafficking;
 - (e) media allegations of a Crown company having links with persons or entities engaged or alleged to be engaged in human and/or sex-trafficking;
 - (f) media allegations that a Crown company entered into and/or continued commercial relationships with Junket operators who had links to Triads or other organised crime groups.
 - (g) the breach, or the potential breach, by Crown Melbourne of:
 - (i) the *Casino Control Act 1991* (Vic);
 - (ii) the *Casino (Management Agreement) Act 1993* (Vic);
 - (iii) the *Gambling Regulation Act 2003* (Vic);
 - (iv) the *Gambling Regulations 2015* (Vic);

- (v) the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth);
 - (vi) the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007*;
 - (vii) the *Financial Transaction Reports Act 1988* (Cth);
 - (viii) the *Responsible Gambling Code of Conduct*;
 - (ix) the management agreement for the Melbourne Casino; or
 - (x) a condition of the Casino Licence;
- (h) whether Crown Melbourne is, or may be considered to be, no longer a suitable person to hold the Casino licence.
2. Any advice provided to, or correspondence or communications with, a Crown company, within the past five years, regarding:
- (a) requests to provide documentation to AUSTRAC;
 - (b) reports of, or obligations to report, suspicious transactions to AUSTRAC;
 - (c) the concerns raised by ANZ in 2014 in relation to money laundering;
 - (d) any inquiry or investigation into the concerns raised by ANZ in relation to money laundering;
 - (e) the concerns raised by CBA in 2018 in relation to money laundering;
 - (f) any inquiry or investigation into the concerns raised by CBA in relation to money laundering;
 - (g) the 2019 Deloitte report;
 - (h) the Grant Thornton Reports; or
 - (i) the Initialism Reports.
3. Any advice provided to, or correspondence or communications with, a Crown company, within the past five years, regarding:
- (a) the adequacy of that company's risk management framework including that company's risk management compliance, systems and controls;
 - (b) the need or desirability for a review of that company's risk management compliance, systems, controls, policies and/or procedures; or
 - (c) that company's risk management committee and/or risk management committee charter.
4. Any advice provided to, or correspondence or communications with, a Crown company, the Chairperson of Crown Resorts, the Chair of Crown Melbourne, CPH or James Packer, within the past five years, that relates to or concerns the composition of the board of Crown Resorts or Crown Melbourne.

5. Any advice provided to, or correspondence or communications with, a Crown Company, within the past five years, regarding:
 - (a) corporate governance;
 - (b) the adequacy of that company's corporate governance practices; or
 - (c) the need or desirability for a review of that company's corporate governance practices.

6. Any advice provided to, or correspondence or communications with, a Crown company, within the past five years, regarding:
 - (a) the failure by a Crown company to pay the appropriate salary to employees;
 - (b) the underpayment of wages to employees; or
 - (c) any report in relation to the underpayment of wages, or the need to self-report the underpayment of wages, to the Fair Work Ombudsman.

7. Any advice provided to a Crown Company, CPH or James Packer that relates to or concerns the findings, conclusions or any other matter arising out of the Bergin Report.

8. Any advice provided to, or correspondence or communications with:
 - (a) a Crown Company; or
 - (b) any witness who gave evidence at the Bergin Inquiry,
 regarding the effect or potential effect of providing information to, or giving evidence at, the Bergin Inquiry on:
 - (c) Crown Resorts' defence of the claims made in the Class action; or
 - (d) any indemnity available under any policy of insurance that might cover the claims made against Crown Resorts in the Class action.

9. Any advice provided to, or correspondence or communications with, a Crown company, within the past five years, concerning whether:
 - (a) the Crown Company should or should not conduct an inquiry into the China arrests;
 - (b) the Crown Company should or should not conduct an inquiry into money laundering;
 - (c) because of the Zantran class action, the Crown Company should or should not:
 - (i) conduct an inquiry into the China arrests;
 - (ii) conduct an inquiry into money laundering;
 - (iii) conduct an inquiry into any other matter; or

- (d) because of the Lieberman class action, the Crown Company should or should not:
 - (i) conduct an inquiry into money laundering;
 - (ii) conduct an inquiry into any other matter.
- 10. Any advice provided to, or correspondence or communications with, a Crown Company, within the past five years, concerning the operation or effect upon Crown Melbourne of cross guarantees or debt obligations between Crown Companies and/or CPH.
- 11. Any advice provided to, or correspondence or communications with, a Crown Company, within the past five years, concerning any submissions or presentations by a Crown Company to the Victorian Commission for Gambling and Liquor Regulation regarding:
 - (a) the Sixth Review of the Casino Operator and Licence; or
 - (b) any Notice Served by Victorian Commission for Gambling and Liquor Regulation pursuant to section 20(2) of the *Casino Control Act (Vic) 1991*.
- 12. The drafts of any advices or correspondence referred to in paragraphs 1-11 above.
- 13. Any document that constitutes or records the instructions obtained or received by Minter Ellison for the purpose of providing the advice or correspondence referred to in paragraphs 1-11 above.
- 14. Any document that identifies when, and to whom, the advice or correspondence, or a copy of the advice or correspondence referred to in paragraphs 1-11 above, was given.
- 15. Any document that identifies or records each file or matter opened by Minter Ellison in the past five years for or on behalf of:
 - (a) a Crown Company;
 - (b) CPH; or
 - (c) James Packer,
 that addresses any aspect of the operation of the Crown Casino in Melbourne.
- 16. Presentations given to the board of directors of Crown Resorts or Crown Melbourne in the past five years, including notes taken of, or during, any presentations to the board in relation to the subject matter of any advice referred to in paragraphs 1-11 above

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, letter or symbols which are capable of carrying a definite meaning to persons conversant with them.

3 *Production by email or electronically*

To comply with this notice, you may produce the documents described in the Schedule to the address stated in the notice by emailing an electronic copy of the documents to **Personal Information**

Please specify the Notice to Produce reference number in the subject line of your email.

Where production by email is not practicable, you may produce such documents by way of a USB or other form of electronic storage device delivered to the address set out in the notice.

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 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 on 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*, the *Gambling Regulation Act 2003* (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*, 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.

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 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.

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.