

12 August 2019

Our ref: CF/19/428

Mr Rory Moriarty  
Partner  
Clayton Utz  
GPO Box 9806  
SYDNEY NSW 2001

By email: 

Dear Mr Moriarty

**Melco Resorts and Entertainment Ltd – Crown Resorts Limited**

We refer to your letter dated 6 June 2019 to Ms Catherine Myers, Chief Executive Officer of the Victorian Commission for Gambling and Liquor Regulation (**Commission**) regarding an agreement entered into by your client (Melco Resorts and Entertainment Limited (**Melco**)) for it or its nominee/s to acquire approximately 19.99% of the issued shares in Crown Resorts Limited (**Crown**).

In your letter, you sought details of the information and documentation that your client may be required to provide to the Commission in relation to approval applications which your client has indicated it intends to make, to allow it flexibility to increase its ownership in Crown and to appoint directors of Crown, Crown Melbourne Limited (**CML**) and interposed companies, if required.

As you have correctly identified, the Victorian authorising environment regulating changes in relation to the Melbourne casino operator, CML, resides principally in the *Casino Control Act 1991* (Vic) (**CCA**) and the Casino Agreement.

*Likelihood of a major change involving a person becoming an associate*

Section 28(2)(b) of the CCA provides that the casino operator must notify the Commission in writing of the likelihood of any major change in the situation existing in relation to the operator to which paragraph (a)<sup>1</sup> does not apply as soon as practicable after the operator becomes aware of the likelihood of the change. However, section 28(5)(a) provides that, if a major change is proposed or has occurred involving a person becoming an associate of the casino operator and the approval of the Commission to the change is not required, the Commission must inquire into the change to determine whether it is satisfied that the person is a suitable person to be associated with the management of a casino.

<sup>1</sup> Section 28(2)(a) provides that the casino operator must ensure that a major change in the situation existing in relation to the operator which is within the operator's power to prevent occurring does not occur except with the prior approval in writing of the Commission. As the casino operator has no control over the actions of its parent company, section 28(2)(a) does not apply to this transaction.

Having now been notified (through CML) of the likelihood of a major change in the situation existing in relation to CML, the Commission will inquire into the change to determine whether Melco and any associates of Melco are suitable persons to be associated with the management of a casino.

To assist the Commission with its inquiry, Melco will be expected to cooperate with the Commission in its investigations and provide relevant information as required.

*Ongoing monitoring of associates of the casino operator*

Section 28A of the CCA is also relevant to the Commission's inquiry and to its powers in relation to associates of the casino operator. In particular, section 28A(1) provides that the Commission may from time to time investigate a person that is likely to become an associate of a casino operator or any person, body or association having a business association with such a person.

Section 28A(3) states that if the Commission, having regard to certain matters<sup>2</sup>, determines that an associate is unsuitable to be concerned in or associated with the business of the casino operator, the Commission may, by notice in writing, require the associate to terminate the association with the casino operator.

*Acquisition of the shares*

In relation to obligations under the Casino Agreement, clause 22.1(f) states that the casino operator is required to seek prior written approval of the Commission to permit Melco (or its nominee/s) to become entitled to a number of shares in CML which exceeds 5% of the total number of CML shares on issue at any time. We consider that this will occur if Melco (or its nominee/s) holds 20% or more of the shares in Crown, by virtue of section 608(3)(a) of the *Corporations Act 2001* (Cth). We understand from your letter that your client will hold 19.99% of these shares by no later than 30 September 2019 and may acquire further shareholdings in future.

The Commission would expect CML to seek approval under clause 22.1(f) prior to any acquisition by Melco (or its nominee/s) of shares in Crown that would result in it holding 20% or more of the issued share capital in Crown.

*Approval for appointment of Director of Crown Melbourne Limited*

Clause 22.1(c) of the Casino Agreement states that the casino operator must obtain prior written approval of the Commission to any appointment of a director or alternate director of the casino operator. CML has yet to seek approval for the appointment of the proposed directors under this provision.

We note that while you listed six individuals in your correspondence to Ms Myers as potential directors to be proposed for CML, Melco has since revised that number to two individuals. The casino operator will need to notify the Commission as to who will actually become a director of CML, however the other individuals listed may in any event be assessed for suitability if they are associated with Melco.

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<sup>2</sup> According to section 28A(4), the matters the Commission must consider when determining the suitability of an associate are whether the associate is: of good repute, having regard to character, honesty and integrity; is of sound and stable financial background; has any business association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources.

*Obtaining approval from the Commission under the Casino Agreement*

When CML is in a position to seek approval from the Commission as to the proposed appointment of a director or alternate director under clause 22.1(c) and for Melco (or its nominee/s) to hold an entitlement to a number of shares exceeding 5% under clause 22.1(f), approval should be sought by notification under clause 39.1 of the Casino Agreement to the Chair of the Commission:

Ross Kennedy  
Level 3, 12 Shelley Street  
Richmond Victoria 3121  
cc. by email to [REDACTED]

To assist your client to cooperate with the Commission in its investigation into the suitability of it and its associates to be associated with the casino operator, I have attached forms for completion by:

- Melco;
- MCO (Kittyhawk) Investments Limited (or any other Melco nominee which may hold shares in Crown);
- any intermediary holding company or companies between Melco and the company which holds issued shares in Crown; and
- Geoff Davis, Evan Winkler and Lawrence Ho.

If you believe other person may fall within the definition of associate under the CCA then can you please ensure the necessary application forms are completed.

Please note that it is possible that once probity investigations commence, further persons or entities may need to be investigated, and this letter does not purport to set out all regulatory considerations relevant to the Commission's inquiries into this matter and the Commission may raise further issues with your client as its inquiries progress.

If you have any questions about this letter, please contact me on (03) 9098 5215.

Yours sincerely

[REDACTED]

Alex Fitzpatrick  
**Director Licensing**

Enc.

CC: Ms Mary Manos, General Counsel & Company Secretary, Crown Resorts Ltd