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4 December 2020

BY EMAIL: [REDACTED]

Mr Cameron Warfe
Principal Solicitor
Victorian Commission for Gambling and Liquor Regulation
Level 3, 12 Shelley Street
RICHMOND VIC 3121

Dear Mr Warfe

Amended Notice to Show Cause – Alleged Contravention of s 121(4) of the *Casino Control Act 1991 (Vic)*

I refer to Ross Kennedy's letter dated 17 November 2020 (**November Letter**) and its enclosed Amended Notice under section 20 of the *Casino Control Act 1991 (Vic)* (**Act**) dated 16 November 2020, received on 17 November 2020 (**Amended Notice**).

Set out in **Annexure A** is the formal response from Crown Melbourne Limited (**Crown Melbourne**) to the Amended Notice. As with our response dated 30 October 2020 (**October Letter**), we have drafted this response with the assistance of external counsel. If anything in this response requires further clarification, or there is any other assistance we can provide to the Victorian Commission for Gambling and Liquor Regulation (**Commission**), please do not hesitate to ask.

Each of the documents referred to in this letter, and in the submissions contained in Annexure A, are set out in Annexure B. Copies of each of the documents are enclosed.

Continued steps taken by Crown in relation to junkets

In the October Letter, I outlined some of the extensive changes Crown Resorts Limited (**Crown**) is implementing to ensure that, amongst other things, Crown and the companies within its group improve their due diligence regarding junkets and do not conduct business with parties with links to organised crime.

In furtherance of those objectives, I enclose Crown's ASX Media Release of 17 November 2020 which states

The Board has determined that Crown will permanently cease dealing with all junket operators, subject to consultation with gaming regulators in Victoria, Western Australia and New South Wales. Crown will only recommence dealing with a junket operator if that junket operator is licensed or otherwise approved or sanctioned by all gaming regulators in the States in which Crown operates.

We also refer to our meeting with the Commission in November, in relation to the suspension of junket activities and during that meeting, we discussed the proposed amendment of clause 22.1(ra)(ii) of the Consolidated Casino Agreement, as Crown Melbourne ceasing to deal with junkets may have implications under our contractual obligations with the State. We look forward to continuing to work with the Commission in this regard.

Document request

I refer to your request for documents in the second last paragraph of the November Letter. Enclosed (CRL.609.007.8721) is a redacted copy of the letter to AUSTRAC dated 25 May 2020. This letter responded to a letter from AUSTRAC dated 15 May 2018, which for reasons elaborated upon below, Crown is unable to produce to the Commission.

Crown is not aware of a letter from AUSTRAC to Crown dated 8 June 2017. However, I attach a chain of emails containing an email from AUSTRAC to Crown dated 8 June 2017, which may be the correspondence that is sought. This is the correspondence which has been the subject of evidence before the NSW Casino Inquiry.¹

Explanation regarding submissions at Annexure A

Crown has only responded to the contraventions alleged. Crown understands the Commission's position is that Crown failed to have regard to certain matters in conducting ongoing probity assessments of Mr Chau during the period April 2018 to July 2019 (**Relevant Period**). The Commission alleges the failure to consider these matters during the Relevant Period constitutes a failure to consider all available and relevant information regarding Mr Chau which, the Commission considers, does not meet the obligations contained at clause 2.5.1 of the Junket ICS. In turn, it is alleged Crown contravened section 121(4) of the Act.

If further information is required from Crown to supplement these submissions, please let us know.

Non-publication legislation

As the Commission may be aware, Crown is subject to a number of federal non-disclosure provisions which preclude it from providing particular kinds of information to the Commission. Submissions regarding these matters are made below.

To the extent that any such information is contained in documents otherwise relevant to the submission, it has been redacted or otherwise not produced. Crown will also not be able to provide further particulars in support of information or records not produced, as to do so could of itself constitute a breach of those statutes.

Where a record is subject to a restriction of the kind described, Crown has marked the document with a redaction labelled '*Confidential – NDI*'. If the Commission has any queries, Crown would welcome the opportunity to further discuss its position in respect of any or all of the information not capable of being disclosed.

As mentioned in the October Letter, please feel free to contact me if you would like to discuss any aspect of this response.

Yours sincerely



Ken Barton
Managing Director and Chief Executive Officer
Crown Resorts Limited

¹ See i.e. P-764-5, P-767, P-770, 3 August 2020; P-3153, 29 September 2020; P-3503, P-3562, 2 October 2020; P-4529, 20 October 2020.

Annexure A | Submissions

Protected information and exploitation risks

The information contained in and referred to in Annexure A relates to the affairs of persons named in the Notice and, accordingly, is protected information for the purposes of the *Gambling Regulation Act 2003* (Vic).

Further, a significant amount of information and materials referred to at Annexure A contains sensitive material regarding internal procedures and controls in relation to money laundering, junket operations, monitoring, security and administrative controls within Crown's casino operations. The documents set out the procedures and controls that have been developed by Crown with the objective of ensuring Crown remains free from criminal influence and exploitation and conducts business in accordance with its AML/CTF obligations.

If this information becomes publicly available it may elevate the risk of the relevant procedures and controls being circumvented. Publication of these documents could provide those wishing to exploit the casino's operations with valuable information in relation to how the controls and procedures operate, particularly those procedures and controls designed to identify, mitigate and manage money laundering risks.

Crown respectfully requests that the information in Annexure A and the documents referred to in Annexure B, be regarded with due sensitivity and confidentiality, and that Crown be consulted prior to any publication of these documents (or the information contained therein).

Non-publication legislation

1. Crown is subject to a number of federal non-disclosure provisions which preclude it from providing particular kinds of information to the Commission. These include (but are by necessity not limited to):
 - (a) section 123 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
 - (b) section 355-155 of the *Taxation Administration Act 1953* (Cth),
 (generally, **Non-Publication Material**).
2. Crown is not able to disclose Non-Publication Material to the Commission.
3. As the Commission will appreciate, these restrictions effectively constrain Crown from engaging with the Commission and providing certain information which, in Crown's view, is relevant to the allegations contained in the Amended Notice. Crown understands that this places the Commission in a position in which it has imperfect knowledge while assessing the matters the subject of the Amended Notice.
4. The above being observed, Crown has, to the best of its ability, attempted to provide a full response to the Amended Notice. Where to respond to a matter would tend to disclose Non-Publication Material, Crown has:
 - (a) provided as much detail as it is legally permitted to do; and
 - (b) indicated that there are matters about which it is not able to further elaborate.

5. Having regard to Crown's inability to disclose Non-Publication Material, it should not be inferred that any information not provided or documents not produced in response to the Amended Notice would not have assisted Crown.

Introduction and summary

6. This response is made to the Amended Show Cause Notice dated 16 November 2020, received on 17 November 2020 (**Amended Notice**) served by the Victorian Commission for Gambling and Liquor Regulation (**Commission**) on Crown Melbourne Limited (**Crown Melbourne**), being a wholly owned subsidiary of Crown Resorts Limited (**Crown Resorts**) (together, **Crown**), under section 20(2) of the *Casino Control Act 1991* (Vic) (**Act**).
7. We have summarised the Commission's position in the Amended Notice:
- (a) during 2017 and 2018 the following incidents occurred:
 - (i) On 8 June 2017, AUSTRAC sent Crown an email that *inter alia* made reference to Mr Chau being a foreign politically exposed person (**PEP**) with a substantial criminal history, requested documentation evidencing Crown's consideration of the appropriateness of continuing to engage with Mr Chau, and requested an explanation of how Crown considered its relationship with Mr Chau to be consistent with Crown's commitment to the objectives of the AML legislation (**AUSTRAC email**);
 - (ii) the sum of \$5.6 million in cash was found to be stored at the Suncity service desk (**\$5.6 million incident**); and
 - (iii) following the \$5.6 million incident, Crown put additional controls in place in respect of the Suncity service desk. However, an audit conducted following the commencement of the additional controls found that Suncity was not compliant with those additional controls (**alleged non-compliance with additional controls**),

(collectively, the **Incidents**).
 - (b) Between April 2018 and July 2019 (**Relevant Period**), Crown conducted various assessments regarding the ongoing probity of Mr Chau being a junket operator. In conducting those probity assessments, Crown failed to have regard to the Incidents.
 - (c) Crown's failure to have regard to the Incidents in its ongoing probity assessments regarding Mr Chau during the Relevant Period constituted a failure to consider all available and relevant information regarding Mr Chau as required by clause 2.5.1 of the Junket ICS. In turn, Crown contravened section 121(4) of the Act.
8. We have carefully considered the above and as detailed in this response, Crown did have regard to the matters contained in paragraph 7 above.

Present status of arrangements

9. Mr Chau is no longer a junket operator at Crown, as a consequence of:
- (a) the decision of the Board of Crown to suspend all relationships with junket operators generally (CRL.770.001.0001);
 - (b) Crown specifically determining on 22 August 2020 to suspend Mr Chau's junket operations, until such time as he obtained an Australian visa and travelled to a Crown operated property personally² (CRL.770.001.0002); and
 - (c) the decision of the Board of Crown during November 2020 to permanently cease dealing with junket operators, subject to consultation with gaming regulators in Victoria, Western Australia and New South Wales (CRL.748.001.0013).
10. In furtherance of the decision referred to in 9(c), Crown:
- (a) commenced a process (which is ongoing) of terminating all non-exclusive gaming promotion agreements with junket operators, including that with Mr Chau (CRL.770.001.0003);
 - (b) wrote to Sun City Group Australia Pty Ltd (on behalf of Sun City International) on 20 November 2020 terminating the Letter of Agreement between Sun City International and Crown dated 23 January 2014 (CRL.770.001.0005).

Restatement of facts

11. Some of the matters in the summary of evidence in support of particular 4 of the Amended Notice require clarification, including as to the dates on which they occurred. The following is a summary:
- (a) Mr Chau is the chairman of the Suncity Group Holdings Ltd.
 - (b) Crown determined to commence a business relationship with Mr Chau and he became a registered junket operator at the Melbourne casino on 10 September 2009.
 - (c) Contrary to paragraph 2 of Particular 4 of the Amended Notice, the initial checks from 2009 (detailed in CRL.724.001.0011, Crown's letter to the VCGLR of 16 August 2019) did not reveal a range of adverse media coverage alleging that Mr Chau was associated with parties with links to the 14K Triad Society and that he was linked to organised crime in the 1990s. These instead emerged over the period of the relationship with Mr Chau between 2009 and 2020, and in particular between 2016 and 2019.
 - (d) Crown conducted probity assessments regarding Mr Chau on a frequent basis during the period 2016 to 2019. In conducting these probity assessments, Crown requested and received a range of information and documentation regarding Mr Chau. These documents include identification documents, evidence of junket licences issued by Macau

² One of Crown's internal requirements for a person to be approved to operate junkets in its Australian casinos is that the operator obtain a valid Australian visa and travel to one of Crown's Australian properties both prior to opening any junket programs, and at regular intervals thereafter (usually around once every two years, in ordinary circumstances).

authorities and various due diligence reports from databases such as World Check and Dow Jones.

- (e) On 1 June 2017, AUSTRAC emailed Crown requesting copies of certain reports in respect of Mr Chau.
- (f) Crown provided the requested reports on 8 June 2017.
- (g) On 8 June 2017, AUSTRAC sent a staff member at Crown an email. In the email AUSTRAC:
 - (i) alleged that Crown was aware Mr Chau was a PEP and had a substantial criminal history;
 - (ii) requested documentation evidencing Crown's consideration of the appropriateness of continuing to provide designated services to Mr Chau; and
 - (iii) requested an explanation regarding how Crown considered its business relationship with Mr Chau was consistent with Crown's commitment to striving to achieve the objectives of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).
- (h) In the intervening period, Crown conducted due diligence regarding Mr Chau and, on 22 June 2017, Crown, represented by Mr Preston, met with AUSTRAC to discuss *inter alia* Mr Chau.
- (i) On 17 April 2018, Crown notified Suncity representatives of increased controls in Pit 86 (**Suncity Room**), where Mr Chau's junket was located, regarding cash handling, cash deposits and the amount of cash that could be held at the Suncity service desk. It was pursuant to these procedures that Suncity was notified it could hold no more than \$100,000 at the Suncity service desk. Suncity representatives were notified these changes were to take effect on 20 April 2018.
- (j) On 20 April 2018, consistent with the imposition of the new controls, an audit was conducted of the Suncity room. During the audit, \$5.6 million in cash was located in the room. The \$5.6 million was deposited into Suncity's safe keeping account (a Crown-controlled account). Consistent with its obligation under section 43(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Crown reported the \$5.6 million deposit to AUSTRAC as a threshold transaction on 23 April 2018 (see CRL.770.001.0007 and CRL.770.001.0008 (report), and CRL.770.001.0004 (confirmation of delivery)).
- (k) On 20 April 2018, Crown also contacted Mr Chau and other Suncity representatives to reiterate the new procedures which were taking effect on that date.
- (l) On 5 May 2018, an audit was carried out of the Suncity service desk. It was determined that the controls put in place were being followed (CRL.609.007.8749).

- (m) Subsequently, on 18 May 2018 Crown engaged with AUSTRAC regarding the matter. Whilst complete details of this engagement cannot be disclosed because of the statutory prohibitions on disclosure referred to in the covering letter to this response, in subsequent correspondence AUSTRAC specifically confirmed that it had no objection to the electronic transfer of the \$5.6 million to Suncity's bank account (CRL.501.039.5141).

The allegation of failure to consider relevant matters

12. The AUSTRAC email – general

- 12.1 As the Amended Notice notes at paragraph 6(c) on page 16, in response to the AUSTRAC email, Crown prepared a further due diligence report on Mr Chau. In addition, on 22 June 2017, Crown met with AUSTRAC to discuss Mr Chau.

Crown took what AUSTRAC had said into account in its assessment of Mr Chau.

- 12.2 While there was no specific reference to the AUSTRAC email in documentation relating to subsequent probity reviews of Mr Chau, the steps taken by Crown demonstrates that it did have regard to the content of the email.
- 12.3 The specific matters that triggered AUSTRAC's email – Mr Chau's PEP status and his alleged criminal links – were initially taken into account and therefore continued to be a consideration during the Relevant Period.

13. The AUSTRAC email – PEP status

- 13.1 On 12 December 2016, as part of its ongoing probity checks regarding junket operators, Crown obtained a C6 Enhanced Due Diligence Express Report Overview (**C6 Report**) (CRL.500.002.6427). The report reflected that Mr Chau was a PEP and that he had alleged criminal links.
- 13.2 Following the receipt of C6 Report, on 5 June 2017, Crown raised Mr Chau's risk rating to "high risk PEP". The increase of Mr Chau's risk profile, which would remain at high risk thereafter, evidencing that Mr Chau's status as a PEP was taken into account each time his ongoing probity was assessed.
- 13.3 Further, pursuant to a chain of emails between Mr Howell and Mr Preston, Crown considered Mr Chau's ongoing probity in light of his PEP status, as follows:
- (a) an email of 5 June 2017 from Mr Howell to Mr Preston in which Mr Chau's ongoing status as a registered junket operator was raised and approval to continue a business relationship was sought in light of his PEP status (CRL.579.010.2548);
 - (b) an email of 8 June 2017 from Mr Preston to Mr Howell in which he requested a comprehensive review of matters, including the history of Crown's assessment of Mr Chau, matters previously considered, why decisions were made, escalations that occurred over time and any other relevant information that confirmed why Crown determined to continue to do business with Mr Chau (CRL.500.002.6439);

- (c) emails of 8 June 2017 from Mr Howell to Mr Preston which attached a range of due diligence documentation along with a document summarising Crown's dealings with Mr Chau (CRL.500.002.6439, CRL.579.010.2330, attachment CRL.500.002.6441). The attachment document specifically references the C6 Report and that it noted that Mr Chau is a Foreign PEP. Relevantly, the document specifically references Mr Chau's alleged links to organised crime;
- (d) an email of 16 June 2017 from Mr Preston to Mr Howell in which he approved the continuing relationship with Mr Chau, following receipt and consideration of the documents provided to him by Mr Howell. (CRL.500.005.2836).

13.4 Attached is a risk assessment review for the Suncity junket, last amended on 20 November 2018, during the Relevant Period (CRL.500.005.6185), which reflects Mr Chau's status as a PEP is referred to in the first paragraph. Amongst the other matters considered are the allegations regarding Mr Chau's involvement in organised crime and issues relating to large cash transactions at the Suncity service desk.

14. The AUSTRAC email – Mr Chau's alleged links to organised crime

- 14.1 In February 2014, Mr Chau's risk rating was raised to "significant" due to it being alleged he was an associate of Cheng Ting Kong. The allegations of Mr Chau and Mr Cheng's association were contained in an article regarding Sun International and Cheng Ting Kong, which alleged that Mr Kong was linked to the triads.
- 14.2 Crown regularly considered various allegations regarding Mr Chau's links to organised crime. In particular, during the Relevant Period:
 - (a) by email dated 23 November 2018, Ms Gioras queried why Mr Chau's name did not appear on certain database searches regarding criminal activity. The response, on 27 November 2018, outlined that because Mr Chau had not been arrested or charged as a defendant in a criminal case, he did not warrant Special Interest Person coverage and therefore did not appear on certain databases (CRL.500.007.0564);
 - (b) by email dated 23 May 2019 Ms Gioras followed up on a media article relating to Suncity to ensure the relevant company names mentioned in the article appeared on the junket profile and that the necessary searches and annual reports were carried out; and
 - (c) in the risk assessment review of 20 November 2018, referred to at paragraph 13.4 above.
- 14.3 The documents provided by Mr Howell to Mr Preston on 8 June 2017 show that the history of allegations against Mr Chau, amongst other things, formed part of the consideration of whether Crown's relationship with Mr Chau should continue.

15. The \$5.6 million incident

- 15.1 During the Relevant Period, Crown raised and considered information relating to Mr Chau and the \$5.6 million incident as part of its ongoing probity checks and concluded that the relationship be continued, provided that the controls as previously outlined were implemented. In particular:
- (a) on 16 May 2018, Mr Theiler sent an email to Mr Felstead and Mr Preston (copying Ms Maguire), (CRL.579.022.3807) attaching documents entitled 'Junket Overview' (CRL.579.022.3808) and 'Suncity Overview' (CRL.579.022.3809), which considered a number of issues, including the procedures in place for junkets and reasons why junkets use large amounts of cash;
 - (b) on 18 May 2018, representatives of Crown met with representatives of AUSTRAC to discuss the operation of the junket. The contents of the meeting and the correspondence cannot be disclosed because of the statutory prohibitions on disclosure referred to in the covering letter to this response. However, the \$5.6 million incident was considered at that meeting;
 - (c) the risk assessment review of 20 November 2018, referred to at paragraph 13.4 above, considered large cash transactions, large quantities of cash being held at pit 86, cash deposits and cash controls. This involved a consideration of the \$5.6 million incident.

16. Alleged non-compliance with additional controls

- 16.1 On 17 April 2018, Crown notified Suncity representatives of increased controls in the Suncity Room, regarding cash handling, cash deposits and the amount of cash that could be held at the Suncity service desk. It was pursuant to these procedures that Suncity was notified it could hold no more than \$100,000 at the Suncity service desk. Suncity representatives were notified these changes were to take effect on 20 April 2018.
- 16.2 On 20 April 2018, consistent with the imposition of the new controls, an audit was conducted of the Suncity room. During the audit, \$5.6 million in cash was located in the room. The \$5.6 million was deposited into Suncity's safe keeping account (a Crown-controlled account). Consistent with its obligation under section 43(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Crown reported the \$5.6 million deposit to AUSTRAC as a threshold transaction on 23 April 2018 (see CRL.770.001.0007 and CRL.770.001.0008 (report), and CRL.770.001.0004 (confirmation of delivery)).
- 16.3 As the timeline above demonstrates, additional controls were not put in place following the \$5.6 million incident.
- 16.4 Instead, foreshadowed increased controls were notified to Suncity representatives prior to the \$5.6 million incident. Those controls took effect on the date of that incident (20 April 2018). When the \$5.6 million in cash was discovered on that date, Crown contacted Mr Chau and other Suncity representatives to clarify that the additional controls had taken effect.
- 16.5 Subsequently, on 5 May 2018, Crown carried out an audit and determined that the additional controls were being followed.

Further matters

17. If the Commission should require any further information regarding any of the matters discussed in this response, Crown would be pleased to provide it.

4 December 2020