

**INVESTIGATION BY
EXTERNAL COUNSEL
INTO ISSUES RAISED IN
THE FOUR CORNERS
PROGRAMME,
“WATCHDOG OR
LAPDOG”**

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CHAPTER ONE

EXECUTIVE SUMMARY

The Investigation

- 1 We were engaged to conduct an independent investigation and make findings into whether allegations made by five inspectors formerly employed by the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) in a Four Corners programme, “Watchdog or Lapdog?” that aired on 5 July 2021 were established on the balance of probabilities.
- 2 Between August and October 2021, we conducted over 30 interviews with 22 personnel, most of them currently or formerly employed at diverse levels of the VCGLR, and reviewed written documentation which we requested and which was made available to us by the VCGLR and Crown Casino.
- 3 We received full co-operation from both organisations.

The Unhappy Merger of Alcohol and Gambling Regulation

- 4 The amalgamation in 2012 between the Victorian Casino and Gaming Authority (**VCGR**) and Responsible Alcohol Victoria (**RAV**) was but one of many changes made to the regulation of gambling in Victoria since 1990.
- 5 From the outset the merged body, the VCGLR, suffered from difficulties arising from the need to harmonise different processes, functions, policies, priorities and workplace cultures. There was divisiveness, rancour and malcontent amongst and within significant parts of the new organisation for many years in spite of attempts to facilitate the merger. In the part of the VCGLR that was focused principally on the regulation of gambling this principally arose from a passionate commitment on the part of staff to ensure the accountability of Victoria’s gaming industry.
- 6 Rather than attempting to engage with the detail of conflicts and disputation, some of which date back the better part of a decade, we have focused in this report on issues not individuals, and on what has occurred since 2015. We have endeavoured to do so in a constructive, forward-looking way in order to make the required findings but also

to assist in the process of constituting a new stand-alone gambling regulator, the Victorian Gambling and Casino Control Commission (VGCCC), a decision announced by the Victorian government in August 2021.

- 7 While legitimate criticisms can be made of the handling of the early phases of the difficult attempts at amalgamation of the two constituent parts of the VCGLR from 2010 until 2015, management has adopted substantial and effective measures to integrate and co-ordinate functions in recent years. A consequence is that the historic reasons for malcontent in respect of the discharge of regulatory functions expressed by former inspectors on the Four Corners programme have now substantially reduced.

Internal Control Statements and Standard Operating Procedures

- 8 The fundamental tool for gambling regulation is Internal Control Statements (ICSs), which are generated by the casino operator and approved by the regulator after consultation. Some of these have been overly aspirational and non-specific and therefore have been problematic as tools for regulation. A process of revising and modernising them is currently under way.
- 9 Standard Operating Procedures (SOPs) (formulated by the casino operator) operationalise the ICSs. SOPs are not currently required to be approved by the regulator and the SOPs are not part of the ICSs. This should be revisited and reconsidered as part of the review process currently being undertaken.
- 10 There is a need for the ICSs that are currently in force to be amended to provide for a greater degree of specificity so as to facilitate effective regulation. A review should also be undertaken of the casino regulator's SOPs to ensure their consistency with the ICSs. Consideration could be given to the basis for ensuring that the more detailed SOPs accurately represent the intent of the ICSs.
- 11 The revision of the ICSs and the harmonisation of them with SOPs provides an opportunity to review and revise the regulator's audit checklist tools and to create more detailed audits over matters such as probity audits over all matters related to junkets and premium players.
- 12 It is apparent that until very recently there was no formal process for regular review of the regulator's ICSs and, aside from their defects, some had become out-of-date.

There should be a formal process for reviewing them on, say, a two yearly basis to ensure they remain fit for purpose and capture all emerging high risk areas for the regulation of the Casino.

Junket Operations and Premium Players

- 13 Aside from all other factors, the presence of large sums of cash at the Casino means that in Victoria, as in all other parts of the world with casinos, there is a foreseeable risk of penetration of casino operations by organised crime and terrorist organisations, including by money laundering.
- 14 The phenomenon of organised junkets and the provision of privileged status and benefits to premium players raise particular risks of criminal activity.
- 15 There were difficulties in the way the VCGLR regulated junket operators in an effective way until December 2015 as there was no probity requirement in any ICS for the casino operator in approving and engaging with junket operators, junket players or premium players prior to that time (noting that prior to 2012, the junket and premium player ICS was created by the VCGLR's predecessor, the VCGR, but adopted by the VCGLR until December 2015). In addition, the VCGLR's December 2015 junket and premium players ICS did not include clear expectations of Crown in relation to probity requirements for junket and premium players. This impaired the VCGLR's evaluation and auditing of whether Crown's probity assessments were sufficient to assure that undesirable operators and premium players were not being permitted access to Crown facilities. The deficiencies in the ICSs had a negative impact on the detail and quality of auditing tools utilised by the VCGLR's compliance inspectors at the Casino.
- 16 However, in considering the shortcomings in the ICSs prior to, and as of 2015, it is also important to note two matters. Firstly, the power of the VCGLR (and of its processor) to regulate the casino operator is not based solely on the ICSs. For example, junket operators were also able to be regulated by the VCGLR through the exclusion order powers under s 72 of the *Casino Control Act 1991 (Vic) (CC Act)*. Secondly, the responsibility lies upon the casino operator to ensure proper probity processes are implemented in relation to junkets and premium players. The burden does not fall on the VCGLR whose function, in relation to the probity checks

undertaken by the casino operator, is by way of audit and evaluation. This is because in 2004 legislative amendments to the *Gambling Regulation Act 2003* (Vic) placed the onus on the casino operator to approve junket and premium player arrangements (including conducting probity requirements) rather than on the gambling regulator at the time.

- 17 A December 2020 VCGLR ICS in relation to junket operators and premium players is a major improvement. It is unfortunate that it was not until the combination of pressures upon the VCGLR that it generated a document that was clearly required many years earlier. However, it was also not until recent times through recent inquiries, reviews and reports that the VCGLR became aware of the extent of Crown's deficiencies in relation to probity checking in relation to junket operations. This has led to the VCGLR evaluating and improving the regulation of the junket and premium players ICS and to undertaking disciplinary proceedings against Crown for breach of the 2015 junket ICS in relation to probity. An aspect of this was Crown being fined the maximum amount of \$1 million in April 2021 by the VCGLR based on their breach of the probity requirements of junket operators in the 2015 ICS (the **2021 Disciplinary Action**).
- 18 There remains room for further improvement in the current junket and premium player ICS in more clearly setting out the minimum requirements of the due diligence process required for junket operators, players and premium players. Without unequivocal benchmarks about the expectations of the regulator in relation to due diligence, there is a risk that uncertainty will linger about how proper due diligence is to be conducted by the casino operator and then evaluated by the regulator. In the absence of such benchmarking, it is difficult for the regulator to conduct effective auditing activity over the due diligence of the casino regulator. However, we also acknowledge that overly prescriptive ICSs may be counterproductive and may set 'minimum requirements' rather than the casino operator undertaking all it reasonably can to conduct due diligence to a high standard over junket operations and premium player arrangements. There is room for improved benchmarking in the ICSs while not engaging in overly prescriptive setting of detailed requirements.
- 19 Recent developments (including the COVID-19 pandemic) and adverse publicity have led to Crown announcing that junkets would be ceased in Victoria from about

November 2020. However, the inherent and inescapable vulnerabilities of the junket system have the consequence that gambling junkets in substance, as well as in name, need to be abolished by legislation. In this regard, we concur with the recommendation made by Royal Commissioner Bergin in New South Wales in early 2021. In the meantime, should there be any form of resumption of junkets by another name, which involves a system of inducements and encouragements, including by these being provided to groups from overseas, they at least need to be made subject to the most stringent levels of scrutiny by the casino operator and by the regulator. This is partly accomplished by the 2020 ICS but should be supplemented, as set out above.

- 20 While it has been suggested that Crown got what it “what it wanted” in relation to junket operations and that the taxes the Casino pays to the State government had a bearing in respect of the proper regulation of junket operations, there is no direct evidence to support these assertions. However, it is the case that the historic ICSs approved by the VCGLR in relation to junket and premium player arrangements were deficient in that Crown was not required to have adequate probity measures in place in respect of junket operators, junket participants and premium players. Those deficiencies in the ICSs also adversely affected the ongoing effectiveness of the VCGLR’s regulatory measures in relation to what were high risk aspects of the gambling that it was the responsibility of the VCGLR to monitor effectively.
- 21 A further source of integrity vulnerability is high-rollers, known as ‘premium players’. Here too there have been inadequacies in the historic ICSs. To remedy this, there should be a further review of the ICS that regulates the casino operator’s probity assessments of premium players with a view to ensuring the institution of a more demanding evaluation of whether such persons are fit and proper persons and so that the VCGLR can effectively discharge its regulatory responsibilities over such assessments by the casino operator. We particularly make this recommendation, because we consider that if junket operations are permanently ceased in Victoria, an emerging risk, in relation to possible criminality at the Casino, is the ‘premium player’ scheme.
- 22 There was a period around 2014 when there was a hiatus in the adequacy of audits, including junket audits, in relation to the casino operator, as well as other aspects of

gambling in Victoria. The concerns expressed by the inspectors on the Four Corners episode about auditing around that period are well-founded.

- 23 In 2017, a report by the Victorian Auditor-General's Office (**VAGO**) titled *Regulating Gambling and Liquor (the 2017 VAGO Report)* made a series of very serious criticisms of the VCGLR, including around its approach and performance of its regulatory responsibilities. Since that time the VCGLR has been suitably responsive. Amongst the changes implemented by the VCGLR has been the creation of a dedicated Casino team and the prioritisation and implementation of a risk-based approach to auditing. This has meant that some audits carried out by the VCGLR at the Casino have been ceased or reduced because they have been assessed by the VCGLR as not being in respect of sufficiently high risk conduct by the casino operator. However, new audits have been created for new and higher risk activities. This is a basis for commendation, not criticism. Regulation of gambling activities needs to evolve and to be responsive to emerging practices and sources of risk.
- 24 As asserted in the Four Corners programme, the VCGLR has only formally used the power to require Crown Casino to cease a relationship with a player or a junket operator on the one occasion. However, no sinister inference should be drawn from this fact as other mechanisms to exclude undesirable elements from Crown have been utilised by a combination of the VCGLR and Crown for many years.
- 25 In addition, since 2017, the VCGLR has appropriately re-focused on junket operations at the Casino given the high risk of criminal activity involved in those ventures. One such measure is the 2021 Disciplinary Action against Crown, to which reference has previously been made. This action resulted in the Commission of the VCGLR deciding to impose the maximum fine permissible under current legislation, \$1 million, for infractions related to the operation of junkets and Crown's probity requirements. An issue for the legislature is whether the maximum penalty for such infractions should be increased as the deterrence value of a maximum \$1 million fine for a commercial operator the size of Crown is less than necessary.

Investigation of Criminal Conduct

- 26 Crown Casino is an environment that is open to the commission of a variety of forms of criminal conduct, varying from money laundering, to fraud, blackmail, prostitution and drug offences.
- 27 There is no evidence that the VCGLR has instructed its inspectors at Crown Casino that it was not their responsibility to act on criminal activity discovered at the Casino, including loan sharking in the gaming pit and drug deals in the Casino. To a similar effect, there is no evidence that inspectors were actively blocked from looking at money laundering at Crown Casino by VCGLR management.
- 28 To the contrary, an appropriate system has been in operation which involves the VCGLR referring such matters to appropriate criminal investigation agencies where inspectors make observations or investigations that identify suspicious activity. This occurs through the Intelligence Unit of the VCGLR. It is important to identify that the VCGLR does not hold any functions pursuant to legislation in relation to investigation of criminal activity. There is an important distinction between a regulatory body and criminal investigation body. However, processes and systems should be instituted by the gambling regulator to ensure that all Information Reports are disseminated to appropriate law enforcement agencies, where appropriate, and are the subject of follow-up.
- 29 However, there is room for improvement in the regulator's intelligence processes. A system should be established whereby an effective feedback loop is created so that inspectors are notified about what has occurred to concerns that they have identified, including where external investigative agencies are involved.

The Blue Cooler Bag Incident

- 30 An inspector identified potential money laundering in the Suncity Room of Crown Casino, involving a junket representative, Chenkang Pan, who was observed to be handing out money from a cooler bag full of cash on or about 5 May 2017. This was properly investigated by the VCGLR and referred to Victoria Police for criminal investigation. Accordingly, it is incorrect that 'nothing was done' about this incident as asserted in the Four Corners programme.

The Exercise of Undue Influence over the Regulator

- 31 There is no evidence that Crown Casino exercised undue influence and/or control over the activities of the VCGLR inspectors at the Casino, such that in effect ‘Crown were running [the] office’.
- 32 It has been alleged that VCGLR inspectors were forced to keep ‘dirty secrets’ with respect to Crown Casino under threat of negative repercussions, including being fined or losing their jobs. There is no evidence to support this assertion.

Counterfeit Notes

- 33 There has been no specific VCGLR investigation in relation to counterfeit notes at the Casino. However, there is no basis for legitimate criticism in relation to this, as counterfeit notes at the Casino are not considered to be a high risk activity.
- 34 Counterfeit notes are encountered on a relatively regular basis by Crown Casino staff, although by no means on a daily basis. Where counterfeit notes or chips are found by the Casino staff, the ICS requires them to notify VCGLR staff. VCGLR staff then record this information in an Information Report which is provided to the Intelligence Unit and can be disseminated to law enforcement agencies. This is the appropriate process.
- 35 No specific VCGLR audit is required to be undertaken in relation to counterfeit notes. However, the VCGLR does undertake a variety of audits of the Casino count room and its cages. If any specific issue arose in relation to counterfeit notes at the Casino, it would be apparent in relation to the Casino counting its takings (which occurs daily) and the auditing undertaken by the VCGLR of the count room and various cages. There is no evidence that the regular auditing of the count room or the cages has identified systemic issues in relation to counterfeit notes or that the Casino is not meeting its reporting requirements to the VCGLR in this respect under the relevant ICSs.

VCGLR Staffing Levels at the Casino

- 36 The VCGLR maintains a 24 hours a day, 7 day a week presence of inspectors at the Casino with a team of 11 staff (8 inspectors, 2 team leaders and a casino manager).

37 There have been some shifts between 2012 and 2021 when no inspector from the VCGLR has been present at Crown Casino because of rostering issues or leave requirements (including sick leave). Rostering problems because of illness or recreational leave still occasionally happen and on occasion an inspector may not be present for a time at the Casino. This can be readily explained by the small VCGLR team at the Casino which covers shifts on a 24 hour, 7 day a week basis for 362 out of 365 days a year.

38 To try to avoid such absences, especially on the busy nights of the Casino's operation (Thursday, Friday, Saturday and to a lesser degree Sunday), it would be constructive to explore whether the size of the Casino team could be increased (the regulator's budget permitting) to ensure that there is appropriate staffing coverage so that inspectors are able to work two-up over night shifts, particularly given occupational health and safety risks and given they walk the Casino floor and are required to talk to persons who may be excluded persons, aggressive or intoxicated. However, the VCGLR's budget levels since its creation have had an impact upon staffing levels and ultimately are a matter for government.

Re-establishment of A Dedicated Gambling Unit in Victoria Police

39 In the period leading up to 2006, there was a Casino Crime Unit within Victoria Police. It played a useful role until its abolition after an external review of policing structures. However, organised crime has changed significantly in the succeeding 15 years.

40 It is apparent that there are advantages to an arrangement whereby the regulator can have regular contact with police who have close knowledge of the gambling industry, criminal activity likely to be taking place in a casino environment, and the operation of casinos in particular. There are also advantages to a consistent visible presence of police within a casino complex given the extent of criminal activity that is known to take place within such venues.

41 However, for Victoria the entity best positioned to evaluate the advantages and disadvantages of a specific mode of policing of criminal issues associated with the gambling industry and the units it can constitute to address such issues most

effectively is Victoria Police. It would be constructive for the casino regulator and Victoria Police to maintain dialogue about the optimal ongoing relationship between the bodies and the advantages and disadvantages of a standing unit with gambling expertise within Victoria Police.

Shortfalls but No Wrongdoing, Corruption, or Unlawfulness

42. We have identified some shortfalls in respect of some of the regulatory activities undertaken by the VCGLR between 2012 and 2021 and have made recommendations to improve regulatory processes and systems by the gambling regulator. However, we emphasise that none of the shortfalls involved wrongdoing, including corruption, unlawfulness, a failure by the VCGLR to comply with applicable laws/regulations and/or were motivated by improper purposes (i.e. purposes extraneous to the VCGLR's regulatory objectives) on the part of officers or employees of the VCGLR.
43. To the contrary, it is clear to us that those with current managerial responsibility within the VCGLR are dedicated, professional and reflective, even in circumstances which have been stressful and subject to intense media scrutiny. They and the significant number of on-the-ground staff to whom we spoke at length impressed as committed to ensuring the objects and purposes of the *Casino Control Act 1991* are met.

CHAPTER TWO

THE INVESTIGATION

2.1 The Commissioning of the Investigation

1 On 16 July 2021, by Terms of Reference, we were engaged to conduct an independent investigation and make findings into whether allegations made by five inspectors formerly employed by the VCGLR in a Four Corners programme, “Watchdog or Lapdog?”, aired on 5 July 2021, were established on the balance of probabilities. Specifically, we were asked in “Terms of Reference” to determine whether during the time frame of 2012 and 2021:

1. VCGLR management instructed inspectors at Crown Casino that it was not their responsibility to act on criminal activity discovered at the Casino, including, but not limited to:
 - a. loan sharking in the gaming pit; and
 - b. drug deals in the casino.
2. Crown Casino exercised undue influence and/or control over the activities of the VCGLR inspectors at the Casino, such that in effect “Crown were running [the] office”.
3. The inspectors were forced to keep “dirty secrets” with respect to Crown Casino or there might have been negative repercussions, including “being fined or los[ing] our jobs”.
4. The VCGLR repeatedly gave Crown Casino “what it wanted”.
5. Nothing was done by the VCGLR with an inspector’s report into the investigation into the use of counterfeit notes at Crown Casino.
6. There were many shifts during the relevant time frame where Crown Casino had no inspector from the VCGLR, and this is “still happening”.
7. During the relevant time frame “junket audits” were rarely done on Crown Casino, including that from about late 2013 audits stopped for close to a year and this was because inspectors were told not to do any audits because a review, including a review of junket audits, was going to be undertaken by the VCGLR.
8. The VCGLR was doing little to scrutinise or undertake proper probity of the individuals linked to junkets who were coming to the casino and gambling hundreds of millions of dollars in Crown Casino’s private rooms.
9. The VCGLR was influenced in its inaction or inadequate discharge of its investigative responsibilities by the fact that Crown Casino pays the Victorian government over \$200 million a year in taxes.

10. The VCGLR has only used the power to force Crown Casino to cease a relationship with one of its players or junket operators (high rollers brought into a casino by third party agents) once, despite a series of connections that have been identified between junket operators and alleged organised crime syndicates (or those linked to such syndicates).
 11. An inspector identified potential money laundering in the Suncity Room of Crown Casino, involving junket representative Chenkang Pan who was allegedly handing out money from and a cooler bag full of cash on or about 5 May 2017, and it was not acted upon by the VCGLR.
 12. Inspectors were actively blocked from looking at money laundering at Crown Casino by management, including senior management, at the VCGLR.
- 2 The Terms of Reference required us to make findings as to whether any of the allegations we determined to have been established (on the balance of probabilities) involved wrongdoing, including corruption, unlawfulness, a failure by the VCGLR to comply with applicable laws/regulations and/or were motivated by improper purposes (i.e. purposes extraneous to the VCGLR's regulatory objectives) on the part of officers or employees of the VCGLR.
- 3 We were also asked to make recommendations for improvements to systems, training, resourcing, process or regulatory operations with respect to any of the allegations we found to be established and to make recommendations with respect to disciplinary action and/or counselling.
- 4 We were instructed to conduct our investigation:
- A. as you consider appropriate;
 - B. without incurring unnecessary cost or delay;
 - C. without prejudicing or duplicating the Regulatory Review or the Royal Commission into the Casino Operator and Licence;
 - D. in a form suitable, so far as possible, to be made public; and
 - E. in a way that does not prejudice any current or future criminal or civil proceedings.

2.2 Investigation Methodology

- 5 While we had no formal powers to compel anyone to speak with us or to require the production of documents, we were informed that the VCGLR and Crown Casino had committed to co-operate fully with us.
- 6 We are pleased to report that the co-operation that was promised was provided, on occasion at short notice, and that each person to whom we asked to speak was made available to us. Further, those whom we interviewed were forthcoming and candid with us.
- 7 In order to provide as much anonymity as possible to current inspectors, we have referred to all inspectors, both past and present, by initials that bear no relationship to their actual names. We have done so both to respect the openness of those to whom we spoke and to reduce any potential for criticism or adverse consequences to persons who remain inspectors within the VCGLR. For the same reasons, we have also refrained from identifying by name current or former staff members at the VCGLR to whom we spoke unless at the executive and above level.
- 8 In order to ensure that by speaking with us no current or former employees were breaching their duties of secrecy to the Commission, we requested the VCGLR to provide authorisation to interviewees to disclose protected information under s10.1.32 of the *Gambling Regulation Act 2003* (Vic). The VCGLR granted such authorisation to all such current and former employees.
- 9 A number of persons also provided us with documentation to which they were privy and provided written observations and reflections after we had spoken with them. We thank them for their contributions.
- 10 In order to ensure that we had an accurate record of what was said to us by all interviewees, we requested interviewees to agree to our discussions being recorded. The basis for their agreement was that the recordings would be transcribed but not provided to interviewees, the VCGLR, Crown Casino or anyone else. This assisted in maintaining the integrity of the investigative process. We are grateful for the co-operation of interviewees in this regard.

- 11 We asked to speak with a representative of AUSTRAC in order to enhance our understanding of the relationship between the VCGLR and relevant investigative organisations. AUSTRAC was most responsive to this request, and we interviewed AUSTRAC’s general counsel, Ms Katie Miller, who provided backgrounding and contextual perspectives on matters relating to money laundering by organised crime and terrorist organisations in the current Australian and international environment.
- 12 Ultimately, we did not press a request to speak with Victoria Police as our attention was directed toward evidence given by Assistant Commissioner Michael Frewen¹, Assistant Commissioner Christopher Gilbert² and an officer stationed with the Organised Crime Intelligence Unit, which is part of the State Intelligence Unit of Victoria Police³, to the hearings conducted by the Royal Commission into the Casino Operator and Licence under the Hon Ray Finkelstein AO QC. We are grateful for the assistance provided in this regard by Sascha Gelfand, Director, Legal Practice Division, Legal Services Department, of Victoria Police.
- 13 During a break between COVID-19 lockdowns we undertook a “view” of parts of Crown Casino and the offices of the VCGLR to orient and acculturate us to some degree.
- 14 We were assisted with administrative matters by solicitors at DLA Piper. However, those solicitors made no contribution to the substance of the report. We record our appreciation for the very responsive help that they provided throughout our investigation, in particular John Fogarty and Ashvin Sandra Segaran.
- 15 Some sensitive matters which should not be in the public domain and some matters with particular sensitivity were communicated to us during the investigation. We have not referred to these in the report so as not to intrude on matters which are commercially in confidence and so as to avoid providing information about current investigations and probity and investigative methodologies which it would not be appropriate to place on the public record.

¹ Evidence given to Royal Commission, 7 May 2021.

² Evidence given to Royal Commission, 10 May 2021.

³ Evidence given to Royal Commission, 18 June 2021.

- 16 This review has run parallel with, but distinct from, two other processes. On 22 February 2021 the Victorian Government established a Royal Commission into the Casino Operator and Licence under the Hon Ray Finkelstein AO QC. We did not have formal contact with the Royal Commission save to advise senior counsel assisting of our investigation and when we would be reporting. In addition, a second review has been commissioned into how a stand-alone regulator of gaming could be introduced into Victoria and integrated into structural and governance arrangements under the guidance of Ms Deborah Cope. This investigation has made contact with Ms Cope to advise of progress with our review, and to understand better her role, but did not formally interview her.
- 17 In accordance with our Terms of Reference, we have endeavoured to avoid overlap with the important work being done by both of these separate reviews.
- 18 In the early phases of our investigation, on 3 August 2021⁴, the Victorian government announced that it had decided to disaggregate the gaming and alcohol regulatory functions and to establish a Victorian Gambling and Casino Control Commission (VGCCC) in which there would be a dedicated casino regulation division⁵. There currently being no stand-alone gambling regulator, as there has been prior to the 2012 amalgamation, was a major focus of the criticisms made by the former inspectors in the Four Corners programme who indicated to us that the lack of a gambling-specific regulator was a major motivation in relation to their appearance on the programme and matters which they raised with the journalists.
- 19 In terms of approach, we have largely eschewed criticism of individuals for past matters because such criticism arising from matters that occurred many years ago would serve little purpose and because the issues that have proven problematic have been largely systemic. Many of such issues have been overtaken by suitable reforms that have been made or are currently under way. Rather, we have focused upon our specific Terms of Reference and issues which have the potential to be constructive for the future of gambling regulation in Victoria.

⁴ Victorian Parliament, Public Accounts and Estimates Committee, “2021-2022 Budget Estimates” 17 June 2021, Ms Melissa Horne, MP, Minister for Consumer Affairs, Gaming and Liquor Regulation.

⁵ Premier of Victoria, the Hon Daniel Andres, “Press Release: New Regulator to Strengthen Casino Oversight” (3 August 2021): <https://www.premier.vic.gov.au/new-regulator-strengthen-casino-oversight>

- 20 It was agreed by the VCGLR that we would provide our report first to the VCGLR to enable reflection on its contents and briefing of the Minister for Consumer Affairs, Gaming and Liquor Regulation and that 72 hours later it would be provided to the five former inspectors who had spoken on the Four Corners programme, as well as to Crown Casino, and at that stage made public.
- 21 Some delays were occasioned by challenges in locating the contact details of the five former inspectors who had appeared on the Four Corners programme and by reason of challenges of the investigation needing to be conducted remotely during a lockdown of Melbourne pursuant to the *Public Health and Wellbeing Act 2008* (Vic). In addition, the number of persons to whom we needed to speak was more extensive than was initially envisaged and there was a large amount of documentation that needed to be called for, inspected and evaluated. This combination of factors required postponement of provision of the report from 13 September until 10 October 2021.

CHAPTER THREE

THE BACKGROUND TO GAMBLING REGULATION IN VICTORIA

3.1 A history of gambling regulation in Victoria

- 1 In 1990, the Victorian government embarked on a policy direction to expand the range of gambling activities in the state.⁶ This included the introduction of electronic gaming machines and the establishment of a casino close to the Melbourne central business district, which opened in June 1994 and then moved to its current Southbank site in May 1997.⁷
- 2 Victoria was a relatively late entrant into the casino area, Australia's first casino being Wrest Point Casino in Tasmania that was established in 1968 by the *Wrest Point Casino Licence and Development Act 1968* (Tas).
- 3 Since that time the following 13 casinos have been licensed throughout Australia:
 - The Casino Canberra in the ACT;
 - The Star and the Barangaroo in Sydney;
 - The Mindil Beach Casino Resort (formerly SKYCITY) in Darwin and Lasseters Hotel Casino in Alice Springs;
 - The Treasury Brisbane, The Reef Hotel Casino in Cairns, The Star Gold Coast and The Ville Resort - Casino in Townsville;
 - The Adelaide Casino;
 - The Country Club Casino in Launceston;
 - Crown Melbourne; and

⁶ For a history prior to that time, see Jan McMillen and William R Eadington, 'The Evolution of Gambling Laws in Victoria' (1986) 8(1) *NYLS Journal of International and Comparative Law* 167.

⁷ Victorian Auditor-General Special Report No. 54 titled *Victoria's Gaming Industry, An Insight into the Role of the Regulator*, 1998 (available at <https://www.parliament.vic.gov.au/papers/govpub/VPARL1998-99No3.pdf>) (1998 VAGO Report), p 17.

- Crown Perth in Western Australia.
- 4 As of 1990, the gambling industry in Victoria was regulated by two bodies – the Victorian Gaming Commission (**VGC**) (established under the *Gaming Machine Control Act 1991* (Vic) and the *Victorian Casino Control Authority* (**VCCA**) (established under the first iteration of *Casino Control Act 1991* (Vic) (already defined as the CC Act)).
- 5 The VGC was constituted by a Commission, a Director and inspectors.⁸ The Commission’s objectives were to ensure that gaming was conducted honestly and free from criminal influence and exploitation, to regulate the use of gaming machines and key operatives in the gaming machine industry (for example, those that supplied, repaired, or owned such machines), to advise the relevant minister on gaming issues and gaming police, to fund research into the social impact of gaming and to promote tourism, employment and economic development generally in Victoria. The Director of the VGC’s role was to ensure that gambling at approved venues was properly supervised, to detect offences, to receive and investigate complaints and to conduct investigations, and report to the Commission and to report generally to the Commission under the Act.⁹ Inspectors were appointed by the Director to supervise operations to undertake functions to assist the Director in meeting their statutory role.¹⁰
- 6 The VGC’s statutory remit did not extend to gambling such as raffles and bingo; for example, those forms of gambling were subject to regulation by the Raffles and Bingo Board established under the *Lotteries, Gaming and Betting Act 1966* (Vic). Likewise, racing was regulated under the *Racing Act 1958* (Vic) and various boards created under that Act, including the Bookmakers Control Board.
- 7 The VCCA’s functions were to oversee the operation and regulation of casinos in Victoria, to advise the Minister regarding policy issues in relation to the supervision and inspection of casinos and undertake all functions under the CC Act. The VCCA’s role included responsibility to approve and review casino licenses and to supervise

⁸ See s 3(1) of the *Gaming Machine Control Act 1991* (Vic).

⁹ Sections 117, 119 *Gaming Machine Control Act 1991* (Vic); see also various legislative powers under ss 6, 8, 19, 22, 30, 33, 69, 78, 79, 80 and 96 of the *Gaming Machine Control Act 1991* (Vic).

¹⁰ Sections 120 and 124 *Gaming Machine Control Act 1991* (Vic).

and control casino operations. This supervision and control of casino operations included the approval of certain contracts by the casino operator, the licencing of casino employees, and to review and approve a number of matters relevant to casinos, such as casino layout, approval of games, the number of games and their rules, approval of gaming equipment, approval about the conduct of gaming, rules around when the casino could operate and who was excluded from casinos, and to regulate minors gambling at casinos. When enacted, the CC Act, had a system of ‘internal control systems’ and a casino operator was unable to conduct operations in a casino unless the VCCA had approved the internal control system and administrative and accounting procedures.¹¹ This internal control system scheme continues in the CC Act which is currently in force. The internal control system was operated by a detailed Internal Control Manual, which ran into multiple volumes.

- 8 The CC Act also established the role of a Director of Casino Surveillance appointed by the Governor in Council who was responsible for compliance monitoring under the Act. The Directors’ functions generally were to supervise directly the operation of casinos and the conduct of gaming and betting within them, to make recommendations to the VCCA concerning the games that may be played in casinos and the rules of such games, to detect offences committed in, or in relation to, casinos, to receive and investigate complaints from casino customers concerning the conduct of gaming or betting in the casino, to appoint, supervise, direct and control inspectors, to make recommendations to the VCCA concerning systems of internal controls and administrative and accounting procedures for casinos, to ensure that taxes, charges and levies payable under this Act were paid and to report generally to, and assist, the VCCA regarding the operation of casinos.¹² Inspectors were employed by the Director of Casino Surveillance to undertake relevant tasks of casino supervision to fulfil the Director’s statutory functions.¹³
- 9 A review was commissioned by the Victorian government in September 1993 in relation to electronic gaming machines in Victoria. In April 1994, that review

¹¹ See Part 9 of the CC Act.

¹² See Part 7, Division 2 of the CC Act titled ‘Director of Casino Surveillance’ (specifically s 121 and s 122 (which described what must be included in the internal control and administrative and accounting procedures).

¹³ See Part 7, Division 3 of CC Act titled ‘Inspectors’.

recommended that it was important to have one Minister responsible for all aspects of gambling and identified scope for the amalgamation of the VGC and VCCA.¹⁴

- 10 Each of these entities was formally dissolved in June 1994, and the Victorian Casino and Gaming Authority (VCGA) was created pursuant to the *Gaming and Betting Act 1994* (Vic) as an independent statutory authority.
- 11 In 1993, the Melbourne Casino was established pursuant to the *Casino Control (Amendment) Act 1993* (Vic). Crown Limited Melbourne was initially granted a 40 year licence on 19 November 1993, which was extended and expires on 18 November 2050. In June 1994, Crown Casino opened in Melbourne.
- 12 The *Gaming and Betting Act 1994* also made provision for the carrying on, under licence or permit, of wagering, approved betting, gaming and club keno. The VCGA had a role in approving and reviewing various licences (including suspending and cancelling licences) and permits for various gambling activities and venues, amongst other matters. Its functions and powers were conferred not only under the *Gaming and Betting Act 1994* but also various other pieces of legislation¹⁵.
- 13 The 1998 VAGO Report, succinctly sets out the statutory objectives of the VCGA under the various pieces of legislation it operated under, some of which, VAGO stated, overlapped in objectives. As such, the VCGA developed a ‘consolidated strategic statement’ of its principal legislative objectives which were to:
 - ensure that gambling activities regulated by the Authority are conducted honestly
 - and remain free from criminal influence and exploitation;
 - ensure that regulation is efficient and effective;
 - act as a source of advice to the Minister on gambling issues and ensure that the Government's policy on gambling is implemented;

¹⁴ 1998 VAGO Report, p 17.

¹⁵ Including the CC Act (as amended by the *Casino Control (Further Amendment) Act 1993*, *Casino (Management Agreement) Act 1993*, *Club Keno Act 1993*, *Gaming Machine Control Act 1991*, *Lotteries Gaming and Betting Act 1966*, *Racing Act 1958*, *Tattersall Consultations Act 1958* and the *TT-Line Gaming Act 1993* (legislation governing gaming on the trans-Tasman shipping line): see s 84 of the *Gaming and Betting Act 1994*.

- conduct research into, and advise the Minister on, the social impact of gambling; and
 - promote tourism, employment and economic development generally in the State.¹⁶
- 14 The VCGA was assisted by two statutory director positions – a Director of Gaming and Betting (under the *Gaming and Betting Act 1994*¹⁷) and the Director of Casino Surveillance (which remained in the CC Act and is referred to above). The two directors were primarily responsible for managing, in their respective areas, the various tasks and functions necessary for achievement of the Authority’s statutory objectives in regulating the State’s gambling industry and undertaking specific functions, including appointing inspectors.¹⁸ The supervision and control of the Casino, pursuant to the Director of Casino Surveillance and the inspectors, remained for all intents and purposes, the same under the VCCA and VCGA.
- 15 The VCGA also regulated other gambling activities such as electronic gaming, horse and greyhound racing, sports betting, lotteries, instant scratch tickets, lucky envelope games, club keno, bingo, raffles and trade promotions.¹⁹
- 16 In 2002, a review was commissioned by the Secretary of the (then) Department of Justice into gaming and gambling legislation. The review found that gambling regulation in Victoria was ‘overly confusing’.²⁰
- 17 In 2003, the VCGA and the roles of Director of Casino Surveillance and Director of Gaming and Betting were abolished by the *Gambling Regulation Act 2003* (Vic). The VCGA was replaced by the Victorian Commission for Gambling Regulation (**VCGR**).
- 18 The purpose and objectives of the *Gambling Regulation Act 2003* were to consolidate the laws in relation to gambling (given the laws were contained in numerous pieces of

¹⁶ 1998 VAGO Report, pp 18-19.

¹⁷ The Director’s functions included investigating compliance with relevant legislation, regulations, betting rules, licences and permits, ensuring the conduct of specified gambling activities were supervised, detecting offences committed in, or in relation to, specified gambling activities, receiving and investigate complaints from patrons concerning the conduct of gambling and investigating the suitability of applicants for licences, permits and approvals; and reporting generally to, and assist the members of, the VCGA regarding the operation of various Acts. The Director also provided advice, from time to time to the Minister.

¹⁸ 1998 VAGO Report, p 21.

¹⁹ 1998 VAGO Report, p 18

²⁰ Internal VCGLR Report, History of Junket Regulation, p 12.

legislation) and to establish the VCGR. However, the CC Act was not repealed or consolidated into the *Gambling Regulation Act 2003*. It remains in force, as amended.

- 19 The objectives of the VCGR under s 10.1.3 of the *Gambling Regulation Act 2003* were to ensure that gaming on gaming machines was conducted honestly, to ensure that the management of gaming machines and gaming equipment was free from criminal influence and exploitation, to ensure that the forms of gambling permitted under the Act (or any other Act) were conducted honestly and that their management was free from criminal influence and exploitation, to act as a source of advice to the Minister on gambling issues and to ensure that the Government's policy on gambling was implemented and to foster responsible gambling.
- 20 Pursuant to s 10.1.4(2) of the *Gambling Regulation Act 2003*, the VCGR's function included the regulating the use of gambling machines in casinos and approved venues, regulating the activities of key operatives in the gaming machine industry (including those who manufacture, supply and repair gaming machines), ensuring the conduct of gaming at approved venues was supervised, detecting offences, receiving and investigating patron complaints, regulating key operatives in wagering, club keno, interactive gambling, community and charitable gaming, bingo, onboard gaming and public lotteries and advising the Minister on community concerns about the economic and social impact of gambling on the community.
- 21 Pursuant to s 10.1.4(3) of the *Gambling Regulation Act 2003*, the VCGR also had functions to inform itself, in any way it saw fit, of current and emerging issues and practices in Victoria and elsewhere with respect to gambling, including responsible gambling, probity, game security and facility development and to inform and educate the public about the VCGR's activities.
- 22 Crown Casino was regulated by the VCGR pursuant to the *Gambling Regulation Act 2003* and the CC Act (as amended). In respect of the Casino, the VCGR reviewed the casino licence, including any amendments to the conditions of the licence), approved various aspects of the casino (including casino layout, gaming equipment, games, rules for games, the conduct of gaming, exclusion orders, supervised approved betting competitions and regulated the presence of minors on the casino floor).

23 During interviews, we were told that in approximately 2006 (although it may have been before this time), there was an impetus toward some measure of self-regulation of commercial gambling entities, including in relation to the Casino, albeit subject to regulatory oversight. We were told this shift was led by the former Executive Commissioner and Chief Executive Officer of the VCGR, Mr Peter Cohen, who is a proponent of co-regulation or self-regulation and about placing risk on commercial operators to ‘get certain aspects of operations right’ because of ‘commercial imperatives’.²¹ We were referred to Mr Cohen’s report titled *Casino Modernisation Review* prepared for the New South Wales Office of Liquor, Gaming and Racing in February 2016²². In this report, Mr Cohen describes the Victorian approach as:

an example of permissive, risk-based regulation. While junkets are no longer required to be approved by the Victorian regulator, that does not absolve the casino licensee from the responsibility to ensure, among other things, that junket operations comply with its approved systems of administrative and internal controls. The regulator retains a general power to issue binding directions to the operator, in relation to the conduct, supervision or control of operations in the licensed casino.²³

24 Mr Cohen further noted that the Victorian approach to junkets at this time was one where the Victoria did ‘not regulate junket operators directly. Victoria’s casino legislation addresses junkets and in 1999 Victoria introduced regulations which provided for a degree of oversight of junket operations by the gaming regulator, but those regulations were impliedly revoked on 1 July 2004 when the CC Act was amended.’²⁴ He promoted an approach of the regulator allowing ‘normal commercial arrangements’ to apply to the engagement of junket organisers, provided the casino licensee had appropriate approved procedures in place to manage that relationship. Relevantly, we discuss the legislative scheme in relation to junket operations below.

25 Mr Cohen summarised his view by indicating:

A modern regime requires the co-operation of the regulated parties who are provided with greater freedom to run their business but in return for them taking on a higher level of risk. This model sees the regulator transfer much of its activity from upfront approvals to monitoring and compliance. As a consequence there is a higher level of risk that disciplinary action may be taken by the regulator. For this model to work, the operators need to appreciate that the “light hand of regulation”, perhaps counter-

²¹ Catherine Myers, transcript of second interview, 9.

²² See <https://www.liquorandgaming.nsw.gov.au/documents/reports/casino/casino-modernisation-review-the-agenda-group.pdf>.

²³ Casino Modernisation Review, p 16 (referring to s 23 of the CC Act).

²⁴ Catherine Myers, transcript of second interview, p 9.

intuitively, can lead to higher penalties should the operators not place enough value on the benefits they are being given.²⁵

26 In summary, Mr Cohen's view was that:

A risk-based, co-regulatory model provides for the best outcome for the regulation of the major forms of casino gambling in sophisticated markets whereas the prescriptive, top-of-the-pyramid approach will lead to unnecessary regulatory interference which constrains innovation and competition (for international and interstate players) while costing the State more to regulate than necessary.²⁶

27 It is likely that this view offered by Mr Cohen explains why after in or about 2001, the regulation of the Casino has become a model of using ICSs to set 'minimum standards and controls that have to be met for compliance in the operation of the casino'²⁷ which are audited against to measure compliance activity rather than a prescriptive Internal Control Manual.

28 In 2011, the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) was established under the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (Vic) to administer Victoria's gambling and liquor laws (including the *Liquor Control Reform Act 1998* (Vic), *Gambling Regulation Act 2003* (Vic), and the *Racing Act 1958* (Vic)). It regulates the Melbourne Casino under the CC Act and the *Casino (Management Agreement) Act 1993* (Vic).

29 The VCGLR replaced the functions of the VCGR and RAV (both of which have been abolished) following a policy decision by government to merge liquor and gambling regulation. The VCGLR also incorporated various other functions previously undertaken by the Director of Liquor Licensing, the Liquor Licensing Panel, and certain review functions previously carried out by the Victorian Civil and Administrative Tribunal.

30 An underlying principle of the new regulatory regime was also the principle of 'responsible gambling' which was formally implemented by the Victorian Responsible Gambling Foundation which was established by s 4 of the *Victorian Responsible Gambling Foundation Act 2011* (Vic) to '(a) to reduce the prevalence of

²⁵ Ibid, pp 16-17.

²⁶ Ibid, p 17.

²⁷ Michelle Fielding, transcript of first interview, p 21.

problem gambling and the severity of harm related to gambling; and (b) to foster responsible gambling.’ (s 5)²⁸

- 31 The VCGLR commenced its operations on 6 February 2012. The VCGLR currently comprises of the Commission (including the Chairperson and Deputy Chairperson), a Chief Executive Officer (Catherine Myers) and the office of the CEO, a Compliance Division (currently led by the Executive Director of Compliance and Enforcement, Adam Ockwell), a Licensing Division (currently led by the Director of Licensing, Alexandra Fitzpatrick), a Legal Services Division incorporating the role of general counsel (currently led by the General Counsel and Executive Director, Regulatory Policy and Legal Services, Scott May), an Information and Community Technology Division and a Corporate Services Division. We have conducted extensive interviews with Ms Myers, Mr Ockwell, Ms Fitzpatrick and Mr May as part of our investigation.
- 32 The VCGLR’s 2019-2020 annual report conveniently summarises the VCGLR’s activities as follows:

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) is one of several regulators in a complex system of oversight of the gambling and liquor industries. We work collaboratively with a wide range of state and federal government regulators and law enforcement agencies. We are responsible for monitoring and regulating the gambling and liquor industries and ensuring compliance with relevant legislation. We also inform industry and the public about our regulatory practices and requirements.

With oversight of approximately 23,500 liquor licences, more than 600 Keno outlets and 700 wagering and betting agents, we also manage the statewide cap of up to 30,000 electronic gaming machines across approximately 500 individual gaming venues, more than 790 lottery agents and a single casino operator. Each year we assess and determine more than 6,000 gambling applications such as gaming industry employees, casino special employees and venue operator licences as well as

overseeing bookmakers, community and charitable gaming, sports controlling bodies, wagering and regulating public lotteries.

Our obligations are set out in several Acts of Parliament including the *Victorian Commission for Gambling and Liquor Regulation Act 2011*. We regulate:

- all forms of legalised gambling in accordance with the *Gambling Regulation Act 2003*, the *Casino Control Act 1991*, the *Casino (Management Agreement) Act 1993* and the *Racing Act 1958*.

²⁸ See Victorian Responsible Gambling Foundation, *Responsible Gambling: Past, Present and Future: Background Paper* (VRGF, 2016): <https://responsiblegambling.vic.gov.au/documents/20/responsible-gambling-past-present-and-future.pdf>.

- the supply and consumption of liquor in accordance with the *Liquor Control Reform Act 1998*.

The Governor in Council, on the recommendation of the Minister for Consumer Affairs, Gaming and Liquor Regulation, appoints Commissioners to act as the VCGLR's statutory officers. Commissioners are accountable for statutory decision-making and are the equivalent of directors of a public sector board responsible for strategy, governance and risk management. Their statutory decisions relate to a range of matters including the grant, variation and transfer of licences and permits, disciplinary actions against licensees and permittees, and reviews of the decisions made under delegation by individual Commissioners or members of staff.

The Chairperson convenes and presides at commission meetings and is also the public service body head for the purposes of the Public Administration Act 2004 with respect to employment matters. In conjunction with the Chief Executive Officer (CEO), the Chairperson and other Commissioners determine and oversee arrangements for the internal governance of the VCGLR to ensure clear lines of accountability and reporting, a consistent approach to decision making, disciplined performance, and ethical, transparent relationships with stakeholders. The Commission operates three governance committees: people and culture; audit and risk management; and legislation, regulation and policy.²⁹

3.2 The legislative approach to junkets

33 When the CC Act was first enacted, s 69 (titled junkets) permitted powers for the making of regulations 'for or with respect to regulating or prohibiting the promotion and conduct of junkets³⁰ involving casinos'. Pursuant to 69(2), the regulations could:

- (a) impose restrictions on who may organise or promote a junket; and
- (b) require the organiser or promoter of a junket, or the casino operator concerned, to give the Authority advance notice of the junket and to furnish to the Authority detailed information concerning the conduct of and the arrangements for the conduct of any junket; and
- (c) require any contract or other agreement that relates to the conduct of a junket to be in a form and containing provisions approved of by the Authority; and
- (d) require the organiser or promoter of a junket, or the casino operator concerned, to give specified information concerning the conduct of the junket to participants in the junket.

²⁹ Annual Report of the VCGLR 2019-2020 (located at https://www.vcglr.vic.gov.au/sites/default/files/vcglr_annual_report_2020_0.pdf), p 10.

³⁰ A junket was defined under s 69(3) of the CC Act which stated: "Without limiting the commonly understood meaning of the term, "junket" includes any arrangement for the promotion of gaming in a casino by groups of people (usually involving arrangements for the provision of transportation, accommodation, food, drink and entertainment for participants in the arrangements, some or all of which are paid for by the casino operator or are otherwise provided on a complimentary basis."

- 34 In 1994, and pursuant to the *Casino Control (Miscellaneous Amendments Act) 1994* (Vic), the definition of a junket³¹ was amended; this remains the definition of junkets under the current iteration of the CC Act. This amending legislation also inserted a definition of a ‘premium player arrangement’³² and expanded the regulator’s powers to include such arrangements under the CC Act.
- 35 It appears from the Second Reading Speech of the *Casino Control (Miscellaneous Amendments Act) 1994*, that the definition of a junket was amended because the definition was ‘too wide in that it includes the giving by the casino operator of what was commonly known in the casino industry as “complementaries”. Complementaries consist of incentives such as free or discounted travel, accommodation and food. The amendments are therefore designed to exclude complementaries from the definition of junkets and to enable the regulation of premium player arrangements.’
- 36 We have been advised by the VCGLR that there were no regulations about junkets or premium players until 1998. Prior to 1998, junket and premium player arrangements were governed by provisions in the Internal Control Manual. This meant that from at least May 1994, the VCGA was approving junket operations under the CC Act. Decisions about junket approvals were made during VCGA board meetings. This function was subsequently delegated by the VCGA to the Director of Casino Surveillance in October 1994. In granting the delegation, the VCGA approved additional process to be applied in the approval of junkets under the Internal Control Manual requiring confirmation of whether a junket operator was approved in other Australian jurisdictions, as well as referring the junket operator to Victoria Police for probity investigations.³³
- 37 We are advised that the decision to issue regulations in 1998 to govern junket arrangements was made by the VCGA after ‘discussions between executives and the ministerial advisor’ who concluded that junket operations would be ‘more

³¹ Junkets were defined under s 4 to mean ‘an arrangement whereby a person or a group of people is introduced to a casino operator by a junket organiser or promoter who receives a commission based on the turnover of play in the casino attributable to the persons introduced by the organiser or promoter or otherwise calculated by reference to such play’.

³² Defined under s 4 as means ‘an arrangement whereby a casino operator agrees to pay a patron of the casino a commission based on the patron’s turnover of play in the casino.’

³³ Internal VCGLR Report, *History of Junket Regulation*, p 9.

expeditiously administered and controlled, with appropriate safeguards, through the Internal Control Manual'.³⁴

38 In 1996, the *Gaming Acts (Amendment) Act 1996* (Vic) was enacted. It amended s 69(2) of the CC Act to allow regulations to prescribe the junket application procedure and inserted additional requirements into s 69 of the CC Act that:

(1AA) A person may not organise or promote a junket without the approval of the Director given in accordance with the regulations.

(1AB) The Director must not grant approval to an organiser or promoter of a junket unless satisfied that the criteria specified in the regulations are met.

39 This gave the Director of Casino Surveillance 'a discretion in deciding whether to approve specific persons as junket operators on the basis of their probity, character and suitability'.³⁵

40 In 1998, the *Casino Control (Junkets and Premium Players) (Interim) Regulations 1998* (Vic) came into effect. Amongst other things, they prescribed the process for a person to apply to the Director of Casino Surveillance for approval to organise and promote junkets. Applications were referred to the Chief Commissioner of Police and the applicant was required to satisfy criteria relating to 'being of good character and repute'. Approvals to promote junkets were granted for a period of three years and were subject to any conditions imposed by the Director of Casino Surveillance.³⁶ These interim regulations were replaced by the *Casino Control (Junkets and Premium Players) Regulations 1999* (Vic) (the **Regulations**), which came into operation on 31 March 1999. The Regulations and the 1998 interim regulations were similar in effect although the Regulations added additional requirements (such as prohibiting the associates of a casino operator or those with various casino employee licences from becoming a junket organiser).³⁷

41 A review was undertaken in 2000 which considered alternative regulatory models for gambling in Victoria. Key recommendations from this review were that the regulator

³⁴ Ibid, p 8.

³⁵ Second Reading Speech of the *Gaming Acts (Amendment) Act 1996* (quoted in the Internal VCGLR Report, History of Junket Regulation, p 9).

³⁶ Internal VCGLR Report, History of Junket Regulation, p 10.

³⁷ Ibid.

should establish minimum ICSs rather than the prescriptive Internal Control Manual and that the approval of junket operators should become the responsibility of the casino operator. Ultimately, these recommendations were based on risk being directed towards the casino regulator, rather than it being borne by the regulator.³⁸ Following this review, the VCGA agreed to transition away from the prescriptive Internal Control Manual model to establish ICSs in about mid-2000. However, at this time, the responsibility for approving junket operators remained with the regulator, not the casino operator.³⁹

42 However, in 2004, s 69 of the CC Act and the Regulations were repealed by the *Gambling Regulation Act 2003*. Section 122(w) was also introduced into the CC Act and required Crown to approve internal controls to include procedures for the promotion and conduct of junket and premium and player arrangements. The relevant Second Reading Speech indicated that ‘probity requirements for junket operators will now be the responsibility of the casino operator, but overseen by the commission through its supervision of the casino’s internal controls and procedures’.⁴⁰ The reasons behind the decision to give the casino operator the responsibility for approving and assessing probity were explained to us as being based on a ‘realisation that the State couldn’t do it [probity assessment of junket operators] properly and so we effectively put the risk back onto the Casino’.⁴¹ We emphasise this significant legislative change. Before 2004, the onus on approving junkets and premium players sat with the regulator. After 2004, the onus shifted to the casino operator.

43 It was not until 2015, however, that the VCGLR imposed a probity obligation on the Casino in relation to the approval of junket operators in an ICS. We discuss this further, including some criticisms of this approach, in Chapter 6 below.

³⁸ Ibid, p 11.

³⁹ Ibid.

⁴⁰ Ibid, p 12.

⁴¹ Inspector H, transcript of interview, p 10.

CHAPTER FOUR

THE UNHAPPY MERGER OF ALCOHOL AND GAMBLING REGULATION IN 2012

4.1 The Challenges of Amalgamation

1 Upon commencing in 2012, after a transition period, the VCGLR faced numerous institutional difficulties which in due course (in 2017, and to a lesser degree in 2019) led to it being subject to review and criticism by the Victorian Auditor-General. This is detailed in the following section of this report and not repeated here.

2 However, our interviews made it inescapably clear that the merger between the VCGR and RAV was a deeply unhappy and frustrating experiencing for many, but not all, members of staff. It was more than personnel being resistant to change (although we considered this was also an issue for some). In our view, insufficient work was done ahead of the establishment of the VCGLR to merge the two different and distinctive organisations in circumstances where they had different processes, functions, policies, priorities and workplace cultures. The disharmony occasioned by the merger impacted adversely for some years on the regulator's ability to satisfy its regulatory functions and responsibilities. Internal review documents with which we have been provided by the VCGLR point to issues such as:

2.1 *The increase of work* for the VCGLR following the transition from two gaming providers to over 500 individual venues that were responsible for gaming machines in 2012. This was a major development and saw senior staff and Commissioners being diverted from harmonising systems and processes and led to substantial flow-on effects of the VCGLR not meeting its 'business as usual' activities.

2.2 *The lack of integrated business information systems.* Upon commencement, the VCGLR operated on two separate networks (one for liquor regulation activities and one for gambling regulation activities). There was substantial delay (over a period of years) to the implementation of a fit for purpose IT

system. We were told that this created further divisions between staff who had come from the VCGR or RAV and led to inspectors not having sufficient knowledge or training about both areas of compliance activity. This led to inconsistent inspection methodologies and what has been described in internal audit documents as ‘liquor and gambling oversight operating in silos resulting in inferior inspection and record keeping practices, and reduced information sharing’.

- 2.3 *The lack of stability in the VCGLR’s leadership and senior executive teams.* We were advised that the inaugural chair of the VCGLR remained in the role for less than a year and the inaugural CEO remained in the role for just over two years. There was also considerable changeover in the executive team, particularly in the Compliance Division which adversely affected its operations (particularly around the quality and consistency of auditing activities, including developing and amending manuals and standard operating procedures that were fit for purpose). We also understand that because of the lack of stability in the management of the Compliance Division it has only been until more recent years, when a more permanent executive director has commenced in the role, that the workplace culture has improved. We understand that prior to this time, the workplace culture was problematic and staff engagement and morale were low. It was apparent too that some inspectors were uncomfortable with the management styles of former directors of the Compliance Division.
- 2.4 *The constraints on the VCGLR budget.* The VCGLR’s budget was decreased upon its establishment. This is discussed below in the context of reporting by the Victorian Auditor-General in 2017. However, since this time, the VCGLR’s budget has continued to be eroded as a result of government decision-making. Based on the budgetary documents provided to this investigation by the VCGLR, we understand that in 2012-2013, the consolidated budget of the VCGLR was \$32,660m (which was a significant reduction of the combined total budget of the VCGLR’s two predecessors which totalled \$41.3m). Since this time, the VCGLR’s budget has been decreased every financial year and in 2020-2021 (excluding one-off

supplementation and non-discretionary funding such as depreciation) is \$25,805m. In our view, there is little doubt that this decrease in funding has impacted on the VCGLR's capabilities in relation to the provision of effective regulation of both liquor and gambling. For example, there has been a significant decrease in the staffing numbers of inspectors in the VCGLR Compliance Division who undertake compliance and auditing responsibilities.

- 2.5 *The VCGLR moving away from discharge of its previous regulatory audits and functions toward a reprioritisation of its activities based upon risk and harm minimisation.* Part of this was perceived by gambling inspectors to involve assumption of the culture of liquor inspections which were methodologically different from those traditionally undertaken by, and required of, gambling inspectors, especially at the Casino. We heard on numerous occasions from former and current VCGLR staff, that the focus of the Compliance Division moved towards a model of meeting targets or KPIs for the number of audits met, in spite of risk inspection rhetoric, rather than there being consideration of the quality of the audits and whether the audits were addressing risk-based concerns. We also heard often the assertion that, initially at least, the VCGLR's focus was on liquor regulation, particularly in relation to the compliance division's auditing activity.
 - 2.6 *A lack of appropriate human resource management systems including there being a lack of performance reviews and a lack of training for staff about gambling or liquor processes in circumstances where they had previously been employed only in stand-alone liquor or gambling regulation.* We consider that overall, for a time, the workplace culture historically at the VCGLR was a negative one.
- 3 We have heard considerable commentary from some of those we have interviewed about:
- 3.1 their concerns and negative experiences following the VCGLR being established with the merger of the two separate organisations;
 - 3.2 their view that the focus was excessively on liquor compliance during the early years of the VCGLR;

- 3.3 a perception that there was an excessive focus on what they described as ‘tick and flick’ type auditing (i.e. simple audits) over more detailed and time-consuming evaluations of compliance;
 - 3.4 a view that insufficient energy was expended on compliance with its obligations by the Casino;
 - 3.5 concerns about some of the staffing and personality issue after the transition; and
 - 3.6 issues about staff morale and training.
- 4 Hereunder we provide a snapshot of the various issues within the VCGLR ahead of discussing the Auditor-General’s reports:
- 4.1 Inspector B told us that ‘the liquor people did not want to work at the Casino and only wanted to do their liquor duties, whereas all the gaming people were happy to learn both’ which ‘caused a lot of animosity’.⁴² He questioned why they were doing ‘[liquor] inspections at restaurants and cafes which are not the problem’.⁴³ He also indicated that one of the early Directors of Compliance ‘didn’t want us at the Casino so our duties, that’s when they started to diminish at the Casino’ and that he was instead ‘under a lot of pressure to make sure I had weekly figures to show [the Director]’ who ‘named and shamed people for not getting their number of inspections done’.⁴⁴ Inspector B told us that ‘there were a number of senior people including Directors and not just the Director of our department but across the board and our managers were clearly being targeted and to the extent that a lot of them just got up and left and just couldn’t handle the situation’ which mean that younger people ‘with no knowledge of gaming or wagering or liquor’ were employed and ‘it was just going downhill’.⁴⁵
 - 4.2 Inspector C told us that after the merger ‘there was always people out to shaft you basically. It was a very very toxic environment’ and ‘was the survival of

⁴² Inspector B, transcript of interview, p 15.

⁴³ Ibid.

⁴⁴ Inspector B, transcript of interview, p 16.

⁴⁵ Inspector G, transcript of interview, p 5.

the fittest'.⁴⁶ He commented that there 'were a lot of bad habits that came across from liquor, the bullying, the belittling, and us gaming we came from an environment where everybody got on'.⁴⁷ In his view, the merger was done 'very poorly' without 'proper liquor and proper gaming training'.⁴⁸ He also lamented that inspectors now had to 'work until 4 or 5 in the morning because most gaming venues stayed open until then'. He indicated that a new roster brought in at the VCGLR for a 10 hour shift rather than an 8 hour shift was 'the first hiccup' and was not 'family friendly' and 'the gaming people weren't happy with it'.⁴⁹ Inspector C also expressed his view that there was a push to disband the Casino [shifts]'.⁵⁰

4.3 Inspector D considered that the VCGLR was 'toxic for a number of years... and [thought] the catalyst for a lot of that toxicity was the RAV [inspectors] came in at a grade five - so you had existing people at the VCGR, or its previous incarnation, at grade four and then with the merger, the grade five liquor people were brought back down to the top of the range four and the top of the range four existing gaming people were dropped back down to mid-range four. So no one was happy.'⁵¹ He further indicated that the liquor inspectors' work appeared administrative 'in that it seemed inferior to what we were doing at level four'. Inspector D explained that at the VCGR, inspectors were 'compiling briefs, we were informants, we were doing penalty infringement briefs' which he thought 'caused a bit of a rub'.⁵²

4.4 Inspector E advised us that when the VCGR and RAV merged there was 'a lot of in-house bickering and fighting' and 'eventually our director left, then the new director came in...around 2012 and...stopped probity'.⁵³ He also told us that there was 'hatred amongst the inspectors when they merged because there was an issue with salary' telling us that 'the liquor inspectors were a grade 5 and [the gambling inspectors] were a grade 3...with a 25% shift allowance at

⁴⁶ Inspector C, transcript of interview, p 8.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid, p 10.

⁵⁰ Ibid.

⁵¹ Inspector D, transcript of interview, p 2.

⁵² Ibid.

⁵³ Inspector E, transcript of interview, p 5.

the Casino' and that ultimately everyone was made a Grade 4.⁵⁴ He further indicated that 'the liquor side of things was very statistical related, like they were very much on stats getting inspections done and breaches...so they sort of had a fairly high target to reach each year, so from my point of view, I viewed it that they were robbing Peter to pay Paul - they were taking them out of the casino to put them you know to get the liquor numbers up'. Inspector E further indicated that when he was at the Casino, 'we used to laugh as to how long we were going to be doing this at the Casino, because the audits were dropping off ... we'd do gaming equipment audits but various audits over the period of years were dropping away, so it was getting to the stage where you sort of had to make your own work at the Casino'.⁵⁵ Inspector E told us that in his view 'they really needed to go back to having separate commissions'. Inspector E also told us that his team leader "didn't understand gaming...and didn't want to know gaming" and that 'it seemed to all be liquor orientated'.⁵⁶

4.5 Inspector H told that that the merger 'was a flawed experiment' and 'wasn't done well' and there was a 'pretence of consultation with staff'.⁵⁷ In his view, 'when we went to liquor we became a bureaucracy...and we had advisors, we had a strategy team... instead of focussing on what the core business is which is regulating'.⁵⁸ He also considered that 'there was a significant focus on liquor as opposed to gaming'.⁵⁹

4.6 Inspector F also told us that the merger was 'completely a disaster' and that former RAV employees' 'morale was in the gutter'.⁶⁰ Inspector F also described the 'instant disparity' between former liquor and gambling inspectors because of the VPS level gradings which created 'discontent between the two groups'.⁶¹ He asserted that the 'perception was that [the regulator] was a takeover by liquor' and that the primary focus of the work

⁵⁴ Inspector E, transcript of interview, p 7.

⁵⁵ Ibid, p 6.

⁵⁶ Ibid, p 8.

⁵⁷ Inspector H, transcript of interview, p 3.

⁵⁸ Ibid, p 23.

⁵⁹ Ibid.

⁶⁰ Inspector F, transcript of interview, p 4.

⁶¹ Ibid.

was now liquor which caused all sorts of problems for us in gambling because ‘no longer were a lot of the fundamentals of gambling being looked at’.⁶²

- 4.7 Inspector I stated that after the merger ‘it was a difficult time’. He indicated that ‘there didn’t appear to be a training program, especially within the gaming area’ and the ‘morale of staff [was low]’. In his view, there ‘was no continuity of knowledge, no continuity of relationships’ and the organisation was ‘in a state of flux’.⁶³ Inspector I acknowledged that the organisation ‘really started to change a little bit...when the Auditor-General came along in 2017’ which was the ‘catalyst’ for the creation of a dedicated Casino Team.
- 4.8 A VCGLR employee of the Intelligence Unit in the Compliance Division, agreed that the marriage of liquor and gaming was a difficult one but had a slightly different perspective. She commented that there were ‘a number of people that came in very closed minded, and I will say that was more on the gaming side than the liquor side’. She said that she had ‘been part of conversations where people had flat out refused to do liquor inspections as part of their roles...so there was definitely issues with the merger’ that she had observed and witnessed.⁶⁴ In her observation, the ‘liquor people ... were go-getters’’ with gambling inspectors being less motivated.⁶⁵
- 4.9 Mr Stephen Berriman, a former Director of Compliance at the VCGLR between 2015 and 2018, told us that when he commenced in the role a reinvestment was required in training to ‘lift the entire office’ because the people were ‘worn out by change’.⁶⁶ He also explained to us that the issue of salary levels caused a lot of ‘discontent’. Mr Berriman also considered that ‘the rate of efficiency was very very low’.⁶⁷

⁶² Ibid.

⁶³ Inspector I, transcript of first interview, p 3.

⁶⁴ VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR transcript of interview, p 4.

⁶⁵ Ibid, p 5.

⁶⁶ Stephen Berriman, transcript of interview, p 8.

⁶⁷ Ibid.

- 4.10 Ms Alex Fitzpatrick, Director of Licensing, also agreed that the merger ‘wasn’t done well’ because ‘no one thought of processes and how there were two different organisations that have two completely different systems’.⁶⁸
- 5 We spoke to the current Chief Executive Officer, Ms Catherine Myers, at length over three interviews. She acknowledged frankly to us the existence of difficulties with the VCGLR when it first commenced indicating it ‘had a tumultuous start’.⁶⁹ Ms Myers (who was not the CEO when the VCGLR was first established), told us that ‘there was a real disconnect between management and the Board’ and that in her view the (former) Commission ‘quite regularly stepped into the management space’ which was difficult for the CEO of the time and other executive staff.⁷⁰ Ms Myers recounted that in the early years there was a lack of stability at the leadership and executive level, indicating we had ‘two or three general counsels, two or three directors of licensing, ... there was turn over at board level and at executive level which made it really hard to get continuity when you are implementing reform or trying to embed new processes’.⁷¹ It was after this lack of stability that Ms Myers commenced in the role of CEO, first in an acting position ahead of being made permanent, and noted ‘‘here was an enormous amount of work to be done in the organisation’.⁷²
- 6 Ms Myers said that her impression was that the change management work and harmonisation tasks, including in relation to processes, were constrained by the budget and not supported by consultants. She indicated this was also at a time when the government was restructuring the gambling industry into a venue-based model that required a very substantial workload in relation to licensing venues within a short timeframe. Ultimately, Ms Myers considered that stronger management was required in the first year to support the transition work and staffing issues.⁷³
- 7 Ms Myers described ‘definite cultural issues in every people and processes system’.⁷⁴ She recounted difficulties with integrating IT systems and harmonising two infrastructures. This made it difficult to integrate all elements of the VCGLR and

⁶⁸ Alexandra Fitzpatrick, transcript of interview, p 18.

⁶⁹ Catherine Myers, transcript of first interview, p 3.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid, p 4.

⁷³ Ibid, pp 7-8.

⁷⁴ Ibid, p 4.

translated into staff not having a coherent understanding of ‘harm and risk’ to be implemented by the new organisation.⁷⁵ Ms Myers explained there were cultural issues in the Compliance Division and noted that there were ‘different pockets of the organisation that had lost income and lost status and were probably still doing the work they had formerly been doing’ and that income levels were not aligned.⁷⁶ She identified that there were other difficulties in the Compliance Division too, such as not having the correct staff in leadership roles which negatively impacted on the way the Division was able to function.⁷⁷

8 Ms Myers explained that the VCGLR had expected to be able to recruit for various roles but was unable to do so when the Sustainable Government Initiative commenced. That resulted in ‘various holes [in the organisation] when we first started’.⁷⁸ She frankly admitted that ‘the volume of things we had to manage and deal with was enormous’ and included ‘behavioural issues in the organisation, conflicts between individuals’, ‘inappropriate comments, discrimination [against female staff members]’ and ‘personal attacks’.⁷⁹

9 Despite all these issues, the work of the VCGLR had to be completed. This included meeting the government’s annual liquor and gambling targets derived from the annual Victorian Government Budget Paper No. 3, Service Delivery (‘BP3 figures’).⁸⁰

4.2 Conclusions in relation to the merger

10 Insofar as the inspectors who appeared on the Four Corners programme identified a lack of harmony and that the merger between the alcohol and gambling regulatory functions in the VCGLR was troubled, they were correct.

11 Amalgamations of organisations with different structures, cultures, priorities and expectations always pose challenges. Many mergers in the corporate environment do not succeed.⁸¹ However, it is reasonable to observe that the merger of RAV with the

⁷⁵ Ibid, p 3.

⁷⁶ Ibid.

⁷⁷ Ibid, pp 12-13.

⁷⁸ Ibid, p 4.

⁷⁹ Ibid, pp 3-5.

⁸⁰ Catherine Myers, transcript of first interview, p 19.

⁸¹ Deloitte, ‘Cultural Issues in Mergers and Acquisitions’ (2009), <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/mergers-acquisitions/us-ma-consulting-cultural-issues-in-ma-010710.pdf> ; Oliver Engert, Becky Kaetzler, Kameron Kordestani and Andy MacLean,

VCGR proved particularly fraught for a wide variety of reasons and that it took several years to address the teething problems with any measure of success. This came at the cost of the loss of important staff, corporate knowledge and lingering resentments, frustrations and disappointments for some, although for others the new diversity of roles was welcomed and allowed for career development.

- 12 As of late 2021 it would not be constructive to evaluate in any detail what could have been done better during the transitioning of the new body between 2010 and 2012 or whether different steps should have been taken to effect the merger with less trauma and more effectively between 2012 and 2015. We consider the modern VCGLR is a very different organisation to the one it was in the years after its establishment.
- 13 The passion exhibited in interviews of both present and past employees of the VCGLR bore eloquent witness to the commitment of the VCGLR's staff to discharging their regulatory functions in a way which held the gaming and liquor industries to account. What generated discord and anxiety was much more than a clash of personalities and styles. It was a perception that the important regulatory functions of the VCGLR, especially in respect of gaming, were no longer being pursued with the necessary vigour, professionalism and effectiveness, especially in relation to the Casino.
- 14 It is our hope that the provision of an opportunity over many hours for staff to ventilate their experiences and to be listened to attentively and respectfully will have been experienced as positive. There is no doubt that the scars of what was a traumatic experience remain raw many years later. However, what was most notable to us was the unswerving commitment of all present and former VCGLR employees to whom we spoke to fashion a regulatory system that will achieve the objective of gambling venues and the casino operator, in particular, being made accountable; for oversight to be meaningful and effective; and for the potential for criminal influence and exploitation in Victoria's gambling system to be minimised. This is likely to provide a sound basis for the operation of the de-merged VGCCC.

'Organizational Culture in Mergers: Addressing the Unseen Forces' (26 March 2019) McKinsey & Co: <https://www.mckinsey.com/business-functions/organization/our-insights/organizational-culture-in-mergers-addressing-the-unseen-forces> .

- 15 In this report, we have focused on what has taken place in the modern era, by which we mean the years between 2015 and the present. This is a theme which we shall develop later in this report. However, it is sufficient at this juncture to identify that in most respects (regulation of processes of junket gambling and the role of premium players being a partial exception) the efforts by VCGLR management since 2015 have incrementally improved the quality of regulatory oversight of gambling, including at the Casino.
- 16 Thus, we find that, while legitimate criticisms can be made of the handling of the early phases of the difficult amalgamation of the two constituent parts of the VCGLR from 2010 until 2015, management has adopted substantial and effective measures to integrate and co-ordinate functions in recent years and that the reasons for malcontent in respect of the discharge of regulatory functions expressed by former inspectors on the Four Corners programme have now substantially reduced.

CHAPTER FIVE

RECENT REPORTS ON CASINO REGULATION

5.1 A summary of the reports

1 It is important in the sequence of issues arising in relation to the VCGLR, identified in the Four Corners programme, that:

- in 2017, the first report of the Victorian Auditor-General (the **2017 VAGO Report**)⁸² was published;
- in 2019, VAGO published a follow-up report titled ‘*Follow up of Regulating Gaming and Liquor*’ (the **2019 VAGO Report**)⁸³;
- in 2020, AUSTRAC published a report entitled, *Junket Tour Operations in Australia: Money Laundering and Terrorism Financing Risk Assessment*⁸⁴ (the **AUSTRAC Report**); and
- in 2021 Royal Commissioner Bergin published the report of her inquiry under s143 of the *Casino Control Act 1992 (NSW)*⁸⁵ (the **Bergin Report**).

5.2 The 2017 VAGO Report

2 The 2017 VAGO report, is an extensive report relating to the regulation of gambling and liquor. It addressed issues that had been raised in a **2015 external review** the VCGLR. The consultant had found that:

- The VCGLR lacked a coherent organisation-wide approach to the casino operator across its licensing and compliance functions;

⁸² Victorian Auditor-General’s Office, *Regulating Gambling and Liquor* (8 February 2017): <<https://www.audit.vic.gov.au/report/regulating-gambling-and-liquor?section=32035--4-casino-supervision&show-sections=1#32035--4-casino-supervision>> (VAGO 2017).

⁸³ Victorian Auditor-General’s Office, *Follow Up of Regulating Gambling and Liquor* (28 November 2019): <<https://www.audit.vic.gov.au/report/follow-regulating-gambling-and-liquor?section=33438--appendix-a-submissions-and-comments&show-sections=1#33438--appendix-a-submissions-and-comments>> (VAGO 2019).

⁸⁴ AUSTRAC, *Junket Tour Operations in Australia: Money Laundering and Terrorism Financing Risk Assessment* (2020): <https://www.austrac.gov.au/sites/default/files/2020-12/JTO_2020_FINAL.pdf> (AUSTRAC, 2020).

⁸⁵ P Bergin, *Inquiry under Section 143 of the Casino Control Act 1992 (NSW)* (1 February 2021) <https://www.parliament.nsw.gov.au/tp/files/79129/Volume%201%20-%20Inquiry%20under%20section%20143%20of%20the%20Casino%20Control%20Act%201992.pdf> (Bergin 2021).

- a very underdeveloped risk-based approach to casino regulation, with little supervision effort directed at areas of high harm such as problem gambling and risks associated with intoxicated patrons and money laundering;
- an absence of direction and leadership for compliance staff at the casino;
- slow progress in clarifying roles and responsibilities with co-regulators such as Australian Transaction Reports and Analysis Centre (AUSTRAC), the financial intelligence agency with regulatory responsibility for anti-money laundering and criminal abuse of the financial system, resulting in little certainty that assumptions about 'who is doing what' were based on solid ground; and
- a loss of corporate knowledge and expertise on the casino and its unique operations, compounding the weaknesses in VCGLR's regulatory approach.⁸⁶

3 This review recommended that the VCGLR improve its approach to casino supervision by:

- reviewing keys risks and its regulatory interventions, to adopt a more risk-based approach;
- developing the expertise of licensing and compliance staff working on casino matters through regular training;
- identifying and advising government on any legislative impediments to a more risk-based approach;
- establishing a cross-organisation casino risk group to monitor risks, share casino-related intelligence and information, engage with co-regulators, adapt VCGLR practice, and report regularly to the VCGLR executive; and
- working with co-regulators to clarify roles and responsibilities.⁸⁷

4 In its 2017 report VAGO found that some audits on key areas of risk for casino operations had not been performed consistently or at all since 2012. It noted that the CC Act required the casino operator to implement the approved controls and procedures, and recommended that the VCGLR should regularly assess whether this was happening. It also concluded that the VCGLR's program of standard inspections and audits at the casino included over 30 separate activities but that in late 2013, a Compliance Division manager overseeing activities at the Casino directed inspectors to stop doing routine audits and inspections while the templates for these activities were reviewed. However, this review did not proceed as it was superseded by other planned reviews, and the program of routine inspections and audits did not restart until around September 2014 when a new manager began at the Casino. It found that

⁸⁶ VAGO 2017 Report, para 4.2.4.

⁸⁷ Ibid.

VCGLR inspectors had conducted the audit program regularly since then apart from certain exceptions which it identified.⁸⁸

- 5 The 2017 VAGO report set out that it had undertaken five audits of the Casino's junket and premium player arrangements since the beginning of 2015 and that audits had identified potential weaknesses in the casino operator's documentation for some players and junket arrangements. It noted that:

VCGLR is assessing further information from the casino operator on these matters and has directed the casino operator to cease its relationship with a particular junket operator following one of these audits.

VCGLR advised that the frequency of this audit will be increased when it establishes a specialist casino team. Although this is a positive step, restrictions on VCGLR's capacity to fully access the operator's systems compromise the robustness of this audit.⁸⁹

- 6 It noted as key issues that:

the VCGLR's budget and staff were reduced by around 30 per cent in the four years from 2012, compared to the resources of RAV and VCGR, which had a combined budget of \$41.3 million and staff of around 287. VCGLR has also lost experience and expertise, with 24 experienced officers departing on redundancy packages offered as part of the Sustainable Government Initiative in 2012, followed by a further 22 redundancies up to mid-2014. VCGLR inherited staff engagement and cultural challenges, including:

- the second lowest staff satisfaction levels in the Victorian public sector, as measured by the 2012 'People Matter' survey;
- 12 industrial and employee relations matters carried over from RAV, including performance management cases and a serious bullying case;
- dissent between compliance inspectors and management at the time of VCGLR's establishment over the decision to bring in inspectors from RAV and VCGR at different pay levels and working conditions.⁹⁰

- 7 The 2017 VAGO Report also noted that in May 2015, the Minister for Consumer Affairs, Gaming and Liquor Regulation had outlined the government's significant concerns about the VCGLR's ability to engender community confidence, and requested that the new chair of VCGLR review its capability and performance. The chair reported to the Minister in November 2015 that although VCGLR aspired to be

⁸⁸ VAGO 2017 Report, at 4.3.

⁸⁹ VAGO 2017 Report, at 4.3.3.

⁹⁰ VAGO 2017 Report, at p vii-viii.

a risk-based regulator, this ambition was either underdeveloped or unrealised in a number of important areas of its operation, particularly its compliance activities.

8 The troubling conclusion of the 2017 VAGO Report was that:

VCGLR's plans and actions to further develop its risk-based approaches to licensing and compliance are largely sound, and its recent focused attention to improving the way it manages, develops and deploys its regulatory staff, particularly compliance inspectors, is encouraging. However, these actions are not yet complete and the scale of required reform is significant, meaning that much work remains for VCGLR to become a fully effective regulator. Ongoing challenges in merging the people, systems and cultures from VCGLR's two predecessor regulatory bodies, along with the lack of a sufficiently risk-based approach, have precluded VCGLR from fully realising the benefits expected when creating a single regulator.

These significant shortcomings continue to reduce assurance that VCGLR's efforts are adequate to protect the Victorian community from the harms associated with the misuse and abuse of liquor and gambling.

To this end, VCGLR also needs to improve the way it measures and publicly reports on its performance to provide genuine insight into its effectiveness as a regulator in minimising harm, and in ensuring the integrity of the liquor and gambling industries.⁹¹

9 Importantly, the 2017 VAGO Report concluded that the VCGLR had not adequately monitored compliance with gambling legislation with key issues including: inflexible allocation of resources to compliance activities based on factors other than risk; a management approach and culture focused on meeting quotas, which encourage superficial inspection activities rather than activities to address harms; inadequate guidance and training for inspectors; and unreliable data about gambling (and liquor) inspections.⁹²

10 The 2017 VAGO Report found too that the Compliance Division of the VCGLR:

has not applied a level of focus on the casino that reflects its status and risk as the largest gaming venue in the state and its approach has lacked continuity.

VCGLR's predecessor operated with a team solely focused on supervising casino operations. Instead, VCGLR rotates all compliance inspector teams through the casino, but it has not supported them with adequate training, guidance and consistent management oversight.

As a result, VCGLR has not paid sufficient attention to key areas of risk in the casino's operations, such as detection of people excluded by Victoria Police, responsible gambling and money laundering.⁹³

⁹¹ 2017 VAGO Report, p ix.

⁹² 2017 VAGO Report, p xi.

⁹³ Ibid.

- 11 It recommended further work to be done on implementation of a risk-based model, including development of a risk matrix.⁹⁴

5.3 The 2019 VAGO Report

- 12 In November 2019, the 2019 VAGO Report was published.⁹⁵ It found that the VCGLR had made progress with implementing all recommendations directed toward it in 2017 and that it had:

started investigating allegations of money laundering and other criminal activity at Crown Casino. VCGLR cannot take enforcement action in relation to suspected money laundering or receive information on money laundering activity from the Australian Transaction Reports and Analysis Centre (AUSTRAC). Under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* VCGLR's role is to share any information its casino inspectors detect with responsible regulators and law enforcement agencies. VCGLR has an obligation under the *Casino Control Act 1991* (CC Act) to ensure the management and operation of casinos remain free from criminal influence or exploitation. Its investigations are ongoing.⁹⁶

- 13 It observed, though, that further work was required to complete work on most of the VAGO recommendations, including risk-based models for gambling recommendation, embedding the new performance reporting system and monitoring implementation of the quality assurance framework designed to improve compliance.
- 14 The VAGO noted evidence that where the VCGLR identified evidence or intelligence in relation to suspected criminal activity (such as money laundering). VAGO stated:

it has referred such material to law enforcement agencies such as AUSTRAC. VCGLR has also committed to share information on suspected or actual money laundering in Crown Casino within its regulatory remit, and to engage with other agencies to further clarify respective roles, responsibilities and any collaborative arrangements. We found that VCGLR could improve guidance for its staff on the CC Act, how to mitigate risk with their casino supervision and on the roles of agencies working on anti-money laundering.⁹⁷

5.4 The 2020 AUSTRAC Report

- 15 In 2020, AUSTRAC published a report on junket tour operations. It assessed the money laundering and terrorism financing risk associated with the junket tour

⁹⁴ 2017 VAGO Report, p xiii.

⁹⁵ Victorian Auditor-General's Office, *Follow up of Regulating Gambling and Liquor* (28 November 2019): <https://www.audit.vic.gov.au/report/follow-regulating-gambling-and-liquor?section=#page-anchor> (VAGO, 2019).

⁹⁶ 2019 VAGO Report, p 7.

⁹⁷ AUSTRAC Report, p 4.

operations sector to be high.⁹⁸ It identified that such operations were associated with a medium level of criminal threat, observing that:

Some junket tour operations have been exploited, and in some instances infiltrated, by serious and transnational criminal entities, including by individuals reported to be engaged in activities that could possibly be regarded as foreign interference.

The use of offsetting arrangements used by some junket tour operators to facilitate junket-related funds flows is highly likely to be exploited by criminal entities, and in being conducted can circumvent international funds transfer reporting requirements and facilitate the laundering of domestically-generated proceeds of crime.

Some junket tour operators have been identified as having been associated with a range of illicit activities including instances of tax evasion, visa misuse, links to sanctioned entities and possible corruption.⁹⁹

16 It noted a number of money laundering vulnerabilities, in particular the lack of transparency and level of anonymity creating by the pooling of players' funds and transactions undertaken in the name of the junket tour operator, as well as the fact that the financial arrangements between the junket tour operator and individual players are not disclosed.¹⁰⁰

17 The AUSTRAC report noted that:

A number of JTOs and JTRs have been identified as having criminal or foreign political associations.

JTOs' casino accounts are being used to facilitate the storage and movement of significant amounts of money, both domestically and internationally. On a per-transaction and per-customer basis, the junket tour operations sector is also significantly exposed to the risks associated with high-value cash activity. The destination of large cash withdrawals from JTO accounts remains a key intelligence gap.

Inherent to the junket tour operations sector is exposure to some higher ML/TF risk jurisdictions, with 95 per cent of junket players over the reporting period being foreign nationals. There is a particular vulnerability associated with jurisdictions with currency flight and gambling restrictions in place as these measures create demand for covert money remittances which can be exploited by criminal groups.¹⁰¹

5.5 The 2021 Bergin Report

⁹⁸ In his evidence to the Royal Commission, Assistant Commissioner Frewen detailed methodologies deployed by drug mules to launder money at a casino, utilising techniques such as "layering" and thereby circumventing threshold limits in relation to anti-money laundering legislation: Transcript of evidence to the Royal Commission into the Casino Operator and Licence, 7 May 2021 (**Acting Assistant Commissioner Frewen evidence**), p 15.

⁹⁹ AUSTRAC Report, p 4.

¹⁰⁰ AUSTRAC Report, p 4.

¹⁰¹ Ibid.

- 18 In early 2021, the Bergin Report into the Sydney Casino by the Hon Patricia Bergin SC was released publicly¹⁰².
- 19 Aside from various findings in relation to the licensee, Commissioner Bergin recommended a greater focus under statute on ensuring that licensed casinos prevent money laundering activities within casino operations, as well as the establishment of an Independent Casino Commission as an independent, dedicated, stand-alone, specialist casino operator with the necessary framework and powers to meet the extant and emerging risks for gaming and casinos.
- 20 Commissioner Bergin also recommended that the *Casino Control Act 1992* (NSW) be amended to prohibit casino operators in New South Wales from dealing with junket operators.¹⁰³
- 21 In 2020, Crown ceased dealing with junket operators, although processes relating to premium players remain in place. Ms Fielding has indicated that Crown does not propose to reintroduce junket operations at Crown Casino.
- 22 Importantly, the VCGLR has also issued a letter of censure as part of the 2021 Disciplinary Action which included a direction that Crown not recommence junket operations at the Casino ‘until such time as Crown applies to and receives permission from the Commission [of the VCGLR] to recommence junket operations’. This includes a requirement that Crown ‘must demonstrate how Crown has addressed the Commission’s concerns’ in relation to the issues around Crown’s probity of junkets in the reasons for decision of the disciplinary action. This means that Crown is unable to reintroduce junket operations at Crown Casino until explicitly permitted to do so by the VCGLR. It is clear that a number of significant barriers would lie in the way of an application by a junket operator to reintroduce junket operations in Victoria.

5.6 Summary of the relevant reports

- 23 The 2017 VAGO report was an indictment of the regulatory approaches and efficacy of the VCGLR. It exposed poor morale, understaffing and an approach toward

¹⁰² P Bergin, *Inquiry under Section 143 of the Casino Control Act 1992 (NSW)* (1 February 2021) <https://www.parliament.nsw.gov.au/tp/files/79129/Volume%201%20-%20Inquiry%20under%20section%20143%20of%20the%20Casino%20Control%20Act%201992.pdf> (Bergin 2021).

¹⁰³ Bergin Report, recommendation 11.

gambling regulation that was focussing excessively on form as against substance. Regulation was rigid and inflexible. It was not dealing with new challenges in gambling regulation and was insufficiently responsive to international developments. This was particularly problematic in relation to how it was regulating the conduct of Crown Casino, especially in relation to the detection of the commission of criminal conduct. Issues were identified too in relation to junket and premium player regulation. Although the VCGLR had commenced to embrace a risk-based model toward regulation, more needed to be done in terms of identification of where it should place its priorities.

- 24 By 2019, the VAGO confirmed consolidation of efforts by the VCGLR to embrace a risk-based framework in relation to gambling regulation, including in relation to the commission of criminal activity, especially laundering, at Crown Casino. An aspect of this was the implementation of a dedicated Casino-based team but it emphasised that further work needed to be done to meet the concerns raised in 2017, including in terms of training, communication and collaboration with enforcement agencies.
- 25 The 2020 AUSTRAC report emphasised the risks posed by junket operations and specifics in terms of money laundering taking place at Crown Casino by the penetration of organised crime through junkets.
- 26 The 2021 Bergin Report took the issue further, focussing on the New South Wales context, and recommending the abolition of junket operations by statute, concluding that the risks that they posed in terms of the involvement of corruption and the involvement of organised crime could not be resolved in any other way.

CHAPTER 6

INTERNAL CONTROL STATEMENTS AND STANDARD OPERATING PROCEDURES

6.1 Internal Control Statements (ICSs) and Standard Operating Procedures (SOPs)

- 1 Before moving to the terms of reference that deal with junkets and premium players, we consider it important to set out briefly the bases upon which the VCGLR supervises and regulates Crown Casino – namely through ICSs and SOPs (SOPs sit behind the ICSs).
- 2 ICSs are established pursuant to s 121 of the *Casino Control Act 1991 (Vic)* (**the Act**). Relevantly, s 121(1) of the Act states that “a casino operator must not conduct operations in the casino unless the Commission has approved in writing of a system of internal controls and administrative and accounting procedures for the casino”. Section 121(2) allows such approvals to be amended from time to time, as the Commission thinks fit”. This makes it clear that ICSs are the prerogative and responsibility of the VCGLR. This was accepted by Mr May, General Counsel and Executive Director, Regulatory Policy and Legal Services, of the VCGLR.¹⁰⁴
- 3 Section 122 of the Act prescribes the required content of ICSs:
 - (a) accounting procedures, including the standardisation of forms, and the definition of terms, to be used in operations in a casino;
 - (b) procedures, forms and, where appropriate, formulas for or with respect to—
 - (i) hold percentages and the calculation thereof;
 - (ii) revenue drop;
 - (iii) complementary services;
 - (iv) salary arrangements; and
 - (v) personnel practices;
 - (c) the system of organising personnel and chain of command authority such as to establish diversity of responsibility among employees engaged in operations in

¹⁰⁴ Scott May, transcript of second interview, p 8.

a casino and identification of primary and secondary supervisory positions for areas of responsibility, which areas must not be so extensive as to be impractical for an

(d) procedures for the conduct and playing of games and approved betting competitions;

(e) procedures for the receipt, storage and disbursement of chips and cash, the cashing of cheques, the redemption of chips and the recording of all transactions pertaining to casino operations;

(f) procedures for the collection and security of money at the gaming tables and other places in a casino where games or approved betting competitions are conducted;

(g) procedures and forms relating to transfers of money within a casino;

(h) procedures for the transfer of money from the gaming tables and other places in a casino where games or approved betting competitions are conducted to other areas

(i) procedures and forms for the transfer of money or chips from and to a gaming or betting area;

(k) procedures and security for the transfer of money from a casino to an authorised deposit-taking institution and from an authorised deposit-taking institution to a casino;

(l) procedures for the security, storage and recording of chips utilised in the

(m) procedures and standards for the maintenance, security and storage of

(n) procedures for the payment and recording of winnings associated with games or approved betting competitions where the winnings are paid by cash or cheque;

(o) procedures for the issue of chip purchase vouchers and the recording of transactions in connection therewith;

(p) procedures for the cashing of cheques and recording of transactions by cheque;

(q) procedures for the establishment and use of deposit accounts;

(r) procedures for the use and maintenance of security and surveillance facilities, including catwalk systems and closed circuit television systems;

(s) procedures governing the utilisation of security personnel within a casino;

(u) procedures and standards for assessing the suitability of suppliers of goods or services to the casino and the casino operator which may vary according to the nature)).

(v) procedures for maintaining records of the suppliers of goods and services.

- 4 Ms Fielding of Crown Resorts neatly described the ICSs as ‘the minimum standards and controls that have to be met for compliance in the operation of the casino’.¹⁰⁵
- 5 We were told by Mr May, that initially, when the Casino was first established, the then gambling regulator required the Casino ‘to come up with an entire control system...before they started operating’.¹⁰⁶ The regulator approved an ‘Internal Control Manual’ which was a three volume document that Ms Fielding indicated was considered to be ‘very detailed, very wordy and lengthy’. She said it ceased to be ‘fit for purpose because there was so much detail ... [that] people were flicking and looking and searching [them]’, such that it was ‘hard to get a handle on what [was] trying to be achieved’.¹⁰⁷ Inspector D agreed, describing the Internal Control Manual as ‘very prescriptive’.¹⁰⁸
- 6 As a result, there was a move away from the Internal Control Manual and it was replaced by ICSs supported by SOPs (the SOPs must be consistent with the ICS).¹⁰⁹ Ms Fielding stated that this occurred in approximately 2014.¹¹⁰ She explained that the intent of ICSs was ‘for Crown to cover issues in the internal control statements that were fundamental to the community, the regulator and the government’ and they became ‘more narrowly focussed on what was necessary for the community and the regulator and the protection of patrons coming to the Casino’.¹¹¹
- 7 Inspector I, though, described the ICS as an ‘aspirational document’ with the SOPs being the ‘important document’.¹¹² Based on our review of the ICSs and their accompanying SOPs, the ICSs are quite brief documents setting out, at a high-level, the minimum controls for the Casino and what is required, in general terms, of the casino operator to meet those minimum controls. However, it is the SOPs that operationalise the ICSs and provide detail about how the minimum standards are to be met by the Casino. Ms Fielding explained that the SOPS ‘sit underneath the internal control statements and they're far more detailed; they're about the processes you

¹⁰⁵ Michelle Fielding, transcript of first interview, p 21.

¹⁰⁶ Scott May, transcript of interview, p 10.

¹⁰⁷ Michelle Fielding, transcript of first interview, p 22.

¹⁰⁸ Inspector D, transcript of interview, p 5.

¹⁰⁹ Ibid, pp 5-6 and Michelle Fielding, transcript of first interview, p 22.

¹¹⁰ Michelle Fielding, transcript of first interview, p 22.

¹¹¹ Ibid.

¹¹² Inspector I, transcript of first interview, p 7.

undertake to achieve those standards that you've set in your internal control statement' and are a means to ensure [Crown satisfies] 'the requirements of the internal control statements'.¹¹³

8 The practice that has been adopted is that Crown drafts the ICSs and provides them to the VCGLR for approval. We were told by Ms Fielding that there is a process of interaction and consultation about the drafts of ICSs (or proposed amendments to ICSs) between the Casino and VCGLR.¹¹⁴ That is consistent with what Ms Myers told us, namely that a consultative process takes place between the regulator and Crown and that ICSs are sometimes amended at the request and instigation of Crown or that the VCGLR may approach Crown to strengthen aspects of ICSs.¹¹⁵ Ms Myers advised that the Licensing Division of the VCGLR is responsible for the drafting of ICSs in consultation with the Compliance Division and the Legal Services Branch and that final versions of ICSs are subject to final approval and sign-off by the Commission, at least over the last several years.¹¹⁶ Ms Myers also explained that while the process for ICS drafting or amendment is 'consultative', there have been examples of Crown coming to the VCGLR with changes or presenting a legal view that the VCGLR's amendments are outside the powers in s 121 of the [CC] Act.¹¹⁷ However, unlike ICSs, SOPs are not approved by the VCGLR.¹¹⁸

9 The inspectors at the Casino undertake audits of whether there has been compliance by Crown with the ICSs.¹¹⁹ Based on ICSs (and together with any relevant legislation), the Compliance Division has created Audit Checklists for inspectors to use when they are conducting audits at the Casino. Mr Ockwell explained that the inspectors' auditing is done 'against the ICSs' and that the 'governance of the Casino is through the ICSs.'¹²⁰ In his view, 'generally there was compliance' from the Casino based on the ICSs.¹²¹

¹¹³ Michelle Fielding, transcript of first interview, p 21.

¹¹⁴ Ibid.

¹¹⁵ Catherine Myers, transcript of second interview, p 4.

¹¹⁶ Catherine Myers, transcript of third interview, p 7.

¹¹⁷ Catherine Myers, transcript of second interview, p 4.

¹¹⁸ Alexandra Fitzpatrick, transcript of interview, p 5.

¹¹⁹ Ibid, p 5.

¹²⁰ Adam Ockwell, transcript of second interview, p 11.

¹²¹ Ibid, p 13.

- 10 It was apparent that there remains some confusion about whether a breach of SOPs by Crown is of itself considered a breach of an ICS. We were told that there is ongoing work on this issue and the possibility of legislative change to strengthen this aspect of the CC Act.¹²²
- 11 However, we note that as from mid-December 2020 there cannot accurately be said to be ambiguity on the issue. At that time the ICS titled ‘Introductory Chapter’ was amended to state that, for the avoidance of doubt, ‘a failure to comply with an ICS **or SOP** constitutes a failure to implement the approved system pursuant to s 121(4) of the CC Act’ (emphasis added).¹²³
- 42 This is a positive step. Clarity around the issue of breaches of SOPs is appropriate because somewhat confusingly, in our view, the Introductory Chapter ICS explains that the internal control framework for the Casino under s 122 of the CC Act comprises both ICSs and SOPs (or their equivalent) in circumstances where the VCGLR does not approve SOPs. We note that the obligation under s 121(1) of the CC Act requires the Commission to *approve in writing* a system of internal controls and s 121(4) requires the casino operator to ensure that the system approved is ‘implemented’.¹²⁴

6.2 The ICS review project

- 12 Since approximately the end of 2019, the VCGLR has commenced a process of reviewing and amending the ICSs and has engaged a specialist solicitors’ firm, Senet Legal, to assist. Ms Myers accepted that this process was being undertaken because some ‘significant shortfalls in the contents of ICSs’ had become apparent and that the ICSs had been pitched at ‘too high a level’.¹²⁵ She indicated that if she were redesigning the system, she would consider merging the ICSs with the SOPs and identifying the areas of the legislation to which these minimum controls related. She said that she would also prefer to ensure that the Compliance Division’s audit program fitted into the minimum control program and then provide inspectors with decision-making guidelines to step them through the process, including where they

¹²² Catherine Myers, transcript of second interview, p 6.

¹²³ The current ICS titled ‘Introductory Chapter’ at clause 2.1.

¹²⁴ An obligation emphasised by Scott May, transcript of second interview, p 21.

¹²⁵ Catherine Myers, transcript of second interview, p 8.

have discretion. Additionally, she indicated that from a licensing perspective, she would prefer to have process flows, risk tools and guidelines to guide the process and the assessment of risk which could be amenable to audit. In her view, this would mean that the ‘whole process connects’ whereas presently it is not entirely visible how the ICSs relate to the obligations by reference to the SOPs and then the audits undertaken by the inspectors. She also reflected that what is required is a continuous improvement-loop, so the regulator’s systems and frameworks synchronise, are agile and are fit for environmental changes.¹²⁶

- 13 Other interviewees also expressed the view that the ICSs have become too brief. For example, Inspector D indicated that ‘over the years the ICS document for each of the areas has shrunk...to the point where [they have] become grey’.¹²⁷ He also articulated concern about the timeframe within which the VCGLR approves amendments to ICSs suggested by Crown before they become operational.¹²⁸
- 14 Ms Fitzpatrick expressed her view that the ‘ICSs probably need to be a combination of what they are now and a combination of the SOPs’.¹²⁹ She agreed that it was important to import some specificity into the ICSs to ensure that Crown’s obligations and the auditing obligations of the VCGLR are unequivocal and so there can be a yardstick for measuring compliance.¹³⁰ In her view, for there to be an effective audit process of the Casino, it must be combined with ‘robust ICSs’.¹³¹
- 15 However, this view was not shared by Ms Fielding. She indicated that while the ICSs were a ‘bit brief’ they were not intended to be lengthy detailed documents because the detail lies in the SOPs. She also considered that the Casino is ‘remaining compliant with the expectations of the regulator’ and that the Casino is ‘largely operating as expected’ whilst acknowledging that the casino operator does not ‘always get it perfectly right’ and that ‘things have gone wrong in relation to some significant issues’ noting the many lessons learned by Crown from the proceedings of the

¹²⁶ Catherine Myers, transcript of third interview, p 9-10.

¹²⁷ Inspector D, transcript of interview, pp 5-6.

¹²⁸ Ibid, p 6.

¹²⁹ Alexandra Fitzpatrick, transcript of interview, p 13.

¹³⁰ Ibid.

¹³¹ Alexandra Fitzpatrick, transcript of interview, p 5.

Victorian Royal Commission and the VCGLR's disciplinary action earlier this year.¹³²

- 16 We have been informed that the current ICS review project being undertaken by the VCGLR, with the assistance of Senet Legal, is to review all of the ICSs in order to strengthen them. ICSs have become 'more prescriptive than previous versions' but not as prescriptive as the initial Internal Control Manual which was regarded by the VCGLR and Crown as having been appropriate in the early days but progressively to have become unworkable.¹³³
- 17 We understand the review of the ICSs is being completed in tranches with the project currently at tranche three. The first tranche of ICS updates related to the review and revision of more 'high risk' ICSs – the junket and premium players ICSs (particularly around probity requirements) and the introductory chapter. Subsequently a variety of ICSs selected by reference to the urgency of their need for revision have been reviewed, amended and approved. Further reviews are taking place by way of tranche three. We understand that the ICSs will be re-considered further after the Royal Commission hands down its report in October 2021 and that this is considered to be the task for tranche four of the ICS review project.¹³⁴
- 18 Significantly, we were told that there has not been a rolling or systematic review of ICSs at designated regular intervals, as is common with such documents which are given 'review dates' or 'sunset dates'. Ms Fitzpatrick considered that such a rolling review of ICS 'would be absolutely useful' and suggested review of ICSs on an annual basis. She commented that 'it doesn't have to be all of them but certainly the ones that have a higher risk than I think it's worth reviewing them just to make sure that ... they are effective.'¹³⁵ She also considered that the review of ICSs may need to be a 'combined group project' between the regulator's licensing, compliance and legal divisions.¹³⁶

¹³² Michelle Fielding, transcript of first interview, pp 21 and 22-23.

¹³³ Scott May, transcript of first interview, p 15.

¹³⁴ Ibid, p 14.

¹³⁵ Alexandra Fitzpatrick, transcript of interview, p 7.

¹³⁶ Ibid.

6.3 Improvements to and the harmonisation of ICSs and SOPs

- 19 In our view, as the SOPs essentially form part of an ICS, a review should be undertaken of the casino regulator's SOPs to ensure their consistency with the regulator's ICSs. Part of this should incorporate ensuring that the more detailed SOPs accurately represent the intent of the ICSs. Thought should also be given, as part of the harmonisation process, to whether the SOPs should need to be authorised by the regulator and form part of a combined document, given their importance in terms of what is required of the casino regulator and that they will be used as the basis for auditing by the regulator.
- 20 We agree with Ms Fitzpatrick and recommend that all ICSs are reviewed on at least a two yearly basis (although some may need to be reviewed annually) to ensure they remain fit for purpose and capture all emerging high risk areas for the Casino. We also consider it essential that the various divisions of the regulator (licensing, compliance and legal) should review the ICSs from their own perspectives and knowledge base.

CHAPTER 7

AUDITING BY THE VCGLR

1 Underlying a number of the concerns ventilated on the Four Corners program was the suggestion that after the merger of RAV and the VCGR, the VCGLR did not undertake gambling audits assiduously or sufficiently, or at all.

7.1 Gambling auditing after 2012

2 Inspector E informed us that after the amalgamation the then director of the Compliance Division ‘told us we weren’t doing probity anymore’ and that the ‘probity checking of gaming... dropped away’.¹³⁷ He also stated that following the merger, audits ‘dropped off’ and that there ‘was no real rhyme or reason’ to the cessation of these audits. Inspector E partly explained this by the fact that there was an ‘eight week cycle’ between Casino shifts so when he returned for the ‘next cycle, that all of a sudden you would think...I haven’t done a card audit, for example, for a long time and then you’d...make a few enquiries...and find out we don’t do those audits anymore’.¹³⁸

3 Inspector C agreed that ‘they’d removed a lot of audits’ at the Casino. In his view, the VCGLR was not ‘doing proper gaming audits’ after the amalgamation of alcohol and gambling functions.¹³⁹ When asked about what audits had been removed, Inspectors B and C identified the following audits:

3.1 *The Caribbean Stud jackpot:* (checks undertaken by inspectors after a jackpot ‘went off’ such as the checking of cards and reviewing the surveillance of the card play to ‘make sure everything’s running right’).¹⁴⁰ Inspector B also told us *these audits had been stopped in approximately 2015*.¹⁴¹

3.2 *Checking cards:* (this is where a dealer may have put a dummy card on the table, a patron has inserted a card of his or her own or where a card had been dropped on the table.) In those circumstances, we were told inspectors would

¹³⁷ Inspector E, transcript of interview, pp 5 and 9.

¹³⁸ Ibid, p 10.

¹³⁹ Inspector C, transcript of interview, p 20.

¹⁴⁰ Inspector C, transcript of interview, p 22.

¹⁴¹ Inspector B, transcript of interview, p 8.

attend the table and review the deck of cards but that this no longer occurred.¹⁴²

3.3 *Equipment checks:* Inspector C did not know whether the VCGLR was continuing to review roulette wheels and bonker seals when they were being replaced or fixed if faulty.¹⁴³ Inspector B also asserted that inspectors ‘don’t commission roulette wheels any more’ by undertaking various checks to make sure the roulette wheel was properly functioning.¹⁴⁴

3.4 *The soft count:* We were told that the ‘soft count’ was no longer being completed thoroughly and was not subject to as detailed review by the VCGLR as had occurred previously¹⁴⁵. Inspector E told us that it used to be the case that inspectors would sit and physically supervise and watch the count.¹⁴⁶

4 Inspector B considered that after the merger there was ‘just the reduction of everything we did’. He stated that he recalled issuing more ‘on the spot infringement notices to [excluded persons]’ when working at previous gambling regulators (he told us that he remembered ‘issuing hundreds of fines, almost 20 per day to excluded persons’.¹⁴⁷ Another example he provided us was that the inspectors used to measure dice and ensure they were correct but that this diminished ‘over a period of time after amalgamation’.¹⁴⁸

5 Inspector G also stated that gaming audits and inspections dropped away after the merger, particularly in areas of minor gambling (for example, raffles), bingo (outside the Casino) and racetracks.¹⁴⁹ Inspector F also told us auditing in relation to community benefit statements had also declined.¹⁵⁰ However, for the purpose of this investigation report, we have confined our investigation to operations at the Casino.

¹⁴² Inspector C, transcript of interview, pp 22-23.

¹⁴³ Ibid, p 25.

¹⁴⁴ Inspector B, transcript of interview, p 8.

¹⁴⁵ Inspector C, transcript of interview, p 27.

¹⁴⁶ Inspector E, transcript of interview, p 12.

¹⁴⁷ Inspector B, transcript of interview, p 23.

¹⁴⁸ Ibid, p 11.

¹⁴⁹ Inspector G, transcript of interview, p 6.

¹⁵⁰ Inspector F, transcript of interview, p 13.

- 6 Inspector J provided some context for the drop-off in gambling audits. He indicated that because inspectors were required to meet certain inspection numbers per shift, which were particularly focussed on liquor inspections, audits decreased at the Casino for a time.¹⁵¹
- 7 A cognate issue arose by reason of the focus of inspectors having to be upon liquor as well as gambling. Inspector H made the observation, that gambling audits had decreased because the regulator's focus had gone to liquor'¹⁵². This was a particular concern of Inspector B who indicated that after the amalgamation between the gambling and liquor regulators, the VCGLR was focussed on liquor checks (he estimated that 'a good 80-90% of our focus was on liquor') and that there was insufficient time to conduct gambling audits. This was affected by the fact that gambling audits might take several hours to complete which would adversely affect an inspector's ability to meet their targets or key performance indicators for the number of inspections they did during each shift.¹⁵³ We heard this complaint from multiple inspectors.
- 8 The focus on liquor inspections was also the subject of criticism by the Victorian Auditor-General in the 2017 VAGO Report, who ultimately found that the VCGLR had not 'adequately monitored compliance with gambling and liquor legislation' because compliance activities had not been 'sufficiently risk based because VCGLR ha[d] focussed on meeting a target number of inspections, rather than directing inspections to where noncompliance has a high risk or high potential for harm'.¹⁵⁴ The Auditor-General ultimately concluded that 'this approach to compliance [did] not support the legislative objectives for harm minimisation'.¹⁵⁵

7.2 Did the auditing cease by the VCGLR at the Casino in or about 2013?

- 9 Term of Reference 7 requires us to investigate whether junket audits were rarely down at Crown, including 'that from about late 2013 audits stopped for close to a year

¹⁵¹ Inspector J, transcript of interview, pp 16-17.

¹⁵² Inspector H, transcript of interview, p 21.

¹⁵³ Inspector B, transcript of interview, pp 37-38.

¹⁵⁴ 2017 VAGO Report, p xi.

¹⁵⁵ Ibid.

and this was because inspectors were told not to do any audits because a review, including a review of junket audits was going to be undertaken by the VCGLR’.

10 It appears to us uncontroversial to us that audits at the Casino, including junket audits, did largely cease for a period of time in approximately 2014:

10.1 Ms Myers indicated that under a previous Director of the Compliance Division audits were being reviewed and an acting VCGLR team leader or acting manager at the Casino told inspectors that they could cease junket audits because they were subject to review. There was little by way of handover to a successor. On that basis, the fact that there were no junket audits ‘was not picked up’ until ‘maybe six or eight months later when we were looking at the data of audits’.¹⁵⁶

10.2 Inspector E stated that: ‘I know they stopped the junket audits because every now and then they would stop doing audits to review the processes’ and ‘there was a memo that came out...around 2014’ instructing the Casino team to cease audits.¹⁵⁷

10.3 Inspector C told us that ‘none of the audits were done for about 12 months’ in ‘around 2014/2015 maybe’¹⁵⁸

10.4 Inspector J recalled that an acting VCGLR manager at the Casino stopped all audits for about eight or nine months but did not know why.¹⁵⁹

10.5 Mr Ockwell (who did not work at the VCGLR at the time) conceded that there was a ‘hiatus [after] 2014 in regards to auditing’ which had only become ‘apparent recently’. His understanding was that this was because an audit program was being settled, but he indicated he did not ‘understand why it took two years to settle an audit program’.¹⁶⁰

11 We have also been provided the data from the VCGLR from 2011 to the present about the number of Casino audits undertaken since 2011. The data support that in 2011 and

¹⁵⁶ Catherine Myers, transcript of first interview, pp 13-14.

¹⁵⁷ Inspector E, transcript of interview, p 11.

¹⁵⁸ Inspector C, transcript of interview, p 53.

¹⁵⁹ Inspector J, transcript of interview, p 10.

¹⁶⁰ Adam Ockwell, transcript of second interview, p 4.

2012, the Casino audits generally were very low. We did not receive the 2014 data. This was unsurprising as the 2014 period appears to be the time when there was an issue in respect of auditing. Between 2015-2016, the audits dramatically increased in number, but this is only because gaming audits were increased at the Casino. We consider this is likely to have meant that these audits were easily achievable in terms of inspectors meeting their targets and KPIs. However, it is evident from the data that between 2011 and 2016 (noting once more that we were not provided the data for 2014), junket auditing was low.

- 12 In addition, we note that, as set out above, the 2017 VAGO report concluded that in late 2013, a Compliance Division manager overseeing activities at the Casino directed inspectors to stop doing routine audits and inspections while the templates for these activities were reviewed. However, this review did not proceed as it was superseded by other planned reviews, and the program of routine inspections and audits did not restart until around September 2014 when a new manager began at the Casino.¹⁶¹
- 13 As such, we find the concerns expressed by the Inspectors on the Four Corners episode about a hiatus occurring in a significant port of auditing at the Casino for a little short of a year starting in late 2013 to be substantiated. The gap in auditing should not have occurred.

7.3 Risk-based auditing

- 14 Despite this substantiated finding, we make the observation that since 2012 the audits conducted at the Casino have progressively refocused on the basis of risk and harm minimisation principles. This has meant that some areas of prioritised audits have dropped away. We regard this change in focus to be justified and constructive.
- 15 Inspector J told us that ‘with the passage of time...there was recognition that some forms of oversight [at the Casino] were unnecessary’.¹⁶² This was consistent with Inspector E’s observations that for ‘some of the audits, I used to question why we do it, what’s the importance of this and why are we doing it’.¹⁶³

¹⁶¹ VAGO 2017 Report, at 4.3.

¹⁶² Inspector J, transcript of interview, p 4.

¹⁶³ Inspector E, transcript of interview, p 12.

- 16 Ms Myers recounted that Mr Ockwell had worked with the Casino Operations Manager and team leaders at the Casino to ‘review all of the audit programs from a risk perspective’ which in her view had ‘led to annual plans around frequency of audits...which are built into an annual operational plan where they...do that that environment scan and work out you know where there any of their frequency audits needs to change’.¹⁶⁴ The Casino Operations Manager further told us that he had endeavoured to ‘cease a couple’ of audits because they were not sufficiently risk-based. He indicated to us that ‘when you've done something every day for 25 years and haven't got a breach, I can't see the point in continuing with it’.¹⁶⁵
- 17 This is consistent with Inspector E’s observations that audits were reviewed and ‘little audits that were not needed or were irrelevant were taken off’. In his view, the removal of these audits was not a significant loss that adversely affected the VCGLR’s ability to conduct its regulatory activities at the Casino.¹⁶⁶
- 18 In respect to some of the specific audits that we were told by some of the inspectors had ceased, the Casino Operations Manager advised us that:
- 18.1 the Caribbean Stud Daily Jackpot audit is still undertaken, contrary to what Inspectors B and C told us.¹⁶⁷ We have been provided with the Casino’s audit documents and the current Casino audit schedule and we confirm that Caribbean Stud Jackpot Audit is being conducted on a daily basis. However, the Casino Operations Manager stated that: ‘I want to remove that from our audit schedule. We've been doing that since the casino commenced in 1994 and we've never detected a breach’ and that: ‘I can't see why we need to do that audit as we've never detected anything and it’s just been a habit audit’.¹⁶⁸ He said there had been resistance to removing the audit by the ‘old-timers’ but that it was ‘still my goal to have that taken away’¹⁶⁹; and

¹⁶⁴ Catherine Myers, transcript of first interview, p 25.

¹⁶⁵ Casino Operations Manager, transcript of interview, p 13.

¹⁶⁶ Inspector E, transcript of interview, p 13.

¹⁶⁷ Casino Operations Manager, transcript of interview, p 13.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

- 18.2 roulette wheels and bonker seals were audited by the VCGLR contrary to what Inspector B told us.¹⁷⁰ He indicated the auditing of Casino equipment had been consolidated so every Good Friday, Christmas Day and Anzac Day (the only days the Casino is closed) the inspectors on duty are ‘tasked to inspect all those types of equipment’.¹⁷¹ The Casino Operations Manager also informed us that the physical audit over the count room had ceased, he believed sometime in the ‘90s.¹⁷²
- 19 VCGLR inspectors still have the legislative power to serve penalty infringement notices. Equally, they are also able to use official warnings and written warnings as an alternative to serving an infringement notice. This is clear from the *Gambling Regulation Act 2003*. What we understand however, is that such infringements are being issued less often to excluded persons at the Casino as it seems us that there has been an appropriate policy shift away from fining those who are likely to be problem gamblers for attending the Casino.¹⁷³ This is an aspect to implementation of the principles of Responsible Gambling.
- 20 As Inspector J observed, it is problematic for ‘someone who has a disease’ or is a ‘problem gambler’ to be dealt with by the criminal law.¹⁷⁴ He indicated that issuing penalty infringements for these persons ‘dropped off after a while’ because, in his view it was ‘hypocrisy to actually give a person who has a disease an infringement notice’.¹⁷⁵
- 21 Further, our current review of the audit schedule has shown that a count room audit still exists, although we understand that the audit has changed in form and frequency. We have been informed that the modern count room audit is based on the large amount of surveillance conducted by the casino operator in the count room. We note in this regard that the VCGLR has access to all of Crown’s security cameras. Inspector E has noted that this count audit could now ‘be done from the cameras’.¹⁷⁶

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ In practice there are three categories of excluded persons – those excluded by Victoria Police, those excluded by the casino operator and those who are self-excluded. This observation is particularly applicable to those who are self-excluded.

¹⁷⁴ Inspector J, transcript of interview, p 25.

¹⁷⁵ Ibid, p 26.

¹⁷⁶ Inspector E, transcript of interview, pp 12 and 13.

Additionally we consider that commercial realities mean that the casino operator has a vested interest in ensuring the count is accurate, so this is appropriately not an aspect of regulation by the VCGLR that has needed to be prioritised.

- 22 From a broader risk perspective, Mr Ockwell told us that it was his intention to focus on the ‘high risk mandate’. As a result he considered it important to base the compliance audit program for the Casino on risk and to ‘make it more relevant’.¹⁷⁷ Mr Ockwell indicated that the Casino team has expanded the work program to include ten new audits and that ‘we have invested...time in reviewing all of the audits to ensure that they are more relevant or addressing all of the key areas of the ICSs’.¹⁷⁸ However, Mr Ockwell acknowledged that upon commencing at the VCGLR he was of the view that ‘the Casino for a period of time...probably didn’t have the investment of the unit at the time’.¹⁷⁹ He said that when he first arrived at the VCGLR:

I spent time getting to know the people down there getting to understand the product with the Casino and gambling and gaming and what our role is from an audit and a regulatory perspective down there and you know reshape the auditing programme, focus on the high risk areas, assess the audits but more importantly invested in the people down there and empower them to actually do the audit program and you know come up with their own ideas and suggestions.¹⁸⁰

- 23 Mr Ockwell told us that latterly there has been an enhanced focus on gaming audits and that ‘we are well on the track in regards to gaming audits increasing and enhancing gaming audits’: there has been a ‘reinvestment in the gaming audits’.¹⁸¹
- 24 An initiative of Mr Ockwell has been to make liquor and gambling inspections more equitable in terms of inspectors meeting their targets. He indicated that ‘one of the biggest barriers was the metrics’ and that inspectors are now credited for each gambling audit they perform (noting that a gambling audit may take considerably more time than some liquor audits) which had not previously been the case. In fact, it seems to us that after the merger inspectors were effectively penalised if they attended to gambling audits because even though a number of audits may have been performed in a gambling venue, they were often only credited for one audit on their key performance indicators. Mr Ockwell found that amending these metrics ‘regenerated a

¹⁷⁷ Adam Ockwell, transcript of third interview, p 6-7.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

lot of people really quickly in regards to being able to be acknowledged for the work that they actually do'.¹⁸²

- 25 It appears to us that Mr Ockwell has regenerated both the work and morale of the VCGLR's Compliance Division, noting the very significant difficulties that that Division experienced after the merger. He was spoken of highly throughout our interviews with inspectors. We consider his stewardship has greatly benefited the compliance activities at the VCGLR and the Casino more generally which has assisted in repairing a fractured workplace which had low morale.
- 26 As such, we accept that after the establishment of the VCGLR in 2012, audit activity in relation to the casino operator and minor gambling reduced. However, we find that, at least since the 2017 VAGO report, the VCGLR Compliance Division has had appropriate regard to issues around harm minimisation and risk in re-assessing casino audits and the frequency with which audits should be undertaken. This has meant that some audits have been ceased or reduced because of being assessed as not in respect of areas of a sufficiently high risk. However, new audits have been created for new and high risk activities. This is a basis for commendation, not criticism.

7.4 Controlled Contracts

- 27 Inspector E expressed some concern to us about whether controlled contracts audits were still being undertaken and his view that these contracts were not being audited.¹⁸³

- 28 We note that the 2017 VAGO reported identified with concern that:

The controlled contract regime aims to help prevent the casino operator from entering into business associations with suppliers who may lack integrity.

VCGLR has not undertaken an audit of controlled contracts since 2013 and could not demonstrate that it regularly assesses the effectiveness of the casino operator's controls on these contracts. VCGLR advised that the casino operator had not informed it of any new controlled contracts between 2013 and late 2016 and that it will conduct a risk review to determine whether an audit is required on these contracts.¹⁸⁴

¹⁸² Ibid.

¹⁸³ Inspector F, transcript of interview, p 17.

¹⁸⁴ VAGO 2017 Report, at 4.3.4.

29 Given controlled contracts are specifically provided for under Part 3, Division 2 of the CC Act, we make some short observations on this issue.

30 Under s 29(1) of the CC Act, a controlled contract is defined as a contract:

In relation to a casino operator, means a contract that relates wholly or partly to the supply of goods or services to the casino or to any other matter that is specified by the Commission by notice in writing given to the casino operator as a controlled matter for the purposes of this definition but does not include a contract that relates solely to—

- (a) the construction of the casino; or
- (b) the alteration of premises used or to be used as the casino; or
- (ba) the supply, maintenance, repair or modification of gaming machines or gaming equipment relating to gaming machines, being a contract between the casino operator and a person listed on the Roll under the Gambling Regulation Act 2003; or
- (c) any other class of matter specified by the Commission by notice in writing given to the casino operator as not being controlled matter for the purposes of this definition; or
- (d) a class of contract of a kind approved under subsection (1A); or
- (e) any other class of contract specified by the Commission by notice in writing given to the casino operator as not being a controlled contract for the purposes of this definition.

31 Inspector E told us that controlled contracts generally related to matters such as Crown's fruit and vegetable or butchery supply – 'essentially everything that feeds a giant entertainment venue like Crown'.¹⁸⁵

32 Under s 29(1B) of the CC Act, the Commission is also enabled to exempt the casino operator from any of the requirements about controlled contracts (except for the requirement for parties to the contract to give the Commission information under s 35 of the CC Act), if the Commission is satisfied that the system of internal controls can 'adequately provide for compliance with this decision'.

33 Under s 30 of the CC Act, a casino operator is prevented from entering a controlled contract without first notifying the Commission which is entitled to object to the contract being entered into. The casino operator must also advise the Commission when such a contract is varied under s 31.

¹⁸⁵ Ibid.

- 34 The Commission also has power to terminate such contracts if ‘it is no longer in the public interest that the contract remain in force’ pursuant to ss 32 and 33 of the CC Act.
- 35 Given the expression of concern by Inspector E about controlled contracts and their specific addition in the CC Act, we made inquiries about these issues.
- 36 In response, the VCGLR has provided us with the current list of controlled contracts. It is not extensive. However, we understand that in the past that if a contract was worth more than a certain amount of money, it would effectively be deemed a controlled contract. We consider that due to legislative amendments to s 29 of the CC Act, there has been a move away from the VCGLR being required to undertake a supervision/audit function of contracts merely because the contractual amounts may be high. Instead, an ICS is now in operation for a variety of contracts as envisaged by s 29(1B) of the CC Act.
- 37 We have reviewed the current audit schedule of the VCGLR Casino team and are able to confirm that audits in relation to controlled contracts are still audits that are undertaken by the VCGLR. It is not appropriate provide any detail, however, on the frequency of such audits.
- 38 Based on our review of these documents, we are satisfied that the VCGLR is fulfilling its statutory functions in respect of controlled contracts and continues to audit controlled contracts. However, we accept that there appears to have been a decline in the number of contracts that are regarded as meeting the definition of a ‘controlled contract’ in the aftermath of the enactment of s 29(1B) of the CC Act. We have not seen any suggestion that there has been any high risk consequence of this but, given the potential for involvement of organised crime to ‘gain a toe-hold into the Casino’ by provision of goods and services, we are of the view that the sufficiency of auditing of controlled contracts needs to be monitored.

CHAPTER 8

JUNKET OPERATORS, JUNKETS PLAYERS AND PREMIUM PLAYERS

- 1 The Terms of Reference of this investigation raise issues relating to junket issues in four ways:
7. During the relevant time frame “junket audits” were rarely done on Crown Casino, including that from about late 2013 audits stopped for close to a year and this was because inspectors were told not to do any audits because a review, including a review of junket audits, was going to be undertaken by the VCGLR.
 8. The VCGLR was doing little to scrutinise or undertake proper probity of the individuals linked to junkets who were coming to the casino and gambling hundreds of millions of dollars in Crown Casino’s private rooms.
 9. The VCGLR was influenced in its inaction or inadequate discharge of its investigative responsibilities by the fact that Crown Casino pays the Victorian government over \$200 million a year in taxes.
 10. The VCGLR has only used the power to force Crown Casino to cease a relationship with one of its players or junket operators (high rollers brought into a casino by third party agents) once, despite a series of connections that have been identified between junket operators and alleged organised crime syndicates (or those linked to such syndicates).

8.1 A background in relation to junket operations

- 2 Under s 3 of the CC Act, a junket is defined to mean:
- an arrangement whereby a person or a group of people is introduced to a casino operator by a junket organiser or promoter who receives a commission based on the turnover of play in the casino attributable to the persons introduced by the organiser or promoter or otherwise calculated by reference to such play.
- 3 The phenomenon of junkets in the context of gambling is often explained by reference to the introduction (jin) of customers (ke) in the context of the Chinese government’s intention to prohibit gambling and the arrangement whereby players from Mainland

China were organised by agents - jinke – to gamble in the Portuguese enclave of Macao.¹⁸⁶

- 4 A model was developed in Macao after 1984 whereby private or VIP rooms were made available to third parties who had the networks to attract wealthy patrons to Macao. In addition to the provision of commissions for the sale of gaming chips, contractors were able to share a percentage of net wins from running the gaming rooms. Integral to junket tourism was, and is, attracting gamblers with substantial sums of money to gamble by the provision of incentives and inducements (“complementaries”) not available to ordinary patrons. On occasion junket operators extend credit to gamblers and provide a variety of forms of entertainment for junket participants.¹⁸⁷
- 5 Emulating the Macao experiment, gambling junkets were introduced to Australia, with junket tourism becoming a highly profitable component of Crown Casino’s business operations. A practice evolved of Crown paying rebates or commissions to junket operators (also known as and junket organisers), calculated by reference to the total amount wagered by the individual or entity during the specified period. The rebate could constitute a commission percentage paid to the junket operator by reference to patrons’ turnover, a discount on actual losses or a rebate on a win/loss where there was a pre-negotiated share of paying winnings or collecting losses.¹⁸⁸
- 6 The Bergin Report usefully summarised that:

In the VIP system, “dead chips” (also called junket chips or non-negotiable chips) are sold or lent by the casino operator to Junket operators. Junket participants cannot acquire dead chips directly from the casino operator. Dead chips can only be used in play and cannot be redeemed for money. However, a winning player is paid in “live chips” which can be redeemed for cash in the casino or (if the player is a Junket participant) given to the Junket promoter in exchange for more dead chips. The process of the Junket operator continuing to provide Junket participants with dead chips is known as “rolling” which is why dead chips are sometimes referred to as “rolling chips”. The rolling process enables the Junket operators to keep track of a

¹⁸⁶ See RCS Siu, “Formal Rules, Informal Constraints, and Industrial Evolution – The Case of the Junket Operator Regulation and the Transition of Macao’s Casino Business” (2007) 11(2) *UNLV Gaming Research & Review Journal*, p 49.

¹⁸⁷ Bergin Report, chapter 1.2, p 16.

¹⁸⁸ Bergin Report, chapter 1.2, p 16 at [19].

Junket participant's turnover. Turnover is the amount of money that is actually wagered in the casino.¹⁸⁹

- 7 VIPs have been offered personalised services and given special chips, known as 'rolling chips' or 'non-negotiable chips'. They were given the privilege of playing in the Teak Room, the Mahogany Room and private salons within the VIP rooms.¹⁹⁰
- 8 The Bergin Report has chronicled a strategy devised by Crown to develop closer ties with large junkets referred to as the 'platform junket strategy'¹⁹¹. This has been lucrative for Crown.
- 9 The VIP component of Crown's revenue has long been substantial, composed of moneys earned from a combination of junket players and premium players (VIPs): for instance, the VIP program play revenue at Melbourne Crown percentage of total revenue varied between 2016 and 2019 was 29.25%, 17.06%, 25.97% and 20.48%¹⁹², respectively, although it was suggested by Ms Fielding that what was earned by Crown from such players was a much lesser sum, in the order of 7% of its total revenue.¹⁹³
- 10 Organised crime groups penetrated the junket gambling industry from at least the 1990s in Macao, resulting in reforms which required licensing of junket operators and the imposition of rigorous oversight over the junket system.¹⁹⁴ The relationship internationally between junkets and money laundering is well established, the credit-providing and debt-enforcing functions of junkets, as well as the presence of large sums of cash, making them vulnerable to infiltration by organised crime.¹⁹⁵
- 11 As a senior Victoria Police officer explained to the Royal Commission, the risks of criminal conduct taking place at the Casino are extensive. They vary from prostitution

¹⁸⁹ Bergin Report, chapter 1.2, p 15 at [16].

¹⁹⁰ Bergin Report, chapter 1.2, p 28 at [83].

¹⁹¹ Bergin Report, chapter 1.2, p 26 at [73].

¹⁹² Bergin Report, chapter 1.2, p 21 at [66].

¹⁹³ AUSTRAC Report, p 8.

¹⁹⁴ See Peng Wang and Georgios A Antonopoulos, 'Organized Crime and Illegal Gambling: How Do Illegal Gambling Enterprises Respond to the Challenges Posed to their Illegality in China' (2016) 49(2) *Australian & New Zealand Journal of Criminology* 258; Raquel Carvalho and Niall Fraser, 'Macao Tightens Junket Rules, Orders Operators to Identify Shareholders, Bosses and Investors' (22 September 2015) *South China Morning Post*: <<https://www.scmp.com/news/hong-kong/economy/article/1860633/macau-tightens-junket-rules-orders-operators-identify>> ; Tan Sin Liang, 'The Vulnerability of Casinos to Money Laundering' (2011) *The Law Gazette* (Singapore) : <<https://v1.lawgazette.com.sg/2010-11/feature1.htm>> .

¹⁹⁵ Bergin Report, chapter 1.5; AUSTRAC Report, p 11.

and drug trafficking to ‘money laundering at the casino on a daily basis’ and ‘in the junkets it is rife’.¹⁹⁶

- 12 As discussed at above, formerly, a predecessor of the VCGLR was required to approve individuals or entities that organised junkets at Crown Casino, although there were no prescribed processes for this. However, in 1998 this oversight was varied by legislative amendment and additional regulations prescribed the approval process and conferred a power on the relevant director of the VCGLR’s predecessor to approve junket operators.
- 13 Importantly, in 2004 a process of deregulation occurred in Victoria with the adoption of a new approach to regulation of Crown Casino in the form of the adoption of minimum standards and controls via ICSs. The Casino Operations Manager at the VCGLR, informed us that around 2006 the decision was made by the VCGLR that the regulator would no longer ‘wear the burden of reviewing probity of junket operators but the casino operator should own that risk.’¹⁹⁷

8.2 ICSs in relation to Junkets and Premium Players

8.2.1 The 2011 ICS titled ‘Junket and Premium Player Programs (including Introduction of Players)’ (the 2011 ICS)

- 14 The 2011 ICS was created under the VCGR (the predecessor to the VCGLR). Under the heading of ‘Core Principles’ in the 2011 ICS, it stated that its objectives and outcomes were:

To ensure Crown remains free from criminal influence and exploitation through the application of effective processes for the conduct of Junket and Premium Player programs, the introduction of players and the payment of related commissions.

To ensure detailed and accurate documentation is maintained in respect of Junket and Premium Player Programs, the introduction of players and the payment of related commissions.

¹⁹⁶ Evidence to the Casino Operator and Licence Royal Commission, of a senior police officer from the Organised Crime Intelligence Unit, part of the State Intelligence Unit of Victoria Police, 18 June 2021, 2079.

¹⁹⁷ Casino Operations Manager, VCGLR, transcript of interview, p 5.

- 15 The ICS stated that the '[m]inimum standards and controls are the minimum requirements for the achievement of the core principles' and required structured processes for the conduct of junket and premium player programs (including there players were introduced) and the creation and maintenance of an audit trail for the monitoring and recording of both junket programs and premium player programs. In respect of junket programs, it stipulated that there be the completion (and retention) of an agreement (called the 'Junket Program Agreement') documenting, at a minimum:
- Junket Operator (or Agent);
 - Junket Program type;
 - Junket Program Player names;
 - Front money;
 - Commission payable to Junket Operator (where applicable);
 - Approval of terms and conditions by Junket Operator (or agent) and authorised Crown representatives; and
 - Subsequent changes to agreed terms and conditions.
- 16 It also required copies of identification obtained in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); completion (and retention) of a 'Junket Program Settlement Sheet' (unless it was the 'standard complimentary program'); and logging (and subsequent forwarding to Junket Operator or Junket Program Player within 48 hours) of verbal instructions received in respect of Junket Program Agreement Premium Player Programs.
- 17 Very similar provisions applied in respect of 'Premium Player Programs'. In respect of these programs, there needed to be the completion and retention of a 'Premium Player Program Agreement' documenting, at a minimum, the premium player program type, the premium player's name, their front money, approval of terms and conditions by premium player and authorised Crown representatives; and subsequent changes to agreed terms and conditions. It also required copies of identification in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), settlement sheets and the logging of verbal instructions as described above in relation to junkets.

- 18 In relation to the 'Introduction of Players' for premium player arrangements, the 2011 ICS required the completion and retention of a signed letter of introduction documenting at a minimum:
- Name of person introducing player(s);
 - Player(s) introduced to Crown and expected date of visit;
 - Commission payable to person introducing player(s) (where applicable);
 - Approval of terms and conditions by person introducing player(s) and authorised Crown representatives; and
 - Subsequent changes to agreed terms and conditions.
- 19 The 2011 ICS also required a minimum of two employees (of Crown) to approve a Junket Program Agreement, a Premium Player Agreement or a Letter of Introduction and in terms of 'independent review and authorisation process' it required what it termed 'independent approval' of each form of agreement or introduction but did not stipulate either what constituted independence of approval or what the criteria for the 'independent approval' were. The use of the terminology of 'independence' was unfortunate, and at least only marginally accurate, given that those engaging in the review and authorisation were employees of Crown.
- 20 The 2011 ICS also required provision of reports to the VCGR but only 'as requested' in respect of the VCGR Junket Program and Premium Player Commission Report (excluding players participating in a standard complimentary program); Introductory Commission Report; and 'A Player Revenue Report (Slots)'. It stipulated cessation of Crown's relationship with a Junket Operator (or agent) or a person introducing players if formally requested to do so by the VCGR.
- 21 At the conclusion of the ICS was what was described a 'Risk Assessment Matrix' which identified and evaluated risks inherent in the conduct of Junkets (accompanied and unaccompanied) and Premium Player Agreements as:
- Criminal influence and exploitation;
 - Unauthorised / incorrect commission or fee paid to Junket Operator (or agent) or other person introducing players to Crown;

- Unauthorised Junket / Premium Player Program activity; and
- Failure to notify the Commission of Junket / Premium Player Program activity or players introduced to Crown.

22 However, how this was to be employed was not apparent on the face of the document.

23 In the course of discussions about the issue, Mr May accepted that the guidance provided by the 2011 ICS was ‘high level’, although he pointed out that the concept behind the document was ‘that Crown need[ed] to have structured processes’¹⁹⁸ about its junket and premium player arrangements. He stated: ‘I would like to think that Crown as the sole licensee [knows and understands] the objectives of the Act and understand[s] the objectives of the ICS and would go away and come up with the appropriate structured processes to meet the objective[s of the 2011 ICS].’¹⁹⁹

24 Thus, in the 2011 ICS (which was utilised by the VCGLR until December 2015), there were no requirements in relation to probity assessment; there was a lack of clarity about the ‘independent approval’ process and what the criteria should be for such approvals, and any issues for mitigating risk noting the risk assessment matrix included in the ICS. It seems to us that only the most limited information was required to be provided by these operations/players, none of which went very far to assess the integrity or associations of Junket Operators, Players or Introducers or Premium Players. The reference to risk assessment was cryptic and unhelpful for setting the minimum standards for the casino operator and as a regulatory tool.

8.2.2 The 2015 ICS titled ‘Junket and Premium Player Programs (Including VIP Telephone Betting and the Introduction of Players)’ (the 2015 ICS)

25 The 2011 VCGR ICS was replaced in 2015 by the 2015 ICS. The 2015 ICS became operational some years into the VCGLR’s tenure: on 24 December 2015.

26 In comparing the 2011 and 2015 ICSs, the 2015 ICS contained the same “Core Principles” as the 2011 ICS save that it was now only in terms of a sole “Core Principle” and it also extended to VIP Telephone Betting (**VIPTB**). Otherwise, the 2015 ICS contained the same provisions in relation to ‘Minimum Standards and

¹⁹⁸ Scott May, transcript of second interview, p 8.

¹⁹⁹ Ibid, pp 8-9.

Controls’ as the 2011 ICS; namely, this contained bare descriptive details of what documents needed to be created and maintained for Junket and Premium Player Programs and that a structured documented processes needed to be maintained for junket and premium player programs (and their introducers) and VIPTB. The 2015 ICS combined the sections on Junket Programs and Premium Players in the ‘Minimum Standards and Controls’ section of the ICS. Like the 2011 ICS, there was specific provision for ‘Introduction of Players’, and a comparable section for VIPTB was introduced.

27 The section on ‘Independent Review, Authorisation and Approval’ was similar to the provisions under the 2011 ICS with ‘a minimum of two employees’ being required to approve Junket Program Agreements, Premium Play Agreements, Letters of Introduction, VIPTB arrangements and various verbal instructions. There was a similar provision in relation to ‘independent review’ in relation to all matters with which the ICS dealt but no indication was given as to who could conduct such a review nor the bases upon which the review should be conducted.

28 The risk matrix previously found in the 2011 ICS remained largely the same in the 2015 ICS. While the risk matrix was expanded on, it was still, in our view, cryptic in its application.

29 However, two important new provisions were introduced in the 2015 ICS:

2.4 Provision of Data and Reporting

2.4.1 Crown will provide the VCGLR with notification of all new non – resident Junket Operators.

2.4.2 Provision of reports and/or data to support the Minimum Standards and Controls must be provided to the Victorian Commission for Gambling and Liquor Regulation as requested.

2.5 Audit

2.5.1 Crown will ensure that it has **robust processes** in place to consider the ongoing probity of its registered Junket Operators, Junket Players & Premium Players.

2.5.2 Crown will cease its relationship with a registered Junket Operator (or agent) or a person introducing players if formally requested to do so by the VCGLR.
[emphasis added]

30 Clause 2.4.2 of the 2015 ICS enabled the VCGLR to require reports and data ‘to support the Minimum Standards and Data’. This was much the same as the same

clause in the 2011 ICS. We were informed by Mr May, however, that this was generally not used as provisions in the CC Act enabled the VCGLR to obtain relevant documentation.²⁰⁰

- 31 The other significant inclusion in the 2015 ICS was the imposition of an obligation upon Crown that it ensure ‘robust processes’ to consider ‘the ongoing probity’ of its registered Junket Operators, Junket Players and Premium Players.
- 32 It was positive that assessment of such persons, at least once they were registered, was introduced. A deficit, though, was the absence of any indication of what constituted ‘robust processes’, a term which is broad and unclear in its requirement save that it requires structures to be instituted in relation to ‘ongoing probity’.
- 33 ‘Probity’ is another term with a potentially expansive meaning, but without clear parameters. In this regard we were provided by the VCGLR with an article written by Jamie Nettleton on the website of Addisons Lawyers in which he defined ‘probity’ as ‘a standard of ethical and moral behaviour which concludes that a person or company complies with appropriate principles of “integrity, uprightness and honesty”’.²⁰¹ In our view, this exemplifies both the breadth and the subjective nature of the term/concept.
- 34 In discussion with Mr May, he advanced the proposition that the advantage of the imposition of such a non-prescriptive probity obligation upon Crown, an ASX-listed company with a long history in gaming²⁰², was that it required it to assume responsibility for assuring the probity of the three categories of persons and, if it was unsure as to how far it needed to go, it was open to it to make contact with the VCGLR to seek clarity. He was correct in these contentions. Crown is a sophisticated entity that ought to have understood the general tenor of these obligations or sought clarification if necessary. However, we also consider that the absence of any guidance in the 2015 ICS about what constituted robust processes and ongoing probity created an unnecessary regulatory difficulty. Importantly, this absence of guidance also made

²⁰⁰ Scott May, transcript of second interview, p 8. See, for example, s 26 of the CC Act.

²⁰¹ Jamie Nettleton, “*Probing ‘Probity’: What You Should Know about Suitability Investigations in the Gambling Sector*” (13 December 2017): < <https://addisons.com/knowledge/insights/probing-probity-what-you-should-know-about-suitability-investigations-in-the-gambling-sector/>> .

²⁰² Scott May, transcript of second interview, pp 18-19.

the auditing task for the VCGLR inspectors at the Casino very difficult to ascertain whether Crown was in compliance or not with the ICS.

- 35 Ms Fielding provided us with an explanation of what probity requirements were undertaken by Crown pursuant to the 2015 ICS. Ms Fielding stated that:

There wasn't a requirement prior to that, so there's various processes as part of that as well so, the credit department runs a series of checks, they check with other casinos, they check global organisations such as Dow Jones. There's various providers of those and you can pay for those services so there's some of them that are country specific, so if the person's coming from Macau you might, you know, buy a report from the facility in that country. There's credit assessments that are undertaken through that department as well and they check source of funds and source of wealth, which also come up on these reports such as Dow Jones, and adverse media and so on as part of that as well. That process then compiles a file on that person that's applied to be a junket operator and that file goes to an executive team with recommendations then to review and approve and agree for that person to become a junket operator. And then every 12 months that process is recommenced as well as the person being run through the Dow Jones system on the databases.²⁰³

- 36 In respect of Dow Jones, Ms Fielding explained that:

Dow Jones has a lot of financial background information. It has connections with companies. It can tell us some source of funds information. It also has adverse media functionality attached to it as well so we get articles on people where there's issues and concerns. It also has a list of associates so there's quite a broad probity return of information as regards that. ... [Large numbers] of people are run through the system every day.²⁰⁴

- 37 She confirmed that Crown does not have access to any police databases and that Crown has no way of establishing whether a person is associated, for instance, with an international Triad.²⁰⁵ She expressed the view that the current casino operator 'would have a great deal of comfort if the regulator was deciding who we could deal with in that regard. [It would] take the guess work out of it.'²⁰⁶

- 38 We note that the 2021 Disciplinary Action taken by the VCGLR against the Casino was in relation to Crown's contravention of its obligations under s121(4) of the CC Act (more specifically, it concerned breaches of clause 2.5.1 of the 2015 ICS). Crown argued that the definition of the term 'robust' was akin to a meaning of 'comprehensive' or 'extensive' and should be considered subjectively and with regard

²⁰³ Ibid, pp 17-18.

²⁰⁴ Ibid, p 8.

²⁰⁵ Ibid, p 18.

²⁰⁶ Ibid.

to the timing of the events relevant to the hearing.²⁰⁷ This was not accepted by the VCGLR which concluded that:

the term “robust” should be given its ordinary meaning. The Macquarie Dictionary defines “robust” to mean “strong and healthy, hardy or vigorous”. The Commission considers that the appropriate question is whether Crown implemented its processes in a way that was “strong” and/or “vigorous”.²⁰⁸

39 Ultimately, the Commission concluded, amongst other matters, the following in relation to Crown’s approach to clause 2.5.1 of the 2015 ICS:

- Crown relied heavily, if not exclusively, on information obtained from third parties to identify any probity issues in respect of the persons/entities which it did business²⁰⁹ but did not seek information directly from junket operators, junket players or premium players when probity issues were identified.²¹⁰ The Commission considered this to be ‘incongruous’ with what was required for a robust process.²¹¹
- There was ‘significant uncertainty’ about precisely who within Crown’s structures were responsible for assessing information for the purposes of Crown making decisions about the probity of junket operators, junket players or premium players.²¹² The lack of clarity about this issue was found by the Commission to be further evidence of a process that was not robust.²¹³
- There was a lack of contemporaneous record keeping when Crown made relevant probity decisions. Again, the Commission found this to be further evidence of a superficial system which was not robust for the purposes of clause 2.5.1 of the 2015 ICS.²¹⁴

40 We conclude that although the 2015 ICS contained shortcomings from a regulatory perspective, it constituted an improvement upon the 2011 ICS, especially in its extension to Junket Players, as well as Junket Operators and Premium Players, including by reference to a requirement for robust ongoing processes for assessing their ongoing probity. We consider, however, that the 2015 ICS ought to have been broader in scope and to have provided additional control measures about firstly, Crown engaging directly with junket operators, junket players and premium players

²⁰⁷ *Re an inquiry into whether there are grounds to take disciplinary action against Crown Melbourne Ltd under section 20 of the Casino Control Act 1991 (Vic) for contravention of section 121(4) of the Casino Control Act 1991 (Vic)*, unreported, 21 January 2021, at [39]-[41].

²⁰⁸ *Ibid* at [47].

²⁰⁹ *Ibid* at [50].

²¹⁰ *Ibid* at [51].

²¹¹ *Ibid* at [52].

²¹² *Ibid* at [60].

²¹³ *Ibid* at [63].

²¹⁴ *Ibid* at [68], [71].

when adverse information was found, secondly, to have better controls around who at Crown made decisions and, thirdly, to require contemporaneous decision-making to be recorded for the purpose of auditing by the VCGLR.

41 On 2 July 2018 the Sixth Review of the Casino Operator and Licence was provided to the Minister. It included 20 recommendations. Recommendation 17 was that:

By 1 July 2019, Crown undertake a robust review (with external assistance) of relevant internal control statements, including input from AUSTRAC, to ensure that anti-money laundering risks are appropriately addressed.²¹⁵

42 The Victorian Royal Commission has inquired into Crown's implementation of recommendation 17 in detail, so we have refrained from examining this issue for the purpose of our investigation other than for contextual knowledge. However, it is evident that the VCGLR, in the Sixth Review, considered that the ICSs dealt with anti-money laundering should be robustly reviewed with consultation with AUSTRAC. We consider that the ICS most relevant to anti-money laundering are the junket and premium players ICS.

43 We also understand that the VCGLR had previously terminated various junket operators or representatives for an indefinite period from 2012.²¹⁶

44 However, despite these concerns the 2015 ICS was not the subject of revision until December 2020. We consider, given the high risk of junket operations and premium players arrangements in matters of possible criminality, this was insufficient. It should have been a regulatory priority and the delay constitutes a failing. Any ICS in relation to junket operations or premium players ought to have been reviewed, and ought to continue to be reviewed, on a regular and frequent basis to ensure it remains fit for purpose from a risk perspective. As recommended above in this report, we consider a review at least every two years to be appropriate.

8.2.3 The 2020 ICS titled 'Junket and Premium Player Programs' (the 2020 ICS)

45 The 2020 ICS became operational in mid-December 2020. It constitutes part of the revision process of ICSs to which reference has already been made in this report.

²¹⁵ Victorian Commission for Gambling and Liquor Regulation, *Sixth Review of the Casino Operator and Licence, June 2018*.

²¹⁶ For example, we were provided an example in October 2014, where the Manager of the Compliance Division of the VCGLR had terminated a person's capacity to be a junket operator or representative at the Casino.

46 The 2020 ICS extends the previous “Principles” with identification of an objective that:

...to ensure that Crown remains free from criminal influence and exploitation through the:

- (a) application of effective policies and controls;
- (b) assessment of suitability and eligibility to participate in Junket or Premium Player Programs through processes which review financial suitability and general reputation having regard to character, honesty and integrity;
- (c) engagement of employees from a Crown department sufficiently independent of the commercial departments of Crown, to:
 - (i) undertake suitability and eligibility assessments on each Program Participant; and/or
 - (ii) approve entry into Junket or Premium Player Programs; and
- (d) maintenance of detailed and accurate records relating to Junket and Premium Player Programs.

47 The 2020 ICS states has amended the section titled ‘Minimum Standards and Controls’. The 2020 ICS indicates that ‘Minimum Standards and Controls are designed to provide reasonable assurance that the material risks associated with Junket and Premium Player Programs are mitigated and will not adversely affect the integrity of the Melbourne Casino’ provides that only ‘Program Participants’ are authorised to participate in Junket or Premium Player Programs ‘if Crown is satisfied that the Program Participants, including associated Junket Funders and Guarantors (to the extent known), have met the eligibility and suitability requirements’ set out in the ICS.

48 It provides that a minimum of two employees from a Crown department ‘sufficiently independent of the commercial departments of Crown’ are required to assess each application to become a Junket Operator and each Program Participant’. The issue of independence, therefore remains, and is now complicated with the independence needing to be ‘sufficient’, although it appears that being in a different, non-commercial Crown department is viewed as constituting sufficient independence.

49 Crown is also obliged to retain records of each application and corresponding suitability assessment in accordance with the ‘Crown Melbourne Limited Document Retention Policy’. Further all Program Participants are required to meet minimum

identification requirements to validate their ‘eligibility and suitability to participate in the Program, including ‘Know Your Customer’²¹⁷ information (**KYC**) and ‘due diligence information’.

50 The 2020 ICS now imports a requirement of ‘due diligence’ for Program Participants. It involves Crown being obliged to undertake ‘due diligence prior to approving Junket or Premium Player Programs’ in respect of the following five categories or entities/persons:

- (a) Junket Operators;
- (b) Junket Representatives;
- (c) Junket Funders or Guarantors (to the extent known);
- (d) Program Participants (defined to mean a junket operator, junket representative, junket participant and premium player); and
- (e) Introducers.

51 ‘Due diligence’ is not defined in the 2020 ICS, but in conducting due diligence Crown is obliged to ‘consider’:

- (a) general reputation having regard to character, honesty and integrity;
- (b) the individual’s occupation, employer, industry or business interests;
- (c) the nature of the individual’s business with the Melbourne Casino (including the expected nature and level of transaction behaviour);
- (d) the verification or re-verification of KYC;
- (e) for Junket Operators, beneficial ownership information about the customer;
- (f) financial suitability (including source of wealth and/or source of funds of the customer);
- (g) other information held by Crown about the customer (including, but not limited to, any intelligence information or law enforcement agency requests); and
- (h) any other known information, adverse or otherwise that will assist Crown’s assessment of the money laundering/terrorist financing risk (**ML/TF risk**).

52 Why the ICS is framed in terms of Crown only having to ‘consider’ these important matters is not apparent.

²¹⁷ We understand ‘Know Your Customer’ information to be a concept that is imported from AUSTRAC’s anti-money laundering and counter-terrorism financing program about how a reporting entity complies with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

- 53 One component of the ‘due diligence’ that is now required and that is particularly important is the focus upon ‘source of wealth and/or source of funds’. Inquiries of such matters have the potential to shine a light of scrutiny into what is otherwise a key area in respect of which persons involved in organised crime or terrorism are keen to avoid, namely transparency and accountability of their sources of cash available for gambling.
- 54 The 2020 ICS provides that further enquiries may (presumably this being discretionary, depending upon other information that has come to hand) be made in respect of the following:
- (a) source of wealth and/or source of funds declaration from the customer;
 - (b) source of wealth and/or source of funds information about the customer through;
 - (i) internal means; or
 - (ii) third-party information providers;
 - (c) other information held by Crown about the customer; and;
 - (d) any other known information, adverse or otherwise that will assist Crown’s assessment of the ML/TF risk.
- 55 The 2020 ICS imports obligations on Crown to record a variety of matters. In respect of Premium Players, for instance, it must record, at a minimum:
- (a) the name and patron number of the Premium Player;
 - (b) the Program type;
 - (c) the amount of initial and subsequent front money;
 - (d) any commission payable to the Premium Player (as applicable);
 - (e) copies of identification obtained in accordance with Crown Resorts Limited Joint AML/CTF Policy and Procedures (AML/CTF Policy); and
 - (f) Premium Player settlement sheets, including the payment of related commissions (with the exception of standard complimentary programs).
- 56 There is also a continuing responsibility for Crown to ‘undertake ongoing and periodic reassessment of established’ junket operators, junket guarantor and funders (to the extent known), junket representatives and junket participants for ongoing suitability and eligibility to participate in Junket Programs. The assessment processes and procedures are specified in the SOPs.
- 57 In reassessing ‘suitability’ Crown is obliged to consider, at least:

- (a) financial suitability;
- (b) general reputation having regard to character, honesty and integrity; and
- (c) a review of the due diligence information held.

58 How Crown is expected to do so is left entirely up to Crown.

59 Upon discovery of any adverse information, Crown is required to escalate the assessment by refer the adverse information that may affect the suitability of a Program Participant to its 'Person of Interest Committee' for review.

60 Further, under the 2020 ICS Crown is obliged to cease entirely its relationship with any person who is a registered Junket Operator, a Junket Representative, a Program Participant or an Introducer, where:

- (a) the person is no longer deemed suitable by Crown to conduct a Junket or participate in a Program;
- (b) formally requested by the Commission to do so;
- (c) where (without acceptable excuse), a Junket Operator has entered into an arrangement with a Junket Funder or Guarantor but has not notified Crown of that arrangement. The Junket Agreement will require the disclosure of any Funder or Guarantor and note that the disclosure is an ongoing obligation; or
- (d) the person is known to be an associate of a person with whom Crown has ceased its relationship.

61 There is also a new involvement of the VCGLR with Crown being obliged to notify the VCGLR of the approval of all new Junket Operators prior to their commencing a Junket Program. In this regard, and to the extent permitted by law, Crown is required to notify the VCGLR within three business days:

- (a) of having determined a customer is no longer deemed suitable to conduct a Junket or participate in a Program;
- (b) of becoming aware of a Junket Operator, Junket Funder or Guarantor, Junket Representative, Program Participant or Introducer becoming (or having been) the subject of any of the following:
 - (i) criminal charges; or
 - (ii) a finding of criminal guilt/conviction;
- (c) where Crown wishes to commence or maintain a relationship with a Junket Operator, Junket Representative, Program Participant or Introducer despite being aware of information that may adversely reflect on that customer's suitability; or

(d) where it terminates a relationship with a Junket Operator, a Junket Representative, a Program Participant or an Introducer for any reason.

62 Under the 2020 ICS, Crown is obliged to ensure the creation and maintenance of ‘an audit trail for the processes’ detailed under the specific operational requirements. It is stated that Crown’s internal audit function will be responsible for the completion of strategic, operational and compliance audits (including cyclical reviews of compliance with the ICSs approved by the Commission) in accordance with the Board Audit Committee approved ‘Internal Audit Plan’.

63 Crown is required to ‘cease entirely’ its relationship with any person who is a registered Junket Operator, a Junket Representative, a Program Participant or an Introducer where:

- (a) the person is no longer deemed suitable by Crown to conduct a Junket or participate in a Program;
- (b) formally requested by the Commission to do so;
- (c) where (without acceptable excuse), a Junket Operator has entered into an arrangement with a Junket Funder or Guarantor but has not notified Crown of that arrangement. The Junket Agreement will require the disclosure of any Funder or Guarantor and note that the disclosure is an ongoing obligation; or
- (d) the person is known to be an associate of a person with whom Crown has ceased its relationship, as set out above.

64 It is self-evident that the 2020 ICS is a significant improvement to its 2015 counterpart. However, we queried with Mr May, whether the broad indicia of ‘due diligence’ ought to be given further clarity in the 2020 ICS. In response, he put to us that ‘due diligence’ is a well-recognised concept. This is correct, at least in a range of commercial contexts; however, in our view its parameters are not so clear under the 2020 ICS. While the parameters of ‘due diligence’ have been set out to some degree in the 2020 ICS, we still consider there is a lack of clarity about what Crown is obliged to do in terms of acquiring the requisite ‘due diligence’ information. We consider some benchmarking in relation to this would be beneficial in how VCGLR inspectors should audit against the ICS.

65 However, Mr May also expressed to us that the VCGLR is ‘trying not to be too prescriptive’²¹⁸ because ultimately of a concern that overly prescriptive steps may

²¹⁸ Scott May, transcript of second interview, p 35.

mean the casino regulator ‘would do...the minimum required’²¹⁹. He explained that a purpose of the 2020 ICS is ‘to force Crown really, to push Crown to establish a higher standard and not some kind of minimum standard of checklists’ when it comes to probity²²⁰. Ultimately, Mr May argued that the goal behind the 2020 ICS is to shift the casino operator from a focus on its ‘commercial imperatives’ and to create a new mindset by the casino operator that ‘if there is any question mark they should default towards not doing business [with that entity/player]’.²²¹ We consider that there is some merit in Mr May’s contention. However, we consider that there may be a compromise or a mid-point to having *some* prescriptive measures in the 2020 ICS around due diligence, whilst balancing the concerns identified by Mr May about the potentially negative impact of ICSs being overly-prescriptive. This is worthy of exploration by the VCGLR and casino operator.

66 The current state of requirements imposed upon the casino operator in relation to junkets and premium players needs to be seen in the context of the fact that of the 2021 Disciplinary Action under s 20 of the CC Act for contravening s121(4) of the CC Act²²² by breaching clause 2.5.1 of the 2015 ICS. The action was brought against Crown after a variety of preliminary steps requiring responses and information from Crown. As already stated, in the course of this, Crown announced that it proposed to cease junket operations and while Ms Fielding has indicated that Crown does not have an intention to reintroduce junket operations at the Casino, they are presently unable to do so at the direction of the VCGLR until they apply to the VCGLR and demonstrate how it has addressed the Commission’s concerns as outlined in the reasons for decision for the 2021 Disciplinary Action. As we have stated on multiple occasions, the 2021 Disciplinary Action saw the maximum fine of \$1 million imposed on Crown.

206. Throughout the 2021 Disciplinary Action, Crown also made some important formal admissions, which we consider are significant in terms of future improvements by the casino operator. Crown formally admitted that:

²¹⁹ Ibid, p 23.

²²⁰ Ibid, p 23.

²²¹ Ibid, p 24.

²²² Section 121(4) states that: “The casino operator must ensure that the system approved for the time being under this section for the casino is implemented.”

- (a) Crown has in the past had relationships with junkets where media and due diligence reports have referred to allegations of criminal links;
- (b) Crown must improve its due diligence in relation to junkets;
- (c) due diligence has been too focused on the junket operator; it must expand to those who represent, finance, and guarantee the junket;
- (d) Crown needs to improve its ability to recognise patterns and associations and to draw together connective threads;
- (e) compliance and anti-money laundering teams need to have a clear role in the approval process for junkets and a right of veto over junket relationships; and
- (f) due diligence in relation to junkets, including as part of the approval process, needs to involve comprehensive analysis assisted by the latest technology, and must include an examination of transaction histories.²²³

67 The 2021 Disciplinary Action was the fourth time that the VCGR or VCGLR had imposed penalties for default in respect of breach of internal control statements. The three other occasions were:

- on 8 September 2011, the VCGR issued a letter to Crown for a failure to notify it of two new non-resident junket operators as required by section 2.7 of the 2011 ICS, but no further action was taken;
- on 6 December 2017, the Commission imposed a fine of \$150,000 in respect of 13 contraventions of section 121(4) of the CC Act in relation to audit documentation required under the 2015 ICS; and
- on 7 May 2019, the Commission imposed a fine of \$25,000 in respect of a contravention of section 121(4) of the CC Act in relation to the non-notification of a resident junket operator under the 2015 ICS.²²⁴

68 In our view, the 2021 Disciplinary Action demonstrated that clause 2.5.1 of the 2015 ICS could be harnessed, at least in some circumstances, to impose accountability upon the casino operator where processes for probity of junket operators failed to be robust.

69 We also understand that the VCGLR has on occasion sought further information about various junket programs with the outcome that Crown has made a decision to exclude a junket operator.²²⁵ Mr May further advised us that Crown has other options

²²³ *In the Matter of an Inquiry into Crown Melbourne Ltd*, unreported, VCGLR, 27 April 2021, at [26].

²²⁴ *Re an inquiry into whether there are grounds to take disciplinary action against Crown Melbourne Ltd under section 20 of the Casino Control Act 1991 (Vic) for contravention of section 121(4) of the Casino Control Act 1991 (Vic)*, unreported, 21 January 2021, at [254].

²²⁵ Scott May, transcript of second interview, p 3.

available to it other than exclusion of persons or entities when adverse probity information has come to light about those involved in junket or premium player arrangements, including issuing a ‘withdrawal licence’ (which he explained was withdrawing the common law licence for a person to enter the Casino complex in its entirety)²²⁶ or stopping codes on accounts.²²⁷

- 70 However, the 2020 ICS is properly to be regarded as a breakthrough step in the correct direction. It imposes an ongoing and unequivocal obligation to Crown to mitigate the foreseeable risks including as to corruption and money laundering related to the various categories of Program Participants and suitably mandates suitability by reference to due diligence principles. These properly involve regard being had to a range of relevant factors, in particular reputation, integrity, KYC information, source of wealth and source of funds, thereby shining the light of accountability into what can otherwise be recesses that nurture and protect organised criminal activity. Moreover, the obligations imposed in this regard are not only at the time of reception of the participant onto a program, but are ongoing. These are all positive initiatives. In our view, they will need to be re-evaluated when Premium Players commence to re-engage during 2022 to ensure the measures prove to be effective.
- 71 Unfortunately, the state of the ICSs in relation to junket operations and premium players until the end of 2015 was deficient in terms of satisfying regulatory requirements. This meant that the regulatory oversight over probity of junket operations and premium players was unsatisfactory both by reason of what it required of Crown and because ultimately it made it difficult for proper audit compliance to be undertaken by the VCGLR inspectors at the Casino.
- 72 We have reviewed the compliance audit tools utilised by inspectors at the Casino from 2011 (noting that this was the audit tool from the VCGLR’s predecessor, the VCGR), November 2017 and 2020 in relation to junket and premium players. The 2011 audit tool contains no specific requirements about compliance-checking around probity of junkets or premium players other than inspectors being required to photocopy various documents held by Crown. In November 2017, a separate probity

²²⁶ Ibid, p 6.

²²⁷ Ibid, p 3.

audit was created in relation to junket and premium player probity after Mr Ockwell formed the view (as shared by the Casino Operations Manager), that a separate probity audit was required for junket operators because of the level of work that was required.)²²⁸

73 The November 2017 probity review required the VCGLR to audit Crown's information about the identification of players, information about their immigration status and consideration of the occupation of a player and issues around the source of funds of a player, including their front money. Mr Ockwell indicated to us that the auditing entailed

requesting the packets... so there is all the information and material relevant to that particular junket. And then in audits ... there is probably between four and seven pages long and I actually check against any or all of the requirements stated in the ICS so it's about what evidence of the providers in regards to making enquiries at that particular tech operator what documentation that they had, what steps they had taken to develop any of the information. Player activity statements, betting, logs, the fact they have been recorded the reference numbers of the junket operators of premier plays or the agents, the players themselves.²²⁹

74 The Casino Operations Manager explained to us that in addition to the November 2017 audit checklist tool, he would also do his own checks: he would do open source checks, he would contact the intelligence section 'so we as an organisation also did checks on top of what Crown had done. We were satisfied that Crown had conducted checks and contacted other casinos throughout the world, done third party checks through companies that they'd engaged but we also provided a layer on top of that where we sought information. Part of that also included contacting Victoria Police to see if they held any intel on these particular junkets.'²³⁰ We consider that it would have been appropriate that these 'additional checks' described by the Casino Operations Manager were imported into the November 2017 audit compliance tool to ensure a consistency in the audits undertaken under the 2015 ICS when it came into operation in December 2015.

75 However, ultimately, we consider improvements could have been made to the November 2017 compliance audit tool. The checks could have been broader and more detailed around the probity assessments undertaken by Crown. For example, the audit

²²⁸ Adam Ockwell, transcript of first interview, p 7 and Casino Operations Manager, transcript of interview, p 6.

²²⁹ Ibid, p 8.

²³⁰ Casino Operations Manager, transcript of interview, p 7.

checklist includes no methodology - for example, when an inspector ought be concerned about the sources of a player's funds or any risk assessment categorisation.

76 We were told that the inspectors audit to the terms of an ICS²³¹. We consider that this may explain why the 2011 and 2017 VCGLR compliance auditing tools may have been limited. This is because there was a lack of focus on probity in the 2011 ICS (which had no probity requirements) and the 2015 ICS (which only contained the broad clause 2.5.1). As indicated, the inspectors audit against the ICSs, so if there are any deficits or irregularities in an ICS, it follows, that this may negatively affect the auditing required to be undertaken by the VCGLR's Compliance Division. We consider that given the improvements made to the 2020 ICS, these improvements have flowed through to the current compliance audit checklist utilised by the inspectors at the Casino. The 2020 audit checklist tool is much more detailed and sets out in much more prescriptive terms what information the VCGLR requires to assess whether the casino operator is meeting its 2020 ICS obligations. It sets appropriate benchmarks internally for the type of information that the VCGLR considers important to understand from a probity perspective. While we understand that the 2020 audit checklist tool has not yet been in operational use given the cessation of junkets and the COVID-19 pandemic which has seen Crown closed for significant periods of time over the last two years or with very limited capacity, we query whether some of the measures in the 2020 audit checklist tool should and could be transferred explicitly into the 2020 ICS (or at least the current SOPs to the 2020 ICS) for the sake of transparency. This is because we consider that the 2020 audit checklist tool does set some benchmarking in terms of what appropriate due diligence is. However, it is yet to be seen how the 2020 audit checklist will operate in practice.

77 This highlights that there ought to have been reconsideration and revision of the 2011 and 2015 ICSs by the VCGLR at a much earlier time as there were significant limitations in both documents. The ICSs are ultimately the responsibility of the VCGLR even though they are drafted by the casino operator (and approved by the VCGLR) but they constitute the principal expression of what is required of the casino operator and form the basis upon which auditing of Crown conduct is undertaken by

²³¹ Adam Ockwell, transcript of first interview, p 6.

VCGLR inspectors. As such, we consider the fact that the 2011 and 2015 ICSs were not subject to more frequent review to be inadequate and that this in turn had a negative impact on the VCGLR's compliance auditing of Crown in respect of junket operations and premium player arrangements. It is not a legitimate excuse that the 2011 ICS was inherited from the VCGR. There was ample time after the transition to the VCGLR for it to be updated, refashioned and improved so that it became fit for purpose and to enable satisfactory auditing checks by the inspectors at the Casino through the creation of superior audit checklist tools.

8.3 Premium players

78 Pursuant to s 3(1) of the CC Act, a premium player arrangement is defined as “an arrangement whereby a casino operator agrees to pay a patron of the casino a commission based on the patron's turnover of play in the casino or otherwise calculated by reference to such play”. As stated above, premium player arrangements were introduced into the CC Act in 1994.

79 A “premium player” is a “high-roller” who tends to be domiciled in Australia and gambles higher amounts of money.²³²

80 Premium player arrangements have not come under the same level of criticism as junket operations in, for example, the Bergin Report. However, we express concern about premium player arrangements if junkets are permanently ceased in Victoria. Without proper accountability measures being undertaken as to whether premium players meet due diligence standards, the ‘next frontier’ in terms of criminality risk at the Casino is likely to be from premium players with whom special arrangements are made.

81 There were no probity requirements for premium players ahead of clause 2.5.1 of the 2015 ICS becoming operative (clause 2.5.1 covers premium players as well as junket operators and players). However, we understand from Ms Fielding that similar probity checks were undertaken by Crown for premium players on the Dow Jones system as for junket operators as discussed above.

²³² Ibid, p 18

82 It appeared to be uncontroversial that premium player arrangements also require a high level of probity consistent with junket operations. From a regulatory perspective, this must extend well beyond their credit status. A VCGLR employee from the Investigation Unit, Compliance Unit considered that there needs to be a ‘suitability test around premium players’.²³³ Mr Ockwell also indicated that given premium players were domiciled generally in Australia, part of proper probity arrangements could readily be done by Crown undertaking police checks through the different Australian states and territories.²³⁴ In our view, consideration should be given to whether 2020 ICS ought to include a prescriptive minimum requirement about premium players having to undergo police checks as a minimum requirement. Crown could seek each premium players’ explicit consent for this to be undertaken.

8.5 What information is available to the VCGLR when assessing the casino operator’s probity or due diligence of junket operation and premium player arrangements?

83 One issue that arose in the course of our interviews that we consider important to note is the lack of law enforcement information that may be available to the VCGLR in assisting it to undertake its compliance auditing and regulation of junket operations and premium players. As such, we considered it appropriate to address these concerns.

84 Mr Ockwell indicated to us that the lack of law enforcement information available to the VCGLR (which he termed ‘the biggest issue of all’) is ‘the fractured legislative environment that exists between Commonwealth and State-based regulators and agencies, the fragmented records through relationships between Commonwealth and State-based law enforcement agencies and regulators and the fact that the various secrecy provisions across federal and state legislative environments that precludes regulating agencies and federal authorities are actually working together’.²³⁵

85 Mr Ockwell accepted that for the casino operator there is an incentive to bring as many premium players and junket operators as possible to the casino and that ‘this means there’s a need for VCGLR to be vigorous in satisfying itself that all the process are being effectively pursued. ... I assume they’re doing a whole host of background

²³³ VCGLR employee from the Investigation Unit, Compliance Unit, transcript of interview, p 9.

²³⁴ Adam Ockwell, transcript of first interview, p 18.

²³⁵ Ibid, p 13.

checking, that's international checking as well. ... we would expect that they'd be doing background checks of individuals both domestically and internationally: open source searches [via Google], criminal history checking'.²³⁶ He expressed the view that criminal checks are fundamental in deciding whether junket operators are 'fit and proper' but did not believe that such checks were formally required.²³⁷ Another consideration is that junket operators are generally internationally based and the players within junkets are international players. The consequence of this is that police checks throughout Victoria and Australia would be unlikely to be of assistance in assessing any criminal links of these persons internationally. This is why, in Mr Ockwell's view, assistance from federal agencies is 'crucial' in assessing junkets.²³⁸

86 This is further exemplified by information that we have been provided upon preliminary historical searches being undertaken by the VCGLR that for a time between 2014-2015, the VCGLR's practice was to liaise with Victoria Police in relation to each new application by Crown for a junket operation. It appears that this may have ceased at the request of Victoria Police because it could not provide information on foreign nationals involved in junkets. Inspector D told us that in his view, an international police check is vital when a junket operator is from overseas.²³⁹

87 Inspector D similarly expressed frustration that as a result of criminalising provisions such as s129 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) it precluded disclosure of information obtained by AUSTRAC to the VCGLR. He indicated that the VCGLR tends not to be told when persons in the Casino environment are believed to have engaged in money-laundering conduct.²⁴⁰ Ms Myers also noted her concerns that in the past she felt that Crown had hidden behind the provisions precluding 'tip-offs' – preventing sharing of information about matters such as suspected money laundering.²⁴¹ A VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR emphasised that this is not a deficit that the Intelligence Unit of the VCGLR can remedy.²⁴²

²³⁶ Adam Ockwell, transcript of first interview, p 12.

²³⁷ Ibid, 13.

²³⁸ Ibid, 15.

²³⁹ Inspector D, transcript of interview, p 14.

²⁴⁰ Ibid, p 15.

²⁴¹ Catherine Myers, transcript of second interview, 5.

²⁴² VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR, transcript of interview, 16.

88 Mr Ockwell stated that in his view the regulator ‘should have the powers to be able to make all those requisite enquiries in regard to the individual evidencing the fact that those funds are legitimate funds’²⁴³ whether it be through ‘AUSTRAC or via the ACIC or Victoria Police’.²⁴⁴ Mr Ockwell shared his concern about the information available to the VCGLR from law enforcement agencies. He indicated that currently ‘AUSTRAC are not legislatively able to provide us with information’.²⁴⁵ However, he said that work was being done in respect of that issue with AUSTRAC and with other law enforcement agencies through the establishment of various information-sharing memoranda of understanding.

8.6 Probity audits of junket operations and premium players

89 While any suspicious activity seen at Crown by the VCGLR inspectors would have been likely to have made its way into an Information Report and been provided to the VCGLR Intelligence Unit for dissemination to relevant law enforcement agencies, we hold doubts about the adequacy of any systematic detailed probity audits undertaken by the VCGLR in relation to junket operators, junket participants or premium players, currently or in the past. This is because it does not appear to us that the VCGLR has the intelligence facilities available to it or the resources to undertake detailed audits over the probity checks conducted by Crown or entities to which it delegates such functions (emphasising that legislatively the onus falls on Crown to approve junket and premium players, not the VCGLR). The VCGLR’s task is thus limited to reviewing whether the documentation generated by the casino operator, or on its behalf, addresses various criteria in the relevant ICS. It is in a real sense a ‘paper review’. As a VCGLR employee from the Investigation Unit stated to us in his interview, ‘I think sometimes we get the definitions wrong. We call it an audit when it’s really just going off a checklist, it’s not necessarily a full audit’.²⁴⁶ We consider this observation to be apt and consistent with our view that there does appear to be a distinction between the ‘routine regulatory checks’ (which we do not consider to be true ‘audits’) being done as opposed to ‘audits’ which imply that a more detailed and critical review is being or at least can be undertaken. It is this second type of more

²⁴³ Adam Ockwell, transcript of first interview, 27.

²⁴⁴ Ibid, 15.

²⁴⁵ Ibid.

²⁴⁶ VCGLR employee from the Investigation Unit, Compliance Unit, transcript of interview, p 9.

detailed audit that are likely to have been lacking on a frequent basis by the VCGLR in relation to junkets and to premium players given the limitations in the 2011 and 2015 ICSs and consequently the 2011 and 2017 audit compliance checklist tools.

90 As such, we consider the comment made to us by Inspector E, that ‘junket operators weren’t being probity checked by the Commission’ has some merit, as does his comment that the casino audits designed by the VCGLR were ‘a lot of flick and tick type audits and you just went through the process, is this document on there, is this document on there, so you weren’t really going into the purpose of what the document was other than it needed to be on [the file]’.²⁴⁷ This is also consistent with what Inspector C stated to us where he indicated ‘we couldn’t do proper background checks’.²⁴⁸

91 In our strong view, the only prospect for an effective system in relation to junkets and premium players is where the criteria imposed on the casino operator by the ICSs are extremely rigorous and are assiduously reviewed and enforced by an auditing process that is clear and demanding.

92 In our view, this did not take place until December 2015 when clause 2.5.1 was inserted into the junket and premium players ICS. The deficit until that time constituted a serious deficit in an area which foreseeably was likely to be the subject of light touch focus by a commercial entity whose primary focus was foreseeably on profit maximisation, and where there was a substantial risk of involvement by organised crime entities and terrorist organisations.

93 When, belatedly, an ICS containing a probity requirement was imposed in 2015, it still contained significant limitations which did not enable a detailed audit checklist tool to be developed for the VCGLR inspectors to evaluate effectively, by means of their audits, whether the probity checks done by Crown, mostly through sub-contracted entities, such as Dow Jones, Wealth X and C6, were sufficient to assure that undesirable operators, junket players and premium players were not being permitted involvement with Crown. Unfortunately, we consider that the 2015 ICS, although an improvement on what preceded it, was suboptimal. It was diffuse and

²⁴⁷ Inspector E, transcript of interview, pp 13-14.

²⁴⁸ Inspector C, transcript of interview, p 53.

aspirational and it lacked detail around clause 2.5.1. We consider that the 2015 ICS did not provide clarity and sufficient reference points by which VCGLR inspectors in their audits should have been enabled to evaluate in an effective ongoing way the quality of Crown's compliance with clause 2.5.1.

94 However, in reaching that conclusion, we acknowledge the following matters that support the VCGLR's regulatory activities in relation to junket operations in the past:

- 94.1 There are examples of the VCGLR having undertaken appropriate regulatory activity in relation to problematic junket operators prior to the 2015 ICS;
- 94.2 the 2015 ICS was utilised in bringing the 2021 Disciplinary Action (and the other two disciplinary actions which resulted in fines being imposed on Crown on 6 December 2017 and 7 May 2019 (see paragraph 67 above));
- 94.3 ICSs are not the only regulatory tool available to the VCGLR in supervising Crown's activities. The VCGLR has further powers under the CC Act, for example, excluding persons under s 72 of the CC Act or undertaking disciplinary action under s 20 of the CC Act (including a 'show cause' process); and
- 94.4 information provided to us that upon the VCGLR seeking further information about a person of concern being involved in a junket operation, Crown on its own accord, after queries being made by the VCGLR, would from time to time take action to terminate a junket, exclude a person or withdraw a person's licence to Crown premises.²⁴⁹ Such conduct by Crown has obviated the need for the VCGLR to undertake further regulatory action under the relevant ICS or CC Act.

95 The 2020 ICS and, correspondingly, the 2020 audit checklist tool are significant improvements. However, the importation of phrases such as 'due diligence', 'general reputation', 'source of funds' and so on, leaves the requirements for the casino operator undesirably diffuse. In addition, the requirement is no more than that Crown 'consider' key matters such as 'source of funds', rather than that they are obliged to

²⁴⁹ Scott May, transcript of second interview, p 3.

inquire into such matters, still less that they make such inquiries in any particular way, and satisfy themselves as to probity.²⁵⁰

- 96 In relation to premium players, the new ICS also requires various forms of minimum information to be sought and retained by Crown (including identification and other details) and requires Crown to reassess active premium players for ‘ongoing suitability and eligibility’. Suitability includes Crown assessing a premium player’s financial stability and general reputation (having regard to character, honesty and integrity).²⁵¹ This too is an improvement on the 2015 ICS in relation to probity requirements for premium players.
- 97 However, in our view, there still remains a question under the 2020 ICS, precisely what should constitute Crown’s exercise of due diligence (including in relation to premium players) in any given scenario and an undesirable measure of uncertainty about how the regulator should audit against the 2020 ICS.
- 98 We make these observations, accepting that there are limitations to the sufficiency of inquiries that can be required of a casino operator or made by a regulator into the suitability of a junket operator, junket player or premium player. However, it is unacceptable if there is a disjunction between what is expected and what is delivered by way of probity assessment or in the appearance of meaningful regulatory oversight by a casino operator when in fact this is a simulacrum.
- 99 It was troubling that when various of these matters were raised with Ms Fielding of Crown she emphasised the efficacy of the checks done by World Check and Dow Jones in relation to operators’ and premium players’ creditworthiness. However, of course, while this may reassure the casino operator that they are unlikely to make a financial loss, it does not address the probity issue which is the potential risk at a broader level that is posed by the involvement of junket operators and players, as well as premium players. As the Bergin Report has established authoritatively, junket operations carry an unacceptable level of risk for involvement by organised crime and terrorist personnel and organisations. Ultimately, we find that the quality of the 2011

²⁵⁰ We were provided with correspondence from VCGLR to Crown that purports to expand on the meaning about terms such as ‘source of wealth’, in the 2020 ICS. However, if this is to constitute a requirement, it ought to be included in an ICS.

²⁵¹ Ibid.

and 2015 ICCs of junkets and premium players was inadequate until the belated provision of the December 2020 ICS.

100 While the 2020 ICS constitutes a significant regulatory improvement (after the conclusion of junkets), we concur with the recommendation of the Bergin Report that the risks attaching to organised crime and terrorist involvement in junkets are such that they should not be permitted to resume. We agree with the Bergin Report recommendation that junket operations should be precluded by statutory proscription.

101 For the present there is the potential for arrangements to some degree comparable to those that existed during the ‘junket era’ to be negotiated directly or indirectly with high rollers, euphemistically termed ‘premium player’. If junkets are, one way or another, stopped, we consider that the risk will shift to premium players with whom there is the potential for problematic arrangements to be negotiated by the casino operator.²⁵² Ms Fitzpatrick’s view was that it is ‘really difficult to expect a regulator to assess all premium players because the list is endless’.²⁵³

102 Accordingly, we conclude that aspects of the matters raised by the former inspectors about junkets during the Four Corners programme are substantiated.

103 As we have found in other contexts, it is not correct that the VCGLR repeatedly gave Crown Casino ‘what it wanted’ in relation to junket operations or that the taxes the Casino pays to the State government had any bearing in respect of the proper regulation of junket operations. However, in important respects, especially until the most recent, but belated, 2020 ICS on the subject, the VCGLR did not require of Crown what was required to ensure an effective integrity process in respect of junket operators, junket participants and premium players.

104 It may be unnecessary for junket audits to be reconsidered by the regulator if junket operations continue not to take place in Victoria as a result of the 2021 Disciplinary Action letter of censure (including the direction by the VCGLR for junkets to cease at the Casino) or by statutory preclusion. We anticipate that there will be a review of the Casino audits in time given the new junket and premium players ICS that has become operative in 2021 and through the establishment of the new VGCC entity. However,

²⁵² Alexandra Fitzpatrick, transcript of interview, p 4.

²⁵³ Ibid.

we recommend that consideration be given to two types of audits being undertaken at the Casino – one, a more routine checklist-type audit, and the other, a ‘deeper dive’ audit of high risk matters such as premium players and junkets. Use of the Investigation Unit for such audits may be appropriate.

8.7 Did the VCGLR force Crown Casino to cease a relationship with one of its players or junket operators only once?

105 Term of Reference 10 requires us to investigate whether:

The VCGLR has only used the power to force Crown Casino to cease a relationship with one of its players or junket operators (high rollers brought into a casino by third party agents) once, despite a series of connections that have been identified between junket operators and alleged organised crime syndicates (or those linked to such syndicates).

106 The power for the VCGLR to cease a relationship with a player or an operator has two sources. The first is the same as that which can be exercised by the casino operator. It arises under s 72 of the CC Act which provides an unguided discretion for exclusion:

The Commission or a casino operator or the person for the time being in charge of a casino, may, by order given to a person orally or in writing, prohibit the person from entering or remaining in the casino

107 The s 72 power is confined to a person entering or remaining “in the casino”. In addition, exercise of the s 72 exclusion power is subject to an appeal process (to the VCGLR) under s 73.

108 Another option is cessation of a relationship pursuant to relevant clauses in an ICS. For instance, under paragraph 2.5.2 of the 2015 ICS it was provided that ‘Crown will cease its relationship with a registered Junket Operator (or agent) or a person introducing players if formally requested to do so by the VCGLR’.

109 Similarly, clause 7(b) of the 2020 ICS provides that when ‘formally requested by the Commission to do so’, ‘Crown will cease entirely its relationship with any person who is a registered junket operator, a junket representative, a program participant or an introducer’.

110 We were told that by Mr Ockwell, Mr May and Ms Fielding that it is correct that the VCGLR has only once used its power to force Crown Casino to cease a relationship with a Casino patron. As reported in the Four Corners episode, this was in relation to Richard Yong.²⁵⁴ However, Ms Fielding told us that when the VCGLR sent the Casino an order to cease dealing with Mr Yong, he was ‘not really operating as a junket operator at that time and had not been for some time’. Instead, Mr Yong ‘was coming in as a premium player at that time’.²⁵⁵ This was in approximately 2017.

111 The Casino Operations Manager indicated that he took carriage of the Yong matter after it was referred to him by the Investigation Unit in the Compliance Division which had received information about Mr Yong. He stated that Mr Yong was a junket operator and that, after an investigation conducted by the VCGLR, the regulator wrote to Crown requiring it to cease the relationship with Mr Yong. We understand this is the only occasion where the VCGLR required Crown to cease such a relationship.

112 However, the more significant question is whether it is sinister that this power has only been utilised once. Exclusion orders, another form of cessation of access for a patron, can be issued by:

- the casino operator, including at the request of patrons themselves (called a ‘self-excluded patron’);
- the VCGLR; and
- the Chief Commissioner of Victoria Police.

113 The total number of exclusion orders issued by Crown in 2018 was 403 and in 2019 was 756. The overwhelming percentage of these were at the request of the patrons themselves. The number of these which were non-voluntary was 37 in 2018 and 13 in 2019.

114 The Chief Commissioner of Victoria Police issued 46 exclusion orders in 2018 and 61 in 2019.

²⁵⁴ Adam Ockwell, transcript of third interview, p 9; Scott May, transcript of second interview, p 3; and Michelle Fielding, interview of second interview, p 3.

²⁵⁵ Ibid, p 9.

- 115 In addition, Mr May informed us that there have been occasions when notices have been given in writing to Crown Casino to provide information (under s 26 of the CC Act), and the response of Crown has been, of their own accord, to exclude a patron related to the VCGLR investigation.²⁵⁶
- 116 Another scenario in which an exclusion takes place by Crown is, the withdrawal of the common law licence for an individual to enter the premises over which Crown has control. This may extend to the restaurants, and the shops ancillary to the Casino, as well as the Casino itself.
- 117 It is apparent, then, that while the VCGLR has only exercised its power to compel Crown to cease its relationship with a patron on one occasion, this needs to be evaluated within the context of the various scenarios in which a patron can be excluded – by the casino operator, by the VCGLR or at the request of the patron. In addition, from time to time, on the basis of information that has come into his possession, the Chief Commissioner of Victoria Police has the ability to exclude a patron from Crown. Given these mechanisms, the s 72 option for the VCGLR to require the casino operator to conclude its relationship is only likely to be exercised rarely. Therefore, the fact that it has only been exercised on one occasion is neither a legitimate reason for criticism nor concern.

²⁵⁶ Scott May, transcript of second interview, p 3.

CHAPTER NINE

INVESTIGATION OF CRIMINAL CONDUCT

- 1 Two issues are raised by the Terms of Reference in relation to issues about alleged criminal conduct at the Casino:
1. VCGLR management instructed inspectors at Crown Casino that it was not their responsibility to act on criminal activity discovered at the Casino, including, but not limited to:
 - a. loan sharking in the gaming pit; and
 - b. drug deals in the casino.
 12. Inspectors were actively blocked from looking at money laundering at Crown Casino by management, including senior management, at the VCGLR.

9.1 Criminal activity, or suspected criminal activity at Crown

- 2 Inspectors informed us that they had seen many instances of suspicious criminal activity at the Casino. For example, Inspector D recounted an incident he observed of a person making a \$600,000 buy-in in cash, which he considered was a suspicious incident.²⁵⁷ We also discuss later in this report, the incident in relation to a large amount of cash contained in a blue insulated cooler bag being provided to the cage at the Casino (see Chapter 10).
- 3 Other types of suspected criminal behaviour we were told about have occurred when a person attends Crown with a large sum of money and then plays only a few rounds of a game and then seeks to ‘cash out’ their money (we were provided with other examples of suspicious activity in the same vein as this, but are refraining from including them in our report so as not to disclose methodologies used by the VCGLR and Crown in their observations of suspicious activity at Crown). We were told that there were ‘various indicators’ in the way that people might gamble that could suggest they are engaging in money laundering.²⁵⁸
- 4 Inspector E also told us that in respect of any criminal activities on the gaming floor, that the Casino was ‘pretty much onto it’. He used the examples of people begging for

²⁵⁷ Inspector D, transcript of interview, pp 27-28.

²⁵⁸ Ibid, p 38.

money, assaults and drug deals and indicated that Crown would attend to these sorts of criminal activity because ‘they didn’t want it in their venues’.²⁵⁹ Inspector E told us that if he observed any such criminal behaviour, ‘it was just a matter of notifying Crown’.²⁶⁰ To that end, we understand that Crown invests significantly in security staff and surveillance equipment.

9.2 The VCGLR’s process in relation to reporting criminal activity or suspected criminal activity

- 5 We were told that the protocol when observations were made at the Casino that required reporting, including any criminal conduct or suspected criminal conduct, is for an inspector to fill out an Information Report which is recorded on the LaGiS computer system and then emailed to the Intelligence Unit that sits within the Compliance Division.²⁶¹ In the Information Report, an inspector is able to make a recommendation to the Intelligence Unit about whether the information contained in the report ought to be disseminated internally and externally to law enforcement agencies (for example, Victoria Police or AUSTRAC).²⁶² Mr Ockwell told us that Information Reports are ‘universal reports that go out to agencies’ and have ‘designated classifications’.²⁶³
- 6 Inspector D told us that after an Information Report is given to the Intelligence Unit, the inspector’s role ‘sort of ended there’ because ‘we’ve done our job’ and there may or may not be ‘a referral to AUSTRAC or Victoria Police’. Inspector D believed it was then the Intelligence Unit’s decision about entities to which the information should be sent.²⁶⁴
- 7 Mr Ockwell advised us that prior to the COVID-19 pandemic, he had allocated an analyst to be at the Casino once a fortnight to collate all the Information Reports and data obtained from the Casino (with a particular focus on junkets).²⁶⁵ We have been

²⁵⁹ Inspector E, transcript of interview, p 28.

²⁶⁰ Inspector D, transcript of interview, p 32

²⁶¹ Ibid.

²⁶² Ibid, p 33.

²⁶³ Adam Ockwell, transcript of first interview, p 31.

²⁶⁴ Ibid.

²⁶⁵ Adam Ockwell, transcript of second interview, p 9.

informed too that a fulltime analyst has latterly been employed on a fulltime basis to assist with collating and analysing intelligence gathered by the VCGLR Casino Team.

8 We understand the Intelligence Unit was initially created in or about 2015 but had some ‘false starts’ and did not become fully operational at this time.²⁶⁶ The Intelligence Unit is now fully operational, although it no longer has as many staff as it did. A VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR advised us that the main roles of the of the Intelligence Unit are to assist in providing information to other arms of the VCGLR (for example, it might provide charts, retrieve information conduct history checks for an investigation) and to share intelligence arising from Information Reports provided by inspectors to relevant law enforcement agencies, the main agencies being Victoria Police and AUSTRAC.²⁶⁷ As part of that referral process, the Intelligence Unit also reviews its own holdings to determine whether it holds other relevant information or ‘hits’ about the intelligence such that they should refer their holdings to the appropriate law enforcement agency.²⁶⁸

9 The VCGLR also has a ‘Tasking Coordination Committee’ that is run through the Intelligence Unit on a fortnightly basis and is attended by managers and team leaders in the Compliance Division and chaired by the Deputy Director of the Compliance Division. The purpose of this committee is to ‘identify operations, significant investigations or matters of interest that we would bring to the Division and the allocate them out to particular areas to consider and take action on in that regard’.²⁶⁹ This committee provides an opportunity for a review and assessment by the committee of what information should be referred to the Investigation Unit in the Compliance Division for further investigation, whether the Casino Team might need to gather more information or evidence, or to make a decision about the adequacy of evidence currently available.²⁷⁰

²⁶⁶ Catherine Myers, transcript of first interview, p 12.

²⁶⁷ VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR, transcript of interview, pp 13-14.

²⁶⁸ Ibid, p 15.

²⁶⁹ Adam Ockwell, transcript of second interview, pp 1-2.

²⁷⁰ Ibid, 2.

- 10 The Investigation Unit was described by Mr Ockwell as ‘slightly disparate’ because of its current operating environment and that it is his intention to ensure that it is given ‘more clearly defined responsibilities and roles’. Mr Ockwell told us that the work of the Investigation Team arises predominantly from the Tasking Coordination Committee but can be through the self-generation of a matter, where for example, a number of Information Reports are identified about an issue or matter.²⁷¹ We interviewed a VCGLR employee from the Investigation Unit, Compliance Unit who had extensive investigative involvement in matters investigated by the Royal Commission (such as the Crown China investigation) and the 2021 Disciplinary Action. They also told us that his team had also undertaken various investigations outside of the Casino context, identifying an investigation into the bingo industry as an example.²⁷²
- 11 Finally, we were also advised that in more recent times the VCGLR had entered into memoranda of understanding with various law enforcement agencies. This is an initiative that is intended to assist the flow of information between Commonwealth and State-based law enforcement agencies and regulators. Mr Ockwell advised us that information sharing and re-engagement with law enforcement agencies has been a ‘major focus of mine’, as has been ‘establishing relationships with them to a degree where we can actually have that more meaningful conversation and attempt to get that information exchanged’.²⁷³ Mr Ockwell pointed out that having access to law enforcement information would also assist the VCGLR to undertake probity checks in relation to, for example, individuals associated with junkets so they could begin to ‘independently validate’ these persons with the benefit of law enforcement data.²⁷⁴

9.3 Analysis in relation to issues of criminal conduct at the Casino

- 12 We commence by emphasising that the VCGLR is not a law enforcement agency and has no legislative power to investigate money laundering (or other criminal matters). As such, the role the VCGLR has in relation to any observed or suspected criminal conduct is to identify, record and refer information to law enforcement agencies.

²⁷¹ Adam Ockwell, transcript of first interview, pp 33 and 38.

²⁷² VCGLR employee from the Investigation Unit, Compliance Unit, transcript of interview, p 2.

²⁷³ Adam Ockwell, transcript of first interview, p 17.

²⁷⁴ Ibid, p 18.

- 13 Secondly, insofar as our Terms of Reference relate to the concept of ‘loan sharking’ we note that loan sharking, in and of itself, is not a criminal offence. It involves extension of loans in circumstances or on terms that may be predatory or exploitative²⁷⁵. However, various forms of conduct around the act of loan sharking can amount to criminal conduct (for example, assaults, blackmail or other fraudulent activity).
- 14 Numerous interviews emphasised that loan sharking is difficult to identify because people do give each other money or lend each other money at the Casino without there being any criminality or reason for concern about it. Ms Fielding indicated to us that overall loan sharking was ‘actually not a common thing’ and that when Crown has concerns about money lending, the persons involved are banned - the person who lent the money and the person who borrowed the money. Ms Fielding indicated to us that there has been a handful of persons (perhaps three to five in any given year) who are banned from the Casino based on issues of money lending that could be described as loan sharking.²⁷⁶ This is consistent with Inspector J’s recollections. He recalled that Crown had ‘actually excluded patrons for loan sharking’.²⁷⁷ However, ultimately, if the VCGLR were to witness any conduct that appeared to fall into the definition of loan sharking, the same process would apply as identified above – it would be recorded in an Information Report and disseminated to the Intelligence Unit.
- 15 There are two general issues that arise in relation to the issue of suspected criminal activity at the Casino:
- What the VCGLR's role and ambit is as a regulator in relation to identified criminal conduct, or suspected criminal conduct; and
 - The fact that the processes around investigation and engagement with law enforcement agencies is now more centralised.

²⁷⁵ See J Saunders, “Loan Sharking: Changing Patterns in, and Challenging Perceptions of, an Abuse of Deprivation” (2021) 43(1) *Journal of Public Health* 362.

²⁷⁶ Michelle Fielding, transcript of first interview, p 10.

²⁷⁷ Inspector J, transcript of interview, p 21.

16 In this respect we found some debate around what the VCGLR's appropriate role as a regulator is in relation to issues of criminal activity, or suspected criminal activity, in the domains over which it regulates.

9.3.1 VCGLR's involvement with criminal matters

17 It was apparent from our interviews with current and former inspectors that 'merely' recording intelligence and disseminating it to law enforcement agencies and not playing an active role in investigations, was chafed against by some, who identified that such conduct may go to the fitness of a casino operator to hold its licence, and may relate to one of the purposes of the CC Act, namely to ensure that the management and operation of casinos remains free from criminal influence or exploitation (s1(a)(i)), particularly in circumstances where former gambling regulators historically may have had a more active role in the prosecution of offences.

18 Ms Myers recounted that prior to the establishment of the Intelligence Unit, individual inspectors were relied upon to send information to a contact at a law enforcement agency, which was recorded as an information referral.²⁷⁸ Mr Ockwell indicated his understanding that prior to 2016, investigations were 'more ad hoc'.²⁷⁹ However, his vision for the Compliance Division is one where there are clear roles and responsibilities with clearly defined responsibilities for auditors, investigators, a complaints team and so on. He considered there to be a level of confusion that came from people being given a general title of 'inspector'. He also considered it appropriate that there be a dedicated Investigations Team (including a specialist investigative resource for the Casino) that is centralised.²⁸⁰

19 A VCGLR employee from the Investigation Unit, Compliance Unit also indicated that in his view it is appropriate for more complex and sensitive investigations (he used junket probity as an example) to go to the Investigations Team for detailed investigation rather than being left for the Casino team to manage.²⁸¹ In his view, investigations are 'a particular skill' and that a set of 'fresh eyes' outside of the

²⁷⁸ Catherine Myers, transcript of first interview, p 26.

²⁷⁹ Adam Ockwell, transcript of first interview, p 29.

²⁸⁰ Ibid.

²⁸¹ VCGLR employee from the Investigation Unit, Compliance Unit, transcript of interview, p 4.

Casino team would be beneficial in undertaking broader investigations of Casino-related matters.²⁸²

- 20 Inspector E expressed a similar view, indicating that historically inspectors were closely involved in the investigation and prosecution of various matters. He indicated that he would investigate a matter and hand his report up to management or to his team leader. He would then review the file and, if he was happy with it, he would send it up to the next level. Sometimes an inspector would ‘submit a full brief of evidence...that would be passed up the chain’. Inspector E stated that this had changed and that he never got to see if a file ‘goes to court any more’.²⁸³
- 21 Based on this information, it seemed to us that the comments made in the Four Corners programme about the VCGLR’s alleged lack of activity in relation to criminal conduct may have been somewhat underpinned by the inspectors’ preference towards the inspector role being a more ‘hands-on’ role which incorporates intelligence/investigation activities. This may have been the practice of former gambling regulators. However, there have been appropriate shifts in regulatory approaches which require clear delineation of roles. It is appropriate that the VCGLR has centralised intelligence and investigative functions, albeit that it has retained flexibility so as to enable individual inspectors to continue inquiries in an investigative role, where appropriate and where authorised.

8.3.2 The role of a regulator in relation to criminal conduct

- 22 The limits and demarcations of the role of a regulator vis-à-vis a law enforcement agency are not a matter for us to comment on and fall outside our Terms of Reference. However, we consider that the various opinions people hold about what should be the role of the regulator in relation to suspected criminal activity, highlight an aspect of role confusion that was exemplified by comments made by the former inspectors during the Four Corners programme.
- 23 As we have already indicated, the VCGLR is a regulator and not a law enforcement agency. It has no statutory power to investigate crimes and enforce the criminal law.

²⁸² Ibid, p 5.

²⁸³ Inspector E, transcript of interview, p 28.

As such, the process that the VCGLR undertakes – one of the reporting and dissemination of relevant intelligence to law enforcement agencies, is appropriate. We consider this functionality will be better developed by increasing information-sharing mechanisms in memoranda of understanding, including the VCGLR being enabled to use information from law enforcement agencies in order to discharge its regulatory functions. However, it may be that this will require more extensive and different forms of staffing (for example, the hiring of further analysts). It would be constructive for there to be further investment in the capabilities of the Intelligence and Investigation Units once increased information-sharing is underway.

- 24 Mr Ockwell provided us an example where he indicated that one issue that he considered to be ‘perpetuated in the media’ was in relation to VCGLR’s role in detecting money laundering. He told us that the VCGLR is not empowered to investigate money laundering or ‘execute that function at all, because we are just able to get the information’ and ultimately its role is to ‘identify and refer things’.²⁸⁴
- 25 However, Mr Ockwell’s preference would be for the regulator to be empowered to meaningfully ‘engage with law enforcement agencies and federal agencies [and not be] prohibited [to do so], through legislative provisions’.²⁸⁵ He stated that his preference would be to see the regulator ‘empowered to be able to take appropriate action against the licensee and I would see that appropriate action would be the prosecution of criminal offences involving money laundering offences and proceeds of crime both foreign and domestic’.²⁸⁶ Essentially, Mr Ockwell’s suggestion would require legislative amendment to confer law enforcement powers onto the regulator. We make no comment on the appropriateness or feasibility of this. Ultimately, the role of the regulator and whether it ought to have a law enforcement function is a matter for government and would require close legal and policy review. However, Ms Myers informed us that there are gambling regulators who hold such a law enforcement function. She cited the example of the United Kingdom Gambling

²⁸⁴ Ibid, p 11.

²⁸⁵ Adam Ockwell, transcript of second interview, p 18.

²⁸⁶ Adam Ockwell, transcript of first interview, p 19.

Commission which is responsible for money laundering investigations as well as being the gaming regulator.²⁸⁷

- 26 We also observe that Crown has extensive security staff and surveillance equipment. It is likely to report problematic behaviour, such as drug deals or prostitution, to police given its interest in not having such behaviour taking place on gaming floor. In respect of money laundering, we note that Crown has obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) to report ‘suspicious matter reports’, report transactions of \$10,000 or more, and undertake due diligence in relation to its customers. While there clearly have been limitations to Crown’s exercise of due diligence in respect of junket operations, we consider it likely henceforth that there will be a high level of motivation to be and be seen to be compliant with such obligations for any casino operator in the aftermath of the reports of the Bergin Inquiry and the Royal Commission.
- 27 We found no evidence that VCGLR management instructed inspectors at the Casino not to act on criminal activity or that the inspectors were ‘blocked’ from looking at money laundering in Crown. As such, we do not find the allegations in these Terms of Reference substantiated.

9.4 The deficit in the ‘feedback loop’

- 28 A general matter we identified was that inspectors were not aware where their information went after they completed Information Reports and provided them to the Intelligence Division. We describe this as ‘a deficit in the feedback loop’.
- 29 Inspector D told us, for instance, that the information that inspectors provide (as an example, if an observation is made of suspected criminal behaviour over the security cameras), ‘goes to Intel and we get no feedback...’, and I understand it’s their prerogative if it’s forwarded on.’ Inspector D told us that he had ‘never got any feedback’ and assumed ‘incorrectly or otherwise, that information was going to AUSTRAC, VicPol’. However, he also understood that it was unlikely that, for example, a ‘VicPol organised crime unit’ would provide feedback and considered that to be ‘highly appropriate’.²⁸⁸ However, Inspector D contended that in circumstances

²⁸⁷ Catherine Myers, transcript of second interview, p 7.

²⁸⁸ Inspector D, transcript of interview, p 30.

where no feedback or encouragement is provided to inspectors, the incentive to be energetic in observations on the Casino floor, and the recording of these observations, can be eroded.²⁸⁹ In Inspector D's view 'had there been more positive feedback,... that was seen even by other inspectors, there may have been more effort or once you get a little bit of recognition'.²⁹⁰

30 A VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR advised us that 'very rarely' would the Intelligence Unit be contacted by a law enforcement agency about a referral of information.²⁹¹ She agreed that for inspectors to receive feedback about the information they had referred on to law enforcement agencies and the work that they had done to enable this (via the Intelligence Unit) would be constructive because it would give inspectors 'closure at their end of it' and that the matter would come 'full circle' because they 'know what the outcome was'.²⁹²

31 We recommend that a process is established whereby the Intelligence Unit provides feedback to inspectors who have provided an Information Report about suspicious activity confirming whether the intelligence in their Information Report has been passed on to a law enforcement agency, and to which enforcement agency, and, if not, why not. In addition, when the Intelligence Unit becomes aware of an outcome from a referral to an external agency, this too should be provided to the relevant inspector, their Team Manager and the Casino Manager. Such an initiative would be inclusive and morale-building for inspectors and is likely to provide addition motivation to inspectors to report any suspicious activity they observe at the Casino.

²⁸⁹ Ibid, p 31.

²⁹⁰ Ibid.

²⁹¹ VCGLR employee from the Intelligence Unit, Compliance Division, VCGLR transcript of interview, p 14.

²⁹² Ibid, p 18.

CHAPTER TEN

THE BLUE COOLER BAG INCIDENT

- 1 Term of Reference 11 requires us to make findings about the following allegation arising from the relevant Four Corners episode:

An inspector identified potential money laundering in the Suncity Room of Crown Casino, involving junket representative Chenkang Pan who was allegedly handing out money from and a cooler bag full of cash on or about 5 May 2017, and it was not acted upon by the VCGLR.

- 2 The Four Corners episode depicted footage from the Suncity junket salon where a male now known to be Mr Chenkang Pan was seen carrying a blue insulated cooler bag containing large amounts of cash. This incident was reported on the Four Corners programme as having occurred on 5 May 2017. However, it appears to us from a review of the relevant VCGLR information report, that this date is incorrect and that the incident actually occurred on 10 May 2017. As reported in the Four Corners episode, the ‘Blue Bag Incident’ was subject to examination in the Bergin Inquiry as part of that inquiry’s review of money laundering issues at Chapter 3 of the final report.²⁹³

- 3 Before we commence our review of the ‘Blue Bag Incident’ we make the following finding: based on the interviews we conducted with current and former VCGLR staff (including current and former inspectors) and our review of contemporaneous VCGLR material in relation to the incident, none of the five inspectors who were interviewed on the Four Corners episode had any direct involvement in relation to the ‘Blue Bag Incident’. As will be explored in detail below, it was another inspector at the VCGLR who observed the incident while undertaking surveillance activities during his shift. This inspector continued to have carriage of the investigation arising from his observations, including by drafting the relevant information reports, conducting ongoing surveillance of Mr Pan at the Casino from June 2017 to May 2018, and having interactions with Victoria Police about the incident. Based on these

²⁹³ P Bergin, *Inquiry under Section 143 of the Casino Control Act 1992* (NSW) (1 February 2021) <<https://www.parliament.nsw.gov.au/tp/files/79129/Volume%201%20-%20Inquiry%20under%20section%20143%20of%20the%20Casino%20Control%20Act%201992.pdf>> (Bergin 2021).

facts, other than a general awareness of the ‘Blue Bag Incident’, this matter does not appear to us to be in the direct knowledge of the five former VCGLR inspectors interviewed on the Four Corners program. We consider the inspector who had carriage of the Blue Bag investigation should be commended for his work.

10.1 Factual background in relation to the ‘Blue Bag Incident’

4 We have been provided with contemporaneous material (in the form of numerous VCGLR information reports) in relation to the ‘Blue Bag Incident’ and have held interviews with persons currently at the VCGLR who have knowledge of it.

5 While we are aware that the Incident has been the subject of public evidence in the Bergin Inquiry, there remains the potential for criminal prosecution from what was observed on 10 May 2017. As such, we have elected to provide only a high-level background in relation to the facts and circumstances of the Incident.

6 With this proviso, the relevant background in respect of the incident is as follows:

6.1 On 10 May 2017, a VCGLR inspector was undertaking general surveillance duties while working on a shift at the Casino. By general surveillance duties, we mean the VCGLR inspector was reviewing various security cameras throughout the Casino, including the Suncity room, which is considered a high-risk room for unsuitable activity, including possible criminal conduct. The Suncity room is a ‘VIP junket salon’.²⁹⁴

6.2 By chance, the VCGLR inspector observed a male of Asian descent carry a blue insulated cooler bag to the counter of the cage area in the Suncity room and remove large numbers of \$50 and \$100 notes in various bundled sizes. The VCGLR inspector video-recorded the counting of the notes and was able to calculate the total of the money in the blue bag.²⁹⁵

6.3 On or about 2 June 2017, the VCGLR inspector made an information report of his observations about the ‘Blue Bag Incident’. We understand that the delay between observing the incident and the recording of the information report occurred because in 2017 there was not yet a VCGLR dedicated casino unit.

²⁹⁴ VCGLR Information Report, 2 June 2017.

²⁹⁵ Ibid.

This meant that as at 2017, all eight of the field teams of inspectors who undertook liquor, general gambling and casino functions rotated through the Casino at an interval of approximately every seven weeks based on an eight week rotating roster.²⁹⁶

- 6.4 On 2 June 2017, the inspector further interrogated the records of Crown (the computer system SYCO²⁹⁷) and was able to obtain various details about the man seen holding the ‘blue bag’, including the name of the man (Chenkang Pan) and other identifying details in relation to Mr Pan. However, the inspector did not locate any record of Mr Pan’s transaction on 10 July 2017 being recorded on Crown’s SYCO system.²⁹⁸
- 6.5 As process required, the inspector’s 2 June 2017 Information Report was provided to Casino Manager and the VCGLR Intelligence Unit. The information contained in the Information Report was disseminated to Victoria Police, no doubt given the money laundering concerns.²⁹⁹ We have been advised by the VCGLR that the Information Reports were not disseminated to AUSTRAC but that instead, VCGLR inspectors met with AUSTRAC representatives on in mid-2017 to discuss money laundering concerns at the Casino generally. The footage of the ‘Blue Bag Incident’ was shown to AUSTRAC at that meeting.
- 6.6 On 29 June 2017, Inspector I and a team leader from the Casino VCGLR team met with a police member from Victoria Police’s Sports Integrity Unit in relation to general VCGLR issues. Mr Pan’s transaction on 10 May 2017 was discussed and Victoria Police sought the relevant Information Report. The fact of this meeting was recorded in an information report drafted by Inspector I on 7 July 2017 which was disseminated to the VCGLR intelligence branch.³⁰⁰

²⁹⁶ Inspector E transcript of interview, 3.

²⁹⁷ Ms Bergin in her inquiry at Part 3, Chapter 32, p 210 at [29] describes SYCO as “SYCO is an electronic customer relationship management system used by Crown Melbourne and Crown Perth which recorded, amongst other things, details of the name, address and date of birth of a customer and potentially a photograph of the customer, accessible by staff members at the cage and other areas of the casino.”

²⁹⁸ VCGLR Information report, 2 June 2017. (We have elected to not provide any further identifying details of the information reports, including their IR number).

²⁹⁹ Ibid.

³⁰⁰ VCGLR Information report, 7 July 2017.

- 6.7 The inspector who originally observed the ‘Blue Bag Incident’ on 10 May 2017, monitored Mr Pan when he was at Crown Casino gambling on an ongoing basis between at least November 2017 and 5 May 2018. Mr Pan was only ever observed gambling in the Suncity salon.³⁰¹ The inspector provided his Information Reports to the Casino Manager, the Deputy Director of the VCGLR Compliance Division, the VCGLR Intelligence Unit and to Victoria Police. It is clear from the Information Reports that there was ongoing consultation and information-sharing between the inspector and a member of Victoria Police about Mr Pan and the inspector’s observations of Mr Pan at Crown Casino. It is also evident that Mr Pan was under criminal investigation by Victoria Police for other fraud-related matters unrelated to the ‘Blue Bag Incident’.³⁰² It is not known to us (and we did not ask) whether Victoria Police liaised with AUSTRAC in the course of its investigation.
- 6.8 On 5 May 2018, Mr Pan was observed by the same inspector gambling in the Suncity salon at about 9:45pm. The inspector notified Victoria Police that Mr Pan was present at the Casino to enable Victoria Police to attend and arrest Mr Pan for criminal charges unrelated to the ‘Blue Bag Incident’. The inspector assisted Victoria Police in locating Mr Pan in the Suncity salon after which Mr Pan was arrested. It appears from the Information Reports that the Victoria Police and VCGLR continued liaising about the ‘Blue Bag Incident’ between May and July 2018 and that Victoria Police interviewed Mr Pan about the Incident (as well as other matters). In fact, the inspector provided a list of questions to Victoria Police about Mr Pan’s gambling in the Suncity salon and the Blue Bag Incident to enable the police to interview Mr Pan in relation to those matters.³⁰³ The inspector provided a list of questions to Victoria Police about the ‘Blue Bag Incident’ on or about 3 May 2018 in order to obtain any intelligence about the Incident’.³⁰⁴
- 6.9 Mr Pan was charged with obtaining property by deception for a fraud-related matter on 2 May 2018 and the inspector assisted Victoria Police with

³⁰¹ VCGLR Information reports of 7 November 2017 and 2 & 5 May 2018.

³⁰² VCGLR Information reports of 7 November 2017 and 2 May 2018.

³⁰³ VCGLR Information report of 5 May 2018.

³⁰⁴ Ibid.

gambling-related parts of their inquiry.³⁰⁵ The VCGLR also advises us that Mr Pan was also charged with offences relating to proceeds of crime. The last record of involvement the inspector had in relation to Mr Pan was on 17 July 2018 when he continued to assist Victoria Police in relation to gambling queries as part of the police investigation.³⁰⁶ We have been advised that Mr Pan's criminal matters did not ultimately proceed to trial for evidentiary reasons. We also are advised that Mr Pan has left Australia.

6.10 From a probity perspective (given Mr Pan was a junket player), the VCGLR has advised us that they undertook an investigation of a number of junket entities in mid-2019, including investigating the suitability of Mr Pan and whether a direction should be served on Crown for it to cease its relationship with Mr Pan. During the course of this investigation, on 19 December 2019, Crown withdrew Mr Pan's licence to enter and/or remain in the Casino after becoming aware of the criminal charges faced by him. As a result of this action by Crown, the VCGLR has advised us that there was no longer a need to investigate Mr Pan further. We understand that if Mr Pan had attempted to re-attend the Casino, Casino staff would have been notified. It is the VCGLR's understanding that Mr Pan did not return to the Casino after his arrest by Victoria Police and that he is no longer in Australia.

10.2 Our analysis of the VCGLR response to the 'Blue Bag Incident' and the allegations made on the Four Corner program that 'nothing was done'

7 In our view, it is evident that the allegation made on the Four Corners episode that the 'Blue Bag Incident' was 'not acted upon by the VCGLR' is inaccurate and not in accordance with the available evidence. In fact, a high level of work went into the observation, monitoring and gaining of intelligence about Mr Pan at Crown Casino following the 10 May 2017 incident by the relevant inspector who has extensive experience in gambling regulation. The inspector appropriately reported his findings to his immediate manager (the team leader) and the Casino managers of the time and disseminated the information to the intelligence unit.

³⁰⁵ Ibid.

³⁰⁶ VCGLR Information report of 17 July 2018.

- 8 We find that the inspector appropriately complied with the requirements of s 106 of the CC Act that sets out the functions of inspectors at the Casino, namely:
- (a) to supervise operations in a casino, and to inspect the gaming equipment used in a casino, for the purpose of ascertaining whether or not the casino operator is complying with the provisions of this Act, the conditions of the casino licence, and any directions issued by the Commission under this Act;
 - (b) to supervise the handling and counting of money in a casino;
 - (c) to assist in any other manner, where necessary, in the detection of offences committed against this Act in a casino;
 - (d) to receive and investigate complaints, in accordance with section 10.5.11 of the *Gambling Regulation Act 2003*, from casino patrons relating to the conduct of gaming or betting in a casino;
 - (i) to report to the Commission regarding operations in a casino;
 - (ii) any other functions as are conferred on inspectors under this Act.
- 9 Further, from on or about July 2017 to July 2018, the inspector was in regular contact with Victoria Police members who were investigating Mr Pan. There appears to have been an appropriate and high level of information-sharing and liaison between the VCGLR inspector and Victoria Police in relation to Mr Pan’s activities for almost 12 months.
- 10 The VCGLR is not a law enforcement agency, and its role is not to investigate possible criminal behaviour. Insofar as one of the purposes of the CC Act is to ‘ensure that the management and operation of casinos remain free from criminal influence or exploitation’ (s 1(a)(i)), we consider that where suspicious behaviour is observed by a VCGLR inspector at the Casino (which may be suggestive of some form of criminal activity), the information ought to be referred to the appropriate law enforcement agency (namely, Victoria Police, AUSTRAC, the Australian Federal Police, or the Australian Criminal Intelligence Commission). We have previously outlined that this is the process that is undertaken by the VCGLR through its Intelligence Unit. We find

that this process was followed and complied with in respect of the 'Blue Bag Incident' and that it was the subject of continued information-sharing and liaison between Victoria Police and the inspector in question.

- 11 We express surprise that the Information Reports relevant to the 'Blue Bag Incident' were not formally provided by the VCGLR to AUSTRAC but do not make any criticism of this. There may be a satisfactory explanation. However, this does highlight the need for clear processes and criteria for referral of matters by the VCGLR to external investigative agencies so that no matters fall between cracks, including those which lie between State and Federal jurisdictions.

10.3 Confidentiality obligations

- 12 Finally, the footage of the 'Blue Bag Incident' as provided to the media was footage belonging to the VCGLR that was obtained by one of its employees in undertaking their functions under the CC Act. As such, the footage was confidential as it meets the definition of 'protected information' acquired by a person in the performance of functions under a gaming Act" (which is defined to include the *CC Act*) pursuant to s 10.1.30 of the *Gambling Regulation Act 2003*. A breach of the confidentiality requirement is a serious matter and can result in a fine of up to 60 penalty units.
- 13 Our understanding is that disclosure of the footage of this incident was not authorised for release under any of the provisions of s 10.1.32 of the *Gambling Regulation Act 2003*. We have been informed that the VCGLR is troubled that the provision of the footage to the media was unauthorised and unlawful. This is a reasonable concern as there are sound reasons for the confidentiality obligations imposed on employees of the VCGLR by the legislature. We make this observation to emphasise that all current and former VCGLR employees have statutory obligations of confidentiality imposed by the *Gambling Regulation Act 2003*. Breach of such obligations constitutes the commission of a criminal offence for good reason.

CHAPTER ELEVEN

EXERCISE OF ‘UNDUE INFLUENCE’ OVER THE REGULATOR

- 1 The Terms of Reference raise three issues in relation to the concern that Crown exercised inappropriate influence over the regulatory work conducted by the VCGLR:
 2. Crown Casino exercised undue influence and/or control over the activities of the VCGLR inspectors at the Casino, such that in effect “Crown were running [the] office”.
 3. The inspectors were forced to keep “dirty secrets” with respect to Crown Casino or there might have been negative repercussions, including “being fined or los[ing] our jobs”.
 4. The VCGLR repeatedly gave Crown Casino “what it wanted”.
- 2 Based on our discussions with the former inspectors who appeared on the Four Corners programme, what we consider might (potentially) form the basis of their concerns about the possible undue influence of Crown is the adequacy of the ICS model as discussed at Chapter 5 which imports minimum standards with which the Casino is obliged to comply. What appears to underpin this concern is a philosophical debate about the appropriate level of regulation of gambling venues and the Casino with regard to the co-regulation or self-regulation of commercial gambling venues as described by Peter Cohen in his report ‘Casino Modernisation Review’ (as discussed at Chapter 3.1 above).
- 3 We decline to enter into this philosophical debate as the ideology underpinning it and the approach to government regulation of gambling fall well outside our Terms of Reference.
- 4 However, below we outline some of the concerns expressed to us in the course of our interviews:
 - 4.1 Inspector F provided his opinion that he thought ‘when the whole ICS regime came in, I think we lost a bit of authority there in relation to the processes and procedures’.³⁰⁷ Inspector D also informed us of his belief that ‘Crown's intent

³⁰⁷ Inspector D, transcript of interview, p 7.

[was] to get the ICSs down to one page, where it would say Crown would run the casino and give some of the money to the government' In his view, the ICSs were 'getting so narrow' and expressed concern that a breach of the SOPs that sit behind the ICS did not breach s 121 of the CC Act.³⁰⁸ Inspector J also considered that the ICSs were 'very, very thin' and that 'Crown just implemented' changes to ICS without giving the Licencing Division sufficient time to engage adequately in the drafting process.³⁰⁹

- 4.2 Inspector J expressing concerns about Crown being able to 'see... our inconsistent approach to regulation because of changes in management structure and directors...[and] they said...they could take advantage of that in a lot of ways because they had all the experience'.³¹⁰
- 4.3 Inspector D indicated that in his view 'Crown had a lot of sway' and that he thought 'people were reluctant in our office to perhaps confront and demand changes'.³¹¹
- 4.4 Inspector E told us that the issue he recognised was in relation to 'access'. He told us that 'sometimes with Crown, you'd ask them something, and they would just, you know, overrule you' and that 'would never have happened [in the] pre-merger days'. He considered Crown staff were not as co-operative as they should be, and that when undertaking audits or requesting documents they would 'give you a little grilling as to, why, what's your powers, and things like that'. He considered that Crown was 'getting a little bit too controlling' given VCGLR's role and purpose.³¹² Inspector E asserted that the provision of information from Crown was too lengthy (namely to submerge the regulator in irrelevant material), that questions would be asked about why such information needed to be provided and that it could up to two weeks to access information.³¹³ However, Inspector E did not consider these issues impacted on the VCGLR's ability to complete audits because ultimately

³⁰⁸ Inspector/Former Inspector D, transcript of interview, p 7.

³⁰⁹ Inspector J, transcript of interview, pp 7-8.

³¹⁰ Ibid, p 20.

³¹¹ Inspector/Former Inspector D, transcript of interview, p 6.

³¹² Inspector/Former Inspector E, transcript of interview, p 30.

³¹³ Inspector/Former Inspector E, transcript of interview, p 31.

‘when push comes to shove, we’re going to get in that door regardless’.³¹⁴

Inspector C made a similar comment and that he felt like he had to be ‘virtually top security vetted’ before Crown would release anything such as a statement or information to him.³¹⁵

- 4.5 Inspector B expressed concern about the level of dedicated security cameras the VCGLR had and whether there should be a camera they could access in the surveillance room to watch ‘what surveillance are doing’.³¹⁶
- 5 While we consider these concerns to raise genuine issues, we would expect that there would be some tension in a normal relationship between a regulator and a major commercial entity that the regulator has the responsibility to regulate. We are confident, however, that the imposition of a fine of \$1 million on Crown by the VCGLR, the concerns raised by the Bergin Inquiry and the report by the Victorian Royal Commission will provide a considerable incentive for the casino operator to be suitably responsive to the regulator.
- 6 However, the language used in the Four Corners episode and the consequent Terms of Reference under which we are operating is strong. We do not find that Crown was running the VCGLR, that Crown was exercising ‘undue influence and/or control over the activities of VCGLR inspector, that inspectors kept any “dirty secrets” in respect of Crown or that the VCGLR repeatedly gave Crown Casino ‘what it wanted’. We do not find these allegations substantiated based on either the information we have been provided by those whom we have interviewed, or the extensive documentation we have reviewed.
- 7 Additionally, we have found no evidence of a culture at the VCGLR where a person would ‘lose their job’ for speaking up. In fact, we consider the opposite is the case and that the current representatives of VCGLR management are receptive and responsive to feedback, be it positive or negative, provided it is constructively expressed.

³¹⁴ Ibid.

³¹⁵ Inspector C, transcript of interview, p 40.

³¹⁶ Inspector B, transcript of interview, p 36.

- 8 It is apparent too that at least some of the inspectors interviewed on the Four Corners Episode did speak out about various matters when they were at the VCGLR, including roster arrangements, sufficiency of staffing, the focus on liquor auditing and other difficulties experienced in the Compliance Division. We make this observation on the basis of having viewed contemporaneous records, including emails and diary entries made by inspectors. On occasions their concerns were accepted and acted upon. On others they were not. It would not be helpful for us to go into details about each such matter. We observe that latterly the degree of tension within the VCGLR in respect of these and other matters appears to have reduced.
- 9 Finally, we observe that there is no legal ability for the VCGLR to ‘fine’ staff for speaking out (noting that this comment about ‘dirty secrets’ was not made by any of the former inspectors but by a journalist associated with the relevant Four Coroners program). It may be that this reference relates to the statutory obligations of confidentiality imposed on past and current VCGLR employees pursuant to s 10.1.32 of the *Gambling Regulation Act 2003* as there is a penalty attached to contravention of that section. As identified above, we consider that compliance with statutory confidentiality provisions is important and that the way this legislative obligation may have been described in the Four Corners report was unhelpfully inflammatory.

CHAPTER TWELVE

COUNTERFEIT NOTES

1 Term of Reference 5 requires us to make findings about the following allegation arising from the relevant Four Corners' episode:

5. Nothing was done by the VCGLR with an inspector's report into the investigation into the use of counterfeit notes at Crown Casino.

12.1 The inspector's report into the investigation of counterfeit notes

2 Extensive searches were undertaken for the relevant inspector's report into the use of counterfeit notes at Crown Casino. These searches included a review of the former inspector's personal folder on the VCGLR computer system, a review of the former inspector's VCGLR email inbox (including a review of the former inspector's Outlook account and his historical Lotus Notes account), a search over the holdings of the Intelligence Unit in the Compliance Division, a search of the CRAMS system³¹⁷ for holdings between 2008 and 2018 and of VCGLR's document management system. Following these extensive searches, no report about counterfeit notes was located which had been authored by the relevant former inspector

3 However, a number of current and former VCGLR staff have informed us that the former inspector completed a 'mapping exercise' of counterfeit notes by 'put[ting] up floor maps of the casino floors on the Casino Manager's office glass wall, along with a number of different coloured post-it stickers. Inspectors were then supposed to put a sticker (for example, red for a \$100 note) at the location where the note(s) were found' with another form giving information about the counterfeit note (for example the table number, number of notes, date, name of person if known etc) when identified.³¹⁸ Inspectors were asked to add to the map when new reports of counterfeit notes were provided to the VCGLR by Crown Casino.³¹⁹ Inspector B informed us that

³¹⁷ CRAMS is a bulk data storage system formerly utilised by the VCGR which was the predecessor to the VCGLR (in respect of gambling and casino regulation) prior to the merger of the VCGR and RAV in 2012. We understand that it was a reporting system for issues relating to Crown Casino and that it maintains accessible to the VCGLR.

³¹⁸ Inspector B, transcript of interview, p 28, Inspector I, transcript of second interview, pp 17-18 and an email from Inspector A of 30 September 2021.

³¹⁹ Email from Inspector A of 30 September 2021.

the relevant inspector commenced this exercise ‘maybe in 2014 or 2015’.³²⁰ Indeed, we have seen reference to two documents titled ‘counterfeit mapping’ on the ‘W drive’ of the Compliance Division. The relevant inspector told us that his project at Crown Casino was counterfeit notes via the CRAMS computer system.

- 4 We note that Inspector A has stated that he does not consider that the ‘mapping exercise’ was either reliable or completed.³²¹ We take that to be a concern that because inspectors at the Casino were asked to add to the map on the wall manually when counterfeit notes were located there is no way of assessing whether a complete record of counterfeit notes was recorded on this manual mapping system. Inspector A indicated that, in his view, a more accurate record would be retained by the Crown surveillance unit of counterfeit notes than the manual mapping system.³²²
- 5 Based on the inquiries taken by the VCGLR, we find that no formal investigation was undertaken by the VCGLR in relation to the issue of counterfeit money. However, this is not the same as the allegation that ‘nothing was done by the VCGLR with an inspector’s report into the investigation into the use of counterfeit notes at Crown Casino’. It follows that this allegation is not substantiated.

12.2 Concerns expressed about counterfeit notes

- 6 We note for completeness that a concern was expressed by some VCGLR inspectors / former inspectors about the amount of counterfeit money located at Crown Casino and whether this was being reported to law enforcement agencies. We were told that counterfeit money was located at the casino on a ‘daily basis’ by ‘Crown surveillance [who] would ring [VCGLR inspectors] during the count [of the casino’s daily takings] and say we have found \$1,000 in \$20 notes...or \$50 notes and that [have come] from [a particular table, so we would record the date, the denomination of notes...found...so that we could do our own analysis of [whether there was a pattern] going to the same table’.³²³ We were further told by an inspector that he held concerns about why the VCGLR was not advising police about the counterfeit notes and being ‘continually told it was not our job’ and that it was ‘Crown’s problem [to] deal with

³²⁰ Inspector B, transcript of interview, p 28.

³²¹ Email from Inspector A of 30 September 2021.

³²² Ibid.

³²³ Inspector B, transcript of interview, p 28.

because they [were] the ones losing the money because [it was counterfeit]'.³²⁴ We were told that it was 'very frustrating [that we] recorded [counterfeit notes] because we wanted to and nothing ever happened with it'³²⁵ and that 'as inspectors our job, when you're in the purpose of the act to keep the casino crime free and to be looking for illegal activity and reporting that illegal activity... we saw...[but] were continually told that it's not our matter, it's a police matter or it's a federal police matter'.³²⁶

12.3 ICSs relevant to counterfeit notes

- 7 A number of current ICSs deal with counterfeit notes³²⁷. Further to the relevant ICSs, counterfeit notes and chips are additionally discussed in the current SOPs that sit behind the relevant ICSs. In this regard, we note that the Casino, in the Operations ICS, risk assesses the use of counterfeit notes (or chips) to be 'almost certain' to occur within their operations. This is unsurprising, given the gambling environment.
- 8 The current Count Room ICS (which has been in operation since October 2017) requires, as a minimum control standard, that any counterfeit currency located in the count be 'reported directly to the VCGLR upon detection'.³²⁸ Further, based on a review of the various current SOPs that relate to counterfeit notes, regular auditing is required of both chips and currency to assist with the detection and prevention of counterfeit chips and notes. Casino staff are also required to record specific information about any counterfeit notes located.
- 9 We were also informed by the Casino Operations Manager, that the Casino has machinery and sophisticated technological solutions available to it to identify counterfeit notes.³²⁹ For reasons which are obvious, we shall not go into further details as to these measures.

³²⁴ Inspector B, transcript of interview, p 27.

³²⁵ Ibid.

³²⁶ Inspector/Former Inspector B, transcript of interview, p 29.

³²⁷ The current ICSs titled 'Cage Operation', the ICS titled 'Count Room and Drop Box, Drop Bucket and Note Stacker Collection' and the ICS titled 'Revenue Audit and Reporting.

³²⁸ The ICS titled 'Count Room and Drop Box, Drop Bucket and Note Stacker Collection' in operation from June 2009 during the VCGR period, also had a mandatory requirement that the Director of Casino Surveillance be notified upon counterfeit notes being found in the Casino.

³²⁹ Casino Operations Manager, transcript of interview, p 14, Catherine Myers, transcript of first interview, p 26 and Adam Ockwell, transcript of second interview, p 16.

- 10 Ms Fielding advised us that Crown Casino also reported counterfeit note matters to the Australian Federal Police as counterfeit notes sat within its jurisdiction.³³⁰ This is consistent with what was reported to us by Inspector I, who stated to us that: ‘Crown has a responsibility to report counterfeit notes as well’.³³¹ However, we have not identified Crown Casino’s referral of information to Victoria Police to be a requirement in any ICS or SOP. If this is so, it should be remedied.
- 11 Further, if Crown Casino does refer intelligence about counterfeit notes to the Australian Federal Police, we have seen no requirement in any ICS or SOP that the VCGLR be made aware of this. Again, if this is so, it should be remedied.
- 12 However, in practice, Inspector I stated that the Casino does ‘advise [the VCGLR, of counterfeit bills and]... that those counterfeit bills have been reported to the AFP and will be provided to the AFP’.³³² Inspector I further indicated to us that that counterfeit notes ‘is not an offence under the CC Act’ and that it is properly defined as ‘intelligence’ that requires ‘Crown to report it’.³³³
- 13 We note that it is in the casino operator’s interests to ensure that the issue of counterfeit chips and notes is appropriately dealt with, investigated and referred to law enforcement agencies when identified. This is because counterfeit chips and notes adversely affect the Casino financially. Put in colloquial terms, the Casino takes the ‘financial hit’ when counterfeit chips and notes are used for gambling at the Casino. However, of course there is also the potential for counterfeit notes to enter circulation within the general community.
- 14 All in all, Crown is likely to be motivated to identify and report the use of counterfeit notes.

12.4 VCGLR auditing in relation to counterfeit notes

- 15 No specific audit is required to be undertaken in relation to counterfeit notes directly by the VCGLR. However, the VCGLR undertakes various audits of the Casino count room and various Casino cages. We consider that if any specific issue arose in

³³⁰ Michelle Fielding, transcript of second interview, p 3.

³³¹ Inspector I, transcript of second interview, p 19.

³³² Ibid, p 17.

³³³ Ibid.

relation to counterfeit notes arising at the Casino, this would be apparent in relation to the Casino counting its takings (which occurs daily) and the auditing undertaken by the VCGLR of the count room and various cages. We have not been provided with any evidence that the regular auditing of the count room or the cages has identified counterfeit notes as a particular focus of regulatory concern or that the Casino is not meeting its reporting requirements to the VCGLR under the relevant ICS.

- 16 In circumstances, where the VCGLR is advised of counterfeit notes by Casino staff as required under the Count Room ICS, we understand from numerous VCGLR staff that the approach that should be taken by the VCGLR Casino inspectors is what we identified in Chapter 10 – that on each occasion this information should be placed in an Information Report and provided to an inspector’s team leader, the Casino Manager and the Intelligence Unit of the Compliance Division. Depending on the nature of the information, the Intelligence Unit may disseminate the information about the counterfeit notes to the appropriate law enforcement agency.³³⁴ We are satisfied in relation to the adequacy of this process.
- 17 We have been provided with all Information Reports in relation to counterfeit notes from 2018 to 2020. Having undertaken a review of a sample of these Information Reports, the majority we have reviewed have been disseminated as intelligence by the VCGLR to law enforcement agencies. In this context, we make an assumption that where the Information Report is not disseminated to a law enforcement agency, there is a reason for this decision based on the quality or type of the intelligence in the Information Report. We have no reason to reach any other conclusion.
- 18 However, if it emerges on further review that Information Reports have not been disseminated to law enforcement agencies or simply missed, we consider systems and processes ought to be reviewed and calibrated within the Intelligence Unit (including an assessment of whether the Intelligence Unit is appropriately resourced) to ensure that all intelligence received by the VCGLR is appropriately disseminated to law enforcement agencies on every occasion.
- 19 We have also identified Information Reports that have been disseminated to the internal VCGLR Investigation Unit in the Compliance Division on occasion. We

³³⁴ Ibid.

presume that this is because, on occasion, the intelligence contained in the Information Report may be of relevance to ongoing investigations undertaken by the VCGLR's Investigation Unit. This too is appropriate.

12.5 The prevalence of counterfeit notes at the Casino

20 For our investigation, the VCGLR interrogated the CRAMS system for reports about counterfeit notes for a ten year period between 2008 to 2018³³⁵. We have been provided with results of this search. In this ten year period, 739 incidents were recorded by various VCGLR inspectors in relation to counterfeit notes. This does not support an assertion that counterfeit notes have been located within the Casino on a daily basis.

21 Rather, it is consistent with the proposition that counterfeit notes are identified from time to time but not commonly. This too is what we were told by:

21.1 Ms Fielding, who advised us that counterfeit notes were not 'high risk in terms of frequency' but that it 'certainly does occur'.³³⁶

21.2 Inspector I, who told us that his recollection of the frequency of counterfeit notes being reported by the Casino was about 'two to three times a month'.³³⁷

21.3 The Casino Operations Manager who stated that his experience of the frequency of counterfeit notes was 'the occasional note slipped onto a gambling table'.³³⁸

12.6 Is it a concern that the VCGLR did not undertake any investigation into the issue of counterfeit notes?

22 The VCGLR's Regulatory Approach Statement indicates that one of the VCGLR's key regulatory objections is to minimise harm and to 'focus on types of harm that our statutory powers are best suited to targeting'. Harm minimisation underpins all of the VCGLR's activities as a regulator, although, as acknowledged in the Regulatory

³³⁵ We expect further incidents of the Casino receiving counterfeit notes may also be on the LaGis system which is the modern information and communications technology that became operational in or around 2016-2017 at the VCGLR.

³³⁶ Michelle Fielding, transcript of second interview, p 3.

³³⁷ Inspector I, transcript of second interview, p 18.

³³⁸ Casino Operations Manager, transcript interview, p 14.

Approach Statement, ‘sometimes, the VCGLR may not be best placed to take action to minimise harm. In these cases, the VCGLR will collaborate with [their] regulatory partners including Victoria Police’.

23 Mr Ockwell expressed to us the view that the issue of counterfeit notes at the Casino should not be characterised as a ‘high harm, high risk’ issue for the VCGLR. This view is shared by Ms Fielding who stated that counterfeit notes were not ‘high risk in terms of frequency’.

24 Based on the information available to us, we find that the prevalence of counterfeit notes at the Casino is not a significant issue in terms of risk or the potential for harm to the community. However, it is appropriate and important that when the VCGLR and/or the Casino identify the use of counterfeit notes that information is located and collated by VCGLR in the form of the Information Reports and that it be disseminated to the Intelligence Unit for referral to appropriate law enforcement agencies.

25 Accordingly, while we find that the VCGLR has not conducted a formal investigation into the use of counterfeit chips or notes, this is not an issue of major concern. For this purpose, it is counterfeiting of notes that is the more important issue. Counterfeiting of notes (and any organised crime links based on the use of such counterfeit currency) is an appropriate matter for referral to law enforcement agencies and not a matter specifically to be acted upon by the VCGLR as a regulator. We find that the VCGLR is appropriately referring intelligence about counterfeit notes to law enforcement agencies.

26 Further, given the finite resources of the VCGLR and various budgetary reductions since the creation of the VCGLR in 2012, it is both self-evident and appropriate that the VCGLR's focus should be on issues that are high-risk to the community. It appears to us that, although the issue needs to be subject to ongoing monitoring, counterfeit notes are not presently a high-risk issue sufficient to warrant a detailed examination or investigation of the issue by the VCGLR.

CHAPTER THIRTEEN

VCGLR STAFFING LEVELS AT THE CASINO

1 Term of Reference 6 requires us to make findings about the following allegation arising from the relevant Four Corners' episode:

6. There were many shifts during the relevant time frame where Crown Casino had no inspector from the VCGLR, and this is "still happening".

13.1 Staffing of the Casino following the establishment of the VCGLR in 2012

2 As at December 2011, the combined fulltime staffing headcount of the VCGLR was 256.9 persons, which reduced to 230.2 fulltime staff in February 2012.³³⁹ This reduction in staff may have been, at least in part, because in December 2011, the Victorian Government introduced the Sustainable Government Initiative which sought to reduce the Victorian public service workforce by 3,600 persons.³⁴⁰ In response to the Sustainable Government Initiative, 24 experienced staff members left the VCGLR on redundancy packages and a further 22 staff were made redundant up to mid-2014.³⁴¹ The staff count at the VCGLR then decreased to 183.93 people in 2014 and has increased to approximately 195 people in June 2020.³⁴² Inspector I has advised us that many of the voluntary redundancies were taken by former gaming inspectors with a result that significant amounts of corporate knowledge and information in relation to gambling regulation were lost.³⁴³

3 It appears likely that low staff morale, particularly in the years following the merger and the establishment of the VCGLR, affected staffing numbers and the capacity to locate find suitable replacements for staff who had left. We also consider recruitment was also likely to be limited based on fiscal constraints of the VCGLR.

³³⁹ Internal Review of the VCGLR dated 30 November 2015. We understand that this is not a publicly available document.

³⁴⁰ Ibid.

³⁴¹ 2017 VAGO Report, p vii.

³⁴² VCGLR Annual Report 2019-2020, p 81.

³⁴³ Email from Inspector I dated 22 July 2021.

- 4 We were told by Inspector C that at the time of the establishment of the VCGLR in 2012, there were approximately 95 operational inspectors who were conducting gambling (including at the Casino) and liquor auditing. This has reduced to a total of between approximately 20 and 30 inspectors in total (with 8 inspectors assigned to the Casino).³⁴⁴ At the time of the 2017 VAGO report, there were about 40 operational inspectors at the VCGLR.³⁴⁵ This is a significant decrease in the number of inspectors at the regulator.
- 5 Between 2012 and approximately 2016, there were eight teams of inspectors at the VCGLR that undertook all gambling and liquor regulation, including at the Casino. At this time, the roster was a rotating one such that a team of inspectors would be at the Casino approximately every seven weeks.³⁴⁶
- 6 Rosters we have sighted from 2013 indicate that there were three shifts at the Casino commencing at 7am, 11am and 9pm with a 24 hour, 7 day a week presence at the Casino. Inspector I has indicated that two staff worked on each shift at the Casino under the roster.³⁴⁷
- 7 Inspector J indicated that before a dedicated Casino Team was established by the VCGLR, the roster was frequently rearranged ‘because we had to do the Casino work plus go on the road to get our...liquor numbers’.³⁴⁸ Inspector I also recalls frequently changing the roster to ensure coverage of the Casino on a 24 hour, 7 day a week basis (changing the roster ‘up to 60 times a fortnight...moving people from the day shift to the night shift with next to no notice’).³⁴⁹ Inspector G also stated that people would to ‘fill in’ shifts at the Casino and that there were numbers of changes of shift arrangement during this time.³⁵⁰
- 8 We also heard that prior to the establishment of the dedicated Casino team in or about 2017, some former liquor inspectors initially from RAV rarely worked at the Casino (as there was little training was given about the Casino to former liquor-only

³⁴⁴ Inspector C, transcript of interview, p 10.

³⁴⁵ 2017 VAGO report, p 6.

³⁴⁶ Inspector E transcript of interview, 3.

³⁴⁷ Email from Inspector I dated 22 July 2021.

³⁴⁸ Inspector J, transcript of interview, p 7.

³⁴⁹ Inspector I, transcript of first interview, p 16.

³⁵⁰ Inspector G, transcript of interview, p 11.

inspectors) with team leaders relying on former gaming inspectors from VCGR to work at the Casino.³⁵¹

- 9 Following the establishment of the dedicated Casino Team in about 2017, the team comprised of between 12-15 persons (including a Casino manager, inspectors and assistant inspectors with two team leaders). However, it has been said to us that, at least initially, the dedicated Casino Team was still required to complete liquor inspections in the Southbank/Docklands area and to take on high risk gaming issues outside the Casino.³⁵² The Casino Operations Manager indicated that the dedicated Casino Team stopped undertaking auditing and compliance activities outside the Casino at a time between February and June 2018 when he commenced in the role as Casino Manager and that now the Casino team is “purely assigned duties at the Casino”³⁵³.
- 10 Ms Myers explained to us that one of the limitations she faces as CEO is the budget reductions imposed on the VCGLR which has meant that operationally it is difficult to ‘run rosters 24 hours a day, seven days a week and absorb the cuts...[while also] meet[ing] the targets set by government’. She made the point too that in addition to discharging its duties in relation to the Casino, the VCGLR must also operate liquor and gambling compliance and auditing tasks in metropolitan Melbourne and regional Victoria, as well as attend to licensing issues.³⁵⁴
- 11 To that end we note that each year, the VCGLR is given annual liquor and gambling inspection targets by the Victorian government derived from the annual Victorian Government Budget Paper No. 3, Service Delivery. For example, in 2021-2022, the VCGLR is expected, as a minimum requirement, to undertake 1350 gambling inspections in metropolitan Melbourne and 250 gambling inspections in regional Victoria and 1260 audits of Casino operations (as well as other requirements in

³⁵¹ Email of Inspector I dated 22 July 2021.

³⁵² Inspector I, transcript of first interview, p 5, Inspector C, transcript of interview, p 12 and email of Inspector I dated 22 July 2021.

³⁵³ Casino Operations Manager, transcript of interview, p 16.

³⁵⁴ Catherine Myers, transcript of third interview, p 20.

respect of other gambling, liquor and licensing requirements not noted. These are reduced figures because of COVID-19 interruptions).³⁵⁵

- 12 We were told that based on the levels of inspectors in the dedicated Casino Team there were times when by reason of inspectors taking their holiday and sick leave entitlements, there were shifts at the Casino when the Casino was not supervised by VCGLR inspectors at all.³⁵⁶ Mr Ockwell told us that when he commenced at the VCGLR in 2018 he heard anecdotally that on some occasions there were no inspectors at the Casino historically.³⁵⁷ Ms Myers also indicated to us that there had been ‘agitation around staffing and backfilling rosters if people called in sick’ at the Casino³⁵⁸ but that to her knowledge the roster had always been ‘still running with people being [present at the Casino] 24:7.’³⁵⁹

13.2 Present staffing levels at the Casino

- 13 Presently, the dedicated VCGLR Casino Team comprises two teams of inspectors, two team managers and the Casino manager. This is a total of 11 staff who are dedicated to regulating the Casino. There remain three shifts per day at the Casino. However, the roster arrangements altered in or about 2017 (which appears to have caused significant consternation and union involvement by some inspectors in the latter part of 2016).³⁶⁰
- 14 In addition to the Casino Team, an analyst from the Intelligence Unit spends a day a fortnight working with the inspectors in order to develop a dedicated intelligence resource at the VCGLR specifically in respect of the Casino. A fulltime analyst has been employed for the Casino Team but has yet to start at the VCGLR.³⁶¹ Similarly, a

³⁵⁵ See, for example, the current Victorian Government Budget Paper No. 3, Service Delivery for 2021-2022 located at <https://s3-ap-southeast-2.amazonaws.com/budgetfiles202122.budget.vic.gov.au/2021-22+State+Budget+-+Service+Delivery.pdf>.

³⁵⁶ Inspector C, transcript of interview, pp 12 and 15 and Inspector G, transcript of interview, p 10.

³⁵⁷ Adam Ockwell, transcript of third interview, p 18

³⁵⁸ Catherine Myers, transcript of first interview, pp 16-17.

³⁵⁹ Ibid, p 18.

³⁶⁰ We have been provided a substantial amount of Inspector emails about the roster changes from June 2016 to on or about April 2017. However, we do not consider it necessary to make any detailed observations about this roster change.

³⁶¹ Casino Operations Manager, transcript of interview, p 16.

lawyer also spends a day a fortnight at the Casino to provide legal advice and support to the Casino Team.³⁶²

- 15 Mr Ockwell advised that since he commenced as the Executive Director of the VCGLR Compliance Division in 2018, there have been ‘no by and large mainstream absences at the Casino’ by inspectors but that there have been occasions where because of sick leave, an occasional Casino shift may not have an inspector present.³⁶³ This is consistent with Ms Fielding’s observations that it is ‘very, very rare’ for there to be no VCGLR inspector at the Casino and that she considered she could ‘probably count it on one hand [because it is] not a common occurrence over the decades [she had worked for the Casino]’³⁶⁴. Inspector D’s informed us, however, that there have been occasions when an inspector has become unwell and been unable to attend their shift at the Casino and that there has been no one to replace them because of the problem arising at the last-minute.³⁶⁵ These accounts are consistent. We accept them.
- 16 Mr Ockwell also told us that, when he commenced his role at the VCGLR, he reviewed the current roster arrangements in operation at the time and observed that it was ‘front-loaded such that there were more staffing resources available on Monday and Tuesday nights rather than Thursday to Saturday nights when the Casino is ‘more heavily populated’. As a result, he embarked on ‘rostering reform’ to ensure the Casino roster was more ‘back-ended with ‘more resources on a Thursday, Friday, Saturday night’ and to be ‘more risk focussed.’³⁶⁶ For example, there are now two inspectors on the afternoon shift on a Friday and Saturday rather than just one.³⁶⁷ Mr Ockwell further divided the team of inspectors into two teams and appointed two team leaders rather than having a one-on-one management model which he considered was not ideal.³⁶⁸
- 17 Currently, we understand the night shift at the Casino is staffed by one inspector (i.e. it is a ‘one-up’ shift).³⁶⁹ Mr Ockwell indicated that the night shift has been one-up

³⁶² Adam Ockwell, transcript of second interview, 6.

³⁶³ Adam Ockwell, transcript of third interview, p 18.

³⁶⁴ Michelle Fielding, transcript of second interview, p 2.

³⁶⁵ Inspector D, transcript of interview, p 9.

³⁶⁶ Adam Ockwell, transcript of second interview, p 6.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

³⁶⁹ Inspector C, transcript of interview, p 10 and Inspector D, transcript of interview, p 10.

since 2016.³⁷⁰ We were told that historically and prior to 2016, Casino night shifts were two-up with two inspectors being rostered to work. This was for various reasons including safety issues, to ensure an inspector had a corroborator and generally to ‘bounce something off someone’.³⁷¹ Inspector E told us when there were two or three inspectors on a shift, it enabled inspectors to conduct audits, have two inspectors on the gaming floor at any time, and to have sufficient resources for an inspector to review the security cameras.³⁷²

13.3 The allegation that there were no inspectors at the Casino from 2012 to 2021

- 18 On occasion, VCGLR inspectors have not been present at the Casino for various shifts or for several hours. This appears to be explained by inspectors taking sick leave or recreational leave (although the Casino Operations Manager advises us that the current arrangement is that that only one inspector from each team at the Casino can take annual leave at a time³⁷³). We have viewed various Casino rosters that do not show an absence of VGCLR inspector supervision for any extensive or large period of time. Accordingly, we do not consider that there has been any serious or significant regulatory gap at the Casino because it is only on a few occasions that shifts have not been staffed by members of the Casino Team.
- 19 However, we consider that there were staffing challenges prior to the COVID-19 period given the limited number of inspectors at the Casino. As a result of the pandemic, the Casino has been closed for significant periods of time or subject to strict limits of attendees in 2020 and 2021.
- 20 The Casino Operations Manager indicated to us that the Casino maintains staffing coverage ‘as best as we can’ and that it was ‘challenging’ to cover the Casino on a 24 hours, seven days a week basis with only 11 people (comprising of eight inspectors over two teams).³⁷⁴ While Mr Ockwell considers that there can be coverage of the

³⁷⁰ Adam Ockwell, transcript of third interview, p 18.

³⁷¹ Inspector D, transcript of interview, p 10.

³⁷² Inspector E, transcript of interview, pp 32-33.

³⁷³ Casino Operations Manager, transcript of interview, p 16.

³⁷⁴ Ibid.

Casino by the VCGLR with the current 11 staff, he aspires to grow the team to 13 staff members (and even up to 16-17 members, resourcing permitted).³⁷⁵

21 We note that while it has been a policy preference for the Casino to be supervised by VCGLR staff on a 24 hour, seven day a week basis, there is no mandate that this must occur under the *Casino Control Act 1991* or any other legislation. This is contrary to what was reported on the Four Corners episode. It appears that some current and former inspectors held the view that s 141(2)(c)(i) of the CC Act requires VCGLR inspectors to be directly present at the Casino on a 24 hours, seven days a week basis. We do not agree. All that s 141(2)(c)(i) states is that:

- (2) Without limiting its other functions under this Act or any other Act, the Commission-
- ...
- (c) must do all things it is authorised or required under this Act, including but not limited to-
 - (i) supervising directly the operation of casinos and the conduct of gaming and betting within them.

22 There appears to us to be good reason for the Casino Team being increased in size to ensure that there is appropriate staffing coverage on a 24 hours, seven day a week basis. Further, in our view, it would be preferable for inspectors to work two-up over night shifts, particularly given occupational health and safety risks given they walk the Casino floor and talk to persons who may be excluded persons, aggressive or intoxicated. In addition, an increase in regulator staffing at the Casino may enable the inspectors to conduct more detailed and deeper auditing of the Casino, that is required for discharge of regulatory responsibilities, rather than conducting some of the more standard and lower risk audits which essentially require inspectors to complete various checklists. However, ultimately this is a resourcing issue that is affected by the funding of the regulator.

23 Although there is no requirement under the CC Act (or any other related legislation) for the VCGLR to maintain a 24 hour, seven days a week presence at the Casino, from a regulatory, safety and supervised practice perspective, the maintenance of a

³⁷⁵ Adam Ockwell, transcript of third interview, p 18.

Casino team on a 24 hour, seven day a week has clear benefits, especially to ensure suitable oversight at the busiest times of Casino operation.

CHAPTER FOURTEEN

RE-ESTABLISHMENT OF A DEDICATED GAMBLING UNIT IN VICTORIA POLICE

- 1 Support was expressed by a number of current and former inspectors at the VCGLR for reversion to the role played by the former Gaming Squad and then the Casino Crime Unit of Victoria Police. It was variously asserted that existence of the Casino Crime Squad in particular provided the benefit of an expert group of Victoria Police members who were closely familiar with the operations of the Casino³⁷⁶ and with issues relating to criminal activity that takes place in its premises and its environs and associated with the Casino.
- 2 It was said by Inspector C that Victoria Police does not currently have the expertise at the moment in issues that arise at Crown Casino: ‘whenever there's a gaming issue Vic Pol will ring us and pick our brains or we'll go out with them.’³⁷⁷ Inspector B asserted that: ‘It’s essential for the VCGLR to have direct access to police who can help with gaming matters and who have got an understanding of gaming.’³⁷⁸ By contrast, Inspector G lamented that: ‘when Gaming and Vice went ... you had to rely on local police to say well you know this is what's happening at the venue, they had no knowledge of gaming and how it all worked. So they tended to shy away from it ... it was great, ... you had the whole area covered sort of thing, so much more communication.’³⁷⁹ It was contended that while bodies such as the Sporting Integrity Unit have a range of responsibilities within Victoria Police, the Casino Crime Unit had been ‘a helpful focal point relating to gambling.’³⁸⁰
- 3 Stephen Berriman contended that the community would benefit from the reconstitution of the Casino Crime Unit including by having ‘boots on the ground’ and that this would facilitate immediacy of policy response.³⁸¹ Inspector F agreed,

³⁷⁶ Inspector/Former Inspector B, transcript of interview, p 30.

³⁷⁷ Inspector/Former Inspector C, transcript of interview, pp 5-6.

³⁷⁸ Inspector/Former Inspector B, transcript of interview, p 31.

³⁷⁹ Inspector/Former Inspector G, transcript of interview, p 16.

³⁸⁰ Stephen Berriman, transcript of interview, p 4.

³⁸¹ Ibid, p 5.

arguing that there are real advantages in having a presence of Victoria Police at the Casino with an office adjoining that of the VCGLR.³⁸²

- 4 The Casino Crime Unit provided a 24 hours, seven days a week presence at Crown Casino. It was co-funded from the proceeds of gambling. It collected intelligence on behalf of Victoria Police and other agencies, as appropriate, and provided an investigative capacity in relation to suspected international cheats, money laundering activities, counterfeiting and other suspicious activity. It also provided a primary response resource at the Casino complex for other criminal activity that took place on a day-to-day basis.
- 5 Victoria Police regarded the unit as playing a worthwhile function until when it was disbanded in 2006. This occurred after Boston Consulting undertook an independent review of Crime Command, including its structure and whether it was meeting community, government and organisational needs. On the basis of its report, the 'Major Crime Management' model was adopted. The Casino Crime Unit thereafter formed part of Crime Command in the organised crime area and its role in dealing with intelligence capture and management was transitioned across to Intelligence and Covert Support Command.
- 6 When asked about the advantages of returning to the model of a Casino Crime Unit in the Royal Commission, Assistant Commissioner Frewen accepted that the presence of police in public places has its place but gave evidence that 'gone are the days of a place-based focus'. He noted that in 2006:

We had an embedded team of investigators within the Crown Casino complex, and that variously started with a larger work unit and over time, business needs and investigational strategies and needs changed, morphed, evolved to the point where the viability from an efficacy and delivering community outcome point of view, crime investigation has changed.³⁸³

- 7 He emphasised that in the context of investigation of organised crime and the themes dropping out of it, the contemporary policing focus is on cyber-crime, tech-enabled crime, financial law investigation into matters using options including crypto-

³⁸² Inspector/Former Inspector F, transcript of interview, p 14.

³⁸³ Acting Assistant Commissioner Frewen evidence, p 4.

currencies such as Bitcoin and the Dark Web, - following the money at a national and international level, including by the problematic use of lines of contingent credit³⁸⁴

- 8 He accepted that the Casino Crime Squad was responsible for a constructive presence at the Casino and performed a variety of useful investigative functions but expressed the view that the need for embedding such a unit had come to a natural end – ‘we found better ways of delivering the business, particularly at a higher level, which is where we are aiming to impact in money laundering, organised crime.’³⁸⁵ He accepted that a uniform presence at the Casino complex could be constructive ‘which is how we do business now’ but expressed the view that there are not ‘real effective or efficient gains’ to be made by ‘going backwards’ and reconstituting a Casino Crime Unit.³⁸⁶

14.1 Re-establishment of a gambling unit at Victoria Police

- 9 It is apparent that there are advantages to an arrangement whereby the regulator of a casino operator can have regular contact with police who have close knowledge of the gambling industry, criminal activity likely to be taking place in a casino environment, and the operation of casinos in particular. There are also advantages to a consistent visible presence of police within a casino complex given the extent of criminal activity that is known to take place within casinos.
- 10 However, for Victoria the entity best positioned to evaluate the advantages and disadvantages of a specific mode of policing and the units it can constitute to address such issues most effectively is Victoria Police.
- 11 The issue of policing in a casino environment is complex and fluid. While the Casino Crime Unit was found by the VCGLR to be a useful resource of expertise in the years leading up to 2006, given the views expressed by Assistant Commissioner Frewen before the Royal Commission, it should be left to the casino regulator and Victoria Police to maintain open dialogue about the optimal ongoing relationship between the bodies and the advantages and disadvantages of a standing unit with gambling expertise within Victoria Police.

³⁸⁴Ibid, p 5.

³⁸⁵Ibid, p 9.

³⁸⁶Ibid, p 10.

TABLE OF FINDINGS

Finding 1: While legitimate criticisms can be made of the handling of the early phases of the difficult amalgamation of the two constituent parts of the VCGLR from 2010 until 2015, management has adopted substantial and effective measures to integrate and co-ordinate the merged organisation since 2015. The reasons for malcontent in respect of the discharge of regulatory functions expressed by former inspectors on the Four Corners programme have now substantially reduced.

Finding 2: Junkets constitute a significant risk for involvement by organised crime and terrorist organisations in gambling in Victoria. It is positive that Crown stopped conducting junkets in December 2020 and that the VCGLR issued a letter of censure to Crown in April 2021 directing it to not recommence junket operations until such time as Crown reapplies for, and receives, permission from the Commission. Although the current Internal Control Statement in relation to junkets and premium players has substantially enhanced the capacity to render junkets accountable, there remains the potential for them to resume. This should be addressed by explicit statutory preclusion.

Finding 3: The previous Internal Control Statements in relation to junkets and premium players that commenced in 2011 (which was an Internal Control Statement created by the VCGLR's predecessor, the Victorian Casino and Gaming Authority, and was adopted and used by the VCGLR until December 2015) and in December 2015 were significantly inadequate in relation to probity requirements in relation to junket operators, junket players and premium players. Despite the 2015 Internal Control Statement importing a probity requirement, a positive measure, these deficits in the 2011 and 2015 Internal Control Statements detracted from the ability of the VCGLR to evaluate whether the probity checks required to be undertaken by Crown were sufficient to ensure that undesirable junket operators and participants, and premium players, were not being permitted access to Crown facilities. The terms of the ICSs inhibited the potential for the audit checklists tools used by VCGLR inspectors to accomplish regulatory objectives effectively. (ToR 8)

Finding 4: The current Internal Control Statement in relation to junket operators and premium players, in operation from December 2020, constitutes a belated but important improvement in setting minimum controls for the casino operator and in assisting the auditing required to be undertaken by VCGLR inspectors. It is beneficial for regulatory oversight.

However, the current Internal Control Statement could be improved by enhancing its clarity in setting out with further specificity what are the due diligence processes that are required to be undertaken by the casino operator for junket operators, junket players and premium players so that the regulator can sufficiently undertake audit activities of Crown's work around due diligence. (ToR 8)

Finding 5: The assertions that the VCGLR repeatedly gave Crown what it "what it wanted" in relation to junket operations and that the taxes the Casino pays to the State government had any bearing in respect of the proper regulation of junket operations are not supported by evidence. (ToR 4) However, the Internal Control Statements of the past (as approved by the VCGLR) were insufficient in terms of setting up a system of effective controls for the casino operator given the high-risk nature of junket operators, junket participants and premium players.

Finding 6: The concerns expressed by the Inspectors on the Four Corners episode about the lack or cessation of junket auditing in or about 2013 are substantiated. Auditing at the Casino substantially reduced or ceased for a period around 2013-2014. (ToR 7)

Finding 7: At least since the 2017 VAGO Report, the VCGLR has had appropriate regard to issues around harm minimisation and risk in re-assessing casino audits and the frequency with which audits should be undertaken. This has meant that some audits have been ceased or reduced because of being determined not to be in respect of areas of a sufficiently high risk. However, new audits have been created for new and high risk activities. This is a basis for commendation, not criticism.

Finding 8: The VCGLR has only used the power to force Crown Casino to cease a relationship with one of its players or junket operators once. (ToR 10) However, a variety of other measures have been adopted by Crown, Victoria Police and the VCGLR whereby relationships between Crown and players and licensees have been terminated. The fact that the VCGLR has only exercised its coercive powers over Crown on one occasion is not indicative of regulatory default or oversight.

Finding 9: There is no credible evidence that VCGLR management instructed inspectors at Crown Casino that it was not their responsibility to act on criminal activity discovered at the Casino, including, but not limited to loan sharking in the gaming pit; or drug deals in the casino. (ToR 1)

Finding 10: There is no credible evidence that the VCGLR has at any stage been influenced in its actions or discharge of its investigative responsibilities by the fact that Crown Casino pays the Victorian government over \$200 million a year in taxes. (ToR 9)

Finding 11: Inspectors were not actively blocked by VCGLR management from looking at money laundering at Crown Casino. (ToR 12)

Finding 12: An inspector identified potential money laundering in the Suncity Room of Crown Casino, involving junket representative, Chenkang Pan, who appeared to be handing out money from a cooler bag full of cash on or about 5 May 2017. This was properly investigated by the VCGLR and referred to Victoria Police for criminal investigation. It is inaccurate that ‘nothing was done’ by the VCGLR about this incident. (ToR 11)

Finding 13: There is no credible evidence that Crown Casino exercised undue influence and/or control over the activities of the VCGLR inspectors at the Casino, such that in effect ‘Crown were running [the] office’. (ToR 2)

Finding 14: There is no credible evidence that VCGLR inspectors were forced to keep ‘dirty secrets’ with respect to Crown Casino ‘under threat of negative repercussions, including being fined or losing their jobs’. (ToR 3)

Finding 15: No formal report was generated by a VCGLR inspector in relation to the issue of counterfeit money. However, there is no evidence that the issue of counterfeit money and chips is not adequately monitored by Crown Casino. (ToR 5)

Finding 16: There have been occasional shifts between 2012 and 2021 when no inspector from the VCGLR has been on duty at Crown Casino, and this sometimes still happens if rostering problems arising from illness or recreational leave do not give any other option. This can be readily explained by the fact that there is currently a team of 11 staff (8 of which are inspectors) who manage a presence at the Casino 24 hours a day, 7 days a week for 362 out of 365 days a year. (ToR 6)

Finding 17: None of the allegations found proved in this report involved wrongdoing, including corruption, unlawfulness, a failure by the VCGLR to comply with applicable laws/regulations, or were motivated by improper purposes (i.e. purposes extraneous to the VCGLR’s regulatory objectives) on the part of officers or employees of the VCGLR. For the avoidance of doubt, we have not found any wrongdoing, corruption, unlawfulness, a breach

of any laws/regulations or motivations based on improper purposes at the VCGLR based on any part of our investigation.

TABLE OF RECOMMENDATIONS

Recommendation 1: The inherent and inescapable vulnerabilities of the junket system have the consequence that gambling junkets in substance, as well as in name, should be legislatively abolished. In the meantime, should there be any form of resumption of junkets in Victoria, they at least need to be made subject to the most stringent levels of regulator scrutiny.

Recommendation 2: There should be a review of the 2020 Internal Control Statement that regulates the casino operator's probity assessments of premium players with a view to ensuring a satisfactory level of reliable and accountable evaluation of whether such persons are fit and proper persons and so that the regulator can effectively discharge its regulatory responsibilities over such assessments by the casino operator.

Recommendation 3: Consideration ought to be given to amending Internal Control Statements currently in force to provide for a greater degree of specificity so as to facilitate effective regulation, particularly in relation to premium player arrangements. In addition, a review should be undertaken of the relationship between the casino regulator's Standard Operating Procedures and the regulator's Internal Control Statements so as to ensure consistency.

Recommendation 4: Consideration should be given to whether the Standard Operating Procedures and the regulator's audits for the Casino are consistent with the Internal Control Statements. Consideration should also be given to how best the Internal Control Statements and Standard Operating Procedures can be harmonised, including whether they should be combined.

Recommendation 5: All Internal Control Statements should be reviewed on at least a two yearly basis to ensure they remain fit for purpose and adequately address all emerging areas of high risk for the Casino. It follows that as a result of the review of Internal Control Statements on a rolling basis, the Standard Operating Procedures (created by Crown) and the audit checklists (created by the Compliance Division of the VCGLR) should be reviewed and amended, as necessary, at least every two years to ensure they are compliant with any revisions to the Internal Control Statements which they are based.

Recommendation 6: The 2020 Junket and Premium Player Internal Control Statement should be further reviewed to enhance the specificity of what is required from the casino operator's probity assessments.

Recommendation 7: A process should be established whereby the Intelligence Unit of the regulator provides feedback to inspectors who have provided an Information Report about suspicious activity confirming whether the intelligence in their Information Report has been passed on to a law enforcement agency, and to which enforcement agency, and, if not, why not. In addition, when the Intelligence Unit becomes aware of an outcome from a referral to an external agency, this too should be provided to the relevant inspector and Team Manager.

Recommendation 8: Consideration should be given to investing further in the resourcing and capabilities of the Intelligence and Investigation Units within the Compliance Division of the regulator.

Recommendation 9: Measures should be explored to increase the size of the regulator's Casino Team to ensure that there is appropriate staffing coverage on a 24 hours, seven day a week basis so that inspectors are able to work two-up over night shifts, particularly given occupational health and safety risks and given they walk the Casino floor and are required to talk to persons who may be excluded persons, aggressive or intoxicated.

Recommendation 10: The casino regulator and Victoria Police should maintain open dialogue about the optimal ongoing relationship between the bodies and the advantages and disadvantages of the constitution of a standing unit with gambling expertise within Victoria Police.

APPENDIX A – LIST OF INTERVIEWEES

	Name	Title
VCGLR staff		
1.	Catherine Myers	Chief Executive Officer, VCGLR
2.	Adam Ockwell	Executive Director, Compliance and Enforcement, VCGLR (15 October 2018-ongoing)
3.	Scott May	General Counsel and Executive Director, Regulatory Policy and Legal Services, VCGLR
4.	Alexandra Fitzpatrick	Director, Licensing, VCGLR
5.	Stephen Berriman	Former Director of Compliance between 2015-2018
6.	-	Manager Casino Operations, VCGLR
7.	-	Intelligence Unit, Compliance Division, VCGLR
8.	-	Principal Investigator, Compliance, VCGLR
9.	-	Senior Policy Officer, VCGLR
10.	-	Manager of Legal Services
<i>Current or Former Inspectors, VCGLR</i>		
11.	Inspector A	Inspector/Former Inspector
12.	Inspector B	Inspector/Former Inspector
13.	Inspector C	Inspector/Former Inspector
14.	Inspector D	Inspector/Former Inspector
15.	Inspector E	Inspector/Former Inspector
16.	Inspector F	Inspector/Former Inspector
17.	Inspector G	Inspector/Former Inspector
18.	Inspector H	Inspector/Former Inspector
19.	Inspector I	Inspector/Former Inspector
20.	Inspector J	Inspector/Former Inspector
Non-VCGLR staff		
21.	Michelle Fielding	Group Executive General Manager, Regulatory and Compliance at Crown Resorts
22.	Katie Miller	General Counsel, AUSTRAC