



VICTORIAN CASINO AND GAMING AUTHORITY

Third Triennial Review of the Casino Operator and Licence

30 June 2003

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CASINO AND			

1. INTRODUCTION

Melbourne Casino Licence

Crown Limited operates the Melbourne Casino (“the Casino”), as part of the Melbourne Casino and Entertainment Complex (“the Casino Complex”), at Southbank, as authorised by a licence granted under and subject to the provisions of the *Casino Control Act 1991* (“the Casino Control Act”) on 19 November 1993.

One of the requirements of the Casino Control Act is that the Victorian Casino and Gaming Authority must conduct a review of the casino operator and the licence at intervals not exceeding three years. The First Triennial Review was finalised on 30 June 1997, three years from the commencement in temporary premises of casino operations and shortly after the transfer of those operations from the Temporary Casino to the Casino Complex at Southbank. The Second Triennial Review was finalised on 30 June 2000.

This report documents the outcomes of the Third Triennial Review (“the Review”) and covers the period from 1 July 2000 to 30 June 2003.

2. SCOPE OF THE REVIEW

Overview

The Authority determined the scope of the Review by establishing terms of reference derived from an analysis of the statutory provisions that are relevant to the granting of a casino licence and the obligations of the parties to the transaction documents for the construction, maintenance and operation of the Casino and the Casino Complex.

These matters are summarised in Appendix 2—Background to the Melbourne Casino and Entertainment Complex.

Legal advice was obtained on the requirements for the investigations for the First and Second Triennial Reviews. That legal advice and the terms of reference for the First and Second Triennial Reviews were relied upon for the formulation of the terms of reference for this Review. The terms of reference for this Review were considered by the Auditor-General to be sufficient to provide a sound basis for the Review to proceed. They included provision for a process audit role, as did the terms of reference for the First and Second Triennial Reviews.

The Review began with a public announcement in the form of newspaper advertisements on 18 May 2002 inviting members of the public to make submissions.

Statutory provisions

Section 25 of the Casino Control Act sets out the requirement for triennial investigations.

25. Regular investigations of casino operator's suitability etc.

- (1) Not later than 3 years after the commencement of operations in a casino, and thereafter at intervals not exceeding 3 years, the Authority must investigate and form an opinion as to whether or not—
 - (a) the casino operator is a suitable person to continue to hold the casino licence; and
 - (b) it is in the public interest that the casino licence should continue in force.
- (2) The Authority must report its findings and opinion to the Minister, giving reasons for its opinion and must take whatever action it considers appropriate in the light of its findings.

For the purposes of section 25(1)(b), section 3(1) of the Casino Control Act defines the meaning of “public interest” as:

“public interest” or “interest of the public” means public interest or interest of the public ... having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of casino operations.

The expression “suitable person”, as used in section 25(1)(a), is not defined in the Casino Control Act. However, some assistance is provided by section 9 of the Casino Control Act, which provides as follows:

9. *Matters to be considered in determining applications*

- (1) The Authority must not grant an application for a casino licence unless satisfied that the applicant, and each associate of the applicant (as defined in section 4), is a suitable person to be concerned in or associated with the management and operation of a casino.
- (2) In particular, the Authority must consider whether—
 - (a) each such person is of good repute, having regard to character, honesty and integrity;
 - (b) each such person is of sound and stable financial background;
 - (c) in the case of an applicant that is not a natural person, the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
 - (d) the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the proposed casino and the services of persons who have sufficient experience in the management and operation of a casino;
 - (e) the applicant has sufficient business ability to establish and maintain a successful casino;
 - (f) any of those persons has any business association with any person, body or association who or which, in the opinion of the Authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
 - (g) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity.

The Authority has been guided by the definition in section 9, in determining whether the casino operator is a suitable person under section 25(1)(a).

Terms of reference

The Authority conducted the Review within the following terms of reference:

1. The suitability of the casino operator and the associates of the casino operator, as nominated by the Authority from time to time, having regard to whether:
 - the casino operator and each such associate are still persons of good repute, having regard to character, honesty and integrity;
 - the casino operator and each such associate is of sound and stable financial background;

- the casino operator still has a satisfactory ownership or corporate structure;
 - the casino operator has financial resources that are both suitable and adequate to ensure the financial viability of the casino;
 - the casino operator has sufficient business ability to maintain a successful casino;
 - the casino operator has, or had, business associations with any persons or bodies who are not of good repute or who have undesirable or unsatisfactory financial resources;
 - the casino operator still has the services of persons who have sufficient experience in the management and operation of a casino; and
 - all directors and executive officers are suitable persons to act in their capacities.
2. The standards of maintenance and operation of the Crown Casino Complex.
 3. The expertise of the casino operator, having regard to its compliance under the Casino Control Act, with:
 - the casino licence; and
 - agreements with the Authority and the State.
 4. The existence of, and adherence to, an appropriate corporate governance policy and procedures.
 5. Any other matters that the Authority considers relevant.

Apart from two changes to the Authority's objects in section 140 of the Casino Control Act, the statutory provisions relevant to this Review are unchanged from those which applied to the First and Second Triennial Reviews. Legal advice obtained from senior counsel in 1996 and 1997 for the First Triennial Review continued to be relevant to the determination of the form and scope of the Review. Accordingly, in determining the form and scope of the investigations needed for this Review, the Authority based the terms of reference for the Review on those of the First and Second Triennial Reviews.

On 11 April 2002, the Authority wrote to the Auditor-General advising him of the proposed approach for the Review and provided him with the proposed terms of reference for the Review. He was also invited to comment on the terms of reference. The Auditor-General considered the proposed terms of reference to be sufficient to provide a sound basis for the Review to proceed.

Because of the changes to the Authority's objects referred to above, the Authority sought legal advice from the Victorian Government Solicitor about whether such an amendment affected the terms of reference. The *Gambling Legislation (Responsible Gambling) Act 2000* amended the Authority's objects by substituting the object of promoting tourism, employment and economic development generally in the State with the object of fostering responsible gambling.

The Victorian Government Solicitor arranged for Mr Peter Hanks QC to provide a memorandum of advice, a copy of which is transcribed in Appendix 3. Mr Hanks QC provided the following advice:

If ... the focus of the review is on the reputation, integrity, stability and general suitability of the casino operator and on the honesty, efficiency and stability of the casino

operations, then issues relating to tourism, employment and economic development, or relating to the social and personal damage that may be attributable to gambling, are not part of the review.

While the amendment to s.140 of the Act in 2000 had the effect of re-orienting the Authority (away from economic development issues and towards social issues), s.25(1) remains focussed on issues of reputation, integrity, stability, honesty and efficiency of the casino operator and its operations.

In this context, it is significant that the definition of "public interest" in s.3(1) of the Act was not changed in any substantial way in 2000, and the definition continues to define that term as "public interest or interest of the public having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of casino operations".

After consideration of Mr Hanks' advice, the Authority decided that the terms of reference should be amended by deleting an item relating to the impact of the Casino on tourism, employment and economic development generally in Melbourne and Victoria. The making of this decision took into account the following factors:

- the Authority's statutory powers do not extend to this area;
- these issues do not impact on the Authority's regulatory activities; and
- the Minister for Gaming receives his advice on these issues from the Gaming Policy Unit within the Department of Justice.

The Authority also decided to not accept Mr Hanks' advice that the scope of the Review does not include issues relating to the fostering of responsible gambling ("*the social and personal damage that may be attributable to gambling*"). One of the terms of reference for the Operational Compliance Sub-Committee of the Authority was to investigate Crown's performance in delivering responsible gambling in the Casino.

This term of reference was retained because—

- the Authority's statutory functions include the object of fostering responsible gambling;
- whether the casino operator provides gambling in a responsible manner is directly relevant to the operator's reputation. Reputation of a casino operator is one of the criteria of section 9(2)(a) of the Act under which an application for a casino licence may be granted; and
- the Authority has the power to prosecute breaches of four sets of Regulations made in pursuit of the Government's responsible gambling policies, all of which apply to the casino operator.

On 6 May 2003, the Authority informed the Auditor-General of its decision to remove from the terms of reference the term relating to the impact of the Casino on tourism, employment and economic development generally in Melbourne and Victoria and retain the term of reference relating to responsible gambling. The Auditor-General advised that he considered the amended terms of reference were sufficient.

Process audit

In its letter of 11 April 2002, the Authority advised the Auditor-General of the proposed terms of reference for the Process Auditor and sought his interest in performing the role of Process Auditor. The Auditor-General supported the decision to appoint a Process Auditor to oversee the investigations and declined the invitation to act as Process Auditor given his independent statutory role as Parliament's auditor.

Following a tender process, the Authority appointed Stockford Accounting Services Pty Ltd ("Stockford") on 17 September 2002 to be the Process Auditor for the Review.

As the Process Auditor, Stockford was given access to all relevant papers and personnel, was made aware of the times and places of all meetings of Sub-Committees and Working Parties and received all reports provided to members of the Authority.

On 24 February 2003, Stockford was placed in administration. The effect of this was to automatically terminate the Authority's contract with Stockford. The principal of the team providing process audit services to the Authority, Mr Jean Marc Imbert of Stockford, and nine other audit partners from Stockford established a new company, Risk Management and Assurance Services Pty Ltd ("RMAS"). RMAS purchased from Stockford the business and assets of Stockford. It offered to complete the supply of Process Audit services to the Authority.

Acting in accordance with Government purchasing guidelines, the Authority appointed RMAS on 7 April 2003 to continue on as the Process Auditor for the Review. During the course of the change of identity of the Process Auditor, the same personnel continued to provide uninterrupted process audit services for the Review.

The Process Auditor has provided a written comment for inclusion in this report. It is included at Appendix 4.

Public submission process

The public was invited to make submissions on the matters to be addressed by the Review by notice published in *The Age*, the *Australian* and the *Herald Sun* on 18 May 2002. A copy of the notice is contained in Appendix 5. The Authority did not receive any submissions from the general public.

At the start of the Review, the Authority invited Crown on 9 May 2002 to make a submission on the matters to be addressed by the Review. Crown made a confidential submission on 11 October 2002.

In the closing stages of preparation of this report, the Authority provided Crown with a preliminary copy of Parts 3 and 4 of this Report, encompassing the Results of Investigations and Findings of the Review. The Authority invited Crown to make a submission in response to these Parts. This was done to afford fairness to Crown and to ensure accuracy and completeness in the material on which conclusions would be based. Crown was advised that its response may be appended in part or in full to this

Report and that the Minister for Gaming may release the Report to the public. Crown's full response is in Appendix 9.

Crown responded in a timely fashion to all issues raised. The Authority has considered all the matters raised by Crown and made some modifications to this Report accordingly.

Benchmarking Study

Crown, through its wholly owned subsidiary, Crown Management Pty Ltd, has specific contractual obligations to build, operate and maintain the Melbourne Casino Complex–

to a first class standard comparable to world class international casinos, hotels and other facilities.

International comparisons are relevant to both the Commercial Compliance and Operational Compliance aspects of the Review.

To determine whether Crown was complying with these obligations, an overseas benchmarking study tour of ten large international casinos was undertaken in October 2002. An account of the Benchmarking Study is in Appendix 8.

3. RESULTS OF INVESTIGATIONS

Overview

In February 2002, the Authority established three Sub-Committees to conduct the investigations for the Review in the following areas:

- Commercial Compliance;
- Operational Compliance; and
- Probity.

The Office of Gambling Regulation established three Working Parties to assist the Sub-Committees.

Details of each of the Sub-Committees and Working Parties are respectively in Appendix 6 and Appendix 7. An account of the method and extent of investigations conducted by the Sub-Committees and Working Parties is in Appendix 8.

Commercial Compliance

Scope

The Commercial Compliance investigations focussed on the following three aspects of Crown's compliance with its obligations:

- Crown's standards of corporate governance;
- Crown's financial performance; and
- the Melbourne Casino Complex compared to world quality standards in casino complexes.

Crown's ability and willingness to meet its obligations under the transaction documents and comply with the Casino Control Act are indicators of Crown's suitability to continue to hold a casino licence and can impact on public confidence and trust in the credibility, integrity and stability of the casino operations of Crown.

Corporate Governance

Internal Audit Function

In 1999, the Authority engaged Arthur Andersen to evaluate the risks associated with all functions prescribed in legislation administered by the Minister for Gaming. One of the recommendations (A12.1) made by Arthur Andersen, in their report dated January 2000, was that Crown be required to "demonstrate that their own internal audit programs are risk based and that all key risks are reviewed". Based on this recommendation, the Authority at its meeting on 2 May 2000 determined that—

negotiations be commenced with Crown to have the Internal Control Manual amended to require the casino operator's internal audit function to be outsourced.

The Internal Control Manual ("ICM") is Crown's documented system of internal controls and administrative and accounting procedures for the Melbourne Casino, approved by the Authority under section 121 of the Casino Control Act.

In a letter of 25 September 2000, Crown advised the Authority that it was strongly opposed to the Authority's decision that it be required to outsource its internal audit function. It gave several reasons for its opposition, and advised that it proposed to recruit additional staff to enhance its internal audit function. On 12 December 2000, the Authority agreed to not require Crown to outsource its internal audit function, subject to Crown implementing a number of measures including appropriate resourcing of its Internal Audit unit, with the head of the unit to report directly to the Chief Executive Officer and/or Board and not through any line manager.

The Authority's investigation found that Crown's scheduled internal audit program for the 2002/03 financial year amounted to a total of only 700 hours, which equates to about one half-time person per day. The Authority considers this is an inadequate allocation of resources for the internal audit function for Crown. The Authority has continued to be dissatisfied with the scope and content of the external audit reports supplied by Crown in that they have not demonstrated whether the ICM is adequate or whether Crown is fully complying with it. They also have not mentioned departures by Crown from the ICM that have been the subject of disciplinary action by the Authority. The Authority again holds the view that Crown should outsource its internal audit function or, alternatively, increase the resources in this area and change the reporting structure as noted above.

The Authority notes that in its response to a preliminary copy of Parts 3 and 4 of this Report, Crown stated that its internal audit activity is greater than reported here. However, the Authority notes that its findings are based on information previously provided by Crown of projected internal audit activity. The Authority has not had sufficient opportunity to verify Crown's response. Nevertheless, the Authority recommends that to properly address any future analysis of Crown's internal audit activity, Crown advise the Authority of its proposed internal audit program on a regular basis and also advise of any variations to the proposed program, including actual expenditure.

In comparison, the Mohegan Tribal Gaming Authority, which owns and operates the Mohegan Sun Casino in Connecticut USA, which is a large world class casino complex, outsources its internal audit function to Ernst & Young for increased independence. Its external audit function is provided by PriceWaterhouseCoopers.

In the USA, the Sarbanes-Oxley Act of July 2002 requires public companies to use different firms for their external and internal auditors.

In the 2001/02 financial year, the Sky City Entertainment Group Limited in New Zealand (operator of Sky City casinos in Auckland, New Zealand, and Adelaide), paid PriceWaterhouseCoopers NZ\$367,000 for Compliance Audit services in addition to NZ\$228,000 for Statutory Audit services and NZ\$1.46 million for other services.

In the 2001/02 financial year, Crown paid its external auditors \$250,000 for audit services and \$251,000 for other services.

Crown has conducted extensive cost cutting programs and the lack of resources devoted to ensuring compliance with its regulatory obligations is an example of one consequence of this program.

Another example of cost cutting affecting Crown's internal controls relates to Crown's development of a Cheque Fraud Awareness Program. This program was developed after a person was almost successful in fraudulently obtaining \$2.0 million from a Crown bank account in July 2002.

One of the recommendations of the Cheque Fraud Awareness Program was that the Corporate Accounting Manager, who is responsible for bank reconciliations, be removed as a cheque signatory to improve segregation of duties. In a follow-up report dated 27 November 2002, on the Cheque Fraud Awareness Program, Crown's Manager, Risk and Assurance, stated that resource constraints have prevented implementation of this control and that the Corporate Accounting Manager continued to sign cheques "due to recent staff movements".

Audit Committee

The "Directors' Report" section of Crown's Annual Reports for 2001 and 2002 stated that "the company has three Committees – the Audit Committee, the Compliance Committee and the Remuneration Committee". The Authority found limited documentation from Crown's Audit Committee during its inspection of Crown's documents which prompted a letter of inquiry from the Authority's Chairman. Responding by letter of 27 March 2003, Crown advised that "the Audit Committee and its functions are dealt with by the full Board of Crown Limited". It also advised that the Crown Board considered audit matters only twice in 2000, twice in 2001 and three times in 2002. The Authority is concerned that Crown does not have a separate and independent Audit Committee, especially in view of the fact that the Crown Board meets only four times a year.

Compliance Committee

Investigations by the Australian Securities and Investments Commission ("ASIC") conducted during the period of the Second Triennial Review led to Crown executing an Enforceable Undertaking with ASIC on 11 September 1998, in which it agreed to greater formality in its internal corporate governance and compliance processes. Crown implemented the compliance program, under which a committee of its Board of Directors received information and monitored compliance in a formal and structured way.

In Crown's submission of 10 February 2000, for the Second Triennial Review Report of 30 June 2000, Crown provided the Authority with details of its Compliance Program, which was being implemented in accordance with Australian Standard AS3806 – 1998. It included a Flow Chart showing the organisational structure for compliance, with a Board-based Compliance Committee reporting directly to the Board of Directors of Crown. Crown's diagram of its compliance structure was published on page 26 of the Report for the Second Triennial Review.

On 28 July 2000, Crown informed the Authority that it had executed a “Variation of Enforceable Undertaking” with ASIC on 29 June 2000. This variation relieved Crown of most of its obligations under the original Enforceable Undertaking.

During investigations for the Third Triennial Review, the Authority found that on 1 March 2000 Crown replaced the Board-based Compliance Committee with a management-based compliance committee chaired by Crown’s Chief Executive Officer. The diminution in status of the Compliance Committee falls short of best practice for a company holding a casino licence and of its previous commitments to the Authority.

By comparison, the Compliance Program for Park Place Entertainment Inc, which has large casinos in Nevada and New Jersey in the USA, states that its Compliance Committee must have at least five members and that a majority of them must be non-officers of the company. The Program also states that the Compliance Committee has access to all the resources that it considers necessary, from the Audit, Finance, Legal, Security and Surveillance Departments “or as may otherwise be required” and outside legal counsel if necessary.

While the Authority accepts that casino operations can be adequately controlled from the management level, it expects that, if Crown is to exercise best practice standards, Crown’s Compliance Committee should be returned to Board level.

Compliance Failures

During the period of the Review, the Authority has identified that Crown has had problems in ensuring compliance with regulatory requirements relating to corporate governance. Crown’s external auditors (Ernst & Young) identified in October 2002 two significant breaches of the Internal Control Manual relating to failures by Crown’s Internal Audit Department in the financial year ending on 30 June 2002.

Crown also failed on five occasions to provide the Authority with copies of the Directors’ Quarterly Reports from September 2000 to September 2001 inclusive, as required by the Casino Agreement. These were only provided after a Show Cause Notice was issued by the Authority on 7 March 2002. This example of tardy compliance with regulatory requirements relating to corporate governance is also another indicator that Crown’s performance could be expected to improve if it increased resources for the internal audit function.

Another breach was Crown’s failure to provide Monthly “Customer Comments Reports” for several months from August 2001, in accordance with Part XVII – *Patron Complaints’ Register* of Crown’s ICM. It took Crown some months to produce the reports, and when they were received they were in an entirely new quantitative format, which was not acceptable to the Authority because it did not contain representative samples of actual customers’ comments. The new report was titled “Customer Feedback Monthly Report”. It then took Crown some months until July 2002 to change the format of the report to include the qualitative information required by the Authority.

As a consequence of these compliance failures, Crown commenced the development of a computerised Compliance Alerter System in February 2002. This computer software

program is a company wide reminder system with the objective of avoiding future incidents of compliance failure. A live demonstration to members of the Commercial Compliance Working Party on 11 December 2002 showed that the System still required some technical adjustments to function effectively.

The Compliance Alerter System has not been in operation long enough for a conclusion to be drawn as to whether it is likely to achieve improved compliance by Crown.

Petelex Pty Ltd

The Authority became aware in late 2002 that Petelex Pty Ltd (“Petelex”), a new subsidiary of Publishing and Broadcasting Limited (“PBL”), had acquired two of the major operating companies of the PBL Group; Nine Network Australia Pty Ltd and Australian Consolidated Press Limited, which involved about 60 PBL subsidiaries.

The PBL Borrower’s Periodic (Quarterly) Report, which was lodged with ASIC on 31 January 2003, revealed that the amount of \$5,371,920,533 was receivable by PBL from Petelex as at 31 December 2002, as a result of “Intercompany investment sales.”

On 4 March 2003, the Authority sought clarification from PBL why Petelex had not executed a new Guarantor Deed pursuant to clause 6.1 of the Deed of Undertaking and Guarantee dated 30 June 1999. One of the prime purposes of this Deed was to ensure that PBL did not transfer any significant assets (worth more than 10% of its total assets) from a Guarantor to a non-Guarantor. PBL advised on 18 March 2003 that it had not executed a new Deed because it “does not believe it is required to do so”. The Authority is continuing to investigate whether Petelex is required to execute a new Guarantor Deed pursuant to the Deed of Undertaking and Guarantee.

Independent Directors

In its Report on the Second Triennial Review, the Authority stated on page 27-

The Authority does not consider a Victoria-based director to be the same thing as an independent director. While accepting that PBL is a listed company with independent directors, the Authority is concerned that the proper level of decision making for the Crown board requires a degree of independence from the parent company. Crown is the licensed entity responsible for detailed technical compliance with the regulatory regime and it is the board of Crown which is primarily responsible for Crown’s actions.

Crown has since advised the Authority on 18 March 2003 that it had completed its review of its constitution and had decided not to amend it.

Nonetheless, the Authority believes that Crown should appoint two more independent directors, as Crown has a Board of eight directors, of which at least one third should be independent. The Authority reiterates its opinion expressed in the Second Triennial Review Report that it does not consider a Victoria-based director to be the same thing as an independent director.

Persons Acting as Associates of Crown

Crown is wholly owned by PBL. Throughout the period of this Review, two senior executives of PBL who have not been approved by the Authority as associates of

Crown have received the Agendas and papers for a considerable number of the monthly meetings, entitled “PBL/Crown Management Meetings”, and regularly attended these meetings. In response to questions raised by the Authority, Crown advised on 31 March 2003, that one had attended 13 meetings and the other had attended 15 meetings after he ceased to be a Crown employee. Crown has not submitted to the Authority applications for these persons to be approved as associates of Crown under section 28 of the Casino Control Act.

In response to a letter of inquiry from the Authority’s Chairman, PBL advised on 18 March 2003 that “both Senior Managers of PBL, have, at various times, attended these meetings in an advisory capacity”. The Authority is not satisfied with this explanation for the following reasons:

- since both persons have consistently attended a considerable number of the meetings during the Review period, this appears to take them beyond the role of advisers or observers and makes them persons holding a “relevant position” pursuant to section 4(2) of the Casino Control Act; and
- another person who was not an approved associate and who attended some meetings was recorded as an “observer” in the minutes of the meetings, while neither of the two persons in question attracted any such notation.

In stating the above, the Authority is not raising any question regarding either person’s probity, nor does it suggest that either person might not be approved by the Authority as an associate of Crown.

Financial Performance

Since the change of ownership in June 1999, Crown has not breached the debt/equity ratio required by the Casino Agreement of 60%. In the Report on the Second Triennial Review, the Authority noted (on page 23) that PBL’s purchase of additional shares in Crown resulted in a substantial reduction in Crown’s debt/equity ratio from close to the 60% limit to less than 20%. However, in August 2002, PBL reclaimed \$1,000 million through Crown buying back 840.3 million of its shares from PBL. The effect of this was to increase the debt/equity ratio from approximately 14% to 42%.

Records inspected showed that Crown has not defaulted on any interest payments and has met all liquidity obligations. Unlike its financial position prior to the merger with PBL, which was reported in the Second Triennial Review, Crown’s financial performance during the period of this Review has been consistently profitable.

Crown’s casino budgeting and business planning process has incorporated suitable critical management assumptions and realistic targets. Its financial performance, on an annual basis, has closely approximated its budgets.

World Quality Standards In Casino Complexes

The Commercial Compliance investigations focussed on the extent to which Crown could demonstrate an on-going commitment to capital reinvestment to maintain and

renew the physical attributes of the Casino Complex and retain the Casino's prominence in the international gaming market.

Crown stated in its Submission to the Review that –

Since the last triennial review Crown has continued to invest substantially through a comprehensive capital expenditure program to maintain Crown's asset base and entertainment product at an international level. The total of such expenditure (including expenditure on developing a new hotel) was \$156 million.

Crown reported that the main components of the \$156 million capital expenditure were new gaming machines, new gaming tables (including Rapid Roulette), upgrades to its Management Information Systems, property acquisitions adjacent to the Casino Complex and property refurbishments and enhancements. This latter category included the new "Pub at Crown".

In relation to Crown's capital expenditure generally, the Authority considers that Crown is "managing down" the Casino's capital expenditure with a very strict assessment and monitoring regime. This regime ensures that projects are selected efficiently and effectively but has the effect of delaying some projects.

Under the *Casino (Management Agreement) Act 1993*, Crown has a legal obligation to construct the Second Hotel, with a minimum of 465 rooms, by 30 November 2003. PBL has required Crown to finance construction of the Second Hotel out of its own cash flow and this has made it necessary for Crown to cut back capital expenditure in other areas. During this time, in August 2002, Crown used \$1,000 million of its surplus cash to buy back 840.3 million of its shares from PBL.

In the Report for the Second Triennial Review, the Authority stated (on page 31):

The Southbank Complex is Melbourne's most visited building and is a prominent Melbourne landmark, which Crown has an obligation to maintain as a high quality international class casino complex. It is in this context that the Authority reports its view that Crown's commercial policies raise the concern of a possibility that the Southbank Complex may fall below the required standard.

The Authority is of the view that the Melbourne Casino Complex is still a suitable facility and notes that Crown has updated some of its attractions, such as the recent opening of "The Pub at Crown" in April 2003. However, the Authority also notes that, when compared with the casinos inspected as part of the benchmarking study, some parts of the Casino Complex, such as the furnishings, are showing their age. The Authority further notes that, since the Second Triennial Review, a number of international designer shops have left the Casino Complex.

The Authority expects Crown to redirect more funds to capital expenditure projects in the Casino Complex, following completion of the Second Hotel, to ensure the Casino Complex remains a world class facility.

Review of the Casino Agreement

It was stated in the Second Triennial Review Report (on page 25) that, after Crown ceased to be a listed public company and had ceased holding general meetings of members, there was a diminution in the disclosure – through public channels - of information pertinent to the Authority's functions.

This diminution is a natural consequence of Crown ceasing to be a listed public company and the Authority does not intend any criticism of Crown for that consequence. However, the Authority would like to establish a process whereby Crown will inform the Authority of specific matters that are necessary for the Authority to carry out its regulatory functions.

The Authority's regulatory role would be enhanced if Crown provided information to the Authority in line with what a publicly listed company provides to the ASX under the continuous disclosure obligations.

Crown requested in its Submission to the Authority a review of the purpose and content of the Casino Agreement between Crown and the Authority. The Authority believes that a renegotiation of the terms of the Casino Agreement, which is now ten years old, would be of benefit to the State by realigning Crown's obligation as the casino licensee to provide information to the Authority with the Authority's obligation to regulate certain minimum corporate standards for Crown. A renegotiation of the Agreement would provide for:

- the removal of redundant clauses relating to the construction of the Casino and Casino Complex;
- making the Agreement more relevant by reflecting the changed corporate structure of the casino operator; and
- making the Agreement more relevant in light of the altered insurance environment.

The Authority endorses Crown's request for the Casino Agreement to be reviewed and recommends that consideration be given to an appropriate negotiation process.

Commercial Compliance Conclusions

The Authority is satisfied that the commercial compliance investigations undertaken by the relevant Working Party were conducted in accordance with and fulfilled the requirements of the terms of reference for the Commercial Compliance Sub-Committee of the Authority.

For the Second Triennial Review, the Authority concluded that Crown had become financially stable, that its compliance program was satisfactory and that it appeared then to have placed a higher emphasis on compliance matters.

The Authority remains concerned that Crown –

- does not have an Audit Committee that is separate from and independent of its Board;

- does not appear to resource adequately the monitoring of its compliance with its system of Internal Controls with a resultant lack of timely compliance;
- does not have the number of independent directors expected by the Authority;
- has significantly weakened its Compliance Committee by changing its structure;
- has not applied for two persons who regularly attend the monthly PBL/Crown Management Meetings to be approved as associates; and
- has allowed some parts of the Casino and Casino Complex to slip below a world class standard in appearance.

The Authority is also concerned that PBL has transferred a significant portion of its assets to a non-guarantor company, Petelex, and has not arranged for Petelex to sign a Deed of Guarantee apparently required by clause 6.1 of the Deed of Undertaking and Guarantee.

These matters would need to be properly addressed, before Crown's corporate standards could be said to be in accordance with best practice.

Although the Authority has identified some issues of concern regarding Crown's record of commercial compliance, the Authority on balance concludes that, in regard to the commercial compliance matters, it is satisfied that the casino operator is a suitable person to continue to hold the casino licence and it is in the public interest that the casino licence should continue in force.

Operational Compliance

Scope

The Operational Compliance investigations focussed on the following aspects of Crown's operational performance:

- management expertise and business ability;
- infrastructure management;
- operational compliance;
- international comparisons; and
- responsible gambling.

Management Expertise

During the period of the Review there were several changes to the executive management structure of Crown. With the exception of the position of General Manager, Security and Service, the new appointments came from within Crown. There were also fewer changes to the executive management team during the Review period than in the previous review periods. These two factors resulted in a consolidation of the management skills and expertise with Crown's senior line managers in the main gaming related departments having all had extensive previous experience in the casino and/or gaming industries.

The curriculum vitae of senior management were reviewed to determine whether relevant and appropriate experience exists to perform the functions detailed on the relevant position descriptions. The investigations found that Crown's senior executives have broad competencies and considerable experience and its line managers bring sufficient technical expertise to their respective areas of gaming management. The Authority formed the opinion that Crown has sufficient skills and expertise in its casino management structure to operate the Casino satisfactorily.

Business Ability

In order to assess Crown's operational business ability, Crown provided the Commercial Compliance and Operational Compliance Working Parties with a presentation of its business plans for its gaming business units.

The business plans demonstrate that Crown has developed clear objectives, marketing strategies, training and resource management which should assist it in offering gaming products of high quality and efficient and effective service to patrons. The Authority considers that Crown has sufficient casino operational business ability to maintain a successful casino.

Infrastructure Management

Crown's infrastructure was examined in accordance with Crown's obligations under several transaction documents to maintain a world class facility. Crown's business plans indicate that Crown is cognisant of the need to continue its technological innovation by developing systems and gaming products to enhance its business and gaming operations. Crown's innovative use of information and other technologies, particularly in table gaming and surveillance activities, is commended by the Authority.

The infrastructure, including a range of non-gaming facilities, has been sufficient to continue to attract high levels of patronage to the Casino Complex. The non-gaming attractions such as the cinemas, restaurants, amusements, showroom, shops and convention facilities have, when viewed as a whole, been successful in attracting people to the complex.

Operational Compliance

Compliance with Games Rules and Procedures

The compliance of Crown's operations with the Casino Control Act, the gazetted Rules of the Games and the approved provisions of the Internal Control Manual was examined.

The total number of breaches of table gaming rules and procedural errors detected by inspectors between 1 January 2000 and 31 December 2002 (36 months) was 792, averaging 22 errors per month. The Authority noted that this figure represented an increase of 1.1 errors per month when compared with 629 errors detected during a

30 month period relevant to the Second Triennial Review. Although there has been a slight increase, the Authority does not consider the number of errors to be excessive. Most of the errors were minor breaches that did not warrant action by the Authority.

The number of patron complaints received by staff of the Office of Gambling Regulation decreased by 2.7 per month compared with complaints received during the Second Triennial Review period and the Authority considers that this complaint level is not excessive.

Prevention of Minors Entering the Casino

The Authority acknowledges that the average attendance in the Casino of between 1 million and 1.25 million persons per month places considerable pressure on Crown's system to detect persons prohibited from entry into the Casino. An average of 2,060 people aged under 18 years (minors) attempted entry into the Casino each month during the Review period, compared with 3,075 per month during the Second Triennial Review period. The average number of minors detected in the Casino in this Review period decreased to 5 minors per month, which represents a decrease of 0.8 per month since the Second Triennial Review.

Crown has complied satisfactorily with its obligations to report the detection of minors in the Casino to the Office of Gambling Regulation in accordance with section 85 of the Casino Control Act. All such incidents were investigated by the Office of Gambling Regulation for potential prosecution.

Excluded Persons

Excluded persons were found in the Casino on 1,165 occasions during the Review period (an average of 1.06 per day). As there are currently over 1,100 persons formally excluded from entering the Casino at the time of preparing this Report, the Authority considers that these figures are not excessive. A small number of excluded persons entered on multiple occasions and made up the bulk of the entries.

Approvals of Controlled Contracts and Gaming Equipment

Crown has largely complied with controlled contract and approval procedures for the supply and use of gaming equipment. The Authority took disciplinary action against Crown on eight occasions during the Review period in relation to controlled contracts. However, the Authority expects the number of incidents of non-compliance to decrease for the next review period for two reasons:

- the *Gambling Legislation (Miscellaneous Amendments) Act 2000* amended section 29 of the Casino Control Act to allow Crown to develop a system of self regulation in relation to a large proportion of controlled contracts, which system the Authority approved in a number of stages in 2002 and early 2003; and
- the *Gaming Legislation (Amendment) Act 2002* exempted from the controlled contract provisions in the Casino Control Act any contracts between the casino operator and a person listed on the Roll of Suppliers under the *Gaming Machine Control Act 1991* for the supply, maintenance, repair or modification of gaming machines or gaming equipment relating to gaming machines.

Compliance with External Agencies

External agencies have advised that Crown has complied with legislative requirements in the areas of cash transactions reporting (AUSTRAC), Occupational Health and Safety, casino crime related matters and restrictions on smoking imposed on 1 September 2002.

Other Regulatory Issues

Disciplinary action was taken by the Authority against Crown on 12 occasions during the Second Triennial Review period. The Authority took disciplinary action against Crown on 26 occasions during this Review period, including the eight matters relating to controlled contracts. Of these 26 incidents, nine related to incidents occurring in whole or in part prior to 1 January 2000, which was the final date for Operational Compliance investigations for the Second Triennial Review. The Authority notes that Crown has implemented a Compliance Alerter System to aid compliance with the range of regulatory obligations and has also initiated a post-disciplinary action review process. The Authority expects these processes to result in greater compliance during the next review period.

While there is room for improvement, Crown's compliance with operational matters covered by the relevant sections of the Casino Control Act, Approved Rules of the Games and the operational procedures outlined in the Internal Control Manual is satisfactory.

Pending Investigations

At any one time, there will be a number of investigations pending on operational issues. This is the case now and the matters that are incomplete will be included in the next triennial review.

International Comparisons

In the Second Triennial Review the Authority expressed concerns, with respect to world quality standard, about management attention to detail (and possibly dedication of resources) in maintenance and cleaning.

Crown stated in its Submission to this Review that –

Maintaining the Complex's assets and presentation standards to high quality international class standards involves an integrated program of:

- (i) Cleaning of the Complex;
- (ii) Repairs and Maintenance to existing Crown assets;
- (iii) Capital asset acquisitions, replacements and upgrades.

The Authority found that Crown has undertaken several initiatives in order to address maintenance and cleaning requirements. These include the implementation of Quality Control Procedures for Cleaning Services and the recruitment of a dedicated manager to oversee the conduct of the cleaning contracts. Crown continues to receive complaints from patrons with respect to the cleanliness of the facility. However, an inspection of the Casino found that cleanliness and maintenance of the Casino was of a

satisfactory standard.

Some limited comparative studies with the Sydney Star City Casino were undertaken as part of the Authority's Benchmarking study. The information collected from Star City and the Overseas Benchmarking Study Tour was used to compare Crown Casino with other world class casinos. The Authority is of the view that Crown continues to provide facilities that would be considered a requirement for a world class casino.

Responsible Gambling

During the period to which the Review applies, the Authority has had the power to prosecute breaches of the following four sets of Regulations made in pursuit of the Government's responsible gambling policies, all of which apply to the casino operator:

- Gaming Machine Control (Advertising) Regulations 2001;
- Gaming Machine Control (Clocks) Regulations 2001;
- Gaming Machine Control (Responsible Gambling) (Lighting and Views) Regulations 2001; and
- Gaming Machine Control (Responsible Gambling Information) Regulations 2002.

The Authority examined Crown's compliance with these Regulations, the *Gaming Legislation (Amendment) Act 2002* and Crown's corporate approach to the provision of problem gambling services. The investigation confirmed that Crown has not breached its statutory obligations in relation to providing gambling in a responsible manner.

The Authority notes that Crown established its Crown Customer Support Centre in March 2002 to provide counselling and referral services for patrons concerned about their gambling habits or the gambling habits of those close to them. The Authority also recognises that this service is believed to be a world first, has attracted interest from a number of international organisations and is supported by welfare organisations.

Crown's participation in Responsible Gambling working parties and the initiatives it has introduced to its operations are an indication of its commitment to responsible gambling policies.

Operational Compliance Conclusions

The Authority is satisfied that the operational compliance investigations undertaken by the relevant Working Party were conducted in accordance with and fulfilled the requirements of the terms of reference for the Operational Compliance Sub-Committee of the Authority.

The Authority found that operationally Crown is still at the forefront of Australian casinos and many aspects of the operation of the Casino are consistent with Crown's obligation to maintain it to the world quality standard. However there are some matters referred to above, such as instances of disciplinary action regarding casino operations, for which the Authority expects improvement.

Probity

Scope

In accordance with the terms of reference, probity investigations followed the relevant requirements of section 9 of the Casino Control Act, as they applied to the granting of the casino licence (so far as that section applies to probity investigations).

Corporate Structure/Associated Companies

As stated earlier, Crown is wholly owned by PBL. Consolidated Press Holdings Limited (“CPH”) has a beneficial interest of 37.4% in PBL. It was also investigated as an associate of Crown. With the exception of the One.Tel Limited matter referred to later in this Report, checks conducted with ASIC, Dun and Bradstreet and Victoria Police revealed no issues of concern.

Associates

Fifteen individual associates of the casino operator were also investigated. Reports provided by ASIC, Baycorp Advantage Business Information Services Ltd (“Baycorp”) and the Organised Crime Squad of Victoria Police did not reveal any issues of concern.

The investigations revealed that associates of Crown had been involved with a total of 57 companies that had been deregistered since 1 January 1999. An ASIC data base check of the companies revealed that the 57 companies were solvent at the time of de-registration. Other than the One.Tel Limited issue identified below under “Matters Excluded from Consideration”, there were no issues requiring further consideration.

Casino Special Employees (Category A)

Probity investigations were undertaken of 115 of Crown’s senior managers, executive staff and secretaries of the company. Of these, four had recently undergone probity assessment through the licensing process. A further person was on extended sick leave and was not subject to the probity assessment. If he is still working for Crown at the time of the next review, and still occupies a relevant position, he will be subjected to a probity assessment.

The investigation into the remaining 110 special employees was referred to ASIC, Baycorp, and the Organised Crime Squad, Victoria Police. On 26 August 2002 ASIC advised it had not investigated any of the identified parties.

Baycorp provided Personal Credit reports for the 110 individuals by 2 September 2002. Nine licensees were identified as having financial and business issues, including one licensee who had an overdue account. These issues have been investigated and no issues of concern were found.

On 10 September 2002 the Organised Crime Squad provided criminal history and intelligence checks in respect of the 110 licensees. No issues of concern were found.

Report from Victoria Police

On 8 November 2002 a report was received from Victoria Police in relation to the activities of its Casino Crime Unit. The report covered the areas relating to staff collusion, "loan sharking", money laundering, pickpockets, prostitution, drug traffic and international gaming cheats.

There were four casino special employees mentioned in the report. Three were mentioned for matters relating to staff collusion and one was mentioned in relation to obtaining financial advantage by deception and theft. In all cases, the special employees had ceased working at the Casino and their casino special employee licences have been cancelled by the Authority.

The report concluded that there were no issues known to Victoria Police that would adversely affect the ability of Crown to continue holding the Casino licence.

Media Searches

Information Edge Pty Ltd was engaged to carry out a media search for any articles relating to the Casino, the casino operator or any of the four key associates, namely, Mr Kerry Packer, Mr James Packer, Mr Nick Falloon and Mr Peter Yates, during the last three years. The search retrieved 1,060 pages of articles from the nominated press, which were subsequently reviewed to identify any probity concerns. Only two articles revealed possible probity issues. One article was by Khozem Merchant published in the English *Financial Times* on 4 July 2001 and titled *Packer's Indian Connection Arrested*. It dealt with a proposed business venture between Mr Kerry Packer, Mr Ketan Parekh and Himachal Futuristic Communications Limited.

For the purposes of the Review, the Company Secretary of CPH was asked in February 2003 to provide full details of Mr Kerry Packer's and Mr James Packer's involvement in this matter. Written answers were provided to the specific questions posed. The Manager, Probity, of the Office of Gambling Regulation reviewed the material provided. The Authority has formed the view that the circumstances of the CPH/Packer's business ventures in India and their associates in those ventures do not create probity concerns regarding CPH, its executives, Mr Kerry Packer or Mr James Packer.

The second article was published in the Herald-Sun on 3 December 2002 concerning a court appearance of a former licensed casino special employee of Crown. The former non-executive employee was found guilty at the Melbourne Magistrates' Court on 2 December 2002 of drug trafficking and was placed on a two-year good behaviour bond and required to pay \$1,000 to the Court fund. It was reported that the person worked at Crown at the time of the offence and was in an environment where he claimed he knew of at least 60 people who took drugs. An investigation into this matter was carried out by the Compliance and Investigation Branch of the Office of Gambling Regulation. The Authority has formed the view that the article did not accurately reflect the context of a statement made by the former employee's solicitor and that an interview with the former employee did not provide any evidence of illicit drug taking by staff at the Casino.

CPH Tax Matter

An investigation continued to be conducted into an audit by the Australian Tax Office (“ATO”) of the CPH group conducted from November 1991 until 12 December 1994 when substantial amended assessments were issued to CPH Property Pty Ltd, Murray Leisure Group Pty Ltd, Mr Kerry Packer and various Packer Trusts. This resulted in court actions, appeals and cross appeals by both parties, which concluded with judgement being handed down by the High Court of Australia on 31 May 2001. This matter has previously been discussed in the First and Second Triennial Review Reports as an investigation that could not be completed at the time of each Report.

The Authority has formed the view that, after consideration of all the circumstances of the ATO’s audit and amended assessments and the outcome of the various court proceedings, particularly in respect of the High Court’s decision of 31 May 2001, that this matter does not generate probity concerns in respect of the actions of CPH or Mr Kerry Packer.

Matters Excluded from Consideration

The Authority determined that two matters being investigated for the Review that were incomplete at the time of making this Report, should not be considered in forming its present opinion as to the suitability of the casino operator to hold the casino licence. They are:

- The Wooltech matter– An investigation was conducted on CPH’s involvement in a wool scouring venture in Italy through a wholly owned subsidiary, Wooltech Limited. It was noted in the Second Triennial Review Report that an investigation into this matter was being conducted by authorities in Italy and the Authority’s investigation could not then be concluded.

The Italian authority’s investigation was subsequently brought before the Italian courts and concluded in respect of Wooltech Europe S.r.l. and CPH personnel in early 2002. The Office of Gambling Regulation has subsequently completed an investigation into this matter. The findings of the investigation are currently being assessed.

If the Authority considers it appropriate, it will proceed to exercise its powers pursuant to the relevant provisions of the Casino Control Act.

- The One.Tel matter– The Authority has considered the involvement of Mr James Packer and PBL in One.Tel Limited in light of its collapse in 2001 and the subsequent regulatory investigation undertaken by ASIC into that collapse. ASIC has issued legal proceedings against former One.Tel Limited officers following completion of their investigation. The Authority understands that no allegation has been made by ASIC in those proceedings against Mr James Packer or PBL. Any determinations or actions arising from these proceedings are not expected in the immediate future. The Authority is monitoring the legal proceedings issued by ASIC and will be monitoring any legal proceedings issued by the liquidator. Upon their conclusion, if the Authority considers it appropriate, it will proceed to exercise its powers pursuant to the relevant provisions of the Casino Control Act.

Probity Conclusions

The Authority is satisfied that the probity investigations undertaken by the relevant Working Party were conducted in accordance with and fulfilled the requirements of the terms of reference for the Probity Sub-Committee of the Authority.

Excluding consideration of the two matters referred to above, the Authority is satisfied that, for the purposes and period of this Review, all probity issues have been fully investigated.

The Authority is satisfied, having regard to the probity issues, both individually and collectively, that none of them render Crown unsuitable to hold a casino licence.

4. FINDINGS

Issues for Determination

Section 25 of the Casino Control Act requires the Authority, once it has completed its triennial investigation, to form an opinion about two things:

- whether the licensee, Crown Limited, is still a suitable person to hold a casino licence; and
- whether it is in the ‘public interest’, as that expression has been specifically defined, for the casino licence to continue in force.

The first point focuses directly on the licensee, its probity, conduct and capabilities. The second point deals with the more general concern that a casino should only be allowed to continue if it is possible to maintain public confidence and trust in the credibility, integrity and stability of the casino’s operations.

In 1997 and 2000, it was the view of the Authority that Crown had effectively, efficiently and fairly conducted the operation of a major casino since commencing operations in 1994. The Authority was also satisfied that the manner of operation had engendered the necessary public confidence.

Suitability of Crown

After a comprehensive probity investigation, the Authority is satisfied with the probity of Crown.

Although the Authority has identified a number of shortcomings in the area of Crown’s corporate governance, on balance it is satisfied that, for the purposes of this Review, Crown’s current commercial compliance is not inconsistent with it being a suitable casino operator.

The Authority is of the view that Crown’s casino operations have, subject to the matters disclosed in this report, continued to be effective, efficient and fair. Crown’s performance has been what could reasonably have been expected of it, taking into account the size and complexity of the Melbourne Casino and Entertainment Complex. Operationally, Crown is in the forefront of Australian casinos. The Authority is satisfied that Crown has the appropriate experience and capacities to operate the Melbourne Casino.

These findings enable the Authority to be satisfied that Crown is a suitable person to continue to hold a casino licence.

Continuity of the Licence

The Authority is also satisfied that, in the period of the Review, there has generally been public confidence and trust in the credibility, integrity and stability of casino operations due to the manner in which the Melbourne Casino has been conducted. Accordingly, it is in the public interest that the casino licence remains in force.

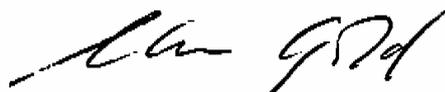
5. AUTHORITY'S OPINION

Following its investigation for the purposes of section 25 of the *Casino Control Act* 1991 in respect of the period 1 July 2000 to 30 June 2003, the Victorian Casino and Gaming Authority has formed the following opinion:

- (a) Crown Limited is a suitable person to hold the casino licence; and
- (b) it is in the public interest that the casino licence should continue in force.



BRIAN FORREST
Chairman



UNA GOLD
Deputy Chairperson



NOEL ASHBY
Member



DES HORE
Member



GRAEME McDONALD
Member



PETER McMULLIN
Member



CHRISTINE NEVILLE
Member



SARAH PORRITT
Member



CAROLYN RE
Member

APPENDIX 1—GLOSSARY OF TERMS

ASIC	Australian Securities and Investments Commission, formerly the Australian Securities Commission.
Associate	An individual or company identified as an “associate” within the meaning of section 4 of the Casino Control Act, meaning that the person is subject to probity clearance by the Authority.
AUSTRAC	Australian Transaction Reports and Analysis Centre, the agency established under the <i>Financial Transactions Reports Act 1988</i> (Commonwealth) for the collection of cash and other financial transactions information.
Authority	The Victorian Casino and Gaming Authority, formed in 1994 under section 82 of the <i>Gaming and Betting Act 1994</i> , constituting a merger of the Victorian Casino Control Authority and the Victorian Gaming Commission.
Baycorp	Baycorp Advantage Business Information Services Limited.
Benchmarking study	A comparative study of ten overseas casinos conducted for the purposes of the Commercial Compliance and Operational Compliance investigations.
Casino	The Melbourne Casino that is located within the Casino Complex, and in respect of which, Crown Limited was granted a licence on 19 November 1993.
Casino Agreement	Melbourne Casino Project Casino Agreement between the Victorian Casino and Gaming Authority and Crown (as amended and in force).
Casino Complex	The Melbourne Casino and Entertainment Complex at Whiteman Street, Southbank, Victoria.
Casino Control Act	<i>Casino Control Act 1991</i> (Victoria), No. 47/1991 as amended from time to time.
CPH	Consolidated Press Holdings Limited, ACN 008 394 509, a substantial shareholder in Publishing and Broadcasting Limited.
Crown	Crown Limited, ACN 006 973 262, holder of the casino licence for the Melbourne Casino.
Crown/PBL merger	The takeover of Crown by PBL, under which PBL issued Crown shareholders with one PBL share for each 11 Crown shares, thereby making Crown a wholly owned subsidiary of PBL with effect from 30 June 1999.

Director of Casino Surveillance	A statutory office established under section 94 of the <i>Casino Control Act</i> 1991, the occupant being responsible for the operational regulation of casinos, appointment of inspectors, and licensing of casino special employees in addition to the provision of advice and assistance to the Authority regarding the operation of casinos.
Director of Gaming and Betting	A statutory office established under section 97 of the <i>Gaming and Betting Act</i> 1994, the occupant being responsible for generally supporting the Authority. The offices of Director of Gaming and Betting and Director of Casino Surveillance are currently held by the one person.
First Triennial Review	The review under section 25 of the <i>Casino Control Act</i> , submitted to the Minister for Gaming on 30 June 1997 in respect of the first three years of casino operations.
ICM	Internal Control Manual—the documented system of internal controls and administrative and accounting procedures for the Melbourne Casino approved by the Authority for the purposes of section 121 of the <i>Casino Control Act</i> .
Inspectors	Staff of the Office of Gambling Regulation who are appointed as casino inspectors by the Director of Casino Surveillance under Division 3 of Part 7 of the <i>Casino Control Act</i> .
internal control manual	See ICM.
Management Agreement	Melbourne Casino Project Management Agreement between the State of Victoria and Crown (as amended and in force), ratified by the <i>Casino (Management Agreement) Act</i> 1993.
Office of Gambling Regulation	The name of the group of staff of the Department of Justice who are employed to assist the Director of Gaming and Betting in assisting the Authority to carry out its statutory functions under section 102 of the <i>Gaming and Betting Act</i> 1994.
Operations Agreement	Agreement between Crown Limited (as licensee) and Crown Management Pty Ltd (as manager) for the provision of certain services in connection with the operation of the Melbourne Casino.
PBL	Publishing and Broadcasting Limited, ACN 009 071 167, holding company of Crown Limited.
Second Hotel	The Southern Tower of the Hotel required to be constructed in accordance with the <i>Casino (Management Agreement) Act</i> 1993.

Second Triennial Review	The second triennial review that was conducted under section 25 of the Casino Control Act and submitted to the Minister for Gaming on 30 June 2000 in respect of casino operations between 1 July 1997 and 30 June 2000.
special employee probity assessment	The probity checking process for employees of a casino and people performing functions in or with respect to the management or operation of a casino.
Transaction documents	The documents setting out the relationship between the participants in the Melbourne Casino Project, including the Management Agreement, the Casino Agreement, the Supplemental Operations Agreement and various other supplemental and financial agreements.
VCCA	Victorian Casino Control Authority, a predecessor of the Authority.
world class and world quality standard	Expressions used to describe the obligations Crown has to maintain the Melbourne Casino and Entertainment Complex as a “high quality, international standard” Casino Complex and to ensure that the Casino Complex is managed and supervised to a “first class standard comparable to world class international casinos, hotels and other facilities”.

APPENDIX 2—BACKGROUND TO THE MELBOURNE CASINO AND ENTERTAINMENT COMPLEX

In December 1990, the Victorian Government announced a decision to allow the establishment in Melbourne of a large open casino, and commissioned Xavier Connor Q.C. on 19 December 1990 to inquire into and report on a series of related questions. Mr Connor had been the author of an earlier report (in April 1983) which recommended against the establishment of a casino. In this second report, delivered on 14 February 1991, Mr Connor provided advice on how an open casino should be established and, in particular, on the probity safeguards that should be put in place.

Following receipt of Mr Connor's report, in the 1991 Autumn Session of the Victorian Parliament, the Government introduced two Bills to facilitate the establishment of a legal gaming industry in the State, one relating to machine gaming and the other to casinos. The Casino Control Bill largely followed Mr Connor's recommendations.

The purposes stated for those Bills make it clear that the Government saw regulated gaming as part of an economic strategy for the development of the State. Both Bills were passed by Parliament, with the Casino Control Bill becoming law in June 1991.

The then Major Projects Unit distributed a registration of interest brief in November 1991. This attracted 23 responses, 12 of which conformed to the requirements. One of these responses was on behalf of the Hudson Conway backed "Crown" consortium.

The process of evaluating the registrations was taken over by the Victorian Casino Control Authority ("VCCA"), on its appointment in February 1992. The VCCA understood that its role would be in three phases:

- selection of the casino licensee;
- monitoring the construction of the casino and regulating any temporary casino;
and
- on-going regulation of the casino when construction was complete.

The VCCA set up evaluation processes for the separately streamed evaluation of probity issues, design and siting issues and financial issues. While "passing probity" was not negotiable, the evaluation processes were structured to encourage competition between the bidders—as their number was reduced from 12 to three, and then two—for the best design at the optimal financial outcome for the State of Victoria.

The VCCA was assisted in these separate streams by expert probity resources provided by the Victoria Police and other law enforcement agencies, a Development and Siting Advisory Panel and a Finance Advisory Panel, with access to consultants as required.

Prior to the conclusion of the competitive component of the bid process, the present Whiteman Street, Southbank site was identified as the site for the Melbourne Casino Complex, and the World Trade Centre in Flinders Street, Melbourne was identified as the site for a temporary casino until the Casino Complex had been constructed.

The VCCA's selection of Crown as the proposed licensee for the Casino was confirmed by the Government's acceptance of the commercial terms of the proposed

establishment and development of a casino in the execution of the Management Agreement for the Melbourne Casino Complex and a number of transaction documents on or shortly after 20 September 1993. As a reflection of the Crown bid, the Management Agreement called for not only the construction of a casino, but for the development of an entertainment complex of the world quality standard, within clearly defined timelines. In the event of a breach of the timelines, liquidated damages would be payable to compensate the State of Victoria for lost revenue opportunities.

In addition to promises in the Management Agreement, there were licence conditions which required Crown to have a sound balance sheet, to operate as a single purpose entity and to seek to maximise revenue to the State through its gaming operations.

The Management Agreement was subsequently presented to and debated by the Parliament of Victoria, being ratified with effect from 14 November 1993. The VCCA licensed Crown on 19 November 1993.

Crown then set about establishing a temporary casino (at the World Trade Centre) and undertaking the initial development work for the Melbourne Casino Complex site. Crown also made institutional share placements and an initial public offering in respect of the 60% of its capital not to come from Hudson Conway Limited (ACN 009 556 629) and its other founding shareholders. The rights to manage the Casino (and for this to receive fees including 2% of gross revenue and 5% of net profit) were to be owned by Hudson Conway Limited. Those rights were set out in an agreement called the "Operations Agreement".

Under section 82 of the *Gaming and Betting Act* 1994, the Victorian Casino and Gaming Authority came into existence on 3 June 1994, as a merger of the VCCA and the Victorian Gaming Commission (established under the *Gaming Machine Control Act* 1991). The Authority continued the work of the VCCA with respect to monitoring the construction of the Casino and regulating the Temporary Casino. The Temporary Casino opened on 30 June 1994.

During the course of construction, Crown negotiated with the Government a number of variations to the original project, all of which were approved through Parliamentary processes. The most notable was the approval of a request to approximately double the number of hotel rooms and add a lyric theatre to the Melbourne Casino Complex. Because of the stage construction had reached when these features were proposed, there was a later completion date for these features. The completion dates for the Melbourne Casino was 30 November 1996 and for the Casino Complex, including the Lyric Theatre and Second Hotel, was 30 November 1999. In 1998, the date for completion of the Lyric Theatre and Second Hotel was extended by agreement with the State to 30 November 2003.

The Melbourne Casino Complex opened on 8 May 1997 (liquidated damages having been paid for the delay from the original completion date). It included a 500 room, five-star hotel, a cinema multiplex, three nightclubs and a showroom, numerous shops and bars, more than 28 eating places and parking for over 5,000 cars.

The Authority made its First Triennial Review report to the Minister for Gaming on 30 June 1997.

In the months that followed the May 1997 opening, it became clear that, due to the level of costs of construction and development and lower than anticipated gaming revenue, Crown required additional equity investment. This was ultimately provided through an issue of ordinary shares and the placement of preference shares to Hudson Conway Limited (in exchange for ownership of the Operations Agreement and its cash flows). However, pressure remained on the share price of Crown.

In December 1998, Publishing and Broadcasting Limited announced a proposal to merge with Crown, offering one PBL share for each 11 Crown shares. The Crown/PBL merger received the necessary regulatory and shareholder approvals in time to take effect on 30 June 1999.

Under the terms of approval of the Crown/PBL merger, PBL agreed to operate as a single casino entity, reflecting Crown's earlier promise to be a single purpose Melbourne casino company.

The Authority made its Second Triennial Review report to the Minister for Gaming on 30 June 2000. At that time, the Casino Complex was not entirely completed because of extensions of time granted by the State for construction of the Second Hotel and the Lyric Theatre. The Second Hotel is currently under construction and is scheduled for completion by the required date of 30 November 2003.

The Seventh Deed of Variation to the Management Agreement, dated 7 May 2002, relieved Crown of the obligation to build the Lyric Theatre. This Deed was ratified by Parliament in the *Casino (Management Agreement) (Amendment) Act 2002*. In return, Crown agreed to pay the State a total of \$18 million at the rate of \$3 million per year over five years, which is to be used towards a major arts project in the Arts precinct near the Yarra River. In addition, Crown is required to construct an alternative capital development at a cost of at least \$42 million.

APPENDIX 3—LEGAL ADVICE OF MR PETER HANKS Q.C.

The Victorian Government Solicitor briefed Mr Hanks QC to provide advice regarding the effect of amendment to the Authority's statutory objects on the terms of the reference for the Review. Mr Hanks provided the following advice:

1. I am briefed to advise the Victorian Casino and Gaming Authority (the **Authority**) in relation to its Third Triennial Review of the casino operator, Crown Ltd, and its casino licence pursuant to s 25 of the *Casino Control Act* 1991 (the **Act**).
2. Section 25 (1) directs the Authority, at intervals not exceeding three years, to:
... investigate and form an opinion as to whether or not –
 - (a) *the casino operator is a suitable person to continue to hold the casino licence; and*
 - (b) *it is in the public interest that the casino licence should continue in force.*
3. I am instructed that the Authority has established three working parties to report to sub-committees of the Authority, with terms of reference relating to Probity, Operational Compliance and Commercial Compliance respectively.
4. The Commercial Compliance Sub-Committee has developed terms of reference (set out in Attachment A to its Status Report 1). Those terms of reference include:
 1. *To follow the relevant financial and commercial requirements of sections 9, 10 and 11 of the Casino Control Act 1991, as they applied to the granting of the casino licence, to establish whether or not Crown, and each of its associates, is a suitable person to be concerned in or associated with the management and operation of the Casino.*
 2. *To establish whether there are any financial or commercial aspects of the casino operations which could damage the public confidence and trust in the credibility, integrity, honesty and stability of casino operations or Crown.*
5. The Terms of Reference lists investigations that are to be carried out by the Sub-Committee. Those investigations relate to issues of corporate governance, financial performance and viability, and other financial and commercial matters.
6. My attention has been drawn to the amendment of s 140 of the Act in 2000. (Section 140 prescribes the object of the Authority.) The amendment substituted a new paragraph (c) in s 140, as indicated in the following extract:

The object of the Authority is to maintain and administer systems for the licensing, supervision and control of casinos, for the purpose of –

 - (a) *ensuring that the management and operation of casinos remains free from criminal influence or exploitation; and*
 - (b) *ensuring that gaming and betting in casinos is conducted honestly; and*
 - ~~(c) promoting tourism, employment and economic development generally in the State.~~
(c) fostering responsible gambling in casinos in order to--
 - (i) minimise harm caused by problem gambling; and

(ii) accommodate those who gamble without harming themselves or others.

7. Although the purpose of promoting tourism, employment and economic development generally in the State is no longer a purpose of the Authority, it remains an aim of the system for the licensing, supervision and control of casinos, as prescribed in s 1(c) of the Act.

Question 1

8. I am asked, first, what effect the removal from s 140 of the purpose of promoting tourism, employment and economic development generally in the State should have on the scope of the review by the Commercial Compliance Sub-Committee.
9. In 1996, Mr David Habersberger QC advised the Authority in relation to its obligations when carrying out a triennial review under s 25 of the Act. His advice, with which I agree, may be summarised as follows:
 - 9.1 In forming the opinion whether “the casino operator is a suitable person to continue to hold the casino licence” (the question posed by s 25(1)(a) of the Act), the Authority should address the criteria posed by s 9(2)(a) to (g) of the Act for the grant of a casino licence – issues that go to repute, character, honesty, integrity, financial stability and resources, business ability, ownership, trust or corporate structure, business associations and suitability of relevant officers.
 - 9.2 In forming the opinion whether “it is in the public interest that the casino licence should continue in force” (the question posed by s 25(1)(b) of the Act), the Authority should address the honesty, efficiency and stability of the casino operations – reinforcing the two aims of the system for the licensing, supervision and control of casinos as prescribed in s 1(a) and s 1(b) of the Act – that “the operation of casinos remains free from criminal influence or exploitation” and that “gaming in casinos is conducted honestly”.
10. In my opinion, the focus of the triennial review under s 25(1) of the Act has not been affected by the amendment of s 140 of the Act in 2000.
 - 10.1 If, as Mr Habersberger QC advised, the focus of the review is on the reputation, integrity, stability and general suitability of the casino operator and on the honesty, efficiency and stability of the casino operations, then issues relating to tourism, employment and economic development, or relating to the social and personal damage that may be attributable to gambling, are not part of the review.
 - 10.2 While the amendment to s 140 of the Act in 2000 had the effect of re-orienting the Authority (away from economic development issues and towards social issues), s 25(1) remains focussed on issues of reputation, integrity, stability, honesty and efficiency of the casino operator and its operations.
 - 10.3 In this context, it is significant that the definition of “public interest” in s 3(1) of the Act was not changed in any substantial way in 2000, and the definition continues to define that term as “public interest or interest of the public . . . having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of casino operations”.

Question 2

11. The second question asks whether there are any of the Sub-Committee's terms of reference or investigations that ought not be included.

12. It appears to me that the terms of reference and investigations proposed by the Sub-Committee focus directly on the two paragraphs of s 25(1).
- 12.1 Term of reference 1 is directed to the suitability of the casino operator and its associates, as judged by the criteria referred to in ss 9, 10 and 11 of the Act. These are the proper matters to be considered when determining whether the casino operator is a suitable person to continue to hold the casino licence, as required by s 25(1)(a) of the Act (bearing in mind that ss 10 and 11 are ancillary to and reinforce s 9).
- 12.2 Term of reference 2 is directed to the credibility, integrity, honesty and stability of casino operations, having regard to financial or commercial aspects of the casino operations. These are the proper matters to be considered when determining whether it is in the public interest that the casino licence should continue in force, as required by s 25(1)(b) of the Act.
- 12.3 It might be thought that the focus on the financial or commercial aspects of the casino operations in term of reference 2 is narrower than the matters contemplated by s 25(1)(b) and the definition of public interest in s 3(1) of the Act; but I note that other Sub-Committees have been established by the Authority; and I assume that either the Probity Sub-Committee or the Operational Compliance Sub-Committee will address the wider range of issues that could affect the credibility, integrity, honesty and stability of casino operations.

P. HANKS QC
Douglas Menzies Chambers
17 November 2002

APPENDIX 4—PROCESS AUDITOR'S LETTER

30 May 2003

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Private & Confidential

Mr Brian Forrest
Chairman
Victorian Gaming and Casino Authority
Level 5, 35 Spring Street
MELBOURNE VIC 3000

Dear Chairman

**INDEPENDENT PROCESS AUDITOR'S REPORT
THIRD TRIENNIAL REVIEW OF THE CASINO OPERATOR AND LICENCE****Scope**

The Victorian Gaming and Casino Authority, ("the Authority"), appointed Risk Management and Assurance Services Pty Ltd, as Process Auditor for the Third Triennial Review of the Casino Operator and Licence pursuant to Section 25 of the Casino Control Act 1991. The terms of reference require the Process Auditor to undertake a program of activities with the objective of forming an opinion on the integrity of the review process.

The Authority established three Sub-Committees, and with the assistance of three Working Parties conducted investigations in the areas of Commercial Compliance, Operational Compliance and Probity, to determine whether the Casino and Casino Complex is being constructed, maintained and operated in accordance the relevant statutory provisions.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance whether the Authority's review process was undertaken with procedural integrity.

Our audit included the following procedures:

- arranged discussion with key management staff to gather relevant information, and an understanding of the Third Triennial Review of the Casino Operator and Licence;
- gained detailed understanding of the processes adopted in carrying out the Third Triennial Review;
- reviewed the terms of reference of the three Sub-Committees, which formed the basis of the Working Parties activities;
- monitored the progress of the three Working Parties on an ongoing basis against their scheduled activities,
- reviewed reports and documentation of the Working Parties and Sub-Committees, including all other reports and documentation, considered necessary including, external correspondence and benchmark reports, which formed the basis of the reports prepared by the Sub-Committees;
- commented on the completeness of the processes and recommended changes where applicable;

**Risk Management
& Assurance Services
Pty Limited**

ABN: 67 103 887 485

Level 31, Nauru House
80 Collins Street
Melbourne Vic 3000Phone: 61 3 9949 3700
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Risk Management
& Assurance Services
Pty Limited

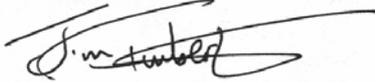
- conducted a tour of the Crown Entertainment Complex, including obtaining an understanding of the complex's supervision and security procedures; and
- attended necessary meetings and discussions with members and the staff of the Authority including meetings during which the final report was considered.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In our opinion, the Third Triennial Review of the Casino Operator and Licence pursuant to Section 25 of the Casino Control Act 1991, undertaken by the Authority, was completed in a manner which ensured procedural integrity.

Yours faithfully
Risk Management and Assurance Services



J M IMBERT

APPENDIX 5—CALL FOR PUBLIC SUBMISSIONS

Advertisement published on Saturday 18 May 2002 in *The Age*, the *Australian* and the *Herald Sun*

VICTORIAN CASINO AND GAMING AUTHORITY

Submissions to the Review of the Melbourne Casino Operator and Casino Licence

The Victorian Casino and Gaming Authority (Authority) is obliged by section 25 of the *Casino Control Act 1991* (Act) to investigate and form an opinion as to whether or not—

- Crown Limited, the operator of the Melbourne Casino, is a suitable person to continue to hold the casino licence; and
- it is in the public interest that the casino licence should continue in force.

The Authority must report its findings and opinion to the Minister for Gaming by 30 June 2003.

The Authority invites members of the public to make written submissions on these matters.

Guidelines for submissions

Persons making submissions should note that, for the purposes of section 25 of the Act, public interest means public interest having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of casino operations. Casino operations means—

- the conduct of gaming and approved betting competitions in the casino;
- the management and supervision of the conduct of gaming and approved betting competitions in the casino;
- money counting in, and in relation to, the casino;
- accounting procedures in, and in relation to, the casino;
- the use of storage areas in the casino;
- other matters affecting or arising out of, activities in the casino.

Submissions must include the name, address and telephone number of the author for the purpose of verifying the authorship or content of the submission, if necessary.

Submissions longer than 10 pages should be provided both on paper and on a 3.5" computer disk. Submissions may be e-mailed to Fiona.Bourdote-Clayton@ogr.vic.gov.au

Provision of submissions to the casino operator

The Authority is bound by statutory privacy requirements as regards personal information. Persons making submissions should state whether the Authority may give a copy of their submission to Crown Limited or release the submission publicly. If a copy of the submission cannot be disclosed to Crown Limited, the Authority may advise Crown Limited of the substance of the submission.

Closing date and address for submissions

The closing date for receipt of submissions is 31 July 2002.

Submissions should be addressed to:

The Casino Review Co-ordinator
Victorian Casino and Gaming Authority
P.O. Box 1988R
Melbourne
Victoria 3001

Receipt of all written submissions will be acknowledged.

Any questions about the submission process may be directed to:

Fiona Bourdot-Clayton
Office of Gambling Regulation
telephone: 9651 3458
e-mail: Fiona.Bourdot-Clayton@ogr.vic.gov.au

APPENDIX 6—SUB-COMMITTEE STRUCTURE

In February 2002, the Authority established three Sub-Committees and three associated Working Parties to conduct the investigation components of the Review. The areas of reference were:

- Commercial Compliance;
- Operational Compliance; and
- Probity.

The Process Auditor attended Sub-Committee meetings as deemed necessary.

Each of the Sub-Committees presented their reports to the Authority on 29 April 2003.

Commercial Compliance Sub-Committee

Members of the Commercial Compliance Sub-Committee, to which the Commercial Compliance Working Party reported, were:

- Ms Una Gold (Chair of the Sub-Committee);
- Mr Brian Forrest (Chairman of the Authority); and
- Mr Peter McMullin.

The Commercial Compliance Sub-Committee met four times between July 2002 and February 2003 to consider progress reports from the Commercial Compliance Working Party and to provide advice and give direction. It also met on 15 April 2003 and 29 April 2003 to consider the Working Party's investigation report and to finalise the Sub-Committee's report.

Operational Compliance Sub-Committee

Members of the Authority's Operational Compliance Sub-Committee, to which the Operational Compliance Working Party reported, were:

- Mr Brian Forrest (Chairman of the Sub-Committee and the Authority);
- Dr Desmond Hore; and
- Dr Carolyn Re.

The Operational Compliance Sub-Committee met four times between May 2002 and February 2003 to consider progress reports from the Operational Compliance Working Party and to provide advice and give direction. It also met on 15 April 2003 and 29 April 2003 to consider the Working Party's investigation report and to finalise the Sub-Committee's report.

Members of the Sub-Committee inspected the facilities at the Casino on 20 November 2002.

Probity Sub-Committee

Members of the Probity Sub-Committee, to which the Probity Working Party reported, were:

-
- Mr Brian Forrest (Chairman of the Sub-Committee and the Authority);
- Mr Graeme McDonald;
- Ms Christine Neville; and
- Ms Sarah Porritt.

The Probity Sub-Committee met four times between May 2002 and February 2003 to consider progress reports from the Probity Working Party. It also met on 8 April 2003 and 29 April 2003 to consider the Working Party's investigation report and to finalise the Sub-Committee's report.

Investigations Conducted By the Sub-Committees and Working Parties

The Authority is satisfied that investigations undertaken by each of the Working Parties and Sub-Committees were conducted in accordance with and fulfilled the requirements of the terms of reference for each of the respective Sub-Committees.

APPENDIX 7—WORKING PARTY STRUCTURE

Three Working Parties were established to conduct the investigation components of the Review for the three Sub-Committees – the Commercial Compliance Working Party, the Operational Compliance Working Party and the Probity Working Party.

Commercial Compliance Working Party

The Commercial Compliance Working Party comprised three staff of the Office of Gambling Regulation. The convenor of the Working Party was the Casino Project Manager, Legal and Legislation Branch. The other members of the Working Party were a gaming inspector, Compliance and Investigation Branch and a solicitor, Legal and Legislation Branch.

The Commercial Compliance Working Party held 25 meetings as necessary, from April 2002 to March 2003, to discuss the progress of their investigations and, on some occasions, to meet with staff of Crown for a presentation on a particular topic. Staff of the Process Auditor met with the Convenor or the gaming inspector to familiarise themselves with the investigation program on a number of occasions.

The Commercial Compliance Working Party provided four written status reports to its Sub-Committee and the Convenor of the Working Party attended all four meetings of the Commercial Compliance Sub-Committee.

The Commercial Compliance Working Party provided a comprehensive report of its investigations to the Commercial Compliance Sub-Committee on 28 March 2003 and an Addendum Report on 10 April 2003.

Operational Compliance Working Party

The Operational Compliance Working Party comprised six staff of the Office of Gambling Regulation. The convenor of the Working Party was the Assistant Director Gambling Operations and Audit. The other members of the working party were the Manager, Gambling Products, a solicitor, a senior policy officer, an investigator and a gambling products analyst. During the course of the investigation the Assistant Director Gambling Operations and Audit and the senior policy officer left the Working Party and their allocated tasks were redistributed to the remaining Working Party members

The Operational Compliance Working Party held monthly meetings commencing on 17 May 2002 and also had periodic meetings with the Process Auditor. The Working Party provided four written status reports for meetings of the Operational Compliance Sub-Committee and a final comprehensive report of its investigations for the meeting of the Sub-Committee held on 15 April 2003.

Probity Working Party

The Probity Working Party comprised nine staff of the Office of Gambling Regulation. The convenor of the Working Party was the Assistant Director, Licensing Operations and Policy Branch. Seven of the other members of the Working Party were also from that Branch, with the ninth member being the Manager, Probity, Compliance and Investigation Branch.

The Probity Working Party met to discuss progress of investigations and issues on six occasions commencing in May 2002. The Probity Working Party provided seven written progress reports to the Probity Sub-Committee. Members of the Working Party met with the Process Auditor throughout.

The Probity Working Party delivered a comprehensive report of its investigations to the Probity Sub-Committee on 29 April 2003.

APPENDIX 8—METHOD AND EXTENT OF INVESTIGATIONS

When, in February 2002, the Authority considered terms of reference for the Review generally it also considered terms of reference for each of the Sub-Committees and the investigative functions of the Working Parties. As mentioned in Part 2, the Auditor-General commented on these terms of reference at the Authority's invitation and generally found them sufficient.

On 31 May 2002, Crown was invited to make a submission to the Authority and was provided with a copy of the overall terms of reference. Crown provided its written submission on 11 October 2002.

The Authority agreed that a benchmarking study be undertaken of a number of international casinos. This study covered matters relevant to the terms of reference of the Commercial Compliance and Operational Compliance Sub-Committees. The method and extent of the benchmarking study is explained in more detail at the end of this Appendix.

Commercial Compliance Investigations

The terms of reference for the Commercial Compliance Sub-Committee, which formed the basis of the Working Party's activities, were:

1. To follow the relevant financial and commercial requirements of sections 9, 10 and 11 of the *Casino Control Act 1991*, as they applied to the granting of the casino licence, to establish whether or not Crown, and each of its associates, is a suitable person to be concerned in or associated with the management and operation of the Casino.
2. To establish whether there are any financial or commercial aspects of the casino operations which could damage the public confidence and trust in the credibility, integrity, honesty and stability of casino operations or Crown.
3. The investigations will include, but not be limited to:
 - Crown's and PBL's corporate governance, policy and procedures;
 - investigations by the Australian Securities and Investments Commission (ASIC) and Australian Stock Exchange (ASX);
 - Crown's financial performance against projections;
 - Crown's and PBL's actual and projected level of indebtedness and PBL's relationship with its banking syndicate;
 - Crown's financial viability in regard to the remaining parts of the Project;
 - Crown's and PBL's internal records and financial dealings;
 - compliance of Crown and PBL with the various agreements/transaction documents;
 - related party transactions with Director related entities, other related parties and additional related parties;
 - changes to the corporate structure;

- the financial strength of shareholders with more than 5% holding in Crown;
 - any financial or commercial issues raised in public submissions;
 - minutes of meetings (and related papers) of the Board of Directors, the Audit Committee and the Compliance Committee of Crown;
 - any other financial or commercial matters which become known or are discovered during the investigation process, that may be relevant to the purpose of the Review; and
 - any actual or potential future material changes to the parties holding an interest in the casino licence.
4. To refer any matters reported as having a probity dimension to the Probity Sub-Committee.

Commercial Compliance

To meet the requirements of the approved terms of reference for the Commercial Compliance Sub-Committee, the Commercial Compliance Working Party compiled a comprehensive list of over 50 tasks or sub-investigations.

Members of the Commercial Compliance Working Party met formally on 25 occasions between 17 April 2002 and 21 March 2003 to discuss the investigations. On a further 21 occasions, the Convenor and gaming inspector visited Crown's offices to inspect a large number of confidential documents, including agendas, papers, reports and minutes relating to the Crown Board of Directors, Compliance Committee, Audit Committee and the monthly PBL/Crown Management Meetings.

On several of the occasions when Members of the Working Party visited Crown's offices, they met with Crown executives to discuss matters such as the current organisation structure, lines of reporting (between Crown executives and the Crown Board, the PBL Board and to the monthly PBL/Crown Management Meeting), the Audit Committee, the Compliance Committee and Crown Management Pty Ltd. Crown executives provided the Working Party with formal presentations on three occasions relating to its annual business plans and insurance policies. A conducted inspection of the Casino Complex was also undertaken in regard to the benchmarking study.

As part of their investigations, the Working party also reviewed the Crown and PBL Annual, Half-Yearly and Quarterly Reports, Crown's annual budgets, business plans, risk management strategies and insurance policies.

International Comparisons

As noted below, a benchmarking study was undertaken of 10 large international casinos to gain comparative information against which to assess whether the Casino Complex was being operated and maintained as a world class international casino complex. The Commercial Compliance criteria included the following:

- record of compliance with commercial aspects of legislation and casino licence conditions;

- operator's philosophy and approach to corporate governance (priority given);
- composition and functions of the Audit Committee (role of External Auditor);
- composition and functions of the Compliance Committee (if there is one);
- compliance record with regard to continuous disclosure obligations; and
- suitability, quality and maintenance of infrastructure.

Operational Compliance investigations

The terms of reference for the Operational Compliance Sub-Committee, which formed the basis of the Operational Compliance Working Party's activities, were:

1. To follow the relevant requirements of section 9 of the *Casino Control Act 1991*, as they applied to the granting of a casino licence (so far as that section applies to casino operational investigations), to establish whether or not:
 - Crown has the services of persons with sufficient experience in the management and operation of a casino; and
 - Crown has sufficient business ability and can maintain a successful casino.
2. To investigate Crown's performance in:
 - operations of the Crown Casino;
 - compliance with legislation, rules of games and the Internal Control Manual; and
 - delivering responsible gambling in the casino.

Management Expertise

The Operational Compliance Working Party assessed the expertise and experience of the executive management structure of Crown by examining the organisational structure of Crown's various business units and the background and experience of each of its key management personnel.

Business Ability

Consideration was given to the manner in which Crown executives use business strategies to operate the Casino. This included an examination of business plans and organisational structure of the following Crown business units:

- Business and Strategic Planning Process;
- Results and Budget Review;
- Crown Responsible Gambling Management;
- Cleaning;
- Security and Service;
- Surveillance;

- Table Games;
- VIP Gaming; and
- Gaming Machines.

Infrastructure Management

Infrastructure was studied in terms of its utilisation by Crown in respect of its contractual obligations to attract patrons and generate gross gaming revenue. The following were examined:

- demographics (location and size of facility);
- gaming table and gaming machine layout (including jackpot location layout);
- new types of games;
- newly developed gaming areas;
- responsible gambling initiatives;
- ancillary facilities (restaurants, cinemas etc);
- training and training manuals;
- marketing/promotions (tournaments, sports betting);
- international offices;
- information systems;
- amendments to the approved system of internal controls and administrative and accounting procedures;
- security and surveillance; and
- recruitment/special employee licensing.

Operational compliance

Operational compliance was assessed by reviewing the Authority's records for details of any non-compliance by Crown with legislation, rules of the games and the approved system of internal controls and accounting procedures. This material included the results of disciplinary action taken by the Authority, prosecutions of breaches of the Casino Control Act, reports from inspectors based at the Casino Complex and reports prepared by the Director of Casino Surveillance.

Complaints from patrons to the Director of Casino Surveillance and the Authority were also analysed as was information formally requested and received from AUSTRAC, Liquor Licensing Victoria, Tourism Victoria, Victoria Police, the Victorian WorkCover Authority and the Victorian Department of Human Services.

International comparisons

As noted above, a comparative study with other international casinos was undertaken to establish whether Crown continues to provide “world class” facilities, which included an assessment of Crown’s utilisation of infrastructure.

The infrastructure assessment criteria included the framework previously used, in the casino bid process, by the Development and Siting Advisory Panel of the Victorian Casino Control Authority. That framework addresses:

- external design (location, building set back and adequacy of porte cochere);
- internal design (layout of gaming area, theming, decor, flexibility and atmosphere);
- patron movement (ease of access/circulation to gaming areas, hotel and restaurants);
- relationship between food/beverage and gaming areas (location, range and capacity);
- relationship between retail areas and other areas (location, quality, size and diversity);
- car parking and taxi storage (location, size, access, user friendliness and quality);
- general (level of service, range of entertainment and sports betting);
- quality and level of customer service (staff attitude, culture of service, staff training and provision of information to players);
- quality of air conditioning system and adequacy of non smoking areas;
- employment (full time equivalent employees and contractors); and
- quality, suitability and effectiveness of marketing and promotional activities.

Responsible Gambling

The Operational Compliance Working Party assessed whether gambling at Crown is delivered responsibly by examining Crown’s compliance with the gaming legislation that implements the Government’s responsible gambling policies and Crown’s corporate approach to the provision of problem gambling services.

Probity investigations

The terms of reference for the Probity Sub-Committee, which formed the basis of the Probity Working Party’s activities, were:

1. To follow the relevant requirements of section 9 of the *Casino Control Act 1991*, as they applied to the granting of a casino licence, to establish whether or not the casino operator and each associate of the operator is a suitable person to

be concerned in or associated with the management and operation of a casino, having regard to whether:

- each such person is of good repute, having regard to character, honesty and integrity;
- each such person is of sound and stable financial background; and
- any of those persons has any business association with any person, body or association who, or which, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources.

2. To investigate:

- issues discovered subsequent to the completion of the "Review of Casino Operator and Licence" in June 2000; and
- issues discovered prior to the completion of probity investigations for the awarding of the Casino Licence in September 1993, or the Reviews in June 1997 and June 2000, where new or further information has emerged or is discovered in relation to historic matters previously reported to the Authority, and where probity investigations for the casino licence are relevant to the Authority's overall assessment of the licensee or associates.

3. To investigate:

- the casino licensee company;
- any company with a shareholding of 5% or more in the casino licensee company;
- any individual with a shareholding of 5% or more in the casino licensee company; and
- any individual or company who is an "associate", within the terms of section 4 of the *Casino Control Act* 1991, of the casino licensee.

4. To refer any matters regarded as having a commercial or financial dimension to the Commercial Compliance Sub-Committee.

Scope of probity investigations

Probity investigations focussed on Crown and its parent company, PBL. Investigations also focussed on Consolidated Press Holdings Limited, an associate of Crown, and fifteen other associates.

Probity investigations were also undertaken of those licensed special employees who have significant influence over gaming activity in the Casino, namely, all category A Casino Special Employees who are above the position of Shift Manager and who had not undergone probity assessment, through the licensing process, within the 12 months prior to May 2002. The checks were conducted for the period 1 January 1999 to 30 June 2002.

Checks were variously conducted with ASIC, Baycorp, Dun and Bradstreet and Victoria Police.

Other probity issues investigated and considered in the Review were those raised by any allegations concerning the casino operator, associates and other individuals having a direct or indirect business association with the casino operator, whether made directly to the Authority, in the media or in the Victorian or Commonwealth Parliaments, together with any matters separately identified by the Probity Working Party and Sub-Committee.

International benchmarking study

An overseas benchmarking study tour of nine large casinos in the USA and one casino in New Zealand was undertaken between 10 and 22 October 2002 to assist in determining whether Crown was complying with the obligations to operate and maintain the Casino Complex “to a first class standard comparable to world class international casinos, hotels and other facilities.” International comparisons are relevant to both the Commercial Compliance and Operational Compliance aspects of the Review.

More specifically, this includes the following obligations—

- to maintain the Casino Complex as a high quality international class casino complex;
- to ensure that each retail business in the Casino Complex is of a type and nature consistent with a high quality international class casino complex;
- to conduct the Melbourne Casino having regard to the best operating practices in international casinos of similar size and nature; and
- to ensure that the operation of the Casino Complex is supervised and directed to a first class standard comparable to world class international casinos, hotels and other facilities.

An Authority Member, who was a member of the Commercial Compliance Sub-Committee, and the Convenor of the Commercial Compliance Working Party, undertook the tour. The tour, which involved conducted inspections of these casinos with senior casino executives, was considered to be a very effective and successful method of gathering relevant benchmarking information from senior casino executives and senior personnel from gaming regulatory agencies.

Visits were made to the following casinos:

- Foxwoods Casino – Mashantucket;
- Mohegan Sun Casino - Uncasville;
- Mandalay Bay Casino - Las Vegas;
- Harrah’s Rio Casino – Las Vegas;
- Bellagio Casino - Las Vegas;

- MGM Grand Casino - Las Vegas;
- New York New York Casino - Las Vegas;
- Paris Casino - Las Vegas;
- Caesars Palace Casino - Las Vegas; and
- Sky City Casino – Auckland.

As a follow-up, the Casino Project Manager also obtained from the international finance house, Salomon Smith Barney, a copy of their comprehensive equity research report on United States gaming stocks dated 16 January 2003.

The benchmarking study sought to provide a realistic and appropriate basis for comparison of Crown Casino with the best international casinos. There are some issues of difference that have to be acknowledged:

- Crown operates a stand-alone casino, hotel and entertainment complex on a built-up city site;
- the Las Vegas casino complexes in the study are all owned by multi-site gaming companies, which are currently and continuously enlarging their businesses through the extension of existing properties, the development of new properties or the acquisition of already operating casinos;
- the Foxwoods and Mohegan Sun casinos in Connecticut, USA are stand-alone casinos owned by two North American Tribal Nations. They are not constrained by availability of land and have been expanding and developing their properties on an ongoing basis; and
- the operator of the Auckland Sky City Casino in New Zealand also owns the Adelaide Casino, both of which are on built-up city sites. It also owns two regional casinos in New Zealand.

APPENDIX 9—RESPONSE OF CROWN LIMITED TO THE RESULTS OF INVESTIGATIONS AND FINDINGS OF THE REVIEW



18 June 2003

Mr Brian Forrest
Chairman
Victorian Casino and Gaming Authority
Level 5
35 Spring Street
Melbourne Vic 3000

Dear Mr Forrest

**Third Triennial Review of the Melbourne Casino Operator
and Casino Licence**

I refer to your letter of 12 June 2003 to Mr James Packer enclosing parts 3 and 4 of a preliminary copy of the Authority's Report on the Third Triennial Review. Mr Packer has requested that I respond on Crown's behalf to your invitation to comment on the Authority's findings and conclusions.

Crown is pleased that the Authority has found that Crown is a suitable person to continue to hold a casino licence and has concluded that it is in the public interest that the Casino licence remains in force.

Crown wishes to make the following points in relation to the Authority's findings and conclusions made in the preliminary report.

1 Corporate Governance

a Board Committee Structure

During this triennium, Crown has continued to place a high priority on corporate governance and compliance and has maintained sophisticated systems and processes that meet relevant Australian standards and practices. These systems and our commitment to corporate governance have proven to be effective during the period of review.

However, to further enhance effective corporate governance practices, Crown intends to appoint at least two additional independent directors to the Crown Board. These new directors will be selected from the



independent directors of the Publishing and Broadcasting Ltd ("PBL") Board. The Audit and Compliance Committees will be chaired by independent directors. These Committees will comprise directors and executives from Crown. Since March 2000, Audit and Compliance matters have been dealt with by the full board of Crown. These matters will now be dealt with by a committee based structure.

b Internal Audit

The preliminary report contains a number of comments in relation to the internal audit function at Crown, which appear to be misinformed. We note that the Authority's investigation into these matters did not involve a meeting, at any stage, with any member of Crown's internal audit team. The preliminary views formed, based on limited information, were not put to Crown during the investigation. This would have enabled additional information to be provided and in Crown's view, would have resulted in different conclusions. Crown makes the following points in response:

- The report states that the Authority's investigation found that Crown's scheduled internal audit program for 2002/03 financial year amounted to a total of only 700 hours. The internal audit program document obtained and reviewed by the Authority was only part of Crown's three year internal audit plan. This plan details the scheduled elements of the internal audit program for each year. Additional areas of audit activity are determined each year based on an ongoing risk assessment process and emerging issues. The total amount of audit work is for any year, consequently far greater than just the scheduled program elements.
- Crown employs two full time internal auditors who are supplemented with additional resources from Ernst & Young. During the year ended 30 June 2003, Crown conducted in excess of 2400 hours of internal audit not the "700 hours" which underpins the Authority's finding.
- The Authority has identified the expenditure by the Sky City Entertainment Group on internal audit as being NZ\$367,000. This group operates three casino properties, which equates to an average spend of AUD\$110,000 per property. Crown, by contrast, invests \$240,000 per annum in the function for only one property.
- The Authority, in support of a view that the internal audit function should be outsourced, cites one example of outsourced internal audit in the US and the Sarbanes-Oxley Act. Crown makes the following points in response:



- Many leading Australian companies maintain insourced internal audit, particularly in instances, such as Crown, where the business operations are highly specialised.
 - We are informed that in a number of States in the US, including New Jersey, casinos are not permitted to outsource internal audit work.
 - We are informed that on the whole, there is very little outsourcing of internal audit amongst US casinos in those States that permit outsourcing.
 - The US Sarbanes-Oxley Act was, following lengthy public debate, expressly not adopted as a corporate governance model in Australia. There remains no similar requirement in Australia; as such we believe it is inappropriate for the Authority to use it as an illustration of a model to be followed by an Australian company.
- The Authority suggests that cost cutting has resulted in a lack of resources being devoted to ensuring compliance with Crown's regulatory obligations. Crown has in fact increased resources in the internal audit function during this triennium and has maintained the level of resources in its Compliance Department.
 - In support of its position in relation to resourcing, the Authority drew on the internal auditors' report regarding Crown's cheque fraud awareness program and noted that a recommendation of the auditor had not been implemented. However, in a subsequent review, Crown's internal auditor found that although the auditor's original recommendation had not been implemented, additional compensating controls had been implemented which enabled the internal auditor to conclude that the risk had been satisfactorily dealt with.

On this basis, we do not agree with the findings relating to internal audit and are disappointed that they are based on an incomplete understanding of Crown's internal audit function.

c Associates

Crown does not agree with the Authority's finding that because two PBL advisers attend "a considerable number of management meetings," this alters their status as advisers.

Nonetheless Crown will submit an application for one of these advisers for approval as an Associate and notes that this person has been previously approved by the Authority as a Category A casino licence holder.



The other individual no longer attends the management meetings as he has taken up a new position within PBL.

2 Financial Performance

Crown acknowledges the Authority's finding that since the merger with PBL, Crown's financial performance has been consistently profitable and that its budgeting and business planning processes have proved to be reliable.

3 World Quality Standards and Infrastructure Management

Crown notes that the Authority has commended Crown for its innovative use of technology in support of maintaining a world class facility and has found that Crown has been successful in maintaining facilities and attractions that attract high levels of patronage to the complex.

Crown is committed to maintaining a world class casino complex and considers itself to be one of the world's best casinos. Crown has the greatest market share of the international high roller market of any casino in the world. To Crown this endorsement by the world's most demanding patrons is a true indication that Crown is a world class casino.

Crown operates one of the most diverse and successful entertainment and gaming complexes in the world. Positioned as the "World of Entertainment", the complex has averaged around 15 million visitors per year since opening. Crown was the Major Tourist Attraction Winner at the 2002 Victorian Tourism Awards.

Crown Towers continues to be the hotel of choice for international dignitaries visiting Melbourne whether they be Presidents, Prime Ministers, entertainers or sporting celebrities.

The high standing of Crown's restaurants has been reflected in awards such as:

- Best Japanese Restaurant in Australia for Koko Japanese Restaurant – The Age Good Food Guide 2000/2001/2002
- 2 Chefs Hats in The Age Good Food Guide for Koko Japanese Restaurant 2000/2001/2002
- Mietta's Best Australian Restaurants awarded to Silks Chinese Restaurant 2002



Crown was recognised as Victoria's best function centre in the American Express Restaurant Awards in 2002 and the Palladium Ballroom continues to host Australia's major entertainment and sporting award ceremonies.

Crown is committed to maintaining the complex to the highest standard of presentation. In 2002, Crown won the National Facility Management Association Award for Excellence in Facility Management. This award was based on Crown's excellence in property presentation, maintenance, cleaning, energy management, technological innovation and training and development of staff.

In addition, in 2001 Crown's cleaning contractor for the public areas of the complex won the Building Service Contractors Association of Australia's Golden Service Award in recognition of cleaning excellence.

In order to maintain a world class facility, Crown needs to also provide world class customer service. To support this, Crown operates what it believes to be one of the leading gaming training facilities globally with a commitment to development of its people from induction and entry level through to senior executive management. Crown has received a number of excellence awards in recognition of its training and customer service levels.

4 Review of the Casino Agreement

Crown is pleased that the Authority has endorsed Crown's request to review the Casino Agreement with respect to the three matters specified in the preliminary report.

5 Management Expertise and Business Ability

Crown notes that the Authority found that Crown has sufficient skills and expertise to operate the casino satisfactorily and that its business ability is sufficient to maintain a successful casino.

6 Operational Compliance

Crown acknowledges the Authority's finding that while there is room for improvement, Crown's compliance with the Casino Control Act, Rules and Internal Control Manual is satisfactory.

7 Responsible Gaming

The preliminary report recognises Crown's commitment to its role in responsible gaming.



In March 2002, Crown established its Responsible Gaming Customer Support Centre to further enhance its commitment to responsible gaming. This initiative is a world first and as noted in the preliminary report has attracted interest from a number of international organisations. This initiative is supported by a wide range of independent experts and support agencies who form part of Crown's Expert Consultative Group.

8 Probity

Crown acknowledges the Authority's finding that the Authority is satisfied there are no probity issues that render Crown unsuitable to hold a casino licence.

There are other minor issues contained in the report, that are not material, which we will take up with the Authority in due course. Crown thanks the Authority for the opportunity to respond to parts 3 and 4 of the preliminary report.

Yours sincerely

A handwritten signature in cursive script that reads "Rowen Craigie".

Rowen Craigie
Chief Executive Officer