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BRM Report

Table of Contents

1.0 Introduction - Timeline	6
2.0 Summary of Conclusions and Findings	9
3.0 Background	12
4.0 Legislative Scheme	16
5.0 Other Inquiries	24
5.1 Bergin Inquiry: Principal Findings	26
5.1.1 Bergin – Junkets – Money Laundering in Casinos	26
5.1.2 Bergin – Money-laundering Recommendations	32
5.1.3 Bergin – Corporate Governance and Culture	33
5.1.4 Bergin – Suitability	42
5.2 Victorian Inquiry:	46
5.2.1 Finkelstein – Responsible Service of Gambling	54
5.2.2 Finkelstein – Suitability	58
5.3 WA Inquiry:	60
5.3.1 WA Inquiry – Money Laundering	60
5.4 The Star Inquiry	61
5.5 Other Inquiries – Issues	64
5.5.1 Culture	65
5.5.2 Harm Minimisation	65
5.5.3 Money Laundering	65
5.5.4 The Board	66
6.0 Submissions	66
7.0 Adelaide Casino – Overview	68
8.0 Board Management	78
9.0 Mr Christian and other directors	92
10.0 Adelaide Board After November 2021	97
11.0 Board Management – Failure – Conclusion	105
12.0 Change in Personnel	106
13.0 Independence of Directors	107
14.0 Anti-Money Laundering Legislative Scheme	109
15.0 Reviews of Compliance Program 2016 and 2018	122
16.0 AUSTRAC – 2016	123
17.0 2016 – Practical Operation – First AML Analyst	125

18.0 AML/CTF Management Structure 2016-2020.....	133
19.0 2020-2021 – Practical Operation – Second AML Analyst	137
20.0 2021 Onwards.....	139
21.0 AUSTRAC – 2021	140
22.0 2021 Reports – Response – 2022 Correspondence	142
23.0 SCEG Directors	149
24.0 Licensee’s Response to AUSTRAC Issues	151
25.0 Commission Programs for Individual Players	171
26.0 Commission Programs – Policy	175
27.0 Direct Mail Offer	180
28.0 2022 AML Enhancement Program	183
29.0 Compliance Program 2022.....	192
30.0 2022 Standards	196
31.0 Risk Management – Risk Appetite	197
32.0 Risk Appetite Statement	202
33.0 Financial Crime Team.....	209
34.0 Case Examples.....	211
34.1 Customer A – Account number [REDACTED]	212
34.2 Customer B – Account number [REDACTED]	214
34.3 Customer C – Account number [REDACTED] (AUSTRAC Number 24).....	216
34.4 Customer D – Account number [REDACTED]	218
34.5 Customer E – Account number [REDACTED] (AUSTRAC Number 19)	220
34.6 Customer F – Account number [REDACTED] (AUSTRAC Number 30)	223
34.7 Customer G – Account number [REDACTED]	225
34.8 Customer H – Account number [REDACTED]	225
34.9 Customer J – Account numbers [REDACTED] and [REDACTED] (AUSTRAC Number 2)	226
34.10 Customers L – Numerous Accounts (AUSTRAC 29)	229
34.11 Customer M – Account number [REDACTED]	234
34.12 Customer N – Account number [REDACTED] (AUSTRAC 43).....	241
34.13 Customer Preferential Treatment	247
35.0 Inducements	248
36.0 International Business Division.....	251
37.0 International VIP Hosts	256
38.0 Horizon Tourism.....	257
39.0 [REDACTED]	272
40.0 SunCity Junkets	275
40.1 The Approval of the Junket Operators	275

40.2 Initial Due Diligence Checks and Information Request	277
40.3 The Media Allegations	277
40.4 SkyCity's Response to the Media Allegations	280
40.5 Prioritising Profit	289
41.0 AUSTRAC 2022 Proceedings.....	294
42.0 Licensee's Response 31 March 2023	319
43.0 AML/CTF Remediation	324
44.0 Independent Monitor – Kroll	333
45.0 Ernst & Young - December 2024.....	343
46.0 Compliance Assessment – Kroll 22 October 2024	344
47.0 SCEG – AML / CTF.....	358
48.0 Harm Minimisation – Host Responsibility.....	362
48.0A Introduction.....	362
49.0 Legislative Requirements	367
50.0 Premium Customers – Approved Licensing Agreement.....	370
51.0 Host Responsibility Program.....	374
52.0 12 Hours Continuous Presence Policy	386
53.0 Host Responsibility Program Policy	389
54.0 Host Responsibility – Interstate Experience	392
55.0 Host Responsibility – Issues raised by Commissioner	394
56.0 Reviews and Improvements	405
57.0 Host Responsibility – Management	415
58.0 Implementation of Host Responsibility Program	423
59.0 Host Responsibility - VIP Hosts	429
60.0 Host Responsibility – Premium Customers.....	430
61.0 Host Responsibility – Qualification for premium gaming	434
62.0 Miscellaneous	443
63.0 Licensee Response 31 March 2023.....	443
64.0 Harm Minimisation - Kroll.....	459
65.0 SCEG – Harm Minimisation	464
66.0 Culture	474
67.0 Capability and Capacity Assessment.....	481
68.0 Review and Reset.....	485
69.0 Financial Position	492
70.0 Capability and Capacity - Conclusion	494
71.0 [REDACTED]	494
72.0 Personnel	497

73.0 Final Discussion – Conclusions	512
74.0 Findings	513
75.0 Suitability – Practical Issues	521
76.0 Suitability – Corporate Governance and Culture	522
77.0 Suitability - Criteria	527
78.0 SCEG – Suitable Associate	534

1.0 Introduction - Timeline

- [1] SkyCity Adelaide Pty Ltd holds the licence to operate the only casino in South Australia located at North Terrace, Adelaide. The operations of the casino are governed by a legislative scheme which is administered by the Liquor and Gambling Commissioner (the Commissioner). The obligations of the Commissioner include keeping under review the continued suitability of SkyCity Adelaide Pty Ltd to hold the licence and operate the casino. Associated with this obligation is a requirement that the Commissioner keep under review the continued suitability of SkyCity Adelaide Pty Ltd's close associates. As SkyCity Adelaide Pty Ltd is a subsidiary of SkyCity Entertainment Group Limited (SCEG), the latter is a close associate.
- [2] The Commissioner is empowered to carry out an investigation for the purpose of reviewing the continued suitability of SkyCity Adelaide Pty Ltd (the licensee) and its close associate. On 27 June 2022 the Commissioner delegated his powers and functions in this respect to me, and directed that I investigate whether the licensee is a suitable person to continue to hold the casino licence, and whether SCEG is a suitable person to continue to be a close associate.¹
- [3] Although this Investigation commenced in mid-2022, it was not completed until mid-2025. In these circumstances, it is appropriate to summarise the timeline of this Investigation which explains why it took longer than might otherwise have been expected:
- Mid-2022 this Investigation commenced.
 - On 7 December 2022 the Australian Transaction Reports Analysis Centre (AUSTRAC) instituted proceedings in the Federal Court seeking orders for Civil Pecuniary Penalties against the licensee for breaches of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

¹ The terms of reference of this Investigation are Annexure [1] to this Report.

- At the time AUSTRAC instituted the proceedings, this Investigation was about to undertake a financial analysis of a bank account in New Zealand used in connection with gambling at the Adelaide Casino. However, that analysis and further investigations were deferred in view of the many allegations advanced in the Federal Court proceedings, the cumulative effect of which was to assert that during the period 2015-2022 the licensee's Anti-Money Laundering Compliance Program was seriously deficient in a number of areas.
- The proceedings by AUSTRAC followed an investigation which lasted in excess of three years. This Investigation did not have access to the evidence obtained by AUSTRAC and upon which the AUSTRAC proceedings were founded. However, speaking very broadly, the evidence obtained by this Investigation to December 2022 appeared to support many of the assertions advanced in the AUSTRAC Statement of Claim.
- The facts asserted in AUSTRAC's Statement of Claim, if proven or admitted by the licensee, were of direct and significant relevance to the key question of the suitability of the licensee to hold the licence and operate the casino. They were also of similar relevance to the continued suitability of SCEG as a close associate of the licensee. In these circumstances, this Investigation was suspended pending the outcome of the AUSTRAC proceedings.
- At the time this Investigation was suspended, for the assistance of the Commissioner, I provided a draft of my ultimate Report. I indicated I intended to complete my Report following resumption of this Investigation, but should I be unable to do so, the draft would provide a summary of the relevant evidence to January 2023, and of my tentative conclusions.
- This Investigation remained suspended until June 2024.
- On 7 June 2024 AUSTRAC and the licensee filed in the Federal Court a Statement of Agreed Facts and Admissions in which the licensee admitted numerous breaches of the

AML/CTF Act. Ultimately the Federal Court imposed a civil penalty upon the licensee of \$67M.

- On 11 June 2024 the Acting Commissioner determined to recommence this Investigation from that date.
- Following receipt of the draft Report, and having provided the licensee with a summary of preliminary findings in the Report to which the licensee replied on 26 May 2023, the Commissioner issued a Direction requiring the licensee to prepare a Program of Work (POW) with respect to remediation in the areas of AML/CTF compliance and Gambling Harm Minimisation. The Direction also required the licensee to appoint a qualified Independent Monitor to review the POW and monitor its implementation. The role included monitoring the operations of the licensee with a view to compliance with obligations in the areas of AML/CTF and Gambling Harm Minimisation.
- Kroll Australia Pty Ltd (Kroll) was appointed as Independent Monitor in August 2023. Kroll has provided reports to the Commissioner and this Investigation which have been of invaluable assistance. The licensee was provided with copies of Kroll's reports and was able to respond to those reports.
- In February 2025, RSM Australia was appointed to provide a [REDACTED] of the licensee encompassing both its current financial position and a prognosis for the future liability of the licensee. RSM provided a very helpful report in May 2025.
- Following receipt of the report by RSM, the licensee was given an opportunity to respond to that report.

[4] A significant portion of this Report was written in draft at the time of the suspension of this Investigation in January 2023. I have endeavoured to identify those parts which were subsequently written with the benefit of both the Statement of Facts filed in the Federal Court proceedings and evidence which emerged following resumption of this Investigation.

2.0 Summary of Conclusions and Findings

- [5] The evidence demonstrates that, historically, in significant respects the licensee failed to comply with its obligations under the AML/CTF Act and in respect of its obligations in connection with harm minimisation, including the operation of a host responsibility program. In addition, until November 2021, there was a complete failure by the Board of the licensee to exercise its powers and functions as a Board of an incorporated entity.
- [6] A poor and inadequate culture existed in the past, which was reflected both in the failures of the licensee to comply with its obligations and in the response of the licensee to disclosure of its failings. Following disclosure of inadequacies in mid-2021, although the licensee developed programs of remediation which gave the appearance of a positive culture of compliance, in practice, for a long time little changed with respect to culture and senior management provided significant resistance to proper implementation of appropriate remediation measures.
- [7] Slowly, attitudes within senior management changed for the better, but it was not until about April 2024 that effective change occurred at the top level of management which brought about a change in approach to culture and a frank acknowledgement of past failings. This encouraging change was accompanied by a positive resolution to implement appropriate remediation measures.
- [8] The new approach of the licensee was reflected in letters of 1 November and 6 December 2024 from the licensee to this Investigation following provision to the licensee of tentative conclusions available on the evidence gathered to that time. Included in the response of 6 December 2024 were the following passages which reflected the new attitude and approach to rectification of the inadequacies:

...

4. In that regard, and as in part mentioned in the November Response:

- 4.1. Many of the matters identified as inadequate in the Draft Report relate to the period at which the initial evidence in relation to the Investigation and, often, periods significantly before your review commenced.
- 4.2. Both businesses, their Boards and senior management acknowledge that SkyCity Adelaide had failed to meet many of its material AML/CTF obligations (as agreed with AUSTRAC in the Statement of Agreed Facts and Admissions filed in connection with the civil penalty proceedings commenced by AUSTRAC in December 2022 (**AUSTRAC Proceedings**)). We also acknowledge that SkyCity Adelaide has previously not met all of its gambling harm obligations and that inappropriate corporate governance arrangements have been a significant contributor to those inadequacies.
- 4.3. While we acknowledge and accept, as we must, those failings are both unsatisfactory and relevant to your assessment, we are also of the view that both businesses have evolved and matured from the period prior to the commencement of your review in 2022. We respectfully submit that our evolution over the past few years (including the period of your review), the genuine commitment of the businesses in that period to meaningfully address previous shortcomings and our ongoing commitment to address all issues which may undermine our ability to unequivocally comply with all of our licensing, legal and community obligations are also highly relevant to your assessment.

5. In light of the above and in circumstances where key SkyCity Adelaide and SCEG management are currently laser focused on implementing and delivering the various remediation and uplift activities, SkyCity Adelaide and SCEG do not propose

to provide a detailed response to each of the tentative conclusions in the Draft Report other than making the following general comments set out below.

6. At a more general level, we submit that:

- 6.1. the failings were not a consequence of any deliberate intention to contravene SkyCity Adelaide's obligations. We now understand far better and acknowledge that our historical shortcomings have arisen from (at a high level) insufficient prioritisation of compliance at all levels of the business, inadequate investment in the systems and people necessary to support an appropriate dedication to compliance and, too often, a lack of appropriate capability and expertise within some key areas of the business;
- 6.2. whilst SkyCity Adelaide and SCEG accept that there is still much work to do, we consider that any evidence that reflects the state of affairs at SkyCity Adelaide over two years ago will not be a genuine reflection of the current position as a whole – particularly in light of the significant effort, resourcing, investment and remediation work that continues to be undertaken in respect of SkyCity Adelaide's AML/CTF and gambling harm minimisation functions since that time, the steps SkyCity Adelaide and SCEG have taken to rectify the historical corporate governance issues, and the appointment of Kroll Australia Pty Ltd (**Kroll**) in August 2023; and
- 6.3. given the significant events that have taken place since the first phase of the Investigation, including the appointment of Kroll and the development of a Program of Work (**PoW**) in conjunction with Kroll (and which has now been approved by the Acting Commissioner), any tentative conclusions based on the past should be tempered with the position now, whether any issue continues to affect SkyCity Adelaide's operations and acknowledging that reform of a large and sophisticated business operating in a complex regulatory environment cannot happen overnight.

- [9] Positive progress in all areas has been made since mid 2024, and continues. The licensee remains confident that it will complete remediation by 30 June 2027. However, as at mid-2025 there remains significant uncertainty in that regard. Notwithstanding good intentions, experience has demonstrated that the magnitude and complexity of the tasks is such that full remediation by 30 June 2027 will be difficult to achieve.
- [10] The concept of ‘suitability’ is discussed in detail later in this Report. For present purposes, it is sufficient to note that ‘suitable’ does not mean ‘perfect’.
- [11] Although full remediation by 30 June 2027 appears unlikely, the significance of the change in culture and ongoing progress should not be underestimated. Nor should the impact of Kroll’s monitoring role be overlooked. Further, there exist strong reasons for concluding that as remediation progresses, the licensee will successfully comply with its primary obligations under the regulatory regime.
- [12] As will appear later in this Report there are financial issues of significance which have the potential to derail the best intentions and efforts of the licensee. It is impossible for me to undertake with full confidence an assessment of likely results with respect to those issues, but I am reasonably confident that the licensee has, and will have in the immediate future, access to suitable and adequate financial resources to achieve full remediation and operate the casino in compliance with the regulatory regime.
- [13] In view of the changes in personnel and culture, and the ongoing progress toward full remediation, for the reasons explained in this Report, notwithstanding past failings and ongoing issues of non-compliance with the regulatory regime (which are being addressed and rectified), I am satisfied that as at the date of this Report, the licensee is a suitable person to hold the license to operate the Adelaide Casino.

- [14] I emphasise that I am assessing suitability as at the date of this Report on the basis of the current attitude and likely resources of the licensee, including its genuine desire to comply with the regulatory regime and achieve full remediation. I am satisfied the licensee is genuinely endeavouring to comply with its primary obligations under the regulatory regime and that it will continue to do so in the immediate future under the current monitorship and leadership.
- [15] As is obvious, while I am satisfied the licensee is suitable as at the date of this Report, a number of issues remain unresolved and my view is based upon a continuation of the ‘new’ culture, remediation work and genuine effort to comply with the primary obligations under the regulatory regime. In this sense continuing suitability is conditional upon ongoing compliance with these factors, and upon satisfactory resolution of potential financial issues.
- [16] For the reasons discussed later in this Report I am satisfied SCEG is a suitable person to be a close associate of the licensee.

3.0 Background

- [17] The Adelaide Casino commenced operation in 1985 under the provisions of the *Casino Act 1983* (SA). A licence was granted to the Lotteries Commission of South Australia and, as required by s 16 of the Casino Act, the Lotteries Commission appointed AITCO Pty Ltd as the Operator of the Casino.
- [18] In September 1997 the *Casino Act 1997* came into operation and repealed the *Casino Act 1983*. It also cancelled the licence that had been granted to the Lotteries Commission.
- [19] Pursuant to the *Casino Act 1997* (the Act), a licence to operate the casino was granted in November 1999 to Adelaide Casino Pty Ltd, an entity which later became SkyCity Adelaide Pty Ltd. For ease of reference I will refer only to SkyCity Adelaide Pty Ltd, the current licensee.

- [20] As required by the legislation, before the licence was granted on 27 October 1999 the licensee entered into an Approved Licensing Agreement between it and the State of South Australia. There have been subsequent variations of that Agreement, but it remains in force.
- [21] Although the casino licence was granted under the Act, the overarching legislation governing gambling in South Australia is the *Gambling Administration Act 2019* (the GAA). For the purposes of the GAA, the Act is a Gambling Act.
- [22] Although the Commissioner is appointed under the Liquor Licensing Act 1997, functions in connection with gambling in South Australia are conferred upon the Commissioner by the provisions of the GAA. Section 6(d) of the GAA requires the Commissioner to ‘ensure that an effective and efficient system of supervision is established and maintained over operations undertaken under a gambling Act’. The functions conferred on the Commissioner include developing and promoting strategies for the reduction of problem gambling; preventing or minimising harm caused by gambling; providing a ‘proactive whole-of-industry and client-centric responsive approach to the promotion of responsible gambling practices’; and ‘the prevention or minimisation of harm caused by gambling’.
- [23] Section 22(2) of the Act directs the Commissioner to keep under review ‘the continued suitability of the licensee’ to hold the licence and operate the casino. The Commissioner is also required to keep under review the continued suitability of the licensee’s ‘close associates’. For the purposes of such review, the Commissioner is authorised to carry out such investigations as the Commissioner considers necessary.
- [24] By notice of 27 June 2022 the Commissioner stated he considered it necessary to carry out an investigation for the purpose of keeping under review the continued suitability of the licensee and the licensee’s close associate, SCEG. Pursuant to s 18 of the GAA, the Commissioner delegated his powers and functions under ss 22 and 23 of the Act to me, and directed that in accordance with the delegation I am to investigate the following matters:

- 10.1. *Whether the licensee is a suitable person to continue to hold the casino license under the Casino Act.*
- 10.2. *If the licensee is not a suitable person to continue to hold the casino licence under the Casino Act, what changes, if any, are required for the licensee to become a suitable person to continue to hold the casino licence under the Casino Act.*
- 10.3. *Whether SEGL [SCEG] is a suitable person to continue to be a close associate of the licensee.*
- 10.4. *If SEGL [SCEG] is not a suitable person to continue to be a close associate of the licensee, what changes, if any, are required for SEGL [SCEG] to become a suitable person to continue to be a close associate of the licensee.*
- 10.5. *Any matter reasonably incidental to the matters set out in 10.1 to 10.4.*

[25] Paragraph 11 of the Terms of Reference provides:

Mr Martin may decide not to investigate or not to continue investigating a particular matter to the extent that he is satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another investigation, inquiry or proceeding.

[26] From July to December 2022 this Investigation received submissions and interviewed numerous witnesses, including past and present employees of the licensee and SCEG. Both informal discussions and formal interviews on oath were undertaken. Interviews on oath were conducted with directors of the licensee and SCEG who were current in early December 2022. Many documents were sought from, and produced by, the licensee.

[27] At the time this Investigation commenced in July 2022, AUSTRAC was conducting an investigation into the licensee's compliance with the Australian anti-money laundering laws. In December 2022, while this Investigation was current, AUSTRAC issued civil penalty proceedings against the licensee. Although this Investigation did not have access to the evidence obtained by AUSTRAC during its 3 year investigation, it was obvious from the pleadings that AUSTRAC was in possession of evidence relevant to the issue of suitability to hold the licence.

- [28] In these circumstances it was not possible to determine the question of suitability before the AUSTRAC proceedings were resolved, and in January 2023 the Investigation was put on hold. The result of the AUSTRAC proceedings, and its impact, are discussed later in this Report.
- [29] As is apparent from the Terms of Reference, there are three essential questions to be answered. First, whether the licensee is a suitable person to hold the casino licence. Secondly, whether SCEG is a suitable person to continue to be a close associate of the licensee. Thirdly, if the licensee and/or SCEG are not suitable, what changes are required for them to become suitable, or is the lack of suitability beyond redemption.
- [30] It is important to bear in mind the limited purpose of this Investigation and Report, particularly in view of previous interstate inquiries concerning the operations of other casinos which are discussed later in this Report. I am not concerned with issues of policy surrounding the operation of the Adelaide Casino. Nor am I concerned with the adequacy or otherwise of the legislative scheme, and regulation, under which the licensee holds the licence and operates the casino. My task is to assess suitability within the parameters of the existing policy and legislative scheme.
- [31] The suitability of the licensee to hold the licence and operate the casino is to be assessed against the obligations of the licensee in carrying out its function as the operator of the casino. Those essential obligations are found within the legislative scheme under which the casino operates, including applicable Commonwealth legislation. The fundamental question is whether the licensee currently operates, and in the future will operate, the casino in an appropriate manner which complies with its obligations, and satisfactorily achieves the objectives of the legislative scheme and the reasonable expectations of the community. In addressing these questions, the behaviour of the licensee in the past is relevant, but not necessarily determinative and, speaking broadly, the ‘character’ of the licensee requires careful consideration.

4.0 Legislative Scheme

[32] The obligations of the licensee are found in the Approved Licensing Agreement, the conditions of the licence, the legislative scheme and the provisions of the AML/CTF Act and Rules (AML Rules). Speaking broadly, it is obvious that the licensee is required to fulfil the obligations imposed upon it, including complying with relevant laws.

[33] At the heart of the legislative scheme are the GAA and the Act. S 3A of the Act provides that the Act and the GAA are to be read together as a single Act. The purpose and objects of the GAA are set out in s 3:

3—Purpose and objects of Act

- (1) *The purpose of this Act is to consolidate various administrative and regulatory provisions relating to different forms of gambling in the State, and to confer various functions and powers on the Commissioner in connection with the administration of gambling Acts.*
- (2) *The objects of this Act are—*
 - (a) *to reduce the prevalence and severity of harm associated with the misuse and abuse of gambling activities; and*
 - (b) *to foster responsible conduct in relation to gambling and, in particular, to ensure that gambling is conducted responsibly, fairly and honestly, with regard to minimising the harm associated with gambling; and*
 - (c) *to facilitate the balanced development and maintenance, in the public interest, of an economically viable and socially responsible gambling industry in the State recognising the positive and negative impacts of gambling on communities; and*
 - (d) *to ensure that gambling is conducted honestly and free from interference, criminal influence and exploitation; and*
 - (e) *to ensure, as far as practicable, that the conduct of gambling is consistent with the expectations and aspirations of the public.*
- (3) *A person exercising functions and powers under a gambling Act must have regard to the objects set out in subsection (2).*
- (4) *The Commissioner must, in considering whether a matter is or is not in the public interest for the purposes of a gambling Act, have regard to the need for gambling harm minimisation.*

- [34] As to the casino in particular, the fundamental scheme is identified in the objects of the Act set out in s 2A:

2A—Object

The object of this Act is to provide for the licensing, supervision and control of the Adelaide Casino and, in particular, to ensure—

- (a) that the Adelaide Casino is properly managed and operated; and*
- (b) that those involved in the control, management and operation of the Adelaide Casino are suitable and fit and proper persons to exercise their respective functions and responsibilities; and*
- (c) that gambling in the Adelaide Casino is conducted responsibly, fairly and honestly, with due regard to minimising the harm caused by gambling; and*
- (d) that minors are prohibited from gambling and that minors are not encouraged to gamble; and*
- (e) that the interest of the State in the taxation of gambling revenue arising from the operation of the Adelaide Casino is properly protected.*

- [35] In addition, if an application is made for the grant or renewal of the casino licence, s 21(3) of the Act directs that the Commissioner must not recommend the transfer of the casino licence unless satisfied that the proposed transferee ‘is a suitable person to operate the casino’. Section 21(4) provides that in assessing the suitability of an applicant, the Commissioner may have regard to:

- (a) the applicant’s corporate structure; and*
- (b) the extent of the applicant’s financial resources and whether they are suitable and adequate to ensure the financial stability of the casino; and*
- (c) the applicant’s financial background; and*
- (d) the extent of the applicant’s business acumen and experience and, in particular, whether the applicant’s business experience would suggest that it could operate the casino successfully; and*
- (e) the applicant’s reputation; and*
- (f) the character, reputation, and financial background of the applicant’s close associates; and*
- (g) any representations made by the Minister; and*
- (h) any other matters the Commissioner thinks fit.*

[36] Section 8 of the Act provides that the licensee may operate the casino ‘in accordance with the conditions of the licence’; and s 16 directs that there be an agreement between the licensee and the relevant Minister concerning the operation of the casino, the conditions of the licence and the performance of the licensee’s responsibilities under the licence or the Act. Pursuant to s10, the conditions of the licence consist of conditions fixed by the Act and conditions ‘fixed by or in accordance with the approved licencing agreement’. The Act contains numerous provisions with which the licensee must comply in operating the casino and the agreement, as varied, contains a number of provisions which the agreement directs are conditions of the casino licence.

[37] The Act provides for oversight of the casino operations by the Commissioner, and requires the Commissioner’s approval for a number of aspects of the operation. In particular, Part 4 Division 4 is concerned with approval of various management systems and gaming equipment. Pursuant to these provisions, over the years the licensee has applied for approval of a myriad of aspects of the casino’s operational systems and procedures which have resulted in numerous Control Standards being approved by the Commissioner. Those Control Standards are binding on the licensee.²

[38] Section 41B of the Act provides that it is a condition of the casino licence:

(a) that the licensee must ensure that advertising by the licensee conforms with the applicable advertising Codes of Practice; and

(b) that the licensee must ensure that operations under the licence conform with the applicable responsible gambling Codes of Practice.

[39] Gambling Codes of Practice, and gambling administration guidelines, have been prescribed and issued by the Commissioner pursuant to ss 15 and 17 of the GAA. The Gambling Codes of Practice Notice 2013 included an advertising Code of Practice, the purpose of which was stated as providing a ‘framework’ through which gambling providers can ensure that their advertising (cl 10):

² By way of contrast, Standard Operating Procedures for various aspects of the operations created by the licensee do not require approval by the Commissioner, and are not mandatory requirements under the Act.

(a) is consistent with the community's expectations that gambling businesses will be conducted in a responsible manner so as to minimise the harm caused by gambling; and

(b) is socially responsible.

[40] The 2013 Gambling Code identified the object of the Code with respect to gambling in similar terms (cl 38):

This Chapter provides a framework through which gambling providers can ensure that their general gambling practices are consistent with the community's expectations that their gambling businesses will be conducted in a responsible manner so as to minimise the harm caused by gambling.

[41] Clause 51A of the 2013 Gambling Code was directed to the interaction between alcohol consumption and gambling:

51A Alcohol and gambling

(1) A gambling provider must take all practicable steps—

(a) to prevent a person from being allowed to gamble if the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor or some other substance;

(b) to prevent the entry of a person into a gambling area, or a person remaining in a gambling area, if the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor or some other substance; and

(c) to ensure that liquor is not supplied to reward, promote or encourage continued gambling.

(2) The casino licensee must ensure that a person is not served liquor while seated or standing at a gaming machine or at automated table game equipment, unless—

(a) the machine or equipment is in a premium gaming area; or

(b) the automated table game is conducted by a dealer.

(3) A gaming machine licensee must ensure that a person is not served liquor while seated or standing at a gaming machine.

[42] As to problem gambling, cl 51 directed that a gambling provider ‘must take all reasonable steps to ensure that a person who demonstrates difficulty in controlling his or her personal expenditure on gambling products has his or her attention drawn to the name and telephone number of a widely available gambling help service’. Other provisions of the Gambling Code were directed to inducement and loyalty programs, and to specific aspects of gambling operations. Part 5 of the Code was concerned with staff and training at the casino.

[43] In the context of Harm Minimisation, cl 75 required that the licensee maintain a Host Responsibility Program:

75 Casino

- (1) *The casino licensee must maintain a host responsibility program.*
- (2) *For the purposes of sub-clause (1), a host responsibility program and its circumstances must meet the following minimum requirements—*
 - (a) *there must be at least one program employee available to attend in a gambling area whenever the casino is operating;*
 - (b) *the casino licensee must provide program employees with free and unrestricted access to the licensee’s premises, other staff and patrons at all times the casino is open for business;*
 - (c) *the casino licensee must undertake to its staff that they will in no way be the subject of prejudice or unfavourable treatment due to making reports of problem gambling behaviour or suspected problem gambling behaviour;*
 - (d) *the casino licensee must consent to, and must facilitate, comprehensive annual and more frequent periodic reporting to the Authority by program staff of their activities, as required by the Authority from time to time; and*
 - (e) *the casino licensee must notify the Authority of the terms of reference for the program, and procure the Authority’s acceptance of them.*

[44] On 31 July 2022 the 2013 Gambling Code was revoked and the Casino Gambling Code of Practice commenced operation. At the same time the Gaming Machines Gambling Code of Practice and the Authorised Betting Operations Gambling Code of Practice were amended. The underlying objects of the legislative scheme remained unaltered, but the Casino Gambling Code sets out the purpose of the Code in more detail than the 2013 Gambling Code:

3. Purpose of the code

(1) *The purpose of this code of practice is to promote the objects of the Gambling Administration Act 2019 and, in particular—*

- (a) to reduce the prevalence and severity of harm associated with the misuse and abuse of gambling activities; and*
- (b) to foster responsible conduct in relation to gambling and in particular, to ensure that gambling is conducted responsibly, fairly and honestly, with regard to minimising the harm associated with gambling; and*
- (c) to facilitate the balanced development and maintenance, in the public interest, of an economically viable and socially responsible gambling industry in the State recognising the positive and negative impacts of gambling on communities; and*
- (d) to ensure that gambling is conducted honestly and free from interference, criminal influence and exploitation; and*
- (e) to ensure, as far as practicable, that the conduct of gambling is consistent with the expectations and aspirations of the public.*

(1a) For the purposes of clause 3(1)(a) harm associated with the misuse and abuse of gambling activities includes—

- (a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and*
- (b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and*
- (c) the adverse effects on a person's health or welfare; and*
- (d) the adverse effects on a person's family, friends and work colleagues.*

(2) The intention of this code of practice is to commit the holder of the casino licence (the licensee) to:

- (a) ensure that gambling practices are consistent with the community's expectations that gambling businesses will be conducted in a responsible manner so as to minimise the harm caused by gambling;*
- (b) ensure that gambling advertising is consistent with the community's expectations that gambling businesses will be conducted in a responsible manner so as to minimise the harm caused by gambling and is socially responsible;*
- (c) consider and implement measures to minimise harm associated with gambling activities;*

- (d) *maintain standards of operational practice that, as a matter of course, address harm minimisation;*
- (e) *not undertake operational practices involving unacceptable risk of harm.*

[45] Clause 5 of the Casino Gambling Code directs that a gambling provider ‘must not contravene or fail to comply with a mandatory provision of a Code of Practice’. One such mandatory provision concerns Host Responsibility services:

7. Host responsibility services

- (1) *The licensee must maintain a host responsibility program, with the program’s Terms of Reference approved by the Commissioner.*
- (2) *For the purposes of sub-clause (1), the licensee must –*
 - (a) *ensure that there is at least one host responsibility employee available to attend in each gaming area whenever the casino is operating;*
 - (b) *provide host responsibility employees with free and unrestricted access to the licensee’s premises, other staff and patrons, at all times the casino is open for business;*
 - (c) *undertake to its staff that they will in no way be the subject of prejudice or unfavourable treatment due to making reports of problem gambling behaviour or suspected problem gambling behaviour; and*
 - (d) *consent to and facilitate comprehensive annual or more frequent periodic reporting to the Commissioner by program staff of their activities, as required by the Commissioner.*

[46] Part 2 of the Casino Gambling Code concerns advertising practices and the introduction to Part 2 is in the following mandatory terms:

The licensee is to ensure that gambling advertising is conducted in a responsible manner that takes into account the potential adverse impact it may have on the community, particularly minors, people experiencing gambling-related harm or at risk of developing negative consequences associated with their gambling.

Gambling advertising must be compliant with applicable State and Federal laws and any relevant industry codes of practice.

[47] Clause 8 is also in mandatory terms and contains a number of prohibitions by way of a direction that the licensee must ensure that gambling advertising does not breach each prohibition. For

example, the licensee must ensure that the advertising is not ‘false, misleading or deceptive’ and ‘does not encourage a breach of law’. The obligation is placed on the licensee to ensure that the gambling advertising does not breach the prohibitions specified in cl 8.

- [48] Other provisions in Part 2 are concerned with various matters associated with advertising, including mandatory warning messages.

- [49] Part 3 of the Casino Gambling Code specifies in significant detail signage and procedures to be followed by the Casino with respect to interventions with problem gamblers, and requires that signage contain information concerning assistance available to problem gamblers. Other provisions deal with inducements and acceptable loyalty programs.

- [50] The interaction between alcohol consumption and gambling is found in cl 23 which is in terms similar to cl 51A of the 2013 Gambling Code.

- [51] A fundamental purpose of the legislative scheme and regulatory framework is to ‘facilitate’ the development and maintenance, ‘in the public interest’, of an ‘economically viable and socially responsible gambling industry’. The Casino Gambling Code expressly recognises that such an industry is accompanied by both positive and negative impacts on communities, including misuse and abuse of gambling activities. The Code recognises that the negative effects of problem gambling extend well beyond the immediate adverse impact on the financial well-being of the gambler.

- [52] The tension between creating and maintaining a commercially viable gambling industry and minimising the harm that inevitably accompanies a gambling industry is recognised by the scheme, including the Casino Gambling Code. Significant emphasis is placed on the duty to minimise the ‘prevalence and severity of harm associated with the misuse and abuse of gambling activities’.

[53] In addition, the legislative and regulatory scheme also emphasises the importance of ensuring that gambling is conducted fairly and honestly and free from interference, criminal influence and exploitation. In pursuance of these objectives, the casino operator is required to ensure that the casino is properly managed and operated by persons who are suitable, and fit and proper persons to exercise their functions and responsibilities.

[54] In the context of the obligation to ensure that gambling is conducted free from criminal influence and exploitation, the provisions of the AML/CTF Act and Rules are particularly important. These were discussed in other Inquiries involving interstate casinos operated by different entities.

5.0 Other Inquiries

[55] The decision by the Commissioner to investigate the licensee's continued suitability was made against the background of interstate inquiries into casino operations in New South Wales (NSW), Victoria (Vic) and Western Australia (WA). Unlike those inquiries, prior to the Commissioner's decision to review the suitability of the licensee and close associates, no public allegations of specific misconduct by the licensee had been made. However, other inquiries are very helpful sources of information relevant to this Investigation, and to an understanding of casino practices, including areas of casino operations that are capable of giving rise to cause for concern about the suitability of a licensee to hold a licence to operate a casino.

[56] The first inquiry was conducted by the Honourable P A Bergin SC who was appointed in 2019 to inquire into the suitability of the licensee to hold the licence and operate the casino at Barangaroo. The licensee (Crown Sydney) was a subsidiary of Crown Resorts Ltd (Crown). The appointment of Ms Bergin was preceded by allegations raised publicly in the media of inappropriate conduct by Crown and its alleged associates and business partners. Ms Bergin reported on 1 February 2021 that Crown Sydney was not a suitable person to continue to give effect to its restricted gaming licence, and Crown was not a suitable person to be a close associate of Crown Sydney.

- [57] Following the Bergin report, on 22 February 2021 a Royal Commission was established in Victoria, chaired by The Honourable Roman (Ray) Finkelstein AO QC as Commissioner and Chairperson, to inquire into and report as to whether Crown Melbourne, a subsidiary of Crown, was a suitable person to continue to hold the casino license in respect of the Melbourne casino. The terms of appointment noted specific findings by the Bergin inquiry.
- [58] Mr Finkelstein reported on 15 October 2021. He found that Crown Melbourne was not a suitable person to continue to hold the casino licence.
- [59] A subsidiary of Crown also held the casino gaming licence for the Perth casino (Burswood Nominees). On 12 March 2021 a Royal Commission was established in Western Australia, comprised of three commissioners, to inquire into and report as to the suitability of the licensee to hold the casino gambling licence in respect of the Perth casino. The Royal Commission reported on 4 March 2022 that the licensee was not presently a suitable person to hold the licence, and other entities were not presently suitable persons to be concerned in or associated with the operations of the casino.
- [60] The Star Pty Ltd (the Star) is the corporation which held a casino licence in New South Wales and operated The Star Casino during the period November 2016 to September 2021. The ultimate holding company of The Star was The Star Entertainment Group Ltd (the Star Group). On 13 September 2021 Mr Adam Bell SC was appointed to conduct a Review into the operations of The Star Casino, the focus of the Review being to consider the suitability of The Star and its close associates. Mr Bell reported on 31 August 2022 that, at the commencement of the Review on 13 September 2021, and presently, The Star was not suitable ‘to be concerned in or associated with the management and operation of a casino in NSW’. Subsequently, a review of the Queensland operations of The Star Entertainment Group Limited found that The Star was in serious dereliction of its responsibilities in a number of respects.

[61] The Star Group is also involved with two casinos in Queensland which were the subject of a review by The Hon R W Gotterson AO KC. That review was not concerned with the suitability of Star entities to hold the casino licences. Mr Gotterson delivered his Report in September 2022. He found significant failings of the type reflected in Mr Bell's Report.

5.1 Bergin Inquiry: Principal Findings

[62] The principal findings of the Bergin Inquiry may be briefly summarised as follows:³

- Over a number of years Crown enabled or facilitated money laundering through the bank accounts of subsidiaries, and this situation continued unaltered despite warnings from its bankers.
- Crown disregarded the welfare of its China-based staff, putting them at risk of detention, by pursuing an aggressive sales policy and failing to put in place an appropriate corporate risk management structure.
- Over a number of years Crown entered into commercial relationships with Junket operators who had links to triads and other organised crime groups, and maintained those relationships after becoming aware of allegations of such links.
- Failures in Corporate Governance, Risk Management and culture caused or contributed to Crown's misconduct.
- Crown's conduct reflected a culture in which profit took precedence over compliance with obligations.

5.1.1 Bergin – Junkets – Money Laundering in Casinos

³ More detailed summaries appear in the Victorian and Western Australian Reports.

[63] The Bergin report reviewed the operations of casinos in Australia and the global VIP casino market, including the origins and operations of Junkets. Ms Bergin explained Junkets in the following terms (p 16-17):

- 22 *Junkets are a well-recognised part of the international casino landscape. Junkets identify VIP patrons and make arrangements for them to travel to gamble in particular casinos, often by offering enticements such as free travel and accommodation. In return, casino operators pay Junket operators commissions which in some jurisdictions such as Macau and Australia are based upon the Junket participant's turnover during any particular Junket program. In some jurisdictions, including Macau and Australia, Junkets may also advance credit to Junket participants and enforce debts incurred by those participants.*
- 23 *In Australia, the casino operator enters into contractual arrangements with the Junket operators, sometimes referred to as "junket promoters", rather than with the individual Junket participants. The contractual relationship is between the casino operator and the Junket operator. If the casino operator extends credit to the Junket operator, it looks to the Junket operator to pay the debt. It is a matter for the Junket operator how the debt is received from the Junket participant.*
- 24 *In Australia, Junket operators must agree with the casino operators to deposit a minimum level of front money prior to being permitted to operate a Junket program at the casino (footnotes omitted).*

[64] Ms Bergin explained that VIP patrons are to be distinguished from 'mass market players'. They are also sometimes distinguished from premium players who also place very large bets, but deal directly with casino operators rather than through Junket operators as an intermediary. In the following passages Ms Bergin explained the operation of the VIP system (p 15-16):

- 14 *It is convenient at this point to note some terminology relevant to the VIP casino market.*
- 15 *To play games at casinos, players must exchange money for chips. In the main gaming rooms in Australian casinos, chips are sold directly to casino patrons at gaming tables and via cashier desks. The cashier's desk is commonly referred to as the "cage". The cage is where patrons purchase and redeem chips for cash or cash equivalents.*
- 16 *In the VIP system, "dead chips" (also called junket chips or non-negotiable chips) are sold or lent by the casino operator to Junket operators. Junket participants cannot acquire dead chips directly from the casino operator. Dead chips can only be used in play and cannot be redeemed for money. However, a winning player is paid in "live chips" which can be redeemed for cash in the casino or (if the player is a Junket participant) given to the Junket promoter in exchange for more dead*

chips. The process of the Junket operator continuing to provide Junket participants with dead chips is known as “rolling” which is why dead chips are sometimes referred to as “rolling chips”. The rolling process enables the Junket operators to keep track of a Junket participant’s turnover. Turnover is the amount of money that is actually wagered in the casino.

- 17 *All the agreements between casino operators and Junket operators are based upon the Junket operator bringing a certain volume of play into the casino. The Junket operator will deposit “front money” with casinos in advance of the arrival of a Junket or a premium player. The front money is used to buy chips.*
- 18 *Casino operators often pay Junket operators and Junket participants rebates to incentivise them to wager more at the casino. The premium direct and Junket segments are sometimes referred to as “rebate play”. Premium direct players must also provide certain minimum front money. The Star’s international rebate business consists of international Junket programs, international premium direct players and international premium mass players.*
- 19 *At Crown, rebates take various forms including a commission percentage on a VIP patron’s turnover, a discount on actual losses or a rebate on a win/loss (where the customer and Crown have a pre-negotiated share of paying winnings or collecting losses).*
- 20 *Baccarat is the game of choice for VIP players. This is because the house advantage (sometimes referred to as the “house edge”) is lower than for other games on offer at casinos. The house advantage is the statistical advantage the casino operator holds in any particular game as it is played over time. The higher the house edge, the less the casino will pay out on average. The corollary is that the lower the house edge, the more the casino will pay out over time and the more potential there is for the patron to make a profit.*
- 21 *Another popular VIP game is the card game Blackjack. To a lesser extent VIP patrons also play Roulette, which features a spinning wheel with 37 or 38 squares on the rim (footnotes omitted).*

[65] In chapter 1.4 Ms Bergin dealt with anti-money laundering regulation in casinos. Money laundering was described in the report as ‘a process of legitimising or hiding proceeds or instruments of crime’ by blending both criminal and legitimate activities’. Casinos are particularly vulnerable to money laundering and Ms Bergin explained money laundering in casinos (p 46-47):

- 8 *There are various mechanisms by which money may be laundered in casinos. For example, cash derived from a criminal enterprise can be used in the casino to purchase chips. Chips may then be redeemed in cash, cheque or money transfer and following that redemption, present as having been derived from a legitimate source. Another mechanism is where a criminal organisation deposits funds into a casino operator’s bank account for use by a casino patron. The patron may then purchase*

chips and later redeem them, again creating the appearance that the funds have been derived from a legitimate source. Electronic funds transfers facilitating the flow of money both in and out of a casino can also be used to launder money.

- 9 *An obvious reason why casinos can be vulnerable to money laundering is because of the large volumes of cash with which they deal. However, cash is not the only way that money moves into and out of casinos in Australia. In many respects, casinos are not unlike banks. They engage in a myriad of financial transactions. They maintain customer accounts, exchange foreign currency, facilitate electronic funds transfers and act as money transmitters, maintain safety deposit boxes, act as cheque cashers and write cheques.*
- 10 *However unlike the customers of a bank, casino patrons have no reason to disclose to a casino their business or professional activities. There is often little observable basis for distinguishing between those patrons laundering funds in the casino and all other casino patrons.*
- 11 *In 2009, the FATF published a report entitled “Vulnerabilities of Casinos and Gaming Sector” (FATF Report), which considered various money laundering methods and techniques in casinos.*
- 12 *The FATF Report discussed a particular money laundering technique commonly used in casinos known as “structuring” or “smurfing”. This involves the distribution of a large amount of cash into smaller transactions in order to minimise suspicion and evade threshold reporting requirements. Common methods of structuring were identified as including:*
 - *Regularly depositing or transacting similar amounts of cash, which are below a country’s reporting disclosure limit;*
 - *The use of third parties to undertake transactions using single or multiple accounts;*
 - *Multiple individuals sending funds to one beneficiary; and*
 - *Transferring funds into third party accounts.*
- 13 *Another risk identified by the FATF Report was the deposit accounts and lines of credit offered to casino patrons with less scrutiny and customer due diligence requirements than financial institutions. FATF concluded that the frequent movement of funds between financial institutions and the casinos, or between casino accounts held in different casinos may be vulnerable for money laundering. It was noted that deposits into casino accounts by wire transfers or bank cashier’s cheques where funds are then cashed out or moved to other accounts with minimal or no gambling activity was a method of money laundering. FATF considered that indicators of money laundering using casino accounts included:*
 - *Frequent deposits of cash cheques, bank cheques, or wire transfers into a casino account;*

- *Casino account transactions conducted by persons other than the account holder;*
- *Large amounts of cash deposited from unexplained sources;*
- *Multiple individuals transferring funds to a single beneficiary;*
- *Structuring of deposits, withdrawals or wire transfers;*
- *Using third parties to undertake wire transfers and structuring of deposits;*
- *Transfers with no apparent business or lawful purpose;*
- *Use of multiple names to conduct similar activity; and*
- *Transfer of company accounts to casino accounts.*

The FATF Report noted that both Junkets and VIP gaming rooms were considered areas which posed serious risks of money laundering (footnotes omitted).

[66] Later in chapter 1.4 Ms Bergin spoke of the need to establish a ‘culture of compliance and proactivity’ (pp 60-62):

85 *The vulnerability of casinos to money laundering make establishing a culture of compliance and proactivity within the casino essential to combatting criminal influence. The FATF Report noted that persons with large amounts of disposable cash are attractive customers in casinos, which makes it imperative that the casinos have not only integrity, but a commitment to preventing crime. The FATF observed relevantly:*

Importantly commercial reward systems often provide bonuses or remuneration for “middle management” based on revenue-based performance criteria. These may not take into account the protection of the primary asset (the casino licence) and unless an appropriate management culture is in place within the operator these may work against maintaining a crime-free environment.

86 *The FATF Report considered the need for greater cooperation between AML/CTF regulators and enforcement agencies and front line compliance staff within casinos.*

87 *The American Gaming Association put it this way:*

There is no more effective way to foster a positive culture than to have the casino’s senior leadership and Board of Directors (whether directly or through the Board’s Audit or Compliance Committee) engaged in the AML compliance effort, receiving periodic updates on regulatory developments, changes to the program, resources, and audit findings by regulators and by other independent compliance reviews.

- 88 *If casinos are to avoid succumbing to “revenue pressures”, a culture of compliance is required to be embedded at the Board of directors and executive management level, with them “all being on board to understand that anti-money laundering is a large risk”.*
- 89 *A positive culture of compliance and proactivity is “absolutely fundamental” in respect of both ensuring an effective money laundering regime and in managing the tension between revenue pressure and the requirement for compliance with regulatory regimes.*

Some relevant questions

- 90 *The recent publication of the American Gaming Association “Best Practices for Anti Money Laundering Compliance 2019-2020” is replete with wisdom and common sense. Whilst recognising that there are many factors relevant to the risk assessment of money laundering in a particular casino, it suggested it should begin by asking the following basic questions:*
1. *What are the entry and exit points at the casino for patron funds that may come from illicit sources?*
 2. *What casino departments or employees are best positioned to detect the entry and exit of such funds?*
 3. *What are the characteristics of transactions that may involve illicit funds or are funds of patrons who are more likely to engage in suspicious activity?*
 4. *What measures (including automation) do we have in place to mitigate these risks?*
 5. *How effective are these measures?*
- 91 *These questions are but a starting point (footnotes omitted).*

[67] The obligations of casinos with respect to preventing money laundering are found in the AML/CTF Act and AML Rules. Ms Bergin helpfully summarised those obligations (pp 49-61). Her summary appears at para [199] of this Report.

[68] In chapters 1.5 and 1.6, Ms Bergin dealt with the vulnerability of Junkets to organised crime and the regulation of Junkets in New South Wales. As the licensee decided in 2020 to cease dealing with Junkets, it is unnecessary to canvas this aspect of casino operations in detail. However, the licensee’s dealings with the SunCity Junket, and its operator [REDACTED], are discussed later.

5.1.2 Bergin – Money-laundering Recommendations

[69] In respect of money laundering, the following recommendations were included in the Bergin Report:

- The NSW legislation be amended to include an object of ‘ensuring that all licenced casinos prevent any money laundering activities within their casino operations’.
- The legislation be amended to provide that a casino operator be required to engage ‘an independent and appropriately qualified Compliance Auditor’, approved by the governing authority, to report annually to the governing authority on the casino operator’s compliance with its obligations under all regulatory statutes and the terms of its licence.
- The legislation be amended to require the Compliance Auditor to provide immediately written notice to the Casino Operator and the governing Authority if the Compliance Auditor forms the belief that activity has occurred or may occur within the casino operations which may put at risk the achievement of any objects of the Act, or a contravention of any Act regulating the casino operations.
- The legislation be amended to include a provision similar to Singapore legislation ‘for the concurrent reporting by the casino operator of suspicious transactions’ to both AUSTRAC and the governing Authority.
- The licence of the casino operator be amended to impose an obligation ‘to monitor patron accounts and perform heightened customer due diligence, the breach of which provisions will be regarded as a breach of the licence and give rise to possible disciplinary action’.
- The legislation be amended to impose on any applicant for a casino licence ‘an express requirement to prove that it is a suitable person’ by providing to the governing Authority ‘clear and convincing evidence’ of that suitability.

5.1.3 Bergin – Corporate Governance and Culture

[70] In chapter 4.1 Ms Bergin dealt with the fundamental principles of corporate governance and corporate culture. I can do no better than to set out chapter 4.1 in full (pp 324-334):

- 1 *Corporate governance is the term used to describe the internal structures by which a company operates and is accountable to its stakeholders. It has been described as:*

The framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies and those in control are held to account.

- 2 *There are certain aspects or themes relevant to corporate governance that are of particular relevance to the issues in this Inquiry including:*

(a) Ethical conduct;

(b) Risk management and oversight;

(c) Board composition, primarily, board independence and board tenure; and

(d) Remuneration and incentivisation of directors and senior executives.

- 3 *Given its relevance to every corporate enterprise, from small incorporated businesses to ASX listed companies, corporate governance is the subject of considerable scrutiny, guidance and thought leadership by a variety of regulators, advisors and corporate commentators.*

- 4 *In recent years, the level of scrutiny into matters of corporate governance across corporate Australia has intensified consequent upon events such as the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission) and investigations into the conduct of specific entities, such as into the CBA by the Australian Prudential Regulation Authority (APRA).*

- 5 *Important sources of regulatory and best practice guidance are published regularly by the Australian Securities and Investments Commission (ASIC), APRA and other relevant Australian organisations, such as the Governance Institute of Australia, the Ethics Centre and the Australian Institute of Company Directors (AICD).² There is also a significant body of international guidance and commentary. Much has been written on the topic, for example, in the Harvard Business Review or published by the Financial Stability Board. Corporate regulators in many jurisdictions are focused on the importance of effective corporate governance practices to ensure the best outcomes for investors, customers and the public at large. It is a focus that envisages Australian companies adopting “sound corporate governance practices that support market integrity and good investor outcomes”.*

- 6 *In August 2018 ASIC received special funding to establish a Corporate Governance Taskforce (Taskforce) in the wake of the Financial Services Royal Commission. Its first report, “Corporate Governance Taskforce – Director and officer oversight of nonfinancial risk report” (Non-Financial Risk Report), provides significant insight into corporate governance and the management of risk within organisations.*
- 7 *Guidance for ASX listed entities is provided by the ASX Corporate Governance Council’s Principles and Recommendations (ASX Principles), which set out a “worldleading standard on corporate governance by listed entities”. The 3rd edition of the ASX Principles applied to entities from 1 January 2014 and was superseded by a 4th edition from 1 January 2020. The 3rd edition was in force at the time many of the events described in this Report occurred, and the 4th edition sets the expectations for Crown’s current and future conduct.*
- 8 *Although the ASX Principles are not mandatory and do not have the effect of law, the ASX Listing Rules require every ASX listed entity to disclose the extent to which it adheres to the ASX Principles in a Corporate Governance Statement to be made available on its website or in its Annual Report. Divergence from recommendations made in the ASX Principles must also be identified and explained in the Statement.*
- 9 *The ASX Listing Rules do not require entities to abide by the ASX Principles in their entirety, accepting that different governance practices may legitimately be appropriate for different entities depending on their size, complexity and history. Nonetheless, the requirement for a corporate governance statement obliges those in control of an entity to consider, acknowledge and to the extent necessary for that business, embrace appropriate corporate governance standards into their business.*
- 10 *The 3rd edition of the ASX Principles promoted eight central principles of corporate governance as:*
 - (1) Providing solid foundations for management and oversight;*
 - (2) Structuring the Board to add value;*
 - (3) Acting ethically and responsibly;*
 - (4) Safeguarding integrity in corporate reporting;*
 - (5) Making timely and balanced disclosure;*
 - (6) Respecting the rights of security holders;*
 - (7) Recognising and managing risk; and*
 - (8) Remunerating fairly and responsibly.*
- 11 *Directors and senior officers of companies are ultimately responsible for setting, monitoring and maintaining a company’s corporate governance standards, practices and processes. The 3rd edition of the ASX Principles explicitly links this function to a director’s obligations to exercise their duties with due care and diligence in the best interests of the company.*

- 12 In 2014 the then chairman of ASIC described directors as “gate-keepers” explaining that:

Directors should ensure that their company has strong internal audit and compliance functions. A compliance function is meaningless if it is not backed up by supervision and review, and reflected in the company’s culture.

It is this last point, culture, that I consider is the most important.

Directors should ensure that their stewardship drives the right compliance culture in their organisation.

Connection between corporate culture and corporate governance

- 13 “Culture” has been defined as follows:

Culture is a set of shared values and assumptions within an organization. It reflects the underlying ‘mindset of an organisation’, the ‘unwritten rules’ for how things really work. It works silently in the background to direct how an organisation and its staff think, make decisions and actually behave.

- 14 *It has been similarly defined as “a set of shared mental assumptions that guide interpretation and action in organisations by defining appropriate behaviour for various situations”, including situations not prescribed by laws and policies. Culture and governance has also been said to depend upon “people applying the right standards and doing their jobs properly”.*

- 15 *Commentators have emphasised that corporate governance and corporate culture are inextricably linked.*

- 16 *While corporate governance establishes the rules, policies and principles, culture is “what people do when no-one is watching”. It is therefore critical that the boundaries that are set by the corporate governance principles are understood and respected by individuals in the company.*

- 17 *Risk culture should be understood to mean an organisation’s collective mindset towards risk. The “most spectacular governance failures” in the last two decades have been attributed to deficient risk cultures. For instance APRA described the 2008 Global Financial Crisis, as follows:*

This was not solely an issue of poor risk measurement, or weaknesses in internal control structures. It also reflected deficiencies in institutions’ attitudes towards risk. In combination, a poor risk culture and weak risk management (the former often being the root cause of the latter) led to unbalanced and ill-considered risk-taking, to significant losses and, in some cases, to institutional failures.

- 18 *The 4th edition of the ASX Principles also introduced a recommendation that an entity “articulate and disclose its values”. It was explained as follows:*

Values create a link between the entity’s purpose (why it exists) and its strategic goals (what it hopes to do) by expressing the standards and behaviours it expects

from its directors, senior executives and employees to fulfil its purpose and meet its goals (how it will do it).

- 19 The corporate regulators have over time made suggestions to assist corporations with some practical steps towards establishing good corporate governance. They have included: effective communication; encouragement of debate and challenge; learning from past experiences; awareness and active stewardship of risk; clear escalation processes; and clear consequences for breaches of risk.

Acting ethically

- 20 It has been said that directors need to “navigate the complex ethical terrain that is encountered in every boardroom” being the “ultimate source of the ethical tone that flows throughout a well-governed organisation”. There is pressure on directors to balance the needs of shareholders, employees, customers, suppliers and the wider community. Ethical issues can arise for a Board in a variety of ways, from core matters, such as the nature of the business and business practices, to specific issues such as conflicts of interest, being independent and acting without self-interest.
- 21 Events in recent years have exposed the ethics of corporate institutions to excoriating public scrutiny. 2019 in particular, was described as “a year of scandals”.
- 22 The 3rd edition of the ASX Principles described acting “ethically and responsibly”, as “acting with honesty, integrity and in a manner consistent with the reasonable expectations of investors and the broader community”.
- 23 The 4th edition of the ASX Principles reformulates this principle and highlights the importance of corporate culture in the pursuit of ethical behavior. Rather than merely “acting” with integrity, entities are recommended to actively “instil a culture of acting lawfully, ethically and responsibly”.
- 24 In this regard the 3rd edition said it is the role of the Board to “lead by example” and instruct Management to create “a culture within the entity that promotes ethical and responsible behaviour”. The 4th edition also expands on the responsibilities of the Board, recommending that it approve the entity’s statement of values, and of management to set the “tone at the top”, by ensuring that employees receive training and reinforcement of those values, including through their interactions with senior executives.
- 25 The requirement for tone to be set from the top is a theme that frequently emerges with respect to concepts of corporate governance best practice.

Risk management, risk appetite and oversight

- 26 Risk management is a core pillar of corporate governance. In an article published on 1 December 2019, the AICD noted the following:

Risk management encompasses the culture, processes and structures directed towards taking advantage of potential opportunities while managing potential adverse effects. The goal of risk management is to increase certainty that a

decision's intended outcome will be achieved. It involves identification, evaluation and prioritisation of risks.

- 27 *There is a critical, reciprocal relationship between the Board and Management in relation to managing risk:*

The board of a listed entity is ultimately responsible for deciding the nature and extent of the risks it is prepared to take to meet its objectives.

To enable the board to do this the entity must have an appropriate framework to identify and manage risk on an ongoing basis. It is the role of management to design and implement that framework and to ensure that the entity operates within the risk appetite set by the board. It is the role of the board to set the risk appetite for the entity to oversee its risk management framework and to satisfy itself that the framework is sound.

- 28 *Consistent with the concept of setting the "tone from the top" the fundamental roles of the Board comprise: setting the entity's strategic objectives; setting the entity's risk appetite; and overseeing Management's performance, including the execution of the entity's strategic objectives.*
- 29 *An entity's risk appetite is best understood as "the amount of risk it is willing to accept in pursuing its strategic objectives". A Board is expected to determine what risks (their nature, likelihood of occurrence and impact on the business) the entity is prepared to accept. The risk appetite sets the parameters for the risk management framework within which Management is expected to operate.*
- 30 *In order for Management to clearly comprehend the Board's risk appetite and its impact on the business, entities need an effective risk appetite statement which communicates the Board's risk tolerance with respect to particular risks. The risk appetite statement cannot merely express aspirations of total compliance, but must articulate the Board's expectations in specific instances of non-compliance, such as consequences for breach as well as escalation and rectification processes. A successful risk appetite statement includes organisation-wide engagement in designing the risk appetite statement, risk escalation and reporting protocols and the linking of remuneration and performance processes with risk management.*
- 31 *It is the role of Management, under the supervision of the Board, to design and implement the risk management framework and ensure that the entity operates within the risk appetite. Management must also provide the Board with sufficiently accurate and timely information for the Board to perform its supervisory duties.*
- 32 *The Joint Australian and New Zealand Standards for Risk Management recognise that corporations must take account of the organisation's specific needs in setting their risk appetite. This obviously includes objectives, structure, projects, products and services.*
- 33 *The concept of non-financial risk includes: operational risk (risk from breakdown or deficiency in an entity's internal process); compliance risk (risk of legal or regulatory consequences and associated reputational costs); and conduct risk (of*

inappropriate, unethical or unlawful behaviour on the part of a company's Management or employees).

- 34 *When a company operates outside the Board's stated risk appetite, the Board must exercise "active stewardship" and hold Management to account. This includes challenging Management's proposed responses and timeframes and proactively requiring senior executives to conduct root cause analysis of recurring deviations from the risk appetite. A touchstone of active stewardship involves the Board asking itself:*

When we fall outside appetite, are we requiring management to do everything within their power to return the company to within appetite, or otherwise cease activities that place it outside appetite?

- 35 *A failure to do so suggests the Board's "tacit acceptance" of operating outside risk appetite.*
- 36 *In what may be seen as falling into a jargonistic trap ASIC encourages Boards to develop and employ metrics to monitor compliance risk which correspond to the risk being measured, and in accordance with its risk appetite statement. It is suggested that these metrics should also incorporate "leading indicators" which foreshadow future breaches, rather than "lagging indicators", which measure breaches that have already occurred.*

Risk Committee

- 37 *The ASX Principles recommend that organisations establish a risk committee. A Board committee dedicated to risk can "bring the transparency, focus and independent judgment" required to scrutinise the organisation's risk management framework and make recommendations to the Board regarding its adequacy.*
- 38 *The Risk Committee should be equipped with sufficient size, independence, technical and industry knowledge and powers under its charter to fulfil its function. These powers include obtaining information, interviewing Management, interviewing internal and external auditors and obtaining specialist advice.*
- 39 *It is imperative to enhance information flow between Management, Risk Committees, the full Board and individual directors, in order for each to perform their functions.*
- 40 *It is also imperative to institute and maintain practices of taking minutes of all meetings, formally recording the subject and key decisions of informal discussions and establishing transparent processes for escalating information outside committee meetings.*

Role of the Board, including Board independence and Board tenure

- 41 *Although ASIC has previously described directors as "gate-keepers" of corporate governance, Boards are increasingly expected to not only be responsible for governance but also to be a challenger of the business, of the decisions made by executives, Management and each other.*

42 The 3rd and 4th ASX Principles include the following:

A high performing, effective board is essential for the proper governance of a listed entity. The board needs to have an appropriate number of independent non-executive directors who can challenge management and hold them to account, and also represent the best interests of the listed entity and its security holders as a whole rather than those of individual security holders or interest groups.

43 *Those ASX Principles caution that the designation of independence is “not one that should be applied lightly” to directors, as it is one that “gives great comfort to security holders” for the Board’s role in safeguarding their interests. In addition to acting as a counterpoint for management, directors must also check and balance each other. Accordingly, a director should only be classified as “independent”, if they are:*

Free of any interest, position, association or relationship that might influence, or reasonably be perceived to influence, in a material respect, his or her capacity to bring an independent judgment to bear on issues before the board and to act in the best interests of the entity and its security holders generally.

44 *Examples of situations that could jeopardise a director’s independence include:*

- (a) Current or previous executive roles with the entity or its subsidiaries within a certain timeframe;*
- (b) Current or previous employment, partnerships or directorships*
- (c) Being the entity’s substantial shareholder or associated with a substantial shareholder of the entity; and*
- (d) Having close family ties with any person belonging to the above categories.*

45 *Unsurprisingly, the majority of the ASX Principles relating to structuring the Board to add value are aimed at maximising its independence, including the following:*

- (a) Independent directors should constitute a majority of the Board;*
- (b) Entities should disclose the names of the independent directors;*
- (c) Entities should have a nomination committee chaired by an independent director, and comprised of a majority of independent directors; and*
- (d) The Chair of the Board should be an independent director, “and in particular, should not be the same person as the CEO of the entity”.*

46 *A Board with a majority of independent directors diminishes the likelihood that a singular experience, skillset or perspective will dominate decision making, and skew outcomes from the best interests of shareholders and the entity as a whole. This also highlights the relationship between Board independence and diversity, in terms of personal attributes and professional expertise. A pertinent observation on this topic is the following:*

Boards will be far more effective in their challenger role if they offer seats to individuals with professional experiences and viewpoints that are very different from those of the executive team. Directors can learn to be more direct with management, but it's hard to fake contrarianism when everyone is of the same mind. When a board resembles the CEO in mindset and outlook, it's a recipe for a gatekeeper board, not a challenger board.

- 47 *The independence of the Board Chair, who is responsible for leading the Board and setting its agenda, can encourage a culture of constructive debate and receptivity to diverse opinions. Separation of the roles of Chair and CEO also serves to separate the Board from Management, in order to promote scrutiny of the latter's conduct, particularly in relation to the management of risk. The 3rd and 4th editions of the ASX Principles provided:*

Good governance demands an appropriate separation between those charged with managing a listed entity and those responsible for overseeing its managers.

- 48 *Effective discharge of Board Chair duties is a significant time commitment, which should not be compromised by other demanding roles.*
- 49 *The 3rd edition of the ASX Principles also recommended establishing a separate nomination committee, similar to the separate risk committee, to "bring the transparency, focus and independent judgment needed" on decisions of directorship appointment. Entities should also undertake sufficient checks before appointing or nominating a candidate for director, and equip security holders with all material information for election, including all interests and associations that could influence, or reasonably be perceived to influence their independence.*
- 50 *Another aspect of director independence is the tenure of directors on Boards. Longevity of service has been linked to the question of independence, as well as proper functioning of the Board as a whole. It has been noted that a number of jurisdictions are taking the view that a director will not be considered independent after they have served on a Board for nine years.*
- 51 *This approach reflects a concern that an extended tenure may inhibit directors' abilities to discharge their duties in the best interests of the shareholders and the company as a whole. Long-serving directors may "fall into a rut, making judgments out of habit, complacency, or overconfidence". The requirement of challenge and oversight of Management and executives may be diminished as a consequence.*
- 52 *It is also acknowledged that longevity of tenure may provide consistency in leadership, but that it may also prejudice innovation at a time when "innovation has never been more important to an organisation's success".*
- 53 *Other jurisdictions including the United Kingdom and Singapore set limits on director tenure for listed entities. However in Australia, the ASX Principles do not endorse a rigid approach to dictating director terms, although it is acknowledged that a director's independence should be more frequently evaluated after a decade of service.*

- 54 *It has been suggested that entities should endeavour to have directors with varying tenure lengths and be “well served by having a mix of directors some with a longer tenure with a deep understanding of the entity and its business, and some with a shorter tenure with fresh ideas and perspective”.*
- 55 *This approach appears to balance the so called “expertise hypothesis” and the “entrenchment hypothesis”. The “expertise hypothesis” suggests that a director’s effectiveness increases with their length of service and corresponding understanding of the business. The “entrenchment hypothesis” suggests that directors becomes stagnant after a period of time. The aim should be to achieve “a healthy balance that combines experience and continuity with new capacity”.*

Remuneration and incentivisation of directors and officers

- 56 *In 2009 the Financial Stability Board released its Principles for Sound Compensation Practices (Compensation Principles), in response to revelations that the GFC could be traced to the remuneration practices of large financial institutions. It was noted that:*

High short-term profits led to generous bonus payments to employees without adequate regard to the longer-term risks they imposed on their firms. These perverse incentives amplified the excessive risk-taking that severely threatened the global financial system and left firms with fewer resources to absorb losses as risks materialised.

- 57 *APRA adopted the Compensation Principles through the Prudential Practice Guide PPG 511 Remuneration.*
- 58 *Although the Compensation Principles were aimed at financial institutions, they illustrate the importance of ensuring that remuneration structures are consistent with “prudent risk taking”. ASIC has also announced that the next issue to be investigated by its Taskforce is executive remuneration practices, to assess whether they are “driving the right behaviours and accountabilities of executives in Australia’s listed companies”.*
- 59 *The 3rd ASX Principles recognised the relationship between remuneration and risk management observing that remuneration for senior executives must balance attracting, retaining and motivating high quality personnel, without encouraging them to take “undue risks”. Further, performance-based remuneration should be attached to specific targets, and “appropriate” to the entity’s “circumstances, goals and risk appetite”.*
- 60 *Similarly, the 3rd ASX Principles highlighted the need to ensure that rewards and remuneration for executive directors do not conflict with their duty to exercise independent judgment in decision-making at Board level. They recommended that entities establish a separate and independent remuneration committee and disclose its structures and guidelines regarding the remuneration of executive directors, nonexecutive directors, and other senior executives. Through transparent, formal and rigorous processes, entities should aim to achieve fair and responsible remuneration. The 4th ASX Principles proposed that, “discretion should be retained, where appropriate, to prevent performance-based remuneration*

rewarding conduct that is contrary to the entity's values", in addition to its risk appetite.

- 61 *Apart from ensuring that their practices do not inadvertently promote poor behaviour, companies can also deploy their remuneration structures to reinforce desired outcomes. One such method is to incorporate appropriate, non-financial targets aligned with the organisation's values into employee incentive schemes.*
- 62 *To achieve good corporate governance, remuneration practices should strive to be aligned with the company's culture, values, risk appetite, strategic and financial objectives, and be complemented and fortified by other systems of recognition and reward (footnotes omitted).*

[71] As to the role of the Board, having criticised Crown's failure to educate properly the directors as to the 'AML/CTF legislation and landscape', and having observed it was essential that the 'corporate character of the organisation changes so as to act in accordance with an understanding that a casino is under a constant threat and vulnerable to organised criminals', Ms Bergin made the following pertinent observations (p 553):

- 56 *Any person who is at the helm of a licensee of a casino in New South Wales and those leading corporate close associates of a licensee, need to have a deep understanding of the anti-money laundering landscape and legislation and strive vigorously to be ahead of the agile and flexible steps to be taken by money launderers. It is beyond doubt that this is a significant challenge which requires constant vigilance. It is not good enough to leave it to some department within the organisations from which the leaders of the company never hear. There must be "astute knowledge" at Board level. If companies choose to enter the fray and operate a casino, or operate as close associates of a company that operates a casino, they must have a corporate character that fits within this description (footnotes omitted).*

5.1.4 Bergin – Suitability

[72] The broad concept of suitability to hold a casino license was also addressed in the Bergin Report. In New South Wales the Casino Control Act contained statutory criteria describing the attributes expected of a 'suitable person'. Ms Bergin noted that those attributes include that the person (p 335):

3...(i) is of good repute, having regard to character, honesty and integrity; (ii) is of sound and stable financial background; (iii) has access to suitable and adequate financial resources to operate the casino; (iv) has sufficient experience and business ability to operate the casino; (v) if not a natural person, has or has arranged a “satisfactory ownership, trust or corporate structure”; and (vi) does not have any business association with any person, body or association who, in the opinion of the Authority, is not of good repute, having regard to character, honesty and integrity or otherwise has undesirable or unsatisfactory financial sources. In addition to considering these attributes the Authority must also consider whether each director and officer determined by it to be associated or connected with the ownership, administration or management of the operations or business of the applicant or its close associates is a suitable person to act in that capacity (footnote omitted).

[73] Ms Bergin observed that the concept of character can become ‘somewhat circular’, but added ‘it is clear that a person of good character would possess ‘high standards of conduct’ and act in accordance with those standards under pressure’. Accepting that ‘a company’s suitability may ebb and flow with changes to the composition of the company’s Board of Management, and others who influence its affairs over time’ (p 338), Ms Bergin observed it was necessary in assessing character ‘to take ‘an holistic view’ of both the licensee and Crown, including the assessment of the integrity of corporate governance and risk management structures and the adherence to policies and procedures (p 338).

[74] Later in her report Ms Bergin added the following observations as to understanding the character of a corporation (p 342):

2 A necessary step in the Suitability Review in determining whether each of the licensee and Crown is a “suitable person” to operate or to be associated with the operation of a casino is an understanding of the character of the corporation. This involves a recognition not only of its strengths but also of its willingness to: (i) accept the existence of its failures; (ii) to analyse the reasons for such failures; (iii) to remove the cause of its failures; and (iv) to commit to a reformation that will remove the likelihood of a repetition of such failures. Although the pivotal importance of reliable executives and senior management is recognised the character of the company can in the main be understood through the conduct, attitudes and values of those who set its course. This is the Board including the CEO.

[75] As to complex corporations, and the duties of directors in the context of casino operations, I gratefully adopt the following passages of the Bergin report:

Complex Corporations

20 In the early 1990s temporally proximate to the grant of the first casino licence in this State, the Supreme Court of New South Wales made observations on the role of directors, including in the context of large and complex corporate structures (footnotes omitted).

21 It was observed that many companies “are too big to be supervised and administered by a board of directors except in relation to matters of high policy” with the “true oversight of the activities of such companies” residing within the “corporate bureaucracy”. In what may be viewed as a rather prescient observation to some of the events that have given rise to this Inquiry the following was said:

Senior management, and in the case of mammoth corporations, even persons lower down the corporate ladder exercise substantial control over the activities of such corporations involving important decisions and much money. It is something of an anachronism to expect non-executive directors, meeting once a month, to contribute anything much more than the decisions on questions of policy and, in the case of really large corporations, only major policy.

22 However more focused guidance was provided at the appellate level which included the following:

- (a) Directors must take reasonable steps to place themselves in a position to guide and monitor the management of the company;*
- (b) Board meetings should occur as often as necessary to enable the Board to carry out its functions in the particular circumstances of the company;*
- (c) Directors who know, or should know of facts “which would awaken suspicion and put a prudent person on guard” are required to act with care “commensurate with the evil to be avoided”; and*
- (d) Directors must keep themselves informed about the activities of the corporation by a “general monitoring of corporate affairs and policies” rather than a “detailed inspection of day-to-day activities”.*

Crown and its directors

23 The duties referred to above need to be viewed and measured against the “particular circumstances of the company”. The pivotally important circumstances of the companies the subject of the Suitability Review of this Inquiry are their roles as licensee of the Barangaroo Casino and close associate of the licensee respectively. These are not entities simply operating in the cut and thrust of the commercially competitive corporate environment, although their success in that environment is obviously at the core of their continued viability.

- 24 *These are companies with the overlay of responsibilities to stakeholders well beyond just their shareholders. The regulatory and contractual framework of the Barangaroo Licence imposes obligations on each of them to the NSW Government, the Authority and the broader community to ensure that the casino operations remain free from criminal influence and exploitation; to ensure that gaming in the casino is conducted honestly; and to operate the casino in a manner that contains and controls any potential harm to the public interest, individuals and families. These frameworks provide a lens through which suitability may be assessed.*

Context

- 25 *The investigations of the Media Allegations the subject of the Amended Terms of Reference require analysis of events in or in relation to the operation of Crown and the wholly owned subsidiaries, Crown Melbourne Limited as licensee of the Crown Melbourne casino, Burswood Limited, as licensee of the Crown Perth casino, Southbank and Riverbank.*
- 26 *It should be said that the licensee is a company that does not, as yet, have a 'track record' of operating a casino. As an entity, it has not been 'personally' involved in the circumstances that have been identified in the Amended Terms of Reference. However, it is a wholly owned subsidiary of the close associate, Crown, and its directors are directors of Crown. The conduct of these directors and of Crown and its other directors is relevant because the assessment of suitability requires consideration of those who own and control the corporation.*
- 27 *It is appropriate to emphasise that the breadth and focus of the Suitability Review is defined by the Amended Terms of Reference. This is not an assessment of an inexperienced applicant for a fresh grant of a casino licence. It is an assessment of a close associate whose subsidiaries are experienced casino operators in Melbourne and Perth previously determined to be suitable persons, whose conduct whilst holding their licences and being so associated respectively has been called into question in the Media Allegations.*
- 28 *It should be emphasised that when assessing good reputation having regard to character, honesty and integrity for the purpose of determining whether a person is suitable to continue to hold a licence to operate a casino or to be a close associate of a casino operator, it is necessary to take into account the whole character and nature of the person whose reputation and character is being assessed. Although an assessment must be made of the particular conduct alleged in the Media Allegations, it is necessary to take into account the breadth of the person's operations and previous determination as a suitable person.*
- 29 *A casino operator in New South Wales must ensure that its operations are free from criminal influence or exploitation. If it be found that its operations have been burdened by such criminal influence or exploitation then the operator's character and reputation can be adversely affected so that it becomes an unsuitable person to operate a casino. If that be shown to be the case, the only way to convert it into a suitable person would be, at the very least, to establish to the regulator's satisfaction a capacity to ensure that in future its operations will not be so burdened. Part of the process of determining suitability is an assessment of whether a regulator could have*

confidence and satisfaction that a casino operator is to be trusted; that is, whether it has such integrity so that it can be relied upon when it claims to have the capacity to repel criminal influence and exploitation.

30 *A casino operator may operate a casino free from criminal influence and exploitation but at the same time have corporate governance problems such that the decision-making processes in respect of its operations may be flawed. For instance, it may not have the appropriate mechanisms for elevating risk to the appropriate entities that determine risk appetite within the corporation. Those corporate governance problems on their own may not convert a previously suitable licensee or close associate into an unsuitable person but rather require adjustment of its processes to ensure that it does not slip into unsuitability by reason of an absence of systems that appropriately defend it from the infiltration of criminal influence or exploitation. However it may be that a lack of proper processes and barriers to such infiltration might mean that the entity is unsuitable. It will all depend upon the circumstances and the nature of the problems that are identified. These observations are made to highlight the need to consider the whole character of the person when assessing suitability (footnotes omitted).*

5.2 Victorian Inquiry:

- [76] The Victorian Royal Commission found that the conduct of Crown Melbourne was variously ‘illegal, dishonest, unethical and exploitative’ (ch 1, p 2). In addition to the failings in New South Wales, Mr Finkelstein found Crown Melbourne had failed to comply with its obligations with respect to casino tax and, in what he described as ‘the most damning discovery’, that Crown Melbourne had failed to carry out its obligations with respect to harm minimisation. Mr Finkelstein found the Crown Melbourne Board failed to ensure the organisation ‘satisfied its legal and regulatory obligations’, and that many senior executives involved in the misconduct were ‘indifferent to their ethical, moral and sometimes legal obligations’.
- [77] In chapter 4, Mr Finkelstein dealt with corporate governance and, in particular, with risk management. Under the umbrella of risk management, Mr Finkelstein dealt with a number of issues including root cause analysis and culture (ch 4, pp 122-127):

Risk management

41 *Risk management is the process of identifying, assessing and controlling risks to a corporation in order to minimise the harm the corporation may suffer or to maximise its opportunities. It is a key component of corporate governance and a crucial*

responsibility of the board and management. Risk is properly managed when the corporation is clear about its strategic objectives, understands the ways in which there may be positive or negative deviations from those objectives, and takes action to control those deviations.

Risk appetite

42 Risk is inherent in commercial activity. The risk appetite of an organisation sets the boundaries for risk it is willing to accept in pursuit of strategic objectives.

43 The board of the corporation is responsible for setting the risk appetite. This establishes the parameters within which management is to operate. The factors to be taken into account when setting risk appetite include:

- *the mission and vision of the corporation*
- *the strategic direction of the corporation and what risks are required to achieve the desired level of performance*
- *the principal risks faced by the corporation and its capacity to deal with them*
- *the views and expectations of stakeholders.*

44 An effective risk appetite must be:

- *clear and appropriately balanced between risk taking and risk aversion*
- *supported and understood by management*
- *well communicated throughout all levels of the corporation*
- *consistently applied in key decisions*
- *monitored to detect when the corporation is acting outside the risk appetite.*

45 Ensuring that the risks taken by management are consistent with the corporation's risk appetite is critical to effective risk management. When management operates outside the risk appetite, action should be taken to stop the activity.

Risk management process

46 In broad terms, the process of risk management involves the following steps:

- *First, identify all the categories or types of risk that the corporation might face.*
- *Second, analyse and evaluate the risks to understand their causes and potential consequences. The risks can then be prioritised and subject to risk treatment (that is, putting in place actions and controls to mitigate a risk).*
- *Third, take the required action to address the risk. The action should be consistent with the risk appetite of the corporation. The object of the action might be to avoid the risk, to remove the source of the risk, or to accept the risk after making an informed decision.*

Risk governance

47 Risk governance, in its broadest sense, is the manner in which risk management is undertaken in a corporation, including how it manages risk, makes decisions taking into account the risks, and allocates the necessary resources so that appropriate action may be taken.

48 The ASX Corporate Governance Council has recommended that a listed entity should have a board subcommittee dedicated to overseeing risk. A risk subcommittee can:

- *monitor management's performance against the corporation's risk management framework, including its risk appetite*
- *review breakdowns of material risks and ascertain what needs to be changed or improved in the risk management framework*
- *review management reports about new and emerging sources of risk and the measures management are taking to deal with those risks.*

49 The Hon. Kenneth M Hayne, AC, QC observed that a board cannot properly oversee risk without having the right information and without challenging management. In 2019, the ASIC Corporate Governance Taskforce published its review into the governance of Australia's largest financial institutions. It found that material information about the risk faced by those institutions was often contained in dense board packs or reports to the board where the key risks were difficult to identify. It recommended that a large corporation should ensure that:

- *the risk committee has sufficient resources to discharge its mandate*
- *the risk committee provides informed oversight and ensures that information received from management is adequate*
- *the board engages in active oversight of management by probing and analysing information provided by management*
- *clear and effective processes exist to escalate and deal with urgent material risks.*

50 A recognised (though not universally accepted) framework for risk governance is the 'three lines model'. The board must oversee this model.

51 A brief explanation of the model follows.

52 The first line is the part of the organisation that provides the products or services to clients: the frontline team. They are responsible for identifying, analysing, evaluating and treating risks to achieve the corporation's objectives, and for escalating information about risk.

53 The second line comprises those responsible for overseeing the risk management compliance function. Their function is to ensure all appropriate risk factors are being implemented in accordance with policies. They should also analyse and report on the adequacy and effectiveness of risk management procedures.

54 *The third line is an internal audit team that is independent of management. They provide independent and objective advice to management and the board on the adequacy and effectiveness of the corporation's governance and risk management.*

Root cause analysis

55 *Root cause analysis is any systematic process that identifies the cause of an undesired event. The objective of the analysis is to determine whether the likelihood of the undesired event occurring, or the impact of the event if it does occur, can be tolerated.*

56 *The ASIC Corporate Governance Taskforce considers that root cause analysis is important for effective risk management. It recommends that management should undertake root cause analysis to identify underlying causes of recurring breaches of risk appetite.*

57 *The steps required to undertake root cause analysis are:*

- *First, determine the need, purpose and scope of the analysis.*
- *Second, collect information to establish the facts that led to the undesired event.*
- *Third, analyse the potential causes.*
- *Fourth, once the analysis is complete, validate the findings.*

Risk culture

58 *Risk culture is a term describing the norms and traditions of individual and group behaviour within an organisation that determine the way the organisation identifies, understands, discusses and acts on the risks the organisation confronts, and the risks it takes.*

59 *Risk culture influences the actions and decisions taken by individuals within an organisation and shapes the attitude of the organisation towards its stakeholders.*

60 *A sound risk culture supports appropriate risk awareness, behaviours and judgements about risk-taking in an organisation. It bolsters effective risk management, promotes sound risk-taking decisions and ensures emerging risks or risk-taking activities beyond a corporation's risk appetite are recognised, assessed, escalated and addressed in a timely manner. It is part of the broader culture of a corporation.*

Culture

61 *Culture is comprised of the shared values and norms that shape behaviours and mindsets within a corporation. It influences how people operate within the corporation.*

62 *Culture is often considered at three intersecting levels:*

- *the visible organisational structures and processes of the corporation*
- *the espoused values: the strategies, goals and philosophies of the corporation*

- *the tacit underlying assumptions (sometimes called ‘unwritten ground rules’) of the corporation.*

63 *These three levels are the essence of culture. They are comprised of the jointly learned values and beliefs that are taken for granted within a corporation.*

64 *Mr Hayne, QC, in his Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Banking Royal Commission Final Report), made the following general points about culture:*

- *The culture of each corporation is unique and varies widely within different parts of the organisation.*
- *There is no single ‘best practice’ for creating or maintaining a desirable culture.*
- *Culture cannot be prescribed or legislated.*

What is the right culture?

65 *A good culture aims to create an environment that:*

- *ensures adherence to basic norms of behaviour, including a requirement to obey the law, not to mislead or deceive, and to act fairly*
- *reinforces judicious decision making that takes into account the interests of multiple stakeholders.*

66 *Second, a good culture will tend to be characterised by a shared sense of purpose across the organisation. There should be a strong alignment between this purpose and the values, incentives, structures and other policies and procedures of the organisation. This purpose must take into account changing societal expectations. Corporations are now expected to make a broader positive contribution to society and must do more than deliver a financial outcome.*

67 *Satisfying this expectation will require the corporation to minimise the harm caused by its activities. On the other hand, a toxic culture leading to corporate misconduct can affect consumer confidence in an industry. This can impede the overall performance of participants in that industry and the broader economy.*

68 *Third, a good culture is one where the directors and senior management clearly set out the expectations of the organisation and lead by example.*

69 *Fourth, a good culture stems from the capacity of management to appropriately manage, reward, incentivise, equip and communicate with those who work in the organisation.*

Good culture in a casino

70 *Unacceptable or unethical behaviour that violates social norms may well benefit a casino in the short term. Research indicates, however, that an ethical climate and a good organisational culture that reduces instances of inappropriate behaviour will produce long-term benefits.*

- 71 *Evidence also indicates that cultural norms supporting an ethical climate contribute positively to the implementation of responsible gambling practices by employees. This also has positive flow-on effects for a casino. In an ethical climate, employees are more likely to be motivated and engaged in their work, and customers are more likely to gamble there.*
- 72 *If a casino takes seriously the pursuit of responsible gambling, first it develops a safety-oriented culture that has a forward-looking focus on the potential harms or risks resulting from its decision making. Second, it integrates responsible gambling into its business decisions so that those decisions are made having regard to the potential harm arising from gambling.*

What makes a culture toxic?

- 73 *A corporation has a toxic culture where it engages in long-term and systemic rule-breaking and damaging behaviour. Toxic behaviour is not limited to illegal conduct. It includes conduct that is plainly damaging or that promotes misbehaviour.*
- 74 *There are various reasons why a toxic culture might come about. First, a corporation may develop practices that normalise deviance from accepted standards. For instance, a corporation may be aware of the potential deviation from acceptable norms of conduct, but regard the action as ‘an acceptable risk’. Deviations are particularly prevalent where the observable practices of the corporation diverge from what is formally expected of people within the organisation, whether under relevant laws or under the organisation’s formal policies or procedures.*
- 75 *Second, a corporation may enable toxic behaviour by neutralising unacceptable conduct. This occurs when the corporation denies that harm is caused by its actions or denies responsibility for that harm. It will also occur if the corporation asserts that the victim deserves the harm.*
- 76 *Third, a corporation may make it easier to engage in toxic behaviour. This occurs when the impugned conduct is concealed within the structure of the corporation or where there is inadequate internal oversight. It may also occur where employees are left with substantial discretionary power and rule-breaking is condoned or rewarded.*
- 77 *Fourth, a corporation may obstruct rule-following when the culture is toxic and the corporation:*
- *is unwilling to act when misconduct or harm-causing action occurs (allowing rule-breaking to occur without critique); or*
 - *fails to assess the causes of misconduct or harm-causing actions and fails to implement the changes necessary to prevent the misconduct or action occurring in the future.*
- 78 *Fifth, a corporation may impose undue stress on its employees, which can lead to employees engaging in toxic behaviour. Stress may arise from pressure to meet the objectives of the corporation or an inability for employees to meet those objectives without resorting to toxic behaviour.*

How can culture be changed?

79 Cultural norms provide predictability about how a corporation operates. The innate human desire for stability suggests that culture can be difficult to change.

80 To bring about change, a corporation must form a view of its culture, identify problems, develop and implement a plan to deal with them, and determine whether the planned changes can be effective. These are the steps that should be followed:

- Undertake a deep analysis of the structures, values and practices that contributed to the toxic behaviour, in order to understand their causes.
- Develop an ethical and compliant tone at the top of the organisational hierarchy (the board) with a clear and specific cultural direction that the corporation must pursue. This may require the recruitment and promotion of managers who will pursue this direction, and clear communication throughout the corporation that reinforces the new norms.
- Change the tangible structures (for example, artefacts) in the corporation to reinforce the new norms.
- Change the values and practices of existing employees.

81 This last step is one of the most critical. A toxic culture cannot be repaired merely by punishing or replacing the executives and the actual wrongdoers. There must be a true change in the values and practices of the corporation. This will require the corporation to demonstrate to employees that it is ready to learn new values and practices. It may be appropriate for employees to participate in decision making regarding issues that concern corporate culture.

82 Cultural change is unlikely to occur if employees doubt whether their leaders are capable of effecting change. Initiatives to change culture need to take place at all levels within the organisation and may, accordingly, take years to bring into effect.

83 This highlights how important it is for the leadership to speak honestly and responsibly about the need for cultural change. This will be a difficult task if the leadership (including senior management) was responsible for creating the toxic culture. Nonetheless, if those leaders cannot be open and honest about their conduct, it may only be possible to bring about cultural change by changing the leadership.

What culture should a casino operator adopt?

84 This is not a difficult question. It simply requires a statement of the appropriate norms of conduct to which a casino operator should conform. It will include norms of conduct or standards imposed by the law and norms of conduct that are expected by the community. They are to:

- obey the law
- act honestly
- deter illegal and immoral behaviour that might take place in a casino

- *not exploit people who come to the casino to gamble*
- *take active measures to minimise the harm caused by gambling*
- *cooperate fully and candidly with the regulator and with government (footnotes omitted).*

[78] Mr Finkelstein referred to the findings of Ms Bergin as to the failures of risk management at Crown. He said these failures included (ch 5 p 134):

- *the failure of the board in its fundamental responsibility to set, monitor and communicate Crown's risk appetite.*
- *risk decisions by senior executives being dominated by a pursuit of profit over the welfare of Crown employees and compliance with the object of the Casino Control Act 1992 (NSW) of protecting the casino from criminal exploitation.*
- *demands by the board of the VIP International business unit and the incentivisation and encouragement of management to take inappropriate risks in the pursuit of the success of that business.*
- *the ineffectiveness and underutilisation of Crown's risk management and compliance structures.*
- *deficiencies in the various documents designed to capture risks. (footnotes omitted).*

[79] As quoted earlier, in the Finkelstein inquiry Crown conceded that deficiencies in its corporate governance and risk management framework contributed to the failures identified by Ms Bergin. Crown acknowledged that the failures identified by Bergin reflected 'a culture motivated by profit at any cost' (ch 5 p 142). The culture focused on returns over risk and compliance, and Crown had methodically exploited 'grey areas' in pursuit of profit. Evidence was given of a lack of psychological safety of staff, particularly in respect of reporting wrongdoing. Evidence before the Victorian Royal Commission 'critically identified that Crown requires a purpose-driven culture rather than a compliance culture'. Mr Finkelstein found Crown needed to engage in 'new thinking about [its] purpose, strategy, operations and financial model, and solutions that can somehow deliver financial results within a frame of good conduct – not simply without breaking the law' (ch 5 p 154).

5.2.1 Finkelstein – Responsible Service of Gambling

[80] In chapter 8 the Victorian Royal Commission canvassed responsible service of gambling. Having noted the contribution of the gambling industry to the Victorian economy in terms of employment, investment, tourism and tax revenue, Mr Finkelstein then dealt with the harm caused by gambling. Such harm goes beyond financial costs. The damage extends to health and wellbeing, relationships and family, productivity and work costs and costs to government. It is sobering reading and is set out in [741] of this Report.

[81] Mr Finkelstein concluded that, ‘as a matter of common sense, problem gamblers are more likely to be found in the casino when compared to all Victorian adults who gamble’. A particular feature of the methods of gambling is the proportion of problem gamblers who are attracted to electronic gaming machines (EGM). Mr Finkelstein reported as follows (ch 8 p 11-12):

The features of EGMs

66 *It is important to understand why such a large proportion of problem gamblers are attracted to EGMs, and why most money gambled by problem gamblers is spent on EGMs.*

67 *Ms Billi said research that had examined the structural characteristics of EGMs has identified a range of factors associated with gambling harm. These factors include:*

- *the rapid speed of play relative to other forms of gambling*
- *the lack of natural breaks from gambling*
- *the highly variable and unpredictable outcomes, together with product characteristics such as ‘near misses’ (where losses are presented as ‘almost wins’) and ‘losses disguised as wins’ (where a person loses more than they stake, yet the outcome is accompanied by the celebratory machine sounds and graphics that occur when a person wins), which may lead to persistent gambling in the face of losses, particularly among those experiencing problem gambling.*

68 *Ms Billi said research shows that:*

- *people who experience problems with gambling are more likely to gamble out of a desire to escape or alter mood, and products that offer rapid, continuous gambling appear to be a more effective means of achieving these goals*

- *faster, more continuous gambling activities are more conducive to potentially harmful patterns of gambling behaviour, such as increasing stake size in an attempt to recoup losses*
- *the absence of a natural break from gambling prevents a person from reflecting on the gambling outcome*
- *increased EGM play speed may be associated with higher spending, greater underestimates of the amount spent, placing of higher bets and impaired recall of outcomes.*

69 Other research confirms Ms Billi's evidence. For example, there is evidence that EGMs can induce a dissociative 'flow state' where a gambler's awareness of self, the passage of time and surroundings is diminished. For problem gamblers in particular, that 'flow state' may itself be addictive, especially for those suffering from depression, who find superficial relief in a dissociative state.

70 Research suggests that losses disguised as wins produce a response in the brain similar to that produced by wins, encouraging gamblers to continue gambling, and that they can enhance the 'flow state'. Similarly, losses presented as 'near misses' may stimulate an even greater urge to continue playing than an actual win, and can result in players gambling for longer than intended.

71 In addition to having these general characteristics, the EGMs at the Melbourne Casino have particular characteristics that others in Victoria do not. The restrictions imposed on the EGMs at the Melbourne Casino are less stringent in many instances than those imposed on EGMs at other gaming venues in Victoria. The following table sets out the operational differences.

EGM features	Clubs and hotels	Crown (restricted mode)	Crown (unrestricted mode)
Spin rate	Cannot be shorter than 2.14 seconds	Cannot be shorter than 2.14 seconds	No restriction
Bank note acceptor	Cannot accept bank notes greater than \$50	Cannot accept bank notes greater than \$50	No restriction
Load-up limit	Limit of \$1,000	Limit of \$9,949	No restriction
Pay-out limit	Winnings higher than \$2,000 must be paid by cheque	Winnings higher than \$2,000 must be paid by cheque	No restriction
AutoPlay	Prohibited	Prohibited	Allowed
Maximum bet per spin	\$5	\$10	No restriction

Source: Submission 60 VRGF, 31 May 2021, 20.

72 As can be seen from this table, EGMs at the Melbourne Casino can operate in both restricted and unrestricted mode. Of the 2,628 EGMs permitted to be operated at Crown Melbourne, 1,000 are permitted to operate in 'unrestricted' mode when

certain requirements are satisfied (including that a player has a pre-set time and loss limit on their YourPlay account, and has not exceeded either limit). Crown Melbourne is the only venue in the state that has EGMs permitted to operate in unrestricted mode.

73 Mr Mark Mackay, Executive General Manager of Gaming Machines, acknowledged that because there are no maximum bet limits on unrestricted EGMs and there are higher bet limits on restricted EGMs at the casino than at other EGM venues, the risk of harm from gambling at the Melbourne Casino is greater than the risk of harm from gambling on any other EGMs in Victoria (footnotes omitted).

[82] The problems associated with EGM's identified by Mr Finkelstein are echoed in the report of the WA Royal Commission.

[83] Mr Finkelstein examined the role of hosts in the Mahogany Room where hosts looked after a number of Crown loyalty program members. In one concise sentence, the report identified the job of the hosts as 'to get people to come in and gamble no matter what' ((ch 8, p 42) [213]). In a broader summary, Mr Finkelstein reported as follows (ch 8 p 43):

222 In summary, the evidence before the Commission has made it clear that, at least to a significant extent, hosts engage in the following conduct. They:

- *proactively contact clients and entice them to come to the casino to gamble*
- *arrange for customers to collect gifts like tickets from the casino, and invite patrons to dinners at the casino, in the hope that when the customer enters the complex they will gamble*
- *do not speak to clients about the amount of money they are gambling or whether they can afford it*
- *rarely ask customers to take a break from gambling*
- *continue to contact clients if they have not visited the casino for a period of time, or had decided to take a break from gambling (though according to Mr Lawrence, contact would be made after an appropriate break had been taken, to entice the customer back into the complex in the hope that they started gambling again)*
- *before March 2021, irresponsibly permitted customers to gamble even if they owed the casino money, with the practice only changing in response to this Commission*

- *do not suggest that customers should self-exclude, and perhaps even discourage self-exclusion*

[footnotes omitted]

[84] Ultimately, Mr Finkelstein concluded that the problems within the operation of the casino were not ‘easily repaired’. He found that those problems reflected ‘a flawed organisational structure, a dysfunctional culture, failures of leadership and an unfavourable regulatory regime’ (ch 8, p 56 [306]). In Mr Finkelstein’s view, there were four areas in which steps could be taken to reduce gambling harms. First, as it was nearly impossible to monitor uncarded players at the Melbourne Casino, it was appropriate that all customers should use a player card for all forms of gambling, and that such card be used to collect data to enable proper research to be conducted into problem gambling.

[85] Secondly, recognising that gambling on EGM’s is the form of gambling which causes more harm than others, Mr Finkelstein was of the view that a full, mandatory and binding precommitment system should be implemented. Such a system should operate as follows (ch 8, p 57, rec 10):

- *Each player must set a daily, weekly or monthly time limit and a daily, weekly or monthly loss limit.*
- *If the pre-set time limit or the pre-set loss limit is reached, the player cannot continue to gamble on an EGM and the limit(s) cannot be altered, for 36 hours.*
- *No player can gamble on an EGM for more than 12 hours in any 24-hour period.*
- *If a player has gambled for 12 hours in any 24-hour period, the player must take a break for 24 hours.*
- *A player cannot gamble continuously on an EGM for more than three hours.*
- *A player must take a break of at least 15 minutes after three hours of continuous gambling.*
- *A player cannot gamble on EGMs for more than 36 hours per week.*
- *There should be a default pre-set loss limit that the player can modify.*

- *The default pre-set loss limit should be set by regulation. It could be calculated by reference to the median income of a wage earner less the standard cost of living. Or it could be calculated by estimating the median losses of a recreational gambler. The pre-set loss limit should be reviewed at least annually.*

5.2.2 Finkelstein – Suitability

[86] As to the question of suitability, Mr Finkelstein observed that the ‘typical’ assessment of suitability involves looking for evidence of misconduct and, if it exists, considering what conclusions should be drawn from such misconduct. A list of factors may, individually or collectively, indicate that the casino operator is unsuitable to hold a licence. In substance, it is necessary to look broadly at the licensee’s conduct as a casino operator. Mr Finkelstein identified ‘appropriate norms of conduct to which a casino operator should conform’. He said a casino operator must (ch 18 p 57):

- *obey the law*
- *act honestly*
- *deter illegal and immoral behaviour that might take place in a casino*
- *not exploit people who come to the casino to gamble*
- *take active measures to minimise the harm caused by gambling*
- *cooperate fully and candidly with the regulator and with government.*

[87] Mr Finkelstein then discussed the approach to assessing suitability and, ultimately, expressed a view different from the view he perceived had been expressed by Ms Bergin (ch 18 p 58-59):

17 In the process of assessing suitability, it is necessary to recognise that a casino operator, such as Crown Melbourne, is a corporation. So, in effect, it is the conduct of its directors, officers and employees that is under consideration.

18 The traditional approach is to recognise that a corporation can only act through its directors, officers and employees. Its moral responsibility (that is, its integrity, good character and the like), and its corporate culpability, are usually measured by the conduct of those who lead the organisation.

19 This approach has been justifiably criticised in examinations of corporate responsibility. The submission by Dr Elise Bant, Professor of Private Law and

Commercial Regulation at the University of Western Australia Law School, contends that the traditional approach 'is unduly restrictive and, arguably, runs counter to the more recent trend of corporate theory and regulation of corporations in Australia'. She goes on to say that 'corporate culpability is not merely to be equated with the character and morals of its leading officers although, of course, they may be important factors'.

20 *Dr Bant's thesis is that, for the purpose of determining corporate culpability, the mind of a corporation is shown in its systems, policies and patterns of behaviour. She said that it is the corporate culture of a firm that may direct, encourage, tolerate or lead to non-compliance with relevant laws. By corporate culture, Dr Bant means 'an attitude, policy, rule, course of conduct or practice existing within the body corporate generally or in the part of the body corporate in which the relevant activities take place'.*

21 *In other words, the traditional approach to assessing suitability is too narrow. It does not acknowledge that many organisational decisions are more than the combination of individual choices and actions. It is the systems, strategy, structure and culture of the corporation that can either cause or inhibit corporate misconduct.*

22 *Other researchers have identified that defective organisational "structures" and "information" and "decision-making" procedures may result in irrationalities, group think, flawed risk perceptions or secrecy with regard to misconduct'.*

23 *This line of thinking seems to have influenced Mr Hayne, QC in his Banking Royal Commission Final Report. He said:*

Failings of organisational culture, governance arrangements and remuneration systems lie at the heart of the misconduct examined in this Commission.

24 *Ms Bergin, SC has a more narrowly focused view. She proceeded on the basis that 'a company's suitability may ebb and flow with changes to the composition of the company's Board and Management, and others who influence its affairs, over time'. The assumption here is that by simply changing those who control the corporation, it is possible to change the company's suitability.*

25 *As posited by Dr Bant, the true position is more complicated. If the corporate systems or corporate culture tolerate wrongdoing, merely changing the personnel will not suffice. In that event, it will be more important to assess whether there has been a sufficient change in the organisation's hierarchy, corporate goals, systems and policies to be satisfied that there will be full compliance with all applicable rules and regulations.*

26 *Turning to the operational capacity of the casino operator, both the past and present must be considered. That will require an historical analysis of the casino operator's business dealings and management coupled with an assessment of the casino operator's current financial position.*

27 *The key question usually is not whether the casino operator is struggling and might seek capital from organised crime. That will be a significant issue. In reality, though, the main question will be whether the casino operator has the operational resources*

and capacity to run a casino. If the casino operator is under financial stress, it might be tempted to cut corners in the honest and fair delivery of gambling services or seek financial aid from the wrong places (footnotes omitted).

- [88] I do not agree with Mr Finkelstein's perception of Ms Bergin's approach to the issue of suitability. Ultimately, both recognised the need for a broad approach which encompasses personnel, systems and policies.

5.3 WA Inquiry:

- [89] The WA Royal Commission was tasked with a wide ranging inquiry, including reporting on casino regulations. This involved inquiring into the framework for the regulation of the Perth casino and the exercise of powers by the gaming regulator. My terms of reference do not specifically address the framework for the regulation of the casino or the operation of the regulator.

5.3.1 WA Inquiry – Money Laundering

- [90] As to money laundering, the Commission spoke of the stages of money laundering in the casino environment and the broad techniques aimed at disrupting the process of money laundering. In particular, the Commission discussed Risk Management and the three lines of defence model (pp 435-436):

Risk management

19 *In the AML/CTF context, the risk management focus is upon the extent to which a reporting entity is identifying, managing and mitigating ML/TF risk.*

20 *It may be difficult to eliminate all instances of ML/TF in an organisation. According to the Financial Action Task Force (FATF), an inter-governmental body whose purpose is to develop and promote implementation of international AML and CTF standards:*

A reasonably designed and effectively implemented risk-based approach will provide an appropriate and effective control structure to manage identifiable money laundering and terrorist financing risks. However, it must be recognised that any reasonably applied controls, including controls implemented as a result of a

reasonably designed and effectively implemented risk-based approach, will not identify and detect all instances of money laundering or terrorist financing.

- 21 *The use of a three lines of defence model in the context of corporate governance and risk management is discussed in Appendix E: Corporate Governance Theory. Although Crown is presently evolving to a three lines of defence model, it is useful to consider Crown's previous approach to the identification and management of ML/TF risk broadly by reference to the components of such a model in a casino. In relation to ML/TF risk, the three lines of defence model has the following characteristics.*
- 22 *The first line of defence lies with a reporting entity's business units which includes units involved with customer facing activities. These units identify ML/TF risks and implement controls to mitigate those risks. At Perth Casino, the most significant business unit in the first line is the cage. The role of the cage is discussed below. Staff running other 'on the floor' operations, such as table games and EGMs, are also considered to be part of the first line of defence.*
- 23 *The function of the second line of defence is to oversee and assist the first line of defence. It provides tools, structures, advice, guidance and support to the first line to enable the first line to appropriately manage ML/TF risk. At Perth Casino, the second line includes the AML Compliance Officer and the AML team.*
- 24 *The third line of defence provides independent assurance that the first and second lines are operating effectively to manage risk. At Perth Casino, this line is provided by the internal audit team and external audit (footnotes omitted).*

[91] It is unnecessary to discuss the Commission's review of the inadequate anti-money laundering processes at the Perth casino, or the remediation plan put in place in 2021, other than to observe that three lines of defence have been adopted. The first is the cage. Secondly, Crown introduced a financial crime and compliance team and, thirdly, Crown reformed its internal audit function.

5.4 The Star Inquiry

[92] The Bell Report disclosed many failings by The Star, including dishonesty and 'systematic governance, risk management and cultural failings' (Ch 1 [80]). The Report made a number of observations relevant to this Investigation, including the following (Ch 1):

- The International Rebate Business was a significant component of revenue and presented the 'greatest risks' in terms of money laundering and terrorism financing. 'It was therefore

an area of the business which required the most diligent management and close supervision’ [79].

- There were ‘clear failings in the management and oversight of the International VIP Team’. These were ‘systematic governance, risk management and cultural failings’ [80].
- In the earlier part of the period November 2016 to September 2021, the approach to AML/CTF was ‘immature and had obvious gaps, particularly in relation to transaction monitoring and risk identification associated with Junkets’ [102].
- ‘Gambling is a major public policy issue in Australia, affecting the health and wellbeing of individuals and families in a range of ways, with gambling-related harm recognised as a serious social problem. Gambling harms include adverse financial impacts, psychological issues and relationship impacts, and serious legal or health issues. The impact of gambling problems is not limited to gamblers themselves, but also affects their families, peers and the wider community’ [125].
- ‘Governance, culture and risk management may be seen as the levers that affect the manner in which a corporation works to achieve its objectives. While these levers can be considered as separate topics, they are interdependent. Their connection was graphically illustrated in the evidence presented to this Review. What could be seen through one lens as a governance issue could be seen with equal clarity through another lens as a risk management issue or through a third lens as a cultural issue’ [145].
- There were serious failures to report to more senior management, in particular to the Board of the ultimate parent company. The failure to report ‘was a manifestation of a culture where business goals took priority over compliance goals’ [147]. Some responsibility for the reporting failures must rest with the Board because ‘it was required to have systems and processes in place to ensure that it received the information it needed’ [152].

- ‘Management repeatedly chose to run risks rather than avoid or contain them. Too often the question which was asked was ‘how can we do this?’ rather than ‘should we be doing this?’ [158].
- The Board should be responsible for setting culture, but the Board ‘had little or no understanding of what people do at Star Entertainment ‘when no one is watching’. The culture, which was particularly problematic in the International VIP business where the risks were most acute was one where business goals took priority over compliance goals. Moreover, the cultural malaise was a systematic problem permeating many other aspects of the organisation of Star Entertainment, and fundamentally undermining its risk management processes’ [161].
- ‘The lesson from the evidence presented to this Review is that whilst the ultimate owner of The Star Casino may be a holding company conducting businesses in a number of jurisdictions, the casino operator in NSW must have close and direct supervision and governance’ [170].

[93] The Bell Report made a number of recommendations (Ch 1.2), including the following:

- That carded play be compulsory for all gambling, ‘in a manner which ensures that patrons are identified and their exclusion status (if any) enforced’. The patron cards should collect data relating to the patron’s buy-in time, buy-out time, play periods and any other information reasonably required by The Authority.
- Patrons should have access to their card data.
- Time play management controls should include a requirement that for EGMs a patron cannot gamble continuously on an EGM for more than 3 hours without a 15 minute break.
- A patron should not be permitted to gamble for more than 12 hours in any 24 hour period.

- The casino operator should be required to provide the report of any independent view of the operator's Compliance Program to the Authority within 14 days of the issue of the Report.

5.5 Other Inquiries – Issues

- [94] I have referred at length to the reports of the interstate Inquiries because the research, evidence and findings of those Inquiries have provided an invaluable resource for this Investigation. The insights of Ms Bergin, Mr Finkelstein, Mr Bell and the WA Commissioners are particularly helpful. Those Inquiries graphically demonstrate the critical need for management of casinos to be guided by an appropriate culture, and to be managed within effective systems of governance that are properly implemented. Of particular importance are the areas of money laundering and harm minimisation. The pervasive criminal influence associated with money laundering is obvious, as is the need for particular emphasis to be placed upon harm minimisation. The legislative scheme in South Australia, and schemes in other States, recognise that the operation of the casino is a commercial enterprise aimed at making a profit. However, the schemes also seek to ensure that an appropriate balance is achieved between profit and minimising harm caused by gambling.
- [95] Speaking broadly, and leaving aside recommendations for reform which plainly cannot apply to the Adelaide Casino, I commend the recommendations made by the Interstate Inquiries as worthy of careful consideration in the context of the Adelaide operations.
- [96] Many specific issues are identified in the interstate reports. Speaking broadly, they are all encompassed by the concept of 'corporate governance' and may conveniently be identified as involving overlapping categories described as culture, harm minimisation and money laundering.

5.5.1 Culture

- [97] Is the culture of the organisation, the ‘mindset’, from the Board down through all levels of management and employees, one of compliance and proactivity? Do the ‘unwritten rules’ encourage management and staff to act proactively in implementing the spirit of the systems put in place to deter and detect money laundering, and to minimise harm caused by gambling? Does the Board encourage senior management and other staff to act ethically and responsibly? Or does the atmosphere within the working environment of the casino overtly, or subtly, encourage staff to permit breaches of the rules in favour of continued gambling and discourage reporting of potential problems in the areas of harm minimisation and money laundering?
- [98] In the context of culture, has management set, and the Board approved, an appropriate risk management framework? Does the casino possess an appropriate risk culture, set by the Board with appropriate identification of the corporate risk appetite?

5.5.2 Harm Minimisation

- [99] Does the casino have in place appropriate systems and methodologies designed to discourage and, if necessary, prevent problem gambling, and to identify problem gambling when it occurs? Are such systems properly implemented by appropriately trained staff? In this context are staffing levels adequate for these purposes?

5.5.3 Money Laundering

- [100] Does the casino comply with its obligations under the AML/CTF Act. The issue of compliance with the AML/CTF Act involves not only consideration of the systems in place, but examination of the implementation of practical processes aimed at deterring and detecting money laundering. Does a proactive culture of compliance exist? In addition, and significantly, are staffing levels adequate for these purposes and are staff appropriately trained?

5.5.4 The Board

[101] The interstate reports emphasised the importance of the Board's role in setting the culture and policies for the operation of the casino. In order to fulfil properly its role, it is necessary for the members of the Board to possess a full understanding of the legislative landscape in which the casino operates. In particular, do the members of the Board possess 'a deep understanding of the anti-money laundering landscape and legislation and strive vigorously to be ahead of the agile and flexible steps to be taken by money launderers' (Bergin p 553 [71]). Do Board members possess such an understanding of the licensee's risk appetite, risk management requirements and harm minimisation policies and procedures?

6.0 Submissions

[102] The fact of this Investigation, and the invitation to make submissions, were widely publicised. In addition, letters of invitation to make submissions were sent to parties likely to be interested, and to every Member of Parliament. Surprisingly few submissions were received. The only Members of Parliament who responded were the Hon Stephen Wade MLC, who did not wish to make a submission, the Hon Nat Cook MP, Minister for Human Services, the Hon Connie Bonaros MLC and the Hon Frank Pangallo MLC. The written submissions are annexure [2] to this Report, with the exception of five which should remain confidential.⁴

[103] Some of the submissions were addressed to issues of policies surrounding gambling with which this Investigation is not concerned. The purpose of this Investigation is found in the Terms of Reference which do not include matters of policy. The Terms of Reference limit this Investigation to issues of the licensee's suitability to hold the licence and the suitability of any other 'person' to continue to be a close associate of the licensee, plus 'any matter reasonably incidental' to those

⁴ All submissions have been provided to the Commissioner.

issues. The Terms do not extend to questions of policy such as banning loyalty programs and implementing a cashless gambling system.

[104] The main themes emanating from the submissions received in 2022 may be summarised as follows:

- The licensee targets persons who gamble heavily with a view to enticing such persons to lose as much as possible. In this context, deliberate inducements, including cheaper meals and subsidised drinks, are offered to patrons to keep them on the gaming floor.
- Insufficient staff are present on the gaming floor.
- The training of staff is inadequate, particularly with respect to security issues, problem gamblers and money laundering.
- Reports to management concerning suspicious activity are ignored and, in this way, reports are discouraged.
- The vetting of VIP customers is inadequate.
- The controls with respect to money laundering are inadequate.
- EGM's are recognised as the most harmful type of gambling and require special regulatory measures aimed at minimising potential harm.
- Patrons experiencing harm are not receiving specialist help and efforts to assist by providing training in best practices has been rejected by the licensee.

[105] A number of the allegations are broadly expressed and do not contain detail of specific instances of misconduct or inadequacies. However, consultation with persons who made submissions has provided additional information leading to lines of inquiry which have been of assistance to this Investigation.

[106] One of the persons who made a submission provided a statement concerning allegations of corruption made to them by an anonymous person over the telephone. It has not been possible to identify the caller, and no evidence has emerged during this Investigation, or AUSTRAC's lengthy investigation, to support the specific allegations of corruption.

[107] In addition, information provided by Relationships Australia SA should not be overlooked. In their view, the licensee has done a good job in identifying problem gamblers and referring them to Relationships Australia. Barred patrons who seek to resume gambling are encouraged to contact Relationships Australia. A sound and co-operative relationship exists with open lines of communication.

7.0 Adelaide Casino – Overview

[108] In preparation for a tour of the Adelaide Casino by the investigation team on 8 September 2022, solicitors for the licensee provided an overview of the casino operations:

Property	SkyCity Adelaide, Australia
Property Manager	David Christian, Chief Operating Officer Australia
Acquired by SkyCity	2000
Licensing Agreement	Runs until 2085*
Facilities	• Casino, including luxury VIP gaming facilities • Hotel (120 Suites) • Conventions • Food and beverage (11 venues including VIP Restaurant) • Entertainment • Car parking • Wellness centre
Licensed Gaming Product	• 1,075 electronic gaming machines (allowance for 1,500) • 118 table games (allowance for 200)** • 138 automated table games (allowance for 300)
Workforce	~1,300 staff
FY22 Revenue	A\$171.8 million (reported) A\$184.5 million (normalised)

**The Approved Licensing Agreement between the Minister for Business Services and Consumers and SkyCity Adelaide Pty Limited provides SkyCity Adelaide with exclusive rights to provide casino gaming (except for interactive gambling) in South Australia until 30 June 2035.*

***This allowance may be alternatively utilised to enable automated table game terminals.*

Located in and around the historic Railway Station building on the banks of the Torrens River, SkyCity Adelaide is South Australia's only casino destination on the Festival Plaza forecourt adjacent to the Adelaide Festival Centre and Adelaide Convention Centre and near the Adelaide Oval.

Following completion of a significant expansion development in late 2020, SkyCity Adelaide is now a world-class integrated entertainment hub featuring a 120-room luxury hotel – Eos by

SkyCity, a wellness centre with a day spa, pool, sauna and gym, VIP gaming facilities, a function and conference facility for up to 650 guests, bars and restaurants.

The SkyCity Adelaide precinct is home to award-winning eateries – Madame Hanoi, Sean's Kitchen, iTL, the immersive rooftop destination Sól Rooftop, and Australia's first fully functional microbrewery within a casino (operated by Pirate Life).

Eos by SkyCity is Adelaide's most luxurious hotel, with rooms ranging from 50sqm – 230sqm and opulently appointed to meet the growing demand for quality hotel rooms from both domestic and international visitors. Since opening in December 2020, Eos by SkyCity has been named as the Best New Tourism Business at the South Australian Tourism Awards, Best Deluxe Hotel in South Australia at the Australian Hotels Association SA Awards for Excellence and Best New Hotel at the Hotel Management Awards for Hotel and Accommodation Excellence. Eos by SkyCity was also awarded a Bronze medal in the Australia's Best New Tourism Business category at the 2021 Qantas Australian Tourism Awards.

...

Additional Features			
	Area	Location	Features
1	Promenade entrance	Ground floor	One of two permanent entrances to the casino areas. There are an additional two entrances which are opened on game days at Adelaide Oval. Each entrance has the CBS required signage and security personnel at all times the entrance is open. Gaming currently operates from 10am each day, closing at 5am Monday to Friday and 6am Saturday and Sunday mornings. All entrances are covered by surveillance cameras 24/7, with facial recognition cameras at every entrance. Facial recognition is separate to surveillance. SkyCity has 1684 cameras with all footage kept for a minimum of seven days. Footage is exported for any incidents and permanently kept. CBS has the access and the ability to do this at any time.
2	Main Gaming Floor, Riverside Includes gaming zone, Lucky Noodle, Westward Bar, Atrium	Ground Floor	Security and surveillance presence at all times, both personnel and cameras. Numbers of SkyCity personnel vary depending on what products are open and by time of day/ day of week. Host Responsibility

			<i>Host Responsibility presence by way of a Host Responsibility Co-ordinator (HRC) is required at all times gaming is operating. SkyCity increased on floor presence to two HRCs at peak times from 2022. As gaming visitation and revenue has increased post Covid-19 restrictions, SkyCity is currently recruiting to ensure at least two HRCs on the gaming floors (1 in VIP and 1 on the Main Gaming Floor (MGF), from 12pm every day through to close of gaming.</i> <i>All front of house personnel has received harm minimisation and AML/ CTF training. Further, all supervisors, managers and high-end baccarat dealers undertake advanced gambling regulation training including host responsibility.</i> <i>All personnel monitor customers for any signs of potential problem gambling, and any suspicious AML activity.</i> Security <i>SkyCity has a minimum of 7 security officers on shift, with numbers increasing to 23 at peak times, as well as a security team leader and security senior/ operations manager. There are also up to two security officers stationed in the security control room.</i> <i>Security monitor customer behaviour as well as host responsibility, responsible gambling, responsible drinking, long-stay, and AML observations.</i> Surveillance <i>Surveillance operates 24/7. As well as game and compliance integrity, surveillance operators monitor for AML/ suspicious activity, large transactions at gaming products or the cash desk. There can be between 3 to 5 surveillance officers plus a</i>

			team leader on shift. This excludes the surveillance business integrity unit which consists of two personnel, this unit maintains a close link with the Financial Crime Team. Signage SkyCity exceeds the mandated minimum harm minimisation signage, which as well as mandated signage includes a range of refreshed SkyCity signage so these don't become background noise. Signs and rotating electronic signage include host responsibility information in several languages reflective of visitation demographics. SkyCity has recently introduced signage with QR codes which take customers straight to SkyCity's web site host responsibility information and support.
3	<i>Main Gaming Floor, North</i> <i>Includes gaming zone, baccarat pavilion, main cash desk, central café, SkyCity rewards desk</i>	Ground Floor	As above Main Cash desk SkyCity's main casino cash desk (Cage) is located centrally in the MGF North. Other cash desks operate in the VIP Rooms. Cash desks have a high level of surveillance coverage. There is a cash handling shift manager on shift at all times and up to five cashiers for the main cage. Cash desk personnel are highly trained in AML/ CTF as well as host responsibility. SkyCity rewards desk The main SkyCity rewards desk is located here. While serving as a service desk for customers, it is where MGF customers interact regarding their membership to the SkyCity rewards program including updating identification photographs and personal

			information. The identify of each new SkyCity rewards customer is verified with relevant photographic identification recorded and other due diligence steps taken. Each SkyCity Rewards program member obtains a rewards card. All carded play is monitored by SkyCity personnel, and any indicators of potential problem gambling is addressed by SkyCity personnel staff.
4	Marble Hall including gaming zone and Chandelier Bar	Ground Floor	As above. ATMs are located adjacent Marble Hall. All SkyCity personnel are trained to monitor customer activity with frequent trips to an ATM regarded as one indicator of potential problem gambling.
5	MGF South gaming zone	Ground Floor	As above
6	The District, including gaming zone, The District bars, and poker	Level 1	The District Poker Poker currently operates Monday to Saturday with up to twelve tables in operation. SkyCity operates cash games as well as tournaments. All players must be members of the SkyCity rewards program. As with all other areas of the casino, all required harm minimisation and AML/ CTF monitoring is undertaken.
7	VIP Gaming Areas including Opal Room, Grange Room Black Room	Level 1	Premium gaming can only be operated in a designated premium gaming area. SkyCity's premium gaming areas are called VIP Rooms for customer purposes. Premium gaming areas can operate gaming products that are not available on the MGF. VIP Gaming Areas - Access to VIP gaming areas is governed by terms and

			conditions in clause 8.7 of the Approved Licensing Agreement (ALA). - All VIP gaming areas are exclusive and accessed only by registered VIP SkyCity Adelaide members with identity of each member verified before entry. - Members must show their membership card to obtain entry, with 'compliance' desks at entry points of VIP gaming areas. - All VIP Room management and hosts are trained in advanced host responsibility management. - SkyCity is currently recruiting for increased HRCs so as to have at least one HRC in VIP Rooms from midday every day, as well as at least one on the MGF. - Continuous surveillance monitoring of all VIP gaming areas. - All Black tier customers (table games and gaming machines) must provide evidence of legitimate source of wealth as part of SkyCity's AML/ CTF requirements. Opal Room - Opal Room is the private gaming room for first tier VIP customers and interstate visitors. First tier VIP customers are allocated a gold membership card. - Gold membership is allocated to customers after they have achieved gaming turnover within a 61-day period which equates to an annual spend of \$8,000 on gaming machines and \$10,000 on table games. Gold members are permitted to bring a guest with them into the Opal Room who can only remain in

			<i>the Opal Room while the member is on site at SkyCity.</i> <i>- The Opal Room provides gaming machines and automated table games products.</i> Grange Room <i>- Grange Room is the private gaming room for second tier VIP customers and most Australian Domestic gaming customers.</i> <i>- The present customer theoretical spend per annum to gain Grange Room access is ~\$12,000.</i> Black Room <i>- Black Room is the private gaming room for top tier gaming machine customers.</i> <i>- The present customer theoretical spend per annum to gain access to the Black Room is ~50,000.</i>
8	International Gaming Salons	Level 8	<i>- International Gaming Salons were completed as part of the SkyCity expansion in December 2020. To date, they are largely unused.</i> <i>- Access to International Gaming Salons is restricted to invited guests of SkyCity.</i> <i>- SkyCity undertakes customer due diligence and enhanced customer due diligence on invited gaming customers prior to their arrival. Continual monitoring is undertaken for any suspicious activity.</i> <i>- SkyCity HRCs meet personally with customers in International Gaming Salons upon arrival and then make regular checks throughout their time in the salons. All staff working in the</i>

			<i>International Gaming Salons undertake advanced host responsibility management training.</i> <i>- SkyCity has not undertaken any Junket activity in the International Gaming Salons and following the decision not to continue with junket play, never will.</i> <i>- There is a private cash desk available which is operated by the main cash desk and under constant surveillance.</i>
9	Surveillance room and security control room	Level 2	<i>- Surveillance operates 24/7, with increased staffing when gaming is operating. Surveillance operates with between 3 to 5 operators as well as a team leader and business integrity unit.</i> <i>- There are currently 1684 cameras in operation across SkyCity.</i> <i>- CBS have full access and can download footage themselves.</i> <i>- Surveillance monitor activity for game integrity, customer and employee behaviour, major transactions, and monitoring customers for any AML/ CTF suspicious activity as well as gambling harm and responsible service of alcohol.</i> <i>- The Security Control Room is separate to surveillance and is focused on the physical safety of all areas plus responsible service of alcohol and general behaviour.</i> <i>- Security Control has access to CCTV and receives any alerts for breaches of casino entrance facial recognition. On average, SkyCity has around 30</i>

			<i>attempted breaches of facial recognition each month. Security personnel are notified of a facial recognition breach within 30 seconds, and they approach the customer. HRC are also notified and appropriate steps taken</i>

[109] It is readily apparent from this overview of the casino operations that there are a number of areas of operation that are conveniently described as business units. Responsibilities necessarily overlap and their operations are interconnected. Speaking broadly, those areas are as follows:

- Cash Handling / Cage / Soft Count / Hard Count
- Electronic Gaming Machines
- Surveillance
- Security
- People and Culture / Marketing / Customer Insights and Strategy
- Finance
- VIP Table Games / VIP Electronic Gaming Machines / International Business
- Legal / Regulatory and Compliance / Financial Crime
- Food and Beverage
- Support Operations / Host Responsibility

[110] By way of background to the Investigation, it is appropriate to note that as at January 2023 a small team, the Casino and Gambling team (C&G team), operated within the Compliance and Enforcement Unit of Consumer and Business Services. The C&G team was responsible for the audit and inspection of the day to day operations of the Adelaide Casino and, for that purpose, maintained a daily presence at the casino. The team assessed the operations through regular auditing tasks such as the integrity of table games revenue, compliance with approved table games

rules, monitoring of commission-based gaming programs and compliance with several specific internal processes.

- [111] The C&G team monitored the security and surveillance logs which are daily logs provided by the licensee containing details of every tasking which a casino security or surveillance team member has been required to undertake. Those logs provide the C&G team with an opportunity to review incidents which have occurred on the casino premises within the previous 24 hour period. Details within the logs often prompted further inquiry in relation to issues recorded such as patrons being required to leave the premises for intoxication, disorderly behaviour, breach of barring, large transactions, table games disputes and other breaches of procedure observed by or reported to the surveillance team. In 2022 control standards SSSV01 and SSV02 related to security and surveillance, and defined the type of issues which had to be reported.
- [112] The Commissioner is able to respond to issues of non compliance in a number of ways including issuing compliance or default notices, or taking disciplinary action. Serious issues of significant concern result in investigations by the Commissioner prior to taking appropriate action.
- [113] At the time of this Investigation in 2022, a number of matters were being investigated by the Commissioner, but had not been resolved. Some of those matters were incorporated into this Investigation. It is both inappropriate and unnecessary to discuss other current matters before the Commissioner.
- [114] For the purposes of assessing the continued suitability of the licensee and its close associate, within time and resourcing limitations, the operations of each business unit was examined. At times it is inevitable in a commercial enterprise of the size of the casino, coupled with the added complications attaching to casino operations and the conditions of the licence, that inadequacies and failures will appear in systems and in the implementation of those systems. Minor issues of this nature are to be expected. Unless the inadequacies and failures are demonstrative of systemic problems, such minor issues possess limited impact upon the determination as to whether the

licensee is a suitable person to hold the licence and operate the casino, and are best dealt with by the Commissioner in the course of the Commissioner's regular oversight of the casino operations.

[115] The primary areas of significance are discussed later in this Report. They are centred within the areas of Corporate Governance, International Business, Premium Customers, Host Responsibility and AML/CTF Compliance.

8.0 Board Management

[116] The records of the Australian Securities and Investments Commission (ASIC) provide the following relevant information concerning the directors of the licensee as at 8 December 2022:

- David Christian of South Australia appointed 15 August 2016.
- Glenn Davis of South Australia appointed 8 September 2022.
- Julian Cook of New Zealand appointed 11 October 2022.⁵

[117] The Company Secretary as at 8 December 2022 was David Fox of South Australia appointed 11 October 2022.

[118] Former directors of the licensee back to 2015 were:

- Joanna Wong of New Zealand appointed 24 June 2017; ceased 11 October 2022.
- Michael Ahearne of New Zealand appointed 16 November 2020; ceased 21 October 2022.
- Bruce Carter of South Australia appointed 16 October 2014; ceased 20 March 2021.
- Graeme Stephens of New Zealand appointed 26 June 2017; ceased 16 November 2020.
- Peter Treacy of New Zealand appointed 29 June 2009; ceased 29 June 2017.
- John Mortensen of New Zealand appointed 21 April 2016; ceased 26 June 2017.
- Callum Mallett of New Zealand appointed 28 August 2015; ceased 1 June 2016.

⁵ The licensee suggested Mr Cook was appointed 20 October 2022.

- Nigel Morrison of New Zealand appointed 18 December 2008; ceased 29 April 2016.
- David Christian of Northern Territory appointed 29 June 2009; ceased 28 August 2015.
- Roderick McGeoch of New South Wales appointed 8 December 2006; ceased 16 October 2014.

[119] Mr Davis gave evidence that he was also appointed to the SCEG Board on 8 September 2022. He became the first Australian Chair of the licensee's Board on 10 October 2022. Mr Ahearne, the Chief Executive Officer of SCEG until early 2024, was the Chair of the licensee from 9 November 2021 to 9 October 2022. He was the first Chair of the licensee.

[120] It is apparent from the overview of the casino operations provided by the licensee's solicitors, and from the figures discussed earlier, that the casino is a commercial operation of significance to the South Australian economy. Necessarily, the nature and size of the commercial operation carries with it risk of harm to a considerable number of people. As discussed, such harm is not limited to the immediate financial resources of the individual person who gambles at the casino. In view of the legislative scheme which has created a tension between the commercial interests of the gambling industry, and minimising the harm that accompanies that industry, management of the Adelaide Casino is a complex and difficult task which carries with it the heavy responsibility of fulfilling the obligations imposed on the licensee by the legislative and regulatory regime applicable to the casino.

[121] The extensive obligations imposed upon the licensee are found not only in the legislative and regulatory regime governing the operation of the casino, but also in both the control standards approved by the Commissioner and the specific anti-money laundering requirements found in the AML/CTF Act and AML Rules. Details of particular obligations are discussed later in this Report, particularly in the areas of Anti-Money Laundering and Host Responsibility.

[122] For present purposes, it is sufficient to note the heavy responsibility placed upon the licensee and, therefore, upon the directors of the licensee. As mentioned, the discussion in the Bergin Report is particularly helpful in this context. It highlights the special nature of the obligations placed upon

directors of entities engaged in casino operations.⁶ In particular, as Ms Bergin explained, the licensee of a casino is not an entity ‘simply operating in the cut and thrust of a commercially competitive corporate environment, although their success in that environment is obviously at the core of their continued viability’. I agree with Ms Bergin’s observation that licensees are companies ‘with the overlay of responsibilities to stakeholders well beyond just their shareholders’, and the regulatory and contractual framework imposes obligations on licensees owed to the government, the regulatory Authority and the broader community ‘to ensure that the casino operations remain free from criminal influence and exploitation; to ensure that gaming in the casino is conducted honestly; and to operate the casino in a manner that contains and controls any potential harm to the public interest, individuals and families’.

[123] In the context of money laundering in particular, the following passage from Ms Bergin’s Report is worth repeating:

56 Any person who is at the helm of a licensee of a casino in New South Wales and those leading corporate close associates of a licensee, need to have a deep understanding of the anti-money laundering landscape and legislation and strive vigorously to be ahead of the agile and flexible steps to be taken by money launderers. It is beyond doubt that this is a significant challenge which requires constant vigilance. It is not good enough to leave it to some department within the organisations from which the leaders of the company never hear. There must be “astute knowledge” at Board level. If companies choose to enter the fray and operate a casino, or operate as close associates of a company that operates a casino, they must have a corporate character that fits within this description (footnotes omitted).

[124] In the same context I also agree with the view expressed in the Bell Report that although a holding company might be in place, the operator in the State ‘must have close and direct supervision and governance’.

[125] I have emphasised the nature of casino operations and the obligations imposed upon the licensee and its directors because the importance of the role of the Board of the licensee cannot be overstated. It is essential that the Board, through its directors, possesses the detailed knowledge

⁶ See this Report paras [45]-[51].

and understanding of casino operations, risks and obligations necessary for it to perform adequately its critical role. As the operator of the Adelaide Casino, the licensee must have ‘close and direct supervision and governance’. This is the context for the discussion that follows concerning the corporate structure applicable to the licensee and its management of the Adelaide Casino.

[126] As discussed, the licence was granted in 1999 to Adelaide Casino Pty Ltd, an entity which later became SkyCity Adelaide Pty Ltd. Before the licence was granted, on 27 October 1999 SkyCity Adelaide Pty Ltd entered into an Approved Licensing Agreement between it and the State of South Australia.

[127] SkyCity Entertainment Group Limited is commonly referred to as the ‘ultimate parent company’ of the SkyCity Group of companies, including SkyCity Adelaide Pty Ltd. However, it is a separate legal entity incorporated in New Zealand.

[128] It is not uncommon for corporations to undertake their businesses through a number of corporate structures, all of which are subsidiary to an ultimate corporate parent. However, in the context of the licensee’s suitability to hold the casino licence, the practical operation of the corporate structure involving SCEG requires careful consideration.

[129] On 18 July 2022 this Investigation served a written notice upon the licensee seeking a number of documents, including copies of minutes for meetings of the SkyCity Adelaide Pty Ltd Board of Director’s conducted over the past 12 months. Solicitors for SkyCity Adelaide Pty Ltd (HWL) responded by letter of 3 August 2022. While a large number of documents were produced, in respect of minutes of meetings of the SkyCity Adelaide Pty Ltd Board, the solicitors responded as follows:

29. As discussed further below, the SkyCity Adelaide Board has been operational in a practical sense (in terms of regularly holding meetings of the Board) only since November 2021.

30. In this respect we note that:

SCEG is the ultimate parent company of the SkyCity Group and SkyCity Adelaide is a wholly owned Australian subsidiary of SCEG (as identified in the structure chart referred to at paragraph 20 above);

(a) the SCEG Board (including through the operation of its four current standing committees – the Audit and Risk Committee, the People and Culture Committee, the Sustainability Committee, and the Governance and Nominations Committee) is the governing board of the SkyCity Group, and is responsible for monitoring compliance by each company within the SkyCity Group, including SkyCity Adelaide, with their respective obligations; and

(b) the SCEG Board is ultimately responsible for the affairs and activities of the SkyCity Group, including (as outlined in the SCEG Board Charter which, while not strictly within the scope of Category 5 of the Notice, is at Item 362 of the Index) the review and ratification of appropriate systems of risk management and internal compliance and control, codes of conduct, and legal compliance.

31. Up until 28 October 2021, the SCEG Board was the governing board for the purposes of the SkyCity Adelaide AML/CTF Program (as discussed at paragraph 20I above), and all amendments to the SkyCity Adelaide AML/CTF Program had up to that date been approved either by the SCEG Board and/or its Audit and Risk Committee (in accordance with the terms of the SkyCity Adelaide AML/CTF Program).

32. AUSTRAC has however indicated, in a letter to SkyCity Adelaide dated 4 June 2021 advising that it had initiated a formal enforcement investigation into the compliance of SkyCity Adelaide with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1), as well as in subsequent communications, that it considers that the SkyCity Adelaide Board should instead be the governing board for the purposes of the SkyCity Adelaide AML/CTF Program.

33. Although the SCEG Board's view is that the SCEG Board, as the parent Board of the SkyCity Group, is the appropriate governing board for the purposes of the SkyCity Adelaide AML/CTF Program, the SCEG Board agreed to amend the SkyCity Adelaide AML/CTF Program at its Board meeting on 28 October 2021 to reflect that the SkyCity Adelaide Board is the governing board for the purposes of the SkyCity Adelaide AML/CTF Program, in order to meet AUSTRAC's expectations regarding the governance and oversight of SkyCity Adelaide's AML/CTF function.

34. Accordingly, from November 2021, the SkyCity Adelaide Board has met approximately every second month to oversee the SkyCity Adelaide AML/CTF function, and other matters relating to SkyCity Adelaide's business and operations. While not strictly within the scope of Category 5 of the Notice, the Charter of the SkyCity Adelaide Board appears at Item 363 of the Index.

35. Consequently, up until November 2021, the SkyCity Adelaide Board did not meet, no reports were provided to the SkyCity Adelaide Board relating to SkyCity Adelaide's

compliance obligations or functions, and there were no lines of reporting to, or committees of, the SkyCity Adelaide Board. Instead, reports relating to SkyCity Adelaide's operations and functions were provided to the SCEG Board and its Committees (as identified in paragraph 30(b) above).

36. *However, at all times since at least June 2000, there was at least one SkyCity Adelaide director who was also a member of the SCEG Audit and Risk Committee, the SCEG Board, or the SkyCity Group senior executive team.*

37. *Notwithstanding that SkyCity Adelaide Board meetings have been held since November 2021, the SCEG Board (as the parent Board of the SkyCity Group) remains ultimately responsible for the affairs and activities of the SkyCity Group, including SkyCity Adelaide, and the SCEG Board and Committee meeting papers and minutes continue to report on matters relevant to the SkyCity Adelaide business and its operations.*

[130] Paragraphs 29 and 30 of the letter of 3 August 2022 are unequivocal in their terms. First, the Board of the licensee, SkyCity Adelaide Pty Ltd, the holder of the licence to operate the Casino, 'did not meet' from 1999 until November 2021.

[131] Secondly, in that period, no reports were provided to the Board of the licensee 'relating to SkyCity Adelaide's compliance obligations or functions'.

[132] Thirdly, in that period, 'there were no lines of reporting to, or committees of, the SkyCity Adelaide Board'.

[133] Fourthly, in that period, 'the SCEG Board was the governing board for the purposes of the SkyCity Adelaide AML/CTF Program'. Reports relating to SkyCity Adelaide's 'operations and functions were provided to the SCEG Board and its Committees'. The SCEG Board was 'responsible for monitoring compliance by each company within the SkyCity Group, including SkyCity Adelaide, with their respective obligations'.

[134] The HWL letter of 3 August 2022 emphasised the view of the SCEG Board that, as the parent Board of the SkyCity Group, the SCEG Board was 'the appropriate governing board for the purposes of the SkyCity Adelaide AML/CTF Program'. The observation was made that, 'at all

times since at least June 2000, there was at least one SkyCity Adelaide Director who was also a member of the SCEG Audit and Risk Committee, the SCEG Board, or the SkyCity Group Senior Executive Team’.

[135] The signatory to the Approved Licencing Agreement, and the holder of the licence to operate the Adelaide Casino, is the legal entity SkyCity Adelaide Pty Ltd, not SkyCity Entertainment Group Limited (or any other entity in the Group). The rights and obligations under the Agreement, and under legislative and regulatory regime, have rested throughout with SkyCity Adelaide Pty Ltd, not SkyCity Entertainment Group Limited. SkyCity Adelaide Pty Ltd is a separate legal entity from SkyCity Entertainment Group Limited (and from other entities in that Group). SkyCity Adelaide Pty Ltd cannot delegate responsibility for complying with its obligations as licensee to any other person or legal entity (and in any event has never sought to do so). SkyCity Adelaide Pty Ltd cannot rely on SkyCity Entertainment Group Limited meeting the essential obligations owed by SkyCity Adelaide Pty Ltd.

[136] In these circumstances, in the absence of any meetings of the Adelaide Board, or reports to it from any management level of the Adelaide Casino, the unavoidable conclusion is that until November 2021 the licensee failed to meet its obligations under the Approved Licensing Agreement and under the legislative and regulatory regime.

[137] Initially, the licensee challenged this view.

[138] The challenge is found in an exchange of correspondence between the Commissioner and the licensee following suspension of this Investigation in January 2023. Noting the allegations in the AUSTRAC proceedings, on 6th February 2023 the Commissioner wrote to the licensee advising that the Commissioner was considering issuing a Direction to the licensee that the licensee appoint an independent oversight entity to review a number of aspects of the licensee’s operations with respect to AML/CTF.

[139] Included with the letter of 6th February 2023 was a summary prepared by the Commissioner of preliminary views expressed by me to the Commissioner in a draft Report based on this Investigation to January 2023. The Commissioner's letter made clear that the summary provided to the licensee was a summary of 'preliminary views' and 'tentative conclusions' expressed by me. That summary included the following paragraphs:

9. *The Adelaide Board failed to exercise its functions and fulfil its responsibilities prior to November 2021.*
10. *From the time the licence was granted in 1999, until November 2021, the Adelaide Board did not meet and did not receive any reports.*
11. *Until November 2021, the Adelaide Board failed to function as a Board, and failed to make relevant decisions required of the Board of the licensee.*
12. *In particular, the Adelaide Board failed to discharge its responsibilities under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and the Anti-Money Laundering and Counter-Terrorism Financing Rules 2007 (AML/CTF Act and Rules), and failed to establish and maintain a Host Responsibility Program as required by the Approved Licensing Agreement.¹*
13. *Until November 2021, the SCEG Board was in control of the operations of the Adelaide Casino. In particular, the SCEG Board purported to undertake and fulfil the duties imposed on the licensee by the Licence, the Approved Licensing Agreement and the regulatory regime under which the casino operated.*
14. *The SCEG Board failed to fulfil the obligations of the Adelaide Board.*
15. *The signatory to the Approved Licensing Agreement, and the holder of the licence to operate the Adelaide Casino, is the legal entity SkyCity Adelaide Pty Ltd, not SkyCity Entertainment Group Limited (or any other entity in the Group). The rights and obligations under the Approved Licensing Agreement, and under the legislative and regulatory regime, have rested throughout with SkyCity Adelaide Pty Ltd, not SkyCity Entertainment Group Limited. SkyCity Adelaide Pty Ltd is a separate legal entity from SkyCity Entertainment Group Limited (and from other entities in that Group). SkyCity Adelaide Pty Ltd cannot delegate responsibility for complying with its obligations as licensee to any other person or legal entity (and in any event has never sought to do so). SkyCity Adelaide Pty Ltd cannot rely on SkyCity Entertainment Group Limited meeting the essential obligations owed by SkyCity Adelaide Pty Ltd.*
16. *In all of these circumstances, the unavoidable conclusion is that until November 2021 the licensee failed to meet its obligations under the Approved Licensing Agreement, and under the legislative and regulatory regime.*

[140] The licensee responded to the summary, and to other issues, in a letter of 31 March 2023 from the licensee’s solicitor HWL, to the Commissioner. In support of the licensee’s position that the Adelaide Casino ‘has been operated at all times with significant and responsible corporate governance’, HWL examined the history associated with the granting of the licence and the concentration of the original probity investigations upon the ultimate parent company, SCEG. Noting that under s 201A of the Corporations Act it is sufficient for SkyCity Adelaide to have as few as one Director, a requirement which was satisfied at all times, the observation was made that as the Board of the licensee’s parent company, ‘the SCEG Board in conjunction with SkyCity Adelaide Chief Operating Officer, assumed the responsibilities of the SkyCity Adelaide Board with the agreement of the SkyCity Adelaide Directors’. In addition, the letter asserted that decisions had been made by the SCEG Board with respect to SkyCity Adelaide ‘with the knowledge of an agreement of SkyCity Adelaide Directors and the SkyCity Adelaide Chief Operating Officer’. The letter also detailed the processes followed, and information received by the SCEG Board, in making decisions with respect to the operations of the licensee.

[141] Ultimately the letter asserted the following:

“In essence, the SkyCity Adelaide Casino has been operated at all times with significant and responsible corporate governance. That much of that Board oversight was conducted by SkyCity Adelaide’s parent company does not derogate from the fact that the operations of the Casino and SkyCity Adelaide’s obligations were overseen by an appropriate and orthodox corporate governance framework and that the SkyCity Adelaide Directors and Chief Operating Officer were constantly involved in those processes. Each of those directors and officers retained and were aware of their directors’ and officers’ duties.”

[142] In support of the ultimate proposition, the letter advanced the following contentions:

- The duties and obligations imposed on SkyCity Adelaide as licensee ‘are SkyCity Adelaide’s duties and obligations – not the duties and obligations of a separate legal entity, being the SkyCity Adelaide Board.’
- There was no requirement under either the Corporations Act or the SkyCity Adelaide Constitution for SkyCity Adelaide to hold formal directors’ meetings.
- ‘It is recognised at law that it is not necessary of the decisions of directors to be made at a formal meeting in order to be valid. Rather, it is adequate that a meeting of minds as to the decision has taken place between the directors.’
- The historical governance model has never previously been questioned, notwithstanding that it was well understood by the Commissioner, AUSTRAC and others that had undertaken reviews of the licensee’s operations.

[143] Historically, from a practical point of view it is understandable that decisions at the outset were centred within the parent company. However, from the outset, it was the legal entity SkyCity Adelaide Pty Ltd which entered into the approved Licencing Agreement and held the licence. It was the legal entity SkyCity Adelaide Pty Ltd which was required to comply with its obligations under the legislative scheme, including obligations under the AML/CTF Act and AML Rules. This legal structure required that the legal entity SkyCity Adelaide Pty Ltd properly inform itself and make appropriate decisions. This did not occur until November 2021. The efficacy of the arrangements with the parent company are not to the point. The parent company could not discharge the obligations of the separate legal entity, SkyCity Adelaide Pty Ltd.

[144] Notwithstanding the involvement of an Adelaide director as a member of the SCEG Board, it is unrealistic to suggest that over the years from 1999 to 2021, through its directors, SkyCity Adelaide Pty Ltd carried out its obligations under the approved Licencing Agreement and the

legislative and regulatory regime. It is unrealistic to suggest that, through its directors, SkyCity Adelaide exercised corporate governance as described in the Bergin Report.

[145] A further point arising out of the solicitor's letter of 31 March 2023 should be noted. That letter was written before the resolution of the AUSTRAC proceedings. It extolled the virtues of the processes followed by the SCEG Board in keeping itself informed of the Adelaide requirements through committee reports and the maintenance of 'strong and clear lines of communication with the Chief Operating Office of SkyCity Adelaide and the SkyCity Adelaide Directors at all times'. Bearing in mind the findings of this Investigation, and the failings with regard to AML/CTF obligations acknowledged in the Agreed Statement of Facts filed in the Federal Court and penalised through the penalty of \$67M dollars, such extolling was misconceived. It is readily apparent that there was a dismal failure at either the Adelaide end, or at SCEG Board level, or both.

[146] As mentioned, changes occurred in November 2021. According to the letters of 3 August 2022 and 31 March 2023, although the SCEG Board remained of the view that it, as the parent Board of the SkyCity Group, is the appropriate governing Board for the purposes of the licensee's AML/CTF Compliance Program, 'the SCEG Board agreed to amend the SkyCity Adelaide Compliance Program at its Board meeting of 28 October 2021 to reflect that the SkyCity Adelaide Board is the governing Board for the purposes of the SkyCity Adelaide AML/CTF Program'. The letter of 3 August 2023 stated that from November 2021 the Adelaide Board met approximately every second month 'to oversee the SkyCity Adelaide AML/CTF function, *and other matters relating to SkyCity Adelaide's business and operations*' (my emphasis).

[147] The Adelaide Board first met on 9 November 2021. The minutes are annexure [3] to this Report. Present were Michael Ahearne, Jo Wong and David Christian. Attending were Scott Johnson, Julie Amey and Nicholas Stokes. Mr Ahearne was appointed Chair of the Board and Mr Johnson as company secretary. It was agreed that Ms Amey, Chief Financial Officer for the SkyCity Entertainment Group, should attend each Board meeting.

[148] The Board noted that the SCEG Board agreed on 28 October 2021 that the governing Board for the purposes of the licensee's Compliance Program should be the Adelaide Board, and not the Group Board. It was agreed that the agenda should include, *'as a starting point, the following key regulatory and operational topics:*

- *AML*
- *Host Responsibility*
- *Health and Safety*
- *Financial Results and Trading*
- *Tax Matters*
- *Other Compliance – Regulatory Matters*'.

[149] The meeting of 9 November 2021 noted that there was no existing Board Charter. It was agreed that a draft Board Charter be prepared for discussion at the next meeting. After discussion concerning the Compliance Program, it was agreed the updated Program be included in the papers, and that Mr Nicholas Stokes be the new AML/CTF Compliance Officer.

[150] Under 'Other Business' it was agreed that a Health and Safety update, and a Host Responsibility update, should be given at the next meeting, and that relevant Managers be invited to the meeting to present on those issues.

[151] As noted, this was the first meeting of the Adelaide Board. It set out to deal with management matters, other than the Compliance Program, and continued to do so in subsequent meetings. On 13 November 2021 the Adelaide Board approved a Board Charter.⁷ It was noted that the current SCEG delegated financial authority's policy, referred to in cl 1.6 of the Board Charter, did not specifically refer to the Adelaide Board and Directors, and was currently under review by the Group Management.

⁷ The SCEG Board Minutes of 10 December 2021 record advice that the Adelaide Board had adopted a new Board Charter at its meeting on 30 November 2021.

- [152] The Adelaide Board Meeting of 30 November 2021 dealt with draft financial statements for the year ended 30 June 2021, and a Host Responsibility update was provided by [REDACTED], Executive Manager Host Responsibility. There were discussions about other issues such as facial recognition technology. Mr Stokes provided an update on AML matters, together with an AML update paper. An update was provided on Health and Safety matters, and training update papers were noted and taken as read.
- [153] At the next meeting of the Adelaide Board on 21 January 2022, the same issues were discussed, together with corporate taxation questions. [REDACTED] dealt with the taxation issues. She is recorded as observing that ‘to demonstrate good tax governance, the SkyCity Group taxation function will ensure that the SkyCity Adelaide Board has oversight of SkyCity Adelaide tax risks going forward and, as part of this, a timetable for testing tax controls will be presented to the Board for approval at a future meeting’.
- [154] The minutes also record a lengthy discussion concerning the interim audit for the 2022 financial year. Participants in the discussion included the lead audit partner for PwC New Zealand and an audit partner for PwC Adelaide. It was noted that a Letter of Engagement would be issued to SkyCity Adelaide as part of the audit engagement, and that while PwC’s New Zealand team performed the bulk of the work for the audit, the Adelaide team is responsible for signing the financial statements for the SkyCity Australian companies.
- [155] These, and the minutes for meetings during 2022, disclose topics of discussion and actions normally expected of the Board of a commercial enterprise, considered in the context of the casino operations. None of this was occurring until November 2021.
- [156] The Adelaide Board Charter was adopted in November 2021.⁸ It deals with Corporate Governance and a host of issues out of the following headings:

⁸ Annexure [4].

1. *Governance at SkyCity*
2. *Role of the Board*
3. *Structure of the Board*
4. *Matters Relating to Directors*
5. *Committees of the Board*
6. *Integrity and Ethical Behaviour*
7. *Financial Reporting*
8. *Reporting*
9. *External Communications*
10. *Recognition and management of Risk*
11. *Performance Evaluation*
12. *Remuneration*
13. *Sustainability*
14. *Internal and external Stakeholders and Community Responsibility*
15. *Health and Safety*

Schedules

1. *Terms of Appointment*
2. *Code of Conduct*

[157] The Adelaide Board Charter now states that the Adelaide Board ‘has responsibility for the affairs and activities of the company’. It also states that the Board is responsible for ‘supervising the management of the company’, and ‘establishes the company’s objectives, the major strategies for achieving these objectives, the overall policy framework within which the business of the company is conducted, and monitors management’s performance with respect to these matters’. In addition, the Charter refers to the specific responsibilities of the Board:

2.4 Specific responsibilities of the Board also include the following:

- *oversight of the company, including its control and accountability procedures and systems*
- *approval of the corporate strategy and objectives and oversight of the adequacy of the company's resources required to achieve the strategic objectives*
- *approval of and monitoring of actual results against the annual business plan and budget (including the capital expenditure plan)*
- *review and ratification of the company's system of risk management and internal compliance and control, codes of conduct, and legal compliance*
- *approval and monitoring of the progress of capital expenditures, capital management initiatives, and acquisitions and divestments.*

[158] The Charter provides an overview of the Adelaide Board's operations, and stands in the starkest of contrasts with the failure of the Adelaide Board to meet until November 2021. It is quite extraordinary that the SCEG Board, and members of the Adelaide Board, failed to recognise that the Adelaide Directors were in breach of their duties as Directors and, for many years, the licensee had been in breach of the Approved Licensing Agreement and failed to comply with the obligations imposed upon it by that Agreement and the legislative and regulatory framework. The passage from the Bell Report earlier cited is apposite:

A lesson from the evidence presented to this Review is that the ultimate owner of The Star Casino may be a holding company conducting businesses in a number of jurisdictions, the casino operator in NSW must have close and direct supervision and governance.

9.0 Mr Christian and other directors

[159] As mentioned, Mr Christian was a director of the licensee and the Chief Operating Officer for Australia within the SkyCity Entertainment Group from 2020 until 12 April 2024. Although Mr

Christian was employed by SCEG, his role was predominantly as head of the Adelaide Casino business. Previously, Mr Christian held positions as a General Manager of casinos in New Zealand. He was head of the SkyCity Adelaide Casino business for 6 years (2009 – 2016), followed by 4 years as the head of the SkyCity Darwin Casino (2016 – 2019).

[160] Mr Christian possessed sound knowledge of the environment in which the Adelaide Casino operates. In particular, it was readily apparent from his interviews that Mr Christian's understanding extended to the obligations which the licensee is required to fulfill, including obligations under the AML/CTF legislation and in respect of the licensee's Host Responsibility Program.

[161] On 21 September 2022, Mr Christian was first interviewed as part of this Investigation. He understood that the interview would be recorded and a transcript prepared. Subsequently Mr Christian signed a statutory declaration verifying that the information he had given during the interview was, to the best of his knowledge, information and belief, true and correct.

[162] As to the situation with respect to the operation of the Adelaide Board, Mr Christian was given the opportunity to read paragraphs 29-37 of the letter of 3 August 2022 from the licensee's solicitors to the Investigation. Those paragraphs are set out in para [129] of this Report. Mr Christian agreed those paragraphs were an accurate statement of the facts. He said that prior to November 2021, the Adelaide Board was 'largely responsible' for signing off the Adelaide financial accounts, but almost all of the decisions were made by the SCEG Board.

[163] Asked how the New Zealand Board could exercise appropriate oversight of the Adelaide Casino operations, Mr Christian said there were regular reports to the New Zealand Board which kept that Board informed. In addition, he regularly met with Mr Carter, an Adelaide based Director of the New Zealand Board, to discuss relevant issues.

- [164] Mr Christian agreed that management of the casino is a complicated business, involving tension between the interests of the commercial enterprise and minimising the harm that inevitably flows from that business. He agreed with Ms Bergin's view that although success in the commercial enterprise was essential, casinos are not entities simply operating in the cut and thrust of commercially competitive corporate environment. There is an overlay of responsibilities to other stakeholders, beyond shareholders, particularly in the context of the regulatory framework and the obligation to ensure that casino operations remain free from criminal influence and exploitation. In addition, there is the requirement to ensure that gaming at the casino is conducted honestly, and in a manner that controls any potential harm to the public interest, individuals and families. Mr Christian was also aware of Ms Bergin's observation that it is necessary for directors to possess detailed knowledge and understanding, particularly in the AML area and the requirements of the Commonwealth legislation.
- [165] Asked how the New Zealand directors obtained the required knowledge and understanding, Mr Christian frankly acknowledged he was not sure. He observed that the Adelaide director, Mr Carter, was 'very noticeable in this space', and thought this director was well up to speed.
- [166] As to how decisions by the New Zealand Board were conveyed to Adelaide Management, Mr Christian said he received relevant parts of the minutes of SCEG Board meetings, and verbal communications also occurred.
- [167] Mr Christian was reminded briefly of the history of the licence and Approved Licencing Agreement. He understood the obligations that came with the licence, together with the regulatory regime and Control Orders. He understood these were obligations that the Adelaide Board was required to meet. He also understood that SkyCity Adelaide Pty Ltd is a different legal entity from SkyCity Entertainment Group Limited.
- [168] Mr Christian was asked how, bearing in mind that the Adelaide Board did not meet or receive reports, the Adelaide Board discharged its obligations under the licence, legislative and regulatory

regime, Approved Licencing Agreement and Control Orders. He responded that he was not sure, but everything was provided to the SCEG Board, and the view was held that the SCEG Board was the appropriate Board for these purposes. He said the common denominator was the Adelaide director and, for a period, the Chief Executive Officer. Asked how the directors of the Adelaide Board discharged their obligations, in essence he said they relied upon conducting themselves as required and reporting to SCEG.

[169] On 21 September 2022, it was apparent that Mr Christian possessed a good understanding of the obligations of the licensee. Like a number of other persons, he was mistaken in his belief that the Board of the licensee could discharge its obligations through the operations of the New Zealand Board, but he frankly admitted the error in this regard. The issue was raised well into the interview and, as the topic was broached, Mr Christian became uncomfortable. However, he did not prevaricate or attempt to justify the Board's failure, other than to say that he and others believed it was sufficient for the SCEG Board to meet the obligations under the Adelaide licence.

[170] As to the change following the intervention by AUSTRAC, Mr Christian thought that from the New Zealand perspective, it was believed that SCEG was the appropriate Board, but the SCEG Board reluctantly agreed to pass responsibility for the AML issues to the Adelaide Board. Initially, it was only the AML matters which were passed to the Adelaide Board. However, the Adelaide Board immediately began considering other issues from its first meeting of 9 November 2021. Mr Christian agreed he had come to a realisation that the previous situation was inappropriate. That process of coming to such an understanding began with the intervention by AUSTRAC. SCEG had been alerted to the problem and agreed the Adelaide Board had to undertake the discharge of the relevant obligations. Mr Christian said legal advice had been obtained.

[171] As mentioned, AUSTRAC issued proceedings against the licensee on 7 December 2022. On 5 and 6 December 2022, a number of New Zealand based SCEG directors, and a Melbourne based SCEG director, gave evidence. The Chairman, Mr Cook, and another New Zealand based director gave

evidence on 7 December 2022, after AUSTRAC announced the proceedings, as did the recently appointed South Australian based Chairman of the licensee's Board, Mr Davis.

[172] The directors in place in June 2021 gave evidence that prior to the issue being raised by AUSTRAC in June 2021, it had never been suggested that it was inappropriate for the Group Board to be in control of the Adelaide Casino, rather than the Adelaide Board. It was never suggested the Adelaide Board, through its directors, had failed to comply with its obligations because it did not meet or exercise appropriate control of the affairs of the Adelaide Casino. Those directors believed the management structure was appropriate, and that they were able to discharge adequately their responsibilities with respect to the Adelaide operations from New Zealand.

[173] The New Zealand and Melbourne based directors said they received an induction into the South Australian legislative regime and the requirements of the Australian AML/CTF Act and Rules. It is clear that the degree of their knowledge varied, but there is no reason to doubt that they all possessed a broad understanding of the South Australian regulatory landscape. Not surprisingly, at no time did any of the New Zealand based directors consider in detail the legislative and regulatory regime under which the Adelaide Casino operated, or compare in detail that scheme with the obligations imposed by it with respect to the Adelaide operations, particularly in relation to the AML/CTF and Host Responsibility requirements. The directors were heavily reliant on reports from Adelaide through Mr Christian and, in some instances, informal conversations with Mr Christian and others based in Adelaide. Reluctantly, some directors accepted that they lacked the advantage of participating in sub-committees or management meetings of staff in Adelaide.

[174] Unlike Mr Christian who accepted without reservation that the previous situation in which the Adelaide Board failed to meet or receive reports, or make any decisions, was inappropriate, the New Zealand and Melbourne based SCEG directors did not regard such failure by the Adelaide Board as of significance. There was an unjustified element of overconfidence, bordering on arrogance, in the attitudes of some directors. In particular, the Melbourne based director was dismissive of this issue. She pointed out, for example, that the Adelaide Casino still had a Host

Responsibility Program. However, she was forced to acknowledge that, contrary to the Approved Licensing Agreement and the legislative regime, it was not the licensee who had established that Program. It was management, coupled with the Group Board. In a similar vein, a legally trained New Zealand director spoke confidently of a delegation of functions, conveniently overlooking the absence of power to delegate duties to comply with fundamental obligations under the legislative regime, and the fact that the Adelaide Board did not purport to make such a decision.⁹

[175] Accepting that the SCEG Board believed, as the governing Board, that the previous system of management and control was appropriate, Mr Davis frankly acknowledged that from a legal perspective, prior to November 2021 the Adelaide Board did not fulfil its obligations.

10.0 Adelaide Board After November 2021

[176] As to the operations of the Adelaide Board from November 2021 onwards, as discussed the minutes disclose the range of issues considered by the Board which meets every 2 months in Adelaide. New members are expected to take the steps necessary to obtain the appropriate level of knowledge and understanding, including reading the Bergin Report.

[177] In evidence on 21 September 2022 Mr Christian said the line of division in decision making between Adelaide and New Zealand had been sorted out. From his perspective, he was not meeting resistance to the change from New Zealand. The New Zealand directors confirmed that, from their perspective, the Adelaide Board is now in control and its decisions are not subject to approval by the Group Board. This evidence was supported by Mr Davis and the SCEG directors.

[178] Mr Scott Johnson was the current General Manager (Finance) Adelaide. He joined the casino in 2015 as the Finance Manager. For 12 months to October 2022, he was the licensee's company secretary. Prior to November 2021 he reported to the Group Board. He did not perceive any

⁹ Clause 75 of the 2013 Gambling Code of Practice required the 'casino licensee' to maintain a Host Responsibility Program. Clause 3 defines 'casino licensee' as the 'holder' of the casino licence. It is the licensee who is the reporting entity for the purposes of the AML/CTF Act and Rules.

problems in the financial area before the Adelaide Board was operational as the New Zealand management possessed a detailed understanding of the Adelaide financial issues and the very detailed budgetary process. According to Mr Johnson, since November 2021 the Adelaide Board has been in control and deals with financial issues, including the budget.

[179] The evidence of Mr Johnson was contradicted by evidence from Mr Christian given on 16 December 2022. He said that until 18 months previously, the Adelaide financial business unit reported to him. However, the process was changed by the new Chief Financial Officer in Auckland who wanted a centralised approach. As at 16 December 2022, and for the previous 18 months, financial reports by Mr Johnson bypassed Mr Christian and the Adelaide Board. Mr Christian was not provided with a copy, but Mr Johnson attended Senior Leadership Team meetings and they engage regularly. In addition, Mr Christian had access to reports provided to the SCEG Board which include financial reports containing information supplied by Mr Johnson.

[180] Mr Christian said he challenged the change with the CEO of SCEG, but the challenge did not succeed.

[181] Mr Christian also spoke of other areas where decisions were made by New Zealand Management. These include financial (which include the cash desk), human resources (people and culture) and health and safety decisions. The decision, discussed later in the context of AML/CTF issues, concerning the use of the Auckland New Zealand account, Adelaide Branch, for customers of the Adelaide Casino was made without reference to Mr Christian or the Adelaide Board. [REDACTED]

[REDACTED]

reference to Mr Christian or the Adelaide Board. According to Mr Christian, a decision would be made in New Zealand by the Group Chief Financial Officer. Mr Christian expressed the view that the decision should be subject to approval by the Adelaide Board.

[182] As a general observation, Mr Christian gave evidence that the current situation is 'totally undesirable'. He said Mr Davis will be insisting that a 'lot more' comes back to the Adelaide

Property and the Board. This issue was the subject of discussion at the October and November 2022 meetings of the Adelaide Board.

[183] Finally as to Mr Christian's evidence in this context, he said that after Mr Stokes was appointed in October 2021 to the position of General Manager Financial Crime, the Financial Crime Team reported to Ms Joanna Wong in New Zealand. Ms Wong was unhappy with that decision. Mr Christian thought it was the CEO who preferred a more centralised approach. As from 1 December 2022 the Financial Crime Team reports to Mr Christian.¹⁰

[184] In considering the likelihood of satisfactory performance by the Adelaide Board in the future, it is appropriate to bear in mind that soon after he was appointed a director of the licensee, but before he was appointed as Chair, Mr Davis took time to raise a number of issues with Mr Cook and Mr Ahearne. He did so by email of 29 September 2022 and the content of the email is instructive as to the approach being taken by Mr Davis:

Thanks for taking the time today to catch up and sorry for taking up so much of it. It was very helpful for me so again thank you.

As discussed, the following is what could best be described as a brain dump after reading at a high level the Bergin and Bell reports of things for SCA to consider moving forward:

- 1. board composition – at the moment I am the only independent director plus management appointments in you, David and Jo. I think it would be sensible to discuss a majority independent board. One example of that might be me, Julian as chair of the parent and you. In the alternative do you leave the SCA board largely as is but have a compliance committee with a majority of independent directors focussed solely on compliance reporting to the SCA board. In this context I use the word independent as an analogy to an external director on the compliance committee of an Australian managed investment scheme as discussed in the Bell report;*
- 2. board cadence – I understand SCA will meet 6 times per year as currently scheduled. My query about that is whether that affords the SCA board the “close and direct supervision and governance” required of SCA particularly through this intensive phase;*

¹⁰ Minutes 001.005.0009 and 001.005.0010.

3. *chair and executive cadence – most of my time to date has been spent with you as CEO of SCEG. David is the senior executive at SCA as I understand it. Without wanting to discount time with you I think the board should discuss my direct interaction with David as the licensee's most senior executive and the right rhythm for that between SCA board meetings;*
4. *board risk appetite statement – I'm not sure if SCA has one but as the licensee and operator we should discuss the need for one, no doubt with a paragraph 1 that emphasises zero risk tolerance on AML non-compliance. On a similar note does SCA have its own fit for purpose risk management framework;*
5. *information flow to the board – does the SCA board (as opposed to the SCEG board) have the processes and systems in place to ensure it gets the information it needs in a timely fashion to provide adequate oversight and monitoring;*
6. *SCA structure – certainly Bell has focussed on the structure of reporting lines and focus as an operator as opposed to parent level. I think we should ask ourselves, for example, do we have a SCA risk and compliance officer? We are not Star or Crown and so it may be a case of if not why not and how does the SCA board satisfy itself that the risk and compliance function from a SCA, as opposed to SCEG perspective, is appropriate;*
7. *risk registers – its not clear to me whether SCA maintains its own or there are broader group registers. We should discuss if SCA has its own and again, if not why not. Either way it seems to me as part of the risk function at SCA board level they will need to filter up to the board on a regular basis if that is not presently happening;*
8. *employees – who employs the staff that operate the SCA asset and are responsible for our AML and host responsibility programs? If its not SCA how are they held to account from an SCA perspective;*
9. *culture – this term is used extensively and not without good reason. As an example a good safety culture in my experience generally leads to a good culture across a business in a broad sense. Similarly, I would expect a strong AML and host responsibility culture would lead to a good broad SCA culture. The board I think should consider how it will drive that and test it. How do we establish a "risk averse" culture? There are obviously a number of options and tools but which ones will give us best line of sight to our culture "when no-one is watching"? In addition, how do we test our curiosity and rigour in testing source of wealth and customer due diligence? Finally, from a training perspective are we doing enough and as discussed in the Bell report are we sharing the stories of harm caused by money laundering and problem gambling and why we as SCA want to help stamp it out;*
10. *options – as we discussed today the move to cashless carded play throughout a casino is the obvious and easy position people adopt to address a number of issues at an AML and HR level. It is no surprise people leap to that conclusion. As I understand it that position, at least directionally, might be something we could contemplate at VIP level. At a lower level and on the general gaming floor it is problematic and even more so if there is no parity across all venues in SA. Indeed if there is no parity the outcome for us as an operating business could be catastrophic. A successful*

submission by us on facial recognition it seems to me deals with many of the HR and time play issues that have been discussed in the reports. It would also help to some degree on AML. The remnant significant issue looking at Bell and Bergin if we were for example to move to carded cashless play at VIP level is the AML risk on the general gaming floor. It would, at least for me, be very helpful for the SCA board to understand what is the seriatim of possible options to better manage that risk if our current program and uplift is not considered enough. Those are options the SCA board should discuss even if limited.

That is probably enough for now. Some of these discussions may be complicated by our group structure and the relatively small size of the SCA business but I do think SCA needs to work through them and adopt common sense risk averse positions from a compliance perspective.

Please could someone forward it to me in full or provide an appropriate link to our AML/CTF program and HR program documentation?

Please take today and the above as an attempt to help by bringing fresh eyes to our consideration bearing in mind I haven't even been to SCA board meeting yet!

[185] Mr Ahearne provided a fairly detailed response by email of 5 October 2022. Broadly speaking, with limited exceptions, the points made by Mr Davis were accepted. Shortly after he was appointed Chair of the licensee's Board, by email of 22 October 2022 addressed to Mr David Fox and copied to Mr Christian and Mr Ahearne, Mr Davis made additional observations:

Thanks for the update.

Are there draft minutes and action list from the October SCA meeting please?

In terms of the table below (and no need to come back to me as these will need discussion at board level):

- 1. I wouldn't refer to my 28 September 2022 email as recommendations. They were no more than questions after reading the inquiry reports and I think I referred to them as a brain dump;*
- 2. looking forward to David's paper next week on card and cash options;*
- 3. I want the SCA board to meet before the SCEG board meeting in December. Its probably only an hour. Happy to discuss dates;*
- 4. if the risk appetite statement and risk policy is to be discussed at RiskCo on 26 October that is great but I cant see a paper on it from a SCA perspective. I accept a group process but SCA in my opinion needs to adopt a risk appetite statement and policy even if it mirrors group with appropriate changes for the change in jurisdiction. Insofar as its risks are a sub set of group I still think it needs, as the*

licencee, its own risk register. I don't think we should, or we should be seen, to just follow group and not actually apply our minds to it as the licensee;

5. *look forward to the structure and reporting lines work being done this week;*
6. *on the employee issue I still think the SCA board needs to better understand how accountability works if an employee is not employed by SCA, eg, does the employment contract cover all group entities including SCA and expressly states a role and accountability at SCA level in relation to the key roles concerning risk and IB both of which I think are NZ employed by group;*
7. *culture and its assessment is always difficult but we must be across it at SCA given the current context and into the future. Its one of the reasons I asked at the SCA board meeting about metrics being presented in relation to AML and host responsibility. Again, for next weeks SCEG meetings, if you look at the metrics being used to report on these matters there is a lot of raw data which is interesting and informative to an extent but in a way I ask myself "so what". What are those metrics and the numbers telling me about our compliance performance and our culture? Are they the right metrics to test those matters? What numbers in both leading and lagging indicators will provide assurance? I remain keen to discuss metrics and reporting that will inform the board from an assurance perspective that compliance is being adhered to and our culture is positive.*

Thanks for coming back to me.

[186] Mr Davis was an impressive witness and there is no doubt he is approaching his responsibilities seriously and conscientiously. Even at the early stages of his tenure as a director, Mr Davis gave close attention to relevant issues. According to a letter of 20 December 2022 from the licensee's solicitors when producing the email exchanges, as at 20 December 2022 'all of the matters and queries identified in Mr Davis's email have either been addressed in full by SkyCity Adelaide, or work is presently underway to address them'.

[187] In the letter of 31 March 2023, solicitors for the licensee emphasised that the Board of the licensee is now 'effectively autonomous'. Although SCEG 'continues to exercise a degree of oversight of SkyCity Adelaide, it does not interfere with any decisions made by the SkyCity Adelaide Board and could not overrule decisions of the SkyCity Adelaide Board'. The solicitors explained the formal reporting lines and procedures in place as at 31 March 2023.

[188] The letter of 31 March 2023 also dealt with the role of the Chief Operating Officer and changes to reporting lines in place in October 2022 which the letter stated had been made ‘to ensure that the SkyCity Adelaide Board (from a governance level) and the Chief Operating Officer of SkyCity Adelaide (at operational level) retain appropriate control over SkyCity Adelaide’s operations’. The letter continued:

Role of Chief Operating Officer

93. *Mr Christian was appointed as the Chief Operating Officer of SkyCity Adelaide in April 2019.⁵⁹ As the Chief Operating Officer, Mr Christian’s key responsibility is to lead and manage the SkyCity Adelaide casino, ensuring that operational and business strategies achieve the set revenue, profit, and visitation/market share targets.⁶⁰ As set out at paragraph 81 above, Mr Christian also serves as an executive director of the SkyCity Adelaide Board.*
94. *Mr Christian currently reports to the Chief Executive Officer of SCEG, Michael Ahearne. In this respect, Mr Ahearne physically visits the SkyCity Adelaide casino property once a month, or every six weeks (equating to between 10 to 12 visits per year). Mr Ahearne also has weekly meetings with Mr Christian, which are used as an opportunity for Mr Christian to provide Mr Ahearne with updates in respect of any SkyCity Adelaide operational matters that he thinks Mr Ahearne should be aware of (for information purposes only), and for Mr Ahearne to highlight non-operational issues affecting the SkyCity Group that Mr Christian should be aware of.*
95. *Whilst Mr Christian reports to, and receives instructions from, Mr Ahearne, as the Chief Operating Officer of SkyCity Adelaide, he is ultimately answerable to the SkyCity Adelaide Board and owes director’s duties to that company.*
96. *As the Chief Operating Officer of SkyCity Adelaide, Mr Christian currently holds the authority to make the following decisions independently of SCEG:⁶¹*
 - (a) *decisions to develop and drive implementation of operational, product, marketing and people strategies that meet revenue, visitation and market share objectives;*
 - (b) *decisions to develop and implement strategic initiatives to grow revenues and profit; and*
 - (c) *capex requests as per the DFA Policy.*

Direct Reports of Chief Operating Officer

97. *Mr Christian’s reporting lines are clear and distinct. As at March 2023, Mr Christian has twelve direct reports that cover each of SkyCity Adelaide’s key operational areas. Mr Christian’s direct reports as at March 2023 include:*
 - (a) *Stewart Neish, the General Manager of International Business and Tables Games;*

- (b) *Daryl Bruce, the General Manager of Electronic Gaming and Casino Food and Beverage;*
 - (c) *Richard Krawczyk, the General Manager of Support Operations;*
 - (d) *David Fox, the General Manager of Legal and Compliance;*
 - (e) *Way Seng, the General Manager of Customer Insights and Strategy Manager;*
 - (f) *Nick Stokes, the General Manager of Financial Crime;*
 - (g) *Stephan Fourie, the General Manager – ICT Adelaide (in respect of the progress of the SkyCity Adelaide AML EP);*
 - (h) *Jodi Brown, the General Manager of EOS Hotel and Hospitality;*
 - (i) *Cameron Tannock, the General Manager – People and Culture (Adelaide);*
 - (j) *Scott Johnson, the General Manager - Finance (Adelaide);*
 - (k) *Shayne Wicks, the General Manager of Marketing; and*
 - (l) *Libby Rayner, the General Manager of Communications and Public Relations.*
98. *The persons listed above are also, amongst others, members of the SkyCity Adelaide Senior Leadership team (**SkyCity Adelaide SLT**).*
99. *The SkyCity Adelaide SLT meets in person on a weekly basis every Wednesday. At each meeting of the SkyCity Adelaide SLT, which includes the General Manager of each core business unit, presents a summary of the key metrics and/or issues relevant to their operations.*
100. *Ultimately, the role of the SkyCity Adelaide SLT is to create, manage and implement SkyCity Adelaide's key strategies and to ensure that the business is operating as effectively and as efficiently as possible.*

Changes to Reporting Lines

101. *At the meeting of the SkyCity Adelaide Board on 10 October 2022, it was recorded that certain functions of SkyCity Adelaide report directly to SkyCity Group management and not SkyCity Adelaide management. In particular, it was noted that Nick Stokes, the General Manager of Financial Crime, reported to a SkyCity Group role (being the General Counsel and Company Secretary, Jo Wong). The SkyCity Adelaide Board subsequently requested that SkyCity Adelaide management review the SkyCity Adelaide management structure in place at the time.*
102. *The review requested by the SkyCity Adelaide Board was subsequently undertaken and at the next SkyCity Adelaide Board Meeting on 17 November 2022, it was resolved that, moving forward, Nick Stokes would report directly to*

Mr Christian (and not Ms Wong). It was also agreed that Mr Ahearne and Mr Christian should discuss any further opportunities for changes to existing reporting lines that might be appropriate and focus reporting on Adelaide.

103. *As at January 2023, there were two remaining functions at SkyCity Adelaide that reported directly to members of SCEG Management rather than into Mr Christian. They were as follows:*

(a) [REDACTED], *the General Manager People and Culture for SkyCity Adelaide, who reported to Claire Walker (the Group Chief People and Culture Officer); and*

(b) [REDACTED], *the General Manager of Finance at SkyCity Adelaide, who reported directly to Julie Amey (the Group Chief Financial Officer).*

104. *As set out at paragraph 102 above, the efficacy and appropriateness of reporting lines at SkyCity Adelaide are constantly under review and consideration by the SkyCity Adelaide Board and SkyCity Adelaide senior management. Accordingly, in March 2023, SkyCity Adelaide made changes to the reporting lines referred to above such that:*

(a) [REDACTED] *now reports to Mr Christian (and informally, to Ms Amey); and*

(b) [REDACTED] *now reports to Mr Christian (and informally, to Ms Walker until 24 March 2023 and Greg McNair (Acting Group Chief People and Culture Officer) from 27 March 2023).*

11.0 Board Management – Failure – Conclusion

[189] Prior to November 2021 the licensee, through its directors, completely failed to discharge its duties. Contrary to the view of the SCEG directors, over the years since 1999 the SCEG Board failed to ensure that the licensee was discharging properly its functions and obligations. In addition, as this Investigation and AUSTRAC discovered, the control exercised from a distance by the SCEG Board was inadequate in a number of respects. To the extent that the SCEG Board undertook to fulfil the obligations of the Adelaide Board, it failed in a number of significant areas relating to harm minimisation and AML/CTF requirements.

[190] If I had been asked to determine the suitability of the licensee and SCEG at the end of October 2021, the inevitable answer would have been that neither were suitable. Since then, the situation has changed. Through the Adelaide Board, the licensee is now exercising its powers and its functions and responsibilities in respect of harm minimisation and AML/CTF obligations. In

December 2022 there remained significant areas of the casino operations where SCEG, or its senior management, inappropriately retain centralised control, but appropriate changes were subsequently introduced which appear to have remedied these deficiencies.

12.0 Change in Personnel

[191] Since this Investigation commenced, there have been significant changes and additions to the ranks of senior management personnel. The Chief Executive Officer of SCEG, Mr Michael Ahearne, ceased in that role in March 2024 and was replaced on 17 April 2024 by Mr Jason Walbridge who commenced his duties in July 2024. The market release from SCEG provided the following information concerning Mr Walbridge:

“Jason has more than two decades of senior executive public company experience in the global land-based and on online gaming industries. He is currently a Strategic Advisor to global gaming and technology company Aristocrat Leisure Limited on its proposed acquisition of NeoGames S.A, and Executive Chairman of National Entertainment Network LLC, the largest amusement route operator in the United States. He has been appointed to the role after an extensive international search...

...Prior to his current roles, Mr Walbridge held roles with the online gaming supplier NYX Gaming Group Limited and its acquirer Light & Wonder Inc, and before that he spent 18 years with Aristocrat Leisure limited where he held executive leadership roles in New Zealand and the United States. Previously, he held senior roles within consulting, including with Ernst & Young, and was an Officer in the New Zealand Defence Force. Mr Walbridge holds an MBA in International Management from Auckland Institute of Studies.”

[192] Perhaps the most significant change came with the resignation of Mr Christian, who stepped down from his role as Chief Operating Officer Australia on 12 April 2024. Ms Avril Baynes was appointed to the role of Interim Chief Operating Officer Australia, effective from 13 April 2024.

Ms Baynes held the role of General Manager Hospitality with the licensee since November 2023. Prior to joining the licensee she was General Manager of the Mindil Beach Casino Resort in Darwin from May 2019 to November 2023. Ms Baynes was appointed full time Managing Director in September 2024.¹¹

13.0 Independence of Directors

[193] As discussed, by December 2022 the directors of the licensee were Mr Davis and Mr Christian, both of South Australia, and Mr Cook of New Zealand who was the Chair of the SCEG Board. Mr Davis was also a director of SCEG, and Mr Christian was the Chief Operating Officer (Australia) for SCEG. While the primary role of Mr Christian was, effectively, as General Manager of the Adelaide Casino, he was employed by SCEG.

[194] Ms Bergin considered the question of the independence of directors. She observed that Boards ‘are increasingly expected to not only be responsible for governance but also to be a challenger of the business, of the decisions made by executives, management and each other’ ch 4.1 [41]. The report continued:

42 The 3rd and 4th ASX Principles include the following:

A high performing, effective board is essential for the proper governance of a listed entity. The board needs to have an appropriate number of independent non-executive directors who can challenge management and hold them to account, and also represent the best interests of the listed entity and its security holders as a whole rather than those of individual security holders or interest groups.

43 Those ASX Principles caution that the designation of independence is “not one that should be applied lightly” to directors, as it is one that “gives great comfort to security holders” for the Board’s role in safeguarding their interests. In addition to acting as a counterpoint for management, directors must also check and balance each other. Accordingly, a director should only be classified as “independent”, if they are:

Free of any interest, position, association or relationship that might influence, or

¹¹ Other important changes of personnel in senior management positions are discussed later in this Report.

reasonably be perceived to influence, in a material respect, his or her capacity to bring an independent judgment to bear on issues before the board and to act in the best interests of the entity and its security holders generally.

44 *Examples of situations that could jeopardise a director's independence include:*

- (a) Current or previous executive roles with the entity or its subsidiaries within a certain timeframe;*
- (b) Current or previous employment, partnerships or directorships*
- (c) Being the entity's substantial shareholder or associated with a substantial shareholder of the entity; and*
- (d) Having close family ties with any person belonging to the above categories.*

45 *Unsurprisingly, the majority of the ASX Principles relating to structuring the Board to add value are aimed at maximising its independence, including the following:*

- (a) Independent directors should constitute a majority of the Board;*
- (b) Entities should disclose the names of the independent directors;*
- (c) Entities should have a nomination committee chaired by an independent director, and comprised of a majority of independent directors; and*
- (d) The Chair of the Board should be an independent director, "and in particular, should not be the same person as the CEO of the entity".*

46 *A Board with a majority of independent directors diminishes the likelihood that a singular experience, skillset or perspective will dominate decision making, and skew outcomes from the best interests of shareholders and the entity as a whole. This also highlights the relationship between Board independence and diversity, in terms of personal attributes and professional expertise. A pertinent observation on this topic is the following:*

Boards will be far more effective in their challenger role if they offer seats to individuals with professional experiences and viewpoints that are very different from those of the executive team. Directors can learn to be more direct with management, but it's hard to fake contrarianism when everyone is of the same mind. When a board resembles the CEO in mindset and outlook, it's a recipe for a gatekeeper board, not a challenger board (footnotes omitted).

[195] In evidence both Mr Davis and Mr Cook expressed the view that the position of Mr Cook as Chair of the SCEG Board did not impact upon his independence. They pointed out that the interests of the two entities are in alignment, but there might be situations in which the interests or views are

not in alignment. Of significance was the executive position held by Mr Christian, and his role in the operations of the casino during the relevant period covered by this and the AUSTRAC investigations.

[196] In January 2023, I was of the view that it would have been prudent of the licensee's Board to implement the appointment of an additional, truly independent and qualified, Australian based director.

[197] As at July 2024, the directors of the licensee were Mr Davis who was appointed on 8 September 2022 and Mr Cook appointed 11th October 2022, together with Ms Baynes who was appointed in April 2024. In evidence Ms Baynes said she believes an Independent Director should be appointed. She also said that with the benefit of experience on the Board, Mr Davis now agrees with this view.

14.0 Anti-Money Laundering Legislative Scheme

[198] As discussed, one of the objects of the South Australian legislative scheme for the operation of all gambling, particularly gambling in the Adelaide Casino, is to ensure that gambling is conducted 'honestly, and free from interference, criminal influence and exploitation...'. As far as is reasonably possible, the licensee is required to ensure that the casino is not used for criminal conduct such as money laundering. Other inquiries have observed that casinos are particularly vulnerable to exploitation by way of money laundering. It is imperative that casino directors and staff at all levels possess integrity and a culture of compliance and proactivity in the context of preventing all crime, particularly money laundering.

[199] The essential obligations of casinos with respect to preventing money laundering are found in the AML/CTF Act and AML Rules. Ms Bergin summarised those obligations:

Reporting entities

- 21 *The AML/CTF Act imposes a number of customer identification requirements and reporting obligations on “reporting entities”. S 5 defines a “reporting entity” as a person who provides a “designated service”.*

Designated service

- 22 *The definition of designated services in s 6 of the AML/CTF Act is complicated and proceeds through two stages. At the first stage, it is necessary to see whether a service provided by a person falls within one of four tables contained in s 6 and what the tables say about the customer to whom the service is provided. At the second stage, it is necessary to determine whether the “geographical link” test is satisfied which raises a question about whether the service is provided at or through a “permanent establishment”.*

- 23 *The four tables which relate to designated services are:*

- (a) Table 1, which relates to “financial services” and which itemises 54 designated services and specifies who the customer is in relation to the provision of each of these services;*
- (b) Table 2, which relates to “bullion”, and which itemises two designated services and specifies who the customer is in relation to the provision of each of these services;*
- (c) Table 3, which relates to “gambling services”, and which itemises 14 designated services and specifies who the customer is in relation to the provision of each of these services; and*
- (d) Table 4, which provides that the regulations may prescribe other designated services and specify who the customers are in relation to those services.*

- 24 *In respect of “gambling services”, Table 3 includes:*

- (a) Item 1 – receiving or accepting a bet placed or made by a person, where the service is provided in the course of carrying on a gambling business;*
- (b) Item 3 – introducing a person who wishes to make or place a bet to another person who is willing to receive or accept the bet, where the service is provided in the course of carrying on a gambling business;*
- (c) Item 4 – paying out winnings in respect of a bet, where the service is provided in the course of carrying on a gambling business; and*
- (d) Item 8 – exchanging money or digital currency for gaming chips or tokens, or betting instruments, where the service is provided in the course of carrying on a business.*

- 25 *Items 11 to 13 of Table 3 are concerned with designated services provided in the capacity of being an “account provider”. Item 11 is concerned with acting in the capacity of an account provider and opening an account, with the customer being the holder of the account. Item 12 is concerned with acting in the capacity of an account provider and allowing a person to become a signatory to the account, in which case*

the customer is the signatory. Item 13 is concerned with acting in the capacity of an account provider and allowing a transaction to be conducted in relation to an account, in which case the customer may be the holder of the account and each other signatory to the account.

26 “Account” specifically includes a credit card, loan, or money held in the form of units.³¹ However, a person only provides a designated service in respect of an account, under Items 11 to 13 of Table 3, if:

- (a) The “account provider” is a person who provides one of the “gambling services” listed in items 1, 2, 3, 4, 6, 7, 8 or 9 of Table 3; and
- (b) The purpose or one of the purposes, of the account is to facilitate the provision of one of those gambling services; and
- (c) The service is provided in the course of carrying on a business.

27 The opening of an “account” for a customer will only amount to a designated service under Table 3 of s 6 if the account provider provides gambling services, does so in the course of carrying on a business, and the account is being used for the purpose of facilitating the gambling services it provides.

28 While Table 3 is expressly concerned with gambling services, it is also possible that a casino operator will provide financial services and so provide a designated service for the purposes of Table 1 of s 6. In particular, Items 31 and 32, which deal with providing a “remittance service”, are relevant.

29 Item 31 of Table 1 provides that a designated service is provided when the provider acts in the capacity of a “non-financier” carrying on a business of giving effect to “remittance arrangements”, accepting an instruction from a transferor entity for the transfer of money or property under a “designated remittance arrangement”. In this case, the customer is the transferor entity.

30 Item 32 of Table 1 provides that a designated service is provided when the provider acts in the capacity of a “non-financier” carrying on a business of giving effect to “remittance arrangements”, making money or property available, or arranging for it to be made available, to an ultimate transferee entity as a result of a transfer under a “designated remittance arrangement”. In this case, the customer is the ultimate transferee entity.

31 It is not necessary to explore the definitions of “non-financier”, “designated remittance arrangement” or “remittance arrangement” in detail. It suffices to note that casino operators are “non-financiers”, a “remittance arrangement” is an agreement or arrangement to transfer funds, and a “designated remittance arrangement” is where a non-financier accepts an instruction to transfer funds or makes the funds available pursuant to such an instruction.

The geographic link test and the concept of a “permanent establishment”

32 As mentioned above, determining whether a person provides a designated service proceeds through two stages. The second stage requires consideration of the

“geographic link” test set out in s 6(6). Integral to this test is the notion of a “permanent establishment” of a person. This expression is defined in s 21(1) as “a place at or through which the person carries on any activities or business, and includes a place where the person is carrying on activities or business through an agent.”

33 The effect of s 6(6) is that a designated service must be provided by the person:

- (a) *At or through the person’s permanent establishment in Australia;*
- (b) *At or through the person’s permanent establishment of the person in a foreign country provided that the person is a resident of Australia; or*
- (c) *At or through the person’s permanent establishment in a foreign country provided that the person is a subsidiary of a company that is a resident of Australia.*

34 The term “resident” is defined in s 14. S 14 sets out a series of rules for when individuals, companies, trusts, partnerships, corporations sole and bodies politic will be taken to be residents.

Customer identification requirements

35 Part 2 of the AML/CTF Act imposes obligations on reporting entities to take certain steps to verify the identities of their customers. In particular, reporting entities must carry out a procedure to verify a customer’s identity before providing a designated service to that customer.

36 However, the AML/CTF Rules modify these obligations in respect of certain industries and Chapter 10 modifies them in relation to casinos. The customer identification procedures and ongoing customer due diligence requirements must be set out by a reporting entity in Part B of its AML/CTF compliance program.

The obligation to enrol

37 Under s 51B of the AML/CTF Act, a person who provides a designated service must apply to the CEO of AUSTRAC to be enrolled as a “reporting entity” within 28 days of commencing to provide the designated services. Failure to do so is a civil penalty offence.

The obligation to report

38 A “reporting entity” is obliged to report various matters to the CEO of AUSTRAC. These reporting obligations are set out in Part 3 of the AML/CTF Act and in particular include obligations to report:

- (a) *Suspicious matters, where the reporting entity suspects on reasonable grounds that the person is not who they claim to be or if there is a suspicion of money laundering (amongst other things);*
- (b) *Threshold transactions, being \$10,000 or more of physical currency;*

- (c) *International funds transfer instructions (IFTIs), which are instructions to transfer money or property to either Australia from another country or another country from Australia;*
- (d) *Anti-money laundering and counter-terrorism financing compliance reports, which are typically reported to AUSTRAC on an annual basis, although AUSTRAC can, and has, waived this requirement on occasion.*

The “tipping off” offence

39 *Within the AML/CTF Act there are also provisions which are intended to protect against the risk that the person in respect of whom a suspicious matter report is made will be “tipped off” that a report has been made in relation to their activities. The obvious purpose of such a section is to prevent that person from taking actions which could prejudice the investigation or potential prosecution of themselves or others for money laundering offences, by for example informing other perpetrators, the concealment of evidence or leaving the jurisdiction.*

40 *S 123 is commonly referred as the “tipping off” provision. In summary it provides that if a suspicious matter reporting obligation arises or has arisen and the reporting entity has reported to the CEO of AUSTRAC under s 41(2), the reporting entity must not disclose that information to others.*

41 *Notably however, the section only applies where the entity is a reporting entity and an obligation to report has arisen. S 124 provides that suspicious matter reports are not admissible in evidence in any Court or tribunal proceedings.*

The obligation to have an AML/CTF Compliance Program

42 *A further obligation imposed upon reporting entities by the AML/CTF Act is the requirement to develop and maintain an anti-money laundering and counterterrorism financing compliance program (Compliance Program). A failure to comply with Part A of the Compliance Program exposes a reporting entity to a civil penalty.*

43 *There are two types of Compliance Programs. First, there are “standard” Compliance Programs. Standard Compliance Programs apply to a particular reporting entity. Secondly, there are “joint” Compliance Programs, which apply to each reporting entity that from time to time belongs to a particular “designated business group”. A designated business group is defined as a group of two or more persons where each member of the group has elected in writing to be a member of the group and the election was made in accordance with the AML/CTF Rules. The requirements of both types of Compliance Programs are broadly similar. During the Inquiry Crown was planning to move from having a standard Compliance Program for each of Crown Melbourne and Crown Perth to a Joint Compliance Program relating to both Crown Melbourne and Crown Perth, as well as to Crown Sydney when it commences operations.*

44 *Both a standard Compliance Program and a joint Compliance Program must be divided into Parts A and B. Both Parts A and B of the Compliance Program must comply with the requirements of the AML/CTF Rules.*

45 *The primary purpose of Part A of the Compliance Program is to identify, mitigate and manage the risk that a reporting entity may “reasonably face” that the provision by it of the designated services at or through a permanent establishment in Australia might (inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism. According to AUSTRAC this approach “recognises that industry sectors are best placed to identify and manage the money laundering risks they face.”*

46 *Requirements under Part A include:*

- (a) An obligation to include an AML/CTF risk awareness training program, that gives the person’s employees appropriate training at appropriate intervals having regard to the AML risks reasonably faced by the organisation;*
- (b) A requirement to include an employee due diligence program to determine whether, and in what manner, to screen prospective employees who may be in a position to facilitate money laundering or counter-terrorism offences;*
- (c) A requirement that Part A be approved by and be subject to ongoing oversight of the reporting entity’s board and senior management;*
- (d) A requirement that the reporting entity designate a person at management level as the “AML/CTF Compliance Officer”, although that person may have other duties; and*
- (e) An obligation to have a regular and independent review of Part A.*

47 *Part A of the Compliance Program includes a requirement that a reporting entity adopt a money laundering and terrorist financing risk assessment specific to that reporting entity. This assessment needs to consider the risk posed by its customers, the designated services provided, the method by which those services are delivered and any foreign jurisdictions with which they deal.*

48 *Understanding the risks to the reporting entity’s business is critical and the program is required to be regularly reviewed and updated. Reporting entities must also factor in any applicable AUSTRAC guidance material and feedback from AUSTRAC, including anything AUSTRAC have circulated or published such as risk assessments specific to the reporting entity’s sector.*

Customer due diligence

49 *Part B of the Compliance Program has the sole or primary purpose of setting out customer identification procedures. It is focused on reporting entities identifying and verifying customers and beneficial owners including politically exposed persons (PEPs). It must include the processes and procedures for know your customer (KYC) and their beneficial owners.*

50 *Customer due diligence is a necessary function as it helps measure and consider risk by understanding the source of funds and the source of wealth of a particular customer. Unlike the Part A component of a Compliance program, there is no legal*

requirement for a reporting entity to have the Part B component of the program reviewed by an auditor.

- 51 *Customer identification procedures under the AML/CTF Act can be altered by the AML/CTF Rules providing exemptions based on the type of designated service that is provided.*

Know Your Customer requirements generally

- 52 *Ss 27 to 39 of the AML/CTF Act determine the requirements for the verification of customers of reporting entities. Specifically, s 35 requires reporting entities to take the actions specified in the AML/CTF Rules, within the time stipulated.*

- 53 *Additionally, if a reporting entity is unable to verify the identity of an individual, it is required to give written notice that it is unable to identify the individual and offer the individual an alternative means of verifying their identity.*

- 54 *The AML/CTF Rules provide that a Compliance Program applicable to a reporting entity must include a procedure to collect at a minimum the customer's full name; date of birth; and residential address (KYC information).*

- 55 *The AML/CTF Rules require that the reporting entity's Compliance Program include "appropriate risk-based systems and controls" to enable the reporting entity to determine whether any further KYC information is required to be collected from a customer.*

- 56 *A reporting entity's Compliance Program is also required to verify that the relevant KYC information collected from customers is based on reliable and independent documentation and/or reliable and independent electronic data. Accordingly, a reporting entity's Compliance Program is required to:*

- *Collect the KYC information;*
- *Verify the customer's name, address or date of birth; and*
- *Verify that the documents relied upon for identification verification have not expired.*

- 57 *Additionally, the AML/CTF Act contains a requirement for reporting entities to obtain KYC information and conduct Enhanced Customer Due Diligence (ECDD) when a customer is a company. Equivalent or similar requirements apply to domestic, foreign registered and unregistered companies.*

Customer due diligence in casinos

- 58 *Chapter 10 of the AML/CTF Rules govern casinos specifically and cover customer identification, and verification of identity of patrons. It provides exemptions to certain ordinary rules including:*

- (a) *An exemption to the requirement to collect KYC information on casino patrons in respect of specified gambling services that are considered designated*

pursuant to Table 3 of s 6 of the AML/CTF Act, provided that they involve an amount of less than \$10,000; and

- (b) An exemption in relation to transactions that involve \$10,000 or more that involve the patron giving or receiving only gaming chips or tokens.*

59 However, these exemptions do not apply when the reporting entity determines it should obtain and verify KYC information as required by its ECDD program.

60 Casinos are required to perform customer due diligence in respect of certain designated services including the following:

- (a) If the casino determines that in accordance with its enhanced customer due diligence program it should obtain and verify any KYC information;*
- (b) If the casino provides a customer one of the following, which amounts to \$10,000 or more:*
 - i. The purchase of or redemption of gaming chips;*
 - ii. The making of a bet or receiving winnings; or*
 - iii. The paying out winnings in respect of a game played on a gaming machine.*

If the casino provides a customer one of the following:

- i. The opening of an account with the casino;*
- ii. The exchanging of currency at the casino; or*
- iii. Receiving from casinos a designated service that is covered in Table 1 of s 6 of the AML/CTF Act.*

61 The casino is not required to undertake record keeping of the following designated services:

- (a) The receiving or accepting a bet placed;*
- (b) Placing or making a bet on behalf of a person;*
- (c) Accepting the entry of a person into a gambling game; and*
- (d) Paying out winnings in chips or tokens.*

62 A casino will be required to verify customer information as soon as it commences to provide another designated service or where a suspicious matter reporting obligation arises.

Enhanced customer due diligence

63 Chapter 15 of the AML/CTF Rules requires a reporting entity to have an enhanced due diligence program, which provides a model for customers that the reporting

entity has escalated to high risk and who will therefore be subject to closer monitoring.

64 *Enhanced due diligence must apply if:*

- *The reporting entity determines money laundering or terrorism financing risk is high;*
- *The designated service is being provided to a customer or beneficial owner who is a foreign PEP;*
- *A suspicious matter reporting obligations arises; or*
- *The reporting entity is entering into or proposes to enter into a transaction with a party that is physically present in or is a company incorporated in a prescribed foreign country.*

Ongoing customer due diligence

65 *The AML/CTF Act also requires reporting entities to perform “ongoing customer due diligence” (OCDD). The requirements for OCDD to be conducted are set out in the AML/CTF Rules, and include the collection and verification of up to date documents.*

66 *Reporting entities are required to monitor the customers to whom they provide a designated service and identify, mitigate and manage any reasonable risk of money laundering or terrorism financing. These requirements extend to enhanced due diligence programs and a reporting entity will be required on review of a customer to obtain information from a third party source and clarify or update the KYC information on the customer.*

Transaction monitoring program

67 *Reporting entities are required to include a Transaction Monitoring Program (TMP) in the Part A component of their Compliance Programs. The TMP must include appropriate risk-based systems and controls to monitor the transactions of customers. It must have the capacity to identify any transaction that appears to be suspicious within the terms of s 41 of the AML/CTF Act.*

68 *Importantly, the TMP should have regard to complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose. TMP’s can be manual, fully automated or a combination of both. They must be able to target the relevant vulnerabilities.*

The role of the AML/CTF Compliance Officer

69 *The AML/CTF Compliance Officer is “responsible for making sure your business complies with the AML/CTF obligations”. The AUSTRAC published guidance provides examples of the duties of the AML/CTF Compliance Officer including:*

- *Reporting regularly to the Board and senior management about how the business is meeting its obligations under the AML/CTF Act and alerting them if it is not;*
- *Helping to create, implement and maintain internal policies, procedures and systems for AML/CTF Compliance; and*
- *Taking day-to-day responsibility for the AML/CTF Program.*

70 *The Compliance Officer is usually a senior officer who has some independence from the business and has access to the executive and the Board for independent reporting and management purposes. This independence is important in ensuring that the officer is not influenced or constrained in their duties.*

The obligation to mitigate and manage the risks of money laundering

71 *More is required from a reporting entity than compliance with its reporting obligations. The primary purpose of Part A of a reporting entity's Compliance Program is to ensure that it not only identifies its risks of money laundering, but that it also mitigates and manages those risks.*

72 *A reporting entity must also undertake a risk assessment. This assessment needs to consider the risk posed by its customers, the designated services provided, the method those services are delivered and any foreign jurisdictions with which they deal.*

73 *The reporting entity develops its Compliance Program to establish steps to identify, prioritise, and control risks, and monitor how effectively risks are being managed. In formulating this framework a reporting entity is better equipped to determine the risks of dealing with a particular customer prior to the commencement of a business relationship. Consequently, a decision may be made not to transact with that customer which ultimately assists in preventing money laundering.*

74 *The obligation to report arises in Part 3 of the AML/CTF Act. Breach of those obligations is a civil penalty offence. The obligation to have a compliance program which includes Part A, arises under Part 7 of the AML/CTF Act. The failure to comply with Part A is a civil penalty offence.*

75 *Where a suspicion is identified, triggering a reporting obligation to AUSTRAC, the reporting entity should monitor the risk associated with the suspicious matter in terms of its vulnerability to money laundering. One such consideration is whether to continue the business relationship with that specific customer or customers who have a similar risk profile.*

76 *The UK Gambling Commission in its guidance on the prevention of money laundering and combatting the financing for terrorism outlined steps which may be taken following a suspicious matter report:*

Casino operators should also note that, in the Commission's view, the reporting defence is not intended to be used repeatedly in relation to the same customer. In the case of repeated SAR submissions on the same customer, it is the Commission's view that this is not a route by which operators can guarantee a reporting defence retrospectively. If patterns of gambling lead to an increasing level of suspicion of

money laundering, or to actual knowledge of money laundering, operators must seriously consider whether they wish to allow the customer to continue using their gambling facilities. Casino operators are, of course, free to terminate their business relationships if they wish and, provided this is handled appropriately, there will be no risk of ‘tipping off’ or prejudicing an investigation. However, operators should think about liaising with the law enforcement investigating officer to consider whether it is likely that termination of the business relationship would alert the customer or prejudice an investigation in any other way.

77 Assessment of the money laundering and terrorism financing risks posed to a reporting entity is a continuing obligation focused around constant improvement. The need for a reporting entity to be both proactive in identifying and managing risks and responsive in mitigating issues as they arise is vital to having an effective Compliance Program that responds to the known vulnerabilities of a casino. This proactiveness and responsiveness is a key hallmark of a culture of compliance.

Money laundering offences

78 As mentioned earlier, one of the key features of the FATF framework to combating money laundering is the imposition of criminal sanctions. This has occurred at both Commonwealth and State levels in Australia.

79 Money laundering is criminalised by Part 10.2 of the Criminal Code Act 1995 (Cth) (Criminal Code). The Criminal Code treats the concepts of “proceeds of crime” and “instruments of crime” separately:

(a) “Proceeds of crime” is any money or other property wholly or partly derived or realised, directly or indirectly, by any person committing an offence against a law of Australia or a foreign country that may be dealt with as an indictable offence;

(b) “Instruments of crime” is money or other property that is used or used to facilitate the commission of an offence.

80 The Criminal Code makes it unlawful to deal in money or property that is the proceeds of crime or the instruments of crime if the person so dealing intentionally does so, or is reckless or negligent to that fact (in decreasing order of seriousness and maximum penalties). Division 5 of the Criminal Code deals with the fault elements of intention, knowledge, recklessness and negligence.

81 Recklessness is where a person is aware of a substantial risk that a circumstance or result will occur and having regard to that known circumstance or result, it is unjustifiable to take that risk. The question of whether taking a risk is unjustifiable is one of fact. A person has knowledge of a circumstance or a result if they are aware that it exists or will exist in the ordinary course of events.

82 New South Wales, Victoria and Western Australia have each enacted slightly different provisions within their criminal legislation.

The effect of s 51 of the AML/CTF Act

83 *One effect of registration with AUSTRAC as a reporting entity is to confer an immunity to certain Commonwealth money laundering offences where the reporting entity has made certain reports to AUSTRAC, including suspicious matter reports. This is because s 51 of the AML/CTF Act effectively negates the knowledge component of those offences, providing:*

If a person, or an officer, employee or agent of a person, communicates or gives information under s 41, 43, 45 or 49, the person, officer, employee or agent is taken, for the purposes of Division 400 and Chapter 5 of the Criminal Code, not to have been in possession of that information at any time.

84 *Clearly enough the protection conferred by s 51 does not apply to entities which are not reporting entities (footnotes omitted).*

[200] As summarised by Ms Bergin, the essential obligations particularly relevant to the licensee require the licensee:

- To report to AUSTRAC:
 - (a) *Suspicious matters, where the reporting entity suspects on reasonable grounds that the person is not who they claim to be or if there is a suspicion of money laundering (amongst other things);*
 - (b) *Threshold transactions, being \$10,000 or more of physical currency;*
 - (c) *International funds transfer instructions (IFTIs), which are instructions to transfer money or property to either Australia from another country or another country from Australia;*
 - (d) *Anti-money laundering and counter-terrorism financing compliance reports, which are typically reported to AUSTRAC on an annual basis, although AUSTRAC can, and has, waived this requirement on occasion.*
- To develop and maintain an Anti-Money Laundering and Counter-Terrorism Financing Compliance Program (Compliance Program), divided into Parts A and B, both of which Parts comply with the AML/CTF rules.

[201] The primary purpose of Part A is to 'identify, mitigate and manage the risk that a reporting entity may reasonably face' from the provision of gambling services which 'might (inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism'. Specific requirements under Part A, as summarised by Ms Bergin, include:

- (a) *An obligation to include an AML/CTF risk awareness training program, that gives the person's employees appropriate training at appropriate intervals having regard to the AML risks reasonably faced by the organisation;*
- (b) *A requirement to include an employee due diligence program to determine whether, and in what manner, to screen prospective employees who may be in a position to facilitate money laundering or counter-terrorism offences;*
- (c) *A requirement that Part A be approved by and be subject to ongoing oversight of the reporting entity's board and senior management;*
- (d) *A requirement that the reporting entity designate a person at management level as the "AML/CTF Compliance Officer", although that person may have other duties; and*
- (e) *An obligation to have a regular and independent review of Part A.*

[202] The licensee must adopt, in Part A, a money-laundering and terrorist financing risk assessment specific to the licensee and its operations. As Ms Bergin pointed out, 'understanding the risks to the reporting entity's business is critical and the Program is required to be regularly reviewed and updated'.

[203] The licensee is required to include a Transaction Monitoring Program (TMP) in Part A. It is essential that the TMP possesses the capacity to identify suspicious transactions, and that it includes systems and controls to monitor the transactions of customers.

[204] Part B of the Compliance Program is concerned with customer identification procedures. This includes identifying and verifying customers and beneficial owners through due diligence inquiries and, where the licensee has escalated a customer to 'high risk', through an Enhanced Due Diligence Program. The obligations with respect to due diligence are ongoing.

[205] The day-to-day responsibility for administration of the Compliance Program should rest with an AML/CTF Compliance Officer. Ms Bergin observed that such Officer is usually 'a Senior Officer that has some independence from the business and has access to the executive and the Board for independent reporting and management purposes'. In Ms Bergin's view, such independence is important in ensuring that the Officer is not influenced or constrained in their duties.

[206] Ms Bergin's description of the obligation to mitigate and manage the risks of money laundering merits repeating.

71 More is required from a reporting entity than compliance with its reporting obligations. The Primary purpose of Part A of a reporting entity's Compliance Program is to ensure that it not only identifies its risks of money laundering, but that it also mitigates and manages those risks.

...

77 Assessment of the money laundering and terrorism financing risks posed to a reporting entity is a continuing obligation focused around constant improvement. The need for a reporting entity to be both proactive in identifying and managing risks and responsive in mitigating issues as they arise is vital to having an effective Compliance Program that responds to the known vulnerabilities of a casino. This proactiveness and responsiveness is a key hallmark of a culture of compliance.

[207] As is apparent from this brief overview of AML/CTF issues, the AML/CTF Act and AML Rules impose significant obligations upon the licensee with respect to identifying, mitigating and managing the risk that the licensee's operations might involve or facilitate money laundering or the financing of terrorism. In order to meet those obligations, understanding the risk and adopting a program to meet that risk are of critical importance. A culture that encourages proactivity and compliance in this area is essential.

15.0 Reviews of Compliance Program 2016 and 2018

[208] As required by the legislation and rules, the licensee maintained a Compliance Program.¹² In 2016 the licensee retained Ernst and Young (EY) to undertake an independent review of Part A. EY's Report is dated 3 August 2016, and it identified a number of inadequacies in the Program which were summarised in the following findings:

- The licensee 'is unable to demonstrate its transaction monitoring Program operates effectively'.

¹² A Program which the licensee accepted in the Federal Court did not comply with the AML/CTF Act and AML Rules.

- ‘The draft employee Due Diligence program is not supported by a documented risk assessment. Current employee screening and re-screening checks are not formally documented’.
- ‘Suspicious Matter Reports and IFTIs reports submitted to AUSTRAC contained errors or omitted information’.
- ‘Employees have not completed AML/CTF training within required timeframes’.

[209] The EY Report of 3 August 2016 noted actions and undertakings by the licensee with respect to rectifying the defects. EY also made a number of recommendations for improvement.

[210] On 22 May 2018 EY was again retained to conduct an independent review of Part A of the licensee’s Compliance Program. In a generally positive Report of 12 October 2018, EY identified issues concerning training and methodology which EY described as representing ‘relatively minor areas for improvement’. In EY’s view, overall, there was a ‘good level of compliance’ with the AML/CTF Act and Rules. Among the small number of employees interviewed, managing AML/CTF risks was a ‘genuine priority’, and employees felt comfortable raising any compliance-related issue with management.

[211] The Compliance Program was updated in April 2019, and again in February, June and October 2021.

16.0 AUSTRAC – 2016

[212] In July 2016 AUSTRAC undertook an assessment of the licensee’s Compliance Program dated February 2015, and conducted an onsite visit. AUSTRAC took into account the 2016 EY Review. It recommended that the licensee immediately address the findings in that review.

[213] In a letter of 10 November 2016,¹³ AUSTRAC stated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
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[214] The licensee responded by letter of 8 December 2016 advising that all findings in the EY Report were addressed by 30 September 2016. The letter also advised that the licensee was making further changes to the Compliance Program to address the concerns raised in AUSTRAC's letter.

¹³ Annexure [6].

[215] On 31 January 2017, AUSTRAC wrote to the licensee confirming that the [REDACTED]
[REDACTED]
[REDACTED]

17.0 2016 – Practical Operation – First AML Analyst

[216] In 2016 the licensee hired a person of experience in the AML field and, in substance, gave that employee the exceptionally large task of dealing with the AML/CTF responsibilities of the licensee. This employee worked alone, carrying the title ‘AML Analyst’, until given an additional resource in 2018 of an unqualified person for 8 hours on a Thursday. Although there was a Compliance Manager in place, that employee was mainly concerned with ensuring that the marketing team complied with its obligations, and played little role in connection with the AML/CTF obligations. After 6 months the Compliance Manager was replaced by V.

[217] At the time the first Analyst commenced employment, the Analyst realised there were a number of areas in connection with the AML operations that needed improving. In particular, there was a lack of resources and the IT system was inadequate. Little guidance was provided with respect to risk ratings and the ECDD processes were inadequate. The Analyst raised these issues with V who was sympathetic, but little happened.

[218] The Analyst explained that when the Analyst commenced employment, AML responsibilities were divided among the various business divisions. The understanding of the AML/CTF requirements was poor, and the system was not working well. It was the role of the Analyst to bring the divisions together and to set up an appropriate structure around the AML/CTF operations. Although an AML Committee meeting involving representatives from different Business Units was held monthly at the time the Analyst commenced, after about 12-18 months the meeting moved to 3 monthly because there was difficulty with securing sufficient attendance.

- [219] The Analyst dealt directly with the Business Divisions, but the lack of understanding of the AML/CTF requirements permeated throughout all levels of the casino operation. The Analyst was met with significant resistance from many Heads of Business Divisions. In particular, International Business and the VIP division were hostile, and did not wish to pursue customers in order to obtain appropriate information. In the Analyst's view, the primary concern was generating income. Notwithstanding that the Analyst was responsible for all source of wealth and ECDD checks, the Analyst struggled to get necessary information, particularly from the VIP Division, and did not trust the integrity of the information given. The Analyst was not provided with access to bank accounts. In order to obtain the information required to undertake the AML functions, the Analyst cultivated good relationships with personnel below management level. Contrary to the attitude of Management, particularly in the area of VIP's, the Analyst found that staff at the lower level were receptive to training and keen to do the right thing.
- [220] From the outset, when the Analyst endeavoured to escalate customers to the highest level of significant risk, if the customer was a VIP, management restricted the escalation. Apart from the automatic escalation to significant risk in respect of politically exposed persons (PEP), the criteria were not specific leaving the Analyst to recommend escalation if the Analyst considered it was appropriate. For example, drug convictions were regarded by the Analyst as demonstrative of a need to escalate the customer to significant risk, but attempts in that regard were rejected by management because the convictions were not specifically AML related. When the Analyst raised concerns with V, the response was that this was the way management wanted to do it.
- [221] The Analyst explained feeling isolated in AML committee meetings because recommendations made were contrary to the wishes of managers who attended those meetings. The Analyst held serious reservations about the maintenance of confidentiality with respect to the issues and customers discussed at those meetings. According to the Analyst, those concerns were shared by V and, in later meetings, the Analyst ceased identifying particular customers and dealt with issues at a 'higher' level of generality. It is unnecessary to discuss further details in this regard.

- [222] Two additional matters from the evidence of the first Analyst should be mentioned. First, the Analyst gave evidence of an occasion when a garnishee notice prevented a customer from cashing out their chips. A VIP Host was heard to instruct the customer how to avoid being detected. This conduct was the subject of a report, but it came back with the decision that there was not enough evidence to pursue the matter.
- [223] Secondly, the Analyst spoke of the manner in which Junket funds would be sent from New Zealand to South Australia for the purpose of withdrawing the funds in Adelaide. This occurred without gaming. In the words of the Analyst, ‘the person would fly in with a suitcase, fill it up with cash, and then leave the same day’. Asked how the Analyst knew that the customer arrived with a suitcase, the Analyst responded that on one occasion a representative of the Junket or the player purchased a suitcase in the Rundle Mall, and the casino reimbursed that person for the cost of the suitcase.
- [224] The Analyst was an impressive witness. Although the licensee was not present when the Analyst gave evidence, and the evidence was not tested, rather than turn this Investigation into an interminable trial, I have accepted the general tenor of the evidence for the purpose of providing a historical context for the proven events that have emerged through this Investigation and the AUSTRAC proceedings.
- [225] The Compliance Manager, V, held a [REDACTED] and employment experience involving AML issues. V commenced employment shortly before the Analyst, and also realised that there were inadequacies in the current operation. However, V did not recall occasions when proposed elevation of risks to significant was disapproved by management. The evidence of the Analyst was more convincing in this regard.
- [226] V accepted there was probably a degree of push back from the VIP area because the VIP personnel became quite close to clients. V explained that they ‘hoped’ the VIP personnel would do the right thing, meaning provide accurate information. On occasions, VIP personnel were reluctant to

provide information and were slow to do so. V confirmed that one of the VIP hosts gave the Analyst a hard time.

[227] Specific cases were put to V which give the strong appearance of preferential treatment being provided to valuable customers. However, V suggested it was more a case of gaps in processes, particularly around escalation criteria.

[228] The first Analyst left the casino in 2020, but V remained until early 2022. It is not necessary to canvas their evidence in further detail. At the time the Analyst left in 2020, the lack of understanding of the AML/CTF requirements still existed. There were significant inadequacies in the Program, and in the implementation of the Program during that period. The attitude of many in Senior Management was less than satisfactory, and was coupled with a lack of understanding concerning AML obligations which exacerbated the poor performance in the area of AML/CTF obligations. Strong resistance to attempts to comply emanated from the International Business and VIP Divisions.

[229] A Cage Manager mentioned by the Analyst, [REDACTED], confirmed the Analyst's evidence that he cooperated with the Analyst, and that the Analyst endeavoured to improve the AML performance across the casino. In his view, the Analyst was overworked.

[230] [REDACTED] believed his teams did their best to keep up to date with AML changes during the Analyst's time and subsequently. His team has always been focussed on sticking to the Rules and following appropriate processes.

[231] Historically, from [REDACTED] perspective there was a reluctance within VIP personnel to follow appropriate processes. One particular Manager, who is no longer employed at the casino, was particularly aggressive in favour of meeting customer demands or wishes. In that area there was pushback in the sense that if a proposal was not in the procedures, the attitude was taken from

the VIP end that the particular wish could be accommodated. The Cage team took the view, however, that if a proposal was not approved, it could not be undertaken.

[232] Overall, ██████████ found both the VIP Host Manager and Mr Christian reasonable and amenable to working out a solution. He never felt pushed into doing something he did not wish to do. On only one occasion, prior to Mr Christian's return to the casino, did a procedure occur with which he did not approve. It involved acceptance of a cheque from a corporation which was approved by a previous General Manager over the objections of ██████████ and others.

[233] In the context of the evidence provided by the first Analyst, it is appropriate to canvass briefly examples of the manner in which issues concerning valuable customers were handled during the period of the first Analyst's employment.

[234] Customer AA (account number ██████████) opened an account with the licensee in January 2014. He was given VIP status. In 2015 the licensee became aware of media articles dating back to October 2014 reporting that AA was facing firearm and drug trafficking charges. In the period following November 2015, the licensee became aware of police interest in AA and a proposal to engage a police barring of AA pursuant to s 45 of the Casino Act 1997.

[235] In May 2016 email exchanges occurred between the first Analyst and the Group Manager in which the Analyst sought advice as to how to deal with customers, including AA, who had been detected giving money to another customer for betting purposes. The Manager responded that, in his view, the customer was undesirable and should be banned, but it was a decision for 'someone pretty senior' to make who might be of the view that as AA had not been convicted of any offences, AA could stay.

[236] The first Analyst responded to the Manager with advice concerning information from the Grange VIP Room that AA was their biggest customer. The Analyst reported being told that the casino wanted to continue to do business with AA until someone determined otherwise.

[237] The first Analyst expressed a view that doing business with AA was not the best look for the casino. The Analyst also sent a memorandum to V concerning AA's risk rating. At that time it was high, and the Analyst proposed elevating the rating to significant. The memorandum reported that AA had been the subject of [REDACTED]

The Analyst expressed a concern as to AA's access to cash, coupled with the stated occupation.

[238] Detailed information concerning AA was provided to the Acting General Manager of the licensee in May 2016. The acting General Manager sought advice from the Group General Counsel and Chief Risk Officer as to how to proceed. Early in June 2016 the Acting General Manager advised the first Analyst that after discussion with the General Counsel, it was agreed that the risk regarding AA was within an 'acceptable range', and the appropriate action was to ensure the security team were aware of AA and kept AA under observation.

[239] AA's last day of gambling was recorded as June 2016, the day before the police put in place a barring of AA for two years on the basis of public interest. Apparently AA was sentenced to imprisonment in 2017 for importing a marketable quantity of border controlled precursor.

[240] Significantly, later in June an email from the Group Assistant General Manager to the licensee's Acting General Manager, made the following statement:

Not a good result to have this barring in place for two years. We're running updated numbers now. But [AA] is sitting roughly \$900K loss YTD.

[241] This summary of the sequence of events relating to AA demonstrates that not only were persons at senior level management lacking an understanding of the AML requirements and obligations, they were prepared to place profit above compliance.

- [242] Similar conclusions are inevitable from the history of dealings with another customer, BB (account number [REDACTED]), who joined the Premier Rewards Program in October 2017. In November 2017, the licensee became aware that BB, and BB's partner, had been intercepted at an interstate airport and over \$100,000 had been confiscated. Charges were pending. Authorities were interested in BB, and BB's partner, in connection with illegal gambling actions that had occurred at a casino in Queensland earlier in 2017.
- [243] The licensee commenced monitoring both BB and BB's partner, and concern was expressed about the possibility that they were scamming the Adelaide Casino. In November 2017 an iTrak entry was made of an observation that BB made three simultaneous cash buy-ins of \$8,500, \$7,000 and \$1,500 on different tables. A report was prepared and provided to the Assistant General Manager indicating that a surveillance team would continue to monitor the actions of BB and BB's partner. The report included reference to BB's occupation as 'business owner' and limited information obtained from open source research. Plainly, the information was inadequate.
- [244] Two days later the General Manager was provided with an update on BB which included advice that BB was engaging in 'some questionable behaviour in Queensland', and there existed the potential of BB being charged. The comment was made that BB had been behaving whilst at the Adelaide Casino, and was 'dropping a fairly decent amount of money'. It is difficult to avoid the impression that the advice reflected a culture of prioritising profit over money laundering risks.
- [245] Approximately 10 days later the licensee was advised that although BB had not been charged in relation to activities in Queensland, BB definitely would be charged. A week later the licensee received information from authorities that BB was suspected of dealing with the proceeds of crime of more than \$1 million. The next day an iTrak entry recorded concerns that another customer was sharing funds with BB.
- [246] It is difficult to understand why BB was not immediately barred. It was not until approximately 9 months later that a 3 month barring was put in place by the licensee following two occasions in

mid 2018 of [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[247] A common law barring was also put in place which lapsed in July 2020 and, due to an oversight, was not renewed until December 2020.

[248] The third example concerns customer CC (account number [REDACTED]), a VIP member who was related to a high ranking person in China.

[249] In April 2018, the first Analyst reported concerns about potential collusion between an employee and CC. It is unnecessary to set out the details which were sufficiently serious to be of significant concern. However, the Group General Manager of Risk demonstrated in an email a level of scepticism and lack of knowledge of the process through which this issue should have been investigated. Without an appropriate investigation, the scepticism was unjustified.

[250] A subsequent review was undertaken and led by the Group General Manager of Risk. An email in May 2018 reporting the results of the review observed that the General Manager Adelaide had provided ‘some valuable perspective’ and an ‘assurance that [CC] has a high level of service expectations but these are reasonable and commensurate with the volume of business [CC] does with SkyCity’. The report acknowledged that CC was a ‘significant, long term IB customer for Adelaide and staff describe [CC] as ‘eccentric, well connected, very wealthy, and demanding’.

[251] The final report does not deal adequately with the actions of CC, including the previous 23 iTrak entries. The only recommendation was to undertake ongoing surveillance. In a letter of 21 November 2022, the licensee’s solicitors advised that no further action was taken in relation to the employee and the relationship with CC.

[252] Notwithstanding this background, it was not until November 2019 that SCEG sought to conduct a Source of Wealth check on CC. By this time, media articles had appeared in connection with Crown and alleged criminal and political associations involving certain customers, including CC. There were allegations that CC held positions closely associated with an overseas government and was facing serious corruption allegations in Hong Kong.

[253] In mid November the Group General Manager Regulatory Affairs AML sent an email to Senior Group personnel concerning the media reports. The email stated that CC was a debtor owing \$2.5 million, and that source of wealth information had been obtained from an IB staff member, but not independently verified. It was recommended that further services should not be provided to CC until inquiries had been completed updating the information collected. The report stated ‘once the additional information is to hand a continuation of the business relationship may be considered further’.

[254] It is difficult to understand how, in November 2019, in view of the background of the circumstances surrounding the activities of CC, an IB staff member would not have sought to verify source of wealth information; or that someone in Senior Management would not have raised the issue much earlier. Again, the lack of understanding is apparent, together with the desire to avoid losing big spending customers notwithstanding obvious cause to make in depth inquiries and/or put banning in place.

[255] These examples provide broad support for the evidence of the first Analyst. They should be considered in conjunction with other case examples discussed later in this Report.

18.0 AML/CTF Management Structure 2016-2020

[256] In a letter of 3 August 2022, solicitors for the licensee advised that in about May 2008 the licensee established the AML Senior Management Committee (also referred to formally as the ‘SkyCity

Adelaide Anti-Money Laundering and Counter-Terrorism Financing Committee'). The role of the Committee was to oversee 'AML/CTF issues specific to SkyCity Adelaide's operations'.

[257] The letter of 3 August 2022 also advised that in about January 2020, the AML Senior Management Group was established by SCEG which 'provides enhanced governance to AML/CTF related matters across the SkyCity Group and supports the effective implementation of each business's AML/CTF obligations across the SkyCity Group'. The Senior management Group initially met on a monthly basis, but the frequency of meetings in the second half of 2021 was disrupted by the AUSTRAC Enforcement Investigation and meetings were moved to a quarterly basis in 2022.

[258] As to management of the Adelaide AML/CTF obligations, in mid-2021 AUSTRAC posed a number of questions to the licensee which were answered by the licensee later in 2021. The full document containing the questions and answers is annexure [7] to this Report **006.003.0153**. In summary, the licensee reported to AUSTRAC as follows:

- The Compliance Programs of 2015, 2017, 2018, 2019, February 2021 and June 2021 were approved by the Audit and Financial Risk Committee of the SCEG Board (now known as the Audit and Risk Committee) or the SCEG Board (or both).
- The Audit and Financial Risk Committee (AFRC) was a 'dedicated Committee' of the SCEG Board with responsibility for monitoring SkyCity Entertainment Group's compliance with AML/CTF requirements in New Zealand and Australia.
- In the period 2015-2021, the Adelaide Board did not meet and no reports were provided to it concerning the licensee's AML/CTF obligations or functions or financial crime.
- As to 'Committees, Bodies or persons that had accountability, oversight or governance' of the licensee's AML/CTF obligations or functions:

RESPONSE:

(a) *SCEG, as parent company of SCA:*

- (i) *The SCEG Board was ultimately responsible for the affairs and activities of the SkyCity Entertainment Group of companies, including (as outlined in the SCEG Board Charter) the review and ratification of the systems of risk management and internal compliance and control, codes of conduct and legal compliance.*
- (ii) *The AFRC (a dedicated committee of the SCEG Board) was responsible for the ongoing oversight of the Programs during the Relevant Period in conjunction with the Senior Management Group (now known as the AMLC as set out in the response to paragraph 369(a)).*
- (iii) *The AML Senior Management Group was established by SCEG in January 2020 (SCEG SMG) to support the effective implementation of SkyCity's AML obligations across the SkyCity Entertainment Group. It is different to the Senior Management Group/AMLC referred to in the Programs. To the extent that the SCEG SMG's support constitutes an oversight or governance role, we have included details in response to question 350.*
- (iv) *Key SCEG personnel who exercised roles associated with accountability, oversight or governance of SCA's AML/CTF obligations during the Relevant Period were:*
 - (A) *the Group General Manager Corporate Affairs. This position was established on 1 September 2016. The General Counsel and Company Secretary, Group General Manager Regulatory Affairs and AML and the Group General Manager Risk all reported to this position. Until the disestablishment of the position in April 2018, the Group General Manager Corporate Affairs was responsible for ensuring compliance with all regulatory requirements and had oversight of the SCA AML function by receiving updates and contributions to the SCEG Board and AFRC reports from the Group General Manager Regulatory Affairs and AML;*
 - (B) *the General Counsel and Company Secretary. The General Counsel and Company Secretary was primarily responsible for reviewing the suitability of SCA customers who were accorded a significant risk (in conjunction with the General Manager Adelaide/Chief Operating Officer Australia). This role also had oversight of the SCA AML function by receiving updates and contributions to SCEG Board and AFRC reports from the Group General Manager Regulatory Affairs and AML (following the disestablishment of the position of Group General Manager Corporate Affairs);*
 - (C) *the Group General Manager Regulatory Affairs and AML. The Group General Manager Regulatory Affairs and AML had oversight of the SCA AML function by receiving regular updates from the AML Compliance Officer, contributions from the AML Compliance Officer to SCEG Board and AFRC reports, minutes of Senior Management Group meetings and reviewing proposed revisions to SCA's AML/CTF programs; and*

(D) *the Group General Manager Risk. The Group General Manager Risk was responsible for arranging for independent reviews of the Programs and monitoring outcomes.*

(b) SCA:

(i) *The Senior Management Group/AMLC was comprised of SCA senior managers from relevant departments who were responsible for overseeing the implementation of the Programs at SCA during the Relevant Period.*

(ii) *Key SCA personnel who exercised roles associated with accountability, oversight or governance of SCA's AML/CTF obligations during the Relevant Period were:*

(A) *the AML Compliance Officer;*

(B) *the AML Analyst;*

(C) *the AML Compliance Manager; and*

(D) *the General Manager Adelaide/Chief Operating Officer Australia.*

- In Adelaide, the Senior Management Group oversaw the implementation of Programs, and considered compliance issues. It monitored risk and reporting matters, as well as all training of staff.
- Relevant reports concerning the licensee's AML/CTF obligations or functions or financial crime were provided to the AFRC and/or the SCEG Board. In this way the AFRC and SCEG Board conducted ongoing oversight of Part A of the Compliance Program applicable to the Adelaide operation.
- As to each report:

Each report provided to the AFRC under the Programs included:

(a) relevant statistical data (since the last report to the AFRC);

(b) commentary in relation to the discharge of SCA's AML/CTF obligations and implementation of the relevant AML/CTF program (since the last report to the AFRC);

(c) any feedback received from AUSTRAC; and

(d) any other matters.

From time to time, other reports were provided to the AFRC concerning SCA's compliance with its AML/CTF obligations. The reports that were provided to the AFRC in accordance with the Programs applying at the time are set out in the answer to paragraph 360 above. From time to time, other relevant matters concerning SCA's

compliance with its AML/CTF obligations were also identified in discussions at the relevant AFRC meeting.

The members of the AFRC reviewed and considered each of the reports referred to above and questioned and challenged management, including the Group General Manager Regulatory Affairs and AML as it considered necessary at the AFRC meeting. The questions, concerns, views and decisions of the AFRC were generally provided to the Group General Manager Regulatory Affairs and AML to the extent he attended the relevant AFRC meeting.

- As to lines of reporting within the Adelaide structure, the Senior Management Group/AMLC did not have a reporting function. Any items for action arising from the meetings ‘were assigned responsibility to individuals by the AML Compliance Officer’.
- As to lines of reporting:
 - (A) *the AML Compliance Officer and AML Analyst/AML Compliance Manager would provide reports and updates at each meeting of the Senior Management Group/AMLC;*
 - (B) *the AML Compliance Officer also provided regular updates on the implementation and ongoing management of the Programs to the Group General Manager Regulatory Affairs and AML and the General Manager Adelaide/Chief Operating Officer Australia, and made contributions to reports to the SCEG Board and AFRC;*
 - (C) *the AML Compliance Officer reported to the General Manager Adelaide/Chief Operating Officer Australia;*
 - (D) *the General Manager Adelaide reported to the Chief Executive Officer for the SkyCity Entertainment Group until the appointment of the Group Chief Operating Officer for the SkyCity Entertainment Group on 11 December 2017. The General Manager Adelaide then reported to the Group Chief Operating Officer until that role was disestablished in November 2020. Thereafter the General Manager Adelaide became the Chief Operating Officer Australia and reported to the Chief Executive Officer for the SkyCity Entertainment Group; and*
 - (E) *the AML Analyst reported to the AML Compliance Officer until the AML Compliance Manager role was established in April 2021, after which the AML Analyst reported to the AML Compliance Manager.*

19.0 2020-2021 – Practical Operation – Second AML Analyst

[259] The first Analyst left the casino in May 2020. A second AML Analyst commenced in June 2020. The title of the second Analyst changed in April 2021 to ‘AML Compliance Manager’, and the Analyst remained in that position until leaving the casino in December 2021.

- [260] At the time the second Analyst commenced, the second analyst and two others comprised the compliance department, together with the assistance of another person one day per fortnight. AML training occurred on the job. At the time the Analyst felt that the training and resources were adequate, but in hindsight it is clear that they were inadequate. At the outset the Analyst read Parts A and B of the Compliance Program, but frankly admitted a lack of understanding of the Program. It took months to obtain an appropriate understanding.
- [261] According to the second Analyst, the Compliance Manager played an active role in providing guidance, facilitating meetings, reporting to the Boards and liaising with personnel in New Zealand. However, the practical day to day operation rested with the second Analyst.
- [262] At the time the second Analyst commenced employment, the compliance function across the casino involved extensive manual work. Changes occurred, including the use of more technology, but there was still a lot of manual work when the Analyst left in December 2021.
- [263] In the second Analyst's view, prior to the involvement of AUSTRAC in mid-2021, the operations of the Adelaide Casino felt, to some extent, insular and insulated. The interstate reports were the topic of discussion, and there was a growing awareness of a need to expand the AML team and take a less passive wait and see approach to what was happening within the industry. Prior to the interstate reports, the full scope of the AML requirements was not properly understood by the entire business, although elements such as integrity functions, surveillance and security were very much forward looking. It was not a question of what they could get away with, but perhaps more in the category of 'heads in the sand'.
- [264] From the perspective of the second Analyst, the advent of the AUSTRAC inquiry introduced the element of urgency and 'everything got accelerated'. Working groups were formed to try and reach an understanding as to what needed to be done, and there was a move to increase resources. External advice was sought.

- [265] Members of the Group Board attended a meeting in September 2021. The Analyst said it was clear from the meeting that every available resource was to be thrown at the problem. An understanding of the need to ‘uplift’ certain areas of the casino operation was apparent, and there was a much closer integration with the resources in New Zealand to achieve a Group approach to the AML risk. There was no resistance.
- [266] According to the second Analyst, a review of the Black and Ultra Black customers created difficulties for the VIP personnel who struggled with the conflict between keeping customers happy, and intruding upon their privacy by seeking detailed information concerning financial resources. Long term personal relationships had been built with some customers who objected volubly. On occasions this led to a degree of ‘griping’, but VIP personnel did not ever refuse to do what the second Analyst requested.
- [267] The second Analyst recalled a recognition at senior management level that the Adelaide Board was lacking, and was subservient to New Zealand. A chart was prepared showing different reporting structures.
- [268] The evidence of the second Analyst provided strong confirmation of the evidence of the first Analyst concerning poor resourcing, and the significant inadequacies inherent in the Compliance Program and in its implementation during the period 2016-2021. In that period training with respect to AML/CTF issues was seriously deficient.

20.0 2021 Onwards

- [269] On 1 February 2021 Ms Bergin delivered her Report. The Commissioner wrote to the licensee on 25 February 2021 referring to the Bergin Report, and to corporate failings identified by Ms Bergin. A number of questions were posed by the Commissioner for the purpose of assessing the licensee’s controls, and the licensee responded by letter of 30 March 2021. The licensee stated that the SkyCity Board and management had followed the Bergin Inquiry closely, and were currently

considering and assessing the risks and concerns raised in the Bergin Report. The observation was made that the licensee was conducting a strategic review of its international business operations, and was not allowing any international junket programs to be conducted pending the outcome of the review. Answers were provided to each of the Commissioner's questions.

[270] Mr Christian was asked on 21 September 2022 about following the interstate inquiries. He said he watched a significant amount of the Bergin proceedings by live stream and read Ms Bergin's report, as well as other interstate reports. He was aware that senior management at the casino had read at least the executive summaries.

[271] In his interview, Mr Christian confirmed his previous advice to the Commissioner that a decision was made in 2021 to cease doing business with Junkets. He said it is a permanent decision which is not subject to any form of review. Junket operations had been conducted by a business division called International Business. The operation of the international division is discussed later.

21.0 AUSTRAC – 2021

[272] [REDACTED]
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[275] Following receipt of the AUSTRAC letter of 4 June 2021, the SkyCity Group Board immediately established the AUSTRAC Enforcement Investigation Steering Committee for the purpose of overseeing SkyCity Group's engagement with AUSTRAC throughout the investigation.

22.0 2021 Reports – Response – 2022 Correspondence

[276] Chronologically, the next development was a second Report by EY which was dated 6 August 2021¹⁴. The Report offered the following general comments:

- 'This independent review has determined that overall, SCA has a good level of compliance with the Act and Rules in that the observations we have made represent relatively minor areas for improvement. This is driven by an experienced local compliance team with detailed knowledge of the Act and the Rules, the cultural attitude of employees and the governance structures in place'.
- 'We have identified some observations that mostly relate to the manual nature or ineffective design of some controls and have recommended control enhancements to strengthen the operating effectiveness of those controls'.
- 'We have been recently advised by SkyCity that they have received verbal feedback from AUSTRAC on the findings from their compliance review but nothing in writing. SkyCity have shared the high-level findings from AUSTRAC with us'.
- Sample testing of AML/CTF training 'identified data inconsistencies and exceptions that require further review by SCA. We were unable to accurately confirm the total completion

¹⁴ Annexure [8].

rates for Stage one and two training’, and ‘we have been unable to accurately determine the risk rating of employees and HR could not provide assurance as to how they ensure employees have been assigned the correct training’.

- As to enhanced customer due diligence, ‘we sample tested a range of high-risk customers, group commission organisers (Junket Operators) and PEPs and identified a number of issues that indicated ECDD was not performed to the standard required’.
- As to ongoing customer due diligence, ‘SCA takes a risk-based approach when conducting OCDD and relies on system alerts to identify when OCDD is required if a customer ID has expired. We note that this process is not documented in sufficient details’ and ‘we identified one instance where OCDD was not completed’.

[277] According to a letter of 9 September 2022 from the licensee’s solicitors to this Investigation, in response to AUSTRAC’s concerns, in June 2021 the licensee appointed Mr Neil Jeans of Initialism to undertake a comprehensive review of the licensee’s Compliance Program and broader AML function. The licensee sought the assistance of Mr Jeans ‘to enhance and improve’ the Compliance Program and AML functions.

[278] Initialism provided a Report in September 2021.¹⁵ The review was conducted by Initialism in accordance with a risk-based approach, and included reviewing documentation, interviews with key personnel and testing of day-to-day operations relevant to the Compliance Program. The Executive Summary in the Report was as follows:

Executive Summary

Overview of Key Themes from the Review

13. This section provides a high-level summary of the key themes identified by Initialism in respect of each of the AML/CTF Program’s design adequacy and operational effectiveness.

14. These key themes should be read in conjunction with summaries below, as well as the detailed findings and recommendations contained within the body of this report:

¹⁵ Annexure [9].

- *The AML/CTF Program addresses the required elements set out in the AML/CTF Rules. However, there are improvements required to ensure the AML/CTF Program is fully aligned to the AML/CTF Rule requirements.*
 - *The AML/CTF Rules requirement to describe the systems and controls in place to comply with each element in the AML/CTF Rules has not on all occasions been adequately documented in the AML/CTF Program, and some that are documented require uplift to ensure alignment with operational practices.*
 - *The approach to Board and Senior Management oversight of the AML/CTF Program appears inappropriate with reference to the AML/CTF Rule requirements, the ML/TF risks faced and requires redesign to ensure appropriate oversight, accountability, and empowerment by the SkyCity Adelaide Board and Senior Management.*
 - *AML/CTF Program operationalisation has not been adequately designed, appropriately resourced, or satisfactorily monitored for effectiveness, and the AML/CTF Program is therefore reactive rather than proactive.*
 - *Whilst current AML/CTF resources are capable, the demands and requirements placed on those resources significantly impair SkyCity's ability to implement and operate an appropriate AML/CTF Program and ensure it continues to be effective.*
 - *The operation of the AML/CTF Program does not set out the level of ongoing assurance and continuous oversight applied to its implementation and performance.*
 - *The systems that support compliance with AML/CTF requirements are not being utilised or supported to achieve their full potential. This undermines SkyCity Adelaide's ability to identify, mitigate and manage ML/TF risks.*
 - *Designing and implementing any new process developed requires a detailed and comprehensive resourcing and capacity assessment to ensure that the function carrying out the process is appropriately resourced to ensure compliance with the Part A AML/CTF Program.*
15. *In addressing these matters, SkyCity Adelaide should develop a project plan, divided into logical streams of work, that is comprehensive, appropriately resourced, accommodate any interdependencies, and ultimately deliver strategic responses to achieve sustainable AML/CTF compliance outcomes.*

[279] The overview of findings by Initialism and recommendations was as follows:

Oversight by Board and Senior Management

31. *SkyCity Adelaide should enhance the AML/CTF Program to include minimum AML/CTF Program review periods and triggers for review.*
32. *SkyCity Adelaide should review the approach to both SkyCity Adelaide's approval and oversight of the AML/CTF Program to ensure appropriate oversight by the Adelaide Board and Senior Management.*
33. *SkyCity Adelaide should review and, where necessary, enhance Group meeting agendas and discussions, such as the AML Senior Management Group and the SCEG ARC, to ensure discussions relating to the performance of the SCEG's AML/CTF Programs are balanced to ensure each jurisdiction receives appropriate focus, and there is clear discussion in relation to the performance of the SkyCity Adelaide AML/CTF Program.*

AML/CTF Compliance Officer

34. *The SkyCity Adelaide Part A AML/CTF Program appropriately sets out the appointment of an AML/CTF Compliance Officer at the management level in accordance with the AML/CTF Rules.*
35. *As part of any Board and Senior Management oversight uplift, SkyCity Adelaide should ensure the designation of the AML/CTF Compliance Officer is appropriately documented by the SkyCity Adelaide's Board and Senior Management.*

AML/CTF Independent Review

36. *SkyCity Adelaide should enhance the AML/CTF Program to explain how the intervals relating to the timing of the Independent Review take into account the nature, size, and complexity, as well as the ML/TF risk faced by SkyCity Adelaide.*
37. *SkyCity Adelaide should ensure the procedures in place to support the Independent Review process, including timing, assessment of reviewer and scope of review, and distribution of the report to Senior Management and Board of SkyCity Adelaide, should be referenced in the AML/CTF Program.*
38. *SkyCity Adelaide should review all past Independent Reviews to determine whether all findings have been adequately addressed.*
39. *As part of any Board and Senior Management oversight uplift, SkyCity Adelaide should ensure appropriate Board and Senior Management oversight of Independent Reviews, including the approach to sharing, reviewing, and responding to future Independent Reviews, as well as ensuring appropriate internal challenge to address the findings and ensure completion of actions.*

AUSTRAC Feedback & Guidance

40. *The SkyCity Adelaide Part A AML/CTF Program appropriately sets out the requirement to address AUSTRAC feedback and guidance in accordance with the AML/CTF Rules.*
41. *SkyCity Adelaide should design and document in Part A of the SkyCity Adelaide AML/CTF Program a process to appropriately identify, consider, review, and respond to AUSTRAC feedback and guidance.*
42. *As part of any uplift in Board and Senior Management oversight of the SkyCity Adelaide Part A AML/CTF Program, the approach to senior management and the Board applying appropriate oversight and governance to the process to ensure there is a measured response to all AUSTRAC feedback and guidance.*

Suspicious Matter Reporting

43. *SkyCity Adelaide should enhance the SMR section in the Part A AML/CTF Program to ensure the suspicious matter reporting obligations in the AML/CTF Act and AML/CTF Rules are fully set out.*
44. *The SkyCity Adelaide, Part A AML/CTF Program, should also be enhanced to describe the appropriate systems and controls that have been designed and implemented to ensure compliance with the suspicious matter reporting obligations in the AML/CTF Act and AML/CTF Rules.*
45. *The end-to-end process of investigating unusual activity, gathering information, forming a suspicion, and ultimately filing a report with AUSTRAC should be the subject of targeted systems, resourcing, and capacity review in order to understand where efficiencies and enhancements in the process could be delivered.*

Threshold Transaction Reporting

46. SkyCity Adelaide should enhance the TTR reporting section in the SkyCity Adelaide Part A AML/CTF Program to ensure the full set of TTR reporting obligations in the AML/CTF Act and AML/CTF Rules are correctly set out.
47. The SkyCity Adelaide Part A AML/CTF Program should be enhanced to describe the appropriate systems and controls that have been designed and implemented to ensure compliance with the TTR reporting obligations in the AML/CTF Act and AML/CTF Rules.
48. SkyCity Adelaide should also ensure the Part A AML/CTF Program and/or associated procedures are enhanced to set out the current operational activities in the end-to-end TTR reporting process.
49. SkyCity Adelaide should consider undertaking an end-to-end review of the TTR reporting process and associated systems to consider where enhancements could be made to reduce inefficiencies.

International Funds Transfer Instruction Reporting

50. SkyCity Adelaide should enhance the IFTI reporting section in the SkyCity Adelaide Part A AML/CTF Program to ensure the full set of IFTI reporting obligations in the AML/CTF Act and AML/CTF Rules are correctly set out.
51. The SkyCity Adelaide, Part A AML/CTF Program, should be enhanced to describe the appropriate systems and controls that have been designed and implemented to ensure compliance with the IFTI reporting obligations in the AML/CTF Act and AML/CTF Rules.
52. SkyCity Adelaide should also ensure the Part A AML/CTF Program and/or associated procedures are enhanced to set out the current operational activities in the end-to-end IFTI reporting process.
53. SkyCity Adelaide should consider undertaking an end-to-end review of the IFTI reporting process and associated systems to consider where enhancements could be made to reduce inefficiencies.

Annual AUSTRAC AML/CTF Compliance Reporting

54. SkyCity Adelaide should enhance the Annual Compliance reporting section in the SkyCity Adelaide Part A AML/CTF Program to ensure the full set of Annual Compliance reporting obligations in the AML/CTF Act and AML/CTF Rules are correctly set out.
55. In addition, the SkyCity Adelaide Part A AML/CTF Program should be enhanced to describe the appropriate systems and controls that have been designed and implemented to ensure compliance with the Annual Compliance reporting obligations in the AML/CTF Act and AML/CTF Rules.
56. SkyCity Adelaide should also ensure the Part A AML/CTF Program and/or associated procedures are enhanced to set out the current operational activities in the end-to-end Annual Compliance reporting process.

AUSTRAC Enrolment Information Reporting

57. SkyCity Adelaide must ensure the Part A AML/CTF Program is updated to describe the process applied by SkyCity Adelaide in reporting changes in enrolment

information to AUSTRAC within the requisite timeframe and in accordance with the requirements in the AML/CTF Act and AML/CTF Rules.

58. SkyCity Adelaide should consider developing a procedure (or amending the Part A AML/CTF Program) to set out the systems and controls designed and implemented to ensure compliance with the reporting obligations regarding advising AUSTRAC when specified enrolment information is changed to support compliance with 51F of the AML/CTF Act.

Further KYC and Beneficial Ownership Information

59. SkyCity Adelaide should enhance the Part A AML/CTF Program to explain the action required in relation to an expired identification document and detail the systems and controls SkyCity Adelaide has implemented to ensure additional KYC information is collected and/or verified in accordance with the AML/CTF Program.

Refresh of Applicable Customer Identification Procedure Information

60. The SkyCity Adelaide, Part A AML/CTF Program, should be enhanced to appropriately document the reasonable measures to keep, update and review the documents, data or information collected under the applicable customer identification procedure (particularly in relation to high-risk customers) specified in Chapter 4 of the AML/CTF Rules.
61. In addition, the SkyCity Adelaide Part A AML/CTF Program should be enhanced to describe what information or documentation must be updated and the circumstances when the changes must be documented.
62. SkyCity Adelaide should consider undertaking an end-to-end review of the ID refresh process and associated systems to consider where enhancements could be made to enhance the ID refresh process, with a particular focus on high-risk customers.

Enhanced Customer Due Diligence Program

63. The ECDD Program contained within the SkyCity Adelaide Part A AML/CTF Program should be enhanced in its design and operational implementation and be appropriately right-sized for the nature, size, and complexity of the business and the ML/TF risks reasonably faced in the provision of gaming and gambling-related designated services.
64. In uplifting the ECDD Program, a more appropriate range of measures, based on the ML/TF risks faced, should be designed and either be documented in the ECDD Program itself or a supporting procedure document.
65. These new measures, and any associated procedures, must be appropriately implemented with corresponding internal awareness communications and detailed training to support embedding the new process.
66. SkyCity Adelaide should consider undertaking an end-to-end review of the ECDD process and associated systems to consider where enhancements could be made to enhance the ECDD process.
67. In designing and implementing any new ECDD process, a detailed and comprehensive resourcing and capacity assessment should also be undertaken to ensure that the function carrying out the ECDD process is appropriately resourced to conduct effective ECDD in each of the circumstances required by the Part A AML/CTF Program.

Transaction Monitoring Program

68. *SkyCity Adelaide should undertake an end-to-end review of the Transaction Monitoring Program and associated systems to ensure the Transaction Monitoring Program is appropriately enhanced.*
69. *In designing and implementing any new Transaction Monitoring Program, a detailed and comprehensive system, resourcing, and capacity assessment should also be undertaken to ensure that the function carrying out the Transaction Monitoring activity is appropriately resourced to conduct an effective Transaction Monitoring Program.*

Customer Due Diligence (Applicable Customer Identification Procedures)

70. *SkyCity Adelaide should enhance the Part B AML/CTF Program to ensure full alignment to relevant sections within Chapter 4 of the AML/CTF Rules.*
71. *SkyCity Adelaide should clarify the SOPs to ensure there is a clear alignment between it and the Part B AML/CTF Program.*

Politically Exposed Persons (PEPs)

72. *SkyCity Adelaide's approach to PEP identification and risk management is designed to be applied to customers when they sign up to SkyCity's loyalty program and receive a front money account, is a high or significant risk customer, and those customers who receive a designated service over the \$10,000 threshold (which is the threshold at which ACIP is performed under the exemption provided by Chapter 10 of the AML/CTF Rules).*
73. *The Part B AML/CTF Program does not set out the risk-based approach adopted to determine whether a customer is a PEP when designated services are provided under the \$10,000 customer due diligence threshold.*
74. *SkyCity Adelaide should enhance the Part B AML/CTF Program to ensure full alignment to the PEP requirements within Chapter 4 of the AML/CTF Rules.*

[280] Through its solicitors, the licensee provided a table form summary of the findings and recommendations in the Initialism Report, together with details of the licensee's response to each of those recommendations. That document is dated 9 September 2022.¹⁶

[281] In the letter of 9 September 2022, solicitors for the licensee advised that although the licensee contests some of the findings in the Initialism Report, nevertheless the licensee is committed to implementing all of the recommendations in that Report. The recommendations 'have formed the

¹⁶ Annexure [10].

foundation for the implementation of the SkyCity Adelaide AML Enhancement Program’. In the interview of 21 September 2022 Mr Christian confirmed this approach.

23.0 SCEG Directors

- [282] The Chairman of SCEG, Mr Julian Cook, who is also a current director of the licensee, gave evidence on 7 December 2022, shortly after the announcement that AUSTRAC was issuing proceedings that day against the licensee. He was offered the opportunity of deferring his evidence, but chose to continue notwithstanding the difficult circumstances with which he had recently been presented. Mr Cook was appointed a SCEG director in early 2021, and to the Adelaide Board in October 2022.
- [283] Against the background of the 2021 AUSTRAC concerns and the Initialism Report, Mr Cook said he asked what went wrong, but there was not really an answer, ‘which was disappointing’. As to whether it appeared to him that deficiencies had been exposed, Mr Cook answered that there were certainly matters which needed to be fixed and improved. Although Mr Cook was also reluctant to acknowledge the existence of deficiencies or failings, he agreed serious issues had been raised.
- [284] A legally qualified SCEG director appointed in June 2021 possesses experience in the financial regulation area. At the time of her appointment she, together with Mr Cook and another director, received an extensive induction into the business of SkyCity, including the Adelaide Casino. She undertook specific training in the area of AML. In evidence on 7 December 2022, after the announcement of the AUSTRAC proceedings, she was the only New Zealand based director who accepted, in the light of the concerns expressed by AUSTRAC in June 2021 and the Initialism Report, that there were inadequacies or deficiencies in the AML Program and implementation of the Program. She added that AUSTRAC’s expectations were different from SkyCity’s previous understanding. This was the legally trained director who erroneously spoke of the Adelaide Board delegating its functions.

- [285] The current Chairman of the licensee's Board is Mr Davis who resides in South Australia, but is also a SCEG director. He gave evidence on 7 December 2022, shortly after the announcement of the AUSTRAC proceedings. He said he avoids the 'forensic retrospective' and seeks to focus on the future. In particular he was addressing the issue of the licensee becoming compliant and maintaining that compliance.
- [286] Other SCEG directors gave evidence in December 2022 shortly before AUSTRAC issued its proceedings. A common theme emerged which could readily be viewed as a 'company line': the combination of AUSTRAC concerns and issues identified in the Initialism report, in their cumulative effect, did not reveal inadequacies in the Compliance Program or its implementation; all they revealed were areas in which improvements could be made, particularly as the aim is to create a best practice system of compliance; to the extent that if anything went wrong, it was the fault of AUSTRAC who did not raise any issues of significant concern in 2016, coupled with the EY Reports that similarly raised only minor issues.
- [287] The responses by that group of SCEG directors were disappointing. In particular, in the absence of detailed knowledge as to the processes that existed before June 2021 and the implementation of those processes, the misplaced confidence of the Melbourne based director in the adequacy of her research, and in her opinion as to compliance, was of concern.
- [288] While at the time it might have been thought reasonable to challenge a description of the inadequacies or deficiencies in the Compliance Program and its implementation as 'significant', it was not reasonable to deny flatly that any inadequacies or deficiencies had been exposed, and to maintain that only opportunities for improvements had been revealed.
- [289] The attitude of those SCEG directors stood in contrast to the reasonable approach of Mr Stokes when he was asked what went wrong. He took time to explain the context, rather than using the context as an excuse. In substance, Mr Stokes observed that reviews had been conducted by EY which resulted in reports that identifying minor issues, but which conveyed the impression of

substantial compliance. Prior to June 2021, AUSTRAC had not identified any significant failings. The casino industry had been operating under the umbrella of the AML Act and AML Rules for a number of years, but it was not until 2020 that AUSTRAC issued its first risk assessment guidance to casinos. In this total context, Mr Stokes expressed the view that, industry wide, there was a false sense of security and a degree of complacency, coupled with the lack of appropriate Risk Assessment. Further, industry wide, there was a lack of in-depth understanding of the AML obligations and the risks attached to casino operations.

[290] Mr Stokes agreed there were deficiencies identified in the Initialism Report, and that they could be described as ‘significant’. He added:

Significant in the sense of his report is very clear where he talks about the lack of alignment to the Act and of the Rules resourcing. He [Mr Jeans of Initialism] also talks about oversight of the AML Program by Senior Management, Governance. So, I would categorise those as being significant findings.

[291] Mr Stokes also agreed that AUSTRAC raised significant issues in the enforcement notice.

[292] Mr Christian said he initially needed to understand the details of the 2021 assessments, particularly in light of previous audits and assessments. He was trying to reconcile them. He saw there were areas in which considerable improvement was needed and they commenced the uplift program. Prior to the AUSTRAC issues being raised, Mr Christian had not realised there were any problems with the Compliance Program because he was relying on others who had audited the Programs. Mr Christian accepted that the processes were inadequate in 2021, reasoning that otherwise such a large ‘uplift’ would not have been necessary.

24.0 Licensee’s Response to AUSTRAC Issues

[293] According to the letter of 9 September 2022 from the licensee’s solicitor, in response to the issues raised by AUSTRAC and Initialism, the licensee developed ‘a comprehensive Multi-Year Uplift Program’, called the ‘AML Enhancement Program’. It is a program ‘designed to lift the maturity

of the licensee's [Compliance] Program and related practices across the business'. The Enhancement Program is discussed later.

[294] In presenting the table summary of findings and recommendations, solicitors for the licensee noted that references to 'initiatives' and 'horizons' are references to various key initiatives and phases that form part of the Enhancement Program in place as of 9 September 2022. The references to 'workstreams' are references to the various key workstreams that form part of an updated AML Enhancement Program 'which will shortly replace the current AML Enhancement Program'. The solicitors noted that the different initiatives and workstreams have been prioritised according to 'urgency impact and the resources required to undertake that work on a continuous improvement basis and taking a multi-year approach'.¹⁷

[295] In addition, the solicitors advised that the licensee has 'recently restructured the Program Management Office responsible for the delivery of the AML Enhancement Program and revised the AML Enhancement Program to ensure that it is appropriately resourced and structured as it moves from a diagnostic phase into the critical phase of implementing changes to the SkyCity Adelaide AML/CTF Program'.

[296] To those explanations can be added the observations in a letter from the licensee's solicitors dated 12 August 2022:

18. In particular, as part of this remediation plan, SkyCity Adelaide:

- (a) prepared an AML/CTF Enhancement Plan and updated AML Enhancement "Roadmap" in September 2021 with the assistance and input of Mr Jeans;*
- (b) established the AML Enhancement Programme Steering Committee in November 2021 (as set out in paragraph 41(d) of our letter to you dated 3 August 2021);*
- (c) developed the AML Enhancement Programme in around November 2021 with the assistance and input of Mr Jeans, which takes into account the recommendations in the Final Report and the findings of SkyCity Adelaide's own internal review of its AML/CTF Program and wider AML function, and*

¹⁷ The latest Enhancement Program dated November 2022 is discussed later.

encompasses the ongoing process of 'business as usual' continuous improvement, and is designed to lift the maturity of the SkyCity Adelaide AML/CTF Program and broader AML function across the business over a two-year period;

(d) took steps to ensure that the initiatives/workflows provided for in the AML Enhancement Programme commenced as soon as possible, in around November 2021; and

(e) presented the AML Enhancement Programme to AUSTRAC in November 2021 and has kept AUSTRAC abreast of progress made under the AML Enhancement Programme.

19. *SkyCity Adelaide's swift implementation of these enhancements was assisted by the attitude of the SkyCity Adelaide Board, the SkyCity Entertainment Group Board and senior management of SkyCity Adelaide and the SkyCity Entertainment Group Board, who were (and remain) very receptive to change and who have whole heartedly embraced the AML Enhancement Programme.*

[297] As to management of AML/CTF issues, as mentioned, although an AML Senior management Group had been established in about January 2020, following the letter from AUSTRAC of 4 June 2021 SCEG established the AUSTRAC Enforcement Investigation Steering Committee to oversee the SkyCity Group's engagement with AUSTRAC. On 23 November 2021 that Steering Committee established the AML Enhancement Program Steering Committee which was, in effect, the renamed AUSTRAC Enforcement Investigation Steering Committee. According to the letter of 3 August 2022 from the licensee's solicitors, the change in Committee name and purpose was a result of the development in November 2021 of the SkyCity Adelaide AML/CTF Enhancement Program, 'and a need to support the successful delivery of it'.

[298] In addition, as discussed earlier, the Adelaide Board did not meet until November 2021. Prior to November 2021 the SCEG Board was the governing Board for the purposes of the SkyCity Adelaide Compliance Program. In response to the indication from AUSTRAC in mid-2021 that it considered the Adelaide Board should be the governing Board for the purposes of the Adelaide Compliance Program, on 28 October 2021 the SCEG Board agreed to amend the Adelaide Program 'to reflect that the SkyCity Adelaide Board is the governing Board for the purposes of the SkyCity Adelaide AML/CTF Program'. In the letter of 9 September 2022, solicitors for the licensee provided the following explanation for the current role of the licensee's Board:

As the governing board for the purposes of the SkyCity Adelaide AML/CTF Program, the SkyCity Adelaide Board is responsible for, amongst other things:

- (i) approval and ongoing oversight of the Part A Program;*
- (ii) leading and driving a positive culture of AML/CTF compliance across SkyCity Adelaide, including engaging with, questioning and challenging the state and effectiveness of AML/CTF compliance and ML/TF risk management processes and taking ownership of the ML/TF risks the business may face; and*
- (iii) ensuring that the AML/CTF framework is informed by an appropriate and comprehensive assessment of the ML/TF risks reasonably faced, risk-based systems and controls are designed appropriately, fit for purpose and effective, and appropriate assurance and testing processes are built into the AML/CTF Program.*

In this regard, the SkyCity Adelaide Board requires the AML/CTF Compliance Officer to attend each Board meeting to present on the adequacy, effectiveness and compliance with the Part A Program and to escalate material AML/CTF matters to the SkyCity Adelaide Board.

[299] The Steering Committee is supported by working groups. In a letter of 30 September 2022, the licensee's solicitors advised as follows:

AML/CTF

16. *The following sub-working groups have been established within the business to support the AUSTRAC Enforcement Investigation Steering Committee between June 2021 and November 2021 and the AML Enhancement Programme Steering Committee from December 2021 to date (as such Committees are described in the paragraph 41(d) of the First Notice Response) and meet as required:*
- (a) a dedicated Programme Management Office was established in August 2021 (initially with the assistance of Deloitte) to assist the AUSTRAC Enforcement Investigation Steering Committee and oversee and manage the response to the AUSTRAC enforcement investigation and the organisational uplift projects and workstreams. Since 23 November 2021 (when the AUSTRAC Enforcement Investigation Steering Committee was renamed the AML Enhancement Programme Steering Committee), the Programme Management Office has had responsibility for delivering and implementing the SkyCity Adelaide AML Enhancement Programme (which was developed in November 2021); and*
 - (b) a number of operational working groups have been established to assist the Programme Management Office in delivering the various enhancement initiatives under the Programme, including the:*
 - (i) AML Systems Working Group, which oversaw the major systems review and systems work. This group met regularly between 27 July 2021 and 21 December 2021 and, since then, on an ad-hoc basis where guidance was desired in relation to AML systems work prior to recommendations being presented to the AML Enhancement Programme Steering Committee (e.g. endorsement of the FY22-FY24 ICT AML Capability Programme);*

- (ii) *AML Enhancement Programme Working Group, which oversaw the day-to-day delivery of the AML Enhancement Programme and inter dependencies across initiatives. This group met regularly between 14 December 2021 and 10 May 2022 and has since been disestablished; and*
- (iii) *AML Change Forum, which will be responsible for supporting the successful implementation and adoption of financial crime/AML driven changes across SCEG whilst minimising disruption to operations and customers. This group is scheduled to meet for the first time on 30 September 2022.*

[300] The licensee produced minutes of Steering Committee meetings, together with reports provided to the Steering Committee for the period late 2021 to mid-2022. Those minutes demonstrate detailed attention was given to AML/CTF issues and the AML/CTF Enhancement Program, including the adoption of a Risk Assessment process and approval of the development of an AML Risk Appetite Statement.

[301] The minutes of the AML Senior Management Committee (also referred to as SkyCity Adelaide AML/CTF Financing Committee) demonstrate ongoing consideration of a variety of issues concerning the Compliance Program. Those minutes include reference to SMR's and transaction monitoring.

[302] Information concerning the licensee's enhanced customer due diligence processes was provided by the licensee to the Commissioner in a letter of 25 February 2022, responding to a letter from the Commissioner of 24 January 2022. A number of questions were asked by the Commissioner, and the licensee's response included an explanation of the enhanced due diligence procedure:

- *Are enhanced due diligence, source of wealth and source of funds checks being undertaken in relation to individual commission program players? If so, what checks are undertaken, by whom and when?*

Enhanced due diligence, source of wealth and source of funds checks are conducted in relation to SkyCity's customers depending on the circumstances and level of ML/TF risk. For example, customers are required to undergo enhanced customer due diligence procedures if they are accorded a high or significant risk, determined to be a foreign politically exposed person, reside in a high risk jurisdiction or are the subject of a

suspicious matter. Source of wealth or source of funds inquiries are made in relation to customers who meet certain transaction thresholds or other specified criteria. For example, customers are subject to source of funds inquiries [REDACTED]

[REDACTED]

[REDACTED].

[303] As to specific areas of concern identified in the appendix to the letter from AUSTRAC dated 4 June 2021, in the letter of 9 September 2022 the solicitors provided the following information as to action taken by the licensee since receiving the AUSTRAC letter:

21.2 Resourcing, oversight and governance

[REDACTED]

- (a) *At the time of receipt of the AUSTRAC Letter, the SkyCity Adelaide AML compliance team comprised three full-time staff members – namely the AML Compliance Officer, AML Compliance Manager and AML Analyst, with additional support provided where required by the Legal Counsel (previously the Legal & Compliance Advisor).*
- (b) *The SkyCity Adelaide AML compliance team has been significantly restructured since June 2021, including:*
 - (i) *splitting out the Group General Manager Regulatory Affairs & AML role into two separate roles;*
 - (ii) *the appointment of a new General Manager Financial Crime and AML/CTF Compliance Officer (Nick Stokes) in October 2021, whose sole focus is on AML/CTF related matters, to lift the internal capability of the AML team. Mr Stokes is responsible for:*
 - (A) *the day-to-day oversight of the SkyCity Adelaide AML/CTF Program;*
 - (B) *reporting to the SkyCity Adelaide Board and SCEG Board on matters relevant to the performance and effectiveness of the Part A Program;*
 - (C) *the development of internal policies, standards, procedures, manuals, guidelines and systems relating to SkyCity Adelaide's ongoing compliance with the SkyCity Adelaide AML/CTF Program and the Act and the Rules generally;*

(D) *monitoring and reviewing all casino related and other applicable guidance material disseminated or published by AUSTRAC to determine whether any updates or modifications are required to the SkyCity Adelaide AML/CTF Program; and*

(E) *implementing the AML Enhancement Programme; and*

	Position	Name
1	General Manager Financial Crime/AML/CTF Compliance Officer	Nick Stokes ¹⁸
2	Head of Financial Crime Operations	
3	Manager Financial Crime Intelligence and Liaison	
4	Manager Financial Crime Testing and Assurance	
5	Senior Analyst Financial Crime Policy, Governance & Reporting	
6	Analyst Financial Crime Investigations and Due Diligence	
7	Analyst Financial Crime Investigations and Due Diligence	
8	Analyst Financial Crime Investigations and Due Diligence	
9	Analyst Financial Crime Investigations and Due Diligence	
10	Manager Financial Crime Policy, Governance and Reporting	

(c) *the appointment of additional full-time resources to enhance SkyCity Adelaide's ability to conduct more in-depth forms of analysis and intelligence gathering, as well as support day-to-day AML operations. As at the date of this response, the Financial Crime Team comprises 10 full-time staff members as follows:*

(d) *SkyCity Adelaide continues to monitor resourcing requirements for the AML/Financial Crime Team going forward and will recruit additional roles to supplement the AML/Financial Crime Team as required.*

21.3 Customer Risk

[REDACTED]

(a) *To date, AUSTRAC has not provided any specific details and instances where a customer's risk ratings were not elevated in accordance with SkyCity Adelaide's AML/CTF Program.*

(b) *In order to address AUSTRAC's concerns and meet AUSTRAC's expectations regarding customer risk ratings:*

¹⁸ For privacy and security reasons the other names have been omitted.

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]

- (a) To date, AUSTRAC has not provided any specific details and instances where SkyCity Adelaide has not undertaken enhanced customer due diligence (**ECDD**) as required by the Act, the Rules and/or the SkyCity Adelaide AML/CTF Program or kept adequate records of ECDD undertaken as required to enable it to effectively monitor and manage its customers' ongoing ML/TF risk.
- (b) However, in July 2021, SkyCity Adelaide initiated a process of collecting source of wealth information from each of its Black tier loyalty program members (the highest customer loyalty tier) (**2021 SOW Collection Process**). As part of the 2021 SOW Collection Process:
 - (i) all then current Black tier members in July 2021 (around 325 members) were requested to provide source of wealth information to SkyCity Adelaide regardless of the level of ML/TF risk they posed;
 - (ii) members were requested to complete a source of wealth declaration form (requiring the customer to provide details regarding their employment (salary/wages), business profits from shareholdings, investment income, real estate ownership (including rental earnings), winnings at other gaming venues and any other information relating to their source of wealth) and provide supporting documentation; and
 - (iii) SkyCity Adelaide elected to bar any individual who either failed to demonstrate a plausible source of wealth or elected not to provide details of their source of wealth at all, which led to a number of members (who were considered low, moderate or

high risk at the time the 2021 SOW Collection Process was initiated) subsequently being barred as a result of this process. Some of the individuals who were initially barred due to a reluctance to provide details of their source of wealth have since provided further additional know-your-customer information and have been permitted to return to SkyCity Adelaide.

- (c) As part of the AML Enhancement Programme, SkyCity Adelaide will also undertake an end-to-end process review of its ECDD processes to identify where improvements can be made to its ECDD processes. This may result in further changes and enhancements to the current ECDD processes.
- (d) SkyCity Adelaide's ECDD process and procedures have evolved over time as part of its continuous improvement efforts, and the current ECDD process and procedures for high risk customers involve more extensive investigations than previously required by SkyCity Adelaide. A customer who has been the subject of a historical form of ECDD will be required to be reassessed by the Financial Crime Team if and when that customer returns to the SkyCity Adelaide casino.

21.5 Siloing of information

[REDACTED]

- (a) To date, AUSTRAC has not provided any specific details and instances where critical risk information was siloed and not proactively shared with the AML function.
- (b) Nonetheless, to ensure that critical risk information is not siloed and is proactively shared with the AML function:
 - (i) since June 2021, the AML/Financial Crime Team has been provided with enhanced access to the information management systems used to document and manage incidents or matters that present financial crime or ML/TF risks across the business and other information management systems, namely:
 - (A) the **Bally gaming system** – which is used by SkyCity Adelaide to manage its gaming operations, cage functions, player accounts and the patron loyalty program, including:
 - (1) **Bally CMP** – a casino management software system that integrates, collects and manages business information about customers. CMP is used to create new loyalty accounts, maintain customer records and view account details and history. Records of customers' gaming ratings and transaction history are retained in CMP. These records are checked when investigating potentially suspicious matters or conducting customer due diligence; and
 - (2) **Slot Data System** – an integrated information system that monitors slot/gaming machines and customer activities;
 - (B) the **iTrak system** – SkyCity Adelaide's incident management system for recording incidents and information about customers. The system is used by several departments within SkyCity Adelaide, including the Security, Surveillance, Host Responsibility and Compliance/AML departments. Records relating to incidents and investigations into potentially suspicious matters are retained in iTrak as incident files, with linked subject profiles. When an incident

occurs at the casino or when a suspicion is formed about a customer, a record is created in iTrak. iTrak also retains information obtained as a result of carrying out ECDD procedures; and

(C) the **Opera system** – SkyCity Adelaide’s hotel database; and

- (i) SkyCity Adelaide has developed and commenced implementing a communication and change management plan – the purpose of which is to ensure that each of SkyCity Adelaide’s employees understands the part they play in keeping SkyCity safe from criminal activity. As part of the communication and change management plan:
- (A) a new AML logo and key AML messaging have been developed and rolled out to employees (including via staff newsletters and the digital screens in our back-of-house areas). The new collateral reminds employees of their reporting requirements in relation to cash transactions of \$10,000 or more and to report unusual or potentially suspicious behaviour (including examples of unusual or potentially suspicious behaviour) – examples of the new collateral are contained at Items 5 to 6 of the Index. The next phase of communications will focus on the delivery of role-specific messaging around SkyCity Adelaide’s AML/CTF obligations and the use of a broader range of channels to convey key AML messaging to employees; and
 - (B) a new e-learning module for ‘stage 2’ AML training has been developed and rolled out, which reminds relevant employees of theirs and SkyCity Adelaide’s AML/CTF obligations. This new training aims to provide employees with a more in-depth understanding of customer due diligence obligations and requires them to think about different scenarios and the possible AML/CTF implications. The objectives of the new e-learning module are to:
 - (1) define money laundering;
 - (2) recognise the key stages in the money laundering cycle;
 - (3) define terrorism and terrorism financing;
 - (4) identify the objectives and principal elements of SkyCity Adelaide’s customer due diligence procedures;
 - (5) outline key elements of reporting under the Act; and
 - (6) recognise some common indicators of money laundering and terrorism financing.

A copy of the new e-learning module is contained at Item 7 of the Index.

21.6 SkyCity Adelaide’s ICT Systems

[REDACTED]

- (a) To date, AUSTRAC has not provided any specific details and instances where SkyCity Adelaide’s systems are not fit for purpose.

- (b) *Nonetheless, in June 2021, SkyCity Adelaide established an internal AML Systems Working Group to undertake a full review of the SkyCity Entertainment Group's AML systems and processes (which currently involve a number of ICT systems and a combination of both automated and manual processes) with the purpose of determining whether the current systems, including the automated transaction monitoring system and ICT systems, are fit for purpose. The objectives of the review were to identify areas which did not effectively support the Group's AML compliance obligations and to develop a roadmap and programme of work to address these findings.*
- (c) *The review comprised two phases of work:*
 - (i) *Phase One: Discovery and Summary of Findings; and*
 - (ii) *Phase Two: Roadmap and Programme for FY22 – FY24.*
- (d) *Phases One and Two have been completed and a work plan developed as an output of the review comprising five agreed key workstreams which reflect the key and prioritised findings from the review and the key deliverables agreed in the AML Enhancement Programme – transaction monitoring, case management, single view of customer, business process improvement and automation, and foundation platforms. The focus of each of the five workstreams was to understand the current state and potential uplift opportunities of existing technology (where possible) and to clearly define the target operating model for that workstream.*
- (e) *The review was extensive and has culminated in the development of the ICT AML Capability Programme – a copy of which is contained at Item 8 of the Index. The ICT AML Capability Programme has been incorporated into the AML Enhancement Programme and involves seven workstreams (in order of priority):*
 - (i) *obligatory transaction monitoring and reporting;*
 - (ii) *AML risk identification and metrics;*
 - (iii) *AML compliance workflow management;*
 - (iv) *AML single view of customer;*
 - (v) *bulk player screening;*
 - (vi) *AML/KYC customer due diligence; and*
 - (vii) *patron onboarding, with the first four of these workstreams having already commenced.*
- (f) *The ICT AML Capability Programme reflects a significant uplift of the SkyCity Entertainment Group's AML systems and processes over FY23 and FY24. The uplift programme will ensure that SkyCity Adelaide's AML systems are fit for purpose, used to full effect, are sufficiently resourced to ensure they are capable of identifying, mitigating and managing ML/TF risk, and work together to provide a single view of customer risk.*
- (g) *SkyCity Adelaide continues to further refine and/or enhance its AML/CTF practices as part of the AML Enhancement Programme or otherwise as part of its continuous improvement initiatives.*

[304] In addition, in a letter from the licensee's solicitors to this Investigation dated 16 September 2022, the following information was provided with respect to assessment for enhanced customer due diligence:

14. *As noted, there have already been some changes implemented in relation to the collection of source of wealth information and more extensive investigations for high risk customers are now being undertaken. In addition, SkyCity Adelaide will, as part of the AML Enhancement Programme, undertake an end-to-end process review of its ECDD processes to identify where further improvements can be made to those processes. This may result in further changes and enhancements to its existing ECDD processes.*
15. *The extent of documentation being produced differs across each of the patrons. As you would expect, this is as a result of a number of factors, including when the relevant patron last visited the SkyCity Adelaide casino, how often they frequented the casino, their level of activity, the level of money laundering/terrorism financing (ML/TF) risk they pose and whether they have been barred.*
16. *We also note the following:*
 - (a) *SkyCity Adelaide's ECDD process and procedures have evolved over time as part of its continuous improvement efforts, and the current ECDD processes and procedures for high risk customers involve more extensive investigations than previously required by SkyCity Adelaide; and*
 - (b) *a customer who has been the subject of a historical form of ECCD will be required to be reassessed by the Financial Crime Team in a number of different circumstances including, but not limited to, if and when that customer returns to the SkyCity Adelaide Casino.*

iTrak Reports, ECDD Form and High Risk Customer Form

17. *As noted in the Third Notice Response, the iTrak system is SkyCity Adelaide's incident management system for recording incidents and information about customers. The system is primarily used by SkyCity Adelaide's Security, Surveillance, Host Responsibility and Financial Crime department. Records relating to, amongst other things, incidents and investigations into potentially suspicious matters are retained in iTrak as incident files, with linked subject profiles. iTrak also retains information obtained as a result of carrying out ECDD procedures.*
18. *In relation to ECDD and high risk customers, SkyCity Adelaide has recently introduced additional forms for internal use, namely the ECDD Form and the High Risk Customer Form. These ancillary forms contain information stored across multiple SkyCity Adelaide's systems (including the iTrak system). As such, in relation to suspicious matter reports (SMRs), for example, the SMRs relating to a particular customer exist in either the iTrak system or both the iTrak system and these ancillary reports.*

High Risk Customer Form

19. *In relation to the High Risk Customer Form, we are instructed that in around July to October 2021, a once off 'point-in-time' assessment of each high risk customer was carried out and the High Risk Customer Forms were completed.*

ECDD Form

20. *We are instructed that:*

- (a) SkyCity Adelaide utilises KYC information for customers as part of its ongoing customer due diligence procedures;*
- (b) in accordance with the provisions of its AML/CTF Program, SkyCity Adelaide has only carried out ECDD, including the completion of an ECDD Form, in relation to customers who have been assigned a high or significant ML/TF risk rating; and*
- (c) the ECDD Form was initially introduced in around 2018 and the template ECDD Form was subsequently updated in around 2021.*

21. *In relation to the ECDD Forms that have been produced in response to the Fourth Notice, we note the following:*

- (a) some ECDD Forms were created or varied/updated during the Relevant Period; and*
- (b) some ECDD Forms were initially created prior to the Relevant Period and have not been updated or varied during the Relevant Period, however, all ECDD Forms in the two sub-paragraphs above have been produced as we consider they directly respond to the Fourth Notice (i.e. they are applicable and relate to the relevant patrons during the Relevant Period).*

[305] On 26 April 2022 the Commissioner wrote again to the licensee posing a number of questions. That letter, and the licensee's response of 28 June 2022, are annexure [11] to this Report. The licensee's answers were again qualified by the observation that the current practices described in the letter could be subject to change once the licensee had finalised its new money laundering-terrorist financing risk assessment, and as the licensee continued to refine or enhance its AML/CTF practices as part of the AML Enhancement Program and continuous improvement initiatives.

[306] The inquiries by the Commissioner in the letter of 26 April 2022 centred on the due diligence processes and assessments, together with information as to numbers of customers who were subjected to enhanced due diligence and were refused permission to gamble at the casino. Information was also provided as to staff engaged in the assessments. For present purposes, it is

unnecessary to canvas all the details of the questions and answers, but some of the significant issues with which the licensee dealt in its response of 28 June 2022 may be summarised as follows:

- (i) The licensee considers a variety of factors in determining whether to assign a low, moderate, high or significant risk rating in terms of AML/CTF to particular customers. These factors are non-exhaustive and are intended to provide a general guide to the assignment of risk. The specific factors are as follows:

High Risk

- Any customer whose primary residence is in a high risk jurisdiction;
- advice from a reliable source that the customer is engaged in criminal activity of a kind which suggests a ML/TF risk;
- any customer whose gaming patterns are not supported by their occupation and there is no other reasonable explanation to support their level of turnover;
- gaming patterns which point to balanced betting or similar efforts to recycle funds to disguise their origins;
- any customer conducting cash transactions exceeding \$250,000 over the course of any month;
- any customer detected changing small denomination notes for large in circumstances which could indicate currency refinement;
- any customer using an account in a manner which is unconnected to gambling activity or which otherwise shows an unusual pattern;
- any customer obtaining cheques which are unrelated to their gaming activity;
- international funds transfer instruction (**IFTI**) transfers to and from high risk countries with weak AML/CTF controls;
- a customer who requests an undue level of secrecy in relation to a designated service; or
- any customer who is the subject of a suspicious matter report (**SMR**).

Significant Risk

- Any customer who has undergone enhanced customer due diligence (**ECDD**) where the results of that process have highlighted further concerns about that customer;
- any customer who is identified as a foreign politically exposed person (**PEP**) or international organisation PEP; or
- any customer whose primary residence is in a high risk jurisdiction and who deposits \$100,000 (or above) on their casino account.

SkyCity Adelaide also considers a customer's source of wealth and/or source of funds in determining and assigning ML/TF risk. [REDACTED]

[REDACTED]

- (ii) In considering the number of customers subjected to enhanced due diligence, and subsequently excluded in the period 2019 – 26 April 2022, it is necessary to bear in mind that in July 2021 the licensee required all of its Black Tier Loyalty Program members to provide source of wealth documentation, regardless of the AML/CTF risk each member

posed. The licensee elected to bar any individual who either failed to demonstrate a plausible source of wealth or elected not to provide the necessary details. As a consequence, a total of 93 members, who were considered high risk at the time of the process, were barred. Some of those who were barred subsequently provided further information and were permitted to return to the casino.

- (iii) The information sought in a source of funds inquiry is dependent on a variety of factors, including the amount of cash being presented, the circumstances surrounding the origin of the cash and the background of the individual presenting the cash. Any customer presenting cash between [REDACTED] and [REDACTED] must satisfactorily complete a source of funds declaration form providing details of occupation, title, employer, current main source of income and origin of the cash being presented. A customer presenting [REDACTED] or more in cash must complete a different form 'which requires them to provide additional supporting documentation that verifies the source of the cash and their wealth'. Supporting documentation can include records such as payslips, employment contracts, taxation returns, bank statements or other equivalent verification records.
- (iv) It is the responsibility of the Cash Handling Shift Manager to review the forms and decide whether the information is plausible, or whether to raise concerns or queries with senior management. If a customer refuses to provide the information, or it appears to be unsatisfactory, the transaction is refused and the Financial Crime Team is notified. When the amount of cash is \$100,000 or above, approval must come from both the Cash handling Shift Manager and the Senior Casino Manager.
- (v) Large electronic transfers, \$300,000 for Australian customers and \$1 million dollars for international customers, require source of wealth inquiries. Only members of the licensee's Financial Crime Team have the authority to determine whether a customer has provided a satisfactory response to such an inquiry.
- (vi) The licensee made a decision earlier in 2022 'to cease all forms of third-party payments across its business until further notice'.
- (vii) Each department is responsible for ensuring compliance with standard operating procedures and policies. Compliance is also 'managed by senior management across each respective department'. The new AML Enhancement Program 'will ensure that there is continuous oversight applied to the implementation and performance of' the licensee's AML/CTF practices.
- (viii) As to mitigating the money laundering risks:

SkyCity Adelaide has a range of systems and controls in place to identify, mitigate and manage ML/TF risks relating to its customers. The details of the primary systems and controls are set out in the table below:

<i>Systems and controls</i>	<i>Details of systems and controls</i>
<i>KYC procedures for casino account opening (i.e. membership in loyalty program), transacting on a casino account etc.</i>	<i>The systems and controls are designed to capture customers' minimum KYC details prior to any designated service being provided (e.g. collection of passport or drivers licence). Minimum KYC information captured by SkyCity Adelaide staff is recorded in SkyCity Adelaide's Bally CMP software system.</i> <i>In addition to the above, SkyCity's International and Interstate Business division also applies a gaming threshold assessment to all of its international and interstate customers prior to allowing these customers to commence play at the SkyCity Adelaide Casino (including requiring customers to complete a Patron Credentials Disclosure form). These customers are assessed based on factors such as the customer's expected level of buy-in and gaming turnover. The higher the threshold assigned the customer, the more information SkyCity Adelaide will seek to obtain about the customer's source of wealth. This process is commonly referred to as the 'traffic light</i>

	<i>system' which was discussed in further detail at our Meeting. As you know, SkyCity Adelaide only offers commission-based play to its international/interstate customers.</i>
<i>Screening checks</i>	<i>In circumstances where a customer establishes a casino account through membership in SkyCity Adelaide's customer loyalty program, the customer is screened against the Dow Jones & Compliance database to determine whether the customer is a PEP or whether there is any adverse media that may indicate an elevated level of ML/TF risk. These checks are undertaken as soon as practicable after the customer has established membership.</i>
<i>Risk elevation triggers</i>	<i>As outlined in our response to question 1, SkyCity Adelaide considers a variety of risk elevation triggers to help it determine the level of ML/TF risk posed by a particular customer.</i> <i>Each customer is, having regard to their individual circumstances, assigned either a low, moderate, high or significant ML/TF risk rating by SkyCity Adelaide. Each risk rating has its own individual set of risk elevation triggers that are set out in the AML/CTF Program.</i>

	Customers are assigned their applicable risk rating when they have met one or more of the triggers relevant to that risk rating.
AML Training – Stages 1 and 2	All SkyCity Adelaide staff with a low-moderate risk rating or above complete stage 1 AML/CTF training and are required to undertake stage 1 refresher training every two years. Staff in roles with a moderate risk rating or above, and staff in any other roles specified by the AML/CTF Compliance Officer and/or HR management, also complete stage 2 AML/CTF training and assessment and are required to undertake stage 2 refresher training every two years. Accordingly, the relevant SkyCity Adelaide staff members are continually refreshed with information concerning ML/TF risks associated with the business.
Threshold transaction reporting (\$10,000 or above cash transactions)	SkyCity Adelaide's systems and controls in respect of threshold transactions involve the identification, recording and reporting of all cash transactions of \$10,000 or more.
Observation reports by frontline staff	Where suspicious behaviour is observed (for example. Structuring

	<i>transactions, passing off chips, or refusal to show identification), front line staff members report the matter to the Financial Crime Team for further inquiry by way of observation reports.</i>
<i>Transaction monitoring</i>	<i>SkyCity Adelaide's transaction monitoring program includes systems and controls for monitoring transactions connected to each customer's casino account for the purposes of identifying transactions that may pose an increased ML/TF risk.</i>
<i>Enhanced customer due diligence</i>	<i>SkyCity Adelaide carries out additional checks for customers who are deemed high or significant risk. This includes carrying out extra checks on a customer's identification, collecting additional information (for example. Through a source of wealth inquiry) and doing additional verification.</i>

Commission program play is subject to increased scrutiny in terms of tracking, recording and surveillance, which increases SkyCity Adelaide's ability to mitigate any ML/TF risk associated with such gaming activity. We therefore remain of the view that individual commission program players pose no greater ML/TF risk than other VIP or main gaming floor customers who are not playing on a commission program.

- (ix) Commission Agents introduce high-valued patrons to the casino and are paid a commission by the casino for the provision of those services. However, when a player is introduced by a Commission Agent, 'the casino enters into a direct relationship with the individual player' meaning that 'all financial and gaming transactions are undertaken directly between the casino and the individual player'. It is the player who is responsible for supplying their own funds and any winnings or commissions are paid directly to the player. This system is in contrast to Junket operations where the casino enters into the relationship with the Junket Operator rather than the individual player.

[307] In the context of the involvement of Commission Agents, it is appropriate to bear in mind the observations of Mr Bell in dealing with a proposal by The Star to activate ‘third party referral’ arrangements (ch 14 [15] and [16]):

‘Third party referral arrangements were explained in more detail as follows:

1. **Third Party Referrer** – Existing customers or individuals previously employed by junkets or other casinos, introduced a potential customer to the sales team. Referrer is required to undergo relevant know your customer (‘KYC’) checks prior to progressing.
2. **Referred Customer** – The third party referrer and sales team engage the customer jointly (i.e. through an introductory dinner).
3. **Trip Requirements** – Consistent with previous processes, funds flow / credit, trip driver / deal structure and regulatory requirements to be negotiated by The Star and outlined prior to gaming commencing.
4. **Travel** – Third party referrer may either accompany the customer to The Star property (i.e. in a group setting) or communicate remotely.
5. **Customer / Referral Payment** – Customer receives payment as per previous processes with the third party referrer receiving an incentive after outstanding credit has been settled based on two scenarios:
 - Fixed Fee – regardless of customer play activity, amount to be based on either qualitative or quantitative information (i.e. loyalty cards held at other competitor properties or front money)
 - Variable – Based on a percentage of gaming activity throughout the trip duration.

At least on this foreshadowed model, third party referral arrangements have commonalities with junkets. However, witnesses were not examined on this document and it is not known what, if any, further consideration was given to this proposal at the time. **Clearly, any prohibition on junkets must eradicate them in substance as well as in form.**

[footnotes omitted; my emphasis]

25.0 Commission Programs for Individual Players

- [308] In the letter of 25 February 2022 to the Commissioner, the licensee stated that money remitters are not permitted for local or interstate customers, and international customers are only able to use a money remitter 'that has been subject of an internal due diligence and approval process overseen by SCEG AML Senior Management Group'. The letter also stated that the licensee intended to continue operating the currently approved Commission Program arrangement for individual players.
- [309] On 24 January 2022, the Commissioner asked a number of questions about the individual commission program. Earlier in this Report, the licensee's answer concerning enhanced due diligence checks undertaken in relation to individual commission program players is cited.
- [310] In answering the Commissioner's questions, by the letter of 25 February 2022 the licensee stated that payments by third parties on behalf of individual commission program players are not accepted, but the licensee was currently considering transfers from and to other Australian casinos in certain circumstances. As to mitigating the money laundering risks relating to individual commission programs, the licensee stated:

SkyCity's view is that individual commission program players pose no greater ML/TF risk than other VIP or main gaming floor customers who are not playing in a commission program. All customers are assessed based on their ML/TF risk profile and level of play. In practice, commission program play is subject to increased scrutiny in terms of tracking, recording and surveillance, which increases SkyCity's ability to mitigate any ML/TF risk.

[311] The Commissioner responded by letter of 26 April 2022 indicating he was not satisfied that the licensee was taking adequate steps to mitigate the money laundering risks relating to the individual commission programs. The Commissioner again asked about the steps taken to mitigate money laundering risks relating to individual commission programs. By letter of 28 June 2022, the licensee responded:

Question 26: What steps has SkyCity Adelaide taken to mitigate against the money laundering risks relating to individual commission programs (regardless of whether the steps have also been taken in respect of VIP or main gaming floor customers)?

All customers (including individual commission program players) are assessed based on their individual ML/TF risk profile and level of play.

SkyCity Adelaide has a range of systems and controls in place to identify, mitigate and manage ML/TF risks relating to its customers. The details of the primary systems and controls are set out in the table below:

<i>Systems and controls</i>	<i>Details of systems and controls</i>
<i>KYC procedures for casino account opening (i.e. membership in loyalty program), transacting on a casino account etc.</i>	<i>The systems and controls are designed to capture customers' minimum KYC details prior to any designated service being provided (e.g. collection of passport or drivers licence). Minimum KYC information captured by SkyCity Adelaide staff is recorded in SkyCity Adelaide's Bally CMP software system.</i> <i>In addition to the above, SkyCity's International and Interstate Business division also applies a gaming threshold assessment to all of its international and interstate customers prior to allowing these customers to commence play at the SkyCity Adelaide Casino (including requiring customers to complete a Patron Credentials Disclosure form). These customers are assessed based on factors such as the customer's expected level of buy-in and gaming turnover. The higher the threshold assigned the customer, the more information SkyCity Adelaide will seek to obtain about the customer's source of wealth. This process is commonly referred to as the 'traffic light system' which was discussed in further detail at our Meeting. As you know, SkyCity Adelaide only offers commission-based play to its international/interstate customers.</i>

Screening checks	<i>In circumstances where a customer establishes a casino account through membership in SkyCity Adelaide's customer loyalty program, the customer is screened against the Dow Jones Risk & Compliance database to determine whether the customer is a PEP or whether there is any adverse media that may indicate an elevated level of ML/TF risk. These checks are undertaken as soon as practicable after the customer has established membership.</i>
Risk elevation triggers	<i>As outlined in our response to question 1, SkyCity Adelaide considers a variety of risk elevation triggers to help it determine the level of ML/TF risk posed by a particular customer.</i> <i>Each customer is, having regard to their individual circumstances, assigned either a low, moderate, high or significant ML/TF risk rating by SkyCity Adelaide. Each risk rating has its own individual set of risk elevation triggers that are set out in the AML/CTF Program.</i> <i>Customers are assigned their applicable risk rating when they have met one or more of the triggers relevant to that risk rating.</i>

AML Training – Stages 1 and 2	All SkyCity Adelaide staff with a low-moderate risk rating or above complete stage 1 AML/CTF training and are required to undertake stage 1 refresher training every two years. Staff in roles with a moderate risk rating or above, and staff in any other roles specified by the AML/CTF Compliance Officer and/or HR management, also complete stage 2 AML/CTF training and assessment and are required to undertake stage 2 refresher training every two years. Accordingly, the relevant SkyCity Adelaide staff members are continually refreshed with information concerning ML/TF risks associated with the business.
Threshold transaction reporting (\$10,000 or above cash transactions)	SkyCity Adelaide's systems and controls in respect of threshold transactions involve the identification, recording and reporting of all cash transactions of \$10,000 or more.
Observation reports by frontline staff	Where suspicious behaviour is observed (for example, structuring transactions, passing off chips, or refusal to show identification), front life staff members report the matter to the Financial Crime Team for further inquiry by way of observation reports.
Transaction monitoring	SkyCity Adelaide's transaction monitoring program includes systems and controls for monitoring transactions connected to each customer's casino account for the purposes of identifying transactions that may pose an increased ML/TF risk.
Enhanced customer due diligence	SkyCity Adelaide carries out additional checks for customers who are deemed high or significant risk. This includes carrying out extra checks on a customer's identification, collecting additional information (for example, through a source of wealth inquiry) and doing additional verification.

Commission program play is subject to increased scrutiny in terms of tracking, recording and surveillance, which increases SkyCity Adelaide's ability to mitigate any ML/TF risk associated with such gaming activity. We therefore remain of the view that individual commission program players pose no greater ML/TF risk than other VIP or main gaming floor customers who are not playing on a commission program.

We make the following additional observations in relation to individual commission program play:

- (a) customers playing on what is referred to as a "NNEG program" receive non-negotiable chips from which their commission is derived. Unlike regular cash

chips, these non-negotiable chips cannot be redeemed for cash and are not transferable between the general population of customers as they cannot be used by customers who are not on an individual commission program. The player's commission is paid to them based on the sum value of the NNEG chip losses they incur during their program minus the NNEG chips in their possession at either partial or full settlement of the program. This limits the ability of individuals on a NNEG individual commission program to obscure the origin of their chips when the commission program is settled and removes any incentive for individuals to disperse their commission chips amongst third parties;

- (b) customers playing on what is referred to as a "TURN program" play with chips that can be redeemed for cash and are transferable between customers. However, the administration of turn programs involves the manual recording of every bet placed by the customer by SkyCity Adelaide staff. This ensures that customers who do not engage in a level of gambling commensurate with their level of buy-in are able to be detected. Such information can subsequently be escalated to the Financial Crime Team for further investigation and relevant action;*
- (c) when an individual commission program is settled, the player may request to be paid their commission in cash, cheque or electronic funds transfer. SkyCity Adelaide will only issue a cheque in the name of the customer and will only send an electronic payment to a personal bank account in the name of the customer (i.e. payments to any type of third-party are prohibited); and*
- (d) the Financial Crime Team may also, in certain circumstances, conduct a review of the activity of an individual commission program player following completion of their program. Such a review will:*
 - (i) consider any mid-program cash outs and buy-ins in cash conducted by the player;*
 - (ii) consider any electronic transfers (either in or out) conducted by the player; and compare the player's turnover against their buy-in to determine whether there are ML/TF indicators*

26.0 Commission Programs – Policy

[312] In the letter of 24 January 2022, in addition to asking questions concerning the individual commission program, the Commissioner requested the licensee provide a copy of the current version of policy approved by the SCEG Board. He referred to cl 2.2 (e) of the Control Standards for commission programs (ACCS CHO9). In response by the letter of 25 February 2022, the licensee stated that the reference to ACCS CHO9 appeared to be an 'obsolete reference that was included in the control standards some time ago'. The letter stated that reference to the policy should be removed, 'as there is currently no such policy specifically governing the conduct of commission programs'. Further, the letter stated that updates to CHO9 were currently before the Commissioner for approval, and that the licensee would be seeking the removal of cl 2.2 (e).

[313] In response by letter of 26 April 2022, the Commissioner cited cl 2.2 (e) and expressed concern about the statement by the licensee that the clause was obsolete as there is currently no such policy specifically governing the conduct of commission programs. The Commissioner observed that it appeared the licensee was operating individual commission programs in contravention of the approved systems and procedures by facilitating such programs in the absence of a Board policy. Such conduct would be a breach of s 38(2) of the Act.

[314] The Commissioner indicated he would consider whether to take action as a result of the breach, but his priority was to be satisfied that the licensee established an appropriate policy. The letter continued:

To protect the integrity of commission based gaming, strictly should include know your customer and financial due diligence requirements. It should also include a detailed description of:

- *The systems and procedures for the approval of players and any other persons who are party to or will receive the proceeds from a commission based arrangement;*
- *The checks undertaken by SkyCity and the veracity of such checks;*
- *Who grants the approval and if under the delegated authority of the casino licensee, the criteria/parameters of the delegated authority;*
- *The requirements for maintaining approval; and*
- *If the approval is subject to a process of renewal, what further checks are undertaken by SkyCity.*

An appropriate policy must be approved and implemented by 31 May 2022.

[315] The licensee's letter of 28 June 2022 included a response to the question of policy. After stating that it was the licensee's 'prior understanding' that reference to cl 2.2 (e) was an obsolete reference, the licensee explained its position following further inquiries:

*We have since made further inquiries in relation to the policy referred to in that document and believe that it is a reference to the SkyCity Group Delegated Financial Authorities Policy approved by the SkyCity Group Board of Directors (**DFA Policy**).*

The DFA Policy identifies the most significant authorities and threshold levels that the Group Board has elected to delegate to the Group Chief Executive Officer (CEO) and outlines the key principles underpinning any further sub-delegation in order to ensure the effective and efficient management of the Group's businesses (including its casino businesses).

As outlined in the DFA Policy, authorities can be further designated by the CEO where there is a specific business requirement to do so and after due consideration of the risks associated with the activity being delegated. In this regard, the Group has also established separate Delegated Gaming Authorities (DGA) setting out the various authorities of staff with respect to gaming related transactions (including, amongst other things, transactions relating to commission programs). The DGA also contains details of how commission programs are to be operated, including the manner within which credit may be extended and the types of commissions that may be paid.

We have provided a copy of each version of the DFA Policy and each of the sub-delegated DGA that was in place during the period between February 2014 (being the time the control standard was initially introduced) to now (see Attachment I)

More generally, we note that all business decisions taken in the operation of programs (within the parameters set by the Control Standard) have been taken in accordance with limits, models, approaches and procedures approved by SkyCity Group Board of Directors.

Consequently, SkyCity Adelaide is of the view that it has operated its commission programs in accordance with a policy approved by the SkyCity Group Board of Directors as is required by clause 2.2I of the ACCS CH09. That being said, we acknowledge and appreciate your suggestion that SkyCity Adelaide would benefit from establishing and implementing a policy which also addresses matters such as KYC and financial due diligence requirements. To that end, we confirm that senior management has since formally documented a 'Rebate play' policy statement which is expected to be formally approved by the Board shortly (see Attachment J).

[316] Control standard CH09 was introduced in February 2014 for the express purpose of establishing 'systems and procedures for the financial management and accountability of commission-based gaming'. The version of 4 February 2019 provides in cl 2.2 that 'to protect the security and integrity of commission-based gaming, financial control and accountability shall be maintained at all times'. Clause 2.2 continues that, 'as a minimum':

(e) All commission programs will be conducted in accordance with a policy approved by the Skycity entertainment Group Board of Directors. Whenever the Board Policy is amended, a copy will be forwarded to the Liquor and Gambling Commissioner for noting, prior to implementation.

[317] When this issue was brought to the attention of the licensee through the request by the Commissioner in the letter of 24 January 2022 for a copy of the current version of the policy approved by the SCEG Board, as required by cl 2.2I, the licensee faced a difficulty. There was no such policy. In that event the licensee would have been operating the individual commission program in breach of s 38(2) of the Act which provides that it is a condition of the licence that the licences, ‘must ensure that the licensee’s operations under the casino licence conform with the approved systems and procedures’.

[318] In evidence on 16 December 2022, after his attention was drawn to history and relevant documentation, Mr Christian agreed there was no policy specific to the Individual Commission Programs. He said that when he returned to Adelaide in 2019, he asked for the policy, but it was under the control of the International Business Division. Mr Christian was never provided with a copy of such a policy. He accepted delegated financial authorities were not directed to cl 2.2 (e).

[319] The direction in cl 2.2 (e) is quite specific. It provides that all commission programs will be operated in accordance with a ‘policy’ approved by the SCEG Board. The obvious intention was to require the SCEG Board to approve a ‘policy’ related to ‘all commission programs’. Instead of frankly admitting a failure in this regard, the licensee endeavoured to explain the situation by asserting a ‘belief’ that the reference to policy in cl 2.2I was a reference to the SkyCity Group ‘Delegated Financial Authorities Policy’ (DFA Policy) approved by the SCEG board.

[320] Put politely, this contention is without merit. The DFA Policy approved by the SCEG board on 13 August 2013 contains the following statements of the Policy (which is repeated in subsequent versions):

This Delegated Financial Authorities Policy sets out the functions, duties or powers delegated to the SkyCity CEO/MD to make expenditure and commitment decisions on matters relating to the company or any of its only owned subsidiaries, subject to the maximum limits set out in this document.

- [321] The DFA Policy also deals with sub-delegations.
- [322] The functions, duties and powers delegated by the Board to the CEO/MD are identified in the schedule under the headings Banking/Finance, Credit Facilities-Gaming, and Gaming Table Limits. The topics under those headings concern broad financial questions and financial procedures. There is no mention of individual commission programs or financial amounts, or of issues related to such programs.
- [323] Other categories identified in the schedule relate broadly to the casino operations and general expenditures. They are not concerned with individual commission programs.
- [324] The sub-delegations over the years are found in documents headed Delegated Gaming Authorities (DGA). The June 2017 DGA deals with the delegated authority limits in connection with various activities such as gaming table limits, credit facilities, and cheque cashing facilities. The topic Commission Programs is mentioned in the context of approving requests for cheque cashing facilities and bank cheques. Under the heading ‘Commissions’ the following lines appear:
- *Commissions must be added to the deposit accounts to ensure the payout is in accordance with the six steps above.*
 - *No DGA is required where the program agreements are approved provided the commission calculation is in accordance with the terms and conditions of that program.*
 - *Approval of commission outside of an approved program.*
- [325] The six steps mentioned are steps identified under a general heading ‘Casino-active customer deposit account’.

- [326] The same wording appears in subsequent DGAs. While there is reference to commission programs in those Authorities, they are strictly limited to particular financial issues, and do not provide any assistance with respect to the practical operation of individual commission programs. Plainly, they are not intended to operate as the policy required by cl 2.2.
- [327] The misconceived attempt by the licensee to avoid the obvious conclusion that the policy required by cl 2.2 did not exist does it no credit. It should have immediately accepted that conclusion and set about to rectify the absence of the Policy.
- [328] During his evidence, Mr Christian confirmed that two days earlier a decision had been made to ‘freeze’ the individual commission programs because of the issues raised in the Concise Statement filed by AUSTRAC in connection with its claim against the licensee. It was thought prudent to cease the program while still working through the details of the AUSTRAC proceedings.
- [329] Subsequently the licensee pointed out that in direct response to concerns raised by the Commissioner with respect to the licensee’s compliance with control standard CH09, the licensee developed a ‘Rebate Play Policy’ which specifically governs the operation of rebate programs at the Casino. The licensee maintains that this Policy addresses matters raised by the Commissioner.

27.0 Direct Mail Offer

- [330] In the context of Mr Christian’s evidence that on 14 December 2022 a decision was made to ‘freeze’ the individual commission programs, it is appropriate to discuss a new program given the title Direct Mail Offer (DMO). Knowledge of this Program was first obtained during the course of this Investigation. It is appropriate to consider DMO in the context of procedures followed with individual commission programs.
- [331] As is common in the casino industry, the licensee has always offered incentives/inducements to casino patrons by way of participation in acceptable loyalty programs. The offering of such

Reward Programs was previously governed by Part 3 of the 2013 Gambling Codes of Practice, and is now governed by cl's 24-26 of the Casino Gambling Code of Practice. Those clauses do not, however, apply to offering inducements or incentives to premium customers because cl 14B of the Approved Licensing Agreement provides that the licensee is exempted from complying with those provisions in relation to premium customers.

[332] Prior to the decision to 'freeze' the Individual Commission Program, that Program was offered to interstate and international customers. At the commencement of the Program, the customer and the licensee sign an agreement outlining the details of the Commission Program. The agreement includes the type of Program (TURN or NNEG), the games on which the commission will be applied, the initial amount of money (Front Money) the player has deposited into their Front Money Account (FMA) with the casino, and the percentage rate at which the commission will be paid. The rebates/commissions are paid at the conclusion of the gambling activity in accordance with the percentage rate agreed in the Program Agreement. The settlement must be signed by both the customer and the licensee.

[333] The commission paid on a TURN Program is calculated by tracking every wager placed by the customer. On the NNEG Program, the commission is calculated on the amount of NNEG chips a player has lost.

[334] Significantly, in accordance with cl 2.73 of the Adelaide Casino Control Standard (ACCS) CH09, in respect of individual commission programs the licensee is required to notify the Commissioner of the commencement and settlement of all such programs. This requirement is an important element of transparency which does not apply in the case of direct DMO activities.

[335] DMO involves customers receiving a range of rewards based on the customer's gambling activity during their previous trip to the casino. The rewards can include flights, accommodation at the casino premises, food and beverage expenses, tickets to special events and the provision of bonus bets/promotional chips. Such chips are different from other forms of chips. They are in different colours to ensure that they are easily identified, even when stacked within other forms of chips.

- [336] The bonus bet/promotional chips issued as part of a DMO are issued to the customer at the Cage. According to the International Business Standard Operating Procedures (IB SOP), at the conclusion of betting the bonus bet/promotional chips are to be collected by the dealer and dropped into the table box. However, this Investigation understands that this process is not followed with chips issued as part of a DMO. A former member of staff advised that such chips are stored in the table float, removed from the gaming table prior to the table closing and returned to the Cage. As a consequence of this process, such chips are not seen, counted or verified by the Soft Count Team, as is required by all other forms of revenue placed into the drop box. This process is contrary to the Table Games SOP, TG02.
- [337] An issue of concern is the manner in which the licensee accounts for gambling under the DMO Program. An employee, with knowledge in this area, advised that the bonus bets/promotional chips used under a DMO are not considered revenue and, therefore, are not included within the reporting conducted by the Finance Team. The issue and redemption of such chips are treated like the converted reward points played through an EGM. They are not considered revenue. From time to time the Finance Team receives chips from the soft count room, but the Finance Team does not count these chips or record them anywhere and they are simply returned to the Cage.
- [338] According to the employee, although the Cage has many different accounts which may be used to record the issue of bonus bets/promotional chips, these accounts are not received by the Finance Team for revenue purposes. The Finance Team is able to see entries from CMP/Bally Cage, confirming the movement of these chips from the Cage, but this Report does not identify the customer and the information is not used or reconciled by the Finance Team in any way. The transaction is not recorded as a chip sale and is not recorded against chip sales virtual drop boxes.
- [339] The employee advised that these chips have been in use for many years, and have never been recorded as revenue, or treated as a cash equivalent. The lack of transparency, and the risk to the integrity of gambling processes, are readily apparent.

[340] When interviewed on 16 December 2022, Mr Christian seemed uncertain about the details of the Program. He understood it was aimed at customers other than ‘the most high level customers’, and that it was usually focussed on airfares and accommodation. Although he believed that the recording of gambling results is better occurring at the table, Mr Christian believed that a reconciliation would be undertaken in order for the gambling and its results to be noted accurately in the licensee’s financial records.

[341] Contrary to the view of Mr Christian, a VIP Host has advised this Investigation that most of that Host’s customers are now using DMO by reason of its simplicity. DMO has no minimum buy in, and revolves around offering a range of benefits upfront.

28.0 2022 AML Enhancement Program

[342] Notwithstanding the evidence of New Zealand based directors discussed earlier, it was clear from the evidence, and in particular the Initialism report and issues raised by AUSTRAC, that in early 2021 the licensee’s Compliance Program was inadequate to a significant degree, as was the implementation of the Program. Resourcing of the AML/CTF division was grossly inadequate. However, it was also clear that following the intervention by AUSTRAC in June 2021 and receipt of the Initialism Report in September 2021, the licensee pursued amendments to the program aimed at rectifying the inadequacies. As mentioned, an AML Enhancement Program was established. An early version dated December 2021 is annexure [12]. To January 2023 the latest version was dated November 2022 and is annexure [13].

[343] As at January 2023, management of the latest Enhancement Program was the responsibility of [REDACTED] who joined the SkyCity Group [REDACTED] as a Project Manager in relation to the development of hotels. She was actively involved with the development of the licensee’s Adelaide hotel and, although she was based in New Zealand, [REDACTED] spent four months in Adelaide during 2020 and regularly visits South Australia. [REDACTED] was appointed the Program Manager for the AML Enhancement Program in November 2021. She reported to the Chief Information Officer, Mr Glen McLatchie, and the Steering Committee which was comprised of

Mr Ahearne, Mr Christian, Mr Stokes, Mr McLatchie, Ms Wong and three other persons. Additional personnel were recruited to the Steering Committee as needed.

[344] When ██████ commenced involvement with the Enhancement Program, her immediate thought was that ‘there was a lot to do’. She received basic training in AML obligations and familiarised herself with Parts A and B of the Compliance Program. It was her impression that training in AML across the Adelaide Casino was ‘pretty informal’. She was aware that the AML area has been under resourced.

[345] ██████ gave evidence that the foundation for the Program rests on the report by Initialism, with which she made herself familiar. From ██████ perspective, the broad areas of priority were governance, due diligence, risk assessment, risk appetite, monitoring of risks, resourcing, and processes, including the processing and collection of data. There was a need to understand the requirements of the Financial Crime Team, and to develop policies and procedures to obtain the necessary information and enable the Financial Crime Team to readily access it. ██████ also understood that oversight by the Adelaide Board had been lacking.

[346] The 2022 Enhancement Program included a workstream summary and plan. The plan was divided into eleven workstreams, each of which was operating with a work team headed by a Project Manager.¹⁹ Each team contained a Business Analyst. ██████ had a team of 5, and a further member was being recruited. Overall, approximately 15 were working on the Enhancement Program project.

[347] The eleven workstreams were as follows:

¹⁹ Earlier versions contained six workstreams.

Workstream Overview

AML Enhancement Programme – SkyCity Adelaide

DRAFT

1. AML Governance and ML/TF Risk	Board and Senior Management Oversight, includes AML maturity model, AML Risk Appetite, Three Lines of Defence, ML/TF Risk and the Risk-Based approach, Annual Compliance Report obligations
2. AML/CTF Program & Framework	AML/CTF Program and Standards, continuous improvement, framework and operating model
3. People and Training	Delivery of AML/CTF focused training - specifically risk awareness Employee Due Diligence - risk based approach to due diligence, screening and re-screening, breach framework Balanced Scorecard, Target Operating Model, Risk Culture
4. Change and Communication	AML/CTF targeted communications Change activity to accelerate adoption and the meeting of goals related to AML change
5. Regulatory Reporting	Reporting of obligatory transactions to/from regulators, enhancing automation and assurance capabilities
6. Financial Crime Investigations	Unusual activity reporting Investigations activity Dashboard reporting and alert generation of transactions and patron activity
7. Compliance Workflow Management	Management of key compliance workflows via a consolidated, integrated and automated solution
8. Single View of Customer - AML	Aggregated data 'view' of all AML relevant data and information related to a customer
9. Customer Screening	Player screening processes further enhances through accuracy and automation, including integration with other core AML functions
10. Know Your Customer	Creation & management of customer data specific to AML - Source of Wealth, Source of Funds & Customer AML Customer Risk Rating - via user friendly & integrated interfaces Patron on-boarding, largely digitised supporting AML 'KYC' and CDD requirements supporting workstream 11
11. Enterprise Strategy Dependencies	Strategic 'enablers' to the AML EP objectives, SkyCity transformation programme dependencies (DM&A, Customer experience (Patron on-boarding), Gaming etc)

[348] The Enhancement Program set out the resources and key activities for each workstream:

01 Governance and ML/TF Risk Management Workstream

Resource
Executive Sponsor: Jo Wong Business Owners : Nick Stokes, [REDACTED] Workstream Lead: [REDACTED] SMEs: various, to be added as workstream progresses
Key Activity
- Operationalisation* of Part A AML/CTF Program and frameworks for the following section(s): - S3 ML/TF Risk - S6 Program Management – Governance and Oversight - S7 AML/CTF Compliance Officer - S8 Independent review - S9 AUSTRAC feedback and guidance - S11 Annual Compliance report - Refinements of the Risk Assessment and methodology - Testing and Assurance framework - Design and development of the AML Maturity model - Development and deployment of the AML risk appetite - Three Lines of Defence model for AML (scope to be reconfirmed) - Analysis for system/solution for risk assessment *operationalisation is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

02 AML/CTF Program and Framework

Resource
Executive Sponsor: David Christian Business Owner: Nick Stokes Workstream Lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Manage change to AML/CTF Program and framework • Ensure alignment with Quality Control • Development of standards (policies) to support changes to AML/CTF Program • Version control and document management • Operationalisation* of Part A AML/CTF Program and frameworks for the following section(s): • S16 Record Keeping Requirements • Development of a continuous improvement process (e.g. SOPs, templates) to support on-going change to AML/CTF Program and Framework (standards (policy), standard operating procedures, processes and assurance) that is embedded to BAU operations • Reporting on Roadmap delivery within Workstreams *operationalisation is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

03 People and Training

Resource
Executive Sponsor: Claire Walker Business Owner: [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Operationalisation* of changes to Part A AML/CTF Program and framework for: • S4 AML/CTF Risk Awareness Training Program • S5 Employee Due Diligence Program • Employee screening • Program breach framework/consequence management • Financial Crime organisational structure and on-boarding • Risk Culture survey action reporting • Balanced score card reporting *operationalisation is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

04 Communications and Change

Resource
Executive Sponsor: David Christian Business Owner: Various Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Phased AML/CTF communication plan • Embedding of AML/CTF brand across SCA • Delivery of a range of evolving targeted communication artefacts through a broad range of channels • Creation of a change management approach • Single View of change (AML/CTF focused) • Creation and management of Change Forum

05 Regulatory Reporting

Resource
Executive Sponsor: Jo Wong Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
- Operationalise* changes to Part A AML/CTF Program and framework for: - S11 – Reporting Obligations - Threshold Transaction Reporting - International Funds Transfer Instruction - Note: Further refinement of SOPs (assumed to be existing) will occur in the second stage when more significant system changes are implemented. - Implementation of management response items in the IFT/TTR end to end process review - Process and minor system changes implemented. These will be based on analysis of AU and NZ - Re-develop the IFT process to automate where possible, and align systems and process between AU and NZ - Re-develop the TTR data processing to simplify, improve assurance and reduce risk - Longer term Bally (Casino System) and / or Finance system changes that will further reduce risk and improve operational efficiency - Incorporation of the SMR submission process into the Compliance Workflow solution (see 07 Compliance Workflow Management for details) *operationalise is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

06 Financial Crime Investigations

Resource
Executive Sponsor: Jo Wong Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
- Operationalise* changes to Part A AML/CTF Program and framework for: - S11- Reporting Obligations - Suspicious Matter Reporting - S14 – Transaction Monitoring Program - Patron account typology development informed by various reviews - Transaction monitoring program end to end process review - Incremental delivery of methods to support typologies. - Process and minor system enhancements. *operationalise is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

07 Compliance Workflow Management

Resource
Executive Sponsor: David Christian Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
- Relevant changes as a result of SMR end to end review i.e. changes to process and forms - Changes required to unusual activity observation forms/process - RFI/RFP to identify a Compliance Workflow Management Solution - Implementation of the selected Compliance Workflow Management solutions - Process changes resulting from the systems implementation *operationalisation is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

08 Single View of Customer – AML

Resource
Executive Sponsor: David Christian Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• High level business and supporting data requirements. • Development of a technical architecture to support these. • Development of an agreed backlog to drive a incremental development approach to delivery • Identification of any source data issues that may impact on the delivery of the background. Any system or process changes will be delivered through workstreams 05 or 06 as appropriate. • Delivery of the backlog. The prioritisation of the delivery will be first and foremost driven by AML/CTF needs, with technical constraints as necessary.

09 Customer Screening

Resource
Executive Sponsor: Jo Wong Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Operationalise* changes to Part A AML/CTF Program and framework for: • S15 – Enhanced Customer Due Diligence Program (partial) • Customer screening end to end review results and implementation of required actions • Uplift of JTE (includes Dow Jones integration) • System replacement TBD *operationalise is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance)

10 Know Your Customer

Resource
Executive Sponsor: David Christian Business Owner: Nick Stokes, [REDACTED] Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Operationalisation* of changes to Part A AML/CTF Program and framework for: • S3 Customer Risk Assessment • S12 Additional/Further Know Your Customer Information • S13 Refresh of Applicable Customer Identification Procedures • S15 Enhanced Customer Due Diligence Program (partial) • Operationalisation* of changes to Part B** AML/CTF Program and framework for: • S16 – Customer identification procedure • S17 – Agents of customers • S18 – Collection and verification of Beneficial Owner information • S19 – Collection and Verification of PEP Information • ECDD end to end process review and implementation of required changes • Short/mid-term improvements to Customer ID validation and management. • Improved Customer Risk Rating solution discovery and implementation incorporating understood requirements including historical data management and audit. • Improved process and system support for Source of Funds (SOF) and Source of Wealth (SOW) data and document collection and management. • AML / CTF requirements for an improved digitised Customer on-boarding process. The actual delivery of this is to TBD as it may be driven by a different business function. *operationalise is defined as updates/development of standard operating procedures and implementation and embedment of process change (including assurance) ** Part B dependant on understanding proposed amendments

11 Enterprise Strategy and Dependencies

Resource
Executive Sponsor: Glen McLatchie Business Owner: SCEG SLT Workstream lead: [REDACTED] SME: various, to be added as workstream progresses
Key Activity
• Reviewing relationships between key strategic initiatives e.g. cashless, loyalty, Host responsibility, Data Management and Analytics, Customer experience, etc. • Record keeping and document management strategic solution

[349] [REDACTED] said prioritisation was important from the outset. At the top was the concept of governance, together with running a risk assessment process which was necessary to inform where the Program needed uplifting. Updating the AML Program was a priority, as was recruiting additional resources for the Financial Crime Team. That Team has grown to 12 full time personnel in Adelaide, and recruiting was underway for additional personnel. The size of the team in New Zealand had also grown. The aim was to identify all the requirements related to Financial Crime, and to develop the best processes to assist in meeting those requirements, including information concerning customers and data management of that information which can be readily accessed by the various divisions. As part of the process, external assistance was being sought to develop the appropriate system.

[350] A Program Plan was used by [REDACTED]. It provided details and sequencing of the work being undertaken. In substance, it was a detailed Program schedule. In addition, each workstream had a plan. Resourcing of the various Teams had not been an issue. [REDACTED] was told from the outset that whatever was required would be provided, and that attitude had persisted through to the current time.

[351] In [REDACTED] view, three key elements were the risk assessment, risk appetite and three lines of defence (frontline personnel, Financial Crime Team and Internal Audit). The risk assessment

was dated May 2022²⁰ (006.003.0033), and was applicable only to the Adelaide Casino. ■■■■■ agreed that the risk assessment identified numerous areas in which the licensee's AML/CTF controls were, to varying degrees, inadequate and required 'enhancement'. At the time ■■■■■ gave evidence the Risk Appetite Statement was under development.

[352] A new and updated AML Compliance Program, together with a Roadmap, was approved by the Adelaide Board on 17 November 2022.²¹ At the time ■■■■■ gave evidence, this Investigation had not been provided with the updated Program or Roadmap.

[353] Included in the Enhancement Program was the task of defining standards to be approved. ■■■■■ explained that, in effect, this was the setting of the policy governing roles and responsibilities. Standards had been drafted, or would be drafted, as part of the roadmap. For example, it would deal with practical training issues such as how the training is conducted and who is responsible for it.

[354] ■■■■■ was asked about ongoing operational changes within various divisions, and how they were managed as part of the Enhancement Program. For example, in the VIP area, recently a Patron Credential Declaration had been introduced. ■■■■■ said all changes were brought to a Change Forum which was headed by a Change Manager, Mr Alex Williams. When needed, Adelaide Senior Management was represented on the forum. In later evidence Mr McLatchie said an internal legal person had the task of drafting standards and policies, while business Analysts were writing SOPs which guide personnel in putting the policies into practical operation. Through the Forum and these processes, operational changes were coordinated and found their way into relevant SOPs.

²⁰ Annexure [14].

²¹ Annexures [15] and [16]. It is discussed later.

- [355] Both [REDACTED] and Mr McLatchie spoke of the need to replace manual practices with coordinated automated systems which provide a central repository for all information about customers. In this way, each division would be provided with ready access to customer information from one source, rather than being required to access different systems to obtain all relevant information.
- [356] As to the new Enhancement Program, [REDACTED] explained that Part A had been updated, but Part B was yet to be done. Some of the Part A changes had not been put into operation.
- [357] [REDACTED] provided a clear and helpful explanation of how the Enhancement Program was operating. In view of later evidence it appears her evidence was optimistic, but overall [REDACTED] impressed me as an honest witness who sought to make the new program work appropriately.
- [358] Prior to the involvement of [REDACTED], in July 2021 Mr McLatchie was brought into a new position as Program Director with the intention that the Enhancement Program would be restructured. In his words, he provided the leadership while [REDACTED] dealt with the nitty gritty. Increasing the workstreams from 6 to 11 was part of the reorganisation of the processes, as was unblocking the lines of decision and recruiting the necessary personnel. The was a process familiar to Mr McLatchie who possessed prior experience in project restructuring and management. From the perspective of project restructuring and management, while important, Mr McLatchie regarded his task as relatively straight forward.
- [359] Mr McLatchie was familiar with the Initialism report and the AUSTRAC issues. He did not agree with the suggestion that this material pointed to significant inadequacies or failings. He disagreed with the proposition that the AML area of the Adelaide Casino had been under resourced. Mr McLatchie was very confident in his opinions, but it was readily apparent in those answers that he lacked a true appreciation of the seriousness of both the issues raised by Initialism and AUSTRAC, and the inadequacies in the Compliance Program and its implementation.

[360] Later in evidence when discussing the unusual budgetary situation with respect to the Enhancement Program, namely, whatever was needed would be made available, Mr McLatchie was asked whether that unusual budgetary allowance was demonstrative of the seriousness of the situation. He responded that it reflected the seriousness of the risk that the licensee would lose the licence. He reluctantly agreed that the risk of the loss of licence occurred because the licensee had been found wanting in the area of its AML obligations.

[361] As to checking the adequacy of the latest Compliance Program, Mr McLatchie frankly acknowledged that the details were not within his purview. Rather, that task fell to Mr Christian, Ms Wong and Mr Stokes. He said the amended Program had been endorsed by the Steering Committee, and Mr Jeans of Initialism had provided a paper to the Board.

29.0 Compliance Program 2022

[362] The amended AML/CTF Compliance Program approved on 17 November 2022 **011.001.0002**²² was accompanied by a Program Implementation Roadmap Plan **011.001.0001**.²³ At the time the Board approved the amended Compliance Program, it was provided with an explanatory memorandum concerning the changes to the Program **011.001.0003**.²⁴

This explanatory memorandum provides an overview of the material changes made to SkyCity Adelaide Pty Ltd's (SCA) AML/CTF Program in October 2022.

Changes have been made to the AML/CTF Program to address relevant improvements recommended by Neil Jeans (from Initialism Pty Ltd (now Grant Thornton) in September 2021) and identified risks arising from SCA's new enterprise wide and business unit ML/TF risk assessments conducted in 2022. A number of more minor changes have also been made throughout the AML/CTF Program to provide further detail of SCA's obligations to more clearly demonstrate alignment of the AML/CTF Program with the AML/CTF Rules made by AUSTRAC.

A summary of the material changes are briefly described in the table below:

Summary of Changes

Section

²² Annexure [15].

²³ Annexure [16].

²⁴ Annexure [17].

Section 1 – Introduction	• <i>The objectives of the AML/CTF Programme are now expressly articulated.</i>
Section 2 – Definitions	• <i>Some new definitions have been inserted and some existing definition have been updated.</i>
Section 3 – ML/TF Risk and the Risk- Based Approach	• <i>Amended to more comprehensively reflect the outcomes of the business unit and enterprise wide ML/TF risk assessments conducted by SCA in 2022.</i>
Section 4 – AML/CTF Risk Awareness Training Program	• <i>The underlying training content has been amended.</i>
Section 5 – Employee Due Diligence	• <i>Amended to more fully explain SCA’s procedures and the requirements of the Casino Act 1997 (SA) which combine to constitute a system of employee due diligence.</i>
Section 6 – Program Management – Governance and Oversight	• <i>Simplifies and strengthens the governance changes adopted by the SCA Board in October 2021, and emphasises the central and active role of the SCA board.</i> • <i>Adoption of a change management process for the AML/CTF Program and the Standards referred to in the AML/CTF Program.</i> • <i>The role of the AML/CTF Committee has been elaborated.</i>
Section 11 – Reporting Obligations	• <i>Greater detail included on SCA’s systems and controls to ensure compliance with its reporting obligations.</i> • <i>Adoption of a reporting process for International Funds Transfer Instructions (IFTI) in specified types of transactions.</i>
Section 12 – Further KYC Information	• <i>Clarification of the circumstances in which further KYC information is to be collected and verified.</i>
Section 13 – Refresh of Applicable Customer Identification Procedure (ACIP)	• <i>Clarification of the circumstances in which Applicable Customer Identification Procedure (ACIP) information will be refreshed.</i>
Section 14 – Transaction Monitoring Program	• <i>Technical changes to the language to support the enhanced transaction monitoring program which is under development.</i>
Section 16 – Record- Keeping Requirements	• <i>Reference included to SCA’s Data Retention Policy.</i>

[363] In correspondence dated 28 November 2022, solicitors for the licensee asserted that prior to approval by the Board of the licensee, the 2022 Compliance Program ‘went through a robust and thorough review process’, which included consideration of the new Risk Assessment and the

recommendations made by Initialism in September 2021. In addition, Initialism was asked to consider whether the 2022 Compliance Program adequately addresses the issues raised by Initialism in 2021. Mr Jeans of Initialism provided a letter of 4 November 2022, together with a table identifying the issues raised in 2021 and summarising the response in the 2022 Compliance Program.²⁵ In summary, Mr Jeans reached the following conclusion **011.003.0001**:

[W]e are of the opinion that the revised documented Part A AML/CTF Program as drafted complies with the relevant AML/CTF Rules, and is also appropriately designed to identify, manage, and mitigate the money laundering and terrorist financing risks faced by SkyCity Adelaide.

It is therefore our opinion that the revised AML/CTF Program appropriately addresses SkyCity Adelaide's obligation to develop and maintain a written AML/CTF Program, thereby mitigating the risk of non-compliance with s 81 of the AML/CTF Act.

...

However, it is important for the Board and Senior Management of SkyCity Adelaide to understand that whilst there is an ongoing Program of work to align operational activity to the Part A AML/CTF Program, SkyCity Adelaide may continue to have regulatory exposure as it may not be able to fully demonstrate compliance with s82 of the AML/CTF Act.

[364] In the letter of 28 November 2022, solicitors for the licensee explained that the Roadmap:

- (a) is intended to operationalise certain changes in Part A of the November 2022 AML/CTF Program;*
- (b) is focused on formalising and issuing AML/CTF standards and standard operating procedures (inclusive of required amendments to Part B); and*
- (c) has been developed in conjunction with key stakeholders with the activities in the Implementation Roadmap due to be progressively completed by 31 May 2023 as part of the wider AML Enhancement Programme (AML EP).*

[365] The letter advised that the Roadmap would be managed, and its progress tracked, via the AML Enhancement Program. In addition, the letter stated that for the purposes of implementing Part A

²⁵ Annexure [18].

of the 2022 Compliance Program, the licensee intended to develop and adopt standards in relation to the following:

- (a) *ML/TF Assessment;*
- (b) *Customer Risk Rating;*
- (c) *Threshold Transaction Reporting;*
- (d) *International Funds Transfer Instruction Reporting;*
- (e) *Suspicious Matter Reporting;*
- (f) *Transaction Monitoring;*
- (g) *AML/CTF Risk Awareness Training;*
- (h) *Employee Due Diligence; and*
- (i) *Enhanced Customer Due Diligence.*

[366] According to the letter of 28 November 2022, each of the standards was in the drafting/consultation process. Each standard had to be adopted by the SkyCity Adelaide AML/CTF Committee, and it was expected that the standards would be submitted to the Committee for consideration in December 2022 with a view to approval by the end of December 2022. Following approval, and completion of other steps required for the implementation of the standards, they would be ‘implemented progressively as soon as possible’. The expectation was that implementation would be completed by the end of May 2023. Until the standards are implemented, ‘there are a range of Standard Operating procedures and processes in place which supplement the November 2022 AML/CTF Program and assist with its implementation’.

[367] A qualification to the Roadmap was noted in the letter of 28 November 2022. The ‘ACIPs standard and the Additional/Further KYCIs’ would not be required for the purposes of implementing changes to Part A as they relate to Part B and would be addressed when Part B is amended.

[368] The advice contained in the letter of 28 November 2022 concerning the drafting of standards was confirmed in evidence by Mr Nicholas Stokes, the General Manager Financial Crime. From his perspective, the Compliance Program was the overarching document under which standards/policies are put in place to be implemented through the relevant SOP’s. The SOP’s

apply to each business unit, and set out explicitly the roles and responsibilities of each unit. Mr Stokes said he anticipated approval of the standards to be given at a meeting on 13 December 2022.

30.0 2022 Standards

[369] As predicted by Mr Stokes, with the exception of a standard concerned with Customer Risk Rating approved on 14 December 2022, a number of standards were approved at the Adelaide AML/CTF committee on 13 December 2022. The areas covered by each of the standards were as follows:

- (i) AML/CTF Employee Due Diligence.
- (ii) AML/CTF Risk Awareness Training Program.
- (iii) AUSTRAC Reporting Obligations – International Funds Transfer Instruction Reports.
- (iv) AUSTRAC Reporting Obligations – Suspicious Matter Reports.
- (v) AUSTRAC Reporting Obligations – Threshold Transaction Reports.
- (vi) ML/TF Risk Assessment.
- (vii) Ongoing Customer Due Diligence – Enhanced Customer Due Diligence.
- (viii) Ongoing Customer Due Diligence – Transaction Monitoring Program.
- (ix) Risk Assessment – Customer Risk Rating.

[370] In a letter of 14 December 2022 providing copies of the new Standards, solicitors for the licensee advised that the licensee has developed the Standards, ‘to give effect to and support the implementation and embedment of the SkyCity Adelaide AML/CTF Program to ensure appropriate risk-based systems and controls are in place to manage or mitigate the ML/TF risks the SkyCity Adelaide business may reasonably face’.

[371] The letter referred to the statement of claim filed by AUSTRAC, and advised that the Standards were considered to be ‘Interim Standards’:

...SkyCity Adelaide is in the process of conducting a thorough review of the matters raised in the AUSTRAC Claim and it will take some time to review the AUSTRAC Claim and understand whether any changes are desirable or required to the SkyCity Adelaide AML/CTF Program (including the Standards). In the interim, SkyCity Adelaide has taken a prudent approach and continued to develop and approve the Standards as per the timetable set out in the Adelaide AML Enhancement Programme pending completion of the review and analysis of the AUSTRAC Claim. In this regard, the Standards are considered to be “Interim Standards”.

31.0 Risk Management – Risk Appetite

[372] In the context of casino operations, the importance of risk management and risk appetite should not be underestimated. This issue was dealt with in the Bergin report in passages earlier cited. In summary, Ms Bergin emphasised the following:

- ‘Risk management is a core pillar of corporate governance’.
- ‘Risk management encompasses the culture, processes and structures directed towards taking advantage of potential opportunities while managing potential adverse effects. The goal of risk management is to increase certainty that a decision’s intended outcome will be achieved. It involves identification, evaluation and prioritisation of risks’.
- ‘There is a critical, reciprocal relationship between the Board and Management in relation to managing risk’.
- ‘The Board...is ultimately responsible for deciding the nature and extent of the risks it is prepared to take to meet its objectives’. An appropriate framework is required ‘to identify and manage risk on an ongoing basis’, and it is the role of management ‘to design and implement that framework and to ensure that the entity operates within the risk appetite set by the Board’.
- ‘It is the role of the Board to set the risk appetite for the entity to oversee its risk management framework and to satisfy itself that the framework is sound’.

- The risk appetite of an entity ‘is best understood as the amount of risk it is willing to accept in pursuing its strategic objectives’.
- ‘A Board is expected to determine what risks (their nature, likelihood of occurrence and impact on the business) the entity is prepared to accept. The risk appetite sets the parameters for the risk management framework within which management is expected to operate’.
- ‘In order for management to clearly comprehend the Board’s risk appetite and its impact on the business, entities need an effective risk appetite statement which communicates the Board’s risk tolerance with respect to particular risks’.
- ‘The risk appetite statement cannot merely express aspirations of total compliance, but must articulate the Board’s expectations in specific instances of non-compliance, such as consequences for breach as well as escalation and rectification processes’.
- ‘A successful risk appetite statement includes organisation/wide engagement in designing the risk appetite statement, risk escalation and reporting protocols and the linking of remuneration and performance processes with risk management’.

[373] In the letter of 28 November 2022, solicitors for the licensee provided the following explanation of the Risk Management function applicable across the Group:

8. The risk management function applying across all SkyCity Entertainment Group entities, including SkyCity Adelaide, is currently a centralised function, referred to as Group Risk. To support the implementation of SkyCity Entertainment Group’s risk management function (which includes anti-money laundering (AML) and counter terrorism financing (CTF) risk management, among other things), the Group Risk team maintains the following documents (which are discussed further below):

- (a) a Risk Management Policy (which outlines the risk management framework);*
- (b) a Top Risk Profile;*
- (c) a Risk Culture Dashboard; and*
- (d) a Risk Appetite Statement.*

9. *Since 21 June 2016, the SkyCity Entertainment Group (including SkyCity Adelaide) has had a Risk Management Policy in place which specifies the Group's high level, in principle, policy settings for risk appetite. Since February 2020, the Risk Management Policy has been supplemented by a Risk Appetite Statement.*
10. *Separately, risk updates are presented by the Group General Manager Risk to the SCEG Senior Leadership Team, the SCEG Board, the Audit and Risk Committee (up to August 2022) and the Risk and Compliance Committee (from August 2022) every 6 months (commencing from June 2016). These risk updates include matters relating to AML related risks as well as other risks relevant to the SkyCity Entertainment Group. Over the past five years, risk updates have evolved and matured to include:*
 - (a) *a **Top Risk Profile** reporting on the top risks across the SkyCity Entertainment Group business (including external environment risks), and how these risks are being effectively managed and what further improvements are planned;*
 - (b) *a **Risk Appetite Statement** (commenced in February 2020) specifying the risk appetite or risk tolerance the SkyCity Entertainment Group is willing to bear in relation to categories of key risks; and*
 - (c) *a **Risk Culture Dashboard** with qualitative and quantitative reporting on the state of risk culture and conduct risk across the SkyCity Entertainment Group, including insight from surveys, thought leadership and environmental scans regarding developments in organisational culture.*
11. *Early in 2023, Group Risk will be developing equivalent, standalone risk artefacts for SkyCity Adelaide, including a Top Risk Profile, Risk Appetite Statement and Risk Culture Dashboard. These documents will be prepared in consultation with the SkyCity Adelaide Board and senior management, in order to be refined and adopted as standalone artefacts. Once adopted, Group Risk will still need to ensure that SkyCity Adelaide's risk management (including appetite) remains aligned with that of the SkyCity Entertainment Group.*
12. *The following systems are in place to ensure that the SkyCity Adelaide business is run in accordance with the SkyCity Entertainment Group's risk appetite relating to host responsibility, financial crime and money laundering and terrorism financing risks:*
 - (a) *the operation of a host responsibility function and an AML function within the SkyCity Adelaide business operations;*
 - (b) *policies and processes set out in each AML/CTF Program and Host Responsibility Program for SkyCity Adelaide;*
 - (c) *related Standard Operating Procedures for SkyCity Adelaide; and*
 - (d) *regular independent reviews and the consideration and implementation of recommendations resulting from those reviews.*

13. The roles and responsibilities for risk management across the SkyCity Entertainment Group are set out in further detail below:

Person	Roles and Responsibilities
SCEG Board	- As per the SCEG Board Charter, the SCEG Board has ultimate responsibility for the governance and oversight of the SkyCity Entertainment Group's risk management framework. - Up until August 2022, the Audit and Risk Committee received detailed papers on risk management and provided updates to the SCEG Board as appropriate. The Audit and Risk Committee also reviewed and endorsed the risk policy annually. - From August 2022, the newly established Risk and Compliance Committee has received detailed papers on risk management and provided updates to the SCEG Board as appropriate and is responsible for reviewing and endorsing the risk policy and Risk Appetite Statement annually.
Chief Executive Officer and SCEG Senior Leadership Team (including from 1 February 2021 the Chief Operating Officer Australia)	Overall responsibility for delivery of SCEG's risk management framework, including effective risk identification, management, mitigation, escalation and reporting of risks.
Business Unit Management (this perspective treats SkyCity Adelaide as a business unit of SCEG)	- Responsible for identifying, monitoring, measuring and managing business risks through the establishment and maintenance of effective control environments (for example the AML/CTF Programs). - Responsible for escalation of information about possible or actual risks, as specified in the Risk Appetite Statement. - Provides the SCEG Senior Leadership Team with self-assurance on the effectiveness of their business unit risk management.
Group Risk (including assurance)	- Responsible for providing and maintaining the framework and guidance, and lifting capability, for better risk management across the SkyCity Entertainment Group, including opportunities to improve risk management and risk outcomes. - Facilitates transparency and reporting on risk management. - Undertakes periodic independent assurance over the design and effectiveness of risk management across the SkyCity Entertainment Group.
External Audit	- Provides independent assurance over external reporting of financial risks. - Provides insights regarding the strength of the SkyCity Entertainment Group's financial control environments.

- [374] The letter of 28 November 2022 described the Risk Management function as ‘currently a centralised function, referred to as Group Risk’. However, it also noted that early in 2023 ‘Group Risk will be developing equivalent stand alone risk artefacts for SkyCity Adelaide’. Bearing in mind the importance of Risk Management and Risk Appetite within the particular circumstances of casino operations in Adelaide, it is obvious that the primary responsibility for the risk management function of the licensee’s operations rests with the Adelaide Board and Adelaide Senior Management. As the discussion in this Report highlights (and the AUSTAC proceedings confirm), SCEG’s performance in this area for the Adelaide Casino prior to November 2021 was, to say the least, poor.
- [375] In these circumstances, and in view of the AUSTAC proceedings, it was unnecessary to examine in detail the top Risk Profile and Risk Culture Dashboard to which the letter of 28 November 2022 referred. As stated in the letter, the new standalone Risk Management Program developed in 2023 for the Adelaide Casino was intended to include such documents directed specifically to the Adelaide operations.
- [376] In paragraph 11 of the letter of 28 November 2022, the solicitors commented that once the Risk Management Program was adopted for the Adelaide operations by the Adelaide Board and Senior Management, ‘Group Risk will still need to ensure that SkyCity Adelaide’s Risk Management (including Appetite) remains aligned with that of the SkyCity Entertainment Group’. This was not an unreasonable plan, provided the SCEG Board recognised that ultimate responsibility rested with the Adelaide Board which was in the best position to assess the particular needs of the Adelaide Casino in the context of both the regulatory regime under which the casino operates and the particular risks it faces.
- [377] As mentioned, the risk assessment was dated May 2022. It was expressed as ‘Enterprise Wide’ and commenced with a comparison between the Adelaide Casino and the operations of Crown and Star. It then dealt with risk assessment in the categories of high, medium and low across various aspects of the licensee’s casino operations.

[378] The Risk Assessment was underpinned by a Risk Assessment Methodology dated May 2022.²⁶ The purpose of the Risk Assessment Methodology was stated as setting the standards against which the licensee would assess ‘the vulnerability to ML/TF risk of relevant parts of its business’. The document asserted that the Methodology ‘sets out a consistent approach to and basis for the identification, assessment, and rating the ML/TF risk faced by each of its in-scope business units’. It was unnecessary to canvass the details of that document.

[379] Part of the Risk Assessment was a detailed schedule listing numerous controls required of a Compliance Program, and the alignment or otherwise of the licensee’s Compliance Program with those requirements. The schedule included an assessment as to the adequacy of the Compliance Program in various areas and whether enhancement was required. These assessments reflected conclusions in the Initialism report which were attached to the Risk Assessment. In other words, the effectiveness of the Compliance Program was assessed and a conclusion drawn as to which aspects required rectification or enhancement. Many areas were marked as inadequate to varying degrees.

[380] Mr Stokes acknowledged the many ‘red’ markings within the Risk Assessment, but said the assessment was not built for a mature testing program. While the 2022 Assessment was current, Mr Stokes was looking to review it because, although it was undertaken with the right intention, it was unnecessarily complex in some aspects.

32.0 Risk Appetite Statement

[381] As to the risk appetite, in evidence on 21 September 2022 Mr Christian said the Group did not have a Risk Appetite Statement, but a Group statement was being developed in New Zealand which would be adopted in Adelaide. However, following a request from this Investigation, solicitors for the licensee advised by letter of 28 November 2022 that a Group Risk Appetite Statement commenced in February 2020.²⁷ Earlier, on 18 November 2022, the solicitors advised

²⁶ Annexure [19].

²⁷ Annexure [20].

that a Group Risk Appetite Statement dated January 2022, and approved in February 2022, applied to the licensee's operations.²⁸ The solicitors also advised that an updated and more detailed Risk Appetite Statement was currently being prepared with the intention of presenting that document for consideration by the Group Risk and Compliance Committee in December 2022.

[382] The 2020 Risk Appetite Statement was in operation until February 2022. Assessment of the Statement is to be made through the lens of the description by Ms Bergin that the Risk Appetite Statement reflects the decision of the Board as to 'the nature and extent of the risks it is prepared to take to meet its objectives'. Put another way, the Risk Appetite of an entity 'is best understood as the amount of risk [the entity] is willing to accept in pursuing its strategic objectives'. This includes determining the 'risks (their nature, likelihood of occurrence and impact on the business) the entity is prepared to accept'. The statement 'must articulate the Board's expectations in specific instances of non-compliance, such as consequences for breach as well as escalation and rectification processes'.

[383] The 2020 Risk Appetite Statement is set out in three columns. As to AML issues, the three columns were as follows:

<i>Area of risk appetite</i>	<i>Risk appetite or tolerance metrics</i>	<i>Actual performance for six months to Dec 19</i>
Government and regulatory risk (risk 1 in Top Risk Profile) <i>This is an area of significant uncertainty. There are clear indications that all regulators are adopting higher expectations around discharge of compliance obligations, with more of a negative conscious bias and tendency towards punitive response than in prior years. In addition, there remains long term uncertainty around future</i>	<i>Regulator engagement – see individual areas below – overall still neutral</i> <i># regulator issues raised – see individual compliance areas below</i> <i>future pipeline of regulatory change – nothing in short term, but potential for shift in gaming taxes and smoking laws</i>	<i>Currently working with DIA on two draft reports – for AML (NZ) and host responsibility (AKL) – in order to agree on factual accuracy of DIA findings, and to confirm SkyCity response to meet regulator expectations. There is heightened risk of a deterioration of relationship with the DIA.</i>

²⁸ Annexure [21].

changes to the legislative landscape, with potential implications for online gaming, ability to move/transfer casino licences, smoking laws and gaming taxes. SkyCity has zero tolerance for impairment to a constructive working relationship with regulators, or any activity which would result in loss of licence to operate.		Provided information requested by Austrac in support of an industry-wide review of junket operators. SkyCity has had positive interaction to date with Tracey Martin, and also with the Gambling Commission. Pending Gambling Commission decisions on Hamilton and Queenstown applications. No breach of risk appetite per se, but agreement of draft host responsibility findings with DIA is a current priority. This risk is on close watch by management, with the CEO and CFO becoming more involved in strategic oversight of AML and host responsibility.
AML compliance (risk 9) AML risk is a conduct risk and a regulatory requirement for maintaining our casino licences. SkyCity seeks to operate within the parameters set by the regulator approved AML/CFT programmes for each site. SkyCity has zero tolerance for breaches of the AML programmes but understands that from time to time, patrons will effectively circumvent the controls put in place. This should be rare, self-identified and reported immediately.	Regulator engagement (AU and NZ – neutral) % mandatory training completed = 97-99%, target is 100% # open regulatory issues = 4 in NZ	Over the past three years, independent audits from EY have indicated that SkyCity is mainly compliant with the respective AML programmes at each site – noting comparatively minor areas for continual improvement – usually relating to technological improvements (to increase automation and reduce reliance on people), to keep the programmes up to date with various FATF lists (e.g. PEPs), and to keep improving levels of completion of mandatory AML training. Historically, these audit issues have been addressed on a timely basis.

		<i>The recent DIA audit report on compliance with the SkyCity AML programme for NZ clearly indicates a “raising of the bar” by DIA – receiving priority management attention.</i>

[384] The relevant section of the 2022 Group Risk Appetite Statement is as follows:

<i>Area of Risk Appetite</i>	<i>Status and Key Metrics</i>	<i>Triggers for Alert or Breach</i>	<i>Rating</i>
COMPLIANCE – risks where SkyCity needs to take a proactive approach to attaining regulatory trust by delivering high levels of compliance, with zero tolerance for breaches or not meeting regulatory expectations.			
Regulatory and compliance risk Lead: Jo Wong Includes: – Government relations – Financial crime and AML – Host Responsibility – Modern Day Slavery (MDS) <i>[new]</i> All regulatory and compliance issues are reported to the Board via Legal, Host Responsibility and AML Updates	<i>AUSTRAC – compliance review and enforcement investigation underway, with six areas of serious, potential non-compliance noted</i> <i>CBS – ongoing engagement re the Gambling Codes of Practice</i> <i>Pending further action that may be initiated by ASIC</i> <i>DIA:</i> – onsite visit deferred until later in 2022 – stable and constructive engagement on host responsibility and AML <i>Internal audit:</i> – 6 open host responsibility audit issues – 7 open AML-related audit issues (EY)	<i>Nearing risk appetite:</i> – minor or neutral responses/issues from regulator – training completion < 95% – a moderate number of unresolved and/or overdue or regulator audit issues <i>Outside risk appetite:</i> – significant regulatory investigation underway with potential for significant consequences – actual breach of compliance obligations – training completion < 90% – excessive number of unresolved and significant audit issues	No change from August 2021 outside risk appetite due to AUSTRAC enforcement investigation underway

- [385] Mr Stokes was appointed General Manager Financial Crime in October 2021. He possessed a wide range of experiences over many years in the casino industry. In evidence on 30 November 2022, he confirmed the existence since 2022 of a Group level Risk Appetite Statement, but said ‘what was lacking was a specific Risk Appetite for Adelaide Financial Crime or AML’.
- [386] Mr Stokes was correct. Assessed against the criteria identified by Ms Bergin, the 2020 and 2022, the Group Risk Appetite Statements were abject failures.
- [387] Mr Stokes accepted that an effective Risk Appetite Statement communicates the Board’s Risk Tolerance to particular risks. Asked if it was unkind to describe the 2022 Statement as ‘basically pretty useless’ in the AML area, Mr Stokes agreed it was not useful for the Financial Crime Team in Adelaide as being the guide for identifying that appetite. He said it did not go into the level of detail the Financial Crime Team would expect in order for it to be useful or to understand what the Board was saying about the degree of risk the Board is prepared to accept in specific areas. In the words of Mr Stokes, it was ‘not granular enough’.
- [388] Mr Stokes explained that work was currently being undertaken in New Zealand to update a Group wide Risk Appetite Statement for AML or Financial Crime and he, with other persons, had drafted a Risk Appetite Statement for Adelaide which would be presented to the licensee’s Board on 10 December 2022. In later evidence, Mr Stokes pointed out that in connection with a review of an existing customer who has a previous criminal conviction, and a decision as to whether to continue a relationship with the customer, the Board decision as to the Risk Appetite Statement might have provided an immediate answer if the Statement clearly indicated that the licensee does not tolerate anyone with a certain type of conviction.
- [389] Ms Wong, the Chief Financial Officer of the Group, Ms Julie Amey and the Melbourne based SCEG director took a different view from Mr Stokes. They regarded the existing Group Risk Appetite Statement as an appropriate Group Statement at a ‘high level’ of Risk Appetite. In their view, beneath that Statement the ‘granular detail’ is provided. As Ms Amey put it, the current

Risk Appetite Statement set the boundaries. A similar view was expressed by Mr Cook, but Mr Davis agreed with Mr Stokes.

[390] I agree with the view expressed by Ms Bergin. Whether it be in a single document titled Risk Appetite Statement, or in multiple documents, it is the Board and not management which must clearly identify the Board's Risk Tolerance with respect to particular risks, and the amount of risk it is willing to accept in pursuing its strategic objectives. The Board must identify the nature, likelihood of occurrence and impact on business which the Board is prepared to accept. The evidence of Mr Stokes to which I have referred highlighted the inadequacy of the current Group Risk Appetite Statement, and the absence of other documentary guidance providing 'granular detail'.

[391] An Adelaide Risk Appetite Statement was approved by the Adelaide Board on 14 December 2022.²⁹ According to a letter from the licensee's solicitors dated 9 January 2023, the Statement was specifically prepared for the Financial Crime Business Unit, and it was intended that a draft broad-based Risk Appetite Statement for the Adelaide Casino would be tabled for the Adelaide Board's consideration at its next scheduled meeting on 25 January 2023.

[392] The Statement is headed 'SkyCity Adelaide Financial Crime Risk Appetite Standard'. I will refer to it as a Risk Appetite Statement. The document is comprised of three columns headed Area of Concern, Prohibited Relationships/Gaming Activities and Permitted Relationships/Conditional Gaming Activities. The areas of concern are identified as follows:

■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]

²⁹ Annexure [22].

[REDACTED]

[393] The 2022 Adelaide Risk Appetite Statement stands in stark contrast to the Group Risk Appetite Statement. The Adelaide Statement identifies the risk and specifies a response. For example, with respect to Junket operations, in the Prohibited Relationships column the statement is made ‘SCA does not permit Junket operations on its premises’. In the Permitted Relationships Column, appropriate guidance is given to management in respect of permitting existing customers to gamble notwithstanding that they have previously gambled as part of a Junket operation. Such customers may be offered services ‘provided they have completed a PCD/SOW that has been reviewed and approved by the Financial Crime Team’.

[394] In respect of SMRs, without any proviso in the Permitted Relationships column, the prohibition is expressed as follows:

[REDACTED]

[395] Speaking broadly, the Adelaide Statement identifies the specific risks and provides direct guidance, either by way of total prohibition or prohibition subject to conditional exception permitted by the AML Compliance Officer, Financial Crime Team or Senior Management. If this Adelaide Statement had been in existence in previous years, it would have provided an immediate answer with respect to a number of the customers discussed in this Report. It is unnecessary to discuss further the details of the Adelaide Statement.

33.0 Financial Crime Team

[396] Mr Stokes agreed that the resources previously allocated to AML compliance had been inadequate. He also gained the impression that there was a lack of understanding of AML requirements across the casino, and a resistance to change. At the time of his employment, he was told to do whatever was necessary to build a partnership with the regulators.

[397] As outlined in correspondence from solicitors for the licensee, a Financial Crime Team had been established under the direction of Mr Stokes. By January 2023, it had grown from three to twelve personnel, with an intention of increasing the total to 15 with one permanent member of staff and two contractors for a limited period. In December 2022 the Team was comprised of four divisions, each led by a manager:

- Financial Crime Operations involved in investigations and due diligence.
- Financial Crime Policy Governance and Reporting involved in advising and risk assessment.
- Financial Crime Intelligence and Liaison concerned with assisting analysts, complex investigations, SMR's, and engagement with law enforcement agencies.
- Financial Crime Testing and Assurance involved in testing controls to ensure they are fit for purpose and are being followed. This is the second of the three lines of defence.

[398] Mr Stokes explained he was endeavouring to hire a Data Analyst to assist with a proactive review of data. This would include reporting trends to the Board through observations, SMR trends and data 'mining'. He was also endeavouring to recruit an experienced data mining specialist.

[399] From the evidence of Mr Stokes, and others employed in the Financial Crime Team, as at January 2023 a number of common themes had emerged:

- All divisions of the Team were working closely together in identifying high risk customers and undertaking appropriate investigations to ensure due diligence requirements are carried out.³⁰
- The level of due diligence had greatly improved. It currently involved far more vetting and supporting documentation than was previously required. A ‘huge difference’ now exists as the examination proceeds beyond the basics and is far more in depth. For example, letters from accountants supporting a customer’s claim with respect to a Source of Wealth were not automatically accepted as sufficient supporting documentation. A letter from a customer claiming Source of Wealth from a personal business was no longer acceptable. Plenty of examples exist from older ECDD forms to demonstrate repeated inadequacy in this regard in the past.
- Awareness of AML requirements had improved dramatically through training, campaigns, discussions and meetings. Signage, particularly ‘back of house’, had increased.
- Attitudes had changed. From the perspective of Mr Stokes, previously the ‘corridor chatter’ tended to reflect the attitude that AML requirements were ‘killing the business’. By January 2023 such chatter was positive about the resources and the growing of the AML Team. Resistance from some at the VIP level had been replaced by enthusiasm for the change. In addition, there had been a dramatic increase in reported observations by casino staff which, in part, was due to a cultural change. Staff are encouraged to speak up and are thanked for reporting their observations. Across the casino, staff had been proactive in picking up potential signs of AML problems from consideration of Know Your Customer information through to behaviour on the floor.

³⁰ It is not necessary or appropriate to discuss the processes other than to observe that they involve extensive manual operations which the team hope to automate in the near future.

- Rapid change was constant and continued with a significant increase in resources which had been put to good use in employing persons qualified to carry out the functions of the team.

[400] These ‘themes’ which emerged from the evidence represented an optimistic view of the situation, coloured by a natural desire to present a picture of appropriate and rapid change and rectification. Evidence in 2024 demonstrated that this optimistic view did not accurately reflect reality.

[401] As to the future, Mr Christian said he was ‘very clear on this’. In his view, the uplift will never be completed because there will be a need to continually monitor and improve the Compliance Program. Once the major uplift has been completed, he was hopeful that technology advancement, including transaction modelling, will mean less people will be needed in the AML area. Threshold transaction reporting should almost become zero because, from January 2023, the maximum transaction limit will be reduced to \$5000 per day. Currently, the technology was not in place to manage this perfectly, but other methods will be adopted and systems will be upgraded. On the main gaming floor, customers will only be allowed to buy in for a maximum of \$2000 per transaction. In the premium gaming areas, all gaming has to be carded. The licensee is prepared to adopt carded play throughout the casino, but only if the same restrictions apply to hotels and clubs.

[402] The evidence to which I have referred spoke of good intentions and of relevant changes to procedures and attitudes, but later evidence demonstrated that practical implementation remained to be established. This is a significant issue which was explained and clarified by evidence from the Independent Monitor put in place following the AUSTRAC proceedings. That evidence is discussed later in this Report.

34.0 Case Examples

[403] The concerns expressed by AUSTRAC, and the inadequacies identified by Initialism, demonstrated that in a number of areas the Compliance Program and its implementation were

inadequate. In addition, the re-examination of the source of wealth of Black and Ultra Black Members by way of enhanced due diligence demonstrated the significant inadequacies of previous due diligence.

[404] It is also of assistance to have regard to specific case examples. The customers are not identified by name, but the Commissioner has been provided with their names.

34.1 Customer A – Account number [REDACTED]

[405] Customer A opened an account in July 2015. It appears that over a period of approximately 2 years from early 2020, A transferred a little over \$800,000 to his front money account, including approximately \$600,000 by way of bank transfers.

[406] The vast majority of the transfers were less than \$10,000. In addition, during that period A made a number of cash deposits, most of which were less than \$10,000.

[407] A's source of wealth declaration (SOW) was dated 23 September 2021. It did not contain sufficient information from which a conclusion could reasonably be drawn as to the financial circumstances of A. It was stated that A was the owner of a particular business. A tax agent had written a letter stating that A's business had a turnover in the previous year of approximately \$1.1 million – \$1.2 million per annum, and that A had personal assets of approximately \$750,000. Nothing was said as to A's personal income.

[408] At some stage a high-risk customer form was completed which added nothing with respect to a possible source of wealth. In a box marked 'Suspicious Behaviour (s)', it was noted that on [REDACTED]
[REDACTED]. The recommendation was to complete a full enhanced due diligence, but that process was never undertaken.

[409]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[410]

The responses to A's conduct while gambling were inadequate. There was a failure to undertake an ECDD which had been recommended in April 2021. The SOW of September 2021 should have been followed up with appropriate validation of source of funds.

[411]

Having been advised through the Commissioner's letter of 6 February 2023 of the essential features of the licensee's conduct with respect to Customer A, in the letter of 31 March 2023 the licensee properly corrected mistakes in the figures and source of funds, but also commented that the preliminary failed to consider contextual information. This information included members of the VIP team speaking with customer A concerning the records of his total losses, and his explanation that the loss recorded by the system was extremely overrated and the real loss was close to half that amount. The observation was made that 'this issue commonly occurs as the Table Games rating system is manual and when chips are not visibly in front of the member, a \$0 figure is entered into the system. If this information is correct it demonstrates yet another fault in the system.

[412]

The complaint by the solicitor that the tentative view had been reached without taking into account 'contextual information' was a common theme in the responses. In some instances it was a legitimate response, but in others it amounted to little more than an attempt to divert attention from the critical issues. For example, in the context of customer A, the letter from the solicitor did not challenge the conclusions that the responses to A's conduct whilst gambling were inadequate; that there was a failure to undertake an ECDD which had been recommended in April 2021; that the SOW of September 2021 should have been followed up with appropriate validation of source of funds.

[413] I note the advice by the solicitor that in about February 2023 the licensee requested customer A complete an extended Patron Credentials Disclosure (PCD), a form which provides details of all income streams that formed the basis of A's SOW. A refused to provide the information requested and on 27th March 2023 was barred from the Casino.

34.2 Customer B – Account number [REDACTED]

[414] B was a known associate of A. B's account was open on 6 January 2019. From January to December 2020, B transferred \$412,500 to the credit of his casino account. In addition, in the period January 2020 to February 2022 B made deposits into the cage account totalling in excess of \$880,000.

[415] B's SOW was completed in September 2021. It identified that B was a business owner, but contained no information as to his financial circumstances. Reference is made to a letter from an accountant, but the letter on file from the accountant is dated 28 September 2021. The letter states that the business income from all of the business activities was 'approximately \$141,000' in the 2020-2021 financial year. The letter also states that B was the owner of 'a couple of business whose turnover is around \$800,000'.

[416] An internal form was completed by staff in relation to the assessment of B's source of wealth. It noted B's current risk rating was 'high'. Reference was made to the accountant's letter and the annual income of \$141,000, but it was also recorded that B owned another business which provided an annual income of \$200,000. No supporting documentation was provided.

[417] A conclusion was reached that the SOW was 'plausible' given the level of B's current and past gaming activity. Although the loss in the previous financial year from gambling was showing as in excess of \$300,000, there was a dispute as to the accuracy of that figure. The suggestion was made that the loss for the 2021 financial year was \$150,000.

[418] As mentioned, the SOW was completed in September 2021. This was well after suspicions had been raised about the conduct of B.

[419] In June 2019, B and an associate shared a common bank (shared the funds and played as one player). Early in June 2019, at a 'buy in' the associate asked the cashier on duty about the process involved if the buy in was \$10,000 or more. The cashier warned that the membership card and identification would need to be produced. The associate then asked what would occur if the buy in was \$9,000. Following advice that identification would not be needed, the associate purchased a \$9,000 chip buy in. Moments later, B conducted a \$2,500 buy in. Later that night the associate returned to the cashier and conducted a \$7,000 chip cash out, followed immediately by B with a \$6,100 cash out. Surveillance established that they played from a common bank.

[420] A week later, B and the associate again shared a common bank. At the conclusion of play they split the chips prior to attending the cage. \$9,000 cash out went to the associate, and \$1,900 to B.

[REDACTED]

[REDACTED]

[421] B was rated as a high-risk customer. A high-risk assessment was undertaken which, in addition to the June 2019 [REDACTED]

[REDACTED]

[REDACTED] The high-risk assessment recommended that a completed SOW be obtained from B. However, the SOW is dated September 2021, and the high-risk assessment was obviously done after 10 April 2021. The discrepancy is not explained, but it might be an explanation for the fact that the letter from the accountant was dated September 2021.

[422] The high-risk assessment did not recommend obtaining a 'full suite of Enhanced Due Diligence measures'. However, an Enhanced Customer Due Diligence form has been provided. As with almost all of the ECDD forms, it is undated. This inadequacy should be rectified in future ECDD forms.

[423] The content of the form marked ECDD is an insult to the concept of Enhanced Due Diligence. It refers to the incidents in June 2019 [REDACTED]. The occupation on the source of wealth form simply states, 'Business Owner'. Reference is made to an internet search of the business and the player's Facebook profile.

[424] In respect of B, there was complete failure to follow appropriate procedure and undertake the steps necessary to comply with the AML/CTF obligations of the licensee. But the story does not end there. A failure in terms of Host Responsibility also occurred.

[425] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[426] B was involuntarily barred on 20 March 2022. Given the attention that had been paid to B over the years, and the amounts of money deposited in cash compared with the paucity of information concerning B's financial circumstances, to say the least it is surprising that no one picked up any signs of B's problem gambling.

34.3 Customer C – Account number [REDACTED] (AUSTRAC Number 24)

[427] The circumstances relating to C involve an extraordinarily long story commencing with membership on 10 November 2012, and commencement of gambling on 11 April 2016. The licensee terminated the relationship on 2 February 2022.

[428] Source of wealth documentation appears to have been completed in February 2021, but there is also a document dated 12 months earlier concerning source of wealth. A large file has been created over the years in connection with sources of revenue which would support the extent of the gambling undertaken by C. Based on the licensee's records, from April 2016 to October 2021, C lost over \$9 million. Sources of funds included businesses, family and large winnings at other casinos.

[429] In the period 2016-2018, on numerous occasions C engaged in suspicious behaviour, particularly in respect of structuring with other customers to avoid AML reporting. Included was an incident in 2017 when C was found to be conducting six cash buy in's for \$9,900 at various table games. It was also recorded that C had recently been running for other VIP players.

[430] Some months later in 2017, C performed 18 cash outs on behalf of another player, all of which were under the reporting threshold. A total of nearly \$80,000 was cashed out without triggering a report. On the same day, after a significant win, C handed chips of a large amount to a runner who cashed them with the cashier, while C cashed out a lesser amount.

[431] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[432] In September 2021 emails were exchanged expressing concern about C arriving at the casino with \$1 million in cash for a cash buy in. At this time C had become an Ultra Black member. As a South Australian resident, C must have been invited to join.

[433] Early in October 2021, to the knowledge of the licensee, police conducted inquiries with respect to C. In mid October 2021, the licensee decided not to accept further cash transactions and to monitor electronic funds transfers and gaming.

[434] Later in October 2021 C was informed that the licensee would not accept further cash from C, but it was not until February 2022 that the licensee terminated the relationship because C failed to provide further information regarding C's source of wealth. The last gaming activity of C occurred on 13 December 2021.

[435] C was a particularly valuable customer from the point of view of the licensee, and was granted extraordinary leniency over a lengthy period, notwithstanding obvious money laundering concerns. It is difficult to avoid the conclusion that C was granted exceptional latitude because C was so valuable to the licensee.

[436] In the letter of 31 March 2023, the solicitor for the licensee pointed out that customer C did not gamble between 29 April 2019 and 23 November 2020. Again, the comment was made that 'important contextual information has not been considered in the course of formulating the Preliminary Findings'. The assertion was made that the licensee 'proactively monitored and engaged with customer C and third parties to ensure that customer C was not experiencing problems with gambling, and the decision to upgrade customer C to VIP was based on behavioural factors (rather than commercial factors)'.

[437] The solicitor's response did not challenge the proposition that C was granted 'extraordinary leniency over a lengthy period, notwithstanding obvious money laundering concerns'.

34.4 Customer D – Account number [REDACTED]

[438] D opened a gaming account in December 2005. The period of concern commenced in 2019. An SOW was completed in August 2021, which included reference to a business owned by D. Attached was the financial return of the business for the financial year ending 20 June 2020 indicating a net profit for the year ending 30 June 2019 of a little under \$140,000, and for the year ending 30 June 2020 of a little over \$200,000. No information was provided as to any salary or drawings made by D.

- [439] An ECDD, again undated, provides no more detail. The form states that the request for the ECDD followed completion of the [REDACTED]
[REDACTED]
- [440] From July to December 2019 D deposited \$164,000 into the cage bank account. From January to December 2020, a total of \$376,000 was deposited.
- [441] A significant increase occurred in deposits during the 2021 calendar year. A total of \$810,150 was deposited, but this amount was eclipsed in the period 1 January to 19 July 2022 when a total of a little over \$1.3 million was deposited. The total for the period 1 July 2019 to 19 July 2022 was a little over \$2.5 million.
- [442] Plainly, the SOW and the ECDD provided inadequate information. The potential income from the business was grossly inadequate as an explanation for sufficient wealth to support the deposits, particularly in 2022. The player gaming summary report demonstrates significant losses.
- [443] In September 2021 D requested a pre-commitment which was put in place. In December 2021, D requested that the restrictions be removed which occurred at the end of December 2021, the pre-commitment had been lifted. Internal correspondence evinces an intention to closely monitor future gaming.
- [444] In January 2022 an email was sent to Executive Manager Host Responsibility, [REDACTED], to provide a 'quick update'. It was noted that D had attended the casino 'a number of times' and had engaged in 'significant play'. A report was made of conversations with D during which D gave an assurance that if D felt the need to restrict the gaming again, D would do so.
- [445] If proper attention has been paid to the circumstances of D, Host Responsibility would have been aware that during December 2021 D had deposited a little over \$115,000, but in January 2022 he deposited approximately \$356,000. This was followed by a little over \$176,000 in February. It appears that late in January 2021 D advised that D wanted to take a break and requested that

deposits be limited to \$2,000 maximum. It was said that D would be visiting once a month, effective on that day.

[446] Within a month D requested that the restriction be lifted. It was noted that D had taken a break. The restriction was lifted, and was followed by deposits in March and April of over \$100,000 and a little under \$140,000 respectively. These deposits were followed in July 2022 by deposits totalling in excess of \$465,000. During that period D lost heavily.

[447] ████████ was asked to comment on the circumstances of D and the absence of any Host Responsibility interaction with D. He understood D was gambling in a suite, and VIP Hosts were checking on him. However, ‘unfortunately’, Host Responsibility did not have visibility and the outcome was ‘not ideal’.

[448] As to customer D, the letter of 31 March 2023 from the licensee’s solicitor repeats the theme that the preliminary findings ‘do not take into account important contextual information’. In particular, the contention was advanced that no inference could be drawn from habitual transaction behaviour below reporting thresholds because such an inference would not take into account ‘the transactions below reporting thresholds are not unique to customer D and they are common to all VIP members for varied reasons’. Further, it was suggested that a number of preliminary findings were factually inaccurate, in particular, the suggestion that proper attention had not been paid to customer D through the host responsibility function. This assertion is contrary to the evidence of ████████.

34.5 Customer E – Account number ████████ (AUSTRAC Number 19)

[449] Customer E has been a customer of the Adelaide casino since 2015. E possessed the financial means to gamble in high amounts, but came under suspicion for movements of funds. In 2016 E made two transfers of \$100,000 and \$119,000 from E’s front money account to the account of E’s 16 year old child. Also in 2016, a large cash buy-in was made with cash delivered by E’s personal assistant.

[450] E visited the Adelaide casino in May 2022, and was one of the first significant international premium players to attend after the licensee had ceased dealing with junkets. E was accompanied by four associates. In view of the activities undertaken, in June 2022 the licensee's Financial Crime Team filed a report which ultimately recommended that the Team collaborate with business units 'to identify and implement risk mitigation controls for the key AML/CTF vulnerabilities outlined in the Team's report, noting some measures may have already been implemented'.

[451] The Team used the visit by E, and E's associates, as an 'opportune case study to champion robust AML/CTF compliance', bearing in mind that international patronage would be increasing. In this context, the Report identified the following key AML/CTF vulnerabilities:

- a. *The sharing of cash among individuals playing in a salon as a private group could be perceived by regulations as 'quasi junket' type activity.*
- b. *Recurrent large cash outs by individual program players may facilitate ongoing cash buy ins which increases the complexity and burden for SCA in tracking cash/*
- c. *Accepting incomplete customer source of funds (SoF) declarations poses the risk SCA could receive cash funds from unknown sources and contravenes standard procedures.*
- d. *Relying on online banking screenshots for processing incoming customer telegraphic transfers (TTs) could pose the risk of accepting payments from third parties, particularly from company, business, and joint accounts.*
- e. *Charitable donations made by SCA on behalf of a customer have the potential to pose a bribery, terrorism financing or political risk, as well as possible reputational damage.*

[452] The report by the team identified a number of issues with respect to the activities of E's associates, and the role of E on a number of occasions with different transactions which raised obvious questions of avoiding AML reporting. Significant issues were raised with respect to sources of

cash and the incomplete source of funds information provided by one of E's associates. There was also a question of a donation by the casino on behalf of E to a particular association.

[453]

[REDACTED]

[454]

[REDACTED]

[455]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]

[456]

On each of the occasions EI then engaged in gambling actively within the Salon.

[457]

[REDACTED]

[REDACTED]

[REDACTED]

[458]

Finally, the Source of Funds process triggered by EI's cash buy-ins was significantly inadequate.

[459]

It is a matter for the Commissioner whether any action is taken with respect to the breaches. For the purposes of this Investigation, it is appropriate to note that even in May 2022 there was a significant failure to follow appropriate procedure in relation to premium gamblers. Further, in view of the background of the licensee's entire knowledge of E, there were strong grounds for barring E, but no action in that regard has been taken. From a revenue point of view, E has been a very significant customer, and it is difficult to avoid the conclusion that E and E's associate received special treatment, in breach of relevant SOP's, by reason of E's value to the revenue stream.

34.6 Customer F – Account number [REDACTED] (AUSTRAC Number 30)

[460]

F opened an account with the casino in 2004. The following matters were of significance:

- In 2016 F acted with another patron to assist the other patron to avoid the \$10,000 threshold.
- [REDACTED]
[REDACTED]
- [REDACTED]
- In August and September 2020 F was present while associates conducted suspicious transactions and was observed being handed chips to cash out.
- A review of daily logs revealed that F's cash out transactions through the cage did not reflect the level of play and cash buy in.

- In December 2020 a VIP Table Games Host sent an email to relevant personnel attaching a source of funds declaration form dated 14 December 2020. F completed the form indicating current employment was the primary source of income, and an occupation of chef/cook which did not provide sufficient income to support the level of gambling. F's partner was listed as unemployed, but in August 2020 F's partner bought in for \$82,000. The form was incomplete.
- [REDACTED]
- Information received by the licensee also included a suggestion that the family network of F was involved in criminal activity, and that on several occasions associates had presented cash soiled with a strong aroma of dirt.³²
- In August 2021 the licensee wrote to F requesting that F complete a source of wealth declaration form and provide relevant supporting documentation. The letter stated that until such time as an assessment was complete, F was not permitted to enter the casino premises.
- [REDACTED]

[461] The activities to which I have referred occurred against a background of F previously self excluding from March 2011 to March 2012. [REDACTED]

³² Members of the family are discussed later (L family).

[462] The delay in taking action with respect to F is difficult to explain. Well before August 2021, suspicious activities in which F had engaged, coupled with the lack of financial information which would support the level of cash buy ins and gambling, should have resulted in action much earlier.

34.7 Customer G – Account number [REDACTED]

[463] G opened an account in 2010. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[464] In 2012, G had a third party cash out of \$19,800 and attempted to claim the money. The third party had not been engaged in gaming.

[465] In the period July 2020 to February 2021, G transferred a total of \$233,000 into a cage account for gaming purposes. There was no SOW taken from G, but by reason of G's conduct, G's player risk rating was elevated to high and an ECDD was undertaken. Apart from listing an occupation, and in the absence of open-source information following an extensive open source search, no information was taken from G as to G's financial resources. The ECDD was useless in this regard.

[466] Notwithstanding the absence of financial information and the suspicious activity, G was permitted to continue gambling.

34.8 Customer H – Account number [REDACTED]

[467] Customer H opened an account in 2015. A source of wealth form was completed in September 2021 indicating ownership of a business and an annual salary of little in excess of \$90,000. An accompanying financial statement for the company indicated profit after tax for the 2020 financial year of less than \$50,000. The income statement noted gross payments to an individual which matched the salary entered on the SOW.

[468] Between March and October 2021, H transferred over \$249,000 to the cage account for gaming purposes. Eighty-four transfers were involved, all of which were less than \$10,000. Frequently, multiple deposits between \$2-5,000 were made in one day. For example, 9 deposits were made in a single day in May 2021 ranging from \$2-5,000.

[469] H did not disclose financial resources which would support the financial transactions. An ECDD was requested 'following completion of the [REDACTED] [REDACTED] Again, the ECDD was undated and is useless as a means of identifying financial resources.

[470] In the letter of 31 March 2023, the licensee's solicitor pointed out a minor factual inaccuracy and again reverted to a failure to take into account 'important contextual information'. Such information was said to include the fact that small deposits were not seen as unusual 'as many gaming members have banking limits or use this as a method to control gaming expenditure'.

[471] The letter also stated that customer H did, in fact, disclose additional SOF, including family inheritance, sale of property and savings held in cash. The date of the SOF is not mentioned. Apparently the SOF was not accompanied by sufficient documentation and customer H was ultimately barred. The date of barring is not mentioned (barring occurred on 9 December 2021).

34.9 Customer J – Account numbers [REDACTED] and [REDACTED] (AUSTRAC Number 2)

[472] J was a frequent patron of the casino from 2015 until the relationship was suspended on 9 August 2021 by reason of J's failure to participate in the Black Tier source of wealth requirements. The dealings of the casino with this customer provide an extraordinary story of failures to comply with AML/CTF obligations, and priority being given to revenue at the expense of such compliance. As a reliable and truthful witness explained, J was a 'protected species' who could do whatever J wanted. The witness commented, correctly, that the evidence exposes the favours and privileges J was given. The witness was correct in concluding that these favours and privileges were given by reason of J's value to the casino.

[473] Between 2016 and 2021, J was identified in 31 SMRs identifying suspicious behaviour consistent with potential money laundering. The incidents reported included:

- Structuring of chip purchases and cash outs to avoid threshold reporting obligations.
- Frequent lending on cash and cash equivalents to other players.
- [REDACTED]
- Transfer of funds from J's own FMA to J's partner's account, and subsequent payment made by the partner (two x \$80,000 cheques within a three-day period in 2018).
- The use of third-party money remitters.
- The deposit of bank cheques [REDACTED]
[REDACTED]
[REDACTED]
- The use of a New Zealand account in the name of Horizon Tourism to deposit \$300,000 into the Adelaide casino, being funds obtained from a company account.³³

[474] Documents obtained by CBS reveal that on 15 October 2017, while acting as a Junket Operator, J was party to a \$1m US cash buy-in brought into the casino premises in a suitcase. The money was recorded as belonging to another person, but the funds were immediately applied to J's FMA after counting.

[475] By October 2017, prior to acting as a Junket Group Operator, J had already been the subject of 6 SMRs, and a further 7 Suspicious Behaviour Reports which did not result in SMRs.

[476] In respect of the use of the Horizon Tourism account, email communications in September 2019 demonstrate a concern on the part of Management and a willingness to overlook the fact that the

³³ The Horizon Tourism account is discussed later in this Report.

deposit was a third-party deposit because of knowledge that the third party was a company with which J was involved. It is appropriate to note that in one of the email communications, reference was made to awaiting communications from the 'IB Team' as to why the funds were transferred via the Horizon Tourism account. The observation was made by a manager in the New Zealand AML Compliance Division that it might have occurred because there was not an obvious connection to SkyCity, 'which is the point of the Horizon account as I understand it'.

[477] The transfer of funds from J's FMA to the casino account of J's partner occurred because J requested a cheque for \$80, 000 with a blank recipient, but the casino refused. When advised that process could not occur, J transferred the funds to J's partner's FMA and a cheque was drawn on J's partner's FMA. A few days later the process was repeated. J's partner had no gaming history, but through this process, was paid \$160,000 by the casino.

[478] This outline of activities relating to J is exactly that, an outline only. It is sufficient to demonstrate the abject failure with respect to AML/CTF obligations and prioritising revenue. In addition, and importantly, the licensee treated J throughout as an international player residing overseas. As a consequence of being a high value international player, J was provided with access to the premium gaming areas and several offers and inducements arranged by the International Business Team. This included the availability of an FMA, the offer of participation in Commission Programs and other benefits such as complimentary foods, beverages and experiences (a day at the Adelaide Cup in March 2018). The inducement also included a family holiday early in 2019 to New Zealand, arranged by the International Business VIP Hosts and the International Business Patron Accounts Team.

[479] A review of the evidence supports only one conclusion, namely, that J was a South Australian resident and relevant casino personnel were aware of that fact. The evidence includes the fact that J's partner resided in an eastern suburb of Adelaide. J's South Australian driver's licence included the same address. [REDACTED]

[REDACTED]. J owns several properties in South Australia. An ECDD form completed during

the August 2019 review of Black Tier customers contained a South Australian address, being a former address of J's partner.

[480] In addition, in an email chain occurring in August 2021 concerning the SOW process, a senior member of the IB Division made the plain statement that J and another person 'are based in Adelaide'.

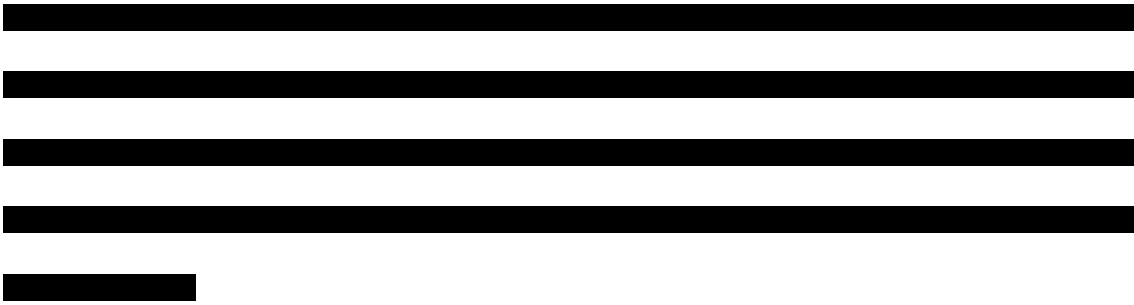
[481] The classification of J as an international player residing overseas was a significant advantage to J. In addition, that classification enabled the licensee to claim an approved deduction, from the casino duty payable, of the commission paid to J in 2021. Such a deduction is only available to the licensee in respect of commission paid to international customers as part of the International Customer Attraction Program. The claim was only \$4,574, but it was a claim that should not have been made.

[482] Finally in respect of J, casino records indicate that the licensee created two separate account numbers for J. One was categorised as a Grange International account, and the other as a Table Games VIP account. Both accounts were linked to the account of J's partner who J had previously sponsored for premium access. The notes record that one account was to be used for 'program play only', and cash play was to be attributed to the other account. Mr Christian agreed that this process was highly irregular.

34.10 Customers L – Numerous Accounts (AUSTRAC 29)

[483] [REDACTED]
[REDACTED]
[REDACTED]

[484] [REDACTED]
[REDACTED]

- [485] 
- [486] 
- [487] 
- [488] 
- [489] 
- [490] 
- [491] 

[REDACTED]

[REDACTED]

[492]

[REDACTED]

[493]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[494]

The history of LD's conduct at the casino dates back to 2009. LD gave an occupation as truck driver. A number of SMR's were raised in respect of LD's conduct between 2009 and 2021. They can be summarised as follows:

- 26 September 2009: Had a friend cash out \$5,075, LD then cashed out a further \$6,000 to avoid threshold transaction. The friend did not have any play at tables.
- 7 June 2010: Cashed in \$9,500 and a friend cashed in \$3,500.
- 12 March 2011: Attempted to split payout at two different cashiers by giving chips to a friend. Both were asked to produce ID, but refused. When told 'no ID no payout', only then ID was produced.
- 2 June 2012: Had a third-party attempt to cash out on LD's behalf. The third party had no play at all.
- 2 November 2013: Avoided AML with \$9,900 buy-in.
- 3 June 2016: Inconsistency in player occupation and spending levels.
- 24 August 2020: Structuring with associates.
- 11 September 2020: Third party transactions involving associates.

- 15 September 2020: Concerns of structuring with associates.
- 18 September 2020: Concerns of structuring with associates.
- 28 April 2021: Concerns of structuring with LE's mother.

[495] It was not until August 2021 that the licensee requested LD complete a Source of Wealth declaration form.

[496] LE gave an occupation as courier. It was only in December 2021 that the licensee terminated the business relationship with LE, notwithstanding the following history:

- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- 3 June 2016: It was reported that LE sustained significant losses in 2012. LE lost over \$1.1 million. LE's occupation as a courier, and LE's partners occupation as a truck driver, could not cover a loss of this size. Further, in the same period, LE's partner also sustained losses of nearly \$1 million. The total of the couple's losses was over \$2 million in four and a half years of play.
- 11 April 2017: Possible structuring cash outs. Working with associates to structure cash out to disguise the true source of funds. [REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
- [REDACTED]
- 7 April 2021: Observation from front line staff centred around \$35,000 in cash, strongly smelling of dirt, being presented for a chip purchase by an associate. Alongside concerns about the associate with regards to source of wealth, LE noted in the surveillance log as receiving and holding chips.
- [REDACTED]
[REDACTED]

[497] To these members of the L family should be added customer F discussed earlier.

[498] This summary of the dealings with the wider L family demonstrates a significant failure of management with respect to AML/CTF obligations. In evidence, a VIP Host endeavoured to justify the lack of action on the basis that there was nothing suspicious in the particular family sharing funds. It was a common practice. This explanation fails miserably when viewed in the context of the total behaviour of the family group, coupled with the complete lack of a satisfactory explanation for the Source of Wealth.

[499] In addition, the evidence of the first Analyst is significant. Asked about families sharing funds, the Analyst replied:

I guess it depends on which family and what the money they are spending is. I know there is a cultural thing where this is a lot of sharing of funds. There's different cultures that do that. But in the [L] circumstance, there was too much evidence to suggest there was drug involvement to ignore, which is why you will find consistent SMRs throughout my employment on that family and it's raised at the AML committee meetings, that family. There may even be legal notice requests on them, too.

34.11 Customer M – Account number [REDACTED]

[500] Customer M opened a Front Money account on 30 May 2018. M's residential address was given as Victoria and, until 7 November 2022, M was categorised as a VIP (interstate) member. In that period M conducted 23 separate trips to the Adelaide Casino, participating in both commission and non-commission based gaming. M had minimal activity with the casino during the period 2018-2021, but became a substantial customer from May 2022 onwards. As at 24 October 2022, according to a significant risk customer escalation form completed that day, M was 'currently SCA's highest grossing customer based on YTD 2022 total bet turnover (\$370 M) and currently has a customer win of \$2,995,000 and a Front Money balance of \$2,500,000'.

[501] On 25 July 2022 an International Business Enhanced Know Your Customer Application was prepared for M. The Application referred to M as an investor, and tenancy agreements and a rental agreement were provided to prove M's source of income. A settlement completion record for the sale of a property was also provided. The following statement was made:

Given that [M] has a rental income of AU 126.6K and he has made a profit of AU \$289,959.61 from property sold in 2021, it is plausible that [M] can support [M's] Front Money level of \$150K-\$200K.

[502] On 9 August 2022 an email from the IT Service Desk to a number of staff advised that the application had been approved. A number of relevant staff who gave their approval were identified, including Mr Christian, Mr Neish and Mr Stokes. The approval by Mr Stokes included the following note:

The question the business needs to ask is that although it is plausible that [M] can support [M's] Front Money level of \$150k – 200k (given [M's] claimed rental income of \$126K plus proceeds from a recent sale of property for approx. \$290k) a fresh SOW assessment will likely be required on a subsequent visit assuming [M] loses [M's] Front Money and returns with a similar amount.

[503] On 17 June 2022 a SOW was completed in which the following conclusion was recorded:

I believe that customer's SOW to be plausible.... I am firmly of the opinion that [M's] has legitimate wealth that has been obtained through [M's] investment portfolio and has both the asset and liquidity to play at [M's] current level.

[504] A month later on 22 July 2022, M completed a Patron Credentials Disclosure Form disclosing an income between \$100,000 and \$200,000 from investments and casino winnings. It was stated that M intended to transfer into the Front Money account both \$100,000-\$299,999 and \$300,000-\$999,999 per visit.

[505] On 25 July 2022, the licensee undertook a customer watchlist screening. [REDACTED]
[REDACTED]. Such categorisation should have been a bright red flag for the licensee. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[506] Somehow, in subsequent processes with respect to M, the classification [REDACTED] was disregarded.

[507] On the same day as the customer watchlist screening was undertaken, 25 July 2022, an International Business Enhanced Due Diligence application was completed, apparently because M wanted to buy-in more than \$300,000. Details were provided of annual rental income from investment properties, together with proceeds from the sale of a property and Adelaide Casino winnings in June 2022. The following conclusions were set out in the application:³⁴

³⁴ The conclusions were supported by an Open Source Review dated 23 May 2022 (004.003.0344).

- No adverse information was found on M during this search.
- It is plausible that M can support M's Front Money level of \$300,000 due to the following reasons:
 - i. M has an annual rental income of \$126.6K.
 - ii. M has made a profit of \$289,959.61 from property sold in 2021.
 - iii. As of 25 July 2022, M has winnings of \$707,520 at the Adelaide Casino in 2022.

[508] No reference was made to M being an [REDACTED].

[509] On 9 August 2022 the IT Service Desk sent an email to a number of staff advising that the application had been approved. Senior personnel who had given approval were identified, including Mr Neish and Mr Stokes. The approval by Mr Stokes contained the following note:

Please obtain (within 2 weeks) bank account evidence (via a statement) that shows the account or accounts (if multiple) used by [M] to fund [M's] gaming, including the account/s [M] repatriates funds to post gaming (if applicable).

[510] A bank statement was produced, but the statement concerned an account used only for payment to a telecommunications provider. It did not relate to gambling funds. No other bank statements were produced.

[511] The licensee commissioned a Wealth Enhanced Due Diligence Report with respect to M. On 26 September 2022 a report by Acuris Risk Intelligence reported that extensive desktop-based research had been unable to verify M's nationality, residential address, assets or income. Under the heading 'Summary of Red Flags', the report stated:

Jurisdictional risk due to lack of transparency, high money-laundering risk and high corruption perception in country of origin and residence.

[512] At this point, a number of features were readily apparent:

- M joined the Adelaide Casino in May 2018 during a trip with an associate who reportedly owned brothels in another capital city. An Incident File Summary Report suggested M was previously part of that person's business group.
- From May to September 2022, M's gambling increased dramatically, and involved very large buy-ins.
- The claimed sources of income were inadequate, bearing in mind no assessment had been made of likely outgoings in connection with sources of income such as rental properties.
- The claimed sources of income had not been verified or supported by appropriate documentation. A single bank account statement produced by M did not provide such support. It was used solely for payments to a telecommunications provider.
- The licensee's own customer watchlist screening on 25 July 2022 identified a person of the same name as M as a [REDACTED].
- The potential identification of M as a [REDACTED] was highlighted in the report of 26 September 2022 as a Red Flag, with the notation of a jurisdictional risk due to 'lack of transparency, high money-laundering risk and high corruption perception in country of origin and residence'.
- As at 26 September 2022, the assets and income claimed by M could not be verified. Nor could M's asserted address and nationality.
- Sensibly, but belatedly, early in August 2022 Mr Stokes requested that appropriate bank account records be obtained for the accounts used by M to fund gaming. Such records had not been produced by 26 September 2022.

[513] Given the totality of known circumstances, it is difficult to understand why, following receipt of the report of 26 September 2022, at least a temporary ban was not put in place. Instead, the procedures drifted on and allowed gambling to continue.

- [514] On 11 October 2022 the licensee became aware that M was barred from an interstate casino. On the same day, M provided the licensee with an updated Patron Credentials Disclosure form informing the licensee that he was barred from the interstate casino. M indicated in the form that the barring was due to a ‘commercial decision’ by the casino, and that M became aware of the barring on the same day informed the licensee of that barring.
- [515] Notwithstanding knowledge of the barring, and all other circumstances previously discussed, M was not barred from the Adelaide Casino. Instead, on 24 October 2022 a Significant Risk Customer Escalation Form was completed. It is notable, that on two occasions in the front page summary, reference was made to the fact that M was currently the casino’s highest grossing customer by turnover.
- [516] The escalation form highlighted the main features earlier mentioned. Those features included the fact that internal and external due diligence had been ‘unable to identify and verify historical employment, business interests, etc that could support [M’s] gaming levels independent from [M’s] successful winning streak at SCA’. It was noted on the form that M had informed the licensee that M was unemployed and a property investor. It was also noted that M had provided evidence of several rental agreements and proof of sale of one residential property providing \$289,000 profit.
- [517] The form also included reference to the interstate barring and an inability to confirm the full degree of an association with the person who reportedly owned brothels at an interstate capital. Significantly, and for no apparent reason, no reference was made to the result of the licensee’s own watchlist screening, the result being that M was a [REDACTED]. Nor was reference made to the Red Flag summary in the report of 26 September 2022.
- [518] Although M was not prevented from gambling, M did not gamble after 11 October 2022. The result of the escalation was that M was upgraded to significant risk ‘to provide SkyCity Senior Management the opportunity to assess the risk that [M], SCA’s highest customer by turnover is barred from entering at least one other major casino group in Australia’. That conclusion was

preceded by an observation that the Financial Crime Team could not confirm the full degree of association with the interstate associate, nor the specific reason for M's exclusion from the interstate casino.

[519] The recommendation as to whether the AML/CTF risks could be adequately mitigated with the introduction of additional controls was reported in the following terms:

If the business wishes to continue doing business with [M], the Financial Crime recommends that SCA consider the following:

- 1) *SCA should request the customer to declare if [M] is barred from any other casinos in Australia, most notably Crown Resorts the local casino in [M's] residence.*
- 2) *IBIS to collect further KYC information as to how [M] built [M's] initial wealth including any inheritance or gifts (if applicable), any prior employment that contributed to [M's] wealth, and any business interests separate from [M's] winning history at SCA.*
- 3) *IBIS to request [M's] complete bank statements for May to September 2022 on the personal account that funds [M's] gaming and receives [M's] winnings. SCA should better understand [M's] financial activity on the account. The copy on file is limited and only shows [telecommunications provider] bill payments.*
- 4) *SCA should seek to clarify and update [M's] residential and mailing address if instructed by the customer. (Rationale: A different address was found in company search reports).*

[520] On 1 November 2022 the Head of Financial Crime Operations sent an email to Mr Christian and Mr Stokes, with a copy to Ms Wong, arranging a time during the following day to discuss the risk escalation. Twice, in a short email, comment was made that M was the casino's highest customer by turnover.

[521] The casino's Significant Risk forum met on 2 November 2022. The result of the meeting was described in an email of that date from the Head of Financial Crime Operations to Mr Neish, with copies to Ms Wong, Mr Christian and Mr Stokes. It is appropriate to quote the email advice in full:

The SCA Significant Risk forum met today to discuss [M] and agreed that SCA will not retain [M] as a customer unless [M] is able to provide substantial comfort around [M's] background, status at other casinos and his SOW. If IBIS would like to continue doing business with [M], IBIS will be responsible to liaise with [M] to first collect the

recommended Further KYC / ECDD below. Thereafter, this forum can reassess and make a final decision on whether to retain or discontinue business with [M].

I will be back in the office tomorrow and Friday if you would like to discuss how to proceed and agree to a timeline.

Further KYC / ECDD Required to Reassess [M]

- 1) *IBIS should request [M] to declare if [M] is barred from any other casinos in Australia, most notably Crown Resorts the local casino in [M's] residence. Evidence of active membership should be provided if [M] declares [M] is not barred from Crown.*
- 2) *IBIS should seek clarification on the extent of the relationship between [M] and [named] and [named] whom [M] attended [M's] first SCA trip with in 2018.*
- 3) *IBIS should collect further KYC information as to how [M] built [M's] initial wealth including any inheritance or gifts, any prior employment that contributed to [M's] wealth, and any business interests separate from [M's] winning history at SCA. Verification should be provided where applicable.*
- 4) *IBIS to request [M's] complete bank statements for May to September 2022 on the personal account that funds [M's] gaming and receives [M's] winnings. SCA should better understand [M's] financial activity on the account. The copy on file covers several months but is limited and only shows Optus bill payments.*
- 5) *SCA should seek to clarify and update [M's] residential and mailing address if instructed by the customer. (Rationale: The address in Victoria found in company search reports and on his bank statement is different than the one on [M's] PCD, JSR since sign-up and driver licence).*

Note: [M] has been stood down by IBIS since informing SCA of [M's] barring at the Star and [M's] interstate trips are monitored. I have updated [M's] CMP to state Significant Risk & put a priority note "No Gaming Until a Significant Risk Decision is Reached".

[522] By letter of 9 December 2022 to the Commissioner, solicitors for the licensee advised that while the licensee was not entirely clear as to the reasons for M's interstate barring, the licensee decided to 'uphold the existing barring until such time that [M] is able to provide additional KYC/ECDD information'.

[523] The leniency shown to M was remarkable. The failure to consider the [REDACTED] is inexplicable. It is also remarkable that the licensee left the door open for M to return. Perhaps it is stating the obvious to suggest that the treatment of M demonstrates an ongoing priority being given to revenue with consequential preferential treatment being given to valuable customers.

[524] In the letter of 31 March 2023, the licensee's solicitor advanced a number of reasons for challenging the conclusions with respect to customer M. First, the contention was advanced that the licensee possessed 'proper grounds to consider that the [REDACTED] identified as part of the watch list search for customer M was not a true match for customer M'. Secondly, resort was again had to 'additional contextual information' including the assertion that the licensee's records demonstrate that customer M provided it that confirmed M's ownership of several properties and that his gaming funds were the result of 'significant consistent winning periods' at the Casino. No date for the provision of such information was given.

[525] The letter of 31 March 2023 notes since adoption of the KYC approval now in use, additional information has been collected from customer M. Further, the licensee has 'since learnt that customer M has been barred from another major casino in Australia' and, accordingly, M has been stood down pending re-assessment and no further gambling by M has occurred since November 2022. The decision not to ban M immediately, but to undertake re-assessment is, to say the least, perplexing.

34.12 Customer N – Account number [REDACTED] (AUSTRAC 43)

[526] Customer N joined the loyalty Program on 5 February 2014. Unbeknown to the licensee, N had previously been involved in drug trafficking. In 2001 N appeared in the Adelaide Magistrates Court in connection with the sale of cannabis. Apparently, at that time N had prior cannabis related convictions dating back to 1983.

[527] In 2004, N pleaded guilty to the sale and shipping of cannabis worth approximately \$100,000. N was sentenced to a lengthy term of imprisonment.

[528] On 22 February 2014, [REDACTED]
[REDACTED].

[529] [REDACTED]

- [530] Following the SMR, a form headed 'ECDD – Enhanced Customer Due Diligence' was completed, but it was grossly inadequate. The Occupation/Source of Funds/Source of Wealth information was simply 'Managing Director at [named company]'.
- [531] On 21 July 2021 the licensee became aware of N's criminal convictions and involvement in the trafficking of drugs. The risk rating for N was elevated to High, and another ECDD Form was filled out. It referred to N having 'multiple business with income commensurate with the turnover and cash buy-in's that [N] has established over the years'. Reference was made to specific businesses.
- [532] On 7 September 2021 N completed a Source of Wealth Declaration. In the employment category, N identified a company of which N was a director and stated that the annual salary was \$300,000.
[REDACTED]
- [533] Additional information was provided by a VIP Host who wrote: 'I know [N] quite well. [N] is a supplier also for the casino'.
- [534] The only supporting documentation provided with the SOW was a note signed by N, as a director of a named company, stating that as managing director of the company N's annual salary was \$300,000.
- [535] It is obvious that the Source of Wealth declaration was inadequate and should not have been accepted without supporting documentation. The comment by the VIP Host was irrelevant. The VIP Host involved gave evidence, and it was readily apparent that the Host was significantly biased in favour of N.
- [536] An assessment was undertaken of the SOW. It involved identifying commercial properties from which N apparently received income. The conclusion was reached that the SOW appeared 'legitimate' and 'plausible', having regard to N's overall wealth 'that we know about [N]'. The assessment was not signed by an employee of the licensee. Nor was it dated.

- [537] In July 2022 I, the Manager, Financial Crime Intelligence and Liaison, completed a Significant Risk Customer Escalation Form. It made a strong case for the cessation of business with N or, at the least, elevation to Significant Risk.
- [538] The Escalation Form identified N as a ‘frequent visitor, premium player and high value customer’. It was stated that N was currently assessed as High Risk by reason of the ‘level of monthly cash transactions’. Reference was made to the prior criminal conduct of N, and to 233 threshold transaction reports (TTRs) totalling \$4,474,003 between July 2016 and June 2022.
- [539] The Escalation Form referred to information received by the licensee concerning the possibility of N being involved in organised crime activity, and to the fact that the previous criminal offending and possible access to illicit funds was ‘very historical in nature’. The observation was made that information suggested N was well connected to SA organised crime networks, but it was not possible to determine whether the relationships involved current criminal activity and whether they were used for ‘nefarious purposes’. Reference was made to the additional ECDD and to N’s business interests and likely Source of Wealth. This information included a property portfolio with an estimated value in excess of \$8 million. It was noted that from 2014 to 2022, the recorded gaming activity indicated a total estimated win by N of nearly \$468,000.
- [540] A summary of the processes followed after presentation of the escalation form was provided by solicitors for the licensee in a letter dated 22 December 2022:

In relation to [N], we are instructed that:

- (a) the Significant Risk Form was finalised on 25 July 2022;*
- (b) on 8 August 2022, after reviewing the Significant Risk Form, considering recommendations from Nick Stokes and discussions with senior management, David Christian approved the continuance of the business relationship with [N]. When providing his approval, Mr Christian noted that the relationship with [N] would need to be immediately revisited by SkyCity Adelaide with the view to terminating that relationship should the Financial Team become aware of any potential AML/CTF concerns;*
- (c) on 28 October 2022, an update regarding [N] was provided to the AML/CTF Committee (as outlined in the AML/CTF Committee minutes dated 28 October 2022 (see: SKY.012.006.0015);*

- (d) *SkyCity Adelaide has continued to closely monitor [N] following the finalisation of the Significant Risk Form, including:*
 - (i) *collecting further and additional know your customer and source of wealth information relating to [N] (including copies of [N's] individual and business-related taxation records);*
 - (ii) *conducting an analysis of [N's] historical cash transactions at the SkyCity Adelaide casino; and*
 - (iii) *preparing an investigation report in November 2022 which addressed, amongst other things, detailed monitoring of [N's] interactions and movements whilst on the SkyCity Adelaide casino premises as well as information regarding his gaming style and strategy;*
- (e) *on 8 November 2022, [Head of Financial Crime Operations] provided for Mr Stokes' consideration recommendations for future mitigating controls concerning [N's] activities within the SkyCity Adelaide casino in the event that SkyCity Adelaide was to continue the business relationship with [N];*
- (f) *on 12 December 2022, SkyCity Adelaide barred each of the customers, including [N], listed in Schedule B of the Statement of Claim filed by AUSTRAC on 7 December 2022 until further notice; and*
- (g) *SkyCity Adelaide is currently in the final stages of determining whether to terminate the business relationship with [N] entirely.*

[541] In evidence given on 30 November 2022, Mr Stokes was asked about procedures with respect to Significant Risk customers and the measures that have been implemented. He volunteered the case of N as an example of the licensee undertaking the Significant Risk Escalation process. He said that having obtained a full picture of the risks involved in doing business with N, the escalation form then went to Mr Christian and Ms Wong to provide oversight and ensure that from a legal perspective the potential risk was being properly managed.

[542] As to whether Mr Stokes recommended continuation of the relationship with N, he said the business needed to consider all the risks and it was an 'appetite question'. Mr Stokes identified the question being whether the funds were tainted from previous criminal activity or were commingled with income from lawful businesses. Mr Stokes understood from N's relationship manager that N would bring in cash N was prepared to lose, and once that amount was lost N would cease gambling. Ultimately, Mr Stokes did not provide a specific view.

[543] Mr Stokes said the relationship ‘was deemed to be still High Risk with the mitigating factor to review the relationship periodically’. He said the licensee was undertaking ‘quite a thorough review of that individual’s play and to look to what kind of restrictions we need to provide, for instance, to make sure that individual doesn’t bring in cash, for instance, or do we ask for his tax returns, which we’ve asked for’. According to Mr Stokes, the review was ongoing and the matter would be taken back to Mr Christian for a decision as to whether to continue to accept the risk or exit the relationship.

[544] Mr Stokes added a pertinent observation. He said that while the matter was under consideration, if the Board approved a new Risk Appetite Statement, such Statement might clearly indicate that the licensee does not tolerate anyone with a certain type of conviction. The Risk Appetite Statement might provide an immediate answer.³⁵

[545] It was put to Mr Stokes on 30 November 2022 that from the outside, it looked like a lot of work had gone into the situation with respect to N over a significant period. The question was asked whether so much trouble would be taken for a customer who was less valuable to the casino from the point of view of turnover. Mr Stokes answered:

Would we go to as much trouble? I think we’d go through a process which is we have to be thorough. If they were like a Bronze member with a conviction – I haven’t had one, but we do have Bronze members who are obviously not relationship members, they don’t have someone to go into battle for them if we do kick them out – it’s a good question. I haven’t really pondered on that.

[546] Mr Stokes was then asked whether premium customers received preferential treatment. He responded as follows:

They go through a process and, naturally, the business, being a commercial enterprise, needs to understand what the risk is involving those individuals. We present from an AML – naturally an AML perspective, that these are the risks, the red flags that we see

³⁵ The new Risk Appetite Statement was approved on 14 December 2022 and would be of direct impact to decisions concerning N and other customers.

and it's up to the business to ponder on those and consider those. That's why I think the board has asked us – because they're very aware of the [N] case – they want to know if in the future we have a similar case, they want to know what the business has done, they want to have oversight of that in terms of accepting that risk.

I think going forward with the risk appetite, that will solve many of our issues around that type of question, but I think, having pondered on that question now, I think it is natural that if someone who is – maybe [N] is not the right case but someone who has significant source of wealth but has maybe an insignificant red flag, for instance, we just don't know something about them for whatever reason because their property ownership or their portfolio is quite opaque, they will naturally want to fight for that customer, because it's a business – we have to run a business. So I think there will always be that I guess need to balance, and that's what the compliance or the AML function is there for, is to have that oversight to challenge and to ensure that we get comfortable and advise senior management accordingly.

So I think our appetite, to be honest, Mr Martin, I've run appetite in the last 12 months, rightly or wrongly, in terms of my decisions to bar people or to go to the significant risk – in the absence of a clear risk appetite – the appetite I'm running is my appetite to protect the organisation's reputation, and I think if you look at the statistics around how many customers we've exited, not just lower-end customers but high-end customers, even international customers who were looking to bring in significant amounts of money, we've exited those relationships and there's evidence of that.

I think what's interesting is what myself and [Head of Financial Crime Operations] are doing is the conditions that we're putting on those relationships. If they want to come back, we're saying "We require these kind of documents or this kind of level of verification". In some instances where they can't do that, or they refuse to do that, then, of course, we have other reporting obligations that we have to fulfil, but I would say the risk appetite – I hate to use these words, but there has been a bit of policy on the run in terms of ensuring that we protect the organisation as we're developing the standards, as we're making changes of the program.

[547] Ultimately, the licensee's decision in December 2022 to bar N was not made by reason of N's history of dealings with the casino. N was barred because N was one of the customers listed in the AUSTRAC Statement of Claim. All other customers listed were also barred. While the evidence of Mr Stokes illustrates the dilemma faced by the licensee in dealing with more valuable

customers, and balancing AML obligations, again it is impossible to avoid the impression that remarkable leniency was granted to N over the years, even if the ultimate decision could reasonably be justified.

34.13 Customer Preferential Treatment

[548] These customer examples are to be considered in conjunction with examples discussed earlier in the context of the first Analyst's evidence. They are samples only, but in their cumulative effect they demonstrate serious failings, including an inadequate approach to due diligence with respect to valuable customers. As mentioned, Mr Stokes was asked whether premium customers receive preferential treatment. In reply, and speaking of the treatment of a valuable customer over a long period, Mr Stokes spoke of the need for guidance through the Risk Appetite. He said the business, being a 'commercial enterprise', needs to understand the risk from individuals. In this context Mr Stokes said that in the absence of a clear Risk Appetite, he had been running Appetite for the last 12 months; it was 'my Appetite to protect the organisation's reputation'. This included excluding a number of high-end customers who were looking to bring in significant amounts of money.

[549] The theme of undue preferential treatment for premium customers emerged from more than one witness. That impression might naturally be expected. Such customers were important to the licensee's commercial objectives. However, it is clear that the preferential treatment went too far, and at the expense of compliance with AML/CTF requirements. Priority was given to maintaining the casino's income stream rather than properly assessing risks and ensuring AML/CTF compliance.

[550] Mr Stokes referred to the relatively new PCD process which requires far more detail and supporting evidence concerning Source of Wealth. Notwithstanding the previous Source of Wealth review, which resulted in the loss of a number of premium customers at the Black Tier level, according to Mr Stokes his 'Assurance Person' was currently undertaking a 'thematic review' across all Black Tier customers to ensure that they have Source of Wealth information on file. It was an ongoing review which he hoped would be completed before the end of 2022. In

future any customer transitioning to Black Tier will be required to undergo the PCD examination, and Mr Stokes was still considering the position at the Platinum and Gold levels. He pointed out that all Premium members came through a process, and were looked at in a quite a lot of detail. Mr Stokes maintained that the ECDD form currently used demonstrated an ‘extensive amount’ of due diligence was done. There were points built into the system which triggered an examination of a particular customer.

35.0 Inducements

[551] The examples to which I have referred include customer C whose relationship with the casino also involved unusual inducements. Between July 2020 and April 2021, C used C’s rewards card when engaging in gambling activities for 164 hours. C bought in with \$17,755,265, and subsequently lost \$2,472,620. As part of the premium gambling rewards, 73,766 reward points were automatically accumulated to C’s account. In the same period, however, those points were manually adjusted and removed from the rewards card.

[552] Significantly, in early March an extra 48,439,800 reward points were manually applied to C’s rewards card. On 12 March 2021, these rewards points were redeemed for a cash back to C of \$484,398. For an unknown reason, if the total of \$484,398 was paid to C on 12 March 2021 by way of 1 cash payment of \$4,446 and 48 cash payments, each of \$9,999. [REDACTED]

[553] A similar situation arose with respect to another premium customer (K – account number [REDACTED] – AUSTRAC number 26) who gambled only on electronic gaming machines. K was a longstanding customer who, like C, received rewards far beyond those usually permissible under an acceptable Loyalty Program. In summary, between 1 July 2020 and 1 July 2021:

- K’s rewards card was active on 219 out of 366 days.
- K achieved a turnover of \$33,567,327.

- K received 14,536,496 rewards points, valued at \$145,364.96, which were applied to K's Reward Program card in accordance with the standard terms of the licensee's Rewards Program.
- The rewards points were manually adjusted to award a further 100,721,000 points valued at \$1,007,210
- K spent 1,559 hours gaming which would provide an average of 7.1 hours per visit, but there was a significant variation between session lengths. On 56 occasions K recorded a gambling session longer than 12 hours.
- K lost a total of \$2,025,379, but was provided with points holding a cash value of \$1,152,574.96 (\$1, 007, 210 through manually adjusted reward points and \$145,364.96 in automatically accrued points).

[554] Again, the extent of the 'reward' is an example of an exceptionally large inducement well beyond the parameters of an acceptable Loyalty Program. As discussed, under Individual Commission Programs such larger inducements were only available to interstate and international players. The terms of these Programs are settled before the commencement of gaming, and are signed by both the Cash Handling Shift Manager and the Senior Casino Manager at the commencement and conclusion of the Program. Copies of Commission Program Agreements, and documents relating to the movement of funds, are provided to CBS in accordance with relevant control standards. However, as CBS does not have access to the CMP system, additional rewards points through manual adjustments are obscured from the regulator. This procedure creates an undesirable lack of transparency. Similarly there is a lack of transparency in the operation of DMO (discussed earlier).

[555] The licensee is able to offer these types of inducements to gamblers in premium areas because in respect of premium customers, cl 14B of the Approved Licensing Agreement provides an exemption from compliance with any provision in the regulatory regime which restricts the licensee from offering inducements. In other words, by reason of cl 14B, the licensee is free to

offer inducements to increase spending in order to qualify for membership of premium gambling areas, and inducements to maintain the necessary level of spending. There is no limit to the type and size of inducements that the licensee is able to offer in these circumstances.

[556] The circumstances that led to the enactment of cl 14B are unknown, but since cl 14B was introduced, the knowledge and understanding of the harm caused by gambling has greatly increased. The operation of cl 14B demonstrably cuts across the aim of Harm Minimisation. The need for Harm Minimisation processes applies equally to both the main gambling area and the premium gambling area. Clause 14B should be amended or, at the least, modified in its operation to provide for a degree of control by the Commissioner or limits to be observed by the licensee.

[557] The activities of customer K (AUSTRAC number 26) also raise questions concerning AML requirements and Host Responsibility duties. Between 2012 and 2017 K maintained a gaming turnover in excess of \$1 million per year. In 2018 K's turnover increased from \$8 to 12 million, peaking at \$26 million in 2019. The turnover was \$19 million in 2020, and \$16 million in 2021.

[558] In 2021 a Senior Analyst requested an ECDD process with respect to K. It provided information as to K's position as sole director and shareholder of a business entity.

[559] The ECDD process also disclosed that K had been the subject of a staff observation report relating to suspicious activity on 20 January 2021. K had requested that 2 tickets of the values of \$5,500 and \$5,060 not be cashed together as the total would be over \$10,000. Notwithstanding this request, no SMR was submitted.

[560] Notwithstanding these matters, including the behavioural change and exceptionally lengthy periods of gambling, there is only one reference to K in the Host Responsibility records for 1 January 2020 to 1 September 2021. It was to do with K reaching a daily spend target and the application of an additional \$2,000 to K's account. In substance, there was no meaningful interaction with K. Rather, K has been provided with further inducements to increase spending.

[561] In the letter of 31 March 2023, the licensee's solicitor strongly maintained that the records do not reflect the reality of the gambling undertaken by customer K. Extensive reference was made to K's habits and long term relationship and engagement with staff 'high level'. The letter contends that staff 'consistently placed a high level of focus on customer K'.

[562] As to the inducement provided to customer K, the solicitor maintained that the awarding of bonus points was a 'common feature of many loyalty programs' and were not given 'specifically as a further inducement' for K to increase spending.

36.0 International Business Division

[563] As mentioned, Junket operations were previously conducted by a business division called International Business. Mr Christian said this business division was not part of the Adelaide or Auckland businesses. It was originally a separate division within the wider group concerned with international business, and the Head of the Division was a 'peer' who ran his own Business Unit. The Head reported to the Chief Financial Officer of the Group who was based in New Zealand. Ultimately the New Zealand Board was in control.

[564] In evidence Mr Christian said the International Business Unit was still operating, but had become the International Business and Table Games division of the licensee. Since January 2021 it reported to Mr Christian as the Head of the Australian operations. As at June 2022, 95% of the business was Australian domestic by way of players out of other States of Australia. The Head of the International Business division was Stewart Neish, who was in Adelaide. He also operated the Adelaide table games business. According to Mr Christian most of the team headed by Mr Neish, a small team, was situated in New Zealand, but in addition salespeople were employed in Melbourne, Sydney, Queensland, Hong Kong and Singapore.

[565] As to how the business worked, Mr Christian explained that sales people dealt directly with customers, usually with people they already knew. Processes were in place to check on such

persons, particularly those from overseas. The main focus was attracting persons at a premium level.

[566] Mr Neish held the official title of Group General Manager International Business and Table Games (in Adelaide). He possessed extensive experience in casino operations and had been in the role in relation to International Business for 5 years. His involvement with Table Games began in mid 2021.

[567] The operation of the International Business Division was explained by Mr Neish in evidence given on 7 November 2022:

A. So SkyCity's international business is run across two jurisdictions. It's run Adelaide and Auckland and a little bit into Queenstown. The reason it's a Group business is that it makes more sense to the operation and more transparency to the market to have it as an individual area – it's like a separate department – because the reason is that with gaming at a very high level, like baccarat, that type of thing, very high differentials, there can be very [?] swings in volatility and if that individual volatility lives within the property, it actually fundamentally changes their results. So somebody that's buying the stock might look at that in a year that, you know, we had an unlucky year and noticed that the revenues had gone. If they didn't understand why that was, they would think that the business wasn't performing as well as it could be. That's why it's kind of set up as a separate entity. It also allows the customer to interact with SkyCity as an organisation individually and then we can then direct them into wherever they want to go in terms of play. So they might want to go, you know – one trip they might want to go to Auckland and another trip they might want to come to Adelaide. In terms of the operation, we have sales people overseas. We have VIP services people on property. We have a commercial team that started when I started. That includes patron accounts and we have all the rebate gaming, which is sort of run by table games in terms of the chip management and the games that are played in the salons – dealing staff. If I talk too much –

MR MARTIN: No, go on.

A. – please let me know. If you think about the customer journey interaction with the organisation, we would identify a player overseas. We would get to know them, they get to know our staff. We'd understand their gaming preferences, understand a little bit of their background and how they want to interact. Then, we would assist them interacting at a sort of administration level prior to their trip. When they arrive, then we have the VIP services people on the property to meet them and assist them through, you know, the gaming buy-ins and settlements, anything they want to do externally in terms of tourism and all that kind of thing.

[568] Mr Neish said large teams of personnel were previously based in Hong Kong, Macau, Singapore, Thailand and Malaysia. Now the team had been reduced to 2 persons, one in each of Singapore

and Hong Kong. Their role was to attract customers and assist with their journey to New Zealand or Adelaide.

[569] Bank accounts were previously held in Hong Kong, Malaysia, Singapore and Macau. According to Mr Neish, it was easier and less expensive for overseas customers to place funds into the casino's overseas bank account, rather than moving funds to New Zealand or Australian accounts. If the customer was engaged in a relatively short trip, the funds would remain in the overseas account, but for longer trips the funds would be transferred to the casino account in Auckland.

[570] Once funds were lodged in the overseas account the casino viewed those funds as the casino's money. The customer could realise those funds either in Adelaide or Auckland and take the value of those funds at the casino cage. However, the funds remained in the overseas account.

[571] Mr Neish explained that if a customer won, the funds would be returned to the customer's account. In theory, the customer could also choose to take an amount by way of cash. If the customer lost, the funds would be removed by the casino from its overseas account and transferred to an Australian or New Zealand account. If the customer had been gambling in Adelaide, the funds would not necessarily be placed into the casino's Adelaide account. 'Treasury' would make a decision as to the most appropriate place for the funds to be deposited, which could be an account in Adelaide or New Zealand.

[572] As to the suggestion that such a process was rather convoluted and could give the appearance of an attempt to avoid local regulations, Mr Neish gave the following answer:

A. I think – I don't think there's any intention to avoid regulation in relation to the transfers, because the result and the drawdown of the chips would have been the time in which we recognised it. I'm quite sure, but I would have to check with compliance, I don't think there's obligations to make reports until those funds are actually sent. So it could be perceived in that way, but it's my personal opinion that it wasn't to mask that. It wasn't intentionally to do that.

[573] Mr Neish accepted that if funds were deposited by an overseas customer into an Adelaide or Auckland account, the AML rules those deposits would be reported. However, if the funds were

deposited into the overseas casino account, Mr Neish did not know if their AML rules would require notification of that deposit.

[574] As to source of wealth inquiries, assuming funds are placed into the casino's overseas account, Mr Neish said there were source of wealth or funds inquiries carried out, but the procedures had been improved. From his perspective, the cage operations people would attend to the necessary paperwork. Mr Neish thought it was only when funds were moved that reporting obligations came into play.

[575] The previous 'independence' of the International Business Division in controlling processes relating to international customers was an unsatisfactory feature of the business that was ripe for abuse. Mr Christian said he asked once about a particular patron and was told: he is not your customer; not your concern.

[576] An example of the historic operation of the International Business Division is provided by transactions that occurred in March-April 2016. A customer owed \$438,211 at the conclusion of gambling. He had provided a cheque to cover the gambling, for an unknown amount, and an email exchange occurred concerning payment of the specific amount of the debt (rather than the casino banking the cheque and repaying the excess to the customer).

[577] On 31 March 2016 an amount of \$438,211 was deposited into the casino's cage account (being \$15 more than the debt, presumably because of bank fees). The name of the person who deposited the funds, DB, had no apparent connection to the gambling customer, and was never registered with the casino as a customer. The bank statement recorded the purpose of the deposit as 'Housing Mortgage', presumably a purpose conveyed to the bank by DB. The obvious inference is that DB wanted to disguise the purpose for which the deposit had been made.

[578] Not surprisingly, the Cage Manager sought further information as to the identity of DB, confirming in an email to the International Business Division that identification details were required in order for the casino to perform its AML reporting. The International Business Division

responded that confirmation had been obtained from the customer that the funds were to pay the customer's debt, and that DB was 'the banker to help [the customer]'.

[579] A series of email exchanges occurred which demonstrate that while the Cage Manager was aware of the AML requirements, at the other end the International Business Division personnel had very little idea of the requirements.

[580] Eventually, sufficient identification material was provided to satisfy the Cage Manager [REDACTED]. At that time the casino accepted the deposit which settled the customer's debt.

[581] The email exchanges led the Cage Manager to communicate with more senior personnel stating the obvious, namely, that the IB Team would benefit from more in depth training with respect to AML requirements. A discussion followed which included issues concerning suitable identification of persons making deposits and accepting third party payments, including transfers from company accounts.

[582] As these events occurred in 2016, it is unnecessary to discuss them further. It is sufficient to observe that the inadequacy of the processes, and confusion surrounding those processes, is obvious, as is the lack of understanding of AML/CTF obligations that then existed within the IB Division.

[583] In a letter of 12 December 2022, solicitors for the licensee noted that DB was not an Adelaide Casino customer, and that the events do not reflect the licensee's current processes and procedures. The observation was made in the letter that the policies and procedures have evolved over time, and include the cessation of accepting third party transactions and the delivery of 'further and targeted' training for the licensee's employees. The letter asserted that a different approach would have been taken in more recent times, including more rigorous steps to query the transaction description and the return of funds to the depositor.

37.0 International VIP Hosts

- [584] Informal interviews were conducted with VIP Hosts responsible for looking after international customers. They explained that the International Sales Team and Patron Accounts Team usually conduct the Know Your Customer inquiry before an international customer arrives in Adelaide. Although interstate customers are allowed to complete the relevant forms onsite, international customers must be approved before they arrive in Adelaide.
- [585] The Know Your Customer information obtained by the International Business Team was stored in the Bally system. Prior to arrival of an international customer the identification information was obtained and verified before an account was created for the customer. That account remained inactive until the customer arrived in Adelaide.
- [586] On occasions the VIP Host Team in Adelaide assisted in obtaining more information through the IB Patron Team in Auckland.
- [587] In October/November 2022 an additional step was added to the Know Your Customer process. Prior to an international customer's arrival, the customer was required to complete a Patron Credential Declaration. This form provided additional information about the customer such as the occupation.
- [588] The role of a Host with respect to international customers included arranging trips and activities for such customers, prior to a visit to the casino, and looking after the customers while they were onsite. On occasions they were required to assist International Business Sales staff with the process of bringing a new customer to the casino. If a customer qualified for the benefit of being provided with a personal host, a VIP Host can be assigned personal hosting duties for a particular shift. Two hosts are assigned, one for each of the day and night shifts.
- [589] Hosts received training in AML issues. One of the Hosts explained that cumulative cash transactions reaching a total of over [REDACTED] in a [REDACTED], would trigger a source of funds

inquiry. Cumulative cash transactions of over [REDACTED], in a [REDACTED], would trigger the source of wealth process. In this area, the Cage may contact the Host to seek assistance in explaining the requirements to the customer. Once the form is completed, it is sent to the Cage for a decision as to whether the form has been completed appropriately.

38.0 Horizon Tourism

[590] The discussion that follows concerning a New Zealand account in the name of Horizon Tourism is based on the evidence obtained by this Investigation before AUSTRAC issued proceedings in December 2022.

[591] By letter of 25 February 2021, the Commissioner sought information as to bank accounts used by the licensee:

*Question 1: What accounts are or have been used for the receipt of funds from patrons of SkyCity Adelaide in the past five years (the **Accounts**)? For each Account, please provide:*

- (a) the name of the entity holding the account;*
- (b) the name of the financial institution with which the account is held;*
- (c) the location of the financial institution; and*
- (d) the purpose of the account.*

[592] The licensee responded in a letter dated 30 March 2021 stating that details of the accounts used for the receipt of funds from SkyCity Adelaide patrons for use at SkyCity Adelaide in the past five years were set out in an attachment which was as follows:

Account name	Account holder	Currency	Account Number	Financial Institution	Location	Purpose of Account
SkyCity Adelaide Pty Limited	SkyCity Adelaide Pty Limited	AUD		[REDACTED]	Adelaide	General trading account for activities such as payments

						related to payroll, tax, supplier invoices and receipts from EFTPOS, ATMs and daily banking. This account is used for any transfers out to gaming customers for winnings or return of funds. (This account was also used for the receipt of customer funds for gaming purposes until 5 years ago when a separate Cage account was opened – refer below).
SkyCity Adelaide (Cage Account)	SkyCity Adelaide Pty Limited	AUD		██████████ ██████	Adelaide	Account used for the receipt of customer funds for gaming purposes.
SkyCity Auckland Limited (Cage Account)	SkyCity Casino Management Limited	NZD		████	Auckland	Account for domestic gaming transactions at SkyCity Auckland. Winnings retained from international patrons visiting Auckland are transferred to this account from the foreign currency

						accounts below when the 259th visit has been settled. Occasionally used by international patrons visiting Adelaide where funds will be transferred to Adelaide Cage Account
SkyCity Auckland Limited (AUD account)	SkyCity Auckland Limited	AUD		████	Adelaide	Account for Australian patrons visiting Auckland, and international patrons visiting Auckland and / or Adelaide. Occasionally used for interstate visits to Adelaide (refer process below)
SkyCity Auckland Limited	SkyCity Auckland Limited	Multi-currency accounts		████ █████	Singapore	Accounts for international patrons transferring funds in advance of a casino visit. Upon arrival at the casino, the international patron is issued with chips up to the New Zealand or Australian dollar equivalent (depending
SkyCity Auckland Limited	SkyCity Auckland Limited	Multi-currency accounts		████████ █████	Kuala Lumpur	
SkyCity Auckland Limited [Account now closed]	SkyCity Auckland Limited	Multi-currency accounts		████ █████	Hong Kong	
Horizon Tourism (New Zealand) Limited	Horizon Tourism (New Zealand) Limited	Multi-currency accounts		████	Auckland	

						<i>on whether they visit Adelaide or Auckland) of the funds held in the foreign holding account at the date of arrival.</i> <i>At the time of departure, the patron's win/loss position is determined with wins credited from the relevant account to the patron's bank account and with losses credited to SkyCity's Cage account at the relevant site in Adelaide or New Zealand.</i> <i>Foreign currency accounts reduce exchange rate exposure and eliminate bad debt risk (to the extent of funds deposited in the account) which might arise through the use of a credit (CCF) facility.</i> <i>When credit facilities are used the</i>

						<i>accounts are also used to collect settlement of the credit facilities.</i> <i>Occasionally used for interstate visits to Auckland and / or Adelaide.</i>

[593] The existence of a bank account used for the receipt of funds from patrons of the Adelaide Casino, but in the name of Horizon Tourism (New Zealand) Limited and situated in Auckland, gave rise to questions as to the purpose and role of both that account and the Horizon Tourism entity. Solicitors for the licensee provided the following information in a letter of 18 October 2022:

- (i) Horizon Tourism (New Zealand) Limited was incorporated under the New Zealand Companies Act on 17 November 1997, but under its former name SkyCity Wellington Limited. It was, and is, a wholly owned subsidiary of SCEG.
- (ii) In New Zealand, SkyCity entities are the holders of licences to operate casinos in Auckland, Hamilton, Queenstown and Otago. SkyCity Wellington Limited was incorporated in anticipation of a casino licence being available in Wellington, but as no such licence was issued the entity was not utilised as it was initially intended. ‘In 2001, HTNZL was instead utilised for SCEG’s International Business (IB) Gaming Operations’.
- (iii) In 2012 SCEG applied to trademark the ‘Horizon’ brand in New Zealand and Australia and, from 2012, ‘used the Horizon brand in connection with its IB Gaming Operations’. On 15 July 2019 SkyCity Wellington Limited was renamed Horizon Tourism (New Zealand) Limited ‘to align with the Horizon branding at the time’. The ‘Horizon’ brand was progressively replaced by the ‘International by SkyCity’ and ‘SkyCity International’ brands in New Zealand in Australia from July 2020 to around May 2021 as SCEG has since developed a new hotel in Auckland under the brand name ‘Horizon Hotel’. The opening of the hotel has been delayed by reason of a significant fire in adjacent premises, and is currently expected to open in 2024. For ease of reference I will refer only to Horizon Tourism.

- (iv) Horizon Tourism Limited is a wholly owned subsidiary of Horizon Tourism and was incorporated in Hong Kong on 3 November 2015. Horizon Tourism has an operational branch located in Singapore, and during the period 1 July 2017 to 30 June 2022 also had a registered Malaysian branch, but ‘that branch was never operational and was closed on 23 January 2020’.³⁶
- (v) In May 2019, under its former name, Horizon Tourism opened a multi-currency account ‘for use in connection with SCEG’s IB Gaming Operations’:

Account name	Account holder	Currency	Account Number	Financial Institution	Location
Horizon Tourism (New Zealand) Limited	Horizon Tourism (New Zealand) Limited	Multi-currency accounts	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	Auckland

- (vi) The purpose of the account ‘is to facilitate the transfer of funds by international patrons in advance of a visit to a SkyCity Casino’. In addition, ‘occasionally’, the account ‘was used in relation to State visits’.³⁷
- (vii) As to the system of use, upon arrival at the ‘relevant’ SkyCity Casino, the international patron is issued with chips or other casino value instruments up to the New Zealand dollar equivalent (if visiting a SkyCity New Zealand Casino), or the Australian dollar equivalent (if visiting the SkyCity Adelaide Casino) of the funds deposited into the Horizon bank account at the date of arrival’. The foreign currency accounts reduce exchange rate exposure and eliminate bad debt risk, to the extent of funds deposited in the Horizon bank account, which might otherwise arise through the use of a credit facility.
- (viii) In addition to the New Zealand account, Horizon Tourism operated bank accounts in Macau and Hong Kong, but those accounts were closed on 31 October 2019 following changes as to the minimum amounts required to be maintained in those accounts. SkyCity Auckland Limited has operated a bank account in Adelaide and

³⁶ The minutes of the Group Audit and Risk Committee of 24 August 2021 (006.005.0063) state that Horizon Tourism is the ‘parent’ of the Singapore and Malaysian branches.

³⁷ The language of the explanation is careful. The current purpose ‘is’ to facilitate transfer of funds by international patrons, but occasionally the account ‘was’ used in relation to interstate visits.

in Hong Kong, but the latter was closed on 31 October 2019 following changes as to the minimum balance requirements.

- (ix) SkyCity Auckland Limited also operated a bank account in Singapore, but that account was closed on 30 June 2021 following notification that the bank no longer had a risk appetite for overseas based casinos. Another account operated in Malaysia was closed on 10 June 2022 following notification by the bank ‘that it was no longer desirable for it to continue with the relationship’.
- (x) Overseas accounts were also used to ‘facilitate the transfer of funds by international patrons in advance of a visit to a SkyCity Casino and occasionally in relation to interstate visits’.
- (xi) SCEG and its subsidiaries obtained approval from the New Zealand Gambling Commissioner before opening bank accounts outside New Zealand. In addition, SCEG sought advice from the New Zealand Department of International Affairs as to whether Horizon Tourism was a reporting entity under the New Zealand AML/CTF legislation. The response was positive. Subsequently Horizon Tourism and SkyCity Casino Management Limited, the licensed operator of the SkyCity New Zealand Casinos, formed a ‘designated business group’ as permitted by the New Zealand legislation. This group’s provisions require Horizon Tourism to maintain its own AML Risk Assessment and AML Program, and to be registered with the New Zealand Police Financial Intelligence Unit. All daily AML-related obligations are reported by SkyCity Casino Management Limited on behalf of Horizon Tourism, meaning where a reportable transaction occurs via the Horizon Tourism bank account, SkyCity Casino Management Limited submits the report to the Intelligence Unit and specifies that the relevant account is the Horizon Tourism bank account.
- (xii) All gaming related transactions into the Horizon Tourism bank account for use at a SkyCity casino are subject to the Australian AML/CTF provisions. The controls currently in place in relation to the Horizon Tourism bank account are as follows:

- (a) *cash deposits into the Horizon Bank Account are not permitted;*
- (b) *third-party transfers into the Horizon Bank Account are not permitted unless a exception is approved by the AML Compliance Officer in the relevant jurisdiction (Australia or New Zealand) or the funds are received from an approved money remitter;*
- (c) *SkyCity does not allow customers to send funds from the Horizon Bank Account to a third-party bank account;*
- (d) *a customer must apply to become and be established as a SkyCity loyalty member before funds deposited into the Horizon Bank Account can be credited to the customer’s casino account at a*

SkyCity casino. To become a member of the loyalty program, customers are required to satisfy the sign-up criteria and present a valid and current form of photo identification;

- (e) I customer transactions into the Horizon Bank Account that meet or exceed SkyCity's internal value thresholds for enhanced customer due diligence will not be credited to the customer's casino account until the Financial Crime Team is satisfied that the customer's source of wealth has been verified. Where a customer's source of wealth cannot be verified, the transaction will be refused, and the funds returned to the sending bank; and*
- (f) IB customers are onboarded by the IB Patrons Accounts team in accordance with the procedures outlined in the following Standard Operating Procedures:*
 - (i) IB KYC Onboarding & Patron Screening;*
 - (ii) Know Your Customer (KYC) Process;*
 - (iii) International Business – Standard Operating Procedures (KYC -Customer Onboarding Process); and*
 - (iv) International Business – Standard Operating Procedures (Patron Credentials Verification).*

32. *Customer transactions into and out of the Horizon Bank Account are monitored in the same manner as transactions into and out of SkyCity Auckland Limited's local Auckland bank account or SkyCity Adelaide Pty Limited's local bank account. Such transactions are reviewed by SkyCity's transaction monitoring system (known as Jade Third Eye) and transactions identified by the system as being potentially suspicious are investigated by the Financial Crime Team. Members of SCEG's International Business Patron Accounts team who manage the Horizon Bank Account are also required to submit an observation report to the Financial Crime Team if they identify any suspicious activity or transaction for investigation by the Financial Crime Team. The Financial Crime Team also has access to the Horizon Bank Account records (footnotes omitted).*

- (xiii) As part of its Audit Procedures, the New Zealand Regulatory Authority Audits the compliance of Horizon Tourism and SkyCity Casino Management Limited with their obligations under the AML/CTF New Zealand legislation. An inspection in 2021 of SkyCity Casino Management Limited's compliance noted with respect with Horizon Tourism:

“During the 18/19 March 2021 Onsite Inspection, the Department took the opportunity to test the wire transfer obligations associated to Horizon Tourism Holdings Limited (HZN) (sic), noting that HZN (sic) is a member

of a SkyCity Designated Business Group. The sample testing of HZN (sic) wire transfers reflected compliance with the wire transfer obligations under the Act.”

- (xiv) In respect of the period 1 August 2019 to 1 August 2022, all customer due diligence and ongoing customer due diligence documentation for customers depositing funds into the Horizon Tourism account have been produced, noting that third party transfers or deposits are no longer permitted. Due diligence is undertaken depending upon the particular circumstances concerning the customer, and their related transactions and behaviour, and ‘is not necessarily triggered by a customer depositing funds into the Horizon bank account or any other account itself’.
- (xv) As to a customer depositing funds in the Horizon Tourism account, but gambling in Adelaide, the funds deposited into the Horizon Tourism account ‘are credited to the customer’s casino account at the SkyCity Adelaide Casino by the SkyCity Adelaide Cage Team in consultation with the IB Patron Accounts Team’. At the end of the customer’s trip, ‘the funds are either returned to the patron (in the case of a winning trip) or repatriated back to SkyCity Adelaide (in the case of a losing trip) through an intercompany journal or direct bank transfer to the SkyCity Adelaide Cage account with [REDACTED]’.
- (xvi) Horizon Tourism is currently ‘the head office for SCEG’s IB gaming operations’. Operational costs in connection with the IB corporate function, and associated with IB gaming operations, are consolidated into Horizon Tourism and then recharged to the operational SkyCity Adelaide company.
- (xvii) Horizon Tourism does not employ staff. Employees of SkyCity Management Limited, a wholly owned subsidiary of SCEG incorporated in New Zealand, provide services to Horizon Tourism. ‘All employees across the SkyCity New Zealand casinos are also employed by SkyCity Management Limited’.
- (xviii) With respect to overseas operations, the Singapore branch assists SCEG in identifying VIP players who may wish to visit the SkyCity casinos in Adelaide and New Zealand. It assists those players to meet regulatory requirements. For this purpose an office exists in Singapore.
- (xix) As the ‘principal function’ of Horizon Tourism is to promote a market for the SkyCity casino properties in Adelaide and New Zealand, Horizon Tourism ‘has engaged a number of independent contractors based in various countries throughout Asia since late 2015 and 1 employee’. However, ‘currently no independent contractors or employees are engaged with Horizon Tourism’.

[594] On 21 June 2022 Mr Christian was asked why the International Business Unit had created the Auckland account in the name of Horizon Tourism (New Zealand) Limited and not simply in the name of SkyCity Auckland. He said he did not know, but assumed it was because they wanted that brand for their play. Asked if it might be that the International Unit was looking for somewhere for international gamblers to place their funds without attracting attention that the funds were going into an account of a casino, Mr Christian conceded that this could be one of the reasons. Rather than appearing to be a transfer of funds for the purposes of gambling, it would appear that the funds were being transferred to a tourism business. Mr Christian maintained he did not know anything about the reason and had no involvement in it.

[595] Mr Christian's concession that the reason for using an account in the name of Horizon Tourism might have been to avoid the appearance of funds being placed in a casino account, gains traction when considered in conjunction with the email earlier discussed in the context of customer K. As to why funds were sent from Adelaide through the Horizon Tourism account, and back to Adelaide, the New Zealand manager wrote, 'It may be because there isn't an obvious connection to SkyCity, which is the point of the Horizon account as I understand it'.

[596] The letter containing the list of accounts, and the information as to the purpose of each account, was signed by Mr Christian. However, Mr Christian said the details of the accounts, and the explanation for of the purposes of those accounts, were provided by the licensee's 'legal team' and finance people. In particular, although not sure, Mr Christian thought the Company Secretary, Ms Jo Wong, or the Finance Manager responsible for International Business, [REDACTED], would have provided the information for the answers. In addition, the previous General Manager, Legal Compliance, in Adelaide, V, may have been involved.

[597] Mr Christian believed the Horizon Tourism operation had been closed for at least 12 months. Notwithstanding the wording in the attachment, which plainly stated that the funds will be deposited into the Horizon Tourism account and would remain there until a reconciliation took place at the completion of the gambling, Mr Christian believed that before gambling took place in Adelaide the funds would be transferred from Horizon Tourism to an Adelaide Casino account.

Mr Christian was adamant that appropriate checks would have been done on the identity of the gambler before the Adelaide end would have accepted the deposit from Horizon Tourism.

[598] Pressed on the question of whether funds deposited in Horizon Tourism could have remained in that account until a completion of gambling, Mr Christian reluctantly accepted that such a process could have occurred, but was firm in his understanding that the funds had to come from Horizon into Adelaide before gambling could take place in Adelaide. As to whether it would have been appropriate to leave the funds in the Horizon Tourism account while gambling occurred in Adelaide, Mr Christian said it could be legally permissible, but it was not the way he understood the system worked. He was clear, however, that whichever way the transactions occurred, there would be appropriate written records concerning the performance of due diligence and financial transactions undertaken.

[599] The evidence from Mr Christian to which I have referred was given on 21 September 2022. He gave further evidence on 16 December 2022, ten days after AUSTRAC filed its proceedings against the licensee. Prior to giving further evidence about the Horizon Tourism Accounts, Mr Christian was asked about a SkyCity Auckland Limited account at an Adelaide Branch of the [REDACTED]. Evidence had previously been given that this account was solely used for Australian customers wishing to gamble in New Zealand. However, in the list of bank accounts provided to the Commissioner by letter of 30 March 2021 from the licensee, the description of this account was as follows:

Account for Australian patrons visiting Auckland and international patrons visiting Auckland and/or Adelaide. Occasionally used for interstate visits to Adelaide (refer process below).

[600] Although Mr Christian signed the letter, as discussed, he explained it was prepared by others. Asked on 16 December 2022 about that account, Mr Christian was not aware of it. He was not aware that such an account had ever been used for international customers visiting Auckland and/or Adelaide. Mr Christian said he was aware that international customers were given a choice

where to place their funds so they did not have to send funds to different accounts in order to play in Australia and New Zealand. But until the issue had been raised by this Investigation, he had not been aware of the Auckland account in Adelaide. Nor was he aware of the specific Horizon Tourism account. That answer led to the general discussion, previously mentioned, about the fact that the finance business unit does not report to Mr Christian.

[601] Asked about the limited oversight that the licensee had in respect of the Horizon Tourism account, and the fact that the International Business Division did most of the due diligence, Mr Christian said there had already been a lot of changes and the source of wealth investigations in future would be managed in Adelaide before the customer can commence gambling. Mr Christian was open to continuing the use of the Horizon Tourism account if the Adelaide team is responsible for all source of wealth and due diligence investigations.

[602] Mr Neish acknowledged the potential for the Horizon Tourism account to give the appearance of a Riverbank and Southbank accounts operation, but explained his understanding that the use of the name Horizon dates back some years to around 2012. He said Horizon was deployed as an internal brand that ‘basically signified international VIP playing’. Everything in connection with VIP facilities was branded Horizon, including signs and stationery. A hotel, which is still being built in Auckland after a fire, is called Horizon. All overseas entities were known as Horizon, but were transparently related to the casino and international gambling patrons. The account in the name of Horizon Tourism located in Auckland was created because overseas customers needed to be able to deposit funds in their own currency. The account was created in about 2019 after successfully completing compliance requirements of the DIA in New Zealand.

[603] Asked if a patron’s funds placed into the Horizon account in Auckland are transferred from that account to the Adelaide SkyCity account if the patron comes to Adelaide and gambles, Mr Neish replied, ‘[n]ot in every instance. It sort of doesn’t make sense to – just because the customer was playing here and that was a Group account to transfer the money here and transfer the money back and transfer the money to the customer, so we would do interco transfers where required’.

[604] Later in his evidence, Mr Neish qualified that answer. Asked if the funds would always sit in a Horizon account while a customer gambles in Adelaide, Mr Neish replied 'yes'. He said there may have been occasions in the past where funds will be transferred from Horizon to Adelaide prior to gambling, but he thought this was more of a treasury decision 'in terms of where funds are existing'. Mr Neish agreed that if a gambler has lost in Adelaide funds may not be put into the Adelaide Cage account to balance out that loss; the funds may go to some other account in the group. Mr Neish was of the view that journal entries would be made to reflect this.

[605] According to Mr Neish, this system was changed 'within the previous three or four months. A specific decision was made that the funds from an overseas customer are now to be sent to the locality where the gambling occurs. Underlying the decision is the view that placing the funds where the gambling occurs improves transparency.

[606] [REDACTED] has been a Cage Manager since 2011. He was aware that a foreign currency account was operated in New Zealand, into which an overseas customer could deposit funds to cover gambling in either New Zealand or Adelaide. In such circumstances, the Know Your Customer or Source of Wealth information would be obtained by the International Business Division, prior to gambling, and that Division would advise the Cage Team of the existence of the funds in New Zealand. [REDACTED]

[607] At the conclusion of gambling, the 'settling up' calculation would be done by the Cage Team and the appropriate entries made. However, [REDACTED] was not involved in any subsequent funds movement which he expected would be recorded through journal entries.

[608] The issue of international funds transfers, and the adequacy of Part A of the licensee's Compliance Program, was included in the investigation by Initialism. Transfers between New Zealand and Adelaide were summarised by Initialism as follows:

269. *The AML/CTF team in Adelaide are provided with a notification where a patron is performing a transfer between Front Money Accounts in New Zealand and Adelaide, as well as where the patron has transferred foreign currency into a SkyCity Auckland foreign currency account and requests that the funds be made available for their subsequent trip to Adelaide.*
270. *Clause 13 of the Part A AML/CTF Program sets out the various scenarios that SkyCity Adelaide view as giving rise to an IFTI reporting obligation.*
271. *However, Initialism understands that the Cage Manager extracts a spreadsheet from the Bally CMP system on a daily basis which stores all the electronic funds transfers performed for the day.*
272. *Where there is a transfer between front money accounts across New Zealand and Adelaide that requires an intercompany journal entry (ledger adjustment), the Cage Manager will receive an e-mail from the International Business Patron Accounts team confirming the nature purpose, date, and amount of the transfer in question.*
273. *The Cage Manager then reviews transactional information in more detail to ascertain whether the electronic funds transfer is a domestic or international transfer. Once the international transfers have been identified, the final number of reportable ITFIs is saved into a spreadsheet which is sent to the AML/CTF team.*
274. *The AML/CTF team subsequently pulls all the relevant information from Bally CMP into Jade, where missing information is manually updated.*
275. *It is noted that the Jade system is configured to draw relevant information from Bally CMP and other associated source systems. However, the AML/CTF team indicated that the system is currently not operating within its full functionality and is often time-consuming to navigate.*
276. *The Jade system was historically configured to map to the AUSTRAC IFTI Schema fields. However, the AML/CTF team confirmed that there continue to be ongoing mapping issues that are currently being worked through with AUSTRAC, which increases the manual effort required to report IFTIs.*
277. *Once the AML/CTF team has reviewed the relevant instructional information and manually updates any discrepancies or missing information in Jade, the IFTI report is submitted to AUSTRAC.*
278. *All IFTI reports filed, along with AUSTRAC reference numbers, are saved in the AML/CTF team's compliance share drive.*
279. *The current data limitations in the Bally CMP system and the unique nature of the inter-company journal entries also results in significant manual review to ensure non-qualifying transactions are removed.*

280. *Initialism did not identify a procedure document that supported the activity undertaken by the Cage Manager as well as the process undertaken by the AML/CTF team to review potential IFTIs and remove non-qualifying instructions.*

[609] In the table summarising the findings and recommendations of Initialism, and the responses of the licensee, the response of the licensee is said to be ‘in progress’ and ‘included as part of AML EP (Horizon O1 Diagnostics and Assurance Initiative 3.3)’. The relevant section of the Compliance Program is described in the summary as the ‘International Funds Transfer Instruction (IFTI)’.

[610] Ms Amey provided an explanation of the processes relating to the Horizon Tourism account. She confirmed the purpose of the account was to receive funds from overseas customers, other than customers from Australia, to be held for the purposes of gambling in either New Zealand or Australia. In lay terms, the funds would be held in the Horizon Tourism account, but applied to the credit of the customer in the location of gambling. The appropriate journal entry is made to reflect, for example, that the customer has funds to a particular value in the Adelaide Cage Account.

[611] According to Ms Amey, before the funds were accepted into the Horizon Tourism Account, appropriate Know Your Customer or Source of Wealth checks were completed. When the ‘credit’ is entered at the Adelaide end, the appropriate AML checks are carried out by the AML Team in Adelaide which has access to the Horizon Account. Such access has only recently been possible.

[612] At the conclusion of gambling, if funds were owed to the customer, they are paid from the location of gambling, including Adelaide. Appropriate entries are made to reflect the payment across the Group. As Ms Amey explained, for efficiency reasons they ‘sweep across the Group because we have centralised financing’. At the Adelaide end, gaming revenue is taken from the machines and calculates the revenue duties/tax, thereby ensuring that appropriate duties/tax is paid.

[613] Ms Amey said she was endeavouring to simplify the banking arrangements across the Group. This included creating dedicated gaming accounts. In the future, if a customer wishes to gamble in Adelaide, the customer will be required to deposit the funds into the appropriate Adelaide account. [REDACTED]

[REDACTED]

[REDACTED]

[614] Ms Amey also corrected a misunderstanding caused by earlier evidence suggesting that an account existed in Melbourne into which Australian residents could deposit funds for the purposes of gambling in New Zealand. According to Ms Amey, it was the SkyCity Auckland bank account in an Adelaide branch to be used by interstate persons who wish to gamble in New Zealand. Confusion arose because the Melbourne office had been utilising it. However, as discussed, that explanation does not provide a complete picture. In the schedule provided to the Commissioner by letter of 30 March 2021, the licensee stated the account was also used for ‘international patrons visiting Auckland and/or Adelaide’.

[615] As mentioned, the foregoing discussion relates to evidence gathered prior to AUSTRAC issuing its proceedings against the licensee. The movement of funds through the Horizon Tourism account examined by this Investigation, together with the lack of appropriate due diligence processes, gave rise to AML/CTF concerns which required further examination. In December 2022, this Investigation was about to embark upon a detailed forensic examination of the Horizon Tourism account when AUSTRAC issued the proceedings. Bearing in mind the allegations in AUSTRAC’s Statement of Claim concerning the use of the Horizon Tourism account, and in the absence of knowledge as to the evidence upon which AUSTRAC relied, it was decided to defer further examination of the Horizon Tourism account until the AUSTRAC proceedings had been resolved. Those proceedings, including the use of the Horizon Tourism Account, are discussed later in this Report.

[REDACTED]

[616]

[REDACTED]

[REDACTED]

[REDACTED]

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40.0 SunCity Junkets

- [619] As mentioned, the licensee decided in April 2021 to cease dealing with Junkets. It is appropriate, however, to canvass briefly the history of dealings with the SunCity Junket (SunCity), and its operator [REDACTED].
- [620] SunCity operated at Australian casinos and internationally. Between October 2016 and March 2020, SunCity conducted approximately 70 trips to SkyCity properties in Australia and New Zealand. Of those, 21 commission programs were at the Adelaide Casino.
- [621] SunCity has featured prominently in multiple interstate inquiries. They contain observations relevant to this Investigation.
- [622] Unlike the operations at Crown Melbourne and The Star in Sydney, SunCity did not operate an exclusive private gaming room in the Adelaide Casino. Accordingly, some of the issues identified in the interstate inquiries in relation to SunCity did not occur in South Australia.
- [623] The primary issue of concern for this Investigation is the failure of the licensee both to cease its business relationship with [REDACTED] the operator of SunCity, prior to October 2020 and to delay banning [REDACTED] until March 2022. To illustrate the basis for concern, it is necessary to set out in some detail the information available to the licensee and SCEG about [REDACTED], and the decisions made in relation to the business relationship with him.

40.1 The Approval of the Junket Operators

- [624] ST and [REDACTED] were the group operators approved to conduct junket operations for SunCity at the Adelaide Casino. When ST and [REDACTED] initially applied for approval to be group operators in 2016 and 2017 respectively, the licensee was responsible for the approval of junkets operating at the Adelaide Casino, and for notifying Consumer and Business Services and SA Police of the details of junket participants.

- [625] The licensee decided to allow junket operators to conduct business at the Adelaide Casino only if they had been approved in accordance with SCEG's probity checking procedures. Until July 2018, the New Zealand Department of Internal Affairs (DIA (NZ)) was responsible for approving junket operators for SCEG's New Zealand based casinos. Junket operators were required to apply for re-approval every two years. From July 2018, SCEG was responsible for undertaking the assessments in relation to the approval of junket operators.
- [626] ST's application for approval as a junket operator was temporarily approved by the DIA (NZ) on 2 March 2016. The application was approved in full two days later and expired in about March 2018. ST did not apply for renewal.
- [627] On 15 June 2017, ■■■ completed the DIA (NZ)'s application form for approval to act as a commission agent and group organiser at New Zealand casinos. His application was sent by SCEG to the DIA (NZ) on 30 June 2017, and the DIA approved the application on 23 November 2017.
- [628] By the time ■■■ was due for renewal, responsibility for approving junkets sat with SCEG rather than the DIA (NZ). AC's approval was renewed by SCEG for a two year period in November 2019. This decision to renew AC's approval as a group operator is discussed later.
- [629] Although paragraph 418 of the Statement states that ■■■ 'operated and funded 12 junket programs' between December 2017 and March 2020, the records suggest 21 operations, the first occurring on 17 October 2017 before ■■■ was approved by DIA (NZ), and the last commencing on 16 March 2020 just prior to the closure of Australia's international borders due to the COVID-19 pandemic. The cumulative total of SunCity's operations in Adelaide was a loss by the licensee of \$8.22 million, of which \$6.73 million was attributable to AC's operations and \$1.49 million to ST's operations.

[630] Although SCEG announced in April 2021 that it would permanently cease dealing with all junket operators, the licensee did not determine to ‘officially discontinue its business relationship’ with █████ until 22 March 2022.³⁸

40.2 Initial Due Diligence Checks and Information Request

[631] A due diligence report prepared on 30 May 2016 about █████ and Sun City Gaming Promotion Company Limited identified █████ as a politically exposed person because he was a serving member of the 11th Guangdong provincial committee of the Chinese People’s Political Consultative Conference. The report also referred to allegations about the provision of illegal political donations, involvement in a scandal relating to stolen funds from an overseas central bank, and a potential connection with the Dore VIP Group at Wynn Macau in which a junket cage manager allegedly stole up to HK\$2 billion.

[632] Subsequent correspondence suggests SCEG further considered allegations that █████ had received stolen funds from the overseas bank, and determined that ‘it was ok to do business with him because there was no direct accusation that he or his junkets were knowingly attempting to launder stolen funds – it just so happens he’s a very large operator so it was his junket that was targeted by the offenders’.

[633] On 26 July 2017, the █████ issued a notice to produce information to the licensee. █████
█████

40.3 The Media Allegations

[634] From as early as 2014, media reports alleged that █████ had links to organised crime. The media allegations re-emerged and intensified in July and early August 2019.

³⁸ Letter 3 June 2022 from Mr Christian to Commissioner.

[635] On 27 July 2019, The Age published an article titled ‘Gangsters, gamblers and Crown casino: How it all went wrong’, which relevantly stated:

...A year-long investigation by The Age, The Sydney Morning Herald and 60 Minutes spanning Australia, Hong Kong, mainland China and Macau – and drawing on dozens of sources including Crown insiders, government officials as well as court and business records – can now reveal the truth about Crown’s operations in China.

The investigation shows Crown was prepared to get into bed with junket operators backed by Asian organised crime syndicates called “triads”, including the most powerful drug-trafficking syndicate in the world.

...

Before we travelled to Macau and Hong Kong for this story, several Australian police officers gave the same confidential warning: avoid approaching certain junket operators because, in the words of one, “on their own turf, they are dangerous and untouchable”.

At the heart of the warning was one triad conglomerate called “The Company” and its associated junket operators.

“The Company” is an international drug trafficking and money laundering syndicate first identified by the FBI as part of a 1996 operation codenamed Sunblock. One former Australian Federal Police officer estimates this one syndicate has been responsible for up to 70 per cent of all drugs trafficked into Australia over the past two decades and has “done more damage to Australia than any other crime syndicate”.

According to official sources across the region, some of The Company’s members and associates ultimately affiliated with Macau’s biggest and most successful junket

operator, SunCity. This coincided with a directive from a Crown senior manager to Crown's Chinese staff to also get close to SunCity.

Macau's largest junket was about to become Crown's business partner.

[636] On 28 July 2019, 60 Minutes ran a story titled 'Crown Unmasked' which referred to a report by the Hong Kong Jockey Club and alleged:

- *'SunCity key personalities have demonstrated links to numerous triad societies and organised crime figures'.*
- *'...intelligence sources advised that [redacted] are of interest to the Australian authorities in relation to money laundering activities...'*
- *For these reasons the Hong Kong Jockey Club has black banned SunCity.*

[637] On 31 July 2019, an article in The Age reported that 'Australia's peak criminal intelligence agency has announced a sweeping investigation into organised crime in Australian casinos amid revelations about Crown Resorts' dealings with junket operators with links to suspected Chinese crime bosses and foreign influence agents'.

[638] On 1 August 2019, another publication by The Age revealed that '[t]he head of Crown Resorts' major junket partner, SunCity, has been banned from entering Australia as investigators across the region probe the Macau-based company's alleged links to organised crime'. It reported that 'SunCity chief executive [REDACTED] has been blocked by Home Affairs from entering the country'.

[639] Four days later, in a document filed at the Hong Kong Stock Exchange, SunCity Group Holdings Limited was reported to have denied that [REDACTED] was under investigation by Australian authorities. The filing also indicated that he did not intend to travel to Australia in the next 12 months.

[640] On 9 August 2019, The Age revealed further information contained within the report by the Hong Kong Jockey Club, including an allegation that laundered money was transferred to AC's account at The Star Casino in 2012, and that [REDACTED] was a member of the 14K triad society.

40.4 SkyCity's Response to the Media Allegations

[641] On 2 August 2019, an internal memorandum was sent by [REDACTED], AML Compliance and Intelligence Manager, SCEG to Phil O'Connell, Group GM Regulatory Affairs and AML, SCEG (cc Jo Wong, General Counsel, SCEG). The memorandum was provided to the Commissioner in response to a notice issued prior to the commencement of this Investigation relating to [REDACTED] and SunCity.

[642] The memorandum referred to Crown Casino coming under scrutiny for its relationship with particular individuals, and also being under scrutiny for its relationship with SunCity. The memorandum referred to SkyCity having a relationship with SunCity, and that the individuals named in the memorandum had been customers of SkyCity. The memorandum included the following:

In terms of SunCity, there is a DIA [(NZ)] approved group programme agreement with [REDACTED] (identified as CEO of SunCity Gaming Promotion Company Limited on his application to become a group commission operator)...

SunCity is a significant international junket operation and regularly sends groups to Skycity properties. As noted earlier the approved group agreement is with [REDACTED] the CEO of SunCity.

Australian media allege that the SunCity junket is connected to organised crime, specifically a Triad organisation referred to as The Company which is alleged to be a key organisation in the drug trade in Australia. In 2018 SunCity was reportedly "black-banned" by the Hong Kong Jockey Club betting agency. SunCity denies any wrongdoing however considering the allegations, SunCity should be deemed high risk and its CEO subject to enhanced due diligence.

[643] On 8 August 2019, Mr O'Connell, Ms Wong and Rob Hamilton, Chief Financial Officer, SCEG met to discuss the business relationship with [REDACTED]. An extract of the meeting minutes was recorded

in a SkyCity Incident File Summary Report on 28 November 2019. The minutes relevantly provide:

SunCity (Organiser █████)

As noted at the meeting, the information concerning SunCity is speculative and historical and has to be considered in the context of the DIA decision to approve a junket agreement with SunCity via its representative █████ and in light of the enhanced due diligence undertaken at the time we established the relationship.

Nonetheless in light of the allegations, it was considered prudent to elevate the risk associated with this junket and to meet with SunCity representatives and invite their response as part of SkyCity's ongoing customer due diligence.

█████ met with SunCity personnel in Macau in August and invited their comments on the adverse media coverage. They denied all allegations (copy of █████ comments attached). I also met with SunCity representatives to discuss the allegations in Auckland in late September 2019 and they again denied that SunCity was involved in any wrongdoing. On the basis of the information to hand, there may be some reputational risks in continuing the relationship with SunCity, but I am satisfied that there are no grounds at present to recommend terminating the business relationship with this junket.

Extract from email from █████ – Commercial Manager, International Business

SunCity: I asked SunCity to comment on the recent adverse media coverage on them. Their response is that they deny all allegations made against them and said that all media coverage came from one source which is not true. They consider those allegations as defamation. Given most of the contents were targeted on █████, he has engaged a lawyer in Australia to sue the media on his personal account.

They have provided a link to an article published in July 2019, post allegations on SunCity's involvement in online gaming and proxy betting. In the article, the

director of DICJ (Macau's gaming inspection and co-ordination bureau) stated that SunCity is not being investigated by the gaming authority with no illegal activity found from an inspection of their 25 VIP rooms on 10 July 2019.

<https://www.macaubusiness.com/SunCity-not-under-investigation-dijc-head/>

SunCity will provide further information regarding their organisation structure and group operation activities. Once this information is provided, I will summarise the responses in a memo and circulate with this group prior to SunCity's visit later September.

SunCity is planning a trip to visit SKYCITY 25 – 27 September, as part of their trip, we will plan a session for them to meet with Phil and discuss any further questions on this matter.

[644] On 14 August 2019, Mr Graeme Stephens, SCEG Chief Executive, and Mr Rob Hamilton, SCEG Chief Financial Officer, commented publicly about the media allegations. The Sydney Morning Herald reported:

The head of one of Australasia's three major casino operators fears a blow to high-roller revenue as multiple state and federal inquiries begin examining the industry's use of foreign gambling recruiters with links to Chinese criminals.

New Zealand-based Skycity Entertainment group, which operates three New Zealand casinos and one in Adelaide, achieved a record turnover of NZ\$14.1 billion (\$13.4 billion) from international players, most of whom are brought to Australia from Asia by tour companies known as junket operators.

But casino operators say turnover from high-rollers has become increasingly hard to predict in the midst of the US-China trade war and a Chinese government anti-corruption crackdown targeting the flow of money out of the mainland.

An investigation by The Age, Sydney Morning Herald and 60 Minutes recently revealed Australia's biggest casino operator, Crown Resorts, had gone into business with junket operators backed by powerful crime gangs.

Australian casinos are now also facing law enforcement inquiries and the prospect of tougher rules governing relationships with junkets.

Skycity chief executive Graeme Stephens said this added to the inherent uncertainty surrounding the lucrative high-roller business.

"We're not quite sure what's going to happen in the world of junkets... it's difficult to ignore the media and related responses in the case of Crown over the last few weeks," he told investors on Thursday.

"We're not sure what that means for us, so that's added another layer of uncertainty in a world which is inherently difficult to predict."

Chief financial officer Rob Campbell said volatility affecting high-rollers made international gambling income "most surely the highest risk part of our business".

Skycity's shares dropped 1.57 per cent to \$3.77 on Wednesday on the back of financial year results that revealed a 14.7 per cent slump in net profit.

The company said this was largely due to a house winning rate of 1 per cent, lower than the expected rate of 1.35 per cent. If the expected winning rate had occurred, Skycity said its net profit would have risen almost 2 per cent year-on-year.

Mr Stephens nonetheless pointed to the "strong growth in our international business" as most positive for Skycity. Its Queenstown (47.2 per cent) and Auckland (36.2 per cent) casinos recorded significant increases in turnover from international players.

Turnover from foreign players dropped 42.3 per cent in Adelaide, which Mr Stephens put down to the ongoing \$330 million expansion project that is due for completion in the second half of 2020.

[645] On 20 August 2019, Mr O’Connell wrote to ■■■:

There has been considerable adverse media coverage in Australia concerning SunCity’s involvement in junket operations at Crown Casino. The media stories allege that the SunCity junket group has criminal links to a Triad organisation.

Much of this coverage appears to be speculative and lacking in substance and we understand that SunCity has denied any wrongdoing. Nonetheless SkyCity’s regulatory obligations require it to undertake ongoing due diligence on its customers and in this regard and to provide some balance to the reported issues it is important that we understand your position on these matters.

SkyCity’s due diligence checks to date indicate that both you and your company have passed numerous probity investigations by a range of international jurisdictions. We are not aware of evidence indicating a criminal record in any jurisdiction.

We would welcome your comments on the recent publicity and look forward to your advice in this respect.

[646] It appears ■■■ did not respond to this letter.

[647] On 10 October 2019, an enhanced customer due diligence (‘ECDD’) report was created in relation to ■■■. The player risk rating was classified as ‘high’ and the report included links to various websites. Paragraph [420] of the Statement contains an admission by the licensee that in October 2019 the licensee became aware of media reports that ■■■ had been banned from entering Australia.

[648] On 12 November 2019, an article of 5 August 2019 was downloaded or printed. It was titled ‘Junkets operator SunCity denies ■■■ investigated for triad links’. The article stated:

Macau casino junkets operator, SunCity Group Holdings (1383) said today that chairman and controlling shareholder [REDACTED] is not being investigated by Australian authorities and that the company has no business operations in Australia.

[REDACTED] also has no intention to go to Australia in the next 12 months and is not aware of reported investigations of Australian casinos, a filing to the Hong Kong stock exchange said.

Australian media reports said last week that [REDACTED], the head of Crown Resorts' major junket partner, SunCity, has been banned from entering Australia as investigators across the region investigate the Macau-based company's alleged links to organized crime.

The Age reported that [REDACTED] has been blocked by Home Affairs from entering the country, according to official sources who spoke on condition of anonymity. But Crown Resorts is still allowing the junket to host its own high-roller gaming room inside Crown Casino Melbourne.

Leaked reports from the Hong Kong Jockey Club reveal club officials were briefed by "Australian Law Enforcement" in May 2017 about their concerns about [REDACTED], The Age reported. Among the concerns was suspected "large-scale money laundering activities".

The report also states that "SunCity Group's controlling entities ... [including] [REDACTED] ... pose tangible criminal and reputational risks to the [Hong Kong Jockey] club and indeed racing integrity in Hong Kong."

"SunCity key personalities have demonstrated links to numerous triad societies and organised crime figures," said the intelligence report, adding that [REDACTED] and a colleague were reportedly members of the 14K triad society.

"Other SunCity entities are connected to known triad figures," it found.

In response to the allegations about SunCity and [REDACTED], a spokeswoman for SunCity, Maggie Tang, said: “SunCity Group started to cooperate with Crown since 2014, and we are now operating one VIP Club in Crown Melbourne.”

“SunCity offers VIP services such as transportation and accommodation arrangement to our guests who would like to travel to Melbourne, and Crown Melbourne.”

“In regards to your other questions, SunCity Group will not comment since they involve private and personal matters of [REDACTED].”

SunCity, the biggest junket operator in Macau, also provides VIP gambling tours to casinos run by Crown’s rival, The Star, The Age reported from Melbourne.

[649] On 13 November 2019, ‘the licensee/SCEG’ downloaded an article titled ‘SunCity Group denies its CEO and Chairman is under investigation by Australian authorities’. This article also referred to SunCity Group Holdings’ statement that [REDACTED] was not being investigated by Australian authorities and that the company had no business operations in Australia.

[650] On the same date, emails were circulated within SCEG between [REDACTED], Corporate Services Executive, [REDACTED], Group Surveillance Business Integrity Manager and [REDACTED], Security & Host Responsibility Analyst, about whether there were any issues with [REDACTED]. [REDACTED] wrote:

One of his junkets were linked to a scam at another casino back in 2015 however, his involvement (if any) is unknown.

Other than what’s already known about SunCity, there’s no issues from my side.

[651] On 13 November 2019, a document from Mr O’Connell was prepared for Mr Hamilton and Ms Wong about ‘Crown allegations: AML implications’. The purpose of the document was described as follows:

At the meeting on 8 August, we discussed the allegations made in media articles against Crown Casino and in particular alleged criminal and political associations involving certain customers that are or have been customers at SkyCity casinos in Auckland and/or Adelaide. Following our discussions concerning their ongoing suitability as SkyCity customers, I have recorded the position agreed at the meeting and subsequent developments since that time.

[652] The document repeated the description of the meeting as set out in the paragraph above. Ms Wong and Mr Hamilton signed the document confirming that it accurately recorded the position as discussed at the meeting on 8 August 2019, and that the position remained unchanged.

[653] On 15 November 2019, Mr O’Connell sent an email to the AML/CTF Advisor, SCEG, the General Manager, Legal, Compliance and Regulatory Affairs, SkyCity Adelaide and [REDACTED]:

Please see attached which reflects current position applying to [redacted] SunCity [redacted] and a couple of others

[First analyst], I think this is the first of its kind where the senior management approval has been sought at the Group end rather than in the terms set out in the Adelaide Programme given the customers are IB and active on both sides. You may need to formalise at your end via a memo to David confirming the position.

[654] The document setting out the notes from the meeting on 8 August 2019 was attached to the email.

[655] On 18 November 2019, Mr O’Connell sent an email to [REDACTED]:

As discussed and in accordance with the attached, we are comfortable in continuing the business relationship with SunCity and entering into a further agreement with them on the expiry of their current arrangement

[656] On 19 November 2019, ■■■■■ and ■■■■■ signed a Group Commission Organiser/Representative & Commission Agent Application Checklist relating to ■■■■■. The form disclosed that:

- the PEP search yielded no results;
- the comment in relation to the iTrak search was: ‘No additional concerns raised other than what has been raised by Crown investigations’;
- the comment in relation to the Google search was: ‘Articles in relation to Crown Casino allegations. Internal discussions have been carried out, SkyCity are comfortable with’.

[657] SCEG decided to approve the application. The comment associated with the approval was as follows:

The recent media allegations about SunCity in relation to Crown Casino have been discussed with SunCity representatives who have denied any wrongdoing. We have no reason to consider them unsuitable and are continuing with our business relationship

[658] Despite the seriousness of the allegations repeatedly made by the media in relation to ■■■■■, it is apparent from the above correspondence that SCEG relied on the denials by SunCity of any wrongdoing as the basis for continuing its business relationship with ■■■■■. Given that the licensee was relying on SCEG’s probity processes, it can be inferred that the licensee adopted the same position. ■■■■■ continued to conduct group operations at the Adelaide Casino following the renewal of his approval as a group operator.

[659] It was not until approximately one year later that SCEG appears to have informally ceased doing business with SunCity, referred to in paragraph [414] of the Statement as a temporary suspension. This is documented in the minutes of SCEG AML Senior Management Group Meeting which was held on 7 October 2020:

Stewart Neish gave an update on SunCity, noting that SkyCity has ceased doing business with SunCity pending the findings of the ILGA.

[660] At the same meeting, SCEG ‘formally terminated its business relationships’ with three other customers. The licensee did not sever ties with SunCity until March 2022. In the intervening period, the following occurred:

- █████ declined a payment to SunCity. This was reported in the minutes of SCEG’s AML Senior Management Group Meeting on 23 November 2020.
- Ms Bergin concluded her inquiry in February 2021 and found:

The evidence establishes that it is probable that █████ had a former association with the 14K Triad group and continued his associations with the members of Triads groups. There were clearly links between █████, the SunCity Junket and organised crime groups.

...

The veracity of the Media Allegations that there were Junket operators with which Crown partnered that had links to organised crime is established.

- █████ was arrested in late 2021.

40.5 Prioritising Profit

[661] It was accepted in the Bergin Inquiry that Crown had struggled with the question whether a person who has allegations made against them of links to a triad or an organised crime group, but does not have any criminal convictions, is a person who is not of good repute. Ms Bergin observed:

...This is made more difficult in the murky world of organised crime, which promotes its relationships through the “front” of men or women in respect of whom there are no such allegations.

It is accepted that Crown struggled with this question, but as discussed in Chapter 3.4, the Crown Board failed to set the appropriate risk appetite and/or give guidance to the relevant decision-makers as to the approach that should be adopted to its relationships with Junket operators.

It is clear that the informal risk appetite that Crown adopted through its VIP International unit in China of pushing profits above and beyond the consideration for the welfare and safety of the staff was not dissimilar to the informal risk appetite that was introduced in relation to its consideration of its continuation with the SunCity Junket. Its push for profit skewed its consideration of the necessity to comply with the object of the Casino Control Act of protecting the casino from criminal exploitation. The assessment of the SunCity Junket that was conducted in 2018 referred to in Chapter 3.4 is demonstrative of this position. The relevant aspects of that assessment are repeated here for context:

Given the size and scope of the SunCity junket operator’s operations, Crown Melbourne has assessed the due diligence materials available to it and has determined that it is appropriate to continue to do business with the ultimate beneficial owner, CCW.

Following a World Check result in June 2017 identifying CCW as a Foreign Politically Exposed Person (due to his position as a member of a political advisory body), CCW’s customer risk assessment was increased in accordance with the Crown Melbourne AML/CTF Program to ‘high’.

Moreover, Crown Melbourne is aware of negative press on CCW, including his potential links to Triads (as noted in ECDD conducted on

him) however notes that this commentary remains media speculation and that, to date, CCW has not been charged with an offence and has received his annual police clearance in Macau pursuant to the requirements of his DICJ (junket operator) license in that jurisdiction.

This assessment is predicated on the “size and scope” of SunCity’s operations. It would appear from this approach that it was that size and scope, including its value to Crown, that caused Crown to decide to continue the relationship notwithstanding the information relating to the persistent claims of which it was aware that ██████ had links to Triads. As discussed elsewhere, a number of Crown directors accepted in their evidence that in light of the information that was available to it Crown should not have been dealing with ██████.

[662] Multiple casinos in Australia and overseas were dealing with ██████ and SunCity at the same time as Crown. Ms Bergin identified that ‘the dilemma for the casino operator in refusing to deal with the particular Junket operator because of allegations of links to organised crime, as opposed to certainty or real probability, is that their competitors will steal a march on them. If there is no clear regulatory prohibition that is preventing a relationship, shareholders may well expect the continuation of business and the prevention of others obtaining a competitive edge’. Ms Bergin continued:

The fact is that numerous casino operators around Australia were dealing with ██████ and the SunCity Junket including relevantly in New South Wales, The Star. It is apparent that no casino Regulator in any Australian jurisdiction required or suggested the cessation of such a relationship. That is of course until the Authority raised the questions in its Terms of Reference in August 2019. It has been contended by Crown that in these circumstances, it would be inappropriate to find that Crown and/or the licensee are not suitable when Crown was only doing what every other casino operator in the Australian jurisdiction was doing.

Crown referred to this as “industry practice”. It is more accurately just a group of casino operators wishing to deal with lucrative Junket operators who probably have links to organised crime which cannot be proved beyond reasonable doubt.

However where the object of the Casino Control Act is to prevent any criminal exploitation or criminal influence, casino operators must not apply such stringent standards. This is particularly so where the operations of money launderers and organised criminal groups are sophisticated, agile, flexible and cunning. Casino operators, at least in New South Wales should have as their first aim to ensure the protection of the casino from criminal influence. It is simple.

[663] The Bell Report found that ‘the relationship with SunCity and ■■■ should have been terminated in June 2018 when cage operations and bags of cash were observed in Salon 95’, a private salon operated by SunCity. In respect of The Star’s reluctance to cease the relationship with SunCity, Mr Bell referred to the observations of Ms Bergin in relation to multiple casino operators dealing with ■■■ and SunCity and then remarked:

Those observations from Commissioner Bergin SC are pertinent to this Review as well. They provide guidance in trying to understand just how it was that the members of the investigations and compliance teams of Star Entertainment, at least some of whom had the benefit of the [Hong Kong Jockey Club] Report, did not immediately recommend a cessation of the relationship with SunCity and ■■■. Their approach likely reflected the prevailing attitude in the industry whereby business interests took precedence over compliance and probity considerations.

This may help to explain why it was that for so long Star Entertainment had misapplied the appropriate test. However, that is not an excuse. Star Entertainment had the benefit of observing the evidence in the Bergin Inquiry and thus the opportunity to make any necessary adjustments to its systems and processes as the evidence emerged from that inquiry. It failed to do so.

- [664] The licensee also had the benefit of observing the evidence in the Bergin Inquiry and considering the findings of the inquiry. Yet it took more than a year from the conclusion of the Bergin Inquiry for the licensee to formally cease its business relationship with [REDACTED]. This is a decision which should have been made much earlier.
- [665] It should have been clear to the licensee and SCEG by November 2019, at the absolute latest, that the business relationship should have ended. By that time, the media had published the findings of the Hong Kong Jockey Club report and reported that [REDACTED] had been blocked by the Department of Home Affairs from entering Australia. They were significant allegations that should have been of great concern to both the licensee and SCEG, particularly at a time when consideration was being given to whether to renew AC's approval as a group operator. SunCity's denial of those allegations should not have been sufficient to justify continuation of the business relationship.
- [666] Mr Christian was asked why it took so long to ban [REDACTED]. He replied, 'the simple answer is I do not know', but added that the reporting line for International Business changed in about February-March 2022. Mr Christian also commented that the banning occurred in March 2022 because, by that time, the Adelaide Financial Crime Team was in operation, and it looked at customers previously under the control of International Business when it was a separate division.
- [667] Mr Stokes surmised that it might have been assumed [REDACTED] was covered by the ban on junkets. He did not regard the delay in banning [REDACTED] as significant because [REDACTED] could not enter Australia.
- [668] Having regard to the history of dealings with [REDACTED], the inference is irresistible that the licensee delayed banning [REDACTED] because he was a particularly valuable customer. Profit prevailed over appropriate risk management and compliance. This view is confirmed by the extensive section in the Statement filed in the Federal Court proceedings concerning [REDACTED], AUSTRAC customer number 1.

41.0 AUSTRAC 2022 Proceedings

- [669] The adequacy or otherwise of the November 2022 Compliance Program requires consideration in the light of the AUSTRAC civil enforcement proceedings against the licensee, which commenced on 7 December 2022 following an investigation which lasted in excess of three years.³⁹
- [670] As mentioned, this Investigation did not have access to the evidence obtained by AUSTRAC and upon which the AUSTRAC proceedings were founded. However, speaking very broadly, the evidence obtained by this Investigation appeared to support many of the assertions advanced in AUSTRAC's Statement of Claim.
- [671] This Investigation now has the benefit of the Statement of Agreed Facts and Admissions filed in the Federal Court on 17 May 2024 (the Statement).⁴⁰ The Statement provides admissions by the licensee of facts directly relevant to the assessment of the licensee's past failings and current suitability.
- [672] The Statement filed in the Federal Court is annexure [35]. It provides an in depth analysis of the failures of the licensee with respect to its obligations under the AML/CTF Act and AML Laws. The failures, and the significance of the failures, are summarised in Section H of the Statement in the following terms:

H.1 Nature and extent of the contraventions

H.1.1 S 81 of the AML/CTF Act – AML/CTF Programs

443 *From 7 December 2016 to 14 December 2022 [the relevant period], SCA contravened s 81 of the AML/CTF Act by providing designated services in circumstances where its Standard Part A Programs did not, for the reasons described at paragraphs 401 to 403, fully comply with the requirements of the AML/CTF Act and AML/CTF Rules. Each time SCA provided a designated service during that period, it contravened s 81 of the AML/CTF Act. The contraventions are significant in number but too numerous to quantify. The maximum penalty for each contravention of the AML/CTF Act during the Relevant Period ranges from \$18 million to \$22.2 million.*

³⁹ The Statement of Claim in those proceedings is Annexure [5]

⁴⁰ Annexure [35]

Part A – Program failures with respect to identification, mitigation and management of ML/TF risk

444 *SCA's contraventions relating to its AML/CTF Program failures were serious because:*

- a. *The ML/TF risk of SCA's business was high. The vulnerability of the casino industry to ML/TF risk was well-known and the subject of typologies and guidance published by relevant authorities, from time to time, including AUSTRAC.*
- b. *The AML/CTF Act reposed a high degree of trust in SCA to identify, mitigate and manage the ML/TF risk of its own business.*
- c. *Part A of an AML/CTF program is the framework through which boards and senior management understand their ML/TF risk and determine their ML/TF risk appetite. It is the framework through which boards and senior management determine the riskbased controls they will apply to mitigate and manage the ML/TF risk they choose to accept. SCA's failure to implement an appropriate Part A program meant that SCA was not in a position to be able to appropriately identify, mitigate and manage the ML/TF risk reasonably faced by SCA, or satisfactorily fulfil its obligations under the AML/CTF Act.*
- d. *In the absence of appropriate ML/TF risk management, a number of high-risk practices, channels and customer relationships evolved at SCA which exacerbated the already high ML/TF risk of designated services.*
- e. *SCA was required to assess the ML/TF risk of all designated services it provided – both gaming and financial. The requirement to carry out and maintain current ML/TF risk assessments of designated services is central and foundational to an AML/CTF program and to the AML/CTF Act.*
- f. *Having failed to properly assess and understand all of its ML/TF risk across its business, SCA's Standard Part A Programs were incapable of appropriately mitigating and managing some of the high ML/TF risk it faced.*
- g. *In order for SCA's Standard Part A Programs to appropriately mitigate and manage its higher ML/TF risk and have appropriate risk-based systems and controls, as required by the AML/CTF Act, SCA was required to ensure it comprehensively assessed and identified the ML/TF risk it reasonably faced across its business. Page 105*
- h. *SCA failed to adequately identify, mitigate and manage the higher ML/TF risk of providing designated services through the junket channel until it banned dealing with junkets on 12 April 2021. Junkets presented higher ML/TF risk due to the large amounts of money involved which were often moved across borders. Junkets also often lacked transparency and provided a level of anonymity to players and the source(s) of their funds. Between 7 December 2016 and 2 January 2021, SCA generated \$26 million in gross revenue from junkets.*
- i. *SCA's Standard Part A Programs were not subject to an appropriate approval and oversight framework.*
- j. *In the absence of appropriate risk-based controls in SCA's Standard Part A Programs that were sufficiently aligned to the ML/TF risk that SCA reasonably faced with respect to the provision of designated services it provided, money could be moved into and out of the SCA*

casino and within the SCA casino, in ways that lacked transparency as to the source and ownership of funds. This made SCA vulnerable to the risk of criminal exploitation.

- k. *SCA's failure to adequately identify and manage the ML/TF risk of its business and to adequately monitor these transactions for suspicious activity has resulted in the loss of opportunity to detect, trace and disrupt possible unlawful activity, including possible money laundering.*

445 *The deficiencies in SCA's Standard Part A Programs persisted throughout the Relevant Period and were systemic.*

...

Part A – Transaction monitoring program (TMP)

447 *For the reasons set out at paragraphs 318 to 321, the deficiencies in SCA's TMPs meant that it did not fully comply with the AML/CTF Act or the AML/CTF Rules. These contraventions were serious because:*

- a. *The AML/CTF Act reposes a high degree of trust in a reporting entity to monitor transactions of its customers having regard to the ML/TF risk of its own business.*
- b. *Appropriate risk-based transaction monitoring is central to ensuring that matters that may be suspicious for the purposes of s 41 of the AML/CTF Act are identified and reported to the AUSTRAC CEO and, consequently, law enforcement. Appropriate risk-based transaction monitoring is central to SCA's understanding of its own ML/TF risk, including emerging risks.*
- c. *The deficiencies in SCA's TMPs were systemic and persisted over a number of years:*
 - i. *SCA's TMPs were not aligned to an appropriate ML/TF risk assessment.*
 - ii. *SCA's TMPs did not appropriately cover all designated services provided by SCA – both financial and gaming. For example, SCA did not appropriately monitor designated services provided through the SCEG Customer account channel.*
 - iii. *SCA's TMPs relied on manual and observational processes (as described at paragraph 321). Those manual and observational processes, whilst forming an important aspect of SCA's TMPs to support its automated processes, were not adequate, having regard to the nature, size and complexity of the business that SCA operated and the types of ML/TF risk that arose from that business.*
 - iv. *Insufficient resourcing in the AML team had an impact on SCA's ability to consistently monitor the transactions of its customers.*
 - v. *SCA's TMPs did not include adequate risk-based procedures to consistently monitor all customer transactions that may be indicative of well-known ML/TF typologies and vulnerabilities.*
 - vi. *SCA's TMPs did not include or incorporate appropriate risk-based systems and controls for assurance. Accordingly, SCA did not have in place appropriate riskbased systems and controls to ensure that SCA's TMPs were being applied correctly, operating as intended, and remained aligned to SCA's ML/TF risk.*

- vii. *Limitations with the information management systems used by SCA had an impact on SCA's ability to effectively monitor all ML/TF risk arising from transactions with its customers.*
- viii. *SCA did not appropriately monitor payment flows to and from SCA through the SCA Customer account channel, SCEG Customer account channel and SkyCity New Zealand channel. Nor did SCA appropriately monitor transactions, including cross-border transactions through high risk junket channels. These failures exposed the Australian financial system and the Australian community to ML/TF risk.*
- d. *The deficiencies in SCA's TMPs impacted SCA's ability to appropriately monitor the transactions of its customers, including approximately \$3.5 billion in turnover for the 56 Higher Risk Customers, for suspicious activity. This resulted in the loss of opportunity to detect, trace and disrupt possible unlawful activity, including possible money laundering, and to report suspicious matters to AUSTRAC and, consequently, law enforcement.*

...

Part A – ECDD Program [Enhanced Customer Due Diligence]

449 *For the reasons set out at paragraph 343, the deficiencies in SCA's ECDD Programs meant that it did not fully comply with the AML/CTF Rules throughout the Relevant Period. These contraventions were serious because:*

- a. *The nature of SCA's business meant that it was exposed to and dealt with high ML/TF risk customers, which included junket operators, junket players, international VIP customers, high rollers and foreign PEPs [Potentially Exposed Person]. The high ML/TF risks posed by these customer types were well-known and the subject of typologies and guidance published by the relevant authorities, from time to time, including AUSTRAC.*
- b. *During the Relevant Period, the deficiencies in SCA's ECDD Programs meant that it was not capable of appropriately identifying and escalating customers who posed a higher ML/TF risk to be the subject of ECDD, where required by the AML/CTF Act and the AML/CTF Rules.*
- c. *During the Relevant Period, SCA's application of the ECDD process was ad hoc and discretionary, with no written process or procedure setting out the relevant measures to be undertaken when completing ECDD based on the level of ML/TF risk faced. This Page 107 impacted SCA's ability to consistently comply with its ECDD and OCDD obligations under the AML/CTF Act and the AML/CTF Rules.*
- d. *During the Relevant Period, SCA's ECDD Programs did not include appropriate systems, controls and procedures to ensure that source of wealth and source of funds information was obtained, analysed and recorded for the purposes of carrying out ECDD. This, in turn, created a risk of inhibiting the ability of Australian law enforcement agencies and AUSTRAC to trace money to its source and undertake associated law enforcement investigations, prosecutions and recovery of proceeds of crime.*
- e. *SCA's ECDD Programs were not supported by appropriate information management and record keeping such that SCA did not always have a full view of a customer's transactions and risk profile*

when conducting ECDD on a customer that had previously been subject to ECDD.

- f. *SCA's Standard Part A Programs did not set out specific criteria against which senior management could appropriately determine whether to approve continuing a business relationship with a customer, including whether to continue providing that customer with designated services. This impacted SCA's ability to consistently comply with its ECDD and OCDD obligations under the AML/CTF Act and the AML/CTF Rules, and in some instances, SCA continued an ongoing relationship with a customer in circumstances where it did not have adequate regard to the ML/TF risk posed by that customer, or the consideration of that risk was delayed. These failures exposed SCA to the risk of being exploited by organised crime.*

...

*Part A – Systems and controls for SMR, TTR and IFTI reporting
[SMR – Suspicious Matter Report; TTR – Threshold Transaction Report;
IFTI – International Funds Transfer Instruction]*

451 *For the reasons set out at paragraphs 363 to 366, the deficiencies in relation to the systems and controls which SCA had designed and implemented for the purpose of complying with its reporting obligations meant that it did not fully comply with the AML/CTF Act and the AML/CTF Rules. These contraventions were serious because:*

- a. *As a result of the failure to include appropriate systems and controls in the Standard Part A Programs to ensure compliance with the obligation to report under s 41, 43 and 45 of the AML/CTF Act, AUSTRAC and law enforcement agencies were denied financial intelligence to which they were entitled. This undermines the objectives of the AML/CTF Act and impacts the ability of AUSTRAC and law enforcement to carry out their functions. In particular, failure to provide required reports or required information to AUSTRAC inhibits law enforcement investigations, prosecutions and the recovery of proceeds of crime.*
- b. *TTRs relating to transactions on junket programs at the SCA casino were likely to be reported under the junket operator's name (as described at paragraph 365a above). This made it difficult for AUSTRAC and law enforcement agencies to fully understand the role of different parties to the transaction, any potentially suspicious activity or the transaction generally.*
- c. *SCA's lack of a documented process to obtain the relevant information for transactions which were processed to SCA through the SCEG Customer account channel, and the occasional practice of aggregating customer deposits into SCA Customer accounts and SCEG Customer accounts, in certain instances, could have resulted in SCA submitting IFTIs to AUSTRAC containing incorrect information.*

...

Part B – ACIP [Applicable Customer Identification Procedure]

453 *For the reasons set out at paragraph 390 to 393, the deficiencies in SCA's Standard Part B Programs meant that it did not sufficiently comply with the AML/CTF Rules. These contraventions were serious because:*

- a. *The nature of SCA's business meant that it was exposed to and dealt with high ML/TF risk customers, which included junket operators,*

junket players, international VIP customers, high rollers and foreign PEPs. The high ML/TF risks posed by these customer types were well-known and the subject of typologies and guidance published by the relevant authorities, including AUSTRAC.

- b. *There was a lack of clear processes and procedures in the Standard Part B Programs to ensure that at the time ACIP was carried out, a customer's risk rating would be elevated from the default rating of 'low risk' in accordance with the Risk Allocation Criteria set out in SCA's Standard Part A Programs.*
- c. *Not elevating the customer's risk rating at the time ACIP was conducted had an impact on identifying whether additional KYC information should have been collected from the customer and verified at the time. As a result, SCA at times provided designated services in circumstances where it had not given full consideration to the ML/TF risk posed by potential high risk customers. This impacted SCA's ability to appropriately manage and mitigate the ML/TF risk related to those customers.*
- d. *SCA's Standard Part B Programs did not include appropriate risk management systems to identify whether a customer was a PEP. This impacted SCA's ability to understand the ML/TF risks posed by PEPs and to effectively manage and mitigate the high ML/TF risks related to those customers.*
- e. *SCA did not have adequate systems and controls to collect and analyse source of wealth and source of funds information. This impacted SCA's ability to fully understand the ML/TF risk posed by a customer to whom it provided designated services and to effectively manage and mitigate the ML/TF risk related to those high risk customers. For example, this failure impacted SCA's ability to identify unusual or suspicious transactions, such as unusually high turnover or losses.*
- f. *The deficiencies with SCA's Standard Part B Programs persisted for a number of years and were systemic.*
- g. *Deficiencies in KYC information inhibit the ability of law enforcement and AUSTRAC to trace money to its source. This, in turn, can inhibit law enforcement investigations, prosecutions and the recovery of proceeds of crime.*

...

H.1.2 S 36 of the Act – Ongoing customer due diligence

455 SCA contravened s 36 of the AML/CTF Act during the Relevant Period.

456 SCA failed to adequately monitor 56 Higher Risk Customers and 65 SCEG Channel Customers in contravention of s 36(1) of the AML/CTF Act. These contraventions were serious because:

- a. *SCA regularly dealt with high risk customers, including junket customers, international VIP customers and high rollers. The high ML/TF risk posed by these customer types were well-known and the subject of typologies and guidance published by relevant authorities, from time to time, including AUSTRAC.*
- b. *SCA's failure to conduct appropriate OCDD for the 56 Higher Risk Customers and 65 SCEG Channel Customers was systemic and occurred over a number of years. This failure exposed SCA and the Australian community to risks of serious organised crime.*

- c. *SCA's failure to conduct appropriate OCDD for the 56 Higher Risk Customers and 65 SCEG Channel Customers meant that SCA continued ongoing relationships with customers in circumstances where it did not have adequate regard to the ML/TF risk posed by those customers, or the consideration of the risk was delayed.*
 - d. *SCA provided designated services to 56 Higher Risk Customers at various times between 7 December 2016 and 26 October 2022. The 56 Higher Risk Customers had turnover of approximately \$3.5 billion and generated an estimated gross revenue of approximately \$45.7 million for SCA.*
 - e. *SCA was aware of information suggesting that 21 of the 56 Higher Risk Customers were connected to organised crime or that allegations of criminal conduct had been made against the customer or the customer had been charged, arrested, prosecuted, previously convicted or imprisoned in connection with offences, including in some cases dealing with the proceeds of crime and money laundering. In relation to three of the customers, SCA became aware of the information after it had provided the customer with its last designated service but prior to SCA formally banning the customer (see paragraph 409m).*
 - f. *Had SCA appropriately monitored its customers, it may have identified activity indicative of ML/TF typologies sooner. Had this activity been identified sooner, it could have been investigated and, where determined to be suspicious, reported to AUSTRAC and law enforcement sooner, through SMRs. Had suspicious activity been identified sooner, SCA would have been in a position to undertake additional steps to identify, mitigate and manage the ongoing risks.*
- 457 *In relation to 31 of the Higher Risk Customers that were escalated to senior management for consideration, insufficient regard was given by senior management to the higher ML/TF risk associated with those customers, including in relation to the customers' source of wealth and/or source of funds, the information known or obtained about the customer, and/or the customer's known risk profile, when determining whether business relationships with those customers ought to continue.*

H.2 Loss and damage suffered

- 458 *SCA operates in an industry known, internationally and within Australia, to pose high ML/TF risk. As a result of the contraventions set out at Sections F and G above, SCA provided designated services, including facilitating the movement of money into and out of the SCA casino, in the absence of having in place appropriate AML/CTF controls to adequately identify, manage and mitigate the ML/TF risk of providing these services. In providing these designated services, SCA facilitated the provision of designated services to the 56 Higher Risk Customers with turnover in the amount of approximately \$3.5 billion from a total buy-in of approximately \$436.1 million⁸⁰ and generated an estimated gross revenue of approximately \$45.7 million for SCA.*
- 459 *By facilitating the movement of hundreds of millions of dollars a year across the Relevant Period, and turnover in the billions of dollars, without appropriate AML/CTF controls, SCA:*
- a. *exposed its banking partners and other financial institutions in transaction chains to ML/TF risk;*
 - b. *exposed the Australian and global community and financial system to systemic ML/TF risk over many years, including where SCA was at risk of being exploited by organised crime;*

- c. *was exposed to the risk of money laundering, in particular where adequate risk-based controls were not in place to enable SCA to understand the sources of money moving through high risk channels or whether there was a risk that money was illicit; and*
- d. *facilitated the movement of significant amounts of money through high risk and non-transparent channels (see, for example, paragraphs 409f and 409g). Transactions through these channels had the potential to be indicative of ML/TF typologies or vulnerabilities.*

460 *As noted in paragraph 456c above, on and from 7 December 2016, SCA provided designated services to 56 Higher Risk Customers without carrying out adequate risk-based OCDD. In the absence of appropriate risk-based systems and controls to identify, mitigate and manage ML/TF risk, SCA continued in business relationships with these Higher Risk Customers where SCA did not have appropriate regard to the ML/TF risk posed by each customer, or the consideration of the risk was delayed.*

461 *As noted in paragraph 456b, a further 65 SCEG Channel Customers were permitted to transact between 12 December 2016 and 15 July 2022 in circumstances where SCA did not adequately monitor the customers' transactions. In total, AUD\$29.16 million⁸¹ was accessed for gaming by those customers once funds (as applicable) had been credited to their FMAs. Had SCA conducted appropriate risk-based customer due diligence, including appropriate risk-based transaction monitoring, the ML/TF risk posed by these customers could have been identified, mitigated and managed sooner.*

462 *In respect of the customers referred to in paragraph 456 above, as noted in that paragraph:*

- a. *SCA's failures exposed SCA and the Australian community to ML/TF risk;*
- b. *had SCA appropriately monitored these customers, it may have identified activity indicative of ML/TF typologies sooner;*
- c. *had this activity been identified sooner, it could have been investigated and, where determined to be suspicious, reported to AUSTRAC and law enforcement sooner, through SMRs; and*
- d. *had suspicious activity been identified sooner, SCA would have been in a position to undertake additional steps to better identify, mitigate and manage the ongoing risks of providing designated services to the customers.*

463 *Non-transparent movement of money and, as noted in paragraphs 449d and 453g above, deficiencies in KYC information may inhibit the ability of law enforcement and AUSTRAC to trace money to its source. This may inhibit law enforcement investigations, prosecutions and the recovery of proceeds of crime. Where money can be moved quickly and across borders, it can be even more difficult to trace and recover. These issues were compounded by SCA's failures to ensure it had appropriate systems and controls to fully and accurately report SMRs, TTRs and IFTIs. SCA's conduct undermined the objectives of the AML/CTF Act.*

464 *The ML/TF management failures occurred in circumstances where SCA was operating a high turnover business. Between 7 December 2016 and 26 October 2022, SCA generated the revenue figures outlined in sub-paragraph 456d with respect to the 56 Higher Risk Customers.*

465 By failing to comply with the AML/CTF Act and the AML/CTF Rules, SCA avoided expending funds that should have been invested in compliance including on IT, staffing and the development of AML/CTF controls. As noted in Section H.8, significant funds have now been invested in those areas.

466 *The loss and harm caused by SCA's failings were significant for the reasons set out at paragraphs 458 to 465 above.*

...

H.4 SCA and SCEG's size and financial position

470 Throughout the Relevant Period, SCA was incorporated in Australia and was a provider of designated services within the meaning of s 6 of the AML/CTF Act. At all material times, SCA held a casino licence under s 5 of the Casino Act and operated under the ALA. SCEG is the ultimate parent company of SCA and is dual listed on the Australian Stock Exchange and New Zealand Stock Exchange.

471 As a wholly owned subsidiary of SCEG, SCA's financial accounts are
consolidated with SCEG (as its ultimate parent entity) and other companies
within the SkyCity Entertainment Group of companies (SCEG Group).

472 The table below sets out the relevant reported financial results of SCA and
the SCEG Group during the 2017 to 2023 financial years.

<i>\$millions</i>	FY17	FY18	FY19	FY20	FY21	FY22	FY23
(AUD)							
SCA							
Gaming revenue	\$121.2	\$146.7	\$123.1	\$100.6	\$143.8	\$135.1	\$162.5
Non- gaming revenue	\$21.9	\$21.3	\$19.8	\$17.9	\$33.9	\$46.4	\$63.1
Other Revenue	\$0.1	\$0.6	\$0.2	\$7.8	\$15.4	\$0.1	\$2.8
Total Revenue	\$143.2	\$168.6	\$143.1	\$126.3	\$193.2	\$181.5	\$228.4
EBITDA ⁸⁴	\$11.6	\$46.6	\$21.9	-\$57.7	\$32.3	\$18.3	-\$60.5
EBIT	-\$4.0	\$31.0	\$6.6	-\$74.5	\$11.2	-\$12.6	-\$91.3
NPAT	-\$7.1	\$15.5	-\$2.4	-\$77.7	-\$4.8	-\$24.1	-\$108.5
SCEG Group ⁸⁵							

Total Revenue	\$877.8	\$749.7	\$772.3	\$1,064.7	\$887.9	\$597.8	\$847.3
EBITDA	\$290.4	\$284.9	\$279.7	\$329.6	\$292.8	\$90.7	\$151.8
EBIT	\$106.4	\$210.6	\$204.6	\$247.7	\$210.3	\$2.1	\$68.8
NPAT	\$42.4	\$155.8	\$135.8	\$222.8	\$145.4	-\$31.4	\$7.3

473 As at the end of FY22 and FY23, SCA's net assets were negative AUD\$17.1 million and negative AUD\$125.6 million respectively and the SCEG Group had net assets of NZD\$1.571 billion and NZD\$1.530 billion respectively.

H.6 Board and senior management involvement

482 The contraventions, as set out in this SAFA, were not a consequence of any deliberate intention to contravene the AML/CTF Act. At all times, the SCA Board and senior management sought to ensure that SCA would comply with its obligations under the AML/CTF Act.

483 SCA acknowledges that at all times during the Relevant Period the AML/CTF Act and AML/CTF Rules required that a reporting entity's Standard Part A program must be subject to the ongoing oversight of each reporting entity's board and senior management. As part of this oversight, SCA's Board and senior management were responsible for oversight of the management of ML/TF risks faced by its business in accordance with the AML/CTF Act and the AML/CTF Rules.

484 Between 7 December 2016 and 14 December 2022, as a result of the matters described at paragraphs 148 and 149, SCA did not comply with s 84(2)(a) and 84(2)(c) of the AML/CTF Act and paragraph 8.4 of the AML/CTF Rules.

[673] Paragraphs 486 – 488 of the Statement concern the licensee’s cooperation with AUSTRAC, and are followed by appropriate acknowledgements by the licensee:

489 *SCA otherwise:*

- a. *acknowledges that ML/TF undermines the integrity of the Australian financial system and impacts the Australian community’s safety and wellbeing;*
- b. *acknowledges that it, as a casino offering designated services, plays a key role in combating ML/TF and safeguarding the community against ML/TF risk;*
- c. *accepts its accountability for the admitted contraventions, and expresses deep regret for those contraventions; and*
- d. *acknowledges the significant impact that deficiencies in its systems and processes can have on efforts to combat ML/TF.*

[674] The forgoing summary can readily be augmented by reference to the paragraphs of the Statement cited in the summary. It is unnecessary to canvass additional details except with respect to the practical effect of the inadequacies in dealing with higher risk customers.

[675] Appendix A to the Statement contains a list of 56 Higher Risk Customers which the licensee admitted through the Statement it had failed to appropriately monitor.

[676] Paragraphs 409 – 412 of the Statement provide details of the licensee’s failings with respect to these customers:

409 *During the Relevant Period, higher ML/TF risks arose in respect of each of these 56 Higher Risk Customers, because:*

- a. *10 customers were junket operators at various times during the Relevant Period.³⁶ As identified at paragraph 243, the provision of designated services to junket operators involved higher ML/TF risk. Over the Relevant Period, the combined buy-in for the junket programs associated with these 10 junket operators was \$75,070,835 with a combined turnover of approximately \$716,154,000, resulting in an overall casino loss to SCA of approximately \$3,021,000.³⁷ The turnover for the junket programs run by these 10 junket operators ranged from around \$2,105,662 (Customer 10) to \$330,262,152 (Customer 3).*
- b. *Eight customers were individual commission players at various times during the Relevant Period.³⁸ Designated services provided to individual commission players involved a higher level of ML/TF risk owing to the size of the transactions involved. Over the Relevant Period, the combined buy-in for the ICPs associated with these eight customers was approximately \$140,119,650³⁹ with a combined turnover of*

approximately \$1,357,834,177, resulting in an overall casino win to SCA of approximately \$29,908,000.⁴⁰

- c. 46 customers were provided designated services outside of being a junket operator, or playing as part of an ICP.⁴¹ Over the Relevant Period these 46 customers had a total buy-in of \$220,903,287,⁴² with a combined turnover⁴³ of approximately \$1,437,386,882, resulting in an overall casino win to SCA of approximately \$23,379,000.⁴⁴ Designated services provided to these 46 customers involved a higher level of ML/TF risk owing to the size of the transactions involved.
- d. Two customers were foreign PEPs.⁴⁵ One of those customers was not recognised as a foreign PEP by SCA, despite there being public information available prior to the Relevant Period that the customer was a member of a foreign political body.⁴⁶
- e. 36 customers were connected to other SCA customers in respect of whom SCA had formed suspicions at various times during the Relevant Period for the purpose of s 41 of the AML/CTF Act.⁴⁷
- f. 31 customers were involved (by receipt or transfer) in transactions of large sums totalling approximately \$120,100,000, at various times over the Relevant Period.⁴⁸ The types of transactions involving large sums included:
 - i. transfers of large values to or from other SCA customers in circumstances where SCA was not always aware of, or did not understand, the purpose of the transfer. For example, on 25 April 2019, Customer 2 transferred \$380,000 from their SCA FMA to another customer's SCA FMA. SCA noted that the other customer was not onsite and the SCA host could not confirm any reasoning for this transfer, other than that Customer 2 had requested it. SCA completed the transfer;

37 The overall casino loss' or overall casino win' does not represent the actual profit or loss derived by SCA from this precise customer segment. SCA does not allocate expenses at an individual customer-by-customer level, with some minor exceptions, and therefore SCA does not record profit (or loss) attributable to the company at an individual customer-by-customer level. As a consequence, SCA is not able to identify, with precision, the net profit or net loss it generated from a particular customer or customer group. Any such figure would differ to the overall casino loss' or overall casino win', as it would be impacted by further deductions to account for operating expenses. In the absence of the precise customer-by-customer data required to calculate the net profit after tax and net loss after tax figures, the overall casino win' or overall casino loss' figures have been used throughout the SAFA as this information is recorded against the customer at an individual customer-by-customer level

38 Customers 2, 11, 16-17 and 20-23.

39 The estimated customer buy-in totals have been calculated using customer data stored in the Bally CMP system. This includes, amongst other data, data recorded against the customer as 'Chip In'. 'Chip In' data represents the dollar value in chips that a customer has brought to the table which are chips that have already been purchased, or won by a customer, and used by a customer for prior game play. As the 'Chip In' data records chips presented at a gaming table by a customer it is not truly representative of new chip purchases or customer buy-in, which may result in the total estimated buy-in amount included in this SAFA being overstated

40 Refer to footnote 37.

41 Customers 2, 10-13, 15-17, 21-25 and 27-59.

42 Refer to footnote 39.

43 Main gaming floor and VIP (non-program/commission) customer turnover for table game play was calculated by SCA using a combination of assumptions that were derived from averages and estimates applicable to the table game being played by the customer. As a result, for table gaming conducted on the main gaming floor or as a VIP (non-program/commission) customer the turnover amount which SCA recorded against a customer's profile does not necessarily accurately reflect a customer's actual turnover or gaming activity.

44 Refer to footnote 37.

45 Customers 1 and 11.

46 Customer 1.

47 Customers 1-3, 8-9, 11-12, 14-15, 17, 21, 24-25, 27-42, 44-47, 52, 54 and 55.

48 Customers 1-12, 14-17, 20, 22-25, 29, 33, 38, 43-45, 49, 51, 53 and 57.

- ii. *large financial transactions involving domestic or international third parties (in some circumstances, the third parties were unknown to SCA). For example, on 2 May 2017, SCA received a deposit of \$600,000 into its bank account by an Australian company. The money deposited into the SCA account was for use by Customer 3's junket. On receipt of the deposit, SCA conducted a company search, which identified that the company was owned by an overseas company. SCA was unable to find a public link between Customer 3's junket and the overseas company. SCA therefore questioned Customer 3, who stated that the Australian company was a finance company of which they were a customer. However, SCA was unable to verify this information, despite the information provided by Customer 3. SCA processed the deposit, and the funds were transferred to Customer 12's FMA at a SCEG New Zealand casino, for use on Customer 3's junket. This matter was the subject of an SMR submitted to AUSTRAC on 4 May 2017; and*
- iii. *large financial transactions from one SCA customer's FMA to another SCA customer's FMA at the SCA casino, where a signed funds authorisation form was provided to SCA. For example, on 4 November 2019 Customer 10 received \$488,000 into their FMA from another Australian casino. On 7 November 2019, those funds were transferred to another SCA customer and used for a junket program buy-in at the SCA casino.*
- g. *30 customers transferred large amounts of money into, out of and within the SCA casino during the Relevant Period through international channels (including the SCEG Customer account channel) and the SCA Customer account channel and at values that gave rise to a higher ML/TF risk. The transactions totalled approximately \$94,200,000.⁴⁹ For example:*
 - i. *on 27 March 2018, Customer 1 transferred \$698,287 from a bank account overseas to SCA's bank account to settle an outstanding amount owed to SCA; and*
 - ii. *on 11 June 2019, SCA accepted instructions from Customer 8 to transfer approximately \$2,100,000 from the customer's FMA at the SCA casino to the customer's bank account overseas. These funds were Customer 8's winnings from a junket program Customer 8 operated at the SCA*

49 Customers 1-12, 15-17, 20, 22-25, 29, 30, 33, 38, 43-45, 49, 51, 53 and 57.

casino. These funds were transferred by SCA through the SCEG Customer account channel to enable the customer to receive the funds in HKD.

- h. *35 customers engaged in transactions identified by SCA as indicative of known ML/TF typologies and vulnerabilities at various times during the Relevant Period. These transactions were indicative of structuring and/or exchanging of CVIs in amounts that were not commensurate with play, transactions where there was no evidence of play or quick turnover of funds without betting, the layering of funds, loan sharking*

and the use of third parties to conduct transactions.⁵⁰ These transactions totalled approximately \$11,690,000. For example:

- i. on 28 August 2019, Customer 21 presented at a cashier at the SCA casino alongside an associate. The associate then exchanged \$30,000 of cash for chips. During the exchange, Customer 27 approached the cashier window and placed an unknown amount of cash into the associate's bag. The associate then gave Customer 21 \$10,000 of the \$30,000 chips. Over the next hour, the associate did not use the remaining \$20,000 chips for gaming, and later collected an additional \$12,350 of gaming chips from Customer 21. The associate then exchanged the total of \$32,350 in chips for cash at a cashier window. The associate, Customer 21 and Customer 27 then departed the SCA casino together. SCA noted that the associate was a student with minimal recorded play, and that the associate, Customer 21 and Customer 27 had previously been reported to AUSTRAC in 2017 for a similar exchange. SCA suspected that this transaction was related to the loan sharking business that SCA suspected Customer 27 operated;⁵¹
- ii. on 2 August 2020, Customer 29 was seen to pass an unknown amount of cash to Customer 36. The customers separately proceeded to exchange \$7,000 (Customer 36) and \$5,000 (Customer 29) in cash for chips. Customer 29 then approached Customer 36, and Customer 36 handed Customer 29 an unknown number of chips. Customer 29 then engaged in gaming activity for several hours. Customer 36 did not have any rated gaming activity on either 2 August 2020 or 3 August 2020. Following a frontline observation report and a surveillance review of the incident, SCA formed a suspicion that Customer 29 had utilised Customer 36 as a third party to structure a pair of transactions to avoid the reporting requirement. SCA stated that Customer 29 had a history of utilising third parties to assist in transaction structuring;⁵²
- iii. on 12 March 2021, Customer 24 deposited \$250,000 in cash into their FMA at the SCA casino. Customer 24 then immediately transferred the funds to their personal bank account via telegraphic transfer. Customer 24 advised SCA cash handling staff that they did not intend to play with the funds but instead just wanted the funds transferred. This transaction is indicative of minimal or no gaming activity; and

⁵⁰ Customers 2, 11, 17, 20, 21, 24, 27-42, 44-51 and 54-58.

⁵¹ On 30 August 2019, SCA submitted an SMR to the AUSTRAC CEO in relation to this incident.

⁵² On 6 August 2020, SCA submitted an SMR to the AUSTRAC CEO in relation to this incident.

- iv. in or around September 2021, SCA reviewed the bank statements of Person 26. SCA's review of Person 26's bank statements indicated that, between 20 June 2020 and 15 April 2021, Person 26 sent approximately \$108,400 in 10 transactions to Customer 51. During this period, Person 26 also made a number of transactions to other SCA customers' accounts. Based on these transactions, SCA considered that Customer 51 was potentially using the customer to layer funds through multiple bank accounts to avoid detection. SCA also identified that Person 26 may have

*been utilised as a money mule for a network of money laundering or money concealing activities.*⁵³

- i. *54 customers engaged in large cash transactions of over \$10,000 in and/or out of the SCA casino at various times during the Relevant Period.⁵⁴ In relation to the transactions involving these customers, SCA submitted 3,646 TTRs to AUSTRAC during the Relevant Period detailing cash transactions of approximately \$194.8 million. For example:*
 - i. *on 27 January 2018, Customer 11 made a cash deposit of \$300,000 into their FMA at the SCA casino; and*
 - ii. *on 25 January 2019, Customer 20 engaged in cash transactions at the SCA casino totalling \$5,818,180.*
- j. *Nine customers transacted with cash that appeared suspicious, including cash in plastic bags, cash bundled together with rubber bands, cash that was dirty or wet, and counterfeit cash, in transactions totalling over \$200,000.⁵⁵ For example:*
 - i. *on 10 June 2017, SCA identified that Customer 27 had handed a shopping bag to Customer 21 containing \$60,000 in cash on SCA's premises. Customer 21 then exchanged the cash for a \$60,000 CPV at a cashier window at the SCA casino, which was then exchanged for casino chips at a gaming table. Customer 21 then immediately left the gaming table and gave the \$60,000 in chips to Customer 27, who proceeded to exchange the chips at a cashier window at the SCA casino. On 13 June 2017, SCA submitted an SMR to the AUSTRAC CEO in relation to this incident and advised that both parties would continue to be monitored; and*
 - ii. *on 4 October 2018, SCA observed that Customer 39 had conducted a \$9,000 chip buy-in at the SCA Cage with cash covered in dirt. Customer 39 then went to a gaming table and completed a second buy-in of \$4,000 with cash, which they handed to Customer 38 (their spouse). Customer 39 subsequently completed a third buy-in of \$7,000 at another gaming table. Customer 39 did not game with the \$16,000 worth of chips in their possession, instead, about an hour after the multiple buy-ins, Customer 39 discreetly handed an unknown and unverified amount of chips to Person 7. SCA had concerns about the state the cash was in, the multiple buy-ins with little to no gaming activity and third-party exchanges. On 9 October 2018, SCA submitted an SMR to the AUSTRAC CEO in relation to this incident and advised that each of the parties would continue to be closely monitored.*

⁵³ On 5 October 2021, SCA submitted an SMR to the AUSTRAC CEO in relation to this matter.

⁵⁴ Customers 1-13, 15-17, 20-25, 27-49 and 51-59.

⁵⁵ Customers 11, 21, 27, 29, 31, 35, 39, 40 and 43.

- k. *SCA submitted approximately 120 SMRs to AUSTRAC in relation to the Higher Risk Customers over the Relevant Period. 59 of those SMRs related to more than one Higher Risk Customer. The SMRs submitted to AUSTRAC related to transactions involving 42 of the Higher Risk Customers which SCA had identified as being indicative of structuring, layering and/or refining, and/or large and unusual transactions and patterns of transactions which had no apparent economic or visible lawful purpose.⁵⁶*

- l. 17 customers were the subject of enquiries made by law enforcement agencies to SCA or information shared by law enforcement agencies with SCA at various times during the Relevant Period.⁵⁷ In relation to two customers, SCA came into receipt of this information after the last designated service was provided to the customer.⁵⁸ For example:
 - i. on 23 August 2018, a law enforcement agency informed SCA that Customer 41 and Customer 42 were associated with a prostitution syndicate and they could be attending SCA to launder funds obtained through the syndicate;
 - ii. on 29 November 2017, SCA received information from a law enforcement agency that Customer 45 was suspected of dealing with proceeds of crime worth more than \$1 million and SCA held concerns that Customer 44 was sharing funds with Customer 45; and
 - iii. on 12 January 2018, a law enforcement agency informed SCA that Customer 16 was a person of interest in an investigation into suspected money laundering. On 18 January 2018, 5 February 2018, 7 February 2018 and 21 February 2018, SCA received further requests for information regarding Customer 16 from law enforcement.
- m. SCA was aware of information suggesting that 21 customers were connected to organised crime, or that allegations of criminal conduct had been made against the customer or the customer had been charged, arrested, prosecuted, previously convicted or imprisoned in connection with offences, including in some cases dealing with the proceeds of crime and money laundering, prior to SCA issuing a ban to those customers.⁵⁹ In relation to three of the customers, SCA became aware of the information after it had provided the customer with its last designated service but prior to SCA formally banning the customer.⁶⁰ For example:
 - i. On or around 21 July 2021, Jade identified that Customer 43 was the subject of a conviction from 2004 concerning their involvement in a drug trafficking syndicate. Jade also identified prior drug trafficking convictions dating back to 1983.
 - ii. At the time, SCA considered its relationship with Customer 43 and due to the age of the offences and the customer's wealth (which SCA formed the view was plausible) determined to retain the customer but escalated them to high risk.

56 Customers 2, 3, 11, 12, 15-17, 20, 21, 24, 25, 27-42 and 44-58.

57 Customers 1, 3, 5, 11, 12, 13, 16, 24, 41-46, 51, 53 and 57.

58 Customers 3 and 12.

59 Customers 1, 5, 11-12, 16, 29-35, 40-43, 45-46, 52 and 57-58.

60 Customers 11-12 and 34.

- iii. On 5 May 2022, SCA engaged with a law enforcement agency to discuss some of SCA's customers, including Customer 43 who was described during the meeting as being an established figure in organised crime, with a long history of association with drug trafficking and drug importation.
- iv. Notwithstanding the correspondence from the law enforcement agency and the further due diligence that SCA undertook at this time to consider the ML/TF risk of providing designated services

to the customer, SCA continued to provide designated services to Customer 43 until at least 26 October 2022.

- n. SCA approved CCFs in respect of eight of the customers with limits ranging from \$20,000 to \$8,100,000.⁶¹
- o. SCA facilitated third party deposits to the FMAs of 14 of the customers (see paragraphs 166 and 231), including by:⁶²
 - i. transfer from an FMA held by a third party;
 - ii. transfer from a bank account via the SCA Customer account channel;
 - iii. depositing funds into an FMA via the SkyCity New Zealand channel; and
 - iv. transfer from a bank account via the SCEG Customer account channel. SCA introduced a SOP which provided that after June 2021 third party deposits (via telegraphic transfer) into SCEG Customer accounts to be transferred to another customer's FMA were no longer accepted (other than in limited circumstances). In September 2022, SCA introduced guidance for staff about the process for third party payment rejection where third party deposits (via telegraphic transfer) were made into the SCEG Customer account channel.

410 Sub-paragraphs 409a to 409c above refer to combined turnover, which resulted in casino wins or losses. As stated above at paragraph 63, the turnover figures referenced in this SAFA measure turnover generated by customer gaming activities across the Relevant Period. It does not represent turnover that would not have necessarily arisen but for the contraventions admitted in this SAFA (the extent of which is not known).

G3.1 Non-Compliance with s 36

- 411 As a result of the matters referred to at paragraphs 407 to 409 above, at various times during the Relevant Period:
- a. designated services provided to 56 Higher Risk Customers at the SCA casino posed higher ML/TF risks; and
 - b. in contravention of s 36(1) of the AML/CTF Act, SCA did not conduct appropriate risk-based OCDD with respect to each of the 56 Higher Risk Customers, with a view to identifying, mitigating and managing the ML/TF risk posed by the provision of designated services to those customers.

⁶¹ Customers 1, 4-8, 11 and 16.

⁶² Customers 1-3, 7, 10-12, 14-17, 20, 25 and 45.

412 In particular:

- a. SCA did not elevate 19 of the customers' risk ratings to 'high risk' within a reasonable period of time after each customer had demonstrated conduct which gave rise to a higher ML/TF risk.⁶³ Of those 19 customers, 14 were assigned a 'high risk' rating more than one year after they demonstrated high risk conduct;⁶⁴

- b. SCA did not identify three of the customers as high risk before 7 December 2022, where those customers had demonstrated conduct warranting elevation of the customer's risk rating to 'high risk';⁶³
- c. SCA did not carry out adequate ECDD measures with respect to 53 of the customers in circumstances where:⁶⁴
 - i. SCA had formed a suspicion with respect to those Higher Risk Customers for the purposes of s 41 of the AML/CTF Act; or
 - ii. SCA had rated a customer as 'high risk'; or
 - iii. the customer was a foreign PEP; and
- d. SCA did not obtain from the customer or appropriately consider information concerning the source of funds and/or source of wealth in relation to 50 of the customers.⁶⁵ These customers continued to receive designated services in circumstances where SCA did not hold appropriate source of wealth and/or source of funds information, or, where that information or stated occupation was available, it was incommensurate with their gaming activity. For example:
 - i. on 1 August 2019, SCA undertook ECDD in relation to Customer 49. The ECDD undertaken was limited to open-source checks, which did not identify any additional information about Customer 49 beyond that which SCA already held. At the time, SCA did not make any additional enquiries in relation to Customer 49's source of wealth or source of funds (beyond the open-source checks by SCA), in circumstances where SCA should have been aware that the customer's level of gaming (between 7 December 2016 to the end of FY19, SCA had recorded a combined turnover of approximately \$5,257,000 for Customer 49 against a combined buy-in of approximately \$1,855,525)⁶⁶ did not appear to be commensurate with their stated occupation ('mechanical engineer'). As a result, the steps taken to obtain and consider additional source of wealth and/or source of funds information in relation to Customer 49 were inadequate;

⁶³ Customers 3, 5, 7, 14, 20, 22, 34-35, 39, 40-42, 46, 49, 53 and 56-58.

⁶⁴ Customers 3, 5, 7, 20, 22, 33-35, 39-42 and 57-58.

⁶⁵ Customers 4, 9 and 13.

⁶⁶ Customers 1-3, 5-8, 10-12, 14-17, 20-25 and 27-59.

⁶⁷ Customers 1-12, 15-17, 21-25 and 27-56.

⁶⁸ Refer to footnote 39.

- ii. at all times on and from 7 December 2016, SCA had identified that Customer 2 was the president of Company 2. It was estimated that Company 2 generated an annual revenue of \$834,000 (based on a company that provides commercial data, analytics and insights for businesses). Customer 2 was also a junket operator. The last designated service provided to Customer 2 was on 10 March 2021. However, SCA did not request that Customer 2 provide additional source of wealth information until 9 August 2021. This is notwithstanding that from January 2017 SCA had submitted 30 SMRs to the AUSTRAC CEO (where in some of the SMRs, SCA identified that it suspected Customer 2 and their associates were

engaging in potential money lending activities and other activities indicative of ML/TF typologies), and SCA had recorded from 7 December 2016 to the end of FY21 combined turnover of approximately \$31,526,000 against a combined buy-in of approximately \$5,822,900⁶⁹ for Customer 2, other than through junket programs or ICPs. On 9 August 2021, SCA terminated its relationship with Customer 2 until an assessment of their Source of Wealth Declaration Form was completed. On or around 16 August 2021, Customer 2 declined to provide SCA with source of wealth information and as a result the relationship with the customer remains terminated; and

iii. *see Customer 41's case study below at paragraphs 429 to 436;*

e. *in relation to 31 customers that were escalated to senior management for consideration, insufficient regard was given by senior management to the higher ML/TF risk associated with those customers, including in relation to the customer's source of wealth and/or source of funds, the information known or obtained about the customer, and/or the customer's known risk profile, when determining whether the business relationship with those customers should continue.*⁷⁰ *Relevantly:*

i. *27 customers were included in a Transaction Monitoring Overview Report provided to senior management for consideration, and/or were escalated to senior management for consideration because of a particular transaction or other matters.*⁷¹ *For example, a May 2021 Transaction Monitoring Overview Report recorded that between 22 and 28 February 2021, Customer 23 received three cheques from SCA totalling \$1 million from commission play and table game wins. This was in circumstances where SCA recorded Customer 23's occupation as 'Rail Manager' from May 2016, and in the 2021 financial year Customer 23's combined buy-in on ICPs escalated to over \$3,300,000, from just over \$54,000 in the 2019 financial year and no buy-in in the 2020 financial year.*⁷² *The minutes of the May 2021 AML/CTF Senior Management Group do not record any discussions relating to Customer 23. SCA did not request additional source of wealth information from Customer 23 until 23 June 2021, which Customer 23 did not provide. Notwithstanding that the last designated service provided to the customer was on 19 April 2021, Customer 23 was not barred by SCA until in or around June 2022; and*

⁶⁹ Refer to footnote 39.

⁷⁰ Customers 1-3, 5, 6, 8, 10-12, 14, 16, 17, 22-24, 27, 29, 35, 37-39, 43-45, 47, 49, 51-53, 57 and 58.

⁷¹ Customers 2, 3, 5-6, 8, 10, 11-12, 14, 16-17, 23, 27, 29, 35, 37-39, 44-45, 47, 49, 51-53, 57 and 58.

⁷² Refer to footnote 39.

ii. *in relation to four customers escalated to senior management for consideration, senior management approved the continuation of a business relationship or approved the continuation of designated services on at least one occasion for each of those four customers.*⁷³ *This decision was made despite the customers engaging in conduct indicating higher ML/TF risks as set out in paragraph 409. For example, on 1 October 2021, the SCA AML Compliance Manager escalated Customer 24 to senior management on the basis that*

Customer 24 represented a significant level of risk. The risk rating escalation followed the receipt of a warrant served on SCA by a law enforcement agency concerning Customer 24 and an attempt by Customer 24 to make a \$1 million cash deposit on their FMA at the SCA casino. Between 1 and 5 October 2021, senior management determined to continue its relationship with Customer 24 on three occasions. Senior management decided not to bar the customer from the SCA casino on the basis that the law enforcement inquiry was at a preliminary stage and that SCA would not accept the requested transaction from the customer until further notice. Despite receiving a further inquiry from a law enforcement agency and becoming aware that a law enforcement agency had seized \$1 million in cash from Customer 24's home during this period, it was not until February 2022 that SCA issued a ban in respect of Customer 24. The ban was made following further communications from the law enforcement agency that Customer 24's statutory declarations as to their source of wealth and source of funds more than likely contained false information.

73 Customers 1, 22, 24 and 43.

[677] Paragraphs 413-436 of the Statement provide Higher Risk Customer case studies which illustrate the failings of the licensee with respect to a junket operator, an individual commission player and a domestic customer. This section is followed by paragraphs 437-441 concerning 65 customers who conducted transactions through the 'SCEG Customer account channel', in respect of which the licensee contravened s36(1) of the AML/CTF Act by failing to appropriately monitor each customer.

[678] The 'SCEG Customer Account Channel' refers to international bank accounts used to transfer funds into and out of a customer's front money account. The Statement provides the following summary of this process, and of the 'SkyCity New Zealand Channel':

C.5.5 SCEG Customer account channel

44 *During the Relevant Period, SCEG subsidiaries maintained international bank accounts in both Australian dollars and foreign currency (SCEG Customer accounts), which were used to facilitate the transfer of funds into and out of an FMA (SCEG Customer account channel). SCA customers could deposit funds into these accounts, including by non-face-to-face direct transfer both from within Australia and internationally, to fund gaming activity at the SCA casino or to repay a debt owed to SCA under a CCF. Funds could be deposited into the SCEG Customer accounts by cash, cheque or telegraphic transfer, either in Australian dollars or a foreign currency depending on the account (although some SCEG Customer accounts did not*

accept cash deposits). Until June 2021, a customer could transfer funds from their FMA to a third party via the SCEG Customer account channel (as described further at paragraphs 166b and 225e). SCA also introduced a standard operating procedure (SOP) which provided that after June 2021 third party deposits (via telegraphic transfer) into the SCEG Customer accounts to be transferred to another customer's FMA were no longer accepted (other than in limited circumstances). In September 2022, SCA introduced guidance for staff about the process for third party payment rejection where third party deposits (via telegraphic transfer) were made into the SCEG Customer account channel.

- 45 Transfers to and from FMAs, via the SCEG Customer accounts, involved the facilitation of the transfer of funds in and out of the SCA casino environment, by SCA, at the request of its customers, which involved the provision of designated services under items 31 and 32, table 1, section 6 of the AML/CTF Act (as described at paragraphs 13c to 13d) and item 13, table 3, section 6 of the AML/CTF Act.
- 46 The SCEG Customer account channel is described further at Section F.3.3.

C.5.6 SkyCity New Zealand channel

- 47 Throughout the Relevant Period, a customer with funds in an FMA established at a SCEG casino could request for the transfer of all or some of those funds to the customer's FMA at the SCA casino (the SkyCity New Zealand channel). A customer could use the SkyCity New Zealand channel to make funds available to their FMA at the SCA casino, or to repay a debt owed by the customer to SCA under a CCF from their gaming at the SCA casino.
- 48 Transfers to FMAs, via the SkyCity New Zealand channel, involved the facilitation of the transfer of funds in the SCA casino environment, by SCA, at the request of its customers, which involved the provision of designated services under item 32, table 1, section 6 of the AML/CTF Act (as described at paragraph 13d) and item 13, table 3, section 6 of the AML/CTF Act.
- 49 The SkyCity New Zealand channel is described further at Section F.3.4.

[679] Details of how the SCEG Customer Account Channel operated, and the risk attached to such operation, are explained in sections F3.3 and F3.4 of the Statement:

F.3.3 SCEG Customer account channel

Overview

- 176 As described above in further detail at Section C.5.5, SCA customers could deposit funds into the SCEG Customer accounts during the Relevant Period. What follows is additional factual background relevant to the operation of the SCEG Customer account channel.
- 177 A customer could deposit funds, or arrange for funds to be deposited, into:
- a. SCEG Customer account, to be credited to the customer's FMA at SCA;

- b. *a SCEG Customer account, to repay an amount owed to SCA under a CCF; and*
 - c. *until at least February 2022, a SCEG Customer account, by a transfer of funds from another casino, including non-SCEG casinos, to one specific SCEG Customer account. The funds would then be credited to a customer's FMA (in the circumstances described in paragraph 160).*
- 178 *A customer could request SCA to transfer funds from their FMA via the SCEG Customer accounts to:*
 - a. *the customer's personal bank account for the purpose of returning funds in their FMA or remitting winnings;*
 - b. *a personal bank account, which was not in the customer's name (until at least June 2021, see paragraph 225e); or*
 - c. *another casino, including non-SCEG casinos and casinos located outside of Australia (provided the customer was a SCA loyalty member). From around February 2022, SCA ceased allowing customers to transfer funds from their FMA to another casino (that was not a SCEG casino).*
- 179 *Deposits from a customer through a SCEG Customer account for gaming were recorded as transactions in the SCA accounting ledger. Each ledger record included the transaction date, the value of the transaction and the customer's name. Once funds had been transferred into a SCEG Customer account, the customer provided a copy of the transaction receipt to the SCEG International Business Sales team, which was forwarded to either the SCEG International Business Patron Accounts team or the SCEG New Zealand casino Cage to reconcile against the bank statements for the SCEG Customer account. Details of the deposit were then communicated to SCA, including the transaction receipt.*
- 180 *Once the customer was onsite at the SCA casino, had signed the customer deposit receipt and provided photo identification (to confirm they were the intended recipient of the funds), SCA would credit the funds to the customer's FMA. Once the funds were credited to the customer's FMA the customer could access and withdraw the funds as described in paragraphs 161 to 162.*
- 181 *The funds were not physically transferred from the SCEG Customer account to a SCA Customer account until the end of the customer's visit and when settlement of outstanding debts occurred.*
- 182 *SCEG Customer accounts also facilitated the payment of winnings and the return of funds not used for gaming. Winnings from gaming could not be directly deposited into a SCEG Customer account by customers. These payments were facilitated by the transfer of customer funds from an FMA to a bank account nominated by a customer (which could be the customer's personal bank account, a third party bank account (until at least June 2021), or a bank account of another casino (until February 2022), via the SCEG Customer accounts.*
- 183 *Transfers to and from FMAs, via the SCEG Customer accounts, involved the facilitation of the transfer of funds in and out of the SCA casino environment, by SCA, at the request of its customers, which involved the provision of designated services under items 31 and 32, table 1, section 6 of the AML/CTF Act and item 13, table 3, section 6 of the AML/CTF Act.*

ML/TF risk of the SCEG Customer account channel

- 184 *Transfers through FMAs, via the SCEG Customer accounts, involved higher ML/TF risks, including:*
- a. *designated services provided by SCA through the SCEG Customer accounts involved FMAs and accordingly also involved the ML/TF risk set out in paragraph 166;*
 - b. *funds could be deposited into a SCEG Customer account through non-face-to-face channels, which created risks as to the source of funds;*
 - c. *cash could also be deposited into a SCEG Customer account, which created risks as to the source of funds;*
 - d. *most of the SCEG Customer accounts were located in foreign jurisdictions. SCA customers and third parties, including other casinos, overseas remitters and junket operators (including corporate junket operators), could deposit funds into the SCEG Customer accounts, including in foreign currencies. This created risks as to source of third party deposits;*
 - e. *money could be made available to a SCA customer in Australia through the SCEG Customer account channel without the need for a cross-border transfer of funds, which reduced the transparency of transactions;*
 - f. *junket operators (including corporate junket operators), overseas remitters, other casinos (including casinos located outside of Australia until at least February 2022), and other third parties used the accounts, including to remit money across international borders without the physical movement of funds into Australia, which created risks as to the source of funds and reduced transparency; and*
 - g. *the Horizon Tourism account channel involved additional ML/TF risk, including because SCA's connection with the Horizon Tourism accounts was not apparent on their face, as the accounts operated in the name Horizon Tourism (New Zealand) Limited.*
- 185 *SCA did not conduct assessments of the ML/TF risk associated with the provision of items 31 and 32, table 1, section 6 of the AML/CTF Act designated services by facilitating the transfer of funds to and from FMAs, via the SCEG Customer accounts (as described at paragraphs 44 to 45).*
- 186 *By not undertaking a ML/TF risk assessment for items 31 and 32, table 1, section 6 of the AML/CTF Act designated services with respect to the SCEG Customer account channel, SCA did not ensure during the Relevant Period that its Standard Part A Programs included adequate risk-based systems and controls that were capable of identifying, mitigating and managing all ML/TF risk associated with the provision of these designated services, which contributed to SCA's contravention of paragraph 8.1.4 of the AML/CTF Rules. See paragraphs 231, 232c and 233 for the deficiencies with SCA's systems and controls relating to the SCEG Customer account channel.*

F.3.4 SkyCity New Zealand channel

Overview

- 187 *As described above at paragraph 47, from 7 December 2016 to about 17 November 2022, a customer with funds in an FMA established at a SCEG casino could request SCEG staff to transfer all or some of those funds to the customer's FMA at SCA (the SkyCity New Zealand channel). A customer could use the SkyCity New Zealand channel to make funds available to their*

FMA at SCA or to repay a debt owed by the customer to SCA under a CCF from their gaming at the SCA casino.

- 188 *To initiate a transfer, a customer completed a template letter which identified their FMA at a SCEG New Zealand casino, the amount to be transferred, and the location the amount was to be transferred to (being the SCA casino). The International Business Patron Accounts team or a SCEG New Zealand casino Cage team would then provide the details of the transaction to the SCA Cage team by email. The transfer of funds from the customer's FMA at a SCEG casino to a customer's FMA at the SCA casino was done by way of intercompany journal entry. The customer's funds at the SCEG casino were not transferred by way of cross-border banking transaction from New Zealand to Australia. The funds were instead offset between SCEG and SCA.*
- 189 *Once the customer presented on site at the SCA Cage and the standard KYC checks were completed, SCA credited the funds to the customer's FMA at SCA (in the circumstances described in paragraph 160). Once the funds were credited to the customer's FMA they could access and withdraw the funds as described in paragraphs 161 to 162.*
- 190 *Transfers to and from FMAs, via the SkyCity New Zealand channel, involved the facilitation of the transfer of funds in and out of the SCA casino environment, by SCA, at the request of its customers, which involved the provision of designated services under item 32, table 1, section 6 of the AML/CTF Act and item 13, table 3, section 6 of the AML/CTF Act.*

ML/TF risk of the SkyCity New Zealand channel

- 191 *The SkyCity New Zealand channel involved higher ML/TF risks because customers could request that funds that had been deposited into their SCEG FMA (including deposits by third parties by cash or telegraphic transfer) be transferred to their FMA at the SCA casino, which resulted in an offsetting process (by-passing the traditional banking system).*
- 192 *SCA did not conduct assessments of the ML/TF risk associated with the provision of item 32, table 1, section 6 of the AML/CTF Act designated services, by facilitating the transfer of funds to and from FMAs through the SkyCity New Zealand channel.*
- 193 *By not undertaking a ML/TF risk assessment for the provision of designated services by SCA through the SkyCity New Zealand channel, SCA did not ensure during the Relevant Period that its Standard Part A Programs included appropriate risk-based systems and controls that were capable of identifying, mitigating and managing all ML/TF risk associated with the provision of designated services by SCA through the SkyCity New Zealand channel, and as a result, this contributed to SCA's contravention of paragraph 8.1.4 of the AML/CTF Rules. See paragraph 233 for the deficiencies with the systems and controls relating to the SkyCity New Zealand channel.*

[680] As to the 65 Customers who conducted transaction through the SCEG Customer account channel, the Statement summarised the activities:

G.5 Customers who transacted through the SCEG Customer account channel

- 437 *Each of the 65 customers set out in Appendix B were customers of SCA at various times during the Relevant Period (SCEG Channel Customers).*
- 438 *At various times during the Relevant Period, SCA provided designated services to each of the SCEG Channel Customers within the meaning of table 1 and table 3, s 6 of the AML/CTF Act when transactions were made to the SCEG Channel Customers' FMAs through the SCEG Customer account channel.*
- 439 *Payments through this channel carried higher ML/TF risks, for reasons which include:*
- a. SCA did not take adequate steps to understand the source of funds relevant to the transaction;*
 - b. in some instances, third party transactions (including both telegraphic and cash deposits) were made to a SCEG Channel Customer's FMA through the SCEG Customer account channel where SCA did not record the identity of the third party;*
 - c. payments through this channel were not face-to-face and money could be made available to a SCA customer's FMA without formal cross-border transfer of funds;*
 - d. transfers through this channel could be made in foreign currencies; and*
 - e. transactions involving the SCEG Channel Customers sometimes involved the transfer of large amounts of money for or on behalf of some of the Higher Risk Customers.*
- 440 *At various times during the Relevant Period, SCA facilitated transactions on behalf of the SCEG Channel Customers through the SCEG Customer account channel, in both Australian dollars and foreign currencies. Between 12 December 2016 and 15 July 2022, the SCEG Channel Customers accessed approximately AUD\$29.16 million⁷⁹ through the SCEG customer account channels, including transactions through the Horizon Tourism account channel totalling \$1,300,000. The Horizon Tourism account channel posed particularly high ML/TF risks, including because the accounts were not transparent as their connection to SCA was not apparent on their face.*
- 441 *SCA's TMP did not adequately monitor the transactions through the SCEG Customer account channel to an FMA. For the reasons above, SCA did not adequately monitor the SCEG Channel Customers with a view to identifying, mitigating and managing the ML/TF risk posed by these customers.*

[681] The licensee's failings with respect to the AML/CTF obligations as disclosed by the AUSTRAC investigation, and admitted by the licensee in the Statement, were serious and occurred over a significant period. Those proven failings echo the results of this Investigation. They reflect poorly upon all levels of management both in South Australia and in New Zealand, and encompass both systems and implementation.

[682] Further, notwithstanding acceptance by AUSTRAC that the contraventions ‘were not a consequence of any deliberate intention to contravene the AML/CTF Act’ and that, at all times, ‘SCA’s Boards and senior management sought to ensure that SCA would comply with its obligations under the AML/CTF Act’, it should not be overlooked that meaningful attempts to undertake remediation only began after AUSTRAC raised concerns in its correspondence of 4 June 2021. Bearing in mind the extent of the inadequacies that existed in the Part A and Part B programs, and in their implementation, it is impossible to avoid the conclusion that directors and senior management lacked an appropriate understanding of the AML/CTF obligations, or were lax in their attention to those obligations, or both. In addition, at least in the VIP area, profit was prioritised over ensuring compliance.

42.0 Licensee’s Response 31 March 2023

[683] The licensee’s response to the emergence of inadequacies and failings is a relevant factor in assessing the current suitability of the licensee to hold the licence. Their response to January 2023 is discussed earlier in this Report. The subsequent response canvassed in the Statement is discussed shortly, but first it is instructive to consider the letter of 31 March 2023 from the licensee’s solicitor to the Commissioner responding to the Commissioner’s summary of preliminary findings from this Investigation. The attitude displayed in the response of 31 March 2023 stands in contrast to the licensee’s subsequent acknowledgement of inadequacies and failings found in the Statement.

[684] In examining the response of 31 March 2023, it is appropriate to recognise that the licensee was responding to a letter from the Commissioner of 6 February 2023 in which the Commissioner, having regard to the AUSTRAC allegations and tentative findings of this Investigation, was giving notice that he was considering issuing a Direction to the licensee pursuant to S 10 of the Gambling Administration Act. The Commissioner was considering a Direction requiring that the licensee not only prepare a remediation action plan, but also appoint an independent oversight entity (independent monitor) to review the licensee’s Remediation Plan and oversee its

implementation. It was in this context that the licensee sought to challenge a number of the tentative findings from this Investigation.

[685] In preliminary comments, the letter of 31 March 2023 acknowledged that ‘its engagement with the Investigation to date has identified a number of areas where its systems and processes require improvement’. This statement reflected the attitude of directors which is discussed earlier in this Report. Neither reflected the reality of the inadequacies which had already been discovered.

[686] Early in the letter it was stated that the licensee’s ‘culture’ is ‘risk and compliance focussed, ...’. This statement did not reflect the reality prior to 2023.

[687] In broad observations dealing with preliminary findings that there was a historical lack of understanding of the AML/CTF obligations between 2016 and 2021, the letter of 31 March 2023 noted that prior to the AUSTRAC letter in June 2021, the licensee had not been alerted to any concerns that the design and implementation of the AML/CTF program were inadequate. Reference was made to the external reviews by Ernst & Young and to the previous assessments by AUSTRAC. It was also noted that between 2016 and June 2021 ‘AUSTRAC’ did not release any targeted guidance to the casino’s sector which gave SkyCity Adelaide any cause for concern that it may have been non-compliant.

[688] In addition, the letter stated that the licensee notes ‘that the historical levels of knowledge across the business reflected the level of knowledge and subject matter expertise that existed across the casino industry in Australia at the relevant time’.

[689] Considered in their totality, these statements carry the tenor of shifting the blame for the licensee’s lack of compliance with its obligations under the AML/CTF regime. It is far removed from a frank and open acknowledgement that significant inadequacies existed and reflected failures by directors and senior management.

[690] Further, the understatement as to reality continued with respect to tentative findings suggesting the existence of historical resistance to the implementation of AML/CTF measures, coupled with a historical culture that failed to prioritise AML/CTF compliance. In response, the letter stated that the licensee ‘understands that there may have been isolated incidents in the past, and that, due to the historical levels of understanding of SkyCity Adelaide’s AML/CTF obligations in place at the time (as described above), AML/CTF compliance may not have been treated with the same degree of focus or understanding as it is today’.

[691] Broadly speaking, the letter conveyed the licensee’s resistance to the suggestion that the customer examples with respect to AML/CTF issues could reasonably be relied upon as providing a proper foundation for ‘broader findings of systemic deficiencies’. The contrary has now been proven by the agreed facts and admissions contained in the Statement.

[692] The letter of 31 March 2023 dealt with the preliminary finding that during the period 2016-2021, inadequate resources were allocated to AML/CTF compliance. An attempt was made to justify the level of resources by reference to access to the SCEG Financial Crime Team based in New Zealand and enhancement of resources as the licensee’s ‘understanding, awareness and knowledge’ of AML/CTF compliance evolved. Such attempt was misplaced. So too was the assertion that compliance with AML/CTF requirements ‘has always been a priority’ and ‘the level of priority has simply increased/intensified in the face of a changing regulatory landscape’. This Investigation, and the facts and admissions contained in the Statement, conclusively prove otherwise. It could also reasonably be said that the dramatic increase in staff immediately following the AUSTRAC letter of 4 June 2021 provides a sure pointer to a significant inadequacy in resources immediately prior to the correspondence from AUSTRAC. Similarly, the significant restructure that followed the AUSTRAC correspondence of June 2021, was, in itself, demonstrative of existing inadequacy.

[693] As to the preliminary finding that during 2016-2021, across the casino including senior management, there was a significant lack of understanding of the obligations of the casino with respect to AML/CTF compliance, the letter of 31 March 2023 stated that the licensee did not

accept such a finding ‘and considers that the level of understanding across the business at the time must be considered in context’. Yet again, reliance was placed upon ‘context’. The letter continued that ‘to the extent that there was a historical lack of understanding of aspects of AML/CTF obligations across the casino (particularly between 2016 and 2021), that level of understanding can largely be attributed to the fact that the relevant AML/CTF subject matter expertise (such as that which exists now) did not exist at the same level at the relevant point in time’. This ‘context’ does not alter the fact that during the period 2016-2021, throughout the casino there was ‘a significant lack of understanding of the obligations of the casino with respect to AML/CTF compliance’.

[694] Similarly, through the letter of 31 March 2023, the licensee conveyed that it did not accept a preliminary finding that AML/CTF training of staff at all levels was inadequate during the period 2016-2021. Identifying the training modules and sessions, the assertion was made that the content of the training met the licensee’s obligations found in Rule 8.2.3 of the AML Rules.

[695] The evidence contradicts the licensee’s assertions. Further, if adequate training had been provided, the extensive lack of understanding would not have existed. If appropriate training had occurred, it would have been readily apparent that the programs and resources in the AML/CTF area were significantly deficient. Again, the dramatic increase in training and resources tends to prove the point.

[696] As to historical resistance to the implementation of AML/CTF measures, the following contentions are found in the letter of 31 March 2023:

- ‘AML/CTF requirements have never been considered a nuisance or obstacle by the directors of SkyCity Adelaide at the relevant times or by the SkyCity Adelaide senior leadership team. To the extent this sentiment may have been held by specific SkyCity Adelaide employees in the past, it was not a sentiment that was encouraged by leaders within the business.’

- ‘Any incidents where push back may have occurred are isolated and are not reflective of wider attitudes towards AML/CTF matters within the business.’

[697] The evidence discussed earlier in this Report proves otherwise. The conduct admitted in the Statement speaks volumes as to the lack of understanding of, and attitude to, AML/CTF obligations which continued into 2022.

[698] In this context, the letter of 31 March 2023 made the following statement:

“As the level of knowledge of AML/CTF obligations has increased, as well as knowledge of the function/role of the Financial Crime Team, there has been a positive cultural shift within the business (including within the VIP department). As such, SkyCity Adelaide is unaware of any further incidences of material resistance by SkyCity Adelaide employees or senior management towards the implementation of AML/CTF measures by the Financial Crime Team. Rather, SkyCity Adelaide understands that the “corridor chat” regarding the Financial Crime Team is substantially positive, and it is common knowledge that SkyCity employees who may have previously challenged the implementation of AML/CTF measures are now “champions of change” and supported the functions of the Financial Crime Team.”

[699] Three features of the statement stand out:

- There has been a ‘positive cultural shift’, including within the VIP department.
- The licensee is unaware of ‘any further instances of material resistance’.
- Employees ‘who may have previously challenged the implementation of AML/CTF measures are now ‘champions of change’.

[700] In other words, resistance to AML/CTF measures previously existed and there has been a change in culture.

43.0 AML/CTF Remediation

[701] As discussed earlier in this Report, following the AUSTRAC concerns and the Initialism Report, the licensee established a remediation program and an implementation roadmap was approved at the meeting of the licensee's Board on 17 November 2022. In the letter of 31 March 2023, it was said that the roadmap 'is intended to operationalise certain changes in part A of the November 2022 AML/CTF program, and is focused on formalising and issuing AML/CTF standards and standard operating procedures (inclusive of the required amendments to part B)'.

[702] The letter also noted that on 13 and 14 December 2022, 9 Standards were approved by the licensee's AML/CTF Committee. Implementation of the Standards was set to be a 'current priority and milestone' of the revised enhancement program, and as at March 2023 the licensee expected that all Standards would be implemented by the end of May 2023.

[703] As to the Financial Crime Team, the letter of 31 March 2023 described the restructure and composition of the Team in the following terms:

Restructure of Financial Crime Team (June 2021 onwards)

28. *In response to AUSTRAC's concerns, the SkyCity Adelaide Financial Crime team was significantly restructured. This restructure involved:*

- (a) *disestablishing the SkyCity Adelaide General Manager of Legal, Compliance and Regulatory Affairs role and creating two separate roles, being:*
 - (i) *the SkyCity Adelaide General Manager of Legal and Compliance; and*
 - (ii) *the SkyCity Adelaide General Manager of Financial Crime;*
- (b) *the appointment of Nick Stokes to the position of SkyCity Adelaide's General Manager of Financial Crime (and AML/CTF Compliance Officer) in October 2021,³⁷ whose sole focus is on AML/CTF related matters and the uplift of the internal capabilities of SkyCity Adelaide's Financial Crime team; and*
- (c) *the appointment of additional full-time resources (in a very short period of time) to enhance SkyCity Adelaide's ability to conduct more in-depth forms of analysis and intelligence gathering, as well as support day-to-day AML/CTF operations. 29. As at the date of this response, the SkyCity Adelaide Financial Crime team*

is comprised of 16 full-time employees, as set out in the table below:

No	Position and Overview of Role	Name
1	General Manager Financial Crime and AML/CTF Compliance Officer	Nick Stokes
2	Head of Financial Crime Operations	[REDACTED]
3	Manager Financial Crime Intelligence and Liaison	[REDACTED]
4	Manager Financial Crime Policy, Governance and Reporting	[REDACTED]
5	Senior Analyst Financial Crime Policy, Governance and Reporting	[REDACTED]

...

No	Position and Overview of Role	Name
6	Analyst Financial Crime Investigations and Due Diligence	[REDACTED]
12	Senior Analyst Financial Crime Due Diligence	[REDACTED]
13	Senior Data Analyst – Financial Crime	[REDACTED]
14	Analyst Financial Crime Policy, Governance and Reporting (fixed term)	[REDACTED]
15	Financial Crime Senior Transaction Monitoring Specialist	[REDACTED]
16	Analyst – Due Diligence (Secondee)	[REDACTED]

30. In addition to the 16 roles referred to above, SkyCity Adelaide is also in the process of recruiting two internal assurance roles (being a Manager of Financial Crime Testing and Assurance and a Financial Crime Assurance Analyst).
31. Notwithstanding the substantial increase in resources over the past two years, SkyCity Adelaide will continue to monitor the resourcing requirements for its Financial Crime team going forward and will recruit additional roles to supplement the SkyCity Adelaide Financial Crime team as required. As at the date of this response, SkyCity Adelaide has approved

additional resources for the Financial Crime team (including a Due Diligence Manager) and is considering additional resourcing requests (including for a dedicated Financial Crime training resource).

32. *SkyCity Adelaide is cognisant that the increased levels of knowledge/awareness of the AML/CTF function will result in more matters being escalated to SkyCity Adelaide's Financial Crime team, such that further resources may be required to ensure escalated matters are actioned in a timely and appropriate manner. Having said that, the level of resourcing required will also be determined (to an extent) by any enhancements in the systems and technologies used by the Financial Crime team that might reduce the need to rely on human resources. For example, SkyCity Adelaide anticipates that, following the roll-out of the new transaction monitoring processes pursuant to the AML EP, further resources may be required to manage the volume of new alerts.*
33. *Ultimately, the default position being taken by SkyCity Adelaide is to provide the Financial Crime team with whatever resources it requests/considers necessary.*

[704] Further information concerning the topic of remediation is found in the Statement. Following Board approval on 17 November 2022 of an updated Standard Part A program, Part B was approved by the Board of the licensee on 8 June 2023. As to the adequacy of the November 2022 Standard Part A program, the Statement noted that prior to the Part A Standards being approved on 13 and 14 December 2022, the controls under Part A were inadequate. However, once the Standards were improved and implemented, the Statement acknowledged that the systems and controls under Part A of the November 2022 Standard program 'were aligned to the 2022 Risk Assessments'.

[705] Section H of the Statement identifies 'Facts Relevant To Relief'. The following facts are stated with respect to various areas of remediation:

- 446 *SCA has implemented changes to the operation of its Standard Part A Program as part of its AML Enhancement Program (AML EP). Amendments to SCA's Standard Part A Programs are described further in Section H.8. While the AML EP is ongoing, the steps SCA has taken to date have reduced (and in some cases eliminated, for example with respect to junkets) its exposure to ML/TF risk.*

[706] Section H.8 of the Statement summarises the remediation measures:

H.8 Remediation, corrective measures and enhancements

491 From July 2021, SCA took steps to complete a review of the adequacy and effectiveness of its AML/CTF function and AML/CTF Program and recommend any changes. The completion of this review resulted in the development of SCA's AML EP. SCA has regularly briefed AUSTRAC on its program of reform and enhancement, including through periodic progress briefings and the provision of key documents such as:

- a. SCA's risk assessments for its November 2022 Program;
- b. the outcomes and SCA's response to internal reviews considering its AML/CTF controls; and
- c. the approved standards and SOPs underpinning the November 2022 Program.

492 The briefings that have been provided to AUSTRAC are summarised below and divided into the following categories:

- a. internal and external reviews in response to the AUSTRAC enforcement investigation;
- b. AML EP;
- c. enhancements to risk-based systems and controls; and
- d. enhancements to governance, oversight, resourcing and training.

493 As is common with remediation of this scale, the process is ongoing. For this reason, as at the date of this SAFA, AUSTRAC has not yet been in a position to conduct a comprehensive assessment of SCA's remediation or its effectiveness. However, the steps taken to date have shown SCA's commitment to uplifting its AML/CTF Program.

H.8.1 Internal and external reviews

494 In March 2020, SCA engaged an external consulting firm to conduct an independent review of SCA's AML/CTF Program in purported compliance with paragraph 8.6 of the AML/CTF Rules. Due to delays associated with COVID-19, the report was finalised on 6 August 2021 and covered the period from August 2018 (the date of completion of the previous independent review performed in purported compliance with paragraph 8.6 of the AML/CTF Rules) to 28 February 2021 (**August 2021 Report**).

495 The August 2021 Report identified several areas warranting further consideration by SCA, namely, AML/CTF training, ECDD, risk assessment, IFTI reporting, employee due diligence and OCDD. The AML EP included workstreams to respond to the matters raised in the August 2021 Report.

496 In response to the commencement of AUSTRAC's enforcement investigation and the concerns raised by AUSTRAC with respect to SCA's compliance with its obligations arising under the AML/CTF Act and the AML/CTF Rules, SCA commenced an internal review of its AML/CTF function. This review was conducted in parallel with formally retaining an external consulting firm on 8 July 2021 to:

- a. review and advise SCA on the adequacy and effectiveness of SCA's AML/CTF function and AML/CTF Program, having regard to the requirements of the AML/CTF Act and AML/CTF Rules; and

- b. *recommend to SCA any changes to SCA's AML/CTF function and AML/CTF Program.*

497 On 9 September 2021, the external consulting firm finalised its AML/CTF Compliance Review Report (September 2021 Report). The September 2021 Report identified a range of matters for SCA to consider and address to enhance its AML/CTF function and to address concerns raised by AUSTRAC through the enforcement investigation.

H.8.2 AML Enhancement Programme

498 Following receipt of the September 2021 Report and, having regard to the outcomes of the internal review, SCA's AML/CTF team, working with the external consulting firm that created the September 2021 Report, took steps to complete a comprehensive review of its AML/CTF function. This program, known as the AML EP is a management led reform program with SCA Board oversight, which was a roadmap for the proposed enhancements/improvements to be made to SCA's AML/CTF Programs. The AML EP was finalised and submitted to the SCA Board for approval in November 2021.

499 The AML EP set out six initiatives relating to AML governance, AML risk assessments, AML diagnostics and assurance, AML framework hierarchy documentation), AML systems and people and culture and included a detailed timeline for delivery of the key milestones and deliverables for each of the six initiatives to enhance SCA's AML/CTF function. The AML EP was designed to lift the maturity of the SCA AML/CTF Program and broader AML/CTF function across certain key areas.

500 The issues identified in the August 2021 Report were considered by SCA in conjunction with the issues identified in the September 2021 Report. The issues raised in the August 2021 Report also informed the work undertaken as part of the AML EP.

501 SCA has made investments in developing its AML EP since November 2021. SCA's investment has assisted it responding to the matters raised in the August 2021 Report, the September 2021 Report and the 2022 Report (as described at paragraph 509 below).

502 Through the AML EP, SCA has taken steps to uplift its AML/CTF Program, processes, systems and people to address identified compliance concerns. The AML EP led to the SCA Board and senior management approving and implementing the November 2022 Program which includes updated Standard Part A and Standard Part B Programs that were based on feedback provided by the external consulting firm who issued the September 2021 Report and sought to respond to the deficiencies identified in the Proceeding.

H.8.3 Enhancements to risk-based systems and controls

Risk assessments

503 SCA engaged the external consulting firm that issued the September 2021 Report to prepare a new ML/TF risk assessment. As set out at paragraphs 121 to 122, in May 2022, SCA introduced the 2022 ML/TF Risk Assessment Methodology and the 2022 Risk Assessments which provide a framework to identify and assess the ML/TF risk reasonably faced by SCA.

- 504 Following the completion of the 2022 Risk Assessments, SCA redesigned its AML/CTF Program to align with the ML/TF risk identified. This included the design of a range of new SOPs to support revised risk-based systems and controls. The SOPs provided practical guidance on the processes and procedures to implement the new risk-based systems and controls. A revised Standard Part A Program was adopted in November 2022 and all supporting Standards were approved and implemented in December 2022. A revised Standard Part B Program was approved and adopted in June 2023. Additional supporting Standards for the Standard Part B Program were adopted in August 2023.

TMP

- 505 Since December 2022, SCA has taken steps to uplift its risk-based systems and controls with respect to its TMP. For example, in or around early 2023, SCA undertook an end-to-end review of its TMP and associated systems. As a result of that review, SCA implemented restrictions on cash amounts that a customer can transact with in a single day, being not more than \$5,000, and implemented new Jade system alerts. SCA also introduced three new SOPs from May 2023 to provide practical guidance for its TMP.

ECDD

- 506 Since December 2022, SCA has taken steps to uplift its risk-based systems and controls with respect to its ECDD Program. This includes two SOPs introduced from May 2023 to provide guidance to SCA's Financial Crime Analysts regarding the ECDD process.

Reporting obligations

- 507 In November 2020, SCA implemented an automatic extraction process for IFTIs, with the intention of limiting the risk of human error and ensuring IFTIs were reported within the required 10 day period.
- 508 Since October 2021, SCA has taken steps to uplift its systems and controls with respect to the reporting of SMRs, including undertaking an end-to-end review of its SMR reporting, updating its SMR reporting forms and implementing SMR guidelines for SCA's Financial Crime team to use to assist with identifying and reporting suspicious matters.
- 509 On 16 March 2022, SCA engaged an external consulting firm to undertake an end-to-end review of its processes for IFTI and TTR reporting to identify risks, inefficiencies or issues. This was in response to two of the recommendations set out in the September 2021 Report. The external consulting firm provided a final draft report to SCA on 5 September 2022 (**2022 Report**).
- 510 The 2022 Report identified four key 'control gaps' with respect to IFTIs as well as TTRs, but overall, found that "the sample-based review has not identified any instances where SCA has missed an IFTI or TTR." The 2022 Report identified 16 observations, grouped into six observation themes, predominantly relating to deficiencies in the systems and processes supporting TTR and IFTI reporting.
- 511 The six observation themes were mapped to ten specific recommendations to enhance SCA's IFTI and TTR processes. The recommendations in the 2022 Report informed the remediation work undertaken as part of the AML EP workstreams.

- 512 On 12 May 2023, SCA implemented a 'Financial Crime – Periodic Sample Testing for IFTIs and TTRs for compliance with standards held by AUSTRAC SOP to address the sample testing requirements as specified by section 11 of the November 2022 Program.

H.8.4 Enhancements to governance, oversight, resourcing and training

Governance and Oversight

- 513 Through the AML EP, SCA has taken steps to enhance the oversight of its AML/CTF obligations by the SCA Board and senior management. For example, SCA has:
- a. formally established the AMLCO as the point of contact between frontline SCA staff who raise AML compliance issues, and the SCA Board and AML/CTF Committee;
 - b. established clearer processes for the escalation of issues relating to the Standard Part A Program or other relevant AML/CTF matters to the AML/CTF Committee, and, where appropriate, the SCA Board, to ensure that relevant and adequate information is being provided to allow and facilitate the assessment of ML/TF risk and development of mitigation strategies;
 - c. created a requirement that input is obtained from relevant stakeholders in preparing the reports that are provided to the SCA Board. SCA has identified that these key stakeholders will typically include the Financial Crime Management team, the AML Enhancement Programme Director and the SCA Board Company Secretary; and
 - d. taken steps to ensure that appropriate responsibilities have been assigned to the resources who are responsible for assisting SCA with discharging its AML/CTF obligations.

Resourcing

- 514 In June 2021, the 'AUSTRAC Enforcement Investigation Steering Committee' (AUSTRAC Steerco) was established, consisting of members of SCA's and SCEG's Senior Leadership Team. The external consulting firm that issued the September 2021 Report also spoke to the AUSTRAC Steerco in relation to the recommendations to be made in that report, identifying the initial areas for remediation efforts.
- 515 In September 2021, the AUSTRAC Enforcement Investigation Steering Committee was renamed the 'AML Enhancement Programme Steering Committee' (AML EP Committee) to reflect the redefined focus of the Committee on overseeing the implementation of the AML EP. Amongst other functions, the AML EP Committee focused on developing a proactive response to AUSTRAC's concerns in relation to SCA's AML/CTF compliance. In doing so, the AML EP Committee oversaw recruitment processes for the additional roles created in SCA's AML team, and liaised with external advisors to address AML compliance concerns and to develop remediation plans.
- 516 In October 2021, SCA filled the newly created role of 'General Manager AML & CTF–Adelaide' (**GM AML/CTF**). The GM AML/CTF was responsible for implementing the AML EP, amongst other things.

517 *SCA has also significantly increased its funding for its AML department (which is in addition to its investment for the AML EP). In particular, SCA has recently invested \$1.42 million in FY23 and a further \$2.66 million in costs for FY24 (comprising actual costs to 30 April 2024 and forecast costs for the remainder of FY24). This investment has seen SCA's resourcing for financial crime and legal and compliance increase from four fulltime employees at the inception of the AML EP to 24 fulltime employees as follows:*

- a. 14 full-time employees in the Financial Crime department;*
- b. four full-time employees in the Customer Compliance team, which is a dedicated resource for CDD;*
- c. two full-time employees in the Legal and Compliance team; and*
- e. four dedicated full-time employees for the AML EP, who are also responsible for the continued upfit of SCA'ss AML/CTF Program.*

Training

518 *In response to the September 2021 Report, SCA uplifted its AML/CTF Program by implementing the following mandatory training:*

- a. AML/CTF risk awareness training, with the level of training provided dependent on the nature of the employee's role and exposure to ML/TF risk;*
- b. all staff employed were required to undertake AML/CTF refresher training annually; and*
- c. AML/CTF training was to be completed within a certain time frame from induction.*

519 *In December 2021, SCA Directors, SCA's Senior Leadership Team and the SCEG Group's Senior Leadership Team participated in AML training sessions and by December 2021, AML risk assessment training had been delivered to relevant areas of the business in Adelaide. Since December 2021, AML training has been provided by way of e-training modules.*

[707] It might be thought from the evidence and correspondence to which I have referred, coupled with the Statement, that by early 2024 all the inadequacies and attitudes had been rectified. Evidence to this Investigation established otherwise.

[708] As mentioned, Ms Avril Baynes was appointed as interim Chief Operating Officer of the licensee in April 2024 and full time Managing Director in September 2024. She qualified as a legal practitioner in 2009 and gained experience in the area of industrial relations before taking up employment with the Darwin Casino. From November 2020 until November 2023 she was the

Site General Manager of the Darwin Casino and her duties included the position of AML/CTF Compliance Officer. In November 2023 Ms Baynes relocated to Adelaide and took up the position of General Manager Hospitality, a position which she held until her appointment as interim Chief Operating Officer in April 2024.

[709] Ms Baynes gave evidence to this Investigation in July 2024. She described the AML/CTF training that she received on arrival at the Adelaide Casino as ‘basic’. She regarded the training as sufficient to enable a licensee to say it was providing AML/CTF training, but in her view it was not sufficient for a casino. It was comprised of only two modules, levels 1 and 2, both undertaken online.

[710] Asked whether, at the outset of her employment, she was informed about the AUSTRAC letter of June 2021 and the concerns raised by AUSTRAC, or about the Initialism review and report, Ms Baynes replied in the negative. She said she was not privy to that information until she stepped into her current role. There were no communications internally about the concerns expressed by AUSTRAC.

[711] Significantly, Ms Baynes explained that the only communications she received were at general management level meetings where Mr Christian said the licensee already complied with AML/CTF requirements and expressed the view that the authorities did not know enough about the business of the licensee. There was no casino-wide education about what was happening.

[712] Ms Baynes said Mr Christian was focused on how much the enhancement processes would cost the casino. Cuts in the number of employees had already been made, and Mr Christian talked about making another 100 cuts in April 2024. The ‘narrative’ was that costs were being imposed on the casino by both regulatory reform and the Independent Monitor attempting to widen the scope.⁴¹ Ms Baynes explained that when she commenced her employment as the Chief Operating Officer she made assumptions concerning the progress that had occurred, assumptions which

⁴¹ The role and evidence of the Independent Monitor (Kroll) is discussed shortly.

proved to be ill founded. After her appointment in April 2024 she took steps to inform herself of the history and current position. She found the attitude/narrative presented by Mr Christian was an attitude that existed amongst senior management. This included the attitude that the goal posts had changed and the casino was a victim. It also included discussion about benchmarking against what was happening in pubs and clubs, a benchmark Ms Baynes considered was entirely inappropriate.

[713] Ms Baynes became uneasy when asked about how much work needed to be done because she could not obtain adequate answers from senior management. She discovered that little implementation had occurred. In her words, at that time the Enhancement Program was, primarily, an ‘uplift’ in policy and implementation was lacking. In addition, there was a failure to operate existing systems appropriately.

[714] Ms Baynes reported her findings to the Board of the licensee and to the SCEG Board. They were both disturbed and surprised by her report. It was apparent the Boards had not been receiving a proper flow of information. The Boards previously thought more progress had been made than was the reality.

[715] Ms Baynes emphasised that immediately following her appointment as Chief Operating Officer, she received full cooperation and encouragement from both Boards. Such cooperation and encouragement has continued unabated.

44.0 Independent Monitor – Kroll

[716] Notwithstanding the existence of remediation programs to which I have referred, on 26 May 2023 the Commissioner issued a Direction to the licensee requiring that the licensee prepare a Program of Work (POW) with respect to remediation in the areas of AML/CTF compliance and gambling harm minimisation. The Direction also required the licensee to appoint a qualified Independent Monitor to review the Program of Work and monitor its implementation. The role of the Independent Monitor also included monitoring the operations of the licensee with a view to

compliance with obligations in the areas of AML/CTF and gambling harm minimisation, as well reporting to the Commissioner with respect to these matters.

[717] The appointment of Kroll Australia Pty Ltd (Kroll) as the Independent Monitor was approved by the Commissioner on 25 August 2023. Agreement was reached as to the scope of work to be undertaken by Kroll which was subsequently confirmed by Kroll by letter of 16 January 2024 to the Commissioner in the following terms:

The Agreed Scope of Work for the Services to be supplied by Kroll is made up of two phases.

Independent Monitorship Scope of Work

Phase 1

- *Under Phase 1, Kroll is required to assess the adequacy of the Program of Work to determine whether the Program of Work is comprehensive in scope, contains appropriate deliverables and milestones for the delivery of work and is likely to enable SkyCity Adelaide to comply with its regulatory obligations on an ongoing basis.*
- *As part of Phase 1, Kroll may provide updates to the Commissioner on the adequacy of the Program of Work and SkyCity Adelaide's progress is addressing any areas where the Program of Work may be inadequate. Once Kroll is satisfied with the Program of Work, Kroll is required to submit the Program of Work to the Commissioner together with a report setting out factors relating to Phase 2 of the Monitorship.*

Phase 2

- *Under Phase 2, Kroll is required to monitor the implementation of the Program of Work. The scope of Phase 2 will be discussed with SkyCity Adelaide and agreed with the Commissioner at the end of Phase 1. This includes agreeing the closure criteria for each deliverable under the Program of Work.*

[718] The letter of 16 January 2024 was, in substance, an initial report by Kroll concerning Phase 1. It is annexure [36] to this Report.

[719] Kroll recommended that the licensee undertake 15 actions in respect of Phase 1 of the Program of Work:



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[720] The assessments underlying each of the recommendations are set out in paragraphs 15-52 of Kroll's letter of 16 January 2024. They are self-explanatory and demonstrate that, notwithstanding earlier remediation programs, significant inadequacies in the programs existed as at January 2024. The inadequacies relate both to AML/CTF and Harm Minimisation Programs.

[721] Further information received from Kroll in a meeting on 12 July 2024 supplemented the Kroll letter. Initially, within management there was a resistance to the involvement of Kroll. Progress was slow. There existed an overall view that the current plan created by the licensee was appropriate and adequate. This evidence from Kroll supported the evidence discussed earlier from Ms Baynes.

[722] In particular, Kroll advised that there was a resistance to an historical examination as recommended in Action 7, and to involvement of Kroll with respect to culture. Of concern to Kroll at the outset was the lack of implementation of the current program. It appeared to Kroll that prior to Kroll's involvement, although there had been a policy uplift, evidence was lacking as to implementation across the business.

[723] There was also resistance to providing Kroll with copies of Board and Management reports, and to Kroll interviewing Directors/Senior Management in the context of assessing corporate

governance. Initially, in September and October 2023, the licensee expressed the view that interviews with members of the Board and Group Executives were both ‘unnecessary’ and ‘outside’ the scope of the work it had been agreed Kroll would undertake. That stance was subsequently retracted and Kroll confirmed in July 2024 that meetings had been held with the Executive and a presentation made to the Board. Ms Baynes confirmed that the licensee would cooperate fully with any requests for Kroll to interview the Executive or the Directors.

[724] In the opinion of Kroll, between the delivery of the report in January 2024 and April 2024, the licensee’s management struggled to deliver a plan which met the requirements identified by Kroll. It was not clear to Kroll whether the difficulties arose from a lack of capability, or a lack of capacity, or both.

[725] From Kroll’s perspective, a dramatic change occurred in early April 2024 with the appointment of Ms Baynes as interim Chief Operating Officer. Kroll met with Ms Baynes soon after her appointment and the change of attitude was immediately obvious. In addition, there was a positive change at SCEG level with the appointment of an interim Chief Executive Officer. Also, after April a SCEG Group Executive Team became directly involved. Significant progress was made between April and July.

[726] The information provided by Kroll to this Investigation was confirmed by the evidence of Ms Baynes given on 15 July 2024. She became aware of resistance within Senior Management to the involvement of Kroll, and there was a degree of push back from personnel within Gaming against the action recommendations in Kroll’s January report. In addition, Mr Christian maintained it was not necessary to conduct a comprehensive look back over transactions across the previous seven years. Ms Baynes said that with the full support of the SCEG and licensee Boards, the licensee will fully cooperate with Kroll and undertake the actions recommended in the January 2024 report. Ms Baynes views Kroll more as a business partner, rather than an intervener.

[727] With perhaps one reservation which is unnecessary to explore, from Ms Baynes’ perspective the new cooperative approach has been embraced by all levels of management. Changes in personnel

were required to achieve this position. Ms Baynes has gained the impression the new attitude has filtered down to employees below management level and that the new level of guidance provided to all employees is appreciated.

[728] Ms Baynes regards the issue of culture as one of the greatest challenges. The observations in the Bergin Report concerning culture resonated with Ms Baynes.

[729] In the view of Ms Baynes, there has been a misconceived belief that the existing culture within the casino is very good because reviews have been positive indicating that employees are happy in their employment. She pointed out that being happy does not equate with a good culture; one reason employees are happy could be the absence of constraints.

[730] Ms Baynes believes that a critical step is modelling the behaviour from the top down, a state of affairs that was not in good shape in previous years because poor behaviour was being modelled. Genuine interaction is required between all managers and team members. More issues are being directed to Ms Baynes, rather than lower-level management. Further training is required.

[731] Ms Baynes explained that she and senior management were working with Kroll to arrange an appropriate audit of cultural aspects within the casino. Such an audit will be conducted by external consultants independent of the casino.

[732] Speaking of the situation early in 2024, Ms Baynes agreed that although programs had been uplifted, implementation was lacking. To that extent, the uplifting of the programs amounted to 'window dressing'. She cited examples of poor implementation in due diligence practice. It is unnecessary to canvas the details, but one example reflecting a poor attitude to compliance in November 2023 should be mentioned.

[733] The 56 customers identified by AUSTRAC as being of concern in connection with money laundering were barred by the licensee (as opposed to suspension of customers who came under scrutiny merely because they used the SCEG Channel). In November 2023, however, one of those

barred customers was allowed to recommence gambling with the licensee. That decision was made by Mr Christian and, given the background relating to the particular customer, the decision was plainly inappropriate. The Board was of the view that the decision should not have been made without Board approval and sought a report. It took 8 weeks for a report to be provided. Ms Baynes became aware of the issue on the first day of her new role. Immediate banning of that customer then occurred.

[734] From Ms Baynes' perspective, the significant risk customer process in place at the time should have resulted in the particular customer remaining barred. The AML risk involved was well outside the licensee's risk appetite. In Ms Baynes' view, those customers stand in contrast to others stood down by reason of their involvement in the SCEG Account channel.

[735] In August 2024 this Inquiry served upon the licensee a Notice for production of documents relating to the licensee's dealings with the 124 customers identified in AUSTRAC's Statement of Claim (AUSTRAC Customers) and 20 Customers identified in the summary of preliminary findings from this Inquiry (Martin Customers). Numerous documents were produced and a summary provided. The processes involved, and the end results, were summarised by the licensee in a letter of 18 September 2024:

AUSTRAC Customers

8. *The Statement of Claim filed by AUSTRAC alleged, amongst other things, that SkyCity Adelaide failed to carry out appropriate due diligence on the AUSTRAC Customers, with a view to identifying, mitigating and managing money-laundering and terrorism-financing (ML/TF) risks, contrary to section 36 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML/CTF Act).*
9. *The AUSTRAC Customers were split into the following two categories:*
 - 9.1 *59 customers who posed high ML/TF risks and who SkyCity Adelaide continued to provide designated services to at various stages throughout the relevant period (**High-Risk Customers**); and*
 - 9.2 *65 customers who remitted money through the SkyCity Entertainment Group Limited (SCEG) customer account channel (**Channel Customers**).*
10. *Given the seriousness and nature of the allegations made in relation to the AUSTRAC Customers, SkyCity Adelaide took immediate steps to*

review the AUSTRAC Customers and take the necessary actions.

High-Risk Customers

11. *With respect to the 59 High-Risk Customers, it was alleged that SkyCity Adelaide had provided designated services throughout various stages of the relevant period in circumstances where high ML/TF risks were present. This included, amongst other things, customers who were involved in junkets, were foreign PEPs, were subject to numerous suspicious matter reports and/or were subject to law enforcement agency enquiries.*
12. *Despite those higher ML/TF risks, the Statement of Claim alleged that the 59 High-Risk Customers were either:*
 - 12.1 *not appropriately escalated to senior management in response to emerging ML/TF risks to determine whether an ongoing business relationship was within SkyCity Adelaide's risk appetite; or*
 - 12.2 *if senior management did consider the ongoing business relationship, inappropriately managed, as sufficient regard was not had to the ML/TF risks posed by the customers and by the provision of designated services to them.*
13. *Given the nature of the allegations made in relation to each of the 59 High-Risk Customers, SkyCity Adelaide took immediate steps to suspend the provision of any further designated services to those customers and exclude them from entering the SkyCity Adelaide casino pending completion of a comprehensive review of those customers.*
14. *Following the review, and as at the date of this letter:*
 - 14.1 *58 of the 59 High-Risk Customers have been excluded from entering the SkyCity Adelaide casino having had their relationship suspended or terminated.*
 - 14.2 *one High-Risk Customer was reinstated and retained [IW] following the completion of further enhanced customer due diligence (ECDD). SkyCity Adelaide was (and remains) satisfied that the customer's verified source of wealth was plausible and commensurate with his level of play.*

Channel Customers

15. *With respect to the Channel Customers, the Statement of Claim alleged that SkyCity Adelaide failed to apply appropriate risk-based transaction monitoring to transactions conducted through the SCEG customer account channel by the Channel Customers and to include appropriate risk-based systems and controls to understand the source of funds relating to those transactions.*
16. *On 13 December 2022, SkyCity Adelaide ceased the ability of customers to conduct international funds transfers to support their gaming at the SkyCity Adelaide casino, including the ability to transact via any SCEG customer accounts. These restrictions continue to remain in place as at the date of this letter.*

17. *From around mid-December 2022, SkyCity Adelaide commenced a comprehensive review of the Channel Customers which identified that five of the Channel Customers were already barred and approximately 60% of them had not visited the SkyCity Adelaide casino in the previous 72 months. A decision was made to suspend the relationship of the remaining 60 Channel Customers pending completion of further ECDD under the direction of the Financial Crime management team - following which, a decision was made to reinstate 27 of those customers (**Initially Reinstated Customers**).*
18. *In December 2023, a decision was made to terminate SkyCity Adelaide's relationship with one of the Initially Reinstated Customers [KT] due to the customer being outside of SkyCity Adelaide's ML/TF risk appetite at that time.*
19. *Following my appointment as Interim Chief Operating Officer Australia (**Interim COO**) in April 2024, and due to the nature of the allegations made in relation to the Channel Customers, I directed that the remaining 20 Initially Reinstated Customers be again temporarily suspended from entering the SkyCity Adelaide casino pending completion of further ECDD to confirm that there were no ML/TF concerns in relation to those customers.*
20. *Accordingly, as at the date of this letter, of the 60 Channel Customers who had not yet been barred at the time of receiving the AUSTRAC Statement of Claim:*
 - 20.1 *one of the Channel Customers [SL] has been confirmed as not being a SkyCity Adelaide customer due to a designated service never having been provided to them;*
 - 20.2 *two of the Initially Reinstated Customers [LL and WW] have been further reinstated and are free to visit the SkyCity Adelaide casino;*
 - 20.3 *17 of the Initially Reinstated Customers remain suspended from entering the SkyCity Adelaide casino pending completion of further ECDD to confirm that there are no ML/TF concerns in relation to those customers; and*
 - 20.4 *the remaining 40 Channel Customers have been barred due to their relationship having been terminated or suspended by SkyCity Adelaide.*

Martin Customers

21. *The Summary of Preliminary Findings (**Preliminary Findings**) highlighted ML/TF and gambling harm minimisation (**GHM**) related concerns in respect of 20 customers.*
22. *SkyCity Adelaide undertook a review of the Martin Customers following receipt of the Preliminary Findings. The review confirmed that 77 of the Martin Customers had already been excluded prior to SkyCity Adelaide receiving a copy of the Preliminary Findings (ie, before 6 February 2023).*
23. *Following the review, SkyCity Adelaide took steps to exclude the remaining three customers in March/April 2024.*

24. *As at the date of this letter, each of the Martin Customers remains excluded from entering the SkyCity Adelaide casino.*

[736] It is unnecessary to examine this issue in any further detail. The initial response of senior management was unsatisfactory and demonstrative of an inappropriate attitude to the issues exposed by AUSTRAC and this Investigation. However, the change in leadership following the appointment of Ms Baynes means the initial response by previous management, while of historical interest, is now of no relevance to suitability today.

[737] Returning to the involvement of Kroll, and the POW, on 14 August 2024 Kroll provided the POW, together with Kroll's Phase 1 Report to the Commissioner. The Acting Commissioner approved the POW on 10 September 2024, thereby bringing to an end Phase 1 of Kroll's monitorship. On 20 September 2024 the licensee agreed to a Scope of Work for Phase 2.

45.0 Ernst & Young - December 2024

[738] The problems exposed with Part A of the licensee's AML/CML Program, as identified by this Investigation, the AUSTRAC proceedings and the Kroll letter of 16 January 2024 find confirmation in a report of December 2024 by Ernst & Young (EY Report).⁴²

[739] The EY Report covered the period 30 August 2021 to 30 August 2024, and the Independent Review field work conducted by EY was completed on 14 November 2024. It is unnecessary to canvass the details of the report except to note the following:

(i) EY noted the following 'common themes' across their observations:

- *Failure to maintain risk assessments and the Part A program in line with evolving business practices and risks,*
- *Failure to operate controls consistently in line with SCA's Part A program and supporting Standard Operating Procedures, and*

⁴² Annexure [37]

- *A lack of monitoring and oversight to identify whether risks are being managed in line with the risk appetite.*

[740] The report continued noting that some of the observations identified by EY were already known to the management of the licensee and were included in the AUSTRAC Statement of Claim. However, the report recorded that EY had ‘identified further exceptions to obligations relating to Customer Risk and Due Diligence, transaction monitoring and investigation, threshold transaction reports, record keeping and employee due diligence and training’.

[741] EY summarised 12 significant areas of inadequacy:

Risk Assessment: *SCA failed to effectively assess residual risks and to retain supporting evidence of data used in the most recent risk assessment.*

Part A program: *The Risk Appetite Statement did not fully align to the Part A program, with regards to permitted customers, cash transaction limits, evasive behaviour, suspicious matter reports and third-party payments.*

Customer Risk and Due Diligence: *Three High-rated observations were raised relating to:*

- *Customer onboarding records not being consistently obtained.*
- *Politically Exposed Person screening alert backlogs.*
- *Anonymous customer accounts.*

Enhanced Customer Due Diligence Requirements (“ECDD”): *There was a lack of evidence that ECDD requirements had been followed, in particular management approval, source of wealth review and gaming history review.*

Transaction Monitoring and Investigations: *Four High-rated observations were raised relating to:*

- *Lack of end-to-end documentation of the Transaction Monitoring Program.*
- *Lack of transaction monitoring systems assurance.*
- *Backlogs in automated alert investigations and lack of evidence to support conclusions.*
- *Backlogs in Unusual Activity Observation Report investigations and lack of evidence to support why suspicious matter reports were not submitted.*

Reporting and record keeping of Suspicious matters, Threshold Transaction Reports and International Funds Transfer Instructions: *Two High-rated observations were raised relating to:*

- *Lack of evidence of review and approval for Suspicious Matter Reports.*
- *Manual process to reconcile threshold transaction reports and errors identified in the transaction type and date.*

46.0 Compliance Assessment – Kroll 22 October 2024

[742] Of significance to this Inquiry is the progress achieved, or otherwise, by the licensee in its remediation of AML/CTF processes and practices, and whether full compliance in this regard has

been reached (or is likely to occur in the foreseeable future). In this regard, reports from Kroll, together with case studies, are very helpful.

[743] Kroll undertook a Compliance Assessment, the approach and methodology of which is described in a report of 22 October 2024.⁴³

[REDACTED]

[REDACTED]

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⁴³ Annexure [38]

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[744] In the AML/CTF compliance assessment, Kroll identified 13 sections and the requirements under both the AML/CTF Act and Rules and under the licensee's AML/CTF Program and operation documents. In respect to each section, having identified those requirements, Kroll set out issues that Kroll perceived arose under each section. The following are extracts from the report of the issues under each section:

1. **Overall Performance:** The company achieved a significant increase in revenue, exceeding the target by 15% in Q4.

2. **Key Initiatives:**

- Launched a new product line, resulting in a 20% increase in sales.
- Implemented a cost-cutting strategy, reducing expenses by 10%.
- Enhanced customer service, leading to a 5% increase in customer satisfaction.

3. **Challenges:**

- Supply chain disruptions caused delays in product delivery.
- Increased competition in the market required strategic adjustments.
- Fluctuating market conditions impacted overall demand.

4. **Future Outlook:**

- Continued investment in research and development for innovation.
- Expansion into new markets to diversify revenue streams.
- Strengthening partnerships and supplier relationships.

[illegible]

[illegible]

Category	Percentage
Yes, the current government	10%
Yes, the previous government	10%
No, the current government	70%
No, the previous government	10%

Response	Percentage
U.S. should take action	85%
U.S. should not take action	15%

[illegible]

Country	U.S. should take action (%)	U.S. should not take action (%)
Cuba	85	15
North Korea	85	15
Russia	75	25
Iran	75	25
China	70	30
Venezuela	65	35
Syria	60	40
Iran	55	45
Cuba	50	50
North Korea	45	55
Russia	40	60
Iran	35	65
China	30	70
Venezuela	25	75
Syria	20	80
Iran	15	85
Cuba	10	90
North Korea	5	95
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accurate executive summary in the following terms:

[illegible]

-
Category	Percentage
U.S. should take action	85%
U.S. should not take action	15%
U.S. should take action but not at the expense of the economy	15%
U.S. should not take action but not at the expense of the economy	85%

THE

[REDACTED] : [REDACTED]
 [REDACTED] : [REDACTED]

Figure 1 | **Flowchart illustrating the study design.**

8. SkyCity Adelaide and SCEG accept that the weaknesses identified by Kroll continue

-

continue to augment our existing uplift programmes to ensure that Kroll's findings are addressed.

9. The PoW has been designed to address "all known issues" including those identified in the Preliminary Findings, AUSTRAC Proceedings, the Kroll Report, and various third-party reports (for example, the 2021 Initialism report and 2021 EY report), and has been built in a way such that any outstanding issues that have been identified are being, or will be, rectified in the PoW. This will naturally be an iterative process and any further self-identified or third-party identified issues, such as those contained in the Culture Report, have been or will be added so that any residual issues within SkyCity Adelaide's operations are addressed.

10. In addition to the above, we confirm that:

- 10.1. SkyCity Adelaide has mapped the workstreams of the PoW to ensure that each particular issue identified is captured in a specific workstream in the PoW;
- 10.2. on 14 August 2024, in its Phase 1 Final Report, Kroll advised the Commissioner it considered the PoW to be comprehensive in scope, to contain appropriate deliverables and milestones for the delivery of the work and, if delivered at an appropriate level, is likely to enable SkyCity Adelaide to comply with its regulatory obligations on an ongoing basis;
- 10.3. on 11 September 2024, the Commissioner approved the PoW as being the appropriate way in which to address any residual issues with SkyCity Adelaide's operations;
- 10.4. SkyCity Adelaide is already implementing the PoW, and SkyCity Adelaide and SCEG have committed to allocate appropriate capability, resources and budget to deliver the PoW successfully; and
- 10.5. Kroll is currently monitoring the implementation of the PoW and reporting to the Commissioner regarding that implementation and any ongoing compliance issues.

...

16. In addition, and having regard to the matters above, SkyCity Adelaide and SCEG respectfully submit that:

- 16.1. the work that is being undertaken to oversee and implement the PoW is sufficient to deal with any adverse issues raised by the Kroll Report; and
- 16.2. the Commissioner should maintain the current approved arrangements and allow the PoW to be fully implemented.

[748] The licensee's response to the compliance report was supplemented by letter of 9 May 2025 which dealt with a number of issues. As to compliance, the additional response was as follows:

24. On 22 October 2024, Kroll provided the Commissioner with its Compliance & High-Risk Customer Assessment Report. That report identified several overarching weaknesses with SkyCity Adelaide's current AML/CTF and GHM practices which, if not rectified, could potentially result in non-compliance with its AML/CTF and GHM obligations.
25. In our response to the Compliance & High-Risk Customer Assessment Report provided on 16 December 2024, we identified that steps were being undertaken to address the concerns raised in the report, and that those matters are being included in the B3 Program Reset.
26. Since then, and as part of the B3 Program Reset, SkyCity Adelaide has committed to implementing tactical measures to address the issues Kroll raised in the Compliance and High-Risk Customer Assessment Report with a view to minimising risk ahead of a full solution delivery. Appendix B of the B3 Program Reset Report provides a summary of SkyCity Adelaide's processes to address the current potential compliance matters identified through the Compliance & High-Risk Customer Assessment report. This plan identifies practical tactical measures to mitigate current compliance risks and to ensure that the remediation of the High-Risk Customer Assessment process is uplifted as a key priority to prevent ongoing issues. The delivery of tactical measures will include appropriate processes and controls, and an appropriate validation to ensure processes are elevated and uplifted where necessary. It is proposed that the tactical measures will be managed outside the B3 Program but will be subject to B3 governance processes and reported on a monthly basis to Kroll. Where possible, tactical measures will be designed with a view to forming part of the longer term strategic measures for ongoing compliance.

[749] In the context of AML/CTF compliance, the letter of 9 May canvassed the licensee's 'Financial Crime Uplift':

35. SkyCity Adelaide acknowledges that, following the findings in the Initialism report, aspects of its enhancement program were not fit for purpose. Informed by feedback from Kroll, SkyCity Adelaide is taking active steps to accelerate the implementation of tactical measures to deliver tactical compliance outcomes until the full delivery of the B3 Program / B3 Program Reset is achieved.
36. Reflecting this urgency of focus, SkyCity Adelaide has implemented the following key changes to drive more effective financial crime risk management outcomes:
 - a. Responsibility for financial crime compliance has now been completely transferred to the Adelaide-based Financial Crime team to ensure remediation is led, owned, and managed locally, with SCEG providing support where necessary.
 - b. An Interim General Manager, Financial Crime has been appointed to lead both delivery of BAU Financial Crime operations, the B3 Financial Crime deliverables and tactical remediation measures, supported by the recruitment of specialist compliance personnel in Adelaide and supplemented by contingent workers where necessary. Building sustainable capability remains a priority, with active recruitment underway to secure permanent Financial Crime resources, including a suitably experienced permanent General Manager - Financial Crime, to further embed a culture that prioritises expertise, operational resilience, and proactive risk management.

- c. Following the transition to an Adelaide-led operating model and the continued strengthening of local resourcing, SkyCity Adelaide is in the early stages of progressing tactical measures to address critical financial crime risks. Initial areas of focus include improving enforcement of the \$5,000 cash transaction limit for uncarded customers, supported by a series of initiatives aimed at further tightening controls relating to the use of cash. These include the removal of the ability to anonymously insert cash into cash redemption terminals to purchase TITO tickets, with a technology deployment which began on 5 May 2025, and the introduction of additional cash limits for uncarded players to encourage customer identification. Work is also underway to introduce periodic screening of existing low-risk customers and to accelerate the deployment of a new customer risk model. These initiatives reflect a shift towards earlier risk intervention, operational accountability, and proactive mitigation of major financial crime risks.
- d. SkyCity Adelaide has renewed its focus on closing outstanding documented issues and responding promptly to new issues identified internally or by ...

external parties, including those identified by Kroll. Specifically, all the issues identified in key third party assessments and regulatory findings have been mapped to, and will be addressed by, the B3 Program⁴⁴. Kroll's findings from staff interviews are also being captured as part of this process for assessment and actioning.

37. We have made meaningful improvements to leverage our existing Adelaide-based financial crime capability during the period of the Independent Review, particularly in the intelligence space, for the purpose of enabling us to make more proactive and risk-informed decisions, particularly in the management of high-risk customers. SkyCity Adelaide has conducted structured reviews of its top 50 highest-value patrons in early 2025. Notably, 11 of the top 50 customers had already been barred prior to the 2025 review, reflecting that operational processes were already identifying and acting on key risks. The 2025 top 50 customers review resulted in three permanent exclusions, and 35 customers being escalated to the financial crime operations team for source of wealth confirmation or verification, which has led to another 13 permanent barrings and 5 temporary barrings, highlighting both the progress made and the work still to be done. This shift in outcomes reflects a maturing financial crime culture, where decisions are more consistently grounded in risk. The intelligence team has also strengthened SkyCity Adelaide's relationship with law enforcement, including through active participation in the Fintel Alliance Casino Working Group, where SkyCity Adelaide has contributed significantly to
38. As set out in our letter to Counsel Assisting the Independent Review dated 16 April 2025, since January 2023, SkyCity Adelaide has increased the total number of Financial Crime resources from 12 to 30 full time employees to bolster the GHM BAU team and to assist with the delivery of the B3 Program.

[750] In addition to the Compliance Assessment of 22 October 2024, the licensee had the benefit of a number of monthly reports by Kroll covering the following topics:⁴⁴

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

⁴⁴ These reports have been provided to the Commissioner.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[751] The Kroll reports to which I have referred were supplemented by a report of 28 March 2025 which dealt with the POW progress (or otherwise) for the period of 20 September 2024 – 28 February 2025.⁴⁵ The licensee responded to the report by the letter of 9 May 2025.

[752] It is unnecessary to undertake a detailed analysis of the progress report as to overall POW progress, particularly in view of the Review and Reset of the POW, and the licensee's response, which are discussed later in this Report. It is sufficient to note significant delays in achieving the benchmarks set in the POW. Remediation work continues, but in a number of significant areas such work has failed to meet appropriate timelines.

47.0 SCEG – AML / CTF

[753] The compliance or otherwise of SCEG with its AML/CTF obligations is obviously relevant to the determination as to whether SCEG is an appropriate person to be a close associate of the licensee. While a detailed examination in this area of SCEG operations has not been possible, reviews conducted by New Zealand authorities, and legal proceedings in New Zealand, have provided significant assistance.

[754] As to AML/CTF compliance⁴⁶, in February 2024 the New Zealand Regulatory Authority, the Department of Internal Affairs, filed civil penalty proceedings in the New Zealand High Court against SkyCity Casino Management Limited (SCML), a wholly-owned subsidiary of SCEG which held the casino operator's licence for the casinos in Auckland, Hamilton and Queenstown. SCML was the reporting entity for the purposes of the New Zealand AML/CTF legislation.

⁴⁵ Annexure [42] of this Report

⁴⁶ Host responsibility issues are discussed later in this Report.

[755] The proceedings were based on non-compliance by SCML with the New Zealand AML/CTF legislation. Ultimately, on 21 May 2024 an Amended Statement of Claim was filed, together with a Notice of Admissions by which SCML admitted the facts pleaded and the causes of action in the Amended Statement of Claim.⁴⁷ The parties jointly recommended that the High Court impose a civil pecuniary penalty of (NZ) \$4.16M, an amount approved by the Court on 26 September 2024.

[756] The Statement of Claim helpfully sets out a history of reviews and onsite inspections conducted by the Department in the period 2014-2022. Speaking broadly, in that period the Department found SCML largely met most of its AML/CTF obligations, but the Department also identified deficiencies which required rectification. In a letter of 18 September 2024 to this Inquiry, the licensee acknowledged that from ‘2014 onwards...certain deficiencies in SCML’s AML/CTF Risk Assessment and Program...were not fully remediated until July 2021’. Further, the letter stated that the breaches admitted by SCML from 2018 to 2023 related largely, but not exclusively, to historical matters.

[757] In 2023 the Department commenced a review of compliance with obligations during the period 1 January 2018 to 22 March 2023, focussing on transactions involving other casinos, SCML’s use of foreign holding accounts, transactions involving money remitters and the receipt of cash payments into Casino deposit accounts, including by third parties. Subsequently an examination of the records revealed that 24 of the 59 customers identified in the AUSTRAC proceedings against the licensee were Dual Customers. The dealings with those customers were analysed, but it is unnecessary to canvass the details.

[758] As a consequence of the Department’s investigation, SCML admitted a failure in a number of respects to establish, implement and maintain the necessary AML/CTF compliance program. SCML’s admissions included failing to undertake and review risk assessments as required by the Act, failure to conduct adequately account monitoring, failure to conduct enhanced customer due

⁴⁷ Annexure [45] – Notice of Admission and Amended Statement of Claim dated 21 May 2024.

diligence and failure to terminate existing business relationships. A number of failures were acknowledged with respect to dealings with numerous customers who had been selected as samples for examination.

[759] In the letter of 18 September 2024 the licensee observed that all but one of the customers identified in the amended statement of claim were no longer SkyCity customers. With respect to the individual who remained a customer, SCML undertook further enhanced customer due diligence and was satisfied that the verified source of wealth and funds were commensurate with their level of play.

[760] The response by the licensee in the letter of 18 September 2024 was overtaken by a letter of 13 December 2024 from SCEG. The letter was signed by Mr Walbridge, the Chief Executive Officer of SCEG.

[761] The letter of 13 December 2024 noted that SCML, and not SCEG, was the subject of the proceedings, but acknowledged that SCML is a New Zealand incorporated subsidiary of SCEG and, therefore, a related company of the licensee. As to the AML/CTF deficiencies, the letter provided the following overview:

Overview of deficiencies identified

9. The Amended Statement of Claim dated 21 May 2024 alleged that SCML:

- 9.1. failed to undertake and review a risk assessment as required by sections 58 and 59 of the AML/CFT Act such that SCML did not have an AML/CFT risk assessment which complied in all respects with the AML/CFT Act from 16 February 2018 until 31 July 2021 (by which time all matters of which SCML was aware were fully remediated);
- 9.2. failed to establish, implement, and maintain an AML/CFT compliance programme that met all of the minimum requirements of the AML/CFT Act as required by sections 56 and 57 of the AML/CFT Act from 16 February 2018 until 31 July 2021 (by which time all matters of which SCML was aware were fully remediated);
- 9.3. failed to adequately conduct account monitoring during the relevant period as required by section 31 of the AML/CFT Act in respect of certain identified customers—being representative of the way in which SCML undertook account monitoring across its business during the relevant period;

- 9.4. failed to conduct enhanced customer due diligence during the relevant period as required by subpart 1 of Part 2 of the AML/CFT Act in respect of certain identified customers; and
 - 9.5. failed to terminate an existing business relationship during the relevant period as required by section 37 of the AML/CFT Act in respect of certain identified customers.
10. The DIA did not allege that SCML and/or its directors and management intended to breach any provisions of the AML/CFT Act or that SCML was directly involved in money laundering or the financing of terrorism at any time during the relevant period.

[762] SCEG's letter of 13 December 2024 also dealt with the response of SCEG and SCML in rectifying the deficiencies identified in the proceedings:

Measures taken to rectify deficiencies identified

- 11. As noted above and in the Amended Statement of Claim, SCML had fully remediated the identified failures in respect of its AML/CFT risk assessment and AML/CFT compliance programme by 31 July 2021 – such deficiencies having largely been identified in the course of ongoing audits and reviews of SCML's AML/CFT risk assessment and AML/CFT compliance programme by the DIA and its external auditors over the relevant period.
- 12. SCML has developed a new in-house transaction monitoring platform which generates transaction monitoring alerts (known as TAGS). Enhancements to this new system are planned in the first half of calendar year 2025 to further uplift SCML's monitoring scenarios, rule design and development and associated review processes.
- 13. SCML has also implemented a centralised compliance workflow management system for its AML/CFT activities to assist with case management, provide clear audit trails and ensure that follow up actions are completed in a timely manner, including conducting enhanced customer due diligence and terminating business relationships.
- 14. Immediately following receipt of the DIA's Statement of Claim in February 2024, SCML commenced a review of each of the customers identified in the Statement of Claim:
 - 14.1. all but three of those customers were already excluded from entering SkyCity's New Zealand casinos at the commencement of the review;
 - 14.2. SCML subsequently terminated business relationships with two of those customers following completion of enhanced customer due diligence; and
 - 14.3. as at the date of this letter, only one customer identified in the Statement of Claim/Amended Statement of Claim remains a customer having satisfied SCML's enhanced customer due diligence requirements and SCML being satisfied that the customer's verified source of wealth and source of funds are commensurate with their level of play.

15. We note that the SkyCity Entertainment Group had already ceased many higher-risk aspects of its International Business operations prior to the commencement of the DIA Proceedings – in particular, following completion of a strategic review into its International Business division, the SCEG Board determined to permanently cease dealing with all junket operators effective immediately in April 2021 across the SkyCity Entertainment Group casinos.
16. The SCML non-compliance that was the subject of the DIA Proceedings is therefore historical – SCML having now fully remediated the identified deficiencies in its AML/CFT risk assessment and AML/CFT compliance programme, and all identified deficiencies in its enhanced customer due diligence processes having been fully remediated by July 2021.

[763] Conclusions with respect to SCEG AML/CTF issues are discussed later in this Report when dealing with suitability.

48.0 Harm Minimisation – Host Responsibility

48.0A Introduction

[764] As is readily apparent from the regulatory scheme governing the operations of the Adelaide casino, and from the terms of the Approved Licensing Agreement, Harm Minimisation is an important feature of the responsibilities resting on the licensee. It is a feature which has received a lot of attention in recent years as the community's knowledge and understanding of the widespread harm caused by gambling has increased. In this context it is helpful to bear in mind the observations by Mr Finkelstein concerning the 'costs' of gambling.

[765] Mr Finkelstein recognised the purely economic benefits of the gambling industry in Victoria in terms of employment, investment tourism and tax revenue (ch 8, pp 3-4 [12]-[21]), but he also dealt with the cost and harm caused by gambling which is far wider than the immediate financial loss to the gambler (ch 8, pp 6-9):

THE MONEY LOST TO GAMBLING

31 Research showed that in the 2019 financial year, approximately 70 per cent of Victorian adults had participated in some form of gambling in the previous 12 months. The principal forms of legal gambling in Victoria are EGMs, casino table games, betting, lotteries, raffles and bingo.

- 32 Annual gambling losses are substantial. The amount lost per adult in Victoria in the 2018 financial year was estimated to be \$1,163. Broken down by gambling product, the losses on EGMs are the greatest. Some \$2.7 billion was lost on EGMs in Victoria in the 2018 financial year. This may be compared with sports betting losses in Victoria, which were around \$371.7 million in the same period.
- 33 It is instructive to consider gambling losses by reference to problem gamblers and moderate-risk gamblers.
- 34 The 2010 Productivity Commission Report estimated that problem gamblers likely accounted for around 40 per cent (possibly as much as 60 per cent or, in the most conservative case, as low as a (still significant) 22 per cent) of EGM losses, and moderate-risk gamblers accounted for a further 19 per cent (possibly as much as 27 per cent or, in the most conservative case, 7 per cent). Problem gamblers accounted for \$2.6 billion of EGM losses.
- 35 More recently, the 2017 VRGF Report estimated that problem and moderate-risk gamblers in Victoria accounted for 59.4 per cent of EGM spending in the 2015 financial year (moderate-risk gamblers accounting for 23 per cent and problem gamblers accounting for 35.8 per cent), and that only 18.7 per cent of EGM spending came from non-problem gamblers. It also found that problem gamblers accounted for 58.7 per cent of table games spending at the Melbourne Casino, moderate-risk gamblers accounted for 19.1 per cent and low-risk gamblers accounted for 15.3 per cent. A mere 6.9 per cent of the casino's table games spending came from non-problem gamblers.
- 36 The total amount spent on gambling at the Melbourne Casino is significant. Between the 2008 and 2018 financial years, this amount rose from approximately \$1.1 billion to approximately \$1.8 billion.

THE RESPONSE OF GOVERNMENT AND INDUSTRY

- 37 In 2006, the State Government acknowledged that over 55,000 adult Victorians had become addicted to gambling. The vast majority were addicted to gambling on EGMs.
- 38 As more evidence of the harmful effects of problem gambling emerged and the cost of those effects mounted, both the government and the industry took action to minimise the harm. Initiatives included:
- *prohibiting minors from accessing gambling*
 - *conducting community awareness campaigns*
 - *requiring the provision of information about gaming rules, odds and rates of returns*
 - *establishing self-exclusion programs*
 - *putting warning messages on gambling terminals*

- *placing restrictions on advertising*
- *establishing gambling assistance hotlines.*

Non-gamblers affected by gambling

39 *The number of people with gambling problems is much smaller than the number of people who may be affected by those problems.*

40 *Work carried out by the VRGF in 2016 confirmed that the harm done by gambling extends well beyond the gambler. The types of harm experienced by ‘affected others’—people in the familial and social networks of gamblers who are experiencing harms—include:*

- *relationship disruption, conflict or breakdown*
- *poorer health*
- *emotional and psychological distress*
- *financial harm*
- *reduced performance at work or in study*
- *cultural problems (for example, personal conflicts about gambling when it is against cultural beliefs, reduced ability to participate in cultural practices or meet community expectations, and reduced connection to the cultural community)*
- *criminal activity*
- *life course and intergenerational harms.*

41 *The 2017 VRGF Report stated that in the 2015 financial year:*

- *Gambling-related harm imposed both direct and indirect costs on the gambler.*
- *The costs imposed by gambling-related harm extended to affected others in the form of divorce or separation; experiences of violence; emotional distress; and, in extreme cases, the impact of suicide attempts or fatality by suicide.*
- *Costs extended to third parties and the community in the form of productivity loss and work impacts; the cost of crime to businesses and the Victorian justice system; and costs to the health and human service sector, the mental health sector and homelessness services.*
- *Every problem gambler affected approximately six others through their gambling, while gamblers at moderate risk affected three others, and low-risk gamblers affected one other.*

42 *The 2017 VRGF Report estimated that affected others could constitute over 22 per cent of the Victorian population; however, it noted that a substantial percentage of this population would be experiencing minor harms, not enough to give rise to a high degree of emotional stress and the costs associated with that.*

Costing the harms

43 *The cost to Victorians of the harms caused by gambling far exceeds the amounts lost by those gambling. The Victorian Auditor-General has assessed this cost to be around \$7 billion a year, through damage to relationships, health and wellbeing, monetary losses and other social costs.*

44 *A brief survey of some of the types of harms that contribute to those costs follows.*

FINANCIAL COSTS

45 *The financial costs of gambling harms are substantial, and can stem from bankruptcy, unpaid debts and excessive spending on gambling (which may result in financial strain, debt or less money available for essential items). The VRGF 2017 Report estimated that in the 2015 financial year alone, 2,693 bankruptcies may have been the result of gambling in Victoria. It estimated the annual cost of gambling-related bankruptcy in Victoria to be \$70.1 million. That figure did not take into account the indirect costs that may arise from bankruptcy, such as costs to relationships (for example, emotional distress and divorce), and the use of government services such as housing assistance or financial support.*

COSTS TO HEALTH AND WELLBEING

46 *The physical and psychological impacts of gambling can be very grave. Problem gambling is associated with substantially lower levels of life satisfaction. The 2020 VRGF Report used the Australian Unity Wellbeing Index to measure Victorian adult respondents' overall life satisfaction, as well as their satisfaction with how safe they felt; their standard of living; their personal relationships; their health; their future security; what they were currently achieving in life; and their feeling of being part of a community. Problem gamblers had notably lower scores than other respondents in every domain.*

47 *The 2017 VRGF Report indicated that in the 2015 financial year, over 40 per cent of problem gamblers reported increased depression due to gambling within the previous 12 months. Some 7.5 per cent of problem gamblers reported that their gambling had contributed to or caused a suicide attempt or ideation. Even adjusting this rate to accommodate the possibility that gambling was not the sole contributing factor, this amounted to 2,112 suicide attempts or ideation among problem gamblers alone within the 12 months. The total number of suicide attempts or ideation for low-risk, moderate-risk and problem gamblers was estimated to be 8,802.*

48 *The 2017 VRGF Report estimated (again, applying a reduction to account for those who may have committed suicide in any event) that there were 587 suicides in Victoria caused by gambling problems in the 2015 financial year.*

COSTS TO RELATIONSHIPS AND FAMILY

49 *Problem gambling has been shown to have disruptive and destructive consequences for relationships and families.*

50 *The 2017 VRGF Report records that almost 20 per cent of problem gamblers in Victoria reported that their gambling contributed to or caused their divorce or separation. Applying a 20 per cent reduction to account for instances of divorce or separation that may have occurred in any event, it was estimated that gambling problems contributed to or caused 14,693 divorces or separations among low-risk, moderate-risk and problem gamblers.*

51 *Gambling has also been empirically associated with family violence. The relationship between gambling and family violence is complex. Gambling can result in stress, anger or financial crisis, which in some cases may increase the likelihood of family violence. In other cases, problematic gambling may be an effect of family violence. Some research indicates that there is a nearly threefold increase in the probability of violence in families where there is problem or moderate-risk gambling.*

PRODUCTIVITY AND WORK COSTS

52 *Problem gambling can interfere with a person's ability to function as a productive, gainfully occupied member of the community. The 2017 VRGF Report considered, for example, the cost of gambling-related job losses, absenteeism and lost productivity in the 2015 financial year. Datasets indicated that reduced productivity at work due to gambling problems cost businesses over \$323 million that year.⁶⁴ More than 16,000 people were estimated to be absent from work because of gambling problems, costing over \$46 million.⁶⁵ Further, over 11 per cent of problem gamblers, and almost 5,000 people with varying levels of gambling problems were estimated to have lost their job as a result of gambling problems (again adjusted to account for those who may have lost their job in any event).*

COSTS TO GOVERNMENT

53 *Gambling imposes substantial costs on various branches of government. There are costs to the justice system as a result of gamblers who commit offences connected with gambling problems. In the 2015 financial year, some 18,513 people with varying levels of gambling problems were estimated to have committed a crime due to gambling.*

54 *Wider costs to government include the cost of establishing and maintaining the public structures that regulate, research and treat gambling-related problems; and the cost of people with gambling problems accessing health and human services, mental health services and homelessness services.*

Concluding remarks

55 *Concentrating attention on the financial costs of harms caused by gambling problems ignores the larger picture. Many of the most profound impacts of gambling*

problems defy quantification. The true impact of a life lost to suicide on the person's family and friends is incalculable. The same is true of the personal cost to a life of irrecoverable years spent overwhelmed by addiction, uncertainty and hopelessness, or of a childhood marred by violence or homelessness (footnotes omitted).

[766] Although the figures in relation to gambling in South Australia are different from Victoria, the general observations of Mr Finkelstein apply equally to South Australia. It hardly needs to be said that these figures from Victoria, and the broad observations, emphasise the importance of gambling providers, and casinos in particular, scrupulously implementing, in a proactive manner, appropriate harm minimisation measures. This is an important aspect of the assessment of the suitability of the licensee to operate the Adelaide Casino.

[767] The primary focus of this Investigation has been upon the licensee's Host Responsibility Program. Unless indicated otherwise, the Report that follows concerning the Host Responsibility Program is based on evidence obtained by this Investigation prior to suspension in January 2023.

49.0 Legislative Requirements

[768] S 16 of the GAA directs that a gambling provider must not contravene or fail to comply with a mandatory provision of the advertising Code of Practice or the Responsible Gambling Code of Practice. This provision is reinforced by s 41B of the Act which provides that it is a condition of the casino licence that the licensee 'must ensure that operations under the licence conform with the applicable Responsible Gambling Codes of Practice'.

[769] Clause 75 of the 2013 Gambling Code of Practice required the licensee to maintain a Host Responsibility Program, and directed that the Host Responsibility Program meet specified minimum requirements.⁴⁸ The licensee was required to notify the Commissioner of the 'Terms of Reference for the Program', and obtain the Commissioner's acceptance of those Terms. Clause 7

⁴⁸ Clause 75 is set out in para [43]. As discussed earlier in this Report the 2013 Gaming Code was revoked on 31 July 2022 and the Casino Gambling Code commenced. Clause 7 of the Casino Code dealing with Host Responsibility Services is in terms similar to cl 75 and is set out in para [45] of this report.

(1) of the Casino Gambling Code also requires that the Program's Terms of Reference be approved by the Commissioner.

[770] The latest Terms, approved by the Commissioner, provide that the 'General Manager has ultimate responsibility for the operation of the Host Responsibility Program', and is 'directly accountable to the Board for its administration'. Para 1.2 of the Terms states that the day-to-day operation of the Program is overseen by a full-time Host Responsibility Manager who provides monthly reports to the Support Operations Manager, as well as ad hoc reports whenever an issue that arises 'indicates the Program is not functioning well and/or a change to the operation of the Program is required'.

[771] Para 1.3 provides that the Support Operations Manager will update the General Manager as needed. Host Responsibility Coordinators are required to report to the Host Responsibility Manager.

[772] Para 1.5 notes all 'relevant casino staff' have basic training in identifying problem gambling, and that the Adelaide casino 'undertakes to all staff that they will in no way be the subject of prejudice or unfavourable treatment due to reporting observations of problem or suspected problem gambling behaviour to a HRC, Host Responsibility Manager or the General Manager'.

[773] The role and functioning of the Host Responsibility Program is explained in the Terms:

2 Role of the Host Responsibility Program

2.1 The Adelaide Casino Host Responsibility Program has been operating since 2004 and is in place to:

- (a) encourage responsible gambling;*
- (b) encourage responsible consumption of alcohol;*
- (c) be a responsible host;*
- (d) provide proactive case management and gambling support to customers;*

- (e) *facilitate contact with external gambling help service providers;*
- (f) *operate a barring program in accordance with the Gambling Administration Act 1995;*
- (g) *maintain customer confidentiality at all times;*
- (h) *facilitate barring in conjunction with the Liquor and Gambling Commissioner.*

3 Functioning of the Host Responsibility Program

On a day-to-day basis, the tasks of HRC include:

- 3.1 *Engagement: making contact and engaging in conversation with as many customers as possible throughout each shift to identify potential signs of problem gambling;*
- 3.2 *Monitoring: monitoring customers who have been observed as exhibiting problem or suspected problem gambling behaviour. This includes responding to automated risk monitoring alerts;*
- 3.3 *Investigation: where deemed appropriate (for example, if a customer will not engage directly with HRC), making enquiries of other departments within the Casino for any relevant information about that customer;*
- 3.4 *Case Management: managing customers who have been identified as having or being at risk of gambling related harm. Options available to HRC include, but are not limited to: offering pre-commitment, individualised case management, exclusion, referral to external gambling help services and/or barring; and*
- 3.5 *Maintenance: conducting periodic reviews for customers who have previously been case managed (in addition to the usual monitoring of all customers by HRC).*

4 Data Capture

4.1 The following data must be captured, up to date and able to be accessed at any time:

- (a) The number and circumstances (which may or may not include associated specific details such as customer name) of all:*
 - (i) ARMS alerts attended to during each HRC shift;*
 - (ii) customers who have been closely monitored during each HRC shift;*
 - (iii) customers who have been offered pre-commitment during each HRC shift and*
- (b) Up to date information regarding customers who are being case managed, including any interactions with case managed customers during each HRC shift.*

50.0 Premium Customers – Approved Licensing Agreement

[775] In addition to the obligations imposed by the regulatory regime, and the Terms of Reference, the Approved Licensing Agreement contains provisions specifically directed to premium customers or persons being considered for access to Premium Gaming Areas. These provisions include responsibilities to be discharged by Host Responsibility Coordinators.

[776] Clause 1.1.17 of the agreement defines ‘Premium Customer’. A distinction is drawn between South Australian residents and persons from interstate or overseas. Common to both definitions is the exclusion from qualification as a premium customer of persons who are considered to be ‘a problem gambler or a potential problem gambler’.

[777] Residents from outside South Australia may be afforded premium customer status if they have requested the privilege, and the licensee ‘has no reason to believe that the person has a history of problem gambling or that for any other reason it is inappropriate to extend those privileges to the person’. Residents of South Australia may qualify in a number of ways, including if they are approved by the Commissioner or reach a specified level of projected expenditure.

[778] As mentioned, the definitions make clear that a positive determination must be made that the person seeking classification as a premium customer is ‘not a person’ who is considered to be a ‘problem gambler or a potential problem gambler’. That determination must be made ‘according to principles that have been developed by the licensee and are approved for the time being by the Commissioner’. Annexure B to the Approved Licensing Agreement directs that the procedure to screen for actual or potential problem gamblers, to be developed by the licensee, ‘is to incorporate’ the principles set out in clauses 4 and 5 of Appendix B:

4 Initial Screening Methodology

The procedure to screen for actual or potential problem gamblers being considered for access to Premium Gaming areas to be developed by the licensee is to incorporate the following principles approved by the Authority for the purposes of clause 1.1.17(b)(lli) of the ALA:

- (a) all persons are to be assumed to be an SA resident unless there is reliable photo ID to the contrary and are therefore subject to this screening procedure;*
- (b) exclusion of a person subject to an existing barring shall be undertaken as follows:*
 - (i) SKYCITY will obtain a written statement and release from the proposed premium player claiming never to have been barred and authorising the Authority to check barring records for the person;*
 - (ii) SKYCITY will be permitted to afford the person premium customer status (subject to complying with any other screening requirements) pending a response from the Authority;*
 - (iii) if the Authority advises that the person has been barred, SKYCITY will reverse the person’s premium customer status.*
- (c) if the person has at least two months gambling history at the Adelaide Casino a HRC shall assess whether there is reasonable cause to consider that this person has either:*
 - (i) displayed problem gambling behaviours or indicators on the main floor of the Adelaide Casino; or*
 - (ii) shown behaviours or indicators which suggests that they would be vulnerable to the Premium Gaming environment; in which case that person will be interviewed in accordance with the HRC monitoring and assessment procedures to determine whether those behaviours / indicators:*

- (iii) *are indicative of an actual gambling problem giving rise to harm – in that case the person will not be able to become a Premium Customer and will be offered assistance by HRC; or*
- (iv) *are not indicative of an actual gambling problem giving rise to harm – in that case entry may be granted.*
- (d) *if the person has not had at least two months gambling history at the Adelaide Casino then the HRC will implement a closer observation of this person in Premium Gaming areas for a period of not less than 3 months.*
- (e) *the person must be required to join the Adelaide Casino Loyalty Program so that data of their gambling activity will be obtained and which will be the subject of review in accordance with Section 5 below.*

5 Ongoing Screening Methodology

The procedure to screen for actual or potential problem gamblers in Premium Gaming areas to be developed by the licensee is to incorporate the following principles approved by the Authority for the purposes of clause 1.1.17(b)(iii) of the ALA:

- (a) *persons who have been nominated to be “closely observed” shall have their gambling history reviewed by HRC after 90 days of access to Premium Gaming areas;*
- (b) *SKYCITY shall update and implement its Host Responsibility procedures to incorporate procedures applicable to Premium Gaming*
- (c) *every six months the HRC will provide an assessment on each SA Resident entitled to access to Premium Gaming Areas in conjunction with the six monthly review specified in Section 2 above. A person may not have their access to Premium Areas renewed at a six monthly review if a HRC has provided an assessment of actual problem gambling by that person in that 6 month period.*

6 Monitoring and Management of Actual or Potential Problem Gambling

SKYCITY will upgrade its HRC procedure to incorporate measures that address the monitoring and management of actual and potential problem gambling in Premium Gaming areas. SKYCITY will continuously review these procedures with a view to meeting its commitment not to allow the availability of Premium Gaming to become a source of problem gambling.

[779] In summary, annexure B to the Licensing Agreement imposes the following obligations on the licensee with respect to Premium Gambling by South Australian residents:

- The licensee will obtain a written statement and release from a proposed premium player who claims never to have been barred and will request the Commissioner to check barring records.
- If a person has at least two months gambling history at the Adelaide Casino, it is the duty of a Host Responsibility Coordinator to assess whether there is reasonable cause to consider that the person has either displayed problem gambling behaviours or indicators on the main floor of the Casino, or shown behaviours or indicators which suggest they would be vulnerable to the Premium Gaming environment.
- If a Coordinator assesses reasonable cause exists, the Coordinator is required to interview the person in accordance with HRC monitoring and assessment procedures to determine whether the behaviours or indicators are indicative of ‘an actual gambling problem giving rise to harm’, or not indicative of such a problem. If the Coordinator determines that the behaviours or indicators are indicative of such a problem, the Coordinator is required to offer assistance to the person.
- If the person has not had at least two months gambling history at the Adelaide Casino, Host Responsibility is required to ‘implement a closer observation of this person in Premium Gaming Areas for a period of not less than 3 months’.
- A positive duty is placed upon Host Responsibility to undertake ongoing screening. In particular, it must assess every six months each South Australian resident entitled to access to Premium Gaming Areas.
- The licensee is required to update and implement its Host Responsibility Procedures to incorporate procedures applicable to premium gaming, and to incorporate measures that address the monitoring and management of actual and potential problem gambling in Premium Gaming Areas.

- The licensee is required to ‘continuously review the procedures with a view to meeting its commitment not to allow the availability of Premium Gaming to become a source of problem gambling’.

[780] The regulatory regime, coupled with the Terms of Reference and the principles set out in annexure B to the Licensing Agreement, define the mandatory obligations of the licensee with respect to its Host Responsibility Program. The operational content and policy of the Program are found in Standard Operating Procedures, and a Host Responsibility Program Policy, both of which have been created by the licensee.

51.0 Host Responsibility Program

[781] In a letter of 15 September 2022 to this Investigation, solicitors for the licensee advised that the licensee’s Host Responsibility team was established in December 2004, and was responsible for creating and implementing the licensee’s Host Responsibility Program. The letter stated that a formal, written Host Responsibility Program was first produced in October 2008.

[782] The background to the current Program was described by the previous Manager of the Host Responsibility division, (Y), who commenced employment with the casino approximately 35 years ago, and was a foundation member of the Host Responsibility Team. Y became a Host Responsibility Coordinator and was appointed as Manager of the Host Responsibility division in 2007. Y held that position until leaving the Casino in March 2022.

[783] Y explained that the original Host Responsibility Program was a package imported from SkyCity Auckland and implemented into the Adelaide operation in late 2004. It was an initiative of the SkyCity Group and various gambling help services. Initially, the Program lacked formal framework. Some years later the Independent Gambling Authority introduced a requirement that the casino maintain a Host Responsibility Program, and Y assisted in developing the Terms of Reference. Substantially, the Terms of Reference were based on the operation of the existing Host Responsibility Program.

- [784] According to Y, the creation of a new role, Manager of Host Responsibility, was intended to give the Host Responsibility division a defined structure and a greater level of credibility. However, that position did not impact the staffing levels of the Host Responsibility team which remained stable until late 2021 when further resources were applied to Friday and Saturday night shifts. The requirement to maintain presence of Host Responsibility whenever gaming was available to the public was not formalised until 2013 through the Gambling Code of Practice, but prior to the introduction of the Code this type of staffing level was always maintained.
- [785] Over the years, lines of reporting changed. From about 2012 until 2015 Y reported to Mr Christian by meeting with him either weekly or fortnightly. Subsequently Y reported to the Support Operations Manager, Mr Richard Krawczyk.
- [786] By letter of 3 August 2022 solicitors for the licensee produced a number of documents, including a Standard Operating Procedure headed ‘SkyCity Adelaide – Host Responsibility – Standard Operating Procedures’ dated 1 September 2021.⁴⁹ This document was produced as representing the current Host Responsibility Program. Subsequently the solicitors produced another version dated 16 November 2022,⁵⁰ and by letter of 14 December 2022 a third version dated 29 November 2022.⁵¹
- [787] The fundamental governance of the 2021 Host Responsibility Program was identified in cl 1 which was headed ‘Terms of Preference’:

1 Governance of the Host Responsibility Program

- 1.1 The Chief Operating Officer has ultimate responsibility for the operation of the Host Responsibility Program (Program) at SkyCity Adelaide and is directly accountable to the Board for its administration. The Chief Operating Officer will update the Board on the Program no less than quarterly in terms of achievements or any issues identified (including any improvements required).*
- 1.2 The day-to-day operation of the Program is overseen by the Executive Manager Host Responsibility. This Executive Manager provides monthly program updates to:*

⁴⁹ Annexure [25]

⁵⁰ Annexure [26]

⁵¹ Annexure [27]

- i. *GM Support Operations*
- ii. *COO*
- iii. *SkyCity Adelaide Harm Minimisation Committee*
- iv. *Group Harm Minimisation Committee*
- v. *SkyCity Adelaide Board.*

- 1.3 *Host Responsibility Co-ordinators (HRC) report directly to the Executive Manager Host Responsibility and have unrestricted access to all staff and customers.*
- 1.4 *At all times of gaming operations there will be a dedicated Host Responsibility Coordinator on duty.*
- 1.5 *All relevant SkyCity Adelaide personnel will undertake necessary training in accordance with the requirements set out in clause 67 of the Gambling Codes of Practice Notice 2013.*
- 1.6 *SkyCity Adelaide undertakes to ensure that staff are not subjected to any unfavourable treatment due to reporting observations of problem or suspected problem gambling behaviour to a HRC, Executive Manager Host Responsibility or any member of the SkyCity Adelaide Senior Leadership Team. Staff are strongly encouraged and empowered to report any concerns in respect to a customer's play and behaviours should they display any indicators of problem gambling.*

[788] The same provisions exist in both 2022 versions.

[789] The purposes of the 2021 Program were identified in cl 2:

2 Host Responsibility Program

- 2.1 *The SkyCity Adelaide Host Responsibility Program has been in operation since 2004 and is designed to:*
 - (a) *encourage responsible gambling*
 - (b) *encourage responsible consumption of alcohol*
 - (C) *provide proactive case management and gambling support to customers*
 - (d) *facilitate contact with external gambling help service providers*
 - (e) *operate a barring program in accordance with the relevant South Australian Laws/Acts*
 - (f) *maintain customer confidentiality at all times*

[790] This wording is substantially a repetition of cl 2 of the Terms of Reference cited earlier.

[791] Clause 2.1 of both 2022 Programs are different, particularly with the addition of references to early intervention and education of staff:

- (a) encourage responsible gambling*
- (b) Facilitate early intervention for people that may be at risk of experiencing gambling related harm*
- (c) provide proactive gambling support to customers and staff members*
- (d) facilitate contact with external gambling help service providers*
- (e) operate a barring program in accordance with the relevant South Australian Laws/Acts*
- (f) maintain customer confidentiality at all times*
- (g) educate staff in recognising and communicating to Host Responsibility any customers who may be experiencing gambling related harm*

[792] Clause 3 of the 2021 Program set out the day-to-day tasks of the Host Responsibility team under the heading 'Functioning of the Host Responsibility Program'. The descriptions of the tasks were found under the following headings:⁵²

- Engagement
- Monitoring
- Investigation
- Case Management
- Maintenance
- Data Capture
- Reporting
- Review

[793] The essential features of the 2021 Program may be summarised as follows:

- The role of the Host Responsibility Coordinator is to 'monitor and identify those at risk and seek to minimise harm to customers that may arise through the use of gaming and

⁵² The same headings appear in clauses 3 and 4 of the Terms of Reference.

alcohol products and action accordingly, including the barring of any customers as may be required'. That role also encompasses ensuring that information relating to gambling help services is readily available to customers who are experiencing harm, together with appropriate referral or alcohol assistance services.

- The role of the Coordinator is 'proactive, and used to emphasise responsible gambling (or alcohol), particularly if a customer may disclose information indicative of gambling related harm'.
- Other daily operations of a Coordinator include case managing customers, facilitating barring requests, maintaining contact with other departments concerning issues related to problem gambling and/or alcohol, monitoring customers regarding responsible consumption and service of alcohol and reporting when needed on activities with customers.
- The 2021 Program incorporates customer alerts through an Automated Risk Monitoring System (ARMS) in which predetermined limits are set and staff are alerted when a limit is reached. The system is described in the Program as follows:

The alerts are as follows:

- *Four hours of continuous carded play and two turnover alerts.*
 - *Carded play = 42K within 200 minutes and*
 - *Un-carded play= 21K within 200 minutes*

When these limits are reached the system will send an alert to the Gaming Machine Supervisor who will then dispatch an attendant to the location of the alert. That staff member will look for other signs of problem gambling and report back as needed.

The system has been enhanced to include 6 & 8hr alerts which the HRC will receive and can complete some or all of the following steps:

- *Attend the location to engage the customer looking/listening for signs or indicators of problem gambling*
- *Conduct a desk top review to determine other factors that may suggest harm with regards to gambling/add weight to the initial engagement*
- *Record alert and response data for statistical and reporting process*

Note that VIP staff can attend alerts in VIP and call for HRC if needed

- The Program incorporates a system which enables customers to set limits on gaming machines and automated table games. This is known as pre-commitment. If limits are reached the system will send an electronic alert to a Coordinator who takes appropriate action.

[794] The essential features of both 2022 Programs reflect the 2021 features. In some areas, greater detail is provided for the guidance of Host Responsibility personnel. Significant additions concern the Expired Barring Plan, Gambler of Interest 1 and 2 and 12 Hours Continuous Presence Policy:

3 Functioning of the Host Responsibility Program

On a day-to-day basis, the tasks of HRC include but are not limited to:

3.1 Expired Barring Plan

The mandatory process which sets out the terms and conditions for re-entry which an individual must adhere to following a revocation of barring. This consists of

- (a) A customer engaging with a Gambling Help Provider to gain further assistance strategies in regard to minimising potential gambling related harm. A letter of attendance is required from the Gambling Help Service provider.*
- (b) An interview with Host Responsibility to determine that the customer meets re-entry criteria considering their current financial, family and/or dependants' circumstances*
- (c) If re-entry criteria are met, a Safe Gambling Plan is established in which conditions are set and monitored by the use of carded play considering weekly expenditure, visitation, and time on site per visit.*
- (d) The plan is composed of three months active monitoring consisting of*
 - i. a documented weekly financial review mapped against the Safe Gambling Plan criteria*
 - ii. Mandatory use of a Rewards card at all times when playing*
 - iii. a minimum of one scheduled and documented interaction with a HRC per month*
 - iv. The enrolling of the customer in the MyPlay pre-commitment system*
- (e) Any significant deviation from any of these specified conditions may see a licensee barring invoked for a minimum period of 3 months*

- (f) *At the successful completion of this process the customer shall be classified under GOI 2 as referenced in point 3.3 of this document for a period of 3 months*
- (g) *Any customer will not be considered as a Premium Customer for a minimum period of 12 months from the commencement of their Safe Gambling Plan*

3.2 Gambler Of Interest 1 (GOI 1):

A currently active player who has been assigned a classification of being at risk of gambling related harm (categorised as moderate to high risk) in such that

- (a) *There are 2 or more problem gambling indicators present*
- (b) *These players have been identified as having significant recent behavioural change in comparison to historical play and visitation patterns via the use of data analytics*
- (c) *These players have been identified from staff observations and/or additional avenues of information*

Once determined that a GOI 1 classification is warranted then a GOI 1 file shall commence consisting of

- i *A HRC intervention with the customer noting there are potential concerns that the player may be at risk of gambling related harm*
- ii *If receptive explain what assistance options are available to the customer inclusive of Gambling Help Services, Pre-Commitment, and up to and including self-barring options*
- iii *A weekly documented financial review summary within iTrak from the date of commencement for a period of three months*
- iv *A minimum of one documented within iTrak HRC interaction per month or as required for a period of three months from date of commencement*
- (d) *At the conclusion of this period this file shall be reviewed by the Executive Manager Host Responsibility or delegate with the following options considered*
 - i. *The player is deemed to be no longer at risk from gambling related harm and is removed from this classification*
 - ii. *The player is deemed to be at significant risk of gambling related harm in which a licensee barring shall be invoked, and GHS services strongly encouraged*

3.3 Gambler of Interest 2 (GOI 2):

A currently active player who has been assigned a classification of being at risk of gambling related harm (categorised as low to moderate risk) in such that

- (a) Player has been identified with 1 potential problem gambling indicator*
- (b) These players have been identified as having some recent behavioural change in comparison to historical play and visitation patterns via the use of data analytics*
- (c) These players have been identified from staff observations and/or additional avenues of information*

Once determined that a GOI 2 classification is warranted then a GOI 2 file of passive monitoring shall commence consisting of

- i. A monthly documented within iTrak financial review summary from the date of commencement for a period of three months*
 - ii. If required, in that any escalations in play or behavioural concerns arise, a documented within iTrak HRC interaction shall occur at any stage during this three-month period from date of commencement*
 - iii. This interaction shall consist of providing the assistance options available to the customer inclusive of Gambling Help Services, Pre-Commitment, and up to and including self-barring options*
- (d) At the conclusion of this period this file shall be reviewed by the Executive Manager Host Responsibility or delegate with the following options considered*
- i. The player is deemed to be no longer at risk from gambling related harm and is removed from this classification*
 - ii. It is determined that the player requires closer monitoring and is updated to GOI 1 status*
 - iii. The player is deemed to be at significant risk of gambling related harm in which a licensee barring shall be invoked, and GHS services strongly encouraged*

3.4 12 Hours Continuous Presence Policy

Continuous Presence is defined where a customer is present within the Casino (but not necessarily gaming continuously) for an accumulative period of 12 hours in any single trading day. Exemptions applicable to this policy

- (a) *Time spent in the District Sport and District Brewery are exempt from inclusion as a designated gaming area and any break/time spent in excess of 1 hour shall be removed from the days cumulative total.*
- (b) *Further exemptions shall apply where it is reasonably assumed that a customer who has departed premises for any period in excess of 1 hour shall have that time removed from the days cumulative total*
- (c) *VIP Interstate and International Business shall be exempt from this policy*
- (d) *Host Responsibility and/or VIP Hosts will interact with customers identified as having been on site for 11 hours, advising customers that they will be required to leave in 1 hours' time in accordance with this policy*
- (e) *All instances where a customer has been deemed as having been on site for 12 hours and having been asked to leave shall have this incident documented in iTrak*
- (f) *Customer will not be permitted to return until the following trade date*
- (g) *If a customer has returned prior to the completion of the mandatory break period, Host Responsibility will engage with the customer which may result in further action being taken.*

[795] The 2022 Programs also add emphasis to the role of Host Responsibility coordinators in conducting 'on floor training and coaching sessions for staff incorporating aspects of the Host Responsibility Program relevant to their role'. Clause 3.6 identifies the intent behind the training and coaching sessions as to 'promote staff awareness of safe gambling practices and assist in identifying customers who may be deemed at risk of gambling related harm and communicating these concerns to their manager and Host Responsibility'.

[796] Further, a significant difference is found in the instructions concerning the response to the four-hour alert through the ARMS system. The 2021 Program provided that a four-hour alert would be sent to the Gaming Machine Supervisor who would then dispatch an 'attendant' to the location of the alert. That staff member would look for other signs of problem gambling and report back as needed.

- [797] The 2022 Programs direct that the alert will be sent to both the Gaming Machine Supervisor and the Host Responsibility Coordinator. It is specifically directed that in the case of a four-hour alert, Host Responsibility ‘will attend to the location of the alert and actively engage the customer in general conversation to potentially ascertain any signs of problem gambling’. If the Coordinator cannot immediately attend a four-hour alert, the Gaming Machine Supervisor is required to dispatch a Gaming Attendant to attend the area and ‘conversationally engage with the customer’. If the customer shows signs of gambling related harm, HRC must be contacted immediately.
- [798] The 2022 Programs also add a requirement that monthly reviews be undertaken of all ARMS alerts. Multiple instances by an individual will lead to a review of data pertaining to ‘historical play patterns, changes in gambling behaviour, any additional internal reporting, or other relevant information to facilitate the early detection of gambling harm’.
- [799] In addition, the 2022 Programs dictate that details of interaction following eight hour alerts are to be recorded, together with actions taken and the customer’s response to the interaction. The details are to be recorded in iTrak and a determination made as to whether the customer should be classified under the gambler of interest process.
- [800] In respect of the change in responses to four hour alerts, a decision to direct that Host Responsibility Coordinators respond to every four hour alert was made in mid 2022. On 18 July 2022 the Executive Manager Host Responsibility, [REDACTED], circulated an email with an instruction to that effect.
- [801] As mentioned, the 2021 Program accompanied the letter of 3 August 2022 from the solicitors for the licensee. Accompanying a subsequent letter from the solicitors dated 20 September 2022 was a document dated 18 July 2022 headed ‘SkyCity Adelaide – Host Responsibility Programme’. [REDACTED] explained his understanding that the Program dated 18 July 2022 represents the overarching ambition of the Host Responsibility Program, while the Program found in the 2021 SOP provides the practical application of the Program.

[802] The Program dated 18 July 2022, annexure [28] to this Report, begins with a ‘Statement of Position’:

SkyCity Adelaide is committed to providing a fun and safe environment for all customers and staff and to operating a leading Host Responsibility Programme.

SkyCity recognises that alcohol and gambling can be associated with harm for some customers and takes its role as a responsible host seriously and recognises that it has an important role to play in preventing and minimising alcohol and gambling-related harm for its customers and staff.

SkyCity Adelaide intends this Programme to be a robust and usable document for all staff which clearly sets out its obligations with respect to harm minimisation and prevention.

The Programme is a vitally important part of SkyCity’s overarching Group Harm Minimisation Framework which is illustrated below.



[803] Clause 1.2 of the July 2022 Program identifies the objectives and outcomes of the Programme:

1.2 Programme objectives

Objectives

The principal objectives of the SkyCity Adelaide Host Responsibility Programme include:

- *preventing the onset of gambling and/or alcohol related harm and minimising gambling related harm for customers and other persons potentially affected by their gambling behaviour;*
- *identifying problem gambling; and*

- *facilitating responsible gambling.*

SkyCity Adelaide aims to fulfil these objectives by:

- *providing effective staff training;*
- *providing a safe gambling environment;*
- *providing responsible marketing and promotional initiatives;*
- *promoting the responsible consumption of alcohol; and*
- *engaging effectively with stakeholders.*

Outcomes

SkyCity Adelaide intends that implementation of the Programme will assist customers who may be experiencing harm as well as assist in preventing the onset of gambling and/or alcohol related harm to those customers who may be at risk.

[804] Clause 9 provides that adherence to the July 2022 Program is the responsibility of the Executive Manager Host Responsibility. The Manager is required to review regularly the Program and Host Responsibility Standard Operating Procedures, and to conduct regular audits and meet mandated reporting requirements. Overall responsibility for the implementation of the Program also rests with the Executive Manager.

[805] The commitment of Senior Managers to the July 2022 Program is found in cl 2:

2. Management Commitment and Responsibilities

The commitment of SkyCity leaders to the Host Responsibility Programme and their understanding and commitment is pivotal. Senior Leaders are chartered with ensuring that the principles of the Host Responsibility Programme are entrenched throughout the business.

The Host Responsibility Programme facilitates staff commitment to:

- *Promote ethical and responsible behaviour*
- *Maintaining the highest ethical standards in the performance of their duties*

2.1 The SkyCity Senior Management Harm Minimisation Committee continues to explore and implement initiatives to enhance the Host Responsibility Programme promoting safe gambling and responsible service and consumption of alcohol.

[806] A number of features of the July 2022 Program are dealt with under the following headings:

- Staff Training.
- Communication (internal, external, community and media).

- Host Responsibility.
- Intervention including licensee barring, loyalty card holder, responsible service of alcohol, juveniles, and dress/behaviour standards.
- Responsible Marketing.
- Reporting/Measurement.
- Program Review.

[807] The July 2022 Program speaks broadly of the various aspects and duties outlined in the Program. This includes a ‘Continuous Presence Policy’:

As a part of SkyCity’s commitment to responsible gaming, customers may only spend a maximum of twelve hours in any one day within SkyCity gaming zones. If a customer’s time in gaming zones reaches or exceeds 12 hours in a day the customer will be required to leave premises and unable to return until the following day.

[808] The process to be followed for rescission of a Barring Order is now set out in a Standard Operating Procedure dated 25 July 2022. In addition, on 10 March 2022 [REDACTED] approved a process to be followed in the event of multiple EFTPOS transactions being declined at the Cage.

52.0 12 Hours Continuous Presence Policy

[809] In respect of the Continuous Presence Policy, the licensee wrote to the Commissioner on 15 August 2022 advising that the licensee was implementing a new ‘12-hour Continuous Presence Policy’ to be effective from 15 August 2022. The licensee stated that a similar practice had been implemented recently across the Group’s New Zealand casinos, and observed that the operation of the Policy was assisted by facial recognition long-stay technology. As that technology is currently not approved for use in Adelaide, the licensee will be relying on ‘staff observations and a number of manual practices’ (the technology was conditionally approved on 30 August 2024).

[810] In summary, the Continuous Presence Policy contains the following features:

- The Continuous Presence Policy does not apply to 'International and Domestic VIP' customers whose play 'will be monitored as per Standard Operation Protocols' (such customers were added on 26 August 2024).
- Continuous Presence is defined as a customer being present within the casino, but not necessarily gaming continuously, for a cumulative period of 12 hours in any single trading day.
- Host Responsibility personnel will periodically run a report to determine estimated time within the casino and last known location of customers that have been deemed to have been present for an initial period of 10 hours.
- When no carded data exists, detection will be based on staff observations and previous historical records. If reasonable evidence exists, collaborating information will be sourced by the Host Responsibility personnel.
- Customer interactions are as follows:

10 hrs

- At the 10 hour mark all reasonable endeavours will be made to locate customers showing in the report and determine if they are still on site, and therefore active and approaching the 12-hr limit.

11hrs

- Host Responsibility and/or VIP Hosts will interact with customers identified as still on site at the 11-hour mark, advising customers that they will be required to leave in one hours' time in accordance with SCA 12 Hour Continuous Presence Policy.

12hrs

- All instances where a customer has been deemed to be on site for 12 hours and asked to leave shall be recorded in iTrak as an incident file

- When a customer has been requested to leave as a result of reaching the 12-hour continuous presence limit, the customer will be advised that they are not permitted to return until the following trading day.
- If a customer has returned prior to completion of the mandatory break period, Host Responsibility will engage with the customer. This engagement may lead to further action being taken.

[811] Witnesses, including Mr Christian, who were asked why the Policy does not apply to international and domestic VIP customers all suggested that such international and interstate customers come to the casino for the sole purpose of gambling, and it should not be a cause for concern that such customers might be present in the casino for a continuous period of 12 hours or more. This is a disingenuous argument which relies on a false assumption. First, the word ‘domestic’ does not necessarily exclude South Australian residents. Secondly, even assuming that the customer is from interstate or overseas, it does not follow that the sole purpose for attending in South Australia is gambling. It might or might not be the sole purpose.

[812] Even if the customers enter for the sole purpose of gambling, the requirement to minimise the harm caused by gambling remains. Underlying the Policy is a concern that presence in the casino for such a lengthy period of 12 hours might be an indicator of problem gambling, or of some form of harm associated with gambling. Not applying the Policy to international and interstate VIP customers is in direct conflict with the primary obligation centred on harm minimisation.

[813] In addition, Mr Christian sought to justify the exemption on the basis that such customers are under closer supervision because of the presence of VIP Hosts. Against the background of the evidence obtained during this Investigation, and notwithstanding the improvements which have been made, the presence of VIP Hosts does not provide any comfort or support for the exemptions.

[814] The Policy should apply to all casino customers. At the least, it should be a requirement that Host Responsibility must check any interstate or overseas customer who has been present in the casino for a period of 12 hours, and the coordinator who undertakes the check should possess a discretion to apply the 12-hour limit to such customers.

53.0 Host Responsibility Program Policy

[815] Complicating the plethora of documents relating to the Host Responsibility Program is the existence of a 'policy' document which ██████████ thought had been overtaken by the Host Responsibility Program dated July 2022. However, the 'policy' document begins with a reference to the 'SkyCity Adelaide Host Responsibility Policy', and is dated 18 July 2022.⁵³ It was suggested that this Policy had existed for some time and had been amended on a number of occasions through to 2022. In view of the date, it is appropriate to canvas the essential features of this Policy.

[816] The objectives of the current Policy are expressed in cl 1.2 as follows:

- *Provide a safe gambling environment at Adelaide Casino*
- *Provide information to customers and concerned family members on a property – wide problem gambling processes which support customers seeking to cease gambling or to moderate their behaviour, and to take positive action against those who breach these processes*
- *Consult and work collaboratively with Gambling Help Services and support organisations*
- *Promote community awareness and education initiatives on moderating problem gambling and the services available for individuals seeking to control their behaviour*

⁵³ Annexure [29]

- *Promote the responsible consumption of alcohol*
- *Recognise the need for staff to be alert for customers displaying problem gambling indicators and unlawful activities such as under-age gambling and drinking*
- *Maintain staff competence and commitment to the highest standards, through the provision of ongoing assessment training, and support*
- *Ensure responsible marketing, advertising, and promotion of products*

[817] Clause 2 of the Policy concerns the commitment of management and staff to the objectives of the policy:

2. Management Commitment and Responsibilities

The commitment of SkyCity leaders to the Host Responsibility Programme and their understanding and commitment is pivotal. Senior Leaders are charged with ensuring that the principles of the Host Responsibility Programme are entrenched throughout the business.

The Host Responsibility Programme facilitates staff commitment to:

- *Promote ethical and responsible behaviour*
- *Maintaining the highest ethical standards in the performance of their duties*

2.1 The SkyCity Senior Management Harm Minimisation Committee continues to explore and implement initiatives to enhance the Host Responsibility Programme promoting safe gambling and responsible service and consumption of alcohol.

[818] A number of other significant features are apparent from the terms of the Policy:

- The licensee expressly recognises the obligations to comply with the requirements of the regulatory scheme.

- The licensee recognises the potential for the core business, namely ‘Gaming’, to contribute to negative social impacts such as problem gambling and excessive alcohol consumption.
- The licensee has undertaken that it is ‘committed to minimising harm to customers and staff due to gambling and alcohol’. In this context it is said that the Policy promotes the assistance and treatment available from service providers to its customers by ‘proactively’ engaging customers experiencing possible harm. In addition, the licensee states that it facilitates the use of barring options where required.
- The Policy is said to be set by the licensee to demonstrate staff commitment to promoting ethical and responsible behaviour, and maintaining the highest ethical standards in the performance of the duties.
- The licensee asserts that the commitment of management and staff to a high level of awareness of ‘responsible gambling and alcohol consumption practices’ are ‘pre-requisites’ for all levels of host responsibility. In this context it is stated that regular staff communications are, therefore, ‘essential’, in addition to ‘training, ongoing monitoring of compliance with the policy’.
- The licensee states it will promote community awareness and education initiatives concerned with moderating problem gambling.

[819] Of particular importance within the Policy are sections concerned with early intervention and voluntary barring processes. These two areas are critical to the effectiveness of the harm minimisation processes.

[820] The Policy states that the early intervention program ‘focuses on early identification of any potential problem gambling indicators’. It is said that Host Responsibility Coordinators receive training from industry and health experts ‘in the field of problem gambling, intervention and assistance strategies and mental health’ and, with this training and knowledge, the Coordinators engage in the following:

- *Monitoring customers to identify signs and indicators of problematic gambling behaviour*
- *Using a Customer Service Approach (CSA) for anyone visiting SkyCity Adelaide to identify potential concerns*
- *Offering assistance or information on various Gambling Help Services and resources available*
- *Facilitating contact between customers and Gambling Help Services*
- *Facilitating the process of barring, licensee barring's, third party barring's and case management practices following the rescission of a barring order*
- *Monitoring customers for signs of intoxication and taking appropriate steps to manage incidents with the support of the Food & Beverage and Security teams*
- *Monitoring the effective distribution of responsible gambling information and materials throughout the facility*

[821] As to the voluntary barring of patrons, the Policy states that coordinators 'rigorously' enforce CBS barrings, to the extent 'reasonably possible', and take steps to encourage gambling management strategies that are most appropriate for an individual.

[822] Management of the Policy is identified in cl 9 which states that adherence to the Policy is the responsibility of the Executive Manager Host Responsibility. The Executive Manager is responsible for the implementation of the Policy, together with 'relevant managers', and duties include regularly reviewing the Host Responsibility Program and Standard Operating Procedures. It is the responsibility of the Executive Manager to report regularly to the Adelaide Senior Leadership team, Adelaide's Senior Management Harm Minimisation Committee and the SkyCity Entertainment Group Host Responsibility Committee.

54.0 Host Responsibility – Interstate Experience

[823] In considering the Host Responsibility Program, it is appropriate to bear in mind the Victorian and Western Australian experiences with VIP host responsibility schemes. Mr Finkelstein observed there were many different types of hosts at the Melbourne Casino, and he focused on

the role of Hosts in the Mahogany Room because of the large amounts gambled in that Room. He observed that the Host, a 'Mahogany Executive Host', looked after a number of Crown loyalty program members by attending to personal needs and providing such members with 'incentives and enticements, such as tickets to sporting and musical events'. In short, the job of the Host was to get people to enter the casino and 'gamble no matter what'. If a member was taking a break from gambling, the Host would often contact the member and invite them to come to the casino for a catch up with the expectation that the member might continue gambling. Even if a member had been playing for 15 or 20 hours, the Host would not suggest they take a break unless advised to do so by a Responsible Gaming Advisor. A Host did not feel obliged to suggest self-exclusion if a member was, or seemed to be, in relatively serious financial trouble. To the contrary, Hosts were instructed to discourage subtly their clients from self-excluding. A summary provided by Mr Finkelstein is set out at paragraph [78] of this Report.

[824] The Western Australian Royal Commission reached a similar view. That Report noted that the Perth Casino employed hosts to provide personal service to patrons and the hosts focused on premium or high value patrons. Hosts responsible for managing a portfolio of premium patrons were issued with mobile telephones, and were responsible for offering complimentary goods and services in recognition of, and in proportion to, the amount of money gambled. Hosts would organise promotional events to which premium patrons were invited.

[825] The Commission concluded that (page 689 [411]):

- a. a primary reason for the employment of premium or VIP hosts is to induce patrons to increase the amount of money they spend in gambling at Perth Casino;*
- b. a primary reason for which hosts issue comps is to increase the amount of money that patrons who receive those comps spend when gambling at Perth Casino; and*
- c. while they receive RG training, hosts are not trained to and do not consider, or consider sufficiently, the possibility that issuing comps may ultimately cause or increase the risk of harm.*

[826] Later in the Report, the Commission added the following conclusions (page 691 [426]):

- a. Perth Casino invites premium patrons to free events or functions, and provides them with gifts and gift cards, for the dominant purpose of inducing them to increase their gambling turnover (and, consequentially, losses);*
- b. Perth Casino does not assess the patrons who are invited to events or functions, or provided with gifts and gift cards, to consider whether they could afford an increase in spending on gambling;*
- c. for those patrons who cannot afford an increase in spending on gambling there is an increased risk that they may suffer gambling-related harm; and*
- d. consequentially, Perth Casino does not do what is reasonable to minimise the risk of harm from its promotional activities.*

[827] The Commission also dealt with marketing campaigns to Crown Rewards members. It concluded that although there was a recognition marketing materials might cause or contribute to harm if they induced patrons to gamble (and lose) more than they could afford, ‘some promotions’ encouraged patrons to spend beyond their average historical spend. The Commission concluded that the Perth Casino did not take reasonably available steps to ensure it did not send marketing material to patrons ‘that may be at particular risk of suffering gambling-related harm’, such as those who had come to the attention of staff as a result of ‘displaying observable signs’.

55.0 Host Responsibility – Issues raised by Commissioner

[828] As required by the Commissioner pursuant to cl 75(2)(d) of the 2013 Gambling Codes of Practice, the licensee provided to the Commissioner quarterly reports concerning the host responsibility program. The quarterly report for the period 1 January – 31 March 2021⁵⁴ resulted in the Commissioner raising concerns in a letter of 12 July 2021 to the licensee. The Commissioner referred to the Report for the first quarter, and to the Policy Statement that the Host Responsibility Co-ordinators will ‘make contact and engage in conversation with as many customers as possible

⁵⁴ Annexure [30].

throughout each shift to identify potential signs of problem gambling'. The Commissioner then set out his concerns:

Approach Rate

During the reporting period, the Casino reported 466,328 visitations. During this same period, the HRC made 103 customer approaches. In other words, 0.02% of visitations resulted in an approach by HRC. This approach rate is exceptionally low given that it has been well documented that player behaviour has changed significantly as a result of the COVID-19 pandemic and is inconsistent with the relevant provisions of the HRC SOP and HRP outlined above.

The narrative summary included in the Report states "HRC will (as per the approved Automated Risk Monitoring System (ARMS) process) continue to attend 4-hour alerts as needed". From January to March 2021 the Casino reported 627 4-hour ARMS alerts. Although the report indicates that Gaming Machine Attendants responded to every alert, HRC responded to only 3 alerts (0.48%).

During the same period the previous year, HRC attended 11.9% of all alerts. It is unclear whether attendance at a machine in response to a 4-hour ARMs alert involves customer engagement or simply observation. Further, the Report does not include data regarding the number of double 4 hr alerts (8 hrs) during the reporting period, and the actions HRC have taken in response.

Research demonstrates that gambling for more than 3 hrs without a break is an indicator of potential harm. While observation of this behaviour without other indicators may lead to inaccurate conclusions about an individual's risk of harm, the 4-hour alert does provide an opportunity for staff to engage customers in general conversation (rather than explicit conversations about gambling). Such engagement may enable staff to confirm potential concerns and initiate a gambling conversation or provide an opportunity to detect additional indicators that may not be identifiable through observation alone.

Given that the role of the HRC is to approach patrons demonstrating problem gambling symptoms, the approach rate of 0.48% is unacceptably low.

Pre-commitment Limit Breaches

The HRC SOP describes how pre-commitment limit breaches send an electronic alert to the HRC for action as required, and that when an alert is received the HRC will "attend the location immediately to engage the customer looking listening for other signs/indicators of problem gambling" and "conduct a desktop review to determine other factors that may suggest harm with regards to gambling/add weight to the initial engagement".

The Report describes a total of 34 pre-commitment limit breaches during the reporting period. However, incongruent with the HRC SOP, HRC engaged with only 17 customers and observed 12 customers. Five people who breached their pre-commitment limit were not approached or observed. Pre-commitment limit breaches may be an indicator of

problem gambling. These are opportunities to engage with patrons, and to offer gambling help services or other support.

Interventions

Intervention is defined in the quarterly report as “a conversation relating to a patron’s (problem) gambling behaviours and where direct action is needed e.g., problem gambling support, referral to help services, case management discussion or barring”. In the Report, one of the ‘Types of interventions’ listed is a “premium entry enquiry”. In my view, based on the above definition, a premium entry enquiry could not be considered an intervention and would be entirely inappropriate if the person was approached for displaying a problem gambling indicator.

It is also unclear what these interactions or interventions involve due to the limited amount of detail provided in the report. The report indicates that interventions include case management agreements, re-entry discussions after barring, breach of case management conditions, barring requests, and ‘no visitation agreements’ but does not clarify the outcome of these discussions.

[829] In the letter of 12 July 2021 the Commissioner advised that in view of the matters raised in his letter, he considered there may be proper cause for disciplinary action against the licensee for having contravened or failed to comply with clause 75 of the 2013 Gambling Code by failing to maintain properly a Host Responsibility Program. The licensee responded by letter of 12 August 2021:

Approach Rate

General visitation

5. As you know, one of the key day-to-day functions of the HRC team is to engage with as many customers as possible in an attempt to help identify any potential signs of problem gambling. These approaches take a variety of different forms and are categorised in HRC reports as information, interaction, intervention, responsible gambling approach (RGA) and responsible service of alcohol approach (RSA).
6. We understand you are concerned that HRC staff approached only 103 of the 466, 328 visitors during the reporting period (a total of 0.02% visitations). Whilst this may appear to be a low approach rate, it is relevant to take into account the following when interpreting the data:
 - 6.1 the reporting period coincides with the opening to the general public of SkyCity’s expansion. As a result, there were a number of customers who visited the precinct to simply observe the new facilities and/or dine in the restaurants within the gaming areas rather than engage in any form of gambling. This includes the opening of The District at SkyCity which attracted a significant

number of non-gaming customers to the precinct during the reporting period. These general visitation figures also include staff members and third-party contractors who are required to pass through entrances to gaming areas in order to conduct their duties. Those individuals are therefore unlikely to have been considered for approach by the HRC team;

- 6.2 the visitation related approach rate for the relevant period is largely in line with the rates that have been reported over the past three years. These rates range between 0.019% and 0.064% of visitations (excluding RGA's and RSA's). The table set out in Attachment A provides further context for the relationship between the HRC approach rate and the visitation rate over the past three years. As you will see, the HRC approach rate for the relevant period is only 0.015% less than the average HRC approach rate reported over the past three years. We are not aware of concerns being raised about approach rates reported in previous periods;
 - 6.3 the data does not include general day-to-day conversations that may take place between HRC staff and customers. Whilst these discussions may not necessarily relate to gambling, they do provide HRC staff with the opportunity to detect any potential problem gambling indicators.
7. It has come to our attention that the Report did not include data relating to RGA's or RSA's undertaken by HRC staff. These approaches are undertaken by HRC staff in addition to information, interaction and intervention, and were included in the previous reports. HRC staff aim to achieve a target of 1, 000 RGA's and 500 RSA's each month. These targets have been in place at SkyCity for a number of years, including before the introduction of the ARM system in 2014. To provide some further context, SkyCity has, over the past two years, reported a combined quarterly average of approximately 4, 300 RGA's and RSA's.
 8. Although RGA and RSA data was not collected or included in the Report, SkyCity can confirm that HRC staff were regularly conducting such approaches during the relevant period. These types of approaches are in addition to HRC staff walking the floor and engaging with customers. Put simply, we can confidently say that HRC staff engage in many more discussions than what is reflected in the Report. We have taken steps to ensure that RGA's and RSA's are recorded by HRC staff and are not omitted from future reports.

ARMS alerts

9. We note your concerns that the Report:
 - 9.1 indicates that HRC staff responded to 0.48% of all alerts during the relevant period (down approximately 10% compared to the same period in the previous year); and
 - 9.2 does not include data regarding the number of double four-hour alerts (eight hours) during the reporting period and the actions HRC staff took in response.
10. As you are aware, the ARM system sends an alert each time a patron has spent four hours playing an electronic gaming machine or automated table game without interruption. These four-hour alerts are initially received by the Gaming Machine

Supervisor who assigns a Gaming machine Attendant to observe the patron who triggered the alert. These attendants are required to undertake basic training in accordance with clause 67(1)(a) of the GCOP and are therefore equipped in being able to observe and identify potential signs of problem gambling. If the attendant identifies any concerns with the patron's behaviour, the HRC team is informed and a HRC staff member will intervene. This is reflected in paragraph 8.1 of the HRC SOP which states:

*"When a 4hr limit is reached the system will send an alert to the Gaming machine Shift Manager with HRC support requested **if needed** (if further problem gambling indicators identified)."*

11. This escalation process was intended to allow HRC staff to prioritise duties such as walking the floor and engaging with customers, rather than attending all four-hour alerts that are not, in of themselves, considered to represent a clear indicator of problem gambling. SkyCity considers this to be an appropriate delegation to Gaming Machine Attendants (who are trained in recognising problem gambling), with an escalation process to involve HRC staff where appropriate.
12. We note that the HRC approach rate for ARMS alerts is lower than usual because the six-hour and eight-hour alerts were not operative during the reporting period. It is important to note that, as discussed above in paragraphs 10 and 11, appropriately trained staff members responded to each four-hour alert during the reporting period. This response included attending the relevant machine to observe the patron for potential signs of problem gambling and, where relevant, escalating any concerns to HRC staff.
13. Please note that the voluntary six-hour and eight-hour alerts have been reinstated and will be included in future reports. We will also ensure that, in future, any changes we propose to make to the ARMS alert parameters are communicated and discussed with you prior to us implementing those changes.

Pre-commitment Limit Breaches

14. In your letter, you indicate that five customers who breached their pre-commitment limit during the reporting period were not approached or observed by a HRC staff member, which is inconsistent with the HRC SOP. SkyCity respectfully disagrees with this interpretation. Paragraph 8.2 of the HRC SOP states:

"When an alert is received the HRC may complete the following steps:

- *Attend the location to engage the customer looking/listening for other signs or indicators of problem gambling;*
- *Conduct a desk top review to explore other factors that may indicate harm or add weight to the initial engagement;*
- *Record the details as required."*

15. Pursuant to the SOP, HRC staff may perform any of the listed actions when a patron has breached their pre-commitment limit. The type of action taken by HRC staff depends on the circumstances, including the patron's membership status, their gambling history and whether the patron has had any prior interactions with HRC.

In most, if not all, cases HRC staff will conduct a desk top review prior to attending the location described in the alert. This desk top review provides HRC staff with the opportunity to examine the patron's gambling activity so that they may better understand the patron's circumstances and gambling behaviour. This enabled HRC staff to make an informed decision as to whether or not an approach is appropriate. It is important to note that these reviews are not (and have not previously been) included in the quarterly notes.

16. *We confirm that HRC staff conducted a desk top review for each of the patrons who breached their pre-commitment during the relevant period. The data in the Report therefore does not reflect all actions HRC staff undertook in relation to pre-commitment during the period. We believe that including such data in future reporting will be of value to the Commissioner and are, subject to your views, happy to discuss the inclusion of additional data in future reports. We are also happy to review the terms of the HRC SOP to clarify the actions HRC staff are required to undertake in relation to responding to pre-commitment limit breaches so that such action aligns with the Commissioner's expectations.*

Interventions

17. *A "premium entry enquiry" is a discussion that takes place between a HRC staff member and a patron who seeks to gain access to VIP gaming areas. During this process the HRC staff member (usually the HRC Manager) will interview the patron to determine whether or not the patron is considered to be a problem gambler or a potential problem gambler. A determination is then made about whether to allow that patron access to VIP gaming based on the information obtained during the interview.*
18. *SkyCity has, for a number of years, reported such discussions as a form of 'intervention' given that the discussion relates to an assessment of the patron's current and past gambling behaviour. We appreciate that this may not amount to an intervention in the ordinary sense and are, subject to your views, happy to remove this data in future reports.*
19. *We note your comment that the Report contains limited information about the outcomes of each interaction or intervention. As you know, the quarterly reports are intended to provide a high-level overview of key statistics relating to host responsibility practices over the relevant period. SkyCity has presented these reports based on the template prescribed by the former Independent Gambling Authority (IGA) on 23 March 2015 (see Attachment B). We are happy to discuss the manner in which the reports are presented, including what additional data could be included. Specific details regarding each type of discussion are documented by the HRC team in iTrak and can be produced on request if required.*
20. *Clause 75 of the GCOP requires SkyCity to maintain a Host Responsibility Program and for that purpose, the program and its circumstances must meet the minimum requirements prescribed by clause 75(2).*
21. *SkyCity's view is that it has maintained a Host Responsibility Program in compliance with clause 75(1) of the GCOP. SkyCity is not aware of circumstances that point to a breach of the minimum requirements set out in clause 72(2). As a result, SkyCity is of the view that disciplinary action is unwarranted.*

22. *In preparing the quarterly reports SkyCity has continued to follow the template issued by the former IA in 2015 which we are required to follow until such time as it is changed by CBS pursuant to clause 75(2)(d) of the GCOP.*⁵⁵

[830] In this response of 12 August 2021, the licensee concluded with the following statements as to improvements and the establishment of a senior management group concerned with harm minimisation, and a new role of Executive Manager – Host Responsibility:

Moving Forward

23. *Please be assured that SkyCity takes its duties as a responsible host very seriously. Host responsibility is a key component of our sustainability framework. We remain focused on and committed to minimising the risk of gambling harm in the community.*
24. *We believe improvement could be made to the content of the quarterly reports so that they more accurately reflect all activities of the host responsibility team. I propose that we meet to collaboratively review the current reporting template with a view to updating it and ensuring that it aligns with your expectations. As part of that review, I also suggest that we discuss the establishment of regular quarterly meetings at which SkyCity representatives present the report and discuss host responsibility practices and trends. Similar meetings were held with the IGA in the past and would provide an opportunity for further explanation of the data and the activities of the host responsibility team generally.*
25. *As part of SkyCity's ongoing commitment to being a responsible gambling provider, I have recently established a Harm Minimisation Senior Management Group. This group is responsible for providing additional oversight of SkyCity's harm minimisation practices as well as identifying opportunities for continuous improvement. The group is also currently developing a twelve-month harm minimisation roadmap which includes a number of initiatives to deliver further enhancements to the program. I would be happy to share this document with you.*
26. *I have also established a new role within the business known as the 'Executive manager – Host Responsibility'. This new role, which was established in June 2021, will be responsible for providing strategic direction and overall governance of the host responsibility program. It will provide an additional layer of oversight of SkyCity's host responsibility and will add further value to SkyCity's host responsibility practices. The establishment of this new role has also resulted in a restructure of SkyCity's host responsibility department which I have set out in the organisation chart in Attachment C. Recruitment of the Executive manager – Host Responsibility commenced in mid-July and is expected to be completed by October this year.*

⁵⁵ This exchange of correspondence provides two examples of the Commissioner not being in possession of the latest version of the relevant SOP. When amendments are made to SOP's, within 7 days the licensee should provide the latest version to the Commissioner.

- [831] As to switching off the 6 and 8 hour alerts, Mr Christian gave evidence that they were turned off by the previous Manager Host Responsibility, Y, without appropriate authority. Y disagrees with that evidence. Y said Y advised Mr Krawczyk that the Host Responsibility team was experiencing difficulties with the workload and, because a staff member was not performing as expected, Y was concerned Host Responsibility could not meet its interaction reporting numbers. According to Y, during the discussion Y suggested to Mr Krawczyk that they leave out the 6 and 8 hour alerts as they were not mandated. Mr Krawczyk agreed, but indicated Y needed to discuss this with legal counsel, V.
- [832] Y produced email exchanges dated 19 January 2019 in which Y advised Mr Krawczyk that V was 'okay with these changes'. Y also reported advice from V that it was not necessary to inform CBS at that time, but a note should be added to the next HRC Quarterly Report to CBS in April.
- [833] Y said Y subsequently approached a member of the ICT team and requested the member amend the operation of the alerts and disable the notification component of the 6 and 8 hour alerts. Although Y was advised by V to make a note in the statistical reports explaining what had occurred, Y forgot to do so and the Quarterly Reports were submitted to CBS without such an explanatory note.
- [834] As at June 2022 Mr Krawczyk had been with the casino for 19 years, having commenced in the Surveillance division. He oversaw Host Responsibility, Property, Surveillance and Security. He received direct reports from managers of those divisions and formal meetings were held fortnightly.
- [835] As to the ARMS alerts, in evidence on 22 June 2022 Mr Krawczyk initially said he was not aware of the decision by Y to disable the six hour alerts. Subsequently, he understood Y reasoned that as the six hour alerts were not part of the initial roll out of the ARMS system, Y decided they could be disabled. From Mr Krawczyk's perspective, it did not matter that the 8 hour alerts were

disabled because there would always be two four hour alerts. Initially Mr Krawczyk said that as a consequence of Y's actions without his knowledge, his trust in Y was diminished.

[836] Asked about Y's version, Mr Krawczyk recalled an issue raised by Y concerning a staff member who was not performing as expected which resulted in difficulty in achieving the number of interactions expected of Host Responsibility. However, Mr Krawczyk was unable to recall any discussion with Y concerning disabling the 6 hour alerts.

[837] As mentioned, Y produced email exchanges dated 19 January 2019 concerning the proposal to disable 6 and 8 hour alerts. The exchanges began with a notification to Mr Krawczyk of the proposal. Mr Krawczyk sent that notification by email to Y with a question mark. Y replied to Mr Krawczyk by email with the following statement:

[V] is ok with these changes – advising that to advise CBS now would not be necessary – but add a note to the next HRC quarterly report that CBS receive in April;

[838] Faced with the email communications, Mr Krawczyk accepted that Y had told him of the proposal. He said he would have accepted the statement by Y that V had approved the changes. In that event his formal approval would not have been required.

[839] In addition, accepting that Y had informed him of the proposed changes, Mr Krawczyk acknowledged that he would not, at that time, have had any reason to lack trust in Y.

[840] V did not recall any discussion before the alerts were turned off. In addition, V was adamant that approval would not have been given to turn off a mandatory alert.

[841] The quarterly report for the period 1 April – 30 June 2021 reported 440,566 visitations, and only 100 approaches by Host Responsibility staff. These approaches were categorised under the headings Information, Interaction and Intervention. The ratio changed in the third quarter of 1

June – 30 September 2021. Of the 301,687 visitations, within the same categories 159 persons were approached by host personnel.

[842] A further change in the ratio of approaches under the categories of Information, Interaction and Intervention occurred in the final quarter 1 October – 31 December 2021. Of 407,975 visitations, 280 were approached.

[843] It should be noted that during the later half of 2021 management of the Host Responsibility Program changed. As mentioned, in the response of 12 August 2021 to the Commissioner, the licensee advised that a new role known as ‘Executive Manager – Host Responsibility’ was established in June 2021. An appointment was made in August 2021. In addition, the licensee advised it had ‘recently’ established a Harm Minimisation Senior Management Group to be responsible for providing ‘additional oversight of SkyCity’s harm minimisation practices as well as identifying opportunities for continuous improvement’.

[844] In the first quarter of 2022, although visitations were down to 273,373, the number of approaches by host personnel within these categories increased to 298. Visitations in the second quarter of 2022, 1 April – 30 June 2022, increased to 443,824, but approaches across the three categories dropped to 232.

[845] In respect of the 2021 First Quarter low approach rate, in the letter of 12 August 2021 the licensee observed that the Report for the first quarter of 2021 did not include data relating to Responsible Gambling Approaches (RGA) and Responsible Service of Alcohol Approaches (RSA). The letter noted that these approaches are undertaken by host staff in addition to approaches recorded in the categories of Information, Interaction and Intervention. The target was said to be 1,000 RGA’s and 500 RSA’s each month.

[846] Subsequent quarterly reports contained figures with respect to RGA and RSA approaches:

Date	RGA	RSA
1 /6 – 30/9 / 21	1455	701
1/10 – 31/12 / 21	1421	815
1/1 – 31/3 / 22	1351	544
¼ – 30/6/22	1950	570

[847] Encompassed by the Commissioner’s concern that the host responsibility staff approach rate was exceptionally low in the first quarter of 2021 were observations by the Commissioner concerning responses to the Automated Risk Monitoring System (ARMS). In the letter of 12 August 2021, the licensee advised that the host approach rate for ARMS alerts was lower than usual during the first quarter of 2021 ‘because the 6-hour and 8-hour alerts were not operative during the reporting period’. Further, the licensee added that the ‘voluntary 6-hour and 8-hour alerts have been reinstated’, and would be included in future Reports.

[848] Noting that until mid 2022 Gaming Machine Attendants responded to all, or a very high percentage of alerts, the figures for responses by host responsibility staff to ARMS Alerts were as follows:

Date	Alerts (4, 6 and 8 hour)	HRC Attendance
1/1 – 31/3 / 21	627 (4-hour only)	3
¼ – 30/6 / 21	1026 (4-hour only)	68
1/6 – 30/8 / 21	1542	351
1/10 – 31/12 / 21	1092	105
1/1 – 31/3 / 22	1127	142
¼ – 30/6/22	1535	451

[849] In the letter of 12 July 2021, the Commissioner also raised the number of approaches made following electronic alerts of pre-commitment limit breaches. In the response of 12 August 2021,

the licensee observed that the relevant SOP provided that when an alert was received, the host staff ‘may’ take identified steps. The licensee commented that the data in the report did not reflect all actions undertaken by host staff in relation to pre-commitment breaches. The numerical figures in this respect were as follows:

Date	Breaches	HRC Approach	HRC Observe
1/1 – 31/3 / 21	34	17	12
¼ – 30/6 / 21	42	14	23
1/6 – 30/8 / 21	32	14	17
1/10 – 31/12 / 21	23	12	11
1/1 – 31/3 / 22	24	12	12
¼ – 30/6/22	39	19	20

56.0 Reviews and Improvements

[850] In the letter of 15 September 2022, solicitors for the licensee advised that the Host Responsibility Program was amended or revised in January, September and December 2021 and July 2022. These were ‘voluntary’ revisions ‘designed to reflect the enhancement initiatives’ implemented by the licensee from time to time. The revisions included the introduction of the ‘Group Harm Minimisation Framework’, and the addition of the Host Responsibility Senior Management Group (Adelaide). The later change was introduced to ‘ensure additional oversight of HRP by Senior Leadership’. In addition, the ‘Continuous Presence Policy’ was introduced.

[851] Between April and August 2021, Ernst and Young (EY) undertook a review of the Program.⁵⁶ EY’s report is dated 21 September 2021 and described the review as an ‘operating effectiveness assessment’ with the objective of determining whether the Program was operating as designed. The objectives included determining whether the Standard Operating Procedures were being

⁵⁶ Annexure [31]

followed as expected, and whether the ‘key controls’ associated with the Program were operating as expected.

- [852] EY did not identify any breaches of the Program, and said it identified ‘a strong overall awareness of the Policy requirements from staff (including Gaming Security and Host Responsibility Staff) and effective engagement with external service providers’. This summary continued:

This operating effectiveness assessment has identified strong focus on an Early Intervention Program to support the execution of SCA HRP. This is evident in the proactive culture towards monitoring and approaching customers and regular open engagement with external service providers.

- [853] As to any qualification, EY observed that it had identified examples where documentation was not always sufficiently complete to establish that the Program requirements had been followed. Some documentation and tracking which occurred outside the iTrak system possessed the potential to reduce the ability to review a player’s full interaction history at a later date. As a consequence, adherence to the Program could not be demonstrated. EY also noted potential resourcing constraint and ‘several areas of the HRP that are out of alignment with current practice’.

- [854] Solicitors for the licensee observed that EY did not identify any breaches of the Program, and that issues raised by EY were classified as either ‘low’ or ‘moderate’, rather than ‘high’. A table was provided by the solicitors summarising the issues raised, recommendations by EY and the licensee’s response to each issue.⁵⁷

⁵⁷ Annexure [32]

- [855] The previous Host Manager, Y, found the unfavourable result ‘quite unsettling’ because five previous audits provided good results. Some of the issues identified by EY were beyond Y’s control, and others involved information which Y was unsure about giving to EY.
- [856] According to the letter of 15 September 2022 from the licensee’s solicitors, all issues identified in the EY Report ‘were treated as a priority and responded to promptly’. The Adelaide Host Responsibility Senior Management Group, and the SCEG Group Risk Team, have monitored the licensee’s response and remedial actions, and received regular updates. All issues raised in the EY Report ‘have already been addressed and closed off by SkyCity Adelaide, or are significantly progressed and expected to be closed off in the near future’.
- [857] In addition, the letter of 15 September 2022 stated that following the EY Report, the licensee ‘developed a program of quality assurance that covers all aspects of the HRP to enhance any skill gaps in knowledge or processes (Assurance Program)’, and ‘SCEG’s Group Risk function was assigned responsibility for conducting quality assurance testing of HRP from October 2021 (QA Testing)’.
- [858] As to the Assurance Program and QA Testing, the letter of 15 September 2022 provided the following explanation:

Assurance Program

43. *The Assurance Program requires specific elements of the HRP to be tested in accordance with the document titled “Rotational Assurance Programme” which is included at Item 15 of the Index (SCA RAP). As per the SCA RAP, those various HRP elements are tested annually, two (2) time a year, three (3) times a year, or on a quarterly basis.*
44. *SCEG has a similar quality assurance program in place in respect of the HRPs in place at its New Zealand casinos (SCEG Assurance Program). The testing provided for in the SCA RAP is also carried out in respect of SCEG as part of the SCEG Assurance Program. The responsibility for conducting testing as part of both the Assurance program and SCEG Assurance Program lies with the SCEG Group Risk team (which is overseen by the Group Risk manager, [REDACTED]).*
45. *The testing prescribed by the SCA RAP required the Group Risk team to:*

- (a) carry out desktop reviews of relevant documentation and files;
- (b) engage in discussions with SkyCity Adelaide personnel (usually by Microsoft Teams and/or Skype); and
- (c) attend three (3) scheduled visits to the SkyCity Adelaide casino site each year.

46. In respect of the SCA RAP, we note that:

- (a) the SCA RAP was formally documented from January 2022, but prior to this date, the testing programme was deployed informally as it was still under development;
- (b) the SCA RAP is a living document which is periodically updated to modify testing or add new areas of focus. Updated versions are provided periodically to the SCEG Host Responsibility Senior management Group and the relevant SCEG Board sub-committee; and
- (c) the testing provided for in the first six (6) months of the SCA RAP was subject to some disruption and delay due to COVID-19 and border restrictions.

QA Testing

47. In May 2022, members of SCEG's Group Risk team based in New Zealand (██████████ and ██████████) conducted QA testing. As part of the QA Testing:

- (a) ██████████ visited the SkyCity Adelaide casino to interview SkyCity Adelaide personnel for the purpose of gauging their understanding of SkyCity Adelaide's host responsibility practices (including how to identify a problem gambler, the responsible service of alcohol and relevant exclusions), and to seek any feedback from those staff in relation to SkyCity Adelaide's business; and
- (b) ██████████ carried out a desktop review in Auckland of SkyCity Adelaide's barring files in the iTrak system for the period of May 2022. iTrak is an incident management system utilised to record incidents and information about customers. The system is used by several departments within SkyCity Adelaide, including the Security, Surveillance, Host Responsibility and Financial Crime Teams.

48. Following the staff interviews and desktop review, ██████████ produced a "Group Risk Host Responsibility Assurance Report" in July 2022 (**Assurance Report**) – a copy of which is included at Item 16 of the index.

49. In the Assurance Report, ██████████ found that the SkyCity Adelaide Host Responsibility function is very focused on continuous improvement, and that

there is a highly engaged and positive host responsibility culture onsite at the SkyCity Adelaide casino. In particular, ██████ found that:

- (a) security staff interviewed were able to identify problem gambling indicators, how to identify intoxicated customers, and how to escalate exclusions;*
- (b) Gaming Machine Attendants interviewed were able to identify problem gambling indicators and how to identify an intoxicated customer, and were aware of what the pre-commitment facility is;*
- (c) table Games and VIP Hosts were able to answer all problem gambling scenario-based questions correctly; and*
- (d) Food & beverage (F&B) staff were able to answer all problem gambling scenario-based questions correctly.*

50. ██████ also identified a series of recommendations or suggestions that staff had made during their interviews in respect of improvements they considered could be made by SkyCity Adelaide in relation to its host responsibility procedures/processes, namely:

- (a) F&B staff indicated that they would like additional training on the responsible service of alcohol and how to “slow down” customers;*
- (b) Gaming Machines staff indicated that they would like further scenario-based training on how to identify Problem Gambling Indicators (PGIs) in conversations with customers;*
- (c) staff wanted to implement centralised noticeboards with host responsibility tips;*
- (d) staff preferred training to be scenario-based rather than sitting in the classroom for long periods of time; and*
- (e) staff asked for more host responsibility brochures to be available on the floor.*

51. SkyCity Adelaide does not consider that these staff-driven recommendations or suggestions constitute inadequacies or failings in the operation of the HRP. SkyCity Adelaide has in any event addressed many of these staff-driven suggestions by way of the remediation and/or enhancement measures that have been implemented by SkyCity Adelaide to date (which are described in greater detail in this response).

52. As part of his desktop review of the barring files, ██████ found that the nine (9) files reviewed for the period of May 2022 were compliant with the HRP. However, he also noted that evidence of some steps from the Host Responsibility SOP (see document marked SKY.001.002.0083 produced in response to the Notice for the Production of Documents issued to SkyCity Adelaide pursuant to

s 23(1)I of the Casino Act on 1 August 2022 (**First Notice**)) (**HR SOP**) appeared to be missing across the incidents that were reviewed.

In particular:

- (a) five (5) incidents could not evidence that the HRC team attended the request immediately;
- (b) two (2) incidents did not mention whether the presence of Security was required; and
- (c) eight (8) incidents could not clearly evidence the patron being loaded into the Barring and Online Employee Notification (**BOEN**) system.

- 53. As the incidents referred to above relate to whether there has been sufficient evidence provided of compliance with all aspects of the HR SOP (as distinct from the HRP), SkyCity Adelaide does not consider that those incidents fall within the scope of Question 5 of the Fifth Notice.
- 53. In addition to the QA Testing carried out by [REDACTED] and [REDACTED] in May 2022. The Group Risk function also commenced testing on further case management files in August 2022, with that further testing expected to be completed in around September 2022.

[859] A number of other improvements to the Program were explained in the letter of 15 September 2022:

Host Responsibility enhancement measures

- 55. SkyCity Adelaide places great importance on host responsibility throughout every part of its organisation, and takes its responsibilities to minimise risk and harm from problem gambling very seriously, SkyCity Adelaide is proud of the culture of care it has developed within the SkyCity Adelaide casino, and continues to focus on ways to ensure that this culture of care is maintained and that it has the highest standard of host responsibility best practice.
- 56. To that end, SkyCity Adelaide has developed a “Harm Minimisation Roadmap”, which sets out a series of enhancement measures that SkyCity Adelaide has already implemented, or will implement over the next twelve months – a copy of which is included at Item 17 of the Index. The Harm Minimisation Roadmap is continuously assessed and adapted (where required) to accommodate learning from research, evidence, SkyCity Adelaide’s own findings, and changes in community expectations.
- 57. The components of the Harm Minimisation Roadmap implemented by SkyCity Adelaide throughout 2021 and 2022 are discussed further below. Many of the components referred to formed the subject of a presentation given by SkyCity

Adelaide to the Commissioner on 6 June 2022. A copy of that presentation is included at Item 18 of the Index.

Increased Resourcing

58. SkyCity Adelaide has increased its resources within Host Responsibility function during the Relevant Period, including the appointment of:

(a) a new Executive Manager Host Responsibility (██████████) in August 2021 to lead and manage the Host Responsibility function at SkyCity Adelaide (see the Position Description at SKY.001.004.0103, produced in response to the First Notice);

(b) a Host Responsibility Learning & Development Manager and Administrator, whose role is dedicated to developing and delivering the Host Responsibility Gambling Regulations Training and Assessment program (as per Government mandated standards) at the SkyCity Adelaide casino, and to assist in the assessment of customer play/behaviour data for actioning; and

(c) the deployment of additional HRCs on the casino floor during peak periods.

Case Management Policy

59. In July 2022, SkyCity Adelaide implemented a revised SOP (entitled “Rescission Activity (Subsequent Case Management)”) (**Case Management Policy**) to case manage customers who have been approved for re-entry to the SkyCity Adelaide casino by CBS following the rescission of a barring order and subsequently contact SkyCity seeking permission to enter the casino premises. A copy of this revised SOP appears at SKY.001.002.0084, which was produced in response to the First Notice.

60. Under the Case management Policy, the customer is first required to meet with a HRC to discuss the conditions of their return. The customer is then placed on a pre-commitment plan for a minimum of 3 months, and strict conditions are imposed on their levels of play and visitation (which includes mandatory carded play).

61. Although there is no legislative or regulatory requirement for SkyCity Adelaide to have a case management Policy in place, SkyCity Adelaide has implemented this policy voluntarily to help protect returning customers from the possibility of suffering gambling harm.

Continuous Presence Policy

62. On 7 August 2022, SkyCity Adelaide implemented a new SOP entitled “12 hours Continuous Presence” (Continuous Presence Policy) whereby patrons are asked to leave the casino if they are found to have been onsite for a period of at least 12 hours (see document SKY.001.002.0082 produced in response to the First Notice).

63. *Under the Continuous Presence Policy, SkyCity Adelaide takes reasonable steps to identify any patrons who have been onsite for 10 hours, intervenes and warns the patron at the 11 hour mark, and then asks the patron to leave at the 12 hour mark if they are still onsite.*
64. *SkyCity Adelaide informed the Commissioner of the implementation of the Continuous Presence Policy (as well as its key features) via letter dated 15 August 2022 – a copy of which is included at Item 19 of the Index.*
65. *Similarly to the Case Management Policy (as well as its key features) via letter dated 15 August 2022 – a copy of which is included at Item 19 of the Index.*
66. *In this respect, we also note that the Report released on 13 September 2022 in relation to the Bell Inquiry into The Star Pty Ltd in NSW include a recommendation that the operator of The Star Casino’s Time Play Management standard clarify that in any 24 hour period, a patron cannot gamble for more than 12 hours. The Continuous Presence Policy, which as noted above was proactively introduced by SkyCity Adelaide in early August 2022, reflects that position.*

New Declined EFTPOS Policy

67. *In March 2022, SkyCity Adelaide introduced a new policy entitled “Multiple declined EFTPOS transactions at cage” (EFTPOS Policy) to investigate whether customers with multiple declined transactions at the cage may be suffering from gambling related issues (see document marked SKY.001.002.0085 produced in response to the First Notice).*

Engagement with external Stakeholders

68. *Given that a material issue to SkyCity Adelaide’s internal and external stakeholders is responsible gambling, SkyCity Adelaide aims to foster strong working relationships with problem gambling stakeholders. As part of this approach, SkyCity Adelaide provides tours of its facilities and relevant literature to treatment providers to assist them in understanding its gaming environments and HRP. SkyCity Adelaide also partners with local experts and support agencies to ensure it has up-to-date resources in place for harm minimisation and prevention. For example, in the past financial year, SkyCity Adelaide has engaged with Professor Paul Delfabbro, Relationships Australia, the Office of Problem Gambling, the Vietnamese Community of Australia (SA Chapter), PsychMed and CBS.*
69. *As part of this engagement, SkyCity Adelaide held the inaugural meeting of the Harm Minimisation Community Stakeholder Committee in March 2022 at the SkyCity Adelaide casino with representatives from South Australian problem gambling organisations (including those identified above) in attendance. Moving forward, meetings of the Harm Minimisation Community Stakeholder Committee will be held on a quarterly basis. A copy of an agenda and the minutes of a meeting of the Harm Minimisation Community Stakeholder Committee held on 21 June 2022 are included at Items 20 and 21 of the Index*

in order to provide you with some clarity in respect of the matters discussed at these meetings.

70. *Ultimately, the objective of SkyCity Adelaide's engagement with these external stakeholders is to improve information sharing and collaboration between stakeholders in order to advance SkyCity Adelaide's harm minimisation approach. This collaborative approach ensures that knowledge about problem gambling is shared between SkyCity Adelaide and the relevant stakeholders, who will work together to minimise gambling harm.*

...

Mandatory Opt-in to Pre-Commitment System

78. *SkyCity Adelaide's pre-commitment system has been in place at the SkyCity Adelaide casino since on or about February 2014. In around February 2022, it was re-branded as "MyPlay".*
79. *SkyCity Adelaide is cognisant of the recommendations made in various interstate inquiries and Royal Commissions with respect to the implementation of full and binding pre-commitment systems. In light of this, SkyCity Adelaide is investigating the introduction of a mandatory 'opt-in' policy with respect to MyPlay – the primary objective of which is to further promote the availability of the MyPlay program by placing an obligation on new members to proactively 'opt out' of the program (i.e. the pre-commitment is an initial condition of membership).*
80. *SkyCity Adelaide has consistently taken steps to ensure that patrons are aware of the MyPlay system, including by providing members with MyPlay brochures when they sign up. Additional material is digitally displayed throughout the SkyCity Adelaide casino, with the associated QR code linking to a more detailed video explaining the MyPlay process. An example of this material is included at Item 29 of the Index. From a stakeholder perspective, the SkyCity Adelaide is also continuing to develop onsite signage that reflects the diversity of languages spoken by the broader South Australian community demographic (for example, SkyCity Adelaide has recently taken steps to develop signage in Arabic).*

Reach Out Messaging

81. *SkyCity Adelaide has recently of its own volition launched the "Reach Out" messaging campaign, which is currently being displayed on IPTV (the system used to deliver television services within the SkyCity Adelaide casino) and physical signage throughout the SkyCity casino/QR codes displayed on IPTV also direct customers to the host responsibility page on the SkyCity Adelaide website.*
82. *The purpose of the "Reach Out" campaign is to encourage any patrons who might be concerned about their gambling levels to reach out to a HRC for support. Examples of this material are included at Items 30 to 32 of the Index.*

83. *Through the analysis of barring data, SkyCity Adelaide is also giving further consideration to how this “Reach Out” messaging can now better target various cultural demographics.*

[860] The letter of 15 September 2022 also explained that although the licensee has utilised facial recognition technology since November 2019, it was currently discussing with the Commissioner the adoption of a system known as Facial Recognition Long Stay. The purpose of the system was to assist in identifying both carded and uncarded patrons who remain in the casino for extended periods.

[861] In addition, the licensee was discussing with the Commissioner the introduction of a ‘predicative algorithm risk model’ which had been in operation at the SkyCity Auckland casino. It involved the use of an ‘ALeRT BETTOR Protection software system’. In the view of the licensee this would enhance the licensee’s ability to identify potential at-risk gamblers.

[862] The licensee asserted that it had also strengthened training in the area of Host Responsibility. The improvements were summarised in the letter of 15 September 2022:

Enhanced Training Initiatives

94. *SkyCity Adelaide is committed to ensuring its training is of the highest standard, embraces adult learning principles, and is reflective of new technologies and best practice harm minimisation principles.*
95. *Relevant SkyCity Adelaide personnel receive formal, mandatory training in host responsibility awareness in accordance with the requirements outlined in clause 67 of the 2013 Code (from July 2016 until 30 July 2022) and clause 27 of the 2022 Code (from 31 July 2022). This host responsibility training is managed by a dedicated Host Responsibility Learning & Development Manager an Administrator (HRC L&D Manager) who reports to the executive Manager Host responsibility together with the assistance of SkyCity Adelaide’s Learning and development Team.*
96. *To further strengthen mandated host responsibility training beyond baseline compliance, and facilitate a strong culture of compliance, SkyCity Adelaide has developed a process of “micro-training” or (“on-floor assessments”) targeting the personnel working in the Table Games, Gaming Machines, Security, VIP and SkyCity Rewards departments. The micro-training sessions are conducted randomly, and sees HRCs and the HR L&D Manager engaging with frontline staff on a regular basis. The staff members selected are tested on their*

knowledge of the HRP and their responsibilities by being asked to complete a “Red Flags” initiative which is included at Item 33 of the Index.

97. *SkyCity Adelaide’s intention is to continue to maintain 100% training completion rates in accordance with its legislative/regulatory requirements. In this respect:*

97.1 *the General Manager of People and Culture at SkyCity Adelaide (Cameron Tannock) and members of SkyCity Adelaide’s Learning and Development team regularly review training completion rates and communicate these to the SkyCity Adelaide Senior Leadership Team; and*

97.2 *the executive Manager Host Responsibility (██████████) regularly reviews training completion rates and communicates these to the Host Responsibility Senior management Group both SkyCity Group and SkyCity Adelaide).*

98. *SkyCity Adelaide’s approach to host responsibility training remains forward looking. For example, in around March 2022, CBS commenced its review into the SA gambling industry staff training requirements. A discussion paper entitled, “Review of Gambling Industry Training Requirements” was distributed to all stakeholders on 8 February 2022 for their review and comment. SkyCity Adelaide provided its feedback via a submission on 25 March 2022 and is looking forward to working collaboratively with the Commissioner’s office on these new guidelines.*

99. *SkyCity Adelaide understands that the next step in this process will involve CBS reviewing its submission and issuing a set of training guidelines for SkyCity Adelaide’s review/comment. Once the training guidelines have been finalised, SkyCity Adelaide will develop training modules that are aligned with the prescribed content for approval by the Commissioner.*

57.0 Host Responsibility – Management

[863] As discussed, by January 2023 immediate management of the host responsibility Program and its implementation was undertaken by the Executive Manager – Host Responsibility, a position held by ██████████. That position was established in June 2021 and ██████████ took up his duties in August 2021. In addition, on 16 December 2022 Mr Christian explained in evidence that he was employing a Head of Risk for Adelaide who would have a monitoring and assurance role to ensure the licensee is complying with its responsibilities.

[864] Prior to November 2021, in the absence of any subcommittees or working groups of the Adelaide Board, the Host Responsibility SkyCity Group was established in about May 2020 by the SCEG Board. The letter of 3 August 2022 from the licensee's solicitors advised that this group 'meets monthly to discuss and review host responsibility matters that have arisen or may arise in the future across the SkyCity Group', and described the 'principal' objectives of the Host Responsibility SkyCity Group as to:

- (i) *provide collective guidance to management across the SkyCity Group on host responsibility matters of interest;*
- (ii) *enable senior management to discuss any relevant topics and to receive advice, support and ongoing learnings in a confidential environment;*
- (iii) *expose senior management personnel to host responsibility topics that may have a bearing or impact on the SkyCity Group's regulatory environs, customers, their site/jurisdiction of operation or its employees; and*
- (iv) *develop initiatives that will collectively benefit customers and shareholders by way of discussion, provision or endorsement of responsible gambling and/or harm prevention components.*

[865] The advice and description in the letter of 3 August 2022 reflected precisely the wording of a document headed 'Host Responsibility Senior Management Group Terms of Reference' produced by the licensee's solicitors with a letter of 30 September 2022. That document described the purpose of the Host Responsibility Senior Management Group as to 'provide a confidential and open forum for the discussion of strategic Host Responsibility initiatives, gambling and problem gambling related persons or matters', and to show 'leadership in promoting and lifting both the focus and culture across the business in relation to Host Responsibility'.

[866] The Terms of Reference are not dated. They were not produced in answer to the first notice to produce documents dated 1 August 2022, notwithstanding that in response to the first notice the licensee produced the Charters of the AML Enhancement Program Steering Committee and the SkyCity Adelaide AML/CTF Committee, together with the Terms of Reference of the AUSTRAC Enforcement Investigation Steering Committee. While Minutes of the Host

Responsibility Senior Management Group were produced, Terms of Reference were not mentioned.

[867] As to management in Adelaide to January 2023, there was no formal Charter or Terms of Reference for the Adelaide Group concerned with Host Responsibility. In the letter of 12 August 2021 to the Commissioner, Mr Christian advised ‘I have recently established a Harm Minimisation Senior Management Group’ to provide ‘additional oversight’ of the licensee’s harm minimisation practices. Mr Christian explained in evidence that he was referring to the Host Responsibility Adelaide Group.

[868] The purpose of this Adelaide Group is to be gleaned from email communications of 16 and 17 June 2021 from Mr Christian to Adelaide Senior Personnel. Mr Christian wrote that inquiries and publicity concerning Crown’s harm minimisation practices had increased the focus upon, and scrutiny of, the practices within Australian casinos, and he was keen to put in place an Adelaide Harm Minimisation Senior Management Group to ensure that the licensee’s harm minimisation ‘framework, practices and standards are up to the high standard we need them to be in what appears to be fast moving change within the Australian gambling industry’. In the second of the emails, Mr Christian observed that during 2020 SkyCity Auckland ‘received a very negative report by the NZ Regulator regarding their Host Responsibility’, and although this was ‘perhaps not warranted, the focus on Host Responsibility remains’. Mr Christian observed that the attitude of the SkyCity New Zealand Board was that as a responsible gambling company, ‘we will not take an approach of ensuring minimum compliance, or even as we have been doing, a slightly higher standard, but we will ensure that we are far superior in our approach and our culture than other operators’. Mr Christian expressed the view that the licensee was falling behind New Zealand in this context, and needed to catch up and ‘attain that strong leadership position in the Australian gambling industry’.

[869] In the interview of 21 September 2022, Mr Christian conveyed the impression that, unlike the Compliance Program, prior to November 2021 primary responsibility for the operation of the Host Responsibility Program was undertaken by the Adelaide Management team. He was

prompted to create the Host Responsibility Management Group because although some of the direction was coming from Group level, he wanted the Adelaide body in place to make sure it delivered the Program appropriately. In substance there was no Group oversight of the implementation by Adelaide management.

[870] As mentioned, the first meeting of the Adelaide Board took place on 9 November 2021. Not surprisingly, the minutes concentrate upon AUSTRAC and AML/CTF issues. However, the minutes note that a Host Responsibility update would be provided at the next meeting, and agreement that each Board meeting agenda should include the following ‘key regulatory and operational topics’:

- AML
- Host Responsibility
- Health and safety
- Financial Results and Trading
- Tax matters
- Other compliance/regulatory matters

[871] The minutes of the Adelaide Board meeting of 30 November 2021 contain the following entries concerning host responsibility:

6. Host Responsibility Update

The Sustainability Pillar Activity Report – Adelaide was noted and taken as read.

██████████ (Executive Manager Host Responsibility) provided an update on host responsibility matters, noting:

- *the increase in the number of player interventions in September 2021 in comparison to the July and August 2021 periods – such increase being in line with the increase in visitation/play following the State mandated COVID-19 lockdown in July 2021*
- *all mandatory host responsibility training has been completed by active staff members*

- *staff on extended leave who have not completed mandatory host responsibility training will not be able to resume shifts until their required training has been completed*

...

*Michael Ahearne requested that Management include a status update on the company's host responsibility roadmap in each subsequent Host Responsibility Update paper.*⁵⁸

- [872] The Adelaide Board meeting minutes of 21 January 2022 refer at some length to a host responsibility update, as do the minutes of the meetings of 6 April 2022 and 26 July 2022.
- [873] The Host Responsibility Senior Management Group met monthly from 1 July 2021 to 15 March 2022. The minutes of those meetings identify approximately 15 members of the Group, including the Chairman Mr Michael Ahearne and Mr Christian. During that period [REDACTED] became a member. The minutes demonstrate that the Group dealt with numerous matters relating to Host Responsibility, including issues affecting the Adelaide operation and feedback from staff.
- [874] Minutes of the meeting held 28 April 2022 are headed 'Monthly Host Responsibility meeting minutes', in contrast to minutes of the June 2022 meeting which are headed 'Host Responsibility Senior Management meeting minutes'. However, the membership and topics of discussion appear to be the same.
- [875] The SkyCity Adelaide Host Responsibility Senior Management Group met on 6 occasions between 12 October 2021 and 14 June 2022. Again, speaking broadly, the meetings appear to have dealt with matters of substance in relation to the Host Responsibility Program.
- [876] As to how the Host Responsibility Program evolved, in the interview on 21 September 2022 Mr Christian explained that the initial aim was to identify persons who were potential problem gamblers, and exclude those persons from the casino or minimise their activity to reduce harm.

⁵⁸ The roadmap at that time is annexure [33]

At the outset, the operation of the Program was overseen by the Independent Gambling Authority, and he met with the Authority regularly to discuss the Program.

[877] Mr Christian said the evolution of the Host Responsibility Program included the introduction of new technologies, coupled with a better understanding of relevant issues following research into potential problem gambling within Australia and other jurisdictions. New practices have been implemented as a consequence of increased knowledge and understanding in identifying the signs of problem gambling. Management and other personnel in the Host Responsibility area are trained in this regard.

[878] Mr Christian said he was confident people on the floor in Adelaide possessed a sound culture of proactivity and compliance. He said it was the responsibility of every employee to look for signs of problem gambling and all employees have training in this regard.

[879] The confidence of Mr Christian in the existence of a sound culture within the Host Responsibility staff was supported by the evidence of [REDACTED] who has been employed at the casino since April 2005. [REDACTED] is widely experienced in a number of areas, including the training of staff. Her position in 2022 was Host Responsibility Administrator, a relatively new position.

[880] [REDACTED] obviously took great pride in her work. I accept that in training staff [REDACTED] emphasised the importance of proactive culture; in her words 'see it, say it'.

[881] The evidence provided by [REDACTED] was supported by [REDACTED] and [REDACTED]. Broadly speaking, their evidence supports the view that by January 2023 emphasis was being given to adopting a proactive approach with a view to minimising the harm caused to gambling customers.

[882] [REDACTED] was asked about changes occurring under his management. He said previously the Host Responsibility Team was a 'student-based philosophy or part-time components', with only a couple of full-time staff. In his view, it did not meet the specific requirements of Host

Responsibility, and he set about to use data and gaming interpretation to establish an ‘interventionist strategy’. Extra staff were recruited from ex gaming personnel, in both full and part time capacities. At the beginning of November 2022, the licensee moved to a two Host Responsibility Co-ordinators per shift operation on a full-time basis. The new team included a nurse who was multilingual, and an ex-marketing and security person. Including [REDACTED], there were now eleven in the Host Responsibility Team.

[883] According to [REDACTED], a lot of changes were being undertaken. The team met every four weeks, and [REDACTED] met with his Manager and [REDACTED] every two weeks. Changes in processes were occurring in the areas of revocation of barring, safe gambling plans and the gambler of interest 1 and 2. A lot of fine tuning was occurring.

[884] [REDACTED] said training was mandated through the codes of practice, and every member of the team undertook the training. This included the use of persons from Relationships Australia, the Chinese Overseas Association and the Vietnamese Chapter or Community Chapter, South Australia. Training included a number of mental health components and cultural sensitivities.

[885] As to the classifications of gambler of interest 1 and 2, [REDACTED] explained that if the view was reached that a customer was potentially at significant risk of a gambling problem, that customer was classified as gambler of interest 1. The customer’s account was ‘tagged’ for immediate intervention. The Host Responsibility coordinator undertook a discussion with the customer to ensure that nothing was amiss. Weekly financial analysis and a monthly intervention followed.

[886] A gambler of interest 2 was deemed to be at low to moderate risk of problem gambling. Such a customer was subject to a ‘monthly passive analysis’.

[887] A previously barred customer who is permitted to return to gambling must have attended gambling help service and met with a Host Responsibility coordinator to discuss their circumstances. A plan is put in place in terms of visitation to the casino and spending. The customer’s gambling is monitored for three months while on their safe gambling plan, at the

successful conclusion of which they will be permitted more free rein in the casino, but will be classified as gambler of interest 2. A further three-month period of monitoring is undertaken, and if any escalation occurs an immediate intervention will be undertaken.

[888] To January 2023 an underlying theme emerged through the correspondence discussed earlier and the evidence of a number of casino personnel involved, directly or indirectly, with issues of Host Responsibility and Harm Minimisation. It is this: in the absence of sufficient resources and definitive processes, ‘we did our best; now it is vastly improved’. While being somewhat circumspect in his comments, ██████████ made it clear that when he commenced in his current position, he was dissatisfied with a number of aspects of the Host Responsibility operations. Processes were inadequate and more resources were required to enable an increase in appropriate personnel and the use of technology. Organisational skills were wanting and customers could slip through without proper attention. The recording of data was less than optimal and carried out on an ad hoc basis. Some staff were not capable of properly carrying out their role.

[889] From ██████████ perspective, there was ‘great intent’, but changes were needed. Under his guidance, significant changes have been made in structure, and there is a rigour of process. Consistency in methodology and recording has been introduced, together with greater assistance from modern technology.

[890] In his evidence, ██████████ placed significant emphasis on empowering his Team. His view, being the view he has imparted to his Team, is that they should not be afraid to act when they believe action is warranted by the circumstances. In his words, his Team should act and ask for forgiveness later.

[891] The theme of significant change and improvement was echoed in the evidence of ██████████, and VIP Host Managers. Their enthusiasm for the improved performance of Host Responsibility is likely to be coloured, at least to some extent, in favour of the licensee by reason of their employment. Plainly, they are loyal employees. However, having regard to all the evidence, there

is no reason to doubt the underlying theme of focus upon improvement in the Program, implementation and culture.

[892] It is apparent that since the interstate Reports were published, and particularly since the Adelaide Board has commenced taking responsibility for the operations of the casino, the licensee has been proactive in upgrading the Host Responsibility Program, including the training of employees and implementation of the Program. Resources have been increased. It is an ongoing process. Notwithstanding these improvements, it remains necessary to consider the behaviour of the licensee with respect to its obligations concerning harm minimisation as part of the overall assessment of the licensee's suitability to hold the licence and operate the casino. Behaviour in this area in past years remains relevant, but not determinative, and compliance or otherwise in more recent times is of particular importance.

58.0 Implementation of Host Responsibility Program

[893] Preventing barred patrons from entering the casino and gambling is an important aspect of Harm Minimisation. It involves both Host Responsibility and Security/Surveillance personnel. Facial recognition technology assists in this regard. However, the system is well short of foolproof.

[894] Z gambled in the casino for a number of years prior to voluntarily self barring in 2021. However, on 4 September 2022 Z entered the casino between midnight and 4am through the main entrance situated on North Terrace. Z was not wearing a face mask. The casino was very crowded.

[895] Z attended at the automatic teller machine in a room on the eastern side of the casino premises on the ground floor. Z withdrew cash. Z then proceeded to the gaming tables and played roulette and baccarat. During the evening Z attended at the designated smoking area several times, and made at least 4/5 trips to the ATM room to withdraw additional funds. Z withdrew approximately \$4,000.

- [896] When Z reached the bank daily withdrawal limit, Z borrowed approximately \$5,000 from a friend and transferred those funds to the bank account enabling withdrawal of further amounts from the ATM.
- [897] Z withdrew cash from the ATM and purchased chips at the table. Placing single bets ranging from \$400 to \$800, Z lost approximately \$8,000. Eventually Z exited the casino at about 4am through the North Terrace entrance.
- [898] At no time was Z approached by a member of the casino staff. As a barred patron, the presence of Z within the casino premises should have triggered the facial recognition technology and a response from staff resulting in Z being required to leave the casino. The Host Responsibility Program found in the Standard Operating Procedures of 1 September 2021 provides in cl 5.5 that the barring process will be managed by Host Responsibility, with Security and Surveillance support whenever requested. Both 2022 Programs assert that the licensee ‘rigorously enforces barrings to the extent reasonably possible with the use of Facial Recognition Technology’.
- [899] As to interactions with existing customers, examples of inadequate responses are not difficult to find. In the context of AML/CTF issues, the failure with respect to Customer D is discussed earlier in this Report.⁵⁹ Two further examples are sufficient to illustrate the point. As discussed in the context of inducements,⁶⁰ Customer K gambled exceptionally large sums between 1 July 2020 and 1 July 2021, during which period K’s rewards card was active on 219 out of 366 days. K spent 1,559 hours gaming which would provide an average of 7.1 hours per visit, but on 56 occasions K recorded a gambling session longer than 12 hours. Despite these matters, including behavioural change, the Host Responsibility records contain only one reference to K in the period 1 January 2020 to 1 September 2021. There was no meaningful interaction with K. Rather, K was provided with further inducements to increase spending.

⁵⁹ See paras [438]-[448].

⁶⁰ See paras [551]-[562].

[900] It was suggested during evidence that the interpretation of these bare facts should be qualified by recognition that K regularly took breaks for meals and smoking cigarettes. However, by the terms of the 12 Hour Policy itself, the taking of such breaks is irrelevant. The Policy states that Continuous Presence is defined ‘where a customer is present within the Casino (but not necessarily gaming continuously) for a cumulative period of 12 hours in any single trading day’. In any event, given the extraordinary periods of gambling, which were well known to VIP Hosts and Host Responsibility Coordinators, and given the large losses suffered by K, there was a failure by Host Responsibility to fulfil its responsibilities with respect to K.

[901] Customer C provides another example. The activities of C are summarised earlier in this Report.⁶¹ C commenced gambling in April 2016, and in late 2018 a barring was put in place at the request of C. When the barring lapsed in early 2019, C was permitted to return to gambling, and to gamble very large amounts, notwithstanding the previous self barring. Initially C was unable to enter the premium gaming area, but C’s request 12 months later to be upgraded to premium customer status was granted.

[902] By letter of 9 December 2022, solicitors for the licensee summarised the interactions between Host Responsibility and C following C’s return to gambling in February 2019:

8. *We are instructed that:*

...

- (c) *[C] returned to play at the SkyCity Adelaide casino on 16 February 2019. Upon entry, the Host Responsibility team was notified of [C’s] return via the alert system on Bally following which a Host Responsibility team member was dispatched to attend and observe [C]. A conversation occurred between the Host Responsibility team member and [C], which confirmed that [C] appeared to be in good spirits. [C] was offered further assistance at the time but refused. [C] indicated that [C] would contact SkyCity Adelaide if he felt [C] required further assistance, and knew [C] was, at that particular point in time, unable to enter the premium spaces;*
- (d) *[C] was monitored over a four month review period by the Host Responsibility team (see SKY.010.001.0013 and SKY.010.001.0014) in accordance with the Relevant SOPs (further details are outlined below). This process is known as Passive Case Management and no problem*

⁶¹ See paras [402]-[410].

gambling related issues were identified following the completion of that process. The Passive Case Management process was ceased in around June 2019.

9. *[C's] self-exclusion and return to play was appropriately monitored by the Host Responsibility team in accordance with the Relevant SOPs at that time. The Relevant SOPs have since undergone significant revisions.*
10. *We have also produced materials which evidence SkyCity's Adelaide's interactions with [a counsellor] from Overseas Chinese Association South Australia as part of the Host Responsibility review process in respect of [C's] request to be upgraded to Premium Customer status in November 2020.*
11. *We are instructed that:*
 - (a) *after the period of self-barring, the Host Responsibility team met with [C] to determine whether it was appropriate to allow [C] to be upgraded to Premium Customer status; and*
 - (b) *an interview was arranged with [the counsellor] to discuss [C's] personal circumstances. Importantly, [the counsellor] confirmed during that meeting that there were no problem gambling concerns, and that [the counsellor] was content for [C] to return as a VIP provided that, amongst other things, SkyCity Adelaide monitored [C] for a period of three months.*
12. *For completeness, we have also produced records detailing further interactions between [C] and the Host Responsibility team during [C's] tenure as a Premium Customer. As you can see, no problem gambling issues were identified by the Host Responsibility team during those interactions.*

[903] The licensee produced a number of documents relating to the interactions between Host Responsibility personnel and C. In summary, the sequence of events was as follows:

- On 7 November 2018 C spoke with VIP Hosts and requested a barring. The Manager of Host Responsibility spoke with C, and recorded that C was 'adamant' that C wanted the barring carried out. The report stated that the Manager questioned C who informed the Manager that C has been 'trying to build the courage for about a year to ask for the barring but friends made it difficult'. C also said that C was 'sick of losing money and wanted to find another way of enjoyment as gambling was not for [C]'.
- A Host Responsibility Client Registration Form was completed on 7 November 2018 for C. The reason for barring included a tick in the box relating to 'Control Issues'. The barring was put in place on the same day for a period of 3 months.

- On 16 February 2019 C was observed betting with a large amount of money, but a report by Host Responsibility stated that C seemed to be in good spirits. C advised being 'all okay now', feeling 'safe' and betting what C could afford. An offer of HRC assistance was refused, but C stated that if C felt C was getting into trouble again, C would contact HRC.
- The documents record that passive case management commenced on 16 February 2019. A review conducted on 16 March 2019 noted 12 visits within the review period and commented that C appeared to be 'toning down', but needed to be monitored closely. Further reviews for 16 April and 16 May 2019 were recorded.
- On 16 June 2019 Host Responsibility recorded that after 4 months of monitoring, no issues had been detected, and monitoring would cease.
- During the morning of Sunday, 22 November 2020, C wanted to buy in for gambling purposes in the amount of \$180,000.
- At that time, by reason of current Covid restrictions, only VIP members were permitted entry into the casino. C did not have premium access. A Host Responsibility report created on 22 November 2020 recorded that the Table Games Senior Executive Host had contacted Host Responsibility 'requesting a review be completed on [C] for VIP access as [C] had advised the Host [C] wished to buy in for a significant sum of money to game at Adelaide Casino'.
- On 23 November 2020 C completed an application for premium customer status. In answer to a question 'I have never had a gambling related barring from a venue in South Australia', C ticked a box marked 'True'.
- On 24 November 2020 C signed a consent and referral form for a Help Service and nominated a member of the Overseas Chinese Association South Australia (the counsellor).
- The counsellor reported as follows:

[C] is a business owner. [C] did a self barring with casino a few years ago and [C] told me [C] didn't gamble in Adelaide Casino for almost 2 years but [C] did gamble in other states.

[C] told me [C] can afford to use 40,000 to 50,000 weekly to gamble and this is the amount [C] feels comfortable with. This amount of money is never a worry to [C] and it will never affect[C's] financial.

[C] is willing to work with the worker, [C] agreed to consent worker to exchange information with casino, so worker can track [C's] gambling behaviours within the three months.

Based on the conversation and worker is satisfied with [C's] story and agreed to let [C] back to the VIP and monitor [C] for three months with the support from casinos'.

- On 24 November 2020 Host Responsibility recorded the advice from the counsellor, and noted that at about 4pm the previous day C had been allowed entry and access to the premium area.
- On 5 and 6 March 2021 an email exchange occurred concerning C winning \$1.4 million, coupled with a large amount during the previous week. Questions were asked concerning customer due diligence and whether management was comfortable with the level of play currently being undertaken by C.
- Host Responsibility recorded an interaction with C at about 5pm on 6 March 2021, together with a VIP Host, 'regarding recent gambling activity and comments around barring'. The report records that C stated there were 'no gambling related issues but in fact all [C's] frustration was based on the return to the player'. The author of the report stated that he confirmed 'once again' that C's 'request for barring was out of frustration only as [C] didn't feel SkyCity was being fair'.

[904] This brief outline of the history with C is sufficient to indicate grounds for concern that C was a person with a gambling problem. It is to be considered in conjunction with other matters relating

to AML/CTF issues arising from the conduct of C. It appears that after the expiry of the self barring order in 2019, C continued to gamble without a request to be admitted to premium gambling until Covid restrictions were in place and only premium customers were being admitted to the casino. It is difficult to avoid the impression that because C wished to buy in for a very large amount, and was not a premium customer, C was encouraged to apply for readmission to premium gambling.

[905] In March 2021, it appears that C spoke again of self barring, but admitted the threat was related to C's perception of unfair treatment by the casino.

[906] The totality of the circumstances surrounding the relationship between C and C's gambling gives rise to significant concern that Host Responsibility were prepared to entertain C re-joining the premium gambling primarily because of the large sums C wished to gamble. It was the only way a valuable customer could be admitted to the casino during the Covid restrictions. It must be acknowledged, however, that C was kept under review before C applied for readmission to premium gambling and, from the perspective of Host Responsibility, no alarm bells were set off.

59.0 Host Responsibility - VIP Hosts

[907] Evidence and informal discussions with VIP Hosts demonstrate that VIP Hosts play a significant role in the operations of premium gaming. The role with respect to international customers is discussed earlier in the context of AML obligations.

[908] As at January 2023, if interstate customers were brought to the casino through the work of the Interstate Sales Team, or on a Commission Program, primarily it was the job of the International Business Division to obtain the necessary Know Your Customer information. For new customers, the process involved completion of a Patron Credential Declaration which captured more information about the customer, including an occupation. It required further details with regard to citizenship status, employment, business address and source of wealth. If customers were

reluctant to complete any of the forms prior to arriving at the casino, those forms were completed onsite.

[909] Customers were required to produce an acceptable form of identification prior to their account being made active. A passport, featuring an address, an Australian drivers licence or proof of age card were all considered acceptable forms of identification.

[910] The Patron Credential Declaration was a new requirement which was added in October/November 2022. Upgrades to all tier levels were subject to the Patron Credential Declaration process. It was introduced by VIP Host Managers in an effort to make the process feel like a common occurrence from the perspective of the customers. It was anticipated that over time this process would capture all premium members as members fluctuated between membership tiers.

[911] VIP Hosts undergo both AML and Host Responsibility training. It is unnecessary to canvass the details.

60.0 Host Responsibility – Premium Customers

[912] The previous Manager Host Responsibility, Y, spoke of difficulties Host Responsibility Coordinators experienced with the VIP Management Personnel who made the HR Team feel uncomfortable or unwelcome when approaching or speaking with premium customers. Prior to leaving the casino in 2022, Y had access to a shared spreadsheet/log which allowed VIP hosts to record their observations and interactions concerning problem gambling or welfare concerns relating to VIP customers. Y was required to review the document every few days to determine whether there was need for any of the HR team to approach VIP customers mentioned in the log. It appeared to Y, however, that the number of calls from VIP hosts to the HR team requesting assistance was decreasing.

- [913] Y recalled an incident in 2021 when a newer member of the HR team was attending an 8 hour ARMS Alert within the premium area. The member approached the patron. Following a interaction with the patron, the member was approached by a VIP Host and received ‘a lot of grief’ for approaching the customer.
- [914] A former member of the Host Responsibility team related a similar experience when interviewed during this Investigation.
- [915] The Manager of VIP Table Games, who reports to Mr Stewart Neish, has a lengthy and wide range of experience in casino operations. In evidence on 26 October 2022, the Manager (W) spoke highly of the Host Responsibility practices and the relationship with VIP hosts. Although W was not asked about specific episodes, W was positive that VIP hosts always encourage the involvement of Host Responsibility personnel, and do not discourage or undermine their involvement with premium customers. In W’s view, Host Responsibility personnel are the experts and their involvement is welcomed.
- [916] W emphasised that W and W’s team have an ‘incredible relationship’ with their customers who have ‘become family’ because W and W’s team have known them for a very long time. They care for their wellbeing. When Host Responsibility personnel become involved, their actions are recorded on a spreadsheet which is accessible to both VIP and Host Responsibility staff.
- [917] The VIP Manager for Gaming Machines expects that Host Responsibility staff will first speak with a VIP Host and, remaining in the background, leave the interaction to the VIP Host. In the Manager’s view it is better for customers to be approached by someone they know. An International VIP Host who reports to the Manager said that if alerted to an issue, the Host approaches and takes the customer to a private area to make the customer feel comfortable. In private, the Host Responsibility Coordinator talks to the customer. From the perspective of this VIP Host, no issues with Host Responsibility personnel have ever arisen.

- [918] In 2022, [REDACTED] was a very experienced casino employee who had been a Host Responsibility Coordinator for over six years. In essence, he agreed with W that the VIP Hosts are always friendly and receptive. On some occasions it is appropriate for VIP Hosts to undertake the interaction because some VIP customers respond more favourably to the Host who knows them.
- [919] Mr Krawczyk said that over the years the relationship between the VIP Hosts and Host Responsibility personnel had been very good. He was not aware of any conflict or pushback from VIP Hosts. He expected that as a matter of courtesy, not policy, Host Responsibility personnel would approach a VIP Host before speaking with a VIP client. However, permission was not needed. Sometimes the involvement of VIP Hosts can be of assistance in view of their relationship with the customer and capacity to appease a difficult customer.
- [920] [REDACTED] supported the views of [REDACTED] and W. He was not aware of any pushback from VIP Hosts. He would expect, as a courtesy, that a Host Responsibility coordinator would first approach a VIP Host to advise of an intention to speak to a customer. He agreed that if the VIP Host has a relationship with the customer which might assist the Host Responsibility coordinator carrying out their task, it would be appropriate for the VIP Host to speak with a customer.
- [921] During his evidence on 8 November 2022 [REDACTED] advised that, following planning 'for a while', as from the previous day a Host Responsibility Coordinator was dedicated to the VIP space. From 7 November onwards, Host Responsibility will be stationed in that immediate area maintaining a profile and encouraging familiarity with customers. In [REDACTED] view, it is important to build a relationship 'in a culture that we are there to assist and help'.
- [922] The examples of the conduct of VIP Hosts to which I have referred were not recent. However, at January 2023 there remained cause for concern that to January 2023 remnants of an unsatisfactory culture within the ranks of the VIP Hosts still existed. Casino records document an occasion in February 2022 when an IB Host requested a 'mock' barring for interstate customers who were unhappy with their treatment. Ultimately a No Visitation Agreement was completed, but the fact

that an IB Host would suggest a mock barring indicates, at the least, that early in 2022 the attitude of one IB Host was less than satisfactory.

[923] In addition, a current employee spoke broadly of a poor attitude among VIP Hosts to complaints about the conduct of VIP players, and the poor attitude of some Hosts to their Harm Minimisation obligations. It is unnecessary to canvass the details of that evidence.

[924] The evidence to which I have referred was supplemented by the evidence of Ms Baynes and information from Kroll. In the view of Ms Baynes, when she commenced in her current position in April 2024 the HR training she received from [REDACTED] was good. The only matter she would have changed was to add role playing. Ms Baynes said, however, that she expressed her concern that food and beverage attendants and room attendants were not receiving appropriate training. Recently training has been upgraded as part of the works required by the Commissioner.

[925] As to the previous state of the HR operations, Ms Baynes said she found it difficult to ascertain that state. People were very defensive about it and thought there were no issues. There was a prevailing view that those engaged in HR were doing a good job. However, Ms Baynes was aware that resistance had existed among VIP Hosts who held the attitude; ‘keep them gambling, keep them happy’.

[926] Ms Baynes has taken an active interest and role in connection with Host Responsibility at management level. Previously issues were reported to the General Manager Support, but they are now reported directly to Ms Baynes because she had concerns the wrong approach was being taken. That change has been met with enthusiasm, as has Ms Baynes’ approach that gaming and commercial priorities sit well below meeting the essential requirement of being a compliant business. An indicator of previous attitude came to Ms Baynes from [REDACTED] who had previously been told that the wishes of Gaming should prevail. He thanked Ms Baynes for the mandate to get things done, overruling previous instructions not to go against Gaming.

[927] Ms Baynes was aware of a previous view that if the customer could afford the gambling, including the losses, no cause for concern existed. She emphasised her strong disagreement with that attitude. Gamblers who can afford the losses may, nevertheless, have a gambling problem which should be addressed with the assistance of HR.

61.0 Host Responsibility – Qualification for premium gaming

[928] As discussed earlier in this Report, Host Responsibility should have a significant role in screening South Australian residents who seek to qualify for premium gaming, and in monitoring those residents who are admitted to premium gambling. Clauses 4-6 of annexure B to the Approved Licensing Agreement, and a summary of the mandated procedures, are set out in para's [733] and [734] of this Report. In January 2023, it was apparent that the licensee had not been complying with its obligations in this regard.

[929] ████████ was not aware of the obligations imposed by the Approved Licensing Agreement. At the time he gave evidence on 8 November 2022, from ████████ perspective, unless the record indicated the existence of an issue with respect to a person seeking admission to premium gaming, Host Responsibility played no role in assessing or monitoring such a person. This view was supported by ████████.

[930] The failure to follow the mandatory procedures set out in the Approved Licensing Agreement was confirmed by the evidence of the Casino Premium Customer Development Manager, T, who held this position since February 2021. T's role involved identifying gaming machine customers capable of qualifying for premium customer status, and maintaining such status, and offering provisional gold membership access. T was only involved with electronic gaming machine patrons.

[931] The Customer Insights team provided T with a daily list identifying all players on the main gaming floor who achieved a turnover sufficient to qualify for premium customer status. In addition, T might identify players through personal observation. Having identified a player, T

checked the casino marketplace database or any notes relating to gambling problems or Host Responsibility interaction, including checking whether there was a note indicating that Host Responsibility did not think the particular person would be suited to premium customer status. A player under a pre commitment scheme would not be upgraded.

[932] If a player was not using a SkyCity Rewards Card, or was not a member, T obtained that person's details and checked their records. He then signed them up for a SkyCity Rewards Card. In this way T was able to complete the customer due diligence process and capture an image for the purposes of identification.

[933] According to T, if there were no Host Responsibility concerns, the player's membership level would be upgraded to provisional Gold Membership, and the name was forwarded to the marketing team who communicated with the particular person. The upgrade did not take effect until the customer returned to the casino, and agreed to the change of status by completing a form confirming that the customer was comfortable with their gambling activity and did not have either a gambling problem or a barring history.

[934] A similar process was described by the Senior VIP Host (Table Games), S, who reviewed the gaming activity of any potential new premium member to ensure that the customer had shown the appropriate spending. S checked that the customer's typical bet was commensurate with the minimum limits available within the premium area. The customer was required to complete a premium customer entry form which included a declaration that the customer was not experiencing any problems controlling their gambling behaviour. S assumed that the HRC process of review had been completed by the Marketing Team before the lists of prospective players was provided to him. Host Responsibility checks are conducted by S and marketing, but they are limited to reviewing any tags applied to the customer's account via the CMP system.

[935] Once the matter was with Marketing, the customer seeking access to premium gaming was required to complete the Patron Credential Declaration form which required further details with respect to occupation, citizenship status, employment, business address and source of wealth.

[936] This summary is sufficient to demonstrate that as at November 2022, unless a person proposed for upgrade was recorded in the system as having a problem, or a previous Host Responsibility interaction was recorded, there was no role for Host Responsibility prior to the person being upgraded to provisional Gold Membership. Further, there was no suggestion of an active monitoring role for Host Responsibility during the period in which the provisional membership was in operation.

[937] Mr Krawczyk was asked about the failure to follow the procedures mandated by the Approved Licensing Agreement. He said he first became aware of this issue after [REDACTED] had given evidence and spoke with him about the Approved Licensing Agreement, of which [REDACTED] had been unaware. Until [REDACTED] spoke about the issue, Mr Krawczyk believed the provisions of the Agreement were being followed.

[938] According to Mr Krawczyk, unbeknown to him, prior to [REDACTED] being employed an email had been sent to VIP personnel advising that, in respect of proposed premium customers, VIP personnel could check for entries. By reason of this email, Host Responsibility personnel were sidelined in the process unless an entry existed which required Host Responsibility to be consulted.

[939] The email to which Mr Krawczyk referred was dated March 2021. The Host Responsibility Manager wrote:

As you all know HRC complete checks for any customer being upgraded to VIP. Recently we had CMP checked against our reporting system (iTrak) to make sure both systems match as far as type/state/TAGs & Notes like:

- *'HRC'*
- *'HRCBARRED'*
- *'Premium Suppression'*

What this means is that from today you don't need to call HRC for upgrades because CMP is accurate and clearly identifies anyone who should not have access to VIP: even new signups – HRC would have created an account if the customer didn't have one and so on (on your part) by carefully searching/checking a person's name/DOB for new accounts will identify that customer & the fact they've had issues...this is very important to prevent people having 2 (or more) accounts.

But please remember if at any time you need advice/support please call the team and we will help where needed.

Any questions please do not hesitate in contacting me.

[940] The email of 1 March 2021 spoke of Host Responsibility completing ‘checks’, not of undertaking the steps mandated by the Approved Licensing Agreement. It is clear that those steps were not being undertaken prior to the email in question.

[941] As to ongoing monitoring, Mr Krawczyk was unaware of the obligation imposed by the Approved Licensing Agreement. He thought any ongoing monitoring would be no different from any other customer.

[942] The intention of the Approved Licensing Agreement is readily apparent. As discussed earlier, depending on whether a South Australian resident has a gambling history of at least 2 months at the Adelaide Casino, Host Responsibility is required to make an assessment of the person seeking access to premium gambling. Such persons should also be monitored. Back in early 2021 these procedures were not being followed. Nor were they being followed as at 22 November 2022. Rather, in respect of a South Australian resident seeking admission to premium gambling, the licensee looked for any indication of a problem in existing records, and did not involve Host Responsibility in carrying out the screening process required by the Approved Licensing Agreement. Nor was Host Responsibility involved in subsequent monitoring.

[943] In order to address the procedural defect in this area, according to a letter of 14 December 2022 from the licensee’s solicitors, the licensee ‘took immediate steps to avoid any ambiguity’ and amended the November 2022 SOP. Hence, the SOP of 29 November 2022 which the letter stated came into effect on 2 December 2022.

[944] The 29 November 2022 SOP is annexure [27]. The particular section dealing with Premium Customer Screening is as follows:

5.1 Initial Screening Methodology

- (a) *Host Responsibility will receive a list from Marketing of all customers being considered for access to Premium Gaming areas (Premium Customer List).*
- (b) *Host Responsibility will subsequently undertake one of the following assessment processes based on the recorded gaming history of each patron at the Adelaide casino:*

1: At least 2 months gaming history

In all cases where a customer has at least two months player data history, a HRC will:

- i) review iTrak records pertaining to problem gambling; and/or*
- ii) determine whether the customer is currently being monitored as a Gambler of Interest 1 or 2*

Any players from the Premium Customer List who are identified as having previously displayed, or shown behaviours suggestive of, gambling related harm or shown behaviours or indicators which suggests that they would be vulnerable to the Premium Gaming environment may then, at the discretion of the Host Responsibility team, be subject to an interview with HRC to determine if any relevant behaviour:

- i) is suggestive of an actual gambling problem giving rise to harm – in which case they shall be deemed unsuitable as a Premium Customer; or*
- ii) is not indicative of an actual gambling problem – in which case entry may be granted*

2: Less than 2 months gaming history

If a customer has less than two months gaming history at the casino, marketing will advise Host Responsibility at the time of upgrade, at which point the customer will be assigned as a Gambler of Interest 2 file as specified in paragraph 3.3 of this document for a period of no less than 3 months.

Host Responsibility will forward a copy of the revised Premium Customer List to CBS for the purposes of determining whether any person is currently barred from a third-party venue. Upon receipt of the Premium Customer List that has been screened by CBS, Host Responsibility shall:

- i. *advise the relevant gaming department of customers who have current external barrings and the requirement to remove Premium Customer membership;*
- ii. *in circumstances where there are previous expired external venue barrings, conduct an interview with the patron to assess ongoing suitability of Premium Customer status and if, based on this interview, the Host Responsibility team identifies:*
 - a. *behaviours that are suggestive of actual gambling related harm then Premium Customer membership shall be revoked, and these individuals shall have a GOI 2 file opened for a further 3-month monitoring period;*
or
 - b. *that there are no concerns as to ongoing Premium Customer suitability, continued entry shall be granted and a GOI 2 file commenced for ongoing monitoring for a period of three-months.*

5.2 Ongoing Screening Methodology

- (a) *For each local VIP resident, a six-month gambling harm assessment review calculated from the date of upgrade will be undertaken by Host Responsibility.*
- (b) *Persons who have been classified as a Gambler of Interest 2 shall have their gambling history reviewed by HRC after 90 days of access to Premium Gaming areas.*
- (c) *Any customers who have shown behaviours of actual gambling related harm shall have their access removed and all options available to Host Responsibility considered.*
- (d) *The outcomes of these reviews will be recorded in iTrak.*

[945] In the letter of 14 December 2022, it was stated that the licensee became aware of suggestions that the screening processes for South Australian premium customers ‘did not align with the requirements of clauses 4 and 5 of Annexure B to the ALA’. It was not merely a ‘suggestion’. [REDACTED] agreed that the processes did not align. It was obvious that there was a failure to comply with the Approved Licensing Agreement.

[946] The letter stated that immediate steps were taken to avoid ‘any ambiguity’. There was no ambiguity.

[947] Further, it was said the new SOP is designed ‘to expressly reflect the precise screening requirements’ set out in clauses 4 and 5 of Annexure B. If that was the intention, it would have been wise to follow the wording of those clauses. For a customer with at least 2 months gambling history at the casino, the fundamental requirement is that a Host Responsibility Coordinator ‘shall assess whether there is reasonable cause to consider’ that the customer has either:

- (i) *displayed problem gambling behaviours or indicators on the main floor of the Adelaide Casino; or*
- (ii) *shown behaviours or indicators which suggests that they would be vulnerable to the Premium Gaming environment; in which case that person will be interviewed in accordance with the HRC monitoring and assessment procedures to determine whether those behaviours / indicators:*

[948] Clause 5 of the new SOP fails to mention the requirement that the Host Responsibility Coordinator undertake the assessment as to reasonable cause.

[949] The Approved Licensing Agreement provides that if the coordinator reaches the view that there is reasonable cause to consider the customer has either displayed problem gambling behaviours or indicators on the main floor, or has shown behaviours or indicators which suggests the customer would be vulnerable to the premium gambling environment, the customer ‘will’ be interviewed by the coordinator. The purpose of the interview is to determine whether the behaviours or indicators are indicative of an actual gambling problem giving rise to harm, or not so indicative.

[950] The test posed by the new SOP is different. It states that if a customer is identified as having previously displayed, or shown behaviour suggestive of, gambling related harm, or has shown behaviours or indicators which suggest the customers would be vulnerable to the premium gambling environment, such customer ‘may then, at the discretion of the Host Responsibility

Team’, be subject to an interview. This discretion is contrary to the requirements of the Approved Licensing Agreement which direct that the customer ‘will’ be interviewed if the coordinator determines there is ‘reasonable cause to consider’ that the customer has displayed a problem or shown the relevant behaviours or indicators.

[951] As worded, not only is the SOP contrary to the Approved Licensing Agreement, it is undesirable. It allows Host Responsibility a discretion whether to interview even if a customer has previously displayed, or showed behaviours suggestive of, gambling related harm or shown behaviours or indicators that suggest the customer would be vulnerable to the premium gambling environment. If a customer has shown such behaviours or indicators, as a matter of policy an interview should be compulsory.

[952] It is difficult to understand why the plain wording of the Approved Licensing Agreement has not been adopted, and why a new SOP purports to convert a mandatory interview into a discretionary decision. Of course, the SOP has no effect in this regard. The licensee is bound to comply with the Approved Licensing Agreement. The SOP is apt to produce confusion and incorrect practices. It should be amended to reflect precisely the wording and obligations found in the Approved Licensing Agreement.

[953] As to the issue of failing to comply with clauses 4-6 of Annexure B to the Approved Licensing Agreement in respect of qualification for premium gaming, in the letter of 31 March 2023 the solicitor for the licensee devoted considerable time pressing that the issue should be considered in the light of important contextual information, particularly the development of principles/methodology underlying the screening and monitoring process provided for in the ALA that ‘Mr Martin did not have the benefit of prior to the suspension of the Investigation’. The licensee sought to use the ‘contextual information’ in support of the fundamental proposition that the licensee had ‘always been largely and effectively compliant with clauses 4 and 5 of Annexure B to the ALA’. The contention was advanced that to the extent that the processes did not reflect the express requirements of clauses 4 and 5, the differences ‘equated to differences in form rather than substance’.

- [954] At the heart of the submission by the licensee was the proposition that since clauses 4 and 5 of the approved Licensing Agreement came into operation and laid down the procedure involving host responsibility in the processes, considerable changes and improvements in training of all staff had occurred, together with improved processes for identification of problem gambling behaviours. Particular emphasis was placed upon the role of VIP staff. It was in this context that the licensee suggested it was a failure in form, rather than substance.
- [955] Underlying the ‘contextual’ argument was the proposition that the involvement of host responsibility as required by clauses 4 and 5 was not necessary. I do not agree. As discussed earlier, there was a tension between the essential role of VIP staff with respect to VIP customers and their obligations with respect to host responsibility and harm minimisation. The focus of Host Responsibility personnel staff is, or should be, directed to relevant harm minimisation issues without the distraction of other duties or priorities. The ‘contextual’ contentions might be regarded as relevant to an assessment of the seriousness of the breaches of clauses 4 and 5, but they do not alter the fact that the breaches occurred over a number of years.
- [956] In addition, the suggestion that the words ‘closer observation’ for a three-month period are no longer of significant meaning is misconceived. The bold statement was made that ‘all premium customers are monitored closely irrespective of the level of their previous main gaming floor gambling’. This proposition was advanced as a basis for suggesting that the term ‘closer’ cannot apply because ‘the evolution of monitoring for problem gambling since 2013 and the level of problem gambling training provided to gaming staff, means that there is no lower/higher form or method of observation’. It is not unkind to describe this contention as blatant nonsense.
- [957] The engagement in March 2023 of the licensee in these pointless and disingenuous semantics was disappointing. If the licensee was, at that time, genuinely concerned to acknowledge its failings, and to demonstrate a genuine desire to comply with all its obligations, it might reasonably have been expected to frankly and openly admit this particular failing.

[958] In the context of the defective SOP amendment, I note from the letter of 31 March 2023 that once the licensee was aware of concerns concerning the wording of the December 2022 SOP, in February 2023 a new SOP came into operation requiring compulsory interviewing if a customer has shown problem gambling behaviours or indicators. In addition, the letter states that since December 2022 the Host Responsibility Team has complied with the screening requirements set out in clauses 4-6 of Annexure B to the approved Licensing Agreement.

62.0 Miscellaneous

[959] In addition to the issues discussed earlier, to January 2023 this Investigation received information from casino Inspectors of relatively minor breaches of procedures which it is unnecessary to canvass. Such breaches are routinely the subject of appropriate action by the Inspectors and, if necessary, the Commissioner.

[960] Having made that general observation, I add that it is disappointing to note failures to respond appropriately to 4, 6 and 8 hour alerts that occurred in October 2024. These are the subject of an enquiry by the Commissioner and it is unnecessary to examine the particular circumstances in detail.

63.0 Licensee Response 31 March 2023

[961] As discussed earlier in the context of AML/CTF issues, on 6 February 2023 the Commissioner wrote to the licensee concerning the appointment of an independent monitor pending the resolution of the AUSTRAC proceedings and this Investigation. Included with the correspondence was a summary of preliminary findings of this Investigation with respect to both AML/CTF and Host Responsibility obligations.

[962] The licensee responded by letter of 31 March 2023 from the licensee's solicitor to the Commissioner. As to host responsibility, in preliminary observations the letter stated that the licensee 'places great importance on host responsibility throughout every part of its operations',

and ‘acknowledges that there are areas for improvement across its host responsibility function and that it is taking steps to ensure that the requisite improvements are made’. The letter stated that the licensee ‘continues to focus on fostering a culture of care’ throughout the casino ‘with a view to reaching the highest standards of host responsibility best practice’.

[963] The letter of 31 March 2023 also plainly stated that the licensee ‘does not consider that the HRP was inadequate or that it was deficient in discharging its obligations under the historical governance approach when proper regard is had to the nature of SCEG’s role in the corporate governance of SkyCity Adelaide’. The licensee asserted that the host responsibility standard operating procedures were ‘compliant with all requirements’ of the legislative scheme, and that in addition to meeting the minimum requirements of the scheme the licensee ‘proactively implements additional enhancement measures to minimise risk and harm from problem gambling’. Reference was made to the Harm Minimisation Roadmap developed in about November 2021, components of which were implemented during 2021 and 2022, with the balance being implemented throughout the course of 2023.

[964] In the letter of 31 March 2023, the licensee challenged a preliminary finding that prior to late 2021, the host responsibility program was under the ‘overall control and supervision of the SCEG Board and Management, without any input from the Adelaide Board’. This challenge was advanced on the basis that while oversight of the implementation of the Host Responsibility Program was the responsibility of SCEG Board ‘at a governance level until around November 2021’, that did not mean ‘oversight was exercised in a vacuum without the input of SkyCity Adelaide directors or personnel’. The letter continued that decisions made by the SCEG Board and committees were ‘based on the recommendations and information that had been fed to them directly by SkyCity Adelaide personnel’.

[965] In addition, reference was made to the ‘operational level’, namely, that the program had always been under the ‘management, control and supervision of the host responsibility team based in Adelaide’.

[966] The objection misses the point. The Adelaide Board did not receive any reports, or operate in any way, prior to November 2021. The Adelaide Board did not provide any input to the SCEG Board prior to late 2021/early 2022.

[967] As to a tentative finding that training of staff in host responsibility was less than satisfactory until late 2021/early 2022, the letter asserted that the licensee ‘considers that the training delivered to its employees (and directors) in respect of its host responsibility obligations has always been adequate, and that sufficient time and resources have been dedicated towards delivering that training’. Reference was made to specific aspects of training modules used to provide relevant employees with appropriate training and to workshops. The details sound impressive, but the evidence demonstrates that, historically, in practice training and resources were inadequate.

[968] With respect to training as at 31 March 2023, the improvements are obvious from the following passages of the letter:

Overview of Current Training and Enhancements

25. *As at the date of this response, the training delivered to SkyCity Adelaide employees and directors is largely the same as that delivered prior to late 2021.*
26. *However, over time the HRP has developed (and continues to further develop) more mature analytical capabilities, which have required the development and implementation of additional training initiatives. For example, the Host Responsibility team has received additional training in relation to the use of the Microstrategy system (SkyCity Adelaide’s analytical dashboard) which allows HRCs to conduct an analysis of a patron’s historical play in order to better understand their behaviour and assist with the identification of potential problem gambling.*
27. *In addition to this training and as further outlined below, SkyCity Adelaide has also introduced:*
 - (b) new cultural and mental health awareness training; and*
 - (c) the use of micro-assessments.*
28. *For the avoidance of doubt, SkyCity Adelaide does not consider that these developments necessarily lead to a conclusion that there were less than satisfactory training outcomes prior to that time (given the role requirements and technical capabilities at the time). Rather, these developments demonstrate SkyCity Adelaide’s dedication to continuous enhancement of its training and processes. SkyCity Adelaide is committed to ensuring its training*

*is of the highest standard and is reflective of new technologies and best practice harm minimisation principles.*³²

Cultural and Mental Health Awareness Training

29. *SkyCity Adelaide is committed to furthering its understanding of cultural impacts in connection with appropriate harm minimisation issues and techniques.*
30. *HRCs undertake, where possible, additional ad-hoc training aimed at improving their cultural sensitivity and increasing their awareness and understanding of cultural impacts (insofar as they relate to harm minimisation approaches and techniques).*³³ *For example, on 8 and 15 September 2022, HRCs completed cultural and mental health awareness training presented by Relationships Australia,³⁴ the Chinese Overseas Association³⁵ and the Vietnamese Community in Australia SA Chapter.³⁶*

Micro-assessments

31. *To further strengthen mandated host responsibility training beyond baseline compliance, and to facilitate a strong culture of compliance, SkyCity Adelaide has developed a “micro-training” program (or “on-floor assessments”) targeting personnel working in the Table Games, Gaming Machines, Security, VIP and SkyCity Rewards departments.*
32. *These micro-training sessions are conducted randomly on the floor and involve HRCs and the Host Responsibility Learning and Development Manager (██████████) engaging with frontline staff on a regular basis. Staff members selected are tested on their knowledge of the HRP and their responsibilities by being asked to complete a questionnaire using an iPad.*
33. *In the first instance, the results of the micro-training sessions are manually recorded by the assessor using a spreadsheet and the learning outcome is subsequently assigned in the Cornerstone system post event.*³⁷
34. *Whilst there is no pass or fail requirement, if an employee registers a poor result during the questionnaire, the assessor will raise this with ██████████, who may then organise to catch-up with that employee or run an information session for their benefit.*
35. *The current micro-training session in place is known as the “Red Flags” module – the objective of this module is to ensure that staff can recognise the relevant PGIs and potential “red flags” they should look out for whilst they are on-shift and conducting their duties at the SkyCity Adelaide casino.*³⁸
36. *SkyCity Adelaide anticipates that additional learning modules will be added to the micro-training program in due course.*

Recent Training Completion Rates (GRT Basic and GRT Advanced)

37. *SkyCity Adelaide ensures that its employees and directors complete the requisite GRT Basic and GRT Advanced modules as required as follows:*
 - (a) *when an employee commences employment at SkyCity Adelaide, their details are entered into SkyCity Adelaide’s “PeopleSoft” human resource management system, which populates a cloud based³⁹ database known as “Cornerstone”. Both PeopleSoft and Cornerstone are cloud-based platforms, which are used by SkyCity Adelaide’s Learning and Development department to assign, track, communicate and report on*

*each employee's training (both e-learning and face-to-face workshops) as required;*⁴⁰ and

- (b) *the requirement to complete GRT Basic and GRT Advanced training is allocated on position IDs assigned in Cornerstone and assigned to new employees as part of their induction program as an online course and must be completed within 90 days of commencing employment. These modules are automatically sent to assigned employees by Cornerstone as a refresher bi-annually,⁴¹ while reminders are scheduled well in advance of the expiry date to ensure compliance.*

38. *SkyCity Adelaide maintains records of all host responsibility training completed by its employees (including GRT Basic, GRT Advanced and Host Responsibility training) using the Cornerstone system.*⁴²
39. *SkyCity Adelaide's intention is to continue to maintain 100% training completion rates in accordance with its legislative/regulatory requirements. In this respect:*⁴³
 - (a) *each manager at SkyCity Adelaide is ultimately responsible for ensuring that their direct reports complete the requisite host responsibility training within the required timeframe. In this regard, department managers are regularly notified of employees who have outstanding training modules/requirements;*⁴⁴
 - (b) *the General Manager People and Culture at SkyCity Adelaide (██████████) and members of SkyCity Adelaide's Learning and Development team regularly review training completion rates and communicate these to the SkyCity Adelaide Senior Leadership team;*⁴⁵ and
 - (c) *the Host Responsibility Learning and Development Manager and Executive Manager Host Responsibility regularly review training completion rates and communicate these to the Host Responsibility Senior Management Group (for both the SkyCity Group and SkyCity Adelaide).*⁴⁶
40. *Overall, training completion rates at SkyCity Adelaide (including in respect of host responsibility) are very high due to the diligence of ██████████ and the functionality of the Cornerstone system. In particular, as at December 2022, SkyCity Adelaide recorded 100% compliance with training requirements for the GRT Basic and GRT Advanced training modules.*⁴⁷

SkyCity Adelaide's Approach to Training

41. *SkyCity Adelaide's approach to host responsibility training remains forward looking. For example, and as you are aware, in around March 2022, CBS commenced its review into the South Australian gambling industry staff training requirements. A discussion paper entitled "Review of Gambling Industry Training Requirements" was distributed to all stakeholders on 8 February 2022 for their review and comment. SkyCity Adelaide continues to work collaboratively with the Commissioner's office on these new guidelines and remains committed to implementing and delivering a further enhanced training program to its employees.*⁴⁸
42. *Once the training guidelines have been finalised, SkyCity Adelaide will develop training modules that are aligned with the prescribed content for approval by the Commissioner.(footnotes omitted)*

- [969] Notwithstanding the definitive affirmation that the licensee does not consider the developments ‘necessarily lead to a conclusion that there were less than satisfactory training outcomes’ previously, at the least the nature and extent of developments tend to point to a need for improvement. In addition, the reliance placed by the licensee on previous ‘role requirements and technical capabilities’ as a basis for justifying the adequacy of previous training, is inappropriate.
- [970] The licensee also challenged the tentative finding that the Host Responsibility Program was poorly resourced, resulting in a lack of staff adversely impacting upon implantation of the program. Such a finding was largely based upon historical considerations and the increase in resources is discussed earlier this Report.
- [971] Other criticisms of the Host Responsibility Program such as the lack in clear lines of authority and inadequate processes were also historical considerations. So too, was the criticism related to the operation of host responsibility in the VIP area. As noted, from August 2021 there were significant improvements in these various areas, including positive movement toward a culture change and dissipation of the air of resistance within the VIP area.
- [972] In these circumstances, it is unnecessary to discuss these aspects further. The inadequacies that existed prior to 2021 did not involve any corruption or other characteristics which could realistically reflect adversely upon the current suitability of the licensee to hold the licence.
- [973] For the same reasons, it is unnecessary to discuss the Ernst & Young review carried out between April and August 2021, except to observe that the licensee positively responded to the issues raised.
- [974] The letter of 31 March 2023 referred at some length to the licensee’s Assurance Program and to QA Testing:

SkyCity Adelaide Assurance Program and QA Testing

61. *The SkyCity Adelaide Assurance Program requires specific elements of the HRP to be tested in accordance with the document entitled “Rotational*

Assurance Programme” (**RAP**).⁵⁷ As per the RAP, those various HRP elements are tested annually, two times a year, three times a year, or on a quarterly basis.⁵⁸

62. SCEG has a similar quality assurance program in place in respect of the HRPs in place at its New Zealand casinos (**SCEG Assurance Program**). The testing provided for in the RAP is also carried out in respect of SCEG as part of the SCEG Assurance Program. The responsibility for conducting testing as part of both the SkyCity Adelaide Assurance Program and SCEG Assurance Program lies with the SCEG Group Assurance team (which is overseen by the Group Assurance Manager, [REDACTED]).
63. The testing prescribed by the RAP requires the Group Assurance team to:⁵⁹
 - (a) carry out desktop reviews of relevant documentation and files;
 - (b) engage in discussions with SkyCity Adelaide personnel (usually by Microsoft Teams and/or Skype); and
 - (c) attend three scheduled visits to the Adelaide casino site each year.
64. In respect of the RAP, we note that:⁶⁰
 - (a) the RAP was formally documented from January 2022 but, prior to this date, the testing programme was deployed informally as it was still under development; and
 - (b) the RAP is a living document which is periodically updated to modify testing or add new areas of focus. Updated versions are provided periodically to the SCEG Host Responsibility Senior Management Group and the relevant SCEG Board Committee.

QA Testing

65. During 2022, members of the then Group Risk team based in New Zealand conducted QA Testing. As part of the QA Testing, members of the Group Risk team:⁶¹
 - (a) visited the Adelaide casino to interview SkyCity Adelaide personnel for the purpose of gauging their understanding of SkyCity Adelaide’s host responsibility practices (including how to identify a problem gambler, the responsible service of alcohol, and relevant exclusions), and to seek any feedback from those staff in relation to SkyCity Adelaide’s business; and
 - (b) carried out a desktop review in Auckland of SkyCity Adelaide’s barring files in the iTrak system for the period of May 2022. iTrak is an incident management system utilised to record incidents and information about customers. The system is used by several departments within SkyCity Adelaide, including the Security, Surveillance, Host Responsibility and Financial Crime Teams.
66. Following the staff interviews and desktop review, a report titled “Group Risk Host Responsibility Assurance Report” was produced in July 2022 (**Assurance Report**) (see SKY.005.000.00015).⁶²
67. In the Assurance Report, the Group Risk team found that the SkyCity Adelaide host responsibility function is very focused on continuous improvement, and

*that there is a highly engaged and positive host responsibility culture onsite at the SkyCity Adelaide casino. In particular, the Assurance Report noted that:*⁶³

- (a) security staff interviewed were able to identify problem gambling indicators, how to identify intoxicated customers, and how to escalate exclusions;*
- (b) Gaming Machine Attendants interviewed were able to identify problem gambling indicators and how to identify an intoxicated customer, and were aware of what the pre-commitment facility is;*
- (c) Table Games and VIP Hosts were able to answer all problem gambling scenario-based questions correctly; and*
- (d) Food and Beverage (F&B) staff were able to answer all problem gambling scenario-based questions correctly.*

*68. The Assurance Report also identified a series of recommendations and suggestions that staff had made during their interviews in respect of improvements they considered could be made by SkyCity Adelaide in relation to its host responsibility procedures/processes, namely:*⁶⁴

- (a) F&B staff indicated that they would like additional training on the responsible service of alcohol and how to “slow down” customers;*
- (b) Gaming Machines staff indicated that they would like further scenario-based training on how to identify PGIs in conversations with customers;*
- (c) staff wanted to implement centralised noticeboards with host responsibility tips;*
- (d) staff preferred training to be scenario-based rather than sitting in the classroom for long periods of time; and*
- (e) staff asked for more host responsibility brochures to be available on the floor.*

69. SkyCity Adelaide management did not, and does not, consider that these staff-driven recommendations or suggestions constitute inadequacies or failings in the implementation of the HRP. However, in any event, SkyCity Adelaide management addressed many of these staff-driven suggestions by way of the remediation and/or enhancement measures that have been implemented by SkyCity Adelaide to date⁶⁵ as part of the Harm Minimisation Roadmap (as discussed in greater detail at paragraph 112 below).

70. Having regard to the matters above, SkyCity Adelaide considers that, to the extent the processes which underpin its HRP have been considered inadequate in the past, those inadequacies were minor and have now been addressed (such that similar issues are unlikely to arise in the future). (footnotes omitted)

[975] As to case management processes, the letter of 31 March 2023 provided an explanation of changes relevant to a current assessment of the adequacy of the Host Responsibility program:

73. Prior to late 2021, there were two case management processes in place, being:
- (a) the “Passive Case Management Process”, under which an individual customer was passively case managed by a designated HRC with the aim of monitoring their play and behaviour to determine whether they were exhibiting any potential PGIs. These customers were not approached by a HRC unless they were observed to exhibit such signs; and
 - (b) the “Active Case Management Process”, under which an individual customer was actively case managed by a designated HRC with the aim of monitoring play and behaviours in a more structured and documented way.⁶⁶ During this process, a HRC would also interact to establish more effective rapport with the customer and have a greater level of interaction with the customer and oversight in relation to the customer’s play.
74. The Passive Case Management Process is no longer in use at the SkyCity Adelaide casino. Similarly, the Active Case Management Process ceased in around July 2022 (other than in connection with newly returned rescinded customers). SkyCity Adelaide acknowledges that under these operating methodologies there may have been periods where the customer and the HRC did not interact. This was because, historically, each HRC was allocated their own customer(s) to manage, which meant that there may have been periods where a customer was not approached by their allocated HRC because, for example, the relevant HRC was not on shift. However, the relevant processes have since changed to ensure that all scheduled interactions with customers (who have been identified as being at risk) are undertaken and documented. As set out in greater detail below, these changes include the development and implementation of the “Recission SOP”, as well as the “GOI 1” and “GOI 2” customer classifications. Ultimately, these changes ensure that the entire Host Responsibility team shares responsibility for monitoring and assessing the welfare of all customers.

Recission SOP

75. As foreshadowed at paragraph 74 above, in July 2022, SkyCity Adelaide implemented a revised SOP (entitled “Rescission Activity (Subsequent Case Management)”) (**Recission SOP**) to case manage persons who have been approved for re-entry to the Adelaide casino by CBS following the rescission of a barring order (referred to as a “Recission Order”), and who subsequently contact SkyCity Adelaide seeking permission to enter the casino (referred to for purpose of this section as “applicants”). A copy of the Recission SOP has been produced and marked SKY.001.002.0084.67
76. Although there is no legislative or regulatory requirement for SkyCity Adelaide to have a Recission SOP in place, SkyCity Adelaide has nonetheless implemented it voluntarily to help protect returning customers from the possibility of suffering gambling harm.⁶⁸
77. The Recission SOP is supplemented by, and should be read in conjunction with, section 3.1 of the current HRC SOP,⁶⁹ which sets out, with additional specificity, the terms and conditions for re-entry that an applicant must adhere to following a revocation of barring.⁷⁰

GOI Ratings

78. *In addition to the measures set out in the Rescission SOP, in September 2022, the Host Responsibility team created and implemented two tiers of observation risk for existing players, being “Gambler of Interest 1” (GOI 1) and “Gambler of Interest 2” (GOI 2). The GOI 1 and GOI 2 classifications can be applied to any customer who exhibits one or more PGIs, and were introduced to ensure that a more “risk based” approach is taken to interactions with customers.*
79. *The allocation of GOI 1 and GOI 2 classifications to customers is essentially a form of risk analysis that allows the Host Responsibility team to determine who is most in need of observation and assistance. The classifications also determine how frequently (and in what manner) a HRC will interact with a customer.*
80. *Players classified as GOI 1 are customers who have been identified as being a moderate to higher risk of gambling related harm on the basis that they meet the following criteria prescribed in section 3.2 of the current HRC SOP:71*
- (a) there are two or more PGIs present;*
 - (b) the player has been identified as having significant recent behavioural change in comparison to historical play and visitation patterns via the use of data analytics; and/or*
 - (c) the player has been identified from staff observations and/or additional avenues of information.*
81. *Players classified as GOI 2 are customers who have been identified as being a lower to moderate risk of gambling related harm on the basis that they meet the following criteria prescribed in section 3.3 of the current HRC SOP:72*
- (a) there is one PGI present;*
 - (b) the player has been identified as having some recent behavioural change in comparison to historical play and visitation patterns via the use of data analytics; and/or*
 - (c) the player has been identified from staff observations and/or additional avenues of information.*
82. *All file entries inclusive of rescission activity, GOI 1 and GOI 2 are linked to an iTrak notifier where an email is automatically sent to members of the Host Responsibility team notifying of file changes as shown below.73*

Implementation of Rescission SOP and GOI Ratings

83. *The Rescission SOP makes it clear that a Rescission Order will not automatically entitle an applicant to return to the SkyCity Adelaide casino. Rather, re-entry is based on an applicant’s current personal, financial and family situation,74 and will be implemented in accordance with the Rescission SOP.*
84. *In order to gain re-entry, the Rescission SOP and current HRC SOP 202375 require an applicant to engage in the following process:76*
- (a) attend a Gambling Help interview and produce a letter of attendance from a Gambling Help Service provider;77 and*

- (b) attend an interview with a HRC to discuss their current personal, financial and family circumstances so that the HRC can determine whether it is appropriate and safe for the applicant to return to the SkyCity Adelaide casino.

85. *If the HRC considers that an applicant meets the re-entry criteria, a “Safe Gambling Plan” will be established, which:*⁷⁸

- (a) imposes strict limits on their weekly expenditure, visitation and time onsite;
- (b) requires the patron to engage in carded play at all times; and
- (c) requires enrolment in the MyPlay pre-commitment system.

86. *The Safe Gambling Plan will be in effect for a minimum of three months, during which time the returned patron is subject to the following monitoring:*⁷⁹

- (a) a weekly documented financial review by a HRC within iTrak, which is mapped against the Safe Gambling Plan criteria; and
- (b) monthly catch-ups with the Host Responsibility team (unless that customer’s conditions are not adhered to, at which point an intervention will occur at an earlier date), which interactions are recorded by the Host Responsibility team in iTrak.⁸⁰

87. *At the successful completion of the rescission process, and the conclusion of the original three-month period, a returned patron is classified under GOI 2 for a period of three months.⁸¹ However, as a GOI 2, that patron will still be subject to an additional three-month passive monitoring period.⁸² If an applicant breaches a condition of their Safe Gambling Plan, SkyCity Adelaide will intervene. The nature of the intervention is dependent on the severity of the breach and the individual circumstances of the customer. For example, an intervention could involve a formal warning or, alternatively, if an applicant repeatedly fails to adhere to the conditions imposed on them pursuant to their Safe Gambling Plan, it may result in a licensee barring being invoked by SkyCity Adelaide for a minimum period of three months.⁸³*

88. *At an operational level, measures have been implemented to ensure that the Rescission SOP is being implemented effectively (including that the requisite interactions are occurring). For example:*

- (a) an automatic notification is sent to members of the Host Responsibility team to ensure all relevant persons are aware of the rescinded patron’s status;⁸⁴
- (b) the iTrak system will record the rescinded patron as being subject to “Case Management” commencing from that date;⁸⁵
- (c) facial recognition technology (currently utilised at all entrances and exits of the Adelaide casino) helps to detect when a returned customer is onsite;
- (d) projected dates for interactions between HRCs and applicants are recorded and communicated by the Host Responsibility Learning and Development Manager (██████████) who maintains a spreadsheet (generated from the iTrak system) which records when interactions with returned patrons are due; and

- (e) [REDACTED] has the capacity to run ad-hoc reports of the data contained in iTrak, which allows her to confirm whether HRCs are complying with their obligations and documenting their interactions.

89. Ultimately, SkyCity Adelaide considers that the introduction of the Recission SOP, as well as the GOI 1 and GOI 2 classifications, ensure that all customers are given the appropriate attention and care. This is on the basis that SkyCity Adelaide has received positive feedback from members of the relevant stakeholder groups (including Relationships Australia, the Office of Problem Gambling and the Chinese Overseas Association) regarding the Recission and GOI process. (footnotes omitted)

[976] As to other improvements, the letter of 31 March 2023 pointed out that a number of revisions had been made over the years to the Host Responsibility Program, including the introduction of the ‘Group Harm Minimisation Framework’, coupled with the addition of the ‘SkyCity Adelaide Host Responsibility Senior Management Group’. Further, the ‘Continuous Presence Policy’ has been added which was explained in the following terms:

12 Hour Continuous Presence and Play

118. On 15 August 2022, SkyCity Adelaide implemented a new policy entitled “12 hours Continuous Presence” (**Continuous Presence Policy**)¹⁰² whereby patrons are asked to leave the casino if they are found to have been onsite for a period of at least 12 hours.¹⁰³ In addition to the Continuous Presence Policy, SkyCity Adelaide has also developed a “12 Hours Continuous SOP”,¹⁰⁴ which sets out several manual processes designed to implement the Continuous Presence Policy. The 12 Hours Continuous SOP was operationalised on 15 August 2022, and is further supplemented by the requirements set out in section 3.4 of the current HRC SOP.¹⁰⁵
119. SkyCity Adelaide informed the Commissioner of the implementation of the Continuous Presence Policy, and the 12 Hours Continuous SOP, via letter dated 15 August 2022.¹⁰⁶
120. Under the Continuous Presence Policy, SkyCity Adelaide takes reasonable steps to identify any patrons who have been present within the SkyCity Adelaide casino for an accumulative period of 12 hours in any single trading day. From a practical perspective, and in the absence of facial recognition technology (as discussed at paragraph 132 below), the steps taken by SkyCity Adelaide to identify these patrons are set out in the 12 Hours Continuous SOP and include the following:¹⁰⁷
- (a) manual observations by HRCs and SkyCity Adelaide employees; and
 - (b) periodic reports run by HRCs using Bally CMP to determine the estimated time onsite and the last known location of customers that have been deemed to be present on the casino premises for an initial period of 10 hours.

121. *Once a periodic report has been generated, HRCs will:*¹⁰⁸
- (a) *attempt to locate the customer at the 10-hour mark to determine if they are still onsite;*
 - (b) *intervene and warn the patron at the 11-hour mark that they will be required to leave in one hour's time; and*
 - (c) *ask the patron to leave at the 12-hour mark if they are still onsite, and advise them that they will not be permitted to return until the following trading day.*
122. *In the event a customer disputes the length of time they have been present on the SkyCity Adelaide casino property, SkyCity Adelaide's Surveillance team will conduct a review of its security footage to determine the true length of that customer's presence.*
123. *The Continuous Presence Policy has been implemented at the SkyCity Adelaide casino notwithstanding that there is no legislative or regulatory requirement for SkyCity Adelaide to have it in place. Rather, it has been implemented voluntarily to strengthen SkyCity Adelaide's harm minimisation practices.*
124. *In this respect, we also note that the Bell Report released on 13 September 2022 in relation to the Bell Inquiry into The Star Pty Ltd in NSW included a recommendation that the operator of The Star Casino's Time Play Management standard clarify that in any 24-hour period, a patron cannot gamble for more than 12 hours. The Continuous Presence Policy, which as noted above was proactively introduced by SkyCity Adelaide in early August 2022, reflects that position.*¹⁰⁹
125. *Since its implementation, customer feedback (collected directly from customers during the course of their interactions with HRCs) has largely been supportive of the initiative.*¹¹⁰ *In many cases, customers respond well to intervention by the HRCs and are generally surprised that they have been onsite for that period of time. (footnotes omitted)*

[977] As to the resources, the following explanation was provided:

Current Resources and HRC Rosters

101. *As you are aware, in August 2021, SkyCity Adelaide added an additional resource through the appointment of [REDACTED] to the position of Executive Manager Host Responsibility (in addition to the HRC Manager, [REDACTED]).*
102. *In around March 2022, [REDACTED] departed SkyCity Adelaide.*
103. *Since August 2021, the composition of the Host Responsibility team has increased exponentially. In particular, in late 2022, the Host Responsibility team underwent a significant staff review. This can be attributed to the following factors:*
- (a) *the natural attrition of former employees;*

- (b) [REDACTED] 'desire to replace part-time employees (comprised of mainly university and higher education students) within the HRC workforce with full-time employees who have a greater capacity to commit to a long-term position; and
- (c) [REDACTED] 'desire to ensure that employees of the Host Responsibility team came from a diverse range of different backgrounds (noting that the Host Responsibility team now includes a former nurse and former security professionals), and are capable of speaking secondary languages to further assist host responsibility capabilities.⁹⁵

104. As at the date of this response, SkyCity Adelaide employs nine HRCs, including four full-time HRCs and five part-time HRCs.
105. The SkyCity Adelaide casino property is currently open between 9am and 5am every day except for Friday and Saturday (when it closes at 6am). During opening hours, the HRCs work across two main shifts, being:
 - (d) 9am to 7pm and 7pm to 5am on Sunday to Thursday; and
 - (e) 9am to 7pm and 8pm to 6am on Friday and Saturday.
106. HRCs currently follow the "75% visibility, 100% availability" protocol, which means that HRCs need to be present and visible on the casino floor for the majority of the time, and available to attend any incidents at all times. Whilst the role of a HRC involves a large amount of administrative work behind the scenes, HRCs try to maximise their time and visibility on the floor. The requirement for 75% visibility (as opposed to 100%) reflects the expectation that the obligation to minimise gambling-related harm does not rest solely with HRCs. Rather, there is an expectation that other staff within the casino (eg. Dealers and gaming machine attendants) will utilise their own training in host responsibility to observe patrons, record incidents and alert HRCs.
107. As of early November 2022, two HRCs are on shift every day from midday⁹⁶ – one dedicated to covering the main gaming floor and one permanently stationed in the VIP gaming area.⁹⁷ SkyCity Adelaide further notes that, at any one time, there are numerous staff, who perform casino-related roles, on the main gaming floor (all of whom have received, at the very minimum, GRT Basic training). Accordingly, those staff are well equipped to recognise, monitor and report potential PGIs and, in the appropriate circumstances, interact with the customer. Further, and as set out from paragraph 144 below, SkyCity Adelaide is increasingly using data to help identify potential problem gambling behaviour, which complements the work of HRCs and can help to reduce the reliance that needs to be placed on manual observation.
108. During each shift changeover, there is always an HRC on duty. In the unlikely event that there is no HRC on duty (due to unplanned sick leave, for example), then the SkyCity Adelaide Security Shift Manager (who has received the same training as HRCs) has the capacity to perform the function of a HRC while they are on duty.
109. SkyCity Adelaide considers that the current level of HRC resourcing (and the HRCs' coverage of the casino) is adequate and appropriate. Whilst [REDACTED] is conscious of the need for the Host Responsibility team to align with SkyCity Adelaide's objectives of development and growth, any evolution must occur in a measured way. Accordingly, the level of resourcing within the Host

*Responsibility team is persistently monitored and additional employees will be appointed if and when required.*⁹⁸ (footnotes omitted)

[978] Another improvement emphasised by the licensee concerns the collection of relevant data to assist in identifying problem gambling behaviour:

Use of Data by Host Responsibility team

144. *SkyCity Adelaide recognises that time spent playing is not, in and of itself, always a true indicator of problem gambling behaviour.¹³² Further, SkyCity Adelaide believes that a more scientific approach might help to better identify and support problem gamblers, as a way to support/enhance ARMS. Accordingly, from in or around August 2022, SkyCity Adelaide began to collect and monitor a variety of additional information (or source data), which it uses to rank a player's risk of harm from problem gambling. SkyCity Adelaide uses those rankings to determine what level of monitoring and/or support the player requires (eg. By way of weekly financial reviews and monthly HRC interactions and/or interventions), or whether the player should be excluded from the casino entirely.¹³³*

145. *This source data is collected via a number of channels, including the following:¹³⁴*

- (a) from the "ARMS Dashboard" within the PowerBi software utilised by SkyCity Adelaide. The ARMS dashboard consolidates all data collected via ARMS in dashboard format and allows for comprehensive data analysis to be undertaken from all forms of alert activity. For example, it can generate a list of players specifically in response to the frequency of the ARMS alerts received for time (4, 6 and 8 hours) and spend (being a turnover of \$21,000 in 200 minutes for uncarded players and \$42,000 in 200 minutes for carded players) for each calendar month period. Importantly, information can be utilised to effectively align host responsibility resources to proactively monitor and engage customers, either by time and/or area, and by individual multiple alert history;*
- (b) the "HRP MicroStrategy system", which allows all carded players to be retrospectively analysed using their historical and current data, and ranking subsequent deviations in length of stay, theoretical win, and significant loss. Those players ranking highly in aggregate deviations are then further analysed via a Player Gaming Detail dashboard and graded a risk association. Further monitoring and/or interaction is undertaken dependent on the risk value assigned;*
- (c) a player's documented incident history as recorded in the iTrak system (including any 'Request to Leave' notices requests issued by SkyCity Adelaide to that player);*
- (d) interdepartmental communications (including emails that are frequently sent by staff working on the casino floor to HRCs);*
- (e) Bally CMP notes, tags and player tracking function. Bally CMP is SkyCity Adelaide's casino management software system that integrates, collects and manages business information about customers. CMP is used to*

create new loyalty accounts, maintain customer records and view account details and history. Records of customers' gaming ratings and transaction history are also recorded and stored in CMP; and

(f) the player's CBS barring and rescission history.

146. *Given the increased reliance on data, SkyCity Adelaide also created a new role in or around June 2022, being the "Host Responsibility Learning and Development Manager" (██████████), that is, amongst other things, dedicated to the analysis of that data to identify potential problem gambling behaviour. The key responsibilities of this role include, among other things,¹³⁵ assisting in the assessment of customer play/behaviour data for actioning (in the form of customer engagement on the floor). (footnotes omitted)*

[979] An improvement of broad application concerns the 'Internal Quality Assurance Plan 2023'. This plan was outlined in the letter of 31 March 2023 as follows:

SkyCity Adelaide's Internal Quality Assurance Plan 2023

196. *In light of the compliance issues identified by Mr Martin (particularly in relation to SkyCity Adelaide's compliance with its obligations under the ALA), ██████████ has taken steps to implement a holistic review of SkyCity Adelaide's compliance with the legal and regulatory frameworks applicable to the Host Responsibility team, which is to be undertaken in 2023. In order to give effect to this review, ██████████ has developed a timetable and program of work (or "evidence based assurance plan" 159), which was formalised in January 2023 (**Assurance Plan 2023**).*
197. *At a meeting of the SkyCity Adelaide Board on 14 December 2022, it was agreed that ██████████ will provide regular updates to the SkyCity Adelaide Board on host responsibility compliance activity. It is also intended that a certification of compliance with the legal/regulatory framework requirements (as set out in the Assurance Plan 2023) will be provided to the SkyCity Adelaide Board at each half-year and full-year, in alignment with financial reporting requirements.¹⁶⁰*
198. *As at the date of this response, the Assurance Plan 2023 has been submitted to SkyCity Adelaide's Legal team for review.¹⁶¹ (footnotes omitted)*

[980] The letter of 31 March 2023 also made reference to the tentative view that, historically, there was an air of resistance to Host Responsibility within the VIP area, a culture which began changing after August 2021. The proposition was advanced:

"It [the licensee] considers that, from a Host Responsibility perspective, VIPs (both local and international) are treated, and have always been treated, in the same way as patrons on the main gaming floor. VIPs do not and have not, received any special

64.0 Harm Minimisation - Kroll

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[983] Later in its report, Kroll made observations concerning better practices in the context of Harm Minimisation:

- [REDACTED]
- [REDACTED]
- [REDACTED]

[984] Kroll noted advice from the licensee that the licensee had ‘voluntary sought to improve existing and implement new measures to identify, address and minimise the risk of actual and potential problem gambling’. However Kroll also noted that the activities contained in the Host Responsibility Enhancement Program were ‘limited to uplifting current processes for complying with SkyCity Adelaide’s current Gambling Harm Minimisation obligations’. Kroll noted there

[985] In addition, as mentioned, in consultation with Kroll on 12 July 2024 the observation was made concerning lack of implementation.

[986] In the report of 22 October 2024 concerning AML/CTF compliance Kroll also dealt with Compliance Assessment concerning the licensee's gambling harm minimisation obligations. In a process similar to the process adopted with respect to AML/CTF issues, Kroll identified specific requirements and issues arising with respect to particular requirements:

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists the demographic groups, and the x-axis shows the percentage from 0 to 100. The bars are colored blue for Male and pink for Female. The data is as follows:

Age Group	Gender	Percentage
18-29	Male	~95%
	Female	~95%
30-49	Male	~95%
	Female	~95%
50-69	Male	~95%
	Female	~95%
70+	Male	~95%
	Female	~95%

[illegible]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[Footnotes omitted]

[987] In a letter of 1 November 2024 responding to matters contained in a draft report from this Investigation, the licensee referred to steps taken to improve its ‘governance practices and the capability and capacity of its...Host Responsibility’ team. The letter spoke of the appointment of a new host responsibility operations manager who possesses a ‘Masters in Counselling and Psychotherapy’, and who previously worked within ‘gambling help services provided by Relationships Australia SA’. In addition, two host responsibility team leaders had been appointed and the total number of host responsibility coordinators had been increased to 17, ‘with a further 6 Host Responsibility Coordinator roles currently in the market’.

[988] The letter of 1 November 2024 also canvassed other measures relevant to Harm Minimisation:

15. The SkyCity Group has also strengthened its risk capability with the appointment of five Senior Risk Leads who provide support to the SkyCity Adelaide Financial Crime and Host Responsibility teams in the areas of risk management, controls, operational resilience, compliance and conduct and data.
16. Following approval by the Acting Liquor and Gambling Commissioner earlier this year, SkyCity Adelaide is currently working to deploy facial recognition long stay technology and the Focal predictive algorithm risk model at the SkyCity Adelaide casino to assist in preventing and minimising harm from problem gambling.
17. SkyCity Adelaide has also committed to deploy mandatory carded play at the SkyCity Adelaide casino by early 2026, which will enable both SkyCity Adelaide and customers to monitor length of play in real time. Through delivering this transformative approach to gaming, SkyCity Adelaide is seeking to elevate its customer care approach in a way that enables customers to help track and monitor their play activity and take regular breaks from gaming. The technological challenges to deliver carded play are significant and require material financial investment both in terms of capital and workforce resource, but we are committed to implementing carded play as it will significantly increase our visibility and control of play and simplify many parts of our current AML/CTF and host responsibility operations.
18. The introduction of these technological solutions will significantly bolster and assist SkyCity Adelaide's ongoing efforts to detect and prevent excluded customers from re-entering its casinos and to detect continuous presence and play.

19. The SkyCity Adelaide Board and executive management have undertaken a review of the current SkyCity Adelaide governance framework, reflecting on lessons from the past and taking into account governance observations from interstate casino enquiries, and have formulated a number of recommendations to improve the SkyCity Board's effectiveness which have been endorsed by the SkyCity Board. A plan is currently being developed to implement the recommended actions. In addition, SkyCity Adelaide has recently established a Risk and Assurance Committee, constituted by senior leaders across business functions. The Committee provides a formal forum that supports a culture of conscious risk management, provides oversight and governance of compliance obligations and allows for the regular reporting of material risks, issues and changes occurring within the business and a channel for escalation of those matters to the SkyCity Adelaide Board where appropriate.

[989] As to progress with respect to Harm Minimisation under the POW, in the Progress Report of 28 March 2025, Kroll reported that, 'overall', the 'Working Group is rated Amber'. It is unnecessary to canvass any further details other than to note that the inadequacy of a GHM Benchmarking Report, prepared by the licensee and requiring re-submission to Kroll, will result in delay to delivery of other GHM Elements.

[990] In the letter of 9 May 2025 responding to Kroll's progress report dated 28 March 2025, the licensee emphasised the following:

- The licensee 'has invested in, and implemented, sophisticated technological solutions (facial recognition long stay technology and the Focal ALERT BETTOR Protection System) to bolster and assist the systems and methodologies it uses to identify and minimise gambling related harm'.
- The licensee has 'more than trebled' the number of Host Responsibility Coordinators.

65.0 SCEG – Harm Minimisation

[991] In considering the suitability of SCEG as a close associate of the licensee, it is necessary to give consideration to the approach of SCEG to its Harm Minimisation obligations. In 2019 the Department of Internal Affairs in New Zealand undertook an audit of the operations at SkyCity Auckland casino for the purpose of ensuring that the Auckland casino had implemented its Host

[992] Responsibility Program and was meeting its obligations to reduce harm. The executive summary of the findings was as follows:

2. Executive summary

An audit of SkyCity's implementation of its HRP was initiated to ensure that SkyCity is meeting its obligations to minimise gambling harm in its Auckland casino.

This audit found that while SkyCity have good policies and processes in place, there is a significant difference between what is outlined in SkyCity's policy and what it actually does operationally. The Department noted particular concerns around; minimal internal reporting of Problem Gambler Indicators (PGIs), SkyCity staff being dismissive of data, ineffective systems for managing exclusions and long hours of play and ignoring excluded gamblers re-entry plans. A summary of the findings is in the following table:

Area	Finding
Identification of problem gamblers	Not achieved
Exclusion	Not achieved
Unattended children	Achieved
Underage persons	Partially achieved
Long hours of play	Not achieved
Gambling limitation	Not achieved
Loyalty data analytics	Not achieved
Responsible marketing	Not achieved
Learning and development	Partially achieved
Monitoring and reporting	Not achieved

It is the Department's assessment that SkyCity needs to significantly improve its operation to match its processes and policies in regard to its host responsibility obligations. The Department recommends a number of actions to ensure SkyCity improves its operational performance.

The overall effect of SkyCity not meeting the obligations of the HRP is the potential for increased harm to gamblers in its Auckland casino. This is made evident by recent mismanagement of long hours of play and failure to identify excluded gamblers.

The interim report for this audit was sent to SkyCity on 19 December 2019 for comment. The Department received a substantial submission from SkyCity on 31 January 2020 which the Department responded to by providing further rationale and information on the provisional findings of this audit.

*In summary SkyCity disagreed with all adverse findings of this audit. It was also noted that SkyCity adopted a very literal interpretation of its obligations under the HRP and in the Department's view, did not give appropriate consideration to the primary objectives of the HRP which is to **"prevent the onset of gambling...related harm and minimising gambling-related harm for customer and other persons potentially affected by their gambling behaviour; and facilitating responsible gambling"**. One of the Department's roles is to prevent and minimise harm from gambling, including problem gambling. Therefore, the Department works to ensure*

that gambling operators not only meet legal requirements, but also adhere to the spirit and purposes of the Gambling Act.

The Department thoroughly assessed SkyCity's response and found that there was no new information provided that would result in any material changes to the findings of this audit.

Due to the substantial nature of SkyCity's response to the interim findings and the Department's response in kind, they have been added as attachments to this audit report rather than embedded in the report itself.

Since releasing the interim findings of this audit, SkyCity have made several changes to its business to improve its performance in host responsibility. SkyCity have created a new head of host responsibility role to oversee this respective function and its obligations. In addition, they have developed a 12-month plan to improve its host responsibility performance and have indicated they are implementing a 'culture of care'. While this does not change the findings of this audit (i.e. SkyCity's performance at the time of audit), the Department is encouraged by the changes being made at SkyCity in respect of its host responsibility obligations and hopes to see this reflected in future audit results.

SkyCity's progress with improving its host responsibility practices will be assessed at various stages over the next 12 months. In light of the result of this audit, the Department will also reconsider the ongoing frequency in which it audits SkyCity.

[993] The audit identified strong and weak areas in the operations:

6. Strong areas

This audit found that SkyCity is performing well in the following areas:

- *Robust policies and processes in place to identify potential gambling harm.*
- *The Clarity and Focal Reports have the potential to provide useful problem gambling indicator reporting tools.*
- *Robust policies and processes around unattended children and SkyCity are vigilant in their application.*

7. Weak areas

The Department found that SkyCity is not meeting its host responsibility obligations in the following ways:

- *Minimal reporting of Problem Gambling Identifiers (PGIs) by staff.*
- *Data indicators are ignored or not responded to i.e. breaches of pre-commitment.*
- *Minimal analysis of data to effectively identify potential problem gamblers.*
- *Self-excluded gamblers' re-entry plans not appropriately followed-up by SkyCity staff when spend and visitation restrictions are exceeded.*
- *Some Customer Service Ambassador (CSA) staff not confident in approaching gamblers despite this being a core capability of the role.*

- *CSA staff levels are insufficient to cover their respective floor area and effectively identify PGIs.*
- *Systems to manage exclusions unrealistic and ineffective.*
- *Entry controls not effective in screening potential underage customers.*
- *Inability to effectively manage long hours of play and/or exclusions of un-carded customers.*
- *Staff are not promoting or encouraging use of pre-commitment system.*
- *Spikes in spend and visitation during promotions not assessed.*
- *Increases in frequency and expenditure of loyalty customers not being analysed.*
- *Refresher training for HR2 and HR3 is intermittent.*
- *Staff training is not sufficient to deal with exclusions and long hours of play.*

[1] *Teams within the casino are not working collaboratively and there is some confusion over roles when it comes to host responsibility.*

[2] *SkyCity is not effectively assessing its own performance against the HRP.*

[994] The Auckland casino disagreed with the negative findings. However, in the 2022 Annual Report, the Group referred to the findings and to its response by way of ‘significant enhancements’:

In relation to the Department’s 2019 audit findings, whilst SkyCity disagreed with a number of the findings, SkyCity took on board the Department’s feedback and made significant enhancements to improve its host responsibility practices and procedures, including the creation of a new Head of Host Responsibility role, implementation of a full facial recognition technology solution across SkyCity’s land-based casinos, and the development of a 12-month plan to improve host responsibility performance. In August 2022, the Department confirmed that it was satisfied that SkyCity had taken adequate steps to address the concerns raised in its final audit report (released in May 2021).

[995] Details of the response to the 2019 Audit findings were set out in a letter of 14 April 2022 from the SkyCity Entertainment Group to the New Zealand Regulator.⁶² A table was provided which was described as reflecting ‘continuous enhancements in the performance of our Host Responsibility obligations as new technologies emerge and our Harm Minimisation Framework matures’. The letter also noted that the Group was investigating the use of facial technology to

⁶² Annexure [34].

identify uncarded continuous play, and had commenced a process to create and recruit for new ‘Responsible Gaming Host’ roles at SkyCity Auckland.

[996] The ongoing Group emphasis on Harm Minimisation and Host Responsibility was reflected in the Group’s 2021 and 2022 Annual Reports. The view was expressed that the Group operates a ‘best practice’ host responsibility Program. In the 2021 Annual Report, the Group’s plan was summarised as follows:

- *Maintain industry/leading harm minimisation practices*
- *Host Responsibility Program performance and problem gambling indicators*
- *Industry benchmarking of SkyCity’s Host Responsibility Programs*
- *Leverage technology to enhance the identification of actual or potential problem gamblers and act on that information*
- *Employee Host Responsibility training completion rates*
- *Accelerate customer experience and engagement through improved data, digital and loyalty capability*
- *Increase in community knowledge and understanding of SkyCity’s harm minimisation practices*
- *Customer data security and privacy practices*

[997] Later in the 2021 Annual Report, a significant section was devoted to ‘leading Best Practice Host Responsibility’. The following statements were made:

- *At SkyCity, great importance is placed on host responsibility throughout every part of the organisation.*
- *A Board committee known as the sustainability committee is dedicated to ensuring achievement of sustainability objectives with priority given to minimising the impacts associated with problem gambling.*
- *A ‘robust’ Host Responsibility Program is in place in each of SkyCity’s physical sites ‘to prevent and minimise harm from problem gambling’.*

- *All SkyCity Board members and staff received training in problem gambling awareness.*
- *SkyCity is 'immensely proud' of the 'culture of care' which SkyCity has developed within its casino's and SkyCity continues to 'focus on ways to ensure that this culture of care is maintained' and that SkyCity has the 'highest standard of host responsibility best practice'.*

[998] As to the role and responsibilities of the Board and Management, the annual report contained the usual statements as to the Board's role and responsibilities in setting the overall policy framework within which the business is conducted. Specific mention was made of the Board's responsibility in reviewing and ratifying the company's systems of risk management and 'internal compliance and control, Codes of Conduct and legal compliance'.

[999] The 2022 Annual Report was expressed in similar terms to the 2021 Report. Reference was made to the role of the Board's Sustainability Committee, which was replaced in August 2022 by the newly established Risk and Compliance Committee. The Report stated that the new committee will assist the Board 'in fulfilling its responsibilities relating to risk management and compliance, including in respect of the company's key compliance obligations relating to host responsibility, anti-money laundering, and health and safety matters'.

[1000] The 2022 Report stated that a management-led 'Host Responsibility Governance Group meets regularly to discuss and review host responsibility matters that have arisen or may arise in the future across the SkyCity Group'. The Report explained the principal of objectives of the Group as to:

- *provide collective guidance to SkyCity management on host responsibility matters of interest;*
- *enable senior management to discuss any relevant topics to receive advice, support and ongoing learnings in a confidential environment;*

- *expose senior management personnel to host responsibility topics that may have bearing or impact on SkyCity's regulatory environments, customers, their site/jurisdiction of operation of its employees; and*
- *develop initiatives that will collectively benefit SkyCity customers and shareholders by way of discussion, provision or endorsement of responsible gambling and/or harm prevention components.*

[1001] In the address of the Chairman to the Group 2022 Annual Meeting, the Chairman spoke of 'positive progress' during the previous financial year in uplifting the Host Responsibility Practices (and AML Practices) and continuing to prioritise focus in these areas. Similar remarks were made by the Chief Executive Officer who observed that 'significant effort, resource and capital' had been allocated to initiatives designed to enhance the Host Responsibility framework.

[1002] Also in 2022, a former casino customer submitted a complaint to the Secretary for Internal Affairs alleging that SCML had failed to identify the customer as a problem gambler. The customer had gambled at the Auckland casino from August 2017 to February 2021. After an investigation, in September 2023 the Secretary applied to the New Zealand Gambling commission for an order temporarily suspending SCML's casino operator's licence for a period 'in the range of 10 days'. The issues between the parties were resolved by an Agreement dated 17 July 2024 which resulted in the withdrawal of the application on the basis that SCML voluntarily agreed to close the gambling area of the Auckland casino for a period of five days (which occurred from 9 – 13 September 2024).

[1003] For present purposes, relevant facts can be summarised as follows:

- During the period 10 August 2017 to 9 February 2021 the customer gambled in the Auckland casino using a loyalty card.
- In September 2020, SCML invited the customer to accept 'ultra' loyalty program membership status, reserved for the top 20 or so electronic gaming machine customers.

- The customer self-identified as a problem gambler on 27 February 2021 and was excluded on that day.
- According to SCML's loyalty system records, from 10 August 2017 to 9 February 2021 the customer sustained a nett loss of \$1,484,878 (in aggregate).
- In the period 1 July 2018 to 27 February 2021, a commercially available casino computer system product did not exist which could provide automated alerts for continuous play. A system developed by SCML was faulty and did not generate appropriate alerts with respect to the customer.
- On numerous occasions during the relevant period, the customer engaged in continuous play of five hours or more without an alert being generated.
- The customer 'did not exhibit any strong indicators of problem gambling, such as to require SCML's host responsibility or gaming staff to intervene immediately irrespective of how long he had been on site.
- The problem gambler identification policy of SCML required that SCML staff be vigilant to continuous play and be alert to customers whose problematic behaviour was silent or hidden.
- Staff did not identify the relevant incidents and there was no recorded staff interaction with the customer in relation to any of the incidents.
- Although some of the incidents exceeded the continuous play threshold by short periods, or involved the customer moving between distinct gaming areas, other incidents exceeded the threshold by a longer period or occurred in a single gaming area. In one incident, the customer remained playing on a single electronic gaming machine for 546 minutes (over nine hours).

[1004] SCML acknowledged its breaches of the host responsibility program and problem gambler identification policy. It acknowledged it had failed to exercise the level of vigilance required by

failing to use staff observation and intervention independently of technology. SCML made a formal apology and acknowledged the gravity of the breach.

[1005] The agreement of 17 July 2024 noted the introduction by SCML of additional measures following the investigation:

Further measures introduced by SCML

- 47 *Since the commencement of the Secretary's Investigation, SCML has introduced at the Casino the following additional measures to improve its processes to minimise harm (including as relevant the detection of continuous play):*
- 47.1 *the introduction of an interaction with each customer with Black or Ultra membership status in the loyalty programme on approximately each anniversary of reaching that status, to discuss the customer's play from the previous year and to ensure that they are comfortable with their spending;*
 - 47.2 *the introduction of regular monitoring of significant loss for customers who are members of the Platinum membership status of the loyalty programme and above through a "VIP dashboard";*
 - 47.3 *increased ATM monitoring through the use of facial recognition technology to monitor repeat withdrawals and multiple declined transactions for indicators of problem gambling;*
 - 47.4 *regular checks of customers who are playing on EGMs by staff every two hours (known as the "General Floor Sweep");*
 - 47.5 *various upgrades by Focal Research to the Focal model ALeRT system at the Casino;*
 - 47.6 *improvements to SCML's testing of staff members' knowledge of Host Responsibility obligations; and*
 - 47.7 *increased staff numbers in Host Responsibility positions and the introduction of a team of Responsible Gambling Hosts at the Casino.*
- 48 *None of these measures can absolutely guarantee detection, but they will each assist in minimising harm.*

[1006] SCEG's explanation for the failures of SCML, and of steps taken to remedy deficiencies, is found in a letter from the licensee of 18 September 2024, supplemented by a letter from SCEG dated 13 December 2024. It is sufficient to refer to relevant passages from the December letter:

Measures taken to rectify deficiencies identified

21. As noted in the September Response:

- 21.1. there was previously no commercially available casino computer system product that could provide automated alerts for continuous play as contemplated by section 3.1.6 of the HRP, so the SkyCity Entertainment Group developed the SQL Report in-house to assist in the detection of continuous play by carded customers;

- 21.2. the SQL Report was designed to generate an alert when players using loyalty cards to gamble at the SkyCity Auckland casino engaged in continuous play of five hours or more (without a break of 30 minutes duration in aggregate);
 - 21.3. during the DIA's investigation into the Customer's complaint, SCML discovered that, due to an unintentional design error, the SQL Report was not generating alerts in all instances of continuous play as should have been the case;
 - 21.4. SCML had been unaware of this issue with the SQL Report until it was investigated and discovered by SCML while responding to the Secretary's inquiries into the Customer's complaint; and
 - 21.5. upon discovering the issue in May 2022, SCML immediately rectified the design error by changing the timing of the SQL Report.
22. Accordingly, the deficiency identified in the Application was rectified in May 2022 immediately after SCML became aware of the issue.
23. Further, as noted in the Resolution Agreement dated 17 July 2024 between the Secretary and SCML, upon discovering the issue SCML also:
- 23.1. set about to enhance and deploy its facial recognition technology system to become the primary means of detecting and alerting staff to potential continuous play at the SkyCity Auckland casino (with or without a loyalty card); and
- 23.2. introduced further additional measures to improve its processes to minimise harm (including as relevant the detection of continuous play), including:
- 23.2.1. the introduction of an interaction with each customer with 'Black' or 'Ultra' membership status in the loyalty programme on approximately each anniversary of reaching that status, to discuss the customer's play from the previous year and to ensure that they are comfortable with their spending;
 - 23.2.2. the introduction of regular monitoring of significant loss for customers who are members of the 'Platinum' membership status of the loyalty programme and above through a 'VIP dashboard';
 - 23.2.3. increased ATM monitoring through the use of facial recognition technology to monitor repeat withdrawals and multiple declined transactions for indicators of problem gambling;
 - 23.2.4. regular checks of customers who are playing on electronic gaming machines by staff every two hours (known as a 'General Floor Sweep');

- 23.2.5. various upgrades by Focal Research to the Focal model ALERT system (a predicative risk algorithm model) at the SkyCity Auckland casino;
 - 23.2.6. improvements to SCML's testing of staff members' knowledge of Host Responsibility obligations; and
 - 23.2.7. increased staff numbers in Host Responsibility positions and the introduction of a team of Responsible Gambling Hosts at the SkyCity Auckland casino.
24. For completeness and as also noted in the September Response:
- 24.1. the SQL Report is still utilised at the SkyCity Auckland casino (and the other SkyCity New Zealand casinos) to assist in the detection of continuous play by carded customers, but the facial recognition technology system (which has been in place at the SkyCity Auckland casino since 2019) has been significantly enhanced over recent years⁹ and is now the primary means of detecting and alerting staff to potential continuous play at the SkyCity Auckland casino with or without a loyalty card; and
 - 24.2. the SQL Report is not utilised (and has never been utilised) at the SkyCity Adelaide casino. Instead, SkyCity Adelaide utilises different technology systems and processes to identify and monitor continuous play by customers. Electronic gaming machines and automated table games at the SkyCity Adelaide casino are operated in connection with an Automated Risk Monitoring System (the ARM System) approved by the Liquor and Gambling Commissioner in accordance with section 42B(l)(b) of the *Casino Act 1997* (SA). Furthermore, the requirements for identifying and responding to continuous play differ between New Zealand and South Australia.
25. The SkyCity Entertainment Group continues to consider new ways to improve its performance of its host responsibility and harm minimisation obligations, including the way it monitors continuous play.
26. In particular, the SkyCity Entertainment Group is currently working to deploy mandatory carded play across the SkyCity New Zealand casinos by July 2025 and at the SkyCity Adelaide casino by early 2026, which will enable both SkyCity and its customers to monitor and limit their length of play in real time. The technological challenges to deliver mandatory carded play are significant and require material financial investment both in terms of capital and workforce resource, but we are committed to implementing carded play as it will significantly increase our visibility and control of play and simplify many parts of our current AML/CFT and host responsibility operations.

66.0 Culture

[1007] Earlier in this Report I set out Chapter 4.1 of the Report by Ms Bergin in which she dealt with the fundamental principles of corporate governance and corporate culture. It is readily apparent from evidence obtained during this Inquiry, and from the AUSTRAC proceedings, that the appropriate culture of 'compliance and proactivity' was severely lacking until the AUSTRAC proceedings and this Inquiry forced management within the licensee to begin a transformation in this regard.

As discussed earlier, the arrival of Ms Baynes as Interim Chief Operating Officer saw a distinct change in approach within management across many aspects of the licensee's operations, including the culture which pervades those operations.

[1008] In arriving at my views as to the lack of appropriate culture in the past, I have not overlooked the evidence of Mr Christian and others.

[1009] In his interview of 21 September 2022, Mr Christian spoke in somewhat glowing terms about the prevailing culture within the Adelaide Casino, and of his communications with staff in this context. According to Mr Christian, in response to the Bergin Report concerning the culture at Crown, the issue was discussed within the leadership team and communication occurred with all staff. He said he held a leadership session with managers every few months and the topic was freely discussed. Mr Christian said that from his level down, management was very open about the appropriate objectives.

[1010] The evidence of Mr Christian concerning the changing culture was broadly supported by other staff, including Mr Stokes who gave evidence on 30 November 2022. When asked about changing the culture, in broad summary Mr Stokes painted the following picture of the position later in 2022:

- When Mr Stokes joined the casino in October 2021, the attitude toward AML responsibilities was one of 'resistance to change'.
- When the black tier customers were required to undertake a Source of Wealth exercise, staff lacked an understanding as to how to undertake the task, for example, returning forms without content. There was poor understanding as to what was required, coupled with lack of guidance in that regard. There was little enthusiasm for the task.
- Initially there was an absence of awareness or understanding of the AML requirements, but that changed with the work undertaken by Senior Executives and other staff by way of

education and discussion. Staff were interested in the attention given to AML and the profile resulting from investment in that area, such as, increasing the size of the team.

- In the past there was a degree of resistance amongst some at management level, including the VIP area. The ‘corridor chatter’ was ‘AML’s killing the business’, but that chatter has disappeared and changed to ‘the AML team is growing’.
- The VIP Team has moved from being quite resistant or reluctant, or not wanting to understand, to being ‘champions of change’. One VIP leader in particular struggled and ‘didn’t get it’, but now that person ‘gets it’ and has ‘turned around considerably’.
- A number of staff, including from the VIP area, have been given membership of the Association of Certified Anti-Money Laundering Specialists which provides access to industry wide information and relevant materials.

[1011] While I accept changes were occurring in the culture by late 2022, I have reservations that ‘culture’, as properly understood, had changed to any significant degree. The Enhancement Programs were in place, but appropriate implementation was missing. Notwithstanding the evidence of Mr Christian to which I have referred, I accept the evidence of Ms Baynes that Mr Christian continued to display poor attitudes. However, significant improvement occurred during 2024 and 2025 reflecting the influence of Ms Baynes and others in Senior Management. In this context it should not be overlooked that numerous personnel changes occurred at senior management level and SCEG has put in place a Code of Conduct and processes to educate employees in this area.

[1012] In 2024 the licensee engaged an independent entity (GRM) to undertake ‘an independent assessment to understand how SA’s culture supports its financial crime or AML/CTF (AML) and Gambling Harm Minimisation (GHM) practices’. GRM provided a report dated 24 October 2024 which noted that SCEG has commenced work on a ‘broader organisational culture review’ which would be completed as a separate exercise and not included in the scope of the work undertaken

by GRM. The point of the review by GRM was to provide a ‘point-in-time assessment’ of the licensee’s culture.

[1013] GRM described the scope of the work undertaken as follows:

Scope

The report provides a point-in-time assessment of SCA’s culture, profiling attributes that can help or hinder the performance of financial crime and gambling harm minimisation practices. Assessment design was based on our culture assessment framework and informed by desktop review of more than 70 documents covering strategies, frameworks / policies, training, communications, and prior work on culture and engagement.

All SCA employees could contribute to the assessment, through fieldwork completed over the period 9th-27th September 2024:

1. Confidential and anonymous on-line survey (open to all staff: 988 responses, achieving a 79% response rate)

The survey, available to all staff from September 9-22, included 46 quantitative and two free-text questions. It used decision logic to tailor questions based on respondents’ self-identified leadership roles and AML or GHM responsibilities. Team members in non-gaming areas answered 37 quantitative questions, while leaders and team members in higher-risk roles answered all 46 quantitative questions.

2. Focus groups (168 people, 19x 90min sessions) + SME interviews (8x 60mins)

Each session comprised staff with similar roles and organisational levels. Prompted topics included leadership tone and prioritisation, procedural understanding and adherence (including reflections on past AML/CTF changes), GHM practices, training, organisational silos, speaking up, and their confidence in change. Most conversations were held in-person, using touchpad technology to help mitigate anchoring and group-think biases.

3. Executive and director interviews (15x 60mins)

Deep-structured interviews with selected SCA/SCEG directors and executives explored themes or contradictions emerging through the assessment. Interviews explored four hypothetical statements, informed by survey analysis (>60% response rate) and focus group / SME interviews. The four hypotheses are framed either in the affirmative or negative to elicit conversational response:

- i. Senior roles have a clear understanding of the governance-related roles and responsibilities across all forums (SCEG Board, BRCC, SCA Board); I’m confident the information provided to these forums is timely, accurate, and supports effective decision making.*
- ii. Leadership stability and bench strength have been key priorities in creating the right conditions to enhance financial crime and GHM practices in SCA.*
- iii. Our people, at all levels, understand what’s expected of them to work together ‘as one’ in support of SkyCity’s strategic priorities.*
- iv. B3 is focused more on meeting standards, than changing SCA’s culture.*

Our work is presenting through the framing idea of building an ethical culture, informed by five thematic cultural insights. Recommendations to strengthen or sustain specific aspects of SCAs culture are provide and, where applicable, linked to the B3 program of work. A separate deliverable (2.2 Roadmap) completed by SCA will build on our findings and recommendations setting out the actions that will be taken and their dependencies.

Limitations

Validation steps required to identify cultural root cause were not included in the scope of the assessment.

[1014] It is unnecessary to discuss the report in detail. It is sufficient to set out the executive summary:

Identified Cultural Themes

The assessment revealed five key themes influencing the culture of SkyCity Adelaide (SCA) and its ability to align with regulatory expectations:

1. **Positive Ethical Intent Exists:** There is a general commitment to ethical behaviour and compliance at SCA, with staff highlighting a friendly and supportive workplace culture. Most employees express a desire to meet compliance standards, and leadership has signalled long-term intentions to prioritise ethical conduct. However, this positive intent is undermined by inconsistent leadership behaviours and capability gaps in crucial areas, which pose risks to the effective execution of compliance uplift strategies.
2. **Unresolved Cultural Tensions Between Legacy and Future SCA:** SCA employees are deeply attached to the organisation's rich history and legacy, with many expressing pride and demonstrating long tenures. This strong attachment to SCA's legacy culture, particularly among long-serving employees, creates a risk of cultural inertia and a barrier to transformation. This tension between the old and new ways of working hinders the organisation's ability to fully engage in the changes needed by the regulatory environment.
3. **Strategic Clarity is Missing:** While SCA has governance foundations in place and a new group CEO shaping a simpler, more focused strategy, but risks remain around operating model, limited connection to Group values and a perception the business is in decline.
4. **Effects of Leadership Shadows:** The diagnostic found significant inconsistencies in leadership, particularly among mid-level managers. Many are not consistently promoting or prioritising AML/CTF and GHM initiatives, leading to operational silos, weak cross-functional collaboration, and fragmented information flows. This disconnect between leadership and operational goals places undue pressure on teams and hampers the organisation's ability to proactively manage compliance risks.
5. **Immature Organisational Development:** SCA's training and development programs are still maturing, with a noticeable gap between the theory presented in training and its application in everyday operations. Staff, particularly in revenue-generating roles, do not see compliance responsibilities adequately reflected in their Key Performance Indicators (KPIs). This misalignment between performance targets and compliance efforts weakens the ability of the organisation to fully integrate AML/CTF and GHM practices into its daily operations.

Each of these themes is explored through the lens of protective factors that help compliance, and risk factors that create barriers to AML/CTF and GHM practice performance and embedment of uplifted organisational capabilities. Given the amount of change ahead and the risks to execution and embedment, we have considered how this is best achieved through SCA's existing culture.

Keystone Recommendations

To address these cultural challenges and align SCA's operational practices with regulatory standards, we recommend the following:

- **Reconcile B3 transformation and culture change** - B3 change and the SCEG culture program are yet to be in deliberate alignment. B3 can, in many respects, be the conduit

for many culture shifts that help B3 execution and uplift financial crime and GHM practices.

- **Strengthen leadership accountability** - Leaders create the necessary conditions for culture and transformative change. Focusing on the role of leaders in the context of B3 helps equip them to work together more effectively. Help mid-layer leaders to better role model what's expected from team members to strengthen AML/CTF and GHM practices.
- **Enhance organisational development & training** - Redefine and rebuild P&C to play a more active and impactful role in operationalising B3 and culture change program execution and embedment. AML/CTF and GHM training needs to be job and role-specific, with its impact evaluated through employee ability to apply knowledge in their day-to-day work and through regular performance conversations.
- **Enhance strategic alignment and oversight** - Clarify the relationship between SCEG and SCA to address how a subsidiary in a different regulatory jurisdiction requires distinct support compared to properties in other jurisdictions. Continue to enhance the effectiveness of the Board and committees.

Implementing these keystones and associated recommendations will strengthen SCA's ability to foster a culture of ethical conduct, improve compliance, and mitigate

operational risks. By addressing leadership inconsistencies, subcultural tensions, and gaps in organisational development, SCA can align its cultural practices with its

regulatory obligations, ensuring the long-term trust of regulators and the public in its operations within South Australia.

[1015] While not analysing in detail the contents of GRM's report, it is appropriate to note the following observations and views concerning the influence of the licensee's leadership personnel:

- *"Historically poor leadership behaviours have fostered a reluctance among staff to seek or share bad news, creating a culture of avoidance. This has been compounded by an inconsistent tone from Senior Leadership and their direct reports, leading to misaligned expectations and communication gaps across the organisation. These issues have entrenched a cautious approach to escalating concerns, further hindering open dialogue and trust."*
- *"The transition of Avril Baynes from Interim COO to Managing Director is widely seen as a positive. Focus groups and interviews consistently express a universally favourable view of her leadership, signalling broad support for her appointment."*

In parallel with this appointment employees highlighted a notable shift in the tone from senior leadership, especially following recent structural changes. These leadership

changes are described by employees as a signal of accountability, reinforcing the expectations for a higher standard of leadership for SCA.”

- *“Governance foundations are in place, and there is evidence that the new group CEO is developing a simpler, more focussed strategy that has B3 at it’s heart, and SCEG has launched a group-wide culture change program – both of which serve as protective factors. However, significant risks remain, including a lack of emotional connection to purpose and values, leaders’ tendency to avoid difficult conversations, and governance structures that are still maturing. Additionally, the lingering effects of past poor leadership behaviours continue to influence the culture. To overcome these challenges, strengthening alignment and fostering open communication will be crucial for enhancing strategic clarity and driving meaningful change.”*

[1016] In response to the report of GRM, by letter of 6 December 2024 the licensee provided the following assurances:

Culture Report

11. As noted in the November Response, whilst the Cultural Report found that SkyCity Adelaide's employees have a strong sense of right and wrong, an overwhelming drive to do the right thing when it comes to caring for customers, and take great pride in SkyCity Adelaide as a place to work and visit, the report identified a number of key themes and recommendations for further uplift. These included the need to encompass transformation and cultural change initiatives, strengthening leadership accountability, enhancing development and training, and enhancing strategic alignment and oversight.
12. We recognise that striking and maintaining a culture at SkyCity Adelaide that puts compliance at the centre of all our activities is imperative. We continue to work on embedding practices that enable our leaders and employees to conduct themselves and make decisions in a way that meets not only our own expectations for a vibrant, safe and compliant business, but also those of our customers and communities. We have, with the full support of both Boards, committed to implement each of the recommendations contained in the Culture Report.
13. SkyCity Adelaide will address the recommendations contained in the Culture Report with high priority and attention and has engaged GRM & Associates to assist it in the implementation of the recommendations.
14. A staff engagement plan has been developed which will involve senior leaders from across the business conducting information sessions to share the findings of the Culture Report with all employees in the business. These information sessions are scheduled to begin during the week commencing 9 December 2024 and will allow employees to hear the results of the report, ask questions and gain further insight on the study as well as the work that is being done to address the recommendations.

[1017] In the POW Progress Report of 28 March 2025, Kroll noted that the People and Culture Working Group comprises 39 Elements under the POW. As at 28 February 2025 six Elements were due to be submitted and six had been received by Kroll, of which four Elements were assessed as being complete. Overall, the Working Group is rated ‘Green’.

67.0 Capability and Capacity Assessment

[1018] As is evident from the earlier discussion in this Report, the POW required to be undertaken by the licensee, and completed by June 2027, is substantial. The size of the task, and both its direct and indirect costs, should not be underestimated. It requires extensive financial and other resources, together with appropriate expertise and management structures. The capability and capacity of the licensee, both financially and otherwise, is relevant to an assessment of the licensee’s suitability to continue to hold the licence and operate the casino.

[1019] To assist in the assessment of the licensee’s capability and capacity, Kroll provided a report dated 28 February 2025⁶³.

[1020] Kroll described the fundamental areas considered in its assessment in the following terms:

- **Functional Responsibilities:** *whether SCA’s Financial Crime (FC) and Gambling Harm Minimisation (GHM) teams have coverage over each of the functional areas required to effectively deliver the POW and maintain and sustain FC and GHM BAU functions.*
- **Organisational Capability:** *whether SCA’s FC and GHM teams have the appropriate leadership, skills and experience to effectively execute the Functional Responsibilities, deliver the POW and, maintain and sustain FC and GHM BAU functions.*
- **Organisational Capacity:** *whether SCA’s FC and GHM teams have adequate resources (Full time equivalent staff (FTE)) to effectively execute the Functional Responsibilities, deliver the POW and, maintain and sustain FC and GHM BAU functions.*
- **Enabling Technologies:** *whether SCA’s technology infrastructure is adequate to effectively execute the required Functional Responsibilities and maintain and sustain FC and GHM BAU functions.*

[1021] The report of 28 February 2025 explained the methodology adopted by Kroll, which included undertaking an anonymous survey of the licensee’s financial crime and gambling harm minimisation teams for the purpose of providing insight into the understanding and perception of

⁶³ Annexure [39]

personnel in the teams with respect to the licensee's current capabilities and capacity. As Kroll pointed out in the report, Kroll's assessment was supplemented by their knowledge of the licensee and its operations gained during the monitorship of the licensee and its progress in delivering the POW. Knowledge had also been gained by Kroll when undertaking the Compliance and High Risk Customer Assessment which was completed in October 2024.

[1022] Kroll's summary of its assessment of the licensee's capability and capacity was as follows:

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[1023] It is unnecessary to canvass further details of Kroll's report of 28 February 2025. It is a comprehensive and readily understood report which speaks for itself. It identifies issues of significant concern.

[1024] The licensee responded to Kroll's report by letter of 21 March 2025. In a frank response the licensee wrote that it 'accepts the many conclusions' contained in Kroll's report.

[1025] It is appropriate to set out in full the licensee's response of 21 March 2025:

3. In respect of the Report:

3.1. SkyCity Adelaide accepts the key conclusions contained in the Report.

3.2. With respect to Kroll's assessment that SkyCity Adelaide does not have any senior resources with experience in managing large scale Financial Crime and Gambling Harm Minimisation uplift programs:

3.2.1. SkyCity Adelaide accepts and acknowledges that the Report provides another datapoint as to the root cause of how we got to the Building a Better Business (B3) Program being Red rated and the need for the current 'review and reset' that I foreshadowed in our meeting of 21 January 2025. The 'review and reset' was subsequently approved by the Commissioner at the last tripartite meeting on 12 March 2025 between the Commissioner, Kroll and SkyCity Adelaide, on condition that the revised program is reviewed by Kroll and provided to the Commissioner by 30 May 2025. The 'review and reset' will not change the requirement for SkyCity Adelaide to complete the B3 Program by the 30 June 2027 deadline.

3.2.2. We are currently sourcing sufficiently senior and experienced individuals to fulfil the B3 Program and BAU uplift roles. In the interim, we are acquiring appropriate short-term solutions while the search for a longer term more sustainable solution is fulfilled.

3.2.3. We have secured a General Manager Transformation and an interim option for the General Manager Financial Crime, both of whom commenced on 17 March 2025. Since the date of our response to the draft Report, we have also secured a Head of Risk and Compliance who will commence on 31 March 2025, and we are in the final stages with our preferred candidate for the General Manager Host Responsibility role.

3.2.4. We agree that a material number of additional resources will be required both in team members but also in technology uplift to support both the B3 Program as well as our enhanced BAU operations.

Current Challenges

4. As you may appreciate, the calibre of the individuals we seek for the purposes of item 3.2.2, the shallowness of the market for those capabilities, particularly in relation to us being based in Adelaide, may impact timing.
5. While we have filled 21 of the 49 current open positions with another three at offer stage, we identified in our resourcing report provided to Kroll and CBS, we believe the extent to which additional resources will be required may be impacted by several factors foreshadowed from both our review and reset and the Report. We accept that demonstrably delivering the required SkyCity Adelaide step change within the agreed timeframes will be the determinate of our ultimate resourcing needs.
6. We believe the eventual extent and nature of additional resource capacity may also be impacted by:
 - 6.1. likely B3 structural changes;
 - 6.2. potential resource redeployment;
 - 6.3. reprioritisation of program activities;
 - 6.4. more flexible/efficient use of contingent resources;
 - 6.5. more centralised, aligned and better managed consultants; and
 - 6.6. future adoption of regulatory compliance technology.
7. We believe securing the senior B3 capability is an essential first step that will ultimately determine our resourcing footprint. However, our processes and technology will also be important factors in this footprint.

Data Quality

8. As to comments in the Report regarding data quality:
 - 8.1. The need for tactical action now, alongside strategic solutions, was discussed with Kroll in December 2024. As such, a revised delivery plan is being created with a specific focus on data quality remediation activity in Adelaide.
 - 8.2. Whilst the delivery plan is currently being created and the extent of the timeline not yet known, it is anticipated that the benefits of the data quality uplift will be experienced before March 2026.
 - 8.3. The next tactical automation uplift is underway with the Financial Crime Metrics Dashboard and then the Gambling Harm Minimisation Metrics Dashboard.

68.0 Review and Reset

[1026] The licensee referred to a ‘review and reset’ of the POW, recognising it had fallen behind the timetable of the POW because it had underestimated the resources required. By letter of 4 February 2025 the licensee sought approval to reset the POW, utilising the assistance of KordaMentha:

I am writing to formally notify you of SkyCity Adelaide's intention to undertake a review and reset of the Building a Better Business (B3) Program of Work (PoW), in accordance with paragraph 21 of the B3 PoW governance document dated 12 August 2024.

This review is necessary to ensure the program remains aligned with its intended outcomes while addressing resourcing constraints, operational strain, and evolving external demands.

To support this reset, SkyCity will engage KordaMentha to provide strategic input, advice, and resourcing support. The phased approach will include:

1. **Discovery:** Assess current PoW commitments, conduct stakeholder engagement, and present a refined approach.
2. **Design:** Reset internal and external expectations, enhance project management, and bolster resources.
3. **Implementation:** Execute the revised PoW with necessary support.
4. **Embed:** Monitor implementation, ensure compliance, and provide ongoing strategic advice.

These adjustments will improve PoW delivery, restore the program to a green RAG status, and accelerate Anti Money Laundering and Gambling Harm Minimisation uplift activities within our Business-as-Usual operations. Subject to your agreement, we will submit the revised PoW to Kroll for assessment before providing it to you for final determination, in line with governance requirements.

[1027] This process was approved by the Commissioner on the basis that the reset plan would be presented to the Commissioner for approval by 30 May 2025.

[1028] By letter of 12 February 2025 to the Commissioner the licensee further explained the process:

1. **Continued work on the deliverables under the existing Approved Program of Work (PoW):**
Work on the existing PoW is ongoing and the review and reset will proceed concurrently with this work. We are also continuing our business-as-usual compliance uplift program.
2. **Adherence to the 30 June 2027 deadline:**
SkyCity remains committed to completing the PoW by the deadline of 30 June 2027, as originally set out in the direction issued by the former Commissioner on 11 September 2024. The reset process is designed to improve delivery effectiveness through enhancing capability, increasing resourcing and improve our internal and external ways of working and does not affect our commitment to meeting this timeline.
3. **Actions to ensure the PoW is achievable without further reset:**
We are addressing lessons learned from the first four months of PoW delivery, particularly in relation to resourcing, external demands, and BAU strain. To enhance our approach, we are implementing several key changes:
 - **Strengthened leadership capability:** we are currently recruiting three additional senior Adelaide-based roles: GM Transformation, GM Financial Crime, and GM Host Responsibility
 - **Reduced BAU dependencies:** we are minimising reliance on BAU resources to ensure dedicated focus on the PoW deliverables.
 - **Increased PoW-Specific resourcing:** we are expanding Adelaide-based staffing to further strengthen the program delivery and address local needs
 - **Leveraging contingent resourcing:** we are engaging additional expertise to tackle high-risk compliance areas and provide an immediate uplift in capability and compliance
 - **Revised reporting lines:** We have aligned Financial Crime and Host Responsibility functions under the Managing Director, Adelaide, to provide local authority over AML/CTF and Gambling Harm Minimisation (GHM) activities.

Additionally, KordaMentha's expertise will assist in developing the reset plan, refining dependencies and sequencing, and enhancing internal operations to monitor progress against the revised PoW timelines.

4. Leadership of the reset:

The Kordametha team will remain engaged as needed should the revised PoW be approved to ensure the enhanced program delivery process is effective in actual practice. The internal resource responsible for the program delivery will be our GM Transformation. This role is in the final stages of recruitment, and we expect to be presenting an offer to the preferred candidate by Monday 17th February.

5. Alignment with the Work Kroll is Undertaking:

The reset process will fully consider Kroll's ongoing work, including the Capacity and Capability Report and Financial Audit. We will also seek foresight from Kroll regarding planned activities, such as department reviews, technology demonstrations, monthly interview schedules, and further document requests, to ensure proactive alignment with their work.

6. Timeline for Completing the Reset:

KordaMentha has commenced their engagement, and factoring in any changes to resourcing that may be required as a result of Kroll's Capability and Capacity Assessment, as well as consultation with Kroll on the revised PoW and ways of working, we anticipate that the reset will take approximately three months to complete. It is our aim to have a revised PoW to you for approval by 30 May 2025.

7. Governance Arrangements During the Reset:

There will be no changes to the current governance arrangements during the reset period. The existing framework, including monthly reporting to Kroll and CBS, Tripartite meetings, and monthly working groups with Kroll, will remain in place to ensure continued oversight and accountability.

[1029] The licensee also discussed the review and reset process in its letter of 9 May 2025 responding to Kroll's report of 28 March 2025:

B. SkyCity Adelaide's Response to the issues identified in the March Progress Report

B.1 Delivery of the POW (B3 Program)

8. SkyCity Adelaide accepts that in its current form, and structure, it is facing challenges to complete all aspects of the B3 Program within the initially anticipated timeframe. SkyCity Adelaide identified these challenges as early as January 2025 and welcomed the 'review and reset' process as an early opportunity to work closely with its key stakeholders including Kroll and the Commissioner, with the guidance of an independent third party, to ensure that it had the best possible plan in place to achieve an efficient and realistic delivery of the uplift program.
9. SkyCity Adelaide was proactive and prioritised engaging an independent third party to support the 'review and reset' process. KordaMentha were briefed and in the period between February and April 2025, conducted a comprehensive review of the B3 Program and SkyCity Adelaide's progress in relation to same. KordaMentha distilled their findings in the 'Reset and Review Report' dated April 2025 (**B3 Program Reset Report**).
10. The Commissioner and Kroll supported SkyCity Adelaide in this endeavour and approved the 'review and reset' for a revised delivery program of the B3 Program objectives.
11. Through the 'review and reset' process being undertaken by KordaMentha, it became apparent that, despite our best endeavours, we had underestimated the resourcing requirements needed to deliver some aspects of the B3 Program, and of the impact that the demands of the B3 Program would have on our business-as-usual (**BAU**) activities.
12. The B3 Program Reset Report was prepared in parallel with the March Progress Report and, before being finalised, the B3 Program Reset Report was updated to ensure that it addressed the matters raised in the March Progress Report. Accordingly, the B3 Program Reset Report recommends deliverables to be re-sequenced and re-organised to specifically address matters raised in the March Progress Report and incorporate the learnings from the initial phases of the B3 Program.

13. Although the B3 Program Reset Report outlines recommendations to re-sequence and/or re-organise the workstreams of the current B3 Program to ensure relevant deliverables can be met, the scope of work remains the same, and SkyCity Adelaide remains fully committed to deliver completion of the B3 Program by 30 June 2027. In addition, the reset of the B3 Program will provide for tactical measures to be implemented to address interim non-compliance issues, while also embedding key long-term changes.
14. Importantly, SkyCity Adelaide continues to work to the existing B3 Program to submit deliverables. Where any deliverables are expected to be materially amended by changes proposed in the B3 Program Reset Report, we are seeking to deliver to the B3 Program Reset Report dates, rather than original B3 Program dates. While the B3 Program Reset is still in draft, SkyCity Adelaide is working closely with Kroll and KordaMentha to ensure that the revised B3 Program (reflecting the recommendations identified in the B3 Program Reset Report and addressing the issues in the March Progress Report) is finalised and ready for submission to the Commissioner by 30 May 2025. In the meantime, SkyCity Adelaide continues to report its progress against the existing B3 Program to Kroll and the Commissioner. SkyCity Adelaide is confident that the B3 Program Reset Report provides clear recommendations to update the B3 Program which will set out a clear pathway to a compliant, safe and sustainable Adelaide Casino.
15. In monetary terms, SkyCity Adelaide's investment in the B3 Program translates to A\$17 million in this financial year, a projected investment of a further A\$23 million in financial year 2025, and a total investment over the 3-year period currently projected to be A\$56 million. SkyCity Adelaide, together with the ongoing financial support provided by its parent SkyCity Entertainment Group Limited (**SCEG**), remains committed to taking the required steps to achieve completion of the B3 Program by the required deadline and to ensure that SkyCity Adelaide is ultimately in a position to continue to sustainably operate the Adelaide Casino following completion of that program.
16. As to the comments in the report concerning:
 - a. **GHM Benchmark Report:** Following the preparation and submissions of the March Progress Report, SkyCity Adelaide provided Kroll with the updated GHM Benchmarking Report to address the limitations Kroll had raised. Kroll has since approved the design element of the GHM Benchmarking Report deliverable and SkyCity Adelaide is now taking steps to address feedback provided by Kroll on its implementation.
 - b. **Cash Limit Controls:** We confirm that SkyCity Adelaide does not intend to withdraw the \$5,000 daily cash limit control, and are in an advance stage of designing proposed tactical measures to be implemented to address any current monitoring limitations associated with the control, reduce ML/TF risk exposure, and improve compliance outcomes. The proposed tactical measures will be presented to the SkyCity Adelaide Board following completion of SkyCity Adelaide's senior management governance processes.
 - c. **Board Approved Exceptions to Cash Limit Controls:** With respect to verified SkyCity Adelaide winnings over the \$5,000 cash limit, the exceptions were approved on the basis that such transactions do not pose a financial crime risk as the source of the funds is known to SkyCity Adelaide (ie, is SkyCity Adelaide's own funds).

[1030] The need for a reset of the POW is another illustration of the size and complexity of the remediation task and of the difficulty in predicting the pace and efficiency of future progress. However, the licensee's response in this regard is demonstrative of a genuine desire and determination to succeed in completing the task, and it supports the view that the licensee will endeavour to comply with its obligations under the regulatory regime.

[1031] In the context of the reset and the approach of the licensee, it is also appropriate to note specifically two matters relevant to an assessment of the licensee's attitude to remediation.

[1032] First, the licensee has been, and is, actively seeking to employ sufficient persons possessing appropriate qualifications/experience to successfully complete the POW. This issue was canvassed in the letter of 9 May 2025:

19. In relation to 'Section 2.3 – Changes to Senior Management' in the March Progress Report, and as raised in previous correspondence, identifying and engaging new appropriately qualified staff has been, and continues to be, a significant challenge and is taking longer than anticipated. This has contributed to other delays with the B3 Program as securing the senior B3 Program capability remains an essential first step.
20. SkyCity Adelaide is working hard to remedy this issue and has a dedicated Talent Acquisition Manager responsible for driving the recruitment of appropriate staff to fill the relevant roles for the B3 Program. SkyCity Adelaide is working closely with three recruitment companies (Heath & Ford, TalentWeb and Momenta) to fill the positions, particularly where those positions require specialist expertise. Further, SkyCity Adelaide has brought on a number of contractors and seconded personnel from Deloitte, KPMG and other consultancy firms to provide surge capacity support for the delivery of the uplift in the interim.
21. To date, SkyCity Adelaide has successfully recruited for the following roles:
 - a. General Manager, Transformation - Kristi Thomas (commenced 17 March 2025).
 - b. Head of Risk and Compliance – [REDACTED] (commenced 31 March 2025).
 - c. General Manager, Host Responsibility – Glenn Tomlinson (commencing July 2025).
 - d. Senior Manager, Host Responsibility – [REDACTED] (commenced 28 April 2025).
 - e. Compliance and Governance Manager, Host Responsibility – [REDACTED] (commenced 28 April 2025).
 - f. Host Responsibility, Learning and Development Manager – [REDACTED] (commences 12 May 2025).
 - g. Financial Crime Compliance Manager – [REDACTED] (commenced 5 May 2025).

22. Finding the appropriate candidates to build a strong team capable of carrying forward the positive changes being delivered as part of the B3 Program is a top priority for SkyCity Adelaide. We are taking all possible steps including increasing remuneration to drive this as a key focus of the uplift. Although our preferred resourcing model is to have all staff based in Adelaide, should we be unable to attract appropriately experienced candidates to Adelaide we will consider interstate candidates on a hybrid remote/onsite basis.
23. To the extent that capability or capacity is required immediately, SkyCity Adelaide is utilising contingent resources. Presently, that consists of a team of KordaMentha resources who are presently engaged to build a quality assurance framework for the Financial Crime Operations Team and staffing it until permanent resources can be onboarded. Additionally, KPMG (Sydney) are providing analysts to support SkyCity Adelaide's resources in connection with the B3 Program remediation workstream. These contingent resources are overseen by the appropriate functional leads within SkyCity Adelaide.

[1033] Secondly, the licensee has already invested heavily in progressing the POW and anticipates a total investment over three years in the order of \$56M.

[1034] Returning to Kroll's capability and capacity assessment, in the letter of 9 May 2025 the licensee supplemented its response of 21 March 2025:

B.4 Quarterly Resourcing Report and Capability and Capacity Assessment

27. On 28 February 2025, Kroll submitted to the Commissioner the Capability and Capacity Assessment report (**CCA Report**). As we previously expressed on 21 March 2025, that report identified a risk of insufficient senior management resources and capability within the B3 Program to ensure its execution.
28. In our 21 March 2025 response, we acknowledged the shortcomings set out in the CCA Report, and explained, despite some challenges, the steps we were taking to source sufficiently senior and experienced individuals to fulfil the B3 Program and BAU uplift roles. SkyCity Adelaide agreed that a material number of additional resources, including in relation to technology uplift, would be required to support both the execution of the B3 Program as well as our enhanced BAU operations.
29. As a result, and to enhance our more senior leadership capabilities, as part of the initial planning of the 'Review and Reset' an amended resourcing plan for the B3 Program and BAU uplift roles was established creating, amongst others, the following new roles:
 - a. General Manager, Transformation, which has been fulfilled with the candidate having commenced employment on 17 March 2025 (see paragraph 21 above for further details).

- b. General Manager, Host Responsibility, which has been fulfilled with the candidate due to commence employment in July 2025 (see paragraph 21 above for further details).
 - c. Head of Risk & Compliance, which has been fulfilled with the candidate having commenced employment on 31 March 2025 (see paragraph 21 above for further details).
 - d. General Manager, Financial Crime. We are currently in the process of interviewing candidates for this role. Until a suitable candidate is identified, this role we will continue to rely on contingent resourcing to perform this function on an interim basis.
 - e. Interim Head of Financial Crime Compliance and Governance, which has been fulfilled with the candidate having commenced on 5 May 2025.
 - f. Senior Manager Intelligence of Financial Crime. We are currently in the process of recruiting for this role.
 - g. Transaction Monitoring Lead of Financial Crime. We are currently in the process of recruiting for this role.
30. In addition to the newly created senior management roles, the amended resourcing plan was also designed to:
- a. **Reduce reliance on BAU Resources:** The amended resourcing plan will minimise or eliminate the reliance of BAU staff to deliver on B3 Program elements, reducing operational strain on the business and ensuring that there is a dedicated focus on achieving the B3 Program deliverables.
 - b. **Increase B3 Program specific resourcing:** We are expanding Adelaide-based staffing to improve program delivery and address local needs effectively.
 - c. **Leverage contingent resourcing:** We are using contingent resources to address high-risk non-compliance areas and provide immediate capability uplift.
 - d. **Revised reporting lines:** We have changed reporting lines for Financial Crime and Host Responsibility to give the Managing Director, Adelaide, local authority over AML/CTF and GHM matters while maintaining alignment with the SCEG operating model and community of practice principles.
31. The B3 Program Reset will also include a restructure of the ownership of the key program workstreams, which has been implemented to address the issues Kroll raised in the CCA Report. As part of the restructure, each workstream will now include:
- a. both an 'Adelaide Owner' and a 'Group Lead', the former being the accountable owner and responsible for meeting the deliverables under the relevant workstream;
 - b. a supporting business subject matter expert (**SME**) to support the 'Adelaide Owner'. The SME will have sufficient experience to understand and drive the workstream deliverables. This will also assist with ensuring that key resources are not burdened by excessive workloads; and
 - c. where appropriate, a dedicated Project Management Office (**PMO**) delivery lead will be aligned with a single workstreams to enhance collaboration, reduce ambiguity of roles and responsibilities and enhance internal knowledge of the subject matter leading to improved outcomes.

32. SkyCity Adelaide accepts that elements of the B3 Program have lacked clarity with respect to the roles and responsibilities, with the effect that there have been instances where stakeholders were unclear as to the role of the accountable owner, business owner and the role of the PMO. The restructure will add greater clarity in the assignment of accountabilities, allocation of work and ensuring that resources are effectively deployed to address both the B3 Program deliverables as well as BAU operations.
33. As a result of this resourcing uplift, every B3 Program, Financial Crime, GHM, Risk and Gaming function and employee based in Adelaide will directly report through to the Managing Director, Adelaide to ensure a centralised oversight of the entirety of the B3 Program Reset. SkyCity Adelaide is also continuing to seek out and employ significant middle management to support these senior management roles.
34. Once all hiring is complete, SkyCity Adelaide will be fully resourced to deliver the B3 Program / revised B3 Program and BAU activities itself. Contingent resources will continue to be engaged to support those teams through the implementation and embedment of the B3 Program and to accelerate work and upskill internal resources where necessary.

69.0 Financial Position

[1035] The capability and capacity of the licensee to complete the remediation is necessarily linked to its financial position. In evidence on 24 January 2025 Ms Baynes said the licensee was solvent. In her view it is able to meet its operating debts as and when they become due and payable, but would need the assistance of SCEG to pay the Federal Court penalty and an amount owing to the South Australian Government. SCEG has guaranteed the necessary financial support.⁶⁴

[1036] The financial positions of the licensee and SCEG were the subject of consideration early in 2025 by RSM who provided a very helpful and detailed report early in May 2025.⁶⁵ Details of the information upon which RSM relied, and of the processes adopted, are set out in the Report.

[1037] In essence, RSM reported as follows:

- [REDACTED]

⁶⁴ Annexure [41] - Letter Confirmation of Financial Support from SCEG dated 21 August 2024

⁶⁵ Annexure [40] - RSM [REDACTED] dated 7 May 2025 - ??

[1039] It is readily apparent that the licensee is operating in a challenging environment which is likely to become more challenging in the near future, particularly with the introduction of mandatory carded play. However, with the support of SCEG the licensee will be able to meet its obligations and operate as a viable business.

70.0 Capability and Capacity - Conclusion

[1040] In the absence of full details of the Reset (to be presented to the Commissioner by 30 May 2025), and in the absence of an assessment by Kroll of the Reset, I cannot predict the future progress of the POW. On the material available to me it appears unlikely that full completion of the POW will occur by June 2027, but I do not regard that date as of particular significance to the question of suitability. Of more importance are my conclusions that:

- (i) The POW is comprehensive and, if implemented, will result in full compliance with regulatory obligations; and
- (ii) The licensee, and SCEG, are genuinely committed to fully completing the POW; and
- (iii) The licensee is genuinely committed to conducting its business ethically in compliance with its regulatory obligations; and
- (iv) The licensee possesses, and will continue to possess, sufficient financial resources to complete the POW and, in the meantime, to comply with its essential obligations under the regulatory regime.

[REDACTED]

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72.0 Personnel

[1050] A factor relevant to suitability is whether persons who were influential in the conduct of the licensee when the licensee failed to meet its obligations are still in positions of influence within the licensee's management structure and essential operations. Numerous changes have occurred at various management levels which the licensee has outlined in letters of 3 September 2024 and 16 April 2025.⁶⁷ In addition, in the context of capacity to complete the POW, the letter of 9 May 2025 dealt with recruitment to fill critical roles (set out in para [1031] of this Report).

[1051] The letter of 3 September 2024 dealt with changes in Directors and Senior Management Personnel since January 2023. The licensee treated 'Senior Management Personnel' as meaning 'those persons who are responsible for conducting business operations under the SkyCity Adelaide Casino licence and who form part of SkyCity Adelaide's General Management Team or those

⁶⁷ Annexures [43] and [44]

who report directly to the chief executive officer of the SkyCity Entertainment Group'. The information provided in the letter of 3 September 2024 was as follows:

Director and Senior Management Personnel Changes

List of Directors and Senior Management Personnel (as at January 2023)

4. As at 1 January 2023, the Directors and Senior Management Personnel relevant to SkyCity Adelaide's operations at the Adelaide casino are outlined in the table below. For completeness, those individuals who are no longer at SkyCity Adelaide or SCEG as at 3 September 2024 are marked in bold and with an asterisk

	Name	Position	Organisation
1.	Glenn Davis	Independent Director (Chair)	SkyCity Adelaide
2.	Julian Cook	Independent Director	SkyCity Adelaide
3.	David Christian*	Director and Chief Operating Officer – Australia	SkyCity Adelaide
4.	Stewart Neish*	Group General Manager – International Business & Table Games	SkyCity Adelaide
5.	Richard Krawczyk*	General Manager – Support Operations	SkyCity Adelaide
6.	David Fox	Company Secretary and General Manager – Legal, Risk & Compliance	SkyCity Adelaide
7.	Daryl Bruce*	General Manager – Electronic Gaming and Casino Food & Beverage	SkyCity Adelaide
8.	Nick Stokes*	General Manager – Financial Crime	SkyCity Adelaide
9.	Stephan Fourie	General Manager – Group ICT Gaming & ICT Adelaide	SkyCity Adelaide
10.	Scott Johnson*	General Manager – Finance	SkyCity Adelaide
11.	Cameron Tannock	General Manager – People & Culture	SkyCity Adelaide
12.	Julian Cook	Independent Director (Chair)	SCEG
13.	Sue Suckling*	Independent Director	SCEG
14.	Silvana Schenone*	Independent Director	SCEG
15.	Chad Barton	Independent Director	SCEG
16.	Kate Hughes	Independent Director	SCEG
17.	Glenn Davis	Independent Director	SCEG
18.	Michael Ahearne*	Chief Executive Officer	SCEG
19.	Julie Amey*	Chief Financial Officer	SCEG

...

	(Note: Julie stepped down as Chief Financial Officer on 22 August 2024, but remains available to assist SCEG until 24 September 2024.)		
20.	Jo Wong	General Counsel & Company Secretary	SCEG
21.	Glen McLatchie*	Chief Information Officer	SCEG
22.	Claire Walker*	Chief People & Culture Officer	SCEG

List of Directors and Senior Management Personnel (as at 3 September 2024)

5. The current Directors and Senior Management Personnel relevant to SkyCity Adelaide's operations at the Adelaide casino (as at 3 September 2024) are outlined in the table below, noting that:

- individuals who have joined SkyCity Adelaide or SCEG since 1 January 2023 are marked in bold and with an asterisk;
- individuals who have joined SkyCity Adelaide or SCEG since 1 January 2023 but have departed prior to 3 September 2024 have not been included;
- the following individuals are not new to SkyCity Adelaide (having already been employed at the Adelaide casino prior to 1 January 2023), but have been included in the table below as they now report to the Interim Chief Operating Officer – Australia following structural changes implemented in April 2024 following the resignation of David Christian (the former Chief Operating Officer – Australia):
 - Michael Neal, Acting General Manager – Hospitality, who previously reported to Avril Baynes (as the then General Manager – Hospitality) until 15 April 2024;
 - ██████████ Surveillance Operations Manager, who previously reported to Avril Baynes (as the then General Manager – Hospitality) until 15 April 2024; and
 - ██████████ Executive Manager – Host Responsibility, who previously reported to David Fox (the General Manager – Legal, Risk & Compliance) until 6 May 2024.

Accordingly, we have not provided a summary of the qualifications and short biography of each of these individuals. However, please advise if you would also like this information.

- Justin Williams has recently been appointed as the new Head of AML/CTF Delivery and AML/CTF Compliance Officer of SkyCity Adelaide and will join SkyCity Adelaide

on 14 October 2024, and has been included in the table below for completeness. Mr Williams will be responsible for the anti-money laundering and counter-terrorism financing (AML/CTF) functions at the Adelaide casino and will report directly to the Interim Chief Operating Officer – Australia; and

- Kierren Gersbach has recently been appointed General Manager – Gaming and will join SkyCity Adelaide on 16 September 2024, and has been included in the table below for completeness. Mr Gersbach will be responsible for leading the gaming business at the Adelaide casino and will report directly to the Interim Chief Operating Officer – Australia.

	Name	Position	Organisation
1.	Glenn Davis	Independent Director (Chair)	SkyCity Adelaide
2.	Julian Cook	Independent Director	SkyCity Adelaide
3.	Avril Baynes*	Director and Interim Chief Operating Officer – Australia	SkyCity Adelaide
4.	Peter Grundy*	General Manager – Finance	SkyCity Adelaide
5.	David Fox	Company Secretary and General Manager – Legal, Risk & Compliance	SkyCity Adelaide
6.	Kierren Gersbach* Commences on 16 September 2024	General Manager Gaming	SkyCity Adelaide
7.	Cameron Tannock	General Manager – People & Culture	SkyCity Adelaide
8.	Stephan Fourie	General Manager – ICT	SkyCity Adelaide
9.	Justin Williams* Commences on 14 October 2024	Head of AML Delivery and AML/CTF Compliance Officer	SkyCity Adelaide
10.	Alex Clough*	Remediation Manager	SkyCity Adelaide
11.	██████████	Executive Manager – Host Responsibility	SkyCity Adelaide
12.	██████████	Surveillance Operations Manager	SkyCity Adelaide
13.	Michael Neal	Interim General Manager – Hospitality	SkyCity Adelaide
14.	Julian Cook	Independent Director (Chair)	SCEG
15.	Chad Barton	Independent Director	SCEG
16.	Kate Hughes	Independent Director	SCEG

17.	Glenn Davis	Independent Director	SCEG
18.	David Attenborough*	Independent Director	SCEG
19.	Donna Cooper*	Independent Director	SCEG
20.	Jason Walbridge*	Chief Executive Officer	SCEG
21.	Peter Fredricson*	Chief Financial Officer	SCEG
22.	Jo Wong	General Counsel & Company Secretary	SCEG
23.	Carolyn Kidd*	Chief Risk Officer	SCEG
24.	Andrew McPherson*	Chief Information Officer	SCEG
25.	Shaun Philp*	Chief People & Culture Officer	SCEG

Qualifications and Biographies - New Directors and Senior Management Personnel

6. A summary of the qualifications and short biography of each of the new Directors and Senior Management Personnel are provided in the table below.

	Name and Position (including commencement date)	Qualifications and Biography
1.	Avril Baynes Director and Interim Chief Operating Officer - Australia, SkyCity Adelaide Commenced on 13 April 2024	Avril is responsible for the SkyCity Adelaide business and overseeing the Australian interstate gaming business. Avril first joined SkyCity in March 2015 and held the role of Executive Manager - Human Resources and Food and Beverage, and then Executive Manager - Tourism and Food and Beverage, at SkyCity Darwin until SkyCity divested its interest in the SkyCity Darwin business in April 2019. Avril returned to SkyCity in November 2023 as General Manager - Hospitality at SkyCity Adelaide. Prior to returning to SkyCity, she was Executive Manager - Food and Beverage and Property Services, and then General Manager, of the Mindil Beach Casino Resort in Darwin, Australia, from November 2020 to November 2023. Avril has also held board positions across a variety of businesses including Darwin Major Business Group, The Darwin Festival, Group Training NT, Tourism Top End and Automobile Association of the NT.

		Avril was also named the 2002 Telstra Young Business Woman of the Year in the Northern Territory and holds a Bachelor of Laws from the Charles Darwin University and a Graduate Diploma in International Tourism and Hotel Management from the Southern Cross University. She has also been a member of the Australian Institute of Company Directors since 2022.
2.	Peter Grundy General Manager – Finance, SkyCity Adelaide Commenced on 3 June 2024	Peter has extensive finance and accounting experience having worked within a number of large complex multinational companies. He has previously held senior finance and accounting roles at Tabcorp, Crown Resorts and Mindil Beach Casino Resort in Darwin, Australia. Peter holds a Bachelor of Accounting from Victoria University in Melbourne and is also a Certified Practising Accountant.
3.	Kierren Gersbach Incoming General Manager – Gaming, SkyCity Adelaide Commences on 16 October 2024	Kierren has over 25 years of experience in the gambling industry, including having held significant positions across the SkyCity Entertainment Group and, most recently, at Crown Resorts. At Crown Resorts, he served as Executive General Manager of Gaming Machines and General Manager of Gaming Machine Operations where he was responsible for managing the gaming portfolio, implementing key regulatory changes (including the implementation of mandatory carded play) and steering the company through the COVID-19 pandemic and monitorship of Crown Melbourne. Kierren holds a Bachelor of Business, Hospitality and Club Management from Southern Cross University in Queensland.
4.	Justin Williams Incoming Head of AML/CTF Delivery and AML/CTF Compliance Officer, SkyCity Adelaide Commences on 14 October 2024	Justin has extensive experience in compliance management and has a comprehensive understanding of AML/CTF laws, particularly in the context of casino operations after having been employed across a variety of different roles within the casino industry for over 29 years. Justin is currently the Compliance Manager at Metropolitan Gaming (formerly Caesars)

		Entertainment) in the United Kingdom and is responsible for, amongst other things, oversight of enhanced customer due diligence and other know-your-customer related requirements. Justin holds an International Advanced Certificate in AML (Merit) from the International Compliance Association and a Bachelor of Natural Sciences (Honours) from The Open University in the United Kingdom.
5.	Alex Clough Remediation Manager, SkyCity Adelaide Commenced on 24 June 2024	Alex leads the "Building a Better Business" Program of Work prepared in collaboration with the independent monitor for SkyCity Adelaide, Kroll Australia Pty Ltd. Alex has significant remediation and program management experience and capability having worked in various roles within the United Kingdom and Australia. Alex joined SkyCity Adelaide from Deloitte, where he spent 13 years designing and implementing large scale remediation programs across various industries, often in conjunction with regulatory bodies.
6.	David Attenborough Independent Director, SCEG Appointed on 3 March 2023	<i>Member of the SCEG Board Audit Committee</i> <i>Member of the SCEG Board People and Culture Committee</i> <i>Member of the SCEG Board Governance and Nominations Committee</i> David has strong gaming experience with over 12 years' experience at ASX-listed Tabcorp Holdings Limited as Chief Executive Officer and Managing Director. Prior to joining Tabcorp, he was Chief Executive Officer (South Africa) of Phumelela Gaming and Leisure in South Africa and previously held senior roles with a variety of casino and racing organisations. David is currently a director of Host-Plus Pty Limited, an Australian-based superannuation fund. David holds an MBA from Henley Business School, United Kingdom and a Bachelor of Science (Honours) from the University of Exeter.
7.	Donna Cooper Independent Director, SCEG	<i>Chair of the SCEG Board Transformation Sub-Committee</i> <i>Member of the SCEG Board Risk and Compliance Committee</i>

	Appointed on 28 September 2023	<i>Member of the SCEG Board People and Culture Committee</i> <i>Member of the SCEG Board Governance and Nominations Committee</i> Donna has over 25 years of experience in the financial services industry, most recently as Chief Executive Officer of TSB Bank Limited. Prior to this, she was Chief Executive Officer of The Warehouse Financial Services Group and Managing Director and General Manager New Zealand of Baycorp (NZ) Limited. She has also held a number of senior executive roles with American Express International over a 13-year period in New Zealand, Australia, India and the United Kingdom. Donna is currently a member of the New Zealand Institute of Directors and a member of the Global Women's Leadership Network. She was the Inaugural Chair of the NZ Bankers' Association's Domestic Banks Group and a member of the NZ Bankers' Association's Governing Council. Donna holds a Master of Arts in International Business from the Rennes School of Business, France, and a Bachelor of Business from the Auckland University of Technology. She has attained a Global Competent Boards Certification and Designation (GCB.D) in Sustainability and ESG.
8.	Jason Walbridge Chief Executive Officer, SCEG Commenced on 15 July 2024	Jason has over 20 years' senior executive experience in the global land-based and online gaming industries. Prior to joining SkyCity, he was a Strategic Advisor to global gaming and technology company Aristocrat Leisure Limited on its acquisition of NeoGames S.A. and the Executive Chairman of National Entertainment Network LLC, the largest amusement route operator in the United States. He has previously held roles with the online gaming supplier NYX Gaming Group Limited and its acquirer Light & Wonder Inc, and spent 18 years with Aristocrat Leisure Limited where he held executive leadership roles in New Zealand and the United States. Prior to this, he

		held senior roles within consulting, including with Ernst & Young, and was an Officer in the New Zealand Defence Force. Jason holds a Master of Business Administration in International Management from the Auckland Institute of Studies.
9.	Carolyn Kidd Chief Risk Officer, SCEG Commenced on 1 April 2023	Carolyn is responsible for SkyCity's risk management effectiveness and the risk, AML/CFT, and host responsibility functions. Carolyn is an experienced risk executive with an extensive career in the banking and finance industry across Australia and New Zealand. Prior to joining SkyCity, she held a number of senior risk roles, including Chief Risk Officer at Westpac New Zealand, Chief Risk Officer at Bankwest (Commonwealth Bank of Australia), Chief Risk Officer at Sovereign Assurance, and Chief Credit Officer, Acting Chief Risk Officer and Head of Credit Risk Management at ASB Bank Limited. Carolyn is currently a director and Senior Fellow of the Financial Services Institute of Australasia and holds a Bachelor of Arts from the University of Auckland and a Diploma of Banking from Massey University.
10.	Andrew McPherson Chief Information Officer, SCEG Commenced as Interim Chief Information Officer on 6 November 2023 and as Chief Information Officer on 18 March 2024	Andrew is responsible for leading the development and implementation of technology across the SkyCity Entertainment Group. Andrew is a senior technology executive with expertise in leading technology transformation, innovation and delivery across the media and entertainment, telecommunications, and infrastructure sectors. Prior to joining SkyCity, Andrew held senior leadership roles across the New Zealand technology industry, including Chief Technology Officer at Stuff Limited, and Head of National Design at Spark. Andrew has a Bachelor of Engineering from the University of Auckland and is a graduate of executive management programmes at
		Waikato University and the University of Queensland.
11.	Shaun Philp Chief People & Culture Officer, SCEG Commenced on 21 August 2023	Shaun is responsible for leading the development and implementation of best practice people and culture strategy across the SkyCity Entertainment Group. Shaun is a senior human resources executive with expertise in supporting leadership and culture transformation, innovation and business execution strategies across the telecommunications, financial services, and infrastructure sectors. Prior to joining SkyCity, Shaun held senior leadership roles across Australia and New Zealand, including Chief People Officer at Chorus New Zealand Limited and Executive General Manager Human Resources at AMP New Zealand. Shaun has a Bachelor of Commerce from the University of Auckland and is a graduate of executive management programmes at the Harvard Business School and the London Business School.
12.	Peter Fredricson Chief Financial Officer Commenced as Incoming Chief Financial Officer on 5 August 2024 and as Chief Financial Officer on 23 August 2024	Peter is responsible for the financial management of SkyCity, including reporting, capital markets, treasury, and corporate development. He also oversees SkyCity's investor relations and internal audit functions. Peter has over 25 years' experience in the listed energy and infrastructure sectors and the financial services and investment banking sectors across Australasia, Asia and the Pacific Rim. He was previously Chief Financial Officer of AMP Limited, Acting Chief Executive Officer and Chief Financial Officer of ASX-listed company Oil Search Limited, Chief Financial Officer at APA Group and Chief Financial Officer of Vector Limited. Peter is a Chartered Accountant, holds a Bachelor of Commerce from the University of Auckland and is a graduate of the Australian Institute of Company Directors.

[1052] Details of personnel changes between September 2024 and 16 April 2025 were provided in the letter of 16 April 2025. The licensee reported that there were no changes to the composition of the licensee's Board except for the change in Ms Baynes' title on 15 April 2024 from 'Director and Interim Chief Operating Officer – Australia' to 'Managing Director Adelaide'. In addition, Ms Baynes' reporting line changed from the Chief Executive Officer of SCEG to Mr Callum Mallet, Chief Operating Officer SCEG.

[1053] As to senior management personnel, and significant middle management, the letter of 16 April 2025 was as follows:

Individuals who have joined SkyCity Adelaide or SCEG

4. The following new senior management and significant middle management roles have been created since 3 September 2024:

	Name	Position	Organisation
1.	Brent Potter	Chief of Staff and General Manager Corporate Affairs	SkyCity Adelaide
2.	Kristi Thomas	General Manager – Transformation	SkyCity Adelaide
3.	Liz Humphreys	General Manager – People & Culture	SkyCity Adelaide
4.	Dom Rositano	Interim General Manager – Financial Crime	SkyCity Adelaide
5.	Glenn Tomlinson	General Manager – Host Responsibility	SkyCity Adelaide
6.	[REDACTED]	Operational Excellence Manager – Financial Crime	SkyCity Adelaide
7.	[REDACTED] (significant middle management)	Head of Risk & Compliance – Adelaide	SkyCity Adelaide
8.	[REDACTED] (significant middle management)	Host Responsibility Operations and Customer Engagement Manager	SkyCity Adelaide
9.	[REDACTED] (significant middle management)	Host Responsibility Manager – Stakeholder Engagement & Communications	SkyCity Adelaide
10.	[REDACTED] (significant middle management)	Host Responsibility Administrator	SkyCity Adelaide
11.	Elaine Campbell	Chief Legal Governance & External Relations Officer	SCEG

5. Whilst [REDACTED] positions are newly created, they have held previous roles in GHM/Host Responsibility at SkyCity Adelaide prior to September 2024 and were promoted to significant middle management roles following the departure of the Executive Manager – Host Responsibility, Brett Stevens. Their details are included in the table under paragraph 13 below.

Individuals who have left SkyCity Adelaide or SCEG

6. The individuals who have left SkyCity Adelaide or SCEG since 3 September 2024 and who were included in our letter of 3 September 2024, are:

	Name	Position	Organisation
1.	Brett Stevens	Executive Manager - Host Responsibility	SkyCity Adelaide
2.	Cameron Tannock	General Manager – People & Culture	SkyCity Adelaide
3.	Jo Wong	General Counsel & Company Secretary	SCEG
4.	Andrew McPherson	Chief Information Officer	SCEG

7. Liz Humphreys, who is referred to in the table under paragraph 4 above, replaced Cameron Tannock as General Manager - People & Culture, and reports to Avril Baynes.
8. Jo Wong's position is currently being filled by Phil Leightley, as Interim General Counsel & Company Secretary SCEG (formerly Deputy General Counsel and Company Secretary SCEG).
9. An external search is currently underway to replace Andrew McPherson's position.

Reporting line and position title changes

10. With respect to the individuals listed as current Senior Management Personnel relevant to SkyCity Adelaide's operations at the Adelaide casino in our letter of 3 September 2024 and who continue to work at SkyCity Adelaide, on 3 March 2025 SkyCity Adelaide undertook a structural reporting line change to enable Avril Baynes greater capacity to focus on the SkyCity Adelaide Board and the Gaming, Financial Crime, GHM and Finance operations of the SkyCity Adelaide business.
11. Consequentially, the reporting line for the following Senior Management Personnel who were listed in our letter of 3 September 2024 changed as follows:
- 11.1. Michael Neal (whose position also changed from Acting General Manager – Hospitality to a permanent position as General Manager – Hospitality on 9 September 2024); and
- 11.2. David Fox, General Manager – Legal, Risk and Compliance,
- now report to Brent Potter rather than Avril Baynes; and
- 11.3. [REDACTED] whose position changed from Surveillance Operations Manager to Head of Security and Surveillance) now reports to Michael Neal, as General Manager – Hospitality instead of Avril Baynes.
12. Notwithstanding the reporting line and position title changes referred to in paragraph 11, the duties of the named Senior Management Personnel were, and remain, unchanged.

Qualifications and Biographies - New Senior Management Personnel and Significant Middle Management

13. A summary of the qualifications and short biography of each of the new Senior Management Personnel and significant middle management are provided in the table below.

	Name and Position (including commencement date)	Qualifications and Biography
5.	Brent Potter Chief of Staff and General Manager Corporate Affairs (Reporting to Avril Baynes) Commenced on 24 October 2024	Mr Potter has 15 years of broad leadership and management experience across Government, Age Care and Defence. Recently Brent was a Member of the Northern Territory Legislative Assembly and served as the Minister for Police, Fire & Emergency Services, Alcohol Policy, and Major Events. During his ministerial tenure, he commissioned the 2024 Independent Police Review and implemented the Three-Year Liquor Legislative Review. Prior to the appointment in the Legislative Assembly, Brent was Senior Advisor to the Chief Minister of the Northern Territory, where he provided expert advice on complex policy matters and oversaw legislative development, in the areas of community safety, mining and gas, and investment attraction. Before entering politics, Brent was a Commissioned Officer within the Australian Army, with operational experience in 2012 in Afghanistan and border security operations within Operation Sovereign Borders. His military leadership experience has strongly

		influenced his approach to public service and policy implementation. Brent holds a Master of Business from the University of Adelaide, and a Diploma in Leadership from the Royal Military College Duntroon.
6.	Liz Humphreys General Manager – People & Culture (Reporting to Avril Baynes) Commenced on 11 December 2024	Ms Humphreys has over 20 years of experience in Human Resources and has led numerous organisational transformations across several large, global, complex organisations including BAE Systems (UK and Australia), Babcock, Cargill, and Navitas. Liz has a Bachelor of Science (Hons) in Sociology, a Master of Science in Human Resource Development and an MBA. Liz is also a PROSCI certified practitioner.
7.	Kristi Thomas General Manager – Transformation (Reporting to Avril Baynes) Commenced on 17 March 2025	Ms Thomas brings a wealth of experience in driving strategic change and transformation initiatives and is leading our Building a Better Business (B3) Program of Work. Kristi joins us most recently from Bendigo Bank, where she led a large transformation change team focused on delivering everything from regulatory and technology change, improved customer experiences, new operating models, and culture change. Prior to this, Kristi has gained over 20 years' experience working in projects and programs across a variety of industries including Government, Utilities, Mining, Rail and broad Financial Services.
8.	Dom Rositano Interim General Manager Financial Crime (Reporting to Avril Baynes) Commenced on 17 March 2025	Mr Rositano brings extensive experience in financial crime and compliance, having worked with a range of organisations undergoing similar transformations as those faced by SkyCity Adelaide, including financial institutions Westpac and gaming operators Tabcorp and The Star.
		Dom is working closely with the Adelaide Financial Crime team and is focussed on supporting the uplift of SkyCity Adelaide's financial crime risk program, ensuring we continue to meet our regulatory obligations while strengthening our risk outcomes.
9.	Glenn Tomlinson General Manager – Host Responsibility (Reporting to Avril Baynes) Commencing mid-late July 2025 (or sooner, if available)	Mr Tomlinson has over 24 years of experience in the gambling industry, having worked for major Australian casino operators including The Star and Crown (Melbourne and Sydney). Mr Tomlinson was most recently employed in the position of General Manager – Crown Play Safe at Crown Sydney and worked in this role for over 2 years. In this role, Mr Tomlinson was responsible for leading the Responsible Gambling Team at Crown Sydney and was instrumental in overseeing and managing responsible gambling initiatives for the property.
10.	[REDACTED] Operational Excellence Manager – Financial Crime (16-month contract on a part time basis) (Reporting to Dom Rositano) Commencing in mid-May 2025 (or sooner, if available)	
11.	[REDACTED] Head of Risk & Compliance – Adelaide (Reporting to Brent Potter) Commenced on 31 March 2025	

12.	██████████ Host Responsibility Operations & Customer Engagement Manager (Reporting to Angela Stephens, Group General Manager Host Responsibility) Commenced new role on 3 February 2025	
13.	██████████ Host Responsibility Manager – Stakeholder Engagement & Communications (Reporting to Angela Stephens, Group General Manager Host Responsibility) Commenced new role on 3 February 2025	
14.	██████████ Host Responsibility Administrator (Reporting to Angela Stephens, Group General Manager Host Responsibility) Commenced new role on 3 February 2025	
15.	Elaine Campbell Chief Legal Governance & External Relations Officer (Reporting to Jason Walbridge (CEO)) Commenced on 31 March 2025	Ms Campbell is an experienced executive and director with extensive experience leading organisations in heavily regulated environments in financial services and capital markets. She joins SkyCity from NZX-listed company Chorus Limited where she has held the position of Executive General Manager – Fibre Access since February 2024 and, prior to that, Chief Corporate

		Officer & General Counsel, and General Counsel & Company Secretary. Elaine was previously General Counsel at AMP Limited, Director of Compliance and Head of Compliance Monitoring at the New Zealand Financial Markets Authority, Executive Counsel at the New Zealand Markets Disciplinary Tribunal and Head of Market Supervision and General Counsel at NZX Limited. She is currently an Independent Director on the Board of NZX Limited and NZX Limited Appointed Director of NZ RegCo Limited. Elaine is a Barrister and Solicitor of the High Court of New Zealand and holds a Bachelor of Laws (Hons) from the University of Canterbury.

Details of new Senior Management and Significant Middle Management positions that are not filled where recruitment activity is currently underway and when it is hoped those positions will be filled

14. Details of the new Senior Management and significant middle management positions that are not yet filled but are currently being recruited are provided in the table below. Whilst these positions are being recruited as a matter of priority, we are cognisant of the fact that we do not want to unnecessarily rush the recruitment process as we want to ensure we recruit suitable candidates who have the requisite experience, knowledge and skillset required by the business.

Role	Department	Nature of Employment	Number of Roles
Change Manager	Building a Better Business Program	Full Time	3
Transformation Change Lead	Building a Better Business Program	Full Time	1
Project Manager - Financial Crime	Building a Better Business Program	Full Time	1
Head of FC Compliance & Governance	Financial Crime	Full Time	1
Quality Assurance & Training Manager	Financial Crime	Full Time	1
Data Analyst Transaction Monitoring	Financial Crime	Full Time	1
Senior Manager Intelligence	Financial Crime	Full Time	1

Transaction Monitoring Lead	Financial Crime	Full Time	1
General Manager - Financial Crime and AML/CTF Compliance Officer	Financial Crime	Full Time	1
AML Governance & Improvements Lead	Financial Crime	Full Time	1
Financial Crime Compliance Manager	Financial Crime	Full Time	1
B3 Workstream Lead	Host Responsibility	Full Time	1
Senior Manager Host Responsibility	Host Responsibility	Full Time	1
Manager Host Responsibility Compliance & Governance	Host Responsibility	Full Time	1
Host Responsibility Learning & Development Manager	Host Responsibility	Full Time	1
Culture Transformation Lead	People & Culture	Full Time	1

A summary of the total numbers of personnel in Financial Crime and GHM as at 16 April 2025 as compared to the position in January 2023

15. Since January 2023, SkyCity Adelaide has increased the total number of Financial Crime resources from 12 to 30 full time employees and the total number of GHM personnel from 10 to 29 full time employees.
16. Whilst there has been a significant increase in the number of personnel in our Financial Crime and GHM teams, we continue to review those resource levels to ensure that they remain fit for purpose and are appropriately equipped to be able to deliver the B3program whilst also managing ongoing "business as usual" operations.

[1054] Subsequently, by letter of 16 May 2025 the licensee provided current organisational charts of structures for teams in Senior Leadership, Financial Crime and Host Responsibility.⁶⁸

[1055] As to the significance of the changes to the question of suitability, in the letter of 3 September 2024 the licensee advanced the following submission:

Impact of Director and Senior Management Personnel Changes on ongoing suitability

7. SkyCity Adelaide considers that its response to the third aspect of your request requires some consideration of the meaning and requirements of the test of suitability in the context of the independent review.
8. We understand that you have not finalised your position in this respect and so SkyCity Adelaide has attempted to define its understanding of the test for the purpose of the response to the Letter below.

Legislative framework

9. As you know, section 21(1) of the *Casino Act 1997* (SA) (**Casino Act**) provides that "the Commissioner must not recommend the grant or renewal of the casino licence unless satisfied that the applicant is a suitable person to operate the casino".
10. Section 2A of the *Casino Act*, which sets out the object of the *Casino Act*, refers to ensuring that those involved in the control, management and operation of the SkyCity Adelaide casino "are suitable and fit and proper persons to exercise their functions and responsibilities".
11. While a "suitable person" is not expressly defined in the *Casino Act*, section 21(4) lists a number of factors to which the Commissioner may have regard "in assessing the suitability of an applicant", including, but not limited to:
 - a) the applicant's corporate structure;
 - b) the extent of the applicant's business acumen and experience and, in particular, whether the applicant's business experience would suggest that it could operate the casino successfully; and
 - c) any other matters the Commissioner thinks fit.
12. In addition to the above, SkyCity Adelaide considers that a suitable casino operator must also:
 - a) have the ability to conduct the operation of a typical modern casino in an effective and business-like way, and with due financial competence;
 - b) have an ability and willingness to address certain risks arising from the operation of casinos, such as the risk that casinos can encourage or facilitate problem gambling, that they can facilitate criminal activity by allowing the laundering or sanitising of money obtained through such activity, and that there can be scope for corrupt collusion between customers and casino staff which enables customers to cheat or more readily to launder money;
 - c) having regard to its obligations in the Approved Licensing Agreement for the Adelaide casino and the Casino Gambling Code of Practice, be cognisant of the potential for harm associated with the misuse and abuse of gambling activities and, having regard to the objects of the *Gambling Administration Act 2019* (SA), it must appear that the operator can take, and has taken, reasonable and appropriate steps to minimise harm associated with problem gambling;

⁶⁸ The charts are Annexure [46]

- d) demonstrate that they are alive to the potential risks for a casino to facilitate criminal conduct, and that they can take, and have taken, reasonable and appropriate steps to identify, manage and mitigate the opportunity for criminals to take improper advantage of the facility afforded by gambling (which extends, to the greatest extent possible, the potential for money laundering); and
- e) demonstrate that they have the capacity to take, and will have taken, reasonable and appropriate steps to vet and monitor the activities of staff.

Interstate inquiries

13. In addition to the above, some key principles in respect of suitability can also be extracted from the inquiries conducted into interstate casinos (particularly those in Sydney, Melbourne, and Perth), including, among other things, that:
- a) it is essential to consider the character, honesty and integrity of the casino operator, as well as the operator's financial standing;
 - b) an important factor is the suitability of the directors and officers involved in the administration of the casino's operations;
 - c) a suitable person is a person who:
 - i. is of good character and reputation, is honest, has integrity, is competent, has appropriate governance processes and arrangements and is of sound financial standing;
 - ii. does what is reasonable to guard against the risk of gaming operations causing harm to patrons or to the public;
 - iii. does what is reasonable to guard against the risk of criminal infiltration of gaming operations of the casino;
 - iv. does what is reasonable to guard against risks to the integrity of gaming conducted pursuant to casino licence; and
 - v. is honest, open, competent and accountable in its dealings with the regulator;
 - d) suitability in respect of a corporate entity is a "value judgment" that requires a consideration of the following factors:
 - i. the reputation and character of the relevant entity;
 - ii. its financial status;
 - iii. its governance processes and arrangements;
 - iv. the people, systems and processes it has to manage the material risks of casino gaming operations;
 - v. any past and existing deficiencies in those people, systems and processes;

...

- vi. the relevant entity's insight into those deficiencies and remediation of them;
 - vii. the organisational culture; and
 - viii. any other matters relevant to the maintenance of public confidence and trust, including (for example) the competence and adequacy of the knowledge, qualifications, experience and ability of the person to engage in, or be concerned in or associated with, the relevant activity;
- e) for a licensee's status to change from unsuitable to suitable, evidence is required of:
- i. rectification of the impediments to suitability;
 - ii. demonstration of a sense of appreciation of what has miscarried in the past and the operator's ability to identify all or most of the issues to be addressed; and
 - iii. the resolve and capacity of those who govern and manage the organisation to bring about the changes that are needed in a timely and effective way.
14. Finally, SkyCity Adelaide submits that the recommendation of a renewal of a casino licence pursuant to section 21 of the Casino Act turns on the current suitability of the licensee. Whilst a record of the licensee's operations may disclose shortcomings in its operations in the past, the weight to be given to those matters should necessarily depend on the extent to which the licensee has identified the deficiencies and taken steps to rectify them.

Impact of Director and Senior Management Personnel changes on ongoing suitability

15. SkyCity Adelaide submits that the Director and Senior Management Personnel changes made since January 2023 (as outlined above) enhance SkyCity Adelaide's current suitability to hold the Adelaide casino licence in that all current Directors and Senior Management Personnel:
- a) are honest, competent, reputable and appropriately skilled people with excellent leadership qualities and extensive experience in leadership positions;
 - b) have a high level of executive and directorship experience in several key areas relevant to the SkyCity Entertainment Group's business, including corporate governance, regulatory engagement, risk management, AML/CTF compliance, gaming management, business transformation and cultural change;
 - c) have the resolve and capacity to bring about the changes identified in the program of work developed in conjunction with Kroll Australia Pty Ltd in a timely and effective way;
 - d) by virtue of their experience:
 - i. have the ability to conduct the operation of a typical modern casino in an effective and business-like way, and with due financial competence;

...

- ii. are cognisant of the potential for harm associated with the misuse and abuse of gambling activities and have the knowledge and skills required to guard against that risk;
 - iii. are cognisant of the ML/TF risks associated with casino operations and have the knowledge and skills required to guard against that risk (noting that they have received, or will receive, extensive training in AML/CTF compliance, as well as gambling harm minimisation issues); and
 - iv. have the knowledge and skills to effectively assess, monitor and address the adequacy of the SkyCity Entertainment Group's risk management processes; and
- e) in the case of the Directors (excluding Avril Baynes), are completely independent.
16. Further to the above, and more specifically, over the past few years SkyCity has also progressed a comprehensive multi-year transformation program to further strengthen its corporate structure and how it manages risk and compliance across the SkyCity Entertainment Group businesses, including:
- a) completing a full refresh of the SkyCity Adelaide and SCEG Boards, including the recruitment of directors with specialist risk and compliance expertise;
 - b) adopting a three lines of accountability control framework across the SkyCity Entertainment Group;
 - c) significant enhancement and investment in internal AML/CTF resourcing and capability, processes and systems across the SkyCity Entertainment Group, including development of enhanced transactional monitoring capabilities;
 - d) continuing to increase capacity in the financial crime, risk and compliance and host responsibility teams across the SkyCity Entertainment Group, with approximately 113 employees as at 30 June 2024;
 - e) reducing risk and complexity in the business by changing policies in line with a lower risk tolerance, limiting ways in which customers can transact;
 - f) the appointment of Alex Clough as Remediation Manager at SkyCity Adelaide which demonstrates SkyCity Adelaide's appreciation of past deficiencies and its commitment to a culture that is dedicated to continuous improvement and uplift;
 - g) the appointment of a dedicated Senior Manager – Risk at SkyCity Adelaide;
 - h) the appointment of Carolyn Kidd as Chief Risk Officer of SCEG which demonstrates the SkyCity Entertainment Group's commitment to prioritising compliance and embedding risk culture across its businesses;
 - i) the appointment of a new Chief People & Culture Officer of SCEG;
 - j) the establishment of a dedicated SkyCity Adelaide Senior Leadership Risk & Assurance Committee, the purpose of which is to oversee risk governance at

...

SkyCity Adelaide, including the delivery of risk and compliance strategies and management systems that support SkyCity Adelaide to achieve its strategic, operational and compliance objectives;

- k) the establishment of a dedicated SCEG Senior Leadership Risk & Assurance Committee, the purpose of which is to oversee risk governance across the SkyCity Entertainment Group;
 - l) the creation of a dedicated SCEG Board Risk and Compliance Committee to oversee AML/CTF, gambling harm minimisation, risk and other compliance obligations across the SkyCity Entertainment Group; and
 - m) the creation of a dedicated SCEG Board Transformation Sub-Committee to oversee and monitor the transformation program across the SkyCity Entertainment Group. A new General Manager Transformation role has also been created (and is currently being recruited for) to lead a dedicated Project Management Office to support successful delivery of the transformation program across the SkyCity Entertainment Group.
17. For completeness, given the scope of the information sought in your Letter, SkyCity Adelaide has not set out in this response any wider submissions in respect of its overall suitability to continue to hold the Adelaide casino licence, or the suitability of SCEG to continue to be a close associate of SkyCity Adelaide.

[1056] The changes to senior management personnel have been wide-ranging across significant areas of the licensee's operations. In addition, Ms Baynes' made clear in evidence her determination to ensure that personnel in management positions actively promote the appropriate culture.

73.0 Final Discussion – Conclusions

[1057] In this final discussion leading to conclusions, it is appropriate first to put aside the AUSTRAC proceedings and Statement. It is helpful to understand findings based on the evidence obtained by this Investigation to January 2023, and then to consider the impact of matters arising from the AUSTRAC proceedings and subsequent events.

[1058] As mentioned, leaving aside the issues relating to AML/CTF compliance and harm minimisation, the examination of various business divisions did not reveal any matters of major concern. The CBS Casino Inspectors undertake daily reviews of various aspects of the casino operations and, on occasions, observe less than satisfactory processes. These include occasions of poor record keeping and individual breaches of policy (as opposed to systemic failures).

[1059] While it is undesirable that such issues should continue to exist, nevertheless they are to be expected in an organisation as large as the Adelaide Casino which operates in a complicated regulatory environment under a myriad of rules and procedures. Relatively minor breaches of procedure and policy are best resolved by the Inspectors on a daily basis, with responses by the Commissioner where appropriate, whether by way of disciplinary action or otherwise.

74.0 Findings

[1060] As discussed, the primary areas of concern centre on the failure of the Adelaide Board to exercise its functions and fulfil its responsibilities prior to November 2021, the lack of AML/CTF compliance and inadequacies in the Host Responsibility Program and implementation. Initially, without regard to the AUSTRAC Statement, in summary I am satisfied of the essential facts set out below.⁶⁹

[1061] First, as to the Adelaide Board:

- (i) From the time the licence was granted in 1999, until November 2021, the Adelaide Board did not meet and did not receive any reports.
- (ii) Until November 2021, the Adelaide Board failed to function as a Board, and failed to make relevant decisions required of the licensee's Board.
- (iii) Consequently, until November 2021 the licensee failed to discharge the duties imposed on it by the Licence, the Approved Licensing Agreement and the regulatory regime under which the casino operated.
- (iv) In particular, the licensee failed to discharge its responsibilities under the AML/CTF Act and Rules, and failed to establish and maintain a Host Responsibility Program as required by the Approved Licensing Agreement.⁷⁰

⁶⁹ The findings of fact are to be read in conjunction with the remainder of this Report.

⁷⁰ The SCEG Board, as opposed to the Adelaide Board, was responsible for establishing the Host Responsibility Program.

- (v) Until November 2021, the SCEG Board was in control of the operations of the Adelaide Casino. In particular, the SCEG Board purported to undertake and fulfil the duties imposed on the licensee by the Licence, the Approved Licensing Agreement and the regulatory regime under which the casino operated.
- (vi) To the extent that the SCEG Board purported to fulfil the obligations of the licensee, it failed.
- (vii) Broadly speaking, lack of management by the Adelaide Board was rectified by the end of 2021, but the demarcations of lines of authority between the Adelaide and SCEG Boards were not, by January 2023, entirely resolved.

[1062] Secondly, as to AML/CTF compliance:

- (i) During the period 2016-2022, the licensee's AML/CTF compliance program, and its implementation, were both seriously inadequate in a number of ways. The inadequacies were first raised in the AUSTRAC letter of 4 June 2021, and were subsequently highlighted by the Initialism Report of September 2021.
- (ii) During the period 2016-2022, the resources applied to the AML/CTF Compliance Program were grossly inadequate, and the lack of resources exacerbated the poor implementation of the program.
- (iii) During the period 2016-2022, the systems operated by the licensee in respect of AML/CTF compliance were significantly inadequate, and placed excessive reliance on manual procedures.
- (iv) During the period 2016-2022, across the Adelaide Casino, including senior management, there was a lack of understanding of the obligations of the casino operator with respect to AML/CTF compliance. Training of staff at all levels was seriously inadequate.

- (v) During the period 2016-2022, across the casino, including senior management, there was significant resistance to inconveniencing VIP customers by insisting upon compliance with due diligence procedures required by the AML/CTF regime.
- (vi) During the period 2016-2022, and more particularly in the early stages of that period, personnel in the premium gaming area were particularly resistant to efforts to comply with the AML/CTF requirements, and the prevailing culture strongly favoured revenue over compliance.
- (vii) During the period 2016-2022, numerous premium customers were given preferential treatment. The priority was keeping such customers happy to the exclusion of complying with AML/CTF requirements. Revenue was prioritised over compliance.
- (viii) In respect of a premium customer (J), whose place of residence was South Australia, the licensee allowed the use of two account numbers, and made an inappropriate claim for an approved deduction under the International Customer Attraction Program.
- (ix) Following the AUSTRAC intervention in June 2021, the licensee took steps to review its compliance program, and implementation, resulting in the Initialism Report delivered in September 2021 which identified many serious inadequacies.
- (x) In evidence to this Investigation, other than Mr Davis, most directors of SCEG were unwilling to admit that the 2021 AUSTRAC intervention, coupled with the Initialism Report, identified significant inadequacies in the Compliance Program, and in its implementation. Some of those directors disclosed an inappropriate degree of misplaced hubris, and most followed a common line that only areas for improvement had been identified.
- (xi) Following the AUSTRAC intervention and the Initialism Report, in 2021 the licensee appeared to commit itself to responding appropriately to AUSTRAC and to implementing all recommendations made by Initialism. Various committees/groups were established to

oversee the licensee's response, and a program was created which was intended to enhance the licensee's Compliance Program. Resources were increased.

- (xii) As part of the AML Enhancement Program, the licensee adopted a range of systems and controls intended to mitigate and manage the AML/CTF risks. This included the adoption of a risk assessment process and a risk appetite statement. Improved customer due diligence processes were adopted, and the black/ultra black members were all subjected to an ECDD which resulted in the exclusion of a number of those members.
- (xiii) By January 2023 the licensee had established improved processes, particularly in the area of risk assessment and due diligence. A new Compliance Program had been approved and Standards adopted. Multiple SOPs had been amended, or deleted and replaced. Standards underpinning Part A of the 2022 Compliance Program were approved in December 2022. However, there remained the absence of an Individual Commission Program Policy.
- (xiv) Notwithstanding the establishment of committees, increase in resources and improvements discussed in this Report, to April 2024 the AML Enhancement Program amounted to little more than a policy document with minimal meaningful implementation.
- (xv) The findings summarised above arise out of the evidence gathered during this Investigation to January 2023. These findings have been confirmed by the Statement of Agreed Facts and Admissions filed in the Federal Court in mid 2024, and by evidence obtained in 2024 and 2025, in particular from Ms Baynes and Kroll.
- (xvi) In broad terms, in the period 2016-2021, at the least, the AML/CTF program and its implementation were seriously deficient in numerous respects. The prevailing culture favoured revenue over compliance, particularly when dealing with VIP gamblers. Training in the AML/CTF area was poor, and resources significantly inadequate.

(xvii) Although the licensee responded to AUSTRAC's concerns following the letter of 4 June 2021, and to the subsequent report by Initialism, until April 2024 a significant attitude of resistance to change existed at senior management level, together with resistance to the involvement of Kroll.

(xviii) The resolution of the AUSTRAC proceedings provided a clear acknowledgement by the licensee of extensive and serious failures in the area of AML/CTF compliance. It is unnecessary to canvass again the details. It is sufficient to emphasise that these failings and inadequacies were serious and existed over many years.

[1063] Although attitudes began to change, particularly after settlement of the AUSTRAC proceedings, and limited progress was being made, it was not until the appointment of Kroll and Ms Baynes that implementation of remediation measures began to improve significantly. Notwithstanding a degree of improvement, initially inappropriate resistance remained within areas of senior management.

[1064] The appointment in April 2024 of Ms Baynes as the Acting CEO heralded a complete change in attitude at the top, a change which began to filter down the management scale. The failings and inadequacies of the past were, for the first time, freely acknowledged without reservation. The licensee developed a commitment, led by Ms Baynes, to full remediation of its failings with respect to AML/CTF obligations. A Program of Work (POW) was agreed with Kroll (approved by the Commissioner) and positive remediation action finally commenced. This included significant changes in senior management personnel and progress in developing an appropriate culture across the casino.

[1065] As discussed earlier in this Report, I am satisfied there now exists a genuine desire on the part of senior management, led by Ms Baynes and the Adelaide Board, to achieve full remediation in the AML/CTF area and to achieve full compliance with the licensee's obligations under the AML/CTF regulatory regime. Since mid-2024 the licensee has put this desire into practice through the establishment of the POW and implementation of practical steps pursuant to the

POW. The details of these matters are found in the Kroll reports and, notwithstanding the underestimation of resources needed and failure to comply with the timelines in various respects, resulting in the need for a reset, I am satisfied if permitted to continue to operate the casino the licensee will comply with the fundamental obligations imposed on it by the regulatory regime. In this regard, the impact of the ongoing monitorship by Kroll should not be underestimated. Nor should the impact of mandatory carded play in the near future be overlooked in this context.

[1066] As to Harm Minimisation, other than inadequacies related to the Host Responsibility Program, there is no evidence to suggest cause for significant concern in relation to areas of Harm Minimisation such as advertising practices and consultation with other entities concerned with minimising harm to gamblers.

[1067] Until late 2021/early 2022, the Host Responsibility Program operated by the licensee was under the overall control and supervision of the SCEG Board and Management, without any input from the Adelaide Board. Failures with respect to the Host Responsibility Program were failures by the SCEG Board.

[1068] Until late 2021/early 2022, the Host Responsibility Program and its implementation were somewhat rudimentary. The inadequacies included the following:

- Training of staff was far less than satisfactory.
- The Program was poorly resourced, resulting in a lack of staff which adversely impacted upon implementation of the Program. There was a lack of appropriately qualified staff.
- Clear lines of authority were lacking, particularly in relation to the operation of the Program in the VIP area.
- Processes were inadequate.
- Organisation skills were wanting and customers could slip through without proper attention. Some staff were not capable of properly carrying out their role.

- Manual recording was less than satisfactory and, to some extent, was carried out on an ad hoc basis.
- Over many years there was a failure to fulfil the obligations imposed by the Approved Licensing Agreement with respect to the role of Host Responsibility in determining qualification for SA residents wishing to join the premium gambling category, and in subsequent monitoring of such customers.

[1069] Following the appointment in August 2021 of [REDACTED] as the new Executive Manager Host Responsibility, improvements were made to the Host Responsibility Program and its implementation. Resources were increased and processes were improved. Additional qualified staff were appointed. The culture began to change.

[1070] Notwithstanding the improvements, to January 2023 resourcing continued to be inadequate and other areas of concern remained, including the attitude of some VIP Hosts and a lack of staff on the floor, particularly at busy times.

[1071] The findings explained earlier concerning the impact of the appointment of Ms Baynes in April 2024 apply equally to the conduct of the licensee with respect to its obligations in the area of Harm Minimisation. The acknowledgement of failings and change of attitude with respect to these obligations had a positive effect.

[1072] While there remain ongoing issues with respect to the Host Responsibility Program, I do not regard those issues as significant in the context of the licensee's suitability to continue to operate the casino. Appropriate steps have been, and are being, taken with respect to ensuring an adequate level of resources and improving the operation of the Host Responsibility Program. Qualified staff are being employed. I am satisfied that over time the remaining issues will be resolved satisfactorily, and that the licensee will fully comply with its obligations in this area.

- [1073] The fourth significant issue concerns culture. As discussed, the licensee operated under a poor and inappropriate culture over many years within which profit was regarded as more important than compliance with AML/CTF obligations. While a poor understanding of such obligations undoubtedly contributed to the existence of such a culture, primarily it resulted from the attitude prevailing within senior management which centred on profit and regarded AML/CTF compliance as an inconvenient impediment to profit.
- [1074] Again, since mid-2024 significant progress has been made in developing an appropriate culture across all levels of employees at the casino. Following personnel changes, the development of an appropriate culture has been led by Ms Baynes with the support of senior management. Their efforts are succeeding. I am satisfied that over time the point will be reached that an appropriate culture is applied by the vast majority of the casino employees.
- [1075] The fifth area of factual findings concerns SCEG. As to AML/CTF issues, earlier in this Report the findings of the New Zealand Department of Internal Affairs following a review conducted in 2019 is discussed. As a consequence of those findings, SCEG undertook a number of improvements. Following an inspection in March 2021, the Department found, ‘overall’, that SCEG had largely remediated the inadequacies revealed by the 2019 inspection to the point of meeting minimum requirements.
- [1076] In September 2024 the operative subsidiary of SCEG, SCML, was fined NZ \$4.16Million for failures with respect to the AML/CTF program occurring over a period from 16 February 2018 to 3 July 2021. The failures were fully remediated by 31 July 2021.
- [1077] Notwithstanding the failures to which I have referred, there does not appear to be any basis for a positive conclusion that failures by SCEG in the context of AML/CTF obligations were of such significance that they adversely impact upon the suitability of SCEG today as a close associate of the licensee. The positive attitude of Ms Baynes to which I have referred also exists within the SCEG hierarchy of management permitting a degree of confidence that SCEG will strive to meet its AML/CTF obligations in the future.

[1078] I have reached a similar conclusion with respect to Harm Minimisation issues. Inadequacies were disclosed in the past, but it appears that SCEG responded positively. In particular, SCEG took adequate steps to address the concerns raised by the Department of Internal Affairs, and to remedy the deficiencies identified in proceedings relating to the gambling of a particular customer at the Auckland Casino during the period August 2017 to February 2021.

[1079] The SCEG Board continues to oversee ongoing improvements in the Host Responsibility practices within the New Zealand casinos.

75.0 Suitability – Practical Issues

[1080] In addressing suitability, regard must be had to practical considerations of capability and capacity, including the licensee's financial position. Kroll's report of 28 February 2025 concerning the licensee's capability and capacity to complete the POW by 30 June 2027 raises significant issues. The licensee is proactively addressing those matters in a number of ways which include the Review and Reset of the POW.

[1081] I have not been provided with full details as to the content of the Review and Reset (due by 30 May 2025), but the details are not important to the question of suitability today. Nor do I regard completion of the POW by 30 June 2027 as of particular significance. The licensee has recognised its difficulties and is proactively taking steps to rectify those problems.

[1082] In the context of capability and capacity the report by RSM has been helpful. The financial issues confronting the licensee are obvious but, with the ongoing support of SCEG, appear to be manageable. Of significance is the determination of senior management, both within the licensee and at SCEG, that the licensee will succeed in continuing to operate a viable business and will achieve full remediation.

[1083] The difficulties and shortcomings identified by Kroll and RSM must be acknowledged. However, the efforts of the licensee since mid-2024, including the changes in culture and personnel, must also be acknowledged, together with the existence of firm plans for the future.

[1084] I am satisfied that, broadly speaking, today the licensee is conducting the business of the casino competently and effectively and will continue to do so in the foreseeable future.

76.0 Suitability – Corporate Governance and Culture

[1085] Of particular significance to the licensee's suitability to hold the licence and operate the casino are issues conveniently gathered within the concepts of corporate governance and culture. It is appropriate to emphasise this aspect as a failure in this regard undermines compliance with obligations imposed by the regulatory regime.

[1086] In observations with which I agree, the interstate reports emphasise the importance of corporate culture in the context of casino operations. As discussed earlier in this Report, unlike the business of many corporations, the commercial operation of providing gambling services necessarily carries with it a risk of harm to those participating in the gambling. It also carries the risk of infiltration by criminal elements, particularly through the laundering of money obtained in criminal enterprises. A significant tension exists between the commercial aim of making a profit, and the obligation to minimise both the risk of harm and the criminal operation of money laundering.

[1087] Addressing these risks adequately necessarily has an adverse impact on the profitability of the core business of providing gambling services. It is, therefore, of critical importance that the corporation, through its directors, senior management and staff, does not allow the natural temptation to prioritise profit over compliance with obligations to prevail. The corporation must adopt a culture of compliance with regulations, and of proactivity in that regard, in properly addressing the risks of harm and criminal conduct.

[1088] For the same reasons, compliance with the fundamental principles of good corporate governance is essential. It is worth repeating part of the helpful discussion by Ms Bergin of corporate culture and governance, which appears in paragraph [70] of this Report. Ms Bergin described corporate governance and themes relating to corporate governance which are of particular relevance to the question of suitability:

- 1 *Corporate governance is the term used to describe the internal structures by which a company operates and is accountable to its stakeholders. It has been described as:*

The framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies and those in control are held to account.

- 2 *There are certain aspects or themes relevant to corporate governance that are of particular relevance to the issues in this Inquiry including:*

- (a) *Ethical conduct;*
- (b) *Risk management and oversight;*
- (c) *Board composition, primarily, board independence and board tenure; and*
- (d) *Remuneration and incentivisation of directors and senior executives.*

[1089] The Bergin Report referred to principles promoted by the ASX:

- 10 *The 3rd edition of the ASX Principles promoted eight central principles of corporate governance as:*

- (1) *Providing solid foundations for management and oversight;*
- (2) *Structuring the Board to add value;*
- (3) *Acting ethically and responsibly;*
- (4) *Safeguarding integrity in corporate reporting;*
- (5) *Making timely and balanced disclosure;*
- (6) *Respecting the rights of security holders;*
- (7) *Recognising and managing risk; and*
- (8) *Remunerating fairly and responsibly.*

- 11 *Directors and senior officers of companies are ultimately responsible for setting, monitoring and maintaining a company's corporate governance standards, practices and processes. The 3rd edition of the ASX Principles explicitly links this function to a director's obligations to exercise their duties with due care and diligence in the best interests of the company.*

[1090] Of particular importance to good corporate governance is appropriate risk management, which necessarily involves assessment of risk and setting of risk appetite. Ms Bergin described risk management as a ‘core pillar’ of corporate governance, while Mr Finkelstein provided the following description:

41 Risk management is the process of identifying, assessing and controlling risks to a corporation in order to minimise the harm the corporation may suffer or to maximise its opportunities. It is a key component of corporate governance and a crucial responsibility of the board and management. Risk is properly managed when the corporation is clear about its strategic objectives, understands the ways in which there may be positive or negative deviations from those objectives, and takes action to control those deviations.

[1091] I agree with those descriptions which emphasise the importance of identification of the risk, together with setting by the Board of a corporation’s risk appetite. It is the Board that must decide the nature and extent of the risks it is prepared to take in order to achieve its objectives. In the case of a casino, this is a complicated exercise. One of the objectives is a commercial profit. The other is minimising both the harm, and the risk of criminal conduct, that necessarily flow from seeking to achieve the commercial objective of profit.

[1092] Discharge by the Board of its responsibilities requires active oversight of management to ensure the corporation is operating within its risk appetite and is managing the risks appropriately. This process includes monitoring the performance of management and analysing causes of breaches of risk appetite.

[1093] Essential to good corporate governance is the knowledge and understanding of directors of the environment in which the corporation operates. Directors must possess a good understanding of the legislative and regulatory framework which applies to the casino operations, including the objectives of the legislative scheme and the reasonable expectations of the community. Directors must understand the obligations imposed upon the casino by the scheme, and under the licence and Approved Licensing Agreement. In particular, it is essential that directors possess an in depth understanding of the obligations under the AML/CTF legislation, and of the casino’s responsibilities with respect to harm minimisation through the host responsibility program. It is

only with in depth understanding of these obligations and practical issues that directors can discharge properly their duties, particularly in the area of risk management.

[1094] Corporate governance is inextricably linked to corporate culture. Ms Bergin cited the following:

Culture is a set of shared values and assumptions within an organisation. It reflects the underlying 'mindset of an organisation', the 'unwritten rules' for how things really work. It works silently in the background to direct how an organisation and its staff think, make decisions and actually behave.

[1095] It has also been said that culture is 'what people do when no one is watching'. Underpinning a good culture are the concepts of acting ethically and responsibly.

[1096] As to the culture which should be adopted by a casino operator, Mr Finkelstein provided the following short answer:

What culture should a casino operator adopt?

84 *This is not a difficult question. It simply requires a statement of the appropriate norms of conduct to which a casino operator should conform. It will include norms of conduct or standards imposed by the law and norms of conduct that are expected by the community. They are to:*

- *obey the law*
- *act honestly*
- *deter illegal and immoral behaviour that might take place in a casino*
- *not exploit people who come to the casino to gamble*
- *take active measures to minimise the harm caused by gambling*
- *cooperate fully and candidly with the regulator and with government.*

[1097] The culture of a corporation must be set from the Board down. It requires active promotion of the appropriate culture, and active discouragement of taking shortcuts or overlooking departures from the appropriate standards and procedures. The conduct of the individual members of the Board, and of the Board collectively, must reflect the appropriate 'tone', and provide a 'clear and specific

cultural direction' for the corporation. Clear and unambiguous communication throughout the corporation is required, as is the full support of senior management.

[1098] It is apparent from this discussion concerning corporate culture and governance that there are many aspects to be considered. As is obvious from this Report, in a number of respects the licensee's corporate culture and governance in the past was extremely poor. It is unnecessary to repeat the details. However, while paying due regard to past behaviour and its influence or otherwise upon an assessment of the current corporate culture and governance, the critical time for consideration of these matters is today. In this context it should be noted that AUSTRAC accepted that the licensee did not intentionally set out to fail to comply with its obligations under the AML/CTF regime. Similarly, I am satisfied that the licensee did not intentionally set out to fail to comply with its obligations with respect to harm minimisation. I am also satisfied that in the early years, and until the issue was raised by AUSTRAC, the directors and senior management did not appreciate that in allowing SCEG to make all the decisions and formulate policies, the Adelaide Board was failing to fulfill its obligations.

[1099] To the extent that senior management prioritised profit over compliance, there was a cultural failure. Given the extent of the failures, prior to 2024 it could not be said that the licensee was of good repute, having regard to its character, honesty and integrity. However, as discussed, the situation began to change in mid-2024 and that change has continued in a positive manner, which includes changes in senior personnel and the development of an appropriate culture.

[1100] There are now appropriate corporate structures and policies in place, including risk management and oversight of management to ensure that the licensee is operating within its risk appetite and is managing the risks appropriately. The directors now understand their obligations with respect to the environment in which the licensee operates.

[1101] I am satisfied that, under new management, the corporate culture of the licensee has changed significantly, as has corporate governance. I am satisfied that the licensee is fully and genuinely committed to completing the POW and achieving full remediation. The licensee is well advanced

in the process of embedding an appropriate corporate culture across all levels of management, and I am satisfied that senior management will continue to promote such a culture.

[1102] Further, I am satisfied that the licensee is striving to conduct its business with appropriate regard to ethical considerations and in compliance with its obligations under the regulatory regime.

77.0 Suitability - Criteria

[1103] In considering suitability regard must be had to the objects of the GAA set out in paragraph [33] of this Report, together with the nature and extent of the obligations imposed on the holder of the casino licence by the Casino Gambling Code of Practice and the entire regulatory regime.

[1104] Although the Casino Act does not specify the criteria to be considered in determining whether a licensee is a suitable person, obviously the conduct of the licensee in the past, and whether it complied with its obligations, are factors to be considered. In addition, guidance is found in ss21(3) and (4) of the Act which are concerned with a future application for grant or renewal of the licence. S 21(4) provides that in assessing the suitability of an applicant in the future, the Commissioner may have regard to:

- (a) *the applicant's corporate structure; and*
- (b) *the extent of the applicant's financial resources and whether they are suitable and adequate to ensure the financial stability of the casino; and*
- (c) *the applicant's financial background; and*
- (d) *the extent of the applicant's business acumen and experience and, in particular, whether the applicant's business experience would suggest that it could operate the casino successfully; and*
- (e) *the applicant's reputation; and*
- (f) *the character, reputation, and financial background of the applicant's close associates; and*
- (g) *any representations made by the Minister; and*
- (h) *any other matters the Commissioner thinks fit.*

[1105] At the time of the Bergin Inquiry, the New South Wales Casino Control Act contained statutory criteria describing the attributes expected of a suitable person to hold a licence and operate a casino. Those attributes included that the person:

- Was a good reputé having regard to character, honesty and integrity.
- Was of a sound and stable financial background.
- Had access to suitable and adequate financial resources to operate the casino.
- Possessed sufficient experience and business ability to operate the casino.
- In the case of a corporation, possessed a satisfactory ownership, trust or corporate structure.
- Did not have any business association with any person or body who was not of good reputé or otherwise possessed undesirable or unsatisfactory financial sources.

[1106] Ms Bergin noted that although the analysis of the concept of character can become somewhat ‘circular’, it was clear that ‘a person of good character would possess high standards of conduct and act in accordance with those standards under pressure’.

[1107] In Ms Bergin’s view, a corporation’s suitability may flow with changes to the composition of the Board and management, and others who influence its affairs. A person may have flaws and may have made mistakes, but nevertheless retain a reputation of good reputé because they are honest and possess integrity, and because their character is not adversely affected by the particular mistakes. As Ms Bergin pointed out, it is necessary to take a ‘holistic view’ encompassing an assessment of the ‘integrity of corporate governance and risk management structures and the adherence to adopt policies and procedures’.

[1108] Ms Bergin made the obvious observation that the conduct of directors is relevant because the assessment of suitability requires consideration of those who own and control the corporation.

She also noted the necessity of considering the whole character of the licensee, including corporate governance issues. I agree with the views of Ms Bergin.

[1109] Solicitors for the licensee addressed the issue of suitability in a letter of 13 December 2022. After referring to the general principles emanating from the regulatory regime, the solicitors advanced the following propositions, none of which are controversial:

- Suitability is a ‘Chameleon concept which takes its colour from its context’.
- The fact that Parliament saw fit to permit the operation of a casino is evidence that it was thought a casino was ‘capable of providing economic and social benefits to the State’.
- A principal criterion of suitability ‘must be the ability to conduct the operation of a typical modern casino in an effective and business-like way, and with due financial competence’.
- Suitability must also encompass an ability and willingness to address certain risks arising from the operation of casinos, such as the risk that casinos can encourage or facilitate problem gambling, that they can facilitate criminal activity by allowing the laundering or sanitising of money obtained through such activity, and that there can even be scope for corrupt collusion between customers and casino staff which enables customers to cheat or more readily launder money’
- A casino operator will be cognisant of the potential for harm and ‘it must be appear that the operator can take, and has taken, reasonable and appropriate steps to minimise harm associated with problem gambling’.
- A suitable operator will demonstrate that they are ‘alive to the risk and that they can take, and have taken, reasonable and appropriate steps to identify, manage and mitigate the opportunity for criminals to take improper advantage of the facility afforded by gambling’.

- A suitable operator will have the capacity to ‘take, and will have taken, reasonable and appropriate steps to vet and monitor the activities of staff’ for the purpose of guarding against the potential for criminal infiltration into the activities of the casino.
- The issue under consideration is the ‘current’ suitability of the licensee. The record of the licensee may disclose short-comings in the past, but the weight to be given to such short-comings should necessarily depend on ‘the extent to which the licensee has identified the deficiencies and taken steps to remedy them’.

[1110] The issue of suitability was also addressed by the licensee in a letter of 16 May 2025.⁷¹ In a lengthy and helpful submission, the licensee emphasised the following:

- (i) At the outset of this Investigation the licensee and SCEG were reluctant to acknowledge and accept their historical failings.
- (ii) the licensee accepts that ‘there have been serious historical breaches of its AML/CTF obligations’ and that, in the past, it ‘failed in respect of its GHM obligations’.
- (iii) The licensee’s Board and senior management team regret the failings and ‘unreservedly apologise for the systemic shortfalls of the past’.
- (iv) During this Investigation the licensee has identified ‘a range of causes’ for its failures, including ‘deficient systems and controls, a poor governance framework and a culture insufficiently focused on compliance’.
- (v) The original AML Enhancement Program was intended to ‘enhance and improve’ the licensee’s ‘systems and process’, and to address ‘known deficiencies’. However, for a number of reasons ‘implementation stalled’.

⁷¹ Annexure [47] – Letter of SkyCity Adelaide addressing suitability dated 16 May 2025

- (vi) The licensee acknowledges that it ‘persisted with the existing senior management team for some time before intervening with wholesale changes’.
- (vii) ‘Rebuilding the senior management team and appointing Avril Baynes as the new Managing Director was an important part of resetting the culture and uplifting SkyCity Adelaide’s resourcing capability to deliver the B3 Program’
- (viii) The corporate governance framework has been restructured and enhanced enabling greater independence from SCEG and the ‘fostering [of] a culture of good governance’.
- (ix) The ‘senior management leadership team has undergone a complete refresh’ with formal reporting direct to the Managing Director.
- (x) The licensee is acutely conscious of the need to develop and embed an appropriate culture. A new code of Conduct is in place which includes a ‘should we’ test to decisions, and the licensee is embarking on a ‘comprehensive program’ to communicate and embed the Code ‘across the business’.
- (xi) Through the development and implementation of the POW, in conjunction with Kroll, and in its work in identifying issues and solutions through the Reset processes, the license has demonstrated a change in culture and its genuine desire and commitment to complete the POW by June 2027.
- (xii) The licensee has undertaken ‘significant steps’ to ‘deliver a robust risk compliance, financial crime and responsible gaming environment’.
- (xiii) The licensee has demonstrated its commitment to dealing with issues as they arise in tandem with implementing the POW.
- (xiv) The licensee and SCEG ‘have invested and have committed to invest in the coming years, a substantial amount of funds and resources’ to ensure that the POW is fully implemented.

[1111] It is not necessary to canvass the submission in any further detail.

[1112] In the context of the licensee's contentions concerning current suitability and the relevance of past failings, it is appropriate to bear in mind the observations of Ms Bergin earlier cited. In summary, Ms Bergin emphasised the following:

- In assessing good reputation having regard to the character, honesty and integrity of the licensee for the purpose of determining whether the licensee is suitable to continue to hold the license, 'it is necessary to take into account the whole character and nature of the person whose reputation and character is being assessed'.
- 'It is necessary to take into account the breadth of the person's operations and previous determination as a suitable person', not just any particular conduct falling short of the standards required of the licensee.
- If it is found that the operations of the licensee have been 'burdened' by criminal influence or exploitation, the character and reputation of the licensee 'can be adversely affected so that it becomes an unsuitable person to operate the casino'. If that is the position, the only way to convert it into a suitable person would, at the least, require the licensee to establish to the regulator's satisfaction a capacity to ensure that in future its operations will not be so burdened. This includes an assessment as to whether the regulator 'could have confidence and satisfaction that a casino operator is to be trusted'.
- Although a casino operator may operate a casino free from criminal influence and exploitation, nevertheless the licensee may possess such corporate governance problems that its decision-making processes may be flawed. While those corporate governance problems on their own may not convert the previously suitable licensee into an unsuitable person, they may require adjustment of its processes 'to ensure that it does not slip into unsuitability by reason of an absence of systems that appropriately defend it from the infiltration of criminal influence or exploitation'.

- [1113] The past failings of the licensee were serious, but they occurred some years ago and did not involve intentional criminal conduct. Persons in senior management positions who were at the heart of these failings have been replaced. Significantly, from the top of management down, the licensee now frankly acknowledges the past failings, and their seriousness, and is actively pursuing full remediation in the context of an appropriate change in culture.
- [1114] Importantly, ‘full remediation’ effectively amounts to a complete overhaul in the critical areas of Culture, Corporate Governance, AML/CTF Compliance and Harm Minimisation.
- [1115] I am satisfied the licensee currently meets the essential criteria required to establish suitability. In particular, the licensee is capable of responsible and effective financial management and is now operating honestly. It is complying with its fundamental obligations under the regulatory regime and is working toward full compliance within its capacity, strongly supported by SCEG. The flaws and mistakes of the past have successfully been pushed into the background to the point where it can reasonably be said that the poor attitudes of the past are not currently influencing the current decision makers and other employees. The licensee is building an appropriate reputation and, in my view, can be trusted under the current senior management to continue with its rehabilitation and to operate the business with the appropriate ethics and in compliance with the regulatory regime.
- [1116] The licensee has not been, and is not perfect, but I must have regard to the whole character and nature of the licensee, bearing in mind the breadth of the licensee’s operations. The significance of past failures needs to be considered in the context of the licensee’s subsequent behaviour, changes in personnel and the licensee’s current corporate culture and governance.
- [1117] Although prior to 2024 the licensee was not suitable, I am satisfied that, today, the licensee is a suitable person to hold the license and operate the casino. If the licensee fails in the future in a significant respect this view as to suitability might change, but as best as I can assess future prospects, such a failure in the foreseeable future appears unlikely.

[1118] Having explained my findings and conclusion I need to add a qualifying observation. The ongoing supervision and support by Kroll is essential. As mentioned, the task confronting the licensee is large and complicated. It is readily apparent that the licensee initially underestimated the magnitude and difficulty of the task and the resources required to complete the POW within the agreed timeframe.

[1119] In my view the independent oversight and support provided by Kroll is necessary to ensure that the licensee does not lose sight of the critical features attached to ongoing compliance with the regulatory regime while working through complicated details in the remediation task.

[1120] Secondly, it is obvious that my view as to the licensee's suitability has been reached on the basis that, since mid-2024, the licensee's attitude and behaviour has been demonstrative of:

- (i) A change in attitude including acknowledgement of failures; and
- (ii) A change in corporate culture and governance; and
- (iii) A desire and determination to achieve full remediation, coupled with genuine efforts to progress the remediation through implementation of the POW; and
- (iv) An intention to act ethically and, while working towards full remediation, to comply with day to day obligations under the regulatory regime.

[1121] Should events subsequent to this Report tend to undermine my findings, or prove that my confidence in senior management has been misplaced, the licensee would be at risk of 'falling out of suitability'.

78.0 SCEG – Suitable Associate

[1122] In the letter of 13 December 2024 concerning the failures of SCEG with respect to AML/CTF compliance and Harm Minimisation, SCEG canvassed the question of SCEG's suitability as an associate of the licensee. The letter also explained the corporate structure of SCEG and subsidiaries:

4. SCML is a New Zealand incorporated subsidiary of SCEG and a related company of SkyCity Adelaide. SCML is the holder of a casino operator's licence for the SkyCity Auckland, SkyCity Hamilton and SkyCity Queenstown casinos in New Zealand for the purposes of the New Zealand *Gambling Act 2003* (**Gambling Act**). As a casino operator, SCML is also a reporting entity for the purposes of the New Zealand *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* (**AML/CFT Act**).
5. SCEG is the parent company of the SkyCity Entertainment Group comprising SCEG and all of its subsidiary companies, including SkyCity Adelaide and SCML (**SkyCity Entertainment Group**). As at 30 June 2024, SCEG was the parent company of the following wholly-owned subsidiaries:

Name of Entity	Principal Place of Business
Cashel Asset Management Limited	New Zealand
Horizon Tourism New Zealand Limited	New Zealand
New Zealand International Convention Centre Limited	New Zealand
Otago Casinos Limited	New Zealand
Queenstown Casinos Limited ¹	New Zealand
Sky Tower Limited	New Zealand
SkyCity Action Management Limited	New Zealand
SkyCity Auckland Holdings Limited	New Zealand
SkyCity Auckland Limited ²	New Zealand

SkyCity Casino Management Limited ³	New Zealand
SkyCity Development Limited	New Zealand
SkyCity Enterprises Limited	New Zealand
SkyCity Hamilton Limited ⁴	New Zealand
SkyCity Holdings Limited	New Zealand
SkyCity International Holdings Limited	New Zealand
SkyCity Investments Australia Limited	New Zealand
SkyCity Investments Queenstown Limited	New Zealand
SkyCity Management Limited	New Zealand
SkyCity Precinct Limited	New Zealand
SkyCity Projects Limited	New Zealand
SkyCity Properties Limited	New Zealand
SkyCity Properties Albert St Limited	New Zealand
SkyCity Properties Victoria St Limited	New Zealand
SkyCity Ventures Limited	New Zealand
SkyCity Adelaide Pty Limited ⁵	Australia
SkyCity Australia Finance Pty Limited	Australia
SkyCity Australian Limited Partnership	Australia
SkyCity Australia Pty Limited	Australia
SkyCity Treasury Australia Pty Limited	Australia
Horizon Tourism Limited	Hong Kong
SkyCity Investment Holdings Limited	Hong Kong
SkyCity Malta Holdings Limited	Malta
SkyCity Malta Limited	Malta
SkyCity Management (UK) Limited	United Kingdom

[1123] As to the current relationship between SCEG and the licensee, the letter of 13 December 2024 explained the relationship as follows:

Current Relationship between SCEG and SkyCity Adelaide

27. As noted above, SCEG is the parent company of the SkyCity Entertainment Group, which comprises SCEG and all of its subsidiary companies, including SkyCity Adelaide and SCML.
28. SCEG provides support to its subsidiary companies as required, including both financial support and access to Group resources, expertise, capability and funding arrangements.
29. For example, SkyCity Adelaide has benefited from the corporate knowledge gained through a range of harm minimisation initiatives initially trialled by other members of the SkyCity Entertainment Group. SkyCity's New Zealand-based casinos have pioneered the use of:
 - 29.1. facial recognition technology in casinos to assist in identifying barred customers and customers who remain onsite for prolonged periods, which SkyCity Adelaide has regard to in its attempts to deploy the same technology at the SkyCity Adelaide casino; and
 - 29.2. the Focal predicative risk algorithm in casinos to assist in identifying players who may be at risk of problem gambling, which SkyCity Adelaide has regard to in its attempts to deploy the same technology at the SkyCity Adelaide casino.
30. Both of these initiatives have recently been approved by the Commissioner for implementation at the SkyCity Adelaide casino. SkyCity Adelaide would not have had access to these initiatives without the support and resources of SCEG and the wider SkyCity Entertainment Group.
31. As the parent company of SkyCity Adelaide, SCEG has provided significant investment, resources, capability and support to SkyCity Adelaide in response to the concerns first raised by AUSTRAC in 2021, including in the development and implementation of a comprehensive AML Enhancement Programme from late 2021 designed to lift the maturity of the SkyCity Adelaide AML/CFT Programme and broader AML function across certain key areas over a two-year period.
32. SCEG also continues to provide significant investment, resources, capability and support to ensure that SkyCity Adelaide is in a position to implement and deliver the Building a Better Business Programme – a comprehensive, multi-year programme of work (**POW**) developed by SkyCity Adelaide in conjunction with Kroll Australia Pty Limited which focuses on SkyCity Adelaide's AML/CFT capability, as well as gambling related harm minimisation, to ensure its compliance with all applicable regulatory obligations. The POW was approved by the Commissioner on 11 September 2024 and is currently being implemented by SkyCity Adelaide.
33. SCEG recognises the role of SkyCity Adelaide as the holder of the Adelaide casino licence and fully supports the governance steps taken by SkyCity Adelaide as the licensee, including:

- 33.1. the formal establishment of the SkyCity Adelaide Board in November 2021; and
- 33.2. the changes introduced by Glenn Davis (as Chair of the SkyCity Adelaide Board), including:
 - 33.2.1. the reconstitution of the SkyCity Adelaide Board to ensure greater independence so that the SkyCity Adelaide Board is comprised of a majority of non-executive independent directors and a majority of Australian-based directors;
 - 33.2.2. improved cadence in meetings of the SkyCity Adelaide Board so that, in addition to the full scheduled SkyCity Adelaide Board meetings at two-monthly intervals, the SkyCity Adelaide Board also meets each month between those scheduled meetings for an update on regulatory matters in respect of AML/CTF and host responsibility matters;
 - 33.2.3. improved cadence in interactions between the Chair of the SkyCity Adelaide Board and the Managing Director Adelaide through regular meetings between SkyCity Adelaide Board meetings to further enhance information flows between SkyCity Adelaide's executive and the SkyCity Adelaide Board to ensure adequate oversight and monitoring; and
 - 33.2.4. changes to existing reporting lines to improve information flow to the SkyCity Adelaide Board.
- 34. SCEG remains fully updated in respect of SkyCity Adelaide's activities by way of the formal reporting lines and procedures that are in place. In addition, SCEG directors undertake regular visits to the company's key operations (including the SkyCity Adelaide casino property).

[1124] The letter of 13 December 2024 then dealt with SCEG's submission as to suitability criteria, SCEG's character, reputation and financial background, and the impact of previous failures with respect with AML/CTF and Harm Minimisation:

Suitability Criteria

- 35. We note that the requirements for the suitability of a close associate of a casino licence holder for the purpose of the *Casino Act 1997 (SA)* (**Casino Act**) are not defined separately. Accordingly, we set out below our understanding of suitability in the context of the Investigation, with reference to the applicable legislative framework.
- 36. Section 21(1) of the *Casino Act* provides that *"the Commissioner must not recommend the grant or renewal of the casino licence unless satisfied that the applicant is a suitable person to operate the casino"*.
- 37. Section 2A of the *Casino Act*, which sets out the object of the *Casino Act*, refers to ensuring that those involved in the control, management and operation of the SkyCity Adelaide casino *"are suitable and fit and proper persons to exercise their functions and responsibilities"*.

38. While a "suitable person" is not expressly defined in the Casino Act, section 21(4) lists a number of factors to which the Commissioner may have regard "in assessing the suitability of an applicant", including, among others:
- 38.1. the applicant's corporate structure;
 - 38.2. the extent of the applicant's financial resources and whether they are suitable and adequate to ensure the financial stability of the casino;
 - 38.3. the applicant's financial background;
 - 38.4. the extent of the applicant's business acumen and experience and, in particular, whether the applicant's business experience would suggest that it could operate the casino successfully;
 - 38.5. the applicant's reputation;
 - 38.6. the **character, reputation, and financial background** of the applicant's close associates; and
 - 38.7. any other matters the Commissioner thinks fit.
39. As set out above, the character, reputation, and financial background of SCEG are relevant factors to the suitability of SkyCity Adelaide as a licensee under section 21(4) of Casino Act. SCEG respectfully submits that these three factors will therefore be relevant to its own suitability to be a close associate of SkyCity Adelaide.
40. SCEG submits that its corporate character, reputation and financial background are such that it is a suitable to be a close associate of SkyCity Adelaide for the purpose of the Casino Act in circumstances where:
- 40.1. SCEG is one of New Zealand and Australia's largest tourism, hospitality and entertainment groups, with four hotels, four casino properties, one online casino, and over 30 restaurants and bars across the SkyCity precincts;
 - 40.2. SCEG is dual-listed on the New Zealand and Australian stock exchanges with a market capitalisation of NZ\$1.1 billion as at the date of this letter;
 - 40.3. as at 30 June 2024, SCEG employed over 4,500 staff across the SkyCity precincts;
 - 40.4. as at 30 June 2024, SCEG had NZ\$1,277.0 million in net assets and NZ\$1,895.8 million in property assets;
 - 40.5. SCEG has an excellent, longstanding reputation among customers and within the wider New Zealand community - having successfully operated in New Zealand over 30 years via its various subsidiary companies. In particular:

- 40.5.1. since opening in 1996, the SkyCity New Zealand casinos have contributed more than NZ\$77.4 million to local community groups, organisations, events and initiatives through the SkyCity New Zealand Community Trusts;
- 40.5.2. SCEG has partnered with local organisations and charities, supported local and national sports teams and sporting events, and helped raise awareness for a range of other organisations and initiatives, including:
- (a) supporting the fundraising efforts of Leukaemia & Blood Cancer New Zealand – the national charity dedicated to supporting patients and their families living with blood cancers and related blood conditions – via an annual Firefighter Sky Tower Stair Challenge and Step Up Challenge. Through both of these events, SCEG has helped Leukaemia & Blood Cancer New Zealand raise over NZ\$18.8 million over a 20-year partnership period; and
 - (b) supporting Variety – The Children’s Charity, a charity focused on improving the wellbeing of children and young people, through the delivery of Variety Bingo in Auckland. Working with Variety – The Children’s Charity, SCEG has helped to raise more than NZ\$5.5 million over a 24-year partnership period;
- 40.5.3. SCEG was awarded the Diversity and Inclusion Leadership Award at the 2018 Deloitte Top 200 Awards for its Tahuna Te Ahi Programme, a bespoke Māori leadership programme developed by SCEG that connects people to indigenous values and culture while at the same time giving them the tools to incorporate their culture into a business environment;
- 40.5.4. SCEG was awarded the Diversity and Inclusion Leadership Award at the 2020 Deloitte Top 200 Awards and the Diversity and Inclusion Award at the 2021 NZ HR Awards for Project Nikau, a youth employment programme developed by SCEG to create a pathway to sustainable, full-time employment for young Māori and Pasifika people; and
- 40.5.5. SCEG was named a finalist in the Diversity and Inclusion Leadership Award category at the 2022 Deloitte Top 200 Awards for Te Roopū Māori o SkyCity, an employee resource group that advocates for positive outcomes for Māori across the SkyCity Entertainment Group;

- 40.6. notwithstanding the DIA Proceedings, Application and civil penalty proceedings commenced by AUSTRAC against SkyCity Adelaide in December 2022, SCEG and its operating subsidiaries have an excellent track record of compliance over 30 years;
- 40.7. SCEG has accepted its failings where identified and has taken immediate steps to promptly rectify any such failings, including the allocation of appropriate capability, resources and budget;
- 40.8. there is a strong cultural commitment to continuous improvement and uplift across SCEG, particularly in relation to AML/CFT and responsible gambling practices, and to the promotion of ethical and responsible behaviour and decision-making, which is demonstrative of a strong corporate character;
- 40.9. notwithstanding challenging economic conditions, and the significant investments that SCEG has made into transformation initiatives, customer visitation across SCEG remains strong and SCEG continues to record a solid financial performance; and
- 40.10. the SkyCity Entertainment Group's annual contribution to the New Zealand and Adelaide economies is around NZ\$1 billion (including capital invested).
41. SCEG is also currently investing around NZ\$750 million within the SkyCity Auckland precinct to develop the New Zealand International Convention Centre (**NZICC**) in collaboration with the New Zealand Government⁸, an adjacent laneway, over 1,250 car parking spaces, and a new 303 room, 5-star, Horizon by SkyCity hotel. The NZICC is expected to be completed in 2025 and, when open, will be New Zealand's largest convention centre, enabling New Zealand to attract major international conferences as well as having capability for sporting events, theatre and musical performances.
42. We also note that, other than in relation to the Investigation, SCEG has never been the subject of a suitability review.

Impact of DIA Proceedings and Application on suitability of SCEG

43. SCEG considers that the Application and DIA Proceedings do not, and should not, have any adverse impact on SCEG's ability to continue to be a close associate of SkyCity Adelaide in circumstances where:
- 43.1. SCEG and SCML have accepted their failings where identified and have taken immediate steps to promptly rectify any such failings, including the allocation of appropriate capability, resources and budget;
- 43.2. in the case of the Application, the unintentional design error in the SQL Report, the subject to the Application, was immediately rectified by SCML when it was investigated and discovered in May 2022; and
- 43.3. in the case of the DIA Proceedings, the identified failures in respect of SCML's AML/CFT risk assessment and AML/CFT compliance programme were fully remediated by 31 July 2021 and SCML is taking, and has already taken, significant steps to address the conduct and causes that contributed to the deficiencies in its AML/CFT operations.

- [1125] Notwithstanding the failures in the past with respect to AML/CTF Compliance and Harm Minimisation, I am satisfied that appropriate remediation in both respects has occurred and that SCEG is genuinely endeavouring to ensure that it and its subsidiaries fully comply with the appropriate regulatory regimes. SCEG is committed to financially supporting the licensee to enable the licensee to meet its current commitments and to achieve completion of the POW.
- [1126] In addition, I am broadly satisfied that SCEG possesses an appropriate corporate culture and governance and seeks to operate with appropriate ethical considerations. It seeks to comply with its obligations under the appropriate regulatory regimes, and possesses the capacity both to meet its obligations and to provide the necessary financial and other support for the licensee. Like the licensee, SCEG is not perfect, but I am satisfied that it meets the essential criteria to be considered a suitable close associate.
- [1127] I am satisfied that SCEG is a suitable person to be a close associate of the licensee.



The Hon Brian Martin AO KC

Delegate of the Liquor and Gambling Commissioner

Dated: 30 / 7 / 25