

Victorian Government response to the Royal Commission into the Casino Operator and Licence Report

BACKGROUND

On 22 February 2021 the Government announced the establishment of the Royal Commission in the Casino Operator and Licence.

The Royal Commission was established following the findings of the Bergin Inquiry that Crown Melbourne facilitated millions of dollars to be laundered through a bank account of its subsidiary and it allowed operators with links to organised crime to arrange for junket players to gamble at the casino.

The Victorian Government set the Royal Commission's terms of reference so that it required, among other things, the Royal Commission to determine whether Crown Melbourne is suitable to hold the casino licence and if it is in the public interest for Crown to continue to operate the licence. If the Commission found that Crown Melbourne was not a suitable licensee, the terms of reference specified that the Commission recommend what action (if any) would be required for it to become suitable.

The Royal Commission delivered its report to Government on 15 October 2021.

THE ROYAL COMMISSION'S FINDINGS AND RECOMMENDATIONS

The Royal Commission finds Crown is unsuitable to hold a casino licence on the

basis that it has engaged in conduct that is "illegal, dishonest, unethical and exploitative". The Royal Commission notes that the scale of the wrongdoing is so widespread and egregious that "[n]o other finding was open".

The Royal Commission builds on the Bergin Inquiry's findings, uncovering further failures in governance, risk management and responsible service of gaming.

The findings and recommendations are informed by evidence heard at the Royal Commission outlining:

- grave, ongoing legal breaches and misconduct that contravened not only Australian laws but the laws of other countries often with the knowledge of Crown executives
- consistent patterns of noncooperation with the regulator, including bullying, providing it with false or misleading information, delaying the investigatory process and frustrating the regulator's investigations
- tax breaches that were instigated by or undertaken with the knowledge of multiple senior staff, which were then intentionally concealed from the regulator for fear of being caught out
- serious, systemic breaches of responsible gaming obligations, including the way in which Crown dealt with the many vulnerable people who experience gambling harm.

The Royal Commission finds that Crown's board failed to carry out its responsibilities to ensure that the organisation satisfied its legal and regulatory obligations. It also finds many senior executives involved in the misconduct were indifferent to their ethical, moral and sometimes legal obligations. The Packer/CPH influence which the Bergin Inquiry found 'encouraged Crown to put profit ahead of other motives for action' was confirmed in this Royal Commission.

However, weighing up the importance of maintaining the integrity of the licensing system, the Royal Commission concludes that immediate cancellation of the licence is not in the interests of the Victorian community due to:

- the real risk of significant harm to the Victorian economy and to innocent third parties if Crown Melbourne's licence were immediately cancelled, and
- the Royal Commission's belief that Crown Melbourne has the will and the capacity to reform itself so that it again becomes a suitable person to hold a casino licence.

Rather, the Royal Commission recommends that Crown be permitted to continue operating under the oversight and direction of a Special Manager for two years while it attempts to undertake a comprehensive reform agenda to make it suitable. In total, the Royal Commission makes 33 recommendations as part of this agenda, including in relation to the powers of the regulator and its inspectors, the obligations and structure of the casino operator, the prevention of money laundering at the casino, unpaid casino tax, penalties and the responsible service of gaming.

The Royal Commission recognises that Crown has already embarked upon a significant reform program led by people of good will and skill. The Royal Commission considers that a reform program delivered under these conditions is likely to succeed, and if it does, will benefit Victoria.

THE GOVERNMENT'S RESPONSE

The Government accepts all the Royal Commission's findings. However, in implementing the priority recommendations, we are also going further in a number of areas.

Recognising the need for immediate action to ensure the integrity of the casino licence, the Victorian Government is introducing tough new measures and stringent oversight of the casino operator to ensure the failures exposed by the Royal Commission never happen again. The Casino and Gambling Legislation Amendment Bill 2021 being introduced today commences the critical reforms required to ensure the casino is operated in accordance with the highest standards of integrity.

The Casino and Gambling Legislation Amendment Bill 2021 implements the nine priority recommendations of the Royal Commission with further legislation planned for next year.

The Casino and Gambling Legislation Amendment Bill 2021 establishes the Special Manager who will have unprecedented powers to oversee Crown, veto decisions of the Board, and have unfettered access to all areas of the casino and its books and records. This is an unprecedented step in Australian corporate oversight. As noted in Commissioner Finkelstein's report, the Special Manager will be the ultimate decision maker at Crown Melbourne and will oversee all aspects of the casino's operations. The costs of establishing and implementing the Special Manager will be recovered from Crown.

Subject to the passage of legislation through Parliament, it is proposed that Mr Stephen O'Bryan QC be appointed as the Special Manager overseeing the casino operator. Mr O'Bryan was Victoria's first Independent Broad-based Anti-Corruption Commissioner and will bring integrity and accountability to the casino's operations.

Given the issues raised by both the Royal Commission and the Bergin Inquiry relating to money laundering and links to organised

crime, the Casino and Gambling Legislation Amendment Bill 2021 will prohibit a casino operator from dealing with junket operators and imposes additional regulatory obligations on the casino.

The Victorian Government will go beyond the Royal Commission recommendations in three key respects. The proposed legislation will:

- completely remove, rather than amend, the restrictive provisions that stop the State from making changes to the regulatory arrangements for the casino without having to pay compensation. This will afford government flexibility in its approach to casino reform into the future to ensure the failings of the past do not reoccur
- provide that Crown's licence will be automatically cancelled at the end of the period of Special Manager oversight unless the regulator is clearly satisfied that Crown is suitable to continue operating the Melbourne casino. The onus will be on Crown to clearly demonstrate through its operations and the progress on its reforms why its licence should not be cancelled. Unlike the Royal Commission's recommendation, Crown's licence will be presumed cancelled unless there is a decision otherwise
- increase the maximum possible penalty under the *Casino Control Act 1991* from \$1 million to \$100 million to make sure there are meaningful consequences for breaches of the law. This reflects the Royal Commission's recommendations that the penalties under the Act are wholly inadequate. The Royal Commission recommended that the fine for disciplinary action should be increased to at least \$10 million.

The Casino and Gambling Legislation Amendment Bill 2021 also establishes the Victorian Gambling and Casino Control Commission to provide dedicated focus on the casino. The Casino and Gambling Legislation Amendment Bill 2021 will also strengthen and

expand the powers of the regulator to hold the casino operator to account.

We welcome the remaining recommendations and recognise their breadth and complexity in relation to minimising gambling harm, structural reforms to the casino operator, and addressing anti-money laundering risks. The Government supports these recommendations in-principle subject to further detailed analysis and consultation being undertaken. A second tranche of legislation next year will acquit actions arising from these recommendations.

Our Government is taking action right now to hold Crown to account and is committed to further reform next year to address the findings of the Royal Commission.

